



Australian Government

Defence Honours and Awards Appeals Tribunal

Swan and the Department of Defence [2026] DHAAT 7 (5 May 2026)

File Number(s) 2025/026

Re **Mr Michael Swan**
Applicant

And **The Department of Defence**
Respondent

Tribunal Commodore Vicki McConachie CSC RAN (Retd) (Presiding Member)
Major General Mark Kelly AO DSC (Retd)

Hearing Date 23 March 2026

Attendances Mr Michael Swan
(Applicant)

Mrs Andrea Patel
Manager, Veterans and Families
Ms Joanne Callaghan
Assistant Director, Service and Campaign Awards
Directorate of Honours and Awards
Department of Defence
(for the Respondent)

DECISION

On 5 May 2026 the Tribunal decided to affirm the Defence decision of 21 December 2023, not to recommend Mr Swan for the award of the Australian Service Medal with Clasp 'SE ASIA'.

CATCHWORDS

DEFENCE AWARD – Australian Service Medal – Air Base Butterworth – 30 days of requisite qualifying service – conflicting evidence in relation to claim

LEGISLATION

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

Defence Regulation 2016, Regulation 36

Commonwealth of Australia Gazette S64, Declaration and Determination under the Australian Service Medal Regulations, Australian Service Medal with Clasp ‘SE ASIA’ dated 28 February 2002.

Introduction

1. The Applicant, Mr Michael Swan, seeks review of a decision of Defence dated 21 December 2023, to refuse to recommend him for the award of the Australian Service Medal with Clasp ‘SE ASIA’ for his service at Butterworth, Malaysia in 1986.

Decision under review

2. On 30 October 2023, Mr Swan applied to Defence for the Australian Service Medal with Clasp South East Asia.^{1 2} On 21 December 2023, Defence wrote to Mr Swan advising him that while it accepted that he served on a nine-day attachment to Butterworth in 1986 as part of Operation GATEWAY, it did not accept that he had other qualifying service at Butterworth in 1986 as he had claimed in his application. While not explicitly stated in the Defence response, a total of 30 days of qualifying service is generally required to qualify for the award.³

3. On 18 August 2025, Mr Swan made application to the Tribunal seeking review of the above decision.⁴

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.

5. 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.

Mr Swan’s service

6. Mr Swan enlisted in the Royal Australian Air Force for permanent service on 9 January 1974 and discharged on 23 March 1990 at his own request, having served for a period of 16 years, two months and 15 days.⁵ Mr Swan also served in the Australian Army Reserve in two periods during the 1990s, which are not of relevance to this application.

7. In recognition of his service, Mr Swan has been awarded the Australian Defence Medal and the Defence Force Service Medal.⁶

¹ Email, Mr Swan to Defence, 30 October 2023.

² In addition to this application, Mr Swan made a number of previous applications to Defence for the award, as discussed later in this decision.

³ Email, Defence to Mr Swan, 21 December 2023.

⁴ Application, Mr Swan to the Tribunal.

⁵ Defence Report.

⁶ Ibid.

The Australian Service Medal with Clasp South East Asia

8. The Australian Service Medal was established by Letters Patent dated 13 September 1988 as listed in Commonwealth of Australia Gazette S336, *Letters Patent and Schedule – Australian Service Medal Regulations* dated 02 November 1988.

9. The eligibility criteria for awarding the Australian Service Medal with Clasp South East Asia, relevant to Mr Swan's circumstances, are contained in the following subparagraphs of the Declaration and Determination for the Australian Service Medal, set out in Commonwealth of Australia Gazette No. S64 dated 28 February 2002 (the Determination):

[...]

1) that the following non-warlike operations in which members of the Australian Defence Force were engaged with elements of the Australian, New Zealand and United Kingdom (ANZUK) Forces; Australian Army Rifle Company (Butterworth); Five Power Defence Arrangement; and Australian Army Survey Operations in South East Asia during the following periods to be a declared operation for the purpose of the Regulations:

(i) Defence Force activities on land in Malaysia during the period that commenced on 14 February 1975 and ended on 31 December 1989.

