



## Australian Government

### Defence Honours and Awards Appeals Tribunal

## **Corry and the Department of Defence [2022] DHAAT 3 (6 May 2022)**

File Number(s) 2021/010

Re **Ms Fiona Corry**  
Applicant

And **The Department of Defence**  
Respondent

**Tribunal** Mr Stephen Skehill (Presiding Member)  
Rear Admiral Allan du Toit AM, RAN (Retd)

**Hearing Date** 11 March 2022

**Attendances** Ms Fiona Corry, Applicant  
Ms Jo Callaghan and Mr Brett Mitchell  
Directorate of Honours and Awards, Department of Defence  
Mr Kevin Lawson, A/g Director, Nature of Service Directorate,  
Department of Defence

### **DECISION**

On 6 May 2022 the Tribunal decided:

1. pursuant to section 110VB(2)(a) of the *Defence Act 1903*, to affirm the decision that Ms Corry is not eligible to receive the Australian Service Medal with Clasp ‘SOLOMON IS’; and
2. pursuant to section 110VB(2)(a) of that Act, to affirm the decision that Ms Corry is not eligible to receive the Australian Active Service Medal with Clasp ‘EAST TIMOR’; but
3. pursuant to section 110VB(3) of the Act, to recommend to the Minister that, to protect the integrity of the defence honours and awards system, the Department of Defence be directed to review the eligibility of any member of the ship’s company of HMAS *Manoora* who had been awarded the Australian Active Service Medal with Clasp ‘EAST TIMOR’ for service between 17 and 18 April 2000 and, if any such person was found not to be eligible to have received that award, to take all reasonable steps to withdraw that award and require return of the relevant medal and/or clasp.

## **CATCHWORDS**

*DEFENCE AWARD – Australian Active Service Medal with Clasp ‘EAST TIMOR’ – prescribed operation – Operation TANAGER – whether allotted for service*

*DEFENCE AWARD – Australian Service Medal with Clasp ‘SOLOMON IS’ – prescribed operation – Operation PLUMBOB – Operation TREK – whether service was rendered for the required period*

## **LEGISLATION**

*Defence Act 1903 – Part VIIIIC – Sections 110T, 110V(1), 110VB(2), 110VB(6)  
Defence Regulation 2016 Section 36*

### **Australian Active Service Medal with Clasp ‘EAST TIMOR’**

*Commonwealth of Australia Gazette S335 Australian Active Service Medal Regulations, Letters Patent, dated 2 November 1988*

*Commonwealth of Australia Gazette S110, Australian Active Service Medal Regulations, Ministerial Declaration and Determination, Clasp ‘EAST TIMOR’ dated 29 February 2000*

*Australian Active Service Medal Regulations, Ministerial Declaration and Determination, Clasp ‘EAST TIMOR’ dated 29 September 2001 (not gazetted)*

*Commonwealth of Australia Gazette S515, Australian Active Service Medal Regulations, Declaration and Determination, Clasp ‘EAST TIMOR’ dated 16 December 2004*

*Australian Active Service Medal Regulations, Instrument of Delegation dated 23 September 2018*

### **Australian Service Medal with Clasp ‘SOLOMON IS’**

*Commonwealth of Australia Gazette S336, Australian Service Medal Regulations Letters Patent dated 2 November 1988*

*Commonwealth of Australia Gazette S230, Australian Service Medal Regulations Declaration and Determination, Clasp ‘SOLOMON IS’ dated 29 June 2001*

*Commonwealth of Australia Gazette S21, Australian Service Medal Regulations Declaration and Determination, Clasp ‘SOLOMON IS’ dated 29 January 2004*

*Australian Service Medal Regulations, Instrument of Delegation, dated 23 September 2018*

## **Introduction**

1. The Applicant, Ms Fiona Sandra Corry, seeks review of a decision dated 18 January 2018 of Ms Christine Norton, Assessor, Service Assessments and Awards in the Directorate of Honours and Awards of the Department of Defence (the Directorate), that Ms Corry “does not qualify for any additional awards.”<sup>1</sup>

