Australian Government

Defence Honours and Awards Appeals Tribunal

Anderson and the Department of Defence [2025] DHAAT 13 (19 December 2025)

File Number(s)	2025/013
Re	**Mr Matt Anderson PSM** Applicant
And	**The Department of Defence** Respondent
Tribunal	Mr Stephen Skehill (Presiding Member) Brigadier Dianne Gallasch AM CSC (Retd) Major General Mark Kelly AO DSC (Retd) Commodore Vicki McConachie CSC RAN (Retd)
Hearing Date	29 October 2025
Attendances	Mr Matt Anderson PSM (Applicant) Mrs Allison Augustine Director Honours and Awards, Defence Mrs Catherine Morris Assistant Director, Defence Honours and Awards Policy Defence (for the Respondent)

DECISION

On 19 December 2025, the Tribunal decided to set aside the Defence decisions dated 6 December 2022 and 27 October 2023 to refuse to recommend Mr Anderson for the Australian Operational Service Medal (AOSM) (Civilian), and to substitute those decisions with the recommendation that he be awarded the Australian Operational Service Medal (AOSM) (Civilian) with Clasp Greater Middle Eastern Operation (GMEOPS).

CATCHWORDS

DEFENCE AWARD – Australian Operational Service Medal (Civilian) Greater Middle EAST OPERATION – Department of Foreign Affairs and Trade Embassy Staff – definition of 'employed' - definition of 'civilian' – definition of 'class of person' as determined by the Chief of the Defence Force – Operation HIGHROAD

LEGISLATION

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

Defence Regulation 2016, Regulation 36

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

Australian Operational Service Medal (Civilian) with Clasp Greater Middle East Operation Instrument 2015, dated 13 April 2015

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

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

Australian Operational Service Medal Regulations 2012, Chief of the Defence Force Determination, dated 24 November 2015.

Introduction

1. The Applicant, Mr Matt Anderson PSM, seeks review of decisions of Defence dated 6 December 2022 and 27 October 2023 to refuse to recommend him for the Australian Operational Service Medal (AOSM) (Civilian) for his service in the Australian Embassy in Kabul to which he was posted by the Department of Foreign Affairs and Trade (DFAT) during Operation HIGHROAD.[1] The relevant clasp to the AOSM (Civilian) for service in Afghanistan at that time is the Clasp Greater Middle Eastern Operation (GMEOPS).

Decision under review

2. On 12 May 2022, Mr Anderson applied to Defence for an assessment of his own eligibility for the AOSM (Civilian), in respect of his service as Australia's ambassador to Afghanistan in 2015 and 2016.

3. In response to the application, Defence wrote to Mr Anderson on 6 December 2022 refusing the application and stating that:

> *The medal was instituted to recognise civilians who are deployed to support a declared ADF operation, rendering service and performing operational duties that make a direct contribution to the achievement of an operational mission.*
>
> *From your application I understand that you were employed by DFAT as an Ambassador and whilst your service had links to the ADF presence in Afghanistan alongside your ambassadorial role, the medal regulations require a civilian to be deployed specifically to support ADF operations, in this case for Afghanistan as part of OP SLIPPER.*
>
> *Unfortunately on this basis, I am unable to recommend you for the award. DFAT staff based overseas who are performing functions primarily related to the Embassy are not considered as eligible for this award.*[2]

4. On 17 October 2023, Mr Anderson wrote to the then Chief of the Defence Force, General Angus Campbell AO DSC, seeking to have staff posted to the Australian Embassy at Kabul during Operations SLIPPER and HIGHROAD included in the class of persons eligible for the award of the Australian Operational Service Medal (Civilian). Mr Anderson set out a series of reasons as to why these staff should be recognised.[3]

5. On 27 October 2023, General Campbell replied to Mr Anderson and stated:

> *The AOSM (Civilian) with Clasp 'Greater Middle East Operation' recognises certain civilians who were, or are, deployed to support declared ADF operations. To be eligible for this award, civilians must render service, performing operational duties which make a direct contribution to the achievement of an operational mission.*

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[1] Application for Tribunal Review, 29 April 2025.
[2] Email, Defence to Mr Anderson, 6 December 2022.
[3] Letter, Mr Anderson to Defence, 17 October 2023.