2) determine, under subregulation 4(2) of the Regulations, that the conditions for award of the Australian Service Medal with Clasp 'SE ASIA' ("the Medal") for the declared operation are:

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

...

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

...

(vi) the qualifying period of service as described in subparagraphs (c)(i), (c)(ii), (c)(iii), (c)(iv) or (c)(v) of this Instrument may be deemed by the Chief of the Defence Force or delegate to have been established notwithstanding that the member has not met the qualifying periods described if service in relation to the declared operation was terminated due to the death, evacuation due to illness or injury or other disability due to service. [...]⁷

⁷ Commonwealth of Australia Gazette S64, Declaration and Determination under the Australian Service Medal Regulations, Australian Service Medal with Clasp 'SE ASIA' dated 28 February 2002.

Mr Swan's applications to Defence

10. On 24 March 2015, Mr Swan submitted an online application to Defence seeking a full medal assessment.⁸ On 31 March 2015, Defence wrote to Mr Swan advising him that he qualified for the previously issued Defence Force Service Medal and the Australian Defence Medal, and that he did not qualify for any additional awards.

11. On 17 April 2015, following a telephone discussion with Mr Swan, Defence wrote to him setting out relevant aspects of the eligibility criteria and advising him that an examination of his service record confirmed that he was posted to 92 Wing for a nine day period between 15 April 1986 and 23 April 1986. Defence invited Mr Swan to provide any additional information to substantiate that he had served for the requisite period.⁹

12. On 1 September 2015, the South Australian Minister for Veterans' Affairs, the Hon Martin Hamilton-Smith MP, wrote to the Assistant Minister for Defence, the Hon Stuart Robert MP, on behalf of Mr Swan. The representation stated:

Mr Swan believes he is eligible to receive the Australian Service Medal with Clasp 'SE ASIA' as a result of his deployment to 92WG DETA, Butterworth in Malaysia as part of Operation GATEWAY between 10 March 1986 and 24 April 1986. The qualifying period for this medal is an aggregate of 30 days.¹⁰

13. The representation included a copy of a letter from Corporal Phillip Abrahams, which stated:

I am writing on behalf of Mr Michael Swan, who served with me in 92WG (in particular, on 492SQN) during the mid 1980's. He has contacted me and asked if I could provide evidence that he has been deployed to 92WG DETA, Butterworth, extending past 30 days. As such, I attest that Michael deployed to Butterworth with me, he as LAC, myself as CPL, on 10 Mar 86, and whilst I redeployed to Adelaide on 15 Apr 86, Michael remained in country until 24 Apr 86. From memory, his extended deployment was due to his promotion to CPL and he took over the duties of Armament NCO from me, for part of the following rotation.¹¹

14. The representation referred to a number of claimed shortcomings in the service records of Mr Swan and other RAAF members, and sought a more comprehensive review of Mr Swan's application for the award.

15. On 11 November 2015, the Assistant Minister for Defence, the Hon Darren Chester MP wrote to Mr Hamilton-Smith in response to his representation. Minister Chester's letter said:

Mr Swan's service record confirms that he completed service on Operation GATEWAY from 15 to 23 April 1986. As this is short of the 30 days required, the Department of Defence researched a number of other resources, including

⁸ Defence Report.

⁹ Letter, Defence to Mr Swan, AF21152288, 31 March 2015.

¹⁰ Letter, The Hon Martin Hamilton Smith to The Hon Stuart Robert MP, 15MVA/351, 1 September 2015.

¹¹ Ibid.

the unit's personnel occurrence reports, unit history reports and commanding officer reports. I regret that no information was located to confirm that Mr Swan provided additional service in the qualifying area.

The Royal Australian Air Force has also conducted a thorough search of the records related to Operation GATEWAY and Mr Swan's service in Butterworth in 1986. With the introduction of Objective as Defence's records management system, all older, hard-copy files have either been digitised, archived or disposed of under the Archives Act 1983.

