



Australian Government

Defence Honours and Awards Appeals Tribunal

Smith and the Department of Defence Re: Roberts [2016] DHAAT 25 (1 August 2016)

File Number(s) 2015/014

Re **Lieutenant Colonel Harry Smith SG MC (Retd)**
on behalf of Colonel Francis Adrian Roberts OAM
Applicant

And **Department of Defence**
Respondent

Tribunal Mr M. Sullivan AO (Chair and Presiding Member)
Rear Admiral J. Goldrick AO, CSC RAN (Retd)
Brigadier K. O'Brien CSC (Retd)
Ms J. Schwager AO
Mr R. Rowe PSM

Hearing Dates 1, 2 and 3 March 2016

DECISION

On 1 August 2016 the Tribunal decided to recommend to the Minister:

- a. that the decision of the Chief of Army to refuse to recommend Colonel Francis Adrian Roberts OAM (Retd) for the Medal for Gallantry be set aside,
- b. that the decision to award Colonel Roberts the MID be set aside and the award returned, and
- c. that Colonel Roberts be awarded the Medal for Gallantry for 'acts of gallantry in action in hazardous circumstances' on 18 August 1966.

CATCHWORDS

DEFENCE HONOUR – *Defence honour – acts of gallantry – in action — hazardous circumstances*

LEGISLATION

Defence Act 1903 – ss 110V(1), 110VA, 110VB(1)

Gallantry Decorations Regulations 1991

Defence Force Regulations 1952 – Reg 93B Sch 3

REASONS FOR DECISION

Introduction

1. The applicant, Lieutenant Colonel Harry Smith SG MC (Retd) seeks review of a decision of the Chief of Army to refuse to recommend Colonel Francis Adrian Roberts for the Medal for Gallantry (MG) for his service at the Battle of Long Tan (the Battle) on 18 August 1966 in Vietnam. At the time of the battle, Colonel Roberts held the rank of Lieutenant and served as Troop Officer, 3 Troop, 1 Armoured Personnel Carrier (APC) Squadron. He was nominated for a Mention in Despatches (MID) for his actions by his Squadron Commander after the Battle and this award was approved on 21 December 1966.

2. Lieutenant Colonel Smith held the rank of Major during the battle, and was the Officer Commanding D Company 6 RAR. He asserts that on 22 August 1966, following earlier discussions, he presented the Battalion Commander, Lieutenant Colonel Townsend (CO 6 RAR), with a number of written recommendations for awards for gallantry at the Battle, including a written recommendation for a Military Cross (MC) for then Lieutenant Roberts. Lieutenant Colonel Smith asserts that the nomination for Roberts was downgraded to the MID for reasons that have never been satisfactorily explained. He contends that Colonel Roberts should now be awarded the MG to rectify what Lieutenant Colonel Smith regards as 'perceived injustice'.

The Battle of Long Tan

3. On 18 August 1966, D Company 6 RAR was engaged in one of Australia's heaviest actions of the Vietnam War, in a rubber plantation near the village of Long Tan. The 108 soldiers of D Company held off a large enemy force for over three hours during a tropical downpour. They were greatly assisted by a timely ammunition resupply by Royal Australian Air Force (RAAF) helicopters, close fire support from artillery, and the arrival of Armoured Personnel Carriers (APCs), together with reinforcements from other elements of the battalion. Seventeen Australians were killed and 25 wounded, with one of the wounded dying several days later. A full description of the battle, developed by the Tribunal from a range of sources, is provided at **Attachment A**.

Recognition for D Company 6 RAR

4. On 21 December 1966, the first set of Imperial gallantry awards for Long Tan was announced (further awards were announced later). In 1968, D Company 6 RAR was awarded a United States Presidential Unit Citation (PUC) for its actions at Long Tan. The PUC is the highest unit award in the US Honours and Awards System.

5. The individual awards appeared to some, including Lieutenant Colonel Smith, to be less in number, and of lower standing, than expected. The documents recording the original Imperial award recommendations were filed, and in accordance with standard procedure they were released for public access after 30 years. In 1996, Lieutenant Colonel Smith accessed the records to see what had happened to the award proposals he recalled discussing with CO 6 RAR but which had, he thought, been changed or ignored. He discovered that there was no paperwork for some and

paperwork for others showed the proposed awards had been downgraded. He and others began to lobby Government to rectify this perceived injustice – to have the honours he originally recommended awarded and to approve a number of South Vietnamese awards also thought to have been rejected at the time.

6. Following a number of representations to Government from Lieutenant Colonel Smith, between 2004 and 2009 there were a range of reviews in relation to the recognition for those who served at the Battle. The details of those reviews and the awards given are detailed at **Attachment B**.

Application for review

7. In 2011, Lieutenant Colonel Smith made submissions to the Tribunal's *Inquiry into unresolved recognition for past acts of naval and military gallantry and valour* (the Valour Inquiry). In March 2013, these submissions and others were referred by the then Government to the Chief of the Defence Force and the respective Service Chiefs for consideration.

8. In November 2014, the Chief of Army rejected Lieutenant Colonel Smith's submissions. Lieutenant Colonel Smith lodged his application for review of the Chief of Army's decision regarding Colonel Roberts to the Tribunal on 3 April 2015. Despite any previous considerations, Lieutenant Colonel Smith has a statutory entitlement under the *Defence Act 1903* (the Defence Act) to seek review of the Chief of Army's most recent decision in the Tribunal.

Tribunal Jurisdiction

9. Pursuant to ss 110VB(1) of the *Defence Act 1903* (the Defence Act) the Tribunal has jurisdiction to review a reviewable decision relating to a Defence honour if an application is properly made to the Tribunal. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence or the Defence Force to refuse to recommend a person for a Defence honour in response to an application.

10. Regulation 93B of *Defence Force Regulations 1952* defines a Defence honour as those honours set out in Part 1 of Schedule 3. Included in the Defence honours set out in Part 1 is the Medal for Gallantry. The Tribunal considered that the Chief of Army's refusal to recommend Colonel Roberts for the Medal for Gallantry constitutes a reviewable decision. Therefore, the Tribunal has jurisdiction to review this matter.

11. In accordance with s110VB(1) of the Defence Act, as the matter under review concerns a Defence honour, the Tribunal does not have the power to affirm or set aside the decision but may make recommendations regarding the decision to the Minister.

Conduct of the review

12. In accordance with its *Procedural Rules 2011*, on 28 May 2015, the Tribunal wrote to the Secretary of the Department of Defence informing him of Lieutenant Colonel Smith's application for review and requesting that he provide a report. On 7 August 2015, Director General Personnel-Army, on behalf of the Secretary, provided

the Tribunal with a report. This report and other documents were exchanged with Lieutenant Colonel Smith and additional statements were obtained from various witnesses and sources. Hearings were held in Queensland from 1 to 3 March 2016 when the Tribunal received oral evidence and submissions from Lieutenant Colonel Smith, representatives from the Department of Defence and other witnesses. Further details in relation to the conduct of the review, including a list of witnesses, are provided at **Attachment C**.

13. A bibliography of the research material gathered by the Tribunal during the course of the review is provided at **Attachment D**.

Eligibility Criteria for Contemporary Gallantry Awards

9. The *Commonwealth of Australia Gazette (CAG) No S25* dated 4 February 1991, creates the awards of the Star of Gallantry, the MG, and the Commendation for Gallantry by Letters Patent. These awards provide recognition for members of the Defence Force and certain other persons who perform acts of gallantry in action. The conditions for these awards are referred to as the *Gallantry Decorations Regulations 1991*. These Regulations were amended in *CAG No. S420*, dated 6 November 1996.

10. The Regulations as amended, stipulate the following conditions for award of the decorations at Regulation 3:

(1) The Star of Gallantry shall be awarded only for acts of great heroism or conspicuous gallantry in action in circumstances of great peril.

(2) The Medal for Gallantry shall be awarded only for acts of gallantry in action in hazardous circumstances.

(3) The Commendation for Gallantry may be awarded for other acts of gallantry in action, which are considered worthy of recognition.¹

Colonel Roberts' service

12. Francis Adrian Roberts was born in Midland Junction, Western Australia on 11 October 1939. He attended the Officer Cadet School at Portsea in 1962-63 and was commissioned as an Armoured Corps Officer in June 1963. Following regimental training he was posted to 1st Armoured Regiment as a tank troop leader. In 1965 he was posted to the newly raised 1st APC Squadron as a troop officer and deployed with the Squadron to Vietnam on 30 April 1966.

13. Roberts was promoted to Lieutenant on 30 June 1966. In August he was acting as the Troop Commander of 3 Troop, 1 APC Squadron, an appointment normally filled by a captain.

14. Colonel Roberts remained in Vietnam to complete his twelve-month tour and returned to Australia to postings at the Armoured Centre and 1st Armoured Regiment before returning to Vietnam in 1971 with the Australian Army Training Team. After the war Colonel Roberts completed a variety of appointments in Australia and overseas including Commanding Officer of the Armoured Centre before retiring in January 1988

¹ CAG No S420, dated 6 November 1996

and returning to his previous civilian occupation as a teacher. Colonel Roberts was awarded an Order of Australia Medal in 2008 for services to the Canberra veterans' community, particularly through the Totally and Permanently Incapacitated Veterans' Association.

Lieutenant Roberts' Actions at the Battle

15. Australia's Official History of the Australian Army and the Vietnam War provides a detailed account of Lieutenant Roberts' actions at the Battle. This account is consistent with and is based on his immediate after action report of 25 August 1966.² It is also consistent with Colonel Roberts' submission to the old Tribunal's Inquiry in 2009³ where he sought recognition for 3 Troop, 1 APC Squadron.

16. Prior to the Battle, Lieutenant Roberts' first familiarisation operation was in late May 1966 when Australian APCs supported American and Australian forces during the final phase of Operation HARDIHOOD, a multi-battalion operation aimed at clearing the area surrounding Nui Dat to establish the 1st Australian Task Force Base area. During this operation, Roberts became familiar with the approaches to Long Tan, including the Suoi Da Bang stream, which flows between Nui Dat and Long Tan.

