



Australian Government

Defence Honours and Awards Appeals Tribunal

Brown and the Department of Defence [2026] DHAAT 12 (1 July 2026)

File Number(s)	2025/009
Re	Mr Daryn Mark Andersen Brown Applicant
And	The Department of Defence Respondent
Tribunal	Mr Stephen Skehill (Presiding Member) Rear Admiral Allan du Toit AM RAN (Retd) Air Vice-Marshal Tracy Smart AO (Retd)
Hearing Date	21 October 2025
Attendances	Mr Daryn Brown Applicant Ms Jo Callaghan Directorate of Honours and Awards, Department of Defence for the Respondent Lieutenant Commander Andrew Donaldson – Special Programs Navy, Department of Defence for the Respondent Ms Tiffany Dawes Directorate of Honours and Awards, Department of Defence for the Respondent

DECISION

On 1 July 2026, the Tribunal decided to affirm the decision of the Department of Defence that Mr Daryn Brown not be recommended for the Australian Service Medal with Clasp Special Operations.

CATCHWORDS

DEFENCE AWARD – Australian Service Medal with Clasp Special Operations – eligibility criteria – Australian submarine special operations - deployed or force assigned – HMAS Otama – whether mistreatment a relevant factor under the Regulations

LEGISLATION

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

Defence Regulation 2016, Regulation 36

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 S102 of 27 March 2001, Australian Service Medal Clasp SPECIAL OPS, Governor General Determination, dated 23 March 2001

Commonwealth of Australia Gazette S230 of 29 June 2001, Australian Service Medal with Clasp SPECIAL OPS, Governor-General Determination, dated 8 June 2001

Commonwealth of Australia Gazette G00943 of 22 October 2019, Australian Service Medal with Clasp SPECIAL OPS Amendment 2019, Governor-General Determination, dated 16 October 2019

Determination under the Australian Service Medal Regulations with Clasp SPECIAL OPS Amendment 2019, dated 19 September 2019

Introduction

1. The applicant, Mr Daryn Mark Andersen Brown, seeks review of a decision dated 19 March 2025 of the Department of Defence to not recommend him for the Australian Service Medal with Clasp Special Operations.

Decision under review

2. On 12 January 2025, Mr Brown applied to Defence for an assessment of his eligibility for the Australian Service Medal with Clasp Special Operations for his service in the submarine HMAS *Otama* during 1990.

3. On 19 March 2025, Defence advised Mr Brown that he could not be recommended for the Australian Service Medal with Clasp Special Operations as his service in HMAS *Otama* was not operational or qualifying service.¹ It was a matter of concern to the Tribunal that, in its letter conveying that decision, Defence did not advise Mr Brown of his right to apply to the Tribunal for review as it should have done. At the hearing, the Tribunal asked Defence to seek to ensure that such advice was provided in all future cases.

4. On 14 April 2025, Mr Brown made application to the Tribunal seeking review of the decision not to award him the Australian Service Medal with Clasp Special Operations.

Tribunal jurisdiction

5. 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.

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

Mr Brown's service

7. As per Mr Brown's service records, he enlisted in the Royal Australian Navy on 6 February 1989 as a Radio Operator before being discharged on 24 September 1993. Mr Brown re-enlisted in the Royal Australian Navy from 27 March 2000 to 27 March 2004, and re-enlisted again on 26 June 2007 serving in the Royal Australian Air Force before being discharged on 2 December 2014.

8. Mr Brown has been issued the following in recognition of his Defence service:

- Australian Operational Service Medal – Border Protection;
- Defence Long Service Medal;
- Australian Defence Medal; and
- Operational Service Badge.

¹ Application for review, Mr Daryn Brown, dated 14 April 2025

The Australian Service Medal

9. The Australian Service Medal was instituted on 13 September 1988 by Letters Patent which were published in the *Commonwealth of Australia Gazette S336* of 2 November 1988, and recognises military service in prescribed non-warlike military operations.

10. The Schedule to the Royal Warrant sets out the *Australian Service Medal Regulations* which govern the award of the 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. 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.²*

Australian Service Medal with Clasp Special Operations

11. The eligibility criteria for awarding the Australian Service Medal with Clasp Special Operations are contained in the *Australian Service Medal Clasp SPECIAL OPS, Governor-General Determination*, dated 23 March 2001 as published in the *Commonwealth of Australia Gazette No. S102 of 27 March 2001*.³ The Determination relevantly provides:

- (b) *declare under regulation 3 of the Regulations, each special Australian Defence Force activity (being non-warlike operations) occurring on or after 14 February 1975 as is specified by the Chief of the Defence Force for the purposes of this declaration to be a prescribed operation for the purposes of those Regulations; and*
- (c) *determine under subregulation 4(2) of the Regulations, that the conditions for the award of the Australian Service Medal with Clasp 'SPECIAL OPS' ("the Medal") in respect of each such operation are:*
 - (i) *the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member for a period which is not less than the minimum qualifying period specified by the Chief of the Defence Force in relation to the operation [...]*

