



Australian Government

Defence Honours and Awards Appeals Tribunal

Hodge and the Department of Defence [2025] DHAAT 8 (25 June 2025)

File Number(s)	2024/015
Re	Leading Aircraftsman Gavin John Hodge Applicant
And	The Department of Defence Respondent
Tribunal	Commodore Vicki McConachie CSC RAN (Retd) (Presiding Member) Major Gary Mychael OAM CSM (Retd)
Hearing Date	20 May 2025
Attendances	Leading Aircraftsman Gavin John Hodge Applicant Sergeant Shannon Smith Witness and support person for Applicant Ms Jo Callaghan Directorate of Honours and Awards, Department of Defence for the Respondent Ms Tiffany Dawes Directorate of Honours and Awards, Department of Defence for the Respondent

DECISION

On 25 June 2025, the Tribunal decided to affirm the decisions that Leading Aircraftsman Gavin John Hodge not be recommended for the Australian Operational Service Medal - Border Protection or the Australian Service Medal with Clasp Counter Terrorism/Special Recovery.

CATCHWORDS

DEFENCE AWARD – Australian Operational Service Medal – Border Protection – Australian Service Medal with Clasp Counter Terrorism/Special Recovery – eligibility criteria – Australian border protection activities - deployed or force assigned – Operation RESOLUTE – Operation GOLD

LEGISLATION

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

Defence Regulation 2016, Regulation 36

Australian Operational Service Medal

Commonwealth of Australia Gazette S67, of 6 June 2012, Australian Operational Service Medal Regulation 2012, Letter Patent and Regulations, dated 22 May 2012

Commonwealth of Australia Gazette S126 of 1 August 2012, Australian Operational Service Medal Regulations 2012 - Border Protection Governor-General Declaration dated 18 July 2012

Commonwealth of Australia Gazette G00827 of 1 June 2015, Australian Operational Service Medal Regulation 2012 – Border Protection Amendment 2015, dated 30 April 2015

Commonwealth of Australia Gazette G00489 of 1 June 2019, Australian Operational Service Medal Regulation 2012 – Border Protection Amendment 2019, dated 23 May 2019

Commonwealth of Australia Gazette G00629 of 5 August 2020, Australian Operational Service Medal Regulations 2012 Regulation Amendment, dated 14 July 2020

Commonwealth of Australia Gazette G00851, Australian Operational Service Medal (Counter Terrorism/Special Recovery) Determination 2020, Governor-General, dated 28 September 2020

Commonwealth of Australia Gazette G00851, Australian Operational Service Medal Regulation 2012 (Counter Terrorism I Special Recovery) Instrument 2020, Chief of the Defence Force, dated 28 September 2020

Australian Service Medal

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

Commonwealth of Australia Gazette S50 of 30 March 2011 Australian Service Medal Clasp CT/SR, Governor-General creation dated 24 March 2011

Commonwealth of Australia Gazette G00851 of 22 October 2020, Australian Service Medal Clasp CT/SR Declaration and Determination 2020

Introduction

1. The applicant, Leading Aircraftsman Gavin John Hodge, seeks review of a decision dated 22 December 2022 of the Department of Defence not to recommend him for the Australian Operational Service Medal – Border Protection; and of a decision dated 25 September 2023¹ not to recommend him for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery.

Decision under review

2. On 30 October 2021, Leading Aircraftsman Hodge applied to Defence for an assessment of his eligibility for the Australian Operational Service Medal - Counter Terrorism/Special Recovery for his service on Operation GOLD, and the Australian Operational Service Medal – Border Protection for his service on Operation RESOLUTE.

3. On 22 December 2022, Defence advised Leading Aircraftsman Hodge that he could not be recommended for the Australian Operational Service Medal – Border Protection as there was *no current records in your PMKeyS Operation Log relating to being Force Assigned to OP RESOLUTE*.²

4. On 25 September 2023, Defence advised Leading Aircraftsman Hodge that it could not recommend him for the Australian Operational Service Medal - Counter Terrorism/Special Recovery as the medal did not exist at the time of Operation GOLD. As such, Defence assessed Leading Aircraftsman Hodge against the eligibility criteria for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery. Defence did not recommend him for that award as a result of his application.³

5. Defence then considered Leading Aircraftsman Hodge's application against the criteria for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery. Defence determined Leading Aircraftsman Hodge was also not eligible to receive the Australian Service Medal with Clasp Counter Terrorism/Special Recovery as Leading Aircraftsman Hodge *had not rendered sufficient qualifying service towards the ASM with Clasp 'CT/SR'*.⁴ Defence noted:

*LAC Hodge's Pre PMKeys records were researched, confirming that while he attended courses and a camp during 2000, these were not served consecutively, nor were they service in, or in direct support, of a Tactical Assault Group.*⁵

