



Australian Government

Defence Honours & Awards Tribunal

**INQUIRY INTO UNRESOLVED RECOGNITION ISSUES FOR THE
BATTLE OF LONG TAN**

LETTER OF TRANSMISSION

Inquiry into Unresolved Recognition Issues for the Battle of Long Tan

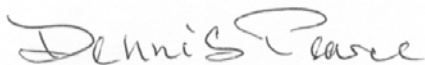
The Hon Dr Mike Kelly AM MP
Parliamentary Secretary for Defence Support
Parliament House
Canberra ACT 2600

Dear Dr Kelly

I am pleased to present the report of the Defence Honours and Awards Tribunal on the Inquiry into Unresolved Recognition Issues for the Battle of Long Tan.

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

Yours sincerely

A handwritten signature in cursive script that reads "Dennis Pearce". The signature is written in dark ink on a light-colored background.

Professor Dennis Pearce, AO

Chair

3 September 2009

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TERMS OF REFERENCE

The Terms of Reference for the inquiry read:

The Defence Honours and Awards Tribunal shall inquire into and report on unresolved concerns regarding individual awards for the Battle of Long Tan. In particular, the Tribunal is to consider claims concerning Australian Defence Force personnel who were recommended for recognition following the Battle of Long Tan.

On 14 August 2008, the Australian Government announced its response to the independent review of the Battle of Long Tan recognition. As part of its response the Government announced that 'any other unresolved concerns regarding individual awards for Long Tan would be referred to the independent Defence Honours and Awards Tribunal.'

The Tribunal is to examine relevant documentary evidence, and consider the nature and context of the service, in relation to the criteria for Australian and Imperial awards that existed at that time, in order to arrive at a fair and sustainable response to claims for recognition.

The Tribunal may interview such persons as it considers appropriate and consider material provided to it that is relevant to these terms of reference.

The Tribunal is to report to the Parliamentary Secretary for Defence Support on its findings in regard to the above and any recommendations that arise from the inquiry.

In making its findings and formulating its recommendations the Tribunal is required to maintain the integrity of the Australian honours system and identify any consequential impact any finding or recommendation may have on that system.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference.

EXECUTIVE SUMMARY

1. The Defence Honours and Awards Tribunal was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of honours and awards to serving and former members of the Australian Defence Force.

2. The Tribunal may consider individual claims to medals that have been refused by the relevant awarding authority. It may also consider issues of principle relating to Defence service honours and awards.

3. The Parliamentary Secretary for Defence Support, the Hon Dr Mike Kelly, AM, MP, requested the Tribunal to inquire into unresolved issues for the Battle of Long Tan.

4. This inquiry was undertaken by the following members of the Tribunal:

Professor Dennis Pearce, AO (Chair)

Lieutenant Colonel John Jones, AM (Retd)

Warrant Officer Kevin Woods, CSC, OAM

5. The Tribunal received 46 submissions and took oral evidence from 14 persons.

6. When considering the eligibility of individuals for medallic recognition and the eligibility criteria for the relevant medals, the Tribunal carefully examined the basis on which the medals had been created and the circumstances in which they had been awarded. It paid heed to the integrity of the Australian (formerly Imperial) system of honours and awards and the consequential impact any finding or recommendation might have on that system.

7. The Battle of Long Tan is regarded as Australia's most significant engagement in the Vietnam War. It came soon after the establishment of the 1st Australian Task Force (1ATF) at Nui Dat, in Phuoc Tuy Province, South Vietnam. The Battle, on 18 August 1966, pitted Delta Company, Sixth Battalion, The Royal Australian Regiment (D Company, 6 RAR) against at least two battalions of Vietnamese regular and provincial soldiers. The determination and gallantry of those involved, decisive command, strong and accurate artillery support from the 1st Field Regiment and the United States (US) Army medium artillery, a well executed ammunition resupply performed by two helicopters of No 9 Squadron Royal Australian Air Force (RAAF), and the arrival of a relief force comprising 3 Troop, 1 Armoured Personnel Carrier (APC) Squadron with A Company, 6 RAR aboard resulted in the Battle being decided in the Australians' favour.

8. Many individuals displayed great gallantry in the course of the engagement. The actions of a number of these persons have been recognised by the grant of honours and awards. However, not all persons who took part in the Battle have received recognition and a campaign has been mounted over a number of years to secure greater recognition for those who took part in the Battle.

9. In 2008 the Review of Recognition for the Battle of Long Tan¹ reported recommending the upgrading of the level of awards to some participants in the Battle. However, when the Australian Government announced its response to the review, it announced that 'any other unresolved concerns regarding individual awards for Long Tan would be referred to the independent Defence Honours and Awards Tribunal.'²

10. The Tribunal received recommendations for awards for a number of the participants in the Battle, including for persons who were not members of D Company, 6 RAR.

11. The protocols relating to the grant of honours and awards in place at the time required consideration for an award to be initiated by an authorized officer. Only one of the persons whose position was brought to the Tribunal's attention had been recommended for recognition by the relevant authorized officer in the aftermath of the Battle. Some others had been considered for recognition but no nomination had been made by an authorized signatory.

