



Australian Government

Defence Honours & Awards Tribunal

**INQUIRY INTO RECOGNITION FOR MEMBERS OF THE
AUSTRALIAN DEFENCE FORCE FOR SERVICE IN PAPUA
NEW GUINEA AFTER 1975**

LETTER OF TRANSMISSION

Inquiry into Recognition by Members of the Australian Defence Force for Service in Papua New Guinea after 1975

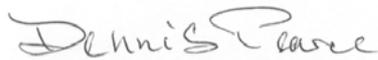
The Hon Dr Mike Kelly, AM MP
Parliamentary Secretary for Defence Support
Parliament House
Canberra ACT 2600

Dear Dr Kelly,

I am pleased to present the report of the Defence Honours and Awards Tribunal on the Inquiry into recognition of members of the Australia Defence Force for Service in Papua New Guinea after 1975.

The inquiry was conducted in accordance with the Terms of Reference. The panel of the Tribunal that conducted the inquiry arrived unanimously at the findings and recommendations set out in its report.

Yours sincerely



Professor Dennis Pearce AO
Chair

14 July 2010

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TERMS OF REFERENCE

The Defence Honours and Awards Tribunal shall inquire into and report on recognition for members of the Australian Defence Force (ADF) for service in Papua New Guinea after 16 September 1975.

In conducting its inquiry the Tribunal shall:

- (a) have regard to the terms and objectives of the Australian Service Medal 1945-75 Regulations and the Australian Service Medal Regulations;
- (b) consider the claims of ADF members for recognition of their service in
- (c) PNG after 16 September 1975;
- (d) consider any other material relevant to these claims;
- (e) consider the possible impact of recognition for ADF service on the recognition of other Australian Government service, such as Australian Federal Police service, in PNG after 1975; and
- (f) make findings and recommendations as to the eligibility of ADF members serving in PNG for the ASM or the granting of any other form of recognition for their service.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference. In this regard, the Tribunal may interview such persons as it considers appropriate and consider material provided to it that is relevant to these terms of reference.

The Tribunal is to report, in writing, to the Parliamentary Secretary for Defence Support on its findings and recommendations that arise from the inquiry. In making its findings and formulating its recommendations the Tribunal is to arrive at a fair and sustainable response to current and future claims for recognition and also maintain the integrity of the Australian honours system and identify any consequential impact any finding or recommendation may have on that system.

EXECUTIVE SUMMARY

1. The Defence Honours and Award Tribunal (the Tribunal) was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of Defence honours and awards.
2. The Tribunal may consider individual claims to defence medals and awards that have been refused by the relevant awarding authority. It may also consider issues of principle relating to Defence service honours and awards.
3. On 30 October 2009, the Parliamentary Secretary for Defence Support, the Hon Dr Mike Kelly AM MP, announced the Tribunal's inquiry into recognition for members of the Australian Defence Force (ADF) for service in Papua New Guinea after 16 September 1975. A full copy of the Terms of Reference is at the commencement of this report.
4. The service personnel referred to are those who served in Papua New Guinea (PNG) after that country had gained its independence.
5. The inquiry was undertaken by the following members of the Tribunal:

Professor Dennis Pearce, AO (Chair)
Brigadier Gary Bornholt, AM, CSC (Retd)
Mr Kevin Woods, CSC OAM
6. The Tribunal received 65 written submissions from individuals, interested organisations and Government departments.
7. The claim with which the Tribunal was concerned was for the award of the Australian Service Medal (ASM) to all ADF personnel who had served in PNG since that country gained independence. The claim was based on three main arguments:
 - (1) that living and service conditions encountered by ADF personnel in PNG were different from those encountered in normal peace time garrison duties,
 - (2) that service in PNG prior to independence had been recognised by the award of the ASM 1945-75 and it was claimed that the conditions of service after independence were, if anything, more difficult than those encountered prior to independence, and
 - (3) that the ASM had been awarded for service in other countries where the living and service conditions were no more difficult than in PNG.
8. The Tribunal was impressed by the commitment of the proponents of an award evidenced in their submissions and presentations to the Tribunal. The Tribunal has no difficulty in concluding that service and living conditions in PNG for ADF members has presented and continues to present considerably greater difficulties than those incurred in Australia and in some other overseas postings. However, the Tribunal is not satisfied that the service meets the requirements for the award of the ASM.

9. The Tribunal acknowledges the comments in the 1994 Report of the Committee of Inquiry into Defence Awards (CIDA) that:

Normal service in the Defence Force does not in its own right warrant a medal. The conditions of service and salary structure of the Defence Force recognise hazardous duty, relocation and difficulties which arise during the normal course of employment. Medals should be reserved for those who have done something special.

10. In the Tribunal's view, the case for an award of the ASM must be judged against a standard that asks for more than doing a good job in difficult circumstances. Against that test, the case for general recognition for service rendered by ADF members in PNG post-independence has not been sufficiently made out. The Tribunal's position is that medallic recognition flows from the duties performed based on the purpose and nature of the deployment and the operational focus and outcome, not the living conditions endured.