Records of operational service prior to the introduction of the current Defence human resources system, PM Keys, are not always complete as the integrity of these records relies on information being sent to the career managers for inclusion in personal files.

Unfortunately, there is nothing on file at 92 Wing prior to 1989, or any other evidence that supports Mr Swan's application.

In circumstances where official records do not support an individual's claim for an award, Defence may accept other information to determine eligibility. Such information could include statements from personnel the individual deployed with, a copy of an official passport, photographs of the individual in location, or letters written or received while deployed.

I am advised that Defence has accepted the statement provided by Mr Phillip Abrahams as evidence in building a case to determine the eligibility for Mr Swan. However, this statement alone is not sufficient to confirm his eligibility.

If Mr Swan is able to provide similar statements from others with whom he deployed, or other information such as that described above, Defence will be happy to re-assess his eligibility for the ASM with Clasp 'SE ASIA'.¹²

16. On 30 October 2023, Mr Swan wrote to Defence submitted a statutory declaration from Mr Kent Lee, which stated:

...
I was posted to and served with 492 Sqn at RAAF Base Edinburgh South Australia between July 1984 and March 1989.

During that period 492 Sqn maintained a permanent presence at RAAF Base Butterworth Malaysia through 92WGDETA Butterworth.

Manning of that deployment from an armament perspective was 2 Leading Aircraftsman and an NCE (generally corporal or above).

These rotations lasted an average of approximately 5-6 weeks.

Michael Swan was posted to 492 SQN as an LAC Armament fitter and participated in the rotational deployments to Butterworth via 92 WG DETA.

¹² Letter, the Hon Darren Chester MP to the Hon Martin Hamilton Smith MHA, MC15-003074, 11 November 2015.

I recall Michael deploying to 92 WG DETA in the first half of 1986 as an LAC and returning from that deployment as a Corporal having been promoted during the deployment.

I vividly recall this as it was an unusual circumstance in so far as he left for deployment holding one rank and returned at a more senior rank.

As such it is my recollection and firm belief that Mr Michael Swan meets the requirements for the award of ASM with SE Asia clasp

...¹³

17. In response to this application, Defence sought the assistance of RAAF History and Heritage Branch to verify Mr Swan's claims. On 30 November 2023, RAAF History and Heritage Branch stated that *nothing was found that matched the member's attachment.*¹⁴

18. On 21 December 2023, Defence wrote to Mr Swan addressing the two statements made in support of his claim. Defence said:

...

Mr Kent's recollection of you deploying to Butterworth in early 1986 as a Leading Aircraftman and returning as a Corporal is not supported by your service record which indicates that your promotion to corporal was with effect 01 May 1986 after you returned to Australia. Regrettably, as Mr Kent did not deploy with you his recollection cannot be used to confirm 'in country service' for your time in Butterworth.

Mr Phillip Abrahams attests that you both deployed to Butterworth on 10 March 1986. As stated above, your service record shows that your service in Butterworth commenced with effect 15 April 1986 and ceased on 23 April 1986. Mr Abrahams' statement regarding your promotion is acknowledged, however it does not align with entries within your service record which shows your promotion with effect 01 May 1986. Further, there is no evidence that you were in receipt of higher duties allowance while in the claimed acting Armament NCO role.

...

*If you believe there are anomalies in your service record you may wish to make an application for amendment via a Freedom of Information request*¹⁵

...

¹³ Statutory Declaration from Mr Kent Lee, 22 September 2023.

¹⁴ Email, RAAF History and Heritage to the Directorate of Honours and Awards, 30 November 2023.

¹⁵ Email, Defence to Mr Swan, 21 December 2023.