6. Defence also noted that while there was evidence that Leading Aircraftsman Hodge served 16 days on Operation GOLD, the *review found no evidence that LAC Hodge completed 60 continuous days on a Tactical Assault Group or Special Recovery Force*...⁶

7. Defence also considered Leading Aircraftsman Hodge's application for the Australian Operational Service Medal – Border Protection. Defence stated... *The decision maker found that LAC Hodge had not rendered sufficient qualifying service towards the*

¹ The Tribunal noted that although the applicant indicated the decision date was 29 September 2023, Defence correspondence indicates the decision date was 25 September 2023

² Ibid

³ Ibid

⁴ Ibid

⁵ Ibid

⁶ Ibid

*AOSM BP.*⁷ Defence noted that *the service provided at RAAF Learmonth was not qualifying service as he was not force assigned to Operation RESOLUTE or...exclusively supporting a declared operation...*⁸ Defence's review found no evidence that LAC Hodge was force assigned to a declared Border Protection Operation nor deployed on land in dedicated support to a declared Border Protection operation.⁹

8. On 12 May 2024, Leading Aircraftsman Hodge made application to the Tribunal seeking review of the decisions not to award him the Australian Service Medal with Clasp Counter Terrorism/Special Recovery and the Australian Operational Service Medal – Border Protection.

Tribunal jurisdiction

9. 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.

10. 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 area the Australian Service Medal and the Australian Operational Service Medal. Therefore, the Tribunal has jurisdiction to review decisions in relation to this award.

Leading Aircraftsman Hodge's service

11. As per the Defence report, Leading Aircraftsman Hodge enlisted in the Australian Army Reserve on 15 August 1993 before transferring to the Royal Australian Air Force (RAAF) on 17 May 2004 and he is currently an Active RAAF Reservist.

12. Leading Aircraftsman Hodge has been issued the following awards for his Defence service:

- Defence Long Service Medal with First Clasp
- Australian Defence Medal.¹⁰

The Australian Service Medal

13. The Australian Service Medal was instituted on 13 September 1988 by Letters Patent which were published in *Commonwealth of Australia Gazette S336* of 2 November 1988.

14. The Australian Service Medal is awarded to recognise military service in prescribed non-warlike military operations. The Schedule to the Royal Warrant sets out the *Australian Service Medal Regulations* (the Regulations) which govern the award of the Australian Service Medal. Regulation 3 states that the Governor-General, on the recommendation of a Minister, may declare a non-warlike operation in which members of the Defence Force were engaged on or after 14 February 1975, to be a prescribed operation.

⁷ Ibid

⁸ Ibid

⁹ Defence report, dated 12 September 2024

¹⁰ Ibid

15. For the purpose of the Australian Service Medal, the Regulations state the following:

[...]

Conditions for award of the Medal

4. (1) *The Medal may be awarded for service in or in connection with a prescribed operation.*
- (2) *The conditions for the award of the Medal are the conditions determined by the Governor-General on the recommendation of the Minister.*
- (3) *Any subsequent award of the Medal to the same person shall be made in the form of a further clasp to the Medal.*
- (4) *The persons to whom the Medal may be awarded are*
 - (a) *persons who served in a prescribed operation as members of the Defence Force; and*
 - (b) *persons included in a class of persons determined by the Minister, for the purposes of this regulation.*
- (5) *The Medal may not be awarded except to a person who fulfils the conditions for the award of the Medal.*

[...]

Australian Service Medal with Clasp Counter Terrorism/Special Recovery

16. The Governor-General pursuant to the Australian Service Medal Regulations, made a Declaration and a Determination dated 24 March 2011, which created the Australian Service Medal with Clasp Counter Terrorism/Special Recovery. The Declaration and Determination were published in the *Commonwealth of Australia Gazette S50* of 30 March 2011.

17. The Declaration and Determination of 2011 were revoked by a further Declaration and Determination made by the Governor-General dated 28 September 2020 and published in the *Commonwealth of Australia Gazette G00851* dated 22 October 2020.

18. The eligibility criteria for awarding the Australian Service Medal Regulations with Clasp Counter Terrorism/Special Recovery are contained within the Australian Service Medal Regulations with Clasp Counter Terrorism/Special Recovery Declaration and Determination 2020 which states:

[...]

5 Prescribed operation

For regulation 3 of the Regulations, declare that the following in which service was performed by members of the Australian Defence Force are prescribed operations for the purposes of those Regulations.

- (a) *Service in, or in direct support of, a Tactical Assault Group during the period that commenced on 31 August 1979 and ended on 31 October 2020.*
- (b) *Service in, or in direct support of, the Special Recovery Force during the period that commenced on 31 August 1979 and ended on 31 October 2020.*
- (c) *Service on Operation BURSA during the period that commenced on 28 June 1980 and ended on 31 December 1989.*

6 Conditions

(1) For subregulation 4(2) of the Regulations, determine that the conditions for award of the Australian Service Medal with Clasp 'CT/SR' ("the Medal") is that a member, or allied foreign defence force member, is to have served a period of 60 consecutive or more days on a prescribed operation

(2) Where a member does not complete the 60 consecutive days under subsection (1) due to the member's death, illness, injury or disability due to service in the prescribed operation, the member will be deemed to have completed the 60 consecutive days.

