



Australian Government

Defence Honours and Awards Appeals Tribunal

Greener and the Department of Defence re: Cooper [2026] DHAAT 20 28 September 2026

File Number 2025/024

Re **Wing Commander Adrian Gerard Greener CSC**
Applicant

And **The Department of Defence**
Respondent

Tribunal Mr Stephen Skehill (Chair)

Hearing Date 24 June 2026

Appearances Wing Commander Greener
Mr Craig Dale
(for the Applicant)

Mrs Allison Augustine – Director, Defence Honours and Awards
Mr Tyson Pan – Assistant Director, Defence Honours and Recognition
Mrs Jen Robinson – Manager Honours Reviews
Mrs Ali Bermudez – Honours Reviews and Tribunal Administration
(for the Respondent)

DECISION

On 28 September 2026 the Chair of the Tribunal decided, pursuant to section 110VC of the *Defence Act 1903*, concerning the service of the late Garry Gordon Cooper DFC in Vietnam:

- a) to reject the application lodged by Wing Commander Greener insofar as it related to the events of 10 May 1968; but
- b) to list the balance of the application for a hearing before a panel of the Tribunal, confined to the question of whether the events of 18-19 August 1968, as established by the panel following consideration and weighting of all available evidence, satisfied the eligibility criteria for the Victoria Cross for Australia or another defence honour.

CATCHWORDS

Defence honour – Victoria Cross for Australia – service previously subject to Tribunal review – Vietnam – whether service previously adequately considered by the Tribunal or otherwise – dismissal

LEGISLATION

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

Introduction

1. On 29 December 2015, the late Mr Garry Gordon Cooper DFC applied to the Department of Defence for award of the Victoria Cross for Australia. The basis of Mr Cooper's application was that while serving as a Forward Air Control (FAC) pilot on secondment to the United States Air Force during the period between 8 April and 29 October 1968, he was involved in a significant event on 18-19 August 1968 which merited the award of the Victoria Cross for Australia.
2. On 30 September 2016, the Chief of Air Force, Air Marshal G.N. Davies AO, CSC, decided that Mr Cooper's service during the Vietnam War had been appropriately recognised by the award of the Imperial Distinguished Flying Cross that had already been bestowed on him.
3. On 7 October 2016, Mr Cooper lodged an application for review of that decision with the Tribunal. In so doing, he requested that the whole of his Vietnam service should be taken into consideration.
4. On 18 January 2018, the Tribunal recommended to the Minister that the decision of the Chief of Air Force, that the service of Mr Cooper during the Vietnam War had been appropriately recognised, should be affirmed.
5. On 29 March 2018, the Minister wrote to Mr Cooper advising that he had accepted the Tribunal's recommendation and had affirmed the decision of the Chief of Air Force.
6. On 17 August 2023, Wing Commander Greener requested that then Chief of the Air Force, Air Marshal S. G. Chappell, reconsider his predecessor's decision of 30 September 2016.
7. On 21 October 2024, Air Marshal Chappell wrote to Wing Commander Greener advising that he had determined that Mr Cooper had already been appropriately recognised for his courage and devotion to duty on many occasions during his tour in Vietnam. He further said that, despite extensive review, he was unable to establish a sufficient evidentiary basis for acts of gallantry on 18-19 August as described by Mr Cooper.
8. On 25 December 2025, Wing Commander Greener applied to the Tribunal for review of that decision, which I considered met the definition of 'reviewable decision' in section 110V of the *Defence Act 1903*. I further considered that Wing Commander Greener was entitled to apply for review of it by the Tribunal, in accordance with section 110VA of the Act.
9. Section 110VC(1)(b) of the Act provides that the Chair of the Tribunal may dismiss an application for review of a reviewable decision if the Chair considers that '*the question whether the person ... concerned should be recommended for the defence honour ... has already been adequately reviewed (whether by the Tribunal or otherwise)*'.

10. The 2018 decision of the Tribunal was reached after consideration of considerable relevant evidence and a lengthy hearing at which Mr Cooper was able to, and did, actively participate. The decision of the Tribunal was in essence to the effect that:

a. Mr Cooper's service for the whole of his tour in Vietnam, other than the claimed events of 18-19 August 1968, was adequately recognised by the Distinguished Flying Cross previously awarded to him and did not meet the eligibility criteria for the Victoria Cross for Australia; but

b. it was not possible to conduct a full merits review of whether or not the claimed events of 18-19 August met those eligibility criteria, because there were doubts about the provenance of relevant documents and additionally gaps in the available evidence which meant that the Tribunal was unable to find evidence that established a sufficient factual basis for the claimed events of those days.

