



Australian Government

Defence Honours and Awards Appeals Tribunal

Seccombe and the Department of Defence [2026] DHAAT 16 (3 August 2026)

File Number(s) 2025/031

Re **Mr Leon Scott Seccombe**
Applicant

And **The Department of Defence**
Respondent

Tribunal Mr Stephen Skehill (Presiding Member)
Rear Admiral Allan du Toit AM RAN (Retd)
Air Commodore Anthony Grady AM (Retd)

Hearing Date 5 May 2026

Attendances

Applicant Mr Leon Scott Seccombe

Respondent Mrs Allison Augustine,
Director, Defence Honours and Awards, Department of Defence

Mr Kevin Lawson,
Director, Nature of Service, Department of Defence

DECISION

On 3 August 2026, the Tribunal decided:

- (a) to affirm the decision that Mr Leon Scott Seccombe not be recommended for the Australian Active Service Medal with Clasp 'BALKANS'; and
- (b) to not recommend to the Minister that the eligibility criteria be amended to render Mr Seccombe eligible to be awarded the Australian Active Service Medal with Clasp 'BALKANS'.

CATCHWORDS

DEFENCE AWARD – Balkans War 1991-1995 – NATO Stabilisation Force – Australian Service Medal with Clasp ‘BALKANS’ – Australian Active Service Medal with Clasp.

LEGISLATION

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

Defence Regulation 2016, Regulation 36

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

Australian Service Medal with Clasp ‘BALKANS’, Governor-General Declaration and Determination dated 14 August 1998, Commonwealth of Australia Gazette S 408 of August 1998

Australian Service Medal with Clasp ‘BALKANS’, (Declared Operations) Amendment 2023, Governor-General Declaration and Determination dated 27 October 2023, Commonwealth of Australia Gazette G01191 of 14 November 2023

Australian Active Service Medal, Letters Patent and Regulations, dated 13 September 1988, Commonwealth of Australia Gazette S335, dated 2 November 1988

Australian Active Service Medal with Clasp ‘BALKANS’, Governor-General Declaration and Determination, Commonwealth of Australia Gazette S102, of 27 March 2001

Introduction

1. The Applicant, Mr Leon Scott Seccombe, seeks review of a decision by the former Minister for Defence Personnel, the Hon Dan Tehan MP, dated 14 July 2017, to refuse to recommend him for the award of the Australian Active Service Medal with Clasp 'BALKANS' for his service on attachment with the United Kingdom 22 Engineer Regiment, deployed in support of the NATO Stabilisation Force in the Balkans from 8 October 1997 to 9 November 1997.

Decision under review

2. On 15 October 2013, Mr Seccombe wrote to Defence seeking to update his personnel records to accurately reflect his medal entitlements and to then have a revised discharge certificate issued. He also asked Defence to undertake a merits assessment of his eligibility for the Australian Active Service Medal for his service in the Balkans from 8 October 1997 to 9 November 1997. Mr Seccombe had previously received the Australian Service Medal with Clasp 'BALKANS' for the same period of service. In that letter, he set out a number of reasons why he believed his service in the Balkans should receive the same medallic recognition as the Balkans service of others in earlier periods.

3. On 19 May 2014, Defence wrote to Mr Seccombe advising that *it is not possible to award ... the Australian Active Service Medal ... for service in the Balkans after 24 January 1997 unless the Australian Government decides to reclassify this service as warlike*. The letter then stated *If you wish to have the nature of your service in the Balkans reviewed, then it is recommended that you write to the Directorate of Nature of Service in Defence*.

4. On 10 March 2015, the author of the letter of 19 May 2014 sent an email to Mr Seccombe which referred to a call Mr Seccombe had made to the Defence Business Centre concerning his eligibility to receive the Australian Active Service Medal for his service in the Balkans, provided him with a copy of the letter of 19 May 2014, summarised the eligibility criteria for the medal he sought and the medal he had received, and alerted him to the previously advised process for seeking a nature of service review.

5. On 11 March 2015, Mr Seccombe acknowledged receipt of that email and advised that *I will follow this up with the appropriate people*.

6. It appears that Mr Seccombe made a further call to the Defence Business Centre on 3 June 2015, which resulted with him being provided a further copy of the earlier correspondence.

7. On 26 April 2016, Mr Seccombe applied for the Returned from Active Service Badge in respect of his service in the Balkans and, on 7 June 2016, he was advised that that badge *is only issued with the Australian Active Service Medal*.

8. In 2017, Mr Seccombe approached the Federal Member for Page, the Hon Kevin Hogan MP, seeking *clarification and information regarding service with the NATO SFOR in the Balkans*.¹ Mr Hogan referred the matter to the then Minister for Veterans' Affairs and Defence Personnel, the Hon Dan Tehan MP. The 14 July 2017 response from the Minister to Mr Hogan advised as follows:

¹ Application for Review, Mr Leon Scott Seccombe, dated 16 December 2025.

... Mr Seccombe participated in Operation Long Look 1997 on attachment to the United Kingdom's 22 Engineer Regiment and deployed in support of the NATO-led Stabilisation Force (SFOR) in the Balkans from 8 October 1997 to 9 November 1997.

SGOR replaced the Implementation Force (IFOR) on 20 December 1996 when the security situation in the Balkans had stabilised. The change in name from IFOR to SFOR is significant in that it deflects the difference in the roles from implementing the peace to maintaining a stable situation. Notably to size of the force deployed under SFOR was reduced in view of the revised role and more secure environment, Personnel assigned to SFOR were armed, however the use of force was strictly limited to self defence and the security situation was such that casualties were not expected.

...

As a result of the reduced threat and the change in mission when SFOR replaced IFOR, the classification of all ADF service in the Balkans was downgraded from warlike to hazardous service with effect from 24 January 1997. An Instrument of Determination of Hazardous Service under section 120 (7) of the Veterans' Entitlements Act 1986 (VEA) was signed by the then Minister for Defence Industry, Science and Personnel, Ms Bronwyn Bishop MP, on 16 December 1996 with effect from 24 January 1997.

...

As a result of the change in classification, ADF service in the Balkans ceased to be eligible for the Australian Active Service Medal on 24 January 1997. The Australian Service Medal with Clasp 'BALKANS' recognises this service from 25 January 1997.

In August 2011, the Nature of Service Review Board (the board), an inter-departmental board comprising senior representatives from Defence, the Departments of Veterans' Affairs, Finance and the Prime Minister and Cabinet, considered the findings of a review of ADF service in the Balkans ... The Board determined that service in the former Yugoslavia after 24 January 1997 did not constitute warlike service and is appropriately classified as hazardous service.

Consistent with this advice, I consider that service with the NATO Stabilisation Force (SFOR) is appropriately recognised as hazardous service.²

9. It is the decision conveyed by this letter that Mr Seccombe specified in his application to the Tribunal as the decision he wished to have reviewed. However, it is not clear that this was a 'reviewable decision' as defined in the *Defence Act 1903*. While a decision by the Minister refusing to recommend a person for a defence honour or award is capable of being a reviewable decision under section 110V(1)(b)(i), to comply with the definition it must have been made 'in response to an application' for the honour or award in question, and the person who made that application must be the person who makes the

² Letter from the Hon Dan Tehan MP to the Hon Kevin Hogan MP, dated 14 July 2017, as submitted with the application for review, dated 16 December 2025.

application for review.

