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Subject: RCBRG submission 1 of 2
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[RCBRG Paper in response to Tribunal Question of 25 Nov 2022.pdf](#)

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Hi Tammy and Jay

The RCBRG has prepared three separate papers in response to the Tribunal's question to it on expectation and likelihood of casualties. Due to its size, the third paper (Warlike Service Demonstrated at Air Base Butterworth 1968-1989) will be in a separate email to this.

The first paper, titled "Submission on the Expectation of Casualties, primarily reviews the most in-depth Australian intelligence assessment available, along with some other relevant documents. It examines whether the threats identified and the measures taken or proposed to mitigate them are indicia of an expectation of casualties. It concludes that, given the capabilities and intentions of the enemy, the assessed vulnerability of Air Base Butterworth (ABB) and the measures proposed or put into place to mitigate those threats, including the tasks allocated to RCB, casualties were clearly anticipated.

The second paper, by Graeme Mickelberg and titled "Questions to the RCBRG from the Tribunal", addresses the question put to the RCBRG by the Tribunal in its letter of 24 November 2022 as to the degree of likelihood of casualties arising from RCB service. The question has been addressed by undertaking a risk assessment. As formal assessment of risk was not part of the operational planning process used by the Army during the period 1970 to 1989, the RCBRG has used the Operational Risk Management process that was introduced for use by the Army in early 2000. The risk assessment has been informed by contemporaneous threat-related intelligence, including reports and correspondence from Defence and diplomatic sources in addition to other information drawn from submissions to the Tribunal. As an indicium of the likelihood of casualties, the risk assessment concludes the likelihood of a CT attack on ABB was **PROBABLE**, the consequences of an attack in terms of casualties was **CATASTROPHIC** and the indicative risk level was **VERY HIGH**.

The third paper, by Ken Marsh and titled "Warlike Service Demonstrated at Air Base Butterworth 1968-1989", provides a broader examination of the question of warlike service and places its discussion of how RCB service meets the threshold within a historical perspective.

Please confirm receipt

Thanks

Ray



Rifle Company Butterworth Review Group Submission on the Expectation of Casualties

[NOTE: all bold text in this paper are the author's emphasis]

1. This paper is one of three prepared by Rifle Company Butterworth Review Group (RCBRG) that examine the question of the expectation and degree of likelihood of casualties for RCB service from different perspectives.
2. This paper primarily reviews the most in-depth Australian intelligence assessment available, along with some other relevant documents. It examines whether the threats identified and the measures taken or proposed to mitigate them are indicia of an expectation of casualties. It concludes that, given the capabilities and intentions of the enemy, the assessed vulnerability of Air Base Butterworth (ABB) and the measures proposed or put into place to mitigate those threats, including the tasks allocated to RCB, casualties were clearly anticipated.
3. The second paper, by Graeme Mickelberg and titled "Questions to the RCBRG from the Tribunal", addresses the question put to the RCBRG by the Tribunal in its letter of 24 November 2022 as to the degree of likelihood of casualties arising from RCB service. The question has been addressed by undertaking a risk assessment. As formal assessment of risk was not part of the operational planning process used by the Army during the period 1970 to 1989, the RCBRG has used the Operational Risk Management process that was introduced for use by the Army in early 2000. The risk assessment has been informed by contemporaneous threat-related intelligence, including reports and correspondence from Defence and diplomatic sources in addition to other information drawn from submissions to the Tribunal. As an indicium of the likelihood of casualties, the risk assessment concludes the likelihood of a CT attack on ABB was **PROBABLE**, the consequences of an attack in terms of casualties was **CATASTROPHIC** and the indicative risk level was **VERY HIGH**.
4. The third paper, by Ken Marsh and titled "Warlike Service Demonstrated at Air Base Butterworth 1968-1989", provides a broader examination of the question of warlike service and places its discussion of how RCB service meets the threshold within a historical perspective.

Allotment and casualties

5. The Tribunal, at the hearing of 23 November 2022, found that the correct interpretation of Cabinet Directive 1048 of 7 July 1965¹ did not require a request for assistance from a host country prior to allotment of ADF personnel beyond the Indonesian Confrontation. The Tribunal further found that ADF personnel deployed to ABB satisfied the rule in Cabinet Directive 1048 for allotment as they faced “present danger from hostile forces”² and were therefore eligible for allotment for special duty under the *Repatriation (Special Overseas Service) Act 1962 (SOS Act)*³.
6. The RCBRG strongly endorses those findings by the Tribunal. As the Tribunal would be aware, the same interpretation has previously been presented to Defence by RCBRG.
7. Having made these findings, the question must arise for the Tribunal of what implications these findings have in relation to RCB service and, in particular, the expectation of casualties.
8. The report of the inter-departmental committee out of which Cabinet Directive 1048 arose said of allotment under the SOS Act that “special service”:

“...is service in an area proclaimed a “special area” by reason of warlike operations or a state of disturbance there and requires allotment of the personnel for “special duty” in that area, i.e. duty directly connected with those warlike operations or the state of disturbance.”⁴
9. The Minister for Repatriation, Senator McKellar, in the second reading speech for the *Repatriation (Special Overseas Service) Bill 1968*, set out two purposes of the Bill. One was to extend repatriation cover to service personnel on rest and recreation in Australia and the second was described by the Minister thus:

“The second amendment which the Bill proposes is to extend eligibility for service pensions to those who have served on special service under the Repatriation (Special Overseas Service) Act. The Government believes that the nature of the special service, which is similar to theatre of war service in earlier wars, justifies the recognition of its intangible effects in the future.”⁵
10. Both “warlike service” and “theatre of war service” carry an inherent expectation of casualties to a degree that would meet the requirement under the 1993 *ADF Personnel Deployed Overseas – Conditions of Service Framework*.⁶

¹ Cabinet Minute, Decision No, 1048, Submission No. 834, *Principles on which Eligibility for War Service Homes Loans is determined and the Consequences of their continued application on the Demand for Loans – Examination and Report by Inter-departmental Committee*, Melbourne, 7 July 1965.

² DHAAT hearing video recording at 1:02:50.

³ *Ibid.*, at 1:03:01

⁴ Daffy, R.J.P., et. al., *Report of Inter-Departmental Committee Appointed to Examine the Principles Relating to Eligibility for War Service Homes and Repatriation Benefits and the Consequences of their Continued Application on the Demand for Loans*, 27 May 1965, para 5(d).

⁵ Australia, Senate 1968, *Debates*, vol. S38, p. 985.

⁶ Australia, Cabinet, *ADF Personnel Deployed Overseas – Conditions of Service Framework*, Cabinet Minute of 17 May 1993, No. 1691, Submission 1021.

11. By finding that ADF service at ABB should have been allotted under the SOS Act—as it met the criteria for allotment under Cabinet Directive 1048—the Tribunal has acknowledged that RCB service inherently carried with it an expectation of casualties commensurate with warlike or theatre of war service.

An expectation of casualties

12. RCBRG has not located any document that speaks explicitly of an expectation of casualties. This is unsurprising given that it was not a criterion at the time of RCB deployment nor was it usual practice to refer to such in the planning of operations.
13. Therefore, to determine an expectation of casualties retrospectively, as is the case with RCB, the only option is to look at the actions and precautions proposed and taken to meet the threat and to assess whether they are indicia of such an expectation.
14. The SECRET Joint Intelligence Organisation 1975 (JIO) report on the security of ABB⁷ is an excellent reference and the most comprehensive document on these issues discovered by the RCBRG to date.

The CTO

15. But first the capabilities and proclivities of the Communist Terrorist Organisation (CTO) should be examined. CTO here refers not only to the organisation classified by that name but also the subordinate organisations of the Malayan Communist Party, its splinter groups and other nationalist organisations.
16. The JIO advised that the CTO had “...shown that they will attack government positions and individual officials in retaliation for reverses suffered...”⁸ As a government position, indeed the main operating base in the north, this meant ABB was clearly a potential target for the CTO.
17. The JIO were not the only Australian authorities concerned and Air Marshall J.A. Rowland advised that:

“The CTO has demonstrated his capacity to mount operations against the security forces during the past year. Based on these incidents, there is an increased likelihood of attack on Air Base Butterworth – probably by use of 3.5 inch rockets. There is a lesser probability of an attack using mortars.”⁹
18. The JIO went on to say that the CTO had demonstrated “...a formidable capability to conduct large-scale sabotage operations...” and that this was a relevant factor in the security of ABB.¹⁰ Clearly the JIO were indicating that such operations could be conducted against ABB with the consequent loss of materiel and life.

⁷ Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975.

⁸ *Ibid.*, para 25.

⁹ Rowland, J.A., Air Marshall, *Security at Butterworth*, CAS 5554/5/53 (87), 7 October 1975, Annex A, para 16.

¹⁰ Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975, para 25.

19. The JIO was concerned that two splinter groups of the CTO might conduct a campaign of urban guerrilla warfare and that “The increase in the numbers of incidents in 1975 points in this direction...” and that as a consequence “...Australian personnel and their dependents stationed at ABB could be threatened...”.¹¹
20. After considering whether the CTO had access to mortars (it was later confirmed that they did) the JIO pointed out that:
- “The North Vietnamese Army/Viet Cong forces in Vietnam frequently used mortars against area targets in surprise attacks. The CTO has also used makeshift rockets in attacks on military installations and airfields...”¹²
21. The clear concern of the JIO here is that given the CTO has used rockets against other airfields they could also do so against ABB and if they had a mortar capability could make “surprise attacks” on ABB with this more destructive weapon.
22. Given the CTO’s “formidable capability to conduct large-scale sabotage operations”, it is unsurprising that the JIO expressed concern at the ease with which unauthorised personnel were able to penetrate onto the base, including Vital Points.¹³ Mark Butler’s Submission 052 highlights how seriously these penetrations were taken.
23. The JIO speaks of the “...**relatively heavy casualties** of the Security Forces, particularly from mines and booby-traps, and the lack of success against the CTO...”.¹⁴ If our allies, with whom we shared the defence of ABB, were suffering heavy casualties then it could not be argued that Australian forces would not expect any casualties in a shared defence situation.
24. Indeed, the JIO report in summarising how the CTO might attack the base identified:
- “Covert penetration by night by separate groups of terrorists using explosives, with the objective of attacking Vital Points and aircraft”.¹⁵
- “An attack by fire using mortars or other indirect fire weapons...this form of attack is **quite likely**”.¹⁶
- “Sabotage, by planting of delayed-action explosives, booby-traps, and other similar devices designed to damage equipment and to injure personnel...the use of booby-traps and minor acts of sabotage...pose a **distinct threat**, both to the Base and to Australian personnel and their dependants.”¹⁷
25. Clearly the JIO was concerned that the same attacks that had been made against other Malaysian bases could also be made against ABB. Not just mortar or rocket attacks, which the report considered **quite likely**, but also the type of sabotage the CTO is assessed as having a **formidable capability** for and the very type of attack (booby-traps) that had caused Malaysian forces **relatively heavy casualties**.

¹¹ Ibid., para 26.

¹² Ibid., para 31.

¹³ Ibid., para 35.

¹⁴ Ibid., para 36.

¹⁵ Ibid., para 48(b).

¹⁶ Ibid., para 48(c).

¹⁷ Ibid., para 48(d).

26. The JIO's assessment that an indirect fire attack on ABB was **quite likely** was reinforced by the Department of Air which reported that:

“The CTO has given instructions to its underground organisation in Peninsular Malaysia to carry out rocket attacks against air bases...”¹⁸

27. The Department of Air report also advised that the “...CTO appear to have a fairly reliable supply of 3.5 inch rockets”. It also considered that Alor Star and ABB were “quite possible” targets. Australian personnel were stationed at both locations.

28. Having said that mortar and rocket attacks were essentially expected and that the use of the booby-traps that had inflicted heavy losses on the Malaysians was a distinct threat, it must follow that Australian casualties were expected.

Vulnerability of Butterworth

29. ABB was not an easy place to defend and this has been highlighted in the RCBRG Submission 065—not only the location and extent of the base—but the questionable reliability of Malaysian forces and the limitations placed on the ADF by political expediency.

30. Concerns as to the vulnerability of ABB predate the JIO report of 1975. In 1971, following an attack on a nearby railway bridge, Australian authorities sought advice on the threat to ABB from the Malaysian Deputy Director of Military Intelligence (DDMI). Australia asked for the “...Malaysian military appreciation of the threat to the [sic] Air Base Butterworth...”¹⁹ and the assessment provided was considered “...to be highly reliable...”²⁰.

31. The Malaysian DDMI advised that:

“...the threat to all RMAF Bases was now very seriously regarded; they were attractive targets and any success against them, apart from material damage caused, would be a good morale victory for the CTO; the military effect of such a successful operation would be to reduce the air support (particularly transport) essential to the Malaysian security forces.”²¹

32. He went on to advise that ABB was assessed:

“...as “a probable target”, basing his assessment upon the recent increase of enemy strength and activity in the area and the large number of supporters (some 27,000) assessed as being in the Penang/Province Wellesley area, some of whom could be included in the locally engaged labour on the base; the nation-wide activities on 25 April 70 he believed had been directed by a group in this area.”²²

¹⁸ Australia, Department of Air, *Reported Communist Terrorist Plans to Increase Rocket Attacks Against Airbases in Malaysia*, Dept of Air File 564/8/28 Part 8, 1975.

¹⁹ Thorpe J.C. GPCAPT and Gardner R.J. LTCOL, *Record of Conversation with Malaysian DDMI*, Located on NAA A703, 564/8/28 Part 3, RAAF Butterworth – Ground Defence Plans, 11 March 1971, para 10.

²⁰ *Ibid.*, para 17.

²¹ *Ibid.*, para 11.

²² *Ibid.*, para 12.

33. A minute to the Minister in 1975 highlighted concerns about the increasing threat to ABB and called for dramatically increased security measures:

“In view of the heightened possibility of CTO attacks on RAAF assets, I recommend discussion on the following issues with the Prime Minister of Malaysia:

- a. a request to allocate at least one battalion to the area immediately surrounding Butterworth for area defence;
- b. arrangements for ARA and RAAF forces to operate outside the base to defend their assets in conjunction with Malaysian forces; and
- c. approval to reinforce Butterworth at short notice with RAAF ground defence forces (including ARA) to assist in the defence of operational assets, personnel and equipment.”²³

34. The 1975 JIO report found that ABB represented an attractive target for the CTO for a few reasons:

“The proximity of Butterworth to the CTO base areas on the Thailand-Malaysia border could make it an **attractive target** to the CTO. CTO units find it easier to attack targets and to evade government follow-up forces in northern Malaysia than to mount operations against installations farther south in Peninsula Malaysia.”²⁴

35. The Department of Air was also concerned with the ability of the CTO to launch attacks against ABB:

“The major difficulty from a Defence viewpoint is that the CT’s [sic] are able to decide the timing, nature and frequency of attacks virtually unhindered and with little fear of retaliation.”²⁵

36. Acknowledging that ABB was located within the CTO’s preferred area of operations the JIO report expressed concern that:

“...there are **no special passive defence arrangements** to mitigate the effects of sabotage or of mortar or rocket attacks.”²⁶

37. Having identified that ABB was attractively located within the CTO area of operations and that there were **no arrangements for protection** against the type of attack that the JIO report considered to be **quite likely** it follows that casualties would be expected.

38. The JIO was not just concerned with the location of ABB but also with the state of security of the base that made it even more vulnerable. The report identified that:

²³ Rowland, J.A., Air Marshall, *Security at Butterworth*, CAS 5554/5/53 (87), 7 October 1975, para 6.

²⁴ Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975, para 17.

²⁵ Australia, Department of Air, *Brief for DCAS Concerning Security of Butterworth*, brief 564/8/28, 1975, para 10.

²⁶ Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975, para 11.

“...there are no continually-manned military posts close to the Air Base that could hinder the reconnaissance and approach of any CTO assault groups.”²⁷

39. The size of the base also made its defence very difficult:

“Protection of such a large target against mortar and rocket attacks is virtually impossible; a perimeter of 3000 metres would have to be manned by ground troops (viz. two battalions) to guarantee its security against 81/82-mm mortars.”²⁸

40. In a minute to DJS, N.P. McNamara AVM DCAS concurred lamenting the extreme difficulty of providing sufficient troops to defend an airfield in detail by occupying the area around it. He considered that even if this were possible it would not guarantee freedom from attack as:

“...determined CTs would have only limited difficulty in infiltrating onto the airfield or to within 3.5 inch rocket or 81/82mm mortar range.”²⁹

41. After discussing the ease with which the CTO could attack ABB, the DCAS, N.P. McNamara AVM, concluded that “CT operations are particularly insidious [sic] from a defensive viewpoint”³⁰ and that therefore more risk must be accepted and so:

“The extent to which both Malaysian and Australian forces are prepared to engage in protracted defensive operations in a compromise situation is the question to be determined.”³¹

42. ABB was the largest air base in Malaysia and as the forward operating base for operations on the Thai/Malay border, many aerial operations against the CTO were flown from there. As a result the JIO considered that:

“...the use of the base by RMAF units for anti-terrorist air operations might prompt a CTO reaction. RMAF aircraft operating from Butterworth have been used in air-strike operations near the Thai-Malaysia border...if the RMAF were to score some successes against the CTO that were well publicized the CTO might retaliate against Air Base Butterworth. The accidental killing of civilians in these RMAF operations would also give the CTO good propaganda that could be fully exploited by a retaliatory raid on the Base.”³²

43. The JIO report went on to reiterate deficiencies in the base defence:

“In the past attention has been drawn to **serious weaknesses** in the defences, including the ineffective performances of the SSP, deficiencies in the static defences, and the parking of Mirages in a straight line without the protection of revetments. Cases of theft have shown that unauthorized

²⁷ Ibid., para 37.

²⁸ Ibid., para 45.

²⁹ McNamara, N.P., AVM DCAS, *Butterworth Security*, DOD (Air) 564/8/28, 14 Oct 1975, para 2.

³⁰ Ibid., para 3.

³¹ Ibid.

³² Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975, para 46.

persons have been able to enter areas within the Base, including Vital Points.”³³

44. The **serious weaknesses** in the defences of ABB was a major concern because “...should a soft target be presented then the likelihood of the CTO conducting sabotage activities against Air Base Butterworth is **highly probable**.”³⁴

45. If, with all these vulnerabilities, the CTO did attack ABB, it was judged that the base would likely face it alone as:

“We do not know of any Security Force contingency plan for the reinforcement of Butterworth, but troops from 6 MIB may be deployed to the area on the request of the OC RMAF Air Base Butterworth. The effectiveness of the Brigade’s response would depend on the availability of troops, who may be involved in operations.”³⁵

46. The Department of Air also expressed concern about the increasing vulnerability of ABB:

“recent developments and incidents, must significantly reduce confidence in the security of aircraft, especially against rocket attack from outside the base.”³⁶

47. Although the CTO were not yet considered capable of “...sustained military, sabotage or rocket attacks on any one target”³⁷:

“This factor renders more difficult, the task of establishing and maintaining a satisfactory defence and security system. In any case, any arrangements introduced could only serve to reduce the freedom of action of the CTO and **could not obviate the risk of attack**.”³⁸

48. The Department of Air were also concerned about the attack by rockets and mortars that the JIO considered **quite likely**:

“81 and 82mn [sic] mortars are crew served weapons which are accurate and effective area weapons against area targets at maximum ranges of 4700 metres. An efficient crew can launch 8-10 bombs before the first impact. These mortars were used by NVA/VC forces in Vietnam against attractive targets such as parked aircraft and support facilities. 3.5 inch rockets are equally effective area weapons over shorter ranges of metres.”³⁹

49. The concern at the time over the CTO’s use of these weapons was summarised in a brief to DCAS:

³³ Ibid., para 51.

³⁴ Joint Intelligence Organisation, *JIO Briefing for Assistant Services Advisor, 207/3/26*, Def.382, 8 November 1971, para 4.

³⁵ Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975, para 52.

³⁶ Australia, Department of Air, *Brief for DCAS Concerning Security of Butterworth*, brief 564/8/28, 1975, para 1.

³⁷ Ibid., para 11.

³⁸ Ibid.

³⁹ Ibid., para 18.

“The problem posed to forces defending military installations from enemy mortar or rocket attacks relates directly to the [e]ase with which these weapons of **significant destructive power** and accuracy can be covertly brought to the target area and fired.”⁴⁰

50. Australian authorities were not only concerned about mortars but also other surprise attacks on ABB. The ANZUK Intelligence Group had a similar assessment of the vulnerabilities of ABB to the 1975 JIO report.⁴¹ It differed slightly on the expected form of attack, positing that sabotage was “...by far the most likely” method of attack but that attack by mortar “...would be likely if the CTs acquired a mortar capability”.⁴² The report assessed that:

“...advance warning of any form of attempted attack (other than by a large group of CTs which we assess as unlikely) would most probably not be received whether the attack were by CTs or members of subversive groups.”⁴³

51. In summary, it was considered **quite likely** that **weapons of significant destructive power and accuracy** would be used against ABB. There were **no special passive defence arrangements** to defend against such attacks. The **serious weaknesses in the defences** of ABB, including the ease of **covertly** approaching the base, increased the risk, making sabotage attacks **highly probable**. Even if these weaknesses were dealt with it would **not obviate the risk of attack**. Despite all this, Defence today maintain that there was “definitely no expectation of any casualties”.⁴⁴

Mitigations

52. Having identified the vulnerability of the base to the threat posed by the CTO and its capabilities, Australian authorities recommended steps to mitigate that risk as:

“To ignore the threat of attack is to risk an extremely high loss in terms of assets with attendant military ignominy, and in terms of political, psychological gains for the CTO.”⁴⁵

53. The primary mitigation taken was of course deployment of an Australian rifle company on rotation from Australia to assist the Malaysians in defence of the base. Other measures were also proposed that indicated the need to mitigate the risk of casualties. However, due to political expediencies, not all those proposals were implemented, leaving the risk of casualties at a higher level than was necessary.

54. In defending the base alongside Malaysian forces, RCB was exposed to the same threat from the CTO that Malaysian forces experienced:

⁴⁰ Ibid., para 19.

⁴¹ ANZUK Intelligence Group, *The Threat to Air Base Butterworth up to End of 1972*, ANZUK Intelligence Group Note No. 1/1971, 30 November 1971, para 62.

⁴² Ibid., para 58.

⁴³ Ibid., para 56.

⁴⁴ Robert, S., MP, Official Committee Hansard, House of Representatives Standing Committee on Petitions, *Petition on reclassification of service by the Rifle Company Butterworth 1970-89*, 29 October 2014.

⁴⁵ McNamara, N.P., *Butterworth Security*, 564/8/28, 14 October 1975, para 3.

“...it is unlikely that the CTO would try to discriminate between RAAF and RMAF targets, and Australian personnel and equipment would be endangered.”⁴⁶

55. The Department of Air identified the consequences of that endangerment:

“The first and obvious effects from rocket mortar and other forms of attack will be the damage to aircraft, equipment and facilities, and the **death and injury to personnel** including families and LECs.”⁴⁷

56. Following rocket attacks on Kuala Lumpur and Minden Barracks on Penang security precautions at the base were tightened:

“However, increased security within the base perimeter is no protection against rocket or mortar attacks and permits only response to rather than prevents sabotage group attacks initiated beyond the perimeter. Accordingly, improved ground defence and security arrangements are required.”⁴⁸

57. The Department of Air considered that:

“On-base ground defence arrangements are required to provide close defence of assets when attack is imminent and a specialist ground defence (or infantry) force capable of responding quickly to an attack, relieve an over-run position and counter attack any groups which occupy positions on the base.”⁴⁹

58. The Department also identified the need for:

“Passive defence arrangements to **mitigate the effects** of mortar, rocket and sabotage attacks...”⁵⁰

59. For aircraft and installations, such as fuel dumps, revetments were proposed as:

“The only real protection for aircraft against mortar and rockets is to provide hardened roofed over **revetments**...Open roofed revetments or dividing blast walls are reasonably effective against rockets, but less effective against the more accurate mortar.”⁵¹

60. At an estimated \$100,000 each,⁵² roofed over revetments were probably considered too expensive, however open roofed revetments *were* installed:

“Action has recently been taken to construct revetments to give some **protection** to the Australian aircraft at Butterworth **against attack**.”⁵³

⁴⁶ Dept of Defence, JIO, *The Security of Air Base Butterworth*, JIO Study No. 13/75, October 1975, para 45.

⁴⁷ Australia, Department of Air, *Brief for DCAS Concerning Security of Butterworth*, brief 564/8/28, 1975, para 12.

⁴⁸ *Ibid.*, para 15.

⁴⁹ *Ibid.*, para 16a.

⁵⁰ *Ibid.*, para 16.

⁵¹ *Ibid.*, para 25.

⁵² *Ibid.*

⁵³ Attached to: AUSTEO The RAAF Presence at Butterworth, Para 21, attached to Hamilton R.N, A/First Assistant Secretary Strategic and International Policy Division, *Review of Butterworth Deployment*, 22 October 1976.

1976, Reference: DEF 270/1/4. NAA 696/4/4/5 Pt 3.

61. For ADF personnel it was considered that:

“Personnel protection can be provided by simple shelters...It may be appropriate to provide some **blast protection shelters** near the aircraft lines and adjacent hangars.”⁵⁴

62. Although there were sand-bagged positions around the base that were used from time to time by RCB, it does not appear that dedicated blast protection shelters were constructed near the aircraft or hangars or elsewhere. The political reason for this is alluded to in the DCAS brief as such construction works could trigger repatriation demands by RAAF families and desertion by LECs as well as agitation at home for withdrawal from ABB.⁵⁵

63. Ultimately however, it was considered that in mitigating the effects of an attack on ABB:

“The most important requirement is to ensure that the base has adequate emergency response arrangements to **deal with casualties** and to recover from the effects of an attack.”⁵⁶

64. With the **quite likely** use of **weapons of significant destructive power and accuracy** against ABB it was considered necessary to **mitigate the effects** and provide **protection against attack**. It was considered that **revetments** were necessary for aircraft and installations and **blast protection shelters** for personnel. But an adequate response to **deal with casualties** and recover was considered most essential.

Conclusion

65. The CTO was assessed as having a **formidable capacity** for **large scale sabotage operations** and their ubiquitous use of mines and booby traps had caused Malaysian forces **relatively heavy casualties**. The use of mortars and rockets, with their **significant destructive power**, against ABB was assessed as being **quite likely**.

66. Set against this, ABB was considered to have **serious weaknesses in the defences** that could only enhance the ability of the CTO to cause serious damage to the Base and personnel. This was of special concern as **no special passive defence arrangements** were in place to **mitigate the effects** of attacks. But it was considered that the ability to **deal with casualties** and recover from an attack was the most essential mitigation.

67. The measures taken or proposed to meet the threats to the base, including **revetments** and **blast protection shelters** and, importantly, an armed quick reaction force ready at a moment's notice to engage enemy intruders and eliminate the threat, meant that the danger of casualties was clearly forecast.

Raymond Fulcher
Chair Rifle Company Butterworth Review Group

23 January 2023

⁵⁴ Australia, Department of Air, *Brief for DCAS Concerning Security of Butterworth*, brief 564/8/28, 1975, para 26.

⁵⁵ *Ibid.*, paras 12 & 13.

⁵⁶ *Ibid.*, para 27.

Question to RCBRG from the Tribunal.

“As foreshadowed in discussion at the hearing, the panel would appreciate receiving from you, by 31 January 2023, anything further that you wish to say in relation to the degree of likelihood of casualties arising from RCB service, and in particular copies of any contemporaneous evidence documenting the official rating of that likelihood”.¹

Purpose

1. This paper provides further information of relevance to determining the likelihood of casualties, which necessarily requires an understanding of the interrelationship between Army doctrine of relevance to the employment of an Infantry Rifle Company, the nature of the threat to Air Base Butterworth (ABB) and the tasks allocated in the Shared Plan for the defence of ABB and aspects of that plan which addressed the management of casualties.

Background

2. Chronology Leading to the Deployment of RCB:
 - 9 August 1965: Singapore separates from Malaysia.
 - 16 January 1968: UK announces it will withdraw its forces from Malaysia and Singapore by 31 Mar 1971.
 - 17 June 1968: Communist Insurgency in Malaysia commences (AKA Second Emergency).
 - 1 November 1970: C Company 1 RAR deploys to ABB as the first RCB.
 - 11 February 1971: Integrated Air Defence System (IADS) was established. Led by Australia and based at ABB with Australia providing two fighter squadrons.
 - March 1971: Australian High Commission flagged concerns to DFAT and Defence about the potential threat of CT attack on ABB.
 - 16 April 1971: Five Power Defence Agreement (FPDA) signed.
 - 8 September 1971: Operations Order No 1/71 from OC RAAF Base Butterworth and Shared Defence Plan.
 - 1 November 1971: Exchange of Notes between Australia, Malaysia and Singapore regarding defence from external threats.
 - 2 December 1972: Whitlam Government elected on a platform of withdrawing all ground combat troops from SE Asia and the change of AS defence strategy from forward defence to Fortress Australia.
 - 11 January 1973: Defence Committee acknowledges the Government intends to withdraw the infantry battalion then based In Singapore, which had been providing a rifle company for security duties at ABB and when the battalion was withdrawn a rifle company (RCB) would rotate every three months from Australia. Defence Committee Minute 2/1973 *“...security duties at Butterworth ... could be presented publicly as being for training purposes.”*²
 - 28 June 1973: COSC agrees the primary task of RCB will be the protection of the airbase.
 - 30 April 1975: Saigon falls, and the Vietnam war ends. CTO in Malaysia are now provided with support from Vietnam.

¹ DHAAT letter to RCBRG, dated 25 November 2022.

² Defence Committee Minute 2/1973, para. 28(e)

Army Doctrine

3. The doctrine relevant to the role and tasks of an Infantry Rifle Company is addressed below. This doctrine underpins the operational employment of a rifle company and was applicable throughout the deployment of RCB.

‘The Role of an Infantry Rifle Company’

The role of an infantry rifle company is the same as an infantry battalion; to seek out and close with the enemy, to kill or capture him, to seize and hold ground and to repel attack by day or night regardless of season weather or terrain”.³

One of the purposes of defensive operations undertaken by the infantry is “to deny the enemy access to a vital area”.⁴

One of the tasks of an Infantry Rifle Company when conducting defensive operations is “to operate as a counter penetration or counter attack force”.⁵

4. The nature of the tasks undertaken by RCB as part of the Shared Plan for the Defence of ABB were articulated in a series of directives by the Officer Commanding RAAF Base Butterworth to the Officer Commanding RCB. One of those directives⁶ stated:
- Command: “You are under my operational command in all matters concerning security duties for the protection of Australian assets, property and personnel at Airbase Butterworth”.⁷
 - Tasks: “Your company is to be capable of conducting the following tasks in relation to security duties at Airbase Butterworth and training in these tasks is to be completed to my satisfaction before the company participates in other exercises:
 - a. cordon and search;
 - b. internal base patrolling;
 - c. protection of RAAF Service Police/SSP at established road blocks;
 - d. protection of Key Points;
 - e. crowd dispersal;
 - f. providing a quick reaction force (QRF) of section strength (on immediate standby on a 24 hour a day basis);
 - g. providing a reserve force to be activated on deployment of the QRF;
 - h. operating mobile tactical lights on likely penetration points;
 - i. manning of listening posts and standing patrols by night, including the use of image intensifiers; and
 - j. operating Tobias Intruder Detection Equipment”.⁸

³ Infantry Training, Volume 4, Part 1, The Battalion, 1967, p.68, para 1.

⁴ Op cit. , p. 201, sub para 2.b.

⁵ Op cit. , p. 68, sub para 5.e.

⁶ Directive by the Officer Commanding RAAF to Officer Commanding Australian Rifle Company Butterworth, 4 April 1978.

⁷ Op cit., para 2.

⁸ Op cit., para 3.

Assessing the Likelihood of Casualties

5. During the period 1970 to 1989, the methodology used in the Army for the planning for and conduct of operations was the Military Appreciation Process (MAP).
6. The MAP is a logical process of reasoning designed to produce an operational plan for the employment of forces and takes into account a range of factors, including, but not limited to:
 - The enemy, including the forces and weapons available to the enemy and tactics they are likely to use.
 - The tasks allocated by the superior commander.
 - The operating environment.
 - Where the task undertaken involves the defence of a facility, the likely approaches the enemy may be expected to use.

It is important to note that during the period 1970 to 1989 when the MAP was used, the risk, likelihood and quantifying of casualties were NOT specifically assessed.

Arrangements for managing casualties were addressed in commander's orders and instructions for the operation.

Comment:

- The process of using the MAP is now part of the Joint Military Appreciation Process (JMAP) which was introduced subsequent to the period 1970 to 1989 and is now used when planning for and conducting military operations.⁹

The JMAP

7. In addition to considering factors that were formerly considered when using the MAP, the JMAP includes an Operational Risk Management process (ORM) based on the Australian/New Zealand Standard AS/NZS 31000:2018 Risk Management – Guidelines.¹⁰
8. To address the Tribunal's question about the degree of likelihood of casualties arising from RCB service, the RCBRG has undertaken a risk assessment using the ORM.
9. The risk assessment has been informed by primary source documents discovered by the RCBRG from the National Archives of Australia, particularly contemporaneous threat-related intelligence assessments about CT attacks, weapons and tactics, reports from diplomatic and military sources, orders, instructions, plans and other relevant information in submissions to the Tribunal.¹¹

The Threat

10. Contemporaneous documents, including JIO threat assessments, were clear as to the CT threat, their capabilities (weapons, personnel and training) and how the threat of attack

⁹ Australian Defence Force Publication 5.0.1, ed. 2, AL3., 15 August 2019.

¹⁰ Ibid, Annex 1C.

¹¹ Submission 66 provided a USB with relevant primary source documents.

on ABB might be undertaken; including designating likely approaches the CTs might be expected to use in an attack on the airbase.¹²

11. In addressing the threat of attack on ABB the JIO stated, "*There is a potential threat to the Base from the CTO and related communist subversive organisations*".¹³
12. JIO further assessed "*...it is unlikely that the CTO would try to discriminate between RAAF and RMAF targets, and Australian personnel and equipment would be endangered*."¹⁴
13. The tasks allocated to RCB as part of the Shared Plan for the defence of ABB were clearly framed to facilitate a response to specific intelligence concerning the threat of CT action to RAAF assets, personnel and families. Other intelligence about CT attacks in close proximity to the airbase, particularly at Penang and in Kedah, also influenced the tasks allocated to RCB.
14. The relevance of the number and nature of CT attacks and incidents, particularly those in proximity to ABB, should not be understated.¹⁵
15. Of relevance were:
 - The assessed threat of attack by CTs on the airbase over the period in question.
 - The nature of the attacks undertaken by the CTs throughout Penang and Kedah and in close proximity to the airbase.
 - The number and nature of casualties inflicted by CT attacks on Malaysian Armed Forces.
 - The support provided by China to the CTs with arms, ammunition, mines and training until the rapprochement of the USA in 1973.
 - From 1973 support was provided by the North Vietnamese Army, including, arms, ammunition, mines and training in tactics used successfully in the Vietnam war.
 - The increasingly sophisticated weapons available to the CTs and their demonstrated willingness to use them in their attacks on other targets in Malaysia, including other airbases.
 - The weapons, which included mortars, rocket launchers, land mines and grenades, gave the CTs the capability to inflict multiple casualties.
16. Further information relating to the CT threat and the defensive measures taken to mitigate the risk of casualties are addressed in Annex A.

Outcomes of the Risk Assessment

17. As the Tribunal's question is focused on the likelihood of casualties to RCB personnel the RCBRG risk assessment has assessed the risks to personnel by addressing:
 - The likelihood of the risk of a CT attack on ABB;
 - The consequences of a CT attack in terms of casualties; and
 - Identification of the overall level of risk of casualties.

¹² Joint Intelligence Organisation, The Security of Air Base Butterworth, JIO Study No. 13/75, dated Oct 1975, Annex F.

¹³ Ibid., sub para, 56 (b).

¹⁴ Ibid., para.45.

¹⁵ These attacks and incidents are documented in detail in Submission 066.

Summary of Outcomes

18. The following is a summary of the outcomes of the risk assessment in the Risk Matrix at Annex B:

- The likelihood of the risk of a CT attack on ABB: **Probable.**
- The consequences of a CT attack in terms of casualties: **Catastrophic.**
- Identification of the overall level of risk of casualties: **Very High.**

Expert review of RCBRG Risk Assessment

19. The RCBRG submitted this paper and the accompanying risk assessment to a nationally accredited risk management consultant to review.

