

## CHAPTER 7

### CASE FOR MEDAL AND BADGE RECOGNITION

7.1 In this Chapter, the Working Party responds to the requirement of the Terms of Reference 'to make specific recommendations concerning the appropriateness of the award of the *Australian Active Service Medal 1945–75* (AASM 1945–75) with clasp 'KOREA' and the *Returned from Active Service Badge* (RASB) for this period of service'. In addressing this matter the Working Party took note of the source references listed in the Terms of Reference. We also took note of the encouragement to interpret the terms of reference freely to give effect to the wish of the Minister to be advised how those Australian Servicemen and women who served in post-Armistice Korea should be recognised.

7.2 The Working Party was guided by the statement of methodology that it developed to guide it in its conduct of the Review (see Chapter 2):

"2.3 ... the essentials of the Review are to examine the criteria of eligibility for the Australian Active Service Medal and the Returned from Active Service Badge and to determine whether these criteria of eligibility have been met by the conditions and experience of those who served in Korea after the 27 July 1953 Armistice. Here it is necessary to take note of what the Government had in mind when it established new medals, even though the definitions and criteria of eligibility may not be clear in the light of more recent determinations.

"2.4 In this process it will be necessary to identify words, which are defined and used in other contexts of military service, to determine the appropriateness of the use of the same words as criteria of eligibility. The term 'active service' in particular requires careful examination. A legal advising was sought (see Chapter 6 and Appendix 7).

"2.5 The methodology needs to establish through research and submissions, tested through evidence at public hearings, the circumstances under which sailors, soldiers and airmen served in Korea after the Armistice and their physical and mental experience."

7.3 Through submissions and evidence given at the public hearings, the Working Party was aware that for access to the AASM 1945–75 with clasp 'KOREA' and the RASB there was a view that relied on interpretations of Federal legislation, principally the *Repatriation Act 1920* and the *Veterans' Entitlements Act 1986*, which were enacted to provide for repatriation benefits, with some support from other legislation. This Federal legislation has been interpreted by some veteran groups, supported by their legal advisers, as the justification for their claim. Indeed it was their contention that no review was necessary and the matter could be determined through interpretations of the *Repatriation Act 1920* and the *Veterans' Entitlements Act 1986* (VEA), and other legislation specified by them, to confer the eligibility sought.

7.4 The legislation is complex and the case made for access to the AASM 1945–75 with clasp 'KOREA' and RASB relied on the perception of criteria of eligibility drawn principally from the repatriation legislation. For these reasons, the Working Party sought a legal advising from an independent authority with recognised competence in this field of the law. This has now been provided and is included in this report at Appendix 7.

## **The Australian Active Service Medal 1945–1975 (AASM 1945–75)**

7.5 The outcome of this legal advising in respect of eligibility for the AASM 1945–75 draws on the views expressed in the Report of the Committee of Inquiry into Defence Awards of March 1994 (CIDA), chaired by General Peter Gration AC, OBE and in the Report of the Review of Service Entitlement Anomalies in Respect of South-East Asian Service 1955–1975 by The Honourable Mr Justice R F Mohr RFD ED RL dated 9 February 2000.

7.6 Principle 10 of the CIDA Report is:

“Matters relating to honours and awards should be considered on their merits in accordance with these principles, and these considerations should not be influenced by the possible impact, real or perceived, on veterans’ entitlements.”.

7.7 At page xlii in the Preface to his Report under the heading ‘Medals and repatriation benefits’, Mr Justice Mohr reported:

“I hasten to confirm the generally expressed view that the receipt of medals does not necessarily mean that repatriation benefits would flow as a natural consequence or vice versa. The two areas of benefits are really unconnected and for good reasons.”.

7.8 The key principle developed in the legal advising provided to this Working Party (see Appendix 7, paragraph 91) to guide our assessment of the eligibility for the AASM 1945–75 confirms these opinions in the following statement:

“The consequence of these principles is that where terms or expressions are used in criteria of eligibility for award of medals and those terms or expressions are also found in the VEA, the meaning of the terms or expressions for the purpose of the VEA should not necessarily be considered to apply when those or similar terms or expressions are used for the award of medals. This assumption has particular force when the drafting of the conditions for the award of the medal is an Imperial award.”.

7.9 This was reinforced by a statement by the Shadow Minister for Veterans’ Affairs and Defence Science and Personnel, where he said in a media release dated 27 September 1995:

“Receiving medals does not entitle veterans to automatic service pensions. The eligibility for medals and benefits are considered entirely separately and will remain so under a Coalition Government.”

7.10 The Working Party was comfortable with this outcome of the legal advising, which eliminated the reliance on the interpretation of the Federal legislation referenced by the main proponents and their legal advisers. It was now for the Working Party to determine whether the criteria of eligibility for the AASM 1945–75 have been met by the conditions and experience of those who served in Korea after the Armistice, 27 July 1953.

7.11 To meet this requirement, the review established through research and through submissions, tested through evidence at public hearings, the conditions under which sailors, soldiers and airmen served in Korean service after the Armistice and their physical and mental experience.

7.12 In the interests of fairness and justice, the Review needed to establish as a parallel research whether there are significant differences between on the one hand, conditions of post-Armistice Korean service and the criteria for its recognition; and, on the other hand, the criteria and conditions for the award of other campaign and operational medals since 1945 within the Imperial Honours and Awards System and the Australian Honours and Awards System.

7.13 The Working Party examined the criteria of eligibility for the AASM 1945–75, which had as its key ingredients:

- ‘prescribed operations’; and
- ‘warlike service’.

7.14 In the Schedule to the *Regulations Governing the Award of the Australian Active Service Medal 1945–1975*, instituted by Her Majesty The Queen on 11 December 1997, a ‘prescribed operation’ is one declared a warlike operation by the Governor-General on the recommendation of a Minister. No such declaration has been made by the Governor-General in respect of the service in Korea after the Armistice of 27 July 1953. This does not prevent the Working Party from recommending to the Minister Assisting the Minister for Defence that service in Korea after the Armistice of 27 July 1953 should be recommended to the Governor-General as a prescribed operation if (in the opinion of the Working Party’s Review) such service meets the criteria of a warlike operation.