Mr Swan's application to the Tribunal

19. In his application to the Tribunal, Mr Swan submitted:

My basis of claim is that the dates in the government records are wrong. I have listed the following objections to the decision

- 1. No one at 492 sqn was rotated through Butterworth for less than 5-6 weeks. My records state 9 days. This is incorrect.*
- 2. I have a letter from a fellow Armourer that state I was there from 10Mar86 to the 24Apr86 and states that he returned to Australia on the 15Apr86 leaving me in Butterworth.*
- 3. As a note it was common for senior Leading Aircraftsmen to be in charge of deployments or teams.*
- 4. Whilst in Butterworth I was notified of my promotion to CPL, effective 01May86 and this was a normal practice to allow senior leading Aircraftsmen to be in charge. HDA...would not have been paid as I was not promoted until 01may86.*
- 5. Another fellow Armourer clearly remembers me being there on deployment for my deployment due to the promotion.*

Due to the fact that 492 sqn has disbanded and all the records are most likely destroyed I have had difficulty in gaining evidence that will satisfy persons that are using the incorrect records.¹⁶

The Defence report

20. In its report to the Tribunal, Defence stated that it relied on several printouts from AFPEMS, a personnel management system that has since been retired. Defence submitted that those printouts consistently show that Mr Swan was attached for service with Operation GATEWAY between 15 and 24 April 1986.

21. Defence submitted that it undertook searches of records on location at 92 Wing, records held by Air Force History and Heritage Branch, and historic pay records. It submitted that no further documentation in relation to Mr Swan's service on Operation GATEWAY could be located. Defence also submitted that it examined Mr Swan's pay records and that no payments of overseas or operation-related allowances were apparent. However, Defence also submitted that it compared Mr Swan's pay records with those of a member known to have been serving on Operation GATEWAY during a similar time, but that no such allowances were evident on that member's record either.

22. Having regard to the statement made by Mr Lee about Mr Swan's promotion, Defence submitted that Mr Swan's service records did not support that statement. Defence also provided a table which provided a summary of Mr Swan's 'verifiable whereabouts' between February and July 1986.

¹⁶ Application for Tribunal review.

23. Defence submitted that on 24 March 1986, Mr Swan received a medical referral from the Base Medical Facility at Edinburgh which led to a physiotherapy appointment. Defence also submitted that he attended other medical appointments on 7 April and 14 May 1986, which Defence submitted placed him in Australia on those dates.

24. Defence acknowledged that it was possible that Mr Swan could have been outside Australia between 8 April and 13 May 1986, but that it had no way of verifying whether he rendered any more than nine days of qualifying service.

Date	File	Comments	Location	Page
19/02/1986	Outpatient Clinical Record entry			M162
03/03/1986	Outpatient Clinical Record entry			M162
24/03/1986	Outpatient Clinical Record entry			M162
24/03/1986	Specialist Consultation Record	Physiotherapy referral	BMFEDN	M256
07/04/1986	Outpatient Clinical Record entry			M162
08/04/1986	Earliest date Mr Swan could have commenced Operation GATEWAY			
15/04/1986	Commenced Operation GATEWAY WEF 15 April 1986 (AFPEMS)			P81
23/04/1986	Ceased Operation GATEWAY WEF 23 April 1986 (AFPEMS)	Defence record = 9 days		P81
24/04/1986	Signal – posting from 492SQN to 481SQN WEF 20/05/86 deferred – new date 01/07/86	Reason: 492SQN critically undermanned due to Op Gateway and RIMPAC		P324
01/05/1986	Promotion – Leading Aircraftman to Corporal (AFPEMS)	Stat Dec from member B states this promotion occurred while on Op Gateway		P81
13/05/1986	Latest possible date Mr Swan could have ceased Operation GATEWAY	Maximum possible = 36 days		
14/05/1986	Outpatient Clinical Record entry			M161
14/05/1986	Specialist Consultation Record	Ophthalmology referral	BMFEDN	M31
14/05/1986	Specialist Consultation Record	Podiatry referral	BMFEDN	M32
20/05/1986	Original posting date	Posting deferred, see above		P324
23/06/1986	Outpatient Clinical Record entry	Posted Out RAAF Base Edinburgh		M161
01/07/1986	Actual posting in to unit	Posting to 481SQN – RAAF Williamtown		P324
01/07/1986	Outpatient Clinical Record entry	Posted in RAAF Williamtown		M161

