



Australian Government

Defence Honours and Awards Appeals Tribunal

Paul Sykes and the Department of Defence [2014] DHAAT 9 (16 April 2014)

File Number(s) 2013/014

Re **Squadron Leader Paul Vincent Sykes (Retd)**
Applicant

And **Department of Defence**
Respondent

Tribunal Air Commodore M. Lax OAM, CSM (Retd) (Presiding Member)
Professor D. Horner AM

Hearing Date 18 March 2014

DECISION

On 16 April 2014 the Tribunal decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Squadron Leader Paul Vincent Sykes (Retd) is not eligible for the award of the Australian Active Service Medal 1945-75 with Clasp 'VIETNAM' or the Vietnam Logistic and Support Medal.

CATCHWORDS

DEFENCE AWARD – Australian Active Service Medal 1945-75 with Clasp 'VIETNAM'; Vietnam Logistic and Support Medal;

LEGISLATION

*Defence Act 1903 – ss 110T, 110V, 110VA, 110VB(2)
Defence Force Regulations 1952 - reg 93C and Schd 3
Australian Active Service Medal 1945-1975 Regulations 1997
Vietnam Logistic and Support Medal Regulations 1993*

REASONS FOR DECISION

Introduction

1. The applicant, Squadron Leader Paul Vincent Sykes (Retd) (SQNLDR Sykes), a former member of the Royal Australian Air Force (RAAF), seeks review of a decision of the Directorate of Honours and Awards of the Department of Defence (the Directorate), to refuse to recommend him for the award of the Australian Active Service Medal 1945-75 with Clasp 'VIETNAM' (AASM 1945-75 with Clasp 'VIETNAM') and the Vietnam Logistic and Support Medal (VLSM). SQNLDR Sykes' application for the awards had been made on the basis of his service in the RAAF in the 1960s.

2. SQNLDR Sykes lodged his most recent application with the Directorate for the award of the VLSM on 11 May 2012. The Directorate replied to him on 4 April 2013 and refused his application. SQNLDR Sykes then lodged an application with the Directorate for the AASM 1945-75 with Clasp 'VIETNAM' on 18 April 2013. The Directorate replied to him on 9 May 2013 and refused his application. It is these decisions for which SQNLDR Sykes seeks review. On 17 April 2013, SQNLDR Sykes lodged his application for review with the Tribunal to appeal the Directorate's refusal to award him the AASM 1945-75 with Clasp 'VIETNAM' and VLSM.

3. There is no dispute that the Tribunal has jurisdiction to hear and determine SQNLDR Sykes' application for review (see ss 110V, 110VA and 110VB(2) of the *Defence Act 1903* and reg 93C of the *Defence Force Regulations 1952*). The role of the Tribunal is to determine whether the decision of the Directorate is the correct and preferred decision having regard to the applicable law and the relevant facts.

4. In accordance with the *Defence Honours and Awards Appeals Tribunal Procedural Rules 2011 (No.1)*, on 8 May 2013, the Tribunal wrote to the Secretary of the Department of Defence informing him of SQNLDR Sykes' application for review and requesting that he provide a submission. On 25 July 2013, the Directorate on behalf of the Secretary provided the Tribunal with a submission. In that submission, the Directorate confirmed its position that SQNLDR Sykes' service did not meet the eligibility criteria for the awards he sought. A copy of the report of the Directorate was forwarded to SQNLDR Sykes for comment. SQNLDR Sykes provided a response to the Tribunal in writing on 27 August 2013. By way of follow up, SQNLDR Sykes provided further submissions on 18 and 31 March 2014.

5. The Tribunal first met on 19 February 2014 to scope the case. The Tribunal scheduled a hearing for 18 March 2014 during which the Tribunal heard from SQNLDR Sykes by telephone.

The Australian Active Service Medal 1945-75 with Clasp 'VIETNAM'

6. The AASM 1945-75 was created by Letters Patent in December 1997. It may be awarded for 'the purpose of according recognition to members of the Defence Force, and other certain persons, who rendered service in warlike operations'.¹ Under Regulation 3, the Governor-General, on the recommendation of the Minister, 'may

¹ *Commonwealth of Australia Gazette S 18* dated 19 January 1998.

declare a warlike operation in which Defence Force Members were engaged at any time during the period that commenced 3 September 1945 and ended on 13 February 1975, to be a prescribed operation’.

