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26 June, 2022

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## Submission to Inquiry - Mr Noel Lesley Barrington

### Part 1 – Name of Inquiry

**Name of Inquiry \***

RCB review

### Part 2 – About the Submitter

**Title or Rank \***

Mr

**Surname \***

Barrington

**Given Names \***

Noel Lesley

**Postal Address \***

[REDACTED]

**Email Address: \***

[REDACTED]

**Primary Contact Number \***

[REDACTED]

**Secondary Contact Number**

[REDACTED]

**Is the Submission on behalf of an organisation? If yes, please provide details:**

RCB group

### Part 3 – Desired outcome

**Provide a summary of your submission:**

To upgrade ASM SE Asia to AASM SE Asia for service in Rifle Company Butterworth

### Part 4 - Your submission and Supporting Documentation

File Attached: Noel-Barrington-RCB.docx

ROE-1.jpg

ROE-2.jpg

### Part 5 – Consent and declaration

✓ I consent to the Defence Honours and Awards Appeals Tribunal making my submission publicly available.

✓ I also consent to the Defence Honours and Awards Appeals Tribunal:

- using information contained in my submission to conduct research;

- providing a copy of my submission to a person or organisation considered by the Tribunal to be appropriate; and
- providing a copy of my submission to a person or organisation the subject of adverse comment in the submission;
- using content in my submission in its report to Government.

**The Tribunal will decide which person or organisation is appropriate, and this may include:**

1. persons or organisations required to assist with the inquiry; and
2. persons or organisations with an interest in the inquiry.

✓ I declare that the information I have provided is correct.