Legend: M = Medical file, P = Personnel file

25. The Defence report ‘acknowledged’ the supporting evidence provided by Mr Lee and Mr Abrahams, but it also submitted that Mr Swan’s medical records suggest that it is unlikely that he deployed to Butterworth on 10 March 1986 as he had claimed in his application, and that it would reassess his eligibility for the award if he could provide additional evidence, such as a passport documenting his travel to and from the Area of Operations.¹⁷

Mr Swan’s comments on the Defence Report

26. In his comments on the Defence report, provided on 8 December 2025, Mr Swan stated:

...

My main comment of the report is threefold.

One is the misunderstanding, in the report, of my promotion.

I was not promoted while I was in Butterworth.

I was told of my promotion and the with effect date (WEF) of may86.

It was common for members to be told of their impending promotion and to be given duties without HDA for that short time frame.

As a senior LAC I could be responsible as an NCO (for example LAC is equivalent to a Lance Corporal in the Army) for my team members just because of seniority.

This is the situation that Mr Lee is referring to.

Two is that Mr P Abrahams stated I deployed on the 10mar86 and returned 24apr86. He returned on the 15apr86 leaving me in charge as part of those new duties until a new corporal would have arrived and took over the lead role. Another reason that Mr Lee would have assumed I was acting as corporal whilst on deployment.

Three is that I currently have sent documents from my medical files (relating to another matter) that clearly show inaccuracies in recording that could have resulted in my review being decided upon unfavourably.

I am also attending a 492 Sqn function on Friday and will be seeking the help of others who may have been on deployment with me.

I am trying to find as much evidence as I can.¹⁸

...

Mr Swan did not provide further materials before the hearing.

¹⁷ Defence Report to the Tribunal.

¹⁸ Mr Swan’s comments on the Defence Report, 8 December 2025.

Tribunal hearing

27. At the commencement of the hearing, the Tribunal noted that it was bound by the eligibility criteria for an award that are applicable to the award being considered at the time of the decision under review. The Tribunal further noted that it had no discretion to recommend an honour or award if the terms and conditions laid down in the Regulations and Determinations are not met.

28. Mr Swan said that he had been dealing with this matter for the last ten years. He said that he believed that there were significant omissions in his service records. He said that none of his deployments with 3 Squadron were listed, even though they did not qualify for medals. He submitted that his record in relation to his operational service was incorrect as no one did only nine days in Butterworth, everyone did five to six weeks. He noted that he had found some photos dated in April 1986 and some other undated photos that were taken at a later time which showed he was in Butterworth. He said that he was not able to find them during the hearing, but that they were in his study. After the hearing he forwarded the photographs to the Tribunal.

29. Mr Swan said in support of his case that ‘either the Tribunal believe him or they do not’. He said that he spoke with others who were not prepared to make statutory declarations like two other friends who had, only to be told they were telling lies because it did not match with the paperwork. None of them would put their name on the documents.

30. Mr Swan noted that he was employed at the heritage museum at 492 Squadron. He said that he had been looking for the EE500 maintenance records of the aircraft he maintained while in Butterworth as his name and the date would be in those records. He was not optimistic about finding the records, however, as, when the squadron was disbanded, he thought the records would likely have been disposed of.

31. Mr Swan submitted that the documentation supplied by Defence in the review papers including his service records contained many omissions. He also felt Defence had focused on his not being promoted in Butterworth to question the accuracy of the statements of Mr Abrahams and Mr Lee which he relied on to support his case. He agreed he was not promoted while in Butterworth, but that he was advised he would be promoted and that this was the explanation for the reference in Mr Abrahams’ and Mr Lee’s statements.

32. Mr Swan said that it was not until 2006 that another person brought to his attention that he may be eligible for the award. He said that when he inquired about receiving the medal he was immediately told he had only served in Butterworth for only nine days.

