



Australian Government

Defence Honours and Awards Appeals Tribunal

Hines and the Department of Defence [2025] DHAAT 2 (6 March 2025)

File Number(s) 2024/008

Re **Commander Paul John Hines CSC RAN (Retd)**
Applicant

And **The Department of Defence**
Respondent

Tribunal Ms Louise Hunt (Presiding Member)
Rear Admiral Allan du Toit AM RAN (Retd)

Hearing Date 27 November 2024

Attendance Commander Paul Hines CSC RAN (Retd)
Applicant

Mrs Jo Callaghan, Assistant Director, Service Assessments
Directorate of Honours and Awards, Department of Defence

Mr Brett Mitchell, Research Officer
Directorate of Honours and Awards, Department of Defence
For the Respondent

DECISION

On 6 March 2025, the Tribunal decided to affirm the decision that Commander Paul Hines CSC RAN (Retd) not be recommended for the Australian Service Medal with Clasp MIDDLE EAST.

CATCHWORDS

DEFENCE AWARD – *Australian Service Medal with Clasp ‘MIDDLE EAST’* – service in prescribed qualifying area – 30 days or aggregate of same – oversight in Defence information provided to Naval Association of Australia cannot be used for eligibility decisions.

LEGISLATION

Defence Act 1903 – Part VIIIIC – Sections 110T, 110V(1), 110VB(2), 110VB(6)

Defence Regulation 2016, Regulation 36

Commonwealth of Australia Gazette, S336, dated 2 November 1988, *Australian Service Medal, Letters Patent and Regulations* –dated 13 September 1988.

Commonwealth of Australia Gazette, S80, dated 19 May 2011, *Australian Service Medal, with Clasp ‘MIDDLE EAST’, Governor-General’s Determination and Declaration* – dated 16 May 2011.

Australian Service Medal Regulations - Instrument of Delegation dated 23 September 2018.

Introduction

1. The Applicant, Commander Paul John Hines CSC RAN (Retd), seeks review of a decision dated 20 January 2021 of the Department of Defence to refuse to recommend him for the Australian Service Medal with Clasp MIDDLE EAST for service in HMAS *Stalwart* in late 1980.¹

Decision under review

2. On 2 November 2020, Commander Hines applied to the Directorate of Honours and Awards in the Department of Defence for an assessment of his eligibility for the Australian Service Medal with Clasp MIDDLE EAST.² On 20 January 2021, the Directorate advised Commander Hines in writing that Defence could not find any evidence to confirm that he had provided 30 days of service in participation in naval operations in the North West Indian Ocean deployments in the area north of 10° North, and west of 75° East, that is, the Arabian Sea including the Gulf of Aden, Gulf of Oman and Persian Gulf during the period that commenced 1 September 1980 and ended on 31 July 1986.³

3. On 23 April 2024, Commander Hines made application to the Tribunal, seeking review of the Directorate's decision.

Tribunal jurisdiction

4. 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 the Tribunal. 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 is the Australian Service Medal. Therefore, the Tribunal has jurisdiction to review decisions in relation to this award.

Commander Hines' service

5. Commander Hines enlisted in the Royal Australian Navy on 5 January 1977 and was discharged on 7 July 2021, during which time he rendered a combination of Permanent and Reserve service.

6. Commander Hines has been awarded the following for his service in the Royal Australian Navy:

- a) Conspicuous Service Cross;
- b) Australian Operational Service Medal – Border Protection;
- c) Defence Long Service Medal with first, second, third, fourth and fifth clasps⁴;
- d) Australian Defence Medal;

¹ Application to Tribunal from Commander Paul Hines.

² Application to DH&A for award ASM with Clasp MIDDLE EAST by Commander Hines, for his service in HMAS *Stalwart* in the oceans near the Middle East.

³ Letter to Commander Hines from DH&A dated 20 January 2020.

⁴ Letter from Department of Defence, Defence Report dated 19 June 2024, (Folios 15-75) and email to Tribunal from DH&A dated 23 July 2024.

