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## Submission to Inquiry - Mr Stephen Winthrop

### Part 1 – Name of Inquiry

Name of Inquiry \*

Inquire into RCB

### Part 2 – About the Submitter

Title or Rank \*

Mr

Given Names \*

Stephen

Surname \*

Winthrop

Post-nominals (if applicable)

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[REDACTED]

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State \*

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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:

To prove RCB was warlike.

### Part 4 - Your submission and Supporting Documentation

File Attached: Threat-Level.docx

## 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**

Stephen Winthrop

**Date**

26/04/2023

A handwritten signature in black ink that reads "S. Winthrop". The signature is written in a cursive, slightly stylized font.

Signed by Mr Stephen Winthrop

Signed on: 26 April, 2023

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LEGALLY SIGNED USING  
**WP**signature

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S. Winthrop

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## 1993 & 2018 Definition of War-like.

From memory the Chair's view is the 1993 definition should be used, and the 2018 definition can give us a better understanding of the 1993 definition.

Keeping in mind the Chairs commented on the first hearing day "We see the definition of 2018 as relevant to medallic and DVA recognition" followed by "we think the 1993 definition are still of use.

The Chair may have made an incorrect analysis of the 2018 definition when he said  
"the 2018 definition don't make that distinction, they say warlike **expectation of casualties.**"

The definition actually says "expectation of Casualties **as a result**" (as a result of using authorised force)

2018 definition "..... ADF personnel are **authorised to use force** to pursue specific military objectives and there is an expectation of ADF **casualties as a result**. The expectation of casualties is a result of using that authorised force to pursue military objective. If you do not use that authorised force then there does not need to be expectation of casualties, it does not say you have to use that authorised force to be warlike.

In the 2018 definition it is clear the **authorised to use force**, and the **expectation of casualties as a result** are directly aligned to each other. **If we use that authorised force then there is an expectation of casualties.**

It does not say there has to be an expectation of using that authorised force to be warlike, it does not say we have to use that authorised force to be warlike, **just we are authorised to use that force, if there is a need to, and if we use that authorised force then there is an expectation of casualties.**

That is, we are authorised to use force, and expectation of casualties comes about due to using that authorised force.

If we use the 2018 definition to help us understand the intent of the 1993 definition, then we will see the expectation of casualties is aligned with authority to use force, and the expectation of casualties is expected, as a result of use that authorised force.

To be warlike, nowhere in the definition, it does not says there has to be a high risk to use that authorised force, or there has to be a high expectation of casualties, just an expectation of casualties, as a result of using that authorised force. Implying the definition should mean there is a high expectation is incorrect. Adding adjectives which are not there changes the definition,

You could be on a warlike operation -

- a. and not even expect to have an encounter with the enemy, but the mere fact you are somewhere in a war zone, you receive the AASM, **and RCB definitely was in a war zone and involved.**
- b. People in rear echelon, that is people concerned with administration and supply duties who were a low threat of an attack or a low risk to be a causality, but were in a war zone still get the AASM.
- c. There are times where people have received the AASM, who have not been in the same country as the conflict, which begs the question would it be discriminating against RCB, RCB were actually involve in the conflict and in the country of that conflict – RCB task was to counter attack, kill, drive the Ct's off the Base when they penetrated the perimeter, **if that is not being involved in the conflict then what is**, and this was approved by the Australian and Malaysian Government under the Shared Defence Plan

## Conclusion

It is clear and unambiguous – “**expectation of casualties are a result**” of using that authorise force to peruse military objective, It is clear and unambiguous, there does not have to be an expectation of using that authorised force, the expectation of using force is not in the warlike definition, **and should not be implied it is.**

Both 1993 and 2018 warlike definition do not state the level of expectation, that is a high expectation, a medium expectation, and it could be a low expectation, just as long as there was an expectation of casualties.

**By saying the expectation of casualties was not high enough to be warlike, confirms there was an expectation of casualties, as the definition only says “an expectation of casualties” then we fit the war-like definition.**

**Verbally adjectives should not be added into the definition of warlike, they are just not there, for example, the threat level was not high, they are just not there in the definition of warlike, and are changing the definition.**

**There is nowhere, as in a preamble or anywhere to suggest in the definitions there is a sliding scale in the definitions, they are 3 separate individual definitions. Whether anyone thinks there should be a sliding scale is irrelevant, as it is not in there, just 3 individual separate definitions.**

## **We should have a close look at the 1993 non-Warlike definition.**

..... Where there is a risk associated with the assigned task and where the application of force is limited to self-defence. Casualties could occur **but are not expected.”** again, **but are not expected** Casualties could happen, **but casualties are not expected.** It is important to point out, in non-warlike **Casualties are not expected,** The definition is clear while casualties could happen, **casualties are still not expected.**

The reasoning, While I as a 71 year old with a few extra lbs and a damaged heart, is in a race with a Olympic runners. I would not be expected to win, but as I’m in the race I could win.