20. In summary, the consultant concluded:

- The rationale and reasons stated for the RCBRG approach to assessing the likelihood of casualties were logical and appropriate.
- The JMAP Operational Risk Management process had been used correctly and conforms to the Australian/New Zealand Standard AS/NZS 31000:2018 Risk Management – Guidelines.
- The outcomes of the RCBRG risk assessment are credible and consider threat-related intelligence that informed the employment of RCB personnel at ABB in the defence of the airbase.

21. A copy of the consultant's report is attached at Annex C.

Casualty Planning

22. Consideration of the arrangements for casualty planning at ABB should also take into account the context of the expectation of casualties.

23. In the event of an attack, the CTs had the capability to inflict mass casualties. This is supported by the intelligence assessments of previous attacks. It was likely that lethal force would be used by the CT and that RMAF, RAAF and RCB personnel defending the airbase would be casualties. In response to this threat RMAF, RAAF and RCB personnel, on a daily basis, carried weapons and live ammunition and had ROE that permitted them to use lethal force in response to an attack or incursion. In the event of an attack, casualties would be expected on both sides, although the nature and extent of the casualties would not be clear until the battle for the defence of the airbase had been concluded.

24. Measures to support the Shared Plan for the Defence of AAB included the allocation of medical resources to facilitate immediate life-saving first aid for casualties and measures to permit evacuation of casualties for treatment at other locations, including to 4 RAAF Hospital located at ABB.

RCB Medical Resources

25. The medical resources available to most RCB deployments were:

- Each of the three Rifle Platoons in RCB had a trained medical assistant. This was not normal peacetime practice at the time when only a medic at company level was allocated.
- The RCB Headquarters had two Medics from Sep 73 onwards and an ambulance was consistently on call to transport casualties to the RAAF hospital at the airbase. At times the ambulance was positioned in the RCB lines.
- A supply of body bags and coffins was on hand. See Statutory Declaration attached.
- Submission 084 is particularly relevant as the author was a Medical Assistant when deployed as a member of RCB from Nov 1975 to March 1976. He states: "*Soon after arrival at Butterworth I/we were subjected to an intelligence briefing stating there had been communist terrorist activity in Alor Star and Penang and that I should be prepared for treating blast injuries as rocket/mortar attack was very possible if not likely*".¹⁶

Comments:

- Prior to deployment from Australia, all personnel were trained or received refresher training in battlefield first-aid and were issued as part of their DP1 equipment first-field dressings which were carried by all ranks to deal with gunshot and fragmentation wounds and each Section of 10 men carried a medical kit.
- The provision of an on-call ambulance and the holding of body bags and coffins were a clear acknowledgement of the potential for casualties to occur in the event that RCB was attacked when taking part in the defence of ABB, including if the QRF was activated.
- Infantry doctrine provides for orders for all operations undertaken by a rifle company to include arrangements for the collection and evacuation of casualties.
- RCB medical plans were integrated with the overall medical plan for the Shared Defence Plan for the airbase.

Shared Defence Plan - Medical Arrangements

26. The plan for the Shared Defence of ABB required the CO No. 4 RAAF Hospital at the airbase to implement a medical plan to meet shared defence situations particularly when security level Amber (ALERT) was activated, "*when it (was) known that a shared defence situation at ABB was imminent*".¹⁷

27. The Shared Defence Plan stated inter alia:

"1. CO No 4 RAAF Hospital will implement a satisfactory medical plan within the restrictions imposed by curfews etc. He will:

(a) Prepare in advance a broad medical plan to meet shared defence situations;

(d) On declaration of Security Amber appoint an officer responsible for close liaison with the Duty Controller GDOC.

(1) The activation or modification of a Medical Plan which meets the current restrictions in force and is coordinated within the overall GDOC plan".

"2. First-Aid Requirements. On declaration of Security Red No 4 RAAF Hospital will:

a. Issue a first-aid kit to each defence headquarters;

¹⁶ Submission 84.

¹⁷ Shared Defence of Air Base Butterworth, Operations Order No. 1/71, dated 8 September 1971, subparagraph 3.b.

b. have a first-aid team on immediate call to move on GDOC direction by vehicle or helicopter".¹⁸

Comment:

- RCB personnel also regularly practised casualty evacuation at ABB, including by helicopter - see Fig. 7 at Appendix 2 to Annex A.

Conclusion

26. JIO threat assessments and other contemporaneous intelligence assessed that ABB was a potential target for attack by the CTs and that the CTs, as hostile forces, had the capability (personnel, weapons and training) to cause harm to RAAF and RCB personnel.
27. RAAF and RCB personnel had a clear mission to defend ABB. This was a military objective, which OC RAAF Base Butterworth communicated in the plan for the Shared Defence of ABB. This military objective is confirmed by contemporaneous evidence, including documents initiated at the strategic level.¹⁹
28. RCB personnel were tasked to undertake patrols by day and night and to provide a QRF to respond to CT attacks and incursions.
29. As a consequence, RAAF and RCB personnel were exposed to the risk of physical and psychological harm. The concerns of Government and Defence officials about the risk to the safety of ADF personnel at ABB are acknowledged in contemporaneous documents, which show that the Prime Minister, Ministers, Secretaries of the Departments of Foreign Affairs and Defence, the Service Chiefs and other senior officers and officials had been briefed on the CT threat to ABB, were aware of the consequent risks to the safety of Australian defence personnel and families and concurred with and/or directed the implementation of measures at ABB to mitigate the risk of harm. In the context of RCB, those measures included the deployment of RCB and orders for the conduct of specific security training for RCB personnel, the issuing of live ammunition and the provision of ROE that permitted the use of lethal force.
30. Contemporaneous evidence also reflects that in the event of an attack, there was an expectation of casualties to MAF, RCB and RAAF personnel, and potentially RAAF families. The measures implemented for the defence of ABB, coupled with the medical arrangements to support the Shared Plan for the defence of ABB, medical resources provided to RCB, medical training given to RCB personnel and arrangements for the evacuation and treatment of casualties, reflect that expectation.
31. The existence of the threat to ABB and the risk of casualties is also apparent from submissions to the Tribunal.

Annexes:

- A. Threat - Related Intelligence
- B. Risk Assessment
- C. Expert Review of RCB Risk Assessment

¹⁸ Op. cit, Annex B. Appendix 4.

¹⁹ Joint Planning Committee, Minute 16/70, Annex A, Guidelines for the Ground Defence of Service Installations Malaysia/Singapore, dated 4 Aug 1970.

Attachment:

1. Statutory Declaration by Mr Glen Rowe

Submission prepared on behalf of the RCBRG by Graeme Mickelberg, RCB Platoon Commander, B Company 2/4 RAR, deployed Aug to Oct 1975.

Form 1
QUEENSLAND
Oaths Act 1867

STATUTORY DECLARATION

I, [insert full name], of [insert address], do solemnly and sincerely declare that:

1. Glen Arthur Rowe
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]

and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the *Oaths Act 1867*.

I, Glen Arthur Rowe state that whilst deployed to Butterworth Rifle Company with the Second Fourth Battalion Bravo Company as Private soldier 57370 between the following dates, 2nd of September 1975 to the 29th of November 1975 as per records attached.

I went to RAAF main Quartermasters Store at Butterworth Air Base, and I entered the open doors to the, with the purpose of getting packing material to cover a camphor chest I had purchased to be returned to Australia.

While looking for personnel to assist me, I saw approximately six empty basic plain coffins stacked upon each other. A corporal approached me while staring at the coffins, and said. "That's nothing, look over there and see what we have stored!"

I walked over to where he had pointed. There were many body bags bundled together. There was a loose body bag on top of the pile and the Corporal demonstrated to me the zip working sliding up and down.

As to how many body bags I don't know with accuracy but certainly no less than a hundred I would estimate from the packaging

I declare that the contents of this statutory declaration are true and correct. Where the contents of this declaration are based on information and belief, the contents are true to the best of my knowledge and I have stated the source of that information and grounds for the belief.

I understand that it is a criminal offence to provide a false matter in a declaration, for example, the offence of perjury under section 123 of the Criminal Code.

I state that:

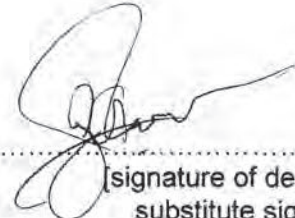
A. This declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867*.^{*1}

(*delete whichever statements are not applicable)



DECLARED by

Glen Arthur Rowe
.....
[insert full name of declarant]


.....
[signature of declarant / substitute signatory*]

at Townsville
[insert place where declarant is located]

Twenty Seventh day of
November 2022
[date]

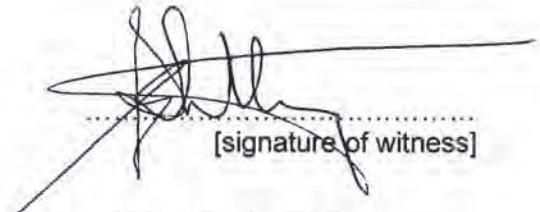
Signed for and at the direction of the
declarant by*

.....
[insert full name of substitute signatory]*

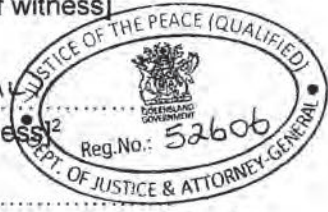
**delete if not applicable*

In the presence of:

GREGORY BRETT WHEATLEY
.....
[insert full name of witness]


.....
[signature of witness]

J.P. (QUALIFIED)
.....
[insert type of witness]²



27-11-2022
.....
[date]

.....
[insert name of law practice / witness's
place of employment]*³
**delete if not applicable*

For special witnesses to complete – Tick as applicable

- I am a **special witness** under the *Oaths Act 1867*.
(see section 12 of the *Oaths Act 1867*)
- This document was made in the form of an electronic document.⁴
- I electronically signed this document.⁵
- This statutory declaration was made, signed and witnessed under part 6A of the *Oaths Act 1867* – I understand the requirements for witnessing a document by audio visual link and have complied with those requirements.⁶

**** IMPORTANT NOTE ****

**PLEASE COMPLETE THE NEXT PAGE TITLED
"HOW THIS DOCUMENT WAS MADE".
PLEASE ATTACH THIS PAGE TO YOUR STATUTORY DECLARATION.**

HOW THIS DOCUMENT WAS MADE

Please attach this page to your statutory declaration

NOTE: FAILURE TO COMPLETE THIS TABLE DOES NOT INVALIDATE THE DOCUMENT

The signatory (declarant) or substitute signatory must complete this section

SIGNATORY / SUBSTITUTE SIGNATORY to complete	
Who signed this declaration?	
<input checked="" type="checkbox"/>	the signatory (declarant)
<input type="checkbox"/>	a substitute signatory
How did the signatory/substitute signatory sign?	
<input checked="" type="checkbox"/>	on paper
<input type="checkbox"/>	electronically
How was this declaration witnessed?	
<input checked="" type="checkbox"/>	in person
<input type="checkbox"/>	over audio visual link

The witness must complete this section

WITNESS to complete	
How did you (the witness) sign this document?	
<input checked="" type="checkbox"/>	on paper
<input type="checkbox"/>	electronically
What document did you (the witness) sign?	
<input checked="" type="checkbox"/>	The same physical (paper) document that was signed in the presence of the signatory/substitute signatory
<input type="checkbox"/>	A copy of the document that was signed by the signatory/substitute signatory (e.g a scanned copy of a paper signed document, a photocopy or printout)
<input type="checkbox"/>	A counterpart of the document (a copy of the document without the signature of the signatory/substitute signatory)
What form of document did you (the witness) sign?	
<input checked="" type="checkbox"/>	paper
<input type="checkbox"/>	electronic (tick this if you electronically signed the document or if you physically signed a copy of the document signed by the signatory/substitute signatory and then sent a scanned copy of that document to the signatory or other person)
How was the substitute signatory directed to sign (if applicable)?	
<input checked="" type="checkbox"/>	in person by the signatory
<input type="checkbox"/>	over audio visual link by the signatory

THREAT-RELATED INTELLIGENCE

1. Primary source documents included in the RCBRG submission show that Australian and Malaysian intelligence agencies were well aware of the threat of attack posed by CTs to the airbase. Further, it is clear that threat-related intelligence had been communicated to the highest levels of the Australian Government and Defence via both diplomatic and defence sources at the Australian High Commission in Kuala Lumpur and from the OC RAAF Base Butterworth.
2. A report of an assessment of the security threat to ABB addressed the potential for locally employed civilians (LEC) and contractors to contribute to acts of sabotage by LEC at ABB to damage Vital Points and injure personnel by using explosive devices or booby traps.¹
3. Briefings by the RAAF security staff at ABB were very specific as to the nature of terrorist attacks on the locations in proximity to the airbase and it was made very clear to all ranks they were exposed to objective danger. Sightings, incidents and armed contacts with CTs did occur in close proximity to ABB. Evidence of this can be seen in a map attached as Appendix 1. The map has been prepared using data from a JIO 1975 study of the security of ABB that included information collected for the period July 1974 to August 1975.²
4. Malaysian Security Force and CT casualties during the period 1969 – 1989 are documented in Appendix 2. The data reflects widespread attacks with casualties occurring right up to 1989.³
5. Evidence provided in submissions to the Tribunal reflects that in the week prior to Christmas 1975, RCB personnel were tasked to deploy outside the airbase perimeter in support of RAAF Police and RAAF Police dogs and their handlers to search an area on the approaches to a nearby kampong (village). Further evidence in submissions to the Tribunal reflects that in early 1976 the airbase was placed on a heightened degree of security alert. This resulted in RCB, which at that time was provided by D Company 6 RAR, being tasked to deploy forces at locations inside the perimeter to dominate approaches the terrorists were considered likely to use when mounting an attack. The Officer Commanding RCB activated the RCB Operations Room, ordered his forces to deploy to locations inside the perimeter, to prepare and defend sandbagged strongpoints and conduct increased patrolling of designated vital points.⁴ The airbase Ground Defence Operations Centre (GDOC) was activated throughout this period of heightened security and RCB Platoon Commanders were rostered as liaison officers at the GDOC.⁵ Other security reports in the RCBRG database indicate activations before and after this time.
6. Further evidence of heightened levels of security has been provided in submissions to the Tribunal. Changes to Alert levels were in response to intelligence. A submission by a former RAAF Ground Defence Officer at ABB states that during his posting to ABB, due to CT activity to the North of the airbase, ABB was on heightened levels of security in

¹ HQ ABB Report, Counter Measures to Security Threat to ABB, Until End 1972, dated 24 December 1971, sub para 14.c.(4).

² JIO Study 13/75, The Security of Air Base Butterworth, Annex E, dated Oct 1975.

³ The Malaysian Army's Battle against Communist Insurgency in Peninsular Malaysia 1968- 1989. Army Headquarters, Ministry of Defence, Kuala Lumpur, 2001.

⁴ Submissions 53, 89 and 112 refer

⁵ Op cit.

September 1977, October 1977, November 1977, April 1978, June 1978, July 1978 and September 1978.⁶

7. The briefings RCB received before deployment and subsequently on arriving at Butterworth by RAAF intelligence staff were clear as to the nature and extent of the threat. Those briefings, which were updated regularly with fresh intelligence about terrorist attacks, were explicit as to the nature and number of casualties being inflicted by the terrorists.⁷ Further, RCB personnel were aware the airbase was being used as a forward mounting base for attacks by MAF fighter bombers and helicopters to insert Malaysian Security Forces against the terrorists. RCB personnel were regularly reminded by media reporting of terrorist attacks and saw RMAF helicopters bringing wounded and dead soldiers back to the airbase and witnessed ground crew cleaning blood from the floor of helicopters.

A Plan for the Protection of RAAF Families.

8. It is also clear there was an awareness of the threat posed by a CT attack to the safety of Australian defence personnel, RAAF families and to Australian civilians. Primary source documents clearly show that responsible Ministers, the Service Chiefs and Australian High Commission staff in Kuala Lumpur were very aware of the hostile threat posed by the CTs and the consequent implications for the safety of Australian defence personnel, their families and RCB personnel. A plan for the protection of RAAF families was released by OC RAAF Base Butterworth.⁸

Contemporaneous Evidence of Measures to Mitigate the Risk of Attack.

9. Measures implemented to defend ABB and to mitigate the risks of an attack are documented in primary source documents and in submissions to the Tribunal. These measures included having a QRF armed and equipped with live ammunition, issuing ROE that permitted the use of lethal force, day and night patrolling of the perimeter by the QRF, the manning of observation posts, vehicle check points and the construction of sandbagged bunkers on key approaches to the airbase.
10. Further evidence is contained in Statutory Declarations provided by Mr. Peter Stapleton and Mr. William Campbell, who served with RCB from September to December 1979. Their evidence confirms that defensive positions were constructed by RCB as part of the overall plan for the defence of ABB. These measures included sandbagged strongpoints manned by RCB personnel and vehicle checkpoints manned by RCB and MAF personnel. The strongpoints were equipped with General Purpose Machine Guns (GPMG) with live ammunition. The Statutory Declarations, which are Attachments 1 and 2, refer to photographs of a sandbagged strongpoint, a vehicle checkpoint and the issuing of 7.62mm link belt ball ammunition for the GPMG. These photographs, taken at the time when Mr. Stapleton and Mr. Campbell deployed to AAB as RCB members, are at Fig.4, Fig. 5 and Fig. 6 of Appendix 3. Submissions to the Tribunal also provide an insight to defensive measures constructed to protect ABB from the threat of attack during periods of heightened security threat.⁹
11. Submissions to the Tribunal by persons who served with the RAAF and RCB at the airbase, including those made by persons who served in command roles, reflect there was a real risk of attack on the airbase which would have required RCB and RAAF

⁶ Submission 093.

⁷ Submission 115, p. 3., paragraph 2, refers.

⁸ HQ RAAF Butterworth OPOD 2/72, RAAF Families Protection Plan, dated 8 May 1972.

⁹ Submissions 53, 89 and 112 refer.

personnel to respond to an attack and as a consequence there was a risk of RAAF and RCB casualties.