## **Decision under review**

2. On 7 and 13 October 2017, Ms Corry submitted online applications to the Directorate for a ‘full medal assessment’. A ‘full medal assessment’ involves research of an individual’s length of service and recorded operational service history which is then assessed against criteria for medals aligned to that service.<sup>2</sup>

3. On 18 January 2018, in response to Ms Corry’s application, Ms Norton stated “an examination of your service records confirms that you qualified for the Australian Defence Medal. Records confirm that this award has been previously issued to you and that you do not qualify for any additional awards.”<sup>3</sup>

4. On 8 July 2021, Ms Corry made application to the Tribunal seeking a review of the above decision.<sup>4</sup> Her application for review stated that she sought award of the Australian Active Service Medal (AASM) for service in East Timor and the Solomon Islands. Ms Corry later clarified that she sought the Australian Service Medal (ASM) for service in the Solomon Islands, along with the AASM for service in East Timor.<sup>5</sup>

## **Tribunal jurisdiction**

5. Pursuant to s110VB(2) of the *Defence Act 1903* the Tribunal has jurisdiction to review a reviewable decision if an application is properly made to it. The term *reviewable decision* is defined in s110V(1) and includes a decision made by a person within the Department of Defence to refuse to recommend a person for a defence award in response to an application. Regulation 36 of the *Defence Regulation 2016* lists the defence awards that may be the subject of a reviewable decision. Included in the defence awards listed in Regulation 36 are the AASM and the ASM. Therefore, the Tribunal has jurisdiction to review decisions in relation to these awards.

## **Ms Corry’s service**

6. Ms Corry enlisted in the Permanent Naval Force on 15 February 1995, on an open ended enlistment. Ms Corry served as a Cook and was issued with her ‘Certificate of Completion of her Apprenticeship in the Trade of Cooking’ on 19 January 2000.<sup>6</sup>

---

<sup>1</sup> Letter to Ms Corry from Ms Christine Norton dated 18 January 2018.

<sup>2</sup> Defence letter to Tribunal signed by Ms Petrina Cole, Director Honours and Awards, dated 26 August 2021.

<sup>3</sup> Letter to Ms Corry from Ms Christine Norton.

<sup>4</sup> Application for review of decision, Ms Fiona Corry, dated 8 July 2021.

<sup>5</sup> Email from Ms Corry to the Tribunal, dated 15 September 2021 (Ms Corry’s comments on the Defence Report).

<sup>6</sup> Service Record Corry, Fiona Sandra W154295.

7. Relevant to this application, Ms Corry was posted to the *Kanimbla* class amphibious warfare ship HMAS *Manoora* from 13 April 1998 until 19 July 1998 when she was loaned to the shore establishment HMAS *Stirling* in Western Australia. On 27 July 1998 Ms Corry returned to *Manoora* and remained posted to the ship until 22 October 2000.

8. Defence records confirm that, on 17 April 2000, *Manoora* arrived in Dili, East Timor and departed the following day. *Manoora* is recorded as having ‘*offload(ed) civil aid material for East Timor and embark(ed) cargo for return to Australia*’.<sup>7</sup> During this time, Dili was within the prescribed area of operations for Operation TANAGER, in support of the United Nations Transitional Administration in East Timor (UNTAET).