7.15 The definitions of ‘warlike’ and ‘non-warlike’ were determined by the Federal Government in 1994 so the *Regulations Governing the Award of the Australian Active Service Medal 1945–1975* would have had these definitions in mind when establishing the criteria of eligibility for the AASM 1945–75 in 1997. If the content of submissions, the evidence submitted through the public hearings and the research of contemporary records persuaded the Working Party that the service in Korea after the Armistice of 27 July 1953 met the definition of ‘warlike’, it would be appropriate for the Working Party to recommend to the Minister Assisting the Minister for Defence that service in Korea after the Armistice of 27 July 1953 should be recommended to the Governor-General as a prescribed operation, thereby giving access to the AASM 1945–75.

7.16 The Working Party also took note of what the Government had in mind when it established the AASM 1945–75. In a media release dated 24 September 1997 announcing a new Australian Active Service Medal, the Minister for Defence Industry, Science and Personnel said:

“The Government’s decision reaffirms and delivers on its election promise to have a distinctly Australian award for recognition of warlike service between 1945 and 1975...”

7.17 The Working Party examined the conditions experienced by Australian servicemen and women in Korea after the Armistice of 27 July 1953 against the definition of ‘warlike’, which is:

“Warlike operations are those military activities where the application of force is authorised to pursue military objectives and there is an expectation of casualties. These operations can encompass but are not limited to:

- a state of declared war;
- conventional combat operations against an armed adversary; and
- 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.

“The eligibility criteria for the award of a service medal for warlike service is generally one day or more on the posted strength of a unit or formation allotted (or assigned) to and serving in the operational area, or one operational sortie into or over the operational area from a unit allotted for such service. Visit or occurrences of a temporary nature usually attract a 30 day qualifying period.” [Government decision of 1994]

7.18 In examining the conditions against the definition of ‘warlike’ it was helpful to the Working Party to be aware of the alternative to ‘warlike’, which was ‘non-warlike’ and was defined as:

“Non-warlike operations are defined as those military activities short of warlike operations where there is a risk associated with the assigned task(s) and where the application of force is limited to self defence. Casualties could occur but are not expected.”

7.19 The included consideration of ‘hazardous’ and ‘peacekeeping’ operations is not relevant to this comparison.

7.20 Evidence from submissions and given at the public hearings gave different impressions of the conditions experienced by Australians serving in Korea after the Armistice of 27 July 1953. It was therefore necessary to seek contemporary records of the situation and conditions experienced at this time.

7.21 The Working Party examined contemporary records, including reports of proceedings of HMA Ships, battalion war diaries and RAAF squadron records as well as the records of British and US higher formation commands to which Australian units reported in the Korean theatre chain of command. It also examined the terms of the Armistice Agreement, the terms of reference of the Military Armistice Commission, the roles of Joint Observer Teams, the activities set for the Neutral Nations Supervisory Commission and the instructions given to United Nations forces to avoid violations of the Demilitarised Zone.

7.22 There is no doubt in the minds of the Working Party that higher command military objectives were to avoid any renewal of hostilities and that application of force was limited to self-defence. Research of British and US records confirm the assessments drawn from reading Australian unit records. A report provided by US Army historical sources includes the following comment:

“Although the declassified records in the National Archives do not provide a thorough coverage of I Corps between August 1953 and 1957, enough material is available to make some conclusions concerning conditions in the corps’ sector during this period. Key documents are the August 1953 and September 1953 I Corps command reports, the I Corps quarterly historical reports for 1954, the I Corps periodic operations reports for December 1955 to December 1956, and the I Corps G-2 journal for 1955.

“These documents show a corps, after the DMZ salvage mission is concluded and the new Main Battle Positions are established in 1953, which is focused on training, updating war plans, routine military housekeeping, robust observation of enemy activity, and preventing UN forces from violating the Armistice agreement. The forces opposing I Corps during this period only occasionally violated the terms of the Armistice agreement, and when they did so, the violations did not lead to combat.”.

7.23 Other commentaries drawn from primary and secondary US sources make the point that:

“I Corps in the years after the Armistice focused on training, building fortifications, and avoiding incidents in the DMZ while keeping communist activities under close observation. I Corps did regularly update its contingency plans and its units did regularly practice moving into Main Battle Positions, as well as other aspects of the plans such as retrograde and counter-attack operations. These exercises, however, were no different from what V and VII Corps were conducting in Germany during this period.

“To avoid incidents in the DMZ, the only troops used to patrol inside the zone were provisional DMZ Police companies formed shortly after the Armistice. These companies were all-volunteer units with the men carefully screened and trained for this mission. The DMZ Police Company in the Panmunjom area in its 1959 history noted that it ‘has never seen combat’.”.

7.24 The employment of troops as ‘provisional DMZ Police companies’ is confirmed from the evidence of photographs of Australian patrols wearing helmets with prominent MP markings in Chapter 5, Annex 5C.

7.25 Summaries of intelligence reports sourced from the I Corps sector reviewed possible enemy courses of action ranging from:

“... a major offensive across the DMZ through ambushes and other harassing operations to continuing their current course of action (that is, observing the terms of the Armistice). In each case, the most likely course of action for the enemy to take was listed as continuing to observe the Armistice.”.

7.26 An Enemy Situation report from 28 British Commonwealth Infantry Brigade sourced from 2 RAR records in August 1953 has similar assessments, which, after reviewing the enemy order of battle and potential for offensive, concludes:

“There is no indication, however, of an imminent offensive and for the immediate future the enemy is believed likely to organise, occupy and defend battle positions of the DMZ, simultaneously maintaining the ceasefire status but offering covert assistance to subversive elements in South Korea.”.