10. Advice previously received from senior counsel is that, because there is no definition in the Act of an ‘application’ for a defence honour or award, *the word ‘application’ would have its ordinary meaning. The Macquarie Dictionary (online) defines an ‘application’ to mean, relevantly, ‘the act of requesting’ and ‘a written or spoken request or appeal’.* On its face, an ‘application’ would be capable of including a broad range of requests in which a person asks that an ADF member be considered for a defence honour or award. The Act does not prescribe any level of formality or any particular process for making applications.

11. Thus, Mr Hogan’s approach to the Minister might constitute an application for an honour or award for the purposes of section 110V(1)(c) of the Act, but it is not clear that that application was made ‘by’ Mr Seccombe as required by section 110VA of the Act, even though it may have been made by Mr Hogan on Mr Seccombe’s behalf.

12. In any event, it was not necessary for the Tribunal to reach a concluded view on that issue. That is because there were at least two other decisions made in response to applications that were clearly made by Mr Seccombe that meet the requirements for a reviewable decision – the initial Defence decision of 19 May 2014 discussed above, and the Defence decision of 27 September 2023 discussed below.

13. Mr Hogan passed a copy of the Minister’s letter to Mr Seccombe on 31 July 2017.

14. On 8 December 2022, Mr Seccombe lodged a further application for the Australian Active Service Medal for his service in the Balkans.

15. On 25 September 2023, Mr Seccombe emailed Defence Honours and Awards asking that his eligibility for the Australian Active Service Medal for his service in the Balkans be reviewed. In the course of that email he said *I have engaged with Honours and Awards to ask this question and have been given the usual answer of that is how the legislation is. I understand this but ask that this be reviewed as there are a number of unanswered details that continue to be questioned.* His email then set out the reasons why he believed his service in the Balkans should receive the same medallic recognition as the service of others in earlier periods. These were essentially the same as those he had stated in his correspondence of 15 October 2013.

16. On 27 September 2023, Defence responded to Mr Seccombe’s application of 8 December 2022. It advised of a formal decision to refuse to recommend Mr Seccombe for the medal he sought because *There is no evidence that you served in a prescribed operation in the Balkans region between 12 January 1992 and 24 January 1997*, and informed him of his rights of appeal to the Tribunal. The Defence letter did not reiterate prior Defence advice about the process for seeking a nature of service review. Nor did it repeat or refer to the matters set out in the Minister’s letter to Mr Hogan referred to above.

17. Following a telephone conversation on 18 October 2023 an officer of the Defence Honours and Awards Directorate emailed Mr Seccombe in the following terms:

While I acknowledge the points that you raised in your email to the Directorate of Honours and Awards (DH&A) on 25 September 2023, there are no provisions within the Regulations and Determination that allow us to

recommend an award when the stipulated qualifying conditions have not been met.

As the matters you raised align to conditions/nature of service, for which DH&A has no responsibility, your best option for review is to send your concerns through Ministerial channels (via your local member) to the MINDEF or MIN DEF Personnel which will ensure the matter is accordingly progressed to and reviewed by the relevant area of Defence.

18. On 16 December 2025, Mr Seccombe made application to the Tribunal seeking review of the decision to not award him the Australian Active Service Medal with Clasp ‘BALKANS’.

19. For present purposes, the Tribunal regarded the Defence decision of 27 September 2023 as the reviewable decision to which that application for review related.

Tribunal jurisdiction

20. Pursuant to section 110VB(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 section 110V(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.

21. 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 Active Service Medal. Therefore, the Tribunal has jurisdiction to review decisions in relation to this award.

The Australian Active Service Medal with Clasp ‘BALKANS’

22. The Australian Active Service Medal was instituted under Letters Patent, signed by Queen Elizabeth II on 13 September 1988, as published in the *Commonwealth of Australia Gazette S335*, dated 2 November 1988. The relevant paragraphs are:

3. As set out in the *Australian Active Service Medal Regulations 1988*, ‘the Governor-General, on the recommendation of the Minister, may declare a warlike operation in which members of the Defence Force are, or have been on or after 14 February 1975, engaged, to be a prescribed operation for the purposes of these Regulations.’³

Conditions of the 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 *Australian Active Service Medal Letters Patent and Regulations*, dated 13 September 1988, *Commonwealth of Australia Gazette S335* of 2 November 1988.

(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.⁴*

23. The eligibility criteria for awarding the Australian Active Service Medal with Clasp 'BALKANS', are set out in the *Australian Active Service Medal Regulations - Declaration and Determination* (the Determination), dated 27 March 2001 which states:

[...]

(b) *declare, under regulation 3 of the Regulations, warlike operations in which members of the Australian Defence Force were engaged, with the United Nations and North Atlantic Treaty Organisation activities in the Balkans region during the period that commenced on 12 January 1992 and ended on 24 January 1997 to be a prescribed operation for the purposes of the Regulations; and*

(c) *determine, under subregulation 4(2) of the Regulations, that the conditions for award of the Australian Active Service Medal with Clasp 'BALKANS' ("the Medal") for the prescribed operation are:*

(i) *the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member while allotted and posted as a member of the Australian element for duty to the prescribed operation;*

(ii) *the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member as part of the contribution of a foreign Defence Force to the prescribed operation while on secondment or exchange with the foreign Defence Force;*

(iii) *the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member and who completed one operational sortie within the duration of the prescribed operation;*

(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 in connection with the military contribution in the prescribed operation.⁵*

⁴ Ibid.

⁵ *Australian Active Service Medal with Clasp 'BALKANS', Governor-General Declaration and Determination, Commonwealth of Australia Gazette S102, of 27 March 2001.*

Australian Service Medal with Clasp 'BALKANS'

24. The Australian Service Medal Regulations were instituted under Letters Patent on 13 September 1988, as published in *Commonwealth of Australia Gazette S336*, dated 2 November 1988.⁶

25. The eligibility criteria for awarding the Australian Service Medal with Clasp 'BALKANS' are contained in the *Australian Service Medal Regulations Declaration under Regulation 3 Determination under Subregulation 4(2)* signed by the Governor-General on 14 August 1998,⁷ which states:

[...]

- (a) **revoke** the Declaration and Determination made on 18 August 1992 under regulation 3 and subregulation 4(2) respectively of the Regulations;
- (b) **declare**, under Regulation 3 of the Regulations, the United Nations and North Atlantic Treaty Organisation activities in the Balkans region that commenced on 25 January 1997 to be a prescribed operation for the purposes of the Regulations; and
- (c) **determine**, under Subregulation 4(2) of the Regulations, that the conditions for award of the Australian Service Medal with Clasp 'BALKANS' for that prescribed operation are:
 - (i) the Medal may be awarded to a member of the Australian Defence Force who rendered service as such a member while posted to or serving as a member of the Australian element of the prescribed operation for a period of 30 days, or for periods amounting in the aggregate to 30 days;
 - (ii) 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, as part of the contribution of a foreign Defence Force to the prescribed operation while on secondment or exchange with the foreign Defence Force;
 - (iii) the Medal may be awarded to a person who rendered service as part of the Australian element of the prescribed operation for a period of 30 days or more, or for periods amounting in the aggregate to 30 days or more, 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 'BALKANS';
 - (iv) the qualifying period of service as described in subparagraphs (c)(i), (c)(ii) or (c)(iii) may be deemed by the Chief of the Defence Force or his delegate to have been established notwithstanding that the member has not met the qualifying periods described;

⁶ *Australian Service Medal Regulations Letters Patent*, dated 13 September 1988, *Commonwealth of Australia Gazette S336*, of 2 November 1988.