[...]

The Australian Operational Service Medal

19. The Australian Operational Service Medal was created by Letters Patent, dated 22 May 2012, and published in the *Commonwealth of Australia Gazette* S67 of 6 June 2012.¹¹

20. Regulations were originally established with the Letters Patent on 6 June 2012. These Regulations were updated in 2015 as published in *Commonwealth of Australia Gazette* G00827¹², and were then further updated in 2019 as published in *Commonwealth of Australia Gazette* G00629 dated 5 August 2020.¹³

21. The updated Regulations state:

[...]

3 Declared operation

(1) The Governor-General may declare, in writing, on the recommendation of the Minister, that an operation is a declared operation.

(2) In making a recommendation to the Governor-General, the Minister must have regard to the recommendation of the Chief of the Defence Force.

(3) The Governor-General must not make a declaration about an operation unless:

(a) The operation is, or was, carried out in conditions that are, or were, hazardous; and

(b) The operation is not an operation for which recognition for an award (other than an award under this regulation) already exists; and

(c) The operation meets the conditions (if any) determined, in writing, by the Governor-General.

(3A) Without limiting subsection (1), the Chief of the Defence Force may declare, in writing, on the recommendation of the Commander Joint Operations, that

¹¹ Australian Operational Service Medal Regulation 2012, *Commonwealth of Australia Gazette* S67, Letters Patent and Regulations, dated 6 June 2012

¹² Australian Operational Service Medal Regulation 2012, Amendment 2015, *Commonwealth of Australia Gazette* G00827, dated 1 June 2015

¹³ Australian Operational Service Medal Regulations 2012 Amendment to Letters Patent 2020, *Commonwealth of Australia Gazette* G00629, dated 5 August 2020

a special operation is a declared operation.

(3B) The Chief of the Defence Force must not make a declaration about a special operation unless:

- (a) The operation is, or was, carried out in conditions that are, or were, hazardous; and*
- (b) The operation is not an operation for which recognition for an award (other than an award under this regulation) already exists; and*
- (c) The operation meets the conditions (if any) determined, in writing, by the Chief of the Defence Force.*

(3C) Without limiting subsection (1), the Chief of the Defence Force may declare, in writing, on the recommendation of the Commander Joint Operations or the Special Operations Commander Australia, that a counter terrorism activity or a special recovery activity is a declared operation.

(3D) The Chief of the Defence Force must not make a declaration about a counter terrorism activity or a special recovery activity unless all of the following apply.

- (a) The activity is, or was, carried out in hazardous conditions.*
- (b) The activity is not an activity for which recognition for an award (other than an award under this regulation) already exists.*
- (c) The activity meets the conditions (if any) determined, in writing, by the Chief of the Defence Force.*

(4) A declaration under this section must include the following matters:

- (a) the name by which the operation is known or a description of the operation; and*
- (b) the area in which the operation occurs or occurred; and*
- (c) either:*
 - (i) the dates or period during which the operation occurred or*
 - (ii) if the operation is continuing – the date on which the operation commenced.*

4 Eligible service

(1) The Governor-General may declare, in writing, on the recommendation of the Minister, that service is:

- (a) Eligible service; or*
- (b) Eligible service that is an additional period of qualifying service for the purposes of paragraph 6(2) (c).*

(2) In making a recommendation to the Governor-General, the Minister must have regard to the recommendation of the Chief of the Defence Force.

(3) The Governor-General must not make a declaration about service under subsection (1) unless the eligible service is given as part of, and with the period of, a declared operation.

(3A) Eligible service declared under subsection (1) must meet the conditions (if any) determined, in writing, by the Governor-General.

(4) Without limiting subsection (1), the Chief of the Defence Force may declare, in writing, on the recommendation of the Commander Joint Operations, that service is:

- (a) Eligible service; or*
- (b) Eligible service that is an additional period of qualifying service for the purposes of paragraph 6(2)(c).*

(5) The Chief of the Defence Force must not make a declaration about service

unless:

- (a) *The service is given in the operational area, and within the period, of a special operation, counter terrorism activity or special recovery activity that is a declared operation; and*
- (b) *The service meets the conditions (if any) determined, in writing, by the Chief of the Defence Force*

The Australian Operational Service Medal – Border Protection

22. The eligibility criteria for awarding the Australian Operational Service Medal – Border Protection are contained in the Governor-General’s Declaration dated 18 July 2012, made under the *Australian Operational Service Medal Regulations 2012* and published in the *Commonwealth of Australia Gazette S126* dated 1 August 2012.¹⁴ The criteria were updated in 2019 as published in *Commonwealth of Australia Gazette G00489* dated 07 June 2019.¹⁵

23. The criteria in the Declaration relevant to Leading Aircraftsman Hodge’s application are as follows:

- (a) ***declare*** under regulation 3 (1) of the Regulations, the following operations in which members of the Australian Defence Force, or allied foreign Defence Force members, are or were engaged in connection with Australian border protection activities, to be a declared operation for the purposes of the Regulations:

[...]

