

CHAPTER 4

SUMMARY OF PREVIOUS REVIEWS

4.1 The Working Party examined the principles, logic, research and recommendation outcomes of a number of previous reviews. Parts of these reviews, relating specifically to their considerations of Korea issues relevant to the current Review, are highlighted and summarised below.

1975 Independent Inquiry into the Repatriation System (Toose Report)

4.2 While the Toose Review was concerned with a comprehensive review of the Australian Repatriation System, it provides the historical basis for subsequent reviews, and established a number of enduring principles. In so doing, it touched on a number of issues relevant to the current Review. It used the term 'warlike' (p.105, Part 5.8), but without the comprehensive definition relating to eligibility criteria applied to medals which are the subject of this Review. The Toose report's use of the term 'warlike' is therefore not relevant to the current Review. Similarly the Toose Report, through its use of such terms as 'active service', 'operational service' and 'war service' (p.113, Part 5.12), draws attention to the purpose of these terms for repatriation entitlements, and for this reason this aspect of the report is not relevant to the current Review.

4.3 On page 105 the Toose Report recognises the amendment of the Repatriation Act to encompass Korean service, and on page 388, Part 512.2, the report further states that "For the Korea-Malaya operations service pension was provided, along with war pensions and other benefits when the provisions of the Repatriation Act were extended to those warlike operations". The report does not go on to explain the provision of those benefits after the Armistice on 27 July 1953. This issue is addressed in subsequent reviews.

1994 Report of the Committee of Inquiry into Defence Awards (CIDA)

4.4 In 1993 CIDA was established to review the Australian Honours and Awards System. During its deliberations, CIDA established ten guiding principles which have been accepted as a basis for the awarding of medals for service, particularly when assessing past activities. The Principles are attached at Annex 4A at the end of this Chapter and served to guide this Working Party's deliberations. CIDA made 39 recommendations which were accepted by the then Labor Government and later implemented by the subsequent Liberal Government.

4.5 CIDA examined two distinct periods during which Australian forces served in Korea. The first was the combat period (1950–53), including service in Japan and Okinawa, and the second was from the Armistice in 1953 to the final withdrawal of Australian forces in 1957.

4.6 For the combat period CIDA recognised that the award of the Korea Medal, an Imperial award incorporated into the Australian Honours and Awards System, was sufficient recognition of this service. CIDA stated, however, that:

“Many submissions argued for a new Australian award, like the AASM, in addition to the Korea Medal, for service from 1 July 1950 to 27 July 1953. A number of submissions referred to the Korean War as the forgotten war and saw it as a conflict unrecognised by the Australian Government. The first point is a matter of perception, but the Committee acknowledges that the passage of forty years since the armistice and the historical perspectives of the day may have lessened public awareness of this hard and bitter conflict.

“The Committee, however, does not agree with the second point and refers to its principle number 6, which notes that whereas the Imperial system of honours and awards applied across many countries in the old Commonwealth of Nations, it was administered independently in each country. Awards within the Imperial system were bestowed by each of the governments in question. Those Australians who received Imperial campaign medals like the Korea Medal for active service in the armed forces of the nation received these awards from a grateful Australian government and people. Their service has already been recognised by the nation through an award that is held in high regard.”

4.7 CIDA’s recommendation was consistent with its second principle, that only one medal should be awarded for a period of service.

4.8 CIDA recognised that an anomaly had occurred in relation to service in Korea after the Armistice, when no Australian medal had been awarded. It considered the conditions under which Australian forces served and recommended the provision of the new Australian Service Medal 1945–1975 with clasp ‘KOREA 1953–56’, for the period from the Armistice to the final withdrawal of Australian troops on 26 August 1957. The recommendation was accepted.

