



Australian Government

Defence Honours and Awards Appeals Tribunal

Smith and the Department of Defence Re: Brett [2016] DHAAT 17 (1 August 2016)

File Number(s) 2015/014

Re **Lieutenant Colonel Harry Smith SG MC (Retd)**
on behalf of Private Ronald Howard Brett (dec)
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 that the decision of the Chief of Army to refuse to recommend Private Ronald Howard Brett for the Commendation for Gallantry be set aside and substituted with a new decision to recommend Private Ronald Howard Brett for the Commendation for Gallantry.

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 Mr Ronald Howard Brett for The Commendation for Gallantry (CG) for his service at the Battle of Long Tan on 18 August 1966 in Vietnam. At the time of the battle, Mr Brett held the rank of Private and served as a machine gunner in 2 Platoon, A Company, 6th Battalion the Royal Australian Regiment (6 RAR).

2. Lieutenant Colonel Smith held the rank of Major during the battle, and was the Officer Commanding D Company 6 RAR. He is advocating for recognition for the late Mr Brett on behalf of Colonel Dinham, and other A Company members who believe that Mr Brett should have been recognised for his actions at Long Tan.

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 Lance Corporal Magnussen 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 Commendation for Gallantry. The Tribunal considered that the Chief of Army's refusal to recommend Private Brett for the Commendation 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 the Commendation for Gallantry

14. The *Commonwealth of Australia Gazette* (CAG) No S25 dated 4 February 1991, created the awards of the Star of Gallantry, the Medal for Gallantry, and the Commendation for Gallantry by Letters Patent. The conditions for these awards are set out in the *Gallantry Decorations Regulations 1991*. These Regulations were amended in CAG No. S420, dated 6 November 1996.

15. The Regulations as amended, stipulate the following conditions for award of 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

Private Brett's service

16. Ronald Howard Brett was born in Gulargambone, New South Wales on 15 February 1947. He enlisted in the Australian Regular Army on 21 September 1964, aged 17. After completing recruit, and basic infantry training, Brett joined 2 Battalion, Royal Australian Regiment before joining 6 RAR immediately prior to deploying to Vietnam.

17. A machine gunner of 2 Platoon, A Company 6 RAR, Brett arrived in Vietnam on 31 May 1966. Prior to Long Tan, Brett and his company served in a number of combat operations including ENOGGERA, BRISBANE and HOBART.

18. Brett continued to serve on operations in Vietnam after Long Tan. He was seriously injured on 18 February 1967 during Operation BRIBIE. His leg was later amputated. Brett died in 1976.

Private Brett's actions

19. Private Brett, together with most of A Company, served at Long Tan in the relief force that was transported to the Long Tan battlefield in the Armoured Personnel Carriers (APCs) of 3 Troop, No 1 APC Squadron. At the time of the Battle of Long Tan, A Company 6 RAR was under the command of Captain (now Lieutenant Colonel) Charles Mollison, and 2 Platoon of A Company was under the command of Lieutenant (now Colonel) Peter Dinham.

¹ CAG No S420, 6 November 1996

20. Lieutenant Colonel Smith seeks recognition, by the awarding of the Commendation for Gallantry, for Private Brett's actions that took place just after the APCs of 3 Troop entered the rubber plantation in heavy rain, when the relief force was uncertain of the exact location of D Company or the enemy. The action that Private Brett is being considered for is the same action in which Sergeant Alcorta was involved and for which Lieutenant Colonel Smith is seeking recognition through the award of a Medal for Gallantry

21. Australia's Official History of the Australian Army and the Vietnam War gives the most authoritative and detailed description of the Battle of Long Tan. While the Official History does not mention Brett, there is an account of the action in which he and Sergeant Alcorta were involved:

...dimly through the rain which was again cascading down, soldiers could be seen in an open, arrowhead formation advancing from east to west across the front. All wearing webbing and dressed in greens with cloth hats, they numbered well over 100, at least a company. A pause followed while crew commanders tried to make out who they were.

Lieutenant Peter Dinham, 2 Platoon commander, was in the right-hand carrier (with Alcorta). Looking from the hatch he noticed the soldiers had camouflage nets on their hats while some wore what appeared to be pith helmets...Recognising they were enemy, he shouted to the crew commander, Corporal Richard Gross, to open fire. Gross commenced firing and the remainder of the troop joined fire.

The heavy rain had covered the approach of the carriers and the enemy were caught by surprise. Quickly recovering, they returned a large volume of machine-gun fire. In a highly disciplined drill, some soldiers were dragging their fallen comrades out of danger by cane loops around the ankles while others covered the move by fire...With the carriers overcrowded (Alcorta) had been sitting on top where at least he could see. Alcorta jumped off the side to avoid being hit while Dinham dropped into the well of the vehicle. Dinham ordered Gross to open the rear hatch and the section poured out to protect Alcorta. They were joined by the whole of 2 Platoon from other carriers and quickly shook out into assault line, firing as they advanced. The platoon felled a number of the Viet Cong without casualties to themselves before Roberts called to Mollison (Captain Charles Mollison Officer Commanding A Company 6 RAR) to get the men back inside. Although the platoon had moved out to the right of the carriers, Roberts feared they could mask the fire of his machine-guns. At the same time the skirmish was delaying the advance. It was nevertheless a brisk action causing heavy casualties to the enemy and contributing to their disorder. In other carriers infantry fired out the back from their hatches.