> *Given the differing and unique nature of each DFAT member's circumstances, an individual assessment of their eligibility for the award would need to be undertaken. As such, I am unable to comment on the eligibility of DFAT staff who were posted to the Australian Embassy in Kabul during Operations SLIPPER and HIGHROAD for the AOSM (Civilian). In respect to your own circumstances, I understand Defence's Directorate of Honours and Awards undertook an assessment of your eligibility and consideration of the criteria for the AOSM (Civilian) and determined that you are ineligible for this award as the necessary criteria are not satisfied.*
>
> *While I may determine a class of persons to meet the definition of a civilian, separate from this I am bound by the eligibility criteria for civilians as contained within the Australian Operational Service Medal Letters Patent, Regulations and Instruments, which apply to eligibility as well as the definition of a civilian.*[4]

6. On 29 April 2025, Mr Anderson made application to the Tribunal seeking review of the above decision.[5]

Tribunal jurisdiction

7. 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.

8. 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 AOSM. Therefore, the Tribunal has jurisdiction to review decisions in relation to this award.

9. Mr Anderson's original application to Defence sought the AOSM only for himself and the decision made by Defence in response to that application was confined only to his own eligibility for that award. While Mr Anderson sought award of the AOSM not just to himself but also to the staff of the Australian Embassy in Kabul in his letter to General Campbell, the reply he received confirmed the earlier decision to refuse to recommend Mr Anderson and expressly stated that separate assessments would need to be made in relation to the eligibility of other staff.

10. In his application for review by the Tribunal, Mr Anderson again sought the AOSM for Embassy staff as well as himself. However, as there was no reviewable decision to refuse to recommend anyone other than himself, the Tribunal did not have jurisdiction to consider the eligibility of anyone other than Mr Anderson.

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[4] Letter, Defence to Mr Anderson, EC23-004186, 27 October 2023.
[5] Application for Tribunal Review, 29 April 2025.

11. Accordingly, the Tribunal's review is confined solely to that question.

The Australian Operational Service Medal

12. The AOSM was created by Letters Patent, dated 22 May 2012 and published in the *Commonwealth of Australia Gazette S67* of 6 June 2012.[6] As per the Letters Patent, the award is governed by Regulations. Regulations were established with the Letters Patent on 6 June 2012. The Regulations were updated in 2015 as notified in *Commonwealth of Australia Gazette G00827* dated 1 June 2015.[7] The Regulations were further updated in 2019, notified in *Commonwealth of Australia Gazette G00629* dated 5 August 2020. [8]

13. The Regulations as amended 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.*
>
> ...
>
> *(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.*
>
> ...

[6] *Australian Operational Service Medal Regulation 2012, Commonwealth of Australia Gazette S67, Letters Patent and Regulations,* dated 6 June 2012.
[7] *Australian Operation Service Medal Regulation 2012, Amendment 2015, Commonwealth of Australia Gazette G00827,* dated 1 June 2015.
[8] *Australian Operational Service Medal Regulations 2012 Amendment to Letters Patent 2020, Commonwealth of Australia Gazette G00629,* dated 5 August 2020.

7 Civilians – award of the medal, standard civilian ribbon and clasp

The Governor General may, on the recommendation of the Chief of the Defence Force, award to a civilian who has given eligible service during a declared operation:

(a) The medal; and
(b) A standard civilian ribbon; and
(c) *A clasp denoting the declared operation.*[9]

14. The eligibility criteria for awarding the AOSM (Civilian) GMEOPS, relevant to Mr Anderson's application, are contained in paragraph 6 of the *Australian Operational Service Medal (Civilian) with Clasp Greater Middle East Operation Instrument 2015* dated 13 April 2015, which states service is eligible service if:

[...]
For subsection 3(1) of the Australian Operational Service Medal Regulation, the Greater Middle East Operation that commenced on 1 July 2014 is a declared operation comprising the following operations in the following areas:

(a) Operation MANITOU, involving the activities of civilians within the area comprising all waters, ports, areas within 10 kilometres of such ports, and
1. *superjacent airspace, of the following:*

(i) the Persian Gulf;
(ii) the Gulf of Aden;
(iii) the Red Sea;
(iv) the Arabian Sea;
so far as the area is north of latitude 11 00 S and west of longitude 68 00 E;

(b) Operation ACCORDION, involving the activities of civilians within the area comprising the land, territory, internal waters and superjacent airspace of Bahrain, Qatar and the United Arab Emirates.

(c) Operation OKRA, involving the activities of civilians that:
(i) commenced on I July 2014 and ended on 8 August 2014 within the area comprising the land territory, internal waters, territorial seas and superjacent airspace of Bahrain, Qatar, Iraq, Jordan, Kuwait, and the United Arab Emirates as the waters and superjacent airspace of the Persian Gulf; and

(ii) commenced on 9 August 20 14 within the area comprising the land territory, internal waters, territorial seas and superjacent airspace of Albania, Bantam, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Estonia, Hungary, Iraq, Jordan, Kuwait, Montenegro, Poland, Qatar, Romania and the United Arab Emirates, and the waters and superjacent airspace of the Persian Gulf.