4.9 This Working Party makes the following comments in relation to the CIDA consideration of the post-Armistice period and subsequent Government action:

- a. The CIDA Terms of Reference required the application of the terms ‘warlike’ and ‘non-warlike’, which are subject to the definitions regarding the conditions for eligibility used by Defence and consequently by the current Working Party.
- b. The CIDA recommendation and its acceptance adhered to the CIDA principle concerning the award of a single medal for a period of service.
- c. CIDA gave no consideration to any differences in the nature of service between the withdrawal of Australian combat forces by 19 April 1956 and the final withdrawal in August 1957. While in the CIDA recommendations the clasp covers the period 1953–1956, the period of the award extends to 1957. CIDA concluded that service over the period 1953–57 would attract the award of the ASM at the time of the report. In 2001, the clasp was changed to simply ‘KOREA’. However, the subsequent observation of the Clarke Review, drawing on the Cabinet decision that service after 19 April 1956 was peacetime service, is reinforced by the analysis conducted by this Working Party. That service therefore does not attract any form of medal award. In our view, this means that a further anomaly has been introduced by devaluing the ASM 1945–75.
- d. In 1997 the government announced the provision of a new award, not envisaged by CIDA, the Australian Active Service Medal (AASM) 1945–75. The medal was awarded for those actions already subject to campaign

medals for warlike service, thus creating a further anomaly involving a 'double medalling' for most service over the period with the exception of BCOF 1945–52, Korean service after the Armistice and RAAF Ubon (Thailand) service. This action effectively overturned the CIDA principle regarding one Australian medal for each period of service for the period 1945–75.

e. Principle 7 of the CIDA report states that:

"The Committee adheres strongly to the official view that honours and awards given to Australians on the recommendation of Australian governments under the Imperial system are Australian awards."

This Working Party had relied on this view in developing a position that awards incorporated into the Australian Honours and Awards System should be subject to amendment or variation to meet Australia's particular needs, particularly in addressing anomalies. However, later advice from the Chief General Counsel, Australian Government Solicitor's Office, was that honours and awards, which included campaign medals, of the Imperial Honours and Awards System were no longer available to the Australian Government.

f. CIDA did not consider the Returned from Active Service Badge (RASB) since, as a badge, it was outside their Terms of Reference, but it did recognise that the badge is in addition to any medals awarded, that its award is not governed by statute and that it has been the practice of governments to consider the badge's award in the context of the circumstances extant in each conflict.

1997 Defence/DVA Report on Service Entitlement Anomalies Review (Defence/DVA Review)

4.10 The joint departmental review considered the nature of service appropriate to four specific periods of service over the period 1946–1975 with a view to resolving any outstanding repatriation benefit issues. The review used the terms 'warlike' and 'non-warlike' as the key definitions for eligibility criteria for conditions of service, on the basis that these terms, while of recent origin, reflected the historical principles governing repatriation legislation.

4.11 Part 2 of the review considered, among other perceived anomalies, the circumstances of the Australian component of the Commonwealth Contingent Korea after the withdrawal of combat forces from 19 April 1956, until it disbanded and Australian forces left in August 1957. While the Review concluded that service in Korea after 19 April 1956 was non-operational peacetime service, it also concluded that the fluctuating level of risk for those entering the DMZ involved a degree of hazard above and beyond normal peacetime service, ie it was equivalent to current definitions of hazardous or peacekeeping service. The Defence/DVA Review recommended that equivalent repatriation benefits be accorded for those who served in the DMZ. It also recommended that Australian personnel serving with the United Nations Commission on Korea during the period January 1949–February 1951 be listed as a peacekeeping force.

4.12 On the issue of hazardous service, the Defence/DVA Review acknowledged that the commencement of the VEA in 1986 introduced the term ‘hazardous service’ back to 1972, covering those activities not ‘warlike’, but more dangerous or hazardous than normal peacetime operations. This Working Party recognises that while this term has no legislative cover for events prior to 1972, the legislation only applies to repatriation matters, which do not apply to medals and awards, as these are not subject to legislation. Therefore for medal purposes, the definition of ‘non-warlike service’ can legitimately continue to include reference to ‘hazardous service’ and be applied retrospectively to the period of the Korean deployment.

