



**THE NAVAL ASSOCIATION OF AUSTRALIA
NATIONAL PRESIDENT**

Patron: His Majesty The King

*Every country needs its heroes, and we must follow them.
Sir Edward “Weary” Dunlop¹*

**The Secretariat Officer
Foreign Affairs, Defence and Trade Committee
Department of the Senate
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PURPOSE

To put before the Foreign Affairs, Defence and Trade Committee (the Committee) the Naval Association of Australia’s (the NAA) position on the recent decision of the Government legislative changes to the *Defence Honours and Awards Appeals Tribunal Bill 2025* (the Bill).

STATEMENT OF FACT

Courage is considered the first among all personal qualities from which others flow. General William Tecumseh Sherman, an American Civil War General, said of courage:
“Courage – a perfect sensibility of the measure of danger, and a mental willingness to endure it.”²

1. Recognition of courage and service in its many forms is via a well-established and effective system of medallic and other recognition. Nothing must be allowed to derogate from that principle.
2. It takes courage and mental willingness to enlist in the full knowledge that one of the terms and conditions of enlistment requires that Australians be prepared to die for their country.
3. The intent by Government and Defence to abolish the rights of full-time and Reserve Defence members, their families and supporters to seek retrospective medallic recognition by imposing a statute of limitations, is an affront to every man and woman who has served this nation in all conflicts and in Australia.
4. Such conduct by Government and Defence is anathema to the Australian sense of fair play. It ignores those Australians serving our nation throughout history, as far back as 1885, before Federation, fighting and dying in many foreign lands far from home, and later also, in the air and at sea.

¹ https://www.azquotes.com/author/30738-Edward_Dunlop [Accessed 27/9/2025].

² https://www.brainyquote.com/quotes/william_tecumseh_sherman_190603 [Accessed 27/9/2025].

5. As such, it is entirely reasonable to expect that Government will ensure recognition for that service and sacrifice is there for all who render service to the nation.
6. That expectation also extends to their families and supporters, such as in the case of Teddy Sheean VC or Richard Norden VC. It must not be subject to a statute of limitations.
7. Similarly, had it not been for the persistence of ESOs and veterans' families and supporters, the Australian public and Defence personnel would not have been aware of the retrospective and eminently justified award of the Medal for Gallantry (MG) for gallantry in action to:
 - LT Francis A. Roberts – Operation Smithfield, Long Tan, August 1966
 - CAPT Thomas H. Arrowsmith Phuoc Tuy, January and June 1969
 - TPR Daniel J. Handley Operation Overlord, June 1971, during the Vietnam War.
8. The death in action of Leading Airman Noel Shipp, a door gunner with RAN Helicopter Flight Vietnam (RANHFV) killed in action on 31 May 1969.³ The bravery of his actions was not recognised by a medallic gallantry award or Mention in Despatches. Should this Bill be passed, no chance exists for the Shipp family to even consider again applying for a retrospective gallantry award.
9. During the Navy's Clearance Diving Team 3's (CDT 3) service in Vietnam, totalling four and a half years, Team members successfully achieved the following objectives:
 - Searching 7,573 ships and removing 78 enemy explosive devices from them;
 - Conducting the destruction of 353 tonnes of heavy ordnance and 42,000 items of unsafe ammunition;
 - Undertaking 153 other major diving tasks; and
 - Participating in 68 special operations.
10. During DCT 3's time in Vietnam, the following awards were made to Team members:
 - One Distinguished Service Cross (DSC),
 - Two Distinguished Service Medals (DSM),
 - One British Empire Medal (BEM) and
 - A number of Australian Navy Board Commendations, US Navy Letters of Commendation and US Army Commendation Medals.
11. CDT 3 members were also awarded several US Unit Commendations and other bravery awards from the American and South Vietnamese Governments.
12. Regrettably many of these awards could not be accepted by CDT 3 recipients because Australian Government policy at the time disallowed the acceptance of individual foreign bravery awards.⁴ This injustice remains extant at this juncture. The imposition of the 20-statute of limitations will operate to destroy any chance **CDT 3** members have of ever being recognised for their bravery during operations. That is unconscionable.