17. At around 1700 hours on 18 August 1966, Lieutenant Roberts met with CO 6 RAR at the Australian Task Force base at Nui Dat and was given a very general order to 'convey A Company 6 RAR to join D Company 6 RAR and break up the attack'.⁴ No other information was given, apart from a vague map of the approximate whereabouts of D Company, nor was the route to the battle area mentioned.⁵

18. At the time of the Battle, Lieutenant Roberts' 3 Troop should have consisted of 13 APCs but it was down to ten, three of which were on loan from 2 Troop. While these additional vehicles were in better condition than the 3 Troop vehicles, which had been in country for a year, unlike the 3 Troop vehicles, they had no gun shields for the .50 calibre machine guns mounted at the top of each vehicle. All vehicles were carrying outdated radio sets and were not capable of simultaneous communications with the embarked infantry, the base at Nui Dat, and D Company Headquarters.⁶

19. At 1745 hours, with A Company mounted in the 10 available APCs, the Troop began to deploy. Their departure was immediately delayed because of difficulties negotiating the perimeter wire around the base. When these had been overcome, Roberts was ordered to wait for CO 6 RAR who had decided that he would also move to the battlefield with A Company.

² *1 APC Squadron After Action Report, Relief of D Coy 6 RAR, 25 August 1966*, File Australian War Memorial (AWM) 95, 2/6/6.

³ Defence Honours and Awards Tribunal's (the old Tribunal's) *Inquiry into unresolved recognition issues for the Battle of Long Tan*, 2009

⁴ Ian McNeill, *To Long Tan: The Official History of the Australian Army and the Vietnam War 1950-1966*, Allen & Unwin, St Leonards, 1993, p331 Endnote 6.

⁵ *Ibid*, p330.

⁶ *Ibid*.

20. Instead of waiting, Lieutenant Roberts decided to detach two of his APCs to collect and move CO 6 RAR and his support party. The remainder of the Troop then commenced to move, clearing the Task Force area at approximately 1800 hours.⁷

21. By the time Lieutenant Roberts reached the Suoi Da Bang stream, it was flooded due to the monsoonal downpour which had begun around an hour earlier. Lieutenant Roberts received a radio instruction to wait for CO 6 RAR but disregarded the order because he could hear Major Smith's radio communications, and appreciated the need for urgent reinforcement of D Company.⁸ Instead of waiting, Lieutenant Roberts pressed on, and detached one vehicle to wait at the stream crossing point to link up with the CO.

22. At around 1825 hours, after entering the rubber plantation, the relief force encountered over 100 soldiers⁹ – recognised by Lieutenant Peter Dinham, the Commander of 2 Platoon A Company, as enemy. After a brisk action which inflicted heavy casualties on the enemy, including at least 40 killed,¹⁰ the Troop continued on with machine guns firing. The enemy was later identified as the heavy weapons company of the Viet Cong D445 Battalion.¹¹

23. At around 1835 hours, after progressing another 200 metres through the rubber, the Troop encountered several groups of enemy soldiers, possibly up to 100 in total.¹² The APCs engaged these enemy with .50 calibre guns. Lieutenant Roberts, not being aware of the exact location of D Company at that time, and due to the limited visibility in the rubber, had to control the fire to reduce the possibility of friendly troops being fired upon by overshoots. Forty-five enemy were believed killed in this engagement.¹³

24. During this engagement, a 57mm recoilless rifle (an anti-tank weapon) round was fired at one of the APCs. The shot missed the APC but felled a tree across the front of the vehicle. In response, the crew commander, Corporal John Carter of 3 Troop, took the Owen sub-machine gun carried by his driver and neutralised the recoilless rifle crew just after a second round was fired which also missed its target. Carter shot three more enemy before returning to his vehicle.¹⁴

25. With the troop halted, Lieutenant Roberts was faced with a critical decision. Tactical doctrine indicated that there was a strong possibility of another anti-tank weapon being brought to bear against the APCs, and Roberts should not move the troop forward until he either neutralised this threat or was reasonably satisfied that there was no weapon. Captain Charles Mollison, the Commander of A Company, was insistent that Lieutenant Roberts press on. Roberts, however, was aware of the damage that an anti-tank weapon could inflict on a lightly armoured APC and its occupants, particularly if hit from the rear.

⁷ Ibid, p332.

⁸ Ibid, p333.

⁹ Ibid, p334.

¹⁰ Ibid.

¹¹ Ibid.

¹² Ibid.

¹³ Ibid.

¹⁴ Corporal Carter was subsequently awarded the Distinguished Conduct Medal for these actions.

26. Around this time, Lieutenant Roberts became aware that Corporal Peter Clements, crew commander of one of the vehicles on the left of the formation had been severely wounded. Believing that the APC also contained three wounded infantrymen,¹⁵ Lieutenant Roberts, despite strident protests from Captain Mollison, ordered the APC carrying Corporal Clements to return to Nui Dat to tend to the wounded, at the same time carrying away the platoon commander and headquarters of one of the A Company platoons.¹⁶ Clements later passed away from his wounds.

27. While the vehicles on the left were delayed, Sergeant Richards' section of three APC's on the right side of the formation advanced just under the trajectory of the incoming artillery and continued on until they reached the D Company position. The A Company soldiers dismounted and Richards moved his APCs back to re-join the rest of the Troop. This intense artillery support, from the two Australian field batteries, was falling just to the east of D Company.

28. At around this time (1850 hours) CO 6 RAR arrived with three APCs, bringing the troop up to nine. CO 6 RAR then ordered Lieutenant Roberts to attack to the east, this time all nine APCs moved towards the enemy who were under heavy artillery fire. The trajectory of artillery fire was overhead and very close, meaning that the splinter pattern of the bursts was towards the enemy. The *Artillery Log Book* records that the FO ceased the artillery fire at 1853.¹⁷

29. At around 1900 hours, the complete Troop arrived at the D Company position, firing into the remaining enemy around the perimeter. Enemy fire came from the front and the left flank as the APCs moved forward, firing. While the enemy fire during this assault was the heaviest 3 Troop had experienced, most of the enemy fire went over the heads of the Australians.¹⁸

30. The APCs continued their assault for 500 metres until the CO ordered them back. By then, 3 Troop had swept through and beyond the enemy's earlier forming up positions around D Company.¹⁹ All firing ceased around 1910 hours when the remaining enemy withdrew into the rubber.²⁰

31. After a period of time CO 6 RAR ordered D Company to embus in the APCs and the Troop headed west to a cleared area where helicopters could land to evacuate the wounded. Lieutenant Roberts then used the APCs to form a square with their internal lights on and hatches open to indicate a landing zone. This worked well in guiding the helicopters in and the evacuation went smoothly. For the rest of the night they 'stood to' in anticipation of further enemy attacks, which never came.

The Award of Lieutenant Roberts' Mention in Despatches

32. The citation for Lieutenant Roberts' MID reads as follows:

¹⁵ McNeill, *To Long Tan*, p336.

¹⁶ Ibid.

¹⁷ *Australian Army commander's diaries: Vietnam - 105 Field Battery [105 Fd Bty] Enclosures 4-5 [1-31 Aug 1966]*, pp154-156, AWM95, 3/5/43.

¹⁸ McNeill, *To Long Tan*, p338.

¹⁹ Ibid, p339.

²⁰ Ibid, p340.

On the evening of the 18th August 1966 Lieutenant Roberts commanded 3 Troop 1 Armoured Personnel Carrier Squadron which carried A Company 6th Battalion, Royal Australian regiment to the relief of D Company 6th Battalion Royal Australian Regiment, who were virtually surrounded by a vastly superior enemy force.

Lieutenant Robert's (sic) personal conduct in commanding and controlling his troop was of the highest order.

While moving to the D Company location, the troop encountered an enemy company equipped with anti-tank weapons, and at this time the troop consisted of only seven armoured personnel carriers. After a short action the enemy withdrew east.

Continuing the advance the troop moved through supporting artillery fire, as the fire could not be stopped due to a temporary loss of radio communications.

One crew member was seriously wounded in the chest, and was evacuated. The troop carried out a final assault and forced the enemy to withdraw from the company position.

Later, during the night, in pitch-blackness, the troop assisted in evacuating D Company and its casualties to a helicopter landing zone. Lieutenant Roberts, under orders from the Officer Commanding D Company, acted as controller for the helicopters.

Lieutenant Roberts acted with skill and judgement and fought his troop with determination and courage. The action was accomplished in spite of the poor radio communications existing in the 3 Troop vehicles, and in spite of heavy torrential rain and poor light during the enemy contact.²¹

33. In his submission to the old Tribunal's 2009 Inquiry, the Nominating Officer for Robert's MID, Major (later Colonel) Robert Hagerty, the Officer Commanding 1 APC Squadron and Roberts' immediate superior in the chain of command, wrote:

The significant issue about the recommendation by me for the award of the MID to Roberts was that it was made simply on the advice to me by Lt Col Townsend that OC D Coy (Maj Smith) was to be recommended for the higher award, the Military Cross (MC). That was the end of the matter as far as I was concerned. Had I known then that the award of the Distinguished Service Order was to be cited for Maj Smith, with the higher awards of MC for the two surviving platoon commanders, I would have had no hesitation in recommending to Lt Col Townsend that Roberts also be considered for an MC.²²

34. In his oral submission to the Tribunal, Colonel Hagerty initially stated that at the time, he believed the most appropriate award for Lieutenant Roberts was the MID. After further questioning however, Colonel Hagerty confirmed that his

²¹ File correspondence, National Archives of Australia (NAA) A1945, 133/3/26.

²² Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan*, Submission 16, Colonel R E Hagerty AM (Retd), March 2009.

recommendation regarding the level of the award was based on the award of the MC to Major Smith.²³

35. The Tribunal also heard oral submissions from Mr David Harris²⁴, who at the time of the Battle of Long Tan was a Second Lieutenant, and a Liaison Officer at Task Force Headquarters. Mr Harris claimed that he suggested to Major Hagerty at the time that an award of the MC was in order for Roberts. Mr Harris also stated that he subsequently learnt that Major Hagerty had contacted CO 6 RAR and was informed that the two surviving D Company platoon commanders, Second Lieutenant Sabben and Second Lieutenant Kendall, were being recommended for the MID and Smith for the MC, leaving Hagerty with little choice other than to recommend a MID for Roberts at the time.

36. On 5 March 2016, two days after making his oral submission, Colonel Hagerty acknowledging his confusion at the hearing, sent a letter to the Tribunal as an addendum to his oral submission. He stated that he strongly recommended an equivalent award to the MC for Roberts, and also asked that the Tribunal rely on his earlier submission to the old Tribunal's 2009 Inquiry, as well as his 2009 letter to Prime Minister Rudd which recommended the award of the MG to Roberts. Colonel Hagerty also confirmed that he did not recall having a conversation regarding the awards in 1966 with Second Lieutenant Harris.²⁵

37. From the evidence available, the Tribunal was able to ascertain that sometime between 18 August and 10 September 1966,²⁶ the nomination for the MID for Lieutenant Roberts' was signed by Major Hagerty as the Nominating Officer. On 10 September 1966, it was received at Headquarters First Australian Taskforce for the attention of the Task Force Commander, Brigadier Jackson. On 25 September, it was forwarded to Saigon for the attention of the Commander of Australian Force Vietnam (COMAFV), who received it on 26 September 1966. On 2 October 1966 it was forwarded to Army Office in Canberra for subsequent endorsement by the Ministers for Army and Defence, the Prime Minister and approval by the Sovereign, which was granted on 21 December 1966.

Lieutenant Colonel Smith's submissions

38. Lieutenant Colonel Smith submitted to the Tribunal that on 22 August 1966, following earlier discussions, he presented CO 6 RAR with a number of written recommendations for awards for gallantry at the Battle, including a written recommendation for a MC for Lieutenant Roberts.

39. While Lieutenant Colonel Smith, despite being in a separate chain of command, has made submissions about his drafting of this recommendation, and his discussions with CO 6 RAR and other members of his company about this and other

²³ Oral Submission, Colonel R.E. Hagerty AM (Retd), 3 March 2016.

²⁴ Oral submission, Mr David Harris, 1 March 2016

²⁵ Letter to the Defence Honours and Awards Appeals Tribunal, Colonel R.E. Hagerty AM (Retd), 5 March 2016.

²⁶ The nomination form is indicated as being signed on 18 August 1966. Given the timing of the battle, the Tribunal considered it more likely that Major Hagerty was referring to the date of the action, rather than the day on which he signed the form.

recommendations; no record has been found of his written recommendation in respect of Lieutenant Roberts.

40. Given the passage of time, some confusion exists as to the exact nature of the recommendation passed by Lieutenant Colonel Smith to CO 6 RAR and how it was acted upon. However, it is evident that Lieutenant Colonel Smith firmly believes that immediately after the battle, he formed the view that Roberts deserved an MC for his actions, and that he made this view known to CO 6 RAR.

41. Lieutenant Colonel Smith further submitted that the MID awarded to Lieutenant Roberts was 'benchmarked' as being 'one level below' his own award, which the historical record shows was downgraded from a Distinguished Service Order to a MC. This has since been ameliorated with the 2008 award of the Star of Gallantry to Lieutenant Colonel Smith. Smith believes that it follows that Roberts should now be awarded the MG to rectify this perceived injustice.

42. With regard to Lieutenant Roberts' actions, in his submission to the old Tribunal's 2009 Inquiry, Lieutenant Colonel Smith stated:

*Roberts got his APC Force from the northern area of Nui Dat Base through the base wire, through a long journey around to the south, over a swollen river, through two enemy contacts, and to the main battlefield in one hour and 20 minutes, despite interference from CO 6 RAR, OC Alpha Company, and the enemy, no mean feat!*²⁷

43. In his oral evidence to the Tribunal, Lieutenant Colonel Smith expanded on the above statements by submitting:

I sat with Adrian in his carrier the night of the battle after we'd evacuated the wounded. Adrian told me the problems that he had in getting out of the task force base, the engineers had closed the wire gate and he couldn't just roll through. Twice he was told to stop by Colonel Townsend. Nobody knows why Colonel Townsend didn't have time to get on board the 15 APCs. (sic) But anyway, Adrian then sent two carriers back and left another one at the river crossing. Adrian knew where this river crossing was, because he'd served with 173 Airborne when they were doing Operation HARDIHOOD to clear the task force base area. When he left three carriers behind, which left him with seven. When a crew commander was mortally wounded he sent him back because you couldn't bring a helicopter in to take him out. That's caused a lot of criticism over the years. Adrian admits it was compassion. Unfortunately it had on board the headquarters of a platoon of A Company. So when A Company dismounted when they finally arrived with us, that platoon headquarters wasn't there. But it didn't matter. The headquarters wasn't required and the corporal could've taken over.

The APCs undoubtedly hastened the enemy withdrawal. The APCs contacted with A Company on board at least two main force companies. He also affirmed that the APCs were in a state of disrepair, some didn't have gun shields, were

²⁷ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan*, Submission 9, Lieutenant Colonel Harry Smith SG MC (Retd), p 20.

*hand-me-downs. The fact that Lieutenant Roberts pushed six APCs through the second lot of enemy and then to the finish, as far as I'm concerned, is accepting of good command on the part of Adrian Roberts and his section commanders.*²⁸

Other Accounts

44. In conducting its review of Lieutenant Roberts' actions at the Battle, the Tribunal was able to access a broad range of written material, including contemporary after action reports, and later published accounts. At hearing, the Tribunal also had the benefit of hearing directly from Lieutenant Colonel Smith, Colonel Hagerty, and former A Company Officers, Lieutenant Colonel Charles Mollison and Colonel Peter Dinham AM.

45. The Tribunal noted from its research that CO 6 RAR's original after action report of 24 August 1966 said the following about the performance of 3 Troop at Long Tan:

(1) The surprise achieved by the APCs of 3 Tp 1 APC Sqn which broke up the movement of an estimated two companies of VC to the rear of D Coy, undoubtedly saved the day.

(2) The comment must be made however, that the APCs probably would not have reached the scene of the battle before dark had it not been for the constant urging by the OC A Coy 6 RAR.

(3) The OC of the APC Troop returned one APC to base against the orders of A Coy because one crew member was wounded. This was an irresponsible action and resulted in the platoon commander and headquarters of one platoon being returned to base. This could have proved critical if the enemy had stayed to fight and the company was required to deploy for an attack.

(4) The APC Commander must realize (sic) that the Infantry Commander is in overall command of the force...The infantry commander always retains the power of veto and can override the APC Commander if this proves really necessary.

(5) The APCs were subsequently of great assistance in the follow up of the enemy force and search of the areas concerned.

(6) The APCs were also used to secure and mark (by showing interior lights through open hatches) the LZ for the extraction of casualties, by night.

*(7) Notwithstanding the criticisms contained in sup (sic) paragraphs (2) (4) above, 3 Tp, 1 APC Sqn deserves the highest praise for individual gallantry.*²⁹

46. On 7 September 1966, CO 6 RAR resubmitted his after action report and moderated subparagraph (2) above to read:

²⁸ Oral Submission, Lieutenant Colonel Harry Smith SG MC (Retd), 1 March 2016

²⁹ 6 RAR: After action report Operation Smithfield 18-21 August 1966, 24 August 1966, File AWM102 42.

(2) *On two occasions during the movement to the relief of D Coy, 3 Tp halted. OC A Coy, on both occasions, realising the delay was prejudicial to the survival of D Coy, quickly had the force moving again. The reason or authority for the halts is not known. It was probably caused by misunderstanding in radio transmissions. All communications by voice and radio were very difficult because of the noise and very heavy rain. No direction or approval to halt was given by 6 RAR.*³⁰

47. In his after action report, Major Hagerty wrote:

*The contact was a surprize (sic) both to own troops and obviously the enemy. The action fought was successful and the formation adopted by the Troop Comd was very satisfactory, and meant than an immediate engagement by heavy MG fire was possible.*³¹

48. There are many published accounts of Lieutenant Roberts' performance at Long Tan.^{32,33,34,35,36} With the exception of Lieutenant Colonel Mollison who as a Captain was the acting Officer Commanding A Company which was mounted in the APC and being carried to the Battle by the APC Troop's account;³⁷ these are broadly consistent with the official history, and Lieutenant Roberts' after action report.

49. A 1992 interview between Colonel Roberts and Dr Bruce Horsfield for the documentary '*Long Tan, the Survivor's Account*'³⁸ provides a very detailed account in Roberts' own words of the battle. Again, this is consistent with the official history.

50. A 2009 submission to the old Tribunal's inquiry by Mr Ian Savage, who, as a Second Lieutenant was second in command of 3 Troop at Long Tan, supported Roberts' judgement and his decision to disregard orders and press on because of the urgency of the situation facing D Company. Mr Savage stated his firm view that 'Lieutenant Roberts performed magnificently on that day'.³⁹

51. In his oral submission to the Tribunal, Colonel Hagerty added his observations regarding the delays in leaving the base, the state of the APCs, and who was in command of the infantry and APCs during the battle.

³⁰ 6 RAR: After action report Operation Smithfield 18-21 August 1966, 7 September 1966, File AWM95, 7/6/5.

³¹ 1 APC Squadron After Action Report, OC's Comments, 25 August 1966, AWM 95, 2/6/6

³² Terry Burstall, *The Soldiers Story, The Battle of Xa Long Tan*, University of Queensland Press, St Lucia, 1986, pp68-112.