11. Following lodgement of his application for review, the Tribunal Secretariat drew to Wing Commander Greener's attention the possibility of the Chair dismissing his application under section 110VC(1)(b) and invited him to make a submission in that regard and, particularly, in relation to whether or not the doubts about documentary provenance and the evidentiary gaps could be resolved.

12. Wing Commander Greener made detailed submissions to the Tribunal. It was apparent that he had conducted an enormous amount of research and devoted great energy in seeking to advance the case of Mr Cooper's claim that his service warranted award of the Victoria Cross for Australia. On behalf of the Tribunal, I express recognition of and gratitude for those efforts by him, which were very helpful in allowing me to better consider the question of dismissal under section 110VC(1)(b).

Tribunal hearing

13. Notwithstanding those efforts, I considered that I should not make a decision under that section 'on the papers' and thus a hearing was convened to allow both Wing Commander Greener and the Department of Defence to express their views on that issue.

14. That hearing was held remotely on 24 June 2026.

15. Wing Commander Greener attended and was accompanied by Mr Craig Dale, owner of the Evans Head Airpark in NSW and part-time historian who had assisted with the recovery of some of Mr Cooper's missing awards. Lieutenant Colonel Andrew 'Drew' Cunnar (USAF Retd), who was previously Air Attaché at the US Embassy in Canberra and who re-presented Mr Cooper's Air Force Cross in 2021, and who Wing Commander Greener had indicated would also attend, was unfortunately unable to attend for pressing personal reasons.

16. Defence was represented by Mrs Allison Augustine – Director, Defence Honours and Awards, Mr Tyson Pan – Assistant Director, Defence Honours and Recognition Team, Mrs Jen Robinson – Manager Honours Reviews and Mrs Ali Bermudez – Honours Reviews and Tribunal Administration.

17. At the hearing I advised that I was minded to dismiss the application lodged by Wing Commander Greener insofar as it related to Mr Cooper's service throughout the period

of his tour in Vietnam other than on 18-19 August 1968 unless Wing Commander Greener was able to point to material evidence of relevance that had not been before the 2018 Tribunal.

18. I thus asked Wing Commander Greener if he wished to contend that any of the additional documents that he had provided in relation to dates other than 18-19 August 1968 materially added to the store of knowledge previously considered by the 2018 Tribunal, as opposed to simply confirming or adding subsidiary detail to material before the 2018 Tribunal and considered by it in reaching its decision that Mr Cooper's service throughout the period of his tour in Vietnam other than on 18-19 August 1968 had already been appropriately recognised.

19. Wing Commander Greener submitted that the 2018 Tribunal had not been fully aware of the facts of events claimed to have occurred on 10 May 1968 and that, as a result, its statement of reasons did not provide adequate analysis of those events to justify its decision that Mr Cooper's service throughout the period of his tour in Vietnam other than on 18-19 August 1968 had been appropriately recognised by the Distinguished Flying Cross he had already received.

20. Accordingly, I proposed that Wing Commander Greener should provide a submission and documents tightly focused on:

- what evidence was before the 2018 Tribunal in relation to the events of 10 May 1968;
- what additional evidence he believed was now available in relation to those events; and
- any US medallic recognition Mr Cooper may have received in relation to those specific events together with any associated US documentation that provided a factual account of those events.

21. In that regard, Defence agreed that this was an appropriate course of action.

22. In relation to Mr Cooper's service on 18-19 August 1968, I invited Wing Commander Greener to make submissions in relation to the material he had previously submitted to the Tribunal with a view to addressing each of the doubts as to documentary provenance and evidentiary gaps which had been set out in the 2018 Tribunal decision.

23. Wing Commander Greener spoke at some length about how those doubts and gaps had arisen and what he had done with a view to resolving them. I stressed that I was not concerned about whether or not maladministration was a cause of the 2018 Tribunal not having access to what he now submitted was evidence of the events of 18-19 August 1968. Rather, I was only concerned to understand what he now claimed to be the facts of the events of those days, regardless of when that evidence might have become known and why it was not earlier available.