9. Those same records confirm that, on 8 June 2000, *Manoora* deployed to the Solomon Islands for Operation PLUMBOB, entering the Solomon Islands Area of Operations on 11 June 2000, and that the ship was ‘*on standby in anticipation of the requirement to conduct evacuations by sea. Departed the Solomon Islands Area of Operations on 21 June 2000.*’<sup>8</sup>

10. On 22 October 1999 Ms Corry completed an ‘election to discharge’ effective on 22 October 2000.<sup>9</sup> She proceeded to take annual leave from 19 July 2000 until 21 October 2000.<sup>10</sup> On 22 October 2000 Ms Corry was posted to ‘shore’ for discharge, and she completed formalities for discharge, including a medical examination, at HMAS *Cerberus* in her home-state. On 31 October 2000 Ms Corry’s discharge was postponed because of a medical issue which required surgery.<sup>11</sup>

11. On 8 November 2000, while Ms Corry was ashore awaiting discharge under the administration of *Cerberus*, *Manoora* departed Townsville on deployment to the Solomon Islands for Operation TREK, in support of the International Peace Monitoring Team. Defence records confirm that the ship entered the Solomon Islands Area of Operations on 12 November 2000 and departed on 12 December 2000.<sup>12</sup>

12. On 6 December 2000, after undergoing surgery, the Medical Officer at *Cerberus* certified Ms Corry ‘fit for discharge’.<sup>13</sup> She was finally discharged on 3 January 2001 having served for five years and 10 months and has been awarded the Australian Defence Medal for her service.<sup>14</sup>

### **The Australian Active Service Medal with Clasp ‘EAST TIMOR’**

13. The AASM was created by Letters Patent, signed by The Queen on 13 September 1988. As set out in the *Australian Active Service Medal Regulations 1988*, ‘*the Governor-General, on the recommendation of the Minister, may declare a warlike operation in which*

---

<sup>7</sup> Ship’s Movements HMAS *Manoora* Feb 2000 to Jun 2002.

<sup>8</sup> Ibid.

<sup>9</sup> Corry, FS Service Record Eligibility for Discharge Form.

<sup>10</sup> ADO Report Corry, Fiona S.

<sup>11</sup> Service Record, Corry, FS.

<sup>12</sup> Ships Movements HMAS *Manoora* Feb 2000 to Jun 2002.

<sup>13</sup> Service Record, Corry, FS.

<sup>14</sup> Service Record Corry, Fiona Sandra W154295 Folio 52; Certificate of Service dated 15 January 2001.

*members of the Defence Force are, or have been on or after 14 February 1975, engaged, to be a prescribed operation for the purposes of these Regulations.*<sup>15</sup>

14. On 1 March 2000, the Governor-General approved certain conditions for the creation of the AASM with Clasp 'EAST TIMOR'.<sup>16</sup> The Governor-General relevantly declared:

(a) ... under regulation 3, the following warlike operations in which members of the Australian Defence Force are engaged in the area comprising East Timor and the sea adjacent to East Timor out to a distance of 12 nautical miles from the low water mark to be a 'prescribed operation' for the purposes of the regulations:

- (i) Operation 'Faber' that commenced 16 September 1999;
- (ii) Operation 'Warden' that commenced 16 September 1999;
- (iii) Operation 'Tanager' that commenced 20 February 2000.

15. On 16 December 2004, the above declaration and determination was revoked by *Commonwealth of Australia Gazette, S515, Australian Active Service Medal Regulations, Declaration and Determination*<sup>17</sup> which relevantly declared and determined:

[...]

(b) ... under regulation 3, the following warlike operations in which members of the Australian Defence Force are engaged in the area comprising East Timor and the sea adjacent to East Timor out to a distance of 12 nautical miles from the low water mark to be a 'prescribed operation' for the purposes of the regulations:

- (i) Operation 'Faber' that commenced 16 September 1999 and ended on 23 February 2000;
- (ii) Operation 'Warden' that commenced 16 September 1999 and ended on 10 April 2000;
- (iii) Operation 'Tanager' that commenced on 20 February 2000 and ended on 19 May 2002;
- (iv) Operation 'Citadel' that commenced on 20 May 2002 and ended on 17 August 2003.

(c) ... under subregulation 4(2) of the Regulations, that the conditions for the award of the AASM with Clasp 'EAST TIMOR' ("the Medal") for that prescribed operation are:

- (i) The Medal may be awarded to a member of the Australian Defence Force who rendered allotted service as such a member while posted as a member of the Australian element for duty to the prescribed operation for a prescribed period;

...

