



**Australian Government**  
**Productivity Commission**

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**PRODUCTIVITY COMMISSION**

**COMPENSATION AND REHABILITATION FOR VETERANS  
INQUIRY**

**MR R FITZGERALD Commissioner**  
**MR R SPENCER, Commissioner**

**TRANSCRIPT OF PROCEEDINGS**

**AT MANTRA ON MURRAY, 305 MURRAY STREET PERTH  
ON TUESDAY, 5 FEBRUARY 2019 AT 9 AM**

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**COMMISSIONER FITZGERALD:** We might commence if we can. Thanks, grab a seat. If you're hard of hearing come to the front and there is a microphone that will be available for those presenting. If somebody is  
5 unable to hear, this room's better than yesterday where we were in Adelaide. So I've just to do a couple of formal things if you'll give me a moment. So firstly good morning. Thank you for participating today, and welcome to the second day of public hearings for the Productivity  
Commission's Inquiry into Veterans' Compensation and Rehabilitation following the release of our draft report in December last year.

10

I'm Robert Fitzgerald, I'm the Presiding Commissioner, and Richard Spencer is my fellow Commissioner. The purpose of these hearings is to facilitate public scrutiny of the Commission's work, and to get comment and feedback on the draft report. The draft report is a very large  
15 document. It's the widest, deepest inquiry ever held into DVA and Veterans' Affairs more generally, so we understand that it's a lot to take in in a short period of time.

20 Following this hearing in Perth, hearings are also planned in Darwin, Wagga Wagga, Canberra, Melbourne, Hobart, Sydney, Brisbane and Townsville. We will then be working towards completing a final report to government which will be forwarded in June of this year, having considered all the evidence present at these hearings, and in submissions as well as other informal discussions.

25

Participants and those who have registered their interest in this inquiry will be advised of the final report's release by government which may be up to 25 parliamentary sitting days after completion. The draft report is produced by the Productivity Commission. A final report is released by  
30 the government, but there is a requirement to release it.

30

We'd like to conduct all hearings in a reasonably informal manner, but I remind participants that a full transcript is being taken. For this reason  
35 comments from the floor cannot be taken, but towards the end of today's proceedings I'll provide an opportunity for any person wishing to make a brief statement if they'd like to do so, and a number of people took up that opportunity yesterday. Participants are not required to take an oath, but should be truthful in their remarks. Participants are welcome to comment on the issues raised in other people's submissions.

40

The transcripts will be made available to participants and will be available from the Commission's website following the hearings. Submissions are also available on the website and as you know submissions are being called for, and hopefully all of them will be received by the end of this  
45 month.

45

For any media representatives attending today, there are some general rules apply and you should see one of our staff for a handout in relation to those rules.

5

In relation to occupational health & safety legislation, I'm required to draw your attention to the fire exits and the main fire exit is through the main hotel entrance, and if it cannot be used, Mantra staff will advise us to use the exits in the room. There's one in the back corner over there. In the event of an emergency, an alert tone will sound and if evacuation is required a staff member from Mantra will escort all guests to the designated assembly area at the Murray Street Mall in front of the train station.

15  
20  
25  
Otherwise, just a couple of additional comments. This draft report that was released, as I said, is very wide-ranging. This is your opportunity to tell us in more detail what you think is good, bad and indifferent about it, what we've missed. It is part of our process as the Productivity Commission treats draft reports as drafts. They're not final reports, and so we do listen to and welcome all those comments and we do understand that in relation to this area it is an exceptionally wide, and as I said before very deep report, so it will take some time for people to understand not only the recommendations, but also why we've made those recommendations, and also whether there are alternatives to the recommendations we've made.

So we might just get under way. Everybody's under very tight timeframes today so if you could just stick to that, that would be great, and can I have Aaron Malcolm Gray, please.