[9] *Australian Operational Service Medal Regulation 2012 Commonwealth of Australia Gazette G00827* dated 1 June 2015.

(d) Operation HIGHROAD, involving the activities of civilians that commenced on 1 January 2015 within the area comprising the land territory, internal waters and superjacent airspace of Afghanistan.[10]

12. Further eligibility criteria for awarding the AOSM (Civilian) GMEOPS, contained in paragraph 7 of the *Australian Operational Service Medal (Civilian) with Clasp Greater Middle East Operation Instrument 2015* dated 13 April 2015 are as follows:

> *(1) For paragraph 4(1)(a) of the Australian Operational Service Regulation, service is eligible service if:*
>
> *(a) the service is given by a civilian, as defined in section 2 of the Australian Operational Service Medal Regulation, on deployment during the period of the Greater Middle East Operation; and*
>
> *(b) the service occurs on 30 days during one or more such deployments, whether or not the service continues throughout the whole day and whether or not the 30 days are continuous; and*
>
> *(c) the conditions determined for the service in section 7 of this instrument are met.*

and:

> *[…]*
>
> *For paragraph 4(3)(b) of the Australian Operational Service Medal Regulation, and paragraph 6(1)(c) of this instrument, the following conditions are determined in relation to service:*
>
> *(a) the service must be given while the civilian giving the service is assigned for Operational Duties on one or more operations that comprise the Greater Middle East Operation.*
> *(b) No other period of eligible service can have been completed.*
>
> *Notes: 1. The effect of paragraph (a) of this section is to exclude service involving non-operational duties such as; participation in training activities, exercises and conferences (with no planning objectives); liaison visits; lessons learnt/fact finding activities; and commonwealth/staff visits.*[11]

13. A civilian is defined in the *Australian Operational Service Medal Regulation – Amendments 2015* dated 30 April 2015 as a person who:

> *[…]*
>
> *(a) is employed or contracted by the Commonwealth to support, in a civilian capacity, the operations of a Defence Force deployed force; and*
>
> *(b) is:*

[10] Australian Operational Service Medal (Civilian) with Clasp Greater Middle Eastern Operation Instrument 2015.
[11] Australian Operational Service Medal (Civilian) with Clasp Greater Middle Eastern Operation Instrument 2015.

(i) subject to the Defence Force Discipline Act 1982; or

(ii) included in a class of persons determined, in writing, by the Chief of the Defence Force for the purposes of this definition.[12]

14. A class of persons is specified in the *Determination by the Chief of the Defence Force* dated 24 November 2015, made under the *Australian Operational Service Medal Regulations 2012*, as a person who is:

> *(i) Employed by the Commonwealth to support the operations of the Australian*
> *Defence Force deployed force in a civilian capacity; and*
>
> *(ii) Deployed under the Department of Defence or the Department of Foreign Affairs and Trade portfolios and were not subject to the Defence Force Discipline Act 1982.*
>
> *(b) An individual classed as a class of person by this determination must also satisfy the other requirements of the Australian Operational Service Medal Regulation in order to qualify for the award of the medal and/or Clasp.*[13]

Mr Anderson's first application to Defence

14. In his first application to Defence, dated 12 May 2022, Mr Anderson outlined his service Afghanistan as Australia's ambassador to that country between January 2015 and July 2016. In doing so, he stated that he was employed by DFAT in accordance with the CDF Determination of 24 November 2015 regarding the Operational Service Medal. He stated that his service *included direct support to the operations of the Australian Defence Force Deployed Force in a civilian capacity*, and listed a number of duties which he submitted confirmed this support, including:

> a) in-country briefing and support of ADF including making representations (to the President, Minister for Defence, Minister for Internal Security, NATO, US Embassy and UK Forces, UK Embassy and UK Forces, Provincial Government and local warlords) with and on behalf of ADF operation to recovery an Australian dual national kidnapped in Afghanistan.
>
> b) weekly meetings with and briefing of Task Group Afghanistan on political, operational and security issues in direct support of their operations and situational awareness. This included briefings following regional travel to Uruzgan, Kandahar, Jalalabad, Panjshir, Herat and Kunduz.
>
> c) briefing and sustainment of deployments by the Special Operations Planning Team.
>
> d) Securing (and obtaining) approval of the Government of Afghanistan for the deployment of Australian Defence Force Personal as third country nationals with US and NATO Forces.

[12] Australian Operational Service Medal Regulations – Amendments 2015, 30 April 2015.

