



Chief of the Defence Force

Commission of Inquiry

into the death of

Private Edward Alexander McBride

Report of

[REDACTED] JS Gordon RFD

31 January 2010

CHIEF OF THE DEFENCE FORCE COMMISSION OF INQUIRY
INTO THE DEATH OF
PRIVATE EDWARD ALEXANDER McBRIDE

THE REPORT OF J.S. GORDON RFD
TO
CHIEF MARSHAL A.G. HOUSTON, AC, AFC
CHIEF OF THE DEFENCE FORCE

Essential findings

1. Given the circumstances, this is a lengthy Report. A degree of overlap and duplication has been unavoidable. My essential findings are on pages 70 to 73 herein.

Introduction

2. On 4 April 2009, you appointed a Commission of Inquiry to inquire into and report upon the circumstances surrounding the death of Private Edward Alexander McBride.
3. You appointed me, a civilian with judicial experience, as President of the Commission, and appointed Captain Robert William George Hume RFD, RANR, and Wing Commander Christopher Michael Taylor, both of whom are legal practitioners, as Counsel Assisting the Commission. Captain Hume was appointed as lead counsel.
4. Counsel Assisting bring to the Commission their considerable military experience as Australian Defence Force (ADF) Legal Officers. I bring my experience as a former magistrate and coroner. As a civilian, I am independent of the chain of command in the ADF. That independence promotes public confidence in the integrity and impartiality of the Commission process.
5. Private McBride died in Brisbane, at or about 8.50 p.m. on Wednesday 7 February 2007. The place of his death was the Energex Sub-station T-36, located at Old Northern Road, Everton Park, Queensland. That Sub-station is also known to Energex as the "Bunyaville" Sub-station.
6. At the time of his death, Private McBride was a member of 6th Battalion, The Royal Australian Regiment (6 RAR), Gallipoli Barracks, Enoggera. He was a 30-year-old single soldier who was a living-in member of 6 RAR, accommodated within the Battalion lines at Enoggera, in Room , Building .

Death by Electrocution

7. The cause of Private McBride's death was "Electrocution" within the Bunyaville Sub-station.
-

8. Edward McBride's training and experience prior to his joining the Australian Regular Army (ARA) in January 2003 taught him to be especially careful and safety-conscious concerning electricity and high voltage installations.
9. In January 1994, after completing Grade 11 at _____ College in _____ Edward McBride commenced a four-year apprenticeship as an electrical fitter with _____ at _____ Western Australia.
10. On 11 March 1998, the Electrical Licensing Board of Western Australia issued an "A" Grade Electrical Worker's Licence to him pursuant to the West Australian *Electricity Act 1945* and the *Electricity (Licensing) Regulations 1991*. That Licence authorised him to carry out electrical fitting work and was valid for five years. Edward McBride worked as an electrical fitter in the Western Australian Mining Industry from time to time.
11. On the night of his death, Private McBride breached the 2.5 metre chain and barbed wire security fence at the Bunyaville Sub-station. He then climbed approximately 4 metres up the framework of a "live" switchgear tower structure. Private McBride was killed by a high voltage electrical discharge, or arc, which occurred after he came close to or made direct contact with the "live" 110,000-volt feeder swing arm of the busbar, or cross bar, on the tower structure whilst he was in contact with the earthed framework of the tower. Such contact initiated a high voltage discharge through his body to earth.
12. Prior to climbing the tower structure, Private McBride's sneakers and socks were removed and placed at the base of the structure. That was a purposeful act to aid electrocution. No suicide note was found.
13. Private McBride's body was found hanging _____ from a rope attached to the top crossbar of a tower called an "isolator" located in the middle of the rear row of towers at the Bunyaville Sub-station. _____ the concrete footing of the tower.
14. An Army-issue type nylon rope had been looped over the live busbar and the other end of the rope was around Private McBride's neck. Because of its synthetic nature, that rope could have been thrown over the busbar without any problem. In any event, hanging was not the cause of death. The Autopsy Report stated:

"Death was likely to have been instantaneous from electrocution. Hanging appears to have been a passive, post mortem event. This was most probably a backup method utilized to prevent failure of the first method".
15. Private _____ his neighbour in the 6 RAR living-in accommodation, formally identified Private McBride's body, after volunteering to do so. Private _____ received appropriate follow-up counselling and support.

On leave at time of death

16. Private McBride died off base whilst he was on leave.
17. Apart from three days in January 2007 when he had been rostered for restricted duties in 6 RAR (Wednesday 10, Monday 22 and Tuesday 23), continuous leave had been approved from 8 January 2007 until 18 February 2007. Private McBride's

Leave Application was dated, and approved, on 13 December 2006. The reasons given by Private McBride in applying for leave during that period were as follows:

"Doing a civilian course in Jan, also visiting family in Fly out 12 Feb – fly back 18 Feb"

18. Although on leave at the time of his death, Private McBride was still residing in his 6 RAR accommodation. The "civilian course" referred to in his Leave Application was, in fact, a series of three courses.
- 19.

Awaiting discharge

On 8 January 2007, one month before his death, Private McBride had completed his four-year return of service obligation or, more correctly, his initial engagement period expired that day.

20. An outline of Private McBride's service history and Medical Employment Classifications (MEC) will be provided later in this Report. Suffice to say at this stage that in mid March 2006, because of medical issues associated with Private McBride's knees and ankles, he was transferred into the 6 RAR Rehabilitation Platoon then called "the Battalion Training Team"(BTT). Thereafter, apart from leave periods, Private McBride remained in the BTT, on restricted duties, until the day of his death.
21. On 7 September 2006, Private McBride completed a Member's Health Statement to be used for his review by the Medical Employment Classification Review Board (MECRB). In that document he outlined his preferred date of separation and his desired outcome from the MEC Review. His stated wishes were:

"To be medically discharged. I wish to leave the ADF as I believe staying will only worsen my condition. I am not fit for deployment and feel I have had time to recover which has not been successful. Preferred date of separation around early Feb 07".

22. On 12 October 2006, Private McBride was recommended for medical discharge due to "his lower leg injuries". He was advised that he would be medically downgraded to MEC 401.
23. At the time of his death, Private McBride was awaiting a medical discharge from the ARA.

Proposed Board of Inquiry

24. On 8 March 2007, four weeks after the death of Private McBride, you decided to appoint a Board of Inquiry into the soldier's death.
25. At that time, _____ was serving as your Legal Staff Officer. Amongst other things, _____ was responsible for establishing and co-ordinating Boards of Inquiry established under the *Defence (Inquiry) Regulations 1985*.
26. After being contacted by _____ on your behalf, I agreed to preside over the proposed Board of Inquiry and Captain Hume RANR agreed to act as Counsel Assisting.
-

27. Captain Hume immediately commenced the scoping and planning work needed to get the proposed Board of Inquiry underway.
28. However, no Instrument of Appointment was ever issued for that Board of Inquiry and, indeed, it never commenced.
29. On 27 March 2007, Captain Hume informed me that the Queensland Police Service (QPS) was, at the time, treating the death of Private McBride as "suspicious" because of the alleged sighting of two male persons in the close proximity of, or within, the Energex Sub-station, at or about the time of the soldier's electrocution.
30. The proposed Board of Inquiry was formally suspended on 17 April 2007, pending the outcome of the QPS investigation conducted by the Petrie Criminal Investigation Branch (CIB), with assistance from the Homicide Squad.
31. Although Private McBride's death by electrocution appeared to be suicide, the circumstances were certainly unusual.
32. The QPS investigation that followed was extensive. Police officers interviewed many people including soldiers from 6 RAR. Some 51 soldiers were spoken to and asked some set questions and statements were taken from those who had some knowledge of Private McBride.
33. Although many relevant witnesses were interviewed by the QPS within the first two weeks, the police investigation became protracted.
34. On 10 April 2007, the then Provost Marshal of the ADF, informed that amongst other things, the QPS was "*investigating any possible link between the member's involvement in the* and that those inquiries "*are currently being undertaken*".
35. However, personnel were not interviewed by the QPS until 13 March 2008, and a new lead investigator, Detective Senior Constable , was appointed in July 2008.
36. Although it was later reactivated, the QPS investigation was concluded on 8 November 2008 and a brief of evidence was prepared by the QPS for the Brisbane Coroner.

Appointment of an Inquiry Officer

37. In the circumstances, on 7 December 2008, you appointed an Inquiry Officer, Lieutenant Colonel Megan Dugdale, to inquiry urgently into particular issues associated with the death of Private McBride.
38. It is clear from the terms of reference given to Lieutenant Colonel Dugdale that you intended to use her findings and any recommendations to form a view as to whether the appointment of a Commission of Inquiry into Private McBride's death was warranted and appropriate in all of the circumstances.
39. Lieutenant Colonel Dugdale presented her comprehensive Report on 20 February 2009.

40. The Inquiry officer's Report includes an Executive Summary. In paragraph 17 of that Summary, Lieutenant Colonel Dugdale made certain findings, and in paragraph 18 she made a specific recommendation that you appoint a Commission of Inquiry into the death of Private McBride. Those paragraphs are reproduced below:

"17. I make the following findings:

***Finding 1.** PTE McBride's death appears to have arisen out of, or in the course of, his service, based primarily on evidence indicating:*

- a. possible failures by PTE McBride's chain of command and medical personnel to recognise and act on apparent indicators of the soldier's social isolation and potentially compromised psychological fitness in 2006-07.*
- b. possible ongoing harassment or bullying of PTE McBride by other members of 6 RAR.*
- c. possible systemic deficiencies in the processing of the member's medical discharge.*
- d. possible adverse effects on PTE McBride arising from the lack of a dedicated unit organisational structure, consistent procedures, worthwhile employment, and continuity of appropriately qualified unit staff for the management and rehabilitation of long term injured soldiers in infantry battalions.*

***Finding 2.** The circumstances associated with PTE McBride's death warrant the appointment of a COI.*

18. I recommend that you appoint a COI."

41. During the course of Lieutenant Colonel Dugdale's inquiry, the Brisbane Coroner, Mr. John Lock, informed her that it was almost certain that he would conduct a Coronial Inquest into the death of Edward Alexander McBride.

Appointment of the Commission of Inquiry

42. You accepted the recommendation of the Inquiry Officer that a Commission of Inquiry be conducted and, as previously mentioned, formally appointed this Commission on 4 April 2009.

Coronial Investigation

43. When the Inquiry Officer issued her Report to you, she believed that the coronial investigation preceding the Coronial Inquest had been completed. However, that was not so and further inquiries had to be made by the QPS on behalf of the Coroner.
44. On 20 April 2009, I wrote to the Office of the Queensland State Coroner. My letter to Coroner Lock stated in part:

"Contrary to the belief of Lieutenant Colonel Dugdale, it appears that the coronial investigation is not yet complete because of delays beyond your control. In the circumstances, it is neither the wish nor the intention of the COI to do anything which may inadvertently interfere with, frustrate, or preempt the coronial investigation and inquest."

45. On 30 April 2009, Coroner Lock and his Counsel Assisting, together with the lead QPS investigator, informally met with both Counsel Assisting the Commission and myself at the State Coroner's complex, where various issues concerning the death of Private McBride were discussed. Amongst other things, it was agreed that the coronial investigation would be completed and concluded and that the Coronial Inquest would be conducted before the Commission of Inquiry commenced its hearings.

The essential functions of a Commission of Inquiry and a Coronial Inquest

46. The function and scope of a Commission of Inquiry are not the same as those of a Coronial Inquest. However, both have a common characteristic in that neither has as its focus the attribution of blame or liability.
47. In 2004, the House of Lords stated with respect to the investigative function and duty of a Coronial Inquest:

"Its task is not to attribute blame or liability or to express extraneous opinions or to determine how the deceased died, which might raise general and far-reaching issues, but to ascertain, strictly, how he came by his death, a more limited question, directed to the means by which he did so; and where it is established that a person had taken his own life, that must be the verdict, reference to neglect only being permissible only in the most exceptional circumstances".¹⁴

48. In 2004, the then Chief of Army, Lieutenant General Leahy, in giving evidence to the Senate Committee on the effectiveness of Australia's military justice system, explained that some years ago the Army, at times, would be happy for the coroner to report on a suicide and that Army would not investigate it. He indicated that that was not good enough and Army now wanted to go beyond the coroner's process and have a suicide investigated 'through a board of inquiry with terms of reference'. He added:

"What we want to do now is try to determine the reasons behind the suicide. We want to try to figure out whether there are other things that we could be doing, whether there is something in the environment or something that we are doing wrong."

49. A Commission of Inquiry is service-specific and its terms of reference strictly determine its function. It has no jurisdiction outside those terms of reference.
50. The essential purpose of this Commission of Inquiry is explained at paragraph 4 of its Terms of Reference, which provides that:

"The essential purpose of the Commission is to obtain information to inform military decision-making – principally in a safety context. To this end, the Commission's focus should be on any Defence-related factors materially contributing to Private McBride's death, and any actions that might reasonably be taken by Defence to reduce the chance of a similar recurrence."

Protocol and co-operation

51. In 2007, a Protocol was established between the Australian Defence Force (ADF) and the Queensland State Coroner (QSC) concerning the investigation of the death of ADF members where such a death is *"in the course of the member's service"*. In that context, in the course of a member's service includes circumstances where a death arises that are incidental to, or have a connection with the member's service, such as suicide.

The Protocol is not intended to bind the exercise of the various discretions of the ADF and the QSC in relevant matters but is intended to inform interaction between the parties and facilitate effective collaboration. Further, the Protocol is intended to minimise duplication of investigative endeavour and to facilitate the efficient management of relevant investigations.

52. Complete co-operation and full disclosure have been the hallmarks of the interaction between this Commission of Inquiry and the Office of the Queensland State Coroner.
53. Counsel Assisting the Commission and myself have been given full access to all materials held by the Coroner's Office concerning the death of Edward Alexander McBride. Likewise, the QPS has co-operated with Counsel Assisting in the course of this Inquiry. I place on record the appreciation and thanks of the Commission to both the Office of the Queensland State Coroner and the Queensland Police Service.
54. The co-operation and assistance given have not been a one-way street but mutual. The Coroner's Office has been given full access to the material in possession of the Commission. That access was formalised by an Instrument of Authorisation under the hand of the Minister for Defence Personnel, Materials and Science, Mr Greg Combet AM, earlier this year. That document was issued under subregulation 63(3) of the *Defence (Inquiry) Regulations 1985*.
55. In his opening on the first day of the Commission hearings, lead Counsel Assisting also spoke of the excellent co-operation between the Commission of Inquiry and the Coroner's Office. He endorsed my earlier remarks that the co-operation had been *"excellent"*. As regards the full release of Lieutenant Colonel Dugdale's Report, Captain Hume had this to say:

"For the record, Sir, I think I should state that it was released in its entirety without any deletions thereto. Certainly from my point of view, that is something of a first, and I think it sets a precedent of co-operation which I think should be followed in future situations of this nature."

The admissibility of evidence and the standard of proof

56. A Commission of Inquiry, like a Coronial Inquest, is not bound by the rules of evidence. Its process is inquisitorial not adversarial. Regulation 116 of the *Defence (Inquiry) Regulations 1985* states, with respect to a Commission of Inquiry:

"The President may inform himself or herself on any matter relevant to an inquiry in such manner as the President thinks fit."

However, that does not mean that there are no rules. Evidence needs to be probative. As Evatt J. observed in *R v War Pensions Entitlement Appeal Tribunal; ex parte Bolt*

"Some stress has been laid by the present respondents upon the provision that the Tribunal is not, in the hearing of appeals, 'bound by any rules of evidence'. Neither it is. But this does not mean that all rules of evidence may be ignored as of no account. After all, they represent the attempt made, through many generations, to evolve a method of inquiry best calculated to prevent error and elicit truth. No tribunal can, without grave danger of injustice, set them on one side and resort to methods of inquiry which necessarily advantage one party and necessarily disadvantage the opposing party. In other words, although rules of evidence, as such, do not bind, every attempt must be made to administer 'substantial justice'."

Also, fairness to "potentially affected persons" and relevance to the issues - namely the Commission's terms of reference - must guide the Commission's procedures.

57. There can be no doubt that the rules of natural justice, or procedural fairness, apply to a Commission of Inquiry.
58. In assessing the evidence and in making its findings, the Commission has applied the civil standard of proof, namely the balance of probabilities. In doing so, the Commission has been mindful of and has directed itself in accordance with the principles given by the High Court of Australia in *Briginshaw v Briginshaw*.
59. Whether an issue has been proved to the reasonable satisfaction of the Commission must be determined having regard to the nature of the issue, the seriousness of any allegation made, the inherent unlikelihood of an occurrence of a given description, and the gravity of the consequences flowing from a particular finding.
60. The more serious an issue or allegation, the higher the degree of probability required. In such matters, the fact finder must not arrive at reasonable satisfaction by "*inexact proof, indefinite testimony or indirect references.*"
61. The same essential principles apply to a Coronial Inquest.

Psychological Autopsy

62. On 8 July 2009, the Commission requested Dr. Leonard Lambeth, Forensic Psychiatrist and ADF Consultant in Psychiatry, Canberra, to conduct what is called a 'Psychological Autopsy' on the late Private McBride.
63. Amongst other things, Dr. Lambeth holds the rank of Group Captain in the RAAF and in recent years was the full-time Director of Mental Health in the ADF. He now works again as a civilian practitioner but completed his Psychological Autopsy, or Confidential Psychiatric Report, on Private McBride, in his capacity as an Air Force medical officer.
64. If properly conducted, a Psychological Autopsy is a useful tool that endeavours to reconstruct the mental state of a person immediately prior to his or her death, in

order either to determine whether the death was brought about by suicide or accident, or was the product of more sinister causes.

65. The Psychological Autopsy procedure is a retrospective investigation of the intention or state of mind of the deceased immediately prior to his or her death. The procedure is not without its critics and the quality of its outcome depends upon the experience and thoroughness of its author. Dr. Lambeth is both very experienced and very thorough.
66. To assist Dr. Lambeth's examination and assessment of the circumstances surrounding the death of Private McBride, Counsel Assisting provided him with copies of:
- Lieutenant Colonel Dugdale's Report (Exhibit 3);
 - An email from Geoff Gallas, Principal Psychologist DFPO to Counsel Assisting, Wing Commander Taylor; dated 29 April 2009 (Exhibit 62); and
 - A number of documents entitled CTC or Student Profile. (Exhibit 61). Those ARA documents relate to the assessment of Private McBride during his enrolment on two Commando Training Courses at Sydney in 2005.

Counsel Assisting also provided Dr. Lambeth with copies of the documents referred to in footnote 28 herein.

67. In early August 2009, Dr. Lambeth travelled to Brisbane and was given access to forensic photographs and other material held by the Coroner's Office, including the on Edward McBride (part of Exhibit 44). Dr. Lambeth also spoke to Private McBride's father in Mr. McBride, by telephone later that month.
68. Dr. Lambeth's nine page Psychological Autopsy¹ was completed on 2 September 20, and a copy of that Report was sent to the Office of the Brisbane Coroner the same day. Indeed, and with my approval, the Brisbane Coroner's Office received a copy of that Report before I had access to it.
69. The following Summary is extracted from Dr Lambeth's Confidential Psychiatric Report:

"Summary

PTE Edward McBride died by means of electrocution on 07 FEBRUARY 2007. The circumstances surrounding his death indicate that this was a suicide.

It has not been possible to identify any clear personal factors which may have led to his suicide, but the role of his Blood Alcohol Concentration (BAC), others observed by witnesses to have been present at the time of his suicide and the role of his contacts with the remain unclear.

His suicide could not have been reasonably predicted.