30

**MR GRAY:** Good morning, Aaron Gray. Apologies, I will have to probably depart not long after speaking.

**COMMISSIONER FITZGERALD:** No, that's fine, and Aaron are you just representing yourself, not an organisation?

35

**MR GRAY:** That's correct.

**COMMISSIONER FITZGERALD:** Okay. Aaron, if you can just give us a short opening statement.

40

**MR GRAY:** By way of background, I enlisted in the Australian Army Reserve December 1994 at 17 years of age up until being discharged against my will in November 2018. During that period of service within

the infantry and medical corps, with two components of full-time service, East Timor in 2000 and Butterworth, Malaysia 2009.

5 In country in Malaysia 2009 I sustained bilateral rotator cuff injuries, and upon return to the country, to Australia, there was no provision for rehabilitation of these shoulder injuries provided whilst in reserve service. No enquiry was made as to that. It was essentially management by allowing time off from parade service, and that's how it was handled, discharged as an inactive reserve member November 2018, and upon  
10 reflection of the management of that matter and other claims, and the effect on lifestyle, upon reflection now I probably wouldn't have joined the Australian Army had I known what was to occur.

15 Presently I speak to you having had recent DVA shoulder surgery in late December, and as I speak to you today, I am net \$600 a week down on incapacity payments from DVA. I'm net \$600 down compared to the same payments under the same circumstances when I had previous shoulder surgery in 2015. We brought this to the attention, my accountant and I, last Tuesday to DVA and despite attempts from my accountant,  
20 DVA aren't responding. My circumstances financially are okay, but heaven help someone who's got higher financial impositions than I.

Further, adequate preparation occurred to prepare for shoulder surgery and time off work from late December, two full time jobs and an ABN  
25 business, but yet DVA failed, and their outsource provider Konekt Group to prepare for my post-hospital care needs, to the point where I called Konekt Group the day prior to surgery and they said they hadn't done anything and hadn't even made their needs assessment submission to the DVA officer to act. So I woke up post-surgery in December this year, late  
30 December, with an email from DVA saying, "Go and find a cleaner yourself. Go and find a gardener yourself".

I think it's getting worse in DVA, to be honest, with my dealings with them. In your report you speak to veterans-centric reform and an updated  
35 IT system. Granted, that's fine, but you can have an antiquated IT system but you can probably have in the meantime paperwork that isn't a barrier, a paperwork, claims paperwork that isn't a barrier or designed to break someone, in my view. You don't need veterans-centric to get on the phone and call one of your (indistinct) staff. To date my serving army unit, nor  
40 Veterans Affairs have called me since 2010 to date to enquire on my welfare.

In conclusion, two quotes, one from myself and one from your report. From myself, and as cited in my submission, if I was to surmise this entire  
45 matter, it is the expectation by DVA staff that you know, that you know

their process, how it works and how to conduct yourself. They, DVA, stay silent at all times. They never assist to educate you and the claims process indelibly harms me as an applicant.

5 I believe the Commission's hit the nail on the head where on page 298 in paragraph 2 you say:

10 *The respective roles played by DVA and Defence in supporting veterans as they transition are not clear, and government silos and poor planning have led to gaps and duplication, services with rigid rules that inhibit the achievement of their objectives and both Defence and DVA losing sight of what is needed to deliver veterans' overall wellbeing.*

15 I will correct in my concluding remarks I cite that quote but I cite the wrong page number. I cite page 598 and it should be 298. Thank you.

**COMMISSIONER FITZGERALD:** Good. Thank you very much. Aaron, if I could just ask a couple of questions, under what acts are your  
20 claims being dealt with at the moment?

**MR GRAY:** It's a good question. I think it's a mixture of SRCA from East Timor and MRCA.

25 **COMMISSIONER FITZGERALD:** And you indicated that you had previous surgery some time ago?

**MR GRAY:** 2015.

30 **COMMISSIONER FITZGERALD:** Yes, and after that you received impairment and/or incapacity payments?

**MR GRAY:** Only for the medically certified period whilst I was off work.

35 **COMMISSIONER FITZGERALD:** Right. And this time around you're receiving similar payments in terms of categories but different amounts, or are they different payment entirely?

40 **MR GRAY:** Same payment. Incapable during medically certified period, same determination figures, payslips from my private employment 2009.