[13] Commonwealth of Australia, Australian Operational Service Medal Regulation 2012, Determination by the Chief of the Defence Force.

e) serving as Australia's representative on, and Chair of the Afghanistan Law and Order Trust Fund, through which the Australian Defence Force's annual financial support (USD 100 million) to the Afghan National Defence and Security Forces was provided.

f) supporting the acquisition, formal handover and deployment of the Counter IED devices on behalf of the Defence Science and Technology Organisation, Defence Materiel Organisation, the ADF CIED Task Force. He stated that 100,000 personal and vehicle born units were distributed with the direct logistical support and intervention by the Embassy while he was in Afghanistan.

g) Travel to Uruzgan to meet with Governor and UN to ensure continued support for the maintenance of a number of local infrastructure projects commenced by the Australian-led Provincial Reconstruction Team.

h) Support to deployed forces at Afghanistan National Officer Academy at Qarga, including through regular attendance and meetings with senior Afghan officers, deployed ADF personnel and the presentation of the Duntroon Sword of Honour at Graduation parades.[14]

Defence's initial refusal

15. As noted above, on 6 December 2022, Defence advised Mr Anderson that his application was not successful on the grounds that, in Defence's view, he did not satisfy the requirements of the eligibility criteria in that he was not *deployed specifically to support ADF operations*. Defence also stated that *DFAT staff based overseas who are performing functions primarily related to the Embassy are not considered as eligible for this award.*[15]

Mr Anderson's second application to Defence

16. As noted above, on 18 October 2023, Mr Anderson wrote directly to the then Chief of the Defence Force seeking his consideration to have staff posted to the Australian Embassy in Kabul, during Operations SLIPPER (the ADF contribution to the war in Afghanistan, and the associated operations in the Middle East from 2001 to 2014) and HIGHROAD (support to the NATO Resolute Support mission in Afghanistan) included in the class of persons eligible for the AOSM Civilian.

17. In doing so, he referred to the terms of the 24 November 2015 Determination, in particular persons *deployed under the Department of Defence or the Department of Foreign Affairs and Trade portfolios and were not subject to the Defence Force Discipline Act 1982*. He also relied on a Ministerial Statement of 9 August 2006 which stated that the appointment of a resident of Ambassador *underlines Australia's firm commitments to international efforts supporting Afghanistan's transition to security and stability and to combatting terrorism*, and noted these were consistent with the objectives of Operations SLIPPER and HIGHROAD.

[14] Online application for Honours and Awards, Mr Matt Anderson, Folio 30.
[15] Email, Defence to Mr Anderson, 6 December 2022. Folio 11

18. Mr Anderson then referred to the Embassy's role in the tasks listed above, and expanded on them to illustrate the role of Embassy staff. He also listed a range of other tasks including:

> *In-country intelligence, situational awareness, briefing and direct support of ADF operations including making representations (to the President, Minister for Defence, Minister for Internal Security, NATO, US Embassy and UK Forces, UK Embassy and UK Forces, Provincial Government (and local warlords) with and on behalf of a ADF operations to recover an Australian dual national kidnapped in Afghanistan.*
>
> *Activities with, briefing and sustainment of the Special Operations Planning Teams.*
>
> *Securing the approval of the Government of Afghanistan for the deployment of Australian Defence Force Personal as third country nationals with US and NATO Forces.*

19. Mr Anderson stated that it seemed anomalous that the service of civilians deployed in support of ADF Operations and based, for example, in the UAE were recognised with an AOSM (Civilian) while Embassy staff in Afghanistan, who he submitted worked in direct support of Australia's interests to promote Afghanistan's transition to security and stability and to contain the threat from international terrorism, including the in support of operations of the ADF's deployed forces, were considered ineligible.[16]

Defence's second refusal

20. As noted above, on 27 October 2023 General Campbell replied to Mr Anderson emphasising that in order to be awarded the AOSM (Civilian), civilians must render service, performing operational duties which make a direct contribution to the achievement of an operational mission.

21. General Campbell stated that due to the differing and unique nature of each DFAT member's circumstances, an individual assessment of their eligibility for the award would need to be undertaken, so on that basis he did not offer comment on broader eligibility of DFAT staff who were posted to the Australian Embassy in Kabul during Operations SLIPPER and HIGHROAD.

22. In respect to Mr Anderson's own circumstances, General Campbell relied on Defence's previous assessment of Mr Anderson's Afghanistan service and its conclusion that he was ineligible for the award as the necessary criteria had not been satisfied.

