

Response to Defence submission to DHAAT

This document is intended to highlight anomalies in the Defence bundle of documents submitted to the DHAAT on 15 December 2022. We believe the sentiment behind the submission of the bundle is disingenuous. The bundle contains no “in depth analysis” (as requested by the Chair of the Tribunal) and contains a myriad of misleading comments with an intention that can only be designed to confuse and confound the reader.

Some documents in the bundle are not signed and yet other comments are clearly incorrect. The reader should focus on the highlighted material, which has been excised owing to the large volume of the bundle (i.e. 107 pages). See Annex “A”.

Appendix 4 – Policy relating to the Australian Service Medal (page 3)

“Absolute exclusions are:

- a. Service involving warlike activities in a state of declared war or combat operations against an identified enemy or belligerents, ie. an area declared ‘warlike’ by the responsible Minister;”

The “responsible Minister” in the case of the Communist Insurgency in Malaysia was a Minister in the Malaysian government. This requirement was satisfied in the case of RCB.

Page 7 – SENSITIVITY

“... a special medal to recognise their service, or the RSL which has a ‘medal for all’ policy.” We assume the author was not referring to the National Service Medal (when referring to the National Servicemen’s Association), or the Australian Defence Medal when referring to the RSL.

Page 8 – INTRODUCTION

“However, the award of a medal, just for service in the Australian Defence Force has never been a tenet of the Australian Honours and Awards system.” We are reminded of the Long Service and Good Conduct Medal, the National Medal, the Defence Force Service Medal etc.

Page 10

“... it was considered that the ASM would only be awarded for operational service that had not been recognised by another internationally accepted medal, ...”

Section 7(1) of the Veterans Entitlement Act states:

7 Eligible war service

(1) Subject to subsection (2), for the purposes of this Act:

- (a) A person who has rendered operational service shall be taken to have been rendering eligible war service while the person was rendering operational service;”

Additionally, the Pingat Jasa Malaysia (PJM) medal is an internationally accepted medal and was awarded to domestic and foreign troops for service in the Malayan Emergency, the Indonesian Confrontation and the Communist Insurgency in Malaysia. See RCBRG database document 20051027 for the medal award statutes.

The 1993/94 Committee of Inquiry into Defence and Defence Related Awards (CIDA)

Para 10.

“... These do not detract from the conditions agreed by the three Services in 1992, but assist in assessing entitlements on the basis of equity.”

This interesting use of the word “equity” fails to acknowledge the maxims of equity, being:

- a. Equity will not suffer a wrong without a remedy and
- b. Equity looks at the intent not at the form and
- c. Equity looks on that as done which ought to be done.

Were these principles of equity applied to the RCB situation, the allotment that “ought to be done” would have been considered done, thereby satisfying principle a. and b. (above) as well. The outcome would be that those soldiers who were deployed to RCB would have been allotted for service under the *Repatriation (Special Overseas Service) Act 1962* (Cth) and awarded not only the AASM, but have been entitled to receive their repatriation benefits.

It should be noted that several of the CIDA principles have not been adhered to in recent years.

The Independent Review of Service Entitlements Anomalies in Respect of South-East Asia Service for the Period 1955-1975 (SEA Review)

Para 18. b.

“The further extension of the VM, for additional medical evacuation sorties into Vietnam from units outside the area, which are over and above the CIDA recommendation.”

Note: This would include RCB veterans from “A” Coy 2/4RAR, but for some reason, they have never been recognised.

Para 19.

“One very significant principle established by MAJGEN Mohr, during his deliberations on service in South East Asia, was that if ADF personnel are placed in circumstances where they may be used to react to an assessed threat made by Australian Government Intelligence agencies, it has to be considered operational service. This is regardless of whether that threat is realised or not. MAJGEN Mohr based this principle on opinion made in his capacity as a South Australian High Court Justice.”

Note: MAJGEN Mohr’s principle would apply to RCB service 1970 – 1989. Further, MAJGEN Mohr began service as an RAN stoker on destroyers, then changed service rising to the rank of MAJGEN in the Army. He was also a justice of the Supreme Court of South Australia. South Australia does not have a “High Court”.

Impact of changes and Perceptions since CIDA

Para 21. There is no reference for this information, so its veracity cannot be tested. Both statements are patronising and insulting to say the least.

Para 25.

“For example, most of the service in Singapore and Butterworth was rendered under normal peacetime garrison conditions with additional luxuries not experienced in Australia such as the availability of housemaids and servants.”