---

15 *Commonwealth of Australia Gazette, S335, Letters Patent, Australian Active Service Medal Regulations*, dated 2 November 1988.

16 *Commonwealth of Australia Gazette, S110, Australian Active Service Medal Regulations, Declaration and Determination*, dated 29 February 2000.

17 *Commonwealth of Australia Gazette, S515, Australian Active Service Medal Regulations, Declaration and Determination*, dated 16 December 2004.

- (iv) *For the period that commenced on 16 September 1999 and ended on 17 August 2003, the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member and who for a prescribed period, undertook official visits, inspections or other occurrences of a temporary nature in connection with the military contribution in the prescribed operation;*

...

- (vi) *In this paragraph "prescribed period" means:*
  - (A) *in relation to subparagraphs (c)(i), (c)(ii) and (c)(v), a period of not less than one day; and*
  - (B) *in relation to subparagraph (c)(iv), a period of not less than an aggregate of 30 days;*

*PROVIDED THAT the qualifying period of service as described in subparagraphs (c)(i), (c)(ii) or (c)(iii) may be deemed by the Chief of the Defence Force or delegate to have been established notwithstanding that the member has not met the qualifying periods described if service in relation to the prescribed operation was terminated owing to the death, evacuation due to illness or injury or other disability due to service; [...]*

### **The Australian Service Medal with Clasp ‘SOLOMON IS’**

16. The eligibility criteria for awarding the ASM with clasp ‘SOLOMON IS’ are set out in the *Commonwealth of Australia Gazette, S21, Australian Service Medal Regulations, Declaration and Determination* dated 29 January 2004<sup>18</sup> which relevantly states:

[...]

(b) *declare, under regulation 3 of the Regulations, the non-warlike activity, Operation TREK, in which members of the Australian Defence Force are engaged, in the area comprising the Solomon Islands and its territorial sea, that commenced on 4 November 2000 and ended 15 March 2002, to be a prescribed operation for the purposes of the Regulations; and*

(c) *determine, under subregulation 4(2) of the Regulations, that the conditions for award of the Australian Service Medal with Clasp 'SOLOMON IS' ("the Medal") for the prescribed operation are:*

- (i) *the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member while posted to or serving as a member of the Australian element of the prescribed operation for a period of 30 days, or for periods amounting in the aggregate to 30 days;*

...  
...

---

<sup>18</sup> *Commonwealth of Australia Gazette S21, Australian Service Medal Regulations, Declaration and Determination* dated 29 January 2004.

(iv) *the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member for a period of 30 days, or for periods amounting in the aggregate to 30 days, for official visits, inspections or other occurrences of a temporary nature with the military contribution in the prescribed operation;*

...  
...

(vi) *the qualifying period of service as described in subparagraphs (c)(i), (c)(ii) c(iii) or c(iv) of this Instrument may be deemed by the Chief of the Defence Force or delegate to have been established notwithstanding that the member has not met the qualifying periods described if service in relation to the prescribed operation was terminated due to the death, evacuation due to illness or injury or other disability due to service.*

### **Ms Corry’s application to the Tribunal**

17. In her application to the Tribunal, Ms Corry indicated that some members of *Manoora’s* ships’ company had been recognised for their service while others, such as herself, had not. She also asserted that conditions had been amended ‘several years later’ to allow recognition of her service in East Timor and the Solomon Islands.<sup>19</sup>

### **Defence Report**

18. The Defence Report states that, following Ms Corry’s application to the Tribunal, Defence reviewed the original 2018 decision and assessed Ms Corry’s eligibility for the AASM with Clasp ‘EAST TIMOR’ and ASM with Clasp ‘SOLOMON IS’ afresh.<sup>20</sup>

19. As detailed in *Manoora’s* Report of Proceedings for April 2000, dated 7 May 2000 (attached to the Defence Report), while in Dili the ship offloaded a large quantity of civil aid material, including two passenger vehicles and embarked a quantity of ammunition and general cargo for return to Australia.<sup>21</sup>

