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Combined SA Ex-Service Organisations' Submission

Prepared in Response to the Draft Productivity Commission Report Into the System of Compensation and Rehabilitation for Veterans

"And we pledged ourselves very definitely and unconditionally, for we said, "If you do your duty by Australia, Australia will do her duty by you."

WM 'Billy' Hughes, MP (Former Prime Minister), 21 March 1929, House of Representatives Hansard, vol120, p 1644.

1. Introduction

- 1.1 The veteran community in South Australia is smaller than that in other States, with approximately 8.4% of the Australian veteran population residing in the State. We believe South Australian veterans are more cohesive than those interstate as demonstrated by the cooperation of South Australian based ESOs on a number of recent veteran projects and issues.
- 1.2 However, we face a different set of challenges to those faced by other States. Among these are the geographic isolation of many veterans and the paucity of significant regional centres capable of supporting service delivery. In addition there are a range of IT issues in many parts of South Australia which result in significantly reduced communication capacity.
- 1.3 Many of the services accessed by veterans in South Australia are limited to Adelaide. In some instances, service support may even have to be sought from interstate.
- 1.4 In order to present the Productivity Commission (PC) with a considered, collective response to its Draft Report, eight Ex-Service Organisations (ESO) in South Australia have worked together to prepare a combined response.
- 1.5 The response has been arrived at after much joint discussion and deliberation and, arguably, reflects the majority view of the veteran community in South Australia.
- 1.6 Ex-Service Organisations (ESO) represented as part of this response:
 - Returned & Services League of Australia (S.A. Branch) Inc.
 - Vietnam Veterans Association of Australia (S.A. Branch) Inc.
 - Vietnam Veterans Federation of Australia (S.A. Branch) Inc.
 - RAAF Association SA Inc.
 - National Servicemen's Association – S.A. Branch
 - SA/NT Branch, National Malaya-Borneo Veterans Association of Australia Inc.
 - Korea Veterans Association of Australia (S.A. Branch)
 - Military Brotherhood Motorcycle Club Inc. (S.A.)

2. Key Points

- 2.1 We can see no merit in the Productivity Commission's recommendations to abolish the Department of Veterans Affairs, replace its veteran support functions with a Veteran



Services Commission and transfer its commemoration and war graves functions to the Australian War Memorial.

- 2.2 We are concerned that the Treasurer's terms of reference for this inquiry forced the Productivity Commission to focus on investigating workers compensation schemes. There is no other occupational workgroup group in Australia in which the Prime Minister makes the decision to send employees into combat. It is our strong view that military service is service for our country and any comparison with other compensation schemes is irrelevant.
- 2.3 In our view the Gold Card should be retained. Gold Cards exist because the Federal Government closed the Repatriation General Hospitals and the creation of the Gold Card system was the most appropriate way to continue to provide treatment to eligible beneficiaries.
- 2.4 We are opposed to any watering down of the Veterans Review Board's functions or changes to the composition of the Board. The function of the Veterans Review Board (VRB) is considered to be more inquisitorial/investigative. The VRB draws out information that, arguably, DVA could have ascertained. Armed with further and better particulars, the VRB is then in a position to vary the initial DVA determination and render it more accurate. It is a great example of a veteran centric approach to find a better way to support veterans.
- 2.5 We firmly believe that for veteran compensation and rehabilitation purposes there is a distinction between veterans who have rendered active or peacekeeping service and those who have not. We support the 2 different standards of proof for these two categories of veterans. The origin of the two standards of proof relates to legislation enacted in June 1985 to limit the effect of the High Court judgement in the Repatriation Commission v O'Brien (1985 155 CLR 422). The legislation divided veterans into two classes: those who had rendered "active service" or "peacekeeping service" and those who had not.
- 2.6 We believe the recommendations relating to Joint Transition Command have merit.

3. Overview

- 3.1 We have read the Terms of Reference provided to the Productivity Commission (PC) by the then Treasurer, The Honourable Scott Morrison MP on 27 March 2018. We are of the opinion that they are exceptionally broad and this must make the rendering of any coordinated response extremely difficult.
- 3.2 We are of the view that it is hard to see if the PC fully understands the unique position of SA and the challenges facing veterans in this State when it comes to the delivery of services.
- 3.3 We remain particularly concerned at what appears to be a pre-judging of the outcome of the PC submission made in recent media releases by the PC. It is hard to understand how the PC can be so definitive in its statements, when the Draft report is still under consideration.
- 3.4 A major concern to us is Commissioner Robert Fitzgerald's definitive statements on the ABC Radio program AM on 14 December 2018 related to the establishment of a Veterans Services Commission with the appointed board acting in the same way as many workers compensation boards do. The report is in draft form at the moment and these public definitive statements raise doubts in our mind about whether the consultations and feedback sought is genuine.