45 **COMMISSIONER FITZGERALD:** So what do you understand to be the explanation as to why you're \$600, did you say a week, worse off than you were some years ago?

5 **MR GRAY:** The document has slightly altered the determination figure from the 2015 DVA determination document. It doesn't cite the workings and we've had no advice in writing or orally as to why there's a different figure.

**COMMISSIONER FITZGERALD:** And you've sought that?

10 **MR GRAY:** Correct.

**COMMISSIONER FITZGERALD:** And when would you have sought that information?

15 **MR GRAY:** As I've said, last Tuesday we reached out to DVA and we've made - my accountant has made multiple attempts.

20 **COMMISSIONER FITZGERALD:** If you don't receive the information or it's not satisfactory, in content, is it likely that you'd go to the VRB?

**MR GRAY:** I'll need to lodge an appeal within the 45 day period.

25 **COMMISSIONER FITZGERALD:** All right, but have you ever done that before?

**MR GRAY:** I haven't, no.

30 **COMMISSIONER FITZGERALD:** So just if I can understand this, you've indicated the fact that neither your army unit, nor DVA has ever rung you or contacted you in relation to that and we've heard that quite a lot, particularly in the previous consultations, yet when you get to the VRB the very first thing they do is, they ring you, and it's called Outreach, but nevertheless they do that, and many of the matters are resolved. Can you find any explanation as to why DVA might not take that approach and  
35 actually ring you and discuss these matters with claimants?

**MR GRAY:** No, it may be a cultural, behavioural practice within the bureaucracy.

40 **COMMISSIONER FITZGERALD:** Okay, I'll come back to that. Richard.

45 **COMMISSIONER SPENCER:** Just to clarify as well, thanks, Aaron, did you have an advocate at any stage through all of this?

**MR GRAY:** I've had two differing advocates in relation to the shoulder matters, yes.

5 **COMMISSIONER SPENCER:** Yes, and, you know, without going into the specifics, was that generally helpful because you had made, I think, a really critical point and that is that perhaps an expectation that you will understand how to engage with DVA. Was using an advocate helpful to overcome that barrier?

10 **MR GRAY:** The initial advocate was most beneficial. The second advocate I'm presently working with not necessarily so, so I'm going to privately pay for legal advice for a health check, so to speak, of my DVA claims.

15 **COMMISSIONER SPENCER:** And just on the question, we've focussed on the issue of transition as being critically important, and as you know we've made some suggestions there about a joint transition command. I'm just thinking, beyond your own experience, what, in terms of what we're recommending to try and have a more seamless and better  
20 system to respond to individual needs, do you have any thoughts or comments on that for us?

**MR GRAY:** The disconnect between Defence and DVA, and essentially medical history and claims, and then having to start afresh a new claims  
25 process in DVA is counter-productive to a smooth transition. Surely it should be seamless. So the two silos is counter-productive.

**COMMISSIONER SPENCER:** And Aaron, how long have you been engaged with DVA? What did you first engage with them?  
30

**MR GRAY:** I first engaged with DVA upon return from East Timor in 2000 to meet the qualifying service paperwork, and like I said in my submission, those initial early calls were met with complete umbrage, "No, no, no", like when I applied for my defence home loan, I was told,  
35 "No, I can't do it to my liking".

**COMMISSIONER SPENCER:** You've probably signalled your answer to my next question, but I will ask it, and that is that the veteran-centric reform process that's under way at the moment, it's still fairly early days  
40 but there are some signs of progress. Apart from the disappointments you've shared with us today, have you seen anything recently or in recent times in your experience of DVA which gives you hope that things might change or that seem to be changing?



**MR GRAY:** Like I said, I think, compared to 2015's process, things are getting worse. I looked on my myGov account for the first time last week. It doesn't even recognise I've got a qualifying service, so the data entry is inaccurate. I've got no confidence. You can put the world's best IT  
5 system in, but unless there is culture change, re-induction of staff, you're going to get the same tired, inwardly-focussed bureaucracy. I've done culture change on mine sites before. We have to get down to the staffworking, otherwise it's lip service.