33. Mr Swan said that he remembered going to Butterworth, and that those who deployed would get blood taken from them when they left and taken from them when they got back. He thought that this would give him evidence of the dates of his deployment; however, he could not find it in his medical documents. He submitted that this was an example of the documentary record being incomplete. Mr Swan submitted that the records of other personnel were incomplete as well.

34. The Tribunal confirmed with Mr Swan that he was saying:
- a. he had two statements that supported his submission,
 - b. his documents were missing material and incorrect, and
 - c. that Defence had concentrated on his promotion time.

35. When asked whether there was anything further he wanted to raise, he held up a coffee mug that he said was from Butterworth. Mr Swan stated that you did not get the mug for serving only nine days, but noted that it did not have the dates of his service at Butterworth on it.

36. The Tribunal then asked Defence whether it wished to say anything. Defence thanked Mr Swan for his significant amount of service to the ADF. Defence noted that he had spent 10 years trying to prove his operational service included the requisite time at Butterworth. Defence noted it had tried to find evidence to try to prove him right.

37. Defence pointed to a timeline it constructed which did not support Mr Swan's submission as to dates deployed. Despite Defence's efforts, it could only find evidence of him being deployed for nine days, not the required 30 days.

38. Defence asked what transport Mr Swan used when he deployed. Mr Swan replied that he deployed in a P3 and returned in a 707. Defence then asked about whether his passport was stamped. Mr Swan said that he never had a passport, and that his Defence identity card was used instead.

39. Defence submitted that if other evidence obtained after the hearing showed that Mr Swan had been deployed for 30 days, it would reassess his eligibility.

40. The Tribunal then asked Mr Swan about whether he had a passport and he said that those deploying did not have a passport on them. He said that the orderly room kept their passports and that those deploying only got a passport if they went on a private trip.

41. The Tribunal asked if Mr Swan had ever sought have his records amended and he said that he did not, because all he had was the statement he had used in his application.

42. The Tribunal noted that it had to be satisfied as to the facts underlying this application on the balance of probabilities. The Tribunal confirmed with the applicant that he said that he was in Malaysia from 10 March to 24 April 1986. The Tribunal noted that Mr Swan's medical file contains a note from a Dr John Weaver that says that on 24 March 1986 that he treated Mr Swan. The records indicated that this occurred in Australia. The Tribunal noted that it was concerned that there was not just material missing from Mr Swan's records, but that there was contrary material in his records.

43. Mr Swan said that there was an incident of food poisoning while he was in Butterworth and that people were seen about that by a doctor in Butterworth. He said that he did not know if that was what was being referred to in the record. The Tribunal also said that the documents referred to Mr Swan being seen by Dr Weaver on 7 April 1986 for a painful right foot. The Tribunal noted that the documents were hand written. The page in the medical documents containing Dr Weaver's notes date from 19 February 1986 to 7 April 1986. The Tribunal noted the 24 March 1986 entry was about a painful neck. Mr Swan said he did not recall any of that. He again submitted that some of the records were wrong.

44. The Tribunal noted that it had before it relatively recent statements submitted by Mr Swan stating that he recalled events from over thirty years ago that supported his having been in Malaysia at the relevant time, and that it also had before it a contemporaneous record which indicated that Mr Swan was seen by a doctor in Australia at the time of the claimed service in Butterworth.

45. The Tribunal noted that it may be useful to see the photos Mr Swan had referred to as being taken in Butterworth.

46. The Tribunal asked Mr Swan whether he knew people who had been on the deployment with him. He said that two of them were dead and that the remainder would not make a statement that they felt was likely to not be believed, even though true.

47. The Tribunal asked if there was anything that happened during Mr Swan's time in Butterworth that would help with dates. Mr Swan noted that there was an incident with a P3 and star pickets and also that they went to Changi a couple of times.