12. Submission 115 provides a very clear summary of the threat posed by the CTs to ABB:

*"I was left in no doubt that the CT did pose a real threat to RAAF Base Butterworth; the threat did not include a large-scale attack, rather smaller acts of interdiction and terror aimed at interrupting airbase operations..... through off-base direct and indirect fire weapons, or penetration of the base defences by small groups to attack vital points e.g., aircraft, fuel, ammunition/bomb storage, aircrew, aircraft maintenance facilities, personnel quarters, navigational aids, command posts, etc."*¹⁰

13. The submitter was posted as the Ground Defence Officer at ABB for two years from 1979 to 1981.

Attachments:

1. Statutory Declaration by Mr. Peter Stapleton
2. Statutory Declaration by Mr. William Campbell

Appendices:

1. Map of CT attacks in the Penang and Kedah areas.
2. Malaysian Security Force and CT Casualties during the period 1969 – 1989.
3. Measures to mitigate the threat of CT attack.

¹⁰ Ibid., pp.2 and 3.

Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

1 Insert the name, address and occupation of person making the declaration

I, Peter Bruce Stapleton, retired, of [REDACTED]

make the following declaration under the *Statutory Declarations Act 1959*:

2 Set out matter declared to in numbered paragraphs

I was a Section Commander in 10 Platoon, D Company 5/7RAR and I served at Rifle Company Butterworth from 03/09/1979 to 03/12/1979.

I took the attached photos in approximately October or November 1979:

No. 1 – Private Bill Campbell standing in a weapons pit. Sighted there was a General Purpose Machine Gun (M60) mounted on a tripod. During the day there were 200 rounds of 7:62 ball ammunition in the pit, at night the weapon was in the action state with ammunition loaded and ready to fire.

No. 2 - Is a vehicle check point on the airbase near the flight line. The Australian and Malaysian soldiers manning the checkpoint were carrying 3 magazines of ball ammunition in their pouches.

To the best of my knowledge there were other pits along the runway

The reason we were given for the weapon pits being dug and the vehicle check points being manned was in support of the Malaysian Military, in an operation against the CTs in response to a likely attack on the Airbase.

The RMAF were on high alert flying in and out during daytime. There was an RMAF helicopter that returned with Malaysian casualties and the aircraft had been shot up.

On a return trip I was shown a map of the airbase and the area around it, which showed three CT positions. This in my mind was operational service.

3 Signature of person making the declaration

3 

4 [Optional: email address and/or telephone number of person making the declaration]

4

5 Place
6 Day
7 Month and year

Declared at ⁵ [REDACTED]

on ⁶

at ⁷ 9th of January 2023

8 Signature of person before whom the declaration is made (see over)

8

Before me, 


9 Full name, qualification and address of person before whom the declaration is made (in printed letters)

9

Amanda Jane Cantamessa
Justice of Peace (Mag Court)
[REDACTED]

10 [Optional: email address and/or telephone number of person before whom the declaration is made]

10

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

Photo 1:



Photo 2:



Commonwealth of Australia
STATUTORY DECLARATION
Statutory Declarations Act 1959

1 *Insert the name, address and occupation of person making the declaration*

I, William Campbell,

make the following declaration under the *Statutory Declarations Act 1959*:

2 *Set out matter declared to in numbered paragraphs*

I was a Machine Gunner in 10 Platoon, D Company 5/7RAR and I served at Rifle Company Butterworth from 03/09/1979 to 03/12/1979.

I am the soldier in the attached photograph taken in approximately October or November 1979:

I am standing in a weapons pit with a General Purpose Machine Gun (M60) mounted on a tripod. During the day there were 200 rounds of 7:62 ball ammunition in the pit, and at night the weapon was in the action state with ammunition loaded and ready to fire.

The reason we were given for the weapon pits being dug and being manned was to support the Malaysian Military, in an operation against the CTs in response to a likely attack on the Airbase.

The RMAF were on high alert flying in and out during the daytime. An RMAF helicopter returned with Malaysian casualties and the aircraft had been shot up.

This in my mind was operational service.


3 *Signature of person making the declaration*

3 


4 *[Optional: email address and/or telephone number of person making the declaration]*

4

5 *Place*
6 *Day*
7 *Month and year*

Declared at 

on ⁶ 10th of ⁷ January 2023.

Before me, 

8 *Signature of person before whom the declaration is made (see over)*

8 



9 *Full name, qualification and address of person before whom the declaration is made (in printed letters)*

9

Danielle Jane Punter
JP (Qual)

10 *[Optional: email address and/or telephone number of person before whom the declaration is made]*

10

Note 1 A person who intentionally makes a false statement in a statutory declaration is guilty of an offence, the punishment for which is imprisonment for a term of 4 years — see section 11 of the *Statutory Declarations Act 1959*.

Note 2 Chapter 2 of the *Criminal Code* applies to all offences against the *Statutory Declarations Act 1959* — see section 5A of the *Statutory Declarations Act 1959*.

Attachment:



William [Signature]

witnessed 10.1.23

[Signature]


Danielle Jane Punter

J.P.(qual)



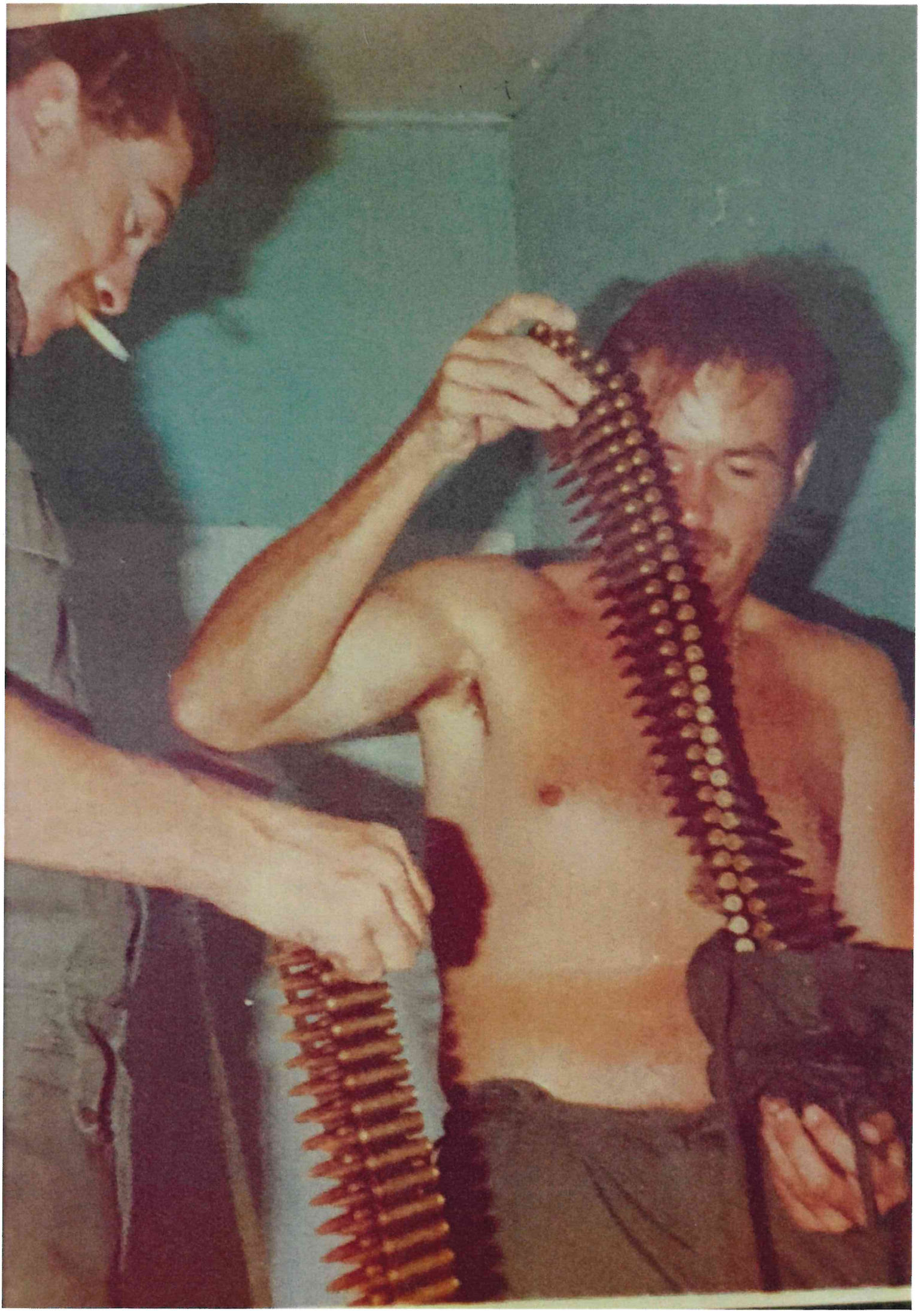
I took this photo in late 1979 in
the QRF room. It shows CPL P
Stapleton issuing PTE Stan We
ball and trace for the GPMG 60



Witnessed
10.1.23.


Danielle Jane Punter
JP (Qual)







Alor Setar
 Contact during follow-up operations.

Terrorist ambush: 13 killed, 22 wounded.

Rockets, then shots, fired into Local Defence Corps base.

Between 50 and 60 terrorists ambushed convoy. 7 Security Forces killed 10 wounded.

Contact with terrorist. No casualties.

Contact: 8 Security Forces personnel wounded, 3 civilians killed. Terrorist casualties not known.

Sungai Patani

Air Base Butterworth (ABB)

Security forces sentry opened fire on two terrorists (no casualties).

PFF (Police Field Force) in contact with three terrorists - two killed, one wounded. Security Forces - one wounded.

25 Armed terrorists sighted.

Contact made: one Security Force personnel killed. Terrorist casualties not known. Terrorists withdrew south.

Terrorists ambushed police Landrover; three police and three civilians injured.

RELA (Malaysia Volunteer Corps) unit had contact with two terrorists.

Communist Insurgency in Malaysia
Contacts and Incidents: July 1974 – August 1975
 Scale: 1:250,000 @ A2

Contact and incident data sourced from Annex E to JIO Study no.13/75 issued October 1975.

Legend					
★	Contact	⊙	Cache	⊙	Terrorist Rest area or camp
Ⓜ	Major - Armed terrorist sighting	Ⓜ	Indirect attack	Ⓜ	Terrorist sighting
Ⓜ	Major - Terrorist sighting	Ⓜ	Information operations	Ⓜ	Wounded - Friendly
Ⓜ	Armed terrorist sighting	Ⓜ	Murder	Ⓜ	Wounded - Terrorist

Service Layer Credits: Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community

Malaysian Security Force and CT Casualties 1969 – 1989

Year	CT DESTROYED				SF CASUALTIES			ACTIVITIES						
	Killed	Captured	Surrendered	Total	Killed	Wounded	Total	Clashes	Incidents	Movements	FINDINGS			
											Camps	Resting Places	Food Dumps	Total
1969	-	-	1	1	6	22	28	-	5	83	-	18	-	18
1970	9	2	5	16	13	28	41	11	18	192	6	25	2	33
1971	9	1	3	13	9	35	44	17	13	316	7	46	12	65
1972	1	1	2	4	4	17	21	8	11	18	14	34	37	85
1973	8	-	1	9	4	19	23	16	22	181	17	50	76	143
1974	41	8	10	59	3	38	41	34	63	377	25	86	48	159
1975	7	1	5	13	33	150	183	22	76	323	34	117	35	186
1976	16	10	19	45	3	6	9	41	168	571	25	83	53	161
1977	23	28	27	78	13	85	98	31	35	285	17	58	32	107
1978	15	5	8	28	14	124	138	60	116	396	89	84	36	209
1979	26	7	9	42	15	80	95	54	64	449	58	102	52	212
1980	17	-	1	18	12	27	39	36	33	362	53	81	32	166
1981	6	3	18	27	9	34	43	16	32	314	18	28	11	57
1982	4	-	1	5	2	38	40	36	42	249	19	32	9	60
1983	10	-	3	13	5	23	28	15	34	171	22	43	20	85
1984	5	-	1	6	5	40	45	18	32	105	18	36	11	66
1985	-	-	-	-	3	23	26	3	14	142	18	45	10	73
1986	6	-	2	8	1	28	29	9	3	136	38	56	68	162
1987	7	2	-	9	1	28	29	10	6	35	40	73	40	153
1988	2	82	1	85	-	8	8	2	7	55	12	34	13	59
1989	-	-	-	-	-	1	-	-	2	8	10	21	4	35
Total	212	150	117	479	155	854	1009	439	796	4768	540	1152	601	2293

■ Figure 4.42: Statistics of Operational Achievement in Peninsular Malaysia from 1969 until 1989.
Source : National Security Council.

Source: *The Malaysian Army's Battle against Communist Insurgency in Peninsular Malaysia 1968-1989*. Army Headquarters, Ministry of Defence, Kuala Lumpur, 2001

MEASURES TO MITIGATE THE RISK OF CASUALTIES

Fig 1: RCB QRF leaving for a day light patrol of ABB perimeter. Carrying link ball ammo, 84 mm Carl Gustaf and 66mm light anti-armour weapons.



Fig 2: RCB QRF Section night time call-out with 7.62mm belt link ball ammo.

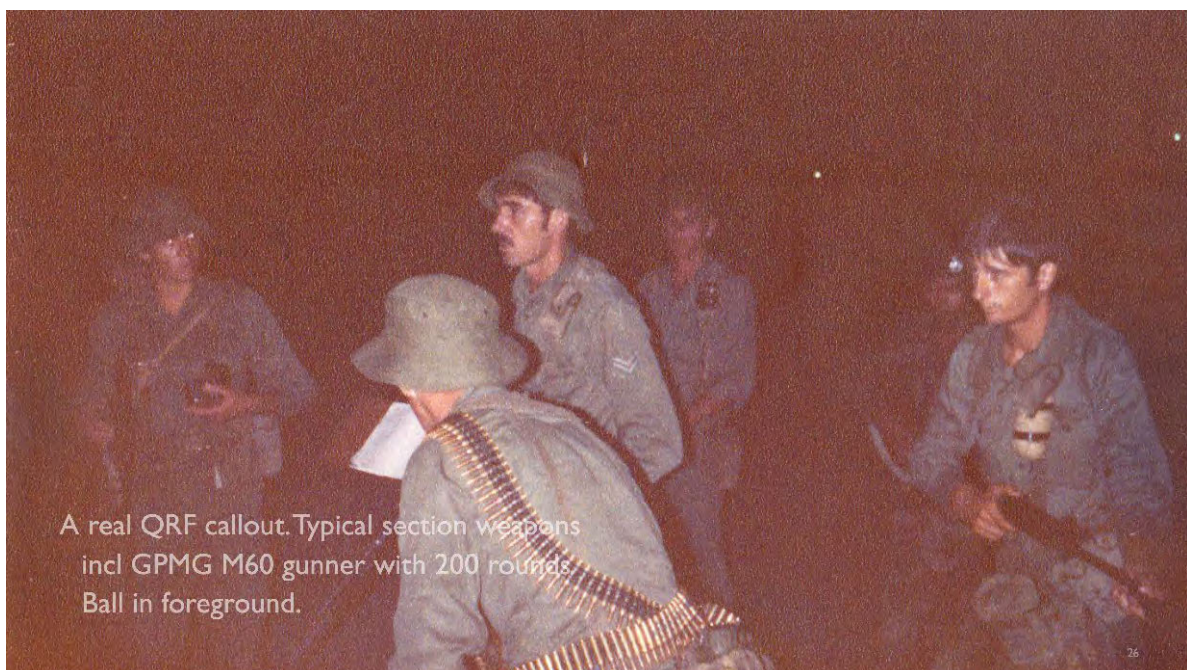


Fig 3: RCB members in observation post within ABB – rifles at the loaded condition. Night surveillance devices in place.



Fig 4: RCB manning a sandbagged bunker with GPMG and belt of link ball - 1975.



Fig 5: Vehicle checkpoint within ABB, manned by RCB and MAF personnel - 1975.



Fig 6: Issuing of 7.62mm link belt ball ammunition with tracer.



Fig 7: RCB personnel practicing casualty evacuation drills.



RISK LIKELIHOOD

The chance of something happening.

The CTs could undertake direct and indirect attacks on ABB at any time.

Attacks could involve the use of booby traps and improvised explosive devices placed within ABB by local employed civilians and contractors.

The CTs could also attack RCB personnel when on route to locations outside ABB.

Evidence that the Australian Government and Defence were aware of and planned for operations to protect AAB from CT attack and of the likelihood of casualties.

- Defence of ABB was a Shared Plan between MAF and RAAF, therefore attacks on the MAF would have to be repelled by RAAF, MAF and RCB with the potential for MAF, RAAF and RCB casualties see: *OC RAAF Base Butterworth OPORD 1/71 dated 8 Sep 71 (RCBRG:19710908)*.
- JIO assessments of the CT threat and intelligence briefings given to RCB prior to and on deployment to ABB: see *JIO Security Study 14/74 (RCBRG:19740915) & Submissions 046, 050, 089, 093, 112*.
- Concerns about AAB security were communicated via diplomatic and Defence channels to Australian Ministers and Defence commanders at the highest levels: see *OC RAAF Base Butterworth Countermeasures Report 24 Dec 71 (RCBRG:19711224)*, *RAAF Deputy Chief of Air Staff 14 Oct 75 letter (RCBRG: 19751014) & AUSTCOM KL 30 Oct 75 CABLEGRAM (RCBRG: 19751030)*.
- Operations orders and directives were issued to plan for and be ready to respond to a CT attack on the airbase. Directives included orders to 4 RAAF Hospital to have measures in place to address the evacuation and treatment of casualties: see *OC RAAF Base Butterworth OPORD 1/71 dated 8 Sep 71 (RCBRG:19710908)*.
- The number and nature of CT attacks on the MAF, including MAF bases and the proximity of attacks to Butterworth: see *RAAF Chief of the Air Staff 7 Apr 75 Minute to MINDEF (RCBRG:19750401A) & 65 GL GP INTREP dated 2 Apr 75 reports CT attack using by 3.5 inch rocket on 1 Apr 75 at Minden Barracks at Penang, 8KM from ABB, (RCBRG:19750402A)*.
- Army Field Force Command Staff Instruction and OC RAAF Base Butterworth OPORD 1/71 required training for RCB necessary to undertake offensive action as a QRF and issued ROE that permitted the use of lethal force: see *(RCBRG: 19710908 & 19790706)*.
- RCB Standing Orders dated 12 Dec 78, Annex B sub para 4.j, Orders for the QRF Commander: *"A perimeter patrol is to be conducted daily at first light..." "A foot patrol is to be conducted where access by vehicle is restricted." "The task of this patrol is to identify if the perimeter fence has been interfered with either by wire being cut or removed..." (RCBRG:19781212A)*.
- RCB personnel were required to complete and lodge a will before deployment, see: *Submissions 031, 089 and 112*.