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

³ *Commonwealth of Australia Gazette No. S102 of 27 March 2001, Australian Service Medal Clasp SPECIAL OPS, Governor-General Determination*, dated 23 March 2001

12. A further determination was issued on 29 June 2001, which specified the Minister's 'class of persons' at paragraph at (c)(ii) as follows:

(ii) the Medal may be awarded to a person who rendered service as part of the Australian element of the prescribed operation which is not less than the minimum qualifying period specified by the Chief of the Defence in relation to the operation, and who, in accordance with a determination made by the Minister under paragraph 4(4)(b) of the Regulations, is in a class of persons who may be awarded the Medal with Clasp 'SPECIAL OPS'^{4 5}

13. In 2019, the June 2001 Governor-General Determination was amended as follows:

*5) Paragraph (b) omit from paragraph (b) "14 February 1975", insert "14 February 1975 until and including 31 October 2019" [...]*⁶

14. Defence advised that it had assessed Mr Brown's service against the most current Determination of June 2001, and recommended that the decision to not recommend Mr Brown for the Australian Service Medal with Clasp Special Operations be affirmed. Defence further advised that a review of Mr Brown's service against the March 2001 Determination had resulted in the same outcome.

Mr Brown's application to the Tribunal

15. In his application to the Tribunal, Mr Brown stated that he served as a radio operator in HMAS *Otama* circa 1990, which was a *designated 'Special Operations' vessel, operationally preparing for deployment to a Southeast Asian patrol.*⁷

16. Mr Brown advised that he had been injured while serving in *Otama*, which required his evacuation for medical treatment.

*During one of our activities at sea, I sustained injuries that necessitated the submarine's return to Sydney Harbour. Upon arrival into Sydney Harbour, I was taken off the submarine, transported by boat at night to HMAS Penguin, Naval Hospital for medical and major dental treatment....*⁸

17. Mr Brown included advice from the Department of Veterans' Affairs to support his application, which stated:

Operational and qualifying service

Not all service on a submarine is considered service on a submarine special operation.

If you have or are eligible for the Australian Service Medal (ASM) with Clasp

⁴ Commonwealth of Australia Gazette No. S230 of 29 June 2001, Australian Service Medal with Clasp SPECIAL OPS, Governor-General Determination, dated 8 June 2001

⁵ Defence acknowledged the two current Declaration and Determinations for the Australian Service Medal with Clasp Special Operations and advised that it planned on revoking all the Declaration and Determination documents related to the Australian Service Medal with Clasp Special Operations and create one document

⁶ Declaration and Determination under the Australian Service Medal Regulations with Clasp 'SPECIAL OPS' Amendment 2019, dated 16 October 2019

⁷ Application for review, Mr Daryn Brown, dated 14 April 2025

⁸ Ibid

‘SPECIAL OPS’ for service on submarine special operations, it is seen as operational and qualifying service under the VEA. This applies to any submarine special operation between 1 January 1978 and 12 May 1997.

The entitlements you can get are the same, whether you served on one submarine special operation or on many.⁹

The Defence Report

18. As set out in the Defence Report, following Mr Brown’s application to the Tribunal, Defence conducted a reassessment of his eligibility for the Australian Service Medal with Clasp Special Operations. Defence affirmed its decision not to recommend Mr Brown for the medal.

19. Defence advised that although Mr Brown had served in HMAS *Otama*, and it was designated a ‘Special Operations’ vessel, not all service on such a submarine was considered service on a declared Submarine Special Operation. Defence advised:

Navy Submarine Special Operations are planned activities, assigned a codename. They attract a conditions of service package unique to the operation, authorised by the Chief of the Defence Force. All personnel/crew from a submarine are assigned to the codenamed operation and activities are carried out under the code name. For an individual to be eligible to deploy on a Submarine Special Operation, they must be a qualified submariner, posted to a submarine in a permanent crew position, or force assigned for a specific period as a specialist augmentee.

Mr Brown’s service records show that in December 1989 he was posted to HMAS Platypus for submarine training and he then joined HMAS Otama on 23 April 1990 for a further component of submarine training. On 14 June 1990, he was assessed as unsuitable for submarine service and was transferred to HMAS Hobart in July 1990.¹⁰

20. Defence further advised that it had sought advice from Special Programs Navy regarding Mr Brown’s service in HMAS *Otama*. Defence stated that Special Programs Navy had advised that Mr Brown **had not** rendered service on a submarine conducting activities considered to constitute submarine special operations at any time during his service, in respect of which he would have been eligible to be awarded, the ASM with Clasp “Special Ops”. Additionally, he does **not have** any period of submarine service that meets the definition of non-warlike qualifying service.