3 Troop resumed the advance and with machine guns firing broke through the enemy formation. The Viet Cong unit, which later was learned to be the heavy

weapons unit of D445 Battalion, was routed and individuals and groups began fleeing back towards the east. The infantry claimed at least 40 enemy killed in this action,² with one Australian wounded.³

22. The Official History also notes that Lieutenant Colonel Townsend, Commanding Officer 6 RAR, stated in his after action report that 3 Troop's achievement in breaking up an estimated two companies of VC to the rear of D Company 'undoubtedly saved the day'⁴.

Lieutenant Colonel Smith's submissions

23. Lieutenant Colonel Smith has submitted to the Tribunal that he is advocating for recognition for the late Mr Brett (and Mr Alcorta) on behalf of Colonel Dinham, and other A Company members who believe that these men should have been recognised for their actions at Long Tan. Lieutenant Colonel Smith did not witness either man's actions; however, he has provided several accounts of their actions to the Tribunal in submissions over time.

Other accounts

24. While the Official History does not mention Private Brett, several other published accounts provide additional information and commentary regarding Private Brett's actions, and what took place at other times during the relief of D Company. It is consistently accepted that very early in the engagement, within a short space of time after Sergeant Alcorta leapt from the APC and engaged a large enemy force, Private Brett jumped off the APC and, firing his M60 machine gun, advanced towards the enemy and joined Sergeant Alcorta. It is also accepted that both Private Brett and Sergeant Alcorta were on their own for some minutes engaging the enemy on the ground until joined by other members of 2 Platoon. While each account varies from source to source, those which are particularly relevant to the merits of Brett's actions are provided below. Additional commentary on Brett's actions is contained in **Attachment E**.

25. In a 2008 interview with Dr Karl James of the Australian War Memorial, Mr Alcorta gave a description of the action, which indicated that he had initially engaged the enemy and that Private Brett came to his assistance after that engagement:

I remember that we came to the river and it was swollen and we had to stop, and one of the APCs, as it turned out, our APC, crossed first. I pretty well admired the skill of the APC commander, Corporal Goss (sic) I think his name was, in crossing the river, and then the rest followed, and I don't remember very much else except there was a lot of artillery firing going on, we heard no smallarms fire at this stage at all, at all, because we were pretty far away from Long Tan itself, and then I remember coming through a clearing, a very large

² The official history notes that Captain Mollison's after action report states that only 15 enemy were estimated killed in this engagement, however it also notes that Dinham claims that his after action report claimed 40 killed in this engagement (Ibid, p552).

³ Ian McNeill, *To Long Tan, The Australian Army and the Vietnam War 1950-1966*, Allen & Unwin, St Leonards, 1993, p334.

⁴ Ibid, p349.

clearing just on the edge of the rubber plantation, and that's where we stopped. We stopped right there and then. The APCs weren't going to move anywhere.

One of the APCs picked up someone who had been wounded, or been injured, and went, which I thought was funny to say the least and then suddenly in front of my eyes, got up in front of my eyes, like from here to the wall, a group of camouflaged North Vietnamese or Viet Cong. Would have been a hundred of them perhaps more than that. I was the only man along with Ronnie Brett on top of the APC and I jumped out, and I charged. And there was a lot of bullets flying about. And it was just amazing that I wasn't hit, and just when I saw my tracer going out, and I wanted to change my magazine, I had my first aid kit in the, you know, on top of the magazines, so it was just as well Ronnie Brett jumped from the APC, and fired his machine gun, his M60 machine gun into the enemy, otherwise I don't see how I could have survived.

And it was shortly afterwards that the ramp opened, the APC the rest of the platoon came out started, I said, 'we've got to go' to these people, you know, 'fix bayonets and charge'. And Charles Mollison reckons - he told me - we had been pretty lucky because in his opinion we had hit the headquarters, and there was panic among them. Don't ask me why they were panicking because they had everything with them. They had rocket propelled grenades, they had heavy machine guns, we are talking about 30 caliber machine guns, certainly they had the numbers, and yet, for some reason or other, probably because they had been pummelled by Delta Company and by the artillery, they were pretty fragile and they were ready to break. And our arrival and our charge, our very aggressive charge was the last straw. They were human after all, and they broke and run.

Afterward, we hopped on the APC again and we drove through our own artillery fire, artillery fire was falling all around us until we got to Delta Company. And that was it. I think that a scriptwriter, writing a script for a Hollywood movie could not have done it better. This was the cavalry coming to the rescue, and that's how it was.

26. A 2007 statement given by Colonel Dinham and included in Lieutenant Colonel Smith's 2009 submission to the old Tribunal's Inquiry⁵, provides the following account of Brett's actions.

Alcorta...rolled off the APC to the right and without any evident concern for his own safety, dashed forward about 30 metres toward the enemy force while under fire. In poor visibility he engaged them with rifle fire from a range of less than 50 metres. While this was happening I ordered the lowering of the APC ramp and along with Corporal Lou Stephens, dropped into the inside of the APC to exit once the ramp was lowered. In the meantime Private (Ron) Brett had jumped off the APC and with his machine gun joined Sergeant Alcorta, both continuing to engage the enemy who were now returning fire. Fortunately, the enemy fire was inaccurate; mainly passing overhead.

⁵ Defence Honours and Awards Tribunal's (the old Tribunal's) *Inquiry into unresolved recognition issues for the Battle of Long Tan*, 2009.