7.27 This is consistent with a commentary from US Army historical sources that the Chinese PLA (identified in the Korean War Armistice Agreement as the Chinese People’s Volunteers and elsewhere in this Report as the Chinese Communist Forces [CCF]) “occupied positions opposing them across the DMZ, and the PLA had little interest in engaging in the low-level harassment and ambush warfare that came to

characterize subsequent periods along the DMZ when the North Korean Army was the sole occupier". It should be noted that it was the Chinese forces that were opposite 1 British Commonwealth Division.

7.28 Again the nature of the conditions experienced by the Australian battalions can be drawn from this 3 RAR document:

"OP INSTR NO 17 – Security of 28 BRITCOM Inf Bde Area:

Aim: To prevent the entry of unauthorised persons into 28 BRITCOM Inf Bde Area through South Bank of R Imjin within 3 RAR area of responsibility from last light to first light."

7.29 The change from the situation before the Armistice, when clearly warlike operations criteria were met, to the situation after the Armistice is demonstrated by a British Commonwealth Forces Korea Special Order of the Day, which was quoted in 2 RAR Routine Orders Pt 1 Serial 86 dated 28 September 1953:

"1. Personal arms will NOT now be carried except for guards and piquets or when ordered for tng or occupation of KANSAS posns.

2. Coys will withdraw all personal weapons... Bolts etc will be removed from weapons and will be kept in locked security boxes.

3. Weapons will be stored so that they are available for immediate issue in case of emergency."

7.30 The factor of orders to 'shoot to kill' has been raised by those giving evidence and in submissions to support the case for access to the AASM 1945–75.

7.31 Orders for picquets for 1 RAR dated 3 April 1954 include the circumstances under which there was authority to 'shoot to kill'. These orders provided instructions to meet the threat of unauthorised entry to Battalion camp areas including officers' lines at a time when there was a concern about area security and theft of military property by Korean nationals.

7.32 In providing for security threats, the orders to 'shoot to kill' amount to criteria of self-defence and are therefore consistent with the criteria for 'non-warlike' service. These orders do not amount to Rules of Engagement to meet a Communist attack. Nevertheless the security threat and the authority to 'shoot to kill' contributed to the tension within Australian battalions.

7.33 Extracts from instructions from 1954 to 1955 show a moderating position on self-defence. A 1 British Commonwealth Division Operating Instruction of 18 September 1954 includes the following:

"... at roadblocks, checkpoints and bridges, a sentry may open fire at any time without warning if his life or the life of a comrade is endangered."

7.34 In June 1955, 1 RAR orders for sentries include:

"Firing.

a. You will fire only

- (1) when your life or that of another sentry is in danger.
- (2) If attacked.
- (3) If a vehicle breaks through the barrier and does not halt you will fire AT THE TYRES.

b. USE MINIMUM FORCE.”

7.35 It was evident to the Working Party from contemporary records that most security instructions, while recognising the factor of enemy agents entering South Korea, were concerned with last light to first light security against Korean nationals including ROK Army, Korean Service Corps and civilians’ unauthorised entry to British Commonwealth Division areas and that most incidents involved such incursions. This is reinforced by a 1 Commonwealth Division Operational Instruction of 18 September 1954 on area security, which read as follows:

“(1) Enemy agents continue to enter South Korea and the probability of such persons infiltrating 1 Commonwealth Division area still exists...

“(2) Undesirable elements of the civilian population in South Korea continue to enter the Divisional area to organise petty or major larceny of military property for black market disposal.

“(3) Armed raids by ROK Army personnel to secure military property may well take place.”.

7.36 Reports of proceedings of HMA Ships and RAAF squadron records also provided evidence of a high state of readiness of units in Korean waters or at air stations and measures to establish local security, but no incidents of violations of the Armistice that could have led to combat.

7.37 HMAS *Culgoa*’s August 1953 Report of Proceedings stated in part:

“2. From the 1st to the 13th the ship was in the Worthington area, and I held the position of CTU 95.1.5. It was a period of little activity, as the Korean Ceasefire had become effective, and the consequent concentration of forces on Paengnyong Do, Sochong Do and Taechong Do had been speedily effected without our being required to assist.

“3. Patrols of the Worthington area were carried out from the 2nd to the 6th by ships of Task Unit 6.1, which was placed under my command for that period. From the 7th to the 13th with the exception of the 9th when weather conditions were poor, we carried out daylight patrols in either the Chodo area or Worthington area. All patrols were carried out with a supporting ship, to lessen the chances of false claims of violation of North Korean territorial waters being made. Little surface traffic was seen in enemy waters, and no evidence of activity on Chodo or Sokto was found.”

7.38 HMAS *Culgoa*’s September 1953 Report of Proceedings included the following:

“3. After taking over I anchored to the East of Paengnyong Do, in a position giving radar coverage of the Northern and Eastern approaches to that island. This was done to detect any clandestine junk movement, as an infiltration of agents into Paengnyong-Do had recently been attempted. The ships of the unit anchored in company with us by day, and each night were sent to night stations...

...

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"6. At 0928/4th we proceeded to an anchorage off Taechong Do. Here I lunched on board H.M.S. *Crane*... Entered the anchorage at 1640 with mail... We sailed at 1731 and returned to our anchorage off Paengnyong Do.

...

"9. At 0717/9th we weighed and steamed to rendezvous with H.M.A.S. *Tobruk* at Taechong Do... At 1000 we sailed for Sasebo..."

### 7.39 The Flag Officer Second-in-Command, Far East Station, states in a Report of Proceedings for 11 November 1953:

"There have been a few instances of unidentified aircraft approaching the islands at night. Red warnings have been issued by the TADC on Paengyong-Do but no incident developed until 11 November when, at 2010i two slow low-flying aircraft were sighted over Paengyong-Do. Guns on the island opened fire and claimed hits: there is some evidence that one aircraft may have crashed later. Ships were not involved."