This utterly ignorant statement has been addressed in another submission. The Chair of the Tribunal has already stated that the RCB deployment was not a “normal peacetime garrison” deployment. RCB troops paid for their cleaners out of their own pockets voluntarily. It is no different than hiring a civilian to mow your lawn in Australia while you are away on deployment, leave or an extended exercise. A sense of envy is laced in the words of the author of that comment. Would they want the WW2 Kokoda Trail veterans stripped of their medals because they had “locally engaged” stretcher bearers (i.e. the so-called “Fuzzy wuzzy angels”)? There is no mention made of the negative aspects of the deployment e.g. the risk of being killed by terrorists.

Way Ahead

Para 28 a.

See comments at “**Appendix 4**” above.

CIDA Review – determined by the Tribunal as being largely irrelevant.

SEA Review (Mohr Report) – determined by the Tribunal as being largely irrelevant.

The SEA Review did not include RCB (see SEA Review Terms of Reference) despite it being for the period 1945 – 75.

Defence Assessment of ‘Warlike’ and ‘Non-Warlike’ service – Attachment “G”

As noted in other submissions, Defence has not conducted an assessment of any “expectation of casualties” for the recent past in a range of deployments where “warlike service” was found to have been served. Perhaps Defence can explain that to the Tribunal.

It may be prudent to highlight at this stage that Defence has historically leapt to the citation of:

The 1993 CIDA Review

The 2000 SEA Review (Mohr Report)

The 2003 Clarke Review

The 2011 NZ Medallion Recognition Joint Working Group on Service in South-East Asia 1950 – 2011

when confronted with a request by veterans about recognition of service at RCB. Various Ministers – and indeed the Prime Minister (see attached at Annex “B”) – have quoted these irrelevant reviews, no doubt after being advised by Defence to do so. The fact is that many of the reviews did not include any mention of RCB in their Terms of Reference, so they did **NOT** review RCB service.

At this point, the author draws the reader’s attention to the Whitton Report, commissioned by the RCB Review Group (RCBRG) and submitted to the Tribunal by the RCBRG in response to this Inquiry. That Report clearly identifies breaches of the APS Code of Conduct and Ministerial Code of Ethics by a series of bureaucrats and Ministers in an effort to deny RCB veterans of their just entitlements.

Page 74 - **RAAF CONTINGENT, UBON, THAILAND 31 MAY 1962 – 31 AUGUST 1968**

Para 46.

“Although the probability of enemy air attack is considered to be remote, ... the fact that RAAF aircraft are being employed in the defence of an air base from which offensive operations are being launched ... could be regarded ... as being similar to participation in the actual offensive operation.”

How is the above situation different to that of RCB where offensive operations were being launched from Air Base Butterworth. Could the RAAF and RCB not be regarded as “being similar to participation in the actual offensive operation.”? If not, why not?

Para 49.

“OC Butterworth stated that RAAF personnel at Ubon were living in an atmosphere of tension and in a continued state of semi-alert, with RAAF aircraft on continual dawn to dusk runway alert against air attack.”

How is the above different to RCB, who were not on “dawn to dusk semi-alert” but with a QRF on 24-hour full alert from 1970 – 1989 **without respite**?

Considerations

“50. It is clear that service at Ubon was not operational service. It was not a time of war, nor were the operations warlike in nature. In addition it was not qualifying service as members did not directly incur danger from the hostile forces of the enemy. The application of force was not authorised to pursue specific military objectives and there was no expectation that casualties would occur.”

Yet, those who served at Ubon 1962 – 1968 were awarded the Australian Active Service Medal. Why?

Undated and unsigned Headquarters Australian Defence Force MINUTE – page 82 of bundle

This document is unreliable and should not be considered.

The remainder of the bundle is totally irrelevant to the Terms of Reference of the Tribunal’s inquiry into RCB and should be disregarded.

Summary

It is puzzling why this bundle was supplied without any accompanying analysis or explanation apart from something akin to “you might like to see this”. Only 11 pages of a total 107 contained anything remotely relevant to RCB.

Conclusion

The bundle of documents sent to the Tribunal by Defence will serve no purpose except to reinforce the Rifle Group Butterworth Veterans’ Group’s assertions that service with RCB 1970 – 1989 was warlike.