As the rest of us on board that APC exited and deployed right, joining Alcorta and Brett, the .50 cal machine gun of the APC also opened up, followed by others further to our left. The withering APC and infantry fire brought the enemy force to a halt, forcing them to ground before then pulling out to the east. At this stage we were given hand signals from the APC commander to remount and proceed to the relief of D Coy, which was more pressing.

This aggressive action by Sergeant Alcorta, followed up by Private Brett, caught the enemy by surprise and precipitated the opening up of the APC .50 cal machine guns, where previously there had been hesitation. The volume of fire then directed at the enemy prevented the encircling of D Coy and enabled their relief. I believe this was a turning point in the relief action.

We estimated subsequently that this brief action had occasioned approximately 40 casualties to the enemy, albeit only eight bodies were found in the area the next day. Others may have been cleared from the battlefield by their comrades after we had moved on. The success of the relief force would not have been complete without the action of Sergeant Alcorta and Private Brett⁶

27. Annex M to the same submission states that the enemy force ‘was initially engaged by a 2 Platoon machine gunner, Private Brett, sitting on top of the carrier, resulting in return fire from the enemy.’ And that ‘at this instant, Sergeant Alcorta rolled off the APC to the right and without any evident concern for his own safety dashed forward about 30 metres...’⁷

28. Annex N to the same submission states that ‘on the order of his Platoon Commander (Dinham), Private Brett, a machine gunner in the platoon, who was sitting on top of the carrier, opened fire on the enemy, who returned fire.’⁸

29. In the same submission, Lieutenant Colonel Smith (who did not witness the action) wrote the following account which he said was told to him by Colonel Dinham and Mr Alcorta:

... when the APC force encountered an enemy company (local D445) well south of the battlefield at about 1830 hours, Sergeant Frank Alcorta rolled off the top of the far right flank APC, followed by his machine gunner the late Private Ron Brett, who supported him. Frank Alcorta had a problem changing a rifle magazine and Ron Brett covered him. They held the enemy at bay until the rest of the group, nine, led by Platoon Commander RMC (Royal Military College) Lieutenant Peter Dinham, dismounted and joined in the firefight. After about five minutes, with support fire from the APC .50 calibre Heavy Machine Gun,

⁶ 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), Annex L.

⁷ Ibid, Annex M

⁸ Ibid, Annex N

the enemy fled east and the eleven men were ordered back into the APC so the APC advance could continue.⁹

30. In his submission to the old Tribunal's Inquiry, Mr Bodey, who served in A Company at Long Tan, wrote:

I witnessed two individuals perform inspiring acts of bravery that I consider to be above and beyond that necessary to maintain morale, unit fighting spirit and good military discipline...

Due to confusion over infantry/armour tactics that prevailed at the time, 2 Platoon Sergeant Francis Xavier Alcorta understandably assumed that after armour had transported infantry to the battlefield the infantry would assume command and pursue the initiative with armour in support.

As a result, he dismounted from the top of the APC on which he and I were travelling and proceeded to engage the enemy from the ground. Due to the confusion over tactics the APC Commander refused to lower the rear ramp and allow the remaining infantry to alight and engage the enemy. The action resulted in Sergeant Alcorta being stranded alone outside the APC and amidst approximately 100 of the enemy who were starting to direct fire towards us.

Machine Gunner, Private Ronald Howard Brett quickly realised Alcorta's vulnerability so he dismounted from the top of the APC to assist Alcorta with M60 fire support from ground level. Aboard the APC Corporal Louie Stephens managed to convince the vehicle commander that those still onboard had to alight in order to assist and/or recover Sergeant Alcorta and Private Brett. When this action was taken the commander of those on board dismounted, formed up in accordance with our assault drill, and assaulted the enemy to our front. This was A Coy's first major battle contact and the aggressive, daring actions of Alcorta and Brett set a brilliant example on how to engage the enemy.¹⁰

31. At the Tribunal's hearing on 2 March 2016, evidence was given in relation to Private Brett's actions by Lieutenant Colonel Mollison, Colonel Dinham, Lieutenant Colonel Smith and Mr Alcorta.

32. In his oral submission Lieutenant Colonel Mollison stated:

At Long Tan Ron Brett was travelling on top of the APC as were – on each APC there were three or four of my soldiers travelling on top of the APCs, they did that because it was somewhat more comfortable than being thrown around inside the APC, it gave them an opportunity to see where they were going and

⁹ Ibid, p14.

¹⁰ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan*, Submission 11 – Mr James L Bodey.

what was happening and it gave them an opportunity to engage the enemy when that occurred.

Although Frank (Alcorta) and Ron were quickly joined by his platoon commander and a dozen or so other soldiers, the sustained fire from Brett's machine gun would have had a devastating effect on the enemy, on top of the fact that they were being pounded by our artillery and, of course, so were we, and it must have been very frustrating to the regimental commander to have his carefully planned, encircling operation assaulted by an aggressive infantry force supported by armour. There is no doubt in my mind that it was this clash that precipitated the withdrawal of the whole regiment...."

I would say without any shadow of a doubt it would be a split second between when Sergeant Alcorta saw the enemy and when he rolled off the top of the APC and assaulted, and it would have been another split second before Ron Brett rolled off the top of the APC and supported him.