23. General Campbell then referred to his power to determine a class of persons to meet the definition of a civilian, but stated that in doing so he was *bound by the eligibility criteria for civilians as contained within the Australian Operational Service Medal Letters Patent, Regulations and Instruments, which apply to eligibility as well as the*

[16] Letter, Mr Anderson to Defence, 17 October 2023, Folio 12.

definition of civilian. General Campbell advised Mr Anderson that his decision was reviewable in the Tribunal, and stated that the Tribunal was well placed to review whether the work undertaken by Mr Anderson or other DFAT staff meet the eligibility criteria for the AOSM (Civilian).[17]

Mr Anderson's application to the Tribunal

24. In his application to the Tribunal, Mr Anderson stated that he made his application on two bases, namely, the accuracy of advice provided by Defence in its initial refusal, and the response from the then CDF that he was unable to make a determination that Embassy staff be declared a class of persons under the Regulations.[18]

Defence's initial advice

25. Concerning the accuracy of Defence's initial advice, Mr Anderson stated that the relevant regulation contains no definition of 'deployed'. He also submitted that the definition of civilian is contingent on 'employment' rather than 'deployment' and emphasised the word 'support' in the definition and that under the Determination of 24 November 2015, eligibility extends to civilians not subject to the DFDA.

26. Mr Anderson again relied on his earlier examples of what he submitted demonstrated direct support to ADF operations. Mr Anderson also provided a detailed statement from Major General David Mulhall DSC AM CSC (Retd), a senior officer who had held a range of command appointments in Afghanistan, including as Commander Joint Task Force 636, which supported and expanded on those examples. Major General Mulhall stated *Our work together, in my mind, was the epitome of what 'Team Australia' should be in a hazardous and demanding environment* and *The Australian Embassy staff in Kabul rendered service, performed duties and contributed directly to the achievement of the ADF's operational mission in Afghanistan, just as my staff and I contributed as effectively as we could to Australian diplomacy objectives.*[19]

27. Mr Anderson then submitted that, under the *Operational Service Medal Instrument (Civilian) with Clasp Greater Middle East Operation Amendment 2022*, diplomatic staff posted outside Afghanistan were awarded the AOSM (Civilian) for performance of duties as part of the evacuation of non-combatants from Afghanistan, and submitted that many recipients remained in their posted location and performed *normal functions related to the embassy*. He also noted that other (unspecified) DFAT staff are eligible under the Determination of 25 November 2015. He further submitted that Defence's advice concerning Operation SLIPPER was not relevant to his service, as that Operation concluded in 2014.[20]

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[17] Letter, Defence to Mr Anderson, EC23-004186, 27 October 2023.
[18] Letter, Mr Anderson to the Tribunal, 27 April 2025.
[19] Letter, Major General Mulhall to the Tribunal 18 June 2024.
[20] Letter, Mr Anderson to the Tribunal, 27 April 2025.

Class of persons

27. Concerning his request to the CDF for Embassy staff to be included in the class of persons eligible for the AOSM (Civilian), Mr Anderson submitted it was in CDF's power to issue a Determination which would allow Embassy staff to qualify for the award without recourse to an individual assessment in each case.

28. Mr Anderson concluded his submission by emphasising the centrality of Embassy staff to the whole of Government effort in Afghanistan during Operations SLIPPER and HIGHROAD, and the expansion of that role following the transition from ISAF to Resolute Support in 2015. He also provided evidence demonstrating what he submitted was the continued hazardous nature of the service rendered by Embassy staff.

The Defence Report

29. In respect of Mr Anderson's individual service as Ambassador, the Defence report, submitted on 13 June 2025, stated that the Defence position was that he was not deployed to support a declared operation, and that *Defence does not dispute the fact that Mr Anderson was positioned in Afghanistan to perform diplomatic duties as the Australian Ambassador to Afghanistan. However, Mr Anderson was not employed by the Commonwealth specifically to support, in a civilian capacity, the operations of a Defence Force deployed force.*

30. Defence also submitted that *Mr Anderson does not meet the definition of civilian for the purpose of the AOSM. He was not employed to support the Defence Force deployed force, he was not subject to the DFDA, nor is he is included as a Class of Persons by the CDF.*

31. Concerning general eligibility for Embassy staff, Defence submitted that DFAT staff working within the Area of Operations are not considered eligible unless they meet the specific eligibility criteria, with applications being assessed on a case-by-case basis. Defence submitted that DFAT employees deemed eligible to date 'had signed' the DFDA and were *specifically deployed to support Defence operations.* Defence submitted that DFAT staff based overseas who are performing functions primarily related to the diplomatic work of the Embassy are not considered eligible for the award, and that it was for those reasons the CDF declined Mr Anderson's request to declare Embassy staff in a class of persons eligible for it.[21]

Mr Anderson's comments on the Defence Report

32. In his comments on the Defence report, Mr Anderson sought to challenge what he viewed as an assumption in the Defence report that the performance of diplomatic duties and the provision of direct support to the ADF are mutually exclusive. He submitted that this was not consistent with his experience as Ambassador and not in line with a number of evidentiary statements he provided with his application and with his comments on the Defence Report.[22] He again raised what he saw as an inconsistency in the awarding of the AOSM (Civilian) to diplomats posted out of country for the NEO.