### 7.40 The Commander-in-Chief, Far East Station wrote to the UK First Sea Lord [Chief of Navy] on 30 November 1953 about the political and military outlook:

"Assuming that the present uneasy truce conditions persist (and I see no real hope of a political settlement), I shall want soon to get free to move the majority of my ships around the Station as I think fit, leaving only a small standing 'ration' in Japan".

### 7.41 South Korean intentions were still a matter of concern. For example, in a Report of Proceedings for 14 July 1954, the Flag Officer Second-in-Command, Far East Station, said:

"I waited on Vice Admiral Sohn at the [ROK] Ministry of Defence. He told me again how Korea had suffered from the War, how terrible it would be to fight again, but if they had to, how important to start it first."

### 7.42 HMAS *Arunta*'s July 1954 Report of Proceedings reads in part:

"2. From the beginning of the month until... 6 July 1954, H.M.A.S. *Arunta* remained in the vicinity of Paengyong Do carrying out the duties of CTU 95.1.2 and CTU 95.1.5. During this latter period of a 16-day patrol there were no incidents of an operational nature and no violations of the Armistice Agreement were observed..."

...

"7. ... H.M.A.S. *Arunta* returned to Yongpyong Do..."

"8. There were no incidents of an operational nature and no violations of the Armistice Agreement during the period H.M.A.S. *Arunta* was acting as CTU 95.1.2 and CTU 95.1.6. ships were disposed at night stations each night and the minesweepers carried out a planned minesweeping program to check-sweep the searched channels."

### 7.43 In the Report of Proceedings by the Flag Officer Second-in-Command, Far East Station, for November 1954–February 1955, there is the general observation that:

"... the situation has remained generally unchanged, though there have been noticeable reductions in the strength of UN forces deployed in [Korean waters], and a reorganisation of the command is now taking place... [11 November] The Squadron anchored [at Chinhae] in company at a few minutes past 8 a.m. after saluting the Republic of Korea with 21 guns."

7.44 Submission from sailor, HMAS *Shoalhaven*:

"The ship's company was getting ready for church services in No. 1 dress uniform when it was called to 'action stations'. A first degree of readiness was adopted, all hands closed up, all positions fully manned and all the ships guns primed and ready for action... We received a Red Alert and were told that hostile aircraft were approaching. Russian MiG fighters were sighted high in the sky and perhaps out of range of the main armament. ... Guns were loaded and ready to fire... Remained at action stations for approximately one hour."

7.45 Submission from officer, HMAS *Condamine*:

"During the fragile Armistice, when at anchor off the outlying islands bordering the DMZ, the ship remained in an operational state of readiness with armed sentries on the upper deck. Because of the sensitivity of breaching the Armistice in any way, ammunition was not provided to sentries, as a safety measure against the accidental or precipitant [sic] discharge of fire-arms!"

7.46 The following is extracted from the Korean patrol report for May 1956 of HMA Ships *Tobruk* and *Anzac*:

"8. ... In all the visit to Chinhae was most interesting and I feel it was an ideal port in which to 'show the flag' as it is the centre of Korean Navy training.

...

"12. Extra time in Chinhae is required to arrange sporting fixtures with the various ROK units and to take advantage of the excellent shooting to be had in the hills above the harbour."

7.47 For 27 July 1953, 91 Wing's war diary includes the following entry:

"It was interesting to note the reaction of Wing personnel to the news of the Truce. The ceasefire negotiations had dragged on for so long and with such marked lack of sincerity on the part of the Communists that the actual signing came as something of an anti-climax. None of the hilarious relief and celebration which marked the ceasefire with Japan in 1945 was evident. The general attitude was somewhat cynical of the outcome of the Armistice—a feeling of 'Well, what now?' Most of us feel sceptical that the Armistice can be developed into a satisfactory peace and are apprehensive that the War might well be resumed with increased ferocity."

7.48 In his submission, an officer of 77 Squadron stated:

"We were aware of the constant threat of a resumption of the War, since our air base at Kimpo was three minutes flight time from the DMZ and certain to be a prime target for an opening air strike—subsequently demonstrated by the unopposed penetration and landing of a single MiG 15..."

7.49 In his book *The United States Air Force in Korea 1950–53*, R F Futrell makes the following statement:

"The Armistice meant the end of the shooting war in Korea, but the Far East Air Force's duty was not yet completed. The 16 nations affirmed that if the Communists renewed armed attack they would be prompt in resisting aggression. USAF Chief of Staff, General Nathan F Twining, cautioned the men of FEAF: 'Yours is now the role of watchfulness and preparedness, for you must continue to be the most vigilant and best prepared of all the forces that guard... the security of the free world.'"

7.50 In August 1953, 36 Squadron carried out a series of POW special flights and then engaged in routine transport tasks. On 1 February 1955, operational control of 36 Squadron was transferred to HQ US Far East Air Force, delegated to 5th Air Force, nominal control only, so the Squadron continued to supply the transport needs of BCFK.

7.51 91 Wing records for 7 September 1953 include the following entry:

“Since the cessation of hostilities, No. 77 Squadron operational activities have consisted of after-dusk and predawn standby. Training has comprised various exercises and mock operations, some in conjunction with other units of 5th Air Force and RN carriers. These exercises are designed to keep the Squadron at top efficiency so that in the event of renewed fighting, the Squadron could be airborne within 30 minutes.”

7.52 Comment from 91 Wing on the September period is:

“In accordance with the 5th Air Force preparation to meet a treacherous Communist attack should the peace talks fail, No. 77 (I/F) Squadron has four Meteor aircraft at runway readiness from half-hour before dawn, and again until half an hour after dark. The remaining effort is devoted to operational training at approximately one-third normal operational intensity.”

7.53 91 Wing’s report for the month of October 1953 stated:

“The number of aircraft accidents and incidents occurring is causing concern. The most obvious and possible cause is the lack of experienced pilots being posted to No. 77 (I/F) Squadron.”