.....there was somewhat of a delay between when Alcorta and Brett engaged the enemy and when the rest, most of the platoon in that APC joined them¹¹

33. Lieutenant Colonel Mollison said that although he did not personally witness the actions of Private Brett and Sergeant Alcorta he had no doubt about the authenticity of the actions as reported and recorded. He had never 'heard any contrary story or facts'.

34. In his oral submission Colonel Dinham stated:

We proceeded from that open paddy field into the fringe of young rubber....but as we approached that we noticed that there was an enemy force between 80 and 100 we estimated, moving from east to west, at that stage the APCs stopped.

I gave the order for Private Ron Brett to open up...at that stage a small burst of fire came down my left-hand side of the APC, and myself and Lou Stevens dropped down into the well. Instantaneously, Frank Alcorta rolled off, charged forward with a self-loading rifle, stood about 30 to 40 metres in front of where we were to the right flank, and he engaged the enemy himself. At this stage I tried to get the track commander to lower the gate because I had to get people in the APC with me, out, so we could go out with Frank, there was a bit of a delay in doing that.

While this was happening Ron Brett jumped off and similarly ran forward with his machine gun and started engaging the enemy force from the hip. At about that time the .50 cal on the APCs finally opened up and the enemy went to ground and then started to move back to the west. The time factors associated with that, from the time when Frank Alcorta got off until the time when the rest of my carrier of people joined him would have been minutes...

¹¹ Oral Submission, Lieutenant Colonel Charles Mollison (Retd), 2 March 2016.

I did not (give the order to Sergeant Alcorta or Private Brett to jump off and engage) because Sergeant Alcorta was one of those people that could read a situation very well, he's a very brave man.

Both of them (Alcorta and Brett) were very gallant, they did so without any respect to their own safety.

(their actions were significant) because if they hadn't done what they did we may not have got out of the APC, we would not have engaged the force we did, the APCs may not have opened fire and that company therefore could have continued in the direction, of course, this is all conjecture.¹²

35. In his oral submission, Mr Alcorta stated:

We finally got to the rubber plantation, to the edge of the rubber plantation, the APCs stopped, there was a cloud of enemy that surged from the undergrowth and the bush and they were enemy, clearly enemy. Our APC commander didn't fire, and justly so, because he was quite conscious he didn't want to fire onto our own troops. I was very certain that they were enemy so I jumped out of the APC and I took to them with a bayonet and I shouted - they were so close that I shouted to the diggers in the APC, "Fix bayonets," because they were very close, for the combat was inevitable, absolutely inevitable. I advanced steadily towards the enemy, firing, and I finished my magazine.

That's when Ronnie Brett came from behind and so he probably saved my life. He was a country lad from New South Wales, full of courage, full of bravery, he was a friend. I saved his own life in Operation Bribie, the Battle of Bribie; I don't know whether I did him any favours I must say given what happened afterwards. But he probably saved my life. Then shortly afterwards the rest of the platoon came out of the APC under Peter's command and, lo and behold, the enemy disappeared, they fled, what had become a rout became a stampede, such that even today I can't explain. I can't explain ...

(My action in jumping off the APC was) "Instinctive, absolutely instinctive" ...

(The action occurred in a) ... very short space of time. I wasn't looking at my watch though, like, bloody hell. I thought there was hundreds of them there, I really thought, apparently there were only 100 or 130, something like this. But they did have RPGs... What I was most afraid of was that they would swarm between the APCs and drop grenades, it could have been a disaster, it could have been an absolute disaster. So there was a need to engage them immediately and we had no time to think, no time to plan, nothing, it was quite an instinctive reaction, that's what it was.¹³

Recognition for Private Brett

36. Mr Brett received no award for his actions at the Battle of Long Tan.

¹² Oral Submission, Colonel Peter Dinham AM, 2 March 2016.

¹³ Oral submission, Mr Frank Alcorta OAM, 2 March 2016.

37. In his submission of 23 February 2009, Lieutenant Colonel Smith states that in 2004, Colonel Dinham informed him that he 'had cited Alcorta for the MM and Brett for the MID after returning to base on 21 August 1966, but apparently no official forms were ever sent up the line from HQ Alpha Company.'¹⁴ Colonel Dinham also stated in Lieutenant Colonel Smith's 2009 submission that he (Dinham) recommended Brett for the MID in his after action report to Mollison.¹⁵

38. In his own submission to that inquiry, Colonel Dinham confirmed the above version of events. Colonel Dinham also stated that if any submission of commendations had occurred near the end of the battalion's tour, he would not have been present to contribute to it, as he was medevaced to Australia with malaria in January 1967.¹⁶

39. In his book, *Long Tan and Beyond*, Lieutenant Colonel Mollison wrote:

*Honours and Awards conferred on 6 RAR were few and far between and sadly did not reflect the outstanding success of the Battalion. One reason for this is that Colonel Townsend adopted a well-reasoned policy that commendations would be submitted towards the end of our tour of duty. In this way he hoped to avoid a situation in which later, more deserving cases could be rejected because our 'allocation' had been used up by earlier awards. I agreed with Colonel Townsend's reasoning and refrained from making commendations until the latter stages of our tour of duty. Unfortunately, when it came time to submit commendations, we discovered that the allocation of medals for the whole Force had already been awarded with other units being the beneficiaries. This is one of the many faults with the system of honours and awards in operation at the time.*¹⁷

40. However, in the same book, Lieutenant Colonel Mollison also mentions the Mentions in Despatches awarded to Second Lieutenant Graham Ackland and Private David Buckwalter for separate actions later in the tour (March and May 1967).¹⁸

41. In his book *Long Tan, the Start of a Lifelong Battle*, Lieutenant Colonel Smith claims that Colonel Townsend advised him in 1999 that he did not consider that Alpha Company warranted any awards other than two of the 15 Vietnamese medals offered to 6 RAR.¹⁹

42. Lieutenant Colonel Smith also wrote in his book that:

¹⁴ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan* Long Tan Submission 9, Lieutenant Colonel Harry Smith SG MC (Retd), p22.