4.13 This joint meeting reflects an increasingly comprehensive approach to issues of conditions of service and awards evolving between the two departments. Subsequent reviews highlighted the need for closer determination of the nature of service for each deployment. The Working Party notes that this process continues with the current Review of the Nature of Service being undertaken by the Department of Defence, with considerable input from the Department of Veterans’ Affairs.

1999 Report of the Independent Review Panel of the End of War List – Vietnam (Panel)

4.14 The Panel’s Terms of Reference required the recommendation of an End of War List for Vietnam, taking into account the impact of the incorporation of Imperial honours into the Australian Honours and Awards System since 1992.

4.15 While that panel concentrated exclusively on gallantry awards for the Vietnam conflict, the implications for the current Working Party concern the nature of awards in an environment where the Imperial awards may no longer be available retrospectively. Policy directives and advice, from the Panel’s deliberations, relevant to the current Working Party’s deliberations include:

- a. The Australian Order of Precedence of Honours and Awards 1993, which identifies War Medals/ AASM and ASM as part of the Schedule of Honours and Awards.
- b. Appendix 1 to the Panel’s report, The Order for Wearing Australian Honours and Awards 1996, which replaced a. above, changed the name of the Schedule, not the content, other than to include the ASM 1945–75 and one other.
- c. Page 2 of the introduction to the panel’s report, which states:

“Evolution of the Australian system of honours and awards

“The Imperial system of honours and awards, including orders, decorations and medals, had exclusive application in Australia until 14 February 1975 when the Australian system of honours and awards was first introduced.

“In April 1983 the newly elected Hawke Government announced that the Federal Government would no longer make recommendations under the Imperial honours system, and would use only the Australian system of honours and awards. Until this time, the two systems operated in parallel.

“On Australia Day 1986 an announcement was made regarding changes to the Order of Australia as well as the institution of new awards for the Australian Defence Force replacing the Imperial awards for gallantry, distinguished service and campaign and other service.

“A bipartisan agreement announced by Prime Minister Keating on 5 October 1992 recognised the agreement between Federal and State Governments (as well as the Federal Opposition) and Her Majesty Queen Elizabeth II, that all Australian citizens be recognised exclusively in the future by the Australian system of honours and awards.”

- d. Page 23 of the Panel’s report, explaining why the Panel had not sought retrospectivity for Imperial awards (albeit concerned with gallantry awards, but see c. above), and had therefore identified equivalents under the Australian Honours and Awards System:

“Approval sought but deemed inappropriate

“Legal opinion was sought at the time through the Commonwealth Solicitor General, and by this Panel through PM & C. Both opinions coincide in recommending that because of the intervening changes, the Imperial awards were no longer appropriate for Australians. The Acting Solicitor General stated that:

‘there are three reasons:

- ‘(a) the statutes of the relevant orders have been amended to preclude the ability of the Australian government to make recommendations for awards under them or the awards themselves have ceased to exist;
- ‘(b) even if it were legally possible to provide advice to Her Majesty to further amend the statutes to again make the awards possible this would be to contradict and run counter to the situation reached directly as a result of a request by Her Majesty that Australian governments, whatever their complexion, cease to recommend the issue of British honours. This was agreed by the Commonwealth and all State governments in 1993. Any change to this position would obviously have wide reaching ramifications. It would require the consent of Her Majesty;
- ‘(c) it would be incompatible with Australia's status as an independent nation to contemplate asking the British government to recommend the issuing of the awards, even if the statutes would otherwise allow this in relation to the persons concerned. An award made in these circumstances would have the status of a foreign award made by Her Majesty as Queen of the United Kingdom and not as Queen of Australia.’

“The Panel was informed that the Governor General's office also made an approach to the Palace, and the response to this action suggested that it would be inappropriate to pursue this issue further.