11. The proponents of an award rejected any suggestion that there could be examples of particular kinds of service or actions by particular individuals that did satisfy the standard described for the award of recognition. However, the Tribunal notes that if an ADF member considers that his or her individual circumstances warrant recognition, an application by the member for such recognition should be made through the appropriate channels. If unsuccessful, an appeal relating to the particular case can be brought to the Tribunal.

RECOMMENDATION

12. The Tribunal makes the following recommendation: That no general medallic recognition should be given to ADF members who have served in PNG after 16 September 1975.

REPORT OF THE TRIBUNAL

CONDUCT OF THE INQUIRY

Introduction

1. The Defence Honours and Award Tribunal (the Tribunal) was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of Defence honours and awards.
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Professor Dennis Pearce, AO (Chair)
Brigadier Gary Bornholt, AM, CSC (Retd)
Mr Kevin Woods, CSC OAM

Steps taken in the inquiry

6. The inquiry commenced on 31 October 2009, with advertisements being placed in the major newspapers nationally giving notice of the inquiry and the calling for submissions by Monday 23 November 2009.
7. On 2 November 2009, the Tribunal wrote to key organisations, including the Department of Prime Minister and Cabinet and the Department of Defence, advising of the inquiry and inviting them to make submissions. The Tribunal also wrote to individuals who had previously made representations to the Minister.
8. The Tribunal received 65 written submissions from individuals and interested organisations. Attached at Appendix 1 is a list of the organisations and individuals who made written submissions.
9. The Tribunal conducted hearings in Canberra on 26 February and 10 and 12 March 2010 to hear evidence from various individuals and organisations and the interested Departments. A total of 16 persons made oral submissions to the Tribunal.

Appendix 2 provides details of the Tribunal hearings and the persons who appeared at those hearings.

Background

10. After World War II, Australia administered PNG pursuant to a United Nations trusteeship until the country attained independence on 16 September 1975. During this time the Pacific Islands Regiment (PIR) was re-established and consisted of two battalions, one stationed in Papua and the other in New Guinea. It provided the military services for the country and was formally controlled from Australia through a Headquarters in Port Moresby. In addition, Australian Army engineering and other units engaged in nation building activities throughout the country.

11. Since independence, when command and control of the PIR (later renamed the Royal Pacific Islands Regiment) was handed to the PNG Government, the Australian Defence Force (ADF) has continued to provide services in PNG at the request of the PNG Government. Most of these activities have been directed to training and assistance for the PNG Defence Force (PNGDF)¹ and police forces. There have also been engineering and other forms of assistance provided.

12. In 1994 the Committee of Inquiry into Defence Awards (CIDA) recommended that persons who had served in PNG prior to independence should be eligible for the award of the Australian Service Medal (ASM) 1945-75 with Clasp "PNG". This recommendation was accepted by the Government. CIDA also considered whether service by ADF personnel after independence should be recognised. It recommended that no award be made. This recommendation was also accepted by the Government.

13. Over many years there have been claims made on behalf of persons who served in PNG after 1975 for some form of recognition. It is suggested that the appropriate recognition would be the award of the ASM with Clasp "PNG" to all ADF personnel who served in PNG for a period exceeding 30 days after 1975. This claim has been referred to the Tribunal for consideration.

Basis for claim

14. The claim for recognition relies principally upon three arguments. First, it is said that service in PNG is of such a dangerous and arduous nature that it is not akin to normal peace time overseas service. Secondly, it is said that there is no basis for distinguishing between service before and after independence as was done by CIDA. It was claimed that, if anything, the conditions of service post-independence are more dangerous and demanding than those prior to independence. Thirdly, a comparison is drawn with the nature of the service in other countries for which an ASM has been awarded, particularly East Timor and Malaysia.

ADF service in PNG since independence

15. The ADF contribution to PNG after independence is underpinned by the 1977 Defence Cooperation Program. The Tribunal was informed that Australia's first commitments following independence included 450 service personnel on loan to the

¹ The PNGDF was formed in 1973 and had its antecedents in the Pacific Islands Regiment.

PNGDF and more than 250 specialised personnel, chiefly engaged in mapping and engineering support. ADF training of PNGDF units and training of the Royal Papua New Guinea Constabulary occupied the bulk of Australia's military assistance until the early 1990s. Mapping, surveying and engineering assistance comprised the significant portion of service throughout this period.

16. However, the number of Australian service men and women involved fell steadily to less than 100 by 1990. The significant engineering base at Mendi was closed in 2000. The Tribunal is advised that there are now less than 30 ADF personnel in PNG. Most are located in Port Moresby where they perform a variety of advisory and training roles in the PNGDF.

17. During the period post 1975 to the present time, ADF personnel have been based in a number of places throughout PNG. Most have been based in Port Moresby or Mendi. However, a number have been located from time to time in other areas, most notably Lae, Wewak and Goldie River. Early in the period it was common for members to spend considerable periods of time in more remote regions. While some individuals have been more recently attached to PNGDF units out of the major population centres, over time this has become a less significant part of service in PNG.