From: [Heldon, Ian MR](#)
To: [Kopplemann, Jay MR](#)
Cc: [DHA Tribunal](#)
Subject: 2001 Ministerial briefing and approval - "ADF Medals Policy - Where we have been and where we are going" and approved conditions for the award of the ASM [SEC= OFFICIAL]
Date: Wednesday, 7 December 2022 9:21:26 AM
Attachments: [ADF Medals Policy - Where we have been and where are we going - June 2001 \(HDPE minute removed\).pdf](#)
[2001 Minister agreed specific conditions for the award of the ASM.pdf](#)
[image001.png](#)

OFFICIAL

Good morning Jay,

Noting the Tribunal Chair's views expressed at the recent hearing about the Defence position on the separation of definitions which apply to nature of service and honours and awards, I provide the attached documents which detail the 28 June 2001 approval by the then Minister Assisting the Minister for Defence, Bruce Scott MP, of the policy for the future award of the ASM and ASM 1945-1975 including specific conditions for which the ASM may be awarded (paras 27-28). The Minister agreed 'that the ASM should still be awarded for service which, although it may not be subject of a formal declaration of 'non-warlike' operation by the responsible Minister, can still be regarded as non-warlike service and declared accordingly under the ASM 1945-75/ASM regulations'.

Butterworth is briefly mentioned in Paras 18c and 25. The documents are matter of public record and may be shared with all parties.

The 'Agreed policy for the Australian Service Medal' was referenced and an appendix to the report of the Tribunal Inquiry into recognition for members of the Australian Defence Force for service in Papua New Guinea after 1975.

Regards,

Ian

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Appendix 4 – Policy relating to the Australian Service Medal

AGREED POLICY FOR THE AUSTRALIAN SERVICE MEDAL

In 2001, the then Minister Assisting the Minister for Defence agreed to the specific conditions for which the Australian Service Medal (ASM) may be awarded, together with absolute exclusions. These are as follows:

- a. activities or operations where an overarching non-warlike declaration by the Minister for Defence exists;
- b. service rendered in situations that include international security treaties or agreements and there are required operational or security outcomes, eg. Multinational Force and Observer (MFO) group in Sinai;
- c. service involving that with an international coalition force and where other countries involved have recognised their defence personnel with a medal, eg. United Nations deployments, MFO and situations such as the Gulf crisis 1990/91;
- d. activities conducted in Australia or overseas at the direction of Government, rather than an ADF decision alone, which require the use of military skills unavailable to civilian organisations at the time and hazardous conditions exist as a result of civil unrest or threat which are beyond the normal requirements of peacetime service, which also result in control being given to the ADF to conduct activities in part or in full;
- e. humanitarian service as a result of human disaster involving civil unrest, rather than natural disaster, where that service involves a military presence for self protection and protection of the community involved, eg. Kurdish relief after the Gulf War in Iraq in 1991 and Rwanda in 1994; and
- f. qualification be set at 30 days except where activities involve an imminent threat of war, activities are so short of warlike that they carry similar hazards, special operations outside of normal operations involving associated increased risks, or particularly dangerous or hazardous situations, eg. forward intelligence operations, hot extractions, etc.

Absolute exclusions are:

- a. service involving warlike activities in a state of declared war or combat operations against an identified enemy or belligerents, ie. an area declared 'warlike' by the responsible Minister;
- b. normal overseas service in diplomatic, representational, exchange, training or Defence cooperation activities (this exclusion does not

SENSITIVITY

The recommended policy will not meet with the interests of some ex-Service groups such as National Servicemen's Associations who have been lobbying for the ASM 1945-75 or a special medal to recognise their service, or the RSL which has a 'medal for all' policy.

BACKGROUND

The enclosed paper has been developed under direction that it was to be honest and forthright in its approach. This requirement follows the increased political, media and public interest in medals over the last few years since the 1993/94 'Committee of Inquiry into Defence and Defence Related Awards', the Coalition's service medals policy leading into the 1996 election and the more recent 'Independent Review of Service Entitlements Anomalies in Respect of South-East Asia Service for the Period 1955-1975'.

It was requested that the paper:

- a. demonstrate the way in which the Australian honours and awards system is managed now, and has been in the past, in relation to Defence service medals;
- b. indicate what has changed in the past few years and why; and
- c. provide recommendations as to how medals should be used in the future.

As a result of consultation with your staff, the paper has been written mainly around recognition of 'non-warlike' service, as opposed to service in 'non-warlike operations' per se. Accordingly, it provides a background on the intent of the ASM describing the changes in its award brought about by political intervention and resultant changes in its award for non-warlike service, and makes recommendations as to a way ahead.

As it was specified that the paper be honest and forthright, it is somewhat critical of past reviews and political intervention into what is highlighted as essentially an ADF matter on how the service by its members should be recognised. Under the circumstances, any criticism or observations made are constructive and demonstrate the facts as they exist. Bringing these to your attention should assist you in considerations of current and future Government policy.