“Summary

“In reviewing this particular aspect, the Panel satisfied itself that the possibility of the retrospective award of the decorations originally proposed was broached with the Palace, and that the response indicated that this proposal would not succeed.

“This avenue of approach was closed.”

4.16 The Working Party notes that while the Panel was dealing with a routine process and not a situation involving the resolution of an anomaly, it has now been confirmed that any approach for access to Imperial awards is no longer possible.

2000 Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955–75 (Mohr Review)

4.17 The Mohr Review sought to address possible anomalies in service entitlements affecting ADF members who served in the subject area and period, identifying some specific service deployments.

4.18 The Mohr Review's Terms of Reference did not include Korean service immediately post the Armistice, and with the exception of a few peripheral issues, did not consider Korean service. However, the Review broke new ground by simultaneously considering, in accordance with its Terms of Reference, entitlements to repatriation benefits and service medals. In so doing, it established valuable principles relating to the identification and resolution of anomalies, and the consideration of the meaning and implications of the repatriation term 'incurred danger from the hostile forces of an enemy'.

4.19 The Mohr Review's discussion of the accepted definitions of 'danger' is important to the determination of circumstances experienced by Australians serving in Korea after the Armistice. While the definitions relate to qualification for repatriation benefits, they are also useful in evaluating the criteria for the awards under consideration by this Working Party, particularly in the absence of Rules of Engagement and clear contemporary definition of terms like 'warlike' and 'non-warlike'. Therefore the Mohr Review's discussion of the terms is included below in full, and will be used in subsequent chapters of this report, since it influences the understanding of the mental condition of those serving in Korea between 28 July 1953 and 19 April 1956.

"In essence, Section 7A of the VEA 1986 requires that a veteran must have 'incurred danger from hostile forces of an enemy' before such service becomes 'qualifying service' for the 'service pension'.

"In ***Repatriation Commission v Thompson***, the Full Federal Court decision carried the matter a step further in stating that a 'perceived danger' had to be contemporaneous with an 'objective danger'.

"The judgment in that case was clearly correct in defining the distinction between 'perceived' and 'objective' danger on the facts proved in that case. Although *Thompson* genuinely 'perceived' danger, on a review of the facts no danger of any sort existed. The facts clearly showed that no hostile forces capable of being a danger to him were within hundreds of kilometres of the incident in which he 'perceived' danger. In that case, there was plainly no 'objective danger'.

"In other words the danger he 'perceived' arose from his own fear that he was in danger, but this fear was a delusion in his mind. A serviceman incurs danger when he encounters danger, is in danger or is endangered. A serviceman incurs danger from hostile forces when he is at risk or in peril of harm from hostile forces. A serviceman does not incur danger by merely perceiving or fearing that he may be in danger.

“Although the outcome in the *Thompson* case is clear on the facts provided, it still leaves open the question of how an ‘objective danger’ is to be established.

“To establish whether or not an ‘objective danger’ existed at any given time, it is necessary to examine the facts as they existed at the time the danger was faced. Sometimes this will be a relatively simple question of fact. For example, where an armed enemy will be clearly proved to have been present. However, the matter cannot rest there.

“On the assumption that we are dealing with rational people in a disciplined armed service (ie. both the person perceiving danger and those in authority at the time), then if a serviceman is told there is an enemy and that he will be in danger, then that member will not only perceive danger, but to him or her it will be an objective danger on rational and reasonable grounds. If called upon, the member will face that objective danger. The member’s experience of the objective danger at the time will not be removed by ‘hindsight’ showing that no actual enemy operations eventuated.

“All of the foregoing highlights the inherent difficulty with this concept of perceived and objective danger. It seems to me that proving that danger has been incurred is a matter to be undertaken irrespective of whether or not the danger is perceived at the time of the incident under consideration. The question must always be, did an objective danger exist? That question must be determined as an objective fact, existing at the relevant time, bearing in mind both the real state of affairs on the ground, and on the warnings given by those in authority when the task was assigned to the persons involved.