³³ Lex McAulay, *The Battle of Long Tan*, Century Hutchinson Australia, Hawthorn, 1985 pp78-124.

³⁴ Bob Grandin, *The Battle of Long Tan: As told by the Commanders*, Allen and Unwin, Crows Nest, 2004, pp129-215.

³⁵ Paul Ham, *Vietnam, The Australian War*, Harper Collins, Sydney, 2007 pp578-579.

³⁶ Michael Caulfield, *The Vietnam Years*, Hachette Australia, Sydney, 2007, pp303-306.

³⁷ Charles Mollison, *Long Tan and Beyond, Alpha Company 6 RAR in Vietnam 1966-1967*, Cobbs Crossing Publishing, Woombye, 2005, pp155-178.

³⁸ Excerpt from an interview between Colonel Roberts and Dr Bruce Horsfield, Documentary, *Long Tan: The Survivors' Account*, produced and directed by Bruce Horsfield, Communication Futures, Queensland, 1992

³⁹ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan*, Submission 19, Mr Ian Savage, March 2009.

*...the delay in leaving the base was with A Company who'd just come back from an operation. The other delay was because the Brigadier didn't want to send in the rest of the squadron because maybe there was more out there than he thought and he wanted the rest of my squadron back to defending the base.*⁴⁰

52. With reference to the state of the APC's Colonel Hagerty added:

The 3 Troop vehicles were in a bad way. They'd had a year in Vietnam and when they came down to Nui Dat under my command, they hadn't had a lot of work done. All the tracks were very loose...the radios which Adrian had were the AN/GRC-7 radio sets...I think they must have come from ARVN, from Vietnamese army stocks...they were not in good shape...they were incompatible (with the radios used by the mounted infantry).

53. With reference to command and control of the relief force, Colonel Hagerty added:

*Actually, the most significant point, and this is a very critical point, is that we had no training with the infantry before we left. I can tell you quite honestly that as from about September '65, when I was putting together my own training program to take me through into 1966, I kept asking, when do I get with the infantry to start training with the infantry, because the role of an APC Squadron is to get armoured mobility to the infantry.*⁴¹

*This is a vexed question...In this particular instance, the acting OC, A Company, Captain Mollison, was in command but the control of the movement of the vehicles was really Lieutenant Roberts and he was the person that had to get from A to B. So I think the word "control" probably better explains the situation. So if the enemy action occurs, he's the one that has to manoeuvre the vehicles, not the infantry commander. When the infantry get out, obviously the infantry commander takes over.*⁴²

54. In his oral evidence to the Tribunal, Colonel Hagerty also commented on the sort of man he observed in Lieutenant Roberts:

*Adrian Roberts is very, very good. He's a very intense sort of person and I was very happy to have him as a troop commander. He's very conscientious. His troops had a high regard for him...I thought his judgements were good, he was very courageous, he pushed on no matter what.*⁴³

55. Colonel Hagerty also confirmed that Lieutenant Roberts acted with consummate drive and professional leadership in a challenging situation, and that he actually kept pushing through and got the force where they were needed, when they were needed, despite considerable challenges.⁴⁴

⁴⁰ Oral Submission, Colonel R.E. Hagerty AM (Retd), 3 March, 2016.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ Ibid.

56. In his oral evidence to the Tribunal, Lieutenant Colonel Mollison offered a contrary view to that of other publications (cited) and other submitters who supported further recognition for Roberts. By way of submission Lieutenant Colonel Mollison provided a copy of his book *Long Tan and Beyond, the story of A Company 6 RAR in Vietnam*.⁴⁵ In his oral evidence Lieutenant Colonel Mollison strongly asserted that he did not support the MG for Colonel Roberts for the following five reasons:

Firstly, he arrived with 10 APCs rather than 13 which meant that all I could do in my rushed, verbal orders, having been given the word to go by the commanding officer, was to tell my troops to fill up from the front which mixed up my platoons in sections and severely complicated command and control.

Secondly, when we embarked on the APCs I expected to find either radios or at least externally mounted aerials for my use so that I could communicate with my battalion headquarters and with my platoon, neither of those was available.

Thirdly, I would have expected that either Roberts or Bob Hagerty, knowing that route, would have arranged with the engineers for the gap in our wire to be opened for our passage; that didn't happen.

Fourthly, when the battle occurred Roberts stopped the troop. This was entirely the wrong thing to do in the circumstance, with the undergrowth, the lack of visibility, the torrential rain pour, the best thing that we could have done was to keep rolling at best speed. Stopping gave the enemy the opportunity to employ their anti-tank weapons against the APCs, which they did.

*However, the most damning and irrefutable incident that I ask the Tribunal to take into consideration is Roberts' decision to return one APC to the base in the middle of the battle in direct contradiction of my explicit order at the time not to do so. This took away my platoon headquarters and more than half of one of my platoons. If the enemy had stood and fought that would have seriously operated against any chance of successfully rescuing D Company.*⁴⁶

57. When referring to the reasons for the delays in leaving the base, Lieutenant Colonel Mollison stated:

*I was at the commanding officer's tent, his radio was on loud speaker and together we listened to the battle as it escalated. I heard D Company call for ammunition resupply so I phoned my CSM again and got him to load two first-line resupplies of ammunition into the APCs when they arrived. At this stage Colonel Townsend finally persuaded Brigadier Jackson to release the APCs to position them in A Company's lines so that there would be no delay if there was a redeployment. I then gave some very hurried, verbal orders. The records show that this occurred 15 minutes from when CO Townsend told me to go.*⁴⁷

58. Lieutenant Colonel Mollison also acknowledged that he was very unfamiliar with the APCs prior to the battle, stating:

⁴⁵ Mollison, *Long Tan and Beyond*.

⁴⁶ Oral Submission, Lieutenant Colonel Charles Mollison (Retd), 2 March 2016.

⁴⁷ *Ibid.*

*I can't recall that we had used APCs except for resupply when we were out on patrol. I can't recall that we had mounted APCs at all up until 18 August.*⁴⁸

59. When asked, Lieutenant Colonel Mollison reiterated his firm view that he was in command of the APCs – not Lieutenant Roberts, but acknowledged that the command and control arrangements at the battle were not set out in writing in an operational order or other form of clear direction.

*Absolutely! Certainly! Our doctrine at the time was quite specific. We had training pamphlets that covered every aspect of our training, which states that when infantry are mounted in armed personnel carriers the infantry commander is in command. It should be noted in Adrian Roberts' defence, that that didn't apply when infantry and armour tanks were cooperating together, if we sometimes carried infantry on tanks, under those circumstances the tank commander was in command. Roberts had trained as a tank troop commander, not in APCs as I understand. It would have been nice to have had written orders with a command and control paragraph that said who was who.*⁴⁹

60. Colonel Dinham, in his oral submission, made the following observations about Lieutenant Roberts' performance:

*I would not have said that he was unnecessarily cautious, on the other hand when you balance the fact that he had to look after the safety of his APCs and his own people he had to balance that with the need for speed in action. I think he did an admirable job in that respect and moved with probably more haste than he might otherwise have done. That's a personal view. I might also say I've known Colonel Roberts since that time, I have served with him and I have also known him in the RSL in which I work. I find it rather surprising that the comments were made about him today (by Lieutenant Colonel Mollison) because I do not believe that they're within his character and I have a lot of respect for the man.*⁵⁰

61. Mr Geoffrey Kendall, the Platoon Commander of 10 Platoon, D Company, in his oral evidence to the Tribunal, added that 'had the APCs not been coming up from the south, I'm sure that we would have not have come out so well'.⁵¹

The Defence submission

62. In reviewing Lieutenant Colonel Smith's submissions to the Valour Inquiry, Army applied the guidelines adopted by the Tribunal in the course of that Inquiry. Army undertook a process review of each case to determine whether due process had been followed according to the rules at the time, that there was no evidence of maladministration and that there was no new or compelling evidence provided.

⁴⁸ Ibid.

⁴⁹ Ibid.

⁵⁰ Oral Submission, Colonel Peter Dinham AM (Retd), 2 March 2016.

⁵¹ Oral Submission, Mr Geoffrey Kendall MG, 2 March 2016.

63. In its written submission to the Tribunal, Army stated that it determined that further investigation and research into any of the 13 cases under review by the Tribunal ‘was not warranted as Lieutenant Colonel Smith’s submissions did not present any authoritative evidence of maladministration or failure in due process.’ Its written submission further stated that ‘there were no grounds for further review as there was no new or compelling evidence provided by Lieutenant Colonel Smith to warrant reconsideration of the original decisions.’⁵²

64. Representatives from Army reiterated this position at hearing.

Tribunal Consideration – The Merits Review

65. The Tribunal noted the Defence position that, in the absence of maladministration or compelling new evidence, there should be no consideration of retrospective awards for gallantry or distinguished service. However, the Tribunal in an undertaking a review of a reviewable decision under s110VB of the Defence Act is bound to undertake a merits review against the eligibility criteria for the honour sought.

66. The Tribunal noted that guidance for merits review is detailed in the Valour Inquiry.⁵³ This guidance states that the Tribunal, in the conduct of a merits review, is being asked to ‘place itself in the shoes of the original decision-maker’ and where the original decision-maker made a conscious decision not to make an award, the Tribunal ‘was being asked to overturn that decision’. The guidance suggests that:

*...if the evidence was exactly the same as that available to the original decision-maker, and if the Tribunal wished to recommend a revised award, it would need to overturn the original decision ...*⁵⁴

67. The guidance indicates that if new evidence was available then the Tribunal would need to consider the ‘precision, accuracy and truth of that evidence’ and that the evidence would need to be ‘compelling and reliable’. Further, the guidance states that:

*... if no decoration was recommended, and the Tribunal could be sure that there was no conscious decision not to make an award, then the Tribunal would be in the situation of the original decision-maker or recommender.*⁵⁵

68. The guidance concludes that the merits review revolves around the evidence and, if the Tribunal was persuaded that new evidence was valid, it then needed to ‘consider whether the evidence warranted a new or revised award, judged against the criteria applying at the time’.⁵⁶

69. For consistency and to protect the integrity of the honours and awards system, the Tribunal decided to conduct the merits review in accordance with this guidance.