- (xi) *Operation RESOLUTE – that commenced on 17 July 2006*

[...]

in the area defined by the seas and Australian land areas, superjacent airspaces, but not foreign areas encompassed within the coordinates:

15°00' North Latitude, 60°00' East Longitude

15°00' North Latitude, 180°00' East Longitude

60°00' South Latitude, 60°00' East Longitude

60°00' South Latitude, 180°00' East Longitude And the areas of Nauru and Manus Island;

- a. ***declare***, under regulation 4 (1) of the Regulations, that the conditions for award of the Australian Operational Service Medal - Border Protection (“the Medal”) for that declared operation are that:

- (i) *the Medal may be awarded to a member of the Australian Defence Force, or allied foreign Defence Force members, who was deployed or force assigned for duty as such a member of the declared operation for a period of not less than an aggregate of 30 days;*

¹⁴ *Commonwealth of Australia Gazette S126* dated 1 August 2012, *Australian Operational Service Medal Regulations 2012 Declaration*, dated 18 July 2012

¹⁵ *Australian Operation Service Medal Regulation 2012, Amendment 2019, Commonwealth of Australia Gazette G00489*, dated 7 June 2019

- (ii) *the Medal may be awarded to a member of the Australian Defence Force, or allied foreign Defence Force members, who was deployed or force assigned for duty as such a member of the declared operation and who completed 30 sorties from a unit assigned to the declared operation, provided that those sorties were conducted over a period of not less than an aggregate of 30 days at a rate of one sortie per day with the duration of the declared operation;*

PROVIDED THAT the member is a person:

- (A) *deployed at sea providing direct support to a declared operation;*
- (B) *deployed on land or in the air, dedicated to cuing support to a declared operation; or*
- (C) *deployed forward to exclusively support a declared operation;*

AND PROVIDED THAT where a member does not complete the prescribed period or prescribed number of sorties for the award of the Medal required by subparagraphs b(i) or b(ii) 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 prescribed number of sorties;

[...]

***declare**, for the purposes of this declaration that a member is not eligible for an award of the Medal where the member was part of:*

- (iii) *Headquarters staff at Joint Operations Command;*
- (iv) *Headquarters staff at Northern Command;*
- (v) *Headquarters staff at Military Strategic Commitments;*
- (vi) *Headquarters staff at Regional Force Surveillance Unit;*
- (vii) *Australian Defence Force staff at Border Protection Command;*
or
- (viii) *Base maintainers and support personnel other than those described at paragraph (b).*

Australian Operational Service Medal - Counter Terrorism/Special Recovery

24. The Australian Operational Service Medal - Counter Terrorism/Special Recovery Determination 2020 was signed by the Governor-General on 28 September 2020 and published in *Commonwealth of Australia Gazette G00851*, dated 22 October 2020.

25. The medal recognises the service of Australian Defence Force members on counter terrorism and special recovery activities, as declared by the Chief of the Defence Force, from 1 November 2020.

26. The Instrument states that the eligibility criteria for the medal include that members must meet both of the following conditions:

6 Eligible service

(1) For subsection 4(4) of the Regulation, service is eligible service if the member meets both of the following.

- (a) The member is assigned for duty to a position on a counter terrorism activity or special recovery activity that is a declared operation.*
- (b) The member is in support of the Tactical Assault Group or Special Recovery Force for 30 continuous days or for periods that total 30 days.*
- (2) If a member gave service of a kind mentioned in subsection (1), but did not meet the specified period specified for the special operation because the member died or was evacuated due to service-related injury, illness or disability, the service is taken to meet the specified period for the special operation.*

7 Eligible service before 1 November 2020

- (1) This section applies to a member who meets both of the following.*
 - (a) The member was performing a period of eligible service for the Australian Service Medal with Clasp (CT/SR) up to and including 31 October 2020.*
 - (b) The member was performing a period of eligible service for the Australian Operational Service Medal 'Counter Terrorism/Special Recovery' on 1 November 2020.*
- (2) The period of eligible service for the Australian Service Medal with Clasp (CT/SR) under paragraph (1)(a) is taken to be eligible service for the purpose of section 6 of this Instrument.*

8 Conditions under subsection 4(5) of the Regulation

If a member rendered service during the same period that attracted a separate award of any of the following medals, the member is not eligible for the Australian Operational Service Medal 'Counter Terrorism/Special Recovery'.