The Olympic runner may fall over and break his leg, and not finish the race, and I would win. No one would expect this would happen, and while it could happen (casualties could happen)

No one believes it would happen (so casualties are not expected)

It is clear in the non-warlike definition Casualties could happen, but they rule out that event will happen and say **but are not expected,** they do not believe casualties will happen.

**This takes RCB out of non-warlike into warlike, where Casualties were expected,** CTO ordered rocket attacks on air fields which included Butterworth, according to the Malaysian Intelligence, Butterworth probably (likely to happen) be attacked, Anzuk Intelligence said an attack was definitely (without doubt) a risk at any time without any warning. Our JIO said small groups of Ct’s or subversive groups could attack Butterworth at any time. **This takes RCB out of non-warlike into warlike.**

## **Defence claim, limited to self-defence.**

Defence claim RCB was limited to self-defence, does not match their own records. Rules of Engagement by Fire, Appendix 3 to annex C.

“If any person enters the protected Place (all of Butterworth was a Protected Place) and while within

the Protected Place, fails to halt when challenged, (warnings given) **you may fire at him** “should a person you have arrested within a Protected Place attempts to escape, (warnings given)

**you may shoot them.**

Which means you are armed with live ammunition, you have already carried out, load, action and instance, and **intend to shoot to kill, without your life being in danger**. Defence should read their own documents.

Our ROE takes us past non-warlike into warlike definition, we also exceed the Non-warlike expectation of casualties, as the definition says, **“but are not expected”**

Obviously we exceed the non-warlike definition, and that takes us into the warlike definition.

DHAAT board has put the wrong emphases on the expectation of casualties.

Their view seems to be, there is a steep incline sliding scale, from peacetime to warlike. They seem to be saying.

- a. Peacetime, no expectation of Casualties.
- b. Non-warlike, while there is no expectation of casualties for peace time, then there must be some expectation of casualties for the next level up, but non-warlike say, **but are not expected**
- c. Warlike. There has to be a high almost 100% expectation of Casualties to be warlike.

**What the definitions are saying.**

- a. Peacetime. no expectation of Casualties.
- b. Non-warlike. **“but are not expected”** there is some risk, **but casualties are still not expected**, that is zero casualties.
- c. Warlike. expectation of casualties. It does not say there has to be a high expectation, just as long as there is an expectation. Verbally implying there should be a high expectation is incorrect, and these verbal adjectives should not be used when they are not in the definition.

## **Why was there an Expectation Of Casualties.**

- a. We were on an air base directly involved in a Communist Insurgency War.
- b. We were on an airbase which was directly used to fighting that war from.
- c. we were in a hostile and war environment.
- d. There was a (Chairs words) “hot combat situation” around Butterworth, bridges, railway lines blown up, military base rocketed, deadly fire fights with the Ct’s with in kilometres of Butterworth.
- e. Other air bases and military bases in Malaysia were attacked and rocketed.
- f. We were taking the place of the Malaysian Army to defend Butterworth from a Ct ‘attack.
- g. We were the first responders to a Ct attack, our duty was to engage the enemy, to kill them, to drive them off the base, with the approval of the Malaysian and Australian Government.
- h. Malaysian troops who were at Butterworth were on active service.
- i. Our ROE went beyond non-warlike into warlike.
- j. Malaysian Military Intelligence told Australia there probably would be an attack on Butterworth.
- k. Anzuk Intelligence. Said there was definitely a risk of an attack on Butterworth, at any time without any warning.
- l. Our JIO said the greatest risk come from small groups of Ct’s and subversive groups from an attack at any time.
- m. CTO gave orders for underground units to rocket attack air fields, Butterworth was not excluded.
- n. Malaysian troops, there were severe casualties amongst them.

## **Threat Level, which leads to the expectation of Casualties.**

There was a lot of discussions on the threat level at the 3 & 4 April hearings.

