

Brisbane 2023 Paul Robards, Ian

s47E(d)
Link below to the 1971 Status of Force Agreement (SOFA) between Malaysia and Australia below. See para 1(a) re training of MAF, Annex II Sect 2 re training, Annex III, Sects 2 and 4 re security and carriage of weapons.
<http://www.austlii.edu.au/au/other/dfat/treaties/ATS/1971/21.html>

PR
Does the sofa reference security?

s47E(d)
Annex III at section 2

s47E(d)
Security of installations.

s47E(d)
Yes, first sentence in Sect 2 limits security to Australian installations:

'Security

(1) The Australian Service authorities may take such measures within their installations as they deem necessary to ensure the security of the installations and of the equipment, property, records and official information of an Australian force.

There is a specific agreement re Butterworth which I am waiting to get from DIGAA.

s47E(d)
The problem with where the chair is going is that he seems to be suggesting that every single action of ADF members will amount to metallic recognition.

s47E(d)
In the absence of a specific definition we take the ordinary meaning of the word 'substantial' eg. In the Cambridge online dictionary <https://dictionary.cambridge.org/dictionary/english/substantial>

substantial
adjective
UK /səb'stæn.jəl/ US /səb'stæn.jəl/
substantial adjective
(LARGE)

B2
large in size, value, or importance:

The findings show a substantial difference between the opinions of men and women.

The findings show a substantial difference between the opinions of men and women.

She inherited a substantial fortune from her grandmother.
The first draft of his novel needed a substantial amount of rewriting.

s47E(d)
Hasn't talisman sabre been going on for years (ie. before 2018)?

s47E(d)
Military Objective has a

Brisbane 2023 Paul Robards, Ian

s47E(d)
Military Objective has a specific LOAC definition regarding what you can use force against

s47E(d)
Military Objective has a specific LOAC definition regarding what

Agree. I think we need to reflect on the link between use of force and military objective.

s47E(d)
It's not just military objective by itself.

s47E(d)
It is a 1977 definition that Australia agreed to in 1990 (in AP1 to the Geneva Conventions)

s47E(d)
A mission can have several objectives

I am going back to JOC in the casualty estimation process in planning.

s47E(d)
The SOFA did not reflect

s47E(d)
The SOFA did not reflect strategic concern e.g.

(a) The Government of Australia shall, as may be agreed from time to time between the two Governments, furnish the Government of Malaysia with assistance of the kind referred to in Annex I to this Note for the training and development of the Armed Forces of Malaysia.

s47E(d)
The SOFA did not reflect strategic concern e.g.

s47E(d)
The SOFA did not reflect strategic concern e.g.

Will the tribunal or veterans argue that a strategic concern was to ensure the Malaysian forces were sufficiently trained to ensure greater protection in the region?

s47E(d)
Re the communists were an enemy against Australian forces, there was ultimately no war declared. The communists were a known enemy for the Malaysian forces.

enemy for the Malaysian forces.

s47E(d)
Distinction of protecting base (Malaysian responsibility) v protecting Aust infrastructure/assets.

s47E(d)
List of tasks so far -
- clarifying definition/scope of substantially more dangerous.
- any documentation on expectation of casualties.
- remaining qtns from most recent submission.

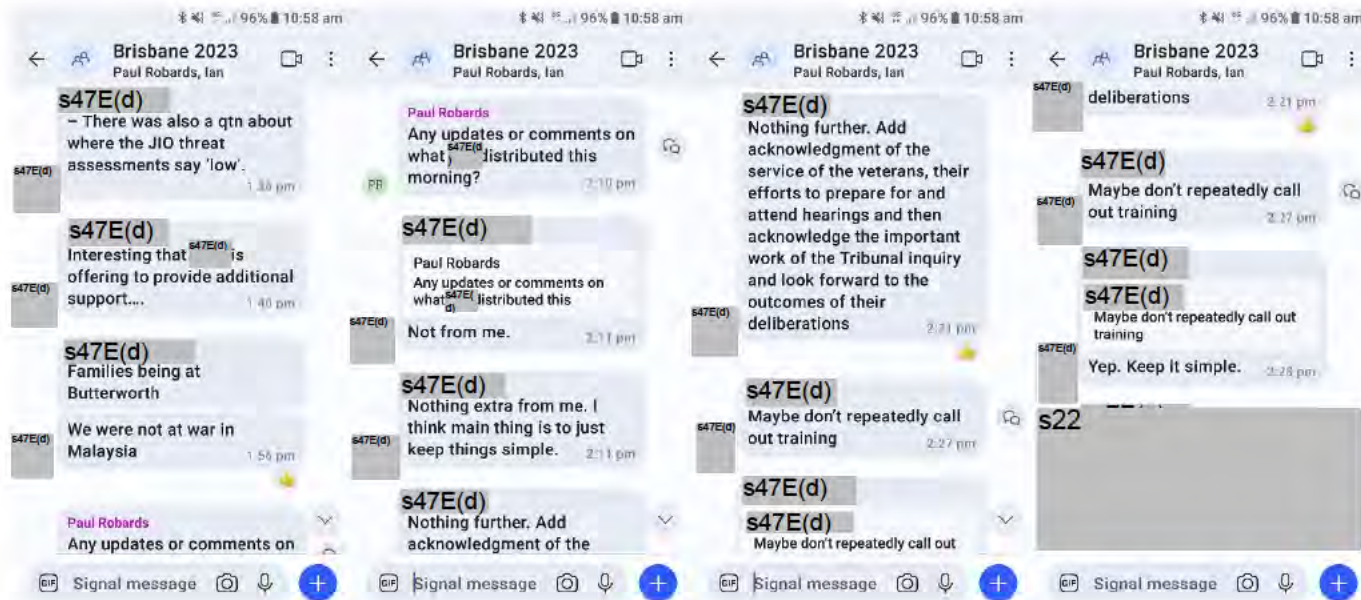
RCB wasn't there to protect

recent submission.

RCB wasn't there to protect Malaysian aircraft (which was being used to fight the CTs).

Paul Robards
- provide process of planning that addresses likelihood of casualties by current defence planners. I think we should also point or provide the SOFA.

s47E(d)
- There was also a qtn about where the JIO threat assessments say 'low'.



12:17

Defence FOI 11/22/23
Document 2

s47E(d)

s47E(d)

for the meeting at 1600.

s22

Tue, 4 Apr at 2:29 pm

Can you see the MAF CDF slide?

Can we confirm we know the letter
was sent to the MAF by RCB
stakeholders?

No just the tables with you all.

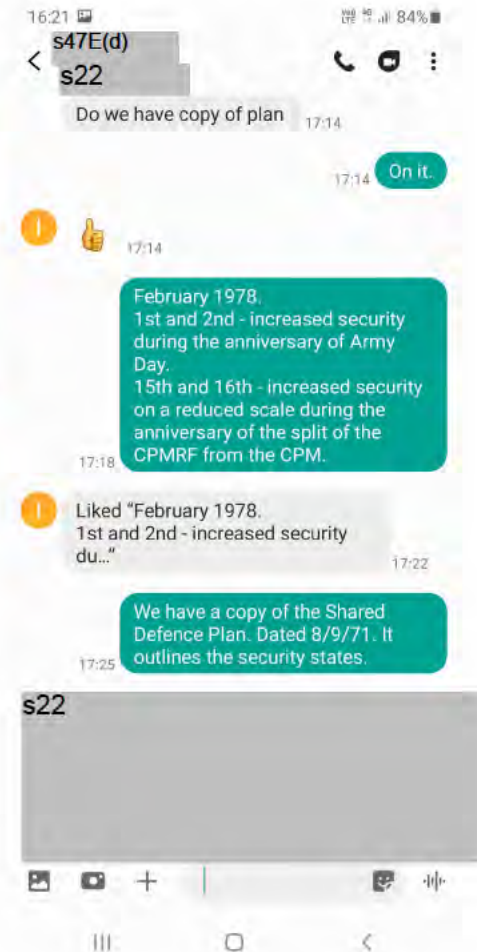
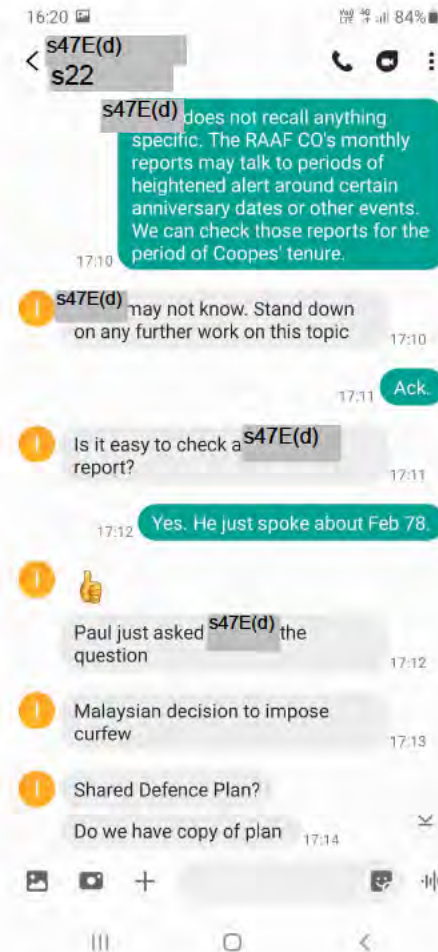
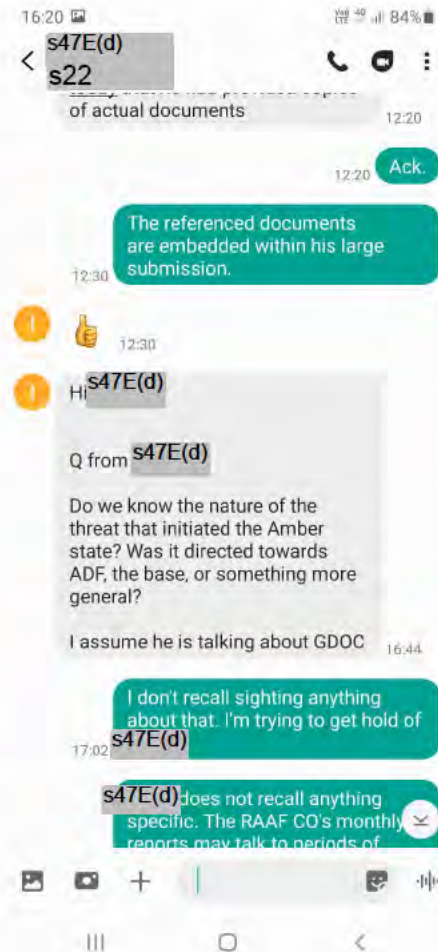
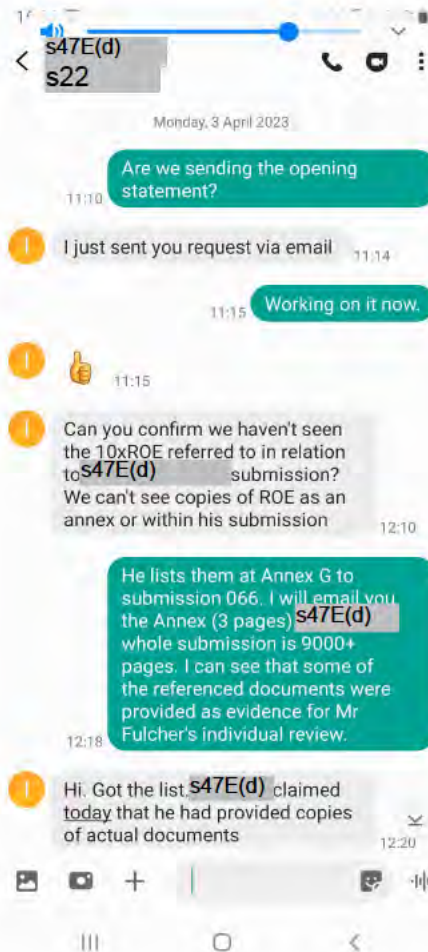
s22

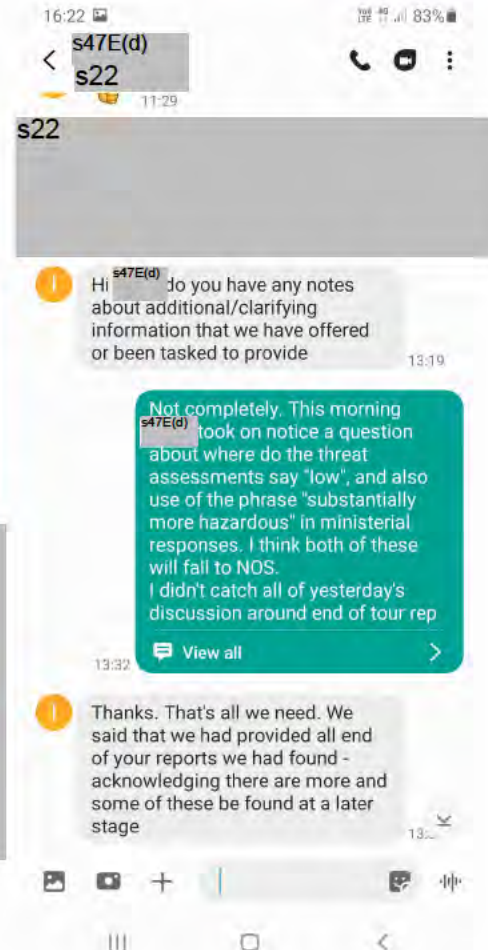
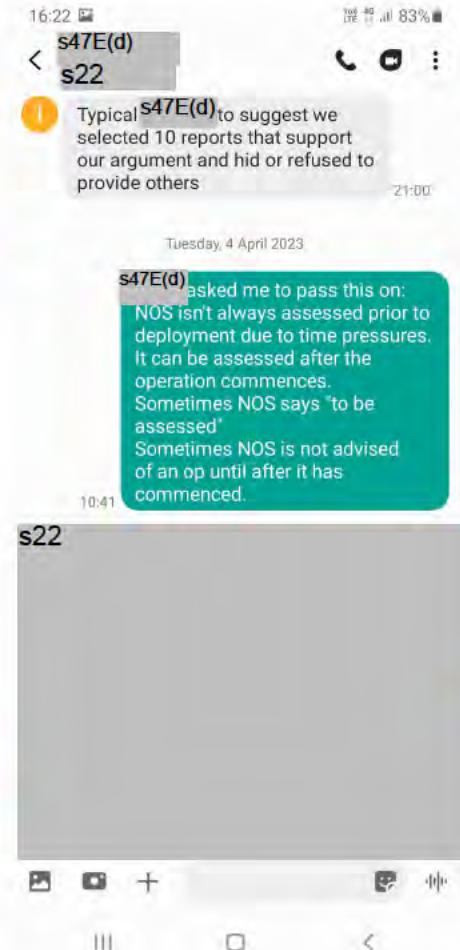
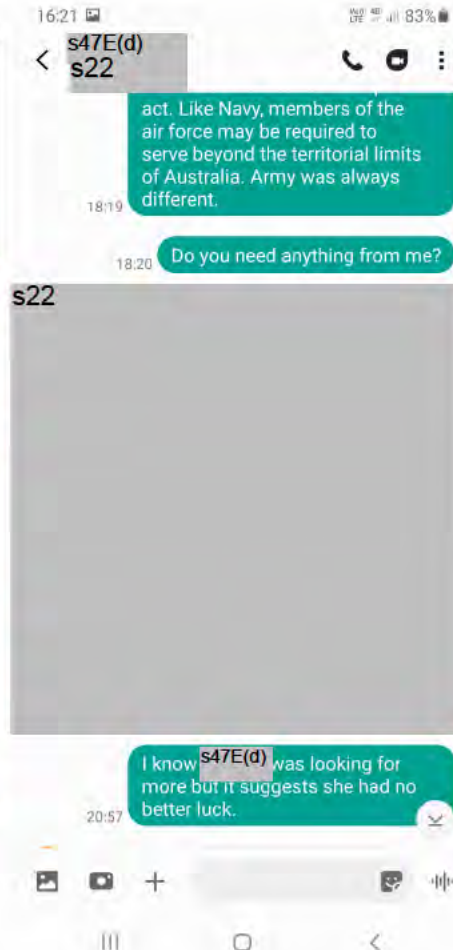
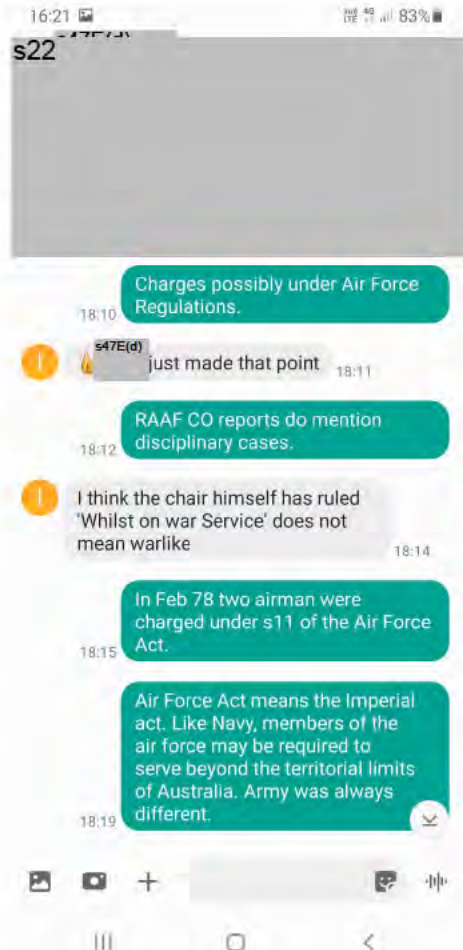
s22

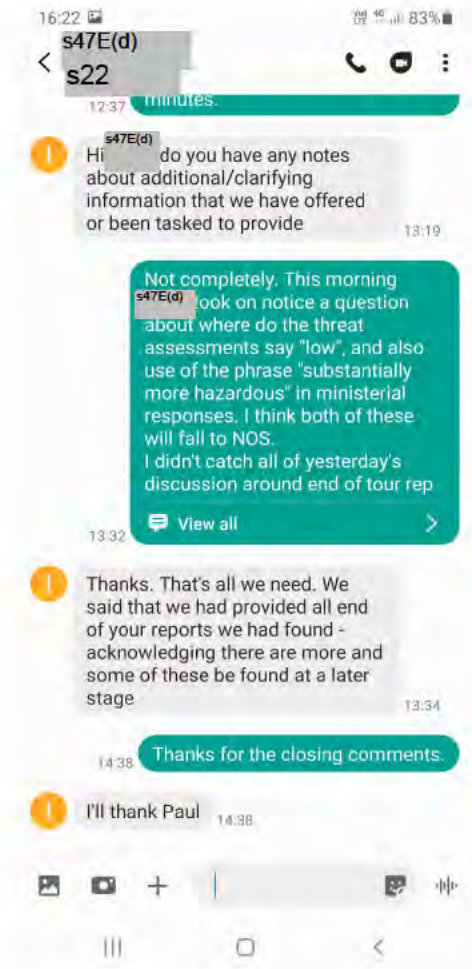


Text Message









s47E(d)

From: s47E(d)
Sent: Monday, 3 April 2023 11:35 AM
To: s47E(d)
Subject: RE: Document preparation for Monday - ROE etc [SEC=OFFICIAL]
Attachments: Questions that Defence undertook to conduct further work.pdf; Defence Opening Statement (Hearing on 3 April 2023).pdf; Defence Opening Statement (Hearing on 3 April 2023).docx

OFFICIAL

Hi s47E(d)

Attached are PDF copies of the opening statement and the additional responses document.

The opening statement was in track changes so I accepted all. While noting that, it mentions both myself and s47E(d) as if we are there, so I have attached the word version if you want to make changes.

Thanks

s47E(d)
Research Officer
Directorate of Honours and Awards
People Services Division
Department of Defence

s47E(d) Brindabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610
P: s47E(d)

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www.defence.gov.au



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From: s47E(d)
Sent: Monday, 3 April 2023 11:12 AM
To: s47E(d)
Subject: Fwd: Document preparation for Monday - ROE etc [SEC=OFFICIAL]

Hi s47E(d)

Please remove draft marking and pdf attached and send back to me.

Please also send me electronic copy of opening statement.

s47E(d)

s47E(d)
Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
p: s47E(d) M: s22

Begin forwarded message:

From: s47E(d)
Date: 2 April 2023 at 4:51:00 pm AEST
To: s47E(d)
Subject: FW: Document preparation for Monday - ROE etc [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

Attached is what I printed today and replaced the 'further response' document in packs.