“During discussion at the Public Hearing in Canberra with representatives of the Departments of Defence and Veterans’ Affairs, it appeared that in deciding the question of whether or not an objective danger existed at any given time, the issue turned on the question of whether or not the service was ‘warlike’ or ‘non warlike’ in nature. It was agreed that there might well be ‘grey’ areas that do not fall clearly on one side of the line or another. Similarly, there may be circumstances in which perhaps, for a short period, a ‘non warlike’ operation can become very ‘warlike’.

“It would seem that there is no difficulty when deployments are declared, prospectively, to be ‘warlike’. In that case all those who subsequently served in the prescribed area would be covered by the ‘warlike’ declaration irrespective of the actual nature of the duties carried out by the personnel of the Service or Services involved. However, even in this case the authorities would know that some personnel within the deployment would not, on examination, incur danger from hostile forces of the enemy and therefore, technically, would not have ‘qualifying service’ for the service pension. Yet all personnel who form part of the deployment are covered automatically by the prospective declaration that service is ‘warlike’.

“This outcome is not new. I understand that in the two world wars, involvement was such that in principle, ‘qualifying service’ for the service pension was not solely related to those in combat service. It had to include a measure of general service which was not service in direct combat, but which was continuous, subject to general service conditions and in respect of which, no satisfactory line of demarcation could be fixed to divide it from combat service.

“With respect, I believe that a similar set of circumstances to the world wars and in the current ‘warlike’ classification existed in those areas now under review and where anomalies are alleged to have occurred. With the prospective declaration of ‘warlike’, it is inevitable that some personnel would have qualifying service for fairly remote participation, and there may not have been any likelihood of their incurring danger from hostile forces of the enemy given the nature of their support services. Within those ADF deployments, there were areas of direct participation in fighting, areas of service involving operational risks but not involved in fighting, and areas of service in support of those undertaking operations.

“It is understandable that these variations of service within an operational area can not be entirely avoided when decisions are taken, prospectively, to declare service as ‘non warlike’ or ‘warlike’. Given this uncertainty, it seems to me then to be quite indefensible to require later on more demanding criteria to be met when examining the nature of service not covered by

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the original declaration process. This is especially so when this latter service was conducted in the same period and in the same operational area and equates more than favourably with that of most personnel or units covered by the prospective declarations.

"I believe that in making retrospective examinations on the nature of service many years after the event, as is now the case, the concepts and principles involved should be applied with an open mind to the interests of fairness and equity, especially if written historical material is unavailable for examination or is not clear on the facts. This is the approach that I have taken in addressing the anomalies put forward and to me, it accords with the general Defence classification principles and the benevolent nature of the Veterans' Entitlements Act, and the general principles promoted therein.

"The foregoing remarks are made to point out the many shades of grey and difficulties that arise from the concepts of 'incurred danger', 'perceived danger' and 'objective danger' and in the application of these concepts when considering the nature of service of past overseas deployments of ADF personnel." Chap 2-3

4.20 In addressing the issue of 'incurred danger', 'perceived danger' and 'objective danger', the Mohr Review has made important observations that assist the approach of the Working Party to this Review.

4.21 In the first place, he encourages an "open mind to the interests of fairness and equity, especially if written historical material is unavailable for examination or is not clear on the facts."

4.22 This became important when considering the conditions experienced and the contribution of 'perceived danger' to the mental condition of sailors, soldiers and airmen in Korea after the Armistice until units were withdrawn, as a factor of their demanding service, especially when the command hierarchy has conditioned units to a high state of readiness through presentation of 'worst-case' scenarios.

4.23 The Mohr Review also gave important consideration to the separation of conditions of eligibility for medals and veterans' benefits. One of the major recommendations to come out of the Mohr Review was that:

"... a policy be clearly laid down to ensure that the recommendation for the award of a campaign medal and the subsequent award of such a medal does not carry with it any entitlement to repatriation benefits."