¹⁵ Ibid, Annex L.

¹⁶ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan* Submission 15 – Colonel Peter Dinham (Retd).

¹⁷ Mollison, *Long Tan and Beyond*, p397.

¹⁸ Ibid, pp399-400.

¹⁹ Smith, *Long Tan*, p159.

Former senior officer observers have suggested that Mollison knowing the quota was tight did not forward the two recommendations (for Alcorta and Brett) as they might impinge on his own chances of getting an award for Long Tan. As to Alpha Company awards, Colin Townsend was to tell me in 1999 he saw no reason why Charles Mollison or any of his men, protected inside APCs, in their brief encounter as part of the APC Reinforcement/Reaction Force, deserved any special recognition compared with the protracted action by Delta Company which sustained all the casualties bar one APC corporal who died of wounds nine days later and one Bravo Company soldier accidentally wounded by friendly fire from Alpha Company men atop an APC.²⁰

43. In his oral submission, regarding the writing-up of the actions of Private Brett (and Sergeant Alcorta) and recommendations and consideration of awards, Colonel Dinham stated:

“We had a debrief afterwards at the company, well, this is where the action of those two would have been mentioned, no actual submissions in paper were put forward other than what I wrote into my after-action report, which would have been an abbreviated after-action report, and then that went to the company after-action report which it further abbreviated on. It’s something that I regret because I must admit I was a little naive at that stage, having been commissioned only a little over six months by the time we went to Vietnam, and it’s my regret that I did not pursue this more strongly at the time.”²¹

44. In his oral submission, Lieutenant Colonel Smith stated:

I mean I really didn’t know what had happened with the APCs until after they arrived and the detail of what happened en route really didn’t come out until the next day when they talked about it and the APCs went back and found bodies.

My understanding is that after getting over the river, the APCs got in the rubber, contacted one group of enemy, put them to flight. That’s when Sergeant Alcorta and his machine gunner (Brett) displayed gallantry, which was recommended by platoon commander, Lieutenant Dinham, and I understand from the paper I’ve seen, supported by now Colonel Mollison...²²

The Defence Submission

45. 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.

²⁰ Ibid, p265.

²¹ Oral Submission, Colonel Peter Dinham AM (Retd), 2 March 2016

²² Oral Submission, Lieutenant Colonel Harry Smith SG MC (Retd), 2 March 2016

46. 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.’

47. Representatives from Army reiterated this position at hearing.

Tribunal Consideration – The Merits Review

48. 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.

49. The Tribunal noted that guidance for a merits review is detailed in the Valour Inquiry.²³ 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 ...*²⁴

50. 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.*²⁵

51. 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’.²⁶

52. 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.

²³ 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]

²⁴ Ibid

²⁵ Ibid

²⁶ Ibid

53. **Evidence Available to the Original Decision Maker.** Lieutenant Colonel Smith, supported by Colonel Dinham, claims that Private Brett was cited for the MID in an after action report on 21 August 1966 but ‘no actual submissions in paper were put forward’. Dinham also gave evidence that he regretted not pursuing recognition ‘more strongly at the time’. Lieutenant Colonel Mollinson, as Brett’s Company Commander, also gave evidence that he ‘refrained from making commendations’ on the basis that they would be made towards the end of the tour of duty. The Tribunal was, therefore, satisfied that, as the Platoon and Company Commander did not submit Private Brett for recognition, it was reasonable that CO 6 RAR did not recommend an award and that this was a decision open to him to make at the time.

54. **Finding in Relation to the Evidence Available to the Original Decision.** The Tribunal finds that, in the absence of a citation for gallantry for Private Brett in 1966, it is not able to overturn the decision made by CO 6 RAR to not recommend him for a gallantry award.

55. **New Evidence.** The Tribunal noted that several publications mention Private Brett’s actions and that the descriptions given of his actions, particularly by individuals who witnessed his actions, are generally consistent. The vast majority of these descriptions would not have been available to CO 6 RAR in 1966 as he only had an after action report to rely upon. The significant parts of the various descriptions as they relate to Private Brett’s actions include:

Sergeant Alcorta rolled off the top of the far right flank APC, followed by his machine gunner the late Private Ron Brett who supported him. Frank Alcorta had a problem changing his rifle magazine and Ron Brett covered for him. They held the enemy at bay until the rest of the group.....dismounted and joined in the firefight.

Sergeant Alcorta (was) stranded alone outside the APC and amidst approximately 100 of the enemy who were starting to direct fire towards us.

Brett quickly realised Alcorta’s vulnerability so he dismounted from the top of the APC to assist Alcorta with M60 fire support from ground level.

...it would be a split second between when Sergeant Alcorta saw the enemy and when he rolled off the top of the APC and assaulted, and it would have been another split second before Ron Brett rolled off the top of the APC and supported him.

...there was somewhat of a delay between when Alcorta and Brett engaged the enemy and when the rest, most of the platoon in that APC joined them.