- e) Maritime Commander Australia Commendation; and
- f) Operational Service Badge – Military.

7. Commander Hines' service records also show that he was awarded a Chief of the Defence Force Group Commendation in 2013.

8. This review concerned Commander Hines' service between September to November 1980, during part of his posting to the escort maintenance ship HMAS *Stalwart*.

Eligibility criteria for the Australian Service Medal with Clasp MIDDLE EAST

9. The Australian Service Medal Regulations were instituted under Letters Patent on 13 September 1988, as published in the Commonwealth of Australia Gazette S336, dated 2 November 1988.⁵

10. The eligibility criterion for awarding the Australian Service Medal with Clasp MIDDLE EAST that is relevant to Commander Hines' service, is contained in a Governor-General's Declaration and Determination dated 16 May 2011⁶, made under the Australian Service Medal Regulations, which states:

[...]

(b) *declare under regulation 3 of the Regulations that the following non-warlike operations in which members of the Australian Defence Force were engaged in during the following periods to be a prescribed operation for the purposes of the Regulations:-*

[...]

(v) *participation in naval operations in the North West Indian Ocean deployments in the area north of 10° North and west of 75° East, that is, in the Arabian Sea including the Gulf of Aden, Gulf of Oman and Persian Gulf during the period that commenced 1 September 1980 and ended on 31 July 1986; and*

(c) *determine under regulation 4 of the Regulations, that the conditions for award of the Australian Service Medal with Clasp 'MIDDLE EAST' for that 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 for the prescribed operation for a prescribed period;*

[...]

(iv) *the Medal may be awarded to a member of the Australian Defence Force who, before 18 March 2003, rendered service as such a member for a prescribed period, for official visits, inspections or other occurrences of a temporary nature with the military contribution in the prescribed operation;*

⁵ Commonwealth of Australia Gazette S336 of 2 November 1988, Australian Service Medal Letters Patent and Regulations dated 13 September 1988.

⁶ Commonwealth of Australia Gazette S80 of 19 May 2011, Australian Service Medal Regulations, Governor-General's Determination dated 16 May 2011.

(v) *the Medal may be awarded to a person who rendered service as part of the Australian element of the prescribed operation for a prescribed period, and who, in accordance with a determination made by the Minister under paragraph 4(4)(b) of the Regulations, is in a class of persons who may be awarded the Medal;*

(1) in relation to subparagraph (c)(i), (c)(ii), (c)(iv) and (c)(v) a period of 30 days, or for periods amounting in the aggregate to 30 days; and

(2) in relation to subparagraph (c)(iii) a number of not less than 30 sorties conducted over a period of not less than an aggregate of 30 days at a rate of one sortie per day; and

PROVIDED THAT where a member defined in subparagraphs (c)(i), (c)(ii), (c)(iii) or (c)(v) does not complete the prescribed period or the prescribed number of sorties owing to his or her death, evacuation due to illness, injury or other disability due to service, the member will be deemed to have completed that prescribed period or the prescribed number of sorties; [...]

Commander Hines' application to the Tribunal

11. In his application to the Tribunal, Commander Hines included a copy of a Director General Naval Personnel and Training signal 260459Z of October 2001 – Award of the Australian Service Medal with Clasp MIDDLE EAST for North West Indian Ocean Deployments.⁷ The signal promulgated dates of eligible deployments to the North West Indian Ocean for a number of ships, including HMAS *Stalwart*.

Previous Defence comments

12. On 2 November 2020, Commander Hines submitted an application to Defence for an assessment of his eligibility for the Australian Service Medal with Clasp MIDDLE EAST, and included the above signal.

13. On 20 January 2021, Defence wrote to Commander Hines via letter stating:

[....]

As a result of my assessment, I regret to advise you I cannot recommend you for the award. The reason for my decision is explained below.