⁵² Letter, Director General Personnel – Army, DGPERS-A/OUT/2015/R22743941 dated 4 August 2015.

⁵³ Defence Honours and Awards Appeals Tribunal, Report of the *Inquiry into unresolved recognition for past acts of naval and military gallantry and valour*, p91 [8-46]

⁵⁴ Ibid

⁵⁵ Ibid

⁵⁶ Ibid

70. **Evidence Available to the Original Decision Maker.** The Tribunal noted that the chain of recommendation for Lieutenant Roberts' nomination was from his Sub-Unit Commander (Major Hagerty) directly to the Task Force Commander, Brigadier Jackson. As the APC Squadron was not under command of CO 6 RAR but rather was a Task Force direct command unit, the Tribunal considered that this was the correct chain of recommendation for honours and awards. The Tribunal was therefore satisfied that the 'Original Decision Maker' in this instance was the Nominating Officer who was not present for the action but relied upon reports in determining what recognition should be given. The evidence confirms that the Nominating Officer decided upon the MID not by conducting an assessment of the action but by deciding that the award should be benchmarked when he stated:

...the significant issue about the recommendation by me for the award of the MID to Roberts was that it was made simply on the advice to me by Lt Col Townsend that OC D Coy (Maj Smith) was to be recommended for the higher award, the Military Cross (MC). That was the end of the matter as far as I was concerned. Had I known then that the award of the Distinguished Service Order was to be cited for Maj Smith, with the higher awards of MC for the two surviving platoon commanders, I would have had no hesitation in recommending to Lt Col Townsend that Roberts also be considered for an MC.⁵⁷

71. Noting that the citation was written sometime between 18 August and 10 September 1966, the Tribunal was satisfied that the evidence available to the Decision Maker would have been the after action report and some eye witnesses to the action. The Tribunal notes that the citation drafted to support the nomination is relatively bland, the only parts which relate specifically to Lieutenant Roberts state:

Lieutenant Robert's (sic) personal conduct in commanding and controlling his troop was of the highest order ...

Lieutenant Roberts acted with skill and judgement and fought his troop with determination and courage ...⁵⁸

72. The Tribunal was therefore satisfied that the evidence available to support the MID nomination was somewhat general in nature and that the decision to recommend the level as a MID was not based on the merits of the action. The Tribunal was of the view that the citation was drafted to reflect the level of award rather than the actions of the individual.

73. **Finding in Relation to the Evidence Available to the Original Decision.** The Tribunal finds that the decision to nominate Colonel Roberts for an MID was not based on an assessment of his actions and was therefore invalid. Accordingly the Tribunal recommends that the decision to award the MID be set aside.

74. **New Evidence.** The Tribunal noted that several publications describe Lieutenant Roberts' actions and the accounts given are generally consistent. Colonel

⁵⁷ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan*, Submission 16, Colonel R E Hagerty AM (Retd).

⁵⁸ File correspondence, NAA: A1945, 133/3/26.

Roberts' personal accounts are balanced and corroborated by other witnesses who were actually present. Many accounts are provided by individuals in the chain of command who were not present and on occasion are critical of some of the decisions that Lieutenant Roberts' made. The significant parts of the evidence which was provided subsequent to the action in publications and witness accounts as they relate to Lieutenant Roberts' actions include:

*... Roberts got his APC Force from the northern area of Nui Dat Base through the base wire, through a long journey around to the south, over a swollen river, through two enemy contacts, and to the main battlefield in one hour and 20 minutes, despite interference from CO 6 RAR, OC Alpha Company, and the enemy, no mean feat!*⁵⁹

*... the fact that Lieutenant Roberts pushed six APCs through the second lot of enemy and then to the finish, as far as I'm concerned, is accepting of good command on the part of Adrian Roberts and his section commanders.*⁶⁰

... the surprise achieved by the APCs of 3 Tp 1 APC Sqn which broke up the movement of an estimated two companies of VC to the rear of D Coy, undoubtedly saved the day.

... 3 Tp, 1 APC Sqn deserves the highest praise for individual gallantry

*... the action fought was successful and the formation adopted by the Troop Comd was very satisfactory, and meant that an immediate engagement by heavy MG fire was possible.*⁶¹

*...the control of the movement of the vehicles was really Lieutenant Roberts and he was the person that had to get from A to B. So I think the word "control" probably better explains the situation. So if the enemy action occurs, he's the one that has to manoeuvre the vehicles, not the infantry commander.*⁶²

*... he's very conscientious...his troops had a high regard for him...I thought his judgements were good, he was very courageous, he pushed on no matter what.*⁶³

*... when you balance the fact that he had to look after the safety of his APCs and his own people he had to balance that with the need for speed in action. I think he did an admirable job in that respect and moved with probably more haste than he might otherwise have done.*⁶⁴

75. The Tribunal considered that Lieutenant Roberts demonstrated leadership and a capacity to understand the urgent priority of continuing to push ahead to D Company despite orders to wait for CO 6 RAR. Lieutenant Roberts also demonstrated sound and

⁵⁹ Defence Honours and Awards Tribunal *Inquiry into Unresolved recognition issues for the Battle of Long Tan*, Submission 9, Lieutenant Colonel Harry Smith SG MC (Retd), p 20.

⁶⁰ Oral Submission, Lieutenant Colonel Harry Smith SG MC (Retd), 1 March 2016

⁶¹ 1 APC Squadron After Action Report, OC's Comments, 25 August 1966, File AWM 95, 2/6/6

⁶² Ibid.

⁶³ Ibid.

⁶⁴ Oral Submission, Colonel Peter Dinham AM (Retd), 2 March 2016

careful judgement directing his vehicles and their fire, and appears to have done the best job possible with limited resources and reduced troop numbers. The Tribunal was of the view that Lieutenant Roberts' decision to halt the advance after the troop was attacked by anti-tank weapons was made out of appropriate concern for the safety of the vehicles and the troops within them and was open to him to make at the time.

76. **Precision, Accuracy and Truth of the New Evidence.** The Tribunal noted that most of the publications describing the actions were written well before the application for recognition for Colonel Roberts was made. The accounts from the command chain and colleagues who were actually present at the time of the action are consistent and corroborate the accounts given by Colonel Roberts and Lieutenant Colonel Smith. The Tribunal did not consider that the criticism of the Officer Commanding A Company regarding some of the decisions detracted from what Lieutenant Roberts did on the day. The fact that communications were so poor contributed to Lieutenant Roberts (in the Tribunal's view) being forced to make decisions regarding the movement of the force. The Tribunal considered that Lieutenant Roberts was the only commander actually in a position to hear and see what was going on external to the vehicles. This maxim of command when mounted remains true to the current day – the armoured commander commands when moving, the infantry commander commands upon dismount. The Tribunal was therefore satisfied that the new evidence was 'compelling and reliable' and that the view of Colonel Mollinson carried little weight.

77. The Tribunal considered that whilst there may be criticism of why Lieutenant Roberts did what he did – the fact remains that he was in command of his troop in extremely hazardous circumstances, with limited guidance and a clear understanding of the importance of achieving his mission.

78. **Finding in Relation to New Evidence.** The Tribunal finds that the new evidence is valid and that these accounts point to Lieutenant Roberts' actions being both gallant and distinguished in action against the enemy. The Tribunal finds that he displayed courage in taking decisions to split his force and press on with a clear focus on mission accomplishment when faced with potential delays and diversions. The Tribunal finds that Colonel Roberts displayed sound judgement and decisive leadership in engaging his troop against the enemy, and his gallantry and determination in the words of CO 6 RAR 'saved the day'. The Tribunal was of the view that many of his actions and decisions were courageous.

79. **Lieutenant Roberts' Eligibility for Imperial Awards.** The Tribunal noted that the Valour Inquiry summarises valour, gallantry and distinguished service criteria.⁶⁵ Noting the finding that Colonel Robert's actions included gallantry, courageous decisions and distinguished service, the Tribunal considered that if the new evidence was available to the Nominating Officer he may well have examined the eligibility criteria for the MC. In his evidence he stated that he was considering this level of award before he was persuaded to seek an MID. The MC was therefore available to be considered and the Tribunal noted that it was available for:

⁶⁵ Defence Honours and Awards Appeals Tribunal, Report of the *Inquiry into unresolved recognition for past acts of naval and military gallantry and valour*, Appendix 6

'gallant and distinguished service in action against the enemy'.⁶⁶

80. **Finding in Relation to Eligibility for Imperial Awards.** The Tribunal, having considered the new evidence, was of the opinion that if the Nominating Officer was aware of the totality of Lieutenant Roberts' actions when he drafted the citation, he by his own admission would have recommended the MC. The Tribunal finds that Lieutenant Roberts should have been recommended for the MC in recognition of his gallantry and distinguished service in action against the enemy when he lead his troop in hazardous circumstances to the relief of D Company on 18 August 1966.

81. **Eligibility for Contemporary Awards.** The Tribunal noted that the Applicant seeks a Medal for Gallantry for Colonel Roberts as this is what he asserts he recommended to CO 6 RAR. The Tribunal noted that the MC is a Level 3 Imperial gallantry award and that this award is no longer available under the Australian system of honours and awards. Having found that Lieutenant Roberts' actions were gallant and distinguished, the Tribunal determined that the Medal for Gallantry, a contemporary level 3 gallantry award for 'acts of gallantry in action in hazardous circumstances' was the most appropriate recognition of his actions on 18 August 1966.