All the other documents were already in the pack.

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

BP33-1-054 | Brindabella Park ACT
s47E(d) M: s22

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From: Holmes, Mark BRIG s47E(d)
Sent: Saturday, 1 April 2023 6:32 PM
To: s47E(d)
s47E(d)
Cc: s47E(d)
s47E(d)
s47E(d) Robards, Paul DR 1 s47E(d)
Subject: Document preparation for Monday - ROE etc [SEC=OFFICIAL]

OFFICIAL

Hello s47E(d) and s47E(d) can we ensure that we have complete hard copies of the 1978, 1979 and 1982 documents attached.

Everyone, please find attached my revised work using s47E(d) help so far to have some words for each of the questions. Can we have this in hard copy also as our amendments for Monday will need to be via pen anyway.

Safe travels, see you Monday.

Regards, Mark

Brigadier Mark Holmes

Australian Defence Force Headquarters (ADFHQ)

s22

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From: s47E(d)
Sent: Friday, 24 March 2023 1:46 PM
To: Holmes, Mark BRIG s47E(d)
s47E(d)
Cc: s47E(d)
s47E(d)
Subject: Rifle Company Butterworth - Rules of Engagement [SEC=OFFICIAL]

OFFICIAL

Good afternoon all

Following on from our conference call yesterday afternoon, I am forwarding on s47E(d) behalf the versions (that we are aware of) of Rifle Company Butterworth's Rules of Engagement.

They date from 1978, 1979 and 1982; and have been extracted from material discovered through the Nature of Service Directorate's research over the years.

Regards

s47E(d)
Research Officer
Directorate of Honours and Awards
People Services Division
Department of Defence

s47E(d) Brindabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610
P: s47E(d)

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s47E(d)

From: s47E(d)
Sent: Tuesday, 4 April 2023 8:45 AM
To: s47E(d); Holmes, Mark BRIG; s47E(d)
Cc: Robards, Paul DR 1
Subject: RE: Paul's notes for closing statement [SEC=OFFICIAL]
Attachments: 230404 Draft Closing Statement.docx

OFFICIAL

s47E(d)

My thoughts in track changes.

Thanks

s47E(d)

Research Officer
Directorate of Honours and Awards
People Services Division
Department of Defence

s47E(d) Brindabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610
P s47E(d)

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From: s47E(d)
Sent: Tuesday, 4 April 2023 7:53 AM
To: Holmes, Mark BRIG; s47E(d)
Cc: Robards, Paul DR 1; s47E(d)
Subject: Paul's notes for closing statement [SEC=OFFICIAL]

OFFICIAL

Folks,

Please find attached s47E(d) notes as discussed at breakfast this morning. Your feedback and/or additions are welcome.

Thanks
s47E(d)

s47E(d) (she/her)

Executive Officer
to First Assistant Secretary People Services
Defence People Group
Department of Defence

s47E(d) Russell Offices | PO Box 7927 | Canberra BC | ACT 2610
P: s47E(d) M: s22



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s47E(d)

From: s47E(d)
Sent: Tuesday, 4 April 2023 12:19 PM
To: s47E(d)
Cc:
Subject: RE: Defence Opening Statement (Hearing on 3 April 2023).docx [SEC=OFFICIAL]
Attachments: Defence Opening Statement (Hearing on 3 April 2023).pdf

OFFICIAL

I reworked the O'Haire paragraph. Let me know if any other changes are needed.

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From: s47E(d)
Sent: Tuesday, 4 April 2023 11:12 AM
To: s47E(d)
Cc: s47E(d)
Subject: Defence Opening Statement (Hearing on 3 April 2023).docx [SEC=OFFICIAL]

OFFICIAL

s47E(d)

Can you pls check the statement – I've tried to add in Mark Holmes handwritten notes. In particular, pls check the O'Haire para?
Once fixed, can you please PDF and send to s47E(d) will submit to s47E(d)

Cheer,
s47E(d)

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s22

-----Original Message-----

From: s47E(d) On Behalf Of Defence Legal DOSL
Sent: Tuesday, 4 April 2023 1:58 PM
To: s47E(d)
Subject: FW: Malaysia Agreement or Arrangement 1970-1989? [SEC=OFFICIAL]

OFFICIAL
Sir

When at JOC, I had occasion to work on the Legal Annex to the Op GATEWAY OPORD. I requested the historical documents which you might find useful in the attachment.

Regards
s47E(d)

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-----Original Message-----

From: s47E(d)
Sent: Tuesday, 4 April 2023 7:37 AM
To: s47E(d)
Cc: Defence Legal DOSL <defencelegal.dosl@defence.gov.au>
Subject: Malaysia Agreement or Arrangement 1970-1989?

Hi s47E(d) and s47E(d)

I am attending Defence Honours and Awards Tribunal Hearing re RCB in Brisbane today.

To give some evidence/indication of the strategic intent of sending RCB to Butterworth it would be interesting to know if there was an agreement or arrangement in the period 1970-1989 between Australia and Malaysia.

Grateful for any help/ indication this morning.

Kind regards

Sent from my iPhone

s47E(d)

From: s47E(d)
Sent: Tuesday, 11 April 2023 10:12 AM
To: s47E(d)
Cc:
Subject: FW: Action Items Post RCB Hearings on 3-4 April 2023 [SEC=OFFICIAL]
Attachments: 120321 - MINSUB - Signed by PARLSEC - NOS classification of RCB as peacetime service.pdf; 190322 - MS19-000484 - Supplementary Advice to MC18-003435 - RCB - Follow on from MINDP-VCDF Meeting on 05 Mar 19 - not 2016.pdf

OFFICIAL

Hi s47E(d)

At the hearing, the Chair made comments about Defence commencing to use the term 'substantially' in briefing to government and letter to individuals.

The question is, 'do we know why (and when if before 2011) Defence started using 'substantially' more dangerous than normal peacetime service?'

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

BP33-1-054 | Brindabella Park ACT
P: s47E(d) M: s22

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From: s47E(d)
Sent: Thursday, 6 April 2023 3:59 PM
To: s47E(d)
Subject: Action Items Post RCB Hearings on 3-4 April 2023 [SEC=OFFICIAL]

OFFICIAL

s47E(d)

The first attachment is Ministerial Advice MA11-001151. This is the Secretary / CDF brief signed on 24 November 2011. Paragraphs 7 and 9 use the phrase 'substantially more dangerous'.

The second attachment is Ministerial Submission MS19-000484. It has numerous attachments including the letter to s47F dated 4 December 2013, in which the same phrase is used.

Regards

s47E(d)

Research Officer
Directorate of Honours and Awards
People Services Division

Department of Defence

s47E(d)
P: s47E(d) ndabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610

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Snowdon/2011/MA11-001151
Schedule No:
Reference: SEC/OUT/2011/437
CDF/OUT/2011/1281

B1740745



Australian Government
Department of Defence

MINISTERIAL SUBMISSION

Routine

Date Dept Approved:

Date Rec in Office:

28 FEB 2012

Date Due:

For Action: Senator Feeney

For Info: Minister for Defence / Mr Snowdon

Copies to: Secretary, CDF, VCDF, DEPSEC PSP, DEPSEC DS, HSMC and ASMEAT



Subject: Nature of Service (NOS) Classification – Australian Defence Force Service at Butterworth from 1970 to 1989

Purpose:

To seek your agreement that Australian Defence Force (ADF) service at Butterworth from 1970 to 1989 remains classified as peacetime and obtain your signature on a letter to the Hon Bruce Billson MP advising him of your decision.

Key Points:

1. This advice follows from your meeting on 13 Oct 11 with the Secretary to discuss Butterworth nature of service issues.
2. Following numerous submissions requesting warlike status and based on advice from the then VCDF (Attachment A), on 18 September 2007 the Hon Bruce Billson MP retrospectively declared the service of the Rifle Company Butterworth (RCB) from 1970 to 1989 as either hazardous service under section 120(7) of the Veterans' Entitlements Act 1986 or non-warlike service in accordance with the 1993 Government framework.
3. In 2009, it was discovered that the Instruments of Determination (Attachment B) inadvertently omitted the RAAF Airfield Defence Guards (ADG), Police and Security Guards, did not cover all the appropriate dates and had not been registered on the Federal Register of Legislative Instruments. Consequently, all ADF service at Butterworth from 1966 to today remains classified as peacetime service.
4. A 2011 Defence review (Attachments C and D) assessed that, from first principles, the reclassification of ADF service at Butterworth from 1970 to 1989 as hazardous service under section 120(7) of the Veterans' Entitlements Act is not supported by the available evidence, although that case had previously been made by Defence and accepted by Government.
5. The 2011 Defence review found that official documents indicated that the roles of the RCB were to provide a ground force presence in Malaysia, conduct training and, if required, assist in the ground defence of Butterworth. The evidence now available does not support the claim that RCB was an operational deployment and that its primary role was to protect Australian assets at the Butterworth Base. This review assessed that the 2007 review relied on selective information provided by the RCB Review Group and that little objective research was undertaken in relation to the claims made by the Review Group.
6. Current policy is that all submissions seeking review of a nature of service classification of past operations are considered in the context of the legislation and policies that applied at the time of the operation under review. In the case of ADF service at Butterworth, from the end of Confrontation in 1966 to the end of the RCB role in December 1989, the applicable Acts are the Repatriation (Special Overseas Service) Act 1962 and the Veterans' Entitlements Act.

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Snowdon/2011/MA11-001151
Schedule No:
Reference: SEC/OUT/2011/437
CDF/OUT/2011/1281

7. Hazardous service was introduced into the Repatriation Act in 1985 in order to cover service that was substantially more dangerous than normal peacetime service, but could not be classified as peacekeeping service although it attracted a similar degree of physical danger. At that time, peacekeeping was intended to cover ADF service with the United Nations (UN) Transition Assistance Group in Namibia and was described as 'a force raised by the UN or another international body for the purposes of peacekeeping [not further defined] or observing or monitoring any activities or persons in an area outside Australia that may lead to an outbreak of hostilities.' Hazardous service has not previously been applied before 1986, however there is no legislative reason why hazardous service could not be applied retrospectively, including to any or all ADF service at RAAF Butterworth from 1970 to 1989, should MINDEF choose to do so.
8. Reclassification of ADF service at Butterworth before 1985 as hazardous service does not accord with the policy of considering past operations in the context of the legislation and policies that applied at the time. Notwithstanding, cases should be considered on their merit and where a clear anomaly or significant disadvantage or injustice exists, exceptions to policy should be allowed where there is no other available remedy. The evidence does not indicate that peacetime service at Butterworth from 1966 (post-Confrontation) creates an anomaly or unfairly disadvantages any personnel which might support an exception to the policy based on this consideration alone.
9. For any ADF service, including at Butterworth from 1970 onwards, to meet the original intent of hazardous service, the service would need to be shown to be substantially more dangerous than normal peacetime service and attract a similar degree of physical danger as peacekeeping service. The evidence does not indicate that ADF service at Butterworth from 1966 satisfied these conditions.
10. Previous external reviews (General Gration's 1993 Committee of Inquiry into Defence and Defence Related Awards, and Justice Clarke's 2003 Review of Veterans' Entitlements) have not supported reclassification of ADF service at Butterworth from 1966 above peacetime service.
11. Defence Legal, in consultation with staff at the Australian Government Solicitor, has advised that Defence is not legally obliged to register the current documents (Instruments); however it is possible to do so if Defence so chooses (Attachment E). DVA legal advice is that whether or not the Instruments are registered does not affect their validity, ie they are valid either way and give rise to benefits under the Veterans' Entitlements Act. Their advice goes on to say that if registered, the documents could be immediately revoked if the reclassification lacks merit. One issue in not registering them is that the Instruments have already been released through the FOI process. A second issue is that failure to proceed with registration may lead to claims under the Defective Administration Scheme.
12. Accepting that ADF service at Butterworth from 1970 does not meet the essential criteria and intent of hazardous service under section 120(7) of the Veterans' Entitlements Act, a proposal to formally reclassify this service might be based on an obligation flowing from the 2007 VCDF recommendation and decision by Minister Billson to reclassify this service as hazardous.

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Snowdon/2011/MA11-001151
Schedule No:
Reference: SEC/OUT/2011/437
CDF/OUT/2011/1281

13. Registration of the 2007 Instruments would create an anomaly and disadvantage those RAAF ADG, Police and Security Guards who served directly and primarily in the defence of the Butterworth Base. Further, the service of all other ADF personnel at Butterworth from 1970 to 1989 could arguably be included in any revised determinations. An anomaly could also be created in that hazardous service under section 120(7) of the Veterans' Entitlements Act and non-warlike service provide subtly different levels of benefits. While both provide the more beneficial standard of proof, hazardous service does not provide eligibility to the occurrence test in considering disability pension claims.
14. Advice from the office of the PARLSEC is that Senator Feeney would entertain a recommendation that the original decision by Minister Billson be overturned. However, a considerable outcry could be expected from RCB support groups. Legal advice from both DVA and Defence Legal on the current status of the existing Instruments provides flexibility on how this matter might be resolved.
15. It is estimated that some 9,000 ADF personnel served with RCB from 1970 to 1989. The cost of including this service in the DVA budget is assessed as significant. DVA is yet to advise this cost. Inclusion of the RAAF ADG, Police and Security Guards would have an additional cost (approximately 540 personnel) and extension to all ADF personnel on the basis that all personnel at Butterworth were exposed to the same conditions (approximately 13,000 personnel) would have a very significant financial impact.
16. Separately, Mr Billson wrote to you on 31 October 2011 (Attachment F) advising that he had received a copy of a letter to you dated 25 Aug 11 from the Royal Australian Regiment Corporation which raised the issues concerning the accuracy and legitimacy of the 2007 Instruments. Mr Billson requested your consideration and that you 'seek to uphold the clear policy intention of the September 2007 RCB nature of service determination in a way that does not disadvantage DVA clients in terms of repatriation benefits'.

Conclusion:

17. Based on information now available and the intent and application of the relevant legislation and policies, it is assessed that ADF service at Butterworth during the period 1970 to 1989 does not meet the level of risk associated with a classification of hazardous service under section 120(7) of the Veterans' Entitlements Act. Such an assessment is consistent with other external reviews of ADF service at Butterworth.
18. There is no new and compelling evidence to indicate that retention of the current peacetime nature of service classification would create an anomaly or would unfairly disadvantage any ADF personnel. On the contrary, the evidence indicates that an anomaly and unfair disadvantage would be created by providing hazardous service to RCB personnel while all other ADF personnel remained under a peacetime classification. Classification of RCB service from 1970 to 1989 as hazardous service would contradict the practice of considering the nature of service of past operations in the context of the legislation and policy that applied at the time of the operation under review.

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Snowdon/2011/MA11-001151
Schedule No:
Reference: SEC/OUT/2011/437
CDF/OUT/2011/1281

Recommendations:

That you:

- i. **Note** that the most recent and detailed review of ADF service at Butterworth from 1970 to 1989 does not support reclassification of this service as hazardous service under section 120(7) of the Veterans' Entitlements Act.
Noted / Please discuss
- ii. **Note** that a case could be made that there is an obligation flowing from the 2007 decision by Minister Billson, but this would create further anomalies.
Noted / Please discuss
- iii. **Agree** that ADF service at Butterworth from 1970 to 1989 does not meet the essential criteria for classification as special duty, or warlike or non-warlike service.
Agreed / Not agreed
- iv. **Agree** that all ADF service at Butterworth from 1966 should remain classified as peacetime service.
Agreed / Not agreed
- v. **Sign** the attached letter to the Hon Bruce Billson MP, advising him of your decision.
Signed / Not signed

Approved By:

s22

Duncan Lewis
Secretary

24 November 2011

Approved

D.J. HUR
GEN
CDF

9 November 2011

Contact Officer: CDRE Paul Kinghorne, RAN

Phone: (02) 6207 0207

Primary Addressee

David Feeney

21/3/12

Information Addressee

Noted / Please Discuss

Stephen Smith

Warren Snowdon

UNCLASSIFIED

Snowdon/2011/MA11-001151
Schedule No:
Reference: SEC/OUT/2011/437
CDF/OUT/2011/081

Resources:

19: N/A.

Consultation:

20. Nature of Service Branch has consulted with DVA, PM&C, DoFD, the Army History Unit, the Office of Air Force History, the Directorate of Honours and Awards and Mr Adam Carr (Chief of Staff to Senator Fecney).

Attachments:

- A. MINSUB B660823 dated 28 August 2007.
- B. Unregistered 2007 Instruments.
- C. 2011 NOS Branch Review of ADF Service at Butterworth.
- D. Background Paper NOS Classification ADF Service at RAAF Butterworth.
- E. Defence Legal advice dated 2 November 2011.
- F. Letter from the Hon Bruce Billson MP dated 31 October 2011.
- G. Talking points.
- H. Draft letter to the Hon Bruce Billson MP.



Australian Government
Department of Defence

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Minister for Defence Personnel
Minister for Defence – For information
Assistant Minister for Defence – For information

PDR: MS19-000484

Through: VCDF

Copies to: Secretary, CDF, Associate Secretary, CA, HMSC, FASMECC.

SUPPLEMENTARY ADVICE TO MC18-003435 - RIFLE COMPANY BUTTERWORTH (RCB) - FOLLOW ON FROM MINDP/VCDF MEETING HELD ON 5 MARCH 2016

Urgency N/A

Recommendations

That you:

- | | |
|--|---------------------------|
| 1. note a review of the correspondence confirms a consistent position and advice provided to the Rifle Company Butterworth (RCB) Review Group, and other claimants since 2007, by both former Labor and Coalition Governments. | 1. Noted / Please discuss |
| 2. note the position of the current Government has also been RCB service during the period 1970 – 1989 is appropriately classified as peacetime service. | 2. Noted / Please discuss |
| 3. sign the attached draft letter to s47F of the RCB Review Group. | 3. Signed / Not signed |

Signature:

Darren Chester

...../2019

Information: DO NOT REPRODUCE THIS WILL BE ACTIONED BY THE PARLIAMENTARY CLERK

Minister for Defence Industry – Linda Reynolds

...../2019

Contact Officer:

Commodore RJ Boulton

Director General
Military Strategic
Commitments

Ph: s47E(d)

Key Points:

- On 22 February 2019, you noted the outcome of the 2019 Defence review regarding the 2007 hazardous and non-warlike determinations for RCB service 1970 – 1989. The review concluded Defence had provided no evidence to support the recommended reclassification to hazardous or non-warlike service and there are no records to explain why the 2007 instruments signed by then Minister Assisting the Minister for Defence the Hon Bruce Billson MP were not registered.
- You sought further discussion about the 2012 decision by the Parliamentary Secretary for Defence (PARLSEC) Senator Feeney that the peacetime classification of RCB service during the period 1970 – 1989 is supported by the evidence and is consistent with all reviews of ADF service at RAAF Base Butterworth.
- At your meeting with the Vice Chief of the Defence Force (VCDF) on 5 March 2019 you requested a copy of correspondence on this matter sent by you and former Senator the Hon

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David Feeney, when you were each PARLSEC. These documents are at Attachments A to H. A copy of a letter from Senator the Hon Michael Ronaldson to s47F is also considered relevant and is at Attachment I. A summary of these letters is at Attachment J.

- After your meeting with VCDF, your Departmental Liaison Officer forwarded an email of a request by your Defence Adviser, s47F requesting the brief and letter be incorporated into the response being prepared under MC18-003435. Due to the complexity of the correspondence received from s47F this separate supplementary submission has been prepared to address the outcomes of the 5 March 2019 meeting.
- The response letter to s47F provided under MC18-003534 has been amended to present a consolidated position from current and previous ministers that RCB service is neither hazardous or warlike and, in the absence of compelling new evidence, the Department and the Government do not intend to re-examine the matter. The letter also notes that this decision in no way detracts from the service provided by RCB members.
- A draft letter to s47F of the RCB Review Group, is attached for your signature at Attachment K. This letter replaces the draft response letter provided under MC18-003435.

s22

RJ Boulton
Commodore, RAN
Director General Military Strategic Commitments

22 March 2019

Background:

- MC-18-003435 was raised in response to further correspondence received from the RCB Review Group following your meeting with RCB representatives on 27 November 2018.
- The correspondence was from s47F and s47F and is addressed in the attached response letter.