7. On 30 January 1998, under Regulation 3, the Governor-General declared Defence Force activities in South Vietnam during the period that commenced 24 December 1962 and ended 27 January 1973 to be a *prescribed operation*. This gave effect to the AASM 1945-75 with Clasp ‘VIETNAM’.²

8. In February 2002 the Governor-General revoked the 1998 declaration and determination and approved a new instrument of declaration and determination. Most recently on 18 April 2013 (the same day SQNLDR Sykes lodged his application for this award with the Directorate), the Governor-General revoked the 2002 declaration and determination and made a new extant determination and declaration and in doing so declared ‘Defence Force activities in the prescribed area of operations in South Vietnam during the period that commenced on 31 July 1962 and ended on 27 January 1973 to be a *prescribed operation*’.

9. The eligibility criteria set out in the 2013 instrument for the AASM 1945-75 with Clasp ‘VIETNAM’ are as follows:

- (i) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member while allotted and posted as a member of the Australian element to the *prescribed operation*;
- (ii) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member allotted as part of the contribution of a foreign Defence force to the prescribed operation while on secondment or exchange with the foreign Defence Force;
- (iii) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member and who completed one operational sortie within the duration of the *prescribed operation*.
- (iv) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member for a period of 30 days, or for periods amounting in the aggregate to 30 days, for official visits, inspections or other occurrences of a temporary nature in connection with the military contribution in the *prescribed operation*;
- (v) the Medal may be awarded to a member of the Defence Force, qualified for the General Service Medal 1962 with clasp ‘SOUTH VIETNAM’ in accordance with the conditions for that award set out in a Royal Warrant dated 8 June 1968;
- (vi) the Medal may be awarded to a person who, as a member of the Defence Force, qualified for the Vietnam Medal in accordance with the conditions for that award set out in a Royal Warrant dated 8 June 1968;
- (vii) the Medal may be awarded to a person who, as a member of the Defence Force, qualified for the Vietnam Logistic and Support Medal in accordance with the conditions for that award set out in Regulations and Letters Patent dated 24 February 1993; and

² *Commonwealth of Australia Gazette* No. S 54 dated 10 February 1998

- (viii) the Medal may be awarded to a person who, in accordance with a determination made by the Minister under paragraph 4(1)(b) of the Regulations, is in a class of persons who may be awarded the Medal with Clasp 'VIETNAM'.

The declared area of operations is the same as for the VLISM.

The Vietnam Logistic and Support Medal

9. The VLISM was established on 24 February 1993 by Letters Patent as a means of recognising those who 'rendered service in support of the Australian Armed Forces Operations in Vietnam'.³ Under Schedule 4 (1), the medal may be awarded for service of one day or more in the area of operations of Vietnam during the period 29 May 1964 to 27 January 1973:

- a. as a member of the crew of a ship or aircraft operating in support of the Australian Armed Forces; or
- b. while attached to a unit or organisation operating in support of the Australian Armed Forces; or
- c. while attached to, or serving with, a unit of the Australian Armed Forces or allied forces as an observer.

10. In August 1993, the Governor-General made a determination under Regulation 3 regarding the area of operations for eligibility for the VLISM.⁴ This includes:

- a. all land and inland waters of the territory of Vietnam south of the parallel 21 degrees 30 minutes north latitude;
- b. all that area of land and waters (other than land and waters forming part of the territory of Cambodia or China) bounded by a line commencing at the intersection of the boundary between Cambodia and Vietnam with the shore of Vietnam at high water mark; thence proceeding in a straight line to a point 185.2 kilometres west (true) of that intersection; thence proceeding along an imaginary line parallel to, and at a distance of 185.2 kilometres from the shore of Vietnam at high water mark to its intersection with the parallel 21 degrees 30 minutes north latitude; and
- c. the airspace above the area referred to in paragraphs (b) (i) and b (ii).

11. Her Majesty The Queen approved further amendments to the Regulations in January 2013 to include members of the RAAF who served at Ubon in Thailand, but these amendments are not relevant to SQNLDR Sykes' case.

³ *Commonwealth of Australia Gazette S 79* dated 10 March 1993.

⁴ *Commonwealth of Australia Gazette S 251* dated 13 August 1993.