CONSULTATION

The Three Service Chiefs of Staff have been consulted in the preparation of the paper.

COMMUNICATION ASPECTS

Once a decision is made on the recommendations of the paper, an appropriate Defence Instruction will be drafted with advice being communicated, through PACC, to ex-Service organisations.

ATTACHMENT

Paper entitled "ADF Medals Policy - Where We Have Been and Where We Are Going"

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ADF MEDALS POLICY WHERE WE HAVE BEEN AND WHERE WE ARE GOING

INTRODUCTION

1. The earning, receiving and wearing of medals is an integral part of Service culture. Service medals are awarded in recognition of operational service, in activities which are clearly and markedly more demanding than normal peacetime duties. In addition, other medals are also awarded for gallantry, distinguished service or considerable, long and efficient service. However, the award of a medal, just for service in the Australian Defence Force has never been a tenet of the Australian Honours and Awards system.

2. Unfortunately, the issue of medals in the Service and ex Service community creates a passion and interest like no other. Those that crave recognition through the award of a medal continually press to have the guidelines amended to make them eligible for a medal. Others agitate against the changing of guidelines as they believe the process diminishes their own achievements and medals. In short, no one group will ever be satisfied.

3. In the past eight years the guidelines for the awarding of medals has been the subject of particularly rigorous lobbying and change. In recognition of this it has become necessary to clearly redefine the criteria for medal eligibility criteria. The Minister Assisting the Minister of Defence directed the Defence Personnel Directive (DPE) to:

- a. demonstrate the way in which the Australian honours and awards system is managed now, and has been in the past, managed in relation to Defence service medals;
- b. indicate what has changed in the past few years and why; and
- c. provide recommendations as to how medals should be used in the future.

4. The aim of this paper is to meet the requirements of the Minister.

5. In achieving the aim the focus of this paper will be on the Australian Service Medal (ASM) 1945-75 and the current ASM for recognition of non-warlike service. Non-warlike service is one of the two tests for recognition of operational service. The other test is warlike service. These are defined in annex A.

WHERE WE HAVE BEEN

The Vietnam Logistic and Support Medal (VLSM)

6. The VLSM was established in 1993 in a response to strong lobbying by former Royal Australian Navy (RAN) members who were not posted to the Vietnam area of operations, ie. did not meet the basic qualifying conditions for warlike service as shown in annex A, but carried out support functions, mainly on HMAS SYDNEY. As most did not serve the 28 days, required at the time under the 'visitor' rule for the Vietnam Medal (VM), the then Labor Government established the VLSM as a 'default' medal for not receiving the VM. This was the first time a medal had been established to be used in this way and it drew criticism from

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9. Activities could extend to service in Australia which involved the use of military skills where civil powers did not have the capacity to deal with the situation at hand, eg. low level insurgency by foreign forces into Australia. This is why the ASM was not called the Australian *Overseas* Service Medal and has since been considered, for example, in the award of the Clasp 'Special Ops' in cases where the ADF may be involved in the resolution of a terrorist act in Australia or other hazardous occurrences that may be considered as 'special' by the particular Service Chief. In addition, it was considered that the ASM would only be awarded for operational service that had not been recognised by another internationally accepted medal, eg. the United Nations (UN) Service Medal. However, this did not occur and as a result, the ASM is now awarded for UN and other service where another foreign medal may be awarded, thus perpetuating a 'double medalling' system.

The 1993/94 Committee of Inquiry into Defence and Defence Related Awards (CIDA)

10. In 1993, the CIDA was established as the first part of a two stage review of the Australian honours and awards system. The first stage was a comprehensive review of Defence and Defence related areas of interest, including the application of existing Australian awards in recognition of service. The second stage was to review the honours and awards system and its application to the Australian community generally (this is not covered in this paper). During its deliberations, CIDA established 10 guiding principles which have been accepted as a basis for the awarding of medals for service, particularly when assessing past activities. These do not detract from the conditions agreed by the three Services in 1992, but assist in assessing entitlements on the basis of equity. The Principles are attached at annex B.

11. CIDA handed down its report in 1993 and amongst its recommendations was the establishment of a retrospective ASM 1945-75 to recognise service that had otherwise gone unrecognised by an 'Australian' award during the period 1945 to 1975. It was considered that it would not be appropriate to use the existing ASM for service prior to 14 February 1975, the date of the introduction of the Australian honours and awards system. The ASM 1945-75 was established under the same conditions as the existing ASM.