Finding in Relation to the Merits Review

82. The Tribunal finds that the Nominating Officer's recommendation for the MID for Lieutenant Roberts was not based on an assessment of his actions. Accordingly the Tribunal recommends that the decision to award the MID be set aside and the award returned. The Tribunal finds that compelling new evidence has subsequently been provided which supports Lieutenant Roberts' eligibility for the MC. As that award is no longer available, the Tribunal recommends that he be awarded the Medal for Gallantry for 'acts of gallantry in action in hazardous circumstances' on 18 August 1966.

TRIBUNAL DECISION

83. The Tribunal decided to recommend to the Minister:
- a. that the decision of the Chief of Army to refuse to recommend Colonel Francis Adrian Roberts OAM (Retd) for the Medal for Gallantry be set aside,
 - b. that the decision to award Colonel Roberts the MID be set aside and the award returned, and
 - c. that Colonel Roberts be awarded the Medal for Gallantry for 'acts of gallantry in action in hazardous circumstances' on 18 August 1966.

Attachments:

- A. A description of the Battle of Long Tan
- B. Previous reviews and awards resulting from those reviews
- C. Details of the conduct of the review
- D. Bibliography of the material examined by the Tribunal

⁶⁶ Ibid

Description of the Battle of Long Tan

The following description of the Battle of Long Tan has been developed by the Defence Honours and Awards Appeals Tribunal from a range of sources, including the official history, operation and artillery logs and the Tribunal's own research. A bibliography is provided at **Attachment D**. The purpose of this attachment is to provide a general background of the battle and to give context to the actions of the 13 individuals under review by the Tribunal.

1. On 18 August 1966, Delta Company (D Company), 6th Battalion, the Royal Australian Regiment (6 RAR) was engaged in one of Australia's heaviest actions of the Vietnam War. The soldiers of D Company, with a New Zealand Artillery Forward Observer team (FO) attached in direct support, held off a large enemy force, which appeared determined to annihilate them. The battle lasted for over three hours in a rubber plantation near the village of Long Tan. Much of the battle occurred during a tropical downpour. The battle site was approximately five kilometres east of the 1st Australian Task Force (1ATF) base but within range of artillery firing from that base.

2. D Company was greatly assisted in its defence by heavy concentrations of close artillery fire provided by two Australian and one New Zealand field batteries as well as a United States medium battery in the 1ATF Base. Excellent Australian communications also enabled an ammunition resupply by Royal Australian Air Force (RAAF) helicopters, arriving not long before the final Viet Cong (VC) assault on the company. The arrival of a troop of Armoured Personnel Carriers (APCs), together with infantry reinforcements from other elements of the battalion, just on dusk, was the final step in causing the enemy to break off the engagement. However it was D Company that bore the brunt of the battle.

3. D Company was one of four rifle companies of 6 RAR. Together with 5 RAR, New Zealand elements and supporting artillery, engineers, signals, intelligence and logistic units, they made up 1ATF. The 1ATF had deployed to a newly established base near Nui Dat, in the centre of Phouc Tuy Province, South Vietnam in June 1966. Their mission was to take control of security in the Province. The Australians based their plans on their lengthy experience in counter revolutionary warfare gained in Malaya and Borneo. Phouc Tuy Province had previously been the responsibility of the Army of the Republic of Vietnam (ARVN). The ARVN units had been forced back to the major towns, leaving the VC largely in control of the smaller villages and much of the surrounding countryside.

4. In the lead up to the Long Tan battle in August 1966, the Task Force had busied itself preparing the base defences and patrolling; establishing control over the area in the immediate surrounds of the base. There were a number of contacts with the enemy, however, prior to 18 August 1966, all contacts were of small scale and the enemy was identified as either local force VC, who were lightly armed, often with old or obsolete weapons, or elements of the D445 Provincial Battalion. Neither force was uniformed, nor did they have indirect fire weapons.

5. During the early hours of 18 August, the 1ATF base was mortared and shelled by indirect mortar, artillery and recoilless rifle fire, resulting in 22 casualties. The probable enemy firing points were identified by compass bearings taken from locations within the base and these positions immediately engaged by artillery counter battery fire. The VC firing positions were to the east of the 1ATF Base and on the western edge of a rubber plantation.

6. Soon after first light, B Company, 6 RAR, was sent to search for these firing positions. B Company found evidence of the positions, together with signs of casualties presumably resulting from the counter battery fire, and identified tracks heading east away from the firing positions. D Company was then deployed on foot from the base to relieve B Company and ordered to follow up this track. D Company deployed, just as they had done in previous patrols, with only 60 rounds of ammunition per rifleman in their ammunition pouches and 600 rounds per machine gun. They took sufficient rations for a three day patrol.

7. Over the previous weeks, signals and other intelligence had identified the probable deployment of a main force VC Regiment to the east of the base, but patrolling had not been able to locate any tangible signs of its presence. In order to protect the source of this intelligence, 1ATF Commander, Brigadier Jackson, had not warned 6 RAR of this possibility, however he had directed that no patrol was to proceed beyond the range of artillery deployed within the base. The use of indirect fire by the enemy in the early hours of 18 August should have confirmed this intelligence and provided a warning of the potential presence of a better armed and trained force that was superior to the D445 Battalion.

8. After a handover from B Company, D Company entered the rubber plantation and advanced to the east following the track used by the withdrawing enemy. The plantation was relatively open, providing good observation and fields of fire between the rows of trees.

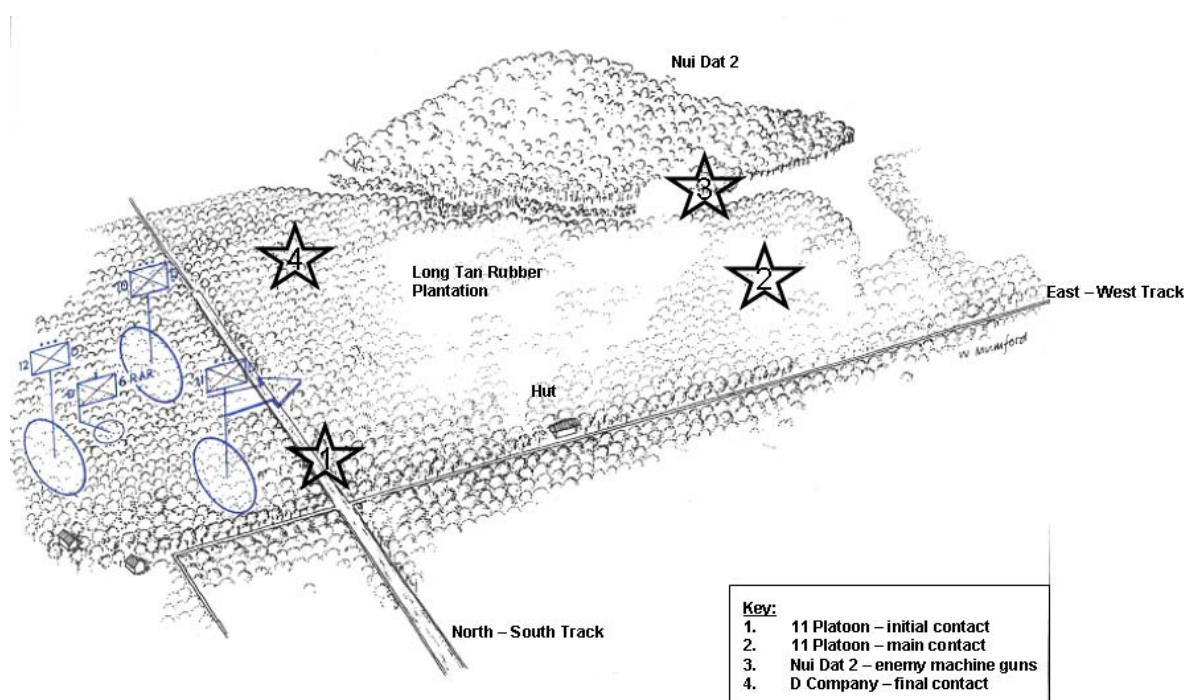
9. D Company was comprised of three rifle platoons (each of approximately 30 soldiers) commanded by a company headquarters element (CHQ). CHQ contained the command group, signallers, a medical orderly and the attached FO party. CHQ was protected by an infantry support section. Each rifle platoon carried three belt-fed machine guns (GPMG M60), and the support section held one, making a total of ten machine guns in the company.

10. Soon after entering the rubber plantation it was observed that the track split and Major Smith, the Officer Commanding D Company, changed his patrolling formation to 'two up'. That is, the company advanced into the rubber plantation with two platoons abreast, 10 Platoon on the left and 11 Platoon on the right, followed by CHQ and the reserve platoon (12 Platoon), see Map (below). The company frontage was estimated to be around 400 metres.

11. At 1540 hours, 11 Platoon (on the right) were in the process of crossing the north-south track that traversed the rubber plantation, when they encountered a small enemy patrol of six or seven uniformed soldiers moving north along the track. 11 Platoon engaged the enemy, wounding one VC. The enemy fled east, carrying their wounded comrade. They did not return fire but dropped an AK47 assault rifle in their

hasty retreat. This weapon and the identification of enemy in uniforms should have alerted D Company to the presence of regular main force VC troops, rather than the irregular VC previously encountered.

12. Following this brief encounter, the commander of 11 Platoon, Second Lieutenant Sharp, received approval from Major Smith to quickly follow up the enemy who had fled. Second Lieutenant Sharp changed the formation of 11 Platoon to 'extended line' in order to provide the maximum possible frontage towards the expected enemy. His three sections were deployed across a frontage of approximately 300 metres, with 6 Section on the left, 4 Section and Platoon Headquarters in the centre and 5 Section on the right. Each section was approximately 9 soldiers strong. After a fast 250 metres advance they passed a hut (found to be unoccupied) and then, at 1608 hours, having advancing a further 250 metres, they were engaged from their left flank by small arms and machine gun fire. This heavy fire was from a distance of approximately 150 metres (see Map) from the higher ground on the forward slopes of the Nui Dat 2 feature.