SQNLDR Sykes' Service Record

12. SQNLDR Sykes served in the RAAF from 1961 to 1996 and retired as a Squadron Leader. Originally enlisting as a signaller, he undertook officer training and was commissioned in 1965 after qualifying as an Air Electronics Officer (AEO). He served in the AEO role until 1982 when he became a Navigator and later an Intelligence Officer. In 1965 and 1966, he was at No 11 Squadron based out of RAAF Base Richmond. During that time, SQNLDR Sykes was flying the Lockheed SP2 Neptune maritime patrol aircraft.

13. Pertinent to his case, in May and June 1965, SQNLDR Sykes participated in Operation TRIMDON flying out of Lae, New Guinea. In May 1966, SQNLDR Sykes, along with 99 other members of the Squadron flew to United States Naval Air Station Sangle Point in the Philippines (approximately 8 miles south-west of Manila) to participate in SEATO⁵ Exercise SEA IMP. It is these tasks that form the basis of his claims.

14. For his Service, SQNLDR Sykes was awarded the Australian Service Medal 1945-75 with Clasp 'SE ASIA', the Defence Force Service Medal with First and Second Clasps and the Australian Defence Medal.

Operation TRIMDON

15. Operation TRIMDON was conducted from May to June 1965 and involved the deployment of the 1st Battalion of the Royal Australian Regiment to Vietnam aboard the aircraft carrier HMAS *Sydney*. Because of possible enemy action against the ship, RAAF Neptunes were ordered to escort HMAS *Sydney* to ensure her safe passage. This involved Neptune aircraft positioning at Lae, Guam and the Philippines, and their shadowing the ship as she transited open water to Vung Tau Harbour in Vietnam.

Exercise SEA IMP

16. Exercise SEA IMP was a SEATO exercise conducted between 26 May and 6 June 1966. The exercise was the thirtieth in a series of anti-submarine warfare tactical exercises under the direction of the Commander, Far East Fleet. According to the exercise report, Exercise SEA IMP took place in the South China Sea with the aim 'to assess and improve the operational capability and co-ordination of SEATO forces in protecting convoy on passage between Manila and Bangkok against surface, submarine and air opposition'.⁶ Participants in SEA IMP were the United States Navy, the Royal Navy, the Royal Air Force, the Royal Australian Navy (RAN) and the RAAF.

⁵ SEATO was the Southeast Asia Treaty Organisation, a multi-national collective defence organisation established between 1955 and 1977. Member states were Australia, France, New Zealand, Pakistan, the Philippines, the UK and USA. Singapore, Malaysia and Indonesia were not members.

⁶ Report No 8/66. Exercise Report. EXERCISE SEA IMP SEATO 1966 Vol 1. Analysis and Vol 2. Narrative, p 20. NAA A813, 1624/202/157.

17. During the period of SQNLDR Sykes' involvement (26-28 May 1966), the exercise report states that this was Phase 3 and was the first part of the exercise which:

...started at Manila and ended at Gate SESAME (135 miles south west of Manila). Six submarines were given patrol areas through which the BLUE force would transit; three areas opposing the BLUE force sortie from Manila Bay and three planned areas down the Palawan Passage to Point BD (90 miles west of Culion Island)'.

18. Regarding the BLUE Force of which SQNLDR Sykes' Neptunes were an element, the Report stated:

Blue Air Operations

14. Long Range Maritime Patrol aircraft, based at USNS Sangley Point, and controlled by the Maritime Headquarters previously set up at that station carried out pre-sortie surveillance in the approaches to Manila Bay. These sorties which commenced on the morning of the 25th of May, were designed to hold down, detect, attack and prevent position of aggressor submarines until completion of the sortie from Manila Bay.
15. For the remainder of Phase 3, LRMP aircraft were employed on continuous distant support to TG 319.1 and TG 319.2, while carrier based, fixed wing aircraft and helicopters, from YORKTOWN and MELBOURNE were used to provide continuous close support to TG 319.1 and TG 319.2.⁷

Arguments of SQNLDR Sykes

19. SQNLDR Sykes makes several claims on his eligibility for the AASM 1945-75 with Clasp 'VIETNAM' and VLSM. These relate to Operation TRIMDON, Exercise SEA IMP with particular emphasis on an 'Offensive Ops' sortie he flew in May 1966, and an out-of-exercise search and rescue mission he undertook while on Exercise SEA IMP.