³ <https://www.awm.gov.au/collection/C2085829> [accessed 27/9/2025].

⁴ Donohue, H., and Linton, E.W., *United and Undaunted—The first 100 years CDT 3*, 376pp, at pp.155-158 [Accessed 28/9/2025].

13. The personnel discussed above were victims of the most egregious honours and awards system inflicted on Australian service personnel in action during the Vietnam Conflict, namely the egregious and deservedly maligned Quota System. This system was the application of a disgraceful and since then a disgraceful and thoroughly discredited policy of honours and awards. It is our contention that the quota system employed in Vietnam is responsible for robbing many other veterans who served in that conflict from being rightly honoured.
14. Had it not been for retrospective awards becoming available to those personnel who served in Vietnam and many others, there would have been little or no record or recognition of their bravery.

ACKNOWLEDGEMENT

The NAA gratefully acknowledges the input and collaboration in drafting this submission by the Royal Australian Armoured Corps Corporation. Both entities are members of the Alliance of Defence Service Organisations (ADSO). This is not the first time we have worked in a collaborative manner wherein the NAA gratefully acknowledges the two significant submissions tendered by the Royal Australian Armoured Corps Corporation which assisted greatly in the campaign to have the VC awarded to Ordinary Seaman Edward 'Teddy Sheean' VC RAN.

BACKGROUND

The draft Bill (16.pp) was put before Parliament on 28 August 2025 by the Minister for Defence Personnel, the Honourable Matt Keogh MP. The intent of the Bill is to enable Defence to fetter retrospective medallic applications *"for a period of 20 years from when the service occurred or when the relevant operation ceased;"*

The NAA understands that the proposals for changes in the draft Bill were put forward by the Department of Defence in a submission (September 2024) to an earlier Inquiry by the Senate Foreign Affairs, Defence and Trade Committee in relation to the Defence Honours and Awards System.

The Bill which was passed by the House of Representatives on 4 September 2025 and has now been referred to the Senate Foreign Affairs, Defence and Trade Committee for inquiry and report by 30 October 2025.

ISSUES

1. The intent is clear, that is, to impose a statute of limitations on medallic entitlements and to also impose a statute of limitations on gallantry.
2. The NAA disagrees in the strongest terms with what is proposed and considers the intent to be unconscionable and indefensible. It is a legislative action that is completely lacking in merit.
3. The NAA argues that the policy decision to limit entitlement to retrospective medallic recognition by introducing a 20-year statute of limitations is indefensible and cannot be allowed to stand.

4. The statement by Minister Keogh that, “*ex-service organisations were consulted when it came to these amendments, and the RSL was involved in those discussions.*” (Hansard PDF Page 58/149, 3 September 2025), cannot pass without challenge.
5. At no time was the NAA informed of any intention to change the law and engage in a consultative process to effect that change. Advice as to the important legislative changes foreshadowed by Defence in the draft Bill was first brought to the attention of the NAA National Executive on receipt of Mr Stephen Skehill’s letter dated 8th September 2025.
6. The inference to be reasonably gained here is that Government and Defence intended to have the Bill back-doored to the Senate for passage into law and present it as *a fait accompli* to the veteran community. That is on every view, completely unacceptable and ignores the large number of ESOs whose members are directly and relevantly affected by this egregious decision.
7. In his capacity as Chair of the Defence Honours and Awards Appeals Tribunal (DHAAT), Mr Skehill made several points of concern in his submission in respect of issues of concern within the proposed Bill.
8. The 20-year statute of limitations is extensively covered in vide amended subsection 110(V2).
9. The 20-year statute of limitations in the draft Bill⁵ is significant covering reviewable decisions vide ss 110 (V2) (2) to 110 (V2) (9) *in toto* (at pp. 4-6). The proposed exclusionary provisions operate to completely extinguish any chance for a veteran or veteran’s friends and family as pursuing medallic entitlement past 20 years is statute-barred, ruining any hope of achieving medallic recognition.
10. It is noted that each subsection addressing what is **not a reviewable decision** joins each subsection to the 20-year rule by the conjunctive term “*and.*” This effectively locks all affected persons, family members and supporters out of any access to redress.
11. Draft section 110 (V2) is silent on any remedial provisions.