Conditions for award of the ASM

18. The regulations of the award of the ASM are set out in Appendix 3. The essential condition for an award is that a declaration is required to be made by the Governor-General that a non-warlike operation is prescribed for the purposes of the ASM Regulations. It would thus be necessary for service in PNG first to be determined to be a non-warlike operation before it could be prescribed as an operation such as to attract the award of the ASM.

19. The policy on which the declaration of a non-warlike operation for the purposes of the award of the ASM was approved by the Minister Assisting the Minister for Defence in 2001. The policy is set out in Appendix 4.

20. In the course of its inquiry representations were made to the Tribunal based on a document that was referenced as Annex D to PCPMT-PNG 251-1-1 dated 3 October 1990 which gave as an example of an operation that might attract the ASM "military training and assistance to foreign countries". It was claimed, with justification, that this described the service provided by ADF personnel in PNG.

21. However, investigations made by the Tribunal into the provenance of this document revealed that it was included in a draft 1990 Manual of Honours and Awards, the production of which did not proceed. The statement in the draft Manual has no official status and the criterion as there stated has not been used as a basis for determining whether an operation should be declared for the purposes of the award of the ASM.²

² It might be noted in this context that the document also refers to "humanitarian relief" as the basis for the award of an ASM but this too has not been accepted as appropriate except where it involves civil unrest as distinct from natural disasters.

CIDA Report: award of ASM 1945-75 for pre-1975 service

22. In the course of its wide ranging review of claims for recognition for service in the ADF, CIDA (the Committee) considered the position of members of the ADF who had served in PNG prior to its becoming independent in 1975. It noted that service was principally provided by Army units of the PIR but that there were also naval and air force units. These various units were commanded by Australian officers but PNG personnel were steadily introduced into them.

23. The Committee observed that a significant task of 1PIR, and other units with integrated PNG nationals, was to train prospective members of the national armed forces to take their place in an independent PNGDF and this became an increasing priority as progress towards independence gathered momentum in the late 60's and early 70's. The Committee noted that this was not an easy task, involving overcoming significant language and cultural barriers, and the introduction of training requirements and service demands that were not part of the traditions of the people at that time. In regard to the conditions of service, the Committee noted that it often included long patrols through the harsh, and in some areas, hazardous terrain of PNG. The patrols varied in length from two weeks to over a month.

24. The Committee concluded that Australian personnel involved with the PIR and the other PNG units before independence made a singular contribution to building that nation's armed forces and its self-defence capacity. It accepted that difficulties were posed for service during this time, in particular by the unique demands inherent in the nation building responsibilities which were attached to Australian service in the PIR.

25. The Committee then turned to the principles that it had enunciated as a guide to its consideration of the claims for awards generally. It should be interpolated that these principles have had a significant impact on consideration of honours and awards since the CIDA Report. The Tribunal has indicated that it will also apply them in its consideration of applications before it.

26. Regard should first be had to Principle 1 which reads:

Principle 1. Recognition of service by medals (other than medals for long service or special occasions such as a coronation) should only occur when that service has been rendered beyond the normal requirements of peacetime. Normal duties such as training and garrison duties should not be recognised by the award of a medal, even though they may be demanding, hazardous and uncomfortable, and may be undertaken in countries other than Australia. As a general rule, medals should be reserved for the recognition of service in military campaigns, peacekeeping or other military activities clearly and markedly more demanding than normal peacetime service.

27. In expansion of this Principle, the Committee said:

Normal service in the Defence Force does not in its own right warrant a medal. The conditions of service and salary structure of the Defence Force recognise hazardous duty, relocation and difficulties which arise during the

normal course of employment. Medals should be reserved for those who have done something special.

28. The Committee also referred to Principle 8 which reads:

***Principle 8.** Recognising that its work requires viewing past service through the eyes of 1994, the Committee believes that an appropriate benchmark in considering hitherto unrecognised service between 1945 and 1975 is the terms and conditions that are currently attached to an award of the Australian Active Service and Australian Service Medals. Service rendered during this period which generally meets those terms and conditions should receive retrospective and comparable recognition.*

29. The Committee then expressed its conclusion on eligibility for an award as follows:

In considering the broader issue of service in Papua New Guinea from 1951 to 1975, the Committee is guided by its Principles 1 and 8. The Committee believes that this service was different to normal garrison duty, where the primary role of personnel is training of Australians and maintaining and protecting Australian assets. The training, nurturing and development roles assigned to Australian personnel serving in PNG in the context of assisting a nation towards independence were quite unlike the requirements of normal peacetime service: they were clearly and markedly more demanding.

30. It then recommended that the ADF personnel who had served in PNG prior to independence in 1975 should be awarded the ASM 1945-75 with Clasp “PNG”.

31. It can be seen that this conclusion rests heavily on the view that the ADF was engaged in nation building. It was considered that this made it different from “normal peacetime service” and the nature of the activities were “clearly and markedly more demanding” than normal peacetime service. Some credence was given to the physically arduous nature of the service but for CIDA the key point warranting the award of the ASM was the role that the ADF performed in bringing PNG up to a state of readiness for independence.