20. SQNLDR Sykes stated that he flew on Operation TRIMDON in 1965 and that his crew were deployed to and flew out of Lae, New Guinea. He said that as he understood it, the crews who flew out of Sangley Point 'who applied for the VLSM and AASM 1945-75 with Clasp 'VIETNAM' were awarded those medals. RAAF aircrew flying from Lae in New Guinea on the same operation were denied qualifying service and the medals'. He later clarified that three of his crew did receive medals and he sought the same consideration.

21. During the hearing, SQNLDR Sykes referred to a research paper on Operation TRIMDON written for another squadron member by Professor Jeffrey Grey, a professor of history at the University of New South Wales at the Australian Defence Force Academy (ADFA). After the hearing, SQNLDR Sykes sent a copy of the paper to the Tribunal Secretariat for Tribunal consideration.

⁷ Exercise Report, *Exercise SEA IMP*, Vol 2, Narrative.

22. SQNLDR Sykes considered that the Tribunal's finding regarding RAAF service at Ubon was relevant to his case and that it sets a precedent. He claimed that those who served at Ubon did not enter the Vietnamese area of operations nor did they support Australian Armed Forces yet they received the AASM 1945-75 with Clasp 'THAILAND'.

23. With regard to Exercise SEA IMP, SQNLDR Sykes stated that he and his crew flew an 'Offensive Operation' which he claimed could only have been against an 'enemy' and during which he flew into Vietnamese airspace. As the only enemy was the North Vietnamese, he claimed this makes him eligible for medallic recognition.

24. At the hearing, SQNLDR Sykes amplified the points he raised in his submissions. He argued that the 'Offensive Operations' flight he undertook on 26 May 1966 during Exercise SEA IMP was 'a flight in direct support of operations in Vietnam' and that it was 'not related to the exercise'. Upon questioning, he advised the Tribunal that his crew was the only one to undertake such an 'offensive operation', but the flight in question involved shadowing an American submarine as it transited on the surface in an 'out of action' or 'out of exercise' situation. Among other tasks, his aircraft was to watch out for fishing boats that might have been in the path of the American submarine.

25. In his submission SQNLDR Sykes put much emphasis on a decision of the Administrative Appeals Tribunal (AAT) in May 2012, which determined that in flying 'offensive ops' SQNLDR Sykes was on 'special service' in an exercise 'during the course of which he flew into Vietnamese airspace'. Therefore, the AAT determined that SQNLDR Sykes rendered qualifying service as defined in section 7A of the *Veterans' Entitlements Act 1986*.

26. In his submission and at the hearing, SQNLDR Sykes also referred to a search and rescue mission his crew flew during Exercise SEA IMP. This was to search for the crew of a US Navy Skywarrior aircraft who had ejected somewhere over the water. The Skywarrior had a crew of three and was used to report weather information to other US bombers. Although the aircraft pilot successfully recovered the aircraft, the two other crew members who had ejected were not found. SQNLDR Sykes stated this search and rescue mission was in support of allied operations in Vietnam.

Arguments of the Directorate

27. In its written submission to the Tribunal, the Directorate responded to SQNLDR Sykes' claims. The Directorate advised that SQNLDR Sykes does not qualify for the VLSM or the AASM 1945-75 with Clasp 'VIETNAM' because:

- a. An examination of his service record 'failed to find any evidence to support his claim that he participated in operational tasks or sorties in support of the Armed Forces within the Vietnam Operational Area;
- b. He was on temporary duty at Sangley Point between 18 May 1966 and 9 June 1966 to participate in an exercise (SEA IMP);
- c. SEA IMP was a multi-national anti-submarine warfare exercise conducted under the auspices of SEATO. The exercise took place in the South China SEA. The Exercise report fails to mention any reference to exercise

aircraft deviating into the Vietnam Operational Area to support Australian Armed Forces;

- d. There is no evidence (including his logbook) to verify that SQNLDR Sykes was involved in any other task while on Exercise SEA IMP; and
- e. SQNLDR Sykes' entry in his logbook dated 26 May 1966, and identified as 'Offensive Ops Ex. SEA IMP', is a phase of Exercise SEA IMP only. There is no evidence that it was in support of Australian Armed Forces in the Vietnam Operational Area.