DHAAT CHAIR’S CONCERNS

On reviewing the DHAAT Chairman’s correspondence (DHAAT/OUT/2025/181) there are several matters in bullet form at pp.1-2, that compel a response:

These are:

1. ***Abolish the current right of ADF members, veterans and their supporters to seek independent Tribunal merits review of their eligibility for gallantry, distinguished and conspicuous service honours – review of adverse Defence decisions would only be able to be sought by a more senior officer in the chain of command or an eyewitness;***

The proposal to have a senior officer in the nominee’s chain of command, undertake a review of the proposed award is fraught with risk – it cannot flow. It can best be described as a person sitting in judgement in their own cause. It is unconscionable.

⁵ Online at <file:///C:/Users/User/Documents/dahaaatb2025512.pdf> Accessed [25/9/2025]

It gives rise to a conflict of interest in circumstances where a primary decision-maker may have a disciplinary issue or personality clash with a nominee. This gives rise to an apprehension of bias and must be avoided at all costs.

It is also in this submission, tantamount to Caesar judging Caesar and must not be allowed to stand. The integrity and probity of a recommendation process must not on any level be compromised.

That integrity is potentially compromised by not having an investigator from outside the chain of command. Independence of investigation is critical to ensuring the integrity of the process. The reliance on a single witness is inappropriate. A need for a corroborator to protect the integrity of the process is essential.

2. ***Altogether disallow the Tribunal from considering honours or campaign awards for ADF service in the Second World War, Korea, the Malayan Emergency, Confrontation, Vietnam, Cambodia, the Gulf War, Somalia, Rwanda, and (on the Tribunal's legal analysis) some but not other service in East Timor, Iraq and Afghanistan;***

In examining the breadth and depth of this proposal, it is not unreasonable to argue that a reasonable person would hold a view that it would be as if nobody was deployed to any of these conflicts.

The NAA considers such a disallowance to be a direct attack on the service and courage of current and former Australian Defence Force members.

The deliberate excising of campaigns addressed above, operates to *de minimis* every single veteran's service, particularly those whose service may have been of such a nature that a retrospective award for gallantry or otherwise is considered necessary.

3. ***Abolish the current right of some family members (such as cousins, nieces or nephews) to apply for review of a decision refusing a defence award for their relative;***

Any decision made by Government or as an agent of the Government (e.g. Defence, DVA) is considered to be a reviewable decision.

Administrative law is a fundamental plank of our democracy in that it entitles all Australians to procedural fairness and to seek redress through the merits review system (VRB/AAT (ART)/DHAAT and others), and the Common Law, to obtain declaratory relief. The intent to fetter access to retrospective medallic recognition is on any measure, a clear sign of suffocating these rights and entitlements as discussed in this dot point and the one that follows.

4. ***Abolish the current right of a veteran or supporter to apply for review of a decision to refuse to reissue a cancelled honour or award;***

As for dot point 3. There are two references to **exceptional circumstances** (p.17) in considering a review of a cancelled honour/award and case law based on exceptional circumstances which may well support such an application.

5. ***Impose a time limit on making applications to the Tribunal; Allow further limitations on the current rights to Tribunal review, such as by excluding other periods of service, by Regulations rather than by amendment of the Act by the Parliament;***

The NAA contends that, any time limits imposed, must include a provision whereby an application which may be in danger of falling outside the timeframe may apply for an extension. As with veterans' pensions and appeals the efflux of time on a veteran's memory and the memory of any witnesses or a deficiency/defect in relevant ADF military records or the fact that any such action for which the application is submitted was not reported up the chain of command.

An identical situation may arise during an application and investigation of a medallic award. The lack of records must not operate to defeat a claim for a DVA pension. These beneficial provisions must also apply to the proposed legislation. Procedural fairness demands it.

6. *Allow Regulations to be made to further limit the operation of the Tribunal.*

Fettering the operation of the Tribunal will operate to create a gross injustice to current and former ADF members whose conduct was sufficiently meritorious for consideration of an award or, where in the fog of administrative error, a veteran's entitlement to a medallic award or medallic eligibility for a campaign/conflict medal has not been logged in a member's service record along with witness statements. Administrative law is designed to cure such defects. The NAA contends that, the proposal by Government as discussed in Mr Skehill's letter fails every test of reasonableness.