Your eligibility for the award has been assessed against the qualifying provisions of the Commonwealth of Australia Gazette S80, Instrument of Declaration and Determination for the Australian Service Medal with Clasp 'MIDDLE EAST', dated 19 May 2011, which is the legal authority for awarding the ASM with Clasp 'MIDDLE EAST'.

14. Defence stated that in making the decision, it had regard to the following sources of information:

⁷ Signal Director General Naval Personnel and Training dated 26 October 2001. A more legible copy was provided as Attachment D to the Defence Report dated 19 June 2024.

- Ship Movements Sheets – Naval History Section – Sea Power Centre, Australia;
- Navy Personnel Employment Management System (NPEMS); and
- Personnel Management Key Solution - People Soft personnel management information system (PMKeyS)

15. Defence also stated that the following evidence, facts and findings were considered in relation to the application:

In accordance with the Commonwealth of Australia Gazette S80, Instrument of Declaration and Determination for the Australian Service Medal with Clasp 'MIDDLE EAST', dated 19 May 2011, the medal is awarded for:

- *Participation in naval operations in the North West Indian Ocean deployments in the area north of 10° North and west of 75° East, that is, the Arabian Sea including the Gulf of Aden, Gulf of Oman and Persian Gulf during the period that commenced 1 September 1980 and ended on 31 July 1986; and*
- *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 for the prescribed operation for a prescribed period; and*
- *for a period of 30 days, or for periods amounting in the aggregate to 30 days.*

16. Defence stated that examination of ship movement records for HMAS *Stalwart* confirmed the ship was in the prescribed qualifying area for the Australian Service Medal with Clasp MIDDLE EAST from 1 October 1980 to 9 October 1980, being a total of nine days.

17. Defence further stated:

*You have made mention in your application to a DGNPT signal which listed dates of eligible service for particular ships. Unfortunately, incorrect information was provided in that signal to the Naval Association of Australia concerning ships eligible for the ASM with Clasp 'MIDDLE EAST'. Further research was conducted to determine the periods that the ships spent in the prescribed qualifying area which, in the case of HMAS *Stalwart*, resulted in the qualifying dates shown above.*

18. Defence stated that the decision to not recommend Commander Hines for the award was made because *no evidence could be located to confirm that he provided 30 days of service in participation in naval operations in the North West Indian Ocean deployments in the area north of 10° North and west of 75° East, that is, the Arabian Sea including the Gulf of Aden, Gulf of Oman and Persian Gulf during the period that commenced 1 September 1980 and ended on 31 July 1986* [...]

Defence report

19. Following Commander Hines' submission of the Tribunal application for review, Defence reviewed the original decision from 2021 and re-assessed his eligibility for the Australian Service Medal with Clasp MIDDLE EAST.

20. During the re-assessment Defence identified an anomaly with the posting dates reflected in its letter to Commander Hines.⁸ The letter incorrectly detailed Commander Hines' posting to HMAS *Stalwart* as 7 January 1980 to 19 March 1984. In accordance with his Movement History,⁹ Commander Hines was initially posted to HMAS *Stalwart* from 7 January 1980 to 15 December 1980, and following a posting in HMAS *Kuttabul* was again posted to HMAS *Stalwart* from 09 August 1982 to 19 March 1984.

21. In reference to the Director General Naval Personnel and Training signal included in Commander Hines' applications, Defence stated:

Paragraph 1 of the Signal shows the following:

[...] "Qualifying period is 30 days in the area of operations which is defined as the area north of 10° North and west of 75° East, that is, the Arabian Sea including the Gulf of Aden, Gulf of Oman and Persian Gulf". [...]

The eligible deployment dates reflected in the Signal for HMAS Stalwart are September - November 1980.