The following structural/organisational factors, which may have contributed to the chain of events leading to suicide, have been identified:

- *A failure to adequately assess and recognise possible compromised psychological fitness following failure in or withdrawal from courses.*
- *A failure to recognise social isolation in a system demanding social cohesion (e.g. in an Infantry Battalion).*
- *A lack of consistent procedures and worthwhile employment for injured members.*
- *Failure to expedite discharge after being found medically unfit."*

The Coronial Inquest

70. Coroner Lock conducted his Inquest at the Brisbane Coroner's Court on 7-11 September and 16 September 2009. A total of 37 witnesses gave evidence at the Inquest and of that number 17 were members, or former members, of the Australian Regular Army (ARA), namely:

- the Inquiry Officer, Lieutenant Colonel Dugdale¹, the author of Exhibit 3 in these proceedings and Exhibit E2 at the Inquest;
- the 6 RAR Regimental Signals Officer who investigated an equity complaint made by Private McBride in June 2006, Captain . Burns;²
- the 6 RAR Regimental Sergeant Major during December 2005-December 2007, WO1
- the Company Sergeant Major of 6 RAR Administration Company Rear Details (including the BTT) at relevant times, WO2
- the Officer Commanding the 6 RAR BTT for part of 2006, now Captain
- the 6 RAR BTT Platoon Sergeant, January - October 2006, Sergeant Tyers;³
- two soldiers, currently serving, alleged to have been involved in incidents involving Private McBride, now Lance Corporals Nolan (4) and Knight,⁴ ()
- three other soldiers currently serving, and still members of 6 RAR, Privates . McCabe, Merimbah and Nelson ;

- four retired soldiers, all former members of 6 RAR, Corporal [redacted] and Privates [redacted] Rothra and B. Davidson;
 - Sergeant [redacted] Bevan ; Gallipoli Barracks Duty Sergeant on the night of Private McBride's death; and
 - Sergeant Deanne Wheeler (nee Ihle) .. Investigator with the Australian Defence Force Investigative Service (ADFIS) who attended the scene at the Bunyaville Sub-station, and then accompanied QPS personnel to Private McBride's room at Gallipoli Barracks.
71. Both Counsel Assisting the Commission sat in as observers during the first week's evidence at the Coronial Inquest and lead Counsel Assisting attended in the same capacity on the last day of evidence, 16 September 2009.
72. Counsel Assisting the Commission therefore had the opportunity to listen to, and observe, the witnesses at the Inquest.
73. During the Inquest, I conferred with both Counsel Assisting the Commission at the end of each day's evidence with the exception of Wednesday 16 September. However, the evidence from that day was discussed in a lengthy telephone conversation between lead Counsel Assisting and myself the next day.
74. As part of the Inquest, Coroner Lock conducted a night view of the Energex Sub-station where Private McBride died. Counsel Assisting the Commission, Wing Commander Taylor, attended that night view, once again as an observer on behalf of the Commission. He had previously viewed the location during daylight hours on the afternoon of 30 April 2009 when both Counsel Assisting the Commission and myself visited the site and surrounding areas.
75. At the conclusion of the evidence given at the Inquest, Coroner Lock expressed the hope that his findings, or interim findings, would be delivered before the commencement of the Commission of Inquiry.

The Coroner's Findings

76. Coroner Lock delivered his comprehensive 31 page Findings on 15 October 2009. A copy of the Coroner's Findings was provided to lead Counsel Assisting the Commission who attended the Coroner's Court on that day. The Coroner's Findings are also available on the website of the Office of the Queensland State Coroner.
-

77. Coroner Lock found that Edward Alexander McBride died on 7 February 2007 at Energex Sub-station T36 located at Old Northern Road, Everton Park, Queensland.

The Coroner found that the formal cause of death was "Electrocution", and that the death was an intentional suicide.

As a result of considering all of the material contained in the exhibits and the evidence given by the witnesses, Coroner Lock also found that:

"Mr McBride died as a result of intentionally placing himself in a position on the Sub-station tower such that he would receive a high voltage electric charge with almost certain death as a result. In placing a rope around his neck and tied to the Sub-station tower he intended to provide a backup method to ensure his life was ended. On the evidence presently before me, his intention to take his own life was not reasonably foreseeable by his family, the Australian Defence Force or members of the

78. Paragraphs 137-141 of Coroner Lock's Findings contain his Summary and I reproduce those paragraphs in full:

"Summary

137. *In his Psychiatric autopsy report Dr Lambeth made the following comments:-*

- (a) the circumstances surrounding Mr. McBride's death indicated that this was suicide;*
- (b) his suicide could not have been reasonably predicted;*
- (c) the lack of a suicide note or marked depression or recent behavioural change along with established future plans suggest that any premeditation was recent, possibly within hours of his death;*
- (d) his psychological profile indicated that he had a reasonable measure of self control and had some protective factors including some limited social support from his family and the*
- (e) there were a number of structural/organisational factors within the Army which may have contributed to his suicide and which have been identified and are the subject of the Commission of Enquiry; and*
- (f) it was not possible to identify any clear personal factors which may have led to his suicide, but the role of his blood alcohol concentration, others observed by witnesses to be present at the time of his suicide and the role of his contacts with the* remain unclear.

138. *It is clear that there was a high degree of lethality, with death almost a certainty when he climbed the Sub-station tower. There is no evidence that this was a result of a risk taking adventure on his part. The presence of the two other persons within the Sub-station compound was certainly one which required investigation. It is not absolutely certain as to what role those persons may have played in the events of that evening although I have found that it is less likely that they had any involvement and it was a matter of coincidence that they were present at all.*

139. Although there are a number of organisational factors which should be examined by the Commission of Enquiry, I had formed the view early in the course of the investigation that there was nothing to suggest his ADF service was a contributory factor to his death, and I am still of that view. Although there were reported incidents of bullying and harassment they did not seem to me to be at the serious end of the range and action had been taken upon receipt of his complaint which was appropriately and satisfactorily dealt with. There was a degree of frustration with the discharge process and evidence of some social isolation within his rehabilitation programme but by January 2007 Mr McBride was informing family members and others that he was expecting his discharge in March. Any bullying or harassment from members of the Alpha Company would largely have abated many months previously because this company had been deployed to East Timor. In the month leading up to his death he was on leave and was involved full-time in his course. He was looking forward to visiting his family. They would have been understandably shocked that he would take such a drastic step. There was no evidence which would have suggested to them this would occur.

140. The only evidence of any thing that approached unusual behaviour seemed to occur on 6 and 7 February 2007 when he expressed some reluctance to attend for the finalisation of his

Up until that time all evidence indicated that his experiences with the programs offered by the were positive and enjoyable. There is evidence that he wanted a break and did not want to come in and attest the course he had largely completed. There is nothing to suggest that there was anything in that behaviour which should have alerted anyone in the or elsewhere to the possibility that he was contemplating taking his own life. There are some unknowns as a result of the non-production of his which may have shed some light on what he was thinking at that time. It may not. It is clear to me that the degree of forcefulness and amount of contact from members over those few days is indicative of something more than concerns about completing an administrative process at the completion of his course. Interestingly Ms 's statement says the was sent to Sydney for review and as a result of the review she later went to Sydney for further training in the appropriate aspects of

141. If the is produced then this can be examined further. I will in any case await the outcome of the Commission of Enquiry before closing this inquest."

79. Further, at the conclusion of paragraph 87 of his Findings, Coroner Lock stated:

"It should be noted that I am not closing the inquest totally as the Commission of Enquiry may have further information that can assist me and the inquest can be reopened by me."

80. The full records of the Coronial Inquest have been made available to the Commission of Inquiry.

81. A complete copy of the 811 page transcript of the Coronial Inquest has become Exhibit 7 in these proceedings and Exhibit 8 is a Compact Disc (CD) from the Coroner's Office which includes copies of all Exhibits at the Inquest including witness statements, photographs, transcripts, telephone records, the Energex investigation report dated 6 March 2007, and other materials. Commission staff have prepared an index of the contents of that CD.

82. Only copies of the original exhibits at the Inquest were provided to the Commission because the Inquest may be reopened and the Coroner's Office must hold the original exhibits in safe custody.
83. Exhibit 9 is a copy of all 64 statements taken by QPS in the course of their investigations. Exhibit 10 contains copies of all letters from myself and Counsel Assisting the Commission to Coroner Lock and his Counsel Assisting.

Clarification of the Terms of Reference

84. On 15 October 2009, the same day that Coroner Lock handed down his Findings, I wrote to you seeking clarification about aspects of the Terms of Reference that you issued on 4 April 2009.
85. A copy of that letter is contained in Exhibit 14. That Exhibit also contains copies of other Progress Reports, as do Exhibits 66 and 68.
86. You, in effect, provided the clarification I sought, by way of an Instrument of Variation, dated 29 October 2009. That document became Exhibit 13 and states in part:

"Variation of matters into which the Commission may inquire

Under subregulation 109 (3) of the Defence (Inquiry) Regulations 1985, I rescind paragraph 5 of Annex A to the instrument of appointment and insert the following words in place of that rescinded paragraph.

'5. Subject to paragraph 4, the Commission is to obtain evidence and to provide me with a report detailing, with reasons, the findings of the Commission as to:

- a. the circumstances surrounding the death of Private McBride;*
- b. the sufficiency of any actions and decisions taken by Defence personnel which are materially relevant to Private McBride's death, both prior and immediately subsequent thereto; and*
- c. any substantial weaknesses or deficiencies (isolated or systemic) in Defence systems, policies, equipment, practices, procedures and training proximately associated with Private McBride's death."*

Pre-Hearing conference

87. On 26 October 2009, I conducted an informal pre-hearing conference at Victoria Barracks, Brisbane. Both Counsel Assisting the Commission and Commission staff including _____, the Administration Manager of the Commission of Inquiry and the Secretary of the Commission, attended that conference. Also in attendance was Wing Commander Glenn Cridland RAAF SR, a legal practitioner from Perth, who was present by invitation by myself. On the first day of the hearing, (9 November 2009) Wing Commander Cridland was formally granted leave to appear as Counsel Representing the single representative of the deceased soldier, namely, his father, Mr. _____ McBride.
88. At the informal pre-hearing conference, I issued Practice Note No. 1 in these proceedings. That Practice Note became Exhibit 2 on 9 November 2009.
-

89. Prior to the informal pre-hearing conference, lead Counsel Assisting had prepared a "Proposed Outline" for the hearing. That document is dated Friday 23 October 2009. Although at that time the Commission of Inquiry (COI) was awaiting your answer to the questions posed by me regarding the interpretation of the Terms of Reference, lead Counsel Assisting (CA) submitted as follows:

"3. CA submits that the issues for ventilation before the COI have now, since the publication of the Coroner's interim Findings, resolved themselves down to the four issued raised by LTCOL Dugdale, and set out in Paragraph 18 of the Coroner's Findings:

- (i) his potentially compromised psychological state was not recognised
- (ii) there may have been instances of harassment and bullying
- (iii) there may have been systemic deficiencies re medical discharge
- (iv) his employment with the BTT may not have been properly managed"

90. As a result of the clarification duly provided by you in the Instrument of Variation, the focus of the Commission became even more service-specific. Whilst it became unnecessary to revisit certain issues dealt with by Coroner Lock, the Commission was still obliged to examine and report upon the circumstances surrounding the death of Private McBride.
91. The Coronial Inquest investigated issues such as Private McBride's involvement in courses and the sighting of two males inside the Energen Sub-station compound at or about the time of Private McBride's electrocution. Coroner Lock made considered findings in those matters and there is no need for the Commission to re-investigate those matters. Whilst I shall make some comments about some of those issues in due course, my comments will be in the context of the Coroner's findings, all of which the Commission, with respect, accepts and adopts in their entirety.

The formal hearings of the Commission

92. The Commission of Inquiry commenced at Victoria Barracks, Brisbane, on Monday 9 November 2009 and continued until the afternoon of 11 November.
93. No security issues were involved and the hearings were conducted in public. The hearings attracted significant media interest, especially on the first day.
94. The parents of Private McBride came to Brisbane from [redacted] for the Commission of Inquiry and attended the proceedings each day. As I pointed out to them both privately and publicly, Commissions of Inquiry are not conducted for the benefit of the family of the deceased member but for the benefit of the ADF family as a whole. That, of course, does not mean that the family members are unimportant or that their wishes should not be taken into account, where appropriate. As happened in this case, support is provided to family members throughout, and at public expense. No Commission of Inquiry should be conducted in a way that unnecessarily compounds the loss and grief suffered by the family.
95. The parents of Private McBride also understood that Counsel Representing, Wing Commander Cridland, took his instructions from a *single* representative of the family on behalf of the deceased, namely, Mr. [redacted] McBride, the father of the deceased soldier.

96. Altogether, the Commission had before it 70 Exhibits. Exhibits 57 to 70, copies of which were duly provided to Counsel Representing, were received into evidence outside formal hearings of the Commission, as envisaged by paragraph 9 of Practice Note No. 1, dated 26 October 2009, which stated:¹

"Documents and other materials may be tendered to the inquiry and received into evidence outside formal hearings of the Commission".

97. During the three-day hearing, all witnesses required by Counsel Assisting to give oral evidence to the Commission, did so. Their evidence was given either on oath or affirmation.
98. The eight witnesses who gave evidence to the Commission were all members, or former members, of the ARA or Defence-related civilians. They were:

- Lieutenant Colonel Andrew Cohn¹, the current Deputy Director of Mental Health in the ADF;
- Group Captain Michael Paterson¹, currently posted to the dual position of Director Strategic Workforce Development and Director of Defence Force Nursing within the Health Policy Branch of Joint Health Command. At the time he gave evidence, Group Captain Paterson was also the Acting Director-General Health Policy, Joint Health Command, whilst the current incumbent was on leave.
- Lieutenant Colonel Scott Goddard (Retired)², the former Commanding Officer of 6 RAR during the period 9 December 2005 – 7 December 2007. Lieutenant Colonel Goddard gave telephone evidence from Townsville.
- Lieutenant Colonel Jason Blain CSC³, who became Commanding Officer of 6 RAR on 7 December 2007 and was its current Commander at the time of his giving evidence.
- Lieutenant Colonel Jonathan Hodge⁴, a Medical Officer in the ARA currently posted to the Joint Health Support Agency at Lavarack Barracks, Townsville, as the Staff Officer Grade One, Medical Services.
- Mr. Anthony Sherlock⁵, a very experienced Rehabilitation Counsellor and currently the ADF Rehabilitation Coordinator for South East Queensland.

From mid-1994 to 2006, Mr Sherlock was employed by the ADF as a Contract Health Practitioner and held the positions of Manager Rehabilitation Department and Manager of Mental Health Services at the 2nd Health Support Battalion, Gallipoli Barracks, Brisbane. Mr Sherlock was very much involved in the development of the new ADF Rehabilitation Program (ADFRP), which was formerly introduced in June 2006.

- Lieutenant Colonel Fred Parker⁶, an Officer of 15 years experience in the ARA. Amongst other things, he is a registered general nurse with a

background of trauma nursing. Lieutenant Colonel Parker has had operational experience and is currently posted to the Directorate of Army Health where he is the Staff Officer, Grade One, Health Operations and Governance. Since 21 July 2009, he has been performing the duty of Acting Director of Army Health within Personnel Branch, Army Headquarters, (AHQ), whilst the Director has been on operational deployment.

At the request of Counsel Assisting, and with my full approval, Lieutenant Colonel Parker sat at the back of the hearing room and heard all evidence given to the Commission of Inquiry.

- Ms Rowena English, a Specialist Physiotherapist with seven years experience in the ADF both as an Officer and a civilian. Ms English is a member of Joint Health Command where, since January 2008, she has been Deputy Director Development of the ADF Rehabilitation Services.

99. Throughout the three day inquiry, evidence was given about complex and challenging issues of policy and practice regarding a number of Defence-related matters including:
- Annual Health Assessments;
 - the management of long-term rehabilitees; and
 - processes for Medical Employment Classification Review Boards and associated discharge action.
100. On the afternoon of 11 November 2009, the Commission adjourned, tentatively, until Wednesday 25 November 2009.
101. The purpose of the adjournment was to give an opportunity to other Defence members who had perspectives on the issues mentioned in paragraph 99 above, and who believed that they may assist the Inquiry, to contact Counsel Assisting, with the prospect of their giving evidence in person on 25 November 2009, at Victoria Barracks, Brisbane.
102. No such person contacted either Counsel Assisting within the appointed time frame. Consequently, in Practice Note No. 2 dated 19 November 2009, I directed that no further oral evidence was to be given to the Commission and that the Commission would not re-convene on 25 November 2009. I then directed that the formal hearings of the Commission had concluded.
103. All that remained was for some other documents that had not been tendered during the hearings to be introduced as Exhibits in accordance with paragraph 9 of Practice Note No 1.
104. In Practice Note No. 2, dated 19 November 2009, I provided time frames for submissions from Counsel Assisting and Counsel Representing. Those submissions form part of the records of the Commission.
105. On Friday 27 November 2009, I advised lead Counsel Assisting by telephone that I had extended all time frames for submissions by seven days, and requested that he notify other Counsel of the extension.
-

police quite correctly accessed the PDA to see if there was anything of interest that could lead them to other inquiries. In fact, there were important voicemail and text messages from members of the _____ stored on the PDA. Those messages were heard and observed by police that night, but no precise record or recording was made of those messages.

116. What was not known to police investigators at the time was that, unlike mobile phones, once a PDA loses its battery power, its data is lost because it has a volatile memory.
117. When the QPS Forensic Computer Examination Unit examined the PDA on 14 February 2007, the battery of the PDA was then flat. The flat battery caused all data stored on the PDA's internal memory to be lost.
118. Counsel Assisting, Wing Commander Taylor, suggested that the Australian Federal Police (AFP) and possibly the ADF might be able to assist the QPS retrieve the lost data on the PDA. Detective Senior Constable _____ took the PDA to Canberra for that purpose. Unfortunately, the lost data was unable to be retrieved. As was stated by Coroner Lock:⁷³

"Attempts were made to utilize ADF experts and later with updated software by Police Forensics, but to no avail. This may be a lesson learnt for police for future investigations involving PDA devices."

119. As has been mentioned, police officers at the scene heard and saw the voicemail and text messages on the PDA but did not make or take a precise note or recording of those messages. Although the precise content of the messages could not be ascertained at the Coronial Inquest, Coroner Lock listed the various accounts of what was heard or read in paragraph 97 of his Findings.
120. Sufficient and satisfactory evidence was given to enable Coroner Lock to come to some conclusions about the source, nature and intent of those messages.
121. Contrary to the evidence given by _____ members, Coroner Lock found, 'in the context of evidence that Private McBride apparently had expressed a wish to have a break from his _____ course work, that:

"The tenor and quantity of the messages however it is not one of a desire to finalize some administrative process. It seems to have a much more serious tone about them as if something else had happened.....One wonders why anyone would have been concerned about him.....What was there to be concerned about because someone wanted to postpone a meeting to finalize the course? What is clear to me is that there had been a change. Something had happened to Mr. McBride because in the next day/hours he would take his own life in quite a pre-meditated manner."

Family and social history

122. Edward Alexander McBride came from a close and loving family that has no history of mental health issues.
123. Edward was born on 27 July 1976 in Belfast, the second of three sons of _____ and _____ McBride. When Edward was 4 his family emigrated from Ireland to Australia and settled in _____ with a brief period in New Zealand.

⁷³ See Findings of Inquest, Exhibit 6, paragraph 95.

⁷⁴ *Ibid.* paragraph 95.

⁷⁵ See Findings of Inquest, Exhibit 6, paragraph 106.

Mr McBride attended primary and high school in Western Australia and then commenced an electrician apprenticeship that he completed when he was 21.

His parents described Edward as being a considerate and very inquisitive child with a tendency towards manual skills. He was interested in extreme sports and went on to study martial arts at a high level and represented his State. He was a non-smoker and essentially did not consume alcohol on a regular basis and when he did it was certainly not heavily.

After finishing his apprenticeship he travelled extensively through northern Europe, the Middle East and south-east Asia. He returned for a short while to earn more money and then headed back overseas again. He expressed an interest in joining the Army and was convinced by his parents to return to Australia to do this, rather than joining the British Army, which was his initial thought.

124. Information from family members available to the Commission consisted of statements from Edward McBride's parents and brothers together with the oral testimony of Edward's father, Mr. McBride at the Inquest.

Consumption of Alcohol

125. As has been mentioned, Private McBride was neither a regular nor heavy consumer of alcohol. His brother told lead Counsel Assisting the Commission that prior to joining the army Edward was only a social drinker, and his preferred drink was *Southern Comfort and Coke*. The significance of that particular drink will become apparent later.

126. McBride also told lead Counsel Assisting that whilst Edward was in the army, Edward gave up drinking alcohol as he found it helped his fitness and overall "general wellbeing". also said that he asked his brother, from time to time, if he had been "out on the town" drinking with his army mates, and Edward always replied "no", because he was "not into that scene" and believed it to be "a waste of money".

127. In his initial ADF Medical History Questionnaire, dated 11 November 2002, Private McBride replied "No" to Question 36, "Do you drink alcohol?"

128. At the Comprehensive Preventive Health Examination conducted on 8 April 2005, at the School of Infantry RAP, before Private McBride commenced the first Commando Training Course at Ingleburn, he was required to complete, amongst other things, an "Alcohol History".

In answer to the question "How often do you have a drink containing alcohol?" Private McBride did not tick the "never" box, but ticked the "monthly or less" box. The next question then asked "How many 'standard drinks' containing alcohol do you have on a typical day when you are drinking?" to which he ticked the "One or two" box.

129. In subsequent Annual Health Assessments (AHA), Private McBride continued to reply "No" to the Question "Do you drink alcohol?". See for example, the AHA dated 6 February 2006.
130. In her evidence at the Coronial Inquest, the [redacted] of Private McBride, Ms [redacted], said that Edward told her that he had not consumed alcohol since he had completed the [redacted] Course in Sydney. She said that he had "distaste" for alcohol and one of his biggest "gripes" about the army was its drinking culture. He thought soldiers should have a higher ethical and moral presence given their responsibilities, and felt that such drinking behaviour simply gave the Army a very bad name. He did not want to participate in that culture.
131. The Commission does not know the exact date of the [redacted] Course, but is aware that on 3 March 2005, Private McBride paid for the [redacted] Course and Materials".