7.54 91 Wing’s report for the month of January 1954 included the following entry:

“Several unidentified aircraft alerts occurred during the period but no hostile action took place and although USAF fighters were scrambled, no interceptions were made.”

7.55 A RAAF History Unit report of July 2005 notes that:

“After the Armistice 77 Squadron reverted to training and GCI [Ground Controlled Intercept] scrambles. The unit maintained a 30-minute alert for 2–3 months after the ceasefire.”

7.56 77 Squadron’s war diary for January–March 1954 records three Yellow Alerts over the period and a scramble on 18 March 1954.

7.57 In his evidence, an NCO ex-77 Squadron said:

“We had alerts at irregular intervals, which of course is the standard practice with these sorts of things. When these alerts occurred, all personnel who could be spared from the aircraft line immediately entered slit trenches in full battle equipment, including weapons. The whole perimeter of the base was protected by 8th Army AAA and these people delighted in clearing their guns at all sorts of inappropriate hours and it was pretty noisy.”

7.58 None of these reported or submitted circumstances bring the situation after the Armistice within the criteria for ‘warlike’ service, and therefore within the eligibility for the AASM 1945–75. They do, however, contribute to an understanding of the demanding nature of service during the post-Armistice period.

## **Conclusion and Recommendation in respect of the Australian Active Service Medal 1945–1975**

7.59 It is not possible to make a case for warlike service in post-Armistice Korean service to meet this condition of eligibility for the AASM 1945–75. The United Nations Command measures in force were intended to prevent any military action which would put at risk the stability of the military Armistice. There is no evidence at this stage of military objectives other than the maintenance of the stability of the military Armistice.

7.60 There is no doubt that there was tension and stress due to the need for a high level of preparedness to meet a range of possible hostile actions by numerically strong and well-equipped Chinese Communist Forces and the North Korean Army confronting the United Nations Command. Despite assessments that there was no indication of an imminent offensive, the high state of readiness of the Australian battalions would have been maintained by training, exercises and briefings that had to be prepared for a worst-case scenario of renewal of hostilities. This would have established a perception of threat and danger. There was a similar situation for the RAN ships and the RAAF squadrons committed to Korean service at this time.

7.61 In the light of this evidence the Working Party could not support the proposition that the service of Australian forces in Korea after the Armistice on 27 July 1953 met the key condition of warlike service for the criteria of eligibility for the AASM 1945–75.

### **Recommendation**

7A. The Working Party recommends that the AASM 1945–75 should not be awarded for post-Armistice service in Korea.

### **An Award for those who served in Korea after the Armistice, 27 July 1953**

7.62 The Working Party examined the separate declared operations of Korean service that were declared as non-warlike operations for the purpose of the Australian Service Medal (ASM) 1945–75 regulations to determine whether particular operations could meet the defined criteria of eligibility for recognition beyond the award of the ASM 1945–75 with clasp 'KOREA'. Through research, submissions and evidence, the Working Party explored whether the in-theatre conditions and experience of some operations of post-Armistice Korean service met the criteria of eligibility of some other campaign and operational medal. The Working Party gave attention to existing provisions for recognition of service short of warlike operations and the conditions experienced.

7.63 The Working Party explored the argument in the Report of the Committee of Inquiry into Defence Awards (CIDA), which included the recommendation for the institution of the ASM 1945–75 to recognise service in prescribed peacekeeping and non-warlike operations for the period 1945–1975. In a declaration and determination under the ASM 1945–75 regulations made on 23 March 2001, the Governor-General declared in the context of the ASM 1945–75 with clasp 'KOREA', the following non-warlike operations to be a declared operation for the purpose of the Regulations:

- a. participation in United Nations Commission activities in Korea during the period that commenced on 9 June 1950 and ended on 23 June 1950;
- b. participation in British Commonwealth Forces Korea in Japan and Okinawa that commenced 29 April 1952 and ended 26 August 1957;
- c. participation in operations afloat and in the air off Korea to a distance of 161 kilometres seaward from the coast during the period that commenced on 28 July 1953 and ended on 26 August 1957;
- d. participation in ceasefire monitoring activities in Korea during the period that commenced on 28 July 1953 and ended on 26 August 1957; and
- e. participation in United Nations Command (Military Armistice Commission) on the Korean Peninsula involving the preservation of the Armistice between North and South Korea that commenced on 27 August 1957 and ended on 13 February 1975.

7.64 The qualifying period of service for eligibility was 30 days.

7.65 In Chapter 5, 'Australia in Korea 1950–1957: the War and Post-Armistice Service', the Working Party through its consideration of submissions, evidence at public hearings and research analysed the separate periods of the service of Australian units in Korea. The Working Party recognised that there was a number of different operations in respect of Korean service that were declared as non-warlike operations for the purpose of the ASM 1945–1975 Regulations. Some of these were not exposed to the dangers, and harsh physical and mental conditions of service in Korea during the period after the Armistice from 27 July 1953 to 19 April 1956. Submissions and evidence given during public hearings and research support this view.

7.66 While adhering to the principles established through legislation and reinforced in earlier reports that the meaning of the terms or expressions for the purpose of the VEA should not necessarily be considered to apply when those or similar terms or expressions are used for the award of medals, the Working Party nevertheless recognises that the Review of Veterans' Entitlements (the Clarke Review) addressed some of the factors relevant to medal recognition and in particular how some of the operations in respect of Korean service, declared as non-warlike operations for the purpose of the ASM 1945–75 regulations, met definitions of warlike and non-warlike service.

7.67 On the basis that 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 peacetime operations. Casualties would generally not be expected in South Korea while the Armistice remained in place."<sup>1</sup>,

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<sup>1</sup> Clarke Review, Volume 2, page 308, paragraph 14.34.

the Committee of the Review of Veterans' Entitlements (the Clarke Review) concluded that service outside the DMZ after 19 April 1956 was not warlike or non-warlike and should remain peacetime service. For this reason the Working Party distinguished service after 19 April 1956 from operations in Korea during the period from 28 July 1953 to 19 April 1956.