20. Defence stated that it does not dispute that Ms Corry was a member of the ship’s company when *Manoora* was within the area of operations for Operation TANAGER; however, it asserts that there is no evidence that either she, the ship’s company, or in fact the ship itself was “allotted for service” to the operation.<sup>22</sup>

21. Defence discusses the term “allotment” which it states is a technical term relating to a special administrative procedure designed to accurately identify persons or units whose duties are directly related to warlike activities within a defined operational area. Defence went on to state that Instruments of Allotment are required by legislation to determine

---

<sup>19</sup> Ms Corry’s application to the Tribunal dated 8 August 2021.

<sup>20</sup> Letter from Ms Petrina Cole to Tribunal dated 26 August 2021.

<sup>21</sup> HMAS *Manoora*, Report of Proceedings, dated 7 May 2000.

<sup>22</sup> Letter from Ms Petrina Cole to Tribunal dated 26 August 2021.

eligibility for entitlements under both the *Veterans' Entitlements Act 1986* (the VEA) and the *Income Tax Assessment Act 1936* (the ITAA).<sup>23</sup>

22. Defence stated that Instruments issued for the purpose of the VEA require signature by the Vice Chief of the Defence Force (VCDF) in accordance with subsection 5B (2) of that Act, and in the case of the ITAA, the Chief of the Defence Force (CDF) delegates his or her responsibility to VCDF.

23. Defence further stated that: *'in contemporary times, "Allotment" (although not specifically worded as such) is reflected in an individual's service record within the Operational Service Log, showing the operation name and duration of service rendered on the operation. Neither her Service Record, nor ADO Service Record from (PMKeyS) contain entries of Ms Corry rendering any operational service during her posting on the HMAS Manoora.'*<sup>24</sup>

24. Defence went on to state that: *'Further, lists grouped by ship or land force element, such as a Battalion Group, showing individuals from the respective Service, who rendered qualifying service for the AASM East Timor are held by Defence. The lists were used as the basis for awarding the AASM 'EAST TIMOR'. No such list exists for HMAS Manoora.'*<sup>25</sup>

25. In response to Ms Corry's assertion that some members of *Manoora's* ships' company had been recognised for the above service, Defence stated that any recognition provided solely for service between 17 and 18 April 2000 had been provided in error, and that no entitlement exists for such an award.<sup>26</sup>

#### *ASM with Clasp 'SOLOMON IS'*

26. Concerning Ms Corry's claim for the ASM with Clasp 'SOLOMON IS', the Defence Report confirms that *Manoora* was deployed to the vicinity of the Solomon Islands on Operation PLUMBOB; entering the Area of Operations on 11 June 2000, and that from that date the ship was on standby in anticipation of the need to conduct evacuations by sea following a coup in Honiara. The ship departed the area on 21 June 2000. Defence state that service rendered on Operation PLUMBOB did not attract medallic recognition as the duration of the operation from 8-24 June 2000 was less than the generally required 30 days qualifying service for the award of an ASM.<sup>27</sup>

27. The Defence Report confirms that on 8 November 2000, *Manoora* departed Townsville on deployment to the Solomon Islands for Operation TREK in support of the International Peace Monitoring Team. The ship entered the area of the prescribed operation on 12 November 2000, where it remained until 12 December 2000. Defence states that if the requisite qualifying conditions were met, service rendered on Operation TREK attracted the ASM with Clasp 'SOLOMON IS'.

28. Defence relies on evidence within Ms Corry's Service Record and ADO Service

---

<sup>23</sup> Ibid.

<sup>24</sup> Letter from Ms Petrina Cole to Tribunal dated 26 August 2021.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

<sup>27</sup> Ibid.