21. Special Programs Navy further advised *Our records indicate that Daryn Mark Andersen Brown, DOB 04 Feb 1971, was not a qualified submariner. Additionally, HMAS Otama did not carry out any activities that constitute Submarine Special Operations during the period 23 April 1990 and 18 June 1990.¹¹*

22. Finally, Defence confirmed that Mr Brown’s medical records support that he became unwell on board HMAS *Otama*, but advised that ships Report of Proceedings did not confirm that *Otama* returned to port to transport him to a medical facility.

⁹ Application for review, Mr Daryn Brown, dated 14 April 2025

¹⁰ Defence report, dated 11 June 2025

¹¹ Ibid

Mr Brown's comments on the Defence report

23. On 16 June 2025, Mr Brown was provided with a copy of the Defence report and was asked to provide his comments on that report. His response dated 3 August 2025 restated his belief that he was removed from HMAS *Otama* earlier than expected due to mental and physical injuries.

...One significant incident occurred at sea, under the cover of night, during workup operations. I was transported by boat from HMAS Otama to HMAS Penguin Naval Hospital for urgent medical and dental treatment, that is my belief at the time. This was not an isolated circumstance but one of many that reflected the strain and trauma endured in service.

At the time, I was a 19-year-old Qualified Radio Operator and a Part III Trainee Submariner, fully engaged in completing my final qualifications to serve at sea as a fully qualified member of the Royal Australian Submarine Service. My dream was clear: to serve with honour and courage as a qualified submariner. Sadly, this dream was not realised—not due to a lack of commitment, but because of deep and lasting mental scars caused by experiences both onboard and ashore, throughout my entire Military career.¹²

24. Mr Brown then relayed incidents that occurred during his time in HMAS *Otama*, which he said had been deeply traumatising and ultimately affected his ability to continue in submarine service. Mr Brown stated that he believed his suffering and sacrifice merited recognition.

My decision to request discharge from submarine service was a deeply regrettable one, driven by a need to protect myself in an environment where I was made to feel like lesser until earning my Dolphins. This was a life-altering choice, borne from necessity—not lack of will or honour.

I respectfully submit this reply in the hope that the Tribunal will consider the unique and painful context surrounding my application. Recognition through the Australian Service Medal with Clasp "SPECIAL OPS" or similar would not only honour my service—it would acknowledge a chapter of my life shaped by resilience, sacrifice, and a commitment that was never truly allowed to flourish.¹³

25. On 11 August 2025, Mr Brown was provided with two attachments that were not originally supplied with the Defence report. Mr Brown responded on 16 August 2025, particularly addressing two points raised in Defence's *Tribunal Assessment Working Paper* regarding his posting to HMAS *Otama* and cross-decking to HMAS *Onslow*.

***Service aboard HMAS OTAMA – April to June 1990** Defence has recorded my posting to HMAS OTAMA from 23 April to 18 June 1990, noting that I was posted off prior to her July– October 1990 South East Asian deployment. I must respectfully state that at no time have I claimed to have deployed on that operation. My statement was — and remains — that I served aboard OTAMA during her workup operations in preparation for her forthcoming deployment.*

¹² Mr Brown's comments on the Defence report, dated 3 August 2025

¹³ Ibid

The distinction is important: workups are an intensive, operational readiness phase undertaken immediately prior to deployment, and my role as a qualified Seaman Radio Operator formed part of those Tactical preparations.

It also appears to note — that my Submarine Posting dates (Department of Veterans' Affairs MyService - Service History — Submarine Special Ops Posting data) are incorrect iaw¹⁴ Defence's statement and therefore request my submarine posting data now also be updated to reflect this new correct historical information, 23 April – 18 June 1990 via Department of Veterans' Affairs MyService - Service History.

***Cross-decking to HMAS ONSLOW** Defence asserts there is “no evidence” I served on another submarine. I clarify that I did, in fact, undertake a brief cross-deck to HMAS ONSLOW (if I remember correctly) for ongoing Part III submarine training. While short in duration, this was an authorised and necessary step in my submarine qualification process — a common practice in the Submarine Arm when operational circumstances required it.¹⁵*

26. Mr Brown supplied what he believed was supporting material that confirms his posting dates aboard HMAS *Otama*, his Submarine special operations classification, and reflected the operational context in which his service occurred.

Tribunal hearing

27. The Tribunal convened a hearing on 21 October 2025 via audio-visual link at which Mr Brown very ably represented himself. Defence was represented by Ms Callaghan, Lieutenant Commander Donaldson and Ms Dawes. Following the hearing, the Tribunal Secretariat was informed by Mr Brown that while he had previously received the Defence Report, he had not received the paginated pack of hearing documents prior to the hearing, as it had been sent to an incorrect address. The Tribunal resent these documents to Mr Brown on 1 December 2025 and provided him with the opportunity to comment on this material.