- (a) The Australian Active Service Medal.*
- (b) The Australian Service Medal with any of the following Clasps.*
 - (i) Clasp (CT/SR).*
 - (ii) Clasp (SPECIAL Ops).*
- (c) The Australian Operational Service Medal 'Special Operations'.*
- (d) The Australian Operational Service Medal 'Greater Middle East Operation'.*
- (e) The Australian Operational Service Medal 'Border Protection'.*

Leading Aircraftsman Hodge's application to the Tribunal

27. In his application to the Tribunal, Leading Aircraftsman Hodge provided email correspondence between himself, his Royal Australian Air Force Sergeant, and the Directorate of Honours and Awards in support of his application for the Australian Operational Service Medal – Border Protection, and the Australian Operational Service Medal - Counter Terrorism/Special Recovery.

28. In the correspondence, Leading Aircraftsman Hodge provided dates and tasks that he submitted he completed on Operation GOLD in 2000 and on Operation RESOLUTE from 2015 to 2017. He stated these verified his service and eligibility for the awards.

Please see below for my service history for Operation Gold as an Army reservist assigned to a search section. I completed search training over in Perth before going across to Sydney. There may be some confusion over my placement while over in Sydney as I was not placed with 5 AVN Regt but was part of the Operation Search Battalion for search activities in and around venues, accommodation and vehicle check points.

Unfortunately from service history doesn't show my involvement over at the Olympics

during this time. Please let me know if you require any further information.

Operation Gold

- *Attendance Sydney 14 October – 29 October 2000*
- *2IC for search section (10 personal)*
- *Training (8 days) completed prior to attendance at Sydney Para Olympic games*
- *Certificate II Security Operations (Search)*
- *Certificate II in Government (PSP 20199)*
- *Statement of Attainment Security Guarding (PRS 20198)*
- *NINOX (NFE), TOETS*
- *Assessment completed and passed for search activities (building, grounds, vehicle)*

29. Leading Aircraftsman Hodge supplied the following attendance dates and tasks in respect of his service on Operation RESOLUTE.

Operation Resolute (Learmonth)

- *Attendance up at Learmonth Airbase to provide support for Operation Resolute:*
- *Support provide for refuelling activities*
- *Assisting in maintenance checks for fuel farm.*
- *Completing Class 2 checking and testing of workshop equipment*
- *Assisting in marshalling of aircraft*
- *Supporting Learmonth staff in maintenance duties during Operation Resolute.*

Dates for attendance up at Learmonth Airbase in support of Operation Resolute:

- *17 August – 22 August 2015*
- *1 February – 5/2 February 2016*
- *18 September – 24 September 2016*
- *12 March – 18 March 2017*
- *22 October – 28 October 2017*
- *18 March – 23 March 2018*
- *9 September – 14 September 2018*
- *7 April – 12 April 2019*
- *8 September - 13 September 2019*
- *1 June – 5 June 2020*
- *1 November – 7 November 2020*
- *17 October – 23 October 2021*

Attendance dates sourced from PmKey attendance history.¹⁶

The Defence Report

30. As set out in the Defence Report, following Leading Aircraftsman Hodge's application to the Tribunal, Defence conducted an assessment of his eligibility for the Australian Operational Service Medal – Border Protection and the Australian Service Medal with Clasp Counter Terrorism/Special Recovery. Defence affirmed its decision not to recommend Leading Aircraftsman Hodge for either award.¹⁷

¹⁶ Application for review, Leading Aircraftsman Hodge, dated 12 May 2024

¹⁷ Defence report, dated 12 September 2024

31. Defence advised that it had requested advice from the 5th Army Aviation Regiment and the Special Air Service Regiment to confirm Leading Aircraftsman Hodge's qualifying service for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery.

32. Defence advised:

[...]

Email history indicates that 5 AAVN REGT found that LAC Hodge was included on the Op GOLD nominal roll but his service was not with the aviation element so they could not provide further information.

[...]

LAC Hodge provided evidence of Army's requirement for him to serve on Op GOLD. This comprises a Training Notice Australian Army Reserve Units and a letter from the Australian Army Headquarters 13th Brigade to his employer, dated 27 July 2000, requesting he be released from his civilian job between 14 and 29 October 2000 to participate on Op GOLD...On 31 January 2023, the Special Air Service Regiment (SASR) responded to a DH&A request for confirmation of LAC Hodge's Op GOLD service stating:

*... I note the member's Operation Gold dates as '14 Oct – 29 Oct = 16 days. The eligibility is 60 days continuous in addition, we do not hold data on him. I'm sorry I cannot add any further info on this issue except as suggested in e-mail below dated 12 Dec 22 from WO2 Reason that his Reserve pay records should be researched to confirm eligibility criteria of **60 days continuously** in NSW. [...]*

LAC Hodge's Pre PMKeyS course records were researched, confirming that while he attended courses and a camp during 2000, these were not served consecutively, nor were they service in, or in direct support of, a Tactical Assault Group.¹⁸

33. Additionally, Defence said that although Leading Aircraftsman Hodge had initially applied for the Australian Operational Service Medal - Counter Terrorism/ Special Recovery he could not be assessed against its eligibility criteria as it was introduced in 2020, which was after his service for Operation GOLD.