Map: 1515 hours 18 August, D Company patrol enters Long Tan rubber plantation¹

13. This sudden burst of accurate fire devastated 6 Section, catching it from a flank, whilst they were upright and moving, causing significant casualties. Only two members of 6 Section (one of whom was badly wounded and unable to be evacuated) ultimately survived the battle. Second Lieutenant Sharp reacted by calling for immediate artillery support and by deploying the uncommitted 5 Section to move across his front to bring fire onto the enemy. Shortly afterwards the enemy sent forward an attack wave from the east forcing 5 Section to fall back and go to ground; and for the remnants of 11 Platoon to form an all-round defensive position. This initial

¹ Adapted from Ian McNeill, *To Long Tan, The Official History of the Australian Army and the Vietnam War 1950-1966*, Allen & Unwin, St Leonards, 1993, Sketch 14.1, p 326.

enemy frontal attack wave was beaten back by accurate and well-controlled fire of 11 Platoon, using their semi-automatic rifles and machine guns. At around this time rain began to fall, and soon after became monsoonal.

14. At approximately 1650 hours, Second Lieutenant Sharp was killed whilst exposing himself in an attempt to determine the fall of shot of the artillery fire that was now assisting the defence. His platoon sergeant, Sergeant Buick, then took command of 11 Platoon. He organised the defences, controlled the artillery fire support, communicated with Major Smith and eventually directed a withdrawal.

15. After taking heavy casualties in frontal attacks from the east, the enemy appeared to have realised that they could not defeat 11 Platoon with attacks from that direction and commenced a number of attempts to outflank them. However, 11 Platoon was so determined in their defence that their defensive position was never penetrated, despite themselves taking very heavy casualties. Even after the withdrawal, the enemy never ventured into the position that had been occupied by 11 Platoon, as two wounded soldiers, unable to be rescued during the withdrawal, remained untouched until the relief the next morning.

16. Meanwhile, as a result of enemy mortar fire directed near the initial 11 Platoon contact location on the north-south track, CHQ and 12 Platoon moved northwest some 300 metres and set up a temporary defensive position. The probable mortar firing position was engaged with counter battery fire from the US medium battery. 10 Platoon was, by this time, further east but still some 2-300 metres northwest of the 11 Platoon contact location. Major Smith directed Lieutenant Kendall, the commander of 10 Platoon, to move his platoon in an attempt to support 11 Platoon, now in heavy contact.

17. As they advanced towards the sounds of the contact, 10 Platoon fortuitously observed and then engaged a large enemy force that were then attempting to outflank and assault 11 Platoon from the north. Ten Platoon were able to break up this assault wave, inflicting heavy casualties upon the enemy. Ten Platoon now themselves came under heavy fire, and took a number of casualties. They were unable to link with 11 Platoon. Major Smith then recalled 10 Platoon to re-join CHQ in the rear defensive position.

18. Realising that his company was under severe threat from an unexpectedly aggressive, determined and well-armed enemy, Major Smith requested air support, a resupply of ammunition and reinforcements using his radio communications.

19. The airstrike was initially called at 1702 hours and the aircraft appeared overhead in location at 1715 hours. For aircraft safety the artillery fire, falling in support of 11 Platoon, was halted to allow for this planned airstrike. By this time the rain was very heavy and the airstrike had to be abandoned as the aircraft were unable to see the coloured smoke thrown by 11 Platoon in order to identify the target location. The aircraft subsequently dropped their bomb-load further east of the contact site.

20. Major Smith then directed Lieutenant Sabben to take two sections of his uncommitted 12 Platoon to attempt to relieve 11 Platoon using a more southerly route than that previously taken by 10 Platoon. At 1730 hours, 12 Platoon reported that they were still 400 metres from 11 Platoon and they were coming under fire both from the

north and south as well as receiving 'overs' from fire directed at 11 Platoon from the east. Artillery fire was then recommenced with the field regiment having its fire directed to the south of 12 Platoon.

21. At 1800 hours, the helicopter ammunition resupply arrived at CHQ and the ammunition distributed to 10 Platoon who had fought heavily during their attempted advance to 11 Platoon. The artillery fire was again halted for air safety. It was at this moment that Sgt Buick made the decision that, as 11 Platoon was now almost completely out of ammunition, that the only solution for the survival of the remainder of his platoon was to attempt a clean break and to make a withdrawal. Of significance was that no member of D Company had been able to reach 11 Platoon for the two hours that the battle had been raging.

22. The order to withdraw was passed by word of mouth and the surviving soldiers rushed to their rear in small scattered groups. They were initially unaware that the 12 Platoon patrol was just a few hundred metres to their rear. Lieutenant Sabben had by this time realised that he could not reach 11 Platoon, and noting that smoke had been thrown for the ammunition resupply, decided to throw smoke himself in the hope 11 Platoon would see it. Some, including Sergeant Buick moved to the smoke they could see at 12 Platoon. Some, from the right section, moved directly to the smoke observed further back at CHQ, where the helicopter resupply was occurring.

23. At approximately 1815 hours, 12 Platoon, with the remnants of 11 Platoon, consolidated with the remainder of the company. Temporarily a short lull descended on D Company as contact with the enemy was broken. This enabled the reorganisation of the company defensive locality and the distribution of ammunition, under the direction of the Company Sergeant Major, Warrant Officer Kirby. The returning wounded from 11 and 12 Platoons were moved to the company aid post, under the care of the company medical orderly.

24. At 1820 hours, Major Smith reported on the battalion radio net that the 'enemy could be reorganising to attack'. At the same time, B Company elements, who had been directed to join and reinforce D Company by foot, reported that they were now 500 metres southwest of D Company.

25. Back at the 1 ATF base, at approximately 1800 hours, Brigadier Jackson, in response to the earlier request for reinforcements, authorised a relief force comprising A Company, 6 RAR mounted in the APCs of 3 Troop, 1 APC Squadron, to proceed to relieve D Company. The force had a difficult passage to reach D Company, needing to 'swim' a flooded stream and to advance though terrain that could afford concealment to an enemy who may well have been planning to ambush them. To reach D Company as rapidly as possible, Lieutenant Roberts, the commander of 3 APC Troop, had split his force, one element to proceed as quickly as possible to relieve D Company and the other to await the collection of the Commanding Officer of 6RAR, Lieutenant Colonel Townsend (CO 6 RAR) to facilitate his passage to the battle location.

26. At 1830 hours, the main group of 3 APC Troop, carrying A Company, entered the rubber plantation from the south, approximately 1500 metres from D Company. Lieutenant Roberts deployed his APC in extended line astride the north-south track, for the advance north to D Company. At 1835 hours, this force struck a significant enemy

group crossing their path from the east. Initially fearing that it could be friendly forces, and fearful that heavy 50 calibre machine gun fire would be directed towards D Company, the troop halted. At this moment an infantry Sergeant recognised the enemy and promptly initiated contact with his rifle. The enemy were then scattered by the combined fire of APCs and infantry weapons. This enemy group were later identified as elements of the Regional Force Unit, D445.

27. At 1840 hours, after the advance was resumed, 3 APC Troop met another enemy force, this time moving west to east. Forewarned from the earlier contact the enemy utilised an anti-tank weapon which fortunately missed its target. However an APC commander was mortally wounded before the enemy was again scattered and the advance resumed. The APC carrying the wounded APC commander returned to the 1ATF Base.

28. Shortly afterwards, the APC Troop was joined by the other APC element carrying the CO 6 RAR, who had arrived without incident. The APC troop quickly covered the remaining distance to D Company without further contact with the enemy.

29. At the D Company location, the enemy had moved quickly and aggressively to undertake what was later described by Lieutenant Kendall as 'human wave' assaults. These assaults from the east, starting at approximately 1830 hours, fell mainly upon 10 Platoon, which had been sited on that part of the company perimeter. The enemy attack was supported by machine guns firing from the Nui Dat 2 feature. D Company exacted a heavy toll on the enemy, as they advanced in relatively open terrain. D Company had the advantage of being low to the ground and with their machine guns well sited and the fire closely coordinated. Additionally, the artillery fire from the regiment of three field batteries, which commenced at 1834 hours, was able to be brought in very close to the D Company defensive locality. This was achieved as the direction of fire was almost overhead and the splinter pattern of the numerous shell bursts went forward from the point of detonation.

30. From 1840 hours, the New Zealand field battery was lifted from falling just to the east of D Company, with the remainder of the regiment, and directed onto the slopes of Nui Dat 2. This action was described in the artillery radio log as being an attempt to silence the flanking fire from enemy machine guns. The United States medium battery was directed at a possible mortar location further to the south east of D Company. The rate of fire from the eighteen 105mm field howitzers at this period (from 1834 until 1855 hours) was probably the most intense rate ever fired by artillery in support of Australian forces during the Vietnam War, with 1,350 rounds being fired at the VC positions in just this twenty minute period.

31. As the APCs swept in from the south, the artillery fire was halted and the enemy were observed rushing away to the east. They had broken off their already faltering attack and, as darkness fell, no further sign of the enemy was seen. The combined force was deployed in all-round defence and reorganised by Lieutenant Colonel Townsend. Later that night the casualties were evacuated. Of major concern was that the roll-call taken by 11 Platoon had disclosed that 16 men were missing in action. The next morning a battlefield sweep was conducted and two wounded soldiers from 11 Platoon were recovered along with the bodies of 14 men who had died in that forward location.

32. At or near Long Tan on 18 August 1966, a total of 17 Australians had been killed and 24 wounded, with one of the wounded dying several days later. Earlier, during the indirect fire attack on the 1ATF Base, a further 22 Australians had been wounded.

33. Later investigations indicated that the enemy engaged was the regular, well trained and equipped 274 VC Regiment, supported by the local D445 Battalion. Casualties to the Vietnamese forces were very high, with estimates, based on both body count and captured documents, being well in excess of 150 killed in action, perhaps many more, as the enemy made every possible effort to recover their dead and wounded.