**Name**

Noel Barrington

**Date**

26/06/2022 /

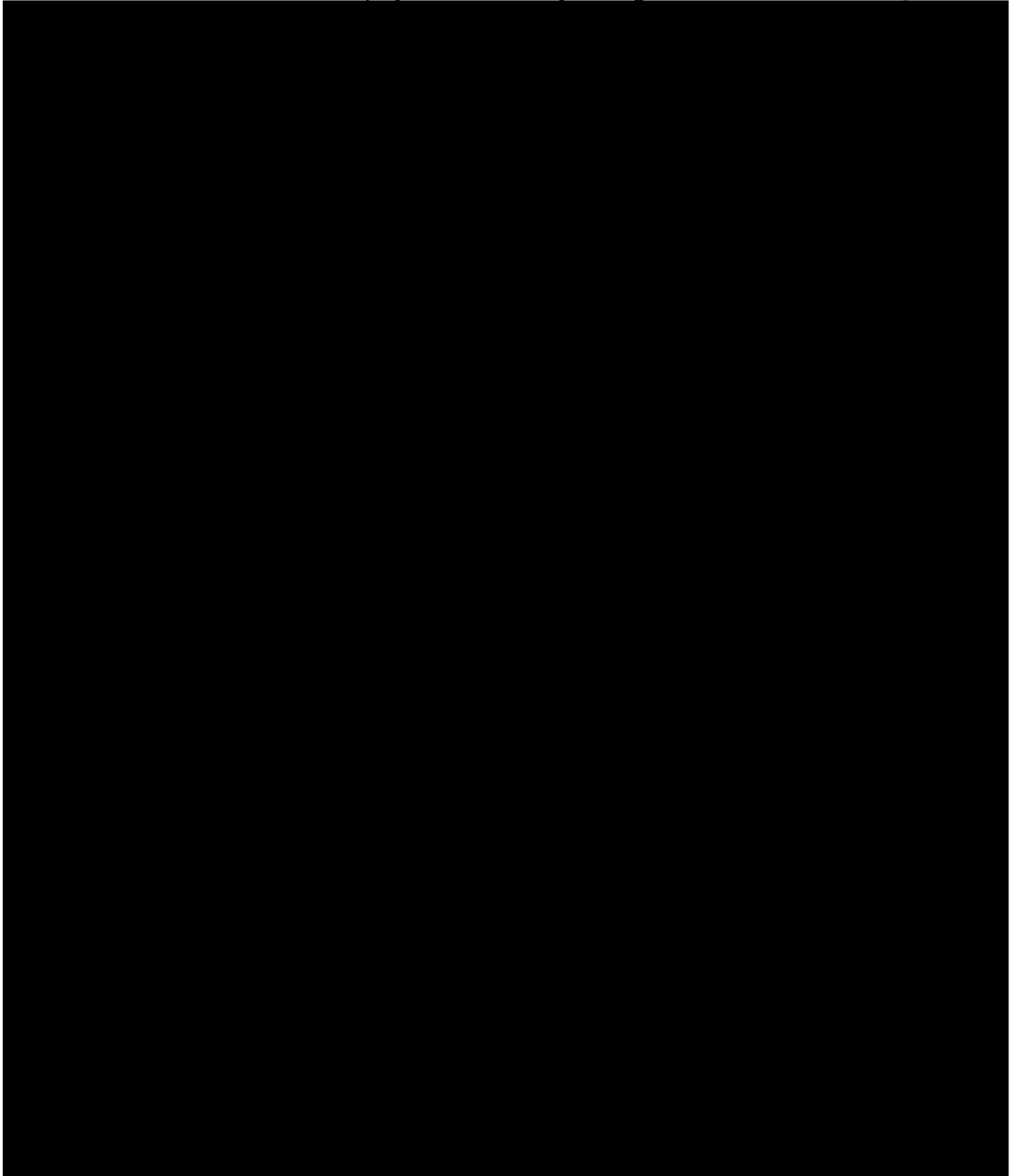
*Mr Noel Lesley  
Barrington*

Signed by Mr Noel Lesley Barrington

Signed on: 26 June, 2022

# Signature Certificate

Document name: Submission to Inquiry - Mr Noel Lesley Barrington



My name is Noel Barrington I am an ex-Serviceman who served with Rifle Company Butterworth (RCB). I conducted a tour of 3 months with Support Company, 3RAR in Dec 95 till Feb 96.

On my tour, prior to departing 3 RAR Kapyong lines, Holsworthy, we received briefings on the Communist Terrorists (CTs) in Malaysia and in particular the threat the CTs imposed on the security of the RAAF Butterworth Air Base (BAB).

We were informed of our rules of engagement (ROE) if we had to use deadly force in any encounter with the CTs or any threat to BABs security, assets and personnel.

At no time, were we informed that this was a normal training exercise.

We were informed our sole role was the security and protection of BAB, assets and RAAF personnel and families of RAAF personnel.

We were further informed that we would be mounting a Section size (10 men) Quick Reaction Force (QRF) 24/7 for the 3-month tour, to deal with any threat to the security of BAB.

I was a member of numerous QRF Section duties during my tour at BAB.

All QRF duties commenced with an orders group, which included the issue of live ammunition. Individual weapons were issued at the commencement of duty at 0800hrs, these were the 7.62mm SLR, 5.56mm M16 and the GMPG 7.62 Section machine gun, and covered the ROE. The QRF was mounted at 0800hrs each day with normal duties carried out till 1600hrs when the QRF Section would then be stood to in the Guard room.

On weekends the QRF commenced at 0800hrs for a 24hr period till relieved by the next QRF Section,

One additional member on each QRF was piqueted in the Armscote which housed the Company weapons and ready 1<sup>st</sup> line ammunition was available.

On numerous occasions, normally once through the day and night/early morning during a QRF tour of duty, the QRF would be called out by the Duty Officer to a Key Point (KP) an example of the KPs were the hospital, power station, armouries and ammo dumps etc.

At no time during a call out of the QRF were you aware if it was a practice run or an actual threat from the CTs. This would give each of us a heightened awareness and on many occasions the thought of this being a real call out was on your mind and the adrenaline would surge through you. It was not until you arrived at the KP where you would conduct dry fire and movement through the KP to secure the area from the threat; that the duty Officer would inform you it was a practice run and whether or not your performance based on Section tactics or time taken was adequate.

To date Defence has stated that RCB was solely a training exercise.

I believe this was brought about by the stance taken by former Labor Government of Gough Whitlam who advised the Australian public that no Australian soldiers will remain in South East Asia.

To cover the RAAF security issue being in Malaysia with a 2<sup>nd</sup> Insurgency, which the Governments past and present deny to this day, regardless of all evidence to the contrary and requirement of security which the Malays could not guarantee as their military was stretched dealing with the CTs in the North of Butterworth, the RCB was implemented.

The Australian public was sold that it was training only.

Butterworth Air Base was never attacked or infiltrated by the CTs.

I believe our role was a major deterrent to the CTs inflicting any damage to the Malaysian aircraft and RAAF aircraft/assets or personnel based at the Malays biggest air base.

It is my conjecture that RCB was in fact operational and as such was Active Service.

Below is an excerpt from the Mohr report on Incurred and objective danger

To establish whether or not 'objective danger' existed at any given time, it is necessary to examine the facts as they existed at the time the danger was faced. Sometimes this will be a relatively simple question of fact. For example, where an armed enemy will be clearly proved to have been present. However, the matter cannot rest there.

On the assumption that we are dealing with rational people in a disciplined armed service (i.e. both the person perceiving danger and those in authority at the time), then if a Serviceman is told there is an enemy and he will be in danger, then that member will not only perceive danger, but to him or her it will be an objective danger on rational or reasonable grounds. If called upon, the member will face that objective danger. The member's experience of the objective danger at the time will not be removed by 'hindsight' showing that no actual enemy operations eventuated.

All of the foregoing highlights the inherent difficulty with this concept of perceived and objective danger. It seems to me that proving that danger has been incurred is a matter to be undertaken irrespective of whether or not danger is perceived at the time of the incident under consideration. The question must always be, did an objective danger exist? That question must be determined as an objective fact, existing at the relevant time, bearing in mind both the real state of affairs on the ground and the warnings given by those in authority when the task was assigned to the persons involved.