24. I thus proposed that that Wing Commander Greener should provide a second submission and documents tightly focused on:

- what evidence he believed was now available in relation to the events of 18-19 August 1968; and
- any US medallic recognition Mr Cooper may have received in relation to those specific events and any associated documentation that provided a factual account of those events.

25. In so doing, I stressed that this second submission did not need to canvass arguments about:

- why he asserted the claimed events met the eligibility criteria for the Victoria Cross for Australia, or
- how the differing accounts of the claimed events of the day set out in the 'Ewell/Archer' narrative or provided by Mr Cooper over time in his diary, his book and his evidence to the 2018 Tribunal might best be assessed.

26. I advised that, in my view, those were matters properly for consideration by an assigned panel of the Tribunal if the application for review was not dismissed.

27. Defence similarly agreed that this was an appropriate course of action.

28. While Wing Commander Greener indicated at the hearing that he hoped to provide the above two submissions in around two weeks, they were in fact provided on 27 August 2026.

Tribunal consideration

10 May 1968

29. Wing Commander Greener had argued at the hearing that the Distinguished Flying Cross nomination and citation had been written with a view to providing recognition of Mr Cooper's actions on 11 May 1968 and in June 1968 alone and did not provide recognition for service on any other dates, and especially 10 May or 18-19 August 1968. In this regard, the 2018 Tribunal stated at paragraph 126 of its statement of reasons that *the Tribunal is aware that Mr Cooper's original recommendation for an Imperial DFC was explicitly based on events in May and June 1968 and submitted for consideration approximately a month before his departure from Vietnam.*

30. The Distinguished Flying Cross nomination stated:

Flight Lieutenant Garry Gordon Cooper was posted to Royal Australian Air Force Headquarters, Australian Force Vietnam on 9th April 1968 for duty as a Forward Air Controller with the United States Seventh Air Force.

Flight Lieutenant Cooper distinguished himself by gallantry on the night of 11th May 1968 when enemy forces attempted to overrun the 'Y' bridge near Saigon.

Flight Lieutenant Cooper continually exposed his FAC aircraft to intense ground fire and flew at low level through a constant artillery and mortar barrage to mark enemy positions for attack by fighter aircraft. By his actions he was instrumental in saving the defending forces and in preventing the bridge from falling into enemy hands.

The courage and devotion to duty displayed by Flight Lieutenant Cooper on this and many other occasions throughout his tour of duty have been of the highest order.

31. The Distinguished Flying Cross citation stated:

Flight Lieutenant Garry G. Cooper distinguished himself by heroism while participating in aerial flight near Cai Nuec, Republic of Vietnam, on 4 October 1968. On that date, Flight Lieutenant Cooper was flying his O-1 Bird Dog aircraft as a Forward Air Controller in support of friendly ground forces engaged in combat with an opposing hostile force of battalion size. Due to low clouds in the target area, Flight Lieutenant Cooper elected to operate in close proximity to the hostile anti-aircraft fire. With complete disregard for his own personal safety, Flight Lieutenant Cooper made low repeated passes over suspected antiaircraft emplacements to draw their fire from the fighters and force them to reveal their positions to the attacking fighter aircraft. The outstanding heroism and self-less devotion to duty displayed by Flight Lieutenant Cooper reflect great credit upon himself and the United States Air Force.

32. However, regardless of what may have been known to or intended by the nominating and recommending officers, it is apparent that the 2018 Tribunal concluded that, setting aside the claimed events of 18-19 August 1968, there was nothing in Mr Cooper's Vietnam service across the full period of his tour as understood by it in 2018 that would justify elevating Mr Cooper's Distinguished Flying Cross to a Victoria Cross for Australia. [In my view, even if the 2018 Tribunal had concluded that events after the conferral of the Distinguished Flying Cross or unknown to those recommending warranted medallic recognition, it was not incumbent on it to recommend recognition by another appropriate medal. It was open to it to conclude that the Distinguished Flying Cross already issued was fit recognition for those other events and I considered that it was clear from paragraph 126 of its decision that this was what it did.]