RISK LIKELIHOOD

The chance of something happening.

Evidence that the Australian Government and Defence were aware of and planned for operations to protect AAB from CT attack and of the likelihood of casualties.

Likelihood	Description
Almost Certain	Expected to occur during the planned activity. Is known to occur frequently in similar activities.
Probable	Expected to occur in most circumstances but is not certain. Is known to have occurred previously in similar activities.
Occasional	Not expected to occur during the planned activity. Sporadic but not uncommon.
Improbable	Not expected to occur during the planned activity. Occurrence conceivable but considered uncommon.
Rare	Not expected to occur during the planned activity. Occurrence conceivable but not expected to occur.

The nature and extent of the CT threat to ABB was clearly enunciated in JIO threat assessments that ABB was a potential CT target. This was confirmed by communications from the Australian High Commission at Kuala Lumpur, OC RAAF Base Butterworth, senior Departmental officials and the Chief of the Air Staff and with the Minister. These assessments and communications provide a clear indication that as a result of the regular occurrence of CT attacks at other MAF bases, and at targets in close proximity to ABB, the airbase was a potential target. Further, orders of OC RAAF Base Butterworth to RCB to train for and be on call to respond to attacks and orders for the evacuation and treatment of casualties and the conduct of first aid training for RCB personnel prior to deployment and the allocation of additional medical staff and an ambulance, reflect that the likelihood expectation of casualties is rated at **Probable**.

CONSEQUENCES – CASUALTIES

The outcome of an incident.

Attacks by the CTs could occur at any time on and off ABB.

The CTs were well armed with direct and indirect weapons.

The CTs were well supplied with weapons and ammunition and were well trained in the use of those weapons.

The CT attacks and the nature of the weapons available to them could cause casualties to RCB, RAAF and families, including multiple fatalities and multiple injuries.

Evidence of Expected Casualties

Evidence that the Australian Government and Defence were aware of CT tactics, the type of weapons they would use and the potential for casualties to RAAF personnel, RAAF families and RCB personnel.

- Armed attack by the CTs was likely to require the use of force to repel an attack which would result in casualties. Shared Defence Plan included a medical plan.
- The CTs were well trained in insurgency tactics, armed and equipped, initially by China and subsequently by the North Vietnamese Army.
- Possibility of ABB being subject to mortar attack see: **RAAF Chief of Air Staff 7 Oct 75 Minute to MINDEF that states “CTs have or able to obtain 81/82mm mortars” (RCBRG:19751007) & DAFI 3 Jul 75 Report No. 33 “The possibility of the CT possessing operational mortars adds to the threat against Air Base Butterworth” (RCBRG:19750703).**
- RCB QRF could be attacked when deployed to Vital Points in response to a penetration of the perimeter or an attack on the RAAF married quarters, see: **OC RAAF Base Butterworth 24 Dec 71 Report that addresses likely CT tactics for attack on the base (RCBRG:19711224), Submissions 089 & 115.**
- RCB members could be attacked when off ABB see: **See Submission 112.**
- Indiscriminate use of mines and booby traps, see: **DAFI Report No 32 addresses CT use of booby traps (RCBRG 19750430).**
- Possibility of RCB personnel being attacked on route to jungle ranges to the North of Butterworth, see: **DAFI Report No 32 addresses CT ambushing of convoys (RCBRG 19750430) & Submissions 67 & 112.**
- Types of weapons available to and used by the CTs:
 1. Automatic small arms, including light machine guns. 81 and 82 mm mortars, 3.5 inch rocket launcher, hand grenades, explosive charges, land mines and booby traps.
 2. Insurgents had training in the use of weapons and explosives, see: **OC RAAF Base Butterworth 24 Dec 71 Report that addresses estimate of strength & weapons of CT in Kulim area close to ABB (RCBRG:19711224) and Submission 089.**
- Weapons Application
 1. Direct fire with the capacity to cause multiple casualties.
 2. Indirect fire with the capacity to cause multiple casualties.
 3. Land mines, booby traps and other explosive devices with the capacity to maim or kill.
- Weapons Effect
 1. The effect of a gunshot would be projectile penetration, grazing and fragmentation.

CONSEQUENCES – CASUALTIES

The outcome of an incident.

Evidence of Expected Casualties

Evidence that the Australian Government and Defence were aware of CT tactics, the type of weapons they would use and the potential for casualties to RAAF personnel, RAAF families and RCB personnel.

- Consequences would include bleeding, bone fractures, organ damage, wound infection, loss of the ability to move part of the body (permanent disabilities) and death. This would extend to mass casualties in the event of even a small-scale attack.
- 2. The effect of mortars, land mines, rocket launchers and improvised explosive devices would include fragmentation penetration and blast.
 - Consequences would include bleeding, bone fractures, organ damage, wound infection, loss of the ability to move part of the body (permanent disabilities) and death. This could extend to mass casualties in the event of even a small-scale attack. A single mortar or rocket could cause mass casualties.
- Personal Protective Equipment.
 1. Body armour was not available to RCB members. Without protective equipment, the effects of enemy weapons would have more significant consequences.
 2. When tasked RCB would prepare sandbagged defensive positions on likely approaches by the CT to the airbase, see: *Submissions 050, 089 & 112.*

Consequence	Description (in respect to personnel)
Catastrophic	Mass casualties. Multiple fatalities and major injuries resulting in permanent disability.
Critical	Mass casualties. Limited fatalities (less than 2) and/or major injuries resulting in permanent disability (greater than 1).
Major	Serious injuries that could result in temporary disability (less than 30 days).
Moderate	Injuries that could result in temporary disability.
Minor	Minor injuries requiring medical attention.

Given the types of weapons and ammunition used by the CTs, their training and success in their attacks on MAF targets and the lack of personal protective equipment available to RCB and RAAF, it is reasonable to conclude that fatalities and serious injuries with permanent disability would be the likely the consequence of gunshot, shrapnel or blast effect. This could occur to more than one RCB

CONSEQUENCES – CASUALTIES

The outcome of an incident.

Evidence of Expected Casualties

Evidence that the Australian Government and Defence were aware of CT tactics, the type of weapons they would use and the potential for casualties to RAAF personnel, RAAF families and RCB personnel.

and RAAF member during a single engagement. The consequence rating is therefore **Catastrophic**.

Indicative Risk Level Matrix

		Consequences				
		Minor	Moderate	Major	Critical	Catastrophic
Likelihood	Almost Certain	Low	Medium	High	Very High	Very High
	Probable	Low	Medium	High	High	Very High
	Occasional	Very Low	Low	Medium	High	High
	Improbable	Very Low	Very Low	Low	Medium	Medium
	Rare	Very Low	Very Low	Very Low	Low	Low



PALADIN
RISK MANAGEMENT SERVICES

Expert Review of the Risk Assessment of the Likelihood of Casualties prepared by the Rifle Company Butterworth Review Group

Prepared by: Rod Farrar (Director Paladin Risk Management Services)

Dated: 19th January 2023

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Expert Review of the Risk Assessment of the Likelihood of Casualties prepared by the Rifle Company Butterworth Review Group

Introduction and Qualifications

1. In my capacity as a risk management expert, I have been requested to review the submission to be provided to the Tribunal in relation to the risks, the consequences, and the likelihood of consequence to the members of Rifle Company Butterworth (RCB) and Air Base Butterworth (ABB).
2. The following qualifications held by me relate to the expertise being provided in this report:
 - a. Diploma of Risk Management
 - b. Masters of Business Administration
 - c. Masters of Management (Logistics Management)
 - d. Associate Diploma in Personnel Management
 - e. Certificate IV in Training and Assessment
3. In addition:
 - a. I am a Certified Chief Risk Officer with the Risk Management Institution of Australasia
 - b. I have run a professional risk management consultancy and training business for 16 years
 - c. I have developed and deliver accredited risk management training at Certificate IV, Diploma and Advanced Diploma level with over 3000 students from 27 countries attending courses in the last ten years
 - d. I have spoken at multiple industry conferences across Australia and spoke at the Risk and Insurance Management Society conference in San Diego in April 2016
 - e. I have released five eBooks on risk management which have been downloaded over 6,000 times in countries across the world, including my latest book which highlights the risk management shortcomings that led to the incident at Dreamworld in 2016
 - f. I have developed two expert witness reports for Comcare that have both led to prosecutions against the parties involved.
4. In addition to my risk management credentials, the following military service is also relevant to my ability to provide opinion on the risk assessment conducted by the RCBRG:

- a. Served as a Regular Army Officer from 1985 until 2005.
 - b. Attended Staff College and was promoted to LTCOL in 2003.
 - c. Served as the J1/4 on the Australian Headquarters of JTF 633 in Iraq from April to October 2004.
 - d. Used the JMAP extensively throughout my career, including during operational planning in Iraq.
5. During my 20 years of service, I did not deploy to RCB, nor was I involved on any planning activities associated with RCB, so my review of the risk assessment is based purely on what has been presented to me.
6. I believe, therefore, that I am eminently qualified to provide expert opinion in this case.

Questions Posed

7. The following questions have been posed to me as part of this review:
- a. *If the rationale and reasons stated for our approach to assessing the likelihood of casualties are logical and appropriate.*
 - b. *That the JMAP Operational Risk Management process has been used correctly and conforms to the Australian/New Zealand Standard AS/NZS 31000:2018 Risk Management – Guidelines.*
 - c. *That the outcomes of our risk assessment are credible and consider threat-related intelligence that informed the employment of RCB personnel at Air Base Butterworth in the defence of the airbase.*
8. The assessment of these questions is provided below.

Question 1: Rationale and Reasons for Assessing Likelihood

9. The RCBRG assessed the likelihood of an attack and the likelihood of casualties using the matrix below:

Almost Certain	Expected to occur during the planned activity. Is known to occur frequently in similar activities.
Probable	Expected to occur in most circumstances but is not certain. Is known to have occurred previously in similar activities.
Occasional	Not expected to occur during the planned activity. Sporadic but not uncommon.
Improbable	Not expected to occur during the planned activity. Occurrence conceivable but considered uncommon.
Rare	Not expected to occur during the planned activity. Occurrence conceivable but not expected to occur.

10. It is important that Likelihood is used in two dimensions during a risk assessment:
 - a. Likelihood of an incident occurring (in this case an attack on ABB by CT; and
 - b. The Likelihood of the consequences that would arise should such an attack occur.
11. The Likelihood Matrix developed by RCBRG is **best practice** in the risk management industry for the assessment of Likelihood.
12. To that end, the rationale and reasons stated for the RCBRG approach to assessing the likelihood of casualties **are logical and appropriate**.

Question 2: Use of the JMAP Operational Risk Assessment

13. The JMAP Operational Risk Assessment process is detailed in Annex 1C of ADFP 5.0.1. As part of the review, the risk assessment conducted by the RCBRG was evaluated against the process detailed in ADFP 5.0.1.
14. As the Operational Risk Assessment Process is directly aligned to *Australian/New Zealand Standard AS/NZS 31000:2018 Risk Management – Guidelines* the use of the process means, by definition, that if the process has been followed correctly, the assessment conforms to ISO 31000.
15. Based on the review of the risk assessment presented to me, I conclude that **the JMAP operational risk assessment process has been used correctly**.

Question 3: Outcomes of Risk Assessment are Credible

16. This part of the review will assess the credibility of the risk assessment based on three aspects:
 - a. The likelihood of an attack on ABB;
 - b. The casualties that could result from such an attack; and
 - c. The likelihood of those casualties.

Likelihood of an Attack

17. Given the evidence presented in the RCBRG paper to the Tribunal, there was a very real expectation of an attack on ABB. This is borne out by the following:
 - a. Page 3 of Submission 115 to the Tribunal which states:

The briefings RCB received before deployment and subsequently on arriving at Butterworth by RAAF intelligence staff were clear as to the nature and extent of the threat. Those briefings, which were updated regularly with fresh intelligence about terrorist attacks were explicit as to the nature and number of casualties being inflicted by the terrorists.

b. And further on pp 2 and 3 of Submission 115:

“I was left in no doubt that the CT did pose a real threat to RAAF Base Butterworth; the threat did not include a large-scale attack, rather smaller acts of interdiction and terror aimed at interrupting airbase operations..... through off-base direct and indirect fire weapons, or penetration of the base defences by small groups to attack vital points e.g., aircraft, fuel, ammunition/bomb storage, aircrew, aircraft maintenance facilities, personnel quarters, navigational aids, command posts, etc.”¹

c. The conclusion to the RCBRG paper which highlights:

JIO threat assessments and other contemporaneous intelligence assessed that ABB was a potential target for attack by the CTs and that the CTs, as hostile forces, had the capability (personnel, weapons, and training) to cause harm to RAAF and RCB personnel.

d. The map detailing the CT attacks near Airbase Butterworth from July 1974 to August 1975.

18. Based on the evidence presented and using the likelihood matrix presented, I concur with the assessment of an attack as being **Probable**, however, I would have **also concurred** with an assessment of **Almost Certain** given the map highlighting CT attacks in the vicinity of ABB.

Consequence of an attack on ABB

19. Annex B of the RCBRG paper to the Tribunal, uses the following consequence table:

Consequence	Description (in respect to personnel)
Catastrophic	Mass casualties. Multiple fatalities and major injuries resulting in permanent disability.
Critical	Mass casualties. Limited fatalities (less than 2) and/or major injuries resulting in permanent disability (greater than 1).
Major	Serious injuries that could result in temporary disability (less than 30 days).
Moderate	Injuries that could result in temporary disability.
Minor	Minor injuries requiring medical attention.

20. This matrix is appropriate for the risk assessment.

21. The following weapons were known to be available to CT forces:

a. Automatic small arms, including light machine guns,

¹ Submission 115., pp.2 and 3.

- b. 81mm and 82 mm mortars,
- c. 3.5-inch rocket launchers,
- d. hand grenades,
- e. explosive charges,
- f. land mines, and
- g. booby traps.

22. In addition, insurgents had training in the use of weapons and explosives, firstly by the Chinese and then by North Vietnamese Army.

23. Based on the nature of the weapons available, many of which are area weapons, the assessment of casualties as being **Catastrophic** (i.e. Mass casualties. Multiple fatalities and major injuries resulting in permanent disability) is appropriate.

24. To that end, I concur with that assessment.

Likelihood of Consequences

25. The likelihood of the consequences considers whether there was anything in place (controls) that would have reduced the number and/or severity of the consequences suffered as a result of any attack on ABB.

26. The risk assessment prepared by the RCBRG highlighted that:

Other than a helmet RCB personnel did not have PPE, including body armour (which is now issued for all operational deployments) or vehicles with armoured protection. In the event of an attack by rockets and or mortars this would have contributed to likelihood of multiple casualties

27. It was further highlighted by the RCBRG that:

Given the types of weapons and ammunition used by the CTs, their training and success in their attacks on MAF targets and the lack of personal protective equipment available to RCB and RAAF, it is reasonable to conclude that fatalities and serious injuries with permanent disability would be the likely consequence of gunshot, shrapnel, or blast effect. This could occur to more than one RCB and RAAF member during a single engagement.

28. The question in this case is whether there were any controls in place that would reduce the consequence in the event of an incident? The answer, in this case, is no, i.e. there were no mitigating controls that would have reduced the consequence to the point that the initial level of assessed consequence.

29. To that end, it is my opinion that the level of consequence remains at **Catastrophic**.

Summary of Risk Assessment

30. It is my opinion, based on the evidence provided and through the use of the JMAP Operational Risk Assessment Process that the Likelihood of attack was at least **Probable** and the Consequences of such an attack would have been **Catastrophic**.

31. To that end, I find that:

- a. The assessed level of likelihood is appropriate and supported by evidence;
- b. The assessed level of Consequence is appropriate and supported by evidence; and (therefore)
- c. The assessed level of risk (**Very High**) is appropriate.

		Consequences				
		Minor	Moderate	Major	Critical	Catastrophic
Likelihood	Almost Certain	Low	Medium	High	Very High	Very High
	Probable	Low	Medium	High	High	Very High
	Occasional	Very Low	Low	Medium	High	High
	Improbable	Very Low	Very Low	Low	Medium	Medium
	Rare	Very Low	Very Low	Very Low	Low	Low

Conclusion

32. In my consideration of the RCBRG paper it is apparent that:

- a. The evidence of a potential CT threat to ABB was well documented;
- b. The nature of the threat was widely known given previous CT attacks on targets, including air bases;
- c. The RCB QRF were tasked to undertake defensive measures to protect ABB from the threat of attack and in the event of an attack to undertake offensive measures to counter any penetration of the perimeter and to counterattack the enemy;
- d. The RCB QRF was equipped with live ammunition; and
- e. The ROE allowed for the use of lethal force.

33. Based on these factors, it is concluded there was a significant likelihood of attack, and that if an attack had occurred, the effect would have been catastrophic, particularly given that the type of weapons likely to have been used would have resulted in mass casualties, including multiple fatalities and major injuries resulting in permanent disability.

34. In response to the questions posed to me by RCBRG, I conclude that:

- a. The rationale and reasons stated for the RCBRG approach to assessing the likelihood of casualties **are logical and appropriate**.
- b. The JMAP Operational Risk Management process has been **used correctly and conforms** to the Australian/New Zealand Standard AS/NZS 31000:2018 Risk Management – Guidelines.
- c. The outcomes of the RCBRG risk assessment **are credible** and consider threat-related intelligence that informed the employment of RCB personnel at Air Base Butterworth in the defence of the airbase.



R.M. Farrar
Director
Paladin Risk Management Services

Warlike Service Demonstrated at Air Base Butterworth 1968-1989

Kenneth N. Marsh

17 January 2023

RAAF 1967-1987

ABB Sep 1971-Mar 1974

Jul 1977-Jan 1980

The Author

1. I joined the RAAF in 1967 as an apprentice and trained as an engine fitter. Five of my 20 years' service was with 75 squadron, Butterworth. My first posting was September 1971 – March 1974 and my second July 1977 – January 1980. Although my memory of some events is vague, I have a clear early recollection of being warned about the danger of booby traps and that the RMAF was “dropping bombs on Chin Peng out there in the jungle somewhere”.