Interest in travel

132. Private McBride was an adventurous man who loved travel, wanting to see what the world had to offer. During the period late February 2000 to late December 2000, he travelled overseas with his then girlfriend, Ms M. He then returned to work as an electrician in the Western Australian mining industry to save money for his next overseas trip which he undertook, by himself, during the period September 2001 - September 2002.
133. By the time he joined the ARA in January 2003, Private McBride had visited some 41 countries. His love of overseas travel did not diminish during his army service. In brief, he visited the following countries during his authorised annual leave periods.
- | | |
|----------------------|-----------------------|
| 20/12/03 to 04/01/04 | Indonesia, via Guam |
| 14/12/04 to 09/01/05 | Taiwan, via Hong Kong |
| 05/06/05 to 12/06/05 | Fiji |
| and | |
| 14/12/05 to 29/01/06 | Vietnam, via Japan |
134. The only annual leave that was **not** used for overseas travel, during Private McBride's ARA service, was the 2006-2007 leave. He used that leave to attend three [redacted] courses in Brisbane.

Significant Relationships

135. As mentioned above, Private McBride went overseas with his then girlfriend in 2000. In late November 2002, he met another woman in Perth, Ms D, when he was out at a nightclub with his two brothers. By the time he joined the ARA, she and he had formed a meaningful and serious relationship. After he joined the ARA, his new girlfriend travelled to the [redacted] to visit him about every six weeks and he returned to [redacted] on leave, to visit her from time to time.
136. The relationship was serious and Private McBride nominated Ms D. as his alternative emergency contact on relevant ADF records.

137. However, the long distance relationship proved too stressful for Ms D. and she called off the relationship just before Easter 2004.
138. Initially, the break up was very emotional for Private McBride but he quickly came to terms with it. They remained friends and he maintained social contact with her from time to time. At Easter 2006, Private McBride endeavoured to resurrect the relationship, but it seems his motivation was much about "saving" his former girlfriend and wooing her into the ways of the
139. There is no evidence that Private McBride had any other significant girlfriend after his relationship with Ms D. ended.
140. The Commission has available to it two statements from the former girlfriend.⁶⁵
- Private McBride confided many things to her during their relationship, including his love of army life during the initial period of his service. Private McBride also told her that prior to joining the army he had been depressed and had visited a counsellor.
141. On 2 October 2002, prior to meeting that Ms D. for the first time, Private McBride completed the Medical History Questionnaire as part of the ADF pre-enlistment process. In the Psychological Health section of that questionnaire (Q63-73), when asked if he had suffered "depression" or had sought "Consultation or treatment by", amongst others, a "Counsellor", Edward McBride ticked the "No" box to both questions.
142. The former girlfriend, Ms D. said that she knew that Edward was searching for something meaningful in his life. She said he was very good at keeping his feelings and emotions bottled up and hidden from the outside world.⁶ She also stated:
- "About 12 months after joining the army Eddie told me that he had made the wrong decision and couldn't wait to get out. He had moments when he was enjoying it but he also had mood swings. Sometimes, he just wanted to lock himself away and he wouldn't talk. He didn't have a lot in common with the other boys in the army. I don't believe he had friends."*
143. Private McBride was also described by his former girlfriend as a "loner" who "needed to belong to something". He often spoke to her about _____ and she observed him embrace _____ over time. On their last outing in 2006, most of Private McBride's conversation with her was about his growth in _____. Further:
- "He was even saying that he would soon be leaving the army. My feelings were that this didn't seem like the Eddie I'd known. This was the last time I saw Eddie alive."*⁴
144. Although Private McBride and his former girlfriend had loved each other and he was initially distressed at their breakup, there is no indication, let alone evidence, that this former relationship had any bearing on Private McBride's state of mind prior to or at the time of his tragic death.
-

Army service history and Medical Employment Classifications (MEC)

145. At one stage, Edward McBride had considered joining the British Army. His father persuaded him to return to Australia to join the Australian Regular Army (ARA).
146. Edward McBride enlisted in the ARA as a recruit on 8 January 2003. He was then a mature young man of 26 years of age who had travelled extensively prior to his enlistment. By trade, he was a qualified electrical fitter and licensed electrician.
147. In his application for admission to the ADF he stated:
- "I would like to join the Australian Defence Force for many reasons. Firstly a career change. Something more suited to my personality and interests. Also, the challenge of serving at least 4 years for Australia. I want to be part of an organisation that I believe is a worthwhile cause. I am looking for some adventure and being part of a team."*
148. In his application to join the ADF (Army), Edward McBride listed his "Preferred Job", in order of preference, as:
1. COMBAT ENGINEER
 2. RIFLEMAN
 3. CREWMAN
149. Private (Recruit) McBride performed well at the Recruit Training Centre at Kapooka, during the 12 week course.
150. In a Record of Attainment dated 23 February 2003^o, his Company OC stated, amongst other things, that Private (Recruit) McBride :
- ".....approached the course with an enthusiastic attitude and adapted steadily to Army life. He was an active and interested participant in training who related well to his peers and instructors. PTE (R) McBride developed good soldierly qualities. He worked well as a member of a team and made satisfactory contributions to team activities."*
151. After his recruit training, Private McBride was allocated to the Royal Australian Engineers (RAE), on 14 July 2003. Upon completion of his Initial Employment Training (IET) Course in September 2003, he was posted to the 3rd Combat Engineer Regiment (3 CER), Lavarack Barracks, Townsville.
152. Whilst serving in 3CER, Sapper McBride indicated an interest in the Royal Australian Infantry Corps (RAINF) and Special Forces (SF).
153. On 23 March 2004, Sapper McBride applied for transfer to Special Forces. His Troop Commander recommended the transfer and wished him well. In his Brief for the CO of 3 CER, the Troop Commander noted, amongst other things, that Sapper McBride had "wanted to enlist in RAINF, however was allocated to RAE". The Troop Commander further noted that Sapper McBride was a "self-starter" with a desire to succeed. He was a soldier who maintained "good standards" and possessed "good all-round soldier skills". The soldier had no disciplinary problems.
154. Sapper McBride's Troop Commander also noted that he was "a dedicated soldier who likes to strive to perform and be part of a team environment". It was further noted that Sapper McBride "wishes to make a career from the army and believes that this employment category change will assist greatly. He feels that he would offer more to the army if were to become a Commando".
-

155. Sapper McBride's OC agreed with the Troop Commander's comments and supported the application for selection in SF. The OC noted that Sapper McBride had proven to be *"both a reliable and responsible soldier."* It was noted that he was an *"enthusiastic sapper"* and a soldier who *"strives for excellence in everything that he undertakes. He is young and motivated."*
156. On 25 Jun 2004, Sapper McBride passed the Special Forces entry test. Clearly, he had not lost his enthusiasm for the ARA at that time.
157. On 6 September 2004, Private McBride was transferred to 4 RAR (CDO), Holsworthy, and took up that posting on 11 December 2004, some three days before going on annual leave for four weeks.
158. On 1 February 2005, Private McBride commenced Commando Training Course, numbered CTC 1/2005. The Senior Instructor withdrew him on day 22 of the course (2 March 2005) because of a *"safety breach"*. It was recommended that Private McBride re-apply for SF after further experience.
159. On 27 April 2005, Private McBride re-applied for SF selection and on 1 June 2005 he passed the SF entry test for the second time.
160. On 29 September 2005, Private McBride commenced CTC 2/2005.
161. On 12 October 2005 - 10 days before that course was due to finish - Private McBride requested to be withdrawn because of knee pain. He was withdrawn from the course that day but the Senior Instructor refused to grant a medical withdrawal because the claim could not be fully substantiated.
162. On the day of his withdrawal from CTC 2/2005, it was recommended that Private McBride have no further Commando reinforcement training. Private McBride acknowledged and accepted that recommendation the same day.
163. Clearly, Private McBride had lost his interest in the ARA as a career by that time. Of particular relevance are the notes made by the then 4 RAR (CDO) psychologist, Captain _____, in the field, on the day of Private McBride's withdrawal from CTC 2/2005.
164. On 12 October 2005, Captain _____ made the following comments about Private McBride:

"AT THE TIME OF HIS WITHDRAWAL FROM THE CTC THERE WAS STILL SOME CONJECTURE ABOUT THE MEANS BY WHICH PTE MCBRIDE WAS WITHDRAWN. WHILST THE MBR CONSIDERED THAT HE WAS BEING MEDICALLY WITHDRAWN, THE S.I. BELIEVED THAT HIS PSYCHICAL DID NOT WARRANT WITHDRAWAL & HE THEREFORE ASSUMED THAT PTE MCBRIDE HAD WDR. EITHER WAY, PTE MCBRIDE INDICATED THAT HE TAKEN UP A NEW RELIGION SINCE THE LAST CTC (IN 01/05) & HE SAID THAT HE NO LONGER WISHED TO BE IN THE ARMY, NOR DID HE INTEND TO RE-ATTEMPT THE CTC. PTE MCBRIDE REPORTED THAT HE HAD ONE YR REMAINING OF HIS 4 YR TERM & SAID THAT HE INTENDED TO COMPLETE THIS & THEN DISCHARGE. HE REPORTED BEING CONTENT WITH HIS TIME IN THE MILITARY & INDICATED THAT HE WOULD NOT ATTEMPT TO GET OUT OF THE MILITARY SOONER THAN THE COMPLETION OF HIS 4 YR

TERM. PTE MCBRIDE CLAIMED TO HAVE BEEN HAPPY WITH THE CONDUCT OF THE CTC WITH HIS ONLY NEGATIVE BEING THAT HE FOUND IT DIFFICULT BEING CONTINUALLY ASSESSED BY THE DS."

165. Captain _____ provided a statement¹ to the Commission, dated 15 October 2009. The Commission sought clarification of two issues, including whether the psychologist had a specific recollection of Private McBride. In his supplementary statement² dated 24 November 2009, the psychologist, now a civilian, relevantly stated:

"So far as the first matter is concerned, I do have a vague recollection of the conversation I had with Private McBride when he discussed his belief in _____. I gained this recollection of Private McBride after I re-read two exit psych screens prepared in respect of Private McBride on 22 September 2009, and which are referred to at paragraph 8 of my statement at Attachment A. It was the references to _____ in the second psych screen document (conducted in October 2005) which jogged my memory of Private McBride. While my memory is only a brief one, I vaguely recall speaking to Private McBride out field while sitting on a couple of logs in a clearing towards the conclusion of EX DEMARCATION on the CTC. I cannot recall what PTE McBride looked like, but I do recall that it was late afternoon and that sun's rays were streaking through the trees into the clearing where we sitting to conduct the screen. My primary recollection was not really of PTE McBride, but of him raising the issue of having converted to _____ and how this had changed his attitude to wanting to continue serving in the military. I recall PTE McBride indicating that the teachings of _____ were inconsistent with the requirements of military service, and he used this to illustrate why he intended to discharge from the Army when his time of service was complete. PTE McBride appeared quite content with his decision and it did not appear to be a point of stress or contention for him at the time. The only reason that I can probably recall the screen is because I had not knowingly spoken to a serving military member before about _____ and I remember wondering whether or not PTE McBride's understanding of _____ teachings regarding military service were what _____ held true or just PTE McBride's understanding of things. I did not investigate this further as it would have been inappropriate in my role as psychologist and I did not view it as an issue as PTE McBride seemed calm and content with his decision."

166. One week after he withdrew from CTC 2/2005, Private McBride was recommended for reposting from 4 RAR (CDO), Holsworthy.
167. In late November 2005, Private McBride was posted to 6 RAR Enoggera, and he marched into 6 RAR on 25 November 2005. Upon his arrival at 6 RAR, Private McBride was assigned to Alpha Company (A Coy).
168. Some two weeks after marching into 6 RAR, Private McBride went on annual leave for just over seven weeks, visiting Vietnam via Japan.

Private McBride's MEC downgrading

169. From the date of his enlistment in the ARA until mid-February 2006, Private McBride maintained a rating of MEC 1.
170. On 16 February 2006, Private McBride was medically downgraded to MEC 301. The bilateral knee and ankle problems which developed at 4 RAR (CDO) whilst

participating in CTC 2/2005, were exacerbated during 6 RAR training for deployment on OPERATION ACOLYTE. That Operation related to ADF support to the Melbourne 2006 Commonwealth Games during which 6 RAR deployed a special company in support of the Tactical Assault Group – East.

171. After being downgraded to MEC 301, Private McBride was placed on work restrictions by the 6 RAR Regimental Medical Officer (RMO), Major , and referred to an orthopaedic specialist. The RMO provided Private McBride with a Return to Work Program (RWP), and he was referred to the Rehabilitation Coordinator for the development of his RWP.
172. The RMO required Private McBride to attend fortnightly for review and he was to have a MEC review on 14 June 2006. The RMO advised Private McBride to submit a claim for compensation and a specific appointment with the RMO was conducted for that purpose.
173. On 14 March 2006, Private McBride's Department of Veterans' Affairs (DVA) claim for "ankles and knees" was received by the DVA Office at 2nd Health Support Battalion, Enoggera.
174. On 19 March 2006, as a result of his medical restrictions, Private McBride was transferred within 6 RAR from A Coy to Bravo Company (B Coy), specifically the Battalion Training Team (BTT) within B Coy.
175. Private McBride's transfer to the BTT was in accordance with the 6 RAR CO's Injury Management Plan (IMP) for such soldiers.⁵ Amongst other things, the IMP stated at paragraph 1. 10. 007:

"The rehabilitation of injured 6 RAR personnel, is one of the most significant command responsibilities across the Battalion. Personnel injured in the service of 6 RAR must be afforded every opportunity, without stigma, to conduct rehabilitation programs in order to return to full duty as soon as practicable."

176. Whilst he was a member of 6 RAR, Private McBride was a reserved soldier who did not easily integrate into either A Coy or the BTT. Fellow soldiers regarded him as a "loner". Effectively, Private McBride was no longer a team player as he had been in previous postings.
177. On 9 June 2006, Private McBride lodged an informal complaint about certain incidents of unacceptable behaviour. One was the "food smear" incident which was said to have occurred in the 6 RAR OR's mess two days before, and the other related to the "Lid" incident at the OR's boozier, prior to going on annual leave in December 2005. Private McBride also alleged that he had been subjected to name calling and pranks on an on-going basis whilst at 6 RAR.
178. As regards the "food smear" incident, Private McBride alleged that another soldier smeared food onto his shirt in the mess, pretending to give him a friendly slap on the back. He only noticed the smear later. As regards the "Lid" incident, it was alleged that this occurred during a "drinking parade", when, in accordance with A Coy tradition, he was expected to drink alcohol from a yellow helmet liner. Private McBride found the incident humiliating and refused to participate in the tradition because he didn't drink. As he stated in his complaint.

"I was accused of not being a team player and was physically hit and degraded. Since this incident, I have been the subject of much harassment."

I do not want to be a part of this army anymore, as I don't want to be around these people.

This has affected my attitude towards work and my attitude is now getting me in trouble."

179. The complaints made by Private McBride were quickly and properly investigated as the relevant records disclose. Amongst other things, Private McBride informed the investigating officer, Captain Burns, the 6 RAR Regimental Signals Officer (RSO), that he did not wish to be identified as the complainant and wished to remain anonymous at that time. Private McBride indicated that he did not wish to make a formal complaint or to pursue charges against anyone.
180. What Private McBride wanted from his informal complaints was to send a message that harassment will not be tolerated in the army. He also said that he wanted to get other soldiers "off his back" before his discharge on 8 January 2007. He also indicated that he had no objection to the "Lid" tradition being maintained, as long as new soldiers were given a choice and not forced to participate.
181. The "Lid" incident complaint was upheld, and on 11 July 2006, the CO of 6 RAR, Lieutenant Colonel Goddard, ordered that the "Lid" practice cease immediately and that A Coy conduct remedial training with respect to compulsion of individuals to consume alcohol. In accordance with Private McBride's desires, no further investigation was to be conducted nor formal disciplinary action be initiated against any member of A Coy.
182. Whilst it was found that "unacceptable behaviour" had occurred with respect to Private McBride, the CO 6 RAR stated:
- "I am satisfied that the unacceptable behaviour has been derivative of individual actions rather than a culture of workplace harassment or bullying".*
183. During August 2006, the 6 RAR RMO referred Private McBride to the Rehabilitation Program and he was duly referred to the Commonwealth Rehabilitation Service (CRS) at Enoggera.
184. On 24 August 2006, Dr. _____, visiting orthopaedic surgeon, considered Private McBride unfit for military service.
185. On 7 September 2006, 6 RAR deployed on Operation Astute to form the nucleus of the Timor Leste Battle Group Rotation. That deployment continued to 30 March 2007.
186. Private McBride did not deploy with 6 RAR to East Timor but remained at Gallipoli Barracks, Enoggera, in the 6 RAR Administration Company Rear Details. The BTT came under the umbrella of that sub-unit.
187. On 7 September 2006, Private McBride completed a Member's Health Statement in which he sought to be "medically discharged" as the result of the pending MEC review. Some three months prior, Private McBride had authorised the release of medical information for the purposes of a MEC review. Private McBride had also stated that his preferred date of separation was "around early Feb 07".
188. On 12 September 2006, Major _____ the OC of 6 RAR Rear Details, and the Acting CO, noted in a Workplace Disability Report¹ that Private McBride "is unsuited to continued military service" and that he "be downgraded to MEC 401 and
-

medically discharged from the ADF. On the same day, Private McBride commenced a Rehabilitation Plan under the care of the CRS.

189. On 28 September 2006, Private McBride was advised that his recommended MEC was "401" and that as a result *"he was unfit for military service"*.
190. When advised of the recommended MEC downgrade, Private McBride ticked the "I do" box which asked if he wished to make a *"representation"* on that recommendation. However, it seems that no such representation was ever made by Private McBride.
191. On 12 October 2006, the confirming medical authority endorsed the recommendation that Private McBride's MEC be down graded to MEC 4. Relevantly, the 6 RAR Injury Management Plan (IMP) stated:
- "Members who are reclassified to MEC 4 remain on the IMP at the discretion of the RMO. Release from the IMP will usually occur after the member has received a discharge date from the MEACRB determination....."*
192. No discharge date was ever provided to Private McBride because, in the circumstances, no MEACRB had convened before the date of his death.
193. During October and November 2006, Private McBride had ongoing contact with and assistance from the CRS.
194. On 5 December 2006, Private McBride advised the CRS, per _____ his Rehabilitation Program Case Manager, that the MEC Review Board would not sit again until February 2007 and that he would take leave.
195. On 13 December 2006, Private McBride applied for leave during January-February 2007, and that leave was approved the same day, with the exception that he had to perform restricted duties for 6 RAR Rear Details on 10 January, 22 and 23 January 2007.
196. For the first time in his 4 years ARA service, annual leave was not spent overseas. Private McBride intended to use that leave to complete three _____ courses in Brisbane and visit his family in _____ between 12-18 February 2007.
197. Also, on 13 December 2006, a letter was sent to Private McBride from the DVA rejecting his *"ankle and knee condition"*. There is no evidence indicating when, or if, Private McBride received this letter but the Commission is reasonably satisfied that he did receive that letter.
198. On 19 December 2007, Private McBride had his last contact with the CRS, per Ms _____. He told her that his leave had been granted, but no reference was made to the letter from the DVA rejecting his claim.
199. Private McBride was on short leave from 23 December 2006 to 3 January 2007 and on annual leave from 8 January 2007 to 19 February 2007, with the exception of the three restricted duty days previously mentioned.
200. By letter dated 8 January 2007, Mr Anthony Sherlock, Rehabilitation Coordinator, Department of Defence, Defence Support Group Enoggera, advised Private McBride, amongst other things:
-

Case Manager, from the Commonwealth Rehabilitation Service, has provided me with the recommendation that your current Rehabilitation Plan requires amendment. has provided me with the advice that you still require Case Management support whilst undergoing your Goal 3 plan.

This information provided supports the recommendation and, therefore, I am satisfied that your current Rehabilitation Plan requires amending and is to be replaced by the Rehabilitation Plan Amendment, dated 18 December 2006 (attached), which aims to provide you with case management support. The plan is effective from the date of this letter.

Once again, there is no evidence if or when Private McBride received that letter whilst he was on leave. However, it is probable that he did so, given that he was on restricted duties at 6 RAR Rear Details on 10, 22 and 23 January 2007.

201. On 15 January 2007, whilst on leave, Private McBride consulted a Brisbane t after a referral from a civilian medical practice. As a teenager he had

Private McBride indicated that he would prefer to have laser surgery or some form of physical therapy as opposed to medication and the specialist provided details about laser treatment.¹⁰³ No follow-up action was taken by Private McBride.