Ship Movement Sheets for HMAS Stalwart (Extract at Attachment D-01) reflect the following, in summary, for the period in question:

- *05 September 1980 – Departed Rockingham, Western Australia;*
- *22 September 1980 – Arrived Colombo, via Singapore;*
- *30 September 1980 – Departed Colombo;*
- *04 October 1980 – Arrived Bombay (Mumbai);*
- *07 October 1980 – Departed Bombay;*
- *13 October – Arrived Colombo;*
- *20 October 1980 – Departed Colombo; and*
- *11 November 1980 – arrived in Cairns area, via Singapore.*

The Reports of Proceedings (ROP) for HMAS Stalwart for September and October 1980¹⁰ provide the following in relation to presence within the qualifying AO:

September 1980 – paragraph 13. Both anchors were weighed at 0925EF Tuesday 30th and rendezvous made with SUPPLY outside the harbour at 1020EF. Thirty five tons of feed water and 120 tons of fresh water were passed and 95 tons of fuel were received from SUPPLY during a replenishment that lasted three hours. At 1400EF course and speed was set for Bombay.

⁸ Defence report. dated 19 June 2024.

⁹ Ibid.

¹⁰ Ibid.

October 1980 – paragraph 1. *During the period the ship operated as part of the RAN Task Group deployed in the Indian Ocean and made visits to Bombay, Colombo and Singapore.*

October 1980 – paragraph 2. *The ship entered Bombay Harbour at 0800EF, Saturday 4th in foggy conditions and berthed alongside Ballard Pier at 0940EF.*

October 1980 – paragraph 4. *All lines were cast off at 1002EF, Tuesday 7th and after clearing harbour courses were set to pass west of the Laccadive Islands and through the Nine Degree Channel to make rendezvous with HMAS Melbourne early in the afternoon of Friday 10th, off Cochin. During the passage Officers of the Watch (OOW) were exercised in evasive steering and torpedo countermeasures drills and the ships company in helicopter crash on deck and recovery after ditching procedures. After the rendezvous, a jackstay transfer and helicopter deck landing practices were completed before HMAS Perth joined at 1700EF.*

October 1980 – paragraph 5. *During the period 10th to 13th Casex serials involving all ships in the group and HMAS Otama, OOW exercises and helicopter operations were included in the exercise programme.*

22. Defence submitted that a map depicting the qualifying area for naval operations¹¹ showed that Bombay and the Laccadive Islands, referred to in the Record of Proceedings, were both located within the qualifying Area of Operations for the Australian Service Medal with Clasp MIDDLE EAST. As such, there was no doubt that HMAS *Stalwart* transited through the Area of Operations from Colombo to Bombay and on return to Colombo as detailed above.

23. Defence further submitted that the Record of Proceedings referred to HMAS *Stalwart* departing Bombay on 7 October 1980 and making passage west of Laccadive Islands then through the Nine Degree Channel for a rendezvous off Cochin in the early afternoon of 10 October 1980. As shown on the map, neither the Nine Degree Channel nor Cochin are within the qualifying Area of operations for the Australian Service Medal with Clasp MIDDLE EAST; therefore time at sea from 10 October 1980 until reaching Colombo on 13 October 1980 cannot be counted as qualifying service.

24. Defence further submitted that as a result of further research by Navy, the Director General Naval Personnel and Training released signal 112330Z September 2002 – “Award of the ASM with Clasp - Middle East - for North West Indian Ocean Deployments”.¹² The signal reiterated the requirement to complete 30 days service in the Area of Operations as previously defined and provided the specific dates and number of days within the qualifying Area of Operations for a number of the HMA Ships, including *Stalwart*.

25. Paragraph 3(O) of the signal provided the following details:

*HMAS Stalwart – 1980. Periods within defined area:
01 Oct 80 – 09 Oct 80 (9 days): Deployment total 9 days.*

26. Defence submitted that due to an oversight during the initial assessment, a copy of the Director General Naval Personnel and Training signal of 2002 was not provided with its letter

¹¹ Defence Report.

¹² Ibid.

to Commander Hines, and that Defence would take the necessary action to ensure that the signal is included in any future correspondence to applicants with similar service circumstances to those of Commander Hines.