Record from PMKeyS which indicates that she was posted to ‘Shore’ for discharge on 22 October 2000, and therefore not serving in *Manoora* during Operation TREK. Defence further state that Ms Corry’s discharge was ‘held in abeyance’ due to a medical condition and she remained posted to ‘Shore’ until her eventual discharge on 3 January 2001.<sup>28</sup>

29. Defence relies on its conclusion that by virtue of being posted to ‘Shore’ at the time of the ship being deployed on Operation TREK, Ms Corry did not enter the area of operations or physically render any service on the HMAS *Manoora* while it was deployed on Operation TREK.<sup>29</sup>

*Ms Corry’s comments on the Defence report*

30. On 31 August 2021, Ms Corry was provided with a copy of the Defence Report and asked to provide her comments on that report. Ms Corry’s response, received on 15 September 2021, includes the following comments:

*Concerning her service in East Timor*

31. Ms Corry stated: “*In addressing the AASM for East Timor, in April 2000 we were deployed by MHQ*”<sup>30</sup> thus putting forward a view that the ship was in fact ‘allotted’. She went on to assert that ‘a decision was made for the ship to be deployed quickly, so as members of the ship’s company could earn a medal or qualifying service for the ship’s contribution.’<sup>31</sup>

32. Ms Corry also provided some images of charts of the ship’s passage from Sydney to Dili and thence to Darwin and emphasised the importance of the ship being present in Dili during Operation TANAGER, for over 24 hours, and its contribution to the mission.<sup>32</sup>

*Concerning her service in the Solomon Islands*

33. Ms Corry outlined a number of hardships experienced by members of *Manoora*’ ship’s company on Operation PLUMBOB, and questioned why their contribution had not been acknowledged.<sup>33</sup>

**Tribunal Analysis**

34. This review, and three other applications relating to *Manoora*’s service in 2000, was brought about following an unsuccessful application to the Department of Veterans’ Affairs for recognition of qualifying service by a former member of *Manoora*’s ships’ company who had been awarded the AASM with Clasp ‘EAST TIMOR’ for his service in April 2000. That former member then made enquiries of Defence and was given written advice by Defence that the issue of the above award was made in error. However, in so doing, Defence did not seek return of the award, or advise that it would be cancelled.

---

<sup>28</sup> Ibid.

<sup>29</sup> Letter from Ms Petrina Cole to Tribunal dated 26 August 2021.

<sup>30</sup> Maritime Headquarters Australia.

<sup>31</sup> Ms Corry’s comments on the Defence Report (undated).

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

35. The former member later contacted other former members of *Manoora*'s ship's company via Facebook and invited anyone who had made application for the award and been refused to submit an application for review in the Tribunal, with *'the main claim of having the whole crew sorted out'*.

36. It is clear that, to be awarded the ASM with Clasp "SOLOMON IS" arising from Operation TREK in 2000, a member of the crew of *Manoora* relevantly had to have "rendered service" for 30 days or more. Service rendered in *Manoora* during the preceding Operation PLUMBOB from 8-24 June 2000 was substantially less than 30 days, and did not attract medallic recognition. As Ms Corry's service records indicate that she was not on board *Manoora* at the relevant time during Operation TREK (which she did not dispute at hearing), she cannot satisfy that eligibility and thus the decision to not recommend her for award of the ASM with Clasp 'SOLOMON IS' was correct and must be affirmed by the Tribunal.

37. However, it is clear that Ms Corry did render service in *Manoora* when it visited Dili, East Timor on 17-18 April 2000 and was within the prescribed area of operations for Operation TANAGER. Because that visit was for 1-2 days but no longer, whether Ms Corry is eligible for award of the AASM with Clasp 'EAST TIMOR' turns on whether or not her service at that time was "allotted service".