TRIBUNAL SUPPLEMENTARY SUBMISSION

1. In his Supplementary Submission (pp.5-19) attached to the covering letter, Mr Skehill makes a further 6 bullet points in his submission. The NAA concurs with all six points.
2. In the DHAAT's **Response of the Defence Honours and Awards Tribunal to Defence proposals for amendments to Part VIIC of the *Defence Act 1903*** (pp.7-19), the Tribunal makes a very effective case for not having the Government or Defence trampling the rights and entitlements of ADF members serving or otherwise from being considered for retrospective medallic entitlement.
3. The NAA contends that, whereas no statute of limitations for exists for murder, no statute of limitations should exist for retrospective medallic awards or entitlements.
4. The NAA contends that, the proposed imposition of a 20-year statute of limitations offends the current no-limit status quo most grievously.

The DHAAT response further states at p.17:

ADF morale, recruitment and retention

"Defence states in its submission that 'Research indicates there is a strong correlation between an individual's workplace morale and the recognition they receive' and that 'Reward and recognition foster a positive working environment and benefit both Defence and our people by providing a return on an individual's or team's effort, dedication and work achievements'. The Tribunal agrees with those propositions."

1. Upon reviewing the DHAAT submission, it is clear on the facts that, if passed by the Parliament, this Bill would abolish or very significantly curtail the current rights of Australian Defence Force (ADF) members and veterans, their families and supporters to appeal to the Defence Honours and Awards Appeals Tribunal against Defence decisions refusing a defence honour or award, or a foreign award, for ADF service.

2. Further, Defence will still be able to make decisions refusing to recommend the issue of defence honours or awards but ADF members and veterans, their families and supporters may lose their current rights to apply for Tribunal review of those decisions. The points of concern identified in the DHAAT submission are supported by the NAA.
3. Had the NAA's key stakeholders, the Royal Australian Navy (RAN), or any other Defence agency, shared their intentions with our membership the NAA would have engaged every means possible to dissuade the Government and Defence proponents in what the Association see as an egregious proposal that contradicts the veteran community's expectations of Defence Honours and Awards in their obligation to all serving members and the role we play in supporting both serving and retired veterans. The NAA suspects the architects of this legislation were aware of this obstacle hence the limited base of comments sought.
4. The honours and awards system must not be re-engineered to cause any veteran dead or alive, detriment in respect of retrospective or any other form of medallic awards.
5. It is hypocritical in the extreme to then attempt to limit the awarding of such recognition, and in the NAA's opinion, the proposals represent a disgraceful failure and abrogation of our collective responsibility to ensure that no instance of a member being denied due recognition is permitted to occur.
6. The NAA sees that the stated reason for Defence wishing to abolish the current right of a veteran, serving member or a supporter to apply to the Tribunal for review of a Defence decision refusing a defence honour is said *'to be because an application from a member for an honour to recognise their own actions does not align with Defence's policy position or intent, nor with the values of the ADF'*.
7. That an individual member would apply for an honour to recognise their own actions is a proposition that is not comprehended within the ethos of the NAA, nor I would expect, in any other ESO. Furthermore, there are enough checks and balances currently in place to prevent this happening.
8. When an individual seeks acknowledgement of their participation in a specific theatre of active service, that pursuit is fully recognised and deeply embedded in our corporate memory and core values.
9. NAA members played an active part in securing due recognition for those hundreds of sailors serving in HMAS *Sydney* III, the *'Vung Tau Ferry'*, during the Vietnam War and her escorts, to receive similar recognition as was afforded the Army personnel assigned to the same ship. That it took over 20 years to achieve a just outcome, is indicative of the NAA's collective resolve. So too our efforts in support of the battle to have medallic recognition afforded to Naval personnel involved in the Malayan Emergency. In that instance, it took over 40 years to reach parity with Army and Air Force personnel involved in the Far East Strategic Reserve (FESR) in support of the establishment of the nation of Malaya.
10. Another reason cited for the discontinuation of the Tribunal that reviews gallant, distinguished, meritorious or conspicuous service in conflicts, is that both Defence and the Tribunal have encountered difficulties in obtaining suitable evidence when witnesses and commanders of that time are no longer available to provide a definitive account of events.