⁷ *Australian Service Medal Regulations Commonwealth of Australia Gazette S408*, dated 18 August 1998, *Declaration under Regulation 3 Determination under Subregulation 4(2)* signed by the Governor-General on 14 August 1998.

(v) *the Chief of the Defence Force or his delegate in exercising his discretion to deem under subparagraph (c)(iv) shall take into account whether service in relation to the prescribed operation:*

(A) was terminated owing to the death, evacuation due to illness or injury or other disability due to service, of a member as described above;

(B) was terminated due to Government or Defence Force reasons; or

(C) was terminated due to foreign Government or foreign Defence Force reasons.

26. The *Australian Service Medal (Declared Operation) Amendment 2023*, approved on 27 October 2023 and published in the *Commonwealth of Australia Gazette C2023G01191* on 14 November 2023, formally updated the historical determination for the Australian Service Medal with clasp ‘BALKANS’, specifying that the declared operation ran from 25 January 1997 to 16 April 2012.

Mr Seccombe’s service

27. Mr Seccombe enlisted in the Australian Regular Army on 24 July 1991 and discharged on 19 December 1999 at the rank of Corporal.⁸ Mr Seccombe served for eight years, four months and 26 days.

28. Mr Seccombe has received the following awards in recognition of his service:

- Australian Service Medal (ASM) with Clasp ‘BALKANS’;
- Australian Defence Medal; and
- North Atlantic Treaty Organisation (NATO) Medal for Service in the Former Yugoslavia.

29. Mr Seccombe’s service records show that he was on attachment with the United Kingdom 22 Engineer Regiment based at Swinton Barracks, Hampshire in the United Kingdom, and deployed with 3 Armoured Engineer Squadron in support of NATO operations in the Former Yugoslav Republic from 8 October 1997 to 9 November 1997. Movement records show that Mr Seccombe emplaned in Brize Norton, United Kingdom and deplaned in Bosnia on 8 October 1997, and emplaned in Bosnia and deplaned in Brize Norton, United Kingdom on 11 November 1997.

Brief overview of the Balkans War and the NATO led Implementation Force and Stabilisation Force

30. The term ‘Balkans War’ is commonly used to refer to the conflicts that accompanied the breakup of the former Yugoslavia in the 1990s. The fighting was not a single war, but a series of interrelated conflicts, involving Slovenia, Croatia, Bosnia-Herzegovina, Serbia, Montenegro and Macedonia (all previously constituting Yugoslavia). The signing of the Dayton Peace Accords in December 1995 formally

⁸ Mr Seccombe’s service record.

ended the War.⁹ The United Nations authorised and NATO-led multinational Implementation Force (IFOR) deployed immediately after the signing of the Dayton Peace Accord to oversee the implementation of the military aspects of the General Framework Agreement for Peace (GFAP) in Bosnia and Herzegovina under a one-year mandate from 20 December 1995 to 20 December 1996. This marked the transition from an active war zone to a peace-enforcement environment to guarantee the end of hostilities and separate the warring parties. The Implementation Force, which operated under Chapter VII of the UN Charter, was replaced a year later by the NATO-led Stabilisation Force (SFOR) on 20 December 1996 and service was subsequently reclassified from warlike to hazardous service. SFOR's primary task was to contribute to a safe and secure environment conducive to civil and political reconstruction in the wake of the 1992-1995 war. The SFOR mission, also authorised under Chapter VII of the UN Charter, was officially ended on 2 December 2004.

32. Defence stated in its report to the Tribunal that:

On 8 July 1996, the then Chief of the Defence Force advised that the threat level to land forces in the Balkans had been downgraded, and service was now assessed as non-warlike. Following this advice, the then Minister for Defence Industry, Science and Personnel, Bronwyn Bishop, signed an Instrument of Determination declaring ADF exchange service in the region to be hazardous service, effective 24 January 1997.

The ADF contributed a small contingent to the UK component of NATO's Stabilisation Force under Operation OSIER from March 1997 to February 2004, and this service was also classified as hazardous service under section 120(7) of the VEA.¹⁰

Mr Seccombe's application to the Tribunal

33. In his application to the Tribunal, Mr Seccombe provided a copy of his letter to Defence dated 15 October 2013 requesting that his *service in the Balkans be investigated for upgrade to the AASM and RAS Badge the qualifying dates for this theatre for the AASM ended in January 1997 and I was in country in October that year.*¹¹

34. Mr Seccombe stated that he had spoken with personnel that had served with him and that they had informed him that the British, Canadian and French governments had each classified their service as warlike and operational. Mr Seccombe said that the nature of service and the work that he completed was the same in October 1997 as it was in January 1997.¹² He said:

I then did some more searching and found that the pre deployment training and the issue of OFOF (Orders for Opening Fire) were the same in October 97 as for January 97. The other factors that have been raised is that during my time

⁹ *Yugoslav Wars*, Wikipedia [Yugoslav Wars - Wikipedia](#), accessed 7 March 2026; *Balkans War: a brief guide*, British Broadcasting Corporation, [Balkans war: a brief guide - BBC News](#), accessed 7 March 2026; *Peace support operations in Bosnia and Herzegovina (1995-2004)*, [Peace support operations in Bosnia and Herzegovina \(1995-2004\) | NATO Topic](#), accessed 7 March 2026

¹⁰ Defence report, dated 17 February 2026.

¹¹ Application for Review, Mr Leon Scott Seccombe, dated 16 December 2025.

¹² Ibid.

on this deployment I as were all soldiers in theatre armed with a loaded SA80 Rifle and carried and wore both flak jackets and helmets as well as morphine. The last factor that has been raised is the nature of work I engaged in as a combat engineer, During the deployment I engaged in Mine monitoring (supervising and checking the disarmament and extraction of live mine fields, Operational demolitions destroying both tank and artillery rounds and munitions that had been seized and some minor construction tasks one of which was in volatile Muslim territory.¹³

The Defence report

35. The Defence report advised that following Mr Seccombe's application to the Tribunal, Defence had conducted an assessment of his eligibility for the Australian Active Service Medal with Clasp 'BALKANS' which had affirmed its decision to not recommend him for the award of that medal. In particular, Defence advised that Mr Seccombe had not rendered any service on any operation declared for the purposes of the Australian Active Service Medal.

36. Defence acknowledged the 14 July 2017 correspondence from the then Minister which Mr Seccombe had supplied with his application to the Tribunal as the decision he sought to have reviewed. However, noting that it had provided Mr Seccombe with correspondence on 19 May 2014 advising that he was ineligible, Defence referred to this correspondence as the reviewable decision.¹⁴

37. Defence confirmed that it did not intend to review the nature of service for the period from 25 January 1997 in the Former Yugoslav Republic for potential classification as warlike. The Defence report said:

Defence's examination of the reviewable decision included seeking advice from the Directorate of Nature of Service regarding service in the Former Yugoslav Republic from 25 January 1997 onward. The Directorate of Nature of Service has confirmed that it does not intend to review the service period from 25 January 1997 in the Former Yugoslav Republic for potential classification as warlike service.