- 3.5 Timing is an issue with the draft recommendations being released on 14 December 2018 over the Christmas period and public hearings beginning less than two months later on 4 February 2019. Such a deadline places unreasonable demands on those most impacted.
- 3.6 We also note, that in spite of the best attempts of the PC to identify with the role and function of members of the Australian Defence Force (ADF), we query its understanding of the totality of veteran service, its unique nature (particularly the difference between Active or Peacekeeping Service and Peacetime Service), and the difficulties associated with re-integration into mainstream community life after service. There is simply no equivalent to service in the Defence of our country.
- 3.7 As an example of this we noted the description of military services borrowed from the Department of Defence, as presented in the Overview (page 3). We feel that this description tends to dilute the dangers implicit in military service. It does this by combining “active and peacetime service” with the “member and family service”. While the description refers to “a risk or cost” it fails to sheet home in a transparent way, the full extent of the challenges and dangers potentially faced by those in uniform, past and present.
- 3.8 We were also concerned at what we perceive to be problematic agenda to amalgamate two incongruent systems. We note what appears to be an unconscious desire to “civilianize” the support, compensation and rehabilitation structures underpinning military service. We believe this will have a massive and detrimental impact on the way we treat current and future veterans.
- 3.9 We feel that the PC Report has a pre-occupation with budgetary savings, a desire to ascertain costs and to be able to forecast them with certainty. Of course best use of available funds is an admirable goal, as is the desire to achieve better results with the same or less expenditure. However, budgetary savings should not be allowed to direct the thrust of the review at the cost of the wellbeing and health of veterans.
- 3.10 The proposal to establish a Veterans Services Commission to sit within the Defence portfolio and assume whole of life responsibility for its people was considered to be unworkable and will inevitably lead to an irreconcilable conflict of interest, funds allocation and activities. The functions seem so disparate that to combine them is considered impractical. It smacks of an intention to convert the ADF into a uniformed branch of the Australian Public Service.
- 3.11 The vast majority of veterans in South Australia regard themselves as exceptionally well served by the Department of Veterans Affairs (DVA). While there are some concerns expressed by contemporary veterans, these are minimal. Given the dimension and complexity of the task faced by DVA, together with its positive veteran focussed culture, we find it hard to understand why such wholesale changes to the existing system are necessary.
- 3.12 Moreover, any new system will need time to be bedded down. During this period existing services may well be compromised. We feel that such timing is problematic. With our World War II, Korean, Malaya/Borneo and Vietnam veterans ageing it seems “adventurous” to propose such radical changes while our most significant and vulnerable cohort are entering their time of greatest need.



3.13 In addition, it is our view that this proposed changes if implemented will transfer an immense workload onto the ESO's who will invariably be approached by confused veterans and their families for support to fill the vacuum.

4. Composition of the PC

- 4.1 The wide experience and expert qualification of the members of the PC is respected. It is hard to see however, how such a body with qualifications that comprise experience in public service/politics/education/economics/law and to a lesser degree the not for profit sector, could adequately understand the unique nature of the systems they assessed. We are sure that departmental advice would have been sought, but query how the current systems of compensation and rehabilitation (with all their strengths and weaknesses) could have been adequately represented in PC discussions when no member of the PC has any firsthand knowledge of the systems being assessed. Surely the appointment of a reference group would have assisted the Commission in its deliberation and at the same time delivered confidence to the veteran community.
- 4.2 We note by way of comparison that when the 2003 Clarke Review of Veterans' Entitlements (the Clarke Report) was commissioned, some of its membership had military service and that this service was both relevant and valuable when it came to veteran related considerations. Moreover, the composition gave credibility to the findings and recommendations that were included in the final report.
- 4.3 This logic seems to be confirmed at Draft Recommendation 11.3 where the PC suggests the composition of a Veterans Advisory Council and adds that part-time members should include "...civilians and veterans with experience in insurance, workers compensation, public policy and legal fields." We believe that this recommendation reinforces the problematic emphasis on the way the PC is directing its examination. We believe that such "required experiences" should have been balanced by specifying complementary veteran experience "by type; military conflict, gender, rank, and branch of service." After all, these experiences within service are as relevant to the proper function of a Veterans Advisory Council as are those suggested by the PC.