38. While the Defence Report provided some explanation of the meaning of that term and contended that the eligibility criteria had not been met, the Tribunal sought a better understanding of related issues. As those representing Defence at the hearing were unable to respond fully to the questions asked by the Tribunal at that time, the Tribunal requested that Defence provide a supplementary submission to address the following questions:

- Is there a statutory definition of the term "allotted service" or "allotment"?
- If not, is there an authoritative administrative definition?
- In either case, what are the criteria by which decisions are made to allot or not allot?
- Was there an express decision not to allot *Manoora* to Operation TANAGER or was it simply not allotted?
- What are the criteria by which decisions are made to retrospectively allot?

39. Defence provided that supplementary submission on 4 April 2022 and it was then forwarded to Ms Corry for her consideration. Ms Corry responded on 16 April 2022. She did not directly address the substance of the answers that Defence had provided to the above questions. Rather, the essence of her response appeared to be a request that the CDF be asked to consider whether HMAS *Manoora* should have been allotted or force assigned. We deal with that issue further below.

40. The term "allotted service" is not defined in the AASM Regulations or in other Defence legislation. However, section 5B of the *Veterans' Entitlements Act 1988* provides as follows:

(1) *In this Act, unless the contrary intention appears:*

*allotted for duty in an operational area has the meaning given by subsection (2).*

...

*Allotted for duty*

- (2) *A reference in this Act to a person, or a unit of the Defence Force, that was **allotted for duty** in an operational area is a reference:*
- (a) *in the case of duty that was carried out in an operational area described in item 1, 2, 3, 4, 5, 6, 7 or 8 of Schedule 2 (in column 1)—to a person, or unit of the Defence Force, that is allotted for duty in the area (whether retrospectively or otherwise) by written instrument issued by the Defence Force for use by the Commission in determining a person’s eligibility for entitlements under this Act; or*
  - (b) *in the case of duty that was carried out in an operational area described in item 3A, 3B, 9, 10, 11, 12, 13, 14 or 15 of Schedule 2 (in column 1)—to a person, or unit of the Defence Force, that is allotted for duty in the area (whether retrospectively or otherwise) by written instrument signed by the Vice Chief of the Defence Force for use by the Commission in determining a person’s eligibility for entitlements under this Act; or*
  - (c) *to a person, or unit of the Defence Force, that is, by written instrument signed by the Defence Minister, taken to have been allotted for duty in an operational area described in item 4 or 8 in Schedule 2 (in column 1).*

41. East Timor during the relevant period in 2000 is not listed in any of the items in Schedule 2 referenced in this definition.

42. While Defence advised that it had found no express decision not to allot HMAS *Manoora* to Operation TANAGER, it drew the Tribunal’s attention to a Minute dated 30 March 2001 from the then Head Strategic Command, Air Vice Marshal Angus Houston, which evidences that the possibility of retrospective force assignment (or allotment) of units to Operation TANAGER had been considered but that the Chief of the Defence Force had decided that “*units based in Australia employed on national tasking in limited support of Australian, and on occasions, other force elements are not an integral part of the [Peace Keeping Force], and that there is no intention to force assign such units or their sub-elements to Operation TANAGER.*”

43. In support of her application for review, Ms Corry submitted a statement from *Manoora*’s former Engineering Officer, Commander Anthony John Vine RAN (Retd) in which he expressed the view that *Manoora* should have been force assigned or allotted and that the issue of why it was not force assigned should be investigated and resolved before any final determination is made of Ms Corry’s eligibility.

44. The Tribunal does not have jurisdiction to review decisions to issue allotment instruments under section 5B of the *Veterans’ Entitlements Act 1988*.

45. While it does have power under section 110VB(3) to make any recommendation to the Minister that it considers appropriate arising out of a review that is within its jurisdiction, the Tribunal is not satisfied that Commander Vine’s statement is sufficient to warrant it recommending the further investigation he urges. This is because Commander Vine’s statement focusses on what he regards as unsatisfactory conduct of the management and

command of *Manoora* rather than on the warlike or other nature of the service it performed while in East Timor.