Defence notes that Mr Seccombe's appeal to the Tribunal included correspondence from the then Minister for Defence Personnel and Veterans' Affairs, The Hon Dan Tehan MP, dated 14 July 2017. That correspondence stated that service in the Former Yugoslav Republic after 24 January 1997 is appropriately classified as hazardous service...

...

Advice received from the Directorate of Nature of Service confirms that there is no intention to review or amend the classification of service from 25 January 1997 in the Former Yugoslav Republic.¹⁵

¹³ Ibid.

¹⁴ Defence report, dated 17 February 2026.

¹⁵ Ibid.

Mr Seccombe's comments on the Defence Report

38. On 19 February 2026, Mr Seccombe was provided with a copy of the Defence report and invited to provide any comment he might wish to make on the report. On 4 March 2026, Mr Seccombe replied advising he had no comment on the Defence report.¹⁶

Conduct of the Hearing

39. A hearing in relation to Mr Seccombe's application was held by Zoom on 5 May 2026 and was attended by Mr Seccombe and representatives of the Department of Defence.

40. During the hearing, the Tribunal asked Defence to provide additional material of relevance, which it did on 5 June 2026. That material was provided to Mr Seccombe for his information and any comment he wished to make. Mr Seccombe provided his comments on this material on 20 June 2026.

Tribunal Consideration

41. Mr Seccombe clearly does not meet the current eligibility criteria for the Australian Active Service Medal. That medal may only be issued for service on specific operations declared for the purposes of the applicable Regulations, and there is no declared operation that extends to the period of his service in the Balkans.

42. However, it would not be appropriate for the Tribunal to finalise his application for review and affirm the Defence decision on that basis alone.

43. Mr Seccombe has been seeking to have his Australian Service Medal upgraded to the Australian Active Service Medal for nearly 13 years. In his very first application, on 15 October 2013, he listed a number of reasons why he believed that upgrade was warranted. He said that:

- a. British, Canadian and French veterans serving on both IFOR and SFOR had had their service classified as both warlike and operational;
- b. pre-deployment training in October 1997 was the same as it had been in January 1997;
- c. the Orders for Opening Fire (OFOF) were the same in October 1997 as they had been in January 1997;
- d. all soldiers during his time in the Balkans were armed with a loaded SA80 rifle and carried and wore both flak jackets and helmets, as well as being issued with morphine; and
- e. his particular service involved mine monitoring (supervising and checking the disarmament and extraction of live mine fields), operational demolitions destroying both tank and artillery rounds and

¹⁶ Email from Mr Seccombe to Tribunal, dated 4 March 2026.

munitions that had been seized, and some minor construction tasks, one of which was in volatile Muslim territory.

44. These were all perfectly reasonable questions for Mr Seccombe to have raised and, as outlined below, he has never been provided with a direct response to them. The Defence advice in its correspondence with him (repeated in the Defence report) was simply that the Nature of Service Branch did not intend to review the extant nature of service classification. That left his questions entirely unanswered. In the view of the Tribunal he should not have had to resort to seeking independent merits review in order to seek answers to those questions. Had he been provided with the reasons behind the Nature of Service Branch decision, he may have been satisfied and not sought Tribunal review with a resultant saving of the public funds that have necessarily been expended on this matter.

45. The original Defence decision of 19 May 2014, which was correct in refusing to recommend him for the Australian Active Service Medal, did alert him to the possibility of seeking a nature of service review. That was a reasonable response on the part of the Directorate of Defence Honours and Awards – although it might have been more helpful if it had provided him with a copy of the definitions of ‘warlike’ and ‘non-warlike’ service, so that he could see for himself the nature of the case he would have to mount in seeking to advance such a review.

46. In the subsequent chain of correspondence with the Directorate of Defence Honours and Awards over the years, Mr Seccombe was provided with copies of the same letter or with essentially the same advice.

47. While Mr Seccombe did not himself adopt the advice and seek a nature of service review as advised by the Directorate, it is clear from Minister Tehan’s 14 July 2017 letter to Mr Hogan that such a review was in fact undertaken. It appears that the Directorate of Honours and Awards was not aware of either that review or that letter until Mr Seccombe lodged his application for review with the Tribunal. Had it otherwise been aware, it would have been very strange and perhaps inappropriate for the Directorate to advise Mr Seccombe to pursue a nature of service review through Ministerial channels, as it did on 18 October 2023.

48. It seems likely that this is a case where there has simply been a failure of coordination between the separate ‘silos’ within the Department which deal with nature of service on the one hand and defence honours and awards on the other hand, notwithstanding the close inter-relationship between those subjects. The Tribunal highlighted this issue at Recommendation 7 in its 2023 report of the *Inquiry into Medallic Recognition for Service with Rifle Company Butterworth*.

49. While he did not himself initiate a nature of service review, Mr Seccombe did become aware that such a review had been undertaken and of its outcome, through his receipt of the letter from Minister Tehan. While the text of that letter was probably meaningful to convey relevant information to a reader familiar with the complexities and niceties of ADF service classification and defence honours and awards eligibility, it seems clear that it did not resolve the issues of concern for Mr Seccombe. In particular, it did not set out the definitions of ‘warlike’ and ‘non-warlike’ service that are at the core of the matter, and it certainly did not deal with the issues raised by Mr Seccombe in his application of 15 October 2013. [For this reason, the Tribunal ensured that the papers provided to the parties prior to the hearing included the 1993 Cabinet decision that

endorsed the definitions of those terms, which decision is still extant in relation to pre-2018 service and all defence honours and awards matters.]

50. Mr Seccombe's application to the Tribunal made clear that he was still seeking answers to those same issues. It was also apparent that what he was seeking was a change to the eligibility criteria which would allow recognition of his Balkans service through the Australian Active Service Medal. As he had said in his email of 25 September 2023 to Defence Honours and Awards *I have engaged with Honours and Awards to ask this question and have been given the usual answer of that is how the legislation is. I understand this but ask that this be reviewed as there are a number of unanswered details that continue to be questioned.*

51. The Defence report did not address the specific issues raised by Mr Seccombe and did not provide any analytical reasoning for rejecting a change to the eligibility criteria. As noted above, the Defence report said only that:

Defence's examination of the reviewable decision included seeking advice from the Directorate of Nature of Service regarding service in the Former Yugoslav Republic from 25 January 1997 onward. The Directorate of Nature of Service has confirmed that it does not intend to review the service period from 25 January 1997 in the Former Yugoslav Republic for potential classification as warlike service.

Defence notes that Mr Seccombe's appeal to the Tribunal included correspondence from the then Minister for Defence Personnel and Veterans' Affairs, The Hon Dan Tehan MP, dated 14 July 2017. That correspondence stated that service in the Former Yugoslav Republic after 24 January 1997 is appropriately classified as hazardous service...