27. Defence stated that on the basis of the information within the Ship Movements sheets, records of proceedings and the specified details within the Director General Naval Personnel and Training signal of 2002, HMAS *Stalwart* did not accrue 30 days qualifying service in the Area of Operations for the Australian Service Medal with Clasp MIDDLE EAST, and that further, neither death, evacuation due to illness, injury nor other disability due to service were factors preventing Commander Hines from completing the requisite 30 days service.

Commander Hines' comments on the Defence report

28. On 14 July 2024, Commander Hines provided his comments on the Defence report. Commander Hines stated:

The script had many errors including my service record. Noting that all of the other ships were awarded the ASM it is unfair that those on Stalwart didn't receive the same awards. It also shows that the CDF has again mislead all. In this case 30 days is not relevant the fact we were there as part of the task force should be noted and honoured especially noting that the award was decided years after the event.

This appears to be just too hard!! and most like a cost saving measure what a disgrace. I request that my original request be further processed in a more affirmative measure. Part of this deployment saw a ship break it moorings and was drifting towards Stalwart, Perth and a Submarine whilst at anchor in Company.

At the time it was unknown to the nature of this possible threat. We all scrambled to save lives and cast off ships alongside. Why is it that we don't honour all as we were on a 3 month deployment. Again to reiterate, the 30 day period is rubbish and dated well after the event. At the end of the day we were there!!!! and the CDF has plucked an irrelevant 'let's say 30 days'. Reports of proceedings during the deployment don't always give a true transcript especially back in the day of handwriting. I will keep fighting this mis –justice (sic) until a positive outcome is reached which honours all Veterans equally.

Please also note, I did 44 years service and was awarded a Federation star and being only months short of my second Fed Star and Defence did not write this section of their report correctly. Disgraceful behaviour and a dishonour to those on Stalwart. Note: DVA doesn't accept operational Service without the award of an ASM. Also an mis justice which needs to be addressed.

Commander Hines's submissions and evidence

29. At the outset, the Tribunal acknowledged Commander Hines' emotion concerning the impact of Defence's decision not to grant him the Australian Service Medal with Clasp MIDDLE EAST.

30. In his email to the Tribunal dated 5 November 2024, Commander Hines wrote:

*My service record is based on the misconception that I didn't do any significant operations.*¹³

31. Commander Hines told the Tribunal that from 12 September 1980 to 22 October 1980 he served in HMAS *Stalwart* while *Stalwart* was part of a Royal Australian Navy taskforce deployed to work with the Royal Navy and the United States Navy in the Indian Ocean. In describing the threat picture for the taskforce, Commander Hines referred to the strategic and security challenges of 1980 arising from the Soviet invasion of Afghanistan.

32. The thrust of Commander Hines' submission focused on what he saw as the arbitrary nature of the geographical bounds of the defined Area of Operations as set out in paragraph 2(b)(v) in the Governor-General's Declaration and Determination dated 16 May 2011.¹⁴

33. Commander Hines referred to the 2021 Director General Naval Personnel and Training signal and the reasons for approving the awarding of the Australian Service Medal with Clasp MIDDLE EAST:

The approval was made on the basis that the units involved were directed to provide a naval presence and participate, as required, with the United States Navy and the Royal Navy, forces in the waters of the Middle East. This service was equally, if not more hazardous than that for which the ASM 1945-1975 with clasp FESR was awarded for RAN service with the Far East Strategic Reserve 1955- 71. Accordingly, this meets with the principles of No 3 of 1993/94 Committee of Inquiry into Defence and Defence related awards which states:

Quote – to maintain the inherent fairness and integrity of the Australian system of Honours and Awards care must be taken that, in recognising the service of some, the comparable service of others is not overlooked or disregarded – unquote.

34. During the hearing, Commander Hines said the relevant area of operation should have been extended to include Singapore, given the extent of the threat and noting that HMAS *Stalwart* was 'closed up'.