The key point in all the discussions is that no one could show or produce any JIO document showing the threat level as low

Air Commodore Grady said "I have been through all JIO material I have, and cannot find reference at any point to a assessed threat as low"

The Chair said "Nowhere in the documents was the risk rated as medium or high, did you ever find those words" the reply from Mr Fulcher "**they are not in the documents, either is low**"

We need to look at the threat level at the most reliable source and where the threat level originates from that is the Malaysian Military Intelligent, these people were on the ground, they know first-hand what is going on, their assessment is the most reliable, the Malaysian Intelligence have a deep understanding of the situation on the ground.

The Malaysian Deputy Director Military Intelligence informed our Ambassador in Malaysia - "the threat level to **all Bases was now very seriously regarded** and apart from anything else an attack would be a good moral victory for the CTO. They were attractive targets.

### **He also assessed Butterworth as a probable target**

Probable definition – Likely to happen.

Here we have the most reliable intelligence agency in this matter the Malaysian Military Intelligence telling our Ambassador that an attack on Butterworth is probable, ( likely to happen). There can be no misunderstanding he did not say a low threat, but probable, that is likely to happen.

**DHAAT have their answer to this question as to the threat level, as to an attack, it was not low, it was probable, that is likely to happen. We fit the definition of expectation of casualties for war-like. it was more than prudent to have RCB at Butterworth, it was vital as an attack was likely to happen.**

We should also look at other reliable source -

### **ANZUK Intelligence Group**

SECRET. The threat to Butterworth Air Base to the end of 1972.

It was estimated that the CTO had a force of between 1.800 and 2.000 armed terrorist, they concluded that an isolated attack on Butterworth by Ct's members or other subversive group was **definitely a risk at any time and without any warning.**

**Definitely meaning – without doubt.** The ANZUK Intelligence Group are telling us that without doubt there is a risk of an attack on Butterworth. It is very clear from their threat assessment that the threat **was not low.**

**If there was a probable (likely to happen) risk of an attack, then there was definitely (without doubt) a risk of attack, we more than fit the definition, of expectation of casualties for war-like**

We should have a look at the word "**at any time, and without any warning.**"

**At any time,** means exactly what it says, There could be an attack at any time, for RCB that meant we had to be in instant readiness for that attack, an attack at any time does not sound like there was a low threat.

**"Without any warning"** means exactly what it says, RCB never knew when the attack would happen, just it may happen at any time, and happen without any warning.

Two highly respected intelligence agency, one who was directly involved in the conflict, confirm the threat level was not low, **but an attack probably (likely to happen) would happen**, and the other **definitely (without doubt), there was a high risk of an attack.**

This should convince anyone the threat level was not low, but was probable, and **again we fit the definition as to an expectation of casualties.**

One threat which seems to be over looked by Defence is the many subversive groups which acted independently of the CTO.

#### **ANZUK Group Threat Assessment 1971.**

There is **definitely** a risk that one or more Ct's or subversive groups known to be operating in the vicinity, could regardless of the CMP/CTO policy and/or acting on their own initiative, attempt an isolated attack on or with in the base **at any time.**

These subversive groups acting on their own initiative, were very hard to monitor and acted as a loose cannon ball you could not predict their actions.

There was always a threat to Butterworth from The Ct's or subversive group, and it never went away. The Threat according to Malaysian Military Intelligence, and ANZAC Intelligence, was assessed as probable and definitely, both fill the expectation of an attack and the expectation of Casualties, **there for RCB fit the war-like definition.**

Security meeting held at Butterworth in May 1971 which the Defence and Security was discussed,

to adopt two distinct phases of defence to meet the possible direct attack by the CTO.

- a. Major. direct attack, from a large group of Ct's which was considered low.
- b. Minor. direct attack, one or more Ct's or subversive groups. which there is definitely (without doubt) a risk

Is this how Defence uses their justification to say the threat level was consistently low. Defence zero in on the large group attack of Ct's which was low, and then completely ignores the type of attack which was considered definitely (without doubt) to happen?

Just a reminder JIO document "advance warning of any form of attack would not probably be received whether the attack were by Ct's or members of subversive groups."

Just to reminder, SECRET Air Brief 546/8/28

The major difficulty from a Defence point of view is that the Ct's are able to decide the timing, nature and frequency of attacks virtually unhindered and little fear of retaliation.

#### **Were RCB in a war zone.**

The Chair comments "If we were talking about were the Malaysian troops operating out of Butterworth in a warlike engagement, may well say Yes"

It is clear the Chair is saying if Butterworth was used as a place to fight a war from then RCB would be warlike. It has been documented in my previous and other submission that Malaysian air force and troops were operating out of Butterworth in a warlike engagement.