I (Alcorta) had my first aid kit in the, you know, on top of the magazines, so it was just as well Ronnie Brett jumped from the APC, and fired his machine gun, his M60 machine gun into the enemy, otherwise I don’t see how I could have survived.

I witnessed two individuals perform inspiring acts of bravery.....the aggressive, daring actions of Alcorta and Brett set a brilliant example on how to engage the enemy.

This aggressive action by Sergeant Alcorta, followed up by Private Brett, caught the enemy by surprise.

The success of the relief force would not have been complete without the action of Sergeant Alcorta and Private Brett.

56. **Precision, Accuracy and Truth of the New Evidence.** The Tribunal noted that most of the written accounts describing Private Brett's actions were produced well before the application for recognition for Private Brett was made. However, the accounts from the chain of command and individuals who were actually present at the time of the action are consistent. The Tribunal was therefore satisfied that the new evidence was 'compelling and reliable'.

57. The Tribunal concluded that very early in the engagement, Private Brett acted instantaneously and without regard to his own safety in jumping off the APC to join Sergeant Alcorta. Together, in poor visibility, they engaged a large enemy force, for a significant period of time until they were joined by the other members of 2 Platoon from the APC. His action, together with that of Sergeant Alcorta, surprised and destabilised the enemy, and was decisive in thwarting a potentially very serious attack on the relief force.

58. **Finding in Relation to New Evidence.** The Tribunal finds that the new evidence is valid and that these accounts point to an act of gallantry by Private Brett. In jumping off the APC, without regard to his own safety, after Sergeant Alcorta had rolled off, and advancing towards the enemy, engaging them with his M60 machine gun, in poor visibility, Private Brett contributed to the destabilisation of the enemy force which had already been engaged by Sergeant Alcorta. He also ensured that the enemy continued to be engaged when Sergeant Alcorta was reloading his weapon and in joining Sergeant Alcorta at that critical moment, according to Alcorta, 'doubtless he saved my life'. The Tribunal therefore considered that Private Brett's actions warrant consideration of recognition 'judged against the criteria applying at the time'. The Tribunal finds that as no 'decoration was recommended' at the time and that there was 'no conscious decision not to make an award', then the Tribunal is in the 'situation of the original decision-maker' - CO 6 RAR, and could proceed to make a decision based on the new evidence.

59. **Private Brett's Eligibility for Imperial Awards.** The Tribunal noted that the Valour Inquiry summarises valour, gallantry and distinguished service criteria.²⁷ Noting the finding that Private Brett's actions included an act of gallantry, disregard for his own safety and aggressiveness in engaging the enemy, the Tribunal considered that if the new evidence was available to CO 6 RAR he may well have examined the eligibility criteria for the MID, which is for:

²⁷ Ibid, Appendix 6

'an act of bravery'.²⁸

60. **Finding in Relation to Eligibility for Imperial Awards.** The Tribunal, having considered the new evidence, was of the opinion that Private Brett's actions did constitute 'an act of bravery'. The Tribunal finds that Private Brett may have been recommended for the MID in recognition of his act of bravery when he jumped from the APC to join Sergeant Alcorta in engaging the enemy, thereby contributing in large part to their subsequent withdrawal.

61. **Eligibility for Contemporary Awards.** The Tribunal noted that the Applicant seeks a Commendation for Gallantry for Private Brett but does not make a case for why he has selected this level of award. The Tribunal noted that the MID is a Level 4 Imperial gallantry award and that this award is no longer available under the Australian system of honours and awards. Having found that Private Brett's actions included an act of bravery when he dismounted from the APC to join Sergeant Alcorta and that his aggressiveness once on the ground helped to turn the enemy, the Tribunal determined that the Commendation for Gallantry, a contemporary level 4 gallantry award for 'acts of gallantry in action, which are considered worthy of recognition' was the most appropriate recognition of his actions on 18 August 1966.

Finding in Relation to the Merits Review

62. The Tribunal finds that CO 6 RAR did not make a decision regarding Private Brett's actions on 18 August 1966 as he was not presented with a nomination. The Tribunal finds that valid new evidence has subsequently been provided which supports Private Brett's eligibility for the MID. As that award is no longer available, the Tribunal recommends that he be awarded the Commendation for Gallantry for 'acts of gallantry in action, which are considered worthy of recognition' on 18 August 1966.

TRIBUNAL DECISION

63. The Tribunal decided to recommend to the Minister that the decision of the Chief of Army to refuse to recommend Private Brett for the Commendation for Gallantry be set aside and substituted with a new decision to recommend Private Brett for the Commendation for Gallantry.

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
- E. Other accounts of Private Brett's actions

²⁸ 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.