7.68 Also the Working Party considered that service with British Commonwealth Forces Korea in Japan and Okinawa that commenced on 29 April 1952 and ended 26 August 1957 met neither the definitions of warlike or non-warlike service and should also be distinguished from operations in Korea during the period from 28 July 1953 to 19 April 1956.

7.69 Since the whole period covered by the *Declaration and Determination Under the Australian Service Medal 1945–1975 Regulations* in respect of post-Armistice Korean service has been recognised by the award of the Australian Service Medal 1945–1975 with clasp 'KOREA', it is the view of the Working Party that the more demanding service in Korea during the period from 28 July 1953 until 19 April 1956 warrant recognition beyond the Australian Service Medal 1945–1975 with clasp 'KOREA', taking particular note of the fact that service in Korea after 19 April 1956, for which the Australian Service Medal 1945–1975 with clasp 'KOREA' has been awarded, is determined to be peacetime service.

7.70 There was no doubt, in the view of the Working Party, that personnel of Australian navy, army and air force units deployed for service in Korea after the Armistice for the period from 27 July 1953 to 19 April 1956, experienced climate extremes of heat and cold, lived and worked under harsh conditions, were justifiably conditioned physically and mentally to meet a perceived threat, and exercised standard operating procedures to maintain a high level of readiness for combat to meet an enemy offensive. They also experienced the trauma of casualties, including deaths, amongst members of their units that resulted from operations at the extremes of service outside the warlike service envelope. In the judgment of the Working Party and by any criterion, this service was beyond the requirements of peacetime, training and garrison duties and included times when "enemy potential for offensive action in Korea has never been higher".<sup>2</sup>

7.71 The Working Party is of the view that there needs to be a clear distinction between Korean service in operations afloat and in the air off Korea and in the ceasefire monitoring activities in Korea during the period from 28 July 1953 until 19 April 1956 and the other operations which were declared operations for the award of the ASM 1945–75 with clasp 'KOREA'. This view is reinforced by the fact that the value of the ASM 1945–75 with clasp 'KOREA' as a recognition of non-warlike service has been eroded because this medal has been awarded for service that has been recognised as peacetime service, that is, service in Korea after 19 April 1956.

7.72 In light of the above and notwithstanding the principle established by CIDA:

"that an appropriate benchmark in considering hitherto unrecognised service between 1945 and 1975 is the terms and conditions that are currently attached to an award of the Australian Active Service and Australian Service Medals",

<sup>2</sup> 28 British Commonwealth Infantry Brigade Weekly Summary August 1953—Enemy Situation 15 August

the Working Party has identified factors that persuade it to recommend Australian Government recognition that a medal specifically recognising service from 28 July 1953 to 19 April 1956 and distinct from the ASM 1945–75 with clasp ‘KOREA’ is warranted.

7.73 This period of service, however, does not meet the criteria for a separate campaign medal. The only campaign medals that meet the general conditions experienced by the navy, army and air force units in Korea during the period from 28 July 1953 until 19 April 1956 apart from the ASM 1945–75, which has been already awarded, are the Naval General Service Medal (NGSM) 1915–1962 and the General Service Medal (GSM) 1918–1962.

7.74 The NGSM 1915–62 and the GSM 1918–62, introduced to recognise actions which fell short of actual war, provide scope for a different perception of how these medals might be used by Australia for a time when they were the only campaign or operational medal available for actions short of war. The way that the Australian armed forces since the Second World War were committed to meet Australia’s national strategic requirements, taken with the historic basis for the United Kingdom’s general service approach to recognise actions, which fell short of actual war when Britain was garrisoning an empire between the First World War and the Second World War, has led to an emerging different approach to medal recognition for such operations. This has provided scope for a perception of how the NGSM 1915–62 and the GSM 1918–62 might be used by Australia to meet the general service conditions experienced by the navy, army and air force units in Korea during the period from 28 July 1953 until 19 April 1956 beyond the ASM 1945–75. It was felt by the Working Party that, apart from the appropriateness of these medals for recognition of service in this period, it was also appropriate to award a medal of the medal regime in force at the time with its culture established through Australia’s use of the Imperial Honours and Awards System.

7.75 The argument that it is within the authority of the Government of Australia to recommend to the Queen of Australia that the NGSM 1915–62 with clasp ‘KOREA’ and the GSM 1918–62 with clasp ‘KOREA’ could be awarded for post-Armistice Korean service cannot be sustained in the light of the advice of the Chief General Counsel, Office of General Counsel, Australian Government Solicitor that access to Imperial awards is no longer consistent with Australia’s status as a sovereign nation. This has led the Working Party to seek another solution. Nevertheless the award of a medal consistent with the medal regime in force at the time was considered to be an important principle.

7.76 The Working Party noted the way Canada had addressed the question of instituting medals for service, which Canadian armed forces had shared with UK armed forces. These medals were distinctly Canadian and therefore within the authority of the Government of Canada to institute, although their design characteristics were obviously influenced by medals of the Imperial Honours and Awards System for the same service. An example was the Canadian Korea Medal with the same conditions of eligibility and similar design features to the Korea Medal of the United Kingdom and yet distinctly Canadian.