The fact that RCB was on an operational Malaysian Air Base which was used in their fight against the Communist Insurgents, put us directly in the middle of a war, and Butterworth was a desirable



target for the Ct's, RCB was taking the place of the Malaysian troop in providing the deterrent force, and being the first responder force group to counter any attack or penetration on behalf of the Malaysian Government and with the approval of the Malaysian and Australian Government, then RCB was involved in the Insurgency War. **If that is not being involved in the war then what is.**

**We know the Australian Defence are in denial for political reason, but the truth is, on the ground we were involved in the conflict, and RCB should not be punished for this political deception.**

Examples - sitrep of combat missions coming back to Canberra.

- a. F5E aircraft operating from Butterworth flew four sorties on both 17 May and 18 May 1977 to support operations in the Setia area.
- b. Two aircraft strikes were launched from Butterworth against targets northwest of the Muda Dam during July. On the 25 July four Tebuan aircraft each armed with 2 x 500lb bombs and 56 rockets struck a target 50 miles from Butterworth.
- c. 4 August SECRET document signed by GPCAPT Royston.  
Continued use of Butterworth as a base for ground-attack aircraft against the Ct's can only increase its attractiveness as a target.
- d. Troops were also deployed into combat against the CT's from Butterworth, and medivac operations

**Of course if you are in a place where a war is being fought from, and you are required to respond with deadly force to an attack, then you are in an active war zone, and part of that war.**

**They are not our enemy.**

The Chair's statements, "we were not at war with the Ct's" this claim is far from the truth. There is some truth in a political sense, and for the political situation we were in, and I assume the Board understands this political situation we were in.

The Fact RCB was a Quick Reaction Force to defend Butterworth from an attack or penetration of an Royal Malaysian Air Base from the Ct's during their Insurgency, then the Ct's were our enemy

**The Board should take into account of what was actually taking place on the ground, and look beyond the political situation, and the political message for that time, that is the only way you will get to the truth. Documents were written to down play the situation, for political reasons.**

If we were not at war with the Ct's or they were not our enemy, then why was it our duty to kill the Ct's when they penetrated the fence at Butterworth. Why did the Australian Government send us to go into battle with the Ct's when they penetrated Butterworth, if the Ct's were not out enemy?

Any claims that the Ct's are not our enemy is incorrect, not when the Australian Government send us there to defend our assets from a Communist attack, that is to kill the Ct's when they attack, not only our assets, but the vital assets of Malaysia in their war against the Communist. The argument that they are not our enemy or we are not at war with the Ct's is just incorrect.

**That was the sole reason for RCB, to counter-attack and kill the Ct's upon breaching the perimeter. In all JIO documents the Ct's were the enemy, or did JIO get it wrong.**

The Chair's statement "undoubtable there was a hot combat situation between the Ct's and who ever were supported by, and the Malaysian Military there were severe casualties amongst them, that is because there was an internal insurrection to over throw the Malaysian Government.

A few comments on the Chairs statements

- a. The Chair reaffirms there was a hot combat situation, but I would like to point out that Butterworth was not isolated from that hot combat situation, it was directly involved in the fighting of that hot combat situation.
- b. It does not matter why there was a war in Malaysia, but the fact RCB was deployed there because there was a war, a hot combat situation in Malaysia, **if there was no war in Malaysia RCB would not have been sent there.**

Again we must look at the reality and what was happening on the ground, and not at some make believe political spin, otherwise a great injustice will be served on RCB

DHAAT should put a heavy leaning on the fact that RCB was the go to combat unit to counter any breach of the perimeter of Butterworth, as we were taking the place of the Malaysian troops at Butterworth, that put us at the same risk as the Malaysian troops , like the Malaysian troops who were on war service at Butterworth, then so was RCB there on war service, there is no other alternative, but to say RCB were on war service alongside their Malaysian counter parts. **We were defending Australian assets and also the Malaysian air base for the Malaysian government, against a Ct attack with the approval of the Malaysian and Australian Government. There is no other interpretation RCB was part of the Malaysian Insurgency, and RCB should be recognised as the Malaysian troops were recognised as being on war service,**

In the 1993 Definition of warlike.

In the definition of warlike. Page 39 of the Hearing Resource Pack for the November hearing

There is no mention of their need to be a declared war with an enemy.