CIDA Report: post-1975 service in PNG

32. CIDA was also asked to consider the claims for an award for those ADF personnel who had served in PNG after independence. It noted that there had been a significant reduction in the number of service personnel. It continued:

In considering the submissions regarding service in PNG after 1975, the Committee was guided by its Principle number 1. Duty in PNG since 1975 continued to involve uncomfortable and often arduous service in a tropical foreign country, and for many, service directly with the personnel of the PNGDF. The advisory and training roles have often required the exercise of tact and diplomacy as well as military skills. Nevertheless there has been a qualitative change from the pre-75 situation of command, development of a

national defence capability and responsibility for the defence of PNG, to one of assisting the development of what was in 1975 an embryo PNGDF.

33. Its conclusion was expressed as follows:

On balance, the Committee does not believe service post- 75 meets the criterion of "clearly and markedly more demanding than normal peacetime service" and therefore does not recommend an award. Nevertheless, the Committee would welcome the Department of Defence's consideration of all the circumstances and would not object should a decision be made to proceed with an award.

34. The Committee thus recognised the physically arduous nature of service in PNG but drew a distinction between that service when rendered as part of nation building and service in aid of improving the country's capacity to develop as an independent nation state. However, its reference to welcoming further consideration by Defence indicated that it recognised that it was drawing a fairly fine line between the two periods of service.

Consideration by Defence of claims for recognition

35. The claims of recognition for ADF personnel who had served in PNG have been considered at senior levels in Defence on a number of occasions. A submission in 1990 from the Head, Australian Defence Staff, PNG, supporting the making of an award was rejected by the Assistant Chief of the Defence Force – Personnel in January 1991. Next the matter came before the Defence Force Personnel Policy Committee in April 1992 on the initiation of Army. Again the proposition was rejected as inappropriate. However, Army took the matter to the Chief of the Defence Force later that same month. CDF indicated that he did not support the proposal.

36. The indication by CIDA that it would not object to an award was reviewed by Defence in 1994. It was concluded that as there was no evidence of the situation in PNG deteriorating since the time that the original proposal was rejected by CDF the issue would not be raised for reconsideration.

37. There was no support for any action in regard to the CIDA statement by Navy or the Air Force.

38. The matter was reconsidered by the Chiefs of Navy and Army in 2002 when again the making of an award was described as "inappropriate".

39. The Tribunal was informed that there is no proposal at present to pursue the issue further within the ADF.

Evidence to the Tribunal

40. The Tribunal received a large number of submissions from persons who had served in PNG at various times in the post-independence period. Many of these submissions replicated each other and were clearly part of a general campaign generated in support of an award. Nonetheless, the Tribunal was satisfied that the

nature of the service was described in a way that enabled it to understand the circumstances in which the members were working and living.

41. The picture that emerged was of a difficult and sometimes dangerous way of life mostly caused by an increasing threat of incidental criminal activities directed to civilians. Members and their families were apprehensive for their safety on a fairly continuous basis. Eventually they were obliged to live in secured compounds. When outside their base they often drove in convoy. They did not usually walk anywhere. Driving in the hinterland was considered particularly hazardous.

42. Members were conscious of PNG residents being subjected to frequent assaults, many of them involving high levels of violence. Killings and rapes were said to be common among local communities. One serving ADF member was killed and others were the subject of minor assaults. Robberies also occurred from time to time.

43. ADF members, particularly when serving outside Port Moresby, occasionally found themselves inadvertently located in the vicinity of tribal disputes and fighting and were often called upon to try to mediate these and other outbursts of violence.

44. Service with the PNGDF involved language and cultural barriers and problems in trying to adapt to training requirements and service demands that were different from those of the ADF.

45. Members serving outside Port Moresby and other major centres endured particularly difficult living conditions and were threatened by disease.

Arguments in support of an award

(1) nature of conditions

46. The proponents of an award claimed that the living and service conditions alluded to above were very different from those encountered in normal peacetime garrison duties both in Australia and also in many overseas countries. They asserted that Defence recognised this by paying overseas living allowances at the highest level. It was argued that the service met the requirement referred to in CIDA principle 1 of being “clearly and markedly more demanding than normal peacetime service”. Some argued that the increased incidence of law and order threat from ‘raskols’ (“who by 1998 had become break and entry specialists”) posed a danger to ADF personnel and their families.

(2) comparison with pre-independence service

47. It was claimed that the distinction drawn in the CIDA Report between pre- and post- independence service was not sustainable. It was said that, if anything, the conditions of service in PNG had worsened markedly after independence as there was a much greater law and order problem. Further, while the purpose of the service provided to PNGDF might now have a different objective than the nation building emphasis that existed pre- independence, it was argued that the ADF was and is nevertheless still carrying out a policy of capacity building in PNG.