12. The maintenance of the integrity of the system of honours and awards requires the relevant protocols to be maintained. The Tribunal endorses the statement of the 2008 Review that decisions to recommend new or higher awards should only be made where a clear anomaly or manifest injustice can be established.

13. The Tribunal is being invited by the claimants to reconstruct events that occurred more than 40 years ago where, in the majority of cases, the only evidence is the recollection of the participants. It does not doubt the sincerity of the assertions by persons as to their recollection of those events but it is at the very least questionable whether the integrity of the Australian Honours system can be maintained if it is based solely on such recollections.

14. Further, it is apparent that the protocols for the award of honours that were in force at the time were complied with. To make an award now, in the absence of a recommendation of the relevant officer, would be to act on the authority of a person who was not authorized to make a recommendation at the time.

15. Nor is the Tribunal persuaded that a clear anomaly or manifest injustice has been established in respect of the various persons whose actions were brought to its attention (with one exception). Accordingly, with that one exception, it does not recommend that any further individual awards be made to participants in the Battle of Long Tan.

16. That exception is the case of Flight Lieutenant Cliff Dohle who was recommended for the Distinguished Flying Cross (DFC) for his performance at the Battle of Long Tan. That recommendation was supported by all appropriate levels of RAAF command in Vietnam but not accepted in Australia. The Tribunal concludes that Flight Lieutenant Dohle's original recommendation should have been awarded in The End of War list –

¹ Department of Prime Minister and Cabinet, March 2008. This document will be referred to in this Tribunal report as the 2008 Review.

² Joint release Faulkner/Griffin/Kelly - Medals for Long Tan veterans - New Tribunal to examine other issues, 14 August 2008

Vietnam. The contemporary award of the Distinguished Service Medal should now be made posthumously to Flight Lieutenant Dohle.

17. However, the members of the Tribunal readily accept from the available evidence that many acts of gallantry were performed at and around Long Tan on 18 August 1966. Sadly, not all of the men who behaved gallantly on that day have been formally recognised with an award of an individual decoration for gallantry.

18. While the Tribunal is unable to recommend any new or upgraded award to any individual member of D Company, 6RAR, it none the less considers that it would be appropriate to recognise the extraordinary gallantry in action that was demonstrated by D Company, 6 RAR at the Battle of Long Tan by the award of the Unit Citation for Gallantry to the Company.

RECOMMENDATIONS

Recommendation 1: Flight Lieutenant Cliff Dohle be awarded the Distinguished Service Medal, the contemporary equivalent award to the Distinguished Flying Cross, the original award for which he was properly recommended in 1966 by all levels of Australian command in Vietnam.

Recommendation 2: No other individual awards be made to participants in the Battle of Long Tan.

Recommendation 3: Delta Company, 6th Battalion, Royal Australian Regiment, be awarded the Unit Citation for Gallantry for its performance at the Battle of Long Tan in August 1966.

REPORT

Establishment of Inquiry and Terms of Reference

1. The Defence Honours and Awards Tribunal was established administratively in July 2008. It inquires into, and in its present role makes recommendations to the Government on, matters referred to it by the Government relating to the granting of honours and awards to serving and former members of the Australian Defence Force.
2. The Tribunal may consider individual claims to medals that have been refused by the relevant awarding authority. It may also consider issues of principle relating to Defence service honours and awards.
3. The Parliamentary Secretary for Defence Support, The Hon Dr Mike Kelly, AM, MP, requested the Tribunal to inquire into unresolved issues for the Battle of Long Tan.
4. The Terms of Reference for the inquiry read:

The Defence Honours and Awards Tribunal shall inquire into and report on unresolved concerns regarding individual awards for the Battle of Long Tan. In particular, the Tribunal is to consider claims concerning Australian Defence Force personnel who were recommended for recognition following the Battle of Long Tan.

On 14 August 2008, the Australian Government announced its response to the independent review of the Battle of Long Tan recognition. As part of its response the Government announced that 'any other unresolved concerns regarding individual awards for Long Tan would be referred to the independent Defence Honours and Awards Tribunal.'

The Tribunal is to examine relevant documentary evidence, and consider the nature and context of the service, in relation to the criteria for Australian and Imperial awards that existed at that time, in order to arrive at a fair and sustainable response to claims for recognition.

The Tribunal may interview such persons as it considers appropriate and consider material provided to it that is relevant to these terms of reference.

The Tribunal is to report to the Parliamentary Secretary for Defence Support on its findings in regard to the above and any recommendations that arise from the inquiry.

In making its findings and formulating its recommendations the Tribunal is required to maintain the integrity of the Australian honours system and identify any consequential impact any finding or recommendation may have on that system.

The Tribunal is to determine its own procedures, in accordance with the general principles of procedural fairness, when conducting its inquiry as set out in these Terms of Reference.

Conduct of the Inquiry

5. The inquiry commenced on 18 February 2009 with advertisements being placed in the major newspapers nationally giving notice of the inquiry and calling for submissions.

6. At about the same time, the Tribunal wrote to key organisations advising of the inquiry and inviting them to make a submission.