- b. conventional combat operation against an armed adversary.

The Ct's were the armed adversary. The Ct's were the ones identified in intelligence documents which posed the threat to Butterworth.

The argument that the Ct's are not our enemy or we are not at war with the Ct's, is incorrect.

The Chair alluded to the things we did, could have just been done to be prudent, this is incorrect, RCB did things in a tactical manner because of the hostile and war environment we were operating in.

I know the Chair was playing the devil's advocate, but it would be insane for any commander not to operate in a tactical manner when you are in a hostile and war environment, and the Ct's were our enemy, according to JIO documents, and **there is zero evidence to suggest they would not attack**

As the Chair said "undoubtable there was a hot combat situation between the Ct's and the Malaysian Military" and as RCB were taking the place of Malaysian troops to defend Butterworth as part of the agreed Shared Defence Plan, that made us part of Malaysian's war against the Ct's, there is no denying this fact, the same Ct's which there was a hot combat situation with, are the same Ct's which was a threat to Butterworth, and the same Ct's which RCB was required to go into battle with, that is to kill them when they penetrated Butterworth.

## The silver bullet and the political situation.

There was talk about the silver bullet, but there seems to be an agreement there is not one for peacetime or warlike service. What must be remembered is the political and sensitive situation at the time.

There is no need to rehash all the skulduggery going on with RCB and the reason why.

DHAAT must take this on board to understand what was happening on the ground at Butterworth.

The fact that RCB was kept in a veil of secrecy makes it very hard to get to the truth, and documents were written to veil this deception, as shown below with this slide of hand trick developed by Defence.

We know this veil of secrecy to be factually true, through various documents.

- a. "The company has had the security of Australia assets, property at Butterworth as its primary task, but **for political reasons** it was not possible to state this in low level security unclassified documents"
- b. "At the time and that the training purpose was used as a ruse any communications about the role would be strictly on a need to know basis.
- c. "When the Battalion is withdrawn, the requirements for a company for security duties at Butterworth will be met by providing on rotation from Australia, **this could be presented publicly for training purposes**"

By now the DHAAT board must be tired reading these documents.

While they do not prove it was warlike, it clearly shows there was a cover up in place to hide the fact we were there for warlike duties.

A trick Defence uses as part of their deception was when they were writing documents, they do the old slide of hand trick, where documents once said for example – The chief of Staff Committee statement "the use of the Company for the protection of the RAAF Base, as this was the **primary task** of the Company" they continued to say the Company would exercise with the Malaysia army.

Later documents with this slide of hand trick, started listed training at the top of the list, followed last was security, as to imply security was an afterthought.

All very murky.

I would like show how Defence are deceptive in their answers, how they refuse to answer questions which do not suit them or afraid to answer them.

### Are ROE issued to army personnel on garrison duties in Australia.

A simple question only requires a yes or no, but they do not answer, they just talk about who does security duties. **A straight out refusal to answer the Question.** I was never given ROE in Australia, as it may be difficult to write ROE for a pick handle, as that is all we had.

### How do such ROE differ from those issued to RCB

"The Key difference is the ROE and Australian garrison ROE are the location"

Would Defence kindly show us where ROE were issued in Australia for garrison duties, instead of implying.

**ROE are useless in Australia as you are not issued with live ammunition in Australia**, unless you are on a firing range under supervision, and very strict safety procedures.

Coupled with Defence refusal to answer question on things like providing a comparison table with RCB and different deployments, it seems defence is not up front with their evidence. Couple with - their senior researchers who have examined open and closed documents from the Australian War Memorial, National Archives, and could not find anything which contradicts their scripted narrative. Cherry picking perhaps.

What is a concern to me is how Defence is willing trash the Honours and awards system in trying to portray/betray RCB as peacetime, they pretend that - Commonwealth of Australia Gazette, No S, 64, 28 February 2002, Declaration and Determination, never happen, and continue to say RCB is correctly recognised as peacetime service, just shows you the length they will go to, that is to trash the Honours and Award. The Chair clearly recognised you cannot be peacetime and non-warlike at the same time.

A lot has been made of the risk of casualties in determining if RCB was warlike.