5. Errors, Misunderstandings and Omissions in the Draft PC Report

- 5.1 We query if the PC has a complete understanding of the disparity of the Department of Veterans Affairs (DVA) client base. Within the ex-service "family" there are many distinct groups and the difference between them is comprehensive. All are different by age, experience, need, aspirations and circumstances. Unless exceptional care is taken, a simplified system will result in more people falling through the cracks. We feel that any attempt to manufacture a "one size fits all" approach is doomed to failure.
- 5.2 We find the implicit and explicit references to the "generosity" of the existing veteran's compensation arrangements offensive and difficult to comprehend. It is our strong view that military service is service for our country and any comparison with other compensation schemes is irrelevant. There is no other occupational workgroup group in Australia in which the Prime Minister makes the decision to send employees into combat.
- 5.3 The PC suggests that veterans have suffered extensively as a consequence of DVA inefficiencies that in some cases have impacted suicide rates. We note, however, that the increased suicide rates among young males in particular, are a worldwide phenomenon. There is no doubt that



failures by DVA have contributed to the stress faced by veterans and this stress can exacerbate mental health challenges. However, we cannot ignore the fact that a major cause could be multiple exposures to armed conflict. We warn against the temptation to attribute the entire responsibility to DVA, rather than to honestly recognise and acknowledge the impact of military service itself.

- 5.4 Many veterans (especially younger veterans) discharge after relatively short periods (7-10 years). Many may depart service with no current civilian skill set and possessing unrealistic expectations about their employability after service. With that said, the suggestion that a Joint Transition Command be created is acknowledged and, potentially, appears to have merit.
- 5.5 We query the validity of the example given at Box 4 of the Draft Report headed “Different Acts, different amounts of compensation for the same impairment.” The example suggests that the Veterans Entitlement Act 1986 (VEA) is the most generous system. The example is considered as inaccurate. Given that Jane’s service was rendered under the VEA she would be much older than her counterpart who served under MRCA. It follows that Jane’s life expectancy is lower, thus the government’s liability would be much less.
- 5.6 We query the PC Draft Report’s three confusing references to the alleged “error rate” in DVA decisions that are reviewed by the Veterans Review Board (VRB). At Page 23 it refers to the “majority” of DVA decisions being changed at the VRB. At Page 26 the reference is to “around 50%” while at page 53 the Draft Report again refers to “the majority” of cases being changed upon review.

6. Response to Specific Information Requests

Information Request 5.1 – We have little expertise in this area and are unable to comment

Information Request 6.1 – We have little expertise in this area and are unable to comment.

Information Request 6.2 – We have little expertise in this area and are unable to comment.

Information Request 7.1 - We suggest a defined period of support of 2 years after discharge is appropriate.

Information Request 7.2 -The response to this Information Request is as follows:

- Rate of veteran education allowance to be paid should be 100% of remuneration for a Private soldier
- The eligibility for the veteran education allowance should be contingent on having completed a minimum period of service. It should be graduated and beginning at the expiration of the initial period of engagement (3 years).
- Before the request as to whether other conditions could be put on eligibility for the veteran education allowance can be answered, more information is required as to the purpose of the Education Allowance.

Information Request 7.3 - We suggest this matter be addressed by a specific Service Committee.



Information Request 8.1 – It must be remembered that the origin of the two standards of proof relates to legislation enacted in June 1985 to deliberately limit the effect of the High Court judgement in the *Repatriation Commission v O'Brien* (1985 155 CLR 422). The legislation divided veterans into two classes: those who had rendered "active service" or "peacekeeping service" and those who had not.

Both principles should be retained as they have relevant but different applications. It follows that we are opposed to the two standards of proof being amalgamated.

Information Request 8.2 – We are unable to provide information.

Information Request 10.1 - It is our firm belief that all decisions should be reviewable.

Information Request 11.1 – We are unable to comment on this request but note that the changing nature of military conflict will make it difficult to predict the financial implications of the proposed veteran's support system funding model.