Previous Consideration of Operation TRIMDON

28. The Tribunal noted the recommendation made in the 1994 *Report of the Committee of Inquiry into Defence and Defence Related Awards (CIDA)*. CIDA considered the case of Operation TRIMDON for medallic recognition and noted:

Because of the flying patterns involved, two air crews qualified for the VLISM by entering the prescribed area of operations, and two air crews did not. ... As the Committee has noted on previous occasions and in accordance with its Principle number 6, it will recommend a variation to the existing criteria for an award only in the case of a clear anomaly or manifest injustice. ... The Committee considers that there is no injustice involved in this case, and that the decision taken by Defence authorities is in accordance with the provisions of the Regulations governing the award. The Committee does not recommend any further action in this matter.⁸

Tribunal Consideration

29. The Tribunal carefully considered all the material before it and considered the criteria for the AASM 1945-75 with Clasp 'VIETNAM' AND the VLISM.

30. There is no dispute about SQNLDR Sykes' service record and his posting to No 11 Squadron or his participation in Operation TRIMDON or Exercise SEA IMP.

RAAF Service at Ubon

31. SQNLDR Sykes drew parallels between his claims and RAAF service in Ubon. The Tribunal noted that, in the case of RAAF members at Ubon, they were on war alert (in some cases five minutes' warning with aircraft armed and ready to scramble), were directly supporting Australia's US allies prosecuting the Vietnam War, and were on operations that were declared to be 'warlike' making them eligible for the AASM 1945-75 with Clasp 'THAILAND'. No such conditions applied to any RAAF members on exercise or deployed to other areas of South-East Asia at the time including those stationed at RAAF Base Butterworth in Malaysia, in the Philippines, in Singapore or based elsewhere in Thailand. In any case, the Tribunal's findings applied specifically to members serving at Ubon, and the regulations for the award of

⁸ *Report of the Committee of Inquiry into Defence and Defence Related Awards*, AGPS, Canberra, March 1994, pp 72-3.

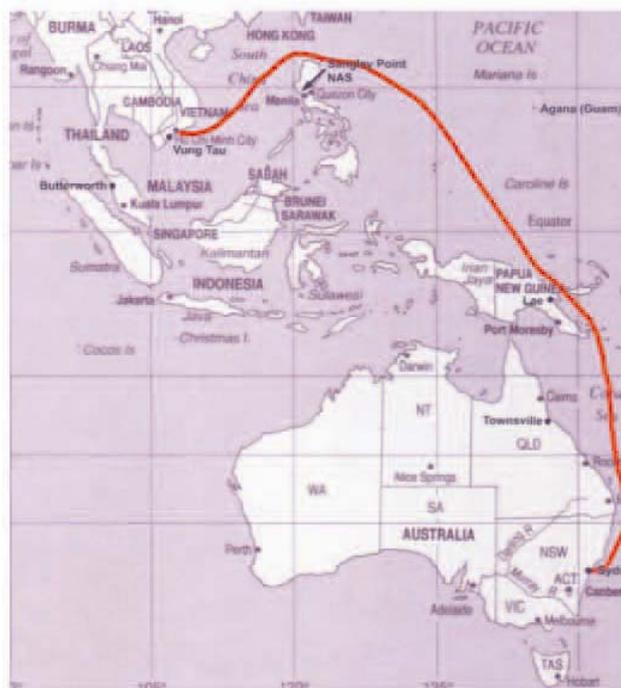
the VLSM were changed specifically to allow for service at Ubon. The award of the VLSM for service at Ubon did not provide a precedent for service in any other area.

Tribunal findings regarding Operation TRIMDON

32. The Tribunal did not consider the Administrative Appeals Tribunal finding in favour of SGNLDR Sykes in regards to qualifying service as set out in the *Veterans' Entitlement Act 1986* to be relevant to the case in hand. The Tribunal advised SGNLDR Sykes during the hearing that eligibility for medallic recognition is not covered by that Act. Medallic recognition is covered by Letters Patent and Regulations and not by veterans' entitlements legislation.