7. This inquiry was undertaken by the following members of the Tribunal:

Professor Dennis Pearce, AO (Chair)

Lieutenant Colonel John Jones, AM (Retd)

Warrant Officer Kevin Woods, CSC, OAM.

8. The Tribunal received 46 submissions which are listed at Appendix 1.

9. The Tribunal conducted hearings in Canberra and via teleconference on 1, 21 and 22 April and 16 June 2009 to hear evidence from various witnesses. A total of 14 individuals and organisations made oral submissions to the Tribunal. Appendix 2 provides details of the Tribunal hearings and the persons who appeared at those hearings.

The Battle of Long Tan and the task of the Tribunal

10. There have been many accounts of the Battle of Long Tan. The most convenient reference point for present purposes is the description contained in the 2008 Review report. However, it, like all descriptions of the Battle, is an attempt to reconstruct events that occurred under difficult circumstances over 40 years ago. It is impossible for all accounts to be the same. Persons who took part may agree on the principal issues but have differing memories of the details. For many persons the emphasis on incidents will vary as will their assessment of the comparative importance of events on the day.

11. The Tribunal does not consider it necessary for its present inquiry to venture into the detail of the Battle. It is sufficient for it to extract from the description in the 2008 Review that the Battle is regarded as Australia's most significant engagement in the Vietnam War. It came soon after the establishment of the 1st Australian Task Force (1ATF) at Nui Dat, in Phuoc Tuy Province, South Vietnam.

12. The Battle, on 18 August 1966, pitted Delta Company, Sixth Battalion, the Royal Australian Regiment (D Company, 6 RAR) against at least two battalions of Vietnamese regular and provincial soldiers. The determination and gallantry of those involved, decisive command, strong and accurate artillery support from the 1st Field Regiment and the US Army medium artillery, a well executed ammunition resupply performed by two helicopters of No 9 Squadron RAAF, and the arrival of a relief force comprising 3 Troop, 1 APC Squadron with A Company, 6 RAR aboard resulted in the Battle being decided in the Australians' favour.

13. Many individuals displayed great gallantry in the course of the engagement. The Tribunal would find it invidious after the time that has elapsed since the Battle to determine who, among the many, were more worthy of recognition. We would not wish, in the words of [a witness before] the Tribunal, to cherry pick among those eligible. Fortunately, this is not the role that the Tribunal has to perform.

14. The task of the Tribunal is to determine whether concerns regarding claims for medallic recognition of those who took part in the Battle can be supported. As such, it is not necessary for the Tribunal to direct its attention to a comparative assessment of the actions of individuals who were involved in the Battle. Rather it is concerned with the processes that were followed in regard to the making of awards to those involved.

Recommendation of awards for participants in the Battle

(1) *Procedure for making awards*

15. The Imperial system of honours and awards was in force during the Vietnam War. The protocol for the making of such awards was determined by the *Pamphlet on Military Honours and Awards (WO 12922)* (the Pamphlet). The July 1960 version of the Pamphlet states, among other things, that:

Citations will be initiated by Commanding Officers and be countersigned by all superior commanders. The personal signature of the initiating and recommending officers is necessary only on the original copy of the A.F.W. 3121 (clause 4(f)).

16. The Form referred to is included as Appendix C to the Pamphlet. It is reproduced as Appendix 4 to this Report.

17. The Pamphlet also says:

Recommendations for Awards are STRICTLY CONFIDENTIAL. Every care will be taken to prevent individuals from knowing that their names have been put forward. Information will not be divulged to anyone other than those whose duty it is to deal with the matter. Leakage causes much disappointment if a recommendation fails or is downgraded (clause 2(b)).

18. The *Report of the Inter-Departmental Committee on Defence Honours and Awards on an End of War List for the Vietnam War, March 1995* (EOWL Report) describes the application of these procedures in respect of the Vietnam War as follows:

Nominations were initially considered at Commanding Officer level. If supported at this stage they were then forwarded to the Commander, Australian Forces Vietnam (COMAFV) who reviewed the nominations, who could reject, upgrade or downgrade nomination categories. Nominations other than those that were rejected were then submitted in order of priority to the respective service departments in Canberra. In the case of Army, the Adjutant-General was the officer who gave the necessary consideration and approval. The Adjutant-General could adjust COMAFV nominations up or down as he saw fit.

19. The Pamphlet (and this is recognised in the EOWL Report) indicates that a quota applied to the making of awards for service in Vietnam. This was referred to as the Operational Scale. The scale was authorised by the Sovereign and was usually in force for 6 months. The Pamphlet states that the normal scale is 1 in 250 for decorations and 1 in 150 for Mention in Despatches (MID). This scale was adopted by Australia for the Vietnam War for Naval and ground forces and RAAF non-aircrew. The number of awards for RAAF aircrew was based on operational flying hours. The scale applied for the whole of the Vietnam War. It was closed with effect from 30 June 1972 (EOWL Report).