34. There has been much conjecture as to the intent of the 274 VC Regiment on 18 August 1966, when it approached the newly established 1ATF Base. Was it intending to test out the Australians? Was it intending to attack the 1ATF Base; or was it attempting to lure an Australian force out of the base and destroy it in an ambush?

35. Certainly one outcome was that the enemy never again conducted large scale operations within artillery range of the 1 ATF Base. No Australian base in Phuoc Tuy Province was ever subjected to an enemy ground assault intended to overrun it. However, Fire Support Bases (FSB) deployed outside Phuoc Tuy Province, such as FSB Coral, FSB Balmoral and FSB Anderson were assaulted. It may be that one of the reasons for this was that the enemy units in these later cases were not as aware of the potency of 1ATF defensive techniques as were the enemy operating within Phuoc Tuy Province after 16 August 1966.

36. The 1ATF also learned many tactical lessons - not the least of which was the realisation that they were now in a 'real war' against a well-armed, brave and determined enemy.

Previous reviews and awards resulting from those reviews

1. In 2004, in response to representations from Lieutenant Colonel Smith, the then Minister Assisting the Minister for Defence and Minister for Veterans' Affairs, the Hon. Mal Brough MP, recommended to the Governor-General that 22 individual South Vietnamese decorations that were to be presented on 2 September 1966 should be approved for wearing. Although the requirement for a formal government-to-government offer could not be fulfilled, as the South Vietnamese government fell in 1975, the Governor-General agreed that there was sufficient evidence of an intention to offer the awards (for example the presentation of cigar boxes and dolls). However Mr Brough decided that the same process could not be applied to the claim for the Vietnamese Unit Citation.¹

2. In October 2007, the then Government appointed an independent panel to review the treatment of award recommendations stemming from the Battle of Long Tan, as well as service recognition for Royal Australian Air Force (RAAF) personnel posted to Royal Thai Air Force Base Ubon between 1965 and 1968.

3. With respect to Long Tan, the panel, chaired by retired Major General Peter Abigail AO, was directed to have regard to the Imperial gallantry awards recommended at the time of the battle as well as claims for the award of the Republic of Vietnam Cross of Gallantry with Palm Unit Citation (RVCGWPU). In 2008, the then Government made the following decisions² on receipt of the report:

- award the Star of Gallantry to Lieutenant Colonel Smith;
- award the Medal for Gallantry to Mr Sabben and Mr Kendall, platoon commanders;
- approve the RVCGWPU for wear by the strength of D Coy 6 RAR in Vietnam on 18 August 1966; and
- refer any unresolved concerns regarding the battle to the new, administratively established Defence Honours and Awards Tribunal (the old Tribunal).

4. Briefly, the Abigail Panel considered that the claims in respect of Smith, Sabben and Kendall were the subject of 'recommendations initiated by an authorised commander so that a particular award might have resulted'.³

5. As noted above, following the Government's consideration of the Abigail report, the old Tribunal was directed to inquire into and report on unresolved concerns regarding individual awards for the Battle of Long Tan. In particular, the old Tribunal

¹ Department of the Prime Minister and Cabinet, *Review of recognition for the Battle of Long Tan: March 2008*, (the Abigail Review) PM&C, Barton, 2008, p2-3

² Joint Media Release, *Medals for Long Tan Veterans*, Senator the Hon J Faulkner, the Hon A Griffin MP and the Hon Dr M Kelly MP, 14 August 2008

³ Department of the Prime Minister and Cabinet, *Review of recognition for the Battle of Long Tan: March 2008*, (the Abigail Review) PM&C, Barton, 2008, p23.

was to consider claims concerning Australian Defence Force personnel who were recommended for recognition following the Battle of Long Tan. In submissions to this Inquiry, Lieutenant Colonel Smith sought recognition for 12 individuals who fought at the Battle of Long Tan.

6. The old Tribunal considered its task was ‘to determine whether concerns regarding claims for medallic recognition of those who took part in the Battle can be supported’.⁴ As such, the Tribunal did not consider it necessary for it to direct its attention to a merits based assessment of the actions of individuals who were involved in the battle. Rather it was ‘concerned with the processes that were followed in regard to the making of awards to those involved.’⁵

7. On this basis, the old Tribunal concluded that it was unable to recommend any new or upgraded award to any individual member of D Company, 6 RAR unless there was documentary or other compelling evidence that a proper recommendation was initiated at the time. Its examination of the available evidence did not enable it to conclude that any such recommendations were made in respect of the persons whose actions were brought to the old Tribunal’s attention, except for an RAAF helicopter pilot, Flight Lieutenant Cliff Dohle. Dohle was the only individual recommended for an award by the old Tribunal, though it did recommend that D Company 6 RAR receive a Unit Citation for Gallantry for its performance at the Battle of Long Tan. These recommendations were subsequently accepted by Government.

⁴ Report of the Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan*, 2009, p10

⁵ Ibid

Details of the conduct of the review

1. In 2011, Lieutenant Colonel Smith made submissions to the Tribunal's *Inquiry into unresolved recognition for past acts of naval and military gallantry and valour* (the Valour Inquiry). These were among 174 submissions seeking recognition for 140 individuals and groups not specifically named in the Terms of Reference for that Inquiry. As set out in the Terms of Reference for that Inquiry, the Tribunal was 'to report to the Parliamentary Secretary for Defence on the detail of the additional submissions received in order for the Government to determine whether a proposal for recognition should be referred to the Tribunal for review.'¹
2. Two of Lieutenant Colonel Smith's submissions sought a Victoria Cross for the late Warrant Officer Class Two Jack Kirby and another was a resubmission of his 2009 submission to the old Tribunal's inquiry, following agreement from the former Chair that it would be included as a submission to the Valour Inquiry.
3. In February 2013, the then Chair of the Tribunal conveyed to the previous Government copies of all additional submissions for recognition together with the Tribunal's preliminary assessment of the appropriateness of the supporting documents, so that the Government could confirm what submissions should be received by the Tribunal for further consideration.
4. In March 2013, Government chose to refer the majority of the submissions (including Lieutenant Colonel Smith's) to the Chief of the Defence Force and the respective Service Chiefs for consideration.
5. In November 2014, the Chief of Army rejected Lieutenant Colonel Smith's submissions. In doing so, he relied on the findings of the old Tribunal's Inquiry and that Lieutenant Colonel Smith's submissions with respect to Kirby and the names listed in his 2009 submission contained no new compelling evidence or evidence of maladministration.
6. This advice was relayed to Lieutenant Colonel Smith by the then Parliamentary Secretary for Defence, the Hon. Darren Chester MP, on 22 December 2014. After further correspondence with the Parliamentary Secretary, Lieutenant Colonel Smith lodged his application for review in the Tribunal on 3 April 2015, and provided further material on 6, 8 and 10 April to be included in his application. That application sought review of the decisions of the Chief of Army with respect to 13 individuals who fought at the Battle of Long Tan.
7. In accordance with its *Procedural Rules 2011*, on 28 May 2015, the Tribunal wrote to the Secretary of the Department of Defence informing him of Lieutenant Colonel Smith's application for review and requesting that he provide a report. On 7 August 2015, Director General Personnel-Army, on behalf of the Secretary, provided the Tribunal with a report.

¹ Defence Honours and Awards Appeals Tribunal, Report of the *Inquiry into unresolved recognition for past acts of naval and military gallantry and valour*, 2013, pp ix-x.

8. On 12 August 2015 this material was provided to Lieutenant Colonel Smith for comment. Lieutenant Colonel Smith's comments were received on 17 August 2015. Lieutenant Colonel Smith provided further written material to the Tribunal on 20 May, 6 July, 19, 20 and 25 August and 12 November 2015. Further material was provided on 5, 7, 19 and 28 January, 19 and 22 February, during hearings between 1 and 3 March, and on 7 March 2016.

9. On 16 November 2015, the Tribunal wrote to Lieutenant Colonel Smith advising him of tentative dates for hearings and inviting him to provide a list of witnesses to appear before the Tribunal at those hearings. Lieutenant Colonel Smith provided his list of witnesses on 5 January 2016.

10. On 18 January 2016, the Tribunal provided Lieutenant Colonel Smith with a package of the submissions and research material it intended to rely on as part of the review. Lieutenant Colonel Smith provided written comment on this material on 20 and 26 January 2016. Further research material was provided on 25 February 2016, and Lieutenant Colonel Smith provided comment on this material on the same day.

11. The Tribunal met on 10 December 2015, 17, 18, 19 and 29 February, 11 March, 13 May and 14 June 2016 when it considered the material provided by Lieutenant Colonel Smith, the Department of Defence and research material provided by the Tribunal's Secretariat.

12. The Tribunal conducted hearings on 1, 2 and 3 March 2016 when it heard oral evidence and submissions from Lieutenant Colonel Smith, representatives from the Department of Defence and other witnesses. Names of all those heard by the Tribunal include:

Lieutenant Colonel Harry Smith SG MC (Retd)
Department of Defence represented by
Colonel Chris Smith and Ms Gillian Heard
Mr Frank Alcorta OAM
Mr Bob Buick MM
Colonel Peter Dinham AM (Retd)
Mr Laurie Drinkwater
The Hon. Allan Griffin MP
Colonel Robert Hagerty AM
Mr David Harris
Mr Geoffrey Kendall MG
Lieutenant Colonel Charles Mollison (Retd)
Mr Neil Rankin
Mr David Sabben MG
Mr William Roche

14. On 17 June 2016, further evidence was obtained by way of a telephone discussion with Mr Geoffrey Kendall MG to follow up on some elements of his submission of 3 March 2016 and the citations which he had provided to Lieutenant Colonel Smith in 2008. A record of this discussion was sent to Lieutenant Colonel Smith on 17 June 2016. Lieutenant Colonel Smith provided his comments on 20 June 2016.

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Submission 16 – Colonel Bob Hagerty (Retd)

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Submission 27 – Colonel F. Adrian Roberts OAM (Retd)

* Permission to use these submissions for this review was obtained from the authors