12. Under the ASM and ASM 1945-75 regulations, an operation has to be declared non-warlike by the Governor-General. This declaration does not need to be linked to one by the Minister. It therefore allows flexibility for the medal to be granted outside such a declaration, eg. service with the RAN with the Far East Strategic Reserve, service in Japan post WWII with the British Commonwealth Occupation Forces (BCOF) and service with the UN Command Korea by ADF Defence Attachés in relation to maintaining the Demilitarised Zone. However, CIDA took a very benevolent approach with its recommendation for the award of the ASM 1945-75 for service in Papua New Guinea from the establishment of the Pacific Island Regiment in 1951 to independence in 1975. This benevolent approach contradicted its own principles, particularly Principle No 1 at annex B and has generated consistent criticism since. The criticism is well founded considering the current situation in PNG.

13. Other significant recommendations made by CIDA were:

- a. ASM 1945-75 for 30 days service in Korea after the armistice 1953-57;
- b. ASM 1945-75 for 30 days service on the Thai-Malay Border 1961-64;

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Except for subparagraph 16.e. above, for each of the positives gained from the Coalition's policy initiatives, there were equal negatives. These were:

- a. the award of the ASM 1945-75 for RAN with the FESR met with a great deal of criticism from those who served with land based forces in the Far East at the time;
- b. the ASM 1945-75 not being awarded to Vietnam veterans met with much criticism from this group;
- c. Vietnam veterans were critical that a full End of War List review was not conducted and that the Coalition's policy was an easy way out;
- d. Service in PNG post 1975 not being recognised;
- e. the award of the 1939-45 Star for any period of service in the last six months of World War II being too restrictive by not including all World War II veterans, thus devaluing the service of those who may have missed out on the award prior to that last six months, particularly by a day or two; and
- f. the reduction of the criteria for the Australia Service Medal 1939-45 seen by many World War II veterans as devaluing the award from its original intention of recognising 18 months or more 'long service' to the war effort, particularly when the British War Medal already existed to recognise 28 days or more 'short service'.

The Independent Review of Service Entitlements Anomalies in Respect of South-East Asia Service for the Period 1955-1975 (SEA Review)

18. As a result of ongoing representations from the ex-Service community, the SEA Review was established in an attempt to resolve many of the outstanding issues and concerns. As it is still in its implementation stage, it is too early to predict what the full impact of the SEA Review recommendations will have in respect of new or further anomalies. Some which have been identified are:

- a. Claims that service in other parts of the world under similar conditions to FESR should be recognised. For example RAN deployments to the North West Indian Ocean with naval elements from the United Kingdom and United States of America.
- b. The further extension of the VM, for additional medical evacuation sorties into Vietnam from units outside the area, which are over and above the CIDA recommendation, has strengthened arguments from other groups for access to the medal rather than the VLISM, particularly former RAN members.
- c. Criticism from ex-Service organisations that the recommendations of the Review did not go far enough for recognition of service in Butterworth after cessation of the FESR in 1971, or for service in PNG post 1975.

19. One very significant principle established by MAJGEN Mohr, during his deliberations on service in South East Asia, was that if ADF personnel are placed in circumstances where they may be used to react to an assessed threat made by Australian Government Intelligence agencies, it has to be considered operational service. This is regardless of whether that threat is realised or not. MAJGEN Mohr based this principle on opinion made in his capacity as a South Australian State High Court Justice.

Impact of Changes and Perceptions since CIDA

20. The recommendations of CIDA, the Coalitions Government's service medals policy and the SEA Review have changed Australia's approach to the awarding of Defence service medals. Despite the 1992 agreement by the three Services to a set of criteria for the award of the ASM and the principles established by CIDA, there have been awards of the ASM outside of these. Consequently, the independence of the Chief of the Defence Force to make decisions relating to how members of the Defence Force should be best recognised for their service has also been reduced.

21. Since these reviews and policies, two significant themes behind most complaints concerning medals have become apparent. These are:

- a. many individuals feel that they cannot belong to an ex-Service association (particularly the Returned and Services League of Australia (RSL)) or march on ANZAC Day without a medal; and
- b. members of unit associations with less medals as a result of different, or less service in certain activities than their associates, consider they should have the same array of medals as their 'mates'.