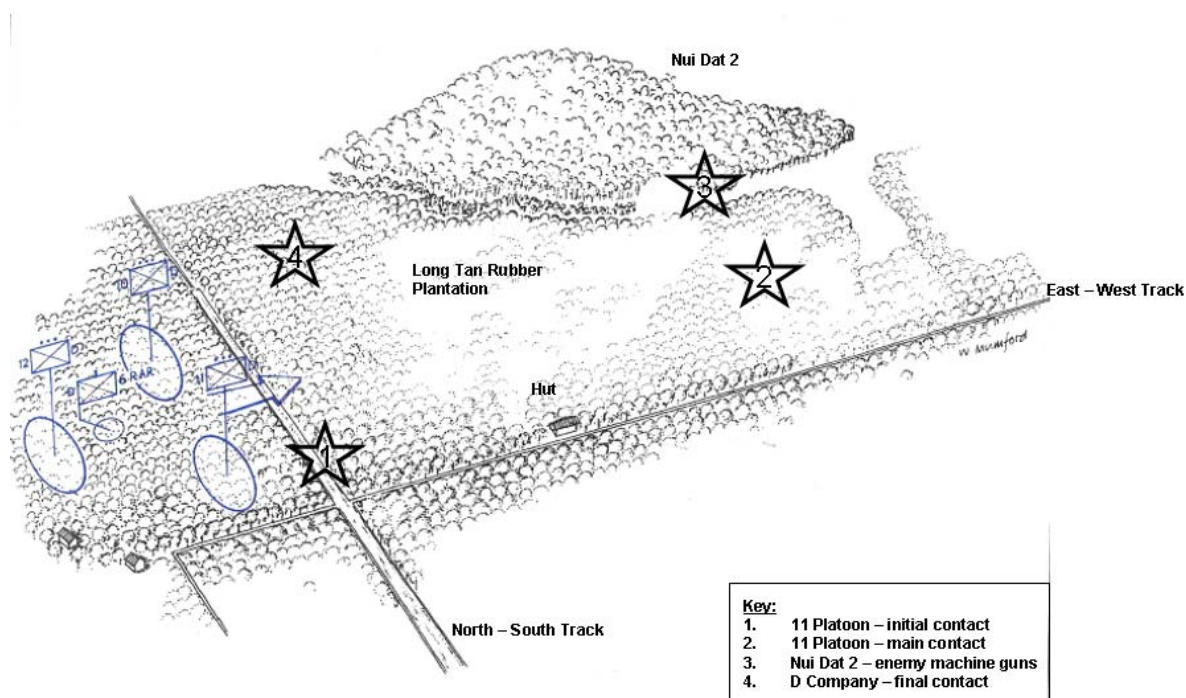
9. D Company was comprised of three rifle platoons (each of approximately 30 soldiers) commanded by a company headquarters element (CHQ). CHQ contained the command group, signallers, a medical orderly and the attached FO party. CHQ was protected by an infantry support section. Each rifle platoon carried 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 Phouc 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 9 – Lieutenant Colonel Harry Smith SG MC (Retd)

Submission 10 – Mr Nick Weir on behalf of the 3rd Cavalry Regiment (Vietnam) Association of Australia

Submission 11 – Mr James L Bodey

Submission 12 – Mr Dave Sabben MG

Submission 14 – Lieutenant Colonel Charles Mollison (Retd)

Submission 15 – Colonel Peter Dinham (Retd)

Submission 16 – Colonel Bob Hagerty (Retd)

Submission 19 – Mr Ian Savage

Submission 25 – Mr John Heslewood

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

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

Other accounts of Private Brett's actions

1. The following published accounts provide additional commentary regarding Private Brett's actions, and what took place at other times during the relief of D Company.
2. In a 1992 interview for Bruce Horsfield's documentary *LongTan, the Survivor's account*, Colonel Dinham stated:

'Now throughout this particular engagement or approach to the battle, we were moving through young rubber trees and through what turned out to be sticky sort of weed about waist deep in height. For this very reason we virtually drove in on top of elements of the VC, which later turned out to be parts of D445 battalion without seeing them. We only saw them when they stood up in front of us. At that stage we came under fairly heavy fire.

*My platoon sergeant, Frank Alcorta who was sitting on top of the APC on the open hatch, as was the practice of that particular time, had to jump off because the fire was too heavy for him to remain there.'*¹

3. One version of events, which refers to the actions of Private Brett, is set out in Lex McAulay's *The Battle of Long Tan*:

Peter Dinham's Platoon Sergeant, Frank Alcorta, on top of the APC was caught by the heavy machinegun fire directed at the vehicle. As Dinham recalls it, Alcorta exclaimed "Fuck this, I'm getting off!" and rolled back off the rear of the M113. All around him was the startled but reacting enemy, and Alcorta was the only Australian on the ground.

Peter Bennett, too, remembers how Frank Alcorta jumped down off the APC and in traditional John Wayne style dispatched quite a number of the enemy. Alcorta fired a whole magazine at the nearby VC, who he thought had no discipline at all and he saw several of them fall. Then, the tracer round showing he had only one round left flashed out, hitting a VC in the face "and the whole thing disappeared into a mess of blood and flesh."

Dinham and the others standing in the hatch had ducked out of the VC fire. Dinham now rose and yelled to the vehicle commander to stop and lower the ramp, "so I could de-bus the platoon, because I couldn't leave my Sergeant out there."

Alcorta was alone, magazine nearly empty. VC all around him, then, Dinham recalls, things happened quickly:

¹ Interview, *Long Tan, The Survivors Account*, Colonel Peter Dinham with Bruce Horsfield, 1992.

“I had the platoon out, forming an extended line, and while we were doing it there were dozens of the enemy, some dressed in pith helmets, some in floppy hats, a lot with a form of netting hanging over their back as a type of camouflage – they stared standing up in front of us and streaming from left to right (that is west to east), running backwards towards their parent formations.”

Private Brett, machine gunner, appeared at Alcorta’s side firing his M60, and Alcorta believed that “doubtless he saved my life, because he gave me a chance to bring a fresh magazine from the pouch’. In February 1967, Frank Alcorta was able to partially repay Brett, piggybacking him away when Brett was badly wounded in the leg by machinegun fire; the leg was later amputated.