(2) *The consideration of awards after the Battle*

20. The following outlines the steps that were taken in considering the appropriate awards to be made in respect of the Battle:

- Lieutenant Colonel Colin Townsend, the Commanding Officer of 6 RAR, and Brigadier David Jackson, Commander 1ATF, briefly discussed awards on the morning of 19 August 1966, on the battlefield.
- Upon return to base on 21 August 1966, Major Harry Smith, officer commanding D Company, 6RAR, was ordered to have citations for possible awards ready the following morning. He discussed possible nominees with his platoon commanders and company sergeant major.

- Major Smith moderated the names suggested for awards, declining to put some suggested names forward as there were too many.
- Major Smith submitted a list of possible nominees for awards to Lieutenant Colonel Townsend, which they discussed.
- Lieutenant Colonel Smith SG (Retd)³ says that included in the list were recommendations for awards to [an officer] and the seven D Company, 6RAR soldiers named in Lieutenant Colonel Smith's submission to the Tribunal.
- Lieutenant Colonel Townsend rejected a number of MID recommendations on the spot as being 'too many'.
- Major General Ken Mackay, COMAFV, and Brigadier Jackson had agreed on the general number and level of awards within two weeks after the Battle.
- There were subsequent changes in the awards as outlined in the 2008 Review. This was regarded in that Review as a legitimate part of the moderation process. The Tribunal concurs with that view.
- Comd 1ATF's final recommendations for awards for Long Tan were submitted to COMAFV on 26 September 1966.
- The awards were subsequently approved by military and government authorities in Australia.

21. The Tribunal considers that it is likely that Lieutenant Colonel Townsend's rejection of the MID recommendations was influenced by the existing quota on medallic recognition. Evidence given to the Tribunal confirmed that in late May 1967 (shortly before the return of the Battalion to Australia) Lieutenant Colonel Townsend and Major Ian Macfarlane, the second in command at the time, conducted a review of all proposed recommendations for Australian awards which had not previously been forwarded to HQ1ATF. Several recommendations were sent forward as a result of this review leading to further awards being made to members of the Battalion, however it can be assumed that the existence of the quota was still a factor.

22. Major Macfarlane does not recall specifically whether Major Smith's nominees were reconsidered. However, it seems likely that they would have been if the nominations were still considered to be extant.

23. Lieutenant Colonel Smith says that Lieutenant Colonel Townsend retained the list of nominations prepared by him following their discussion despite the indication that the number was too great. The list of recommendations prepared by Major Smith has not been able to be found in Army records. The likelihood is that it was destroyed after the formal nominations for awards were prepared by Lieutenant Colonel Townsend. This

³ Individuals who made submissions to or appeared before the Tribunal are referred to in this report by their current rank or title. References to actions in the Battle of Long Tan or its aftermath use the ranks and titles held at that time.

would be consistent with Defence practice of not retaining records of nominations not proceeded with.

24. [A witness before the Tribunal] says that he saw a file titled 6 RAR Honours and Awards in the Australian War Memorial Annex in Mitchell, ACT in 1982. [The witness] says that this file included recommendations for two members of A Company. However, he does not suggest that he saw any recommendations for D Company, 6RAR personnel. An exhaustive search for this file was undertaken by an officer of the Tribunal without success. The Tribunal concludes that either [the witness] was mistaken in his recollection of sighting the file or it has subsequently disappeared.

25. The existence or otherwise of Major Smith's list does not alter the Tribunal's conclusion in this matter. It accepts that such a list of names was provided to Lieutenant Colonel Townsend by Major Smith. Equally, it concludes that Lieutenant Colonel Townsend did not progress the names so provided to the point of their being nominated for an award.

26. The Tribunal notes that the procedures set out above that were followed in relation to the nomination of awards accorded with accepted practice. It is significant that this process of moderation was engaged in first by Major Smith and then subsequently by Lieutenant Colonel Townsend. It would be expected that a company commander and then the commanding officer would cull nominations for awards in this way. In the present context it is pertinent to note that Major Smith did not advance to Lieutenant Colonel Townsend all the nominations suggested to him by his platoon commanders and his company sergeant major.

Claims for recognition

27. A long campaign has been conducted by Lieutenant Colonel Smith and others on behalf of participants in the Battle of Long Tan and particularly members of D Company, 6RAR.

28. In 2004 the Governor General granted approval for the wearing of awards which the government of the Republic of Vietnam had intended to be presented to 22 individuals in September 1966.

29. In 2007 the Australian Government appointed an independent panel to review the recognition given to Australian participants in the Battle of Long Tan (the 2008 Review). That review, which reported in March 2008, resulted in the upgrading of individual awards to three officers of D Company 6 RAR. Despite the 2008 Review recommending to the contrary, the Government also granted approval on 18 August 2008 for members of D Company, 6RAR to wear the Gallantry Cross with Palm Unit Citation of the former Republic of Vietnam.

30. At that time the Government directed that 'any other unresolved concerns regarding individual awards for Long Tan would be referred to the independent Defence Honours and Awards Tribunal'.

Awards sought in submissions

31. The [Report summarises] the award recommendations included in submissions made to the Tribunal.

32. - 49....