34. Defence further advised that it had sought advice from Maritime Border Command to ascertain Leading Aircraftsman Hodge's eligibility for the Australian Operational Service Medal – Border Protection. Maritime Border Command advised Defence that it could not locate any detail to determine that Leading Aircraftsman Hodge was force assigned to Operation RESOLUTE.¹⁹

Leading Aircraftsman Hodge's comments on the Defence report

35. On 16 September 2024, Leading Aircraftsman Hodge was provided with a copy of the Defence report and asked to provide his comments on that report. His response dated

¹⁸ Defence report, dated 12 September 2024

¹⁹ Ibid

29 September 2024 acknowledged the outcome of the Defence assessment which, he stated, provided far more clarity regarding his service than he had been previously provided.

While I'm disappointed with the response from Defence, the report does provide detail reasons for the response provided and the non-awarding of the medals mention. This had been lacking previously and as seen in the report response some information was difficult to source as multiple areas had to be contacted to verify information.

... it is pleasing to see that my attendance at Op GOLD has been confirmed as this had not previously been confirmed as it is not recorded in my service record

Under my training notice issued by HQ 13 BASB dated 27 July 2000 I was to be a part of the Tactical Reserve, Y Platoon of the Operational Search Battalion. As mentioned in the letter from 13 BASB Commander my participation would contribute significantly to the success of the Battalion and that my release to participate is essential to ensuring that the Games are conducted Safely and Securely

... my attendance up at RAAF Learmonth was in support of base operations which at times did occur during Op Resolute. During these periods of attendance, I provided coverage for maintenance and servicing activities for base equipment used in conjunction for support of Op Resolute.

...my actions supported this function by my attendance and support of base staff at Learmonth in performing their duties during this time. My attendance helped to ensure base equipment was in a ready state so that when required was available for use.

... the defence report does provide a more accurate picture of my reserve service over the past 30 plus years and that I have been called upon to provide support in operation tasking's. Unfortunately, as confirmed in the defence report my service has not have meet requirements as outlined in the provided documentation but I felt that a more descriptive explanation was required.²⁰

36. On 11 March 2025, the Tribunal wrote to Leading Aircraftsman Hodge after discovering anomalies and omissions in the Defence report, and offered Leading Aircraftsman Hodge an opportunity to provide comment on the corrected documents. Leading Aircraftsman Hodge responded that same day advising he had no further comment.²¹

Tribunal hearing

37. During the hearing, Leading Aircraftsman Hodge appeared with Sergeant Smith who he thanked for assisting him. Leading Aircraftsman Hodge said that he had set his case out and did not have further material to add to it. He stated he had provided all the information he could gather and he had nothing further to add. He said his application was around the eligibility criteria.

38. Ms Jo Callaghan, on behalf of Defence, raised some preliminary matters. She noted that, regardless of awards, Defence values the service of all members. She also corrected some errors in the Defence Report and offered to assist Leading Aircraftsman Hodge by connecting him to pathways to apply to correct his service record. She noted, however, that the Defence position on the awards under review remained unchanged.

²⁰ Mr Hodge's comments on the Defence report, dated 29 September 2024

²¹ Additional comment on corrected Defence report documents, dated 11 March 2025

39. The Tribunal explained that there was a difference between what is contained in an operation log and what is contained in an activity log. In this instance the operation log is relevant to whether the applicant was assigned to Operation RESOLUTE.

40. The Tribunal noted that it was considering two applications. One concerning Operation GOLD, which supported the Sydney Olympics in 2000, and one relating to Operation RESOLUTE. The awards relevant to each application had different criteria.

41. In relation to the application for an award for service during Operation GOLD, the Tribunal noted the applicant sought to count some training days. It noted that the issue of whether days training for an operation should be counted towards days on an operation for the purpose of an award was considered by the Tribunal in *McCann and Department of Defence*²² where that tribunal noted that the Australian Service Medal was not awarded for training, only for days actually on the operation. It invited any comment the applicant may have on that proposition, noting he had submitted that training days should be counted towards the award.

42. The Tribunal noted that the applicant's service on Operation GOLD exclusive of training days was from 14 October 2000 to 29 October 2000, 16 days. His training for Operation GOLD was eight days.