We know –

- a. 1993 and 2018 warlike definition, there does not have to be an expectation of using that authorised force, there only need to be an expectation of casualties, it does not say there needs to be a high expectation of casualties to be warlike, just there is an expectation.  
it just says we are authorised to use that force, and the 2018 definition, the expectation of casualties only comes about if we use that authorised force, The expectation of casualties **are a result of** using that authorised force.  
The 1993 definitions only say an expectation of casualties, There are no adjectives to indicate there has to be a high, medium or low, just as long as there is an expectation of casualties.  
Any perceived adjectives should not be used, they are not there, they are changing the definition.
- b. The Malaysian and ANZUK Intelligence Groups, both assessed that there probably (likely to happen) be an attack on Butterworth and definitely (without doubt) a risk of an attack.  
Both these assessments leads to a high expectation of casualties, there for we fit the warlike definition, and RCB should not be denied the AASM.
- c. There was a two stage threat level
  1. Major, a large scale attack which was considered low.
  2. Minor, small groups of Ct's or subversive groups which was assessed at definitely (without doubt) a risk of an attack at any time and without any warning. Again this fills the expectation of casualties and RCB should not be denied the AASM.

Defence continues use of the statement consistently assessed as a low threat, I believe defence is cherry picking selected words out of the JIO documents to portray their scripted false narrative, otherwise instead of focussing on the large scale attack which was low, they completely ignored and do not mention where the real high threat was coming from, that is attacks from small groups of Ct's and subversive groups which was assessed at **definitely a risk at any time and without any warning**.

The Assessments of both the Malaysian and ANZUK Intelligence Groups should not be over looked or dismissed, as they clearly show the threat level was not low, but there probably would be an attack, and this put the risk of casualties as, probably would happen and thus filling the Chairs expectation of casualties.

It should be recognised the real and higher threat came from small groups of Ct's and subversives, and the low threat comes from a large scale attack by Ct's, this tactic defence uses to justify their claim that the threat was low, this clearly demonstrates how Defence cherry picks what suits their scripted flawed narrative, and ignore the real higher threat from the small groups of Ct's and subversive groups, which leads to a high expectation of casualties.

Besides being the go to force to counter a Ct attack, RCB was a deterrent force and we did our deterrent job very effectively and the result is in the pudding, RCB denied the Ct's the ability to attack Butterworth, and kept it safe from an attack. The strange thing if RCB did not do their job as a deterrent as effectively as they did, then there would be no argument we would have the AASM

Both the 1993 and 2018 definition of warlike does not say there has to be an expectation of using authorised force, just we are authorised to use that force if needed.

Both the 1993 and 2018 definition of warlike does not say there has to be a high expectation of casualties, just as long as there is an expectation of casualties, **The word high is not in the definition.**

### **The Chair comment that it is between non-warlike and warlike.**

This is not the case, RCB does not fit the 1993 or the 2018 non-warlike definition. We have move past non-warlike and into warlike.

#### **1993 definition**

"Where there is a risk associated with the assigned tasks and where application of force is limited to self-defence, casualties could occur **but are not expected**"

**that is despite the risk, casualties are still not expected.** I believe the Chair is implying there has to be a possibility of casualties to get non-warlike above peacetime service, but this is not the case, it is very clear in the definition of non-warlike, **despite the risk casualties are still not expected.**

As the Chair states there was an expectation of casualties, and while he believes it was not high enough to be warlike, (the word high is not in the definition) that tells us we went beyond non-warlike, as casualties despite the risk are **not expected** in non-warlike. We are now in the definition of warlike, and it just says an expectation of casualties. Again there is no qualifying words such as high, medium or low.

#### **Force is limited to self-defence**

No need to dwell on this as shown earlier our ROE went beyond non-warlike into warlike.

As Professor Stephens said, when the Ct's are coming through the fence the 3 warnings are thrown out the window, may be not in those exact words, and that is why RCB were there, to respond to the Ct's when are coming through the fence, and then it open fire.

RCB was not non-warlike, we exceed the non-warlike definition,

DHAAT should not make a finding RCB was non-warlike as we exceed the definition, and RCB fits into the warlike definition.

**The Chair agrees there was an expectation of casualties there for we meet the warlike definition, as it only says an expectation of casualties. There are no qualifying words in the definition, if there was an expectation of casualties as there was, then we fit the warlike definition.**

This perceived sliding scale on the expectation of casualties from peacetime to warlike is not in the definitions anywhere, and quickly falls apart when you look at the definitions,

- a. Peacetime. No expectation of casualties.
- b. Non-warlike. Despite the risk, **casualties are still not expected.**
- c. Warlike. Casualties are expected. There are no adjectives such as high, just as long there is an expectation.

It is only when you reach warlike, casualties are expected and not before. This sliding scale does not exist.