10 **COMMISSIONER SPENCER:** All right. Thanks, Aaron.

**COMMISSIONER FITZGERALD:** When did you discharge from the service?

15 **MR GRAY:** I received a separation notice from Stand-by Reserves on 28 November 2018.

**COMMISSIONER FITZGERALD:** And when you say that, just for my ignorance, that was an involuntary discharge or a voluntary discharge,  
20 in my language?

**MR GRAY:** Involuntary.

**COMMISSIONER FITZGERALD:** And that was on medical grounds?  
25

**MR GRAY:** No, parade or return of service grounds.

**COMMISSIONER FITZGERALD:** What does that mean?

30 **MR GRAY:** Not turning up to your army unit.

**COMMISSIONER FITZGERALD:** Had you been in dispute with the Army for some time prior to that?

35 **MR GRAY:** No, I've never been in dispute prior to receiving that separation notice.

**COMMISSIONER FITZGERALD:** So in relation to that, and some people talk about that as an administrative discharge, I'm not sure that's  
40 the right language, but as distinct from a medical discharge, but let me just deal with that. Is there a process by which you have an opportunity to show cause why you should not be discharged? And again I'm using my language, not necessarily that of the military.

45 **MR GRAY:** I don't know of that process.

**COMMISSIONER FITZGERALD:** So would it be correct to say you weren't given that opportunity?

5 **MR GRAY:** Correct.

**COMMISSIONER FITZGERALD:** Could I just ask this, Aaron, had you come to the view by 2018 that you no longer wanted to serve or had you been given the opportunity would you have continued to serve?

10 **MR GRAY:** I would have returned to serve. I think the longer period you stay away from an employer, the more difficult it is to return, and you then develop subjective feelings about things, and that's the case. I have attended a Pilbara Unit in my employment in the north-west, but that was on a parade evening at an informal basis, but essentially my army unit left me to fend for myself. So then you're sitting in the back blocks, not parading, not being able to physically perform, and it leads to deterioration of service.

20 **COMMISSIONER FITZGERALD:** Given the nature of your discontinuance of service, was there any transition at all in that process? Was there a, we talk about transition processes at the moment, and we've made various significant recommendations around how that needs to change, but in your case, given it was an involuntary discharge, if I can use that expression, was there any sort of transition process at all?

25 **MR GRAY:** None. None either in writing, nor orally from my posted army unit or DVA from 2010 to 2018.

30 **COMMISSIONER FITZGERALD:** Okay, thanks. You've mentioned cultural change a number of times, and many of our recommendations are designed to bring about cultural as well as administrative and other changes, and they're difficult to achieve. What do you think is needed to bring about that cultural change, and I know that's a large question. There's no one thing that brings about change, but in your mind what would be the one or two things that are essential?

35 **MR GRAY:** Re-induction, re-education of staff who serve within the respective departments. That's how we do it on a mine site.

40 **COMMISSIONER FITZGERALD:** That's fine.

**MR GRAY:** And we probably have more oversight of performance after the fact.

45

**COMMISSIONER FITZGERALD:** Were you in rehabilitation whilst you were in the military?

5 **MR GRAY:** Rehabilitation was only performed whilst I was serving in country in 2009.

**COMMISSIONER FITZGERALD:** Right, but not recently?

10 **MR GRAY:** Correct.

**COMMISSIONER FITZGERALD:** Okay, and subsequent to your operation now in December, is that correct, are you now in rehabilitation?

15 **MR GRAY:** That's correct.

**COMMISSIONER FITZGERALD:** And who funds that?

**MR GRAY:** DVA.

20 **COMMISSIONER FITZGERALD:** And we've been looking at the rehabilitation system, both in Defence and in DVA as part of this inquiry. Have you got any insights in relation to that or is it too early?

25 **MR GRAY:** While I've submitted a formal grievance regarding the complete failure of meeting my needs post-operative care, the liability has been admitted by the Konekt staff and the DVA staff member looking after the matter. When Konekt Group and DVA fail, when I had need, it is me who suffers the detriment, and it is me who suffers a loss of trust in my dealings with DVA. You don't get that trust back. It is now based on  
30 suspicion.