50. [In addition to the persons who made oral submissions to the Tribunal the] following individuals appeared before the Tribunal in response to requests from the Tribunal:

- a. Major General Peter Abigail, AO (Retd) Chair, Review of Recognition for the Battle of Long Tan, 2008;
- b. Mr Pat Clarke, Acting Director, Honours and Awards, Department of Defence; and
- c. Major General Bill Crews, AO (Retd) National President RSL.

Consideration of Claims Raised with the Tribunal

Principles adopted by the Tribunal

51. The 2008 Review includes a number of Principles which were adopted by the Review Panel for the consideration of the claims for awards with which it was concerned. The Tribunal accepts those Principles and has applied them in its consideration of the claims that are before it.

52. The Principles are:

Principle 1

This Panel will seek, in recognising the service of some, not to overlook or degrade the comparable service of others.

Principle 2

Any decisions by the Panel to recommend further recognition must be based on official records or other compelling evidence.

Principle 3

To maintain the integrity of the system of honours and awards the Panel reaffirms its respect for the protocols of the operational awards system.

Decisions to recommend new or higher awards will only be made where a clear anomaly or manifest injustice can be established. In cases where the Imperial system did not provide recognition but where the Panel believes recognition is warranted, it should be made under the Australian system.

Principle 4

Recognising that access to Imperial awards is no longer possible, and that any new or higher awards recommended must be contemporary Australian awards, recommendations for them will need to satisfy the terms and conditions attached to those contemporary awards.

Principle 5

Normally only one medal within the Australian system of honours and awards should be given in recognition of a single period of service or action.

The Panel recognises that overseas service by Australian Defence personnel in certain military operations may attract foreign awards or recognition. This should not affect the decision to award a medal or other form of recognition under the Australian system of honours and awards.

Principle 6

While the Panel has regard to previous decisions and interpretations on awards made by the Australian Government, military authorities, and previous reviews, it will not consider itself constrained by these in meeting its terms of reference. The Panel will take into account any new or additional information made available to it and will operate according to the normal standards of fairness.

Principle 7

The Panel will consider matters relating to honours and awards on their merits in accordance with the principles outlined above, and these considerations should not be influenced by the possible impact, real or perceived, on other potential claims for recognition.

Application of Principles

53. In applying these Principles the Tribunal took into account, as stated in the Report of the Committee of Inquiry into Defence and Defence-Related Awards (CIDA Report), that the Australian system of honours and awards is underpinned by values which are held in high regard in our society and which characterise the way Australians view the world around them. These values include a sense of fairness, equity and compassion, and an egalitarian commitment to acknowledge the quality of service and substance of action without regard to status or class.

54. This tends to lead to an initial reaction that gallantry should be recognised regardless of the circumstances. Where it might be thought that some unfairness may

have resulted in this not occurring, the tendency is to immediately wish to remedy what might be perceived to be an injustice.

55. However, both the Principles set out above and the CIDA Report caution against such a knee jerk reaction. In the present context, Principles 2 and 3 above must be given weight.

56. The maintenance of the integrity of the system of honours and awards requires the relevant protocols to be maintained. The Tribunal endorses the statement of the 2008 Review that decisions to recommend new or higher awards should only be made where a clear anomaly or manifest injustice can be established.

57. The Tribunal is being invited by the claimants to reconstruct events that occurred more than 40 years ago where, in the majority of cases, the only evidence is the recollection of the participants. It does not doubt the sincerity of the assertions by persons as to their recollection of those events but it is at the very least questionable whether the integrity of the Australian Honours system can be maintained if it is based solely on such recollections.

58. Further, it is apparent that the protocols for the award of honours that were in force at the time were complied with. To make an award now, in the absence of a recommendation of the commanding officer, would be to act on the authority of a person who was not authorized to make a recommendation at the time.

59. The question therefore arises, has a clear anomaly or manifest injustice been established? The Tribunal is not persuaded that it has except in the case of Flight Lieutenant Dohle.

60. There is no doubt that the persons nominated for award at the time by Major Smith acted gallantly in the Battle and in his opinion were worthy of an award. However, that was not the opinion, for whatever reason, of the person charged with the responsibility for recommending awards, Lieutenant Colonel Townsend.

61. It is not anomalous for this to be the outcome of the awards process. On countless occasions a commanding officer would not have accepted the recommendation of a junior officer. The protocol for the making of recommendations for awards contemplates this. It is the same process as Major Smith himself engaged in by limiting the number of nominations from his subordinates that he made to Lieutenant Colonel Townsend.

62. The Tribunal considers that it requires much clearer evidence of an injustice than merely that an Officer Commanding's nomination was not accepted by the Commanding Officer. It is instructive to compare the evidence that was considered in the 2008 Review that did prompt a recommendation for change. Those recommendations were based on documented evidence of recommendations from the Commanding Officer.

63. The impact of the quota system on the award of medals for service in Vietnam was discussed in the 2008 Review⁴. The Tribunal does not consider it necessary to traverse the issue again as it is not directly relevant to the Tribunal's conclusions on the matters that it has to consider. The decisions taken as a result of the EOWL Report and the 2008 Review indicate that the quota no longer acts as a restraint on the recognition

⁴ At p 15.

of service in Vietnam. The existence of the quota assists in understanding why some recommendations relating to persons whose actions have been brought to the attention of the Tribunal were not proceeded with. However, in the Tribunal's view the quota cannot provide a basis for reopening eligibility for medals where no recommendation for the grant of an award was made.