7.77 The Working Party, in the light of its view that:

- a. there needs to be a clear distinction between (on the one hand) service in Korea during the period from 28 July 1953 to 19 April 1956 and (on the other hand) the operations which were declared for the award of the ASM 1945–75 with clasp 'KOREA';
- b. this period of service does not meet the criteria for a separate campaign medal;
- c. the only campaign medals that meet the general conditions experienced by the navy, army and air force units in Korea during the period from 28 July 1953 until 19 April 1956 apart from the ASM 1945–75, which has been already awarded, are the NGSM 1915–62 with clasp 'KOREA' and the GSM 1918–62 with clasp 'KOREA';
- d. since the award of the NGSM 1915–1962 with clasp 'KOREA' and the GSM 1918–1962 with clasp 'KOREA' can no longer be sustained in the light of the advice of the Chief General Counsel, Office of General Counsel, Australian Government Solicitor that access to Imperial awards is no longer consistent with Australia's status as a sovereign nation, these medals are no longer available to Australia;
- e. the principle of awarding a medal consistent with the medal regime in force at the time is important;
- f. there is scope offered by the example of the Government of Canada to institute an Australian medal similar in eligibility and design features to the desired medal in the Imperial Honours and Awards System,

concluded that the appropriate outcome for recognition of the service in the period 28 July 1953 to 19 April 1956 would be a newly instituted medal to recognise the unique circumstances in the nature of the general service, which did not meet the criteria of warlike service and yet warranted recognition beyond the ASM 1945–75, which for Korean service had included peacetime service after 19 April 1956.

7.78 The unique circumstances include:

- a. the threat posed by the size, posture and recent combat experience of the opposing forces;
- b. the uncertainty surrounding Communist intentions, compounded by a history of unprovoked aggression, and the possibility of unilateral action by South Korean forces;
- c. although combat did not occur, the strain imposed by preparing and training for combat in response to threats articulated by the UN chain of command;
- d. the Rules of Engagement which provided for use of force in self-defence under special conditions; and

- e. the setting of the Korean situation in the context of the Cold War confrontation, which included the risk of deployment of nuclear weapons.

7.79 The need to find an Australian solution for general service for which access to the Imperial NGSM 1915–62 and the GSM 1918–62 was not possible presents Australia with the opportunity to institute a medal that recognises the common cause of all three Services to preserve the ceasefire in the same way that the Korea Medal was instituted for all three Services for the “general recognition of service by British Commonwealth Forces on behalf of the United Nations in repelling aggression in Korea”<sup>3</sup>. The separate Imperial Naval General Service Medal and General Service Medal instituted for recognition of separate service operations did not permit this joint approach which clearly was identified as important when the later General Service Medal 1962 was introduced with availability to all three Services.

7.80 The Working Party has concluded that it is appropriate to institute the Australian General Service Medal for Korea. There would be no clasp since service in Korea for the period 28 July 1953 to 19 April 1956 would be the only service recognised by this newly instituted medal.

7.81 In assessing a general service recognition of the period 28 July 1953 to 19 April 1956, it is important to determine the period of eligibility. Noting the distinction between the AASM period of eligibility of 24 hours and the ASM eligibility period of 30 days or in other general service periods of 28 days, the Working Party noted that it has been the practice to identify 24 hours or one day where combat contact is the important condition and 28 or 30 days when endurance or exposure are the important conditions. In accordance with this established practice in the Australian Honours and Awards System, the Working Party considered that 30 days in the prescribed operation should be the appropriate period of eligibility.

7.82 There is a difficulty that the ASM 1945–75 with clasp ‘KOREA’ has already been awarded for this service and to award the proposed Australian General Service Medal for Korea for the same service would compromise the principle established by CIDA that only one campaign medal should be awarded for a particular operation, in order to avoid a situation known as ‘double-medalling’.

7.83 It is clear, however, that this principle has already been compromised with the award of the AASM 1945–75 for the service recognised by the Korea Medal and this compromise has been accepted not only for service in Korea but also in respect of the Malayan Emergency, South Vietnam service before 1962, Borneo, Malay Peninsula, Vietnam and Vietnam Logistic and Support. This issue of compromise is compounded by the fact that in the view of the Working Party service in Korea during the period from 28 July 1953 to 19 April 1956 was at least as arduous and hazardous as some of the operations for which campaign awards that led to the award of the AASM 1945–75 were awarded. This view is reinforced by the casualties experienced (see Chapter 9).

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<sup>3</sup> British Command Paper 8314, Institution of the Korea Medal for Service in the Korea Operations since 2nd July 1950

7.84 The Working Party is aware that award of the AASM 1945–75 relied on first qualifying for one or more of the Korea Medal, the NGSM 1915–62 with clasp ‘MALAYA’, the GSM 1918–62 with clasp ‘MALAYA’, the GSM 1962 with either clasps ‘SOUTH VIETNAM’, ‘BORNEO’ or ‘MALAY PENINSULA’, the Vietnam Medal or the Vietnam Logistic and Support Medal. Because the Working Party could not support the proposition that the service of Australian forces in Korea after the Armistice on 27 July 1953 met the key condition of ‘warlike’ service to confer eligibility for the AASM 1945–75 and therefore that the AASM 1945–75 should not be awarded for this service, the Working Party would not see qualification for the award of the proposed Australian General Service Medal for Korea as conferring eligibility for the AASM 1945–75. This view re-asserts a need to judge eligibility on key criteria of eligibility and not rely on the award of another medal.

7.85 The circumstances of the uniqueness of the service in Korea after the Armistice until the final withdrawal of the last major Australian unit, and the conditions of eligibility of this award, isolate this period and the medal from other operational situations that the Working Party noted through its examination of other medal reviews.

7.86 Although there remain many unsatisfied claims for campaign medal recognition in the period 1945–75, the Working Party is confident that by offering solutions to the difficulties for recognition of Korean service that arose from the perceived anomalies from the introduction of the AASM 1945–75, we can contribute to the medal stability for this period. Through consideration of the factors discussed here, it is possible to isolate the Korean service recognition outcomes from an influence on later medal philosophy and perceptions.

### **Conclusion and Recommendation on an Award for those who served in Korea after the Armistice, 27 July 1953**

7.87 If there is to be even-handedness and fairness in the recognition of all 1945–1975 service it needs to be recognised that conditions experienced during the more demanding service in Korea during the period from 28 July 1953 to 19 April 1956 warrant recognition beyond the ASM 1945–75 with clasp ‘KOREA’.