**COMMISSIONER FITZGERALD:** So can I just clarify now one little bit, is it in the nature of the rehabilitation that is being provided to you or is it of a different issue, so is it the quality or the appropriateness of that  
35 rehabilitation service that's being provided, or is it a different issue that's of concern to you?

40 **MR GRAY:** I think two-part service delivery and then secondly, the DVA officer never educated me or provided me the option to either have an allowance provided or the option of them assuming private providers coming to the house. I wasn't aware that those two options existed.

**COMMISSIONER FITZGERALD:** And which option are you in at the  
45 moment?

**MR GRAY:** I'm in the option of the allowance being provided.

**COMMISSIONER FITZGERALD:** And with that allowance are you meant to be able to provide your own rehabilitation service provider?

5

**MR GRAY:** Yes, I'm required to source my own cleaner and gardener and that was something I had to do the day I was discharged from hospital.

10 **COMMISSIONER FITZGERALD:** But in relation to medical rehabilitation, is that the same or are you - how is that handled?

15 **MR GRAY:** Certainly. That's handled by a referral by my GP on a DVA form to the requisite providers, i.e. physio, and DVA then assumes the cost for that

**COMMISSIONER FITZGERALD:** Okay, fine. Richard?

20 **COMMISSIONER SPENCER:** Just one quick follow-up question on the role of Konekt. What was your understanding of the role of Konekt in all of this?

25 **MR GRAY:** I was provided two appointments with them by DVA for a needs assessment, one in their office and one in my house, and they assumed the case management for my rehabilitation, goals and the like. So they assumed it, and again, they only provided one option which was then assuming the responsibility for private providers to attend to my needs.

30 **COMMISSIONER SPENCER:** As part of that, were you presented with a plan, rehabilitation, or was the - how did that work?

35 **MR GRAY:** That's correct, I was presented with a plan and it failed the day prior it needed to be used. So at the moment we have cancelled that rehabilitation plan and I self-manage with the DVA claims officer.

**COMMISSIONER SPENCER:** So Konekt is no longer involved in the rehabilitation.

40 **MR GRAY:** Correct.

**COMMISSIONER SPENCER:** Thank you.

45 **COMMISSIONER FITZGERALD:** So once again, having had that experience, any comments how you believe that should have been

handled. What would have been ideal from your point of view at that point?

5 **MR GRAY:** Do what you say you'll do. Don't offer lip service. I suffered detriment, but heaven help if you had mental incapacities or family needs. Do what you say you'll do.

**COMMISSIONER SPENCER:** Right. Thanks.

10 **COMMISSIONER FITZGERALD:** My final question is just in relation to ESO's and others. Are you an active member of or seek support from any ESO's, ex-service organisations?

15 **MR GRAY:** I'm a member of the RSL.

**COMMISSIONER FITZGERALD:** And did you seek their support in any part of your dealings with DVA or the army?

20 **MR GRAY:** Yes, I have used DVA for the service - sorry, I've used RSL for the service provision of an advocate.

**COMMISSIONER FITZGERALD:** But not for other mutual support?

25 **MR GRAY:** I used to attend my local branch RSL meetings.

**COMMISSIONER FITZGERALD:** And do you believe that the ESO's, and again you may have no comment on this, is there a different or more active role that you'd expect ESO's to play in support of younger veterans going forward or do you think your experience was sufficient?

30 **MR GRAY:** It's only until you initiate a request for help where you get that from your ESO. So until you get on the phone and call and visit their location, that is when assistance would be offered not prior to.

35 **COMMISSIONER FITZGERALD:** And there's no pro-active aspect?

**MR GRAY:** That's correct.

40 **COMMISSIONER FITZGERALD:** Do you have any final comments before we conclude, Aaron?

**MR GRAY:** No, I think my written submission adequately explains that.

45 **COMMISSIONER FITZGERALD:** Good. Thank you very much. That's terrific.