64. The Tribunal agrees with the conclusion of the 2008 Review⁵ that:

The integrity of the Honours system would be threatened if the Panel accepted a claim for recognition without adequate proof that the award was formally recommended. Therefore only claims that had been initiated by a completed form of recommendation (AF_W3121 or otherwise) or compelling evidence that one had existed, would be considered.

65. It is against this background that the various claims for recognition that have been brought to the Tribunal have to be assessed.

Consideration of claims for recognition

66. Recommendations for new or increased recognition for individuals in the submissions received by the Tribunal and evidence given by persons appearing before the Tribunal are discussed below.

D Company 6th Battalion The Royal Australian Regiment

67. – 70.... [The recommendations relating to individual members are included in the Report together with the Tribunal's conclusions on those recommendations.]

A Company 6th Battalion The Royal Australian Regiment

71. – 73.... [The recommendations relating to individual members are included in the Report together with the Tribunal's conclusions on those recommendations.]

⁵ At p 17.

Review of 6 RAR Recommendations prior to leaving Vietnam

72. As noted previously, shortly before the return of the Battalion to Australia, Lieutenant Colonel Townsend and Major Macfarlane, the second in command at the time, conducted a review of all proposed recommendations for Imperial awards which had not previously been forwarded to HQ1ATF. Several recommendations were sent forward as a result of this review leading to further awards being made to members of the Battalion.

73. The Tribunal is satisfied that, through this review process, Lieutenant Colonel Townsend had adequate opportunity to make recommendations for any of the members of D Company, 6RAR on whose behalf Major Smith had provided draft recommendations in the days following the Battle of Long Tan. The Tribunal concludes that, after proper consideration, Lieutenant Colonel Townsend exercised his authority in deciding not to do so.

3 Troop, A Squadron, 3rd Cavalry Regiment

74. - 79.... [The recommendations relating to individual members are included in the Report together with the Tribunal's conclusions on those recommendations.]

Approval be given to 3 Troop (composite) to wear the Republic of Vietnam Gallantry Cross with Palm Unit Citation Emblem.

80. The approval given in 2008 for D Company, 6 RAR to wear the Republic of Vietnam Gallantry Cross with Palm Unit Citation Emblem relied on the evidence that the Government of the Republic of Vietnam had made an offer of this award to D Company, 6RAR for its performance at the Battle of Long Tan. There has been no evidence provided of any such intention in relation to any other unit involved. It is not possible for a foreign award to be made without the involvement of the relevant foreign government.

9 Squadron, RAAF

Upgrade of Mentioned in Despatches to the Distinguished Flying Cross (or contemporary equivalent) for Flight Lieutenant Dohle.

81. Flight Lieutenant Dohle was the captain of one of the two Iroquois helicopters which delivered the vital resupply of ammunition to D Company, 6RAR in the late afternoon of 18 August 1966. Flight Lieutenant Dohle and Flight Lieutenant Riley, who commanded the other aircraft and the overall resupply mission, were each recommended by their commanding officer for award of the DFC.

82. The recommendations were supported by the Officer Commanding RAAF Vung Tau and endorsed by Commander RAAF Vietnam and forwarded to RAAF Headquarters in Australia. This was the appropriate chain of recommendation for members of the RAAF. It was not usual for COMAFV to be involved in the processing of RAAF recommendations.

83. When these recommendations were considered at RAAF HQ in Australia, it was decided to return both of them to Vietnam to be reconsidered toward the end of the tours of duty of each of the recommended officers. New recommendations were submitted in

April 1967, this time a DFC for Flight Lieutenant Riley and a MID for Flight Lieutenant Dohle. Flight Lieutenant Riley's revised citation referred to his distinguished service throughout his tour as well as specific reference to his actions at Long Tan. Flight Lieutenant Dohle had been seriously injured and subsequently repatriated in October 1966 resulting in a shortened tour of duty in Vietnam for him and accordingly his new citation referred only to his performance at the Battle of Long Tan.

84. The Tribunal has sought information concerning the omission of Flight Lieutenant Dohle's original recommendation for the DFC from the End of War list – Vietnam (EOWL-V). The EOWL-V was supposed to restore every recommendation made at the highest level of Australian command in Vietnam but which was subsequently rejected or downgraded in Australia.

85. The 2008 review took the view that the return of the original DFC recommendations for Flight Lieutenants Riley and Dohle to Vietnam to be reconsidered and resubmitted later did not constitute rejection or downgrading in Australia. This Tribunal does not share that view.

86. It has been suggested that the actions of Flight Lieutenant Riley and Flight Lieutenant Dohle at Long Tan did not warrant the award of the DFC but that the later award of the DFC to Flight Lieutenant Riley was justified by his performance throughout his tour of Vietnam including the resupply mission at Long Tan. This logic was apparently applied also to Flight Lieutenant Dohle's case and resulted in the new recommendation being for award of a MID rather than the DFC.