Sensitivity: YES

- The RCB Review Group is likely to continue to pursue the matter until the service is recognised as warlike service. They have made clear that anything less is unacceptable.

Financial Impacts: Nil

Regulatory Implications: Nil.

Consultation: NO.

Attachments:

Attachment A: Letter from former PARLSEC Senator the Hon David Feeney to s47F of the RCB Review Group dated 19 May 2012.

Attachment B: Letter from former PARLSEC Senator the Hon David Feeney to former Senator the Hon Michael Ronaldson dated 6 February 2013.

Attachment C: Letter from former PARLSEC the Hon Darren Chester MP to s47F of the RCB Review Group dated 4 December 2013.

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Attachment D: Letter from former PARLSEC the Hon Darren Chester MP to s47F
s47F dated 4 December 2013.

Attachment E: Letter from former PARLSEC the Hon Darren Chester MP to s47F dated
4 December 2013.

Attachment F: Letter from former PARLSEC the Hon Darren Chester MP to s47F
dated 4 December 2013.

Attachment G: Letter from former PARLSEC the Hon Darren Chester MP to s47F
dated 12 December 2013.

Attachment H: Letter from former PARLSEC the Hon Darren Chester MP to s47F
s47F of the RCB Review Group dated 16 July 2014.

Attachment I: Letter from former Senator the Hon Michael Ronaldson to s47F
s47F dated 2 August 2013.

Attachment J: Summary of correspondence sent by Hon Darren Chester MP and from Senator the
Hon David Feeney when each was PARLSEC for Defence.

Attachment K: Draft letter to s47F



COPY

**Senator the Hon David Feeney
Parliamentary Secretary for Defence**

s47F

19 MAY 2012

Dear s47F

I am writing to you because of your long-standing involvement in the issue of the nature of service determination for Australian Defence Force (ADF) who served at Butterworth Air Base. This issue has proven to be administratively and legally complicated and it has taken some time to resolve the conflicting information and decisions. As you would appreciate, there was also the matter of the medallic recognition of ADF service at Butterworth which was considered by the Defence Honours and Awards Tribunal last year.

In view of this delay and the complexity of the issues involved, I am now writing to provide you with a detailed explanation of the matter so that you have a complete understanding of the issues and the outcome. I have also enclosed two of the key documents which were used in reaching this final decision.

In 2007, following a number of representations, including yours on behalf of the Rifle Company Butterworth (RCB) Review Group seeking a warlike classification for service with RCB, Defence conducted a review of ADF service at RAAF Butterworth from 1970 to 1989. A recommendation from this review was that while there were no grounds to support a warlike classification, there were grounds for reclassification from peacetime service to non-warlike or to hazardous service under section 120(7) of the *Veterans' Entitlements Act 1986* (VEA).

At that time it was considered that hazardous service under section 120(7) of the VEA could only be applied after 7 December 1972 and so on 18 September 2007 the then Minister for Veterans' Affairs, the Hon Bruce Billson MP, on behalf of the Minister for Defence, signed Instruments of Determination of Hazardous Service from 6 December 1972 to 31 December 1989 and non-warlike service from 15 November 1970 to 6 December 1972.

Subsequently, on 4 October 2007, Minister Billson wrote to you advising that service with RCB could not be classified as special duty or warlike service as the "degree of exposure to the risk of harm was not sufficient to warrant the full package of repatriation benefits." However, Minister Billson further advised that he was "prepared to declare retrospectively

this period of service [1970 to 1989] as hazardous pursuant to section 120 of the *Veterans' Entitlements Act*."

On 22 May 2009, you wrote to Minister Snowden referring to the letter from Minister Billson and advising him that the retrospective declaration of hazardous service did not appear to have been followed through. You also asked whether the retrospective classification of hazardous service extended to the RAAF personnel who were also at the base.

In considering your letter, the Department of Defence discovered that the original Instruments of Determination signed by Minister Billson on 18 September 2007, had inadvertently omitted the RAAF Airfield Defence Guards (ADG), Police and Security Guards (dog handlers), although it was clear that their service was similar to that of RCB. Of more significance, however, it was determined that the Instruments had not been formally registered on the Federal Register of Legislative Instruments and consequently all service at Butterworth from 1966 (post Confrontation) remained classified as peacetime service.

Since that time, the Government has been seeking to resolve the legal status of the Instruments and the process by which the matter might finally be resolved. In order to achieve a definitive outcome, in mid-2011 Defence conducted a "first-principles" review of all ADF service at Butterworth from 1970 when responsibility for security at the base transferred to the RAAF. This review examined official Government and Defence Force correspondence available within Defence and from the Australian War Memorial and National Archives of Australia, as well as the various submissions which had been made by various claimants over the years.

The 2011 Defence review found that official documents generally indicted that the roles of the RCB were to provide an Army presence, to conduct training and, if required, to assist in the ground defence of Butterworth. It assessed that the previous 2007 review relied heavily on selective information, and that little objective research was undertaken to either corroborate or disprove the statements which had been made by the claimants. Although the advice provided to Minister Billson was the best available at the time, it has subsequently been shown to be inadequate and misleading. Certainly the evidence now available does not support the claim that RCB was an operational deployment. The primary role was in fact to maintain a presence following the withdrawal of the British Forces from South East Asia and to assist with the routine protection of Australian assets at the Butterworth Air Base.

Operational plans for the defence of Air Base Butterworth after 1970 indicate that the primary ground defence force external to the Base was the Malaysian Special Police, while inside the Base security and ground defence remained a RAAF responsibility. If RCB was required for ground defence it would be subordinate to RAAF command and operational requirements. In practice RCB was mostly involved in infantry training activities and the ready reaction and ground defence tasks were only secondary. Notably, in the 19 years from 1970 to 1989, RCB was never required in an emergency ground defence capacity.

It is Government policy that all nature of service reviews are considered in the context of the legislation and policies that applied at the time of the activity or operation under review. In the case of ADF service at RAAF Butterworth from the end of Confrontation in 1966 to the end of the RCB quick reaction role in December 1989, the relevant Acts are the *Repatriation (Special Overseas Service) Act 1962* and the VEA.

Hazardous service was introduced into legislation in 1985 in order to cover service that was substantially more dangerous than normal peacetime service, but could not be classified as peacekeeping service, although it attracted a similar degree of physical danger. Hazardous service had not previously been applied before 1986, however it is technically possible for it to be applied retrospectively should the Minister for Defence choose to do so.

For any ADF service at Butterworth from 1970 onwards to meet the original intent of hazardous service, the service would need to be shown to be "substantially more dangerous than normal peacetime service" and "attract a similar degree of physical danger" as "peacekeeping service". Peacekeeping service generally involves interposing the peacekeeping force, which may be unarmed, between opposing hostile forces. The immediate threat to the peacekeepers is by being directly targeted or by being caught in the crossfire of the opposing forces.

Based on the evidence now available, it is considered that the level of risk associated with ADF service at Butterworth from 1966 (post-Confrontation) is not sufficient to be considered to be "substantially more dangerous than normal peacetime service" or that it should be considered as "attracting a similar degree of physical danger" as peacekeeping service. Consequently it does not meet the intent of hazardous service under section 120(7) of the VEA.

I note that previous independent reviews have come to a similar conclusion. In March 1993, the Committee of Inquiry into Defence and Defence Related Awards (CIDA) chaired by General P.C. Gratton, did not consider that service at Butterworth was clearly and markedly more demanding than normal peacetime service.

The 2003 Review of Veterans' Entitlements (the Clarke Review) described the RCB's tasks as infantry training and after-hours patrolling of the base perimeter, thereby contributing to base security in conjunction with the Malaysian security forces and the RAAF. The Clarke Report accepted that RCB was involved in armed patrolling to protect Australian assets, but concluded that training and the protection of Australian assets were normal peacetime garrison duties. It agreed that peacetime service, whether rendered in Australia or overseas, can at times be arduous and even hazardous. However, on its own, this is not enough to warrant its consideration as operational or qualifying service for benefits under the VEA. It recommended that no further action be taken in respect of peacetime service at Butterworth after the cessation of Confrontation.

Further, reclassification of ADF service at Butterworth before 1985 as hazardous service would not accord with the policy of considering past operations in the context of the legislation and policies that applied at the time. Cases are considered on their merits and where a clear anomaly or significant disadvantage or injustice exists, exceptions to policy are allowed where there is no other available remedy. The evidence does not indicate that peacetime service at Butterworth from 1966 (post-Confrontation) creates an anomaly or unfairly disadvantages any personnel such as might support an exception to the policy based on this consideration alone.

As a result of complete and detailed consideration of all the available information, including all the various submissions from individuals and key stakeholders in this matter, the Government has determined that all ADF service at Butterworth from the end of Confrontation in 1966, will remain classified as peacetime service.

I expect that this advice will come as a disappointment to you. However following the administrative and legal uncertainty which surrounded the matter, a fresh review was necessary to fully investigate the circumstances and provide a definitive and final outcome.


Again I apologise for the delay in resolving this matter and for the necessity for me to retract the advice from Minister Billson that the service of RCB from 1970 to 1989 would retrospectively be reclassified as hazardous service under section 120 of the VEA. I have written to Mr Billson to explain the circumstances of the decision.

Notwithstanding this final decision on the nature of service classification of peacetime service for all ADF service at Butterworth from 1966, eligibility for the award of the Australian Service Medal 1945-75 or the Australian Service Medal will not be affected by this latest decision.

I hope that this detailed explanation provides you with the information necessary to understand the reasons why ADF service at RAAF Butterworth from 1966 will remain classified as peacetime service. I do stress that this decision will not be reconsidered by Government unless there is demonstrably new and compelling evidence that such a classification is manifestly wrong.

Yours sincerely

s22



DAVID FEENEY



**Senator the Hon David Feeney
Parliamentary Secretary for Defence**

Senator the Hon Michael Ronaldson
Senator for Victoria
Level 17
90 Collins Street
MELBOURNE VIC 3000

- 6 FEB 2013

Dear Senator Ronaldson

Thank you for your representation of 29 October 2012 on behalf of s47F of s47F concerning the nature of service of the Rifle Company Butterworth (RCB) at the Royal Australian Air Force (RAAF) Base Butterworth, Malaysia, between 1970 and 1989.

s47F has made a number of submissions relating to service and recognition of RCB. Specifically, s47F has sought the grant of qualifying service under the relevant legislation, the award of the Australian Active Service Medal (AASM) with clasp Malaysia, the award of the Returned from Active Service Badge (RASB) and the award of the General Service Medal 1962, with clasp Malaysia (the latter being only for those who served in RCB until 14th February 1975).

In relation to the presence of Australian Defence Force (ADF) units in Malaysia, the prime role was for them to have the capability to assist the Malaysian Armed Forces in the maintenance of internal security in Malaysia. ADF operational support would only be provided if a formal request was made by the Malaysian Government to the Australian Government.

During the period of Confrontation between Indonesia and Malaysia between 1964 and 1966, the ADF directly assisted Malaysian Armed Forces operations and, accordingly, ADF personnel were deemed to have then rendered qualifying service.

However, at no time following the Confrontation ceasefire on 11 August 1966 did the Malaysian Government request further ADF operational assistance in internal security operations. Consequently, although Australian forces remained in Malaysia, they were not involved in operations and, thus, rendered only peacetime service in Malaysia after 11 August 1966.

As you are aware, on 18 September 2007, the then Minister for Veterans' Affairs, the Hon Bruce Billson MP, signed Instruments of Determination for RCB service between 1970 and 1989 to be classified as either non-warlike or hazardous service. In 2009, it was found that these Instruments had inadvertently omitted the RAAF Airfield Defence Guards, Police and Security Guards who had prime responsibility for internal Base security, did not cover all appropriate dates and had not been

registered on the Federal Register of Legislative Instruments. Consequently, all RCB service at Butterworth since 1970 remained classified as peacetime service.

These shortcomings remained unresolved until 2011, when, following further submissions seeking the warlike service classification, Defence initiated a new and thorough review of ADF service at Butterworth to resolve outstanding RCB related issues. The internal Defence direction to the review was to attempt to honour the decisions made by Minister Billson in 2007.

The 2011 review found that the 2007 review relied significantly on the content of the RCB Review Group submission and did not conduct sufficient independent research to corroborate or confirm the facts and claims presented. The 2011 review assessed that, from first principles and after examination of Government and ADF files held by the Australian War Memorial, the reclassification of ADF service at Butterworth from 1970 to 1989 could not be supported by the available evidence.

On 21 March 2012, after recommendations made by the Chief of the Defence Force and the Secretary of Defence, I determined that ADF service at Butterworth from 1970 to 1989 does not meet the essential criteria for classification as special duty, or warlike or non-warlike service. As a result all ADF service at Butterworth from August 1966 remains classified as peacetime service.

I enclose the report of the 2011 Defence review and a background information paper to provide an understanding and the reasons behind my determination. For further information, I also enclose my letter to the Hon Bruce Billson dated 21 March 2012, my letter to ^{s47F} dated 19 May 2012 and Mr Cross's letter to the Minister for Defence dated 18 August 2006.

Previous external reviews, General Gräton's 1993 Committee of Inquiry into Defence and Defence Related Awards and Justice Clarke's 2003 Review of Veterans' Entitlements, have not supported the reclassification of ADF service at Butterworth above peacetime service after 1966.

In relation to the failure to register the Instruments of Determination signed by Minister Billson, I acknowledge this was an administrative failure due to a lack of understanding of the registration process by the Nature of Service Review Team. Despite the deficiencies in the Instruments, attempts should have been made to register them at the time.

The situation with RCB and other issues relating to an increasing back log of requests for ADF service reclassification led Defence to create the Nature of Service Branch to replace the former Nature of Service Review Team. The Branch is headed by a permanent ADF Officer supported by a small team of full-time public servants and ADF Reserve members. Defence is now able to provide robust, reliable and repeatable advice in relation to requests for reclassification for past operations. This does not mean that all requests are granted or approved, but it should provide Veterans with confidence that their requests are being dealt with in a consistent fashion.

I can also advise that Defence specialist analysis of each nature of service situation is based on objective and factual Government and Defence information, policy and methodologies, not on subjective comments, options or anecdotal evidence.

Consequently, submissions are not generally sought external to Government agencies. For the 2011 review Defence consulted with Army History Unit, the Office of Air Force History, the Department of Veterans' Affairs, the Australian War Memorial and used the resources of the National Archives of Australia.

In relation to requests for medallic recognition, I note that in 2010 the Defence Honours and Awards Appeals Tribunal conducted an *Inquiry into Recognition for Members of the Rifle Company Butterworth for Service in Malaysia between 1970 and 1989*. The Defence Honours and Awards Appeals Tribunal found that the extant medallic recognition for RCB service at Butterworth from 1970 to 1989 was appropriate and that no other medallic recognition was justified. The Tribunal is an independent statutory body that reports directly to Government.

In summary, I acknowledge that the handling of this matter was not up to the standard that the Government should expect on such important matters. I ask you to note that Defence has made appropriate changes to ensure that the advice provided to Government on nature of service matters is robust, reliable and consistent. I would also ask that you note that my decision to overturn a decision made by a previous Minister was not made lightly, however, it is clear that the advice provided to Minister Billson in 2007 was incomplete and wrong.

I can also confirm that the RCB matter is the only instance where this Government has overturned nature of service decisions of the previous Government. The revised review process has resulted in upgraded nature of service determinations. The most recent example was the 2012 Budget announcement of the reclassification of Operation QUICKSTEP TONGA from peacetime service to non-warlike service. Operation QUICKSTEP TONGA was conducted in 2006 and had defaulted to a peacetime classification because no formal nature of service assessment was conducted at the time. I note that it is now standard practise for the nature of service classification to be directed when a new operation is commenced.

I hope this information provides a thorough understanding of the background to the Government's determination of peacetime nature of service at Butterworth and a degree of assurance that requests for reclassification of service are now dealt with appropriately.

Yours sincerely

s22

David Feeney
Encl



**The Hon Darren Chester MP
Parliamentary Secretary to the Minister for Defence**

Ref: MC13-002619

s47F

- 4 DEC 2013

Dear s47F

Thank you for your letter of 19 September 2013 to the Minister for Veterans' Affairs, Senator the Hon Michael Ronaldson, seeking reclassification of Rifle Company Butterworth (RCB) service at Royal Australian Air Force Butterworth during the period 1971 to 1989. As this matter falls within my portfolio responsibilities, your correspondence has been passed to me for response.

I have been advised that you have already been provided with detailed responses to your earlier requests for reclassification of this service, including a report from the comprehensive 2011 Defence review of RCB service at RAAF Butterworth, which addresses all of the matters raised in your letter. As you do not refer to this report in your correspondence, I have enclosed a copy with this letter.

I have noted the statement by s47F and the extract from a thesis titled 'Securing the Population from Insurgency and Subversion in the Second Emergency (1968 – 1981)' by Weichong Ong, which were attached to your submission but do not consider that they offer any justification for reclassification of RCB service as warlike.

It is important to understand that while Australian forces remained in Malaysia following the Confrontation ceasefire on 11 August 1966, the Malaysian Government made no further requests for assistance in security operations. This fact is supported in Weichong Ong's thesis, which refers to a letter from the Australian High Commission which states that 'The request for combat assistance from its ANZUK security partners was never invoked by the Malaysian government...'.

In summary, the 2011 Defence review found that official Government and Defence documents clearly indicated that the roles of the RCB were to provide a ground force presence in Malaysia, to conduct training, to assist in the ground defence of RAAF Butterworth if required and to provide a quick reaction force if required. Rules of Engagement (ROE) for RCB were defensive only, and were applied within Air Base Butterworth only. These ROE also applied to all RAAF personnel who had primary responsibility for base security. No evidence was found to support the claim that RCB was an operational deployment and that its primary role was to protect Australian assets at the Butterworth Base.

Accordingly, it is considered that the level of risk associated with Australian Defence Force service at Butterworth from 1966 (post-Confrontation) is not sufficient to be considered to be 'substantially more dangerous than normal peacetime service'.

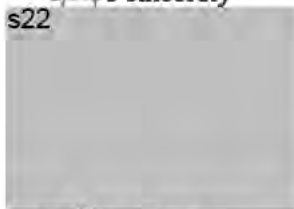
With regard to the issue of eligibility for the Pingat Jasa Malaysia Medal, I can advise that the eligibility guidelines for this medal have been set by the Malaysian Government. They have extended eligibility to Australian Defence personnel who served in the prescribed areas from 31 August 1957 to 12 August 1966, or to 9 August 1965 for service in Singapore (being the date on which it separated from the Federation of Malaysia). Service until 31 December 1966 will also qualify for those personnel who were posted to Malaysia for service prior to 12 August 1966, but failed to qualify for the medal before that date. The eligibility criteria reflect the fact that the Malaysian government did not request, and the Australian Government did not commit, forces for use against the communist infiltration and subversion outside of these nominated dates.

In conclusion, you have not provided any new evidence to justify reconsideration of the peacetime classification for service with RCB during the period 1970 to 1989. Furthermore, RCB service between 1970 and 1989 does not meet the eligibility criteria for the Pingat Jasa Malaysia Medal, as set by the Malaysian Government.

I acknowledge your efforts to have the nature of service for RCB during the period 1971 to 1989 reclassified as warlike service. However, as you have been provided with all the available information regarding RCB service and a thorough explanation of the repatriation legislation applicable to this period of service, unless you provide significant new evidence to support your claims, I consider this matter to be closed.

Yours sincerely

s22



Darren Chester
Encl



**The Hon Darren Chester MP
Parliamentary Secretary to the Minister for Defence**

Ref: MCI3-002623

- 4 DEC 2013

s47F

Dear s47F

Thank you for your letter of 19 September 2013 to the Minister for Defence, Senator the Hon. David Johnston, seeking reclassification of RCB service at RAAF Butterworth during the period 1971 to 1989. As you have already been advised, this matter falls within my portfolio responsibilities and has been referred to me for response.

I note that your submission included a letter from s47F of the RCB Review Group, a statement by s47F and an extract from a thesis titled "Securing the Population from Insurgency and Subversion in the Second Emergency (1968 - 1981)" by Weichong Ong.

It is Defence policy that all submissions seeking review of a nature of service classification of past operations are considered in the context of the legislation and policies that applied at the time of the operation under review. In the case of ADF service at Butterworth between 1971 and 1989, the applicable legislation is the *Repatriation (Special Overseas Service) Act 1962* and the *Veterans' Entitlements Act 1986* (VEA).

For the purposes of the Repatriation Act, special overseas service was achieved when three conditions were met.