**COMMISSIONER SPENCER:** Thanks, Aaron.

5 **COMMISSIONER FITZGERALD:** Thanks, Aaron. That's good.  
Thank you. So Harold Hogan. So Harold, if you could give your full  
name and the name of an organisation should you represent one.

10 **MR HOGAN:** My name is Harold James Hogan, and basically it's on  
individual, but there are many like me, but nothing officially as far as  
representation is concerned.

**COMMISSIONER FITZGERALD:** That's fine. So if you could - - -

15 **MR HOGAN:** So I'm here on my own accord.

**COMMISSIONER FITZGERALD:** That's fine. So if you could just  
make an opening statement, Harold.

20 **MR HOGAN:** I must commend the previous speaker. He set a high  
benchmark in his report, but mine is simply, after saying good morning to  
the Commissioners and thanks for coming across. Basically there's an  
outstanding issue concerning qualifying service and entitlements which  
we have been denied and I refer to our cohort of national servicemen  
dating back this year actually, in September, 51 years or 52 years in fact.  
25 As I was called up to serve in the army for two years, I was living in  
Sydney at the time, and called up in the National Service Draft in  
September 1966 to 1968, September to September 28.

30 We did our initial core training in Kapooka. Then we did our infantry  
training, core training in Singleton and then we had the option of going to  
a battalion, as they were building up battalion strengths for Vietnam, or  
going to reinforcement wing. So a lot of us nominated for the  
reinforcement wing, mainly to expedite the situation and so we could go  
overseas and perform and qualify for our war service and appropriate  
35 entitlements that go with it like home loans, repatriation et cetera.

40 When we arrived at reinforcement wing in Ingleburn, which you  
gentlemen would be familiar with, there were 140 of us came down by  
coach from Singleton. As they lined us all up in formation, a couple of  
high-ranking officers came out and addressed us, and they said, "We've  
got news for you blokes. Maybe good news and bad. Out of the 140 of  
you, half of you will be going to Malaysia. You'll be going there as  
reinforcements because there are 70 previous national servicemen", I think  
from the first intake, "and others coming back. The rest of you will go to

Vietnam. Now we're not - there'll be no arguments entered into over this. How we're going to do it is by the fair system of odds and evens".

5 So if your serial number was an even number, you finished up in Malaysia. If it was an odd number, you finished up in Vietnam, but they also stated, the officers there who addressed us, they said, "You'll be going to a special zone and you'll get all your - you'll received all your repatriation entitlements". Now, to this day, we're still waiting on those entitlements because they were never, ever approved, and we did go to  
10 Malaysia. In my case I went via Butterworth. Just as via plane we landed at Butterworth, Sydney, Darwin, Butterworth, then came down - we wouldn't have been in Butterworth more than about a few hours and then they transported us down by train to Malacca.

15 From there, the army, by army transport, we were transported out to Terendak Garrison which is the army base for the south-east Asian reserve which is the Commonwealth forces that were there. So there was a battalion of Australians in the case and then I joined up with 4 Battalion there. There was a battalion of British shoulders, Kingshrop Light  
20 Infantry. There was a battalion of the Kiwis. There was a company of Gurkhas, not in the same compound, bit further away, and there was artillery there but not in our battalion area, and so we spent just on, or just under six months there. We thought we'd be there for the duration of our service, that's another thing we were told, "You'll be there for the  
25 duration". So we still had almost 18 months to go.

After being there for some time, we got called into the company headquarters one day and Major Lindsay and Captain Rod Curtis informed us that the battalion had been posted - received an order for  
30 posting to Vietnam and we would in fact get a second tour because by that time we would have at least six months to go after training, training all over again. Anyway, that didn't come to pass, but there's a bit more in that.

35 We came back from - we were there just until the first week of October 1967, and this is important because there was a special area in Malaysia, and we're talking about the Malay Peninsula as opposed to Borneo, it was still a special area up until 30 September 1967 and we were still there, and you'll find that statement, and it comes under a couple actually, but under  
40 the Australian veterans of the Malayan Conflicts 1950 and 1973 with allotment of duty, and remember that allotment for duty, a veteran can be allotted either individually or as a member of a unit of the Defence Force in an area defined in schedule 2 VEA during the specified period and service in that area.