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[21] Letter, Defence to the Tribunal, DH&A/OUT/2025/028, 13 June 2025.
[22] Email, Major General Cheryl Pearce to the Tribunal, 11 July 2025, Letter, Officer M, to the Tribunal, 29 June 2025.

32. Mr Anderson pointed to the intent of the award, set out in the Letters Patent, being to *afford recognition to certain members of the Australian Defence Force and certain Australian civilians who render service in certain military operations* and quoted a previous decision of the Tribunal which stated that *departure from the literal meaning…is justified where the literal meaning would lead to results that may be described in terms such as absurd, inconsistent, extraordinary, capricious, irrational or obscure and that lead to the conclusion that such could not have been intended by the lawmaker.*[23] He advised that DFAT employees are usually 'posted' rather than 'deployed' and argued that there would be justification for the Tribunal to find that a DFAT civilian 'posted' from Canberra to Kabul has the same policy intent as a Defence civilian 'deployed' from Canberra to Abu Dhabi.

33. Mr Anderson submitted that the amended eligibility criteria removed the requirement for employees of Defence or DFAT to be subject to the DFDA in order to be included as a class of persons for consideration of the award, and stated that Defence had not outlined why these terms do not apply in this case. He also set out examples where Embassy staff posted elsewhere had not signed the AOSM despite having not being subject to the DFDA.

34. Mr Anderson explained the difference between the roles and functioning of an Embassy or High Commission in a conventional setting rather than in a warlike area where the ADF is deployed. He submitted that in the latter, the Embassy directs considerable resources in direct support of the declared operation, as typically it represents the most significant component and expression of the Australian Government's equities in that country. He then pointed to a number of Prime Ministerial and other statements to substantiate this submission.[24]

Tribunal Consideration

35. The Tribunal understands that, during his tenure as Ambassador to Afghanistan, Mr Anderson held a commission as a member of the Army Reserve. This meant that, while he was on duty in that capacity, he was subject to the *Defence Force Discipline Act 1982.* However, he did not serve as Ambassador in the capacity of a Reserve officer, but rather as officer employed by the Commonwealth in the Department of Foreign Affairs and Trade. Accordingly, if he is to be eligible for the AOSM (Civilian), that can only arise if he meets the conditions set out in the Chief of the Defence Force determination made under the definition of 'civilian'. Those conditions require that he be:

> *(i) Employed by the Commonwealth to support the operations of the Australian Defence Force deployed force in a civilian capacity; and*
>
> *(ii) Deployed under the Department of Defence or the Department of Foreign Affairs and Trade portfolios and were not subject to the Defence Force Discipline Act 1982.*

36. In its first decision to refuse Mr Anderson's application, Defence stated that *the medal regulations require a civilian to be deployed* ***specifically*** *to support ADF operations* (emphasis added).

[23] See Ryder and the Department of Defence [2023] DHAAT 17.
[24] Letter, Mr Matt Anderson to the Tribunal, 18 July 2025.

37. The word 'specifically' does not appear in the Regulations or the CDF Determination and its addition by Defence seeks to impose an impermissible gloss on the eligibility criteria set out in the applicable law. There is no requirement that deployment be made specifically or exclusively for the purpose of supporting ADF operations. This is made clear by the *Australian Operational Service Medal (Civilian) with Clasp Greater Middle East Operation Instrument 2015* dated 13 April 2015, which expressly provides that *the service occurs on 30 days during one or more such deployments, whether or not the service continues throughout the whole day and whether or not the 30 days are continuous.* Plainly, this recognises that an eligible civilian may have other duties, roles or functions in addition to the provision of support to an ADF operation.