A search for something

202. Private McBride's last girlfriend had knowledge that he was "searching for something meaningful in his life" and Ms D. was aware of his interest in and involvement with the . He often spoke about with her and the former girlfriend observed that Private McBride "needed to belong to something".¹⁰⁵
203. On the day of his death, Private McBride had some 50 publications neatly displayed in his room at Gallipoli Barracks. Those publications included books, lecture kits, cassette tapes and CDs.
204. Also in Private McBride's room was his . The Commission does not know when that was issued by the . Private McBride's personal effects were sent to his parents in after his death and Private McBride's father has informed the Commission that he disposed of all of his son's material - including the - after his son's personal effects were sent to
205. Private McBride's last girlfriend, Ms D., understood that his interest in the commenced in early 2004, a couple of months before they broke up at Easter that year. She said that whilst walking through Sydney, Private McBride went into a shop front, spoke to people inside and "purchased his first book". However, that approximate date does not appear to be correct because on 5 May 2003, Private McBride purchased the publication . That book was written in

206. Hence, it seems that Private McBride's interest in _____ commenced some four months after he joined the ARA.
207. Private McBride commenced courses with the _____ in Sydney during 2005 whilst posted to 4 RAR (CDO) attempting to qualify for SF. It is likely he became a member.
208. It is clear from the material before the Commission that Private McBride's interest in the ARA, as a career, decreased significantly the more he became interested in and involved with the _____. See, for example, the comments that he made to Captain _____ upon his withdrawal from CTC 2/2005.
209. As previously stated, after Private McBride withdrew from the second CTC course in late 2005, he was posted to 6 RAR in Brisbane. He marched into 6 RAR on 25 November 2005, and wasted no time in contacting the Brisbane office of the _____. Prior to that, the Sydney office of the _____ contacted the Executive Director in Brisbane, Ms. _____, and informed her that Private McBride wished to make contact with the _____ in Brisbane. Ms _____ phoned Private McBride and he visited her virtually as soon as he arrived in Brisbane. He told her that he wanted to progress to his next _____.
210. Private McBride attended a _____ course entitled _____, attending at nighttimes and weekends on 26-27 November, 30 November and 3-10 December 2005. During that course he provided some written examples of "anti-social behaviour", including:
- *"A soldier at work who constantly talks about how bad the working conditions are. (They are not bad.) He never has any real solutions except very broad generalities."*
- and
- *"A certain member at work continually blames the Army for his failings and also his injuries. He blames the Army when it is obvious that he is at fault."*
211. As examples of "social personality" attributes Private McBride wrote during that course:
- *"My Officer in Townsville. When there was a problem, he knew immediately what to do. He would put plans in place to resolve it. Instead of blaming others and wasting time."*
- and
- *"A soldier changed his habits immediately once he knew his actions were disturbing me. He lived next door to me and was noisy and played his music high. The problem was resolved easily."*
212. In early February, shortly after returning from his annual leave which was spent overseas (10 December 2005 to 30 January 2006). Private McBride commenced a _____ course entitled _____. His supervisor was Mr. _____. As part of that course, Private McBride was

asked to write about a conflict that could have been avoided using methods employed in the course. On 6 February 2006, he wrote:

"Last year at Xmas Work Party, my Corporal asked me to do something he knew I didn't want to do. I had to speak firmly with him (in brief conflict). This upset him. I now know a third party existed (a group) who prompted him to ask me to do something they knew I would not like.

- This could have been resolved if wa both knew that a third party started this."

In effect, Private McBride said that his Corporal was prompted by a group of soldiers to do something he (McBride) didn't want to do, namely, drink from a helmet liner – the "Lid" incident previously mentioned.

213. Private McBride also wrote, during the course, in early February 2006:

"Recently I was talking to another soldier about Army life. We were talking about the pros and cons of staying in. We both agreed that it wasn't making us happy and had both decided to leave when our time was up. By the end of the conversation I liked him a little more."

214. On 10 February 2006, Private McBride acknowledged that his communication with fellow soldiers was poor and that he realised that he had not been talking to many soldiers. He also acknowledged:

"My manners are in need of a change. To show the other soldiers that they are important I will now start to know their names and remember them. Also to acknowledge them instead of ignoring them."

215. On average Private McBride completed one and a half courses per month, attending on weeknights and some weekends. He paid for all courses.

216. On 13 May 2006, during a course on
Private McBride wrote:

"When I first arrived at my new posting in Brisbane, I should of used the formula to start becoming productive. I didn't establish a good communication line with the boss or my other superiors (Corporals and Sergeants). Also, I didn't really make myself known. I thought everyone else should introduce themselves first. Not knowing the formula is also why I didn't discover what was needed or expected of me. I just wasn't producing and wasn't very happy."

217.

218.

219. When Private McBride last spoke to his former girlfriend, Ms D., in Perth during 2006, he told her that he would soon be leaving the Army. In her statement dated 15 September 2009, Ms D. also stated:

"About 12 months after joining the army, Eddie told me that he had made the wrong decision and couldn't wait to get out. He had moments when he was enjoying it, but he also had mood swings. Sometimes he just wanted to lock himself away and he wouldn't talk. He didn't have a lot in common with the other boys in the army. I don't believe he had friends."

220. During that dinner conversation with Ms D., Private McBride tried to rekindle the relationship but it seems that his main motivation was to convert his former girlfriend to the _____ and "save" her. She said that most of the conversation was about Private McBride's growth in _____ and how "happy" he was that he was moving up in the ranks of the _____.
221. On 26 September 2006, Private McBride informed Ms _____, Rehabilitation Consultant with the CRS, that his long-term goal was to join the _____ after his medical discharge from the ARA.¹ He also said that almost all of his friends were civilians and that he intended to live in Brisbane after his discharge from the Army.
222. On 1 January 2007, Private McBride completed a ten month _____ course supervised by Mr. _____. The supervisor described the course as "pretty intensive for someone who had a full time job." That course involved meetings three nights a week, a full day each Saturday and sometimes on Sunday.
223. Mr. _____ told the Coronial Inquest that Private McBride's ultimate goal within the _____ was to obtain "further _____ and _____". When asked to explain Mr. _____ stated:
- "Well there's a book, _____, which was written by a _____ and that covered the various mental blocks or things that can occur in a person's life that later troubled them. basically means that they've confronted and handled the things that were worrying them and they're no longer troubled with those now".*
224. Private McBride told Mr. _____ he was looking forward to his discharge from the Army and his forthcoming visit to _____ to see his parents. He also said that he was considering a visit to Canada after his discharge.
225. It is clear from evidence given at the Inquest that after his discharge from the ARA, Private McBride wanted to obtain further training from the _____ and become an _____ himself.
226. Mr. _____ is a full time staff member of the _____ and gave telephone evidence to the Coronial Inquest from the United States of America. At that time, he was in the USA doing further study to become an _____ and _____.

such as Ms [redacted] had been for Private McBride in the three [redacted] courses he undertook in January and February 2007. The following points are extracted from the evidence of Mr. [redacted] concerning the process of:

- the person being [redacted] examines his own past to find areas of distress (or upsets) which he then ventilates;
- [redacted] documents are kept separate from other course documents because the process is confidential. The process was not unlike the priest-penitent relationship in a religious context; and
- the [redacted] process was acknowledged to be "pretty intense", "draining", "personal" and "confronting".

227. When asked at the Inquest if he thought the [redacted] process could have contributed in any way to the death of Private McBride, Mr. [redacted] replied "Oh, no, no, quite the opposite."

228. The reality is that Private McBride participated in almost continuous [redacted] during the four weeks before his death. Between 3 January 2007 and 5 February 2007. Private McBride participated in three [redacted] courses conducted by [redacted] Ms [redacted] Those courses were:

1. [redacted];
2. [redacted]; and
3. [redacted].

229. Those three [redacted] courses were, in effect, continuous. Course 1 commenced on 3 or 4 January 2007, and occupied three to four days. Course 2 occupied about eight days and Course 3 commenced on or about 20 January 2007.

230. Having regard to the evidence before him, Coroner Lock had this to say about the process:

"In her second statement, Ms [redacted] stated that one of the fundamental principles of [redacted] is that a person can improve their condition only if they are allowed to find their own truths about themselves and this is accomplished through [redacted]. She stated that [redacted] is a process undertaken by asking specifically worded questions designed to help you find and handle particular areas of distress in your life. [redacted] offers the means by which one can explore their past and find their own end to things that may be holding them back in their spiritual development. [redacted] is a precise activity, thoroughly codified with exact procedures. The [redacted] does not offer solutions or advice but helps pinpoint problem issues for the participant. /

231. The Commission understands [redacted] to be a process of personal counselling which helps the person being counselled (the [redacted]) identify areas of concern, distress or

upsets in his or her life. The process involves the being asked a long list of prepared questions by the r and most

is placed so that only the can see its thus enabling him or her to recognize matters that need to be addressed, or further addressed, within the session.

232. It seems that the is a device specific to the and that believe that the device is a useful tool in detecting changes in an state of mind. Indeed, at the Inquest, Ms referred to the as "as our spiritual tool". As she later said, the "...moves in certain ways. It doesn't tell us anything or cure anything, it just guides us into areas....."
233. Coroner Lock stated that it is not altogether clear what is involved in the Amongst other things, Wikipedia, the internet free encyclopaedia, states with respect to
- "It bears a superficial similarity to confession or pastoral counselling, but the auditor does not dispense forgiveness or advice as a pastor or a priest might do."*
234. Only the observes the during the process. A indicates that the is happy with the outcome to the question. If the the still has some concerns, doubts or reservations about the issue in question or, as I said "it shows that the person's got their attention on something else and its not necessarily the course."
235. The evidence before Coroner Lock was to the effect that when a successfully completes an course, a document - is raised to evidence that fact. Such a document is housed in the
236. As mentioned above, a sign off or attestation evidences the successful completion of course. What that means, in effect, is that what is relevant during the course has been and that the has no doubts or reservations. Once again, is used for that purpose.
237. The evidence before Coroner Lock was that of the three courses commenced by Private McBride in January 2007, only courses 1 and 2 were
238. On 5 February 2007, Private McBride attended the and completed course 3, but for the He told Ms that he was tired and going home to sleep. Arrangements were made for him to attend the following day to complete the for that course.
239. On 6 February 2007, Private McBride phoned his and told Ms that he would not attend the that day but would attend on 7 February. Ms was driving to the when she received that phone call from Private McBride. Her evidence at the Inquest was to the effect that she told Private McBride that it was "not satisfactory" for Private McBride to delay the

for Course 3, and that she would phone him once she arrived at the [redacted]. That she did and made arrangements for Private McBride to attend the [redacted] that afternoon, that is, the afternoon of Tuesday 6 February 2007.

240. Private McBride did not attend either that afternoon or the next day.
241. Ms [redacted] knew Private McBride very well. In addition to being his personal [redacted] almost on a continuous basis from 3 January 2007 to 5 February 2007, she was Private McBride's [redacted] for the ten-month [redacted] Course from March 2006 to 1 January 2007.
242. At the Coronial Inquest, Ms [redacted] gave evidence to the effect that at no stage did Private McBride tell her that he did not enjoy his Army service. However, he was looking forward to his discharge from the ARA "when his contract was up". She thought that might have been in "March 2007."
243. Private McBride never mentioned to Ms [redacted] any specific incidents of bullying or being harassed by fellow soldiers. Ms [redacted] said that she was aware that Private McBride was having a "hard time" in the army in the sense that he was "picked on" by some soldiers from time to time. She was also aware that such conduct did not worry Private McBride because he simply "paid no attention to it".
244. As I have previously mentioned, Ms [redacted] told the Inquest that Private McBride had a "distaste" for alcohol and "one of his biggest gripes" was about the culture of drinking in the army. Private McBride told her that he had not had a drink since completing the [redacted] Course in Sydney.¹ Private McBride also told Ms [redacted] that he did not associate with other soldiers and that he wasn't well liked. However, at one stage, he told her that he had decided to be "nicer" to his fellow soldiers.
245. Ms [redacted] agreed that the four week [redacted] courses conducted by her in January-February 2007 were "fairly intense". She agreed that the experience can be "very personal", "draining", and "confronting to a degree".
246. Although [redacted] seek to "rehabilitate memories", Ms [redacted] consistently told the Coronial Inquest that no distressing issues or upsets occurred during the auditing process of Private McBride.¹ In that regard, Coroner Lock had this to say:¹⁴¹

"Interestingly, although Ms [redacted] described in her statement that was a process designed to help find and handle particular areas of distress in the person's life, she repeatedly stated in her evidence that she was only considering past positive experiences in Mr McBride's life and that she was not dealing with any areas of distress as that would require a higher trained [redacted] I have to say that I had significant difficulty in accepting all of the evidence of Ms [redacted] It had a very distinct flavour of being selective and avoidant about various issues and the examples she gave about possible areas of distress in a person's life were indeed involved in areas of minor stress as distinct from more significant areas of distress."

247. Reference has already been made to the [redacted] as it was called by Ms [redacted]

248. The contents of Private McBride's _____ are unknown to the Coroner and the Commission of Inquiry.
249. As the evidence at the Inquest disclosed, the _____ was sent by the _____ Brisbane, to its Sydney office on 16 March 2008 and subsequently transferred to the United States of America on 2 June 2008, beyond the jurisdiction of the Queensland Coroner.
250. Coroner Lock discussed the absence of the _____ in paragraphs 79-87 of his Findings. As regards the non production of the _____, the Coroner said:¹⁴³

"That file may have had information which would have assisted this inquiry into coming to some understanding as to the state of mind of Mr. McBride at the conclusion of his course work on 5 February 2007. It also may not have had anything of interest but it seems we will never know."

251. With respect, I concur with those comments.

Deterioration of Private McBride's state of mind

252. It is reasonable to infer from the evidence and information available to the Commission that there was a marked deterioration in Private McBride's state of mind on the day of his death and/or the day before.
253. On 5 February 2007, Private McBride telephoned both his brothers in _____. He spoke to his brother _____ at 6.35 p.m. for some 25 minutes and his brother _____ at 8 p.m. for just over eight minutes. Private McBride's parents were out of Australia at that time.
254. The fact that Private McBride spoke to both of brothers on the same day was not unusual as Private McBride kept in regular telephone contact with his family.¹⁴⁴
255. Private McBride told his brothers that he was missing them and was looking forward to seeing the family when he came to _____ on leave the following week. _____ said that everything appeared normal but he thought his brother was unusually reticent about the _____

"I asked him how _____ was going and he gave a very blunt answer "Its okay". I found that a bit unusual because every other time we spoke about that he was really excited to share new knowledge that he'd learnt from _____. The conversation then moved onto him asking me to pick him up Saturday from the _____ Domestic Airport....."

256. Private McBride's younger brother _____ recalled the last telephone conversation as "a nice friendly call". In his statement dated 1 December 2009,¹⁴⁹ he further stated:

"I had joined the Army Reserve before Edward joined the Army;

... We often spoke about the Army after he joined. When he joined

the Army he was very keen, but after about a year, I detected that the novelty had worn off. I think Edward was expecting a life of adventure in the Army. He had always been an adventurous type, into extreme sports and an outdoorsman. I am also aware that some time in his Army training, he suffered some sort of injury to his knees, he never gave me any details.

I am aware that there are allegations that Edward had been mistreated, or bullied in the Army. He never made any complaints to me about his treatment. For the last nine months or so, he said he couldn't wait to get out. I was not aware that he was waiting on a Medical Discharge."

The last days

257. As Coroner Lock observed,¹ not a lot is known about Private McBride's movements on the days preceding his death.
258. One of the items located in Private McBride's car at the scene of his death was a map of the Lamington National Park. He may have visited that area prior to his death, but that is uncertain.
259. It is known that on the day of his death, Private McBride withdrew [redacted] at Gallipoli Barracks using his [redacted] Account. What is also known is that at 12.14 p.m. on 7 February 2007, a Gold Coast City Council parking ticket was attached to Private McBride's motor vehicle between Laycock and Trickett Streets, the Esplanade, Surfers Paradise.¹
260. Less than two hours after that parking ticket was issued, Private McBride purchased a small meal at the McDonald's restaurant located at Burleigh Waters on the Gold Coast.
261. It is known that Private McBride returned to Gallipoli Barracks on the afternoon of Wednesday, 7 February 2007, because his next door neighbour at the 6 RAR Lines, Private [redacted], was confident that he had seen Private McBride driving back into the Army Base, as he ([redacted]) was driving out. As regards the time, Private [redacted] thought it was "either daylight or just verging on sunset".¹
262. At paragraph 89 of his Findings, Coroner Lock stated:
- "Mr. McBride was last seen by Private [redacted] driving off the base at approximately 6:00p.m. on 7 February 2007. It would seem that Mr McBride either purchased or was given 3 cans of Southern Comfort and Coke. Checks of local liquor retailers did not come up with any information of assistance"*
263. As I have previously mentioned, the evidence indicates that Private McBride was not a heavy drinker of alcohol and he had told Ms [redacted] that he had not consumed any alcohol since completing the [redacted] course in Sydney during 2005.
264. [redacted] McBride confirmed that his brother was never a big drinker but that his preferred drink was "Southern Comfort and Coke".¹
265. After his death, three empty 440ml cans of Southern Comfort and Coke were located near Private McBride's vehicle close to the Sub-station fence. Acting Queensland

Fire Service Station Officer, _____, in his statement dated 21.07.07, stated, amongst other things¹

"I observed that there was a can of what I believed to have been Southern Comfort and Coke located in front of the vehicle and I saw two similar cans located at the rear of the vehicle near a dirt track."

266. It seems that the only empty can of interest to investigating police on the night of Private McBride's death, was the can at the front of his vehicle. It had condensation on the outside and police took possession of that can, concluding that it had been recently opened. It seems that the other cans were overlooked by the investigating police officers. They were not located until some days later when the SES conducted a search of the area around the Sub-station, at the request of the police.
267. The empty can that was taken possession of by police on the night of Private McBride's death had conclusive proof - one in 550 billion - of the existence of Private McBride's DNA around the rim. The two other cans taken possession of days later had an "incomplete" DNA profile, but nevertheless matched Private McBride's profile with a probability that it came from someone else as 1 in 19.¹
268. At paragraph 135 of his Findings, Coroner Lock stated, with respect to Private McBride's consumption of the contents of the three cans, having regard to Private McBride's blood and urine alcohol readings:

"His blood alcohol reading of 0.06% and urine reading of 0.88%, would equate with Mr McBride consuming them over a short period. This evidence leads me to conclude that prior to his death Mr McBride consumed three cans of 440ml of Southern Comfort and Cola."

269. Commission of Inquiry Exhibit 38 is a three-page statement from Dr. _____ dated 4 November 2008. Dr. _____ is a very experienced former Queensland Chief Government Medical Officer who is now in private practice and specialises in "count back" procedures and other aspects of forensic medicine.
270. A "count back" procedure is a process whereby, starting with a given, namely the blood alcohol content and the urine alcohol content of the deceased at autopsy, and having some idea of what alcohol (and its strength) had been consumed by the deceased, medical experts can perform a count back to create a time line as to when the deceased possibly started drinking.
271. Dr. I _____ Report was obtained by lead Counsel Assisting and will be provided by Counsel Assisting to Coroner Lock, together with all other relevant information and evidence before this Commission of Inquiry.
272. As was stated by lead Counsel Assisting during his opening at this Commission of Inquiry:

"Sir, the importance of Dr. _____'s count back is that given the variables and the major variables is what's called the rate of absorption which can vary from person to person in respect of the rate at which the individual absorbs alcohol, and taking the two extremes of the known bottom and upper limits Dr _____ has contended that accepting the evidence that PTE McBride in fact consumed all three cans that he would have commenced drinking some time between 6.15 pm and 7.30 pm on the evening of 7 February 2007....."