Information Request 12.1 – We are unsure what information the Productivity Commission is requesting. Is it superannuation insurance related to military superannuation or superannuation insurance related to superannuation funds the veteran may join after leaving the military? Given that superannuation is covered by different legislation for all working Australians we are unable to see how any integration can be achieved.

Information Request 13.1 – We are concerned that this Information Request is based on the wrong premise. The focus of any impairment compensation should relate to the loss of benefit to the veteran and not be restricted by community and government equity implications, as the employment situations are not comparable. In our view this is "code" for reducing financial benefits for the veteran.

Information Request 13.2 – Such a proposal seems to lack equity. It will prove exceptionally inconsistent and deliver different outcomes depending upon the age of the veteran when the payment commences.

It also seems to have implications for the Trust Deeds of Superannuation Funds which should be investigated. The payment of "disability compensation" into a superannuation fund seems particularly problematic and could have significant adverse repercussions for the superannuation fund member particularly if they are in the younger cohort.

Information Request 15.1 – We do not accept that the Gold Card system has the weaknesses described.

Information Request 15.2 – ESOs are strongly of the view that providers should not be allowed to charge co-payments. This charging is already occurring. It is an unfortunate precedent and is seriously eroding the service available to vulnerable clients. The origin of the Gold Card is in its guarantee of service, free of charge, to any eligible beneficiaries. This was regarded as an exceptionally important issue.

Information Request 15.3 – Such a proposal compromises the standard of service that vulnerable clients deserve.

Information Request 17.1 – This request does not provide enough detail upon which to comment. More specific detail is requested.



7. Response to Specific Findings

Draft Finding 5.1 – Agree.

Draft Finding 5.2 – Unable to comment due to unfamiliarity with the Sentinel system.

Draft Finding 6.1 – Agree.

Draft Finding 7.1 – Agree.

Draft Finding 9.1 – Agree.

Draft Finding 9.2 – Agree

Draft Finding 9.3 – Agree with qualification

There does need to be an improvement in processing and communicating claim outcomes.

Draft Finding 9.4 – Agree.

Draft Finding 9.5 – Agree.

Draft Finding 9.6 – Only commenting on the situation in South Australia

This is not the case in SA, as evidenced by this submission made by eight ESOs working collaboratively and with one purpose. There is also evidence of ESOs in South Australia working together on supporting veterans seeking assistance from Advocates.

Draft Finding 10.1 – Agree.

The Veterans Review Board (VRB) has inquisitorial/investigative powers which allow it to gather further evidence that has not been obtained thorough the initial claims process. This allows for a more accurate assessment of the client’s claim and does on occasions result in the DVA decision being overturned or adjusted.

Draft Finding 10.2 - We are not in a position to comment on this finding but note, anecdotally, that the recent reappearance of the DVA magazine “Verbosity” has been very well received.

Draft Finding 10.3 - Agree

Draft Finding 10.4 – Disagree.

Most veterans find proceedings at judicial (e.g. AAT) and quasi-judicial hearings confronting, intimidating and bewildering. In addition the AAT is often adversarial and expensive. Diversion from the VRB to AAT will increase the stress to veterans. Our experience with the VRB, particularly with its recent innovations, is that it has broken down these barriers to the benefit of all.

At the VRB the veteran will meet a services member and two other Board members, who are entirely independent of the Commission whose delegate made the decision under review. The Commission and DVA are not represented at the VRB, whose mission is to make the correct and preferable decision. This means, in effect, for the claim to be accepted, and the original decision set aside, if persuasive evidence can be found to support it.



VRB appearances are less intimidating than appearances before the AAT. Moreover, unlike the AAT, the VRB is not adversarial in its approach and there are no cost implications for the claimant.

Having 3-4% of decisions being reviewed by the VRB is not considered unreasonable. The implication that DVA is “failing” and thus an unreasonable number of cases are being referred is, not supported.

Draft Finding 12.1 – Unable to comment.

Draft Finding 13.1 – Opposed

Such a proposal may well lead to unacceptable delays that could compound the stress associated with the claims system. Acceptance may also risk diminished compensation for those with qualifying service.

Draft Finding 13.2 – Opposed

The children of service damaged veterans often have difficult lives financially and emotionally. They should be considered as second wave casualties.