...(Dinham said) “We literally had a turkey shoot at that time, and later conservatively estimated that we killed at least 40 of them. Subsequently, when we swept through the area about two days later, we picked up only eight bodies.

There was no hand to hand fighting, but much close-range shooting as the VC moved across the platoon front. Occasionally, one of them would turn, go to ground and fire at us, but the general noise that was around drowned their shooting – you couldn’t hear it unless you got a couple of close ones.”

Frank Alcorta was surprised to see that the VC panicked and broke ranks, fleeing to the east, throwing weapons, equipment, everything’.

“I just couldn’t believe my eyes, because they certainly had the numbers. Had they pressed an attack, I don’t see how we could have stopped them. We were a depleted company, only our platoon was engaging them, and there were only eleven APCs (in fact seven). The enemy certainly had RPGs, which they abandoned, and with which they could have taken the APCs out almost at will. There were hundreds, literally hundreds of them around us. Yet they broke and ran. We were grateful anyway, and exhilarated, as we were out of immediate danger.”²

4. Charles Mollison’s 2004 book, *Long Tan and Beyond, Alpha Company 6 RAR in Vietnam 1966-1967*, describes the action in the following terms:

‘Sergeant Frank Alcorta, machine-gunner Ron Brett and Private Tom Burke were riding on top of the APC (32B) that was carrying the 2 Platoon HQ and 6 Section. Sergeant Alcorta recalls “I was getting pretty pissed off with the slow progress we were making and the continual stopping. Then I saw about 100 enemy soldiers directly to our front. They obviously had not seen or heard us at that stage because we were getting no incoming fire. I jumped off the top of the stationary Armoured Personnel Carrier immediately and fired the first shots. The APC gunner, Corporal Goss (sic), followed with a long burst from his .50

² Lex McAulay, *The Battle of Long Tan*, Century Hutchinson Australia, Melbourne, 1986, pp102-104.

calibre machine gun. We were heavily outnumbered by well equipped, clearly well organised and disciplined main force troops who stood between Delta Company and us. It was my view then and it is my view now that at that precise moment when the APCs stopped short of the older rubber trees and the enemy emerged from the undergrowth, there was extreme need for action. The alternative was to lose the initiative to Charlie. I dismounted to lead an infantry attack on the enemy...

Peter Dinham, the 2 Platoon Commander, "I ordered the APC crew commander to open fire. He was initially reluctant to do so because of concern about the possibility of hitting Delta Company soldiers. My machine-gunner, Private Ron Brett opened fire and the APC machine-guns joined in. Enemy fire was then directed at us....I ordered the rear ramp of the APC lowered."

Corporal Lou Stephens: "When the ramp was lowered we all dismounted, formed an extended line and engaged the enemy. Brett, Vickers, Burke, Bodey Harwood and McLay were all in it... We must have been at it for 5 or 6 minutes when someone yelled out 'Fix bayonets!' It must have been Frank Alcorta. Anyhow, by now, the enemy were fleeing to the east as fast as they could go, and we were ordered to remount the APC."³

5. In his submission to the old Tribunal's Inquiry, Captain Mollison wrote:

*'on the right of our assault, Sergeant Frank Alcorta jumped off the APC and launched a single handed assault as soon as he saw the enemy. This lone charge against an enemy force estimated to be at least one hundred highly trained and well armed Vietcong and North Vietnamese troops resulted in several enemy dead, many more wounded and the rest put to flight as soon as Machine Gunner Ron Brett and then 2 Platoon, dismounted and followed his lead.'*⁴

6. In his 2015 book, *Long Tan, the Start of a Lifelong Battle*, Lieutenant Colonel Smith relates the events as told to him by Mr Alcorta, and provides some comments of his own:

*So just seven APCs moved north into the rubber and then contacted enemy, company size D445, at 1100 m south of Delta Company at about 6.30 p.m. Alpha Company's Sergeant Frank Alcorta said, in Lex McAulay's 1986 book *Battle of Long Tan* and in emails to me in 1998, that when the enemy fired, he quickly rolled off the top of his APC, followed by his M60 gunner (late Private Ron Brett):*

³ Charles Mollison, *Long Tan and Beyond, Alpha Company 6 RAR in Vietnam 1966-67*, Cobbs Crossing Publishing, Woombye, 2005, pp164-169.

⁴ Defence Honours and Awards Tribunal *Inquiry into unresolved recognition issues for the Battle of Long Tan* Submission 14, Lieutenant Colonel Charles S Mollison (retd).

“I was surprised to see the VC panicked and broke ranks, fleeing to the east, throwing weapons, equipment, everything – I just could not believe my eyes. Had they pressed an attack I don’t see how we could have stopped them. Yet they broke and ran.”

No doubt this retreat was caused by the fearful noise and sight of the APCs and the impromptu dismounted assault by 11 men of Lieutenant Peter Dinham’s 2 Platoon Alpha Company on the far right, supported by APC .50cal fire. While it took some time to get the ramp down, the other nine men dismounted to support Alcorta and his gunner Ron Brett. Why two men were on top of the APC in enemy territory when there was room for 12 passengers inside defies logic.⁵

⁵ Harry Smith, *Long Tan, The Start of a Lifelong Battle*, Big Sky Publishing, Newport, 2015, pp156-157.