273. The precise time that Private McBride arrived at the Sub-station is unknown and will never be known. There is no way that the Commission can replicate the conditions existing on the evening of 7 February 2007, because it is not known, and cannot be ascertained what those conditions were. For example, what degree of urgency motivated Private McBride that evening?
274. Lead Counsel Assisting carried out a re-enactment of Private McBride's movements from the 6 RAR Lines to the Bunyaville/Everton Park Sub-station by the most direct route obeying the speed limits etc. Walking from Private McBride's room to the car park, and then driving without stopping at the main gate at Enoggera Army Base to the place where Private McBride's car was found at the Sub-station took just under 11 minutes. Assuming that Private McBride travelled directly to the Sub-station and that he did in fact depart from the Army Base at or about 6.00 p.m., it is reasonable to find that Private McBride arrived at the Sub-station between within 10 to 20 minutes, depending on conditions.
275. The fact that Private McBride consumed alcohol shortly before his death – probably the only alcohol consumed since the [redacted] course in Sydney in 2005 - is clear evidence of a significant change in Private McBride's state of mind just prior to his tragic death.
276. The change in and deterioration of his state of mind became so extreme that it led to his suicide by intentional electrocution. Quite unexpectedly, something of significance occurred to cause that change and deterioration, resulting in the tragic outcome.
277. What caused that change and deterioration in Private McBride's state of mind is unable to be determined on the evidence and information currently available to me.
278. [redacted]
279. Members of the [redacted] made frequent attempts to contact Private McBride on the day of his death and the two preceding days.
280. [redacted]
281. Before his death, Private McBride sought "time out" from [redacted] and failed to attend for [redacted] with respect to the third [redacted] course which commenced around 20 January 2007 and concluded on the morning of 5 February 2007. Not only did Private McBride fail to attend the [redacted] on 6-7 February 2007, but also, uncharacteristically, he did not return phone calls and messages left for him, on his PDA, by members of the [redacted]
282. As Coroner Lock observed, there was considerable activity by [redacted] members to convince Private McBride to come into the [redacted] to complete that third [redacted]. The Coroner continued:
- "There were some ten messages in all that were sent to him by members of the [redacted] of the next few days. I find that this was not simply an enquiry as to when he was going to come in and sign off on his latest course. Something more serious is implied from the content of those messages and that degree of contact. I also got the distinct impression from hearing Ms [redacted]"*

that she was virtually demanding him to come in and her explanation about that did not have a sense of reality about it."

283. Telephone records were very important as an investigative tool for the Coronial Inquest and this Commission of Inquiry. As was stated by Coroner Lock:

"Telephone records of Mr. Bride's mobile phone were accessed and further investigation revealed that only members of the [redacted] were in contact with him in the days leading up to his death.

The telephone records indicate as follows:

- 5/2/07 1958:31 - Ms [redacted] calls Edward McBride for 63 seconds
- 5/2/07 2139:25 - Ms [redacted] sends an SMS to Edward McBride
- 6/2/07 0833:03 - Edward McBride calls Ms [redacted] for 105 seconds
- 6/2/07 0902:11 - Ms [redacted] mobile phone calls Edward McBride for 257 seconds
- 6/2/07 1140:22 - Ms [redacted] calls Edward McBride for 53 seconds
- 6/2/07 1428:07 - Ms [redacted] sends an SMS to Edward McBride
- 6/2/07 1604:58 - Ms [redacted] calls Edward McBride (and is diverted to voicemail) for 35 seconds
- 6/2/07 1742:36 - Ms [redacted] calls Edward McBride (and is diverted to voicemail) for 25 seconds
- 6/2/07 1809:31 - Number registered to [redacted] in Sydney calls Edward McBride (and is diverted to voicemail) for 41 seconds
- 7/2/07 0728:22 - Edward McBride retrieves voicemails for 131 secs
- 7/2/07 0958:31 - Ms [redacted] sends two SMS (more likely one long text message) to Edward McBride
- 7/2/07 1429:39 - Ms [redacted] sends two SMS (more likely one long text message) to Edward McBride
- 7/2/07 1953:16 - Mr [redacted] contacts Edward McBride (and is diverted to voicemail) for 8 seconds
- 7/2/07 1953:54 - Mr [redacted] contacts Edward McBride (and is diverted to voicemail) for 3 seconds
- 7/2/07 1954:28 - Mr [redacted] contacts Edward McBride (and is diverted to voicemail) for 3 seconds
- 7/2/07 1955:00 - Mr [redacted] contacts Edward McBride (and is diverted to voicemail) for 56 seconds
- 7/2/07 2004:55 - Mr [redacted] contacts Edward McBride (and is diverted to voicemail) for 5 seconds
- 7/2/07 2323:30 - Enoggera Army base calls Edward McBride (and is diverted to voicemail) for 18 seconds
- 7/2/07 2325:23 - Enoggera Army base calls Edward McBride (and is diverted to voicemail) for 69 seconds
- 8/2/07 0009:41 - Enoggera Army base calls Edward McBride (and is diverted to voicemail) for 6 seconds
- 8/2/07 0039:46 - Edward McBride's voicemail is retrieved by police (at the scene) for 151 seconds.

The telephone records indicate that over these dates Mr. [redacted], Ms [redacted] and Ms [redacted] were also communicating with each other and with the Church in Sydney."

284. The comments made by Coroner Lock in paragraph 106 of his Findings are also instructive:

"It was suggested that any contact with Mr McBride over those days was simply to have him come in and finalise the administration processes of his [redacted] program which was just completed with Ms [redacted]. Mr McBride apparently had expressed a wish to have a break from his course work. The tenor and quantity of the messages however is not one of a desire to finalise some administrative process. It seems to have a much more serious tone about them as if something else had happened. Ms [redacted], Ms [redacted] and Mr [redacted] also said that Mr McBride's actions were most unusual in that he was usually so reliable. One wonders why anyone would have been concerned about him, as suggested by Mr [redacted]. What was there to be concerned about because someone wanted to postpone a meeting to finalise a course? What is clear to me is that there had been a change. Something had happened to Mr McBride because is the next day/hours he would take his own life in quite a premeditated manner."

285. Private McBride died at approximately 2050 hours on 7 February 2007, the time of the "lock-out" of the 110,000 volt F738 Feeder at the Bunyaville Sub-station. The lock-out occurred when damage was sustained to the relevant switchgear at the Sub-station, following the high voltage electrical discharge which caused the death of Private McBride.
286. The telephone calls to Private McBride's mobile phone (his PDA), from the Enoggera Army Base, after the time of his death, were calls made by Sergeant [redacted] the Gallipoli Barracks Duty Sergeant, essentially hoping to establish that the information received about Private McBride's death, was incorrect.
287. As previously mentioned, the retrieval of Private McBride's voicemail, by police at the scene, early in the morning on Thursday 8 February 2007, inadvertently flattened the battery of Private McBride's PDA.

An Invitation

288. A matter that may warrant investigation by Coroner Lock, if he decides to reopen his Inquest, is the significance, if any, of the letter and envelope listed as Exhibit F1 on the Coronial Inquest Exhibits List.
289. It seems that no evidence was given about that material at the Coronial Inquest.
290. The letter is a short handwritten letter, dated 01/02/07, from a [redacted] of the [redacted].
291. The envelope was addressed as follows:
- "Edward McBride
Bravo Coy
Gallipoli Barracks
Enoggera
Qld 4051"*
292. The [redacted] envelope was a "POSTAGE PAID AUSTRALIA" envelope and carries the following stamp:
- "SWLF 05 FEB07 ML 512"*
293. Information provided to the Commission from Australia Post indicates that "SWLF" is an abbreviation given for Sydney West Letter Facility; "ML" an abbreviation for Multi
-

Line, and "512" represents the Identification Number of the machine which processed the letter on 5 February 2007.

294. The letter would have been delivered within one or two days of its date stamp. It is uncertain when Private McBride received that letter, but the letter and its envelope were taken possession of by the QPS in the course of their inquiries.
295. The letter and its envelope were not located in Private McBride's car at the scene, nor are they listed in the Department of Defence Deceased Estate Inventory or depicted in any of the 38 photographs taken of Private McBride's room and its contents.
296. At my request, the Brisbane Coroner's Office made inquiries of Detective Senior Constable [redacted] the lead QPS investigator since mid 2008.
297. Advice from the Coroner's Office is to the effect that Detective [redacted] has recently searched the police records and is unable, at this stage, to determine when and where the QPS took custody of the letter and its envelope. However, he is very confident that the letter and envelope were located in Private McBride's room in the 6 RAR Lines.
298. Unfortunately, the Detective Sergeant who was the initial lead QPS investigator into Private McBride's death, is on administrative leave from the QPS because of unrelated matters, and cannot be contacted to confirm that view.
299. In June 2009, Detective [redacted] at the request of this Commission, contacted the author of the letter, Mr. [redacted] in Sydney. Mr [redacted] had no recollection of Private McBride, nor was he aware of Private McBride's death. At the relevant time, Mr [redacted] had worked for the [redacted] in Sydney and his role was to send out certain "recruitment letters". He could not recall the letter in question, and stated that he would send out between 7 to 50 handwritten letters per day.
300. The letter in question was an invitation to Private McBride to join what is known as the [redacted]
301. Whilst no oral evidence was given at the Coronial Inquest about the letter and its envelope, Mr [redacted] gave very brief evidence about the [redacted]. Such evidence was to the effect that members of the [redacted] are [redacted] members at a [redacted]
- 302.

303. The Commission is uncertain whether Private McBride actually read the letter inviting him to join the ' . However, given that the letter and its opened envelope were matters of interest to the QPS, it seems probable that Private McBride did read the letter. In any event, given the significance of the ' it is probable that Private McBride was aware of the pending invitation to join that Organisation.
304. It may be implied that an invitation to join the ' was some indication of Private McBride's then level of advancement within the

Private McBride's reputation within 6 RAR

305. In a letter of condolence to Private McBride's next of kin, dated 9 February 2007, and sent from East Timor the then CO of 6 RAR, Lieutenant Colonel Goddard, said amongst other things:¹

"Edward was a quiet, efficient and competent soldier."

306. Private McBride's "quiet" personality was noted by other soldiers such as his next door neighbour in the 6 RAR Lines, Private ' and also Sergeant
307. Whilst Private McBride had been a team player during his recruit training and subsequent sapper posting to 3 CER. There is no evidence that he became a "loner" during his posting to 4 RAR (CDO,) as he failed or withdrew from the Commando Training Courses in 2005. However, his interest in and for enthusiasm for the Army, as a career, waned during that period. As previously mentioned, Private McBride planned to become a full time member of the after his four year ADF contract ran its course.
308. By the time he was posted to 6 RAR in late 2005, Private McBride was no longer a team player and was becoming a "loner". Indeed, that was a term often used by fellow soldiers in 6 RAR when describing Private McBride's interaction with them.¹
309. Both his brothers denied that Private McBride was in fact a "loner", his elder brother saying that Edward was simply "selective with his friends".¹⁶⁹
310. Private McBride's refusal to be part of a team was noted by Corporal Private McBride section commander in 6 RAR A Coy for one month in early 2006.¹⁷⁰ The Corporal brought that issue to the notice of his chain of command.
311. Indeed, as Coroner Lock noted, teamwork is essential at some levels in the ADF:¹⁷¹
- "It has to be accepted that although a modern army would need to be inclusive of a variety of personality traits, as a necessity a certain robustness in attitude is important and a capacity to be involved in a team framework was essential at some levels."*
312. Not being part of a team is an anathema to a soldier in an infantry unit. Safety and survival may well depend upon teamwork in such a unit.
313. Some soldiers in 6 RAR regarded Private McBride as rude for isolating himself and not speaking to other members.¹⁷²

314. Indeed, if a popularity contest had been conducted during the term of Private McBride's posting to 6 RAR, he would have scored low, on any scale, in the assessment of some of his colleagues.
315. The soldier who had the lowest regard for Private McBride was Private _____, a fellow soldier in the 6 RAR BTT. Private _____ told Lieutenant Colonel Dugdale that he knew Private McBride "pretty well" and probably knew him "better than anyone else here".
316. Private _____ described Private McBride as a "loser" and a "fuckhead" who was "stuffed up in the head". He also said about Private McBride "that if Private McBride wasn't seeing a psychologist whilst he was here, he should have been".
317. Private _____ also said that Private McBride had "issues" before he was medically downgraded:¹
- "I remember that he brought stuff on himself. We found out he was a _____ and he admitted it, but it was also the way he treated people. He sort of asked for it. You know what diggers are like: you bite a digger and they'll bite back. He was the type that lashed out at people, well, not lashed out, well its hard to explain. He'd have a go at you, yet not have a go at you, like in quiet and smartarse ways. It was sort of smartarse ways. And that was how he pushed it on himself."*
318. When asked by Lieutenant Colonel Dugdale whether Private McBride was being harassed or bullied, Private _____ replied:
- "I can't tell you that because if he was, then I couldn't see it. The only bullying that he did receive was to do with things that he brought upon himself by the way he treated other people."*
319. When asked how Private McBride was regarded in the workplace by other soldiers, Private _____ told the Investigating officer that he (_____) had told the police:
- "You'll find that 80% of us hate him and the other 20% probably don't know him. He had no friends whatsoever in this battalion because of the sheer way he acted towards people."*
320. It is clear that Private _____ had no respect for Private McBride. In some ways, his views about the deceased soldier were probably influenced because of the fact that Private McBride had refused to replace him on guard duty on one occasion when an urgent domestic issue arose.
321. Even though Private McBride was not a team player and was unpopular with many members of 6 RAR, including others in the BTT, there is simply no suggestion, let alone evidence, that any soldier wished to harm him.

Were others present within the Sub-station? Did anyone assist in the suicide?

322. Two civilian witnesses, Ms _____ and Mr _____ gave evidence at the Coronial Inquest about hearing a loud noise and seeing a flash of blue light from and in the Sub-station complex on the night in question. Ms _____ was exiting her ensuite at the time and she went immediately to her bedroom window that overlooks the Sub-station in Old Northern Road. She called out to Mr _____ who joined her in the bedroom approximately 30 seconds after the explosion. Mr _____ called the Emergency Services at 8.54 p.m.

323. As was noted by Coroner Lock in his Findings at paragraph 109:

"Ms _____ observed two males inside the complex. She described one male as being of normal height, with short hair wearing brown coloured shorts and T-shirt. She described the other male as being of normal height, with a shaved head, white T-shirt, running shoes and long track pants with a reflective strip down the side. She thought the male persons were older than teenagers and in their late teens or early twenties."

324. Mr. _____ saw a male wearing shorts and a shirt with short sleeves coming towards the shed that was on his left facing the Sub-station. The male was waving his arms as he approached the fire in the compound. Mr _____ described the male as being of average height and aged anywhere from 16 to 25.

325. At the Inquest, Ms _____ gave a detailed description of the two males she observed within the complex. The evidence of Ms _____ and Mr _____ is that the males, or male, disappeared from sight when the Queensland Fire Service (QFS) arrived at the scene at 8.58 p.m.

326. Without going into detail, it is clear that there was some confusion in the immediate police records about what Ms _____ and Mr _____ observed and indeed whether there was sufficient light for them to see anything at all.

327. In due course, some ten police officers attended the scene, including the QPS Duty Officer (Senior Sergeant _____) and the QPS Regional Duty Officer (Inspector _____). It seems they formed the view that it was unlikely that anyone else was within the complex because the rear fence of the complex couldn't be seen at night from across the road, and information from the Energex Personnel in attendance was to the effect that anyone in close proximity to the explosion would have received flash burns or would have been electrocuted.

328. Senior Constable _____ was the uniformed QPS member tasked to be the initial Reporting and Investigative Officer. Senior Constable _____ told one of the CIB detectives in attendance that a female from across the road (Ms _____) had indicated that she had seen what she believed to have been shadows of persons at the rear of the compound near where the deceased's motor vehicle was parked. In his initial Form 1 Report to the Coroner, dated 8.2.07, Senior Constable _____ stated, amongst other things:

".....It doesn't appear that any person other than the deceased has entered the premises....."

and there were "no suspicious circumstances".

329. Senior Constable [redacted] later stated that whilst the Sub-station had some lighting, the visibility was "not good". In his statement dated 23 February 2007, Senior Constable [redacted] also said that he spoke to detectives and Inspector [redacted] about the lighting issue:

"I remember we thought that due to the poor visibility, it would have been extremely difficult to have seen inside the sub-station from any distance."

330. Both Ms [redacted] and Mr [redacted] were adamant that other persons were inside the fence line of the compound between Old Northern Road and the fire within the compound.

331. On 15 February 2007, investigating detectives conducted a video recorded re-enactment or walk through with Ms [redacted] and Mr [redacted]. As a result, QPS investigators formed the view that two other persons had been seen by those witnesses, within the Sub-station compound, at or about the time of Private McBride's death.

332. With respect, I am also satisfied that two male persons were observed within the Sub-station compound, and I so find.

333. At paragraph 116 of his Findings, Coroner Lock stated:

"Ms [redacted] and Mr [redacted] provided their first statements on 11 February 2007 and participated in an re-enactment on 15 February 2007. Mr [redacted] was also heard to give a contemporaneous version of events during his 000 call. Having viewed that re-enactment, attending on the view and after considering their statements and evidence, I have no doubt that there were two male persons in the Sub-station when the explosion occurred."

334. QPS inquiries were made at the following hospitals to ascertain if anyone had presented with flash burns on or after 7 February 2007:

- Royal Brisbane Hospital Burns Unit;
- Prince Charles Hospital;
- North West Brisbane Private Hospital; and
- Holy Spirit Northside Private Hospital.

Those inquiries proved negative.

335. Without going into detail, there was evidence before the Coroner that residents living near the Sub-station had seen persons misbehaving in and outside the Sub-station compound in the past. Indeed, a complaint had been made to the QPS by Ms [redacted] about the activity of three youths near the Sub-station on 17 January 2007.

336. Various people in the vicinity of the Sub-station saw young males in the area on the night in question. For example, two males in their early twenties were seen walking behind the tennis courts towards the Scout Den well behind the Sub-station. Two teenage boys aged approximately 14 were also observed as were three youths walking towards the Sub-station. None of those persons was acting suspiciously or attempting to run away from the area.

337. In paragraphs 120-121 of his Findings, Coroner Lock stated:

"As to the identity of the two persons in the Substation, the police investigation was unable to come to any conclusion and ultimately neither can this inquest. I can say that there is no evidence that would indicate that either of them were attached to or had anything to do with the

Their descriptions could give a view that they looked like army personnel but that does seem unlikely considering that Mr. McBride had virtually no friends in the army and there is no evidence anyone was with him that day. There is no evidence that any person, even within the army context, would want to harm Mr. McBride.

"I consider it unlikely that either of the two persons had been providing any direct assistance to Mr. McBride. The scenario which I think is most likely is that they were indeed two young men who had entered the Substation compound and were up to no good. They may have seen Mr. McBride in the compound and were curious. They may have just entered and not known that he was there. The actions of one of them in holding his hands around his ears is indicative of someone who had experienced a large noise and was holding his head in pain. The other one was waving his arms around and one of them was walking backwards and forwards. This is indicative of two persons who had found themselves in a stressful situation and were panicking. They were not near enough to Mr. McBride to receive flash burns but they would have received a considerable fright. It is probable that they then exited the compound after hearing the fire trucks arriving and knowing they were in trouble. Although this is a scenario which I consider to be plausible and the most likely of the speculative theories, it is not a finding that I can make on the requisite standard of proof without there being some further supporting evidence. It (is) still speculation but the one I favour the most."

338. With respect, I concur completely with the above comments of Coroner Lock.
339. There is no suggestion, let alone evidence, that Private McBride died as a result of his participation in a dare or any risk taking adventure that went horribly wrong.
340. I find that the cause of Private McBride's death was intentional suicide, brought about by the sudden deterioration in his state of mind, for a reason or reasons unknown at this time.
341. Assisting a suicide is a crime that is punishable with life imprisonment in Queensland. However, there is simply no evidence that the two persons inside the compound were assisting, procuring or counselling Private McBride's suicide.
342. However, assuming that the two persons had not entered the Sub-station to rescue Private McBride, their presence was unlawful and would constitute a summary offence, for which the maximum penalty is a fine of \$3000. Accordingly, it is likely that the identity of those two persons shall remain unknown.

Out of character behaviour

343. Private McBride was a mature and very determined young man who was, in many ways, a perfectionist in what he did.
344. In the month before his death, apart from three days of restricted duties at 6 RAR, Private McBride was on leave and involved full time with

courses up until morning of 5 February. During that time, he was positive and happy and, seemingly nothing unusual occurred.

345. The only evidence of anything approaching unusual behaviour seemed to occur on 6 and 7 February 2007 when he failed to report to the [redacted] to finalise ([redacted]) his most recent auditing course. Further, Private McBride's drinking in the hours before his death was also out of character in the sense that it seems that was the first time that he had consumed alcohol since completing a [redacted] course in Sydney in 2005.
346. The evidence establishes that Private McBride's suicide was totally unpredictable. He came from a close and loving family. There was no evidence of marked depression and certainly no evidence of any psychiatric condition or illness. He had positive plans for the immediate future, namely visiting his family in [redacted]. After his discharge from the Army, he planned a new career as a [redacted].
347. Private McBride left no suicide note and his suicide appears to have been deliberate, planned and premeditated. As Dr Lambeth opined:¹

"The lack of a suicide note or marked depression or recent behavioural change along with established future plans suggests that any premeditation was recent, possibly within hours of his death. However, the presence of a BAC of 0.06% suggests the possibility of impaired capacity for intention."