We dispute that this type of payment is unique to the veteran’s compensations system and are aware that it is a component in some Worker’s Compensation Schemes.

Draft Finding 13.3 – Opposed

The loss in value of the compensation received by veterans on the special rate of disability is still a source of major concern within the veteran community and, we believe, will remain so.

Draft Finding 15.1 – Opposed

This finding fails to recognise the original reasons for the introduction of the Gold Card system. Gold Cards exist because the Federal Government closed the Repatriation General Hospitals and the creation of the Gold Card system was the most appropriate way to continue to provide treatment to eligible beneficiaries. Consideration should be given to issuing veterans with Qualifying Service with a Healthcare Card to cover all conditions.

Draft Finding 16.1 – Agree.

8. Response to Specific Recommendations

Draft Recommendation 4.1 – Agree with qualification

We believe that this important positioning statement should be enhanced by reinforcing the unique nature of military service.

Draft Recommendation 5.1 - Agree

Draft Recommendation 5.2 – Agree

Draft Recommendation 5.3 - Agree

Draft Recommendation 6.1 - Agree

Draft Recommendation 6.2 – Agree with qualification



Consistent comparison between military and civil “compensation schemes” is considered unhelpful, particularly when considering Active and Peacekeeping Service. It is accepted however, that the PC was somewhat constrained by the Terms of Reference delivered by the Treasurer.

In order to improve client outcomes, DVA should cease using independent specialists who are no longer actively practicing to assess patient’s conditions. Decisions should only be based on the best available current medical information.

It should be noted that in workers compensation schemes the objective of rehabilitation is a successful return to work. In the DVA scenario, the objective is to return the client to acceptable lifestyle, consistent with community expectations.

Draft Recommendation 6.3 – Agree with qualification

More information is required; however there was general acceptance at proposed increased monitoring of treatment costs and client outcomes.

Draft Recommendation 7.1- Agree with qualification

We believe that this recommendation has merit. The question was put as to how it was possible to budget for such anomalies as future casualty rates. Defence will always be about the effective use of force, not about the avoidance of casualties to “balance the budget”.

We support the proposition that veterans with service related health issues be kept in the ADF until their issues are resolved or have been stabilized.

Given current establishment levels, how these personnel can be gainfully employed (or trained) when many service employment categories no longer exist (e.g. cooks, stewards, drivers etc.) is questioned.

Draft Recommendation 7.2 – Highly problematic.

Having younger newly trained soldiers consistently review and plan for discharge so soon into their career is judged as being counterproductive and is sure to exacerbate issues of retention.

This recommendation may have some merit for those who re-enlist.

Draft Recommendation 7.3 - Agree

Draft Recommendation 8.1 – Agree with qualification

In the third dot point, we firmly believe a distinction between Qualifying Service and Peacetime Service requires different standards of proof.

The origin of the two standards of proof relates to legislation enacted in June 1985 to limit by statute the effect of the High Court judgement in the *Repatriation Commission v O'Brien* (1985 155 CLR 422) on veterans’ claims. The legislation divided veterans into two classes: those who had rendered "active service" or "peacekeeping service" and those who had not.

We are aware of a survey (Topperwien, B 2003, 'Relaxed evidentiary rules veterans' legislation: a comparative and empirical analysis', Southern Cross University Law Review, vol. 7, pp. 259-307) conducted in 2003 which concluded that 32% of veterans with qualifying service would



have been unsuccessful with their claims before the Veterans Review Board if the burden of proof was changed from the reasonable hypothesis standard to the balance of probabilities standard.

Draft Recommendation 8.2 – Agree.

Draft Recommendation 9.1 – Agree.

Draft Recommendation 9.2 – Agree.

We note with concern the PC statement that some 40% of DVA staff are on some form of contract or are under temporary employment arrangements. In our view this has an important impact on the quality of service delivery and the assessment of primary claims under the three different Acts, and delegate's decisions on those claims.

DVA need to avoid excessive use of contractors or others who have not had training on how to deal with veterans. All DVA staff requires basic training of some sort.

Draft Recommendation 9.3 – Agree with qualification

Subject to clarification and agreement on what error rate is considered to be “excessive.”