2. An obvious change when I returned in 1977 were the revetments on the flight lines, built in response to the communist threat. From this posting I also recall armed police roadblocks in Butterworth town. From time-to-time local newspapers reported on incidents involving communist elements.

Introduction

3. In response to the Defence Honours and Awards Tribunal 23 November 2022 hearing regarding Rifle Company Butterworth (RCB), this paper demonstrates warlike service at Air Base Butterworth (ABB) during the Communist Insurgency in Malaysia 1968-1989 (CIM). It draws on information provided to the Tribunal by the Department of Defence by emails dated 7th and 8th December 2022, forwarded to Ray Fulcher via email on 16 Dec 2022.¹ This evidence confirms, in essence, there is no difference between the warlike service criteria and the "incurred danger" test.

4. This paper:

- Argues that as ABB was one of an unknown number of Malaysian owned military and police installations in Peninsular Malaysia with the potential to be targeted by armed insurgents during the CIM the nature of service (NOS) of Australian ABB veterans during that period should be determined within that context.
- Reviews Australian service at ABB, including the presence of Malaysian forces, shared defence arrangements and the fact that identified threats to ABB, a Malaysian owned base, were equally a threat to Malaysian and Australian forces.

¹ Jay Kopplemann, Executive Officer, Defence Honours and Awards Appeals Tribunal. To Ray Fulcher. Fw: Further information from Defence re: RCB [SEC=OFFICIAL]. 16 Dec 2022.

- Notes that the warlike service criteria are an objective assessment that is essentially an assessment of "incurred danger" meant to determine NOS prior to deployment, meaning that in reviews of past service if it is shown that troops meet the requirements of the "incurred danger" test, they qualify for warlike service recognition.
- Shows Australian Defence Force (ADF) personnel serving at ABB during the CIM rendered warlike service. Specifically:
 - They were exposed to a direct risk of harm from hostile forces.
 - Those hostile forces had the capability and identified intent to target ADF personnel.
 - ADF personnel were authorised to use force to pursue specific military objectives.
 - There existed an expectation of casualties.

THE SITUATION AT ABB

5. ABB is located 60 kilometres from the Malaysia/Thailand border.² During the CIM this Malaysian owned base was shared with RAAF Mirage squadrons and other ADF assets, including RCB.³ It was Malaysia's largest air base and the closest to Communist strongholds,⁴ with a major Communist Terrorist Organisation (CTO), the 8th Assault Unit, about 25 kilometres away in the Kulim area to the east of the Base.⁵ The 1975 Joint Intelligence Organisation's (JIO) study *The Security of Air Base Butterworth* noted:

The proximity of Butterworth to the CTO base areas on the Thailand-Malaysia border could make it an attractive target to the CTO. CTO units find it easier to attack targets and evade government follow-up forces in northern Malaysia than to mount operations against installations farther south in Peninsular Malaysia.⁶

6. The security of ABB was of constant concern to senior defence officials.

Security concerns

7. Significant examples include:
- **November 1971.** In 1971 the ANZUK [Australian, New Zealand and United Kingdom] Intelligence Group noted multiple insurgent activities close to ABB. ANZUK assessed there

² Reassessment of the Recommendations of The Medallion Recognition Joint Working Group on New Zealand Military Service in South East Asia 1955 to 1989. March 2021. Para 102.

³ Joint Intelligence Organization, Department of Defence, Canberra. *The Security of Air Base Butterworth*. JIO Study 13/75. Issued Oct. 1975. Para 49

⁴ *The RAAF Presence at Butterworth*, Para 21, attached to Hamilton R.N, A/First Assistant Secretary Strategic and International Policy Division, Review of Butterworth Deployment, 22 October 1976, Reference: DEF 270/1/4.

⁵ JIO Study No. 13/75. *The Security of Air Base Butterworth*. Joint Intelligence Organisation Department of Defence, Canberra, ACT. Issued Oct. 1975. Para. 33

⁶ *Ibid.*, Para. 17

was a definite risk of small scale, isolated attacks designed to damage vital points and injure personnel at ABB at any time without warning.⁷

- **August 1974.** DAFI advised SR(GD) [Senior RAAF Ground Defence]:

Continued use of Butterworth as a base for ground-attack against the CT [Communist Terrorists] can only increase its attractiveness as a target ... From this point of view, the threat to Air Base Butterworth must be considered to be slowly increasing.⁸
- **April 1975.** OC Butterworth advised that rocket attacks had taken place at RMAF [Royal Malaysian Air Force] Base Sempang (Kuala Lumpur) on 31 March and a military installation on Penang on 1 April. The RMAF had advised of possible threats to ABB. The period of tension was expected to last till at least 22 April and possibly for a further month.⁹
- **May 1975.** A minute to the Director of Joint Services (DJS) from the Strategic and International Policy Division addressed Malaysian Ministry of Defence concerns regarding “the possibility of rocket attacks on Butterworth”. The writer drew attention to a small but active urban CTO cell in Penang that had the capability of launching such attacks on ABB. The significance of any such attack “on RAAF aircraft would obviously have significance going beyond the actual damage sustained, bringing into question fundamental political aspects of Australian policy. Risk to aircraft thus means risk for that policy and political difficulty for the Government in the handling of policy, both substantively and presentationally (e.g. in the Parliament).¹⁰
- **October 1975.** The Chief of Air Staff (CAS), Air Marshall J.A. Rowland, expressed concern to the Minister regarding the lack of security in the area surrounding ABB in the light of “recent intelligence information concerning possible CTO intentions to launch rocket attacks on bases in Malaysia ...” and the “possibility that the CTs have or are able to obtain 81/82mm mortars to supplement their known supplies of 3.5 inch rockets.”¹¹
- **October 1975.** Australia’s JIO threat assessment, *The Security of Air Base Butterworth*, listed around 120 known incidents involving insurgents in the area surrounding the base between July 1974 to August 1975. JIO believed there was a “distinct threat” to Australian service personnel and their dependents from booby traps and minor terrorist acts. JIO considered it possible that married quarters adjacent to the base could be targeted by the insurgents. The possibility of insurgents kidnapping or murdering foreign nationals, including Australian personnel and their dependents, was also considered. It was believed these tactics could be readily adopted by the terrorists. While JIO did not see Australian aircraft being deliberately targeted, “unless the Australian presence became a political issue”, it considered it “unlikely that the CTO would try to discriminate between RAAF and RMAF targets, and Australian personnel and equipment would be endangered. The destruction of RMAF aircraft would be attractive propaganda”.¹²

⁷ ANZUK Intelligence Group (Singapore). Note No. 1/1971. The Threat to Air Base Butterworth up to the End of 1972. Singapore. 30 November, 1971.

⁸ DAFI Minute INT 8/10/03(150) Security Situation – Air Base Butterworth Report No 34 dated August 1975

⁹ Butterworth Base Security. 418/4/12. J.A. Rowland. AM. CAS. 3 Apr 1975

¹⁰ Strategic and International Policy Division Minute D58/4/1(176) RAAF Mirage Squadron at Butterworth. 27 May 1975.

¹¹ Security of Butterworth. J.A. Rowland. AIR MSHL. CAS. 554/9/33(87) 7 Oct 75.

¹² Joint Intelligence Organization, Department of Defence, Canberra, ACT. JIO Study No, 13/75. The Security of Air Base Butterworth. Issued Oct. 1975.

- **October 1975.** In a response to the DJS the Deputy Chief of Air Staff (DCAS) of 14 October advised:

CT operations are particularly insidious from a defensive viewpoint. The terrorist has freedom of movement in the civil community, a reasonably wide choice in the selection of targets and types of weapons or nefarious explosive devices which can be used to attack or sabotage personnel, assets and facilities. The defensive penalty in the face of these kinds of threats is the diversion of large numbers of security force personnel to counter possibility of CT attacks. To ignore the threat of attack is to risk an extremely high loss in terms of assets with attendant military ignominy and in terms of political, psychological gains for the CTO.¹³

8. We also note that a Code Amber Alert in the Shared Defence Plan meant an imminent defence threat and required the Ground Defence Operation Centre (GDOC) to be fully staffed. Commanding Officer Base Squadron reports for the period January 1977 to September 1978 show the GDOC was activated at times owing to possible ground threats. For example:

Defence Section and A Coy 3RARCOYGP manned GDOC 26 September 1977 (Possible ground threat to Air Base Butterworth).¹⁴

9. Further evidence is provided in the following files contained in the USB Drive supplied as Enclosure 1 to the Tribunal by Lieutenant Colonel Russell Linwood ASM (Retd) in Submission 066 at documents.¹⁵

19770731, 19771031, 19780228, 19780331, 19780630A, 19780731.

Although we find no mention of GDOC operation prior to January 1977 other evidence of increased security in response to enemy threats exists. For example:

- **April 1975.** Following rocket attacks, as advised above, and of possible threats to ABB, OC Butterworth advised the period of tension was expected to last till at least 22 April and possibly for a further month.¹⁶
- **7 April 1975.** The Chief of Air Staff advised the Minister of increased security measures at ABB, including increased patrolling and guard posting by Malaysian Military Police; tightened control of access to the base; an extension of RAAF police dog patrols; the use of RCB personnel on picket duty; and limited dispersal of Mirage and C47 aircraft.¹⁷
- **October 1976.** The draft 'RAAF Presence at Butterworth' noted: "Action has recently been taken to construct revetments to give some protection to the Australian aircraft at Butterworth against attack".¹⁸ Twelve months earlier the DCAS advised DJS:

¹³ Butterworth Security. N.P. McNamara, AVM, DCAS. 564/8/28. 14 October 1975.

¹⁴ Commanding Officers' reports – Monthly reports unit history sheets (A50) – Base Squadron Butterworth, 1944 to 1988.

¹⁵ Submission 066 – Lieutenant Colonel Russell Linwood ASM (Retd)

¹⁶ Butterworth Base Security. 418/4/12. J.A. Rowland. AM. CAS. 3 Apr 1975

¹⁷ Butterworth Base Security and Security of C130 Aircraft in South Vietnam. 7 April 1975.

¹⁸ Attached to: AUSTEO *The RAAF Presence at Butterworth*, Para 21, attached to Hamilton R.N, A/First Assistant Secretary Strategic and International Policy Division, Review of Butterworth Deployment, 22 October 1976.

Arrangements in being for the protection of families, the security of assets and facilities and security on the base are satisfactory. At this time no defensive works for the protection of Personnel is considered necessary, but base planning has taken into account the requirement for blast shelters should the situation deteriorate further. The requirement for blast protection against ground burst weapons and small arms fire together with aircraft dispersal is currently under review.¹⁹

Clearly the security situation had deteriorated.

Shared Defence

10. On 30 March 1970 the Malaysian Military Police assumed responsibility for the day-to-day security of ABB.²⁰ In this light and that of the increased presence of Malaysian forces Air Commodore I.S Parker, Officer Commanding RAAF Air Base Butterworth, wrote to the Australian High Commission in Kuala Lumpur on 16 April 1971 regarding defence arrangements at ABB. Parker considered it necessary “to treat the Air Base as an entity for security purposes.” Pointing to “the fact there will be periods during which the AN/NZS infantry company will not be available” he expressed concern over the possibility of:

The unacceptable diversion of RAAF manpower which would be needed to secure all installations vital to the operation of the Air Base, some of which are either Malaysian facilities or in close proximity to areas where the RMAF is in strength.

11. Recognising “the need to treat the Air Base as an entity for security purposes”, Parker requested the High Commission “now examine the matter of shared ground defence/security planning for Air Base Butterworth and advise ... of the outcome.”²¹

12. Following Parker’s request, Operation Order 1/71 - *Shared Defence of Air Base Butterworth*, became effective on 8 September 1971. It stated:

In a shared defence situation the RAAF and RMAF are jointly responsible for the protection of all operational assets, personnel and property within the perimeter of the air base.²²

13. The significance of Parker’s letter and the Shared Defence Plan cannot be overstated. For security and defence purposes the air base and forces from Malaysia and Australia were considered a single entity. Any threat to the base was equally a threat to Malaysian and Australian personnel and assets with both nations cooperating to prevent and counter any ensuing attack. RAAF

¹⁹ Butterworth Security. N.P. McNamara, AVM, DCAS. 564/8/28. 14 October 1975.

²⁰ Background Paper Parliamentary Petition Dated 3 March 2014 Rifle Company Butterworth 1970-1989. Nature of Service Branch 28 April 2014. Para. 17.

²¹ Air Base Butterworth – Shared Defence. Air Commodore I.S. Parker. Annex C to 564/8/28. 6/10/1/PM. 160.

²² Operation Order 1/71 of 8 September 1971, Shared Defence of Air Base Butterworth

manpower would be required to defend Malaysian facilities or facilities close to areas where the RMAF was in strength.

Incurred Danger and Warlike Service

14. In 1993 the Cabinet approved definitions for warlike and non-warlike service. Warlike service was defined as:

... those military activities where the application of force is authorized to pursue specific military objectives and there is an expectation of casualties.

A list of warlike examples followed, such as “a state of declared war”, or “conventional combat operations against an armed adversary”. It is clearly stated a declaration was not limited to the examples given. Non-warlike was defined as:

... military activities short of warlike operations where there is a risk associated with the assigned task(s) and where the application of force is limited to self defence. Casualties could occur but are not expected.

Again, a list of examples, not intended to restrict a declaration, followed. A key difference in these definitions is the expectation of casualties.²³

15. Commenting on Repatriation Cover for Australian Veterans, a 1996/97 Defence Review, a copy of which was provided to the Tribunal on 16 Dec 2022, clearly states that the “two elements ... referred to in the *Veterans’ Entitlements Act 1986* as ‘operational service’ and ‘qualifying service’ in essence have not changed regardless of legislation changes over the years.²⁴ Veterans on operational service who have “incurred danger from hostile forces of the enemy” remain entitled “to receive a Service pension”.²⁵ This position accords with that later taken by both Mohr and Clarke. According to Mohr:

In essence, Section 7A of the VEA 1986 requires that a veteran must have ‘incurred danger from hostile forces of an enemy’ before such service becomes ‘qualifying service’ for the ‘service pension’.²⁶

16. Clarke, in Chapter 13 of his report, “outlines the development of the legislative framework, including the terms that have governed the provision of repatriation benefits since World War II.”²⁷ The current framework has “its genesis in the incurred danger test of World War II and the need for

²³ Hearing Resource Pack. Inquiry into Medalic Recognition for Service with Rifle Company Butterworth. 23 November 2022. pp. 35-40.

²⁴ Service Entitlement Anomalies Review. Attached to: Jay Kopplemann, Executive Officer, Defence Honours and Awards Appeals Tribunal. To Ray Fulcher. Fw: Further information from Defence re: RCB [SEC=OFFICIAL]. 16 Dec 2022. Para.4. Page 65 of file.

²⁵ *ibid*

²⁶ Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955-75. (Mohr)

²⁷ Review of Veterans’ Entitlements. (Clarke) 13.3

a means of determining the nature of service performed by Australian forces on operational deployments after that conflict.”²⁸

17. Minister Scott’s, the Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence, executive summary to Cabinet regarding the recommendations made by Mohr informed:

On the basis of new information in the Mohr Report, the Department of Defence has reassessed each deployment against the criteria of ‘warlike’ and ‘non-warlike’ as directed by Cabinet on 22 April 1977 in Cabinet Minute JH/0057/CAB/2.²⁹

18. Scott also advised:

I propose ... to affirm the current set of objective criteria for assessment of ‘warlike’ and ‘non-warlike’ service and thereby provide the framework against which any further historic claims and all future service can be assessed.³⁰

19. Attachment A to the Minister’s Cabinet Submission following the Mohr review states:

Defence has been closely involved in the preparation of the Cabinet Submission and fully supports the recommendations contained therein.³¹

20. This was the approach taken by Defence in 2001 in recommending the ASM for service at ABB to the end of 1989:

The decision recognised ‘the principle established by MAJGEN Mohr, during his deliberations on service in SE Asia that if ADF personnel are placed in circumstances where they may be used to react to an assessed threat made by the Australian Government Intelligence Agencies, it has to be considered operational service. This is regardless of whether that threat is realised or not’.³²

21. Given the above, Mohr’s and Clarke’s commentaries on the “incurred danger” test remain relevant to the “objective criteria for assessment of ‘warlike’ and ‘non-warlike’ service”. These are now discussed.

²⁸ *Ibid.* 13.4

²⁹ Cabinet Submission. Title: Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955-75. Minister’s Executive Summary. JH00/0088. Attached to: Jay Kopplemann, Executive Officer, Defence Honours and Awards Appeals Tribunal. To Ray Fulcher. Fw: Further information from Defence re: RCB [SEC=OFFICIAL]. 16 Dec 2022. Page 30 of file.

³⁰ *Ibid.*

³¹ *Ibid* p.37

³² Minute, *Review of Service Entitlement in Respect of the Royal Australian Air Force and Army Rifle Company Butterworth Service 1971-1989*. Air Commodore McLennan DGCMF to CDF. 28 Mar 01. Attached to the VCDF’s submission to the Defence Honours and Awards Tribunal’s *Inquiry into the Recognition of Members of Rifle Company Butterworth for Service in Malaysia between 1970 and 1989*, dated 23rd June 2010.