87. This argument ignores the stated purpose of the EOWL-V which was to restore those awards recommended at the highest Australian command level in Vietnam but not agreed or accepted in Australia.

88. The 2008 Review also expressed the opinion that Flight Lieutenant Dohle's aircraft was at lesser risk than Flight Lieutenant Riley's because Flight Lieutenant Riley's aircraft took the lead and was therefore first to be exposed to enemy ground fire over the D Company, 6RAR resupply area. The information available to the Tribunal makes it clear that this opinion is not correct. [A witness] has explained the technique used for the ammunition resupply task. That technique was for the lead aircraft to fly at higher altitude and take up a position high above the target area and then direct the second aircraft at little more than treetop level to a position immediately over the drop zone to deliver its load. The lead aircraft delivered its cargo of ammunition after Flight Lieutenant Dohle's aircraft had completed its drop. Flight Lieutenant Dohle's aircraft also carried most of the ammunition and so it would have needed to stay longer over the drop zone to complete its task.

89. In the view of the Tribunal the recommendation for the DFC for Flight Lieutenant Dohle, which was submitted in September 1966, meets the criteria for the EOWL-V and should therefore have been included in the list. On this basis, it is not necessary to determine retrospectively the merits of Flight Lieutenant Dohle's performance relative to any other.

Consideration of an Australian Unit Award

90. In the course of its deliberations on this matter, as described above, the Tribunal has considered recommendations for new or upgraded gallantry awards on behalf of more than 20 individuals. Despite the obvious sincerity of the recommendations, the Tribunal has been able to recommend that only one (relating to the upgrade of the MID awarded to Flight Lieutenant Dohle) of these be adopted. As has been indicated, there is no documentary or other compelling evidence in any of the other cases that the relevant recommending authority ever initiated or concurred with a recommendation for the honours now being sought. The Tribunal has not been able to conclude that there was an anomaly or an obvious injustice in no award being made in respect of the conduct of the persons discussed.

91. Eleven of the unsuccessful recommendations relate to members of D Company, 6RAR. Nine members of D Company, 6RAR have already received individual recognition for their gallantry at the Battle of Long Tan.

92. During the Battle of Long Tan 17 members of D Company, 6RAR were killed. Another 21 were wounded. There can be no doubt that D Company, 6RAR as a whole performed with extraordinary gallantry against a determined and capable enemy, which enjoyed vast numerical superiority. It has been stated frequently to the Tribunal, by surviving members of D Company, 6RAR on that day, that the victory achieved - and indeed the very survival of D Company, 6RAR - was due in no small part to the contributions of the cavalry, the artillery, the RAAF and the other elements of 6 RAR. Nevertheless, the Tribunal is convinced that the splendid efforts of all these units would have been largely ineffective if D Company, 6RAR had not provided such resistance as to cause the enemy to remain concentrated in the Long Tan area for the several hours of the Battle.

93. The Tribunal has therefore chosen to consider whether a contemporary unit award for gallantry to D Company, 6RAR is appropriate. The Tribunal recognises that previous consideration of an Australian unit award for D Company, 6RAR has identified several difficulties in recommending such an award.

94. There was no Australian or Imperial unit award in existence at the time of the Battle of Long Tan. It was not until 1991 that the Unit Citation for Gallantry and the Meritorious Unit Citation were introduced into the Australian Honours and Awards system.

95. The 2008 Review cited two reasons for not recommending a contemporary Australian unit award to D Company, 6RAR⁶.

It would be inappropriate to consider awarding a contemporary Australian unit citation to D Company 6 RAR, in an effort to 'match' the US PUC. There should be no expectation that foreign awards will be 'matched' by Australian awards.

⁶ Report, p 33.

An Australian (Imperial) unit citation was not available before 1991, but is now. If it had existed, either D Company (for Long Tan) or 6 RAR (for the entire tour) may have received a unit citation. However, to recommend the award would be at odds with Principle 1, insofar as any combination of the units involved in the Battle would result in disproportionate recognition of some units, and restricting an award to D Company only would not appropriately recognise all those who contributed to the victory.

96. The Tribunal appreciates each of these reasons but is not persuaded by them to reach the same conclusions as the 2008 Review Panel.

97. A decision to award Australian recognition to D Company, 6RAR does not depend on a desire to 'match' any foreign award. Rather it seeks to provide Australian recognition to all those members of the unit whose gallant performance has not been able to be recognised with an individual award.

98. The Tribunal believes that the continuing lack of Australian recognition of D Company, 6RAR's achievements at Long Tan is a greater injustice than any which might ensue from the award of the appropriate unit citation to the Company.

99. Defence Instruction (General) Pers 31-3 *Australian Gallantry and Distinguished Service Decorations* states that *'The Unit Citation for Gallantry shall be awarded to a unit only for acts of extraordinary gallantry in action.'*

100. The Tribunal is convinced that D Company, 6RAR's performance at Long Tan fully satisfies the requirements and conditions for the award of the Unit Citation for Gallantry. Accordingly, it recommends that such an award should be made.