Draft Recommendation 10.1 – Oppose

The use of the word “error” in this context is questionable. The function of the Veterans Review Board (VRB) is considered to be more inquisitorial/investigative. The VRB draws out information that, arguably, DVA could have ascertained. Armed with further and better particulars, the VRB is then in a position to vary the initial DVA determination and render it more accurate.

In addition, the VRB is recognised as being more “veteran centric”. For many veterans an appearance at the VRB is the first time a veteran has had a personal interface with someone other than their Advocate. If nothing else, this meeting gives the veterans their “day in court” and the vast majority gain some confidence that all their evidence has been heard in the most appropriate forum.

Draft Recommendation 10.2 – Agree with qualification.

Common review pathway agreed. Do not agree with modified role of the VRB.

Draft Recommendation 10.3 – Oppose

The VRB should continue in its current role. The suggestion that the VRB be reduced to a one person re-assessment with ADR is rejected. While the proposed internal review of the matter before it proceeds to the VRB is seen to have merit, the reduction of the VRB to a single member is not seen as giving the VRB the depth of experience and expertise it needs, nor does it allow future members of the VRB to gain experience. Any variation will reduce efficiency, lack credibility and be more costly.

Draft Recommendation 10.4 – Oppose

We are puzzled by this recommendation and do not agree with the basis upon which it rests. It seems impossible to claim “Veteran centric” reform yet, at the same time, recommend the removal of the very body that delivers such invaluable support and outcomes to its client base.



While a review in due course may have merit, it appears to us that such a prescriptive requirement 6 years in advance is unwise and indicates a subtle predetermination to get rid of the Veterans Review Board.

Draft Recommendation 11.1– Oppose

We think that the proposal to separate the responsibility for the formulation of veteran policy and service delivery is unwise. It could lead to a risky disconnect between the policy makers and those charged with implementing policy on the ground.

We prefer having a single Minister responsible for Veteran’s Affairs. Having an arrangement that links Veterans Affairs under Defence is seen as a massive conflict of interest and is considered untenable.

Draft Recommendation 11.2 – Oppose

We are strongly opposed to the suggested change. It will lead to the diminution of Ministerial responsibility and in our view a lack of political accountability. While the appointment of a board to oversee the Veterans Services Commission may appear to have merit we worry that its independence will still be questioned because the Commission’s Board will be appointed by the Minister.

This recommendation to establish a Veterans Services Commission to sit within the Defence portfolio and assume whole of life responsibility for veterans was considered to be unworkable and will inevitably lead to an irreconcilable conflict of interest, funds allocation and activities.

Moreover, any new system will need time to be bedded down. During this period existing services may well be compromised. We feel that such timing is problematic. With our World War II, Korean, Malaya/Borneo and Vietnam veterans ageing it seems “adventurous” to undertake such radical changes while our most significant and vulnerable cohort are entering their time of greatest need.

In addition, it is our view that this proposed change will transfer an immense workload on to the ESO’s who will invariably be approached by confused veterans and their families for support to fill the vacuum.

Draft Recommendation 11.3 – Highly problematic

As mentioned earlier in this response the recommendation is that all members of the suggested VAC should have “...experience in insurance, workers compensation, public policy and legal fields.”

There is no mention of the type of service experience that veterans should have. The failure to specify specific veteran experience (e.g. by conflict, gender, rank and branch of service) should be addressed.

Draft Recommendation 11.4 – Oppose

The respective functions of DVA and the Australian War Memorial may appear superficially to have much in common. In truth they are quite separate and any attempt to combine them will only create a conflict of interest.

Draft Recommendation 11.5 – Oppose



We are surprised by this recommendation. We question how it would be possible to estimate the costs associated with a veteran support system. It is our view that this is a national obligation rather than a premium to be levied on an individual government agency.

Draft Recommendation 12.1 – Agree with qualification

We agree with the concept. However, there is little detail for us to make a considered response.

Draft Recommendation 12.2 – Oppose

The recommendation is lacking in detail. It appears to be more relevant to contemporary veterans. Why should people have their superannuation compromised?

We are unable to see how this recommendation could work with superannuation funds having to meet different requirements when compared with veterans' compensation and rehabilitation. There are also major privacy concerns with superannuation funds and DVA sharing information.

Draft Recommendation 13.1 – Oppose

We support the 2 different standards of proof for these two categories of veterans. The origin of the two standards of proof relates to legislation enacted in June 1985 to limit the effect of the High Court judgement in the *Repatriation Commission v O'Brien* (1985 155 CLR 422). The legislation divided veterans into two classes: those who had rendered "active service" or "peacekeeping service" and those who had not.

