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3 March, 2023

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Submission to Inquiry - WO2 (RTD) Michael Raymond McCluskey

Part 1 – Name of Inquiry

Name of Inquiry *

Defence Honours and Awards Tribunal (DHAAT) Inquiry into Rifle Company Butterworth (RCB) Service 1970 to 1989

Part 2 – About the Submitter

Title or Rank *

WO2 (RTD)

Given Names *

Michael Raymond

Surname *

McCluskey

Post-nominals (if applicable)

JP(QUAL)QLD

Street Number and Name *

[Redacted]

Suburb *

[Redacted]

Postcode *

[Redacted]

State *

[Redacted]

Email Address: *

[Redacted]

Primary Contact Number *

[Redacted]

Secondary Contact Number

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

Part 3 – Desired outcome

Provide a summary of your submission:

As per attached submission

Part 4 - Your submission and Supporting Documentation

File Attached: Submission-by-M.R.-McCluskey-2.3.2023.pdf

Part 5 – Consent and declaration

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

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

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

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

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

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

Name

Michael Raymond McCLUSKEY

Date

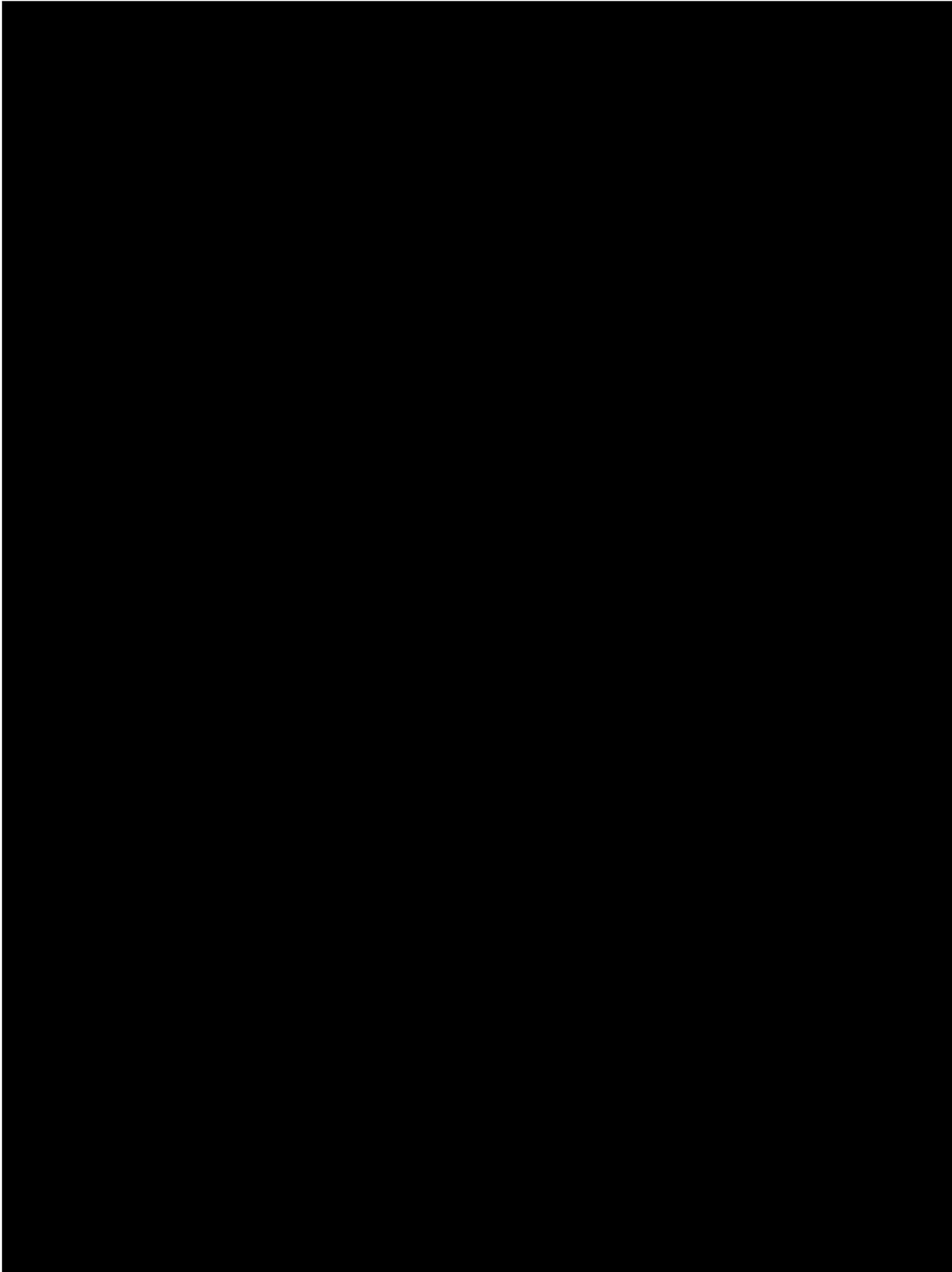
03/03/2023

WO2 (RTD) Michael

Raymond McCluskey

Signed by WO2 (RTD) Michael Raymond
McCluskey

Signed on: 3 March, 2023



Introduction

This submission is the request for recognition of RCB Service by the DHAAT for war like service for those personnel that served as part of Rifle Company Butterworth (RCB) at Air Base Butterworth (ABB) during the period 1970 to 1989.