(3) awards for service in other countries

48. Witnesses asserted that the requirements of service in PNG were much more demanding than the requirements applicable to service in East Timor and Malaysia where members had been recognised with the award of the ASM. Persons who had served in those other countries as well as PNG made this point forcefully.

Arguments opposed to an award

(1) nature of conditions

49. It was claimed that service in PNG had to be put in context. Defence and others who opposed the grant of an award pointed out that:

- Service in PNG was voluntary;
- Members were permitted, but not obliged, to take their families with them and most did;
- At no time were members or their families directed by Defence to leave PNG on safety grounds;
- High overseas living allowances were paid to members for service in PNG;
- Many members volunteered for more than one posting; and
- Members sought to extend (and many were granted) their posting tenure.

(Proponents of an award countered some of these arguments by suggesting that in some cases pressure was applied to members to ‘volunteer’, particularly those who had previously been posted to PNG. Some held the view that leaving families in Australia was a recipe for marriage breakdown.)

(2) comparison with pre-independence service

50. It was claimed by those opposing an award that there was a distinction between the two types of service. The award was recognition for service personnel who had been involved in a significant act of state diplomacy in preparing PNG for a smooth transition to nationhood. Service after that date could be seen as closer to regular Defence service involving training, advisory and diplomatic roles.

51. There was also a view that the award of the ASM 1945-75 for pre-independence service was a generous act that ought not to be repeated if the integrity of the honours and awards system was to be maintained.

(3) service in other countries

52. It was put to the Tribunal that the ASM is awarded where there is the possibility that an identified adversary could oppose the ADF in achieving its mission. In the other countries alluded to, there was a threat possibility identified from an organised force within the country. The issuing of live ammunition was authorised and Rules of Engagement also authorised the use of force by the ADF to counter that threat should it have eventuated. This was not and is not the position in PNG.

(4) *additional arguments*

53. It was noted that for the ASM to be awarded it would be necessary for there to be a declaration that the ADF was engaged in non-warlike operations. In addition to considering whether the criteria for such a declaration are met, it was appropriate for the Tribunal to be aware that such a declaration would probably be considered offensive by the PNG Government.

54. The fact that the award of a medal had been considered in the past but rejected at the highest levels in the ADF was indicative of the fact that this was not considered appropriate service for recognition.

Tribunal consideration

55. The Tribunal has been impressed by the commitment of the proponents of an award evidenced in their submissions and presentations to the Tribunal. The Tribunal has no difficulty in concluding that service and living conditions in PNG for ADF members presents considerably greater difficulties than those incurred in Australia and in some other overseas postings. However, the question that confronts the Tribunal is whether that service meets the requirements for the award of the ASM.

56. The criteria to be applied in assessing whether operations should be declared to be non-warlike for the purposes of the award of the ASM were approved by the Minister Assisting the Minister for Defence in 2001. They are set out in Appendix 4. The only criterion that might be thought to apply to service in PNG is criterion d which reads:

activities conducted in Australia or overseas at the direction of Government, rather than an ADF decision alone, which require the use of military skills unavailable to civilian organisations at the time and hazardous conditions exist as a result of civil unrest or threat which are beyond the normal requirements of peacetime service, which also result in control being given to the ADF to conduct the activities in part or in full.

57. The service described to the Tribunal by the various witnesses does not satisfy this description. Certainly ADF personnel have been called upon from time to time to exercise unique military-type skills unavailable in civilian organisations. However, this has been on a non-official basis and not at the request of the PNG Government or the direction of the Australian Government. There are established military and police forces in PNG which are the bodies to which civilian organisations should turn for assistance.

58. The Tribunal notes also that included in the criteria is an 'absolute exclusion' from eligibility for the ASM for 'normal overseas service in diplomatic, representational, exchange, training or Defence co-operation activities'. The Tribunal considers that this actually describes the nature of service undertaken by ADF members in PNG.

59. Taking the principal points in support of the award of the ASM:

(1) nature of conditions

60. The Tribunal accepts that the conditions under which members served in PNG in the period post-independence were difficult and at times presented some dangers. This was particularly the case for ADF members who served outside Port Moresby and other major centres. The Tribunal raised with some of the proponents of an award who appeared before it the question whether members who served in specific remote localities should have their service recognised. However, this possibility was rejected. It was said that it was not possible to distinguish between different geographical areas or types of service.

61. The Tribunal notes the argument that there has existed a growing criminal threat, but in so doing, it observes that this is an incidental threat, of a civil nature and not an operational threat. The roles and tasks of the ADF members sent to PNG by the Australian government did not include countering such a threat should it arise, and nor were there any periods of time that control would be passed to the ADF to respond to it; one of the conditions for the award of an ASM.

62. The Tribunal notes that service in PNG has at all times been voluntary and that members have returned for more than one posting. Living conditions have been impacted by incidental criminal activities and are difficult for accompanying families but this is an unfortunate aspect of much service life. These demands in PNG have been recognised by increased pay and allowances.