- that a special area has been prescribed;
- that personnel were serving in the special area; and
- that personnel were allotted for special duty within the special area.

Special duty is defined in the Act as "...duty relating directly to the warlike operations or state of disturbance by reason of which the declaration in respect of the area was made...".

Under the VEA, hazardous service (for service before 1997) and warlike or non-warlike service, require a declaration by the Minister for Defence under the respective provisions of the Act, where such service is more dangerous than peacetime service and involving the use of force and the risk of casualties

In 2011 Defence conducted a comprehensive review from first principles of service at Butterworth between 1970 and 1989. A report of the findings from this review is provided as an enclosure to this letter.

In summary, the 2011 Defence review found that official Government and Defence documents clearly indicated that the roles of the RCB were to provide a ground force presence in Malaysia, to conduct training, to assist in the ground defence of RAAF Butterworth if required and to provide a quick reaction force if required. Rules of Engagement (ROE) for RCB were defensive only and were applied within Air Base Butterworth only. These ROE also applied to all RAAF personnel who had primary responsibility for base security. No evidence was found to support the claim that RCB was an operational deployment and that its primary role was to protect Australian assets at the Butterworth Base.

It is important to understand that while Australian forces remained in Malaysia following the Confrontation ceasefire on 11 August 1966, the Malaysian Government made no further requests for assistance in security operations. This fact is supported in Weichong Ong's thesis which refers to a letter from the Australian High Commission states that "The request for combat assistance from its ANZUK security partners was never invoked by the Malaysian government...".

Accordingly, it is considered that the level of risk associated with ADF service at Butterworth from 1966 (post-Confrontation) is not sufficient to be considered to be 'substantially more dangerous than normal peacetime service'.

With regard to the issue of eligibility for the Pingat Jasa Malaysia Medal, I can advise that the eligibility guidelines for this medal have been set by the Malaysian Government. Eligibility has been extended to Australian Defence personnel who served in the prescribed areas from 31 August 1957 to 12 August 1966, or to 9 August 1965 for service in Singapore (being the date on which it separated from the Federation of Malaysia). Service until 31 December 1966 will also qualify for those personnel who were posted to Malaysia for service prior to 12 August 1966, but failed to qualify for the medal before that date. The eligibility criteria reflect the fact that the Malaysian government did not request, and the Australian Government did not commit, forces for use against the communist infiltration and subversion outside of these nominated dates.

In conclusion, you have not provided any new evidence to justify reconsideration of the peacetime classification for service with Rifle Company Butterworth during the period 1970 to 1989. Further, RCB service between 1970 and 1989 does not meet the eligibility criteria for the Pingat Jasa Malaysia Medal, as set by the Malaysian Government.

I acknowledge your efforts to have the nature of service for RCB during the period 1971 to 1989 reclassified as warlike service. However, as you have been provided with all the available information regarding RCB service and a thorough explanation of the repatriation legislation applicable to this period of service, unless you provide significant new evidence to support your claims, I consider this matter to be closed.

Yours sincerely

s22

Darren Chester
Encl



**The Hon Darren Chester MP
Parliamentary Secretary to the Minister for Defence**

Ref: MC13-002620

s47F

- 4 DEC 2013

Dear s47F

Thank you for your letter of 19 September 2013 seeking reclassification of RCB service at RAAF Butterworth during the period 1971 to 1989.

It is Defence policy that all submissions seeking review of a nature of service classification of past operations are considered in the context of the legislation and policies that applied at the time of the operation under review. In the case of ADF service at Butterworth between 1971 and 1989, the applicable Acts are the *Repatriation (Special Overseas Service) Act 1962* and the *Veterans' Entitlements Act 1986* (VEA).

For the purposes of the Repatriation Act, special overseas service was achieved when three conditions were met:

- that a special area has been prescribed;
- that personnel were serving in the special area; and
- that personnel were allotted for special duty within the special area.

Special duty is defined in the Act as "...duty relating directly to the warlike operations or state of disturbance by reason of which the declaration in respect of the area was made..."

Under the VEA, hazardous service (for service before 1997) warlike or non-warlike service, requires a declaration by the Minister for Defence under the respective provisions of the Act, where such service is more dangerous than peacetime service and involving the use of force and the risk of casualties

In 2011 Defence conducted a comprehensive review from first principles of service at Butterworth between 1970 and 1989. A report of the findings from this review is provided as an enclosure to this letter.

In summary, the 2011 Defence review found that official Government and Defence documents clearly indicated that the roles of the RCB were to provide a ground force presence in Malaysia, to conduct training, to assist in the ground defence of RAAF Butterworth if required and to provide a quick reaction force if required. Rules of Engagement (ROE) for RCB were defensive only and were applied within Air Base Butterworth only. These ROE also applied to all RAAF personnel who had primary responsibility for base security. No evidence was found to support the claim that RCB was an operational deployment and that its primary role was to protect Australian assets at the Butterworth Base.

It is important to understand that while Australian forces remained in Malaysia following the Confrontation ceasefire on 11 August 1966, the Malaysian Government made no further requests for assistance in security operations.

Accordingly, it is considered that the level of risk associated with ADF service at Butterworth from 1966 (post-Confrontation) is not sufficient to be considered to be 'substantially more dangerous than normal peacetime service'.

With regard to the issue of eligibility for the Pingat Jasa Malaysia Medal, I can advise that the eligibility guidelines for this medal have been set by the Malaysian Government. They have extended eligibility to Australian Defence personnel who served in the prescribed areas from 31 August 1957 to 12 August 1966, or to 9 August 1965 for service in Singapore (being the date on which it separated from the Federation of Malaysia). Service until 31 December 1966 will also qualify for those personnel who were posted to Malaysia for service prior to 12 August 1966, but failed to qualify for the medal before that date. The eligibility criteria reflect the fact that the Malaysian government did not request, and the Australian Government did not commit, forces for use against the communist infiltration and subversion outside of these nominated dates.

In conclusion, you have not provided any new evidence to justify reconsideration of the peacetime classification for service with Rifle Company Butterworth during the period 1970 to 1989. Further, the criteria for the Pingat Jasa Malaysia Medal, as set by the Malaysian Government, do not extend eligibility to Australian personnel who served in Malaysia during 1970 to 1989.

I acknowledge your efforts to have the nature of service for RCB during the period 1971 to 1989 reclassified as warlike service. However, as you have been provided with all the available information regarding RCB service and a thorough explanation of the repatriation legislation applicable to this period of service, unless you provide significant new evidence to support your claims, I consider this matter to be closed.

Yours sincerely

s22



Darren Chester
Encl



The Hon Darren Chester MP
Parliamentary Secretary to the Minister for Defence

Ref: MC13-002675

s47F

- 4 DEC 2013

Dear s47F

Thank you for your letter of 23 September 2013 concerning Australian Defence Force (ADF) service at RAAF Butterworth and the issue of recognition of those members of the ADF who served with Rifle Company Butterworth (RCB) from 1970 to 1989.

I have been advised that you have already been provided with a detailed response to your earlier request for reclassification of this service, including the report from the 2011 Defence review of ADF service at RAAF Butterworth, which addresses all of the matters raised in your letter to me.

In summary, the 2011 review found that official Government and Defence documents clearly indicated that the roles of the RCB were to provide a ground force presence in Malaysia, to conduct training, to assist in the ground defence of RAAF Butterworth if required and to provide a quick reaction force if required. Rules of Engagement (ROE) for RCB were defensive only and were applied within Air Base Butterworth only. These ROE also applied to all RAAF personnel who had primary responsibility for base security. No evidence was found to support the claim that RCB was an operational deployment and that its primary role was to protect Australian assets at the Butterworth Base.

It is important to understand that while Australian forces remained in Malaysia following the Confrontation ceasefire on 11 August 1966, the Malaysian Government made no further requests for assistance in security operations. Accordingly, it is considered that the level of risk associated with ADF service at Butterworth from 1966 (post-Confrontation) is not sufficient to be considered to be 'substantially more dangerous than normal peacetime service'.

I acknowledge your efforts to have the nature of service for RCB during the period 1971 to 1989 reclassified as warlike service. However, as you have been provided with all the available information regarding RCB service and a thorough explanation of the repatriation legislation applicable to this period of service, unless you provide significant new evidence to support your claims, I consider this matter to be closed.

Yours sincerely

s22

Darren Chester



The Hon Darren Chester MP
Parliamentary Secretary to the Minister for Defence

NC13-002911

s47F

12 DEC 2013

Dear s47F

Thank you for your letter of 29 October 2013 to the Minister for Defence, Senator the Hon David Johnston, seeking reclassification of Rifle Company Butterworth service at Royal Australian Air Force (RAAF) Butterworth, Malaysia, during the period 1971 to 1989. As this matter falls within my portfolio responsibilities, your correspondence has been passed to me for response.

In 2011 the Department of Defence conducted a comprehensive review of Rifle Company Butterworth service in Malaysia between 1970 and 1989. As this review addresses all of the matters raised in your letter, I have enclosed a copy of the findings from this review for your information.

To summarise, the 2011 Defence review found that official Australian Government and Defence documents clearly indicated that the roles of the Rifle Company Butterworth were to provide a ground force presence in Malaysia...to conduct training, to assist in the ground defence of RAAF Butterworth if required and to provide a quick reaction force if required. Rules of Engagement for Rifle Company Butterworth were defensive only and were applied within RAAF Butterworth only. These Rules of Engagement also applied to all RAAF personnel who had primary responsibility for base security. No evidence was found to support the claim that Rifle Company Butterworth was an operational deployment or that Rifle Company Butterworth service was warlike. Furthermore, even if the primary role of Rifle Company Butterworth was to protect Australian assets at the Butterworth Base, this in itself would not justify reclassification of the nature of service.

I have noted the statement by s47F and the extract from a thesis titled 'Securing the Population from Insurgency and Subversion in the Second Emergency (1968-1981)' by Weichong Ong, which were attached to your submission, but do not consider that they offer any justification for reclassification of Rifle Company Butterworth service as warlike.

It is important to understand that while Australian forces remained in Malaysia following the Confrontation ceasefire on 11 August 1966, the Malaysian Government made no further requests for assistance in security operations. This fact is supported in Weichong Ong's thesis that refers to a letter from the Australian High Commission which states that '*The request for combat assistance from its ANZUK security partners was never invoked by the Malaysian Government...*'

Accordingly, Australian forces were not engaged in any operations against hostile forces or dissident elements after 11 August 1966 and it is therefore considered that the level of risk associated with Australian Defence Force service at Butterworth from 1966 (post-Confrontation) is not sufficient to be considered to be substantially more dangerous than normal peacetime service.

With regard to the issue of eligibility for the Pingat Jasa Malaysia Medal, I can advise that the eligibility guidelines for this medal have been set by the Malaysian Government. They have extended eligibility to Australian Defence personnel who served in the prescribed areas from 31 August 1957 to 12 August 1966, or to 9 August 1965 for service in Singapore (being the date on which it separated from the Federation of Malaysia). Service until 31 December 1966 will also qualify for those personnel who were posted to Malaysia for service prior to 12 August 1966 but failed to qualify for the medal before that date. The eligibility criteria reflect the fact that the Malaysian Government did not request, and the Australian Government did not commit, forces for use against the communist infiltration and subversion outside of these nominated dates.

In conclusion, you have not provided any new evidence to justify reconsideration of the peacetime classification for service with Rifle Company Butterworth during the period 1970 to 1989. Furthermore, Rifle Company Butterworth service between 1970 and 1989 does not meet the eligibility criteria for the Pingat Jasa Malaysia Medal, as set by the Malaysian Government.

I hope this letter and the enclosed report provide you with a better understanding of the reasons why it is appropriate that Rifle Company Butterworth service in Malaysia between 1970 and 1989 remains classified as peacetime service. Furthermore, given the extensive analysis which has now been undertaken into this matter, and unless a substantial body of new evidence is brought to light, Defence will not enter into further correspondence on the issue of reclassification for service with Rifle Company Butterworth after 11 August 1966

Yours sincerely

s22



Darren Chester
Encl



**The Hon Darren Chester MP
Parliamentary Secretary to the Minister for Defence**

MA14-001974

s47F

Dear s47F

Thank you for your email of 3 March 2014, requesting recognition of Rifle Company Butterworth's service during the period 1970 to 1989 as warlike service.

As per my letter of 24 April 2014, the Standing Committee on Petitions (the Committee) had referred a petition to the Assistant Minister for Defence, the Hon Stuart Robert MP, seeking reclassification of service with Rifle Company Butterworth during the period 1970 to 1989. I advised that it was appropriate that a response to your correspondence be delayed until after the Committee had considered the response to the Petition.

On 16 June 2014, the response to the petition from the Assistant Minister for Defence was presented in the House of Representatives by Dr Dennis Jensen MP as Chair of the Committee (copy enclosed).

In preparing the response to the Petition, the Department of Defence has re-examined and expanded previous research into the service of Rifle Company Butterworth. This most recent review was undertaken by a senior research officer with no prior involvement in the subject in question. The research officer conducted a thorough examination of available official documentation held at the Australian War Memorial and the National Archives of Australia, encompassing 'Open', 'Closed' and 'Not Yet Examined' documents. Defence records were also examined, including Royal Australian Air Force (RAAF) Base Butterworth Commanding officer Reports, RAAF Unit History Records and Commanders' Diaries for those Australian battalions who provided infantry companies for rotation through Butterworth. The research officer included in his review Australian Parliament Hansard, reports of previous reviews including the recently completed New Zealand Government Joint Working Group Report on Service in South-East Asia 1950-2011, information freely available on the Internet and in published books and journals, and all previous submissions.

In summary, the review found that available official documentation and other information demonstrates consistently and irrefutably that the roles of the rifle company which rotated through RAAF Base Butterworth were to provide a ground force presence in Malaysia, to conduct training, to assist in the security of RAAF Base Butterworth if required and to provide a quick reaction force if required. In the 19 years from 1970 to 1989, no record or other evidence could be found that the infantry rifle company was ever required in an emergency ground defence capacity other than for exercise purposes. The review also found that the Malaysian Government did not request the assistance of Australian forces and, therefore, the rifle companies which rotated through RAAF Base Butterworth were not engaged in activities directly relating to hostile forces or dissident elements.

In conclusion, this present-day review confirms that the service of all Australian Defence Force personnel at RAAF Base Butterworth during the period 1970 to 1989 is appropriately classified as peacetime service.

While this outcome may be disappointing, I am confident that the nature of service for Rifle Company Butterworth during 1970 and 1989 has been thoroughly researched and all issues considered. As such, I now consider this matter to be closed and advise that no further correspondence on this matter will be entered into.

Yours sincerely

s22



Darren Chester
Encl

16 JUL 2014



Senator the Hon. Michael Ronaldson

Liberal Senator for Victoria
Shadow Minister for Veterans' Affairs and Shadow Minister Assisting the
Leader of the Opposition on the Centenary of ANZAC

s47F

Dear s47F

Thank you for your letter of 5 July 2013 regarding the publication of a Unit History of the Royal Australian Regiments and its service in Vietnam.

I regret that the advice you say you have received concerning the availability of Commonwealth grants is, to the extent of my research, true. The only funding which I believe would be available from the Department of Veterans' Affairs would be a limited grant under the *Saluting Their Service* programme which you have indicated is insufficient.

Have you contacted the Department of Defence at all seeking any financial support or contribution from them?

I have also taken the time to consider your papers with respect Rifle Company Butterworth. I have previously written to the Parliamentary Secretary for Defence, Senator the Hon. David Feeney, about this matter and he has indicated that the Government will not revisit this issue. I have indicated that the Coalition could only consider a further review on the basis that further, new and additional information was sourced and not already considered by the Nature of Service Branch at Defence.

Thank you once again for your letter.

Yours sincerely,

SENATOR THE HON. MICHAEL RONALDSON

Shadow Minister for Veterans' Affairs

Shadow Minister Assisting the Leader of the Opposition on the Centenary of ANZAC

- 2 AUG 2013

**SUMMARY OF CORRESPONDENCE
WHILE PARLIAMENTARY SECRETARY (PARLSEC) FOR DEFENCE -
HON DARREN CHESTER MP AND FORMER SENATOR THE HON DAVID FEENEY**

19 May 2012 – Letter from former Senator the Hon David Feeney to s47F of the RCB Review Group.

Summary

- Provided confirmation that the 2007 Instruments signed by the former Minister the Hon Bruce Billson MP in relation to RCB service between 1970 and 1989 were not registered on the Federal Register of Legislative Instruments and as a consequence were not valid. Accordingly, all service at Butterworth from 1966 (post Confrontation) remained classified as peacetime service.
- Advised that a 2011 Defence Review of the service and based on the evidence considered that the risk associated with ADF service at Butterworth from 1966 (post Confrontation) is not sufficient to be considered 'substantially more dangerous than normal peacetime service or that it should be considered as 'attracting a similar degree of physical danger' as peacekeeping service. Consequently it does not meet the intent of hazardous service under section 120(7) of the Veterans Entitlements Act 1986.
- The Government has determined that all ADF service at Butterworth from the end of Confrontation in 1966, will remain peacetime service. He stressed that this decision would not be reconsidered by Government unless there is demonstrably new and compelling evidence that such a classification is manifestly wrong.

6 February 2013 – Letter from former Senator the Hon David Feeney to former Senator the Hon Michael Ronaldson.

Summary

- Response letter following representation on behalf of s47F of the RCB Review Group.
- Provided former Senator Ronaldson with background to the 2007 Instruments signed by former Minister Billson which were not registered and the subsequent 2011 Defence Review.
- Advised former Senator Ronaldson, that based on the advice of the Chief of the Defence Force and the Secretary of Defence, he determined that ADF service at Butterworth from 1970 to 1989 does not meet the essential criteria for classification as special duty, or warlike or non-warlike service. As a consequence the service is classified as peacetime service.
- Former Senator Feeney acknowledged that the handling of the matter was not up to the standard that the Government should expect on such important matters. He stated that the 'decision to overturn a decision made by a previous Minister was not made lightly, however, it is clear that the advice provided to Minister Billson in 2007 was incomplete and wrong'.
- **2 August 2013** – in a subsequent letter from former Senator Ronaldson to a claimant seeking a reclassification of RCB service, the former Senator advised that he had:
 - Taken the time to consider the papers provided by the claimant with respect to RCB.

Attachment P to
MC18-003435

- Previously written to the former PARLSEC Senator Feeney and been advised that the Government will not revisit the issue.
- Indicated that 'the Coalition could only consider a further review on the basis that further, new and additional information was sourced and not already considered' by Defence.

4 December 2013 – Letters from former PARLSEC the Hon Darren Chester to s47F s47F of the RCB Review Group, and individual claimants s47F s47F and s47F

Summary

- s47F
 - Advised s47F that he had already been provided with detailed responses to his earlier requests for reclassification of RCB service, including a report of the comprehensive 2011 Defence Review of RCB service.
 - Summarised the key outcomes of the Defence Review.
 - Provided background regarding eligibility for the Pingat Jasa Malaysia Medal and that the Malaysian Government did not extend eligibility for the award to any ADF members who had served in Malaysia after the end of the Indonesian Confrontation in 1966.
 - Concluded that s47F had not provided any new evidence to justify reconsideration of the peacetime service classification for RCB service.
 - He considered the matter closed.
- s47F
 - Summarised the key outcomes of the 2011 Defence Review of RCB service.
 - Provided background regarding eligibility for the Pingat Jasa Malaysia Medal and that the Malaysian Government did not extend eligibility for the award to any ADF members who had served in Malaysia after the end of the Indonesian Confrontation in 1966.
 - Concluded that s47F had not provided any new evidence to justify reconsideration of the peacetime service classification for RCB service.
 - He considered the matter closed.
- s47F
 - Summarised the key outcomes of the 2011 Defence Review of RCB service.
 - Provided background regarding eligibility for the Pingat Jasa Malaysia Medal and that the Malaysian Government did not extend eligibility for the award to any ADF members who had served in Malaysia after the end of the Indonesian Confrontation in 1966.
 - Concluded that unless s47F provides significant new evidence to support s47F s47F claims PARLSEC considered the matter closed.
- s47F
 - Summarised the key outcomes of the 2011 Defence Review of RCB service.
 - Provided background regarding eligibility for the Pingat Jasa Malaysia Medal and that the Malaysian Government did not extend eligibility for the award to any ADF members who had served in Malaysia after the end of the Indonesian Confrontation in 1966.
 - Concluded that unless s47F provides significant new evidence to support s47F s47F claims PARLSEC considered the matter closed.