The manner and cause of death

348. The Terms of Reference for the Commission were amended by you because of the Coroner's Inquest and Coroner Lock's Findings. As a result, the Commission was not required to consider, relevantly, the "manner and cause" of Private McBride's death,¹ but was required to investigate and report on, relevantly, the "circumstances surrounding" the death of Private McBride.¹
349. I have spent much time in this Report addressing issues that, at first blush, might seem unnecessary and duplicative given the Coroner's comprehensive findings. However, it has been a necessary exercise given the unusual circumstances. As Counsel Assisting have submitted:

"Notwithstanding the amendment of the Terms of Reference, and the manner in which the hearings were conducted, it is (our) submission that 'the nature and cause of death' element of the Terms of Reference, both original and amended, still must be addressed in the Commission's report."

350. Coroner Lock has delivered his comprehensive findings on the manner and cause of Private McBride's death. Amongst other things, Coroner Lock found that Private McBride's sudden and premeditated suicide was not reasonably foreseeable by his family, the ADF or members of the [redacted]. There is no evidence or information available to me that contradicts those findings and, with respect, I accept those findings in their entirety.

Written submissions from Counsel

351. I received submissions from Counsel Assisting on 6 January 2010 and submissions from Counsel Representing on 18 January. Those written submissions form part of the records of the commission.
352. In Practice Note No. 2, dated 19 November 2009, I requested Counsel Assisting to provide me with their signed joint submissions. That did not occur. However, when I received the submissions from lead Counsel Assisting on 6 January 2010, I contacted both Counsel Assisting and was informed that that was, in effect, an oversight. I was also informed that both Counsel had considered those submissions and I was assured that they were, in effect, their joint submissions. Accordingly, I have proceeded on that basis.
353. I thank Counsel Assisting and Counsel Representing for their submissions and acknowledge the assistance provided by those submissions in what follows. Those submissions benefit from the time that Counsel have had to consider the evidence and information which ground their submissions, and also benefit from the extensive military experience of each Counsel, over many years of service with the ADF.

The limited scope of the Commission's hearings

354. At the hearings conducted at Victoria Barracks Brisbane, on 9-11 November 2009, the Commission restricted itself to an examination of those matters, of a purely Defence nature, which were raised by the Inquiry Officer, Lieutenant Colonel Dugdale, and also highlighted by Coroner Lock as regards Private McBride, namely:
- (a) his potentially compromised psychological state was not recognised;
 - (b) there may have been instances of harassment or bullying;
 - (c) there may have been systemic difficulties in the progress of his medical discharge, and
 - (d) his employment with the Battalion Training Team may not have been properly managed.
355. A further matter considered by the Commission was the implicit criticism of the Inquiry Officer that 6 RAR personnel failed to intervene with Private McBride when he was exhibiting indicia of "Social Isolation".
356. I shall discuss those matters under four – not five – issues, in effect consolidating two of them:
- **Issue 1** - The possible failure of Private McBride's chain of command and medical personnel to recognise and act upon apparent indicators of his social isolation and potentially compromised psychological fitness;
 - **Issue 2** - Was there ongoing harassment or bullying of Private McBride by other members of 6 RAR?
 - **Issue 3** - Were there systemic deficiencies or difficulties in processing Private McBride's medical discharge?
-

- **Issue 4** – Was Private McBride's employment in the 6 RAR Battalion Training (BTT) properly managed?

357. The discussion of those 4 issues does not mean that all or any of them are "materially relevant to" or "materially contributed to" or "proximately associated with" the death of Private McBride, using phrases from the original and amended Terms of Reference. Indeed, on the evidence and information before me, Counsel Assisting contend that none of those issues have any relevance to the "natura and cause" of Private McBride's death.
358. Counsel Representing does not submit otherwise. However, Wing Commander Cridland stated at paragraph 25 of his submissions:

"Nonetheless, it is also submitted that the evidence of the COI reveals a number of unpleasant or unsatisfactory matters that are deserving of comment. It certainly does not follow that because a matter is not determined to be directly causally related to Edward's death that it cannot, or should not, be mentioned in the COI findings.

Issue 1 - The possible failure of Private McBride's chain of command and medical personnel to recognise and act upon apparent indicators of his social isolation and potentially compromised psychological fitness.

Social Isolation

359. It is a fact that Private McBride was socially isolated within 6 RAR and had little close social support amongst his peers, especially in the BTT.
360. That social isolation was unknown in his previous postings and, to a very significant degree, was very much of his own making. Trust and teamwork are essential qualities in an infantry unit. Indeed, safety and survival may depend on the existence of those qualities.
361. After failing to qualify for Special Forces with 4 RAR (CDO), Private McBride was posted to 6 RAR to serve out the balance of his contract, about 13½ months, even though he was a combat engineer. He consented to that posting and there is no evidence that he sought a re-posting back to a combat engineering unit. The evidence is that 6 RAR was severely undermanned at the time.
362. Private McBride had failed to qualify for Special Forces twice in 2005. His knee and ankle problems had existed and been treated since mid-September 2005 and the evidence is that his enthusiasm for the ARA had waned as his enthusiasm for and involvement with the [redacted] increased. Upon his posting to 6 RAR in late November 2005, he started to become a "loner" and was "stand-offish" towards his fellow soldiers.
363. Private McBride was considered to have an "attitude" problem while a member of the BTT in that he was considered to be other than proactive in his work. Private McBride did not appear to want to be part of the team and he was perceived as considering himself better than other members
364. Private McBride was a mature, strong-willed and a very determined young man. If he didn't want to do something, he simply didn't do it. He also had the courage of
-

his convictions. Perhaps the most telling evidence of Private McBride's relationship with fellow soldiers in 6 RAR is found in some of the material in his [redacted]; previously mentioned. He knew that his relationship with fellow soldiers in 6 RAR was "very poor" and that he was the author of that poor relationship because of his attitude and anti-social behaviour towards them.

365. I find that to the extent that Private McBride was socially isolated from, or ostracized by, his 6 RAR peers, he was - to a very significant degree - the author of that isolation.
366. The question whether that social isolation should have been noticed and acted upon by the chain of command, must be answered in the context of what was happening within the life of this Infantry Battalion and within Private McBride's own life.
367. Most of his time with 6 RAR was as a member of the BTT. The Battalion proper was training for deployment to Timor Leste and, in fact, so deployed in early September 2006. Private McBride was not part of that deployment and was never going to be because of his medical downgrading to MEC 401.
368. Private McBride's performance in the workplace never became an issue as such, apart from a complaint made by him to WO2 [redacted] in August 2006 concerning a member spreading a story that he wasn't prepared to work.
369. Private McBride was never disciplined or counselled as regards his work performance in the BTT. Further, it is clear from the evidence that members of the BTT - such as Private [redacted] - were aware of his interest in and involvement with the [redacted]
370. As Counsel Assisting have pointed out, Private McBride's leisure time was fully occupied with the study of the [redacted] and interaction with its members. Private McBride was not a "social isolate" by any definition and there is simply no evidence that his self-imposed "social isolation" within the 6 RAR BTT, was in any way a precursor to his suicide.
371. Good sense and common sense must apply in answering the question about possible chain of command failure.
372. Given all of the circumstances there was no such failure, and I so find.

Psychological fitness

373. Evidence about this issue was provided by Lieutenant Colonel Cohn and Group Captain Paterson. Lieutenant Colonel Cohn is a senior psychologist and expert in questions of military psychology. He is currently the Deputy Director of Mental Health in the ADF. Group Captain Paterson is a very experienced nursing officer and Director of Defence Force Nursing. At the time he gave his evidence, he was also Acting Director General of Health Policy at Joint Health Command.
374. Psychological records rated Private McBride as a "marginal" candidate on enlistment with concerns that he did not appreciate and understand what might be expected of him as a combat engineer.¹
375. The evidence is that Private McBride was a high achiever who had a degree of perfectionism in his makeup. He performed very well during his recruit training and subsequent posting as a combat engineer and was, in due course, considered suitable and a good candidate for Special Forces.

376. Lieutenant Colonel Cohn explained to the Commission what an assessment of "psych marginal" means in psychology terms, and whether or not Private McBride was "at risk" because of that assessment.¹
377. The explanation given was that the potential recruit was so assessed because the interviewing psychologist formed the view that he (McBride) didn't know what he was getting into and didn't have a realistic set of expectations as regards Army life. He also had some "perfectionist type tendencies".
378. Private McBride was not at risk because of that assessment. As Lieutenant Cohn stated, many people who join the ADF are assessed as marginal. Whilst some of them don't get through recruit training and some of them don't adjust, many of them do very well and have rewarding careers in the ADF.²
379. Lieutenant Colonel Cohn agreed with lead Counsel Assisting that a "psych marginal" assessment was "not the mark of Cain by any stretch of the imagination" and it certainly does not mean that such a person is likely to develop a psychiatric or other condition.
380. Reports from Private McBride's CTC 01/2005 indicated that "he had a problem controlling his stress levels whilst placed under pressure".
381. The Commission is aware that a private medical practice in Sydney prescribed the anti-depressant medication Prozac for Private McBride on 22 June 2005 and 11 August 2005. A clinical note stated that he was "worried".
382. The anti-depressant medication was commenced between the two CTCs Private McBride participated in during 2005. There is no evidence that the ADF was aware of that medication and there is no evidence before the Commission to suggest that Private McBride continued to use such medication subsequent to his self-withdrawal from CTC 02/2005 on 12 October 2005.
383. Short term use of anti-depressant medication does not evidence the presence of on-going or clinical depression, and there is no evidence that Private McBride suffered from any psychiatric condition. Being "worried" is a common human condition and, of itself, does not indicate any psychiatric disorder.

Annual Health Assessments

384. On 6 February 2006, some six days after returning from six weeks annual leave overseas, Private McBride attended the 6 RAR Regimental Aid Post (RAP) for his Annual Health Assessment (AHA).
385. The purpose and procedures of AHAs are dealt with in Health Directive 242, ¹ dated 21 February 2007, and its predecessor.
386. A periodic health assessment and medical examination of each ADF member is conducted as part of the ADF health promotion program which aims to enhance the well-being of members of the ADF. The periodic health assessment is the AHA and the medical examination is called the Comprehensive Preventative Health Examination (CPHE).
-

387. The AHA is designed to provide essential annual preventive health screening and provides a regular opportunity for instruction of the member in health promotion and lifestyle counselling. As the name suggests, the AHA is conducted annually. It is expected to take approximately 20 minutes.
388. The AHA can be performed by a medical officer (MO) or authorised delegate. It is intended that a nursing officer (NO) or medical assistant (MA) of appropriate experience, advanced medical assistant (AMA) or specialist medical assistant (SMA) conduct the majority of AHAs
389. An "authorised delegate" who conducts an AHA may refer a member to a medical officer for review for various reasons, including the detection of any medical issue or the provision of additional lifestyle counselling, if deemed necessary.
390. Private McBride's AHA dated 6 February 2006 was conducted by then Private (now Lance Corporal) [redacted] a member of 6 RAR cross trained as a Combat First Aider.
391. Combat First Aiders are unique to the ARA and are not found in the other Services. Whilst they are not medics, they have skills beyond advanced first aid, enabling them to intervene, sometimes significantly, in combat trauma situations to save lives.
392. In his statement dated 5 October 2009, Lance Corporal [redacted] stated that he was working in the 6 RAR RAP from January 2002 until 2006 "due to the shortage of medics". During that time he worked under the guidance of an advanced medical assistant (AMA). Lance Corporal [redacted] continued:
- "AHAs were part of my daily duties whilst at the RAP. I estimate that during my time in the RAP I would have conducted in excess of 200 AHAs.*
393. Lance Corporal [redacted] had no independent recollection of Private McBride's AHA dated 6/02/2006, but does not dispute that it was conducted by him, at least in part.
394. In the General health section of the AHA, Private McBride was required to answer various questions including:
- *"How often do you feel that your present lifestyle is putting you under too much stress?"*
to which he replied "Often"
 - and
 - *"During the past two weeks, how much stress have you experienced?"*
to which Private McBride answered "A Lot of Stress"
395. As the authorised delegate, Lance Corporal [redacted] noted that Private McBride was then classified MEC 1 and that his Unit Medical Record (UMR) had been reviewed. In answer to the question "Does assessment require a review by a Medical Officer?" Lance Corporal [redacted] answered "No".
396. For whatever reason, the AHA is incomplete as regards aspects of lifestyle counselling. As was stated by Lance Corporal [redacted]
-

"I note that the copy of PTE McBride's AHA in Health Keys is unsigned by both the member and the Medic, and that there are no entries in the "lifestyle" section of the form. It is possible that I logged on to the system and commenced the interview and was called away and the questionnaire was completed by another member of the RAP staff."

397. Whilst Lance Corporal _____ details are given as the "authorised delegate" conducting the AHA, no details of any "confirming authority" are provided. However, such latter details are provided only "if required", and there is no evidence that they were required in this instance.
398. Lance Corporal _____ was not called as a witness before the Commission. Lead Counsel Assisting had interviewed him and was satisfied that the Combat First Aider simply had no recollection of Private McBride or the AHA.
399. In his statement, Lance Corporal _____ outlined the standard procedure he followed as regards stress issues. Although he could not remember the relevant questions asked of Private McBride, he was confident that the procedure used was as follows:
- *"If members answered to having high stress levels, further questions were asked to endeavour to ascertain their mental state.*
 - *All members were counselled on ways to seek help for mental health issues including DCO, Padre.*
 - *Members were told that they could book in to see the medical officer to discuss their problems/condition.*
 - *Members were also told that they could self refer to the Psychology Support Section if they did not want to go through the RAP.*
 - *If members indicated or displayed an inability to cope or spoke of self harm, they were immediately referred to the Medical Officer."*
400. Counsel Representing has submitted that, in effect, Lance Corporal _____ was not an authorised delegate to undertake AHAs and that under no circumstances should Private McBride's AHA been carried out by a soldier (even one cross-trained as a Combat First Aider) from 6 RAR.
401. Wing Commander Cridland submitted that this was a policy or systemic issue: should AHAs in the future, be conducted by infantry soldiers who are qualified only as Combat First Aiders?
402. The evidence is that the AHA process and procedure is currently under review. As was stated by Group Captain Paterson in his statement dated 29 October 2009:

"The current AHA practice is under evaluation.....It is acknowledged that the sensitivity of the screening for mental health illness within the AHA is suboptimal. To this end it should be noted that there is an intent to conduct a more focused annual mental health screen as a separate process to the AHA that will improve the identification of individuals who require further assessment. This work is currently underway within the Directorate of Mental Health in Joint Health Command."

403. In Lieutenant Colonel (Dr) Cohn's statement dated 29 October 2009, information was given about the proposed changes to the current mental health screening process in the AHAs. An options paper is to be submitted to COSC in early 2010.
404. As regards Private McBride's AHA dated 6 February 2006, Group Captain Paterson agreed that it was *"incomplete"*.
405. When questioned by Counsel Representing, Group Captain Paterson said that it was not normal, in his experience, for Combat First Aiders to conduct AHAs, but neither the Navy nor the Air Force currently have Combat First Aiders as part of their workforce. Group Captain Paterson also said that the word *"delegate"* in Health Directive No 242 *"is a bit at issue"*.
406. Counsel Representing has submitted that I can consider a recommendation that, as part of the current evaluation of the AHA, Health Directive No. 242 should be rewritten to more clearly set out who may conduct AHAs. I shall address that submission shortly.
407. Both Lieutenant Colonel Cohn and Group Captain Paterson indicated that the disclosure of *"stress"*, or indeed a *"lot of stress"*, as indicated by Private McBride on 6 February 2006, is not indicative of any psychological or psychiatric problems or illnesses per se.
408. Indeed, Lieutenant Colonel (Dr) Cohn questioned the reliability of Private McBride's self-assessment of a *"lot of stress"*, given that he had been on annual leave for six weeks and had only been back at 6 RAR for a handful of days.
409. Regardless of what stress was being experienced by Private McBride on 6 February 2006, there is simply no evidence that his self-assessed stress in any way contributed to his death 1 year and 1 day later. Simply stated, it was not proximal to his suicidal behaviour, nor was that stress related to it.

The CTC exit psychological screenings

410. The two CTC exit screens conducted, in the field, by Army psychologist, (then) Captain [redacted] on 25 February 2005 and 12 October 2005 were in fact organisational psychology screens and were not intended to be, in any way, a clinical psychological screening process. As Counsel Assisting submitted, the purpose of those screens was for organisational or industrial psychological reasons only. Their purpose was totally related to the efficiency of the CTC as a training tool.
411. It is clear from the evidence that both Captain [redacted] and the CTC instructors were very alert to any problem of a psychological nature which could arise during the conduct of the CTC courses.
412. Such courses are very arduous and very difficult. Only the elite qualify for Special Forces and the majority of applicants are not successful, at least on their first attempt. Major [redacted] estimated that some 50% to 80% fail, and those who do qualify generally do so on their second or subsequent attempt.

413. As mentioned, Major [redacted] was engaged in an occupational psychological exercise when he conducted the two exit screens on Private McBride in the field, after he was removed from CTC 01/2005 and self withdrew from CTC 02/2005. Lieutenant Colonel Cohn assessed those procedures as adequate.

414. In his statement dated 29 October 2009, Lieutenant Colonel (Dr) Cohn stated in paragraph 10:

"It is recommended that the psychological screens provided to ADF members who are withdrawn from the CTC and the SASR Selection Course are redesigned to be consistent with the Annual Mental Health Screens and include the same measures of psychological distress or exposure to trauma. This will ensure that the CTC screens provide the same degree of sensitivity in information gathering as Annual Mental Health Screens."

Should I make recommendations as requested?.

415. As mentioned in paragraph 406 above, Counsel Representing has urged me to make an appropriate recommendation, and Lieutenant Colonel (Dr) Cohn has suggested the recommendation in paragraph 414 above.

416. As regards the former, it was at one stage envisaged that Counsel Assisting would present follow-up evidence to the Commission about aspects of the 6 RAR AHA procedures, shortage of medics etc.

417. Such evidence was not given and I seem to recall that I later informed Counsel Assisting that it was not necessary. If any criticism attaches, I accept responsibility. In any event, Counsel Assisting later submitted that any investigation of the practices adopted by the 6 RAR RAP, at that time, relating to the conduct of AHAs, would have been *"speculative and unhelpful"*.

418. Given the circumstances, I am not critical of the role of Lance Corporal [redacted] or make any adverse findings against him because Private McBride's AHA questionnaire was incomplete.

419. Given that no follow-up evidence was given about the shortage of medics in 6 RAR at the relevant time, or associated issues, I am not inclined to make the recommendation suggested by Counsel Representing in paragraph 406 herein.

420. Further, I am mindful that the Commission of Inquiry is empowered to make recommendations arising from its findings and that your Terms of Reference envisage recommendations with respect to *"any substantial weaknesses or deficiencies (isolated or systemic) in Defence systems..... which are found to have materially contributed to the death of Private McBride."* (my emphasis)

421. It is my finding that the issues involved in Issue 1 in no way *"materially contributed to"* the death of Private McBride. Accordingly, I make no recommendation as suggested by Counsel Representing or indeed as suggested by Lieutenant Colonel (Dr) Cohn.

422. However, you – and those advising you - may consider that the Health Directive No 242 needs some clarification as to who may be an *"authorised delegate"* and that the Directive should contain a pronouncement that any such person is bound by

confidentiality obligations, the same as a Medical Officer or a Nursing Officer. You may also consider the efficacy of the suggestion from Lieutenant Colonel (Dr) Cohn in paragraph 414 herein.

Issue 2 - Was there ongoing harassment or bullying of Private McBride by other members of 6 RAR?

General comments about harassment and bullying in the ADF

423. Before addressing the above issue, it is not inappropriate to make the following general comments about bullying and harassment in the ADF.
424. On 5 February 2001, the then CDF, Admiral Barrie, took the unprecedented step of standing down the entire ADF - except soldiers on operational duty in East Timor - to deliver a stern lecture on bullying and brutality within the ADF. The then CDF briefed members on military justice and equity issues and informed them that a free hotline existed to report bullying.
425. Some two months later, the Report of a Parliamentary Standing Committee, entitled "*Rough Justice? An Investigation into Allegations of Brutality in the Army's Parachute Battalion*", was published. That Report exposed a culture of harassment, bastardisation, rough justice and brutality that seemingly had been endemic in 3 RAR for a number of years.
426. Almost two years after the CDF's stand down lecture to the ADF, soldier, committed suicide, after enduring bullying and a culture of "*denigration and harassment*" after he was transferred to a rehabilitation platoon to recuperate after injury.
427. ..
428. When you commenced your watch as CDF in July 2005 you, in effect, declared war on bullying or harassment in the ADF. Your "declaration of war" - if I may use that phrase - was reported in *The Australian* under the heading "*No place for bullies on my watch: Houston*". The article stated in part:²
- "The Chiefs and I will not tolerate any form of abuse in our system. We will eliminate bullying and all forms of harassment and we take that very, very seriously."*
429. Commanders, at all levels, know that as CDF you have a zero tolerance for any form of bullying or harassment within the ADF. They have been put on notice that harassment and/or bullying have no place in service life today, and that perpetrators will be dealt with seriously.
430. The profession of arms is a tough and demanding profession. That does not mean that it should be a demeaning profession that tolerates, or turn a blind eye to, bullying or harassment within its ranks. As the House of Commons stated in 1989:

"Bullying has no place in the training of tough soldiers."

