

## **Senate Standing Committee on Foreign Affairs, Defence and Trade**

Supplementary Budget Estimates Spill Over Hearing – 15 December 2017

### **ANSWER TO QUESTION ON NOTICE**

Department of Defence

**Topic:** SSCFADT - SBE Spill Over - 15 Dec 17 - Q149 - 2011 DHAAT Inquiry – Aug 2017  
RCB Submission - Burston

**Question reference number:** 149

**Senator:** Brian Burston

**Type of question:** Written

**Date set by the committee for the return of answer:** 9 Feb 17

#### **Question:**

1. Given the overwhelming primary and secondary evidence provided to all key stakeholders in the August 2017 submission to the Minister, much of which has been located or created through empirical research SINCE the 2011 DHAAT enquiry, will the Minister explain the consultative process between his office, Defence and the ADF recipients that led to his satisfaction that there is no new evidence?
2. Given the Minister expresses complete faith in the 2011 DHAAT findings and given that it has been pointed out that the same findings totally ignored all evidence after 1975, how can the Minister continue to believe the flawed findings or worse still, multiple errors, failures and mis-information from the NOSB which is the prime source of so-called expert advice on such matters as the RCB claim?
3. Is the Minister prepared to take disciplinary action against public service/ministerial staffers found to be generating deliberate mis-information thereby putting elected Ministers into a situation of contempt of parliament during Petition hearings now on record on the matter of the RCB petition?
4. Has the Prime Minister really been allowed to read the August 2017 RCB submission to apply his own intellect and sense of fair play, or is the Minister's Statement that the PM is comfortable with advice on the matter another fabrication by brief writers?
5. Why does the latest Ministerial rejection leave out, for the first time ever, reference to 'training', a deception to which successive brief writers have clung as the main point upon which to reject the RCB claim of being on warlike service as is proven by the evidence now available?
6. How does the Minister and his advisors propose to defend the official position they adopt on the RCB claim when the public and mass media are alerted to the scale and duration of the deliberate deception regarding the true nature of the RCB deployment during the Communist Insurgency?
7. Why does the Minister now seek to bring the RAAF into the discussion when the RCB submission is specifically based on the deception method of deploying the ARMY unit (RCB) under warlike-specific tasks to protect the airbase, tasks and supporting Rules of Engagement repeatedly documented in both Army and RAAF operational and other

directives, unless to accidentally reveal the government's REAL motive - the perceived cost of recognition?

8. As the Minister is responsible for both Service Personnel AND Veterans Affairs, to what extent is he (as opposed to script writing staff) aware of the adverse effect the continued denial of justice is having on RCB veterans when they learn they are represented in Parliament by an entity that cannot seem to accept overwhelming evidence?

9. Why was Minister Bilson's determination to grade RCB as "hazardous service" in 2006 not implemented prior to, or after, the change of government in 2007?

10. Given the stated attitude of the government as contained in a conversation between a Defence official and staff of the American War Library in 2006, If the veterans were prepared to pay for their own medals, would the Minister consider recognising their contribution to Australia and the region's security and stability over a period of nearly 20 years by finally recognising RCB service as warlike?

#### **Answer:**

1. Since the Defence Honours and Awards Appeals Tribunal (DHAAT) review Defence has responded to a number of claims for reclassification of Rifle Company Butterworth service by undertaking extensive research of available records in Defence Archives, the Australian War Memorial, the National Archives of Australia, published works, information provided with submissions, and most recently the information provided by Senator Burston. As advised by the then Minister for Defence Personnel, the Hon Dan Tehan, MP in his 20 November 2017 letter to Senator Burston, this comprehensive process did not identify any new evidence which would warrant another inquiry.

2. The Defence Honours and Awards Appeals Tribunal (the Tribunal) is an independent statutory body that has been established under the *Defence Act 1903*. All inquiries conducted by the Tribunal are undertaken in accordance with the general principles of procedural fairness. The Inquiry into recognition of service with Rifle Company Butterworth received written submissions from 29 parties, heard oral evidence from five individuals, and also undertook its own research into the claims. There is no credible evidence to suggest that the "findings of the Tribunal totally ignored all evidence after 1975". On the contrary, the Tribunal's report describes evidence from Wing Commander Joe Piers (Retd) who was commander of the Ground Defence Element from 1979 to 1981.

3. There is no evidence of any such prejudicial conduct in this case.

4. The Prime Minister wrote personally to Senator Burston on the matter of Rifle Company Butterworth on 25 September 2017.

5. The response to Senator Burston signed by the then Minister for Defence Personnel on 20 November 2017 did not necessitate a comment in relation to the specific roles and responsibilities of Rifle Company Butterworth.

6. The Department of Defence has been diligent in undertaking an extensive and comprehensive examination of available evidence to ensure an accurate and balanced perspective on ADF service at Butterworth during the period 1970 to 1989. The view that ADF service at Butterworth during this period does not satisfy the criteria for classification as warlike service is supported by the Department of the Prime Minister and Cabinet, the Department of Veterans' Affairs and the Department of Finance and Deregulation. It is also consistent with independent Australian and New Zealand reviews and inquiries.

7. The inclusion of the RAAF is consistent with previous Defence reviews of ADF service at RAAF Base Butterworth. Both Rifle Company Butterworth and RAAF personnel posted to Butterworth were exposed to the same risk of harm, had the same rules of engagement (ROE) and had responsibilities associated with base security and in the event of

a ground defence emergency. It is only appropriate that any consideration of the classification of ADF service at RAAF Base Butterworth consider all ADF service over the prescribed period at that location.

8. The Government appreciates the unique nature of military service and is committed to ensuring that all current and ex-serving ADF members have access to appropriate support services.

9. As a result of a number of representations, on 18 September 2007 the then Minister Assisting the Minister for Defence declared that the service of Rifle Company Butterworth should be retrospectively reclassified as either hazardous service or non-warlike service. In 2009, it was found that the Instruments had omitted RAAF security personnel, contained incorrect dates, omitted key references and were not registered in the Federal Register of Legislative Instruments. In response to the continuing campaign undertaken by ex-Rifle Company Butterworth members seeking warlike service, a new review from first principles comprehensively investigated Rifle Company Butterworth service from inception, locating Government files and documents that were not considered as part of the 2007 review. This 2011 review was not supportive of the classification of Rifle Company Butterworth service as anything other than peacetime service. On 21 March 2012, the then Parliamentary Secretary for Defence agreed with the Defence recommendation that the nature of all ADF service at Butterworth should remain as peacetime from 12 August 1966 to the present. A detailed explanation of this decision was provided to the Chairman of the Rifle Company Butterworth Review Group in a letter dated 19 May 2012. This decision is consistent with the long-standing Government determination that the nature of all ADF service in Malaysia after the end of confrontation is peacetime.

10. Australian Governments have always and will continue to value the service of members of the ADF in protecting Australia's national interests. The service of those who served at RAAF Base Butterworth during the period 1970 to 1989 is already recognised through medallic recognition of either the Australian Service medal (ASM) 1945-1975 with Clasp 'SE ASIA' or the ASM with Clasp 'SE ASIA' depending upon the specific period of the veteran's service. It is not possible to comment on the referred to conversation without any specific details being provided, however it should be noted that medallic recognition is determined separately and in accordance with different eligibility criteria to the classification of service for the purposes of veterans' benefits