Attachment P to
MC18-003435

12 December 2013 – Letter from former PARLSEC the Hon Darren Chester to s47F
s47F

Summary

- Summarised the key outcomes of the 2011 Defence Review of RCB service.
- Provided background regarding eligibility for the Pingat Jasa Malaysia Medal and that the Malaysian Government did not extend eligibility for the award to any ADF members who had served in Malaysia after the end of the Indonesian Confrontation in 1966.
- Concluded that unless s47F provides significant new evidence to support s47F s47F claims PARLSEC considered the matter closed.

16 July 2014 – Letter from former PARLSEC the Hon Darren Chester to s47F
s47F of the RCB Review Group.

Summary

- Response to s47F letter in relation to the Defence input to the Standing Committee on Petitions consideration of RCB service.
- Explained that Defence had re-examined and expanded previous research into the service of RCB.
- Confirmed that the Defence re-examination found that available official documentation and other information demonstrated consistently and irrefutably the roles of RCB were as reflected in Defence responses on the matter.
- Concluded that the then present day review confirmed that all ADF service at RAAF Base Butterworth during the period 1970 to 1989 is appropriately classified as peacetime service.
- Considered the matter closed and that no further correspondence on this matter will be entered into.



The Hon Darren Chester MP

Minister for Veterans' Affairs
Minister for Defence Personnel
Minister Assisting the Prime Minister for the Centenary of ANZAC

MC18-003435

s47F

Dear s47F

Thank you for the email of 5 December 2018 from s47F sent on your behalf, correspondence relating to Rifle Company Butterworth (RCB), and the claim by the RCB Review Group for warlike service for the period 1970 to 1989. Thank you also for your letter to me dated 21 February 2019, with information copies to the Prime Minister and the Minister for Defence, and for the emails dated 26 February 2019, sent by s47F on your behalf to Senator the Hon Marise Payne and Senator the Hon David Fawcett. I apologise for the delay in responding to your correspondence.

Before addressing the specifics of the correspondence I would like to thank you for the opportunity to meet with representatives of the Review Group on 27 November 2018. I regret that this meeting was cut short due to me having to leave to return to the House of Representatives on parliamentary business. However, as your claims were discussed in detail at the two hour meeting on 26 November 2018 meeting between four representatives from the Review Group and my Defence Advisers, you can be assured my staff and I have a comprehensive understanding of the basis for your claims. I note no information that has not already been considered was presented at these meetings.

The 4 December 2018 letter signed by s47F on your behalf, states that the Review Group has come to the conclusion that the fundamental obstacle to RCB service during this period being classified as warlike, is the fact that the Australian Government does not acknowledge the existence of a war or an emergency in Malaysia during the period. To clarify, the existence of a war or an emergency in Malaysia would be incidental to the consideration of your claim for reclassification of RCB service. Importantly Australian Defence Force (ADF) personnel were not engaged in combat operations in Malaysia during the period in question.

The Government acknowledges communist terrorist activities occurred at various times and at various locations in Malaysia, and that while the period 1970 to 1989 is sometimes referred to retrospectively as the 'second emergency', this title was not used at the time. The emergency declared by the Malaysian Government in 1969 was as a result of Sino-Malay sectarian violence, and not communist terrorist activity.

After the end of the Indonesian Confrontation in 1966, the ADF was not engaged in any war, conflict or other military operations against hostile forces in Malaysia. Government did not prescribe a special area for any ADF service in Malaysia after the end of the Confrontation. While Australian forces deployed to Malaysia and Singapore after the Confrontation period, it was as part of a forward defence strategy for Australia. Hansard records and speeches by Government from the period makes this very clear, as do the records from the Foreign Affairs and Defence Committee.

It follows, therefore, that ADF service in Malaysia after the end of the Confrontation cannot be considered to be warlike service. Merely being present in a country where there was unrest and occasional terrorist activities does not justify a warlike classification. Further, there is no evidence to support classifying RCB service differently to other ADF service in Malaysia during this period.

I am satisfied that no new information has been presented in the recent letter and emails from you and s47F which has not already been considered and addressed in responses to the Review Group.

RCB service does not meet the criteria for either special service, or operational and qualifying service, under legislation in force at the time, or warlike service under the current nature of service framework. Further, the Defence Committee Minutes 2/1973 date 11 January 1973 provide no evidence of warlike service.

I acknowledge that you do not accept the findings of the several independent reviews of ADF service at Butterworth during the period 1970 to 1989, and continue to seek another independent review. However, as the findings of the reviews already conducted have been consistent, there are no grounds to expect a different outcome from another inquiry.

You will recall that on 19 May 2012, former Parliamentary Secretary for Defence Senator the Hon David Feeney wrote to you to advise you that the 2007 Instruments for hazardous and non-warlike service signed by former Minister Bruce Billson were not registered in the Federal Register of Legislative Instruments and were therefore not valid. As consequence all ADF service in Malaysia post Confrontation remained peacetime service.

In the letter, former Senator Feeney also advised you that Defence had conducted a review of all ADF service at Butterworth from 1970 and based on the evidence available, the level of risk associated with ADF service at Butterworth was not sufficient to support a hazardous service classification. As a consequence, the Government determined that all ADF service at Butterworth after the end of Confrontation in 1966, would remain classified as peacetime service.

Since that 2012 letter, I am satisfied that Defence has continued to conduct research into the circumstances of ADF service in Malaysia after the end of the Confrontation in 1966, and has examined all information provided by the Review Group and other claimants. Responses to correspondence have provided thorough explanations which have sought to clarify applicable legislation, policies and military matters which have been misinterpreted and misunderstood.

I acknowledge the importance of this issue to those who served as members of RCB at Butterworth. I also acknowledge the efforts of the RCB Review Group to have the nature of service for RCB during this period reclassified as warlike service. However, unless there is compelling new evidence which has not already been considered, the Department of Defence and Government do not intend to re-examine the matter of RCB service during the period 1970 to 1989.

Importantly, this decision in no way detracts from the service by members of RCB during the period.

I trust this information is of assistance to you.

Yours sincerely

DARREN CHESTER

s47E(d)

From: s47E(d)
Sent: Tuesday, 11 April 2023 2:39 PM
To: s47E(d)
Cc: s47E(d)
Subject: RE: Clarke review - Ministerial submissions [SEC=OFFICIAL]
Attachments: 020527 - Department of Defence Submission No. 2339 - Review of Veterans Entitlements.pdf

OFFICIAL

Thanks s47E(d)

s47E(d) and I had a look, we found the Defence submission to Clarke during the process of the review (attached for your info/interest) but none beyond the COSC response they already have.

I guess the point to remember is that this was a DVA Review and Defence just put in a submission during the process – and provided Defence response to the Review via COSC/CDF after the Review Report was sent to the Min VA.

Regards

s47E(d)

s47E(d)

Director
Nature of Service

Military Strategic Commitments Division
Russell Offices

s47E(d)

PO Box 7902
Canberra BC ACT 2610

Phone: s47E(d)

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From: s47E(d)
Sent: Tuesday, 11 April 2023 2:18 PM
To: s47E(d)
Subject: RE: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

s47E(d)

For your information, DH&A raised one file on the Clarke Review. I have reviewed that file and did not find any ministerial submissions.

Regards

s47E(d)

Research Officer

Directorate of Honours and Awards
People Services Division
Department of Defence

s47E(d) Brindabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610
P: s47E(d)

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From: s47E(d)
Sent: Tuesday, 11 April 2023 10:07 AM
To: s47E(d)
Cc:
Subject: FW: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

As discussed, RFI following latest Tribunal hearings.

One further email to follow.

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
P s47E(d) M: s22

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From: s47E(d)
Sent: Thursday, 6 April 2023 12:16 PM
To: s47E(d)
Cc:
Subject: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

I'm sorry to add to the list of things to find, but the Chair has asked me to approach you for any ministerial submissions made by Defence in response to the Clarke Review.

If these could be identified by the end of the April, or another date as otherwise agreed, we would be very grateful.

You might note that I will be on leave next week, but s47E(d) will likely be available if you need anything.

Regards

s47E(d)

s47E(d)

Executive Officer

Defence Honours and Awards Appeals Tribunal

s47E(d)

<https://defence-honours-tribunal.gov.au>



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Submission No. 2339

DEPARTMENT OF DEFENCE

SEC 33 7/02
CDF 455/02


The Hon John Clarke QC
Committee Chair
Review of Veterans Entitlements
PO Box 9563
DEAKIN ACT 2600

Dear Mr Clarke

Attached is a joint submission to the Review of Veterans' Entitlements from the Department of Defence and Australian Defence Force.

On a closely related matter, Defence, with the support of the Department of Veterans' Affairs, is in the process of developing a new compensation scheme for the Defence Force. Much of Defence's thinking about military compensation and the way forward is contained in two recent reviews of military compensation arrangements. These are the 1997 Inquiry into Military Compensation Arrangements for the Defence Force and the 1999 Review of the Military Compensation Scheme conducted by Mr Noel Tanzer. We understand that you have access to these reports and that you have been provided with briefings on military compensation and other matters by Defence officers.

Also we are aware that you have spoken with the Head of the Defence Personnel Executive, Rear Admiral Russ Shalders, about veterans' and compensation matters. We are pleased to support the work of your review and recognise that there may be issues that arise in the course of your examinations that Defence should take account of in the new military compensation scheme arrangements. To this end we would appreciate if Admiral Shalders could be kept abreast of relevant developments in your review.

Yours Sincerely
s22


ALLAN HAWKE
Secretary

s22


C.A. Barrie
Admiral, RAN
Chief of the Defence Force

27 May 2002

31 May 2002

SUBMISSION TO THE REVIEW OF VETERANS' ENTITLEMENTS BY THE DEPARTMENT OF DEFENCE

Introduction

1. The task of the Committee of Review of Veterans' Entitlements to review and make recommendations on the current policy relating to eligibility for access to VEA benefits and qualifying service under the VEA, and the benefits available to disability compensation pensioners under the VEA, is of direct interest to Defence. The Review outcomes will have implications for the current military compensation arrangements and also the new military compensation scheme that is under development.

2. While recognising that much of the Review's work will involve the examination of past military events and activities and the retrospective application of the VEA, Defence welcomes the opportunity to make a submission to the Review. In doing so, it will provide an overview of:

- ADF policy on determining the nature of service for overseas deployments,
- the recent history of military compensation,
- the current military compensation scheme,
- the proposed new military compensation scheme,
- Defence issues for the consideration of the Review.

ADF Policy on Determining the Nature of Service for Overseas Deployments

Introduction

3. The ADF pay structure comprises a basic salary supplemented by work related allowances. The basic salary, determined by the Defence Force Remuneration Tribunal, compensates a member for peacetime work. For United Nations or other multi-national force deployments a special conditions of service package may be applicable to compensate the member for those additional disabilities/ hardships that are likely to be experienced on such deployments.

Background

4. Prior to the 1993, the ADF had been involved in few, but an increasing number of, overseas deployments. In each case the financial conditions of service had to be developed separately.

5. Elements of the package had to be negotiated with several external government agencies. Each negotiation was characterised by a 'bidding up' on certain elements of the package. The start point in negotiations was that which had been successfully negotiated for the previous deployment. This had the affect of there not being any certainty as to the outcomes that might be achieved. Personnel were often not advised of their conditions of service prior to their departure due to negotiations still taking place. Moreover, the process led to uncertainty and inconsistent outcomes between deployments.

The Current Framework

6. The uncertainties and inconsistencies led to a submission to Cabinet in 1993 sponsored jointly by the Ministers for Defence and Industrial Relations. Underpinning the submission was the proposition that, if the Government commits the ADF to an

overseas deployment, Government should also determine the major conditions of service applicable to that deployment. The submission sought to establish a framework around which conditions of service could be built. Operation of the framework was premised upon the classifications of 'Warlike' and 'Non-warlike' service. In developing these classifications it was acknowledged that these forms of service would be separate from service rendered in Australia or overseas on peacetime tasks.

7. Cabinet agreed the definitions of 'Warlike' and 'Non-warlike' service and their use in declaring 'Warlike' and 'Non-warlike' service. On this basis, Cabinet approved "that the Minister for Defence consult with the Prime Minister before making a declaration that an ADF deployment is 'Warlike' or 'Non-warlike'". It was and continues to be assumed that, in the absence of a declaration of 'Warlike' or 'Non-warlike' service, peacetime service and associated conditions of service would prevail.

8. Cabinet also agreed that, upon the declaration of an ADF deployment as 'Warlike' or 'Non-warlike', certain conditions of service (detailed in the submission) can be assumed to be approved.

9. The Minister for Defence does not have functional responsibility for some elements of the package endorsed by Cabinet. Notwithstanding, the framework established by the 1993 Cabinet decision allows the declaration by the Minister for Defence to provide the authority for the relevant external departments to establish the necessary provisions without the need for further justification on a case by case basis. This avoids the difficulty that existed pre 1993 in having to justify to each department the reasons why a particular provision ought to be established. While Cabinet noted the proposed awarding of medals, Cabinet acknowledged they were not a financial condition of service and are subject to approval by the Governor General.

10. The conditions of service which derive from the declaration of the nature of service are based on a requirement to ensure consistency in the conditions of service established for each deployment and between deployments and timely advice thereof before the forces depart. The conditions of service package is designed to provide:

- a. adequate death and disability compensation cover;
- b. compensation for the disabilities and hardships faced when, at government direction, ADF members are placed in direct physical danger or threat situation beyond that normally associated with peacetime service (after the establishment of whatever occupational and safety measures are possible); and
- c. certain rewards for rendering the particular type of service.

11. The criteria ensure that only those personnel assigned to the forces involved and who are within a designated area are entitled to the benefits available.

12. The Minister may change the declaration of service, as Warlike, Non-warlike or Peacetime if circumstances surrounding the deployment change. If the declaration changes, conditions of service will also change.

Categories of Operations

13. Warlike operations are those military activities where the application of force is authorised to pursue specific military objectives and there is an expectation of casualties. These operations can encompass but are not limited to:

- a. a state of declared war;
- b. conventional combat operations against an armed adversary; and
- c. peace enforcement operations which are military operations in support of diplomatic efforts to restore peace between belligerents who may not be consenting to intervention and may be engaged in combat activities. Usually conducted under Chapter VII of the UN Charter, where the application of all necessary force is authorised to restore peace and security or other like tasks.

14. Non-warlike operations are defined as those military activities short of warlike operations where there is risk associated with the assigned task(s) and where application of force is limited to self-defence. Casualties could occur but are not expected. These operations encompass but are not limited to:

- a. Hazardous operations. Activities exposing individuals or units to a degree of hazard above and beyond that of normal peacetime duty such as mine avoidance and clearance, weapons inspections and destruction, Defence Force aid to the civil power, service protected or assisted evacuations and other operations requiring the application of minimum force to effect the protection of personnel or property, or other like activities.
- b. Peacekeeping operations. Peacekeeping is an operation during which military personnel, without powers of enforcement, help restore and maintain peace in an area of conflict with the consent of all parties. These operations can encompass but are not limited to:
 - (1) activities short of peace enforcement where the authorisation for the application of force is usually limited to minimum force necessary for self defence;
 - (2) activities, such as the enforcement of sanctions in a relatively benign environment that expose individuals or units to 'hazards' as described above;
 - (3) military observer activities with the tasks of monitoring ceasefires, re-directing and alleviating ceasefire tensions, providing 'good offices' for negotiations and the impartial verification of assistance or ceasefire agreements, and other like activities; or
 - (4) activities that would usually involve the provision of humanitarian relief resultant from acts of violence against humanity.

15. Peacetime operations are operations not declared Warlike or Non-warlike. These operations can encompass humanitarian relief as a result of a natural disaster both in Australia and overseas such as famine, cyclone or earthquake relief flights or assistance.

16. Peacemaking is frequently used colloquially in place of peace enforcement. However, in the developing doctrine of peace operations, peacemaking is considered as the diplomatic process of seeking a solution to a dispute through negotiation, inquiry, mediation, conciliation or other peaceful means.

Review of the Current Framework

17. Service on operational deployments overseas is recognised as being different from that rendered under peacetime arrangements both within Australia and overseas. It is possible however for service on an overseas deployment to be rendered under peacetime arrangements. Those situations that do not require a commitment to provide a military response under operational circumstances can be peacetime service. A recent example is the humanitarian assistance provided in PNG following the tsunami disaster. The point to be made is that service on a 'deployment' does not automatically warrant the nature of service being 'Warlike' or 'Non-warlike'; thereby attracting the associated package of conditions.

18. Broadly speaking, the conditions of service that attach to 'Warlike' service are more beneficial than those attached to 'Non-warlike' service. For compensation purposes, both 'Warlike' and 'Non-warlike' service provides access to the Veterans' Entitlements Act and the Safety, Rehabilitation and Compensation Act (ie, dual eligibility) which potentially provides levels of compensation cover higher than that available on peacetime service. The exemption from taxation observes the principle of a government not requiring members of a force to pay taxation when that force is rendering 'Warlike' service at the government's behest. The taxation rebate available for 'Non-warlike' service provides recognition of the 'isolation and uncongenial nature' of rendering service in a given area. Access to enhanced provisions of the Defence HomeOwner Scheme is facilitated by 'Warlike' service.

19. In allowing the financial conditions of service to apply to personnel involved in 'Warlike' or 'Non-warlike' service, two pre-requisites must be met. They are:

- a. that personnel are part of the forces assigned to fulfilling the 'Warlike' or 'Non-warlike' tasks; and
- b. that personnel are within a defined geographic area.

20. Using a defined geographic area is merely a simple and convenient means of drawing the boundary of the geographic area. In the past, undue significance has been placed upon the notion of the geographic area being considered to be 'Warlike' or 'Non-warlike' or alternatively the arguments about equity and equality have been touted. It is the tasks being undertaken which determine whether the service rendered is 'Warlike' or 'Non-warlike', therefore this cannot be a function of a geographic area. The argument that all personnel should receive the same conditions of service does not have any equity; it fails to provide any recognition of the nature of the tasks being undertaken or the level of disabilities endured.

21. Delivering different financial conditions of service having regard to the nature of the tasks is equitable for all. The current arrangements allow and should continue to allow for the potential for personnel within a given geographic area to be undertaking tasks which are different in the nature of service and therefore attracting different financial conditions of service.

22. While it has not been tested in every way, the policies attaching to the financial conditions of service are able to meet the requirements of those rendering Peacetime, Non-warlike and Warlike service and remain sufficiently flexible to meet circumstances that might arise. These include circumstances such as:

- a. The potential for having 'Peacetime', 'Warlike' or 'Non-warlike' service based upon different tasks and with different yet adjacent (or overlapping) geographic areas thus delivering different conditions of service to each group.
- b. The potential for different threat levels applying to different force elements (land, air or maritime).
- c. The potential for different threat levels applying to different geographic locations (and thus the forces therein).

Extent to Which Processes Deviate from Policy Intent

23. Often there are pressures to place units or individual personnel on 'Warlike' or 'Non-warlike' conditions of service without first examining and testing whether:

- a. the tasks to be performed contribute to:
 - (i) the aim of the UN etc mission; or
 - (ii) the aims of an agency external to the UN mission; and
- b. the tasks to be performed fit within the definition of 'Warlike' or 'Non-warlike' service.

24. Where units not directly engaged in the activities related to the mission of the deployment are to deploy their role and tasks must be considered to ensure the nature of service to apply is derived from a consistent basis.

25. Every incorrect (inappropriate) assignment of forces to an operation for the sake of delivering enhanced conditions of service increases the pressure to do so for other units. This ignores the definitions of the nature of 'Warlike' and 'Non-warlike' service and the reasons why the deployment package of conditions was established. It also has the overall effect of devaluing the deployment package of conditions over the longer term.

The Recent History of Military Compensation

26. It is instructive to look at the history of military compensation in order to understand how military compensation arrangements have evolved into their current form. An outline of the recent history of military compensation is at Annex A.

The Current Scheme

27. The current military compensation scheme provides benefits under four different arrangements:

- the *Safety Rehabilitation and Compensation Act 1988* (SRCA), which also applies to other Commonwealth employees, although specific enhancements for the ADF only were made to the SRCA by the *Military Compensation Act 1994* (MCA);
- the *Veterans' Entitlements Act 1986* (VEA);
- dual eligibility under both the SRCA and the VEA; and

- additional benefits under the *Defence Act 1903*, (Defence Determination 2000/1).