48. The Tribunal asked about a reference Mr Swan had made to a previous posting not being recorded. Mr Swan said that this was a reference to his time a 3 Squadron on classic hornets. The Tribunal noted that four years in 3 Squadron on classic hornets were recorded. Mr Swan clarified that he was referring to the deployments such as KANGAROO 89 not being recorded. The Tribunal noted that exercises were not usually recorded in service records and were very different from operational deployments. The applicant disagreed saying that previously they had been recorded.

49. During the hearing, Mr Swan showed the Tribunal his medals which included the Australian Defence Medal, the Defence Long Service Medal and two foreign awards, the liberation of Kuwait medal issued by the states of Kuwait and Saudi Arabia for service in the 1991 Gulf War, and a British campaign medal.

50. Mr Swan said that he was awarded those medals for his service with the Royal Air Force of Oman, which he described 'as British orientated'. The Tribunal expressed surprise that he had received it when serving with the Omani Air Force. Mr Swan said that it had been explained to him it was the same as when the contractors went to war for the hunt of the *Bismarck*. He said that he received the medals in 1994/1995.

51. Returning to his claim for the Australian Service Medal, the Tribunal asked Mr Swan to step through why he thought the record was incorrect. He said that he could not tell the Tribunal why, and that he could only say that he was there. He said that he did not understand the difference in the medical records.

52. The Tribunal expressed surprise that Mr Swan did not have a passport when he went into Changi. The Tribunal noted that on later deployments, serving members required passports to travel into Singapore. Mr Swan said that they travelled for work only and not for personal reasons. He stated that he just went there to pick up things and to come back. He reiterated that he and his counterparts did not have passports, and that these were held by the orderly room.

53. When asked, Defence had nothing further to add.

54. The Tribunal thanked Mr Swan for going through the material with it and noted that it appreciated what he had submitted. The Tribunal noted that Defence had said that

the door was not closed and that if he found further material, he could make a fresh application to Defence.

55. The Tribunal asked whether Mr Swan could provide the photos he had previously mentioned. He agreed that he could and the Tribunal then gave him five days to produce the photographs. The Tribunal also noted that if Mr Swan could find the maintenance records he had referred to that would be very helpful. He confirmed that when he was deployed to Malaysia, he did not return to Australia on leave or for any other reason until his deployment finished.

56. The Tribunal thanked Mr Swan for his 15 years of service.

57. Mr Swan provided 64 photographs to the Tribunal taken during his time in Malaysia. Most of the photographs were undated, while some photographs had 'April 86' on them. While the Tribunal was grateful that they had been provided, because of the vagueness of the date, the photographs did not support or detract from Mr Swan's submission as to his dates of service.

Tribunal consideration

58. The eligibility criteria for awarding the Australian Service Medal with Clasp 'SE ASIA', are contained in the Declaration and Determination for the Australian Service Medal, set out in Commonwealth of Australia Gazette No. S64 dated 28 February 2002. The Declaration and Determination relevantly requires that:

a. the recipient rendered service as a member of the Australian Defence Force while posted to or serving as a member of the Australian element of the Defence Force activities on land in Malaysia for a period of 30 days, or for periods amounting in the aggregate to 30 days,

b. during the period that commenced on 14 February 1975 and ended on 31 December 1989.

59. Mr Swan served in the Royal Australian Air Force from 9 January 1974 until 23 March 1990. He also served in the Australian Army Reserve in two periods during the 1990s, which are not of relevance to this application.

60. Mr Swan put to the Tribunal that while he was a member of the Australian Defence Force he served as a member of the Australian element of the Defence Force activities on land in Malaysia for a period of 30 days from 10 March 1986 until 24 April 1986. In support of his submission he provided:

- a. his own evidence that he was in Malaysia during that period,
- b. an unsworn letter from Mr Phillip Abrahams which was included in a letter from the South Australian Minister for Veterans' Affairs, the Hon Martin Hamilton-Smith MP, to the Assistant Minister for Defence, the Hon Stuart Robert MP, on behalf of Mr Swan, on 1 September 2015, and
- c. a statutory declaration by Mr Kent Lee dated 22 September 2022.