Tribunal analysis

28. In seeking to press his claim for issue of the Australian Service Medal with Clasp Special Operations, Mr Brown stressed a number of points that he believed would justify recognition of his submarine service by that medal and clasp:

- He had enlisted in the Royal Australian Navy to pursue a career as a submariner;
- He had been posted to HMAS *Otama* and served in it under training during the period 23 March 1990 to 18 June 1990;
- During that period HMAS *Otama* was preparing to undertake a special operation;
- He left HMAS *Otama* only because he fell ill during that period and required medical treatment *on shore*;
- He was unable to return to HMAS *Otama* or further his submarine training and service after that medical treatment because of the physical and mental abuse he had endured while in *Otama*, and an incident of sexual abuse while alongside HMAS *Platypus*; and

¹⁴ In accordance with

¹⁵ Mr Brown's comments on the Defence report, dated 11 August 2025

- By the combined effect of these issues, he believed that he had been deprived of the career as a submariner to which he had aspired and that had been his dream, and should not be denied recognition by the Australian Service Medal with Clasp Special Operations for reasons that were beyond his control.

29. The Tribunal noted that there was no evidence to support Mr Brown's recollection that *HMAS Otama* had had to curtail its sea activities and return to Sydney when he fell ill while on board. However, Mr Brown's service records do confirm that he did require and receive minor medical treatment after the submarine returned to Sydney, and that he did not continue his submarine training and service after that period. Whether or not his submarine training and service were curtailed by his ill health or unsuitability for further submarine service would make no difference to his eligibility for issue of the Australian Service Medal with Clasp Special Operations.

30. The Tribunal further noted that there was no contemporaneous historical record of which it was aware that corroborated Mr Brown's claims that he had been subjected to physical or mental abuse or sexual assault during his service. That, of course, does not prove that such mistreatment did not occur – it is possible that it did occur but was not reported or, if reported, it was not recorded. However, it was unnecessary for the Tribunal to seek to ascertain further detail on those claims because, even if established, they would not affect his eligibility for issue of the Australian Service Medal with Clasp Special Operations. While the Regulations for the Australian Defence Medal do include a provision allowing the issue of that medal where service ceased because mistreatment by a member of the Defence Force or an employee in the Department of Defence was a significant contributing factor for that, there is no corresponding provision in the Regulations governing the Australian Service Medal with Clasp Special Operations.

31. Section 110VB(6) of the Act very clearly specifies that *In reviewing a reviewable decision, the Tribunal is bound by the eligibility criteria that governed the making of the reviewable decision.* This means that the Tribunal has absolutely no discretion to recommend the award of the Australian Service Medal with Clasp Special Operations if the specified eligibility criteria for that award are not met. Accordingly, whatever sympathy the Tribunal might feel for the circumstances that meant that Mr Brown could not go on to enjoy the career as a submariner to which he had aspired, the Tribunal can only assess his claim to the Australian Service Medal with Clasp Special Operations by a strict application of the applicable eligibility criteria.

32. Those eligibility criteria clearly require service on a prescribed special operation, which is an activity specified as such by the Chief of the Defence Force. The advice from Defence is clear that *HMAS Otama* was engaged on no such activity during the period that Mr Brown was on board. The fact that *HMAS Otama* may have been designated to undertake such activities is irrelevant. The fact that, while Mr Brown was on board, it may have been undertaking preparation in advance of such activity as a later date is also irrelevant. So too is the possibility that, had he successfully completed training, Mr Brown may conceivably have participated in such later activity had other factors not intervened. The fact is that Mr Brown did not serve in *HMAS Otama* while it was conducting an activity relevantly specified by the Chief of the Defence Force means that he simply does not meet the eligibility criteria for, and cannot be recommended by the Tribunal to receive, the Australian Service Medal with Clasp Special Operations.

33. The Tribunal noted that, during the hearing, Ms Callaghan offered to intervene to assist Mr Brown, if he so wished, to explore access to the Defence process of restorative engagement, which is available at the end of a complaint process to demonstrate acceptance

of institutional responsibility for mistreatment experienced during Defence service. Mr Brown indicated his interest in doing so, and the Tribunal would encourage him to pursue this thoughtful offer by Ms Callaghan as a possible way of resolving the deep concerns he clearly still feels about the early termination of his career as a submariner.

Tribunal Decision

34. As he did not meet the eligibility criteria requiring assigned operational service during an activity relevantly specified by the Chief of the Defence Force as a special operation, the Tribunal was bound to affirm the decision of Defence not to recommend Mr Brown for the award of the Australian Service Medal with Clasp Special Operations.