28. The scheme also has an important interface with the military superannuation schemes with regard to invalidity benefits where offsetting arrangements apply to some income support provisions.

29. The following table summarises the compensation cover that is provided under the current scheme. It illustrates the complex interrelationship between the different types of service and the cover provided by either the SRCA or the VEA or both.

Type of Service	If injury occurred on service:		
	On or after 7 Dec 72 and before 22 May 1986	On or after 22 May 1986 and before 7 Apr 94	On or after 7 Apr 1994
Peacetime Continuous Full time Service (CFTS)			
Enlisted on or after 7 Apr 94	N/A	N/A	SRCA
Enlisted on or after 22 May 86 (and have completed 3 years continuous service by 6 Apr 94)	N/A	SRCA & VEA	SRCA
Enlisted on or after 22 May 86 (and have NOT completed 3 years continuous full time service by 6 Apr 94)	N/A	SRCA	SRCA
Enlisted before 22 May 86 (and have continually served up to and after 7 Apr 94)	SRCA & VEA	SRCA & VEA	SRCA & VEA
Part Time Service (Reserves, cadets etc)	SRCA	SRCA	SRCA
Operational Service (Warlike service)	VEA	VEA	SRCA & VEA
Peacekeeping Service (Non Warlike service)	SRCA & VEA	SRCA & VEA	SRCA & VEA
Hazardous Service (Non Warlike service)	Not declared	SRCA & VEA	SRCA & VEA

Notes:

- For service pre 7 Dec 72 members are covered under SRCA (and its predecessors) for peacetime service and VEA for operational and peacekeeping service. There was no provision for hazardous service.
- Members who enlisted on or after 22 May 86 and did not complete 3 years CFTS before 6 Apr 94 but were discharged as medically unfit may claim under VEA.
- Hazardous service is service which has been declared, in writing, by the Minister for Defence to be hazardous.

30. From the table above it can be seen that the compensation cover available to current members of the ADF depends on the type of service, date of injury and date of enlistment. Since 1994 access to the VEA is available only for members who undertake warlike and non-warlike service. This means that there will continue to be a number of ADF personnel who will have dual compensation eligibility for some periods of service, that is:

- warlike service - (operational service under s.6F of the VEA)
- non-warlike service - (operational service under s.6F of the VEA)
 - Hazardous service - (hazardous service under Part IV of the VEA)
 - Peacekeeping service - (peacekeeping service under Part IV of the VEA)

31. The SRCA component of the MCS is based on a workers' compensation model, and since 7 Apr 94 has covered all ADF members for all types of service. It has been a clear intention of previous governments that the ADF should be covered by a modern compensation scheme and one based on a workers' compensation model. This was foreshadowed in 1986 when the creation of an MCS was mooted. The process began in 1994 when the MCA began to phase out dual eligibility. Dual eligibility post 1994 is applicable only to members who enlisted before 22 May 1986 and those who deploy on warlike or non-warlike service; otherwise any injury incurred on any service is covered by the SRCA.

32. While it contained other provisions, the principal effect of the introduction of the 1994 MCA was to remove coverage under the VEA for peacetime service for the majority of ADF members and to provide dual eligibility (SRCA and VEA) for ADF members on operational service.

The New Scheme

Background

33. There have been a number of opportunities in recent years to rationalise compensation arrangements for the military. Most notably with the Veterans' Entitlements Act (VEA) in 1986, the Safety, Compensation and Rehabilitation Act (SRCA) in 1988 and in 1994 with the Military Compensation Act. On each of these occasions there had been active consideration of the need for a separate single scheme for the military but the necessary reform of military compensation arrangements was not delivered.

34. The push for reform gained momentum again in 1995 in response to the case of a young soldier who was severely injured in a training accident in the Northern Territory.

The accident resulted in the soldier becoming a quadriplegic. He was married with 3 young children and did not own a home. He was eligible for compensation benefits under both the VEA and SRCA, however, neither of these schemes, either individually or combined, provided adequate support for the reasonable needs of a severely injured serviceperson. Essentially the quantum of SRCA lump sum and/or the VEA pension was insufficient in the view of Defence to provide access to a reasonable standard of living, including housing, so important for a severely impaired person and their family.

35. The Black Hawk accident in 1996 provided a further example of the inadequacies of the military compensation system. Members injured and the dependants of those killed in this accident received different compensation entitlements depending on the member's date of enlistment, which in turn determined whether they had dual compensation entitlements (to the VEA and SRCA) or not.

36. Following the Black Hawk accident the Government initiated an Inquiry into military compensation arrangements. The Inquiry recommended increases in compensation benefits for ADF members who were severely injured and the dependants of those who were killed in service. The Government agreed to the additional compensation benefits which were implemented in 1998 through a Defence Determination under the Defence Act 1903 and added to the benefits available under the SRCA.

37. While the Inquiry outcomes dealt adequately with the issues of entitlements, particularly for death and severe injury, they did not deal with the multiple legislation and complexity of the current scheme. In June 1997, after considering the Inquiry recommendations, Cabinet directed that work proceed on developing a single, self-contained military compensation scheme covering only military personnel and recognising the different nature of military service from civilian employment.

38. Mr Noel Tanzer was appointed in May 1998 to conduct a Review of the Military Compensation Scheme. His primary recommendation was the establishment of a new self-contained safety, compensation and rehabilitation scheme for the ADF covering all service short of declared war and based on the distinct nature and needs of military service.

39. Following the Tanzer Review, Defence proposed to Government that a new compensation scheme be established for the Australian Defence Force. The new scheme proposals were based largely on the recommendations contained in the report by Mr Tanzer. After lengthy consideration the Government has agreed to proceed with the introduction of a new military compensation scheme.

The New Scheme Arrangements

40. It is intended that the new scheme will apply to all military service, both in Australia and overseas and provide a better focus on specific military service requirements.

41. It will be based on the best practice principles and attributes of a modern compensation system, with an appropriate emphasis on prevention and rehabilitation. It will promote a more integrated approach to injury prevention and management in the Defence Force with closer integration of safety, rehabilitation, resettlement and compensation.

42. The new scheme will operate prospectively. Existing entitlements would be preserved. They would not change for those who are eligible under the present VEA and/or SRCA scheme or who can establish their eligibility in relation to an injury that occurred prior to the commencement date of the new scheme.

43. There will be no change to current VEA entitlements and those presently entitled to VEA benefits would remain completely unaffected. With the introduction of the new scheme, the VEA would be reserved for use in situations to be determined by Government such as a major declared war.

44. The benefits structure in the new scheme will be based largely on the benefits available under the current scheme. That is, the benefits from the current SRCA, plus the additional compensation made payable under Defence Determination 2000/1 as well as additional benefits from the VEA. The VEA aspects include a minimum level of compensation payment for widows with a one time choice between the new scheme payment and a VEA style pension payment, provision of health care cards including the gold card for the severely injured, access to the service pension for those with warlike service, automatic treatment for specific diseases and the more beneficial standard of proof for warlike and non-warlike service. The DVA assessments systems, suitably modified where necessary, will be adopted, ie. the Statements of Principle will be used to determine initial liability and the Guide to the Assessment of the Rates of Veterans' Pensions will be used to assess permanent impairment lump sums.

45. The new scheme will provide lump sum compensation for death and injury with income support, based on pre-injury earnings and provided until retiring age, for those who are incapacitated for work. Attendant care, household services, car and home modifications are provided and there is an emphasis on rehabilitation and incentives for return to work. The emphasis on vocational rehabilitation is a major feature of the new scheme. The assistance provided for return to work, retraining and development of new career options provides beneficial outcomes for both the employer and the employee.

46. Where it can be demonstrated that certain categories of people (claimants) may be worse-off under the new scheme compared to current arrangements, then consideration will be given to the establishment of a safety net for such people. This has already been done for widows where the Government Actuary has assessed that the VEA widows benefits is financially better, in a whole of life sense, than the proposed new scheme benefit. For this reason, all widows will have a one-time choice of benefits.

47. The new scheme will eliminate much of the complexity and confusion that exists in the present compensation arrangements, principally through the removal of dual eligibility. It will provide much improved access and visibility to those making compensation claims.

48. An outline of the main provisions of the new scheme is at Annex B.

ISSUES

The Process for Declaring the Nature of Service for ADF Deployments

49. As outlined earlier in this submission, Government has established policy and procedures surrounding the declaration of the nature of service for approved ADF deployments overseas. The policy provides for the Minister to declare the nature of service as either 'Warlike' or 'Non-warlike' and for the concomitant financial conditions of service to flow automatically depending on the declared type of service. In the absence of a declaration of service as being either 'Warlike' or 'Non-warlike' peacetime service and associated conditions of service prevail.

50. The process for coming to a decision about the nature of service to recommend to government is robust and simple. It works quite effectively if all actions are compliant with the policy and procedural requirements. Difficulties arise when units have deployed, without their role and tasks being examined to determine the appropriate nature of service. Without this step being observed on every occasion there cannot be consistency of outcomes.

51. After the nature of service is decided, the current policy and processes for establishing the follow on financial conditions of service also ensure consistency of outcomes. The financial conditions of service are flexible and the process enables a timely announcement of benefits applicable to personnel being deployed.

52. In cases where there are anomalies, they have occurred where policy has not been applied, has been applied inconsistently or has been circumvented. These cases centre on the nature of service being incorrect or inappropriate to the tasks at hand or the incorrect assignment to an operation of particular units or personnel. This has been done so that personnel are provided with perceived beneficial financial conditions of service outcomes notwithstanding that the reasons for the declaration of the nature of service for the embracing operation do not relate to the nature of the task given to the units or personnel concerned.

53. It is suggested that the Review Committee may wish to consider the use of this framework as a suitable vehicle for assessing the merits of retrospective access by certain groups to the VEA and the retrospective application of 'qualifying service' to certain Defence activities.

The Mohr Review of Service in South-East Asia 1955 to 1975

54. In 1999 the Government set up an independent review to provide advice on possible anomalies in service entitlements affecting those members of the Australian Defence Force who served in South-East Asia during the period 1955 to 1975. The review was conducted by Major General, the Hon R. F. Mohr RFD ED RL assisted by Rear Admiral P. Kennedy RAN Rtd. The report was presented to Government on 9 February 2000.

55. Many of those who made submissions to the Mohr Review are also likely to make submissions to your review as there is some commonality of purpose in the respective reviews. It is also apparent that many of the issues considered by Mohr, and the recommendations made, will be relevant to your review.

56. Defence is still in the process of implementing some of the recommendations of the Mohr Review. In order to limit unnecessary overlap, and duplication of effort, it is suggested that the Defence Liaison Officer, attached to your Review Secretariat, provide more detailed advice on the Defence related outcomes of the Mohr Review.

The Principles of Military Compensation

57. While the Review will be mainly concerned about issues of access to the VEA and benefits for disability compensation pensioners, Defence believes that the Review should take account of the following principles, which underpin modern military compensation arrangements:

- The Commonwealth should provide compensation and care to members of the ADF for incapacity and to their dependants for death related to service, on a no fault basis. Those who have suffered incapacity related to their service should be compensated both financially and by access to needed high quality health care.
- Financial compensation should have two components:
 - adequate regular payments of income compensation, particularly for the long term incapacitated (economic); and
 - payment for residual loss of function, pain and suffering and loss of enjoyment of life (non economic).
- The type of compensation benefits available should be the same irrespective of the date of enlistment.

58. The scheme should also:

- provide coverage for full-time and part-time members of the ADF;
- emphasise prevention of work-related injuries and illness, and effective injury management through treatment, rehabilitation, return to work and compensation for residual incapacity;
- provide an incentive for a return to work and an appropriate return to work mechanism;
- provide occupational rehabilitation covering current and post ADF employment with early intervention;
- be accessible (clients should understand clearly the benefits available, how to access them and the consequences of any choices);
- avoid double counting and/or double jeopardy;
- be administratively efficient and fully funded;
- have limited access to common law;
- provide an appropriate dispute resolution mechanism; and
- be sustainable at law.

59. Military compensation must have regard for the all embracing nature of ADF service and the liability that all members have to go in harm's way when ordered. The arrangements should be equitable in the sense of like compensation for like injury, or, where differences exist there is a sustainable rationale for such differences.

60. Military compensation arrangements should also recognise the need for strong links between the prevention, rehabilitation and compensation elements of a compensation scheme. The concept that safety, rehabilitation and compensation is a continuum of injury prevention and injury management and should be a fundamental plank of a military compensation system.

Compensating for Risk/Hazards Associated with Military Service

61. In recognising the principle of like compensation for like injury, Defence considers that the type of compensation benefits available should be the same irrespective of the circumstances in which the death, injury or illness of the member occurred. Those who have suffered incapacity related to their service should be compensated both financially and by access to needed high quality health care and support services.

62. Any proposal to use military compensation arrangements to compensate for risk in military activities, apart from running counter to the principle of like compensation for like injury, raises a number of practical concerns.

63. There is a formal Government process in place for the declaration of warlike and non-warlike service for the purpose of establishing financial and other entitlements for ADF personnel prior to an operational deployment. The process involves decisions by the Prime Minister and the Cabinet in the case of a warlike deployment and the Minister for Defence in the case of a non-warlike deployment. To go beyond this and apply more beneficial compensation provisions to selected peacetime activities of the ADF and to discriminate between what constitutes 'operational' or 'hazardous' training and what does not, has the potential to create anomalies and administrative confusion.

64. If peacetime 'hazardous activities' were to be covered by additional benefits, the central issue then is to define 'hazardous activity'. There would be a reasonable expectation on behalf of ADF members that they would know what compensation arrangements applied to a training activity prior to the commencement of the activity. The spectrum of daily activities that an ADF member might undertake that could be classed as 'hazardous' or 'operational training' or otherwise is such that the practical application of the concept would be difficult if not unworkable.

65. ADF operations and training rely critically on teamwork at all levels. To try to separate one set of activities from another, ie, activity support from the actual operational training component would inevitably produce anomalies and adversely affect unit cohesion and morale.

66. There are many variations of circumstances where 'hazardous' could apply to the daily activities of all members of the ADF and that most, if not all, members are involved to varying degrees in training for war during peacetime. Increasingly there is a blurring of the line between peacetime training and activities of a warlike and non-warlike nature and in these circumstances the application of the 'hazardous service' or 'operational training' concept for additional compensation cover for selected peacetime activities would be unworkable.

67. Even if these difficulties were deemed acceptable, there would remain practical issues such as the geographical and timing boundaries of 'hazardous' activities. For example, if it were agreed that an Army exercise involving the use of live ammunition

and explosives fell into the category of 'hazardous' or 'operational training' how would the parameters be set? In particular, what would happen in circumstances where two vehicles carrying the troops into, or out of, the declared exercise area crashed injuring and killing some soldiers either side of the geographic or time duration boundary. Some soldiers may receive dual entitlements and some may not, yet they were injured under the same circumstances.

68. Defence considers that any proposal to divide peacetime activities into 'hazardous' or 'operational training' and other routine peacetime activity only serves to reinforce what is wrong with the present system, that is, the differential application of compensation benefits depending on the nature of service rendered. The Defence view is that military compensation arrangements should have regard for the totality of ADF employment and there should not be any difference in treatment within the scheme for different types of ADF service.

Rehabilitation and Return to Work

69. Rehabilitation is an essential component of any compensation system and its importance in the management of compensation cannot be overstated. It has two major purposes. Medical rehabilitation is the restoration of physical and mental function following an injury or incident and occupational rehabilitation is the restoration of productive work function and effective functioning in the community.

70. In the present military compensation arrangements, the SRCA places a strong focus on rehabilitation as a means of restoring function in injured personnel and facilitating a downstream reduction in compensation costs. Historically, rehabilitation has not been a feature of the VEA, however, DVA has recently introduced the Veterans Vocational Rehabilitation Scheme to provide vocational rehabilitation to veterans who require special assistance to make the transition to suitable paid employment. It operates in a similar fashion to SRCA occupational rehabilitation.

71. It is recognised that, due to the fitness standards and deployability requirements of ADF employment, a large number of those members who need occupational rehabilitation to assist in their return to work will require a program designed to return them to employment in the civilian environment following discharge from the ADF.

72. Defence understands that not all injured members, discharged from the ADF, will be able to return to a reasonable level of function or meaningful work on a permanent basis. One of the characteristics of military compensation is the provision of rehabilitation support for the severely injured that is concerned with the maintenance of 'quality of life'.

73. It should be noted, however, that the role of rehabilitation in modern compensation arrangements significantly alters the concept of totally and permanently incapacitated (T&PI) as it currently exists in the VEA. The T&PI classification will not exist in the new military compensation scheme where arrangements are designed to support each individual on the basis of their level of impairment and their needs. Effective rehabilitation will restore a level of productive function and capacity for work in most injured members who are discharged from the ADF, and hence, the numbers of truly totally impaired personnel in the future is likely to be relatively small.

Financial Benefits

74. The financial compensation provided in the SRCA part of the existing military compensation scheme, and proposed for the new scheme, has two components:

- Regular weekly payments of income compensation (taxed) for those who are incapacitated for work (economic loss). This amount is based on the person's pre-injury earnings.
- Lump sum payment (untaxed) for residual loss of function, pain and suffering and loss of enjoyment of life (non economic loss).

75. These arrangements reflect the circumstances of the individual, ie level of impairment and income, and are not directly influenced by the nature of service being rendered by the member at time of injury. Defence considers that these arrangements deliver more equitable outcomes in financial compensation to the individual than the VEA pension arrangements, which relate to various categories of service and involve a complex inter-relationship with broader community social security benefits.

76. In considering the benefits available to disability compensation pensioners under the VEA, the Review should be aware of the potential for any proposal to change the rates of the VEA disability pension to influence the structure of financial compensation arrangements in the new military scheme.

Department of Defence
6 May 2002

Annex A

**Compensation Cover for the ADF
A Brief Legislative History**

1. Since World War II, disability compensation cover for members of the ADF has undergone many legislative and conceptual changes. Until 1949, members of the ADF were provided with compensation cover under repatriation legislation for death, injury or disease which occurred as a result of their war or warlike service. Compensation cover for peacetime service was limited to that provided under the Defence Act, the Naval Defence Act and the Air Force Act.
2. On 3 January 1949, compensation cover for peacetime service, including members of the Reserve, was provided under the same legislation applying to all other Commonwealth employees, namely the Commonwealth Employees Compensation Act 1930. Cover for service of a warlike nature remained under repatriation legislation.
3. In 1973, following the withdrawal of Australian forces from Vietnam and in an attempt to retain former National Servicemen in an all volunteer defence force, the Government made provision for members on peacetime service to also have limited coverage under the Repatriation Act 1920, subject to a three year qualifying period. The provision was backdated to 7 December 1972. Members on peacetime service also retained coverage under the Compensation (Commonwealth Employees) Act 1971 which had repealed the Commonwealth Employees Compensation Act 1930 on 25 May 1971. This act had also extended compensation cover to include school cadets. Under these 'dual eligibility' arrangements, any compensation paid under repatriation legislation for peacetime service was offset against that paid under Commonwealth compensation legislation.
4. The concept of Peacekeeping service was introduced into the Repatriation Act 1920 via the Repatriation Acts Amendment Act 1981 on 30 October 1981. The compensation entitlements introduced for peacekeeping service were identical to those for other service, including peacetime service, under the Repatriation Act 1920. Its introduction therefore, did not greatly affect the benefits available to ADF members serving on peacekeeping operations at that time. The provisions however, were retrospective and as such were applied to all previous peacekeeping operations (the first one being the Security Council Commission of Investigation on the Balkans which commenced on 49 January 1947). This provision also introduced cover for non-members of the ADF, such as members of the Australian Federal Police, who served on peacekeeping operations.
5. On 22 May 1986, the Veterans' Entitlements Act (VEA) was introduced. Previously, the trend had been for new operations to be legislated separately. Service in Malaya during the Emergency, for example, was covered by the Repatriation (Far East Strategic Reserve) Act 1956, while Vietnam was covered under the Repatriation (Special Overseas Service) Act 1962. The VEA repealed and replaced all these existing Acts, consolidating their provisions into the one Act.
6. The VEA also introduced the new concept of 'hazardous service' in recognition of the fact that operations could occur which weren't warlike in nature, but which had a higher degree of risk than normal peacetime service. The disability compensation cover

provided for members on hazardous (and peacekeeping) service under the VEA is the same as that for operational service. (It should be noted that operational service under the VEA can also provide eligibility for the Service pension. The purpose of the Service pension however, is income support, not compensation.)