33. The Tribunal did not accept SGNLDR Sykes' argument that because crews flying out of the Philippines received qualifying service and the medals he seeks, that all those on the same operation should receive the same benefits. SGNLDR Sykes' aircraft operated from Lae, while other aircraft operated from Guam and Sangley Point. The flight tracks and tasking were clearly not the same and therefore cannot be equated.

34. The Tribunal found, on the balance of probabilities, that Neptune aircraft flying from Lae would not have entered the Vietnam area of operations or airspace. The map in *Pathfinder* Issue No 83 produced by the RAAF Air Power Development Centre and provided to the Tribunal by SGNLDR Sykes clearly shows the track taken by HMAS *Sydney* as up the east coast of Australia, through the Coral and Bismarck Seas and around the north of the Philippine Islands and into Vung Tau.⁹ The map is reproduced below.



Map 1: HMAS *Sydney* transit track to Vietnam

⁹ *Pathfinder*, Issue 83, Air Power Development Centre, Canberra, February 2008.

35. This track was taken to ensure no transit was through Indonesian waters and to avoid possible hostile vessels. As was generally the case with such surface escort sorties, aircraft flying from one location would ‘hand-over’ to a fresh aircraft flying from a location further up track. For Operation TRIMDON, Neptunes flying from Lae handed over to Neptunes flying from Guam who handed over to Neptunes flying from Sangley Point. Furthermore, from SQNLDR Sykes’ service records, SQNLDR Sykes deployed on Operation TRIMDON on 28 May 1965 and returned to Australia on 4 June 1965. HMAS *Sydney* did not enter Vietnamese waters until 8 June 1965.

36. At the hearing, SQNLDR Sykes agreed that his flight on Operation TRIMDON could not have entered Vietnamese airspace and that he had no case. This is also the finding made by Professor Jeffrey Grey in his independent research report provided to the Tribunal by SQNLDR Sykes.

37. The Tribunal found that SQNLDR Sykes did not enter the Vietnamese operational area or Vietnamese waters while on Operation TRIMDON.

38. For the reasons explained above, SQNLDR Sykes’ service on Operation TRIMDON does not qualify him for the award of AASM 1945-75 with Clasp ‘VIETNAM’ or the VLSM.

Tribunal findings regarding Exercise SEA IMP

39. As a SEATO exercise, Exercise SEA IMP did not involve operations in Vietnam, nor was it involved in training for or supporting Australian operations in Vietnam. The United Kingdom was not a participant in the Vietnam War and Exercise SEA IMP was conducted in such a manner as to ensure that it had nothing to do with the Vietnam War as British servicemen were participants in the exercise.

40. SQNLDR Sykes’ service on Exercise SEA IMP was of a temporary nature and was for training and international cooperation. It was not conducted in support of Australian Armed Forces as is required for the VLSM or conducted in a prescribed area of operations in South Vietnam as required for the AASM 1945-75 with Clasp ‘VIETNAM’. SQNLDR Sykes by his own admission was not allotted to any Australian Unit engaged in operations in Vietnam, nor was he flying in support of Australian Forces on operations.

41. The Tribunal found that while on Exercise SEA IMP, SQNLDR Sykes was not engaged in, or in support of Australian operations in Vietnam.

42. For the reasons explained above, SQNLDR Sykes’ service on Exercise SEA IMP does not qualify him for the award of AASM 1945-75 with Clasp ‘VIETNAM’ or the VLSM.

Tribunal findings regarding SQNLDR Sykes' flight on 26 May 1966

43. As part of his submission, SQNLDR Sykes provided the Tribunal with a statement regarding a flight he undertook while on Exercise SEA IMP. The flight on 26 May 1966 is recorded in his flying logbook as 'Offensive Ops, Ex Sea Imp'. SQNLDR Sykes claimed this flight was into 'the Vietnamese operations area' and that it was 'to give operational support to the submarine and to report any shipping that came anywhere near the submarine position or proposed track and to gather any electronic or visual intelligence we could against the enemy'. SQNLDR Sykes went further to point out that 'Offensive Operations can only be flown against an enemy'.

44. At the hearing, SQNLDR Sykes added that the submarine they were supporting was American. When asked by the Tribunal why his log book entry on 26 May 1966 was 'Offensive Ops Ex Sea Imp' (which implied the 'offensive ops' were just part of the SEATO exercise), SQNLDR Sykes reiterated his position that it was against an enemy.

