

SUBMISSION TO THE GOVERNMENT INQUIRY INTO OPERATION BURNHAM

Sam Warburton

Introduction

1. This submission is made in my capacity as a private individual.
2. I do not have any knowledge of Operation Burnham or the NZ Defence Force's (NZDF) response to Hit and Run beyond what is publicly available in the book, in media reports or in the NZDF's responses to Official Information Act Requests. For this reason, the scope of my submission only concerns events since Hit and Run was published.
3. Apart from my contact details, no part of this submission should be kept confidential.
4. I am happy to answer questions from, or appear before, the Inquiry.

The terms of reference

5. This submission concerns sections 7.5 and 7.6 of the terms of reference of the Government Inquiry into Operation Burnham:
 - 7.5 The extent of NZDF's knowledge of civilian casualties during and after Operation Burnham, and the content of written NZDF briefings to Ministers on this topic.
 - 7.6 Public statements prepared and/or made by NZDF in relation to civilian casualties in connection with Operation Burnham.

The NZDF's response to Hit and Run

6. On 27 March 2017, the NZDF presented its rebuttal¹ to Hit and Run.

Location

7. A major part of the NZDF's response was that it never operated in the Afghanistan villages cited in Hit and Run:

The central premise of Nicky Hager and Jon Stephenson's book, Hit and Run, is incorrect... NZDF troops never operated in the two villages identified in the book as having been the scene of combat operations and civilian casualties.

8. The strong suggestion by the NZDF was Hit and Run was an unreliable account of any NZDF actions and that the NZDF was not responsible for casualties *as described* in the book.

Casualties

9. At the end of the NZDF's presentation, the following exchange occurred²:

Journalist: Do you have the names of the insurgents [inaudible] release them?

Tim Keating: No. We do not have the names of insurgents.

The NZDF did know the names of some insurgents/civilians

10. After being denied the information through written Parliamentary questions, Metiria Turei, then a Member of Parliament, made an Official Information Act Request for information held by the NZDF relating to the names of people killed in the raid.
11. The NZDF refused to release the information, before the Ombudsman determined the information should be released.
12. The release³ says the NZDF knew the identity of all nine 'insurgents' the NZDF claims were killed including two names – Mohammad Iqbal and Abdul Qayoom – who were identified in Hit and Run as civilians.

¹ <http://www.nzdf.mil.nz/news/media-releases/2017/20170327-rebuttal-of-the-book-hit-and-run.htm>
<https://youtu.be/RBFoGV8BmaM>

² http://www.nzdf.mil.nz/downloads/pdf/public-docs/2018/august-2017-responses_redacted.pdf, p. 5.

³ <http://www.nzdf.mil.nz/corporate-documents/operation-burnham/op-burnham---further-info.htm>

13. Unless the NZDF attained this information between 27 March 2017 and whenever Turei made their Official Information Act request, the NZDF's statement on 27 March 2017 that they did not know the names of insurgents/civilians was false.

Hit and Run correctly identified the location of Operation Burnham

14. In its attempt to undermine Hit and Run, the NZDF made a great deal about a map (and geo reference points) that placed the NZDF two kilometres north of where the NZDF actually operated.
15. The authors of Hit and Run admit they made an error in a map that appeared in the book which has been corrected in later printings.
16. However, the map was not the only evidence relating to the location of the events described in Hit and Run. The book contained photos of buildings supposedly raided.
17. On Tuesday 28 March 2017, a day after the press conference, Toby Manhire of The Spinoff found a low resolution photo of the area in question (Appendix 1).
18. Journalist Keith Ng followed up that day with sample-version high resolution photos (Appendix 2).
19. I read Hit and Run on 9 April 2017 and immediately recognised buildings in the book as being the same as those in the satellite photos found by Keith Ng (Appendix 3). I posted my findings online.⁴
20. By now it was clear that, except for the map, Hit and Run had accurately identified the location of the NZDF operation.
21. Matching photos in Hit and Run to satellite images of the area of NZDF's operation was such a simple task (and should have been especially simple for an agency like the NZDF) that Keith Ng turned it into a mocking online interactive⁵ at the NZ Herald.