52. In accordance with its standard practice under the Statutory Procedural Rules, the Tribunal had written to the Secretary of Defence requesting a departmental report on material questions of fact and the reasons for the decision under review. Notwithstanding that, it appears that the report provided in response was from the narrower perspective of the Directorate of Honours and Awards and not the broader departmental perspective that would have encompassed the Directorate of Nature of Service.

53. However, Defence representation at the hearing on 5 May included the Department's Director, Nature of Service. Accordingly, at that time the Tribunal was able to explore various issues related to the nature of Mr Seccombe's service in the Balkans not only with Mr Seccombe but also with the departmental representatives. During the course of those discussions it became apparent that more information was required and so the Tribunal asked Defence to take on notice the following questions:

- a. *What was the Defence Intelligence Organisation (DIO) assessed threat level for operations in the Balkans prior to it being downgraded to Medium/Low?*
- b. *Can Defence provide a copy of the 2011 review of ADF service in the Balkans?*

- c. *Are there any documents that reflect the change in classification from IFOR to SFOR?*
- d. *Are there any documents that reflect the United Kingdom change in classification from IFOR to SFOR, and was there any change in medallic recognition following this change?*

54. On 5 June 2026, Defence provided a written response that addressed each of those questions.

55. The Defence response was provided to Mr Seccombe and he was invited to make any comment he wished.

56. On 20 July 2026, Mr Seccombe provided comments in response to that invitation. Those comments were considered in the analysis below.

57. In response to the first question, Defence provided a listing of the various and differing DIO threat assessments over the period 1992 to 18 July 1997. That listing advised that:

in the first half of 1992 the DIO threat level was assessed as VERY HIGH;

later in 1992, DIO reduced the threat level in Yugoslavia to MEDIUM;

by December 1993, DIO had increased the threat to Australian Defence Force personnel in Bosnia-Herzegovina on third country deployments to VERY HIGH;

circa 1994/95 – DIO reduced the assessed threat level in the Former Yugoslavian Republic to LOW to MEDIUM;

a January 1997 assessment restated the threat was LOW to MEDIUM overall; and

on 18 July 1997 the threat to Australian Defence Force personnel assigned to United Kingdom units deployed to SFOR was reassessed as MEDIUM, due to the arrest of Bosnian Serbs suspected of war crimes and the resulting civil unrest.

58. In response to the second question, Defence provided a heavily redacted copy of a document dated 8 September 2012 that was related to the nature of service review that had been undertaken. Defence stated that the redactions in that document:

encompass references to the Veterans' Entitlements Act 1986 (VEA) and Military Rehabilitation and Compensation Act 2004 (MRCA) legislation, including consideration of whether the nature of service classification of "Hazardous" under the VEA should be revised to 'Non-warlike' from 13 May 1997, the date on which the term 'Non-warlike' service entered the VEA. Some names have also been redacted to preserve privacy. There is very little difference between Hazardous and Non-warlike (or Peacekeeping) service, none of which provide Qualifying operational or warlike conditions of service.

59. Because such a high proportion of the text had been redacted, the Tribunal requested and received a clear copy of the nature of service classification document in order to assure itself as to the nature of the redactions. The Tribunal, after closely

examining the clear text, was satisfied that that there was nothing in the redacted material that might be of assistance to Mr Seccombe in seeking to advance his claim for the Australian Active Service Medal, and that the redactions had been reasonably made by Defence for the reasons it stated. [Because of the nature of the redacted material, the Tribunal did not provide a copy of the clear text to Mr Seccombe].

60. In response to the third question, Defence stated:

Other than those documents referenced in the attached background document, Nature of Service Directorate has been unable to locate any further Australian Defence Force documentation relevant to the Implementation Force (IFOR) /SFOR changeover.

In July 1996 the Chief of the Defence Force advised that the MTA had been updated, with the threat to land forces downgraded to LOW to MEDIUM and service in the Former Yugoslavian Republic assessed as fitting within the non-warlike category. Despite this, the environment remained hazardous and uncertain, with a residual risk of renewed hostilities. It was therefore recommended that existing warlike (qualifying) service conditions remain in place, subject to review later in the year. This recommendation was agreed to by the Minister on 27 August 1996 (Enclosure 1 - para 53).

On 16 December 1996, Minister Bishop wrote to the Minister for Veterans' Affairs noting the Prime Minister's 9 March 1994 approval of a non-warlike classification. She requested ending operational (qualifying) service in Former Yugoslavian Republic from 24 January 1997, allowing adequate notice and avoiding retrospective disadvantage. Subject to agreement, she would sign an Instrument of Determination declaring service by Australian Defence Force personnel on exchange with forces of other countries as hazardous service from 24 January 1997.

On this basis, the Australian Government approved a limited deployment of Australian Defence Force personnel to Operation OSIER under SFOR in early 1997, in addition to those already serving in the Former Yugoslavian Republic on exchange with allied forces. While it could be argued that operational service may have concluded earlier than 24 January 1997, the transition from IFOR to SFOR in December 1996 provided an appropriate milestone for revising the conditions of service (Enclosure 1 - para 67).

SFOR's objective was to implement confidence and security-building measures, including arms reduction and the separation of former warring parties, in order to establish a safe and secure environment for the consolidation of peace. Its tasks included deterring the resumption of hostilities, supporting the continuation of the peace process, and providing limited assistance to civilian organisations within its capacity. Initially comprising approximately 32,000 personnel in Bosnia and Herzegovina—around half the size of IFOR—SFOR operated within an environment of increasing compliance with the Peace Agreement, enabling local authorities and international organisations to function effectively. The distinction between IFOR and SFOR is reflected in their respective roles: IFOR was responsible for implementing the peace, whereas SFOR was tasked with stabilising it.

61. In relation to the fourth question, Defence advised that it had twice sought advice from the United Kingdom on that matter but had received no response and was consequently unable to confirm whether the United Kingdom conducted a threat assessment or, if so, what its conclusions may have been.

62. Definitions of the terms ‘warlike’ and ‘non-warlike’ were approved by the Cabinet in 1993. That decision specified that the definitions were to be used for the purposes of nature of service classification, determining veterans’ entitlements, and assessing eligibility for defence honours and awards. A revision of the definitions was approved by the Minister for Defence in 2018, but that revised version was explicitly stated to apply only to nature of service classification for service after the date of that approval. Defence has never provided the Tribunal with evidence of any other Government decision to vary the 1993 definitions. Accordingly, the 1993 definitions continue to apply to nature of service classification for service prior to 2018, and to medallic recognition of service at any time.