63. The Tribunal concludes that the nature of the conditions to which members of the ADF have been subjected in PNG are not sufficiently hazardous to reach the standard contemplated for the award of the ASM. It is the Tribunal's position that medallic recognition flows from the duties performed based on the purpose and nature of the deployment and the operational focus and outcome, not the living conditions endured. ADF members were sent to PNG on posting to conduct training, engineering, mapping, administrative and advisory activities, not to conduct military operations either in whole or in part.

(2) comparison with pre-independence service

64. The Tribunal has sympathy for the argument that if the nature of pre-independence service warranted the award of the ASM, so does the post-independence service. It has difficulty distinguishing between the two periods on an objective basis. The Tribunal thinks that the pre-independence award can only be justified on the basis of being awarded as recognition for the contribution made to the building of the PNG nation. The Tribunal does not think that the conditions of service that then existed would, taken on their own, meet the criterion for the award of an ASM now.

65. The Tribunal must reach a decision on the circumstances that exist today in accordance with extant policy. What has happened in the past cannot dictate a present course of action.

66. The Tribunal considers that it is also open to it to take account of the fact that a declaration that service in PNG is non-warlike would be seen as offensive to PNG. It is a firm ally of Australia. It is not correct and would be regarded as offensive to suggest that PNG citizens should be viewed as “opponents” or that the ADF is engaged in part or in full in controlling civil unrest.

(3) service in other countries

67. The Tribunal is not in a position, under the Terms of Reference, to assess the comparative difficulties of service in other countries where such service has attracted the award of the ASM. What it is aware of is that in those countries raised as examples by some proponents, the Australian Government had recognised there was the possibility of an “opponent” engaging in conduct directed to the hindering of the ADF achieving its mission, even if, in some cases, not posing a high level risk. This is not the position in PNG.

68. The Tribunal does not consider that a case can be made for an award for members who have served in PNG on the basis of awards for service in other countries.

Conclusion

69. The Tribunal was greatly impressed by the evidence presented to it which demonstrated the extraordinary contribution made by members of the ADF towards capacity building and in the structures of PNG. This has been done in the face of difficult living and service conditions. However, it acknowledges the comments in the CIDA Report that:

Normal service in the Defence Force does not in its own right warrant a medal. The conditions of service and salary structure of the Defence Force recognise hazardous duty, relocation and difficulties which arise during the normal course of employment. Medals should be reserved for those who have done something special.

70. The case for an award of the ASM must be judged against a standard that asks for more than doing a good job in difficult circumstances. Against that test, the case for general recognition for service rendered by ADF members in PNG post-independence has not been sufficiently made out. As noted previously, the Tribunal's position is that medallic recognition flows from the duties performed based on the purpose and nature of the deployment and the operational focus and outcome, not the living conditions endured. However, the Tribunal notes that if an ADF member considers that his or her individual circumstances warrant recognition, an application by the member should be made through the appropriate channels. If unsuccessful, an appeal relating to the particular case can be brought to the Tribunal.

Other claims

71. In response to the call for submissions, a number of claims were received that used the opportunity to seek recognition for circumstances that had either not been

previously considered by Defence or else did not fall within the Terms of Reference. A summary of these claims is at Appendix 5.

72. The Tribunal considers that the claims that have not yet been considered by Defence cannot be proceeded with until they have been formally raised and dealt with by Defence. In the case of claims rejected by Defence, these need to be brought to the attention of the Parliamentary Secretary for Defence Support for his consideration as to whether the claims should be referred to the Tribunal.

73. The Tribunal was also pressed to recommend awards for civilians serving in PNG. The awards in contemplation were the Police Overseas Service Medal (POSM) and the Humanitarian Overseas Service Medal (HOSM). There were also submissions seeking recognition of ADF participation in humanitarian operations not otherwise recognised by the award of an ASM, in which case it was proposed that the HOSM be awarded. There is no provision under the Terms of Reference to consider these submissions and nor do either of those medals (POSM and HOSM) come within the Defence honours and awards regime. They are therefore outside the jurisdiction of the Tribunal

74. However, the Tribunal notes that it appears that an anomalous situation may exist in that ADF members are not eligible for a Defence award for their involvement in humanitarian operations unless such operations are prescribed as non-warlike. If an award is to be given, it is a civilian award that falls outside the jurisdiction of Defence.

75. The Tribunal considers that it may be appropriate for the general issue of recognition for ADF members' participation in military support to humanitarian operations within the suite of Defence awards to be considered by the Government. It would seem appropriate for any such consideration to deal also with issues of retrospectivity.

RECOMMENDATION

76. The Tribunal makes the following recommendation: That no general medallic recognition should be given to ADF members who have served in PNG after 16 September 1975.