⁴ <https://twitter.com/Economissive/status/850942294911930371>

⁵ <https://insights.nzherald.co.nz/operation-burnham/>

The NZDF matched photos in Hit and Run to satellite images, but did not inform the public or Ministers

22. Either coincidentally or after seeing my finding⁶, the NZDF identified the same buildings in April 2017 (Appendix 4). The NZDF did not immediately or voluntarily provide this information to the public or correct its previous public statements. The NZDF only released this information publicly on 6 March 2018 after:
- an Official Information Act request by me on 5 May 2017
 - the NZDF declining my request on national securing grounds on 2 June 2017
 - a complaint by me to the Ombudsman on 6 June 2017
 - a determination by the Ombudsman that the information should be released.
23. On 2 April 2017, an NZDF employee is recorded as noting that Tim Keating has asked them to ‘push home the geographical differences between the locations within Hit and Run and where Operation Burnham occurred’ for a ‘ground briefing’.⁷
24. On 7 April 2017 – two days before I matched the buildings to the satellite images, and the same month that the NZDF did – the NZDF briefed the Minister of Defence⁸ with the purpose of assuring the Minister that NZDF had the location and name of the village(s) right (and, by implication, the book and other ‘critics’ were wrong).
25. The NZDF either knew its briefing to the Minister was wrong or incomplete at the time or failed to update the Minister when it found out no more than 23 days later. This is, at best, grossly unprofessional and, at worst, an attempt to obstruct justice by forestalling an inquiry.

⁶ The document in Appendix 4 only says ‘April 2017’ and the NZDF refused to provide the exact date (including day) when I asked for it.

⁷ http://www.nzdf.mil.nz/downloads/pdf/public-docs/2018/june-2017-responses_redacted.pdf, p. 80.

⁸ ‘Tirgiran Village: Evidence of Correct Name’, http://www.nzdf.mil.nz/downloads/pdf/public-docs/2018/june-2017-responses_redacted.pdf, p. 49.

Note: this was not the only briefing where emphasis was made about NZDF having the location correct, but it is one where, from the title, the express purpose was to assure a Minister that the NZDF had the correct location and Hit and Run was wrong. The NZDF made similar points in talking points for the Prime Minister and Minister of Defence on 23 February 2018 and in a briefing for the Minister of Defence on 4 April 2018.