4.24 The Mohr Review indicated there is a clear separation between the awarding of medals and veterans entitlements.

"Much has been made of the fact that:

- it is the Department of Defence that sets the conditions of service for ADF deployments and that these conditions of service subsequently determine the appropriate entitlement to repatriation benefits, and
- the Department of Veterans' Affairs is not responsible to make judgments on the nature of service experienced on ADF deployments and therefore it defers questions on this aspect to Defence for resolution.

Recommendation

“It is recommended that both the Departments of Defence and Veterans’ Affairs forge a more constructive working relationship at a senior level to ensure that a more coordinated approach is undertaken on future matters involving the medals and repatriation entitlements of Veterans.” Chapter 1-4/5

2003 Review of Veterans’ Entitlements (Clarke Review)

4.25 The Clarke Review dealt with veterans’ entitlements to the exclusion of medal issues; indeed it specifically ruled out, as being outside of its terms of reference, submissions concerned with medal and badge issues. However, it did consider veterans’ entitlement issues relating to two distinct periods of service in Korea after the Armistice: from 27 July 1953 to 19 April 1956, when the last of the Australian combat forces had withdrawn; and from then to the final withdrawal of Australian forces in August 1957. In so doing, the Clarke Review effectively summarised the conditions under which repatriation benefits had been provided for the initial post-Armistice period, and the conditions extant during the post-Armistice period.

4.26 Although focussed on a review of veterans’ entitlements, the Clarke Review made important contributions to the work of the Post-Armistice Korean Service Review.

4.27 The Clarke Review drew attention to the reasons for the continuation of repatriation benefits for service from 28 July 1953 to 19 April 1956. This contributes to this Working Party’s understanding of Government decisions on Department of Defence recommendations that reflect intelligence assessments of the risks involved, in more recent times identified as the ‘nature of service’. This influences judgement on eligibility for medals and the RASB.

4.28 The Clarke Review also drew attention to the Cabinet Decision and its own assessment that service in Korea after 19 April 1956 was peacetime. This highlights the anomaly of the award of the ASM 1945–75 with clasp ‘KOREA’ for service which is peacetime, thereby contributing to the erosion of the value of this medal for service in Korea from the Armistice to 19 April 1956.

4.29 This Working Party has noted the Review’s deliberations and so the findings, which conclude that the entitlement to repatriation benefits post-Armistice stemmed from a political decision rather than an assessment of the nature of service at that time, and the peacetime nature of subsequent post-Armistice, are recorded here. These conclusions are also borne out by the current Working Party’s research, quoted in Chapter 5.

“14.32 The Committee accepts that such service after 19 April 1956 may have been no different from some service before that date, at least after the armistice in July 1953, but this is because the retention of repatriation benefits after the armistice was based on political, not operational considerations. In this regard, the Committee notes that the Cabinet delayed the withdrawal of special benefits for service in Korea because:

- there was concern that withdrawal of these benefits would amount to a breach of contract, because a large number of Army personnel had been enlisted specifically for

service in Korea and the conditions under which they enlisted included benefits (such as repatriation benefits, income tax exemptions and operational deferred pay) that were not available for other service in the regular Army; and

- Canada had experienced difficulties in finding replacements in Korea following its decision to withdraw special benefits for service after the armistice.

“14.33 The end date for operational and qualifying service in Korea therefore appears to have been based largely on concerns about the effect that a withdrawal of entitlements would have on the ability to maintain a presence in Korea, rather than on the nature of the service rendered.

“14.34 The Committee has nevertheless assessed service after 19 April 1956 outside the DMZ against the warlike and non-warlike criteria. The Committee notes that a joint review by the departments of Defence and Veterans' Affairs in 1996 (DOD-DVA 1997) concluded that service in Korea after April 1956, outside the DMZ, should not be operational service because Cabinet had decided on 7 March 1956 that:

The actual tasks performed by members of the Australian forces within South Korea were considered non-operational and according to the information available, would not have involved a degree of risk significantly over and above that of normal peacetime duties. Casualties would generally not be expected in South Korea while the Armistice remained in place.