63. The essence of the definition of ‘warlike’ service is that ‘the application of force is authorised to pursue specific military objectives and there is an expectation of casualties’. The definition specifically includes as warlike *Peace Enforcement operations which are military operations in support of diplomatic efforts to restore peace between belligerents who may not be consenting to intervention and may be engaged in combat activities. Normally but not necessarily always they will be conducted under Chapter VII of the UN Charter, where the application of all necessary force is authorised to restore peace and security or other like tasks.*

64. In contrast, the essence of the definition of ‘non-warlike’ service is that relevant military activities are ‘short of’ warlike operations, the application of force is ‘limited to self defence’, and ‘casualties could occur but are not expected’. The definition specifically includes peacekeeping, which is stated to be *an operation involving military personnel, without powers of enforcement, to help restore peace in an area of conflict with the consent of all parties.* Peacekeeping is stated to include *activities short of Peace Enforcement where the authorisation of the application of force is normally limited to minimum force necessary for self defence.*

65. Importantly and of particular relevance to the Balkans service of Mr Seccombe, non-warlike service specifically includes *activities exposing individuals or units to a degree of hazard above and beyond that of normal peacetime duty such as mine avoidance and clearance, weapons inspections and destruction.*

66. Mr Seccombe’s service in the Balkans was on attachment with the United Kingdom 22 Engineer Regiment, deployed in support of the NATO Stabilisation Force in the Balkans from 8 October 1997 to 9 November 1997, rather than on an operation conceived and implemented solely by the ADF. In order to assess the nature of that service under the Australian definitions of ‘warlike’ and ‘non-warlike’, it was thus necessary and appropriate to consider the United Nations Security Council documentation specifying the purpose and nature of the IFOR and SFOR phases.

67. Both documents were issued under Chapter VII of the UN Charter which is headed ‘Peace Enforcement’. Superficially that seems to suggest that ADF service on both IFOR and SFOR should be regarded by Australia as ‘peace enforcement’ service, which falls within the 1993 definition of ‘warlike’ and would imply eligibility for the Australian Active Service Medal that Mr Seccombe seeks. However, that is not necessarily the case. This is because the classification of ADF service must be determined under Australian law and policy, rather than relying exclusively upon either the lexicon of the United Nations or any other organisation or country, or their assessments. Consequently, it was necessary to look more deeply into the nature of IFOR and SFOR.

68. In relation to IFOR, Security Council Resolution 1031 (1995) of 15 December 1995 provided that the Council:

in paragraph 5, recognized that, by the General Framework Agreement for Peace in Bosnia and Herzegovina and by the Republic of Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia and other parties, *the parties have in particular authorized the multinational force referred to in paragraph 14 below to take such actions as required, including the use of necessary force, to ensure compliance with Annex 1-A of the Peace Agreement;*

in paragraph 14, authorized the Member States *to establish a multinational implementation force (IFOR) under unified command and control in order to fulfil the role specified in Annex 1-A and Annex 2 of the Peace Agreement;* and

in paragraph 17, authorized Member States *to take all necessary measures, at the request of IFOR, either in defence of IFOR or to assist the force in carrying out its mission,* and recognized *the right of the force to take all necessary measures to defend itself from attack or threat of attack.*

69. The Tribunal noted that it appeared that, at the time that the IFOR was authorised, the parties had not yet consented to the presence of the UN force, nor had they voluntarily committed to mutual cooperation in pursuit of enduring peace. The context in which the IFOR was authorised was in marked contrast to the context in which the SFOR was authorised. In particular, and as noted below, that SFOR context included recognition that *the further successful implementation of the peace process lies with the authorities in Bosnia and Herzegovina themselves, which during the next two years should assume increasingly a greater responsibility for the functions now undertaken or coordinated by the international community* and those parties had *committed themselves to cooperate fully with all entities involved in the implementation of this peace settlement.* The Tribunal thus concluded that the IFOR authorised under this resolution appeared to meet the description of Peace Enforcement in the 1993 definitions, and that IFOR was empowered to use force not only for self-defence but also proactively to compel compliance with the Peace Agreement.

70. In relation to SFOR, Security Council Resolution 1088 (1996) of 12 December 1996 stated that the Council welcomed *the progress in the implementation of the General Framework Agreement for Peace in Bosnia and Herzegovina* and expressed its *appreciation to the High Representative, the Commander and personnel of the multinational implementation force (IFOR), and the personnel of other international organizations and agencies in Bosnia and Herzegovina for their contributions to the implementation of the Peace Agreement.* The Resolution then, in paragraph 18, authorized the Member States *to establish for a planned period of 18 months a multinational stabilization force (SFOR) as the legal successor to IFOR under unified command and control in order to fulfil the role specified in Annex 1-A and Annex 2 of the Peace Agreement.*

71. Like IFOR, other provisions of the Resolution authorised SFOR *to take such actions as required, including the use of necessary force, to ensure compliance with Annex 1-A of the Peace Agreement* and recognised *the right of the force to take all necessary measures to defend itself from attack or threat of attack.* However, there were various unique introductory provisions which must be taken into account in assessing the nature of SFOR service. These include the following:

Welcoming the conclusions of the Ministerial Steering Board and of the Presidency of Bosnia and Herzegovina held in Paris (the Paris Conference) on 14 November 1996 (S/1996/968), and the guiding principles of the two-year civilian consolidation plan of the peace process referred to in those Conclusions

Welcoming also the conclusions of the Peace Implementation Conference held in London on 4 and 5 December 1996 (the London Conference) (S/1996/1012), which, following the conclusions of the Paris Conference, approved an Action Plan for the first twelve-month period of the civilian consolidation plan of the peace process

Underlines that the primary responsibility for the further successful implementation of the peace process lies with the authorities in Bosnia and Herzegovina themselves, which during the next two years should assume increasingly a greater responsibility for the functions now undertaken or coordinated by the international community, and stresses that without compliance and active participation by all the authorities in Bosnia and Herzegovina in rebuilding a civil society they cannot expect the international community and major donors to continue shouldering the political, military and economic burden of the implementation and reconstruction efforts;

Reminds the parties that, in accordance with the Peace Agreement, they have committed themselves to cooperate fully with all entities involved in the implementation of this peace settlement, as described in the Peace Agreement, or which are otherwise authorized by the Security Council, including the International Tribunal for the Former Yugoslavia, as it carries out its responsibilities for dispensing justice impartially, and underlines that full cooperation by States and entities with the International Tribunal includes, inter alia, the surrender for trial of all persons indicted by the Tribunal and provision of information to assist in Tribunal investigations;

Underlines the importance of control of armaments in the region at the lowest possible level of weapons, calls upon the Bosnian parties to implement fully and without further delay the agreements signed in Vienna on 26 January 1996 and in Florence on 14 June 1996 and, following satisfactory progress in the implementation of the Article II and Article IV Agreements, calls for efforts to continue to promote the implementation of Article V of Annex I-B on regional arms control of the Peace Agreement.

72. Based on that documentation, the Tribunal concluded that the purpose and nature of IFOR and SFOR and the context in which they were each to operate were quite different. While the later Resolution does not use the term ‘peacekeeping’, its terminology is very suggestive of a context in which the previously opposing states are expected, and have agreed, to voluntarily pursue peace rather than being actively imposed upon to be peaceful. Those differences in context are of very significant importance in assessing SFOR service under Australian law and practice, as opposed to how it might have been described under United Nations terminology. Those differences suggested to the Tribunal that the role of SFOR fitted more closely within the definition of peacekeeping in the 1993 definitions. As such, SFOR service would not be classified as ‘warlike’ under the 1993 definitions and the Australian Active Service Medal would not be awarded for it.

73. The Tribunal considered that this view was confirmed by the 2012 Nature of Service Branch review which noted that:

10. After the peaceful conduct of the September 1996 elections, IFOR successfully completed its mission of implementing the military annexes of the GFAP, however it was clear that much remained to be accomplished on the civil side and that the political environment would continue to be potentially unstable and insecure. Consequently in December 1996 a two-year consolidation plan was established under the auspices of the Peace Implementation Conference. The plan allowed for a reduced military presence to provide the stability necessary for consolidating the peace. On 20 Dec 96, the date the IFOR mandate expired, the NATO-led Stabilisation Force (SFOR) was established.