45

So we were there in the timeline, and we served in that area, and we did serve and we did carry out our duties as we were ordered to do so. So under sub-paragraph (7), item 2, the VEA, gives us qualifying service and that says, "Relates to the service from 29 June 1950 to 31 August 1957".

5 Down further it'll say, "Item 7, schedule 2 relates to service from 17 August 1964 to 30 September 1967 inclusive in the territories of Malaysia and Singapore and adjacent waters. The relevant parts of the territories and waters are described in detail in item 7 of schedule 2".

10 Now, so the battalion was classified as being on active service at that time and no routine order can be produced to state otherwise. Now, how do we become overlooked and denied our qualifying service in the associated repatriation benefits? Well, apparently the reason given by Defence in DVA, but obviously Defence tells DVA what to do anyway, was because

15 we were never issued an allotment for duty, yet according to the Australian Veterans of Malayan Conflicts, we were entitled to Veterans Entitlements Act and that comes out of 1986, that one. So it comes in a couple of times. So we still qualified under schedule 2, item 7.

20 In more recent times, in 1999/2000, there was a similar review to what you're conducting today and it was under the Honours Awards and Entitlements, and the chair was Major General Robert Moore, and he made - I had a friend at that particular review and he put his case like I am now, and the chairman, Major General Justice Robert Moore, he was not

25 only - he was a judge in the Supreme Court of South Australia, and a major general for the army for the justice unit, but he was no - he was very much on the ball, and I've seen some of his cross-examining. He was very, very good.

30 After he was informed he said, "Look, you guys qualified. You should have got your medals", and my friend Bob said, "No, we haven't. No, we haven't, sir. We never received them". He said, "And it all came down to allotments". He said, "What allotments". So he said to his offsider, the major general said, "Check in Canberra. Find out about these allotments".

35 So they found out there was never any allotment made, not just for us but for a lot of others over in Malaya at the time.

So Bob Moore, Justice Bob Moore made the startling revelation that the sole reason we had not been allotted for duty in that special area was

40 because the army, whose duty it was to allot them, had failed to do so. A search of records showed that no army or RAAF member was allotted for service in the Malay Peninsula during confrontation. They got it later. The period of operational service during the Indonesian confrontation against mainly Malaysia extended from 17 August 1964 until 30

45 September 1967.



I'd go over that because it's an important date, and following this explosive disclosure by Justice Moore, a retrospective instrument of allotment, they call it the IOA, referred to, and a lot of people don't know about the instrument of allotment. They don't know. Even military people, and that was quietly announce, the instrument of allotment was quietly announced on 28 December 2000, away from the public's gaze and effective from 1 January 2001, and this was 33 years after we served on the Malay Peninsula. However the allotment didn't include as national servicemen who served in Malaysia with 4RAR up until October '67 because we left in the first week of October.

Interestingly Defence's response was to accuse Justice Moore, a major general, Justice of the Supreme Court of South Australia, and Rear Admiral Kennedy who was on the chair with him, of getting it wrong. He in fact not only got it right, he exposed the gross anomaly concerning allotments, which they had to admit to later on, but they still didn't include us national servicemen. So due to this allotment anomaly, national servicemen who served with 4RAR in Malaysia in 1967 have slipped through the cracks, and in 2014 under DVA Minister Ronaldson's watch, the operational act was amended from 30 September 1967 at the stroke of a pen and backdated to August 1966. According to the Minister, concerning the operational date, they had it changed 50 years later. It's now going on 52. What a lame duck and disgraceful and horrible thing to do, and for that matter I believe un-Australian. Out of 150 national servicemen affected by the significant error, only about 80 are still living because we're all in our seventies now.