“14.35 Additionally, the Committee was unable to confirm the rules of engagement after 19 April 1956, but it assumes that because the 'service had returned to normal peacetime duties', the rules of engagement would not be comparable to those applicable for warlike service.

“14.36 Therefore, the Committee concludes that service in Korea outside the DMZ after 19 April 1956 was not warlike or non-warlike in nature and should remain peacetime service.

“Recommendation:

“The Committee recommends that no extension of access to the VEA be made for service in Korea after 19 April 1956 that was outside the Demilitarised Zone.”

4.30 This Working Party notes that, under normal circumstances, the Minister for Defence would make a determination of the nature of service to be undertaken, reviewing the decision as necessary as circumstances changed. Since, in the contemporary situation, no assessment was made of the extent to which those serving in Korea post-Armistice ‘incurred danger from the hostile forces of an enemy’, this responsibility falls to the Working Party, as part of the process of determining the extent to which warlike or non-warlike circumstances existed in post-Armistice Korea. The entitlement to repatriation benefits is not in itself assessed as evidence of the nature of service.

4.31 Definitions used in the report, like the Toose Review, refer to repatriation terms and so they are of limited use by the current Working Party, because the Defence meanings of many terms are at variance from those used by DVA.

4.32 The report provides a useful summary of the responsibilities of each department and the Prime Minister in determining whether a deployment is to be declared ‘warlike’ or ‘non-warlike’ (p.297, 13.40). While the Department of Veterans’ Affairs administers the Veterans’ Entitlement Act, the determination of the nature of service (and by implication, the applicability of medals) is clearly the responsibility of the Minister for Defence in consultation with the Prime Minister.

4.33 On the subject of the qualifying service (Vol 2 p.282, 12.64) the Clarke Review assessed the RASB as having much wider eligibility criteria than could be used to assess eligibility for qualifying service under the VEA. It concluded that the RASB criteria do not require the “veteran to have incurred danger from hostile forces and there is no cut-off date for eligibility based on the level of risk of harm”. This observation contributes to the Working Party’s view that the conditions of eligibility for the RASB are not finally settled.

2004 Independent Review Panel on ... RAAF Service at UBON, Thailand ... (UBON Panel).

4.34 The Ubon study considered Vietnam Campaign recognition for service from 1965 to 1968. Quoting the Mohr Review, the Panel found that the RAAF was involved in combat operations, even if they had not been under fire, and identified the service as ‘warlike’. The Minister rejected the finding, accepting Defence’s view that the Ubon members were not operating within the boundaries of the conflict set for the award of the medal.

4.35 This Working Party notes that, notwithstanding the failure of the case to secure the Vietnam Campaign medal, through the Mohr Review the RAAF Contingent Ubon received the AASM 1945–75 with clasp ‘THAILAND’ (upgraded from the ASM 1945–75), the RASB and ‘veteran’ status under the VEA. Their service was considered ‘warlike’, for the reasons explained by the Mohr Review:

“6.2

...

“The two previous reviews of the nature of service at Ubon, and in particular the later review conducted following the passage of the VEA (Compensation and Budget Measures) Bill 1997, have set out in some detail the history of this matter. These reviews have decided, following a retrospective analysis of the activities of the RAAF at Ubon, that personnel were not engaged in ‘warlike’ activities.

“In my opinion, the approach taken in these reviews was flawed. What should have been considered is the question of what decision should have been made about the commitment of the Squadron to Ubon bearing in mind the present classifications of commitment namely, peacetime, non-warlike, warlike, and war. Peacetime and war classifications can be safely excluded. This leaves the choice between ‘non-warlike’ and ‘warlike’.