35. Additionally, Commander Hines questioned the accuracy of HMAS *Stalwart*'s Record of Proceedings. By way of example on this issue, Commander Hines refuted a reference in the records to *Stalwart* being at 'fishing stations' and said that it did not refer to the requirement to retrieve an anchor – an activity which he recalled took some 36 hours.

36. Commander Hines said he had sought, but had not been able to obtain, HMAS *Stalwart*'s logs¹⁵ to verify Defence's evidence that *Stalwart* had been in the Area of Operations for only nine days.

37. Commander Hines said that the requirement to serve 30 days in the defined Area of Operations (the 30 day rule) was arbitrary and referred to what he said was a lack of consistency of the application of the 30 day rule across different medal and or clasp classes.

¹³ Email Commander Hines to DHA Tribunal 5 November 2024 – Attachment 8.

¹⁴ *Commonwealth of Australia Gazette S80* of 19 May 2011, *Australian Service Medal Regulations, Governor-General's Determination* dated 16 May 2011.

¹⁵ Email chain between Dr Ross Mackie and Paul Hines commencing 30 October 2024

The Defence submission

38. In its submissions at hearing, Defence noted at the outset the importance of understanding the impact of honours and awards decisions on those who have served.

39. Defence submitted that in the consideration of the granting of the award of the Australian Service Medal with Clasp MIDDLE EAST, it, like the Tribunal, was bound by the legal requirements set out in the Instrument of Declaration and Determination for the Australian Service Medal with Clasp MIDDLE EAST.

40. Defence stated that the assessment of the number of days that *Stalwart* had been in the Area of Operations had been made by reference to *Stalwart's* logbooks, as well as other documents.

41. During the hearing, the Directorate's Research Officer, Mr Mitchell, told the Tribunal that he had been involved in accessing *Stalwart's* logs in 2001 to prepare the statement concerning the number of days *Stalwart* had been in the defined area of operation. The assessment was recorded in the Director of Navy Personnel and Training signal, and listed *Stalwart* as being within the area of operations for nine days.¹⁶

42. Following the hearing, the Tribunal requested that Defence provide further information:

- Copies of HMAS *Stalwart's* ships navigation logs from its departure from Singapore until its return to Singapore during the period 17 September to 27 October 1980; and
- Defence's submission as to whether the currently gazetted Area of Operations was the same Area of Operations at the time of the above service, and any evidentiary material Defence relied on in making that submission.¹⁷

43. Defence did not produce copies of the requested logbooks. However, Defence confirmed in writing that it had accessed these records in 2001 for the purpose of identifying eligible service for the Australian Service Medal with Clasp MIDDLE EAST¹⁸.

44. As to the Area of Operations, Defence provided evidence that two potential areas of operations had been considered.¹⁹ The first, effectively represented the area included in the gazetted Instrument of Declaration and Determination for the Australian Service Medal with Clasp MIDDLE EAST. The second was the area north of the equator and west from a line drawn south from the tip of India.

Commander Hines' comments in relation to information produced by Defence on request for further information

45. In an email to the Tribunal of 10 February 2025, Commander Hines provided his comments in response to the further material produced by Defence.²⁰ He reiterated that the deployment was 'dangerous and hazardous' and referred to reliable information as to the

¹⁶ Director of Navy Personnel and Training Signal DTG 112330Z September 2002 – Award of the ASM with Clasp MIDDLE EAST for Northwest Indian Ocean Deployments 1980- 1986

¹⁷ Tribunal request for information to Defence dated 4 December 2024 – Attachment 9

¹⁸ Defence Response to RFI, dated 4 February 2025 Attachment 10

¹⁹ Defence Response to RFI, dated 4 February 2025 Attachment 10

²⁰ Ibid, Attachment 11

presence of Soviet warships. He referred to the re-classification of other deployments and the subsequent granting of an Australian Active Service Medal for other deployments.