45. After reviewing the British report on Exercise SEA IMP¹⁰, the Tribunal concluded that this flight on 26 May 1966 was a part of Exercise SEA IMP as recorded in SQNLDR Sykes logbook and not against the North Vietnamese or their allies. In this case, the 'enemy' were simply SEATO forces that were tasked as part of the exercise. During this phase, the exercise area was between Manila Bay and the Palawan Passage out to 90 miles west of Culion Island. Such an exercise area is over 400 nautical miles to the east of the Vietnamese area of operations and hence not in the airspace of the Vietnam operational area.

46. Regarding offensive operations, the Exercise SEA IMP report stated:

11. The convoy, MELBOURNE and YORKTOWN, sailed from Manila Bay at approximately 1100 on the 26th May and the Coastal Convoy Phase began. MELBOURNE group, TG 319.2, remained in Close Support to the Convoy while YORKTOWN group, TG 319.1, carried out **Offensive Operations** (emphasis added).¹¹

47. The Tribunal noted that Task Group TG 319.1 included British units, and therefore it is extremely unlikely that those particular 'Offensive Operations' had anything to do with the Vietnam War, nor were they conducted anywhere near the Vietnam area of operations. The Exercise SEA IMP report concluded:

Conclusions

35. MP [Maritime Patrol] aircraft were not used to advantage during this exercise. Surface dispositions were protected by aircraft on Close Support provided by two and in latter stages by one large CVS [Aircraft Carrier]. This situation relegated the MP aircraft to '**Offensive Operations**' (emphasis added), unfortunately in the areas that submarines were making fast surface transits in an out of action

¹⁰ For details see Footnote 8.

¹¹ Ibid.

status. This type of employment does little for MP ASW [Anti-Submarine Warfare] training and less for aircrew morale...¹²

48. SQNLDR Sykes provided a copy of an independent review by Professor Grey of ADFA regarding Exercise SEA IMP. In this review, Professor Grey states:

The claims concerning exercise SEA IMP are quickly disposed of. SEA IMP was a standard SEATO naval exercise of a kind conducted regularly [by] the RAN, RAAF and associated allied navies and air forces. The fundamental definitional difference between an Exercise and an Operation is that the latter is conducted in the presence, or anticipated presence, of the enemy, and the former is conducted in his absence.

49. The Tribunal found that SQNLDR Sykes did not conduct an offensive operation against the enemy, nor was this sortie in support of Australian Armed Forces within the Vietnamese area of operations, but rather his crew flew an 'offensive operation' within the flying program of the SEA IMP exercise.

50. For the reasons stated above, SQNLDR Sykes is not eligible for the AASM 1945-75 with Clasp 'VIETNAM' or the VLSM for his flight on 26 May 1966.

Tribunal findings regarding SQNLDR Sykes' search and rescue flight

51. SQNLDR Sykes provided further information at the hearing regarding his crew's out-of-exercise search and rescue flight. He claimed that this was in support of allied forces operating in Vietnam as it was to assist downed US Navy aircrew. The Tribunal was not persuaded by this argument. SQNLDR Sykes' log book extract provided to the Tribunal does not record any out-of-exercise flights or search and rescue mission, but simply records three flights as part of Exercise SEA IMP. Further, the Tribunal found that search and rescue operations are tasked under an international agreement for the safety of life at sea and are not dependent on operations, exercises or the nationalities involved. The Tribunal noted that SQNLDR Sykes' aircraft did not locate the missing Skywarrior aircraft, nor was its position pinpointed. The Tribunal found there was no evidence provided to show that the search for the missing aircraft was undertaken inside the Vietnam Area of Operations or that the search-and-rescue flight was in support of Allied operations in Vietnam.

52. For this reason, SQNLDR Sykes is not eligible for the AASM 1945-75 with Clasp 'VIETNAM' or the VLSM.

DECISION

53. The Tribunal has decided to affirm the decision of the Directorate of Honours and Awards of the Department of Defence that Squadron Leader Paul Vincent Sykes (Retd) is not eligible for the award of the Australian Active Service Medal 1945-75 with Clasp 'VIETNAM' or the Vietnam Logistic and Support Medal.

¹² Exercise Report, *Exercise SEA IMP*, Vol 1, p 17. Acronyms expanded in [] for clarity.