11. Under UN Security Council Resolution 1088 of 12 Dec 96, SFOR was authorised to implement the military aspects of the Peace Agreement as the legal successor to IFOR. Like IFOR, SFOR operated under Chapter VII of the UN Charter (peace enforcement) and had the same robust rules of engagement for the use of force, should it be necessary to accomplish its mission and to protect itself.

12. SFOR's goal was to implement a series of confidence and security building measures relating to arms reduction and keeping the warring parties apart. The primary mission was to contribute to the safe and secure environment necessary for the consolidation of peace. Its specific tasks were to deter or prevent a resumption of hostilities or new threats to peace, promote a climate in which the peace process could continue to move forward and to provide selective support to civilian organisations within its capabilities. Initially SFOR's size was around 32,000 troops in Bosnia and Herzegovina - approximately half that of IFOR. Building on the general compliance with the terms of the Peace Agreement, the smaller-sized SFOR was able to stabilise the already secure environment in which local and national authorities and other international organisations could work.

13. The difference between the tasks of IFOR and SFOR is reflected in their names. The role of IFOR was to implement the peace while the role of SFOR was to stabilise the peace.

74. Importantly, the 2012 Nature of Service Review sought to assess the risk of SFOR participation against the definitions of 'warlike' and 'non-warlike'. It stated that:

23. The determination of the nature of service (NOS) of an operational deployment is based on consideration of the mission, tasks, rules of engagement (ROE), and risks to ADF personnel as identified in the conduct of a Military Threat Assessment (MTA) for the operation. MTAs are generally made by the Defence Intelligence Organisation (DIO) or the operational planning staff and consist of two main components: the operational (or military) threat assessment and the environmental threat assessment. The operational threat is the threat which is expected from hostile forces or belligerent elements and is a key factor in determining the NOS.

...

62. As already detailed, on 16 Aug 92 Yugoslavia was declared an Operational Area (equivalent to warlike) from 12 Jan 92. However by 1994 it had been assessed that ADF service in FYR no longer met the essential criteria of warlike service and (according to available documentation) on 9 Mar 94 service by ADF personnel with other country forces in FYR was declared non-warlike for conditions of service purposes. However, presumably because of the instability in the FYR peace process during 1994/95, no action was taken by Government.

63. *It was not until 14 Dec 95 that a peace agreement was signed and the NATO-led IFOR was mandated to implement the military aspects of the Peace Agreement in Bosnia Herzegovina. During the 12 month mandate of IFOR there remained a significant level of risk to IFOR personnel, however by December 1996 it was apparent that IFOR had established a secure environment, including the conduct of elections in September 1996. Consequently there was sufficient confidence that the security situation was such that the next phase of the peace process could be implemented. This was the stabilisation phase that allowed for the further development of a safe and secure environment necessary for the consolidation of peace. Consequently SFOR replaced IFOR on 20 Dec 96. The change in name from IFOR to SFOR is significant in that it highlights the difference in the roles from implementing the peace to providing a stable environment for the further confidence building and securing the peace. Notably the size of SFOR was reduced in view of the revised role and expected reduction in violence.*

64. **Mission.** *The SFOR mission, including the UK and ADF component, was to deter hostilities and stabilise the peace, contribute to a secure environment by providing a continued military presence in the Area Of Responsibility (AOR), target and coordinate SFOR support to key areas including primary civil implementation organisations, and progress towards a lasting consolidation of peace, without further need for NATO-led forces in Bosnia and Herzegovina.*

65. **ROE.** *Like IFOR, SFOR operated under Chapter VII of the UN Charter (peace enforcement) and had a set of robust ROE for the use of force, should it be necessary, to accomplish its mission and to protect itself. Individuals carried weapons and units were heavily armed, however the use of force was only authorised to carry out the resolution's directives and in self defence.*

66. **MTA.** *The DIO MTA 5/96 dated 17 Apr 96 assessed the overall ground threat to ADF personnel for service in FYR as Low to Medium. The threat to ADF personnel from mines in Bosnia North Sector was assessed as Medium to High. Specifically, it was assessed that the level of risk to ADF personnel was above that of normal peacetime duty and that casualties may result, but were not expected. These assessments were confirmed in the DIO MTA 2/97 for FYR dated March 1997, however the assessed threat to ADF personnel in Bosnia North was upgraded to Medium on 31 Jul 97 following SFOR operations to capture suspected war criminals on 10 Jul 97. Operational risk assessments of Low and Medium indicate that casualties could occur but are not expected, and therefore fall short of the Warlike requirements as contained in the 1993 definitions.*

67. *Importantly the assessed risk to ADF personnel under SFOR confirmed the 1994 decision to downgrade ADF service in FYR to Non-warlike. It was on this basis that in early 1997 the Australian Government finally agreed to allow a small deployment of ADF personnel to deploy on OP OSIER to SFOR in addition to those ADF personnel who were already serving in FYR as TCD with allied forces. Arguably operational service could have been concluded much earlier than 24 Jan 97, however the transition from IFOR to SFOR in December 2006 provided a suitable milestone for such a downgrade in the conditions of service for the deployment.*

68. *The security situation in FYR in 1997 remained unstable and dangerous, and ADF personnel serving with SFOR were exposed to risks and dangers above*

normal peacetime duties. This is representative of a situation where classification as peacekeeping, non-warlike service or hazardous service under section 120(7) of the VEA could be appropriate.

Peacekeeping service

69. By any measure ADF service as a TCD in FYR, Albania or Macedonia from 24 Jan 97 meets the essential criteria for classification as peacekeeping service. SFOR and other ADF TCD service was service in a force organised by the UN or another international body (NATO) for the purpose of peacekeeping outside Australia, to restore and maintain peace in an area of conflict, to verify ceasefire agreements and/or provide humanitarian relief.

70. Certainly ADF service after 13 May 97 meets the description of a peacekeeping operation as a category of a non-warlike operation, being 'an operation ...to help restore and maintain peace in an area of conflict with the consent of all parties'. Noting that the 1993 non-warlike definition was apparently based on the existing 1993 peacekeeping conditions and criteria, a NOS classification of peacekeeping both before and after 13 May 97 is both possible and appropriate.

75. It is not the role of the Tribunal to review whether Defence determinations of nature of service are right or wrong. The review role of the Tribunal is confined to considering whether ADF decisions refusing to recommend medallic recognition are right or wrong.

76. In conducting that role in a case such as the present, the Tribunal does have a power under section 110VB(3) of the Defence Act to make *any recommendations to the Minister that the Tribunal considers appropriate and that arise out of, or relate to, the Tribunal's review.*

77. However, the Tribunal did not consider that it would be appropriate in this case to make a recommendation of the type sought by Mr Seccombe to effectively change the nature of service classification of his service in the Balkans. This was because the current classification had clearly been arrived at by analysis against the applicable Cabinet-approved definitions. It was also apparent from the contemporary and changing DIO assessments that ADF service of relevance had been kept under close consideration at the time, and classification had not simply been ascertained more remotely in time in 2012. It was not a matter for the Tribunal to assess the correctness of that assessment or the content of those definitions. Nevertheless, for what it might be worth, the Tribunal did not perceive any error in the classification determined by the 2012 review and it considered the 1993 definitions to be apposite.