33. Wing Commander Greener argued that, in forming its view, the 2018 Tribunal did not have sufficient evidence before it to form a reliable conclusion that the Distinguished Flying Cross was adequate recognition for the events of 10 May 1968.

34. It is clear from the 2018 Tribunal's decision that it was aware of Mr Cooper's claims as to the events of 10 May 1968. It had his own oral testimony and was plainly aware that he regarded 10 May as an integral date in his claim for Victoria Cross recognition for that date. In this regard, it said:

39. At the hearing Mr Cooper explained to the Tribunal that the primary basis for his claim for the Victoria Cross was three actions that occurred during his tour of duty. The first occurred on 10 May 1968 for which he claims a US Distinguished Service Cross is 'still in the system'; the second concerned those events of 11 May 1968 that were mentioned in his citation for the Imperial DFC and were recognised by the award of a

US Silver Star on 24 November 1980; and the third being his actions on 18-19 August 1968 which have not been recognised. Mr Cooper also told the Tribunal 'that the number of contacts and awards that he has received ... in itself requires consideration for a higher award as he has not heard of anyone else getting involved in so much'.

35. It is also clear that the 2018 Tribunal was aware of the possibility that the events of 10 May might be recognised by a US award that would be additional to the numerous other US awards he had already received. In this regard, it said:

123. Mr Cooper also produced documentation that suggests he has been recommended for, but not received the following awards:

- *US Distinguished Service Cross for his actions 10 May 1968.*
- *US Bronze Star with 'V' device for his actions 18-19 August 1968.*
- *US Air Force Cross for his actions 18-19 August 1968.*

36. It is also clear that the 2018 Tribunal was deeply aware of the nature of the service that Mr Cooper provided as a Forward Air Controller, which was the role he was fulfilling on 10 May 1968. In this regard, it had his own oral evidence and that of Wing Commander Condon, in relation to whom it said:

102. Wing Commander Condon also served as a FAC with 19th Tactical Air Support Squadron in support of 1st Brigade, 9th Infantry Division. This was the same unit as Mr Cooper, although Mr Cooper flew in support of the 3rd Brigade. Wing Commander Condon served in Vietnam between April and December 1969. In the absence of other witnesses, and in light of Mr Cooper identifying Wing Commander Condon as someone with knowledge of his honours and awards history, the Tribunal sought evidence from Wing Commander Condon to confirm the nature of the FAC role. Wing Commander Condon was also identified by Mr Cooper as his 'leading antagonist' and the Tribunal sought to understand the nature of his concerns.

37. The conclusions reached by the 2018 Tribunal about the Forward Air Controller role and Mr Cooper's performance of it are reflected in the following passages:

120. Mr Cooper's defence records have become confusing through the duplication of material, but a clear picture emerges of his experience in Vietnam. Combined with his own description of events and the description provided by Wing Commander Condon, the Tribunal has concluded that the role of a FAC in Vietnam was both dynamic and critical to the effective application of air-delivered firepower in close support of ground troops engaged with the enemy. The Tribunal concluded that Mr Cooper was regarded as a very effective FAC.

...

126. ... [The Tribunal] acknowledges that the available evidence indicates that Mr Cooper continued to perform throughout his operational deployment as an effective FAC with all the hazards and challenges involved ...

38. It is also clear that the 2018 Tribunal took into account the evidence it had about 10 May 1968 in reaching its conclusion that the Distinguished Flying Cross represented appropriate

recognition of all Mr Cooper's service in Vietnam other than on 18-19 August 1968. This is clear from the following extract:

126. Although Mr Cooper has requested that his entire service in Vietnam be taken into consideration, most of his service is well documented and has been subject to previous consideration. The Tribunal notes that Mr Cooper's service included some of the most intense operational episodes of the Vietnam conflict, which makes it all the more important to understand whether any individual's actions were over and above what other personnel in equivalent roles were doing around the battlespace. Although the Tribunal is aware that Mr Cooper's original recommendation for an Imperial DFC was explicitly based on events in May and June 1968 and submitted for consideration approximately a month before his departure from Vietnam, it is reasonably satisfied that Mr Cooper's service outside of the events of 18-19 August 1968, and the previous consideration, does not support a recommendation for further or higher recognition. In making this judgement, the Tribunal has considered, amongst other things, the additional material provided by Mr Cooper which provides further details of his actions on 10 and 11 May 1968, as well as in October 1968. It acknowledges that the available evidence indicates that Mr Cooper continued to perform throughout his operational deployment as an effective FAC with all the hazards and challenges involved, but assesses that the Imperial DFC which Mr Cooper received constituted an appropriate award for his service. As the events of 18-19 August 1968 remain in doubt, the Tribunal was obliged to consider those events in some detail.