61. Mr Swan also gave evidence that he deployed to 92 Wing Detachment A, Butterworth in Malaysia as part of Operation GATEWAY between 10 March 1986 and

24 April 1986. He also submitted that his service records were incomplete and did not accurately reflect his service.

62. Mr Phillip Abrahams stated that he served with Mr Swan in 92 Wing and in particular in 492 Squadron. Defence confirmed that Mr Abrahams deployed to Malaysia between 10 March and 15 April 1986. Mr Abrahams said that Mr Swan *deployed to Butterworth with me, he as LAC, myself as CPL, on 10 Mar 86, and whilst I redeployed to Adelaide on 15 Apr 86, Michael remained in country until 24 Apr 86*. He noted that his memory was that Mr Swan's *extended deployment was due to his promotion to CPL and he took over the duties of Armament NCO from him*.

63. In his statutory declaration, Mr Lee attested that while he was not on the particular deployment, he *vividly recalled Mr Swan deploying to 92WG DETA in the first half of 1986 as an LAC and returning from that deployment as a Corporal having been promoted during the deployment*. Mr Lee also attested that the rotations to Malaysia were *an average of 5-6 weeks*.

64. While the Tribunal accepted that Mr Lee and Mr Abrahams statements were based on their best recollections, it was presented with contemporary evidence which contradicted Mr Swan's assertion as to the dates he served in Malaysia, and Mr Lee's and Mr Abrahams' relatively recent supporting recollections. Mr Swan's medical documents include notations by Dr Weaver about consultations with Mr Swan on 24 March 1986 and 7 April 1986.¹⁹ These notes are handwritten on an Outpatient Clinical Record form that commences on 19 February 1986 and ends with a notation on 7 April 1986. The next page of the clinical record commences on 14 May 1986. Contained in Mr Swan's medical file is also a referral from Dr Weaver to a physiotherapist on 24 March 1986 that states that the referring unit was Base Medical Facility Edinburgh.²⁰ When Mr Swan was asked to assist the Tribunal in reconciling the dates in his medical file with his assertion that he served in Malaysia at that time, he was unable to do so and expressed the view the medical file was wrong. The only medical issue he recalled while serving in Malaysia related to food poisoning.

65. The photographs Mr Swan provided to the Tribunal did not further or detract from his submission as to his dates of service.

66. Mr Swan's Service History Record shows that he served in Malaysia from at least 15 April to 23 April 1986, a period of nine days. Mr Swan's Defence Records do not support his submission that he served at Butterworth for 30 days.

Tribunal findings

67. The Tribunal found that Mr Swan was a member of the Australian Defence Force and that he served in Malaysia as a member of the of the Australian element of the Defence Force activities on land in Malaysia from at least 15 April to 23 April 1986. The Tribunal however was not satisfied that Mr Swan served in Malaysia as a member of the Australian element of the Defence Force activities for a period of 30 days, or for periods amounting to 30 days, noting that contemporaneous medical records directly contradicted the 2022 Statutory Declaration by Mr Lee and the contents of the 2015 letter from Mr Abrahams.

¹⁹ Outpatient Clinical Record, PM127 Medical History File,48743, Michael Cameron Swan.

²⁰ Specialist Consultation Record, RAAF, PM127 Medical History File,48743, Michael Cameron Swan.

68. While, as Defence noted, it is possible Mr Swan served for 30 days in Malaysia during other dates than those he submitted, the evidence available to the Tribunal does not support this finding.

69. Mr Swan has said that he is continuing to search for documentary evidence of his work while in Malaysia. Defence advised him that he should approach them again if he finds that material. The Tribunal also encourages him to do so.

Tribunal decision

70. The Tribunal decided to affirm the Defence decision of 21 December 2023, not to recommend Mr Swan for the award of the Australian Service Medal with Clasp 'SE ASIA'.