Incurred Danger

22. In Chapter 11 of his report, “Qualifying Service – World War II Historical Perspective”, commencing at 11.40, Clarke discusses eligibility for the service pension – “qualifying service” – and the “incurred danger” test. Clarke considered the finding in the case of *Repatriation Commission v Walter Harold Thompson (G205 of 1998)*:

The words ‘incurred danger’ therefore provide an objective, not a subjective, test. A serviceman incurs danger when he encounters danger, is in danger or is endangered. He incurs danger from hostile forces when he is at risk or in peril of harm from hostile forces. A serviceman does not incur danger by merely perceiving or fearing that he may be in danger. The words ‘incurred danger’ do not encompass a situation where there is a mere liability to danger, that is to say, that there is a mere risk of danger. Danger is not incurred unless the serviceman is exposed, at risk of, or in peril of harm or injury.³³

23. At 11.57 Clarke quoted Mohr³⁴ who is now discussed. Mohr noted Section 7A of the 1986 Veterans’ Entitlements Act required, in essence, a veteran to have incurred danger from an enemy.³⁵ He found the Thompson decision, while being “clear on the facts provided”, failed to address what established an “objective danger”. He acknowledged the difficulty in deciding the difference between objective and perceived danger. In any prospective declaration of a warlike operation, he said:

... the authorities would know that some personnel within the deployment would not, on examination, incur danger from hostile forces of the enemy and therefore, technically, would not have ‘qualifying service’ for the service pension. Yet all personnel who form part of the deployment are covered automatically by the prospective declaration that service is ‘warlike’.³⁶

24. Mohr understood this to be the case with the two world wars. Some would be less likely to face danger than others, while others would be so far removed from the action there was little, if any, risk of them coming under fire. Yet all contributed to the operation’s success and were equally rewarded. Applying a different standard post WW2, he argued, was “indefensible” and contrary to the beneficial nature of the Veterans’ Entitlements Act. As these vagaries could not be avoided when making prospective assessments, he concluded, retrospective assessments should make these same allowances. In his view 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.³⁷

25. Mohr understood that troops incurred an “objective danger” if it is proven an armed enemy was present, or they were told they were in danger from an armed enemy.³⁸ This position is supported by Justice Clarke:

³³ Clarke 11.47

³⁴ Mohr, Chapter 2. ‘Incurred Danger’, ‘Perceived Danger’ and ‘Objective Danger’

³⁵ *ibid*

³⁶ *ibid*

³⁷ *ibid*

³⁸ *ibid*

Because the term 'danger' connotes risk, or possibility, of harm or injury there is necessarily an element of subjective belief involved. In a declared war, no one would doubt that to carry out operations against the enemy at a place under risk of attack exposes those in the operations to danger. Yet who at the time would actually know, rather than perceive, that the place is at risk? The enemy might have no intention of attacking there, but assessments have to be made, or beliefs formed, by military authorities as to whether the place is at risk and needs defence by armed forces.

If then, the military authorities consider that a particular area is vulnerable to attack and dispatch armed forces there, they are sending forces into harm's way, or danger. This is the second point made by Mohr – that veterans ordered to proceed to an area where they are endangered by the enemy will not only perceive danger, but to them the danger will be an objective one based on rational and reasonable grounds. In these circumstances, what the historian says he or she has learned since the war about the actual intention of the enemy is hardly relevant.³⁹

26. Prima facie evidence from the time clearly establishes the presence of an armed enemy and that the military authorities considered the area "vulnerable to attack". Consistent with Mohr and Clarke, Australian forces at ABB incurred an "objective danger" and on that basis have qualified for the service pension. This is consistent with the 1996/97 Review of Repatriation Cover for Australian Veterans. As will now be shown, 1968-89 ABB service meets the current criteria for warlike service.

Warlike Service at ABB

27. The 1993 warlike and non-warlike service framework was developed to allow timely nature of service determinations prior to deployment.⁴⁰ Regarding ABB the criteria are being applied to an era before their development. As seen above, the warlike service criteria is an objective assessment of "incurred danger" before deployment. Therefore, a determination of "incurred danger" should suffice to prove warlike service. This is confirmed by the following retrospective assessment against current warlike service criteria.

28. The nature of service at ABB must be assessed against the background of the CIM to ensure justice for Australian veterans. ABB was located within the boundaries of Operation Sedar, one of seven operational areas in Peninsular Malaysia. These operations continued over the war's 21 year's duration.⁴¹ (See Attachment)

29. Within this broad context the words of Justice Clarke in 2003 are relevant:

Because the term 'danger' connotes risk, or possibility, of harm or injury there is necessarily an element of subjective belief involved. In a declared war, no one would doubt that to carry out operations against the enemy at a place under risk of attack exposes those in the operations to danger. Yet who at the time would actually know, rather than perceive, that the place is at risk? The

³⁹Clarke, 11.59, 11.60

⁴⁰ *Ibid.* 13.36-13.46

⁴¹ *The Malaysian Army's Battle Against Communist Insurgency 1968-1989*. Translated and adapted from the Malay language by Mohamed Ghazemy Mahmud. Originally published in Malay as 'Tentera Darat Menentang Insurgency Komunis 1968-1989'. 2001. Army Headquarters, Ministry of Defence, Kuala Lumpur. p.113

enemy might have no intention of attacking there, but assessments have to be made, or beliefs formed, by military authorities as to whether the place is at risk and needs defence by armed forces.

If then, the military authorities consider that a particular area is vulnerable to attack and dispatch armed forces there, they are sending forces into harm's way, or danger. This is the second point made by Mohr – that veterans ordered to proceed to an area where they are endangered by the enemy will not only perceive danger, but to them the danger will be an objective one based on rational and reasonable grounds. In these circumstances, what the historian says he or she has learned since the war about the actual intention of the enemy is hardly relevant.⁴²

30. There is a direct correlation between Clarke's commentary and the situation at ABB as seen in the DCAS's comments to the DJS of 14 October 1975:

CT operations are particularly insidious from a defensive viewpoint. The terrorist has freedom of movement in the civil community, a reasonably wide choice in the selection of targets and types of weapons or nefarious explosive devices which can be used to attack or sabotage personnel, assets and facilities. The defensive penalty in the face of these kinds of threats is the diversion of large numbers of security force personnel to counter possibility of CT attacks. To ignore the threat of attack is to risk an extremely high loss in terms of assets with attendant military ignominy and in terms of political, psychological gains for the CTO.⁴³

31. The threat could not be ignored by any sane military commander. It was essential the commander had at his disposal the necessary personnel and other resources to respond at any time to a potential attack. In other words, ABB must have been on warlike footing, with attendant training, munitions, preparations, and warnings. This is evidenced by the fact the RCB were required to take live ammunition with them when moving around the Base away from the Company area to enable instant response to any alert. See below under the heading "Authorised Use of Force to Pursue Military Objectives".

32. In 2018 the warlike and non-warlike criteria were amended as follows:

Non-warlike service exposes ADF personnel to an indirect risk of harm from hostile forces. A non-warlike operation is an Australian Government authorised military operation which exposes ADF personnel to the risk of harm from designated forces or groups that have been assessed by Defence as having the capability to employ violence to achieve their objectives, but there is no specific threat or assessed intent to target ADF personnel. The use of force by ADF personnel is limited to self-defence and there is no expectation of ADF casualties as a result of engagement of those designated forces or groups.

Warlike service exposes ADF personnel to a direct risk of harm from hostile forces. A warlike operation is an Australian Government authorised military operation where ADF personnel are exposed to the risk of harm from hostile forces that have been assessed by Defence as having the capability and an identified intent to directly target ADF personnel. ADF personnel are authorised to

⁴²Clarke, 11.59, 11.60

⁴³ Butterworth Security. N.P. McNamara, AVM, DCAS. 564/8/28. 14 October 1975.

use force to pursue specific military objectives and there is an expectation of ADF casualties as a result.⁴⁴

33. The new definitions did “not alter the intent or direction provided by the 1993 definitions”, rather providing “more clearly” the difference “between the NOS classifications ...”⁴⁵

Interestingly, and relevant to the RCB matter, the peacetime service criteria in the revised document states:

*A peacetime operation is an Australian Government authorised military operation that does not expose ADF personnel to a Defence-assessed threat from hostile forces. Therefore, there is no expectation of casualties as a result of engagement with hostile forces. There may be an increased risk of harm from environmental factors consistent with the expectation that ADF personnel will from time to time perform hazardous duties.*⁴⁶

34. Given the assessed threat to ADF personnel at Butterworth during the CIM the peacetime claim of Defence must be ruled out. The following discussion examines ABB against these later criteria.

35. Warlike service differentiates from non-warlike service on the following facts:

- Direct risk of harm as opposed to an indirect risk of harm.
- Having the capability and an identified intent to directly target ADF personnel as opposed to no specific or assessed intent.
- Authorised use of force to pursue specific military objectives with an expectation of casualties as opposed to force limited to self-defence and no expectation of casualties.

Direct Risk of Harm

36. Security documents referenced above demonstrate the real possibility of direct attacks on ABB. For example:

- In 1971 the ANZUK Intelligence Group assessed there was a definite risk of small scale, isolated attacks designed to damage vital points and injure personnel at ABB at any time without warning.⁴⁷

⁴⁴ Hearing Resource Pack. Inquiry into Medalic Recognition for Service with Rifle Company Butterworth. 23 November 2022. P.45

⁴⁵ *Ibid.*

⁴⁶ *Ibid.*

⁴⁷ ANZUK Intelligence Group (Singapore). Note No. 1/1971. The Threat to Air Base Butterworth up to the End of 1972. Singapore. 30 November, 1971.

- Australia's JIO threat assessment, "The Security of Air Base Butterworth", dated October 1975, believed there was a "distinct threat" to Australian service personnel and their dependents from booby traps and minor terrorist acts.⁴⁸
- The October 1976 draft 'RAAF Presence at Butterworth' noted: "Action has recently been taken to construct revetments to give some protection to the Australian aircraft at Butterworth against attack".⁴⁹

Capacity and Identified Intent

37. The ANZUK Intelligence Groups "The Threat to Air Base Butterworth up to the end of 1972" discussed the Communist Party of Malaya's intentions at paragraph 39 and on. Its aim was to establish a communist state of Malaya through "armed struggle". At the time of writing, it was considered the communists were in the early stages of the campaign with the possibility of being prepared to escalate activities likely at the end of 1972 at the earliest.⁵⁰

38. The Communist's 8th Assault Unit with an estimated strength of 30 to 40 armed Communist Terrorists was present in the forested areas some 15 to 20 miles east of ABB.⁵¹

39. In his article "Peninsular Malaysia: The "New Emergency", published in the Summer 1977 edition of *Pacific Affairs*,⁵² Richard Stubbs discusses the "New Emergency" as it had been called by Tun Razak, the Malaysian Prime Minister. He wrote:

Not only had there been a number of spectacular terrorist attacks – the bombing of the capital's War Memorial; the assassination of Perak's Chief of Police; and the grenade and rocket attacks on the Police Field Force Headquarters, Kuala Lumpur military air base and several camps in Johore, Port Dickson and Penang – but also, and perhaps more ominously, there had been a steady increase over the preceding three years in the number of police and security force personnel killed and injured.

40. The intentions and capacity to directly target police and military installations, including air bases, is clearly demonstrated. While JIO in 1975 did not see Australian aircraft being deliberately targeted, "unless the Australian presence became a political issue", it considered it "unlikely that the CTO would try to discriminate between RAAF and RMAF targets, and Australian personnel and

⁴⁸ Joint Intelligence Organization, Department of Defence, Canberra, ACT. JIO Study No, 13/75. The Security of Air Base Butterworth. Issued Oct. 1975.

⁴⁹ Attached to: AUSTEO *The RAAF Presence at Butterworth*, Para 21, attached to Hamilton R.N, A/First Assistant Secretary Strategic and International Policy Division, Review of Butterworth Deployment, 22 October 1976.

⁵⁰ ANZUK Intelligence Group (Singapore). Note No. 1/1971. The Threat to Air Base Butterworth up to the End of 1972. Singapore. 30 November, 1971.

⁵¹ *Ibid.*

⁵² Richard Stubbs. *Peninsular Malaysia: The New Emergency*. *Pacific Affairs'* Vol. 50. No.2 (Summer, 1977). pp. 249-262. www.jstor.org/stable/2756301. Accessed: 04/10/2012 18:26.

equipment would be endangered. The destruction of RMAF aircraft would be attractive propaganda".⁵³

Authorised Use of Force to Pursue Military Objectives

41. ABB meets Defence's definition of a military objective:

- A military objective is defined as "Any object which by its nature, location, purpose or use makes an effective contribution to military action and whose total or partial destruction, capture or neutralisation, in the circumstances ruling at the time, offers a definite military advantage"⁵⁴

42. A 1976 review of the Australian presence at Butterworth noted:

It [RAAF] assists the RMAF in running the largest of the four RMAF bases in West Malaysia ... Because of its location and size Butterworth is very important to Malaysia and its efforts to contain the CPM force, and the withdrawal of the RAAF, or any significant reduction in its size, would markedly reduce the effectiveness of the base and/or require large diversions of RMAF effort to Butterworth from other bases. The general level of achievement of the RMAF would drop if there was any large reduction in RAAF strength at Butterworth.⁵⁵

43. Any enemy action resulting in partial destruction, capture or neutralisation of a vital point had the potential to offer the communists "a definite military advantage." Likewise, action leading to Australia's premature withdrawal would aid the enemy.

44. RCB was primarily a Quick Reaction Force (QRF) to respond to and repel enemy incursions to ABB, i.e., to defend military objectives. The minimum QRF was a section (8-10 men) which changed shift at 0800 hours daily for a 24-hour tour of duty. The QRF Commander was responsible for drawing, checking and distributing "ready reserve ammunition and pyrotechnics from the company duty room and issuing it to QRF members.⁵⁶ When training outside the company area within the perimeter of ABB live QRF ammunition was secured in ammunition boxes and carried in the QRF truck ready for issue prior to deployment to a key point if reacted.⁵⁷

45. Lieutenant Colonel Russell Linwood ASM (Retd), is a former Officer Commanding RCB. His RCB Service Summary is attached to submission 066. Annex A describes his personal experience at ABB in the December 81 to Feb 82 period, including the weapons he carried whilst on duty.⁵⁸ As advised in a personal email, the General-Purpose Machine Gun carried by Linwood on one occasion

⁵³ Joint Intelligence Organization, Department of Defence, Canberra, ACT. JIO Study No, 13/75. The Security of Air Base Butterworth. Issued Oct. 1975.

⁵⁴ Rifle Company Butterworth Review Group Brief and Addendum to MINDP Defence Comments. Attachment C to MB18-001788. Defence FOI 453 1819_Schedule Item 1_4.

⁵⁵ 'Review of RAAF Presence at Butterworth', 10 Sept 1976.

⁵⁶ Orders - Quick Reaction Force (QRF) Commander. Annex B to AS Rifle Coy Unit Standing Orders Dated 12 Dec 78.

⁵⁷ Orders - Quick Reaction Force. Annex C to AS Rifle Coy Unit Standing Orders Dated 12 Dec 78.

⁵⁸ Submission 066 – Lieutenant Colonel Russell Linwood ASM (Retd)

was one not normally carried by Army officers but in the circumstances described – travelling in convoy by road for live firing exercises – was justified because of the communist threat.⁵⁹

46. Live ammunition would be unnecessary for a purely training situation. Clearly, the QRF was ready at all times to respond instantly to an enemy threat. This situation differs from that of sentries.

47. ROE for sentries went beyond self-defence and applied to all weapons including crew served machine guns at section level.⁶⁰ Unit Standing Orders for sentries on Protected Places were quite explicit:

9. If you are posted as a sentry of a Protected Place, the provisions of paragraph 3 [‘IF IN DOUBT DO NOT SHOOT’] 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 – BERHENTI ATAU SAYA TEMBAK’ repeated three times you may fire at him provided you are unable to stop 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 [no other means of restraint]; and
- b. There is no other means of affecting their rearrest.⁶¹

48. No limitation was placed on these rules. The intruder was not required to be armed or to appear as a threat. They only need be in the protected place. It cannot be construed that these ROE were limited to self-defence. The ROE applied equally to the real possibility of attack when warnings were irrelevant. Linwood advises that at times the entire RCB could be, and were, on standby as a QRF.⁶² In October 1974, Wing Commander Brough, Senior RAAF Ground Defence officer, that security arrangements always required the minimum presence of two RCB platoons at ABB.⁶³

Expectation of Casualties

49. Casualties occurred over the 21 years of the Insurgency. It began on 17 June 1968 with the killing of 17 Security Force members close to the Thailand border.⁶⁴ Malaysian security force casualties totalled 155 killed and 854 wounded, with casualties occurring every year.⁶⁵

⁵⁹ Email. R. Linwood to K. Marsh. 20130107 Ken advanced paper. 9 Jan 2023

⁶⁰ *ibid*

⁶¹ Appendix 3 to Annex C to AS Rifle Coy Unit Standing Orders Dated 12 Dec 78.

⁶² Email. R. Linwood to K. Marsh. 20130107 Ken advanced paper. 9 Jan 2023

⁶³ ARA infantry Co at But. Wing Commander Brough, SRGD. 11 Oct 74.

⁶⁴ *The Malaysian Army's Battle Against Communist Insurgency 1968-1989*. Translated and adapted from the Malay language by Mohamed Ghazemy Mahmud. Originally published in Malay as ‘Tentera Darat Menentang Insurgency Komunis 1968-1989’. 2001. Army Headquarters, Ministry of Defence, Kuala Lumpur. p.6

⁶⁵ *ibid*. p.157.

50. In April 1970 the six year old daughter of a British serviceman was killed and her nine year old playmate seriously injured by a communist booby trap placed in a playground in Singapore.⁶⁶ (See attachment) Booby traps were seen as a “distinct threat” to Australian service personnel and their dependents in the 1975 JIO threat assessment of ABB.⁶⁷ In addition to the representative security concerns at ABB provided above, the following are provided here to again demonstrate the threat.

- **8 November 1971.** A JIO report prepared for the Assistant Services Advisor reported on a briefing by Lt.Col. Ahmad of the Malaysian Ministry of Defence. Although Ahmad discounted a military threat to Butterworth in the near future he considered “the likelihood of sabotage ... was highly likely and could occur at any time” owing to the presence of a communist underground movement of “considerable strength on Penang, in Butterworth and to the north of Butterworth”. The report accepted Ahmad’s position, noting, “However, we are of the opinion that should a soft target be presented then the likelihood of the CTO [Communist Terrorist Organisation] conducting sabotage activities against Air Base Butterworth is highly probable.”⁶⁸ A security briefing dated 4 November 1971 considered “there is always the possibility that trained saboteurs may carry out acts of sabotage if our security is lacking ... threats by way of sabotage, and booby traps ... by CTO underground operatives within and around this area remain perpetual ...”⁶⁹
- **October 1975.** Australia’s JIO threat assessment, “The Security of Air Base Butterworth”, listed around 120 known incidents involving insurgents in the area surrounding the base between July 1974 to August 1975. JIO believed there was a “distinct threat” to Australian service personnel and their dependents from booby traps and minor terrorist acts. JIO considered it possible that married quarters adjacent to the base could be targeted by the insurgents. The possibility of insurgents kidnapping or murdering foreign nationals, including Australian personnel and their dependents, was also considered. It was believed these tactics could be readily adopted by the terrorists.⁷⁰

51. The author has a clear recollection of being warned of booby traps shortly after arrival at ABB in September 1971.

52. Given the intelligence information and threat assessments referenced in this paper it would have been impossible to argue that casualties were not expected if an attack had taken place.