7. Members on peacetime service were also provided with disability compensation cover under the VEA. The compensation entitlements provided for peacetime service under the VEA was basically the same as for other forms of service, but was subject to a less generous standard of proof. The extension of cover under the VEA for peacetime service was seen as an interim measure until such time as a military compensation scheme could be put in place.

8. On 1 December 1988 the Compensation (Commonwealth Employees) Act 1971 was repealed by the Commonwealth Employees Compensation Act 1988 (later renamed the Safety, Rehabilitation and Compensation Act 1988 (SRCA)). This new Act introduced a much greater emphasis on rehabilitation than had been evident previously, along with provisions relating compensation to a willingness to undergo rehabilitation (A greater emphasis on prevention was also introduced on 1 September 1991 with the introduction of the Occupational Health and Safety (Commonwealth Employment) Act 1991.)

9. On 7 April 1994 the Military Compensation Scheme (MCS) was introduced. The MCS introduced dual eligibility under the VEA and the SRCA for members on operational, peacekeeping or hazardous service. With the exception of members who had enlisted before 22 May 1986 and had continually served up to and after 7 April 1994 however, it removed dual eligibility for those members on peacetime service. With this one exception, all members on peacetime service were covered by the SRCA only. The MCS also introduced compensation cover under the provisions of the SRCA for holders of honorary rank, members of philanthropic organisations providing services to the ADF and those involved in approved post discharge resettlement training.

10. The Inquiry into Military Compensation arrangements for the Australian Defence Force of March 1997 resulted in further changes. The most significant was the provision of a Severe Injury Adjustment from the maximum payable under the SRCA to a CPI linked amount of \$200,000* plus \$50,000* for each dependant child. The death benefit lump sum was also increased to a CPI linked amount of \$200,000* plus a new payment of \$50,000* for each orphaned child. These increased benefits were not to affect any entitlement under the VEA.

* as at July 2002 the amounts will be \$229,024 and \$57,256

Annex B

AN OUTLINE OF THE NEW MILITARY COMPENSATION SCHEME

1. The proposed new Military Compensation Scheme is based largely on the recommendations of the Tanzer Review. There are some differences and these relate, in the main, to the reform of occupational health and safety arrangements for the ADF, the governance arrangements for the new scheme and the options for the appeal process.
2. It is proposed that:

A New Scheme

- (a) A new military compensation scheme that integrates occupational health and safety, rehabilitation and compensation in a single, stand-alone Act be established for the ADF such that it:
 - (i) is based on the essential attributes of a Model Military Compensation scheme identified by the Review;
 - (ii) provides suitable guidance for the management of occupational health and safety in the ADF where proposed reforms of the Occupational Health and Safety (Commonwealth Employment) Act do not meet the particular OH&S needs of the Defence Force.

Coverage and Transition

- (b) The new scheme applies to all injuries occurring after the date of commencement of the scheme. The current arrangements continue in place for those who are injured before that date, whether or not a claim has been lodged by that time.
- (c) Members of the Services Cadet Scheme and ADF members undergoing discharge resettlement training remain under the new scheme.
- (d) Philanthropic representatives and holders of honorary rank be included under the new scheme on the same basis as regular and reserve members of the ADF and members of the Services Cadet Scheme.

Interaction with the VEA

- (e) The new scheme apply to all peacetime service (including non-warlike and warlike service) and that the VEA be retained for application in a declared war involving a substantial mobilisation of national resources only, as determined by the Government.

Features of the New Scheme

- (f) Access to the new scheme for warlike and non-warlike service is on the basis of the beneficial standard of proof as contained in Section 120 of the VEA.
- (g) The compensation benefit structure in the new scheme be based on the Safety, Rehabilitation and Compensation Act (SRCA) and incorporate the additional benefits which are payable to the severely injured and to the families of the deceased currently specified by Defence Determination 2000/1, and:
 - (i) there be no differentiation in level of the above benefits between particular groups;
 - (ii) the part time employment provisions of the SRCA, as they relate to income support, apply to self-employed specialist reserves deployed on operations for short periods of full time service and that the cap related to the Average Weekly Ordinary Time Earnings Full Time Adult (AWOTEFA) be removed;
 - (iii) there be a mandatory lump sum redemption when income support payments fall below \$75 per week subject to certain conditions (as currently prescribed in the SRCA) being met; and, at the request of the claimant, there be redemption of payments between \$75 and \$150 per week (subject to prescribed conditions);
 - (iv) a minimum level of compensation for widows with a one-time either/or choice between a VEA-type pension benefit and an SRCA-type lump sum.
- (h) The compensation benefit structure retain the following features of the existing scheme (SRCA and VEA):
 - (i) offsetting arrangements between superannuation and income support;
 - (ii) a cessation of income support payments at the current community based compulsory retiring age;
 - (iii) a step down arrangement after 45 weeks for income support payments;
 - (iv) the provision of Department of Veterans' Affairs (DVA) health treatment cards to facilitate more efficient administration;
 - (v) automatic treatment for cancer, PTSD and TB, for those with non-warlike and warlike service,
 - (vi) the availability of the service pension for those with warlike service (qualifying service), and
 - (vii) the provision of the gold card for widows and orphans and those deemed to be severely injured.
- (i) The rehabilitation and return to work provisions of the new scheme be based on the SRCA.
- (j) The occupational rehabilitation process be closely coordinated with the discharge resettlement process and be able to assist members in their transition out of the service irrespective of whether the member's injuries are compensable or not.
- (k) The dispute resolution process be based on the SRCA model, that is, after primary decision it should provide for internal review, and then external review through appeal to the AAT with appropriate conciliation and mediation steps. The VRB could be included as an additional layer of review if warranted.

Regulation

- (l) A new regulatory Commission be established to supervise the proposed new scheme, monitoring legislative compliance and administrative performance and to provide advice to the Minister and the Defence Organisation on the operation of the scheme. In effect, the new Commission would pick up the role that the Safety, Rehabilitation and Compensation Commission (SRCC) and Comcare currently perform in relation to the SRCA. The membership of Commission would comprise the existing Repatriation Commission and include representatives from the ADF, the Department of Defence and the SRCC. The Repatriation Commission would remain a separate entity for the purpose of administering the VEA.

Funding

- (m) Funding of the new scheme be on a pay as you go basis. Following consultation between Defence and the Department of Finance and Administration, the Minister for Finance and Administration advised that he was satisfied that appropriate financial transparency arrangements have been established. The introduction of the proposed new scheme and the phasing out of the VEA will mean that Defence liability for compensation will increase while that of the Department of Veterans' Affairs will decrease over time. This will require an appropriate funding baseline adjustment reflecting the shift in this liability to Defence.

Administration

- (n) A common approach be adopted to the medical assessment of impairment and the claims processing arrangements in both the existing Military Compensation Scheme and the new scheme. In particular that:
 - (i) The DVA impairment assessment systems (the Guide to the Assessment of Rates of Veterans' Pensions, the Repatriation Medical Authority and use of Statements of Principles (what about review of SoPs by SMRC)), suitably modified to incorporate modern ADF needs, be adopted for medical assessment in the new scheme; and
 - (ii) The Repatriation Health Card – For Specific Conditions be used, as in the VEA
- (o) The administration of both the existing schemes (the continued management of claims under the VEA and the SRCA) has now been consolidated within the Department of Veterans' Affairs. Administration of claims under the new scheme would also be managed by DVA as part of the agreement with the Department of Defence.

s47E(d)

From: s47E(d)
Sent: Wednesday, 12 April 2023 2:44 PM
To: s47E(d)
Cc: s47E(d); Robards, Paul DR 1; Holmes, Mark BRIG; s47E(d)
Subject: RE: Update on further work following recent RCB Inquiry hearings due 30 April 2023 [SEC=OFFICIAL]

OFFICIAL

Afternoon s47E(d)

A copy of the Exchange of Notes between Australia and Malaysia is available at: [Five Power Defence Arrangements \[1971\] ATS 21 \(austlii.edu.au\)](#)

Regards,
s47E(d)

s47E(d)

Special Counsel (Defence People Group)
Co-Director – Directorate of Data and Information Law
Office of the General Counsel – Defence
Defence Legal

Department of Defence | Associate Secretary Group

Brindabella Park Offices BP33-3-039 | ACT

☎: s47E(d) | 📠: s22 | ✉: s47E(d) | dl.generalcounsel@defence.gov.au

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You should consider this advice and take it into account when forming a decision on how best to proceed. If you decide to adopt a position that does not align with this advice, you should not state that Defence Legal has cleared or endorsed a particular position.

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From: s47E(d)
Sent: Wednesday, 12 April 2023 2:32 PM
To: Robards, Paul DR 1 s47E(d); Holmes, Mark BRIG s47E(d)
Cc: s47E(d)
Subject: Update on further work following recent RCB Inquiry hearings due 30 April 2023 [SEC=OFFICIAL]

OFFICIAL

Hi all,

One week on from the hearings, I provide an update and pose some questions on further work due to the Tribunal by 30 April 2023. Please advise if I have missed a topic.

- Expectation of casualties – attached email from s47E(d) All, is it planned to seek permission to and then release a copy of LWP-G 0-5-2 (Staff Officer's Aide Memoire of 2018)? What if anything should we say about SMTAs? (noting what we said recently – see below)

Tribunal RFI following BRIG Murray award review hearing:

(i) Do Military Threat Assessments (MTAs) provide an assessment of the level of danger and therefore the risk of harm to which ADF forces are exposed? If

an MTA provides only a partial assessment of that risk, to what other factors or metrics does Defence have regard in that assessment?

(ii) How does Defence form a view as to whether there is an 'expectation of casualties' as used in the definitions of "warlike" service?

Defence/NOS response:

In response the sub-question 1(b), the following information is provided:

(i) A Strategic Military Threat Assessment (SMTA) provides an assessment of the threat (expressed in levels – Very Low to Very High), and is the main document used to determine the threats to ADF personnel and capabilities.

On its own, the threat level assessed in an SMTA does not directly or automatically infer a specific NOS classification. There are ADF operations classified as

non-warlike with the same threat level as warlike ADF operations.

(ii) The expectation of casualties is assessed as part of the SMTA.

- Response to additional questions - Attached is what we provided at hearing. All, propose that we advise Defence has no further information to provide in relation to the two remaining questions.
- Substantially more dangerous – Attached email to s47E(d) seeks any information from NOS on reason for inclusion of term 'substantially'. s47E(d) appreciate your advice when available.
- Clarke review – Tribunal sent a request for any briefing to Minister on Clarke review. Attached email exchange between H&A and NOS email. Nothing further found – apart from Defence submission to review itself. All, propose we advise we have nothing further to provide and potentially suggest they may wish to engage with DVA.
- Status of Forces Agreement – Paul suggested he wanted to provide a copy. s47E(d) can you please provide?
- Information from veterans shared by Tribunal post hearing – objective link attached. All, suggest we just note.
- ADF medals policy – All, do we want to provide anything further on what we say it means?
- Definitions NOS vs medals – All, do we want to provide anything further? While acknowledging NOS/Veterans' benefits/medals are all separate processes the Chair is sticking to his view that 1993 definitions apply to medals.

Regards,

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
P:s47E(d) M: s22

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s47E(d)

From: s47E(d)
Sent: Wednesday 12 April 2023 5:19 PM
To: s47E(d)
Cc:
Subject: RE: Action Items Post RCB Hearings on 3-4 April 2023 [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

We've searched through documents in Objective, including circa 2011/prior, and there is no discernible policy/legal/definition – type reason as to why someone used the term 'substantially' more dangerous than peacetime service.

It appears to be a word a staff member/DG used in the first document you attached (2011/12) and then someone responding on similar subject reused the term in the 2013 letters attached to the 2019 Ministerial . The wording around the use of the word (substantially) looks similar as well.

Regards

s47E(d)

s47E(d)

Director
Nature of Service

Military Strategic Commitments Division
Russell Offices
s47E(d)
PO Box 7902
Canberra BC ACT 2610

Phone: s47E(d)

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From: s47E(d)
Sent: Tuesday, 11 April 2023 10:12 AM
To: s47E(d)
Cc:
Subject: FW: Action Items Post RCB Hearings on 3-4 April 2023 [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

At the hearing, the Chair made comments about Defence commencing to use the term 'substantially' in briefing to government and letter to individuals.

The question is, 'do we know why (and when if before 2011) Defence started using 'substantially more dangerous than normal peacetime service?'

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
P: s47E(d) M: s22

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From: s47E(d)
Sent: Thursday, 6 April 2023 3:59 PM
To: s47E(d)
Subject: Action Items Post RCB Hearings on 3-4 April 2023 [SEC=OFFICIAL]

OFFICIAL

s47E(d)

The first attachment is Ministerial Advice MA11-001151. This is the Secretary / CDF brief signed on 24 November 2011. Paragraphs 7 and 9 use the phrase 'substantially more dangerous'.

The second attachment is Ministerial Submission MS19-000484. It has numerous attachments including the letter to s47F dated 4 December 2013, in which the same phrase is used.

Regards

s47E(d)

Research Officer
Directorate of Honours and Awards
People Services Division
Department of Defence

s47E(d) Brindabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610
P: s47E(d)

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s47E(d)

From: s47E(d)
Sent: Thursday, 13 April 2023 8:46 AM
To: Holmes, Mark BRIG; s47E(d) Robards, Paul DR 1; s47E(d)
s47E(d)
Cc:
Subject: RE: Update on further work following recent RCB Inquiry hearings due 30 April 2023 [SEC=OFFICIAL]

OFFICIAL

Morning again all,

Apologies if this document has already been referenced in previous corro, but I noticed this reference to 'non-operational areas' (ie. Malaysia being one) in a 1974 Army document regarding manning in Malaysia:

1. *The 8/9 RAR Company Group for the tour of duty at Butterworth includes approximately 30 new corps trainees. It has been revealed that 10 of the soldiers are under 18 years of age.*
2. *It is requested that Dept of Defence (Army Office) review the current policy on age limits in respect of non-operational areas as contained in Reference A, so as to allow the 10 underaged soldiers to remain with the company for its tour.*
3. *8/9 RAR has expressed concern at the disruption to company training programmes which would result from inter-company transfers*

Regards,
s47E(d)

s47E(d)

Special Counsel (Defence People Group)
Co-Director – Directorate of Data and Information Law
Office of the General Counsel – Defence
Defence Legal

Department of Defence | Associate Secretary Group

Brindabella Park Offices BP33-3-039 | ACT

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From: s47E(d)
Sent: Thursday, 13 April 2023 8:26 AM
To: Holmes, Mark BRIG; s47E(d) Robards,
Paul DR 1; s47E(d)
s47E(d)
Cc: s47E(d)
Subject: RE: Update on further work following recent RCB Inquiry hearings due 30 April 2023 [SEC=OFFICIAL]

OFFICIAL

Morning everyone,

Apologies – I forgot to add my general comments to s47E(d) email (which I've now placed in blue after Mark's comments).

Interestingly, I've been continuing my reading of the Trove articles from the 70s and 80s that reference RCB and noticed this quote in the Army News of 3 April 1975:

... Streaming with sweat, Pte. Stephen Ingram, a 19-year-old soldier who has been with the Company for 14 months, paused, panting, to tell ARMY that this was his first time out of Australia. First time in Butterworth for him and, before flying in, he'd heard a lot of rumours about the base and about Penang – some good rumours, some bad. "Mostly I heard it was a pretty good place for a bludge," he told ARMY. And here another young Digger, Pte. Phil Smailes, who had served here in September last year, intercepted and took up the ball. "Not a bludge," he said. "When we were up here last year I did training I'd never done before. Fired every weapon there is to fire. "Good training up here and a feller sees a different country and different people. Found out how other people live."

Of course, references to training occur in various news reports in subsequent years, but I thought the above was interesting since it quoted soldiers directly. Clearly, at least one soldier (Pte. Smailes) considered the work conducted while in Malaysia as amounting to training.

Regards,
s47E(d)

s47E(d)

Special Counsel (Defence People Group)
Co-Director – Directorate of Data and Information Law
Office of the General Counsel – Defence
Defence Legal

Department of Defence | Associate Secretary Group

Brindabella Park Offices BP33-3-039 | ACT

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You should consider this advice and take it into account when forming a decision on how best to proceed. If you decide to adopt a position that does not align with this advice, you should not state that Defence Legal has cleared or endorsed a particular position.

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From: Holmes, Mark BRIG s47E(d)

Sent: Wednesday, 12 April 2023 4:40 PM

To: s47E(d) Robards, Paul DR 1 s47E(d)
s47E(d)

Cc: s47E(d)

Subject: RE: Update on further work following recent RCB Inquiry hearings due 30 April 2023 [SEC=OFFICIAL]

OFFICIAL

Hello s47E(d) thank you for the summary and work to be done. I have made comments in Army green below.

I remain troubled by the impression the Chair closed the last hearing with in that he thought 'non-warlike' is what the DHAAT would recommend to the government. s47E(d)

s47E(d)

The terminology and error in the Tribunal's consideration in applying 1993 definition as if the current Government is in 1970. s47E(d)

s47E(d)

My other comments are within your text below.

Regards, Mark - MJH

Brigadier Mark Holmes

Australian Defence Force Headquarters (ADFHQ)

s22

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From: s47E(d)

Sent: Wednesday, 12 April 2023 2:32 PM

To: Robards, Paul DR 1 s47E(d)

Holmes, Mark BRIG s47E(d)

s47E(d)

Cc: s47E(d)

Subject: Update on further work following recent RCB Inquiry hearings due 30 April 2023 [SEC=OFFICIAL]

OFFICIAL

Hi all,

One week on from the hearings, I provide an update and pose some questions on further work due to the Tribunal by 30 April 2023. Please advise if I have missed a topic.

- Expectation of casualties – attached email from s47E(d) All, is it planned to seek permission to and then release a copy of LWP-G 0-5-2 (Staff Officer's Aide Memoire of 2018)? What if anything should we say about SMTAs? (noting what we said recently – see below) The doctrine is available and in wide use. Send it. I agree that you should send a comment to accompany that restates the details of the NoS response to s47E(d) but ensure that the context is clear. This analysis occurs before a deployment in support of Nature of Service. Actual casualties, unit results, performance and study of the operation once completed, supports the process of medallic recognition and other award processes. MJH I'll defer to the views of others about comments to add, but I do not see any issue with the release of LWP-G 0-5-2. s47E(d)

Tribunal RFI following BRIG Murray award review hearing:

(i) Do Military Threat Assessments (MTAs) provide an assessment of the level of danger and therefore the risk of harm to which ADF forces are exposed? If

an MTA provides only a partial assessment of that risk, to what other factors or metrics does Defence have regard in that assessment?

(ii) How does Defence form a view as to whether there is an 'expectation of casualties' as used in the definitions of "warlike" service?

Defence/NOS response:

In response the sub-question 1(b), the following information is provided:

(i) *A Strategic Military Threat Assessment (SMTA) provides an assessment of the threat (expressed in levels – Very Low to Very High), and is the main document used to determine the threats to ADF personnel and capabilities.*

On its own, the threat level assessed in an SMTA does not directly or automatically infer a specific NOS classification. There are ADF operations classified as non-warlike with the same threat level as warlike ADF operations.

(ii) The expectation of casualties is assessed as part of the SMTA.

- Response to additional questions - Attached is what we provided at hearing. All, propose that we advise Defence has no further information to provide in relation to the two remaining questions. Agreed, nothing further to add. The questions are for a policemen or lawyer about AS law, not specific to military problems. MJH I do not see any need to provide further information/discussion on the remaining questions. Ultimately, I think we should just keep to providing facts s47E(d)
- Substantially more dangerous – Attached email to s47E(d) seeks any information from NOS on reason for inclusion of term 'substantially'. s47E(d) appreciate your advice when available. Acknowledged. Looks to be an enthusiastic staff error? Hand over the docs. Nothing further to add. MJH I agree with Mark – without the ability to ask the person who drafted the paper why the word was included, I think we just hand over the documents and state we have nothing further to add. s47E(d)
- Clarke review – Tribunal sent a request for any briefing to Minister on Clarke review. Attached email exchange between H&A and NOS email. Nothing further found – apart from Defence submission to review itself. All, propose we advise we have nothing further to provide and potentially suggest they may wish to engage with DVA. The document is reflective of the time and would have been produced by our predecessors. Agreed. MJH I agree with stating that Defence has nothing further to add/provide. I think it is also important to 'remind' the DHAAT (every so often) that, if they are seeking to make any reference to matters within the remit of DVA, they should consult with that agency. s47E(d)

- Status of Forces Agreement – Paul suggested he wanted to provide a copy. s47E(d) can you please provide? This document lays out the clear political and strategic intent. It is also exactly what the Defence and other DHAAT Reviews have learned. It was intended to be Training! MJH Link provided separately by email. The document clearly states what was approved to occur and numerous reports/articles, etc, make reference to the training element. Any deviation from this would – I imagine - create diplomatic issues (amongst other things). s47E(d)
- Information from veterans shared by Tribunal post hearing – objective link attached. All, suggest we just note. Agreed. All it does is reinforce how selected pieces of information taken out of context can support any argument. The 51st paragraph of pg 6 in the 1975-76 Commanding Officer's Report that starts with Catering numbers is a case in point. It clearly states how preparation was conducted to support the additional aircraft, Australian F111, stationed at Butterworth, over the period. Looks professional and exactly what they would do if that capability arrived in a base that did not have that level of capability in it previously, anywhere in the world. So what?