78. Had it been apparent that Defence had reached a nature of service classification without regard to the 1993 Cabinet-approved definitions, or that it had not had regard to all significant evidence about the service under consideration, the Tribunal may have been minded to make a recommendation under section 110VB(3). But, even then, the recommendation would most likely have been that the Minister should direct Defence to reconsider the nature of service classification by reference to the 1993 definitions, or having regard to the additional facts. The Tribunal considered it unlikely that it would have been motivated to recommend a particular nature of service classification outcome.

79. While the above analysis was sufficient to resolve the application made by Mr Seccombe, the Tribunal also considered it appropriate to provide him with some

comments on each of the arguments he had raised in his written and oral submissions. This was particularly the case as it was apparent to the Tribunal that there are doubts and misconceptions held by many people about the differences and boundaries between peace enforcement and peacekeeping operations. Mr Seccombe's questions and arguments appeared to be simply reflective of that broader questioning and confusion.

80. As noted above, Mr Seccombe argued that British, Canadian and French veterans serving on both IFOR and SFOR had had their service classified as both warlike and operational. But, even if that is correct, ADF service is required to be classified by the Australian definitions which may be quite different to those adopted by other countries. Moreover, from a medallic recognition perspective, it should be noted that members of the United Kingdom armed forces who deployed on the IFOR and/or SFOR missions received only the North Atlantic Treaty Organisation Medal for their service in the Former Yugoslavia. Mr Seccombe has deservedly been awarded not only the NATO medal along with his UK counterparts but also the Australian Service Medal with Clasp BALKANS for his service on attachment with the British Army 22 Engineer Regiment in the Balkans.

81. Next, he argued that pre-deployment training in October 1997 was the same as it had been in January 1997. That may well have been the case. But even if so, that would not have any necessary effect on either nature of service classification or medallic recognition. It is apparent that, in both peace enforcement and peacekeeping service, those deployed may come under attack from the parties concerned and be required to defend themselves. It is of course also possible that peacekeeping may fail, and that further peace enforcement may be required of the same deployed force, but the nature of the task is quite different between peace enforcement and peacekeeping.

82. Mr Seccombe emphasised that the Rules of Engagement for SFOR were virtually identical to those for IFOR which, he said, indicated that both deployments should be classified the same as "warlike". Both Rules of Engagement authorised not only self-defence but also *such actions as required, including the use of necessary force, to ensure compliance with Annex 1-A of the Peace Agreement*. The use of necessary force to ensure compliance can clearly go well beyond the boundaries of self-defence. This argument may be somewhat appealing, but it is not necessarily determinative.

83. Under the Cabinet-approved definitions, peace enforcement is within the 'warlike' category and peacekeeping is within the 'non-warlike' category. The difference between these two types of service is not as obvious as the difference between 'a state of declared war' on the one hand, and hazardous activities 'exposing individuals or units to a degree of hazard above and beyond that of normal peacetime duty' on the other hand. The former is within the 'warlike' category, and the latter is within the 'non-warlike' category.

84. Forces engaged in peace enforcement are not in a state of declared war with either of the opposing forces they are seeking to subdue. Their aim is not to defeat either force, but to prevent them engaging in war with one another. Mere presence of an armed neutral force with warlike capability may be sufficient to induce opposing forces to cease their warlike activities. But that will not necessarily be the case. The peace enforcer may be confronted by aggressive resistance of the same nature as may be experienced if they were at war. But, in that event, their aim is more in the nature of self-defence rather than defeating the aggressor. For this reason, Rules of Engagement for peace enforcement are understandably written in terms that refer to self-defence as well as other more proactive

action.

85. In peacekeeping operations, the previously opposing forces are no longer actively engaged in warlike combat and the aim is to maintain that status quo. However, because it is of course possible that a peacekeeper may come under attack, Rules of Engagement for peacekeeping are also written not only in terms of self-defence, because the aim is not to defeat either force, but also as a precautionary measure in terms that additionally make provision for more proactive action if such becomes necessary contrary to expectation.

86. Accordingly, the Tribunal concluded that the fact that IFOR and SFOR Rules of Engagement were effectively identical was not determinative of the classification of Mr Seccombe's service in the Balkans. The Tribunal considered that the changes to the security environment and the nature of the relationships between the previously-warring parties were such that SFOR better aligned with the definition of peacekeeping on the basis that both parties had consented. The fact that the SFOR Rules of Engagement were not strictly limited to self-defence did not, in the view of the Tribunal, mean that SFOR service necessarily had to be classified as 'warlike' under the Australian definitions when regard was had to the apparent context and purpose of SFOR as compared to those of IFOR.

87. Mr Seccombe also noted that all soldiers during his time in the Balkans were armed with a loaded SA80 rifle and carried and wore both flak jackets and helmets, as well as being issued with morphine. However, because peacekeeping service may involve repelling an aggressor in self-defence in action in which injury may be incurred, peacekeeping forces require the weapons and medication to deal with such situations, even though they might be of somewhat lesser risk of that occurring than in peace enforcement service.

88. Furthermore, Mr Seccombe drew attention to the particularly dangerous nature of his SFOR service which involved mine monitoring (supervising and checking the disarmament and extraction of live mine fields), operational demolitions destroying both tank and artillery rounds and munitions that had been seized, and some minor construction tasks one of which was in volatile Muslim territory. The Tribunal appreciated that this service was indeed dangerous and required recognition. However, under the 1993 definitions, service is properly classified as 'non-warlike' even though it involves *activities exposing individuals or units to a degree of hazard above and beyond that of normal peacetime duty such as mine avoidance and clearance, weapons inspections and destruction*. His service was indeed dangerous and worthy of medallic recognition, but that was provided by the award of both the Australian Service Medal and the NATO Medal for service in the Former Yugoslavia, which he fully deserved.

89. Finally, in his comments on the Defence response to the questions taken on notice by it at the hearing, Mr Seccombe reiterated some of the points discussed above, but also outlined his perception of anomalies in the way defence honours had been awarded differentially to senior and more junior ranks, and for service involving lesser danger than his service. These were not matters within the jurisdiction of the Tribunal as, under section 110V the Defence Act, it is limited to considering the application of the Australian Active Service Medal Regulations and the 1993 Cabinet-approved definitions to the circumstances of Mr Seccombe's service and not that of others.

90. The Tribunal hoped that the above explanation, the nature of which it considered should have been provided by Defence without the need for Tribunal proceedings, will

assist Mr Seccombe to understand why his valuable and respected SFOR service has been recognised by the award of the NATO Medal and the Australian Service Medal rather than the Australian Active Service Medal.

Tribunal decision

91. For the above reasons, the Tribunal decided:

- a. to affirm the decision that Mr Leon Scott Seccombe not be recommended for the Australian Active Service Medal with Clasp 'BALKANS'; and
- b. to not recommend to the Minister that the eligibility criteria be amended to render Mr Seccombe eligible to be awarded the Australian Active Service Medal with Clasp 'BALKANS'.