“The directive to the Squadron when it was first deployed, set out its operational role as follows:

- a. Self defence.
- b. In defence of Thailand when instructed by the Air Board.
- c. If requested by the Thai authorities through COMUSMACTHAI, or his nominated deputy to intercept aircraft attacking with weapons Thai territory or forces within Thailand, in the event of attack without warning, when prior reference to the Air Board is not practicable.

“Directive c above gave the Squadron an immediate active role. If such an air attack occurred then the Squadron would be expected to take immediate action as in those circumstances of an attack without warning, no reference to the Air Board would have been practicable. It would be a matter calling for response within minutes.

“Thus the Squadron was placed on an immediate operational footing, having to maintain a position that would enable an immediate response if called upon. In May 1962, however, such an eventuality appeared unlikely and in fact, no aircraft were placed at an alert state. Nevertheless, had it eventuated, the Squadron was in a position to have taken immediate armed action against an attacking aircraft. If the alert had been activated, the expectation of casualties was clearly forecast.”

4.36 The current Working Party notes that:

- a. very formal Rules of Engagement were issued which helped that Review make its conclusions;
- b. the Contingent engaged in no campaign and was restricted to self-defence unless called upon to intercept enemy aircraft attacking Thailand; and
- c. “The squadron could be called upon (but wasn’t) to engage in a clearly warlike activity if the occasion arose”. Mohr 6-6

2003 Mortality Study (Mortality Study) and 2005 Health Study – Australian Veterans of the Korean War (Health Study).

4.37 These studies evaluated post-Armistice veterans, up to 19 April 1956 when full repatriation benefits were withdrawn. They therefore serve as an opportunity to compare the circumstances of those who served pre-Armistice with those who served for some period afterwards, provided the studies were structured to make these comparisons.

4.38 The Health Study statistical analysis, at Annex 4B at the end this Chapter, shows that while not a great deal of difference can be seen between the health disorders experienced between those who served pre- and post-Armistice, in comparison with the normal population, those who served in Korea suffer substantially more illness and medical disorder. This is a common finding for both studies.

4.39 In assessing the meaning of these statistics, the Working Party accepts that a range of factors may have led to the consistently higher than normal incidence of medical disorder among those who served during the period evaluated, not merely the degree of incurred, perceived or objective danger experienced. The Working Party also recognises the prerogative and the logic of Monash University and the Department of Veterans’ Affairs to include post-Armistice in their definition of the ‘Korean War’ since all were in receipt of the same repatriation benefits, thus providing a larger sample; however, this does not in itself provide evidence of warlike or non-warlike conditions extant at the time.

4.40 To use the words of Associate Professor Malcolm Sim of the Health Study team:

“Discussion

“In summary, these Korean War veterans' Health Study results for veterans who first deployed after the Armistice show that these veterans are reporting substantially poorer psychological health, life satisfaction and quality of life than similarly aged Australian men who did not deploy to Korea. Veterans who deployed after the armistice did, however, often report slightly better health than veterans who served during the mobile and static phases of the war.

“While we don't have a complete understanding of what aspects of deployment are important in the development of later physical and psychological health problems, it seems clear from our research that it is not just combat exposure which is important. There are likely to be a host of other factors associated with war deployment that contribute to post-war health outcomes in deployed personnel. In fact the broader Korean War veterans' Health Study concluded that whilst combat exposure was an important predictor of poor health, other military-related factors such as lack of seniority, inexperience, war-related injury, and possible environmental and chemical risk factors are also likely to have contributed to poor health.

“Non-military factors, such as socio-economic disadvantage in the post-war period, have possibly also contributed to veterans' vulnerability to poor health and persistence of symptoms over time. Finally, excessive tobacco smoking and alcohol consumption in the post-war period appear to be related to the Korean War deployment, and these lifestyle behaviours, in turn, have also had important adverse long term health effects. All of these factors may be just as relevant to veterans who served in the post armistice period, as they were to veterans who served earlier in the war.”

Associate Professor Malcolm Sim, Monash University briefing paper, 5 May 2005 [see Annex 4B]

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