Appendix 1



Toby Manhire

@toby_etc

Following



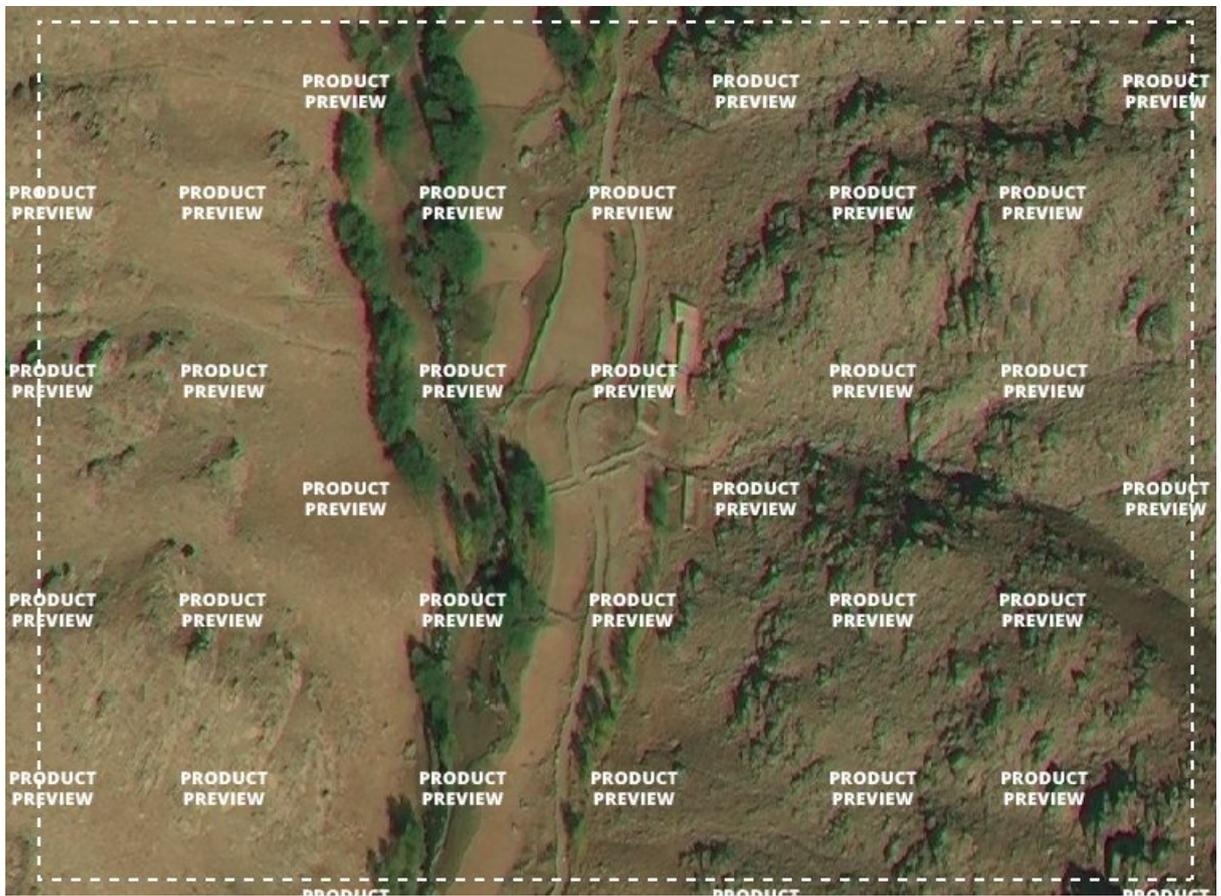
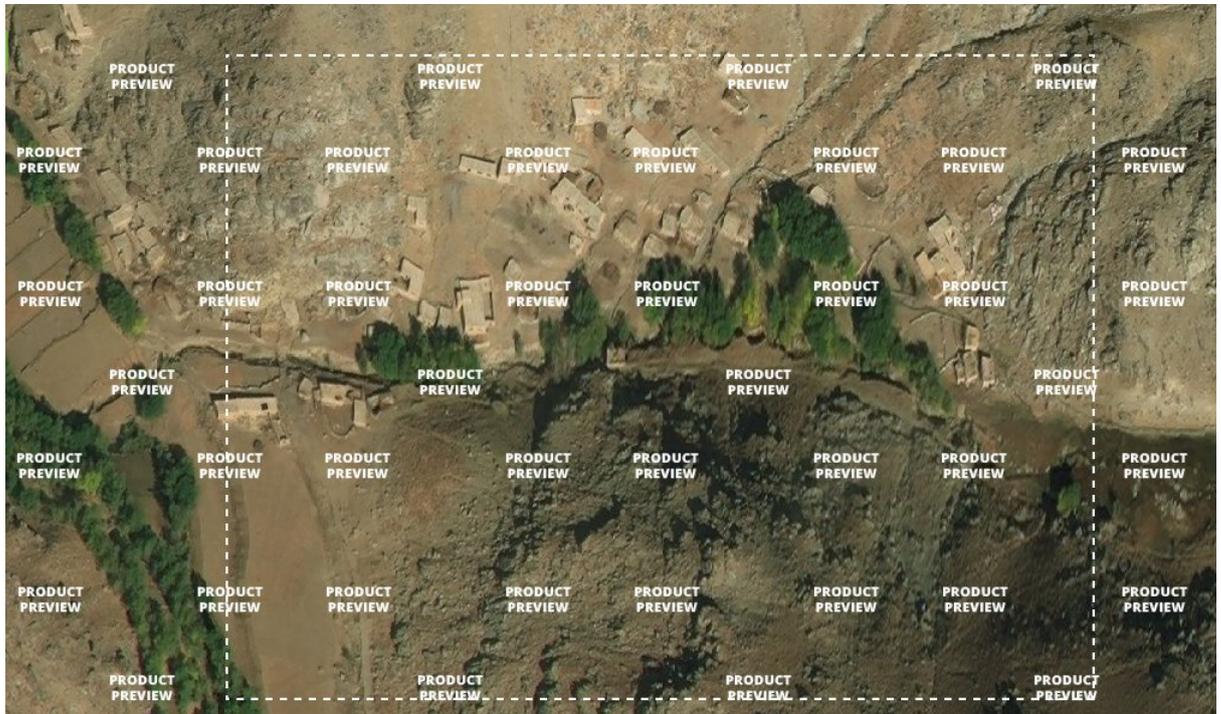
re the which-village puzzle, the US National Geospatial-Intelligence Agency offers two "populated places" for Tīrgīrān, Baghlān, shown here:



9:30 AM - 28 Mar 2017

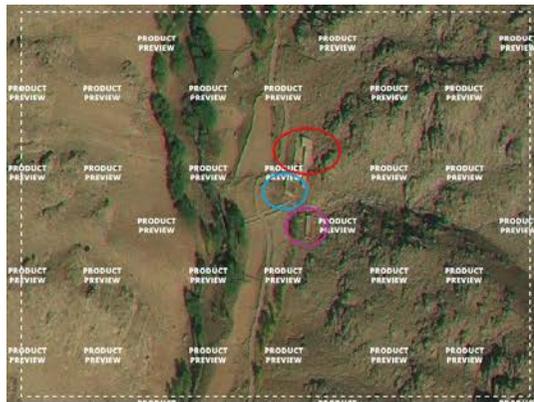
Appendix 2

https://twitter.com/keith_ng/status/846634645210873856



Appendix 3

<https://twitter.com/Economissive/status/850942294911930371>



Appendix 4

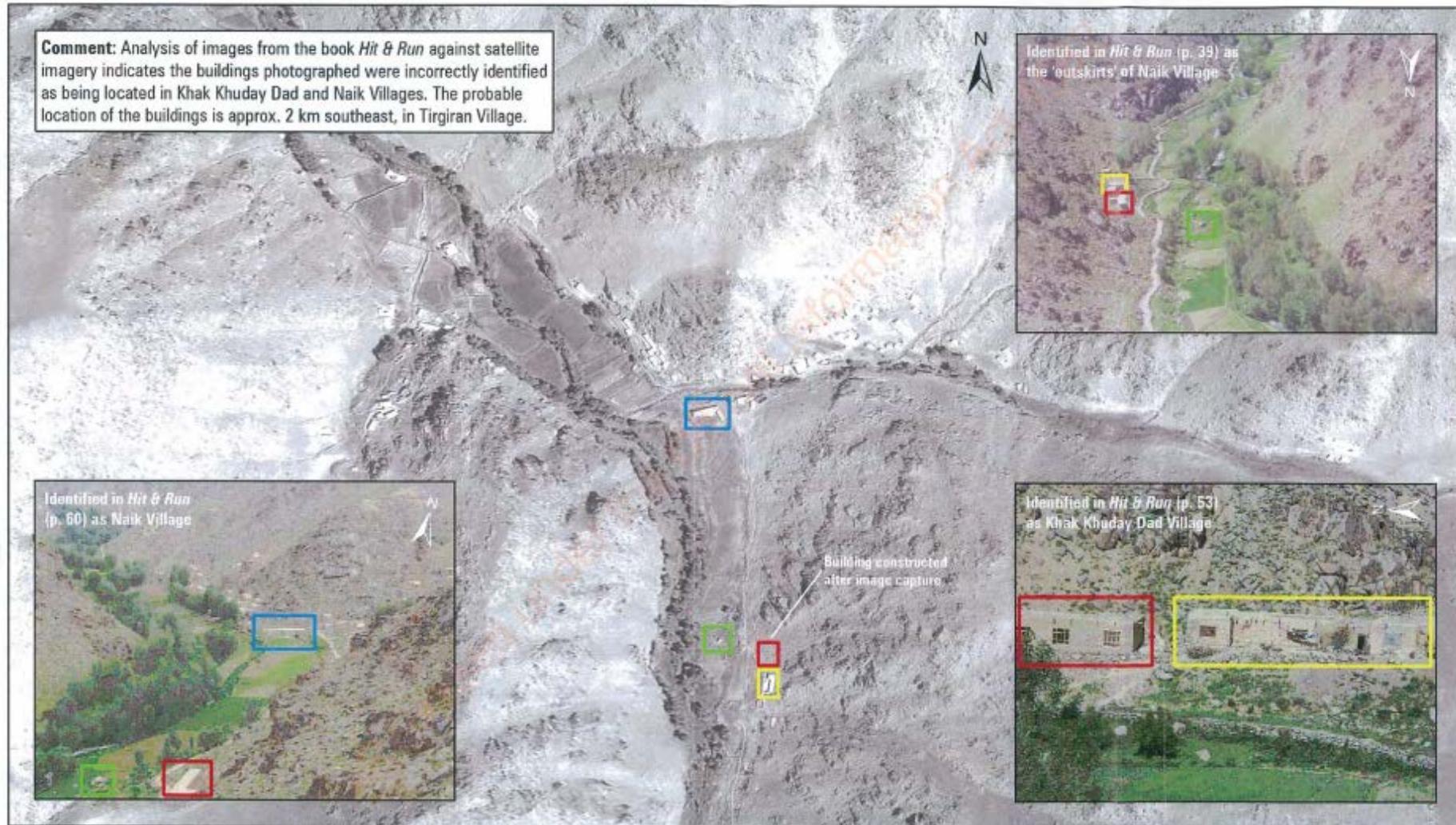
http://www.nzdf.mil.nz/downloads/pdf/public-docs/2018/op_b_information_pack_v2b.pdf, p. 7.



Afghanistan: Geolocated Photographs from *Hit & Run*

Tirgiran Village, Bahglan Province (Geo: 350947N/0680916E)

UNCLASSIFIED



1:6,000

0 50 100 200 300 400 500 Meters

2 of 2 | April 2017 | GNZ-17-5153-U

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Includes data sourced from ESRI, Earthstar Geographics, CNES/Airbus DS. Photographs by Jon Stephenson.