11. The NAA understands the Tribunal's experience indicates this reasoning can only be credibly applied to the oldest of those conflicts.
12. In this regard, the NAA is fully cognisant of the perseverance and meticulousness research required when reflecting on the historical elements of the nation's naval history and its legacy, to find facts supporting any claims of due recognition that may not have been granted to sailors or officers in the RAN at various points in our naval and military history. Among our members, there are those inspiring and selflessly committed individuals who have played a crucial role in advocating for the award of a Victoria Cross of Australia to a select few naval personnel whom the NAA believes deserve such acknowledgment.
13. Throughout its history, the Association has consistently worked to have discrepancies in the awarding of medallic recognition to members of the RAN rectified whenever such injustices are brought to our notice. Typically, this endeavour is prompted by an inquiry of a family member or a fellow naval veteran.
14. The NAA is not aware of any instance where the RAN or a Government agency has formally initiated or totally committed to a review of an award to a sailor or officer in the Royal Australian Navy. This was evident in the efforts of the family of Ordinary Seaman Edward 'Teddy Sheean' VC RAN, who sought to have his actions in WWII appropriately recognized with the award of the first-ever Victoria Cross to a member of the Navy in 2020, nearly 80 years after his death in action on 1st December 1942.
15. Despite the objections from those who strongly opposed the implementation of natural justice in the retrospective awarding of honours, and who thus aligned themselves with the untenable claim that no member of the RAN had ever behaved in a way deserving of such recognition, the reassessment of actions taken by Ordinary Seaman Sheean aboard HMAS *Armidale* in December 1942, did not tarnish the Defence Honours and Awards process nor undermine the integrity and value of the nation's honours and awards.
16. The NAA argues that it demonstrated that in this country, we, the citizens, still have access to natural justice and the right to seek review of any decision by Government. Consequently, the NAA often finds itself acting as an intervener to fill the gap where Defence and Government are seen to not be visibly present or supportive in the pursuit of just and rightful medallic recognition.

CONTENTIONS

In view of the facts as enunciated above, the NAA contends that:

1. These proposals are regarded as deeply troubling and insulting in their design and if implemented, would represent a conscious effort to deny, or at least inhibit, proper recognition of acts of bravery and sacrifice.
2. Such actions by members of the ADF epitomise the most commendable of human traits and the sacrifices made by individuals dedicated to the support and preservation of other Australian citizens and our way of life.
3. Such actions would obscure the process, interpretation, and enforcement of the rules in question, effectively imposing a barrier to the right and access to natural justice for current members and veterans of the ADF.

CONCLUSION

1. It is the NAA's position that this egregious proposal to deny access to medallic entitlement through the imposition of a statute of limitations should be struck down and not proceed for the reasons stated in this submission.
2. The proposed amendment deliberately excludes every Australian current and former, full-time and Reserve Defence veteran who rendered service outside the statute of limitations from seeking and being awarded, the relevant form of recognition be it for gallantry or military service through eligible Defence service, operational, hazardous or peacekeeping service.
3. The intent of Government and Defence to deliberately instigate exclusionary provisions surrounding retrospective medallic entitlement offends all current and former Defence veterans and their long-suffering families. It is an unconscionable and indefensible proposition on every level.
4. The matters discussed in this submission put the removal of the 20-year statute of limitations beyond doubt.
5. The matters discussed also put the retention of the retrospective honours and awards system (including unit/individual embellishments such as unit citations) beyond doubt.
6. It should also be noted the RSL does not speak for the NAA nor a significant number of other ex-service organisations (ESOs) across Australia. It is therefore fallacious to assume the RSL is the centre of veterans' views. To say 'ex-service organisations were consulted (including) the RSL' appears to be an exercise in perception management.

RECOMMENDATION

That the Committee note the above and:

1. That the Senate read down the proposed Bill, refuse its passage into law and send it back to the House of Representatives; and
2. That the Bill be rescinded *in toto*.

Submitted for your consideration and action.

David Manolas
National President
Naval Association of Australia

30 September 2025