⁶⁶ The Straits Times. *Bomb Victim Dies*. 25 April 1970. Page 1.

⁶⁷ Joint Intelligence Organization, Department of Defence, Canberra, ACT. JIO Study No, 13/75. The Security of Air Base Butterworth. Issued Oct. 1975.

⁶⁸ JIO Briefing for Assistant Services Adviser. 207/2/26. Def.382. 8 Nov 1971.

⁶⁹ Minutes of a Conference Held at Air Base Butterworth on 4th November 1971 to Discuss the Shared Defence of Air Base Butterworth. 1/7/Air (48). Annex A Security Briefing on the Arm Threat at RAAF Butterworth 04 Nov 71.

⁷⁰ Joint Intelligence Organization, Department of Defence, Canberra, ACT. JIO Study No, 13/75. The Security of Air Base Butterworth. Issued Oct. 1975.

What of the Level of Risk?

53. In a response to the Tribunal dated 16 November 2022, Dr Robards advised at page 5: Threat Assessments for Air Base Butterworth over the period 1971 to 1989 were continually assessed as LOW.⁷¹

54. The objective criteria for warlike service allow no room for additional subjective, qualitative statements such as low. Justice Clarke considered this in Chapter 11, “Qualifying Service – World War II Historical Perspective, noting:

What should be emphasised is that the practice of focusing on ‘imminent’ risk of harm has led to inconsistency between decisions and reliance of fine points of distinction to justify decisions in cases where the factual circumstances are almost identical to those in an earlier case but the result is different.⁷²

In the opinion of the Committee, the approaches taken in many of these cases ... fail to perceive the full significance of the concept of exposure to peril that is not limited to ‘imminent’ or ‘immediate’ peril. Some of the cases also appear to depend, to some degree, on the evidence of a historian about the locations of enemy aircraft, submarines, raiders or mines, and about what, in fact, happened many years before the case was heard. Not only is this evidence an expression of hindsight, but it, presumably accurately, reveals what was most certainly was not known at times to senior Defence authorities.⁷³

55. We contend this observation is relevant to ABB. The 1971 Threat Assessment to ABB, under the heading “Threat Assessment” concluded:

there is definitely a risk that one or more CTs, or members of subversive groups known to be operating in the vicinity, could, regardless of CPM/CTO policy and/or acting on their own initiative, attempt an isolated attack on or within the Base at any time.⁷⁴

56. Again, under the heading “Threat Assessment”, Australia’s Joint Intelligence Organisation assessed in 1975:

There is some risk that members of subversive groups could, regardless of CTO policy or acting on their own initiative, attempt an isolated attack on or within the Base at any time.⁷⁵

57. Above this, under the heading “Possible Forms of Attack by the CTO”, JIO noted:

⁷¹ Dr Paul Robards AM. Acting First Assistant Secretary People Services. Defence People Group. Department of Defence. Inquiry into Recognition of Rifle Company Butterworth. ECC22-004607. Submission 096a. Enclosure to ECC22-004607. Response to Question 4. 16 Nov 2022.

⁷² Clarke, 11.52

⁷³ *Ibid.* 11.53

⁷⁴ ANZAC Intelligence Group (Singapore). Note No. 1/1971. *The Threat to Air Base Butterworth up to the end of 1972*. Singapore. 30 November 1971. Para. 54 (e). See also Para. 71 (e).

⁷⁵ JIO Study No. 13/75. *The Security of Air Base Butterworth*. Joint Intelligence Organisation Department of Defence, Canberra, ACT. Issued Oct. 1975. Para. 56 (f).

Nevertheless, the use of booby-traps and minor acts of sabotage are relatively common throughout Peninsular Malaysia and pose a distinct threat, both to the Base and to Australian personnel and their dependents.⁷⁶

58. The word “low” does not appear in either of these two major threat assessments. It must therefore be concluded that Dr Robards’s advice to the Tribunal of 16 November is based on something other than the contemporaneous assessments.

59. To reiterate Clarke’s ending to his discussion in Chapter 11 regarding the WWII historical perspective on Qualifying Service:

If then, the military authorities consider that a particular area is vulnerable to attack and dispatch armed forces there, they are sending forces into harm’s way, or danger. This is the second point made by Mohr – that veterans ordered to proceed to an area where they are endangered by the enemy will not only perceive danger, but to them the danger will be an objective one based on rational and reasonable grounds. In these circumstances, what the historian says he or she has learned since the war about the actual intention of the enemy is hardly relevant.⁷⁷

60. We conclude subjective, qualitative assessments such as “low” are inadmissible under the warlike service criteria, the objective nature of the “Incurred Danger” test on which they are based, or by precedent.

61. Further comment is provided in “Submission 065b – Mr Raymond Fulcher on behalf of the Rifle Company Butterworth Review Group⁷⁸” at 6.2.1.

Conclusion

62. ABB was one of an unknown number of military and police installations in Peninsular Malaysia during the CIM. The enemy had demonstrated a clear intent and the capability to attack these and other targets. There was no basis for believing Australian assets and personnel would not come under attack, and there were identified circumstances that could lead to the direct targeting of Australian assets and personnel. Its closeness to the Communist’s strongholds in South Thailand potentially made ABB a more attractive target to those more remote.

63. A shared defence plan considered the Base a single entity for defence and security purposes, making no distinction between Malaysian and Australian forces. Australians could be called on to defend Malaysian facilities vital to its war effort. Casualties occurred over the war’s 21-year period. This fact, and the assessed definite threats to Australian assets, personnel, and their families,

⁷⁶ *Ibid.* Para. 48 (d).

⁷⁷ Clarke, 11.59, 11.60

⁷⁸ Submission 065b – Mr Raymond Fulcher on behalf of the Rifle Company Butterworth Review Group

demonstrate an expectation of casualties - if casualties had occurred it would not be possible to claim after the event they were not expected.

64. All the evidence available demonstrates the Base, and especially the RCB, were on a warlike footing. Warlike service is established for ABB veterans for the duration of the armed Insurgency.

Note on References

Most documents referred to are contained in the USB Drive supplied as Enclosure 1 to the Tribunal by Lieutenant Colonel Russell Linwood ASM (Retd) in Submission 066 at documents.⁷⁹ These can be accessed by converting the date of the reference to the year/month/day system. For example, *JIO Briefing for Assistant Services Adviser. 207/2/26. Def.382. 8 Nov 1971* will be found at 19711108.

Attachment.

⁷⁹ Submission 066 – Lieutenant Colonel Russell Linwood ASM (Retd)



■ *Figure 4.36: Areas covered under Operation SEDAR in Kedah.*



■ *Female CTs.*

Operation SEDAR

Despite all the action taking place in the jungles of the Main Range which straddles the spine of the Peninsula, the northern state of Kedah was also not exempted from the threat of CT activities, particularly from the 8th Assault Unit, which was active in Kulim, Mahang, Selama, Karangan, the Gunung Bintang Complex, Gunung Bongsu and Gunung Inas (Figure 4.36). Before Operation SEDAR was launched, the 6th Infantry Brigade Headquarters had launched a special operation codenamed Operation RADAK in the area of Bukit Besar, Kulim, Kedah against the 8th Assault Unit. SF have been hot on the trail of this group for several years without any success.

The break came in May 1971. Intelligence provided by the SB of the Royal Malaysia Police and information received from the public stated that a band of about seven CTs would meet at Bukit Besar, Kulim, Kedah on May 14, 1971, and set up camp in the area. The 3rd Battalion Ranger Regiment based in Taiping, Perak, was directed to mount this special operation.

The operation was carried out in several phases, the first being to insert a reconnaissance patrol into the jungle to find suitable routes into the operational area by members of the intelligence team. The second phase would be the entry of the encircling team comprising B Company, C Company, D Company and the Headquarters Company from the 3rd Battalion Ranger Regiment. Assisting them would be the A Company from the 9th Battalion RMR and C Company from the 10th Battalion RMR. The third phase would be the entry of A Company, acting as the search-and-destroy group. The fourth phase would be the sweep operation and the fifth and final phase would be the assault on the CT camp.



File photograph of Lai Muk San @ Siew Chong

8th Assault Unit

The 8th Assault Unit began infiltrating into the area south of Kedah in early 1969 to gain support of the local population and expand its operational area up to Sumpitan, Lenggong, Sauk, Kati, Batu Kurau and Ijok in Perak.

Communist veteran Lai Muk San @ Siew Chong, who had been with the CPM for 20 years, led this unit. This unit had a strength of between 60 and 70 CTs, some of them were from south Kedah. In 1978, the SF killed many members of this unit in jungle battles and ambushes, forcing it to withdraw from the Kulim/Selama area of Kedah to south Thailand where it restructured its organisation and re-built its strength.

This unit re-infiltrated Peninsular Malaysia in 1981/82. This time, it did not infiltrate south Kedah but instead the Kuala Kangsar district and areas around the Sauk Complex, Leman Kati and Lenggong in Perak. However, the SF detected its presence and the intense operations mounted against it forced it into isolation and engage only in low level activities. Due to the pressure from the SF, it was forced to retreat to south Thailand where it merged with the main force, the MNLA 12th Regiment.

AREA OF OPERATION - 8TH ASSAULT UNIT



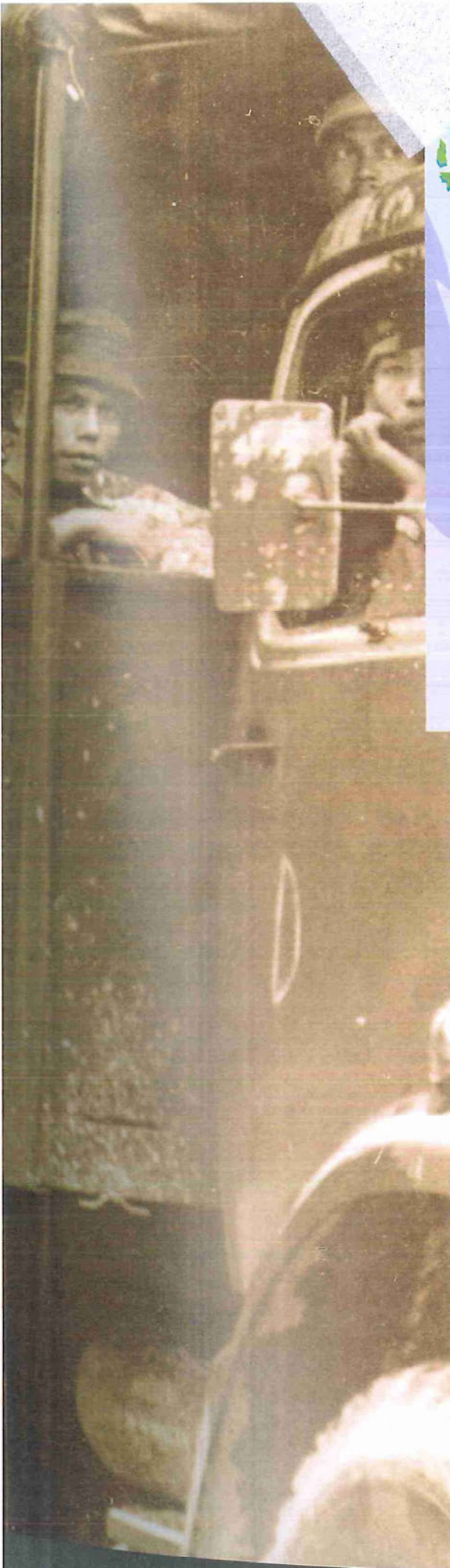


Figure 4.2: Major operations conducted by the Army in Peninsular Malaysia.

ARMY OPERATIONS IN PENINSULAR MALAYSIA

The army had mounted many operations and campaigns to counter the threat of communist insurgency over a period of 21 years. This book, however, documents only several major operations and conflicts as well as certain incidents and activities that could be made public. The main operations listed are the Operation KOTA, Operation SETIA, Operation INDERA, Operation TUAH, Operation SABRE, Operation SEDAR and Operation GALAS (Figure 4.2).

These operations were carried out continuously by the various army divisional and brigade commands even though the commanders and forces involved were replaced from time to time. At the same time, the formation commands also launched special operations in certain areas other than the normal operations.

RENEWED MILITANT COMMUNIST THREAT, A REPEAT (1968-1989)

The retreat to south Thailand provided the CPM with the time and opportunity to lick their wounds and to review their failure, besides making preparations to continue their armed struggle and to realise their objective of setting up a Communist Republic of Malaya. The confrontation with Indonesia seemed to have provided the needed opportunity for the CPM to revive the revolutionary atmosphere through armed rebellion. The CPM thus activated its assault units, Communist United Front groups and its various underground elements.

The jungles of south Thailand provided sanctuary for the CTs to conduct their training before infiltrating into Peninsular Malaysia. The CPM used the respite as an opportunity to strengthen ties with the local population and to train its cadres in making booby traps.

As a herald of its return to Peninsular Malaysia, the armed wing of the CPM ambushed a SF convoy travelling from Kroh to Betong on June 17, 1968. The ambush killed 17 SF members. It reaffirmed the CPM's belief that only armed rebellion could topple the legitimate government in Peninsular Malaysia.

At the end of 1969, the CPM's assault units crossed the porous Malaysia-Thailand border into Peninsular Malaysia. They reoccupied their previous jungle bases in Kedah, Kelantan, Perak and also Pahang. The infiltration was done through trickery and deceit. The killings and ambushes against the SF in Sintok, the landmines planted on the road between Changlun and Sadao, and the blowing up of a railway

line section at Kok Mak near Padang Besar, were all designed to mislead the SF into believing that the armed rebellion was only concentrated around the border, in particular in the area north of Kedah. In a way, these incidents were a harbinger of the resumption of their armed struggle.

In the early stages of the infiltration, the MNLA assault units tried to be aggressive against the SF but past defeats had made them more cautious. They changed tactics and avoided direct contacts with the army and police units. This new strategy worked remarkably well and the assault units succeeded in infiltrating into the interior of Kedah, Perak, Kelantan, Pahang and Selangor. The assault units in Kedah, Perak, Pahang and Selangor, were from the MNLA 12th Regiment while those in Kelantan were from the MNLA 10th Regiment. Meanwhile, the MNLA 8th Regiment was active along the Malaysia-Thailand border in Kedah.

The bloody clash in Bukit Kinta Forest Reserve, Perak, between a MNLA assault unit and a special reconnaissance group of the 4th Battalion Ranger Regiment in June 1971, in which Captain Mohan Chandran was killed, revealed that the CTs had infiltrated and gained a foothold in the hinterland of the Peninsula. Investigations carried out by the army several days after the clash showed that the CTs had a large camp ringed with an effective system of defence.

After the incident, like a disturbed hornet, the various army units from the 2nd Brigade in Perak, 6th Brigade in Kedah and Perlis, 4th Brigade in Pahang and 8th Brigade in Kelantan intensified their "search and destroy" operations against the CTs.

Year	CT DESTROYED				SF CASUALTIES			ACTIVITIES						
	Killed	Captured	Surrendered	Total	Killed	Wounded	Total	Clashes	Incidents	Movements	FINDINGS			
											Camps	Resting Places	Food Dumps	Total
1969	-	-	1	1	6	22	28	-	5	83	-	18	-	18
1970	9	2	5	16	13	28	41	11	18	192	6	25	2	33
1971	9	1	3	13	9	35	44	17	13	316	7	46	12	65
1972	1	1	2	4	4	17	21	8	11	18	14	34	37	85
1973	8	-	1	9	4	19	23	16	22	181	17	50	76	143
1974	41	8	10	59	3	38	41	34	63	377	25	86	48	159
1975	7	1	5	13	33	150	183	22	76	323	34	117	35	186
1976	16	10	19	45	3	6	9	41	168	571	25	83	53	161
1977	23	28	27	78	13	85	98	31	35	285	17	58	32	107
1978	15	5	8	28	14	124	138	60	116	396	89	84	36	209
1979	26	7	9	42	15	80	95	54	64	449	58	102	52	212
1980	17	-	1	18	12	27	39	36	33	362	53	81	32	166
1981	6	3	18	27	9	34	43	16	32	314	18	28	11	57
1982	4	-	1	5	2	38	40	36	42	249	19	32	9	60
1983	10	-	3	13	5	23	28	15	34	171	22	43	20	85
1984	5	-	1	6	5	40	45	18	32	105	18	36	11	65
1985	-	-	-	-	3	23	26	3	14	142	18	45	10	73
1986	6	-	2	8	1	28	29	9	3	136	38	56	68	162
1987	7	2	-	9	1	28	29	10	6	35	40	73	40	153
1988	2	82	1	85	-	8	8	2	7	55	12	34	13	59
1989	-	-	-	-	-	1	-	-	2	8	10	21	4	35
Total	212	150	117	479	155	854	1009	439	796	4768	540	1152	601	2293

■ Figure 4.42: Statistics of Operational Achievement in Peninsular Malaysia from 1969 until 1989.

Source : National Security Council.


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Bomb victim dies

The Straits Times, 25 April 1970, Page 1

 Article also available on microfilm reel NL6486 [Lee Kong Chian Reference Library - On shelf]

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Bomb victim dies

SINGAPORE. Fri.

SIX - YEAR - OLD Katty Salter, injured in a booby-trap bomb blast at Changi yesterday afternoon, died in the Changi Hospital tonight.

Katty, a primary school student, and her neighbour, Peter Neil, nine, stepped on the bomb buried in a playground where a communist hammer-and-sickle flag was planted.

Peter's condition is said to be improving.

Their father are British servicemen.

Two more bombs -- believed to be homemade -- were found in busy Haji Lane off Arab Street at about 5.30 p.m. today.

Following a call from a

member of the public, police rushed to the scene and cordoned off the area.

The bombs were in cylindrical red packets, the size of torchlight batteries. They were found beside a drain.

Bomb disposal experts detonated them on the spot.

A police spokesman said three more communist



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The Straits Times, 24 April 1970

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Bomb found on bridge

The Straits Times, 30 April 1970

Bomb found on bridge SINGAPORE Wp(I P(ilic»" detonated a home-mad 0 bomb thU morning, aftpr wovtng it from the overhead pedestrian bridge rear the Singapore Chinese High School in Bukl' TImah Read They rushed to :he scene tOHovtag a 9M call and cordoned oft* the area. M"n

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