43. The Tribunal noted that the Australian Operational Service Medal Counter Terrorism/Special Recovery was introduced on 1 November 2020. The award only applied to service before this date if that service was continuous after 1 November 2020. Additionally, the award required 30 continuous days' service or periods that total 30 days. In this instance, even if it was accepted days in training counted toward the award, the applicant's submission that he had 24 days' service was insufficient for the award as it was less than the 30 days required.

44. The Tribunal also noted that the Australian Service Medal with Clasp Counter Terrorism/Special Recovery required 60 consecutive days' service in or in direct support of a Tactical Assault Group during the period 31 August 1979 to 31 October 2020. This requirement was longer than the period the applicant submitted he had served during Operation GOLD.

45. In relation to the application for the award of the Australian Operational Service Medal for service on Operation RESOLUTE, the Tribunal noted it had examined the applicant's personnel performance reports. It noted that the reports were very complimentary of the service provided by Leading Aircraftsman Hodge when he was at Learmonth and that clearly he had provided very valuable and professional service during that time. The reports and his Australian Defence Organisation record, however, did not refer to him being deployed but rather they referred to him being sent on 'trips' to Learmonth.

46. The Tribunal asked the applicant to point to anything that demonstrated he was force assigned or deployed on Operation RESOLUTE. It noted that merely being in an area of operations did not mean a person was force assigned or part of the operation. It noted that it would require a number of separate errors for the applicant's Australian Defence Organisation record to fail to show he was force assigned on every occasion he was at Learmonth, if he had been force assigned. Additionally, his personnel performance reports recorded two 'trips' and 'being sent'. They did not refer to force assignment or deployment. It appeared from the reports he was at Learmonth as a base maintainer or in a support role.

²² [2013] DHAAT 3 February 2014

47. The Tribunal asked if the applicant had anything to add to his submission in relation to his role at Learmonth. Leading Aircraftsman Hodge said that his posting was at Learmonth for four years – he said he was posted there as ground staff and was involved with maritime aircraft and care of the fuel farm during Operation RESOLUTE.

48. The Tribunal noted the declaration in respect of the Australian Operational Service Medal – Border Protection says that members who were posted as base maintainers were not eligible for the award unless they were force assigned.

49. The Tribunal noted a recent matter before it, *Greatrex and the Department of Defence*²³, where the applicant had argued that his time serving at Headquarters Northern Command in the Northern Territory ought to be considered as days toward the award of the Australian Operational Service Medal. This was not accepted by that tribunal as the evidence did not show that he was force assigned for that period.

50. Sergeant Smith gave evidence the applicant supported him during his time at Learmonth. He said the applicant was heavily involved in supporting the maritime operations so Sergeant Smith could undertake the support roles for the base. Sergeant Smith said his understanding was that because he was posted he was not entitled, but that the applicant was not posted to the base and was eligible because of his supporting role.

51. The Tribunal noted that the relevant eligibility criterion for the Australian Operational Service Medal – Border Protection was not about support, it was about being force assigned; i.e. the determinative factor was whether an applicant was force assigned. The Tribunal noted that it appeared Leading Aircraftsman Hodge travelled to Learmonth on reserve service and provided extremely valuable support. The papers, however, did not demonstrate that he was force assigned. Those decisions were taken at a higher level than a base and recorded in a person's service record.

52. The Tribunal noted that Sergeant Smith did what an Non-Commissioned Officer might appropriately do by supporting the applicant to apply for an award he believed he was entitled to, however, in this instance the law did not support the making of the award.

53. The Tribunal noted that regardless of eligibility for an award, the applicant had provided service in a very professional and proficient manner. It thanked both Sergeant Smith and Leading Aircraftsman Hodge for their service. The applicant noted that the Tribunal had provided the clarity that he was seeking with respect to his eligibility for an award. He said he understood rules and that sometimes they are not in an applicant's favour. He said he was happy with the information received and clarification.

54. Defence thanked both Sergeant Smith and Leading Aircraftsman Hodge for their service.

55. The Tribunal thanked the parties for the constructive manner of their participation and noted that, while the issues were discussed during the hearing, the Tribunal would consider the evidence and the matter and provide a formal decision.

Tribunal consideration

56. Leading Aircraftsman Hodge appealed two decisions by Defence. He appealed Defence's decision that he not be recommended for the Australian Operational Service Medal

²³ [2023] DHAAT 12 (26 June 2023)

- Border Protection. He also appealed Defence's decision he not be recommended for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery. He did not appeal the Defence decision not to recommend him for the Australian Operational Service Medal-Counter Terrorism /Special Recovery.

57. **Australian Service Medal with Clasp Counter Terrorism/Special Recovery.** Leading Aircraftsman Hodge sought the award of the Australian Service Medal with Clasp Counter Terrorism/Special Recovery in respect of his service on Operation GOLD during the 2000 Sydney Olympics. He submitted that he had 24 days of service towards the award, being eight days training and 16 days as second in command for a search section. The qualification for the Australian Service Medal set out in *Australian Service Medal Regulations* include at regulation four that it be awarded for *service in or in connection with a prescribed operation to persons who served in a prescribed operation as members of the Defence Force*.