The other documents, Record of Conversation in 1971, seem to accurately reflect strategic concerns of the time. The DA and Senior military staff asking for fortnightly meetings from the Malaysians is informative and provides another example of snippets of information taken out of context. If the threat was high or more urgent I would assume this information might appropriately initiate a change to meetings of greater urgency and frequency than once every two weeks??? MJH

I agree that noting is sufficient. Particularly in relation to the 1971 Record of Conversation, it reflects that meetings (particularly when Australians were 'visitors' in another country) occurred – if meetings did not occur, it would (I suggest) be unusual from a diplomatic standpoint. As Mark indicates, if the treat was high, then the meetings would (presumably) be more frequent. s47E(d)

- ADF medals policy – All, do we want to provide anything further on what we say it means? I see little value in reinforcing anything here. MJH I don't think there's anything further that can be added here. s47E(d)
- Definitions NOS vs medals – All, do we want to provide anything further? While acknowledging NOS/Veterans' benefits/medals are all separate processes the Chair is sticking to his view that 1993 definitions apply to medals. I think we should reinforce that the consideration of Medallic recognition as asked by the Terms of Reference are considered by the Australian government deliberately to allow the government to make decisions related to who is recognised for what post a deployment or operation, when the duration, intensity, threat and the history of a deployment is understood. I think that it would be prudent to remind the DHAAT of the distinction between NOS and medals. If the DHAAT wishes to disagree, then they can state that (and deal with the subsequent questions from government), but ultimately we should reflect/re-state the government's position so there is no doubt on the subject. s47E(d)

The definitions of the nature of service of particular operations and deployments are a consideration that occurs before or at the commencement of any deployment and the purpose of the definitions support its use. Maybe someone else should have a go at writing this more simply? MJH

Regards,

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
P: s47E(d) M: s22

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s47E(d)

From: s47E(d)
Sent: Monday, 17 April 2023 1:38 PM
To: s47E(d)
Subject: RE: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

s47E(d)

If it's of any relevance, the Defence submission to the Clarke Review was publicly released. See <https://web.archive.org.au/awa/20060820022521mp> /http://www.veteransreview.gov.au/submissions/7june/Sub_2339_DOD.pdf

Thanks

s47E(d)

Research Officer
Directorate of Honours and Awards
People Services Division
Department of Defence

s47E(d) Brindabella Park Offices | PO Box 7952 | Canberra BC | ACT 2610
P: s47E(d)

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From: s47E(d)
Sent: Monday, 17 April 2023 10:59 AM
To: s47E(d)
Subject: FW: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

Hi,

I assume the answer remains the same – we have identified nothing further than COSC outcomes minute previously provided.

s47E(d) Any thoughts on whether we can or should provide them copy of attached? It's not what they've asked for.

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
P:s47E(d) M: s22

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From: s47E(d)
Sent: Monday, 17 April 2023 10:29 AM
To: s47E(d)
Subject: FW: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

Further to this, the Chair has asked me to seek from you any Cabinet Submission and Decision relating to the Clarke review, noting a response was provided by the PM.

Regards

s47E(d)

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From: s47E(d)
Sent: Thursday, 6 April 2023 12:16 PM
To: s47E(d)
Cc:
Subject: Clarke review - Ministerial submissions [SEC=OFFICIAL]

OFFICIAL

Hi s47E(d)

I'm sorry to add to the list of things to find, but the Chair has asked me to approach you for any ministerial submissions made by Defence in response to the Clarke Review.

If these could be identified by the end of the April, or another date as otherwise agreed, we would be very grateful.

You might note that I will be on leave next week, but s47E(d) will likely be available if you need anything.

Regards

s47E(d)

s47E(d)

Executive Officer
Defence Honours and Awards Appeals Tribunal
s47E(d)

<https://defence-honours-tribunal.gov.au>



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s47E(d)

From: s47E(d)
Sent: Tuesday, 18 April 2023 2:50 PM
To: s47E(d) Holmes, Mark BRIG
Subject: RE: NOS Comments for VCDF (DHAAT - RCB) - FW: VCDF Weekly 21 Apr 23
~~[SEC-PROTECTED]~~
Attachments: s22

~~PROTECTED~~

Hi s47E(d)

I've amended in attached.

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) Brindabella Park ACT
P: s47E(d) M: s22

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From: s47E(d)
Sent: Tuesday, 18 April 2023 2:03 PM
To: Holmes, Mark BRIG s47E(d)
Subject: NOS Comments for VCDF (DHAAT - RCB) - FW: VCDF Weekly 21 Apr 23 ~~[SEC-PROTECTED]~~

~~PROTECTED~~

s47E(d) and s47E(d)
s22

VCDF is quite aware of the RCB issues and DHAAT review.

s22

Thanks

s47E(d)

(PS – I intend to include a pdf copy of the TORs)

Sir,
s22

(Please separately provide me any key observations from the DHAAT public Hearings.)

Defence Honours and Awards Appeals Tribunal (DHAAT) – review of Rifle Company Butterworth service 1970 - 1989

The original terms of reference (TOR), issued April 2022, were for the DHAAT to ‘consider whether a decision by New Zealand to extend eligibility for the New Zealand Operational Service Medal to a larger proportion of members of the NZ Armed Forces who served in Malaysia and Singapore between 1959 and 1974, should bring about any change to Australian medallic recognition for service with Rifle Company Butterworth (RCB) between 1970 and 1989, including whether that service should be recognised with an Australian Active Service Medal’ (AASM).

However the Tribunal has determined to go beyond the TORs and conduct a full review of RCB service.

RCB veterans’ seek to have their service between 1970 and 1989 reclassified from peacetime to warlike service.

Defence and Government, over many years, have long held that RCB rotations between 1970 and 1989, is peacetime service and is recognised by the Australian Service Medal (ASM). The ASM can, and has been issued for both non-warlike and peacetime ADF operations/activities (as assessed for NOS purposes).

There were two public hearings, 23 Nov 22 and 03-04 Apr 23. This review is the first publically streamed DHAAT review. There were approximately 100 – 120 individuals logged in to the streaming service for each hearing via a link on the DHAAT public website.

While the DHAAT has no authority regarding nature of service (NOS), a considerable amount of its time in the hearings and documentation requests seek to examine the link between NOS and Honours & Awards regulations for this service.

At both hearings the DHAAT Chair indicated that the New Zealand review/report did not support the RCB veterans’ case for recognition as warlike service. However, he did indicate the veterans’ may have a case for recognition as non-warlike service. Defence continued to state that RCB service was appropriately classified as peacetime service.

The DHAAT is still accepting submissions up to 30 Apr 23. Defence has provided additional documents as requested by the Tribunal.

s47E(d)

s47E(d)

Director
Nature of Service

Military Strategic Commitments Division
Russell Offices

s47E(d)

PO Box 7902
Canberra BC ACT 2610

Phone: s22

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From: s47E(d)
Sent: Tuesday, 18 April 2023 8:34 AM
To: MSC Division s47E(d)
Subject: VCDF Weekly 21 Apr 23 ~~[SEC - PROTECTED]~~

~~PROTECTED~~

Good morning all,

s22

Comments from VCDF

1. NOS. Para 8. Please separately provide me any key observations from the DHAAT public Hearings.

s22

Regards,

s47E(d)

s47E(d)

Military Assistant to Head of Military Strategic Commitments

Air Vice-Marshal Stephen Chappell, DSC, CSC, OAM

MILITARY STRATEGIC COMMITMENTS | s47E(d) | PO Box 7902 | Canberra ACT 2610

Desk: s47E(d) Mob: s22 Email: s47E(d)

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s47E(d)

From: s47E(d)
Sent: Wednesday, 26 April 2023 3:59 PM
To: s47E(d)
Cc: s47E(d); Holmes, Mark BRIG; s47E(d)
Subject: RE: ADF Casualty planning process? [SEC=OFFICIAL]

OFFICIAL

Hi,

The consensus seems to be that we could share a copy of LWP-G 0-5-2 with the Tribunal (noting caveat below that it is a crude tool that provides approximate results which cannot be reliably extrapolated to high end warfighting.

Appreciate your assistance in providing a copy of LWP or advice of where it can be located.

In addition to providing a copy of LWP (with caveat), we would repeat previously advised (separate Tribunal matter) Defence position on expectation of casualties:

A Strategic Military Threat Assessment (SMTA) provides an assessment of the threat (expressed in levels – Very Low to Very High), and is the main document used to determine the threats to ADF personnel and capabilities for the purpose of nature of service (NOS) assessment..

On its own, the threat level assessed in an SMTA does not directly or automatically infer a specific NOS classification. There are ADF operations classified as non-warlike with the same threat level as warlike ADF operations.

The expectation of casualties is assessed as part of the SMTA.

Regards,

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

s47E(d) | Brindabella Park ACT
P: s47E(d) M: s22

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From: s47E(d)
Sent: Tuesday, 4 April 2023 3:25 PM
To: s47E(d); Holmes, Mark BRIG s47E(d)
s47E(d); Robards, Paul DR 1 s47E(d)
s47E(d)
Cc: s47E(d)
Subject: Fwd: ADF Casualty planning process? [SEC=OFFICIAL]

Sir, Paul, team

Please see below the initial response from JOC re casualty planning. Please note s47E(d)
comments on what is cleared for public release.

s47E(d)

Sent from my iPhone

Begin forwarded message:

From: s47E(d)
Date: 4 April 2023 at 3:12:12 pm AEST
To: s47E(d)
Subject: RE: ADF Casualty planning process? [SEC=OFFICIAL]

OFFICIAL
s47E(d)

To clarify, the BLUF info below not classified or sensitive.

The info under that is for your background info - I can seek COS approval for its release if you'd like (but he is tied up at the moment).

Regards,

s47E(d)

Director Legal (J06)
Headquarters Joint Operations Command
Defence Legal

Department of Defence | Joint Capabilities Group
Headquarters Joint Operations Command | Bungendore NSW
: s47E(d) | | s22
0: s47E(d) | HQJOC JO6 - Legal Directorate

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-----Original Message-----

From: s47E(d)
Sent: Tuesday, 4 April 2023 3:01 PM
To: s47E(d)
Cc: s47E(d)
s47E(d)

Subject: RE: ADF Casualty planning process? [SEC=OFFICIAL]

OFFICIAL

s47E(d)

BLUF: JOC does have a planning process for estimating casualties for land operations.

LWP-G 0-5-2 (Staff Officer's Aide Memoire of 2018) per para 6.43 is the only doctrine we can find on this topic. The data tables here are reflected in a digital logistics planning tool (called VIPA) used by J1/4 planners. The J1/4 team have advised that this is a crude tool that provides very approximate results. The data cannot be reliably extrapolated to situations outside of high-end warfighting.

Regards,

s47E(d)

Director Legal (J06)
Headquarters Joint Operations Command
Defence Legal

Department of Defence | Joint Capabilities Group Headquarters Joint Operations Command |
Bungendore NSW

.s47E(d) | | s22

0 s47E(d) | : HQJOC JO6 - Legal Directorate

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-----Original Message-----

From: s47E(d)

Sent: Tuesday, 4 April 2023 11:56 AM

To: s47E(d)

Cc: s47E(d)

s47E(d)

Subject: RE: ADF Casualty planning process? [SEC=OFFICIAL]

OFFICIAL

s47E(d)

Copy. We'll reach out to planners and provide a response ASAP.

Regards,

s47E(d)

s47E(d)

Director Legal (JO6)
Headquarters Joint Operations Command
Defence Legal

Department of Defence | Joint Capabilities Group Headquarters Joint Operations Command |
Bungendore NSW

: s47E(d) ||: s22

0: s47E(d) |: HQJOC JO6 - Legal Directorate

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-----Original Message-----

From: s47E(d)

Sent: Tuesday, 4 April 2023 11:48 AM

To: s47E(d)

Cc: s47E(d)

s47E(d)

Subject: ADF Casualty planning process?

s47E(d)

Can you please ask the JOC planners if there is a process for planning casualty figures In operations?

If there is something we can publicly disclose great but otherwise just a comment that there is a process.

We have taken the question on notice in the DHAAT and would like to respond before 1500h today.

Thanks

s47E(d)

Sent from my iPhone

s47E(d)

From: s47E(d)
Sent: Friday, 28 April 2023 7:27 PM
To: s47E(d) DHA Tribunal
Subject: Defence supplementary submission of 28 April 2023 to the Inquiry into medallic recognition for service with Rifle Company Butterworth 1970-1989 [SEC=OFFICIAL]
Attachments: Defence Supplementary Submission of 28 Apr 23.pdf

OFFICIAL

Good evening s47E(d)

Defence supplementary submission of 28 April 2023 is attached.

Regards,

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

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**Defence responses to remaining questions identified as 'undertaking further work' in
Defence Supplementary Submission EC23-000372 of 31 Jan 23 and topics raised at or
subsequent to the Inquiry Hearings on 3/4 April 2023**

28 Apr 23

**INQUIRY INTO MEDALLIC RECOGNITION FOR SERVICE WITH RIFLE COMPANY
BUTTERWORTH**

1. Remaining questions identified as 'undertaking further work' in Defence Supplementary Submission EC23-000372 of 31 Jan 23.

Rules of Engagement:

8(r) (i) Is the inherent right of self-defence (including the ability to employ lethal force) an artefact of Rules of Engagement/Law of Armed Conflict/National/International/Other Law?

(ii) Is an Australian civilian, for example, able to deploy lethal force in self-defence (subject to similar provisos/limitations just as the Rifle Company Butterworth could?)

Defence has no information to provide in relation to these questions.

2. Topics raised at or subsequent to the Inquiry Hearings on 3/4 April 2023.

- a. Threat/Expectation of Casualties

During the period of service at Butterworth the relevant assessment of threat was that conducted by the Joint Intelligence Organisation (JIO). JIO reports include the term 'unlikely'. For example, JIO Study No. 14/74 Issued Sep. 1974 included the assessment that 'it is unlikely that any threat to Air Base Butterworth will arise from an external overt military attack on Malaysia'.

For current operations, Military Threat Assessments (MTA) provide assessments of the threat to ADF personnel and capabilities. MTAs express threat in levels – Very Low to Very High. Defence refers to our response to question 6(b) in submission 096b of 31 January 2023 concerning Military Threat Assessments.

- b. Substantially more dangerous

Defence acknowledge the use of 'substantially more dangerous than peacetime service' in submissions to Government and letters to individuals in the period 2011-2013. No information has been identified to explain why the term 'substantially' appeared in these documents.

- c. Clarke review

Defence has not identified any further relevant documents relating to the Clarke review.

**Defence responses to remaining questions identified as ‘undertaking further work’ in
Defence Supplementary Submission EC23-000372 of 31 Jan 23 and topics raised at or
subsequent to the Inquiry Hearings on 3/4 April 2023**

d. Australian Treaty Series 1971 No 21.

Further to the documents identified, Defence has located and refers the Tribunal to Australian Treaty Series 1971 No 21.

[Five Power Defence Arrangements \[1971\] ATS 21 \(austlii.edu.au\)](#)

e. Veteran submissions and information

Defence acknowledge and note the additional information and submissions provided by veterans to the Tribunal at, or subsequent to, the Inquiry hearings of 3/4 April 2023.

f. Definitions

Defence acknowledge the Tribunal’s view on the meaning and intent of the term ‘aligned’ in the 1993 Cabinet Document recommendation related to the award of medals.

Defence’s view, as detailed in previous submissions, remains that the 1993 Cabinet definitions for “warlike” and “non-warlike” do not apply directly to the terms within the medal regulations.

The suggestion that Cabinet intended that the 1993 definitions of “warlike” or “non-warlike” were to be applied directly to and/or operate as an independent test for consideration of whether an operation was to be recommended for a medal, is not in Defence’s view supported by:

- the use of the discretionary term ‘may be recommended’ in the column ‘Medals’ in the table at attachment D of the 1993 Cabinet document;
- the contents, recommendations and outcomes of CIDA, Mohr and Clarke reviews subsequent to 1993;
- Government’s 2001 approval of the ADF Medals Policy and in particular the conditions for the award of the Australian Service Medal including where there was no declaration of “non-warlike”;
- evidence of successive Government’s recommendations to the Governor-General for medal declarations for “non-warlike” service where there was no nature of service classification (nor an independent assessment of service against 1993 definitions) or a classification of “peacetime”; and/or
- the process and practice followed by Defence to consider medallic recognition, the outcomes of which have been presented to and accepted by successive Governments.

The assessment and classification of nature of service occurs prior to or shortly after the commencement of an ADF operation. It may change during the deployment. However, consideration for medallic recognition only occurs at a later date and ultimately is a discretionary decision based on consideration of multiple relevant factors.

**Defence responses to remaining questions identified as ‘undertaking further work’ in
Defence Supplementary Submission EC23-000372 of 31 Jan 23 and topics raised at or
subsequent to the Inquiry Hearings on 3/4 April 2023**

The process and practice for the recommendation for the award of any medal commences on receipt of a request to consider medallic recognition. The consideration of medallic recognition may include a number of relevant factors including a nature of service classification (the outcome of a nature of service assessment and not the assessment itself), the number of ADF members involved, the duration of an operation, existing medallic recognition for that service such as foreign awards and/or existing Australian awards which could be applied to that service. An assessment or an independent test of service against the definitions of “warlike”, “non-warlike” or “peacetime” does not occur as part of the consideration for medallic recognition.

Following consideration of relevant factors, Defence may recommend to the Minister that they recommend to the Governor-General that they declare an operation for the purpose of medallic recognition.

s47E(d)

From: Holmes, Mark BRIG
Sent: Monday, 1 May 2023 10:50 AM
To: s47E(d) Robards, Paul DR 1
Cc: s47E(d)
Subject: RE: Defence supplementary submission of 28 April 2023 to the Inquiry into medallic recognition for service with Rifle Company Butterworth 1970-1989 [SEC=OFFICIAL]

OFFICIAL

Thank you for the update and provision of this copy. Thank you and s47E(d) for the work in putting this together.

I think your answers and subsequent clarifications are appropriate.

Regards, Mark

Brigadier Mark Holmes

Australian Defence Force Headquarters (ADFHQ)

s22

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From: s47E(d)
Sent: Friday, 28 April 2023 7:30 PM
To: Robards, Paul DR 1 s47E(d) Holmes, Mark BRIG s47E(d)
Cc: s47E(d)
s47E(d)
Subject: FW: Defence supplementary submission of 28 April 2023 to the Inquiry into medallic recognition for service with Rifle Company Butterworth 1970-1989 [SEC=OFFICIAL]

OFFICIAL

Hi,

Supplementary submission attached.

Thank you for suggested input and assistance

I could not locate/receive a copy of the LWP so did not make any reference to that document in submission.

Regards,

s47E(d)

s47E(d)

Director Honours and Awards

Defence People Group

s47E(d) Brindabella Park ACT
P s47E(d) M: s22

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From: s47E(d)
Sent: Friday, 28 April 2023 7:27 PM
To: s47E(d) DHA Tribunal <dha.tribunal@defence.gov.au>
Subject: Defence supplementary submission of 28 April 2023 to the Inquiry into medallic recognition for service with Rifle Company Butterworth 1970-1989 [SEC=OFFICIAL]

OFFICIAL

Good evening s47E(d)

Defence supplementary submission of 28 April 2023 is attached.

Regards,

s47E(d)

s47E(d)

Director Honours and Awards
Defence People Group

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