46. Commander Hines concluded:

The IO boundaries set were as afterthought as well as the 30-day requirement. As there were no boundaries at the time of the deployment, the 30-day requirement is suggested to be Null and void. My strong commitment to our ADF is very visible however, by not approving the award we are leaving, forgetting and not honouring our Veterans, past and present. This award should be approved at the earliest opportunity all be an ASM, ASSM²¹ or OSM.²²

Tribunal consideration

47. The Tribunal acknowledged that Commander Hines strongly believed that the criteria for the granting of the Australian Service Medal with Clasp MIDDLE EAST required amendment by expansion of the Area of Operation or, alternatively, by reclassifying the service as warlike thereby enlivening the criteria for the Australian Active Service Medal. The Tribunal also acknowledged that Commander Hines' service during the deployment in HMAS *Stalwart* from 12 September to 22 October 1980 would have been challenging.

48. The Tribunal further acknowledged Defence's reference to the prior provision of 'incorrect information' to Mr Hines and others.

49. While the provision of this 'incorrect information' in the signal concerning ships, eligibility for the Australian Service Medal with Clasp MIDDLE EAST was unfortunate, it did not alter the eligibility criteria.

50. As required by Section 110VB(6) of the Act, the Tribunal must consider the eligibility criteria for the Australian Service Medal with Clasp MIDDLE EAST as they applied at the date of the reviewable decision.

51. Having considered all of the material before it, the Tribunal was satisfied that HMAS *Stalwart* was in the Area of Operations as set out in the Instrument of Declaration and Determination for the Australian Service Medal with Clasp MIDDLE EAST for a period of nine days.

52. In coming to this finding, the Tribunal put weight on the evidence of Mr Mitchell that he, in his previous capacity as a staff member of the Navy History Section at the Royal Australian Navy Sea Power Centre, had accessed HMAS *Stalwart*'s logs to prepare the material provided in the Defence Report dated 20 January 2021.

53. The Tribunal noted, but found it unnecessary to make any finding as to Commander Hines' opinion as to the accuracy of HMAS *Stalwart*'s Record of Proceedings. The material before the Tribunal was such that the Tribunal was satisfied that HMAS *Stalwart* did not spend the required 30 days in the Area of Operations. Additionally, the Tribunal noted that even if *Stalwart*'s port arrival and departure times to and from Colombo were taken into consideration,

²¹ Australian Active Service Medal

²² Ibid, Attachment 11

this was less than 30 days (22 September 1980 to 13 October 1980). This further supported the finding that HMAS *Stalwart* did not spend the required 30 Days in the Area of Operations.

54. As to Commander Hines' submissions about the appropriateness of the 30-day rule, the Tribunal again noted that it, like Defence, was bound to apply the criteria for granting of the Australian Service Medal with Clasp MIDDLE EAST. These criteria, consistent with the award of most Australian Service Medals, include the 30-day time requirement.

55. There was no evidence that Commander Hines had any event in his service in HMAS *Stalwart* that enlivened the provisions of the proviso to in paragraph 2(c)(v) in the *Australian Service Medal Regulations*, Governor-General's Declaration and Determination dated 16 May 2011.²³

Finding

56. The Tribunal found that Commander Hines rendered service in HMAS *Stalwart* in the North West Indian Ocean deployment in the area north of 10° North and west of 75° East, that is the Arabian Sea including the Gulf of Aden, Gulf of Oman and Persian Gulf, between 1 October 1980 and 9 October 1980, for a period of nine days.

57. The Tribunal found that this service did not meet the eligibility criteria for the award of the Australian Service Medal with Clasp MIDDLE EAST as the service rendered must be for a period of 30 days, or periods amounting to an aggregate of 30 days within the declared area.

58. Accordingly, the Tribunal found that Commander Hines was not eligible for the award of the Australian Service Medal with Clasp MIDDLE EAST.

Decision

59. The Tribunal decided to affirm the decision that Commander Hines CSC RAN not be recommended for the Australian Service Medal with Clasp MIDDLE EAST.

²³ *Commonwealth of Australia Gazette S80* of 19 May 2011, *Australian Service Medal Regulations*, Governor-General's Determination dated 16 May 2011.