58. *The Australian Service Medal Regulations (Clasp 'Counter Terrorism/Special Recovery') Declaration and Determination 2020* lists among other prescribed operations:

Service in, or in direct support of, a Tactical Assault Group during the period that commenced on 31 August 1979 and ended on 31 October 2020.

59. Under paragraph four of the Declaration and Determination a condition of the award is that a member...is to have served a period of 60 consecutive or more days on a prescribed operation.

60. For the purpose of determining the number of days service the Tribunal agreed with the tribunal in *McCann and Department of Defence*²⁴ that days training for an operation should not be counted as days on an operation for the purpose of an award. This meant that Leading Aircraftsman Hodge had 16 days' service which might be considered in relation to the award of the Australian Service Medal Regulations with Clasp 'Counter Terrorism/Special Recovery'. Noting that this was less than the 60 days required for the award the Tribunal did not proceed to consider whether Leading Aircraftsman Hodge's service during Operation GOLD was undertaken in direct support of a *Tactical Assault Group*.

61. **Australian Operational Service Medal - Border Protection.** Leading Aircraftsman Hodge sought the award of the Australian Operational Service Medal - Border Protection for service on Operation RESOLUTE. He proposed that his 75 days' service at Learmonth Airbase undertaking support to refueling activities, assisting in maintenance checks for the fuel farm, completing Class 2 checking and testing of workshop equipment, assisting in marshalling of aircraft and supporting staff in maintenance duties in support of Operation RESOLUTE qualified him for the Australian Operational Service Medal.

62. Under Regulation five of the Australian Operational Service Medal Regulation 2012 the Australian Operational Service Medal may be awarded to a member of the Australian Defence Force who has given eligible service. *Eligible service* may be declared by the Governor-General on the recommendation of the Minister. On 18 July 2012 the Governor-General, Dame Quentin Bruce AD, CVO, on the recommendation of the Minister for Defence, declared that Operation RESOLUTE from 17 July 2006 is a declared operation.²⁵ She further declared:

²⁴ *McCann and the Department of Defence* [2013] DHAAT 3 February 2014

²⁵ Declaration Under the Australian Operational Service Medal Regulation 2012 of 18 July 2012 Regulation (a)

63. The Medal may be awarded to a member of the Australian Defence Force who was deployed or force assigned for duty as such a member of the declared operation for a period of not less than an aggregate of 30 days;²⁶The Governor-General further declared :

*That a member is not eligible for an award of the Medal where the member was part of...Base maintainers and support personnel other than those described at paragraph (b)*²⁷

64. The term deployed is relevantly defined in the Defence Glossary as:

Warlike or non-warlike service overseas on Australian Defence Force approved operations by members force assigned for duty

65. Where members are force assigned this is recorded on their Australian Defence Organisation record. While Leading Aircraftsman Hodge travelled to Learmonth on 12 occasions, none of these were recorded in his Australian Defence Organisation record as being operational deployments. His personnel performance reports for periods during which he travelled to Learmonth Airbase referred to these as 'trips' and being 'sent'; they did not characterise them as being deployments or being force assigned.

Tribunal findings

66. **Australian Service Medal with Clasp Counter Terrorism/Special Recovery.** The Tribunal found that Leading Aircraftsman Hodge served for 16 days on Operation GOLD as second in command search section. This service was less than the 60 days required for the award. For this reason, the Tribunal found the decision of the Department of Defence not to recommend Leading Aircraftsman Hodge for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery was correct.

67. **Australian Operational Service Medal - Border Protection.** Leading Aircraftsman Hodge provided valuable and professional service at Learmonth Airbase for a period in excess of 30 days. His Australian Defence Organisation record did not, however, support a proposition that he was deployed or force assigned for duty as a member of Operation RESOLUTE. His evidence and the contents of his personnel performance reports further supported a proposition that his duties were in the nature of a base maintainer and support person. For this reason the Tribunal found the decision of the Department of Defence not to recommend Leading Aircraftsman Hodge for the Australian Operational Service Medal - Border Protection was correct.

Tribunal Decision

68. The Tribunal decided to affirm the decisions of the Department of Defence that Leading Aircraftsman Hodge not be recommended for the Australian Operational Service Medal – Border Protection in respect of his service at Learmonth Airbase and that he not be recommended for the Australian Service Medal with Clasp Counter Terrorism/Special Recovery in respect of his service on Operation GOLD.

²⁶ Declaration Under the Australian Operational Service Medal Regulation 2012 of 18 July 2012 Regulation (b)(i)

²⁷ Declaration Under the Australian Operational Service Medal Regulation 2012 of 18 July 2012 Regulation (d)