#### **Recommendation**

7B. The Working Party recommends that the Australian Government should be advised to proceed to establish conditions of eligibility for the award of a newly-instituted Australian General Service Medal for Korea for service in Korea during the period from 28 July 1953 until 19 April 1956 with a period of eligibility of 30 days in the prescribed operation.

### **The Returned from Active Service Badge (RASB)**

7.88 An outline of the history of the Returned from Active Service Badge (RASB) has been provided at Chapter 3 (History of Medal and Badge Recognition for Australian post-Second World War deployments).

7.89 Among the Second World War veterans, the period after 1945 was characterised by (among other things) the wide practice among veterans of wearing the RASB. The Working Party felt that this practice has probably influenced attitudes to the RASB among the veterans of the 1945–75 period.

7.90 The instruction in respect of the Korean War limits qualification to service between 1 July 1950 and 27 July 1953 and this would exclude those who served in Korea after the Armistice on 27 July 1953 from qualification for the RASB. In addressing the claim for access to the RASB for service in Korea after the 27 July 1953 Armistice, the Working Party was aware of the danger of relying on the inclusion of the words ‘active service’ in the title of the RASB since these words do not appear in the criteria for the award of the badge, which rely on conditions which are specific to particular wars or campaigns.

7.91 Since 31 July 1962, conditions of eligibility included the requirement that a member had to be allotted to special service (that is, special duty in a special area) as defined under the *Repatriation (Special Overseas Service) Act 1962*. This led to recognition that the condition of eligibility for the RASB since July 1962 was linked to repatriation benefits.

7.92 The conditions for the RASB are in the course of being codified to reflect current policy and practice, with a view to promulgation as a Defence Instruction (General). In a Ministerial approval to a CDF proposal on 8 November 1994, all future awards of the RASB would be linked to an award of the AASM. As a policy, this has been extended to include the AASM 1945–75. This is confirmed in the content of the draft Defence Instruction (General), which notes that in addition to the criterion of the link to repatriation benefits, the award of the RASB is connected to awards of the AASM 1945–75 and the current AASM. It could be seen that the AASM or the condition giving access to repatriation benefits have been identified as the critical criteria of the nature of service to confer eligibility for the RASB, but what is not clear is what condition would prevail in retrospective application.

7.93 Notwithstanding the stated link of the RASB to the AASM, it should be noted that this Badge was awarded to those employed on Vietnam logistic and support operations before the Vietnam Logistic and Support Medal was awarded, and, therefore, it is only through the award of this medal that there was a link to the AASM. It would appear, therefore, that the RASB could be introduced without a concomitant entitlement to the AASM 1945–75.

7.94 The inconsistent treatment of service amongst wars and campaigns in the Defence Instruction raises doubts about what has been intended as the service to be recognised by the award of the RASB. While the Defence Instruction notes that in addition to stated criteria, the award of the RASB is connected to awards of the AASM 1945–75 and the current AASM, elsewhere the Defence Instruction states that the conditions of eligibility for the Badge for service since 31 July 1962 are similar to those governing eligibility for repatriation benefits, that is allotment for special service in a special area.

7.95 The history of the RASB includes many refinements of the conditions of eligibility and this history and the random use of AASM or repatriation eligibility links

would suggest that the conditions of eligibility are not yet firmly settled. This is further reinforced by the Clarke Review conclusion 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”.<sup>4</sup>

7.96 Furthermore, in the light of the complexity and variety of deployments of Australia’s armed forces since the Second World War, earlier definitions and conditions of eligibility for recognition of service may not have an enduring relevance to the strategic circumstances and in-theatre conditions of later deployments. The circumstances under which Australian servicemen and women have been committed to deployments range from wars, campaigns, peacekeeping, peace enforcement to humanitarian operations. The conditions experienced could not have been envisaged when the RASB was instituted. They are beyond those normally experienced in administrative, training, garrison, support outside an operational area or diplomatic postings.

7.97 Those who served in Korea from 28 July 1953 to 19 April 1956 meet the condition applied to operations since 31 July 1962 of eligibility for repatriation benefits. Regardless of the reason for providing repatriation benefits for those who served in Korea after the Armistice, in the public perception of the situation it is incongruous that those who receive veterans’ entitlements for disabilities normally associated with warlike service should not be seen to meet the criteria of eligibility for RASB. It is also unfair that the eligibility for the RASB should not be the same as for those who since 31 July 1962 have received the RASB through the conditions similar to those governing eligibility for veterans’ entitlements, ie having been allotted for service in a special area.

7.98 Also, in the light of the conditions experienced during this period and the judgment of the Working Party that this demanding service warrants recognition beyond the ASM 1945–75 with clasp ‘KOREA’, and that this service was at least as demanding as other operations in the period 1945–75 for which the RASB was awarded, the Working Party concluded that service in Korea from 28 July 1953 to 19 April 1956 warrants recognition by the award of the RASB.

## **Conclusion and Recommendation**

7.99 In respect of the Returned from Active Service Badge, it is the view of the Working Party that the circumstances of the deployment, which include veterans’ entitlements that for later service conferred a RASB qualification, taken with the conditions experienced during the demanding service in Korea during the period from 28 July 1953 to 19 April 1956, warrant recognition by the award of the RASB.

7.100 Furthermore the Working Party considers that more work needs to be undertaken to define the qualifying conditions for the Returned from Active Service Badge. This should take account of the complexity and variety of deployments of Australia’s armed forces since the Second World War, so that definitions and conditions of eligibility for recognition of service may have an enduring relevance to the strategic circumstances and in-theatre conditions of later deployments and

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<sup>4</sup> Clarke Review, Volume 2, p.282, paragraph 12.64.

Case for medal and badge recognition

should establish whether the critical criterion is access to veterans' entitlements or the nature of service determination.

**Recommendation**

7C. The Working Party recommends the demanding service in Korea during the period from 28 July 1953 to 19 April 1956 warrants recognition by the Returned from Active Service Badge.