APPENDICES

Appendix 1 – Submissions

The Tribunal received submissions from the following people and organisations:

[Note: Names have been omitted as submissions are received in confidence]

Appendix 2 – Tribunal Hearings

20 January 2010

Chair: Professor Dennis Pearce, AO
Members: Brigadier Gary Bornholt, AM, CSC (Retd)
Mr Kevin Woods, CSC, OAM

26 February 2010

Chair: Professor Dennis Pearce, AO
Members: Brigadier Gary Bornholt, AM, CSC (Retd)
Mr Kevin Woods, CSC, OAM

Witnesses:

Mr David Penson (President Australian Peacekeepers and Peacemaker Veterans' Association)

Mr Dale Potter (Vice-President Australian Peacekeepers and Peacemaker Veterans' Association)

Mr Paul Copeland (Ex-President Australian Peacekeepers and Peacemaker Veterans' Association)

RADM Ken Doolan, AO (Retd) (National President Returned and Services League)

John Spencer (Committee Representative SA Peacekeepers RSL Sub Branch)

Mr Russell Wade

Mr Jack Weaver

LTCOL Brett Carey (Retd)

10 March 2010

Chair: Professor Dennis Pearce, AO
Members: Brigadier Gary Bornholt, AM, CSC (Retd)
Mr Kevin Woods, CSC, OAM

Witnesses:

Mr Peter Rush (Assistant Secretary) Department of Prime Minister and Cabinet

Mr Glen Gore-Phillips (Acting Senior Adviser, Honours Policy and Operations Awards and Culture) Department of Prime Minister and Cabinet

Directorate of Honours and Awards, Department of Defence

Brigadier David Webster, AM, CSC (Nature of Service Review Team, Defence)

Mr David Hallett (Director PNG International Policy Division, Department of Defence)

12 March 2010

Chair: Professor Dennis Pearce, AO
Members: Brigadier Gary Bornholt, AM, CSC (Retd)
Mr Kevin Woods, CSC, OAM

Witnesses:

Brigadier Paul Tys

Major Frank Frazer (Retd) via teleconference

Major Tex Howarth (Retd) via teleconference

16 June 2010

Chair: Professor Dennis Pearce, AO
Members: Brigadier Gary Bornholt, AM (Retd), CSC
Mr Kevin Woods, CSC, OAM

Appendix 3 – ASM Regulations

 **Commonwealth of Australia** **Gazette**
No. S 336, Wednesday, 2 November 1988
Published by the Australian Government Publishing Service, Canberra **SPECIAL**

Elizabeth R



*clerk ASM
rs*

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth:

TO ALL to whom these Presents shall come,

GREETING:

WHEREAS it is desirable that there be instituted an Australian medal for the purpose of according recognition to members of the Defence Force and certain other persons who render service in certain non-warlike military operations:

KNOW YOU that We do by these Presents institute a medal to be designated and styled the Australian Service Medal:

AND WE DO ordain that the award of the Australian Service Medal shall be governed by the Regulations set out in the Schedule.

IN WITNESS whereof We have caused these Our Letters to be made Patent.

GIVEN under the Great Seal of Australia at Our Court at St James's on *13 September 1988*.

By Her Majesty's Command,

LS.

Bob

Prime Minister

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SCHEDULE
AUSTRALIAN SERVICE MEDAL REGULATIONS

Short title

1. These Regulations may be cited as the Australian Service Medal Regulations.

Interpretation

2. In these Regulations—

- "clasp" means a device to denote a prescribed operation;
- "Defence Force" has the same meaning as in the *Defence Act 1903*;
- "Medal" means the Australian Service Medal;
- "Minister" means the Minister of State for Defence;
- "prescribed operation" means an operation in respect of which a declaration has been made under regulation 3.

Declaration of prescribed operations

3. The Governor-General, on the recommendation of the Minister, may declare a non-warlike operation, in which members of the Defence Force are, or have been on or after 14 February 1975, engaged, to be a prescribed operation for the purposes of these Regulations.

Conditions for award of the Medal

4. (1) The Medal may be awarded for service in or in connection with a prescribed operation.
- (2) The conditions for the award of the Medal are the conditions determined by the Governor-General on the recommendation of the Minister.
- (3) Any subsequent award of the Medal to the same person shall be made in the form of a further clasp to the Medal.
- (4) The persons to whom the Medal may be awarded are—
- (a) persons who served in a prescribed operation as members of the Defence Force; and
 - (b) persons included in a class of persons determined by the Minister, for the purposes of this regulation.
- (5) The Medal may not be awarded except to a person who fulfils the conditions for the award of the Medal.

Making of awards

5. Awards of the Medal shall be made by the Governor-General on the recommendation of the Chief of the Defence Force or his delegate.

Design of the Medal

6. The design of the Medal shall be as prescribed.

Wearing of the Medal

7. The manner of wearing the Medal shall be as determined by the Governor-General.

Registrar of Awards

8. (1) There shall be a Registrar of Awards who shall be appointed by the Governor-General and who shall maintain a Register of the names of persons to whom the Medal has been awarded.

(2) The Registrar shall keep such other records relating to the award of the Medal as the Governor-General directs.

Cancellation and reinstatement

9. (1) The Governor-General may cancel an award of the Medal and may reinstate an award so cancelled.

(2) Where an award of the Medal is cancelled, the name of the person to whom the award was made shall be erased from the Register and the person shall return the Medal to the Registrar.

(3) Where an award that has been cancelled pursuant to sub-regulation (1) is reinstated, the Registrar shall restore the entry or entries in the Register that had been erased.