Harassment and Private McBride

431. Counsel Assisting have submitted that the two discreet incidents about which Private McBride complained in June 2006, were not incidents of bullying or harassment, because they were not indicative of a "course of conduct" or sufficient to constitute bullying or harassment "in the classical sense".
432. Counsel Assisting are also of the view that the "name-calling" alluded to by Private McBride in his complaint could not be classified as bullying or harassment but isolated incidents of name calling simpliciter. Their submission continued:
- "An examination of the _____ in (our) submission, indicates that Private McBride was just as capable of giving as he was of receiving jibes and cutting comments. This is supported by the evidence of a number of military witnesses before the Coroner. The difficulty which this Commission faced in respect of this allegation is that the alleged evidence of bullying (or harassment) comes from the likes of Private _____ who, in the witness box, in the Coroner's Court, clearly indicated that he had no direct evidence of any of these incidents."*
433. I acknowledge that much of the evidence is indirect and that some of the evidence from a few of Private McBride's colleagues at 6 RAR was possibly influenced by their personal experiences with, and dislike of him. That is important when considering the weight of such evidence. In any event, I attach great weight to the direct evidence of Private McBride associated with his June 2006 complaint.
434. It is clear from the four page "Quick Assessment into Report of Unacceptable Behaviour", completed by Captain Burns on 23 June 2006, that Private McBride had been subjected to "name calling and pranks on an ongoing basis" since the "Lid" incident at the 6 RAR Sportsman's Bar at a Christmas function, some time between 25 November 2005 and 10 December 2005.
435. Private McBride had informed his Platoon Sergeant of the initial incident at the Christmas function and requested that it didn't go any higher. Private McBride was excused from Sports Parades at the Sportsman's Bar and later received an apology from Private Nolan.
436. The two discreet incidents of which Private McBride complained, namely the Christmas function "Lid" incident and the "food smear" incident in the OR Mess on 7 June 2006, were provided by Private McBride as examples only, as was the example of a junior NCO calling him a "cunt", when he was tasked to go to the Sportsman's Bar on another occasion, whilst on duty. The gist of his complaint was that the name-calling and pranks had been "ongoing" since the "Lid" incident.
437. At no stage did Private McBride complain about such matters to his parents or brothers or to his former girlfriend. Perhaps that is not surprising given his maturity and nature. He did not readily complain.
438. In my view, the most telling evidence comes from what Private McBride disclosed to his _____ Ms _____
439. In her statements tendered at the Inquest, Ms _____ said that Private McBride told her that he didn't enjoy the Army and that he was subject to incidents of bullying by a number of his colleagues. When questioned about such matters by Counsel Assisting the Coroner, Ms _____ said that Private McBride never told her he
-

didn't enjoy the Army, but he did tell her he couldn't wait for his contract to end, and that he was looking forward to his discharge when that happened.

440. When asked by Counsel Assisting the Coroner if Private McBride used the words "bullying" or "harassed" or "anything like that?" Ms [redacted] replied:

"I think he said 'picked on' would be probably more – more accurate, but, you know, kind of, bullying is sort of picking on anyway"

441. Ms [redacted] also said that Private McBride told her that he didn't pay any attention to such conduct. She continued:

"He didn't seem particularly affected and he.....said to me he spent most of his time in his room.....studying his materials and just didn't involve himself with them. He never mentioned any, like, incidents or anything like that though, you know."

442. Private McBride told the complaint-investigating officer, Captain Burns, that some people in 6 RAR seemed more "immature" than elsewhere and that he couldn't wait to get away from these people. In making his complaint, Private McBride simply wanted to send a message "that harassment will not be tolerated in this Army".

443. The process followed by 6 RAR in response to Private McBride's complaint was prompt proper and professional, and I so find.

444. The investigative process was also in compliance with Defence Instruction (General) PERS 35-3 *Management of Reporting of Unacceptable Behaviour* (DI(G) PERS 35-3). In a nutshell, the following occurred: on receipt of the complaint, the CO of 6 RAR, Lieutenant Colonel Goddard, briefed the Brigade Commander about the matter and various reports were initiated, including a report to Defence Equity:

- the CO of 6 RAR then ordered Captain Burns (a Signals Officer and not an Infantry Officer) to undertake a Quick Assessment of the complaint and that was completed by 23 June 2006;²
- Captain Burns interviewed Private McBride and made certain recommendations to the CO of 6 RAR;
- Lieutenant Colonel Goddard found that the complaint was established and that the conduct amounted to unacceptable behaviour. The CO of 6 RAR directed that certain recommendations be implemented
- the CO of 6 RAR required the Officer Commanding A Coy to conduct remedial training regarding the consumption of alcohol, and ordered that the tradition of wearing the military helmet and associated usage of the term "Lid" cease;
- no formal or disciplinary action was to be initiated against any member of A Coy;
- in accordance with Private McBride's desires, no further investigation was to be conducted; and

- Private McBride was notified of the outcome of the investigation and the CO's recommendations, and he indicated that he was satisfied. Private McBride had requested that no formal action be taken on his complaint and did not want his identity disclosed. He indicated that if the unacceptable behaviour continued after members of A Coy were counselled, he would probably request that formal action be taken. He understood that in such a case, his identity would have to be disclosed to those about whom he complained.

445. Although the CO of 6 RAR found that the complaint was verified and that Private McBride had been subjected to "unacceptable behaviour", Lieutenant Colonel Goddard was also satisfied that;

".....the unacceptable behaviour has been derivative of individual actions rather than a culture of workplace harassment or bullying".

446. The reality is that Lieutenant Colonel Goddard would simply not tolerate a culture of bullying or harassment whilst he was CO of 6 RAR, and such a culture simply did not exist. The immature and unacceptable behaviour of some individuals does not evidence the existence of a culture.

447. In his telephone evidence to the Commission, Lieutenant Colonel Goddard – who is now a civilian – stated:²

"My statement to LTCOL Dugdale states that I do not believe there was a culture of any form of harassment, intimidation or bullying of PTE McBride. PTE McBride was subject to individual actions of unacceptable behaviour which were investigated and his requirements were met and implemented to his satisfaction. Through the course of that incident that was investigated in June 2006 PTE McBride would have obtained a clear understanding he was supported by the chain of command, the chain of command stretching from the battalion training team to the commanding officer. The wider message that that also sent across the battalion was regardless of who the individual was, they would be supported, even if he was perceived as maybe an unpopular soldier. That was not an issue. If a complaint was lodged of unacceptable behaviour, it would be reported. It would not be left sideways, it would not be left unattended. If you like, I can also go into further disciplinary aspects about the number of officers, warrant officers, sergeants and corporals who I removed from appointments throughout the course of my tenure for a variety of reasons in which I believe they had command failures."

448. In August 2006, Private McBride made a further complaint to WO2 concerning a member spreading a story that he wasn't prepared to work.² However, that was not a formal complaint and no subsequent complaints were made by Private McBride.

449. Amongst other things, Counsel Assisting have submitted that it is essential to understand Private McBride's personality when examining any of the evidence relating to the allegations of harassment and bullying. With respect, I agree with that submission.

450. In some ways, Private McBride was his own worst enemy. Whilst the evidence of Private may be somewhat biased because of his dislike for Private McBride for the reason previously given, his answer to a question from Lieutenant Colonel

Dugdale is relevant. In the statement recorded at 6 RAR on 18 December 2008, Private [redacted] was asked by the Inquiry Officer:

"Q31. In your opinion was PTE McBride being harassed or bullied?"

To which Private [redacted] replied:

"A31. I can't tell you that because if he was, then I couldn't see it. I saw him a fair bit and never really noticed it. The only bullying that he did receive was to do with things that he brought on upon himself by the way he treated other people. Like.... he'd start up other people."

451. Notwithstanding his anti-social personality/behaviour whilst at 6 RAR, I am satisfied that Private McBride was subject to unacceptable behaviour on the part of some members of A Coy between the time of his "march in" late November 2005, and the battalion's deployment to Timor Leste in early September 2006.
452. Whatever may be the classical understandings of bullying and harassment, definitions and categories of "unacceptable behaviour" are provided in ANNEX B to DI(G) PERS 35-3. Amongst other things, bullying behaviour includes "abusive, insulting or offensive language".
453. The use of the insulting or offensive word by the junior NCO was unacceptable behaviour, even if it was a single incident. The culprit was probably affected by alcohol and was trying to show off. In any event, the event was demeaning and offensive. Private McBride was big enough and brave enough to simply walk away.
454. Even though I have found that Private McBride was subject to unacceptable behaviour by some members of 6 RAR A Coy, I am satisfied that such behaviour came from immature individuals and did not represent a culture of intimidation and/or harassment within 6 RAR, and I so find.
455. There is no evidence that such behaviour was in any way, directly or indirectly related to the death of Private McBride, and I so find.

Issue 3 - Were there systemic deficiencies or difficulties in processing Private McBride's medical discharge?

456. When Private McBride marched into 6 RAR in late November 2005, he had a classification of MEC 1. He had some 12 months and 2 weeks to serve before his administrative discharge at the end of his 4 year contract. As he told Captain [redacted] wished to serve out that time.
457. On 16 February 2006, Private McBride was medically downgraded to MEC 301 and was transferred to 6 RAR Bravo Coy (the BTT) on 19 March 2006.
458. In August 2006, Private McBride was referred to the Defence Rehabilitation Program and duly referred to the Commonwealth Rehabilitation Service (CRS).
459. On 7 September 2006 Private McBride completed a Health Statement for possible consideration by the Medical Employment Classification Review Board (MECRB). In that document Private McBride said that his discharge date was unknown but he desired to be "medically discharged" from the ADF, with a "preferred date of separation around early Feb 07".

460. On 26 September 2006, Private McBride advised the CRS that he was being medically discharged from the Army on a date yet to be advised.²
461. On 28 September 2006, upon local review of his MEC, it was recommended that Private McBride was "unfit for military service" and that he should be downgraded to MEC 401. Private McBride advised that he wished to make a "representation" on that recommendation, but there is no evidence of any such representation having been made.
462. On 12 October 2006, Private McBride was recommended for medical discharge due to his lower leg injuries. On that date, he received a MEC Advice³ informing him that he had been reclassified to MEC 401 and that a MECRB determination would be made in the future.
463. Documentation regarding Private McBride's proposed medical discharge was received at the Joint Health Support Agency (JHSA), on 24 November 2006.⁴
464. Private McBride could not be medically discharged until the MECRB process was completed. The evidence is that only the MECRB could provide a "discharge date", after which a member then has a 28 day opportunity to appeal against that decision.
465. For the reasons given by Lieutenant Colonel Hodge in his statement dated 27 October 2009,⁵ and in his evidence to the Commission on 10 November 2009, the next scheduled MECRB was not until late February 2007.
466. Had Private McBride not died on 7 February 2007, his medical discharge would have been processed by the MECRB towards the end of that month, and a definite discharge date given.
467. There is limited evidence before the Commission that Private McBride seemed frustrated by the delay in the discharge progress. When asked by Counsel Assisting the Coroner if Private McBride seemed frustrated by the process, former Private Rotha answered "Yes". Also in late 2006, Ms _____ from the CRS, informed Mr Sherlock that Private McBride was frustrated with the length of time associated with his discharge process.⁶
468. Private _____ was an associate of Private McBride who had also been in 4 RAR (CDO) and in the 6 RAR BTT. Private _____ left the Army in mid September 2006 and gave evidence at the Coronial Inquest that Private McBride "didn't seem depressed or anything like that".
469. There is no cogent evidence to suggest that Private McBride was unduly concerned about the delay in his discharge process at or about the time of his death. His family indicated that he had never complained to them about the time taken to obtain his medical discharge, and indeed some members of the family were even unaware that he was seeking a medical discharge.⁷
470. Further, and perhaps most telling of all, no such concern was ever raised by Private McBride with members of the _____ especially his _____ Ms _____
-

471. The evidence indicates that Private McBride seemed to be more focused on obtaining a medical discharge rather than obtaining an administrative discharge after the completion of his four years minimum service. Private McBride had not made any application for administrative discharge. Such an application would need to be made six months in advance.
472. Private McBride had expressed to a number of people that he would be discharged in February, March or April 2007. For example, in his last telephone call to his parents, he informed them that he was likely to be discharged in April 2007.
473. The fact that no discharge date had been set was unconnected to Private McBride's death, and I so find.
474. It is clear that the discharge timeframe for Private McBride's separation from the Army was lengthy, but the evidence of Lieutenant Colonel Hodge and Mr. Sherlock indicates that the discharge timeframe was within normal limits.
475. There is simply no evidence that the lengthy period of time taken to process Private McBride's discharge was an issue that had any bearing on, or contributed in any way to, the death of Private McBride, and I so find.
476. Counsel Assisting and Counsel Representing have submitted that the discharge process generally, and the medical discharge process in particular, are both length and unwieldy and can lead to frustration and despair for some members.
477. The Commission recognizes that the discharge process can involve extremely difficult issues for the ADF and the member seeking his or her discharge.
478. Lieutenant Colonel Hodge gave evidence about the old discharge system that was faster but arbitrary, and examples of problems associated with that system.
479. The current discharge system, applicable to Private McBride's circumstances, namely, the MEC and MECRB processes, is a system of checks and balances. It is longer than the previous process and certainly more thorough.
480. Amongst other things, Lieutenant Colonel Hodge explained the problems that can and have beset speedy discharges from the ADF in the past. For some members, the ADF is in reality their family, and discharge removes them from that family and its support. A balancing exercise needs to be performed *"which doesn't mean that a speedy discharge is necessarily in everyone's best interest"*.
481. Although the MECRB process is essentially a medical review, it is a personnel management process in which the medical function is subordinate. The process is run by the applicable Service personnel management agency. In the case of a soldier such as Private McBride, that personnel agency is the Soldier Career Management Agency (SCMA). SCMA was responsible for scheduling Private McBride's MECRB.
482. The JHSA supports, but does not run, the MECRB process. In each case, it provides an essential one page summary of independent medical advice to the MECRB on issues of occupational medicine about the impact of the member's condition on their deployability and employability. That advice cannot be provided by any doctor, and must be done by doctors with either higher qualifications of
-

occupational/military medicine or extensive experience. This capability predominately exists in the Reserve, which is then subject to the usual availability issues³. While this does add to the time taken, as Lieutenant Colonel Hodge pointed out, the philosophy has always been that given that members' careers are at stake, they deserve the best possible advice.

483. It is acknowledged that there have been problems in the past regarding the frequency of MECRB hearings. Lieutenant Colonel Hodge gave evidence that there has been an improvement in that regard, in that once the MECRB paperwork is received, a member will *"either get heard at the board that month or the following month, certainly no longer than that"*.
484. That being said, there are still problems in the December/January period each year because of posting cycles, block leave etc. Realistically, those problems will always exist.
485. As regards designated urgent cases, some more developed mechanisms now exist and the Service personnel agencies have the ability to consider such cases out-of-session. However, as Lieutenant Colonel Hodge stated, SCMA tends not to be overly keen on out-of-session cases because SCMA prefers each case to be formally determined to ensure that members have the best possible outcome.²
486. Lieutenant Colonel Blain CSC, the CO of 6 RAR at the time of his evidence, was of the view that the current MECRB system is *"too slow"*¹. He wondered whether a *"focal"* MECRB system would be worth a trial. When asked to comment about that suggestion, with appropriate checks and balances, Lieutenant Colonel Hodge was sympathetic. However, as he stated:
- "Probably part of the issue would be having the necessary level of expertise...."*
487. It is recognised that Townsville and Darwin have a real problem with the availability of medical specialists.
488. Amongst other things, Counsel Assisting have submitted that a *"fast-track discharge process"* should be developed which includes a carefully drafted and administered *"disclaimer"* procedure to mitigate against some of the worst problems outlined by Lieutenant Colonel Hodge. If such a system was developed, my own view is that independent legal advice should be mandated and attached to every such *"disclaimer"*.
489. Counsel Assisting also submit that whilst it is laudable that the ADF has given such careful attention to the question of discharge, the fact that there may be up to 15 agencies involved can only be described as *"excessive"*. Counsel Assisting submit that the ADF should seriously consider the establishment of a single agency charged with managing the discharge process within each Service and that that process involve an *"expedited"* or *"fast-track"* method of discharge where that is warranted.
490. The relevant recommendations made by Counsel Assisting are as follows:
- *"That serious consideration be given to the creation of a single "Discharge Authority for each Service, to coordinate the management of the Discharge Process." and*
-

- *"That consideration be given to the development of a 'fast-track discharge process' which can be utilised in certain conditions, underpinned by mutual agreement between the Service and the Member and where such a process would benefit the Member."*

491. Counsel Representing supports the submission from Counsel Assisting that an "expedited" or "fast-track" method of discharge is warranted in appropriate cases.
492. Further, Counsel Representing has submitted that it is open to me to recommend that the MECRB process be reviewed to determine if it is possible to reduce the length of time generally taken to complete the process and, where appropriate, medically discharge personnel.
493. Although I appreciate why Counsel have made those submissions, I am reluctant to make any such recommendation(s).
494. My essential finding with respect to **Issue 3** is that there is simply no evidence that the delay in processing Private McBride's medical discharge had any bearing upon his state of mind, or suicide, on 7 February 2007.
495. I am not at liberty to make recommendations simpliciter. As I understand my Terms of Reference, any recommendation must be based upon my findings and needs to relate to Defence weaknesses or deficiencies etc (isolated or systemic), which are found to have materially contributed to the death of Private McBride.
496. The reality is that there is not a single Defence weakness or deficiency which contributed to Private McBride's death in any way, let alone in a material way.
497. Whilst I do not make the recommendations submitted by Counsel Assisting and Counsel Representing, you may nevertheless consider those matters – especially the need for an "expedited" discharge system – to have merit, and warrant possible action. However, with respect, that is a matter for you and those advising you.

Issue 4 – Was Private McBride's employment in the 6 RAR Battalion Training (BTT) properly managed?

498. Before commenting upon this issue and associated matters, I state my unequivocal finding that there is no evidence or information of any nature to suggest that Private McBride's death was contributed to by his management within the 6 RAR BTT. Indeed, Counsel Representing does not submit otherwise.
499. The structure and staffing of rehabilitation platoons within infantry battalions, including 6 RAR, has been an ad hoc matter for battalion commanders. That is unsatisfactory. If commanders are to be responsible for the health and welfare of their injured soldiers, commonsense and fairness dictate that they must be given the means and resources to properly and professionally exercise that responsibility.
500. Now retired Lieutenant Colonel Goddard and Lieutenant Colonel Blain CSC gave very impressive and useful evidence about the measures adopted by them to manage the 6 RAR rehabilitation platoon issue, and the problems associated therewith. Both were frank and forthright witnesses who were passionate in their desire to have the Commanding Officer retain direct command and management responsibilities for their soldiers who become injured or ill and require long-term rehabilitation. With respect, that is a commendable attitude.
501. As Lieutenant Colonel Hodge, SO1 Medical Services at JHSA Campbell Park, pointed out, infantry battalion commanders have to balance a huge number of priorities at the same time. He felt sympathetic towards battalion commanders as

one of their current responsibilities is the management and care of their injured soldiers.²⁶⁶

502. As Lieutenant Colonel Goddard told the Inquiry Officer:²

"The battalion training team was specifically set up to manage soldiers who were on long term medical restrictions. There was a structure in place when I assumed command. I reviewed that structure and issued a directive with effect 31 January 2006 as to the structure, its running, its content, its role and relationships. All soldiers on medical restrictions over 28 days were posted to the BTT so that they could be centrally administered for their medical restrictions and their rehabilitation. Also, concurrent with that was individual training applicable to maintain their morale and enthusiasm for the service....."

503. Lieutenant Colonel Goddard's Directive 03/2006, 6 RAR Injury Management Program, dated January 2006, and the 6 RAR Unit Standing Orders, Chapter 10 – Injury Management Plan, are documents before this Commission

504. In his telephone statement to the Inquiry Officer on 16 January 2009, now retired Lieutenant Goddard stated, amongst other things:

"I note that this is now going back through about three years now and it needs to be recognized that, structurally, units were not supported in terms of managing the rehabilitation of injured soldiers. It was up to the individual commanding officers' initiative to drive the processes and structure internally to support these soldiers. Many of the injuries were broad and wide-ranging. The support I had from the BTT staff was exceptional. The two LTs who were there, LT [redacted] and the second one were superb. They offered strong, motivated service in looking after these soldiers, noting that it was not their preferred employment. They would have preferred being with a Rifle Pl but none were available. The SGTs also, especially SGT Tyers, were also superb and offered excellent service...."