22. These themes have resulted in unreasonable and unjustifiable claims for medals; or lobbying for the qualifying conditions for some medals to be changed. Such examples have been:

- a. a call for the VLSM to be awarded to all ADF personnel who served during the period of the Vietnam War whether service was rendered in Vietnam or Australia;
- b. the award of the ASM 1945-75 for National Service due to their obligation to serve Australia against their will as opposed to regular servicemen who volunteered for duty;
- c. the award of the 1939-45 Star and Defence Medal to all WWII veterans as they perceive their duty to have been operational because they served during wartime and in the defence of Australia; and
- d. an award of a medal for service by virtue of being in the Defence Force (under the 15 years period required for a long service medal) as they perceive that such service is inherently more demanding and hazardous than any other occupation.

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23. The RSL supports such claims on the basis that they have a responsibility for their constituency. It also realises that to maintain current membership levels, or in fact increase the membership, the award of medals would assist this by seizing on the sentiments of those who fall into the category that believe they cannot belong to the RSL without a medal. This was highlighted at the QLD State Congress in 1999 (and other RSL meetings since) where a motion was overwhelmingly supported that a medal should be awarded for all ADF service since 1945 with a minimum qualification period of two years. The basis for the motion was that there are potentially 900 000 ex-Service personnel who, if they had a medal, would possibly join the RSL.

24. Despite arguments to the contrary, there is no precedence to recognise normal peacetime service rendered by regular, reserve or national service personnel either in Australia or overseas with the award of a medal. The award of the Australia Service Medal 1939-45 is cited as a precedent by the National Servicemen's Association and other ex-Service organisations in that it was awarded for service in Australia to those who never saw operational service overseas. However, the intent of the award was to recognise 'long service' during a time of war when Australia was on a war footing. This was changed in the Coalition's service medals policy, following representations by certain World War II service personnel. However, despite the change, it does not detract from the original intent of the medal.

No Aust. Honours & Awards matter.

25. Significantly, CIDA and the more recent SEA Review have turned what is essentially an ADF matter into a highly political one. This is demonstrated by the Coalition's service medals policy in response to CIDA and current correspondence from Members of Parliament concerning the SEA Review. The decisions to award the VLSM for short service in Vietnam; the ASM 1945-75 for service in PNG during 1951-75 and RAN service with the FESR between 1955-71; and now service in South East Asia generally for the period 1955-71 have considerably changed the benchmark for awarding service medals. These decisions go against ADF policy and the CIDA Principles and have placed a new set of expectations into the current and ex-Service communities regarding the types of service which may now be recognised by a medal. These decisions have reduced the ASM (in its generic sense) to recognising service that has been carried out as part of normal Defence Force duties, albeit overseas and in some cases under uncomfortable (but not hazardous) circumstances. **For example, most of the service in Singapore and Butterworth was rendered under normal peacetime garrison conditions with additional luxuries not experienced in Australia such as the availability of housemaids and servants.**

WHERE WE ARE GOING

26. The unfortunate result of the more liberalised approach is that it has become increasingly difficult to maintain the ASM for the purpose for which it was originally intended. Although it may be considered that such liberalisation is a small cost in an effort to solve strong lobbying by ex-Service groups and individuals, and possibly to bolster morale in the ADF, some benchmark needs to be identified beyond which awards will not be made. This needs to be enshrined in ADF and bipartisan policy.

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- g. service on exchange duties with a foreign defence force in a hazardous area, not declared by the responsible Minister as a non-warlike area of operations for ADF deployment, be generally excluded (although in some cases it may be appropriate to assess such service on its merits against a particular reason behind a formal third country deployment approval).

28. Absolute exclusions recommended are:

- a. service involving warlike service activities in a state of declared war or combat operations against an identified enemy or belligerents (an area declared 'warlike' by the responsible Minister);
- b. normal overseas service in diplomatic, representational, exchange, training or Defence cooperation activities (this exclusion does not apply to members conducting these activities in an area subject to a formal declaration of non-warlike);
- c. assistance in ADF Aid to the Civil Community, either in Australia or overseas, where that service is integrated with other Commonwealth, State or civilian agencies such as the State Emergency Service Organisations or National Parks and Wildlife, and that service or threat does not require the use of uniquely military skills, eg. relief or assistance as a result of natural disasters such as drought or bushfires, and assistance to Australian National Antarctic Research Expeditions; and
- d. normal duties carried out either in Australia or overseas involving no military risk or threat, whether in a capacity of regular, reserve or conscripted service in order to meet Government/ADF ceilings.

The consistent application of these criteria would be enhanced if a bipartisan approach to their use could be agreed to.