The above interpretation is exactly what every member on my RCB tours faced.

We had a identified enemy the CTs, we were placed on QRF duty, we were issued with live ammunition and had an ROE and at no time on any QRF call out were we informed it was only training until the end of any QRF callout.

At no time was I or any member of my Tour informed that our QRF was training.

We had a clear and defined enemy threat based on our orders prior to mounting our QRF. We had an objective danger and incurred danger imposed on us by the virtue of our role in BAB as part of our RCB duties.

In closing I would like to point out that to date RCB has been denied Natural Justice on our seeking an upgrade from an award of peace time service to one of Active Service.

Essentially, justice requires that a person receive a fair and unbiased hearing before a decision is made that will negatively affect them.

The three main requirements of this justice that must be met in every case are:

**adequate notice, fair hearing and no bias.**

When Defence has refused to support our claim to Active Service, we have never been given the opportunity to have our rebuttals to their claims heard or met. All supporting documentary evidence which rebuts Defences claims that our role was training have been refused to be met by Defence and further request to examine our new evidence has been met with a standard reply of no further case to answer.

Precedent means that **judges are bound to follow interpretations of the law made by judges in higher courts, in cases with similar facts or involving similar legal principles.**

Based on the Honours and Awards decisions in granting Active Service to the zones of Ubon and Diego Garcia.

**Why hasn't RCB been afforded the same precedent?**

RESTRICTEDRULES OF ENGAGEMENT  
ENGAGEMENT BY FIREAPPENDIX 3 TO  
ANNEX CGeneral

1. All troops are to be made aware, through briefing and discussions, of the difficulties of and necessity for, identifying friend from foe. Most Malaysians who have access to the Air Base, seldom carry identity cards and probably have only a vague awareness of authorized and unauthorized areas.
2. It is imperative that all ranks know and understand the rules of engagement and methods of ensuring own troops safety.
3. The most important implication of engagement by fire is 'IF IN DOUBT DO NOT SHOOT'.

Rules of Engagement

4. Application. The rules are to be applied within the Air Base regardless of curfew, periods of increased security, air defence exercises and time of day or night. All ranks operating within the Air Base are to be aware of friendly national organizations which operate within the Air Base.
5. Orders for Opening Fire. You may open fire at a person or persons only in the following circumstances:
  - a. If you are ordered to guard any building vehicle, aircraft, tent being used as a dwelling or as a place of storage, or you are ordered to guard the occupants of, or any property contained in each such building, vehicle, aircraft or tent you may open fire at any person who is in the act of destroying or damaging by fire or explosives the building, vehicle, aircraft or tent, or the property contained therein PROVIDED THAT THERE IS NO OTHER MEANS OF PREVENTING THE PERSON FROM CARRYING OUT THE ACT OF DESTRUCTION OR DAMAGE.
  - b. If you or any other person is illegally attacked in such a way as to give you reason to fear that death or grave bodily injury will result, you may open fire on the person carrying out the attack PROVIDED THAT THERE IS NO OTHER MEANS OF PREVENTING THE PERSON FROM CARRYING OUT THE ATTACK.
6. Before opening fire you are to warn the person whom you intend to shoot of your intention to open fire unless he ceases his illegal act. You should use the challenge 'HALT OR I FIRE - BERHENTI ATAU SAYA TEMBAK' repeated three times.

/ 7. At all times



RESTRICTED  
CS-2

7. At all times, before opening fire you must remember:
- a. If in doubt do not shoot,
  - b. You must not fire unless this is the least force necessary to enable you to carry out the orders you have been given.
  - c. Shoot to wound and not to kill.
  - d. Use the minimum number of rounds necessary.
  - e. Your right to shoot ceases as soon as the necessity for protection has passed, ie, if your first round wounds the person so that he can no longer continue the act which caused you to open fire, you are not to shoot him again.
8. You are to take careful note of the fact that your right to shoot ceases at the Air Base boundary fence. You are not to shoot at a person on the other side of the fence.

Sentries on Protected Places

9. If you are posted as a sentry on a Protected Place, the provisions of paragraph 3 apply. However, if any person enters the Protected Place and whilst within the boundaries of the Protected Place fails to halt when challenged with the words 'HALT OR I FIRE - BERSIHATI ATAU SAYA TEMBAK' repeated three times you may fire at him provided you are unable to stop him or to arrest him by any other means.
10. Similarly, should a person whom you have arrested within a Protected Place attempt to escape, you may shoot them subject to:
- a. your having challenged them correctly in accordance with the procedure given in paragraph 5; and
  - b. there being no other means of affecting their rearrest.
11. You are to take careful note of the fact that your right to shoot ceases if the person you challenge leaves the Protected Place, whether escaping from arrest or not. You must not shoot at such a person or any other at any time when they are outside the boundaries of the Protected Place, except within the provision of paragraphs 5 - 7.