My name is Michael Raymond McCluskey and I served in the Australian Regular Army from 1/10/1974 until 5/10/1995 where I then transferred to the ARES and finally discharged on 5/10/1997. I served at RCB ABB from the period November 1975 to March 1976 with D Coy 6th Battalion Royal Australian Regiment (RAR).

I had only turned 18 in August 1975 and was overwhelmed when advised that D Coy were being deployed. However, it didn't take long for me to accept the fact that we were being deployed and I was really looking forward to it.

Pre Deployment

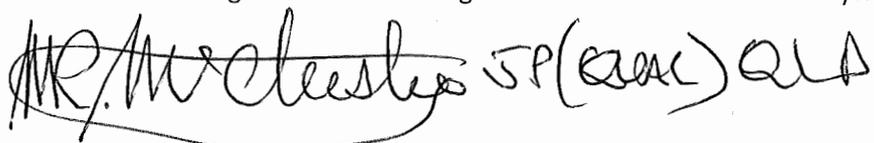
During our preparation prior to deployment from Australia we were briefed on the requirement to be on our toes at all times, even when on local leave within Butterworth or Penang Island, and not to be complacent. To that end we conducted Counter Terrorist (CT) and live fire training, TOETS (weapon handling skills) etc. From an administrative point of view we had to ensure that we had valid wills completed and they were sent to Central Army Records Office (CARO), our equipment had to be DP1 standard, injections had to be up date, any outstanding dental issues had to be completed etc. We were given briefings on what to expect when we arrived in country, that we would be dealt with, as being on Warlike/Operational Service, our Officer Commanding (OC) had the powers of a Commanding Officer (CO) when dealing out punishment. We were also briefed on our Rules of Engagement (ROE) and that we would be part of a Quick Reaction Force (QRF) every 10 days for a 24 hour period. The QRF would consist of a full section of personnel and be issued the appropriate weapons and live ammunition being 7.62 mm, 5.56 mm and M26 High Explosive (HE) grenades.

Deployment

On arrival at ABB RCB we were given briefings by RAAF and Army personnel on what the current situation was on the ground, the current threat level, that there was a distinct possibility we could expect casualty's when performing our tasks and what was expected of RCB personnel during their tour.

I can recall on a many occasions, as part of the QRF, where we were called out, at least twice during night time hours, by the RAAF to a predetermined area within the ABB perimeter as there had been suspected sightings of CT outside the ABB perimeter. It was stressed to us, during previous briefings, that there were limits to what we could do when carrying live ammunition. It was clear to us that we should apply Standard Operating Procedures (SOP's) and verbally challenge any incursions by individuals into ABB. These challenges were to be made in a loud and clear voice 3 times in English and then 3 times in the Malay language. If the verbal stop was not complied with the Rules of Engagement (ROE) issued to us permitted us to open fire on the individuals or groups. ROE also permitted us to open fire in Self Defence. If skirmishes did eventuate we had the ability, when ordered to do so, to call on heavy weapons, those used at company level for further firepower. These were stored in an armoury which was guarded on a 24 hour basis by an RCB soldier.

At no stage during my deployment at RCB ABB did we participate in any Military exercise with the Royal Military Armed Forces (RMAF). We did conduct, at platoon level training, range practices at Ipoh on the Malay/Thai Border and in Jungle Warfare Training at Pulada in the south of Malaysia.

 SP (RMAF) QRF

General Observations of the Service of RCB at ABB

The nature of service of the RCB being deployed to ABB was, in my opinion, classed as Warlike and Operational Service when we were briefed prior to and during our deployment to RCB.

Submissions by personnel who were a part of the RCB D Coy 6th BN RAR from Nov 75 to Mar 76 are as follows:

Submission 053	LTCOL (RTD) G. McKay MC who was Coy 2IC,
Submission 112	LTCOL (RTD) P. J. Charlesworth who was a Platoon Commander,
Submissions 86 and 86a	MAJ (RTD) K. Fraser, and
Submission 09	Mr D. Holyoake

Facts from the Rifle Company Butterworth Review Group (RCBRG) Submission to DHAAT

The criteria to be met for the period of RCB service is contained in Cabinet Directive 1048 of 1965 and simply requires that ADF personnel were exposed to the possible risk of harm from the ongoing actions of hostile forces or dissident elements. This in a nutshell is the "incurred danger" test which was the test applied to assessing warlike service from World War 1 and for all subsequent conflicts, as stated by Justice Mohr in his 2000 Report – Chapter 2 . This is a vital principle to be recognised in any consideration of warlike service.