Draft Recommendation 13.2 – We are unable to comment

Draft Recommendation 13.3 – Agree with qualification

We agree with the general thrust of this recommendation, but have reservations about the subjective requirement to "...undertake all reasonable rehabilitation and treatment..." Who determines what is "reasonable"? How is the veteran protected? We are of the view that this decision should be made by a qualified occupational therapist, medical practitioner or exercise physiologist.

Draft Recommendation 13.4 – Oppose

This type of payment is not unique to members of the ADF. We believe that this form of compensation is reasonable and should be retained. We do not understand the reason for this recommendation unless it is purely for economic reasons.

Children of service damaged veterans often have difficult lives financially and emotionally and compensation for same would seem to be appropriate.

Draft Recommendation 13.5 – Agree

The PC justifies their recommendation on the basis that veterans do not identify their limitations well or exaggerate. We feel that this might be a part of the "system" that is old fashioned or out of date. We feel that if improvements are to be sought, research might be undertaken as to their utility, using data other than administrative data.

Draft Recommendation 13.6 – Oppose



We do not understand the reason for this recommendation and reject it. We feel that the ability to earn incapacity payments until retirement age is as much a disincentive to seek work as is the SRDP.

Draft Recommendation 13.7 –Oppose

The partner has, in most cases, acted as carer and borne the responsibility of carer, in many cases, for an extended period.

Draft Recommendation 13.8 – Agree

Draft Recommendation 14.1 - Agree

Draft Recommendation 14.2 – Oppose

It is unfair and could result in a significant disadvantage to those eligible for Education Allowance.

Draft Recommendation 14.3 –Agree with qualification

Accept with the need to simplify the system and the logic of removing DRCA supplement, MRCA Supplement and Veteran Supplement.

However, removal of Energy Supplement attached to the DVA impairment compensation. We note that no justification for this recommendation was provided.

Draft Recommendation 14.4 – Agree

Draft Recommendation 14.5 – Agree

Draft Recommendation 14.6 – Agree

Given rapidly advancing technology, members suggest that recipients of the Vehicle Assistance Scheme be encouraged to upgrade their vehicle regularly.

Draft Recommendation 15.1 – Oppose

This recommendation assumes that the nature of military service will remain static. It has the potential to disadvantage veterans in the future.

We note that the surviving members of the civilian surgical and medical teams that served in Vietnam have been granted the Gold Card recently. We suggest that widows of veterans in receipt of 100% Disability Pension and the means tested Service Pension, could be deserving of the Gold Card upon the death of the veteran. Justification for this rests in the main with the level of support a spouse would have delivered to a disabled veteran during his/her lifetime.

Moreover, we believe the background to the Gold Card is relevant. Gold Cards exist because the Federal Government closed the Repatriation General Hospitals and the creation of a Gold Card system was the most appropriate way to continue to provide treatment to eligible beneficiaries. Consideration should be given to issuing veterans with qualifying service a Healthcare Card to cover all conditions.

Draft Recommendation 15.2 - Agree

Suggest discussions with AMA to develop this proposal further.



Draft Recommendation 15.3 – Unable to comment

Draft Recommendation 15.4 - Agree

Draft Recommendation 16.1 – Agree

However, providing the collection of this information does not compromise the service delivery to DVA Clients.

Draft Recommendation 16.2 – Agree

Draft Recommendation 16.3 – Agree

Draft Recommendation 17.1 – Agree with qualification

The recommendation has merit but more detail on the 2 proposed schemes needs to be provided.

9. Conclusion

- 9.1 The ESOs detailed above are grateful for the opportunity to comment on the Productivity Commission Draft Report.
- 9.2 While we understood the logic behind many of the recommendations, we remain concerned at what could be construed as an attempt to civilianize the current system. Such haste is regarded as unwise and shows a limited understanding of the true nature of military service.
- 9.3 The lack of any direct veteran representation on the PC has, to our mind, heavily impacted the quality of the recommendations made.
- 9.4 The clear focus on lifetime wellbeing of veterans is admirable but contrary to the reality of how workers compensation schemes operate. Most of these schemes are designed to get injured workers off their books as soon as possible.