505. Lieutenant Colonel Blain CSC replaced Lieutenant Colonel Goddard as the CO of 6 RAR in December 2007. After his first year as CO, Lieutenant Colonel Blain CSC made some changes to the BTT. Firstly, he changed its name to the "Long Tan Platoon", the 1966 Battle of Long Tan having pride of place within 6 RAR. Lieutenant Colonel Blain CSC also introduced a normal platoon structure, including section commanders. 6 RAR was, for the first time, allocated a nursing officer and the CO tasked her to be the Platoon commander of the "Long Tan Platoon" as well. The CO also placed the "Long Tan Platoon" under the command of the OC Adm Coy rather than having it the responsibility of the Battalion XO, as in the past.

506. At the time Lieutenant Colonel Blain CSC gave evidence, there were 51 members of 6 RAR who were long-term injured going through the injury rehabilitation plan. The normal strength of 6 RAR is 650 members.

507. The 51 members were categorised as follows:

20	Goal One	-	destined to return to their pre-injury/illness work environment.
15	Goal Two	-	fit for alternative duty in the ADF.
16	Goal Three	-	transitioning out of the ADF.

508. In his evidence to the Commission, Lieutenant Colonel Blain CSC stated, amongst other things:²

"What I've noticed in my time as a CO is that we tend to see - well - we have seen a number of soldiers who have been in Long Tan Platoon for a long period of time while they go through the rehabilitation and MECRB process, who are waiting on a decision on their career, knowing most likely that they will be becoming a civilian but while they are waiting, those soldiers become mental health patients. They develop mental health issues because of the uncertainty and the stigma they believe is attached to them by being in the platoon, and I, you know, have to invest a fair bit of time in making sure that they're getting mental health support apart from just the physical and, you know, rehabilitation support from physiotherapists etc....."

.....I had a number of soldiers last year, two soldiers in particular that did acts which were of self-harm and were suicide attempts, I would say, under the policy. They had just become members of Long Tan Platoon, they were not long-term members....."

The concern I have is I have four soldiers at the moment who have developed mental health issues which I believe are a result of the length of time it has taken for them to be processed through the system for their rehabilitation and discharge from the Army."

509. The two 6 RAR soldiers who attempted suicide in 2008 were posted into the "Long Tan Platoon" with existing psychiatric problems, unlike Private McBride who had no such problem.
510. Excluding the last month that he was on leave, Private McBride spent the last 10 months of his life in the 6 RAR BTT. Whilst it is true that Private McBride had *time on his hands* whilst a member of the BTT, there is no credible evidence that he was bored, or had nothing or insufficient to do. The evidence is to the contrary: he relied upon his own resources, at appropriate times, to progress his advancement within the
511. The Commission acknowledges that the management and employment of long-term rehabilitees was then, and is now, a major concern for the ADF. As leading Counsel Assisting stated in his opening:³

"Sir, there is a very large problem with the management and treatment of long-term rehabilitees, particularly in Army units and, more particularly, in Infantry units."

512. Lieutenant Colonel Parker, Acting Director of Army Health, and Ms English, a Specialist Physiotherapist and Deputy Director Development of the ADF Rehabilitation Services, gave instructive evidence to the Commission on the proposed solutions to the problem currently being considered within Army. Both of them are very experienced and have been working on a proposed solution to the ongoing problem, albeit from different points of view, and from within different organisations within the ADF.
513. Of necessity, I must be selective in referring to the evidence of Lieutenant Colonel Parker and Ms English, and mean no disrespect to their evidence in so doing.
514. Ms English is now a Defence civilian and was a former officer in the ARA. Amongst other things, she was responsible for the design, development and implementation of the Training Command Rehabilitation Wing, the 1 HSB Injury Management Program

and the Land Command Rehabilitation Continuum. She has received awards for her contributions to military rehabilitation and peer-reviewed scientific awards for her research.

515. With the approval of the Commission, Lieutenant Colonel Parker sat in on all evidence given to the Commission.

516. In reviewing the evidence about the ongoing problem, Lieutenant Colonel Parker told the Commission that he recognised that all agencies acknowledge the problem and are endeavouring to effect a resolution.

517. As regards the process, he observed:

"Is this networked and collegiate? Probably not to the best that it can be. Should it be? Absolutely. The issue, I guess, is how do we get there?.....I think the thing that I have taken away from this is that we all acknowledge that all the issues that we are talking about are the same issues."

518. Lieutenant Colonel Parker indicated that Army proposed to establish Soldier Rehabilitation and Transition Units (SRTU). He also said that the issue of self-stigmatisation and external stigma is something that needs to be addressed. There also needs to be a balance between discharging members properly and getting them out promptly.

519. Ms English informed the Commission that Army consistently provides 60% of referrals each year to the ADF rehabilitation service.

520. Currently, approximately 75% of all members on the ADFRP have a musculo-skeletal injury, with primary mental health disorders representing 10% of referrals for rehabilitation.

521. The statement of Ms English dated 6 November 2009, is very comprehensive and contains two Annexures and seven Attachments. The Commission thanks Ms English for the work involved. Her evidence to the Commission was objective and passionate. Perhaps the most useful evidence given by her about the ongoing problem, is as follows

"...whatever the solution is, it needs to be evidence-based practice, and I would suggest it needs to be piloted properly before its applied and if you look at the statistics we've provided, not every unit needs the same solution."

522. Mr Sherlock has gained a great deal of experience in the management of military rehabilitation and mental health services over the past decade. He has been appointed by the ADF as its Rehabilitation Co-ordinator for South Queensland and gave useful evidence.

523. The Australian Defence Force Rehabilitation Program (ADFRP) was formally introduced in June 2006 and Mr Sherlock was heavily involved in its development and implementation. He has managed about 1500 ADF rehabilitation cases and

about 75% of those cases were Army personnel who predominantly had lower limb injuries.²⁸³

524. In his statement dated 15 October 2009, Mr. Sherlock stated that he could:
- ".....confidently comment that rehabilitation services prior to the implementation of the ADFRP were fragmented and poorly understood within the ADF, this often leads to poor return to work outcomes and uncoordinated transition for our members being medically discharged into the civilian community."*
525. In his evidence to the Commission, Mr Sherlock stated that there had been an *"incredible improvement"* in retaining injured members since the introduction of the ADFRP in June 2006. He also stated that Private McBride was one of the early members of the new program and was *"anywhere between the 9th and 16th member into the program"*.
526. The ongoing issue, especially with an infantry battalion, is whether the battalion should retain its own rehabilitation platoon or should long term rehabilitees (especially those classified MEC 4) be transferred to an outside rehabilitation unit.
527. One perspective is that, put very simplistically, it is better to keep soldiers in their units so that they do not lose dignity and pride, (internal stigmatisation or self-stigmatisation as a result of being removed from their workplace) by being sent away from their unit. This also enables the CO of the unit to retain direct management responsibility for his or her sick or injured soldiers who, as a result of that illness or injury, require long-term rehabilitation.
528. The other perspective is to totally remove the long term injured from the battalion or other unit environment.
529. In January 2009, Professor David Dunt issued his *"Review of Mental Health Care in the ADF and Transition through Discharge"*. That review was initiated by two Ministers, the Minister for Defence, Science and Personnel and the Minister for Veterans' Affairs.
530. Relevantly, Recommendation 9.4 made by Professor Dunt stated:
- "On-basa 'rehabilitation platoons' stigmatise their members and, as a practice should be discontinued."*
531. The Government Response to that recommendation reads as follows:
- "Partially Accepted. Rehabilitation platoons at the unit level have the potential to stigmatise members. Defence is examining alternative models which will allow ADF members to maintain their military identity and social support networks without stigma. These models will utilise the ADF Rehabilitation program model of occupational and workplace-based rehabilitation. The ADF Rehabilitation Program enables members who are on a graduated return to work programs to retain links with their mates and their unit, thus contributing to an easier transition back to the workplace and full-time duties."*
-

532. Ms English made reference to the Dunt Review in her comprehensive statement dated 6 November 2009.¹
533. When lead Counsel Assisting asked Ms English where she stood on Professor Dunt's recommendation to discontinue Rehabilitation Platoons, Ms English replied:
"When we wrote the recommendations we fully rejected it, in that we have a number of rehab units that run rehabilitation platoons throughout the country, that actually run them very well and then you have some that aren't run so well. So they do have a lot of administrative advantages to command....."
534. Paragraph 25 of Ms English's statement reads as follows:
"It is recommended that the use of Rehabilitation Platoons in Infantry Battalions be continued. However, they need to be enhanced by the body of work that has been outlined in this statement."
535. Counsel Assisting have submitted that whilst unit retention of rehabilitation platoons reflects a commendable attitude, it may not be a practical one. It is further submitted that neither of the proposals put forward by Ms English and Lieutenant Colonel Parker *"appears to hold a practical solution to the problem"*.
536. Counsel Assisting further submit, with the greatest respect, that this Commission *"is not adequately equipped to pontificate upon the efficacy of either of these solutions"*.
537. It is further submitted that what the Commission can do, is to recommend to you that you take control of the coordination of the considerable effort that has been expended thus far to endeavour to bring these diverse investigations to a satisfactory conclusion. To that end, Counsel Assisting have recommended:
"That the Chief of the Defence Force appoint an all parties committee to coordinate the search for a solution to the problem of the management and employment of long-term rehabilitees within the Australian Defence Force."
538. Further, Counsel Representing has submitted that a recommendation should be made for consideration of ongoing reviews of rehabilitation in the ADF.
539. With respect, and for the same reasons given in paragraphs 493-494 herein, I am again reluctant to make those recommendations. That being said, I recognise that the issue is a huge problem and there is no simple answer.
540. I can appreciate the thrust of Counsels' submissions and recommendations I am sympathetic towards them. In the circumstances, once again you - and those advising you - may think it prudent to consider what is submitted and recommended. It seems clear that a very senior officer within the ADF - such as the Chief of Army, perhaps - needs to coordinate and control the search for a solution. The effort needs to be collegiate and not fragmented and any solution needs evidenced-based.

Essential Findings

541. Coroner Lock found that Private McBride died from *"Electrocution"* at the Energex Sub-station at Everton Park on 7 February 2007. He found, in effect, that the death was intentional suicide. The Coroner also found:

"Mr McBride died as a result of intentionally placing himself in a position on the substation tower such that he would receive a high voltage electric charge with almost certain death as a result. In placing a rope around his neck and tied to the substation tower he intended to provide a backup method to ensure his life was ended. On the evidence presently before me, his intention to take his own life was not reasonably foreseeable by his family, the Australian Defence Force

The evidence and information before me in this Commission of Inquiry does not contradict those findings and, with respect, I adopt those findings as my own.

542. I find that the circumstances surrounding Private McBride's premeditated suicide were unusual and mysterious. On the evidence and information available to this Commission, two important issues relevant to those circumstances remain unknown, namely:

- the identity of the two males seen inside the Sub-station compound at or about the time of Private McBride's electrocution therein; and
- exactly what it was that caused Private McBride's state of mind to deteriorate so rapidly that this trained electrician and electrical fitter saw fit to end his life by means of deliberate exposure to high voltage electricity.

543. Like Coroner Lock, I find that two males were in fact inside the compound. In that regard, Coroner Lock stated:

"As to the identity of the two persons in the substation, the police investigation was unable to come to any conclusion and ultimately neither can this inquest. I can say that there is no evidence that would indicate that either of them were attached to or had anything to do with the

. Their descriptions could give a view that they looked like army personnel but that does seem unlikely considering that Mr. McBride had virtually no friends in the army and there is no evidence anyone was with him that day. There is no evidence that any person, even within the army context, would want to harm Mr. McBride.

I consider it unlikely that either of the two persons had been providing any direct assistance to Mr. McBride. The scenario which I think is most likely is that they were indeed two young men who had entered the substation compound and were up to no good. They may have seen Mr. McBride in the compound and were curious. They may have just entered and not known that he was there. The actions of one of them in holding his hands around his ears is indicative of someone who had experienced a large noise and was holding his head in pain. The other one was waving his arms around and one of them was walking backwards and forwards. This is indicative of two persons who had found themselves in a stressful situation and were panicking. They were not near enough to Mr. McBride to receive flash burns but they would have received a considerable fright. It is probable that they then exited the compound after hearing the fire trucks arriving and knowing they were in trouble. Although this is a scenario which I consider to be plausible and the most likely of the speculative theories it is not a finding that I can make on the requisite standard of proof without there being some further supporting evidence. It (is) still speculation but the one I favour the most".

With respect, I share the Coroner's views and speculation. It is unlikely that the identity of the two males will ever be known.

544. I appreciate that what I have quoted in paragraph 543 above duplicates paragraph 337 herein. The repetition is warranted given the importance of the issue and the views expressed.
545. Exactly what it was that caused Private McBride to act – or react – in the extreme way he did, when he had been happy, positive, and looking forward to the future just days before his death, remains a mystery.
546. I find that Private McBride was a 30-year-old mature person who was very determined and had everything to live for, including his close family and anticipated further advancement within the
547. Private McBride had no history of psychiatric illness or any history of psychological issues and his uncharacteristic behaviour of failing to attend the _____ for his course 3 _____ on 6 and 7 February 2007, his failure to respond to _____ messages during that time and his surprising consumption of alcohol in the hours before his death, clearly evidence a sudden change in his state of mind, sadly with a catastrophic ending. Something brought about that sudden and severe change.
- 548.
549. Whatever the relevance – or otherwise – of Private McBride's _____, it is noted that Coroner Lock found that there was a clear inference that the action by the _____ to remove that file to the United States, was a deliberate decision not to produce that document.
550. I find that uncertainty exists, and will continue to exist, unless and until the _____ produces the _____ – in its entirety and without any culling – to Coroner Lock.
551. As regard Private McBride's service in the ARA, I find that he became focused on having his discharge processed as a medical discharge after he was downgraded to MEC 4 in October 2006.
552. Private McBride could have applied to the Chief of Army to resign from the ADF before the end of his four-year contract on 8 January 2007. He did not do so.
553. As regards the Defence-related issues that the Commission of Inquiry has considered, after long and detailed consideration of all of the evidence and information available, including the submissions from Counsel Assisting and Counsel Representing, I find, without any reservation whatsoever, that none of those issues or indeed any aspect of Private McBride's army life, played any part, direct or indirect, in his tragic death, let alone contributed to it in a material way.
554. As regards Issue 1,² I find that the evidence does not establish that there was any failure by the chain of command or medical personnel to act upon apparent indicators of Private McBride's social isolation and potentially compromised psychological fitness.
-

Whilst I accept that some "social isolation" occurred whilst Private McBride was at 6 RAR, the reality is that to a very significant degree, Private McBride was responsible for that situation and, in any event, was not affected by it.

555. As regards **Issue 2**,¹ I find that Private McBride was subjected to instances of unacceptable behaviour whilst at 6 RAR. His complaint in June 2006 was promptly and properly dealt with in accordance with DI(G) PERS 35-3, and appropriate remedial action was taken.

Whilst I am satisfied that there was some ongoing harassment from a few members of 6 RAR A Coy until the Battalion deployed to East Timor in early September 2006, that unacceptable behaviour was isolated to the behaviour of a few immature individuals. It did not represent a culture of bullying or harassment within 6 RAR.

556. As regards **Issue 3**,¹ I find that whilst, in the circumstances, a relatively lengthy period of time was involved in processing Private McBride's medical discharge, and that no discharge date had in fact been set, those matters had no bearing upon or in any way contributed to Private McBride's death.
557. As regards **Issue 4**,³ I find there is no evidence to suggest that the death of Private McBride was in any way contributed to by his management within the 6 RAR Rehabilitation Platoon (BTT).
558. Specifically, having regard to the Terms of Reference, I find that there were no actions or decisions taken by Defence personnel which were "insufficient" and "materially relevant to" the death of Private McBride, both prior or immediately subsequent thereto.
559. Further, I find that there were no substantial weaknesses or deficiencies – isolated or systemic – in Defence systems, policies, equipment, practices, procedures and training "proximately associated with" the death of Private McBride.

Possible matters for your consideration

560. For the reasons given, I am constrained from making any recommendations given my findings. Nevertheless, I have invited you – and those advising you – to consider, and possibly action, the issues raised in Counsels' recommendations given above: see paragraphs 488-492 and 537-588 herein.
561. You may also consider that the recommendation made by Coroner Lock at the conclusion of his Findings may have some relevance and be of possible assistance to the Australian Defence Force Investigative Service (ADFIS).
562. As previously mentioned, QPS investigators not unreasonably decided to access Private McBride's PDA on the night of his death. The police did not record its contents. What was unknown to police at the time was, unlike mobile telephones, once a PDA loses its battery power its data is lost because it has a volatile memory. When Private McBride's device was taken for forensic testing, no data could be accessed because the battery had run down. All of the voicemails, text messages etc were lost. Because police assumed they could access that information later, there was no recording in police notebooks or elsewhere of the information heard or read by the police.
563. Coroner Lock stated in paragraph 144 of his findings:

"There may be some lessons to be learnt by police as to the forensic testing of electronic devices such as the PDA. I recommend that the Commissioner of Police include in any future training or further in-service education of police, information concerning the importance of recording at the scene any evidence gathered in an examination of such electronic devices in case that data is subsequently lost. There should be included in such training information pointing out the potential loss of such data as occurred in this particular case."

564. You may be of the view that ADFIS would also benefit from the QPS experience and the recommendation of Coroner Lock. If so, this is a matter that could be brought to the attention of the Provost Marshal of the ADF, _____ for appropriate action.

Acknowledgements, special mention and thanks

565. I place on record my appreciation of the assistance given and contributions made by Counsel Assisting, Captain Robert Hume RFD, RANR and Wing Commander Christopher Taylor.

566. I thank Counsel Representing, Wing Commander Glenn Cridland, for his representations on behalf of the single representative of the late Private McBride.

567. In the email accompanying his submissions, Wing Commander Cridland wrote:

"On behalf of the family of Edward McBride, I would like to sincerely thank you for your consideration of their wishes and interests in this matter."

I thank Counsel Representing and Private McBride's family for those remarks.

568. In a statement made by Private McBride's father before the commencement of the Commission of Inquiry, Mr _____ McBride said that the family welcomed this Inquiry, which they hoped would result in improvements in the management and rehabilitation of injured soldiers.

569. Having spoken to Private McBride's parents both before and after the three day hearing, I am confident that they appreciate the improvements that have been made and the ongoing concern of the ADF in general, and commanders in particular, to further improve the management and rehabilitation of injured members.

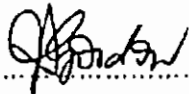
570. Acknowledgement should also be made of the excellent support given by the Commission Secretary and Administration Manager, _____. I also thank her support staff, _____ and _____, for their efforts.

571. The investigation conducted by the Inquiry Officer, Lieutenant Colonel Megan Dugdale deserves special mention. Her investigation was timely, and her Report was comprehensive and objective. That Report has been of great assistance to me and, I am sure, Coroner Lock.

572. Thanks must also be given to my personal assistant and _____, who has typed this Report.

Copies of this Report

573. I have provided you with two bound copies of my Report and a copy on CD.
574. In his Findings, Coroner Lock stated that he was *"not closing the Inquest totally"* but is waiting the outcome of this Commission of Inquiry before he decided if he should reopen the Coronial Inquest.
575. With respect, a copy of this Report should be provided to Coroner Lock as quickly as possible, to enable him to complete his function. It is for that reason that I have provided a second bound copy of my Report.
576. Pursuant to regulation 63(3) (a) of the *Defence (Inquiry) Regulations 1985*, the Minister will need to authorise the release of my Report to Coroner Lock. The Instrument of Authorisation signed by the Minister on 5 July 2009 (Exhibit 5), only applies to the *"records"* of the Commission.
577. I would appreciate if your Commissions of Inquiry Coordination Directorate could obtain the Minister's authority for that release, as soon as possible.
578. Regulation 123 (5) requires a copy of the Commission transcript and the Exhibits to accompany this Report. Those documents are currently located in a secure room at Victoria Barracks, Brisbane, and are to be taken to Canberra by . . . as soon as practicable.
579. As regards the Records of the Commission that may further assist Coroner Lock, I have delegated the task of deciding what is relevant to Counsel Assisting the Commission. In paragraph 9 of Practice Note No. 4, issued on 6 January 2010, I stated:
- "Counsel Assisting are at liberty to determine what exhibits may be of relevance and possible assistance to Coroner Lock. In accordance with the relevant part of Exhibit 5, I give my approval to Counsel Assisting to provide copies of such documents to the Coroner's Office."*
580. Although the Commission hearings only encompassed three days, this has been a protracted and, in some ways, a fragmented Commission of Inquiry. It has also involved a lot of work by all concerned.
581. The submission of this Report to you, concludes my Inquiry tasks.



J.S. Gordon RFD

President
CDF Commission of Inquiry into the death of Private McBride.

31 January 2010