38. At the hearing, Defence also sought to exclude Mr Anderson from eligibility on the basis that he was 'posted' to Afghanistan by the Department of Foreign Affairs and Trade, rather than 'deployed'. That argument is plainly wrong. While English language dictionaries often give a meaning of the word 'deploy' along the lines *to move soldiers or equipment to a place where they can be used when they are needed* and often give that as the primary meeting, they also generally give a more general meaning along the lines *to use something or someone, especially in an effective way*. Given that the word 'deployed' is relevantly used in the Regulations and instruments made under them in relation to 'civilians' who are not members of the ADF, it is clear that it would be inappropriate to interpret that word in accordance with a military meaning as opposed to the more general meaning. It is readily apparent that the Minister for Foreign Affairs and the Department of Foreign Affairs and Trade considered that it would be effective to use Mr Anderson as Ambassador to Afghanistan and thus there can be no doubt that he was 'deployed' for the purposes of the Regulations and instruments.[25]

39. Accordingly, the key issues for the Tribunal were whether or not Mr Anderson's role as Ambassador involved him in the provision of support to the ADF deployed force in Afghanistan and, if so, whether he provided that support on at least 30 (whole or part) days.

40. In his correspondence with Defence and the Tribunal, Mr Anderson described at some length the duties he performed and which he claimed to be in support of the ADF operation. At no stage did Defence assert that he did not perform those duties or that their provision did not provide support to the ADF operation.

41. It is relevant (but not conclusive) to note that, prior to 2006, Australia did not maintain an Embassy in Afghanistan. Rather, DFAT officers from other postings visited the country on an 'as required' accreditation basis to perform diplomatic of consular service. It was only after Australia's primary involvement in Afghanistan moved from warfare against the then prevailing Taliban regime to supporting the development and maintenance of a democratic regime that a permanent Embassy was established in Kabul. And, when the ADF and other allied forces were withdrawn from Afghanistan in 2021, the Australian Embassy in Kabul was closed. This coincidence of events suggests a correlation between the role of the Ambassador and Embassy in Kabul and the role of the ADF over the same period.

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[25] The Tribunal notes in passing that the *Determination by the Chief of the Defence Force* dated 24 November 2015 refers to a person deployed under *the Department of Defence or the Department of Foreign Affairs and Trade portfolios.* As the Tribunal noted in Ryder and the Department of Defence [2023] DHAAT 17, in Commonwealth terminology Ministers rather than Departments have portfolios. However, the Tribunal accepts that this phraseology should be given the clearly intended meaning of capturing a person deployed under *the Defence or Foreign Affairs and Trade portfolios.*

42. Of more direct relevance however, and confirming the claims made by Mr Anderson, is the evidence provided by Major General Mulhall,[26] Major General Pearce[27] and a former Special Air Service Regiment Commander with protected identity status.[28] Each detailed the support provided to ADF operations by the Ambassador during their period of service in Afghanistan. That evidence, unchallenged by Defence, left the Tribunal in no doubt that Mr Anderson provided support to ADF Operation HIGHROAD.

43. At the hearing the Tribunal explored with Mr Anderson the amount of time that he spent as Ambassador in the provision of that support and asked him to later provide further detail in that regard. He did that by letter dated 7 November 2025. His response was provided to Defence for any comment it wished to make. On 25 November 2025, Defence wrote to the Tribunal. It did not challenge any of the time claimed to have been spent by Mr Anderson, nor did it assert that the functions on which that time was spent were not in support of Operation HIGHROAD.

44. Instead, Defence sought to make a new argument, not contained in its letter of rejection to Mr Anderson, in the Defence Report, or at the hearing. It referred to the requirement set out in the AOSM (Civilian) GMEOPS Instrument that *the service must be given while the civilian giving the service is assigned for Operational Duties on one or more operations that comprise the Greater Middle East Operation* and then said:

> *There is no evidence in Mr Anderson's response that Defence views has articulated the basis for his assignment to operational duties on Operation HIGHROAD in accordance with the medal instrument requirements.*
>
> *To support Defence's position, I am enclosing copies of both revoked and current directives governing the assignment of civilians to Defence operations. These documents, were recently identified through internal discussions, and outline the process by which civilians are formally assigned to Defence operations.*
>
> *Defence maintains the view that under the medal regulations, Mr Anderson was not assigned for operational duties as a civilian on Operation HIGHROAD. Furthermore, the roles listed by Mr Anderson in his response do not suggest or provide evidence where members of the Embassy were assigned to operational duties on Operation HIGHROAD. Accordingly, when an Australian Defence Force (ADF) member is posted to a region as a Defence Attaché where Defence operations are underway, they are not eligible for operational service recognition, as they are not concurrently assigned to the ADF operation. Similarly the diplomatic mission in Afghanistan is not listed as an eligible ADF operation in the medal Instrument.*[29]

[26] Letter, Major General Mulhall to the Tribunal, 18 June 2024.
[27] Letter, Major General Pearce to the Tribunal, 11 July 2024.
[28] Letter, Officer M, 29 June 2025.
[29] Letter, Defence to the Tribunal, DH&A/OUT/2025/083, 25 November 2025.