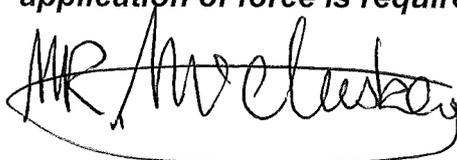
"On the assumption that we are dealing with rational people in a disciplined armed service (i.e. both the person perceiving danger and those in authority at the time), then if a serviceman is told there is an enemy and that he will be in danger, then that member will not only perceive danger, but to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

Defence have consistently tried to pull the wool over government's eyes by applying the current 2018 definition of warlike service, even though we are able to, and have, shown how we meet those criteria as well. It does however allow Defence to confuse the issue with word play rather than getting to the core of the issue – **incurred danger**.

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

Criteria: Justice Clarke in his 2002 Report to Government Chapter 14 said: *"In determining the nature of service for an approved operation, the Department of Defence uses three primary factors: the mission, the rules of engagement and the threat to ADF personnel."*

1. **The Mission.** *"Warlike operations are those military activities where the application of force is required to pursue specific military objectives,*

 JP (QUAL) QLP

such as a declared war, conventional combat operations against an armed adversary and peace enforcement operations in support of diplomatic efforts to restore peace between belligerents.....“The RCB deployment of a combat infantry rifle company (reinforced) was a **conventional defence combat operation** to protect the RAAF assets in a Shared Defence Plan with the Malaysian Armed Forces (MAF) within the air base. Specifically, RCB’s primary role, was a QRF to defend against an enemy attack. Its size was to be a deterrent to the enemy’s action. Defence is a conventional phase of war where a military force is deployed for a specific defensive/protective/security mission to a specific defended area. Elements of that defence force deploy into ‘front-line’ positions while others are designated as a reserve force for a counter penetration role (to stop the enemy’s penetration through the front-line defences into the defended area) and counter attack role (to repel, kill and/or capture the enemy). At ABB the RCB QRF was that equivalent. **The QRF was NOT a front-line deployment for sentry duties.**

2. ***“The Rules of Engagement. In warlike operations, the application of lethal force is authorised, within defined parameters, to achieve the mission.***At ABB the Shared Defence Plan had the MAF providing the ‘front-line’ perimeter defence with sentries and both the MAF and the RAAF providing patrols inside their own dedicated areas within the Base.The QRF was the reserve force to be deployed to action in its designated role (counter penetration and counter attack) as ordered by the Ground Defence Operations Centre as necessary to stop penetration into the Base area and to counter attack to repel, kill and/or capture the enemy. **At that point the QRF’s ROE/OFOF became lethal.**
3. ***The Threat to ADF Personnel. “In warlike operations there is an expectation of casualties.***The mere act of putting personnel into ‘harm’s way’ creates the expectation of casualties, that is clear even in more recent definitions of ‘warlike’.The threat from communist insurgents’ actions were as reported in various intelligence reports from various sources such as:Secret: The Australian JIO Secret Report No 13/75 dated 1 October 1975 – The Security of Air Base Butterworth, andSecret: Butterworth Security Report to the Minister from AVM N.P. McNamara Deputy Chief of Air Staff dated 14 October 1975.There are numerous references to the insurgents regarding

 SP(QRF)als 3

who, how many, where, their capacity, tactics, indirect weapons, confirmed attacks and other activities that constituted a warlike threat to ABB. Attacks did occur on other MAF Air Force bases in Sungai Besi on 31 Mar 74 and at Kuala Lumpur in 1975.

It should also be noted and taken into consideration that the New Zealand Defence Force have recently retrospectively recognised their personnel who served as part of an RCB ABB deployment to be War Like/Operational and issued a medal accordingly.

Conclusion

I request that the DHAAT Inquiry into RCB Service find in favour of the following points:

- 1. Qualifying service for VEA entitlements, and have the ABB declared under the Defence Act an active service area,**
- 2. Australian Active Service Medal (AASM) with clasp Malaysia, and**
- 3. Returned from Active Service Badge (RASB).**

I am aware that the DHAAT is having an open inquiry in Brisbane on 3 and 4/4/2023 and I am ready, willing and able to give evidence, under oath, as part of that inquiry. I will be attending in person to view the proceedings.

Regards,



Michael Raymond McCluskey JP(QUAL)QLD

3 March 2023