COMMONWEALTH OF AUSTRALIA
AUSTRALIAN SERVICE MEDAL REGULATIONS
DETERMINATION BY THE MINISTER OF STATE FOR DEFENCE

Pursuant to Paragraphs 2 and 4(b) of the Australian Service Medal Regulations which are set out in the Schedule of Letters Patent given on 13 September 1988 I, Robert Francis Ray, the Minister of State for Defence, HEREBY DETERMINE that members of foreign defence forces who render service with the Australian Defence Force in prescribed operations to be persons eligible for the award of the Australian Service Medal.

Dated this *Eleventh* day of *May* 1992



ROBERT RAY

Appendix 4 – Policy relating to the Australian Service Medal

AGREED POLICY FOR THE AUSTRALIAN SERVICE MEDAL

In 2001, the then Minister Assisting the Minister for Defence agreed to the specific conditions for which the Australian Service Medal (ASM) may be awarded, together with absolute exclusions. These are as follows:

- a. activities or operations where an overarching non-warlike declaration by the Minister for Defence exists;
- b. service rendered in situations that include international security treaties or agreements and there are required operational or security outcomes, eg. Multinational Force and Observer (MFO) group in Sinai;
- c. service involving that with an international coalition force and where other countries involved have recognised their defence personnel with a medal, eg. United Nations deployments, MFO and situations such as the Gulf crisis 1990/91;
- d. activities conducted in Australia or overseas at the direction of Government, rather than an ADF decision alone, which require the use of military skills unavailable to civilian organisations at the time and hazardous conditions exist as a result of civil unrest or threat which are beyond the normal requirements of peacetime service, which also result in control being given to the ADF to conduct activities in part or in full;
- e. humanitarian service as a result of human disaster involving civil unrest, rather than natural disaster, where that service involves a military presence for self protection and protection of the community involved, eg. Kurdish relief after the Gulf War in Iraq in 1991 and Rwanda in 1994; and
- f. qualification be set at 30 days except where activities involve an imminent threat of war, activities are so short of warlike that they carry similar hazards, special operations outside of normal operations involving associated increased risks, or particularly dangerous or hazardous situations, eg. forward intelligence operations, hot extractions, etc.

Absolute exclusions are:

- a. service involving warlike activities in a state of declared war or combat operations against an identified enemy or belligerents, ie. an area declared 'warlike' by the responsible Minister;
- b. normal overseas service in diplomatic, representational, exchange, training or Defence cooperation activities (this exclusion does not

apply to members conducting these activities in an area subject to a formal declaration of non-warlike where tasking is associated with the operation at hand);

- c. assistance in Defence Force Aid to the Civil Community, either in Australia or overseas, where that service is integrated with other Commonwealth, State or civilian agencies such as the State Emergency Service Organisations or National Parks and Wildlife, and that service or threat does not require the use of uniquely military skills, eg. relief or assistance as a result of natural disasters such as drought or bushfires, and assistance to Australian National Antarctic Research Expeditions;
- d. normal duties carried out either in Australia or overseas involving no military risk or threat, whether in a capacity of regular, reserve or conscripted service in order to meet Government/ADF ceilings; and
- e. service on exchange duties with a foreign defence force, even if in a hazardous area not declared by the responsible Minister as a non-warlike area of operations for ADF deployment (although in some cases it may be appropriate to assess such service on its merits against a particular reason behind a formal third country deployment approval).

Appendix 5 – Other Claims for Recognition

1. South Pacific Peace Keeping Force (SPPKF) – Op Lagoon. Operation in Bougainville. Reference from Parliamentary Secretary required.
2. Bougainville activities – claim for recognition for individuals. Claim for recognition needs to be made initially to Defence.
3. Approval to accept and wear PNG 30th Anniversary Medal awarded to ADF personnel on loan or exchange postings. Reference from Parliamentary Secretary required.
4. Humanitarian operations – Ples Drei/Sierra (drought relief), Shaddock (tidal wave rehabilitation). Outside Tribunal's jurisdiction but see paragraphs 75-77.
5. Vanuatu - Operation Kumel (1980) – no formal claim. Outside Terms of Reference. Claim for recognition needs to be made initially to Defence.

Appendix 6 – Other material reviewed by the Tribunal during the course of the inquiry

Defence Corporate Records

MAB98/0012 Audit Review – Papua New Guinea

Parliamentary Report

Parliament of the Commonwealth of Australia *Australia's Relations with PNG*, Canberra: 1991

Secondary Sources

Bob Breen and Greg McCauley, *The World Looking Over Their Shoulders: Australian Strategic Corporals on Operations in Somalia and East Timor* Duntroon, A.C.T. : Land Warfare Studies Centre, 2008.

Sean Dorney, *Papua New Guinea: people, politics and history since 1975*, Sydney : ABC Books for the Australian Broadcasting Corporation, 2000.

Roger Thompson, *Australia and the Pacific Islands in the Twentieth Century*, Kew: Australian Scholarly Publishing, 1998