CONCLUSION

29. The award of a medal, just for service in the ADF, has never been a tenet in the Australian Honours and Awards System. However, the System has been under considerable pressure in recent years from various Service related lobby groups because the issue of medals in the Service and ex Service community creates a passion and interest like no other. This pressure has resulted in a number of modifications to the criteria applied for the awarding of the ASM and ASM 1945-1975 over the past eight years. These modifications, and the precedence they have established, has resulted in new anomalies developing which have led to further interest group pressure.

30. The use of medals to serve the perceptions and requirements certain groups needs to be resisted and consequently the time has now arrived where a new set of criteria, for the awarding of the ASM and ASM 1945-1975, need to be agreed to and strenuously applied. In developing a new set of criteria to the Government should be mindful of the types of activities in which the ADF has recently been, and will continue to be, engaged. The new criteria also

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Terms of Reference

REVIEW OF SERVICE ENTITLEMENT ANOMALIES IN RESPECT OF SOUTH EAST ASIAN SERVICE 1955-75

1. The Australian Government wishes to review possible anomalies in service entitlements affecting those members of the Australian Defence Force who served in South-East Asia during the period 1955-1975.
2. This review will provide advice about the principles and other relevant matters that should be taken into account for subsequent assessment of entitlements flowing from service during this period by the Department of Veterans' Affairs (for repatriation benefits) and the Department of Defence (for service medals).
3. The review will produce a written report which will have regard to:
 - RAAF in Ubon
 - Service with the naval component of the Far East Strategic Reserve (comparing the conditions prescribed for the naval contingent with those from the other two services)
 - RAAF Butterworth in Malaysia
 - Service in Malaysia during the period of Confrontation with Indonesia
4. The review may also comment on whether or not further research and/or analysis needs to be conducted regarding any other service deployment anomalies during the period 1955-1975.
5. The review will report to the Government by 29 October 1999.

however, extend Income Tax Zone Allowance to them. It was also noted that postal concessions were already operating in respect to service in this area.

45. On 5 July 1963, OC RAAF Butterworth expressed, inter alia, concern that the new legislation did not cover all members at Ubon. It was his feeling that Ubon should be declared a 'special area' under Section 4 of the new Act because of the state of disturbance in Laos. In replying to the OC RAAF Butterworth on 6 August 1963, The Department of Air advised that the principle underlying the provisions of the new Act was to provide a realistic approach to repatriation and associated benefits to members who served on duty similar to war conditions in an area where a state of disturbance existed. Following Government approval that an area was a 'special area', it was necessary to define, if any, members who were on warlike duties in that area.

46. In a paper on the deployment of United States Air Force aircraft and the status of the RAAF base at Ubon which was attached to a minute dated 24 March 1965 from the Chief of the Air Staff to the Chairman of the Defence Committee, an assessment of the level and type of hazard faced at Ubon was given as follows:

"Although Ubon is within the range of aircraft now based in North Vietnam, it is considered that the probability of enemy air attacks would be slight and would lead to the quick elimination of the bases in North Vietnam by the US Air Forces. Sabotage attacks against Ubon by long range enemy patrols or by clandestine parties would be much more likely.

Although the probability of enemy air attack is considered to be remote, the RTAF/USAF integrated Air Defence System will be fully manned and RAAF Sabres will be required to maintain an air Defence Alert at Ubon. While the operations by RAAF Aircraft in the Air Defence role will be confined to the boundaries of Thailand, the fact that RAAF aircraft are being employed in the defence of an air base from which offensive operations are being launched against North Vietnam could be regarded by North Vietnam and Communist China as being similar to participation in the actual offensive operation."

47. In May 1967 OC RAAF Butterworth submitted a further case for the inclusion of the Ubon area as a 'special area' and the allotment for 'special duty' of RAAF units stationed there. In presenting his case, OC RAAF Butterworth referred to the inappropriate nature of the *Commonwealth Employees Compensation Act* in the area, citing the complexities of Thai law and a lack of the benevolent approach of the Repatriation legislation (ie the more beneficial onus of proof), particularly in regard to psychiatric disturbances and deafness.

48. The provision of Repatriation benefits was considered to be justified on the following grounds:

- a. The RAAF was sharing the base with the Thai Air Force and the 8th Tactical Fighter Wing, USAF. The latter was operating 24 hrs per day against targets in Laos and North Vietnam and with Thailand's increasing

commitment to Vietnam there was a continuing increase of retaliatory action against air bases in Northeast Thailand.