101. The Tribunal recognises that this recommendation, if accepted by the Australian Government, could encourage applications for similar recognition for other units in relation to gallant performance on other occasions. However the Tribunal notes Principle 7 adopted by the 2008 Review and accepted by this Tribunal. That Principle states, in part, that consideration of honours and awards should not be influenced by the possible impact, real or perceived, on other potential claims for recognition.

Conclusion and Recommendations

102. The members of the Tribunal readily accept from the available evidence that many acts of gallantry were performed at and around Long Tan on 18 August 1966. Sadly, not all of the men who behaved gallantly on that day have been formally recognised with an award of an individual decoration for gallantry.

103. The Tribunal is unable to recommend any new or upgraded award to any individual member of D Company, 6RAR unless there is documentary or other compelling evidence that a proper recommendation was initiated at the time. Its examination of the available evidence does not enable it to conclude that any such

recommendations were made in respect of the persons whose actions were brought to the Tribunal's attention, except for Flight Lieutenant Dohle.

104. The Tribunal none the less considers that it would be appropriate to recognise the extraordinary gallantry in action that was demonstrated by D Company, 6 RAR at the Battle of Long Tan by the award of the Unit Citation for Gallantry to the Company.

Recommendation 1: Flight Lieutenant Cliff Dohle be awarded the Distinguished Service Medal, the contemporary equivalent award to the Distinguished Flying Cross, the original award for which he was properly recommended in 1966 by all levels of Australian command in Vietnam.

Recommendation 2: No other individual awards be made to participants in the Battle of Long Tan.

Recommendation 3: Delta Company, 6th Battalion, The Royal Australian Regiment be awarded the Unit Citation for Gallantry for its performance at the Battle of Long Tan in August 1966.

APPENDICES

Appendix 1 – Submissions

The Tribunal received submissions from 32 people and organisations:

[Names have not been released as submissions were received in confidence.]

Multiple submissions were received from some people.

Appendix 2 – Tribunal Hearings

The Tribunal met and conducted hearings on 8 days.

Appendix 3 — Other material reviewed by the Tribunal during the course of the inquiry

Archival sources:

National Archives of Australia

Series A703

642/3/16 Part 1 and 2 Awards for Operational Service - Vietnam

642/3/22 Part 1 Honours and Awards - Vietnam – Policy

Series A1946

67/3764 Recommendations for Honours and Awards for RAAF Personnel Serving in Vietnam

Series A2880

5/5/34 Honours and Awards - Gallantry Awards (Operational) - Distinguished Service Order for Group Captain Peter Frank RAW (DFC), [Air Force Cross] - Distinguished Flying Cross for - Wing Commander Charles James MELCHERT, Flight Lieutenant Leigh Oxley HINDLEY and Flight Lieutenant Francis Patrick RILEY - Mentioned-In-Despatches for Squadron Leader Rex Steven RAMSEY and 11 others

Australian War Memorial

Series AWM95

7/6/5 Commanders Diary 6th Battalion, The Royal Australian Regiment, August 1966.

Series AWM98

R445/4/14 [Headquarters, Australian Force Vietnam (HQ AFV)]: Honours and Awards - General - Flying Crews

Series AWM103

R445/1/1/1 Part 2 [Headquarters, 1st Australian Task Force (HQ 1 ATF)]: Recommendations - General - Recommendations for Honours and Awards

- R445/1/71 [Headquarters, 1st Australian Task Force] Honours and Awards - General
- R445/2/4 [Headquarters, 1st Australian Task Force (HQ 1 ATF)]: Honours and Awards - General
- R445/3/1/1 [Headquarters, 1st Australian Task Force (HQ 1 ATF)]: Honours and Awards - Foreign - Svn [South Vietnam] Citation D Company, 6 RAR [6 Battalion, Royal Australian Regiment]

Series AWM276

- R445/4/19 [Headquarters, Australian Army Assistance Group, Vietnam (HQ AAAGV)]: Honours and Awards - General - Policy - Commonwealth Awards

Department of Defence Archive – Queanbeyan

Medical Record – Flight Lieutenant Cliff Dohle

Secondary Sources:

Official Publications

Department of Prime Minister and Cabinet, *Review of Recognition for the Battle of Long Tan*, Canberra, 31 March 2008

Report of the Independent Review Panel of the End of War List – Vietnam, Canberra, 25 August 1999

Books

Bob Grandin, *The Battle of Long Tan: the Commanders Story as told to Bob Grandin*, Crows Nest Allen and Unwin, 2004

Paul Ham, *Vietnam: the Australian War*, Sydney, HarperCollins, 2007

Lex Macauley, *The Battle of Long Tan: The Legend of Anzac Upheld*, Milsons Point, Arrow, 1993

Ian McNeill, *To Long Tan: The Australia Army and the Vietnam War 1950-1966*, St Leonards, Allen and Unwin in association with the Australian War Memorial, 1993

Charles Mollison, *To Long Tan and Beyond – Alpha Company, 6 RAR in Vietnam 1966-1967*, Woombye, Cobb's Crossing Publications, 2005

Appendix 4 – Pamphlet on Military Honours and Awards, Appendix C Specimen Form, Army Form W3121