39. The first submission requested at the hearing was intended to test whether or not the 2018 Tribunal had sufficient knowledge in relation to 10 May 1968. In it, Wing Commander Greener provided what I understood to be all the documentation available to him about the events of 10 May 1968 and the US medallic recognition of those events.

40. It was apparent that almost all of that documentation had been available to the 2018 Tribunal. To the extent that any of that documentation had not been available to the 2018 Tribunal, I considered that it did not add information, clarification or commentary that would have supplemented the understanding by the 2018 Tribunal of the facts of Mr Cooper's actions on 10 May 1968. It was also apparent from the passages of the 2018 Tribunal decision that the Tribunal had taken into consideration all the available facts about those actions.

41. Accordingly, I concluded that the question of whether or not Mr Cooper should be recommended for any additional medallic recognition for his actions on 10 May 1968 'had already been adequately reviewed'.

18-19 August 1968

42. The second submission requested at the hearing was intended to allow assessment of whether or not the doubts as to provenance and evidentiary gaps identified by the 2018 Tribunal could be resolved sufficiently to allow a future Tribunal panel to assess the events of 18-19 August against the eligibility criteria for the Victoria Cross for Australia.

43. Those doubts and gaps were set out in paragraphs 127-148 of the 2018 Tribunal decision and summarised at paragraphs 155-161.

44. I considered that there was sufficient material provided in the second submission that might allow a future Tribunal panel to conclude that the doubts as to provenance were capable of resolution and, if so resolved, to come to a view as to whether the events of 18-19 August 1968 met the eligibility criteria for the Victoria Cross for Australia.

45. In so doing, I considered that it was preferable that I not go on to decide that the doubts as to provenance had been resolved in any particular manner, and that that was a matter best left to a future Tribunal panel.

46. As it was clear from the 2018 Tribunal decision that it had not considered whether or not the actions of 18-19 August 1968 met the eligibility criteria for the Victoria Cross for Australia, it was necessarily to the case that the question of whether those actions warranted any medallic recognition had not been ‘adequately reviewed’.

The Chair’s power of dismissal

47. As noted above, section 110VC(1)(b) of the Act provides that the Chair of the Tribunal may dismiss an application for review of a reviewable decision if the Chair considers that ‘the question whether the person ... concerned should be recommended for the defence honour ... has already been adequately reviewed (whether by the Tribunal or otherwise)’.

48. Having concluded that medallic recognition for the events of 10 May 1968 had already been adequately reviewed but that the events of 18-19 August 1968 had not been adequately reviewed, a question arose as to whether or not I was able to partly dismiss the application made by Wing Commander Greener or, alternatively, whether I was bound to dismiss the whole application (in which event Wing Commander Greener could lodge a further application related only to medallic recognition for the events of 18-19 August 1968).

49. In considering this question, I had regard to section 33(3A) of the *Acts Interpretation Act 1901* which provides as follows:

(3A) Where an Act confers a power to make, grant or issue any instrument of a legislative or administrative character (including rules, regulations or by-laws) with respect to particular matters (however the matters are described), the power shall be construed as including a power to make, grant or issue such an instrument with respect to some only of those matters or with respect to a particular class or particular classes of those matters and to make different provision with respect to different matters or different classes of matters.

50. As section 110VC(1)(b) of the Act provides that the Chair’s power of dismissal must be exercised ‘in writing’, I concluded that section 33(3A) operated to allow me to dismiss an application in part and to accept the balance of the application for consideration by the Tribunal.

Decision

51. Accordingly, I decided:

- a) to reject the application lodged by Wing Commander Greener insofar as it related to the events of 10 May 1968; but
- b) to list the balance of the application for a hearing before a panel of the Tribunal, confined to the question of whether the events of 18-19 August 1968, as established by the panel following consideration and weighting of all available evidence, satisfied the eligibility criteria for the Victoria Cross for Australia or another defence honour.