- b. There was an increasing number of instances involving local air and ground activity eg finding of arms caches and information on planned attacks on the airfield; an increase in clashes between Thai and insurgent forces involving casualties; Northeast Thailand (including Ubon) had been declared a restricted zone at night ie aircraft under 3,000 ft presumed hostile; and aircraft approaching Ubon had been shot at by ground fire.
- c. During the months of April/May 1967 there had been three night alerts due to unidentified low flying aircraft causing the stand-to of all RAAF personnel, two USAF F4 Phantoms, fully armed, had exploded on take-off showering the RAAF camp with shrapnel and debris, and a Thai Air Force Helicopter had been shot down near the base by ground fire.
- d. Ubon was within the operational control of the Communist Suppression Centre and SAKON NAKHOM and it was estimated that there were some 1200 communists in the area with more continually entering from Laos.

49. OC Butterworth stated that RAAF personnel at Ubon were living in an atmosphere of tension and in a continued state of semi-alert, with RAAF aircraft on continual dawn to dusk runway alert against air attack. He also noted that all USAF personnel at Ubon (and elsewhere in Thailand) were eligible for veterans' benefits under the same conditions applying to US personnel in Vietnam.

Considerations

50. It is clear that service in Ubon was not operational service. It was not a time of war, nor were the operations warlike in nature. In addition it was not qualifying service as members did not directly incur danger from the hostile forces of the enemy. The application of force was not authorised to pursue specific military objectives and there was no expectation that casualties would occur.

51. The rules of engagement for Ubon make it clear that force was only to be used in self defence. There also appears to have been a level of risk associated with the tasks of members serving at Ubon which was over and above that faced during the course of normal peacetime activities. Alan Stephens, in his book 'Going Solo, the Royal Australian Air Force 1946-1971' which was written as the official history of the RAAF, sums up the hazards faced by personnel at Ubon as follows:

"The operational nature of the RAAF's activities should not be overstated, nor should it be lightly dismissed. In the case of the airfield defence guards, terrorist action from the estimated 1200 insurgents in the area was always likely. Guerillas attacked the American radar unit at Ubon in May 1965; aircraft were fired on while approaching the airfield; a Thai helicopter was shot down in May 1967; a USAF C-130 was hit by ground fire during its landing approach in 1968; and aircraft in Ubon's landing pattern at night did

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PRIME MINISTER

Reference: [REDACTED]

25 SEP 2017

Senator Brian Burston
Senator for New South Wales
Parliament House
CANBERRA ACT 2600

Dear Senator

A handwritten signature in cursive script, appearing to read "Brian", written over the word "Senator".

Thank you for your letter dated 14 August 2017, sent on behalf of Mr Robert Cross, regarding the classification of nature of service of former Australian Defence Force personnel who deployed to Malaysia between 1970 and 1989 with Rifle Company Butterworth (RCB). I commend your ongoing interest in and support for our veterans. Your letter has prompted me to closely examine this matter before responding.

The Departments of Defence and Veterans' Affairs has corresponded previously on the issue of a retrospective nature of service re-determination for RCB veterans with Mr Cross. I am advised that this issue has been reviewed on more than six occasions over the past 24 years. This includes several independent reviews as well as a review conducted by the New Zealand Government in relation to their own Defence Force Members who served under very similar circumstances during the same period. These reviews are listed at the enclosure for your information.

While this history of review appears very comprehensive, I asked my Department to re-examine the material included on the USB stick enclosed with your letter. Officials within my Department subsequently liaised with the Department of Defence and received advice that it contained no new material that had not already been examined by Defence.

On balance, given the substantial number of independent reviews of RCB claims, I am comfortable with the position which has been reached. Given the amount of resources which have already been used to inquire into this issue, and the extensive nature of those inquiries, I do not believe that additional inquiries would assist or illuminate this issue any further.

Yours sincerely

A large black rectangular redaction box covering the signature of the Prime Minister.
MALCOLM TURNBULL

Parliament House CANBERRA ACT 2600
Telephone (02) 6277 7700
www.pm.gov.au

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Enclosure 1: Reviews of ADF service at RAAF Base Butterworth

ADF service at RAAF Base Butterworth has been the subject of previous internal and external reviews, both in Australian and in New Zealand. These include:

- 1993 Committee of Inquiry into Defence Awards (CIDA)
- 2000 Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955-1975 (Mohr Review)
- 2003 Review of Veterans' Entitlements (Clarke Review)
- 2007 Defence Review
- 2011 Nature of Service Review Board
- 2011 Inquiry into Recognition for Members of Rifle Company Butterworth for Service in Malaysia between 1970 and 1989.
- 2011 Defence Review
- 2011 New Zealand Medallic Recognition Joint Working Group on Service in South-East Asia 1950-2011