46. The Tribunal is further not satisfied that it should recommend any further consideration of retrospective allotment of *Manoora* by the CDF as requested by Ms Corry, as the evidence shows that this has previously been considered at the most senior levels of the ADF and there is nothing in the record of that consideration that suggests its conclusion was unwarranted. As with Commander Vine's statement, Ms Corry's request in this regard does not focus on the warlike or other nature of the service which *Manoora* performed while in East Timor.

47. Therefore, because HMAS *Manoora* and its ship's company were not allotted for service on Operation TANAGER, Ms Corry is not eligible to receive the AASM with Clasp 'EAST TIMOR' and the decision under review must be affirmed by the Tribunal.

48. Nevertheless, the Tribunal should not let the issues raised by Ms Corry (and other applicants seeking the same award) rest there.

49. She and others have asserted that several members of the crew who rendered the same service have been awarded the AASM with Clasp 'EAST TIMOR'. Names of at least some persons said to be in this category have been mentioned orally or in writing in the course of the Tribunal's review process and, while it is inappropriate for them to be mentioned here, they are known to Defence.

50. While Ms Corry accepted at hearing that "two wrongs don't make a right" and that she should not be similarly awarded just for the sake of consistency if others have been wrongly awarded, she is justifiably aggrieved by the injustice and inequity she perceives. She is not alone in this, as is apparent from other applications for review currently before the Tribunal.

51. Defence has stated that any such awards to crew members with only the same service would have been made in error. At the same time Defence has not challenged the assertion that it advised one such recipient that he had been awarded in error but did not seek return of the award, or advise that it would be cancelled.

52. The Tribunal accepts that it is simply inevitable that, on occasions, an award may be made in error and, in the absence of evidence of wilful negligence or deliberate corruption or similar, it does not believe that those responsible for such errors should be castigated.

53. But it does consider that, to allow identified errors to stand without remediation or to fail to investigate reasonably alleged or suspected errors, calls into question the very integrity of the defence honours and awards system and of the Department's administration of it and that this would be a cause for criticism.

54. At the hearing of this matter, Ms Callaghan advised that the Directorate has the capacity to identify any crew members of *Manoora* on 17 and 18 April 2000 who have been awarded the AASM with Clasp 'EAST TIMOR'. She noted that it is possible that any such persons might properly have been awarded the AASM if they met an alternative eligibility criterion during another period in East Timor. And she noted that Defence may not have current contact details for any such person if they had no ongoing relationship with Defence.

55. In the Tribunal's view, there is sufficient doubt about past grants that Defence should investigate by identifying all members of the ship's company of *Manoora* who have been awarded the AASM with Clasp 'EAST TIMOR', by reviewing their eligibility for that award, and by deciding to cancel or withdraw any awards made in error and require their surrender unless the recipient can show cause why they were in fact entitled. While Defence may not have current contact details for such a person, that does not mean that those details cannot be obtained – for example, through electoral rolls. And, if other Government bodies cannot pass on to Defence contact details for individuals with whom they have a current relationship, they may be able to pass on to such individuals correspondence from Defence advising them of the proposed decision, the opportunity to show cause, and the request for surrender if eligibility is not confirmed.

### **Tribunal Decision**

56. In light of the above analysis, the Tribunal has decided:

1. pursuant to section 110VB(2)(a) of the *Defence Act 1903*, to affirm the decision that Ms Corry is not eligible to receive the Australian Service Medal with Clasp 'SOLOMON IS'; and
2. pursuant to section 110VB(2)(a) of that Act, to affirm the decision that Ms Corry is not eligible to receive the Australian Active Service Medal with Clasp 'EAST TIMOR'; but
3. pursuant to section 110VB(3) of the Act, to recommend to the Minister that, to protect the integrity of the defence honours and awards system, the Department of Defence be directed to review the eligibility of any member of the ship's company of HMAS *Manoora* who had been awarded the Australian Active Service Medal with Clasp 'EAST TIMOR' for service between 17 and 18 April 2000 and, if any such person was found not to be eligible to have received that award, to take all reasonable steps to withdraw that award and require return of the relevant medal and/or clasp.