Now Roger Wickham, who was assistant adjutant at the time and he was a legal man for the battalion and he's well-versed in military history and all the orders that go with it, and his submission spells out the situation concerning our cohort, in an exemplary and more articulate and concise fashion and is well worth reading to gain a much better understanding of Roger's submission on the site. Although I've got one with my submission on line now, which is a briefer version, but it gets right to the nitty-gritty. I will get to another point there because it's important that Roger's submission is read. Now Roger's got - there's nothing in this for Roger. He's now 77 years of age. He's qualified many times over. He served in the Defence Force for many, many years and he spent the last - I don't know how many years in America, but he's just recently returned to Australia. And I don't know Roger personally but we do know one another by means of correspondence, et cetera and he has offered his expertise and he's disgusted at what's happened. So the submission on site is No.43, it was submitted by Bob Benning from Victoria on 13 April. Now Bob is a friend of mine and we served at the same time. Roger

makes some compelling points, why September 39 and 67 was still a special area of operation under VEA qualifying service. So, that's why I'm saying, go to Roger's submission and also Major General Moore's recommendation, which if I've got time I will do one or the other.

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**COMMISSIONER FITZGERALD:** You are just in time. I just need to bring it to a conclusion.

**MR HOGAN:** Right.

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**COMMISSIONER FITZGERALD:** Then we can ask some questions.

**MR HOGAN:** Okeydokey. The last hearing, everything was left as it is. The hearing where General Moore - Major General Moore, he recommended that we be allotted, and Defence never did it, they didn't act upon it. At the next hearing nothing was changed, it was left as it was, and I think there was some misinformation given there because, as Roger states in his submission, the special area was completely separate from Sarawak, Sabah in Borneo, the special area in East Malaya. The reason for the separate special areas in the same country at East Timor and West Malaysia are separated by sea and is mainly in Tasmania. But he also says that we were there right up to 30 September 1967. He said, "We were strategically located there as part of the ready reaction force, as a member of SEATO, South East Asian Treaty Organisation, to avoid a repeat of the ignominious surrender of Singapore". He said, "Because I know, I know, I read the documents". He actually delivered some of the orders. So there's a lot of information in Roger's submission which will actually verify everything there.

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**COMMISSIONER FITZGERALD:** So Harold, I just need you to come to your recommendation if you can.

**MR HOGAN:** Well there's two recommendations. The recommendation by Robert Moore is that recommended the army out of left personnel on the posted strength of the units located in Malaya Peninsula, including Singapore during the period 17 August 64 to 30 September 67 inclusive. The period of confrontation defined in item 7 on Schedule 2 of VEA 1986 be allotted retrospectively so that they become eligible for full repatriation benefits and appropriate medals entitlement. That still hasn't happened. And my final conclusion, I was going to mention something about the health entitlements, the health, because I'm going through and have gone through a lot of health issues, including cancer internally and externally. So I'm dealing with, through an advocate through DVA, and I've found DVA to be very, very accommodating, very friendly. The service cannot be criticised from my point of view. There are some areas where with

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SOP statements of principles the VEA, the DRCA, the MRCA, the SRCA and the non-liability. If you don't get one you might get it on the other. We're still working all that out. Now I've still got a - I'm still trying to get a White Card for medical benefits but I'm still being assessed there.

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So, in conclusion, what I'd recommend and I've looked at this a couple of times, it says, "It's recommended that the army and RWF personnel on the posted strength of units", because this all gets back to your entitlements, if we don't get allotted we'd never get entitlements, "units located in Malay Peninsula going back to September 67 inclusive, the period of confrontation in defiance, item 7, Schedule 2, be allotted retrospectively so that they become eligible for full repatriation benefits and appropriate medals entitlement, and in fact comparable to those received by their navy colleagues who were allotted for duty during the period of confrontation". So they were doing nothing different to what we were, really.

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And the other thing I was going to mention to you was regarding the special area of operations in Malaysia being in the statute and up to and including those dates, September 67, when 4RAR was supposed to return to Australia, they returned a little later than that, some before. I have a practical suggestion concerning retrospective legislation. To retrospectively change the timeline, that is 30 September 67, back to 12 August 66 to cut us out, is tantamount to changing the laws. For example, if you change taxation, property ownership, superannuation, et cetera, laws that prevailed on the statute at