45. The Tribunal considered that this argument was without merit for a number of reasons:

- While the AOSM (Civilian) GMEOPS instrument does require that a civilian must be 'assigned', it does not define that term or specify the identity of the assigning authority;

- Mr Anderson was clearly assigned to Afghanistan by the Minister for Foreign Affairs;

- The purposes of his assignment clearly included providing assistance and support to the ADF in pursuit of Operation HIGHROAD;

- The definition of 'Operational Duties' is simply *duties which make a direct contribution to the achievement of an operational mission*, and the evidence from Major General Mulhall, Major General Pearce and the protected identity former Special Air Service Regiment Commander clearly showed that Mr Anderson made such a contribution;

- The documents attached to the Defence situation set out the ADF requirements for a civilian to 'accompany' the ADF on an operation and were accordingly irrelevant – Mr Anderson did not accompany the ADF to Afghanistan but was instead there in his own right by reason of his posting as Ambassador by the Minister for Foreign Affairs;

- Those documents were in clear conflict with the legal documents governing eligibility for the AOSM (Civilian) as they required an affected person to be bound by the *Defence Force Discipline Act 1982*, whereas the Chief of the Defence Force determination made under the definition of 'civilian' quite clearly provides that a Commonwealth employee deployed under the Foreign Affairs portfolio does not need to be subject to that Act in order to be eligible for the AOSM (Civilian);

- The circumstances of *an Australian Defence Force (ADF) member ... posted to a region as a Defence Attaché where Defence operations are underway*, whatever they might be, are simply irrelevant to the present matter; and

- There is no requirement for *the diplomatic mission in Afghanistan* [to be] *listed as an eligible ADF operation in the medal Instrument* - the only requirement is that a member of the diplomatic mission meets the stated eligibility criteria relevant to a civilian.

46. The Tribunal was accordingly readily satisfied that Mr Anderson met the requirement for at least 30 full or part days. The fact that he may have been doing other things of a diplomatic, consular or other nature during the balance of his time in Afghanistan is simply irrelevant.

47. The Tribunal therefore concluded that Mr Anderson met each of the eligibility criteria for the AOSM (Civilian).

48. As noted earlier, in his letter to the Chief of the Defence Force Mr Anderson sought that award not only for himself but also for *staff posted to the Australian Embassy in Kabul, during Operations Slipper and HIGHROAD*. While this review is confined to Mr Anderson's own service during Operation HIGHROAD, it is nevertheless appropriate to make some comment on the eligibility of those other staff.

49. First, that letter constituted an 'application' for the purposes of Section 110V(1)(c) of the Act.

50. Second, it was clear from the response provided by the Chief of the Defence Force and from statements made at the hearing, that that application has not yet resulted in a decision by Defence and was thus outstanding for action by Defence.

51. Third, when this was pointed out by the Tribunal at the hearing, Defence stated that it could not further consider that application without the consent of each of the staff members to which it related. That is clearly incorrect. There is nothing in the Act that requires an application for a defence honour or award to be made with the consent of the person for whom that honour or award is sought. Similarly, there is nothing in the Act that requires such consent before Defence makes a decision concerning eligibility for an honour or award. Such decisions are commonplace. Actual conferral may require contact with the relevant individual to ascertain their consent to receive and to make arrangements for its provision, but that is a quite separate matter.

52. Fourth, the Tribunal notes that simply being a member of staff at the Embassy while Mr Anderson was performing functions that rendered him eligible for the AOSM (Civilian) is not sufficient to render any other person similarly eligible. The Tribunal agreed with the Chief of the Defence Force that individual eligibility requires an individual assessment of each DFAT member's circumstances. Not all duty within the Embassy would necessarily qualify as support to an ADF operation. It is possible that Mr Anderson may be able to provide sufficient detail about the duties of each Embassy staff member and the time they devoted to such duties as were in support of ADF operations, but it is also possible that more information may be required from DFAT or possibly from the individual concerned (particularly in relation to Operation SLIPPER which pre-dated Mr Anderson's tenure as Ambassador). That is a matter for resolution between Defence and Mr Anderson in the course of actioning his outstanding application.

53. Fifth, in making the above comments, the Tribunal stressed that it was expressing no view as to individual entitlement of other staff. It would only be appropriate for it to do so if any future adverse Defence decision resulted in an application for review by the Tribunal.

Tribunal Decision

54. In light of the above, the Tribunal decided to set aside the Defence decisions dated 6 December 2022 and 27 October 2023 to refuse to recommend Mr Anderson for the Australian Operational Service Medal (Civilian), and to substitute those decisions with the recommendation that he be awarded the Australian Operational Service Medal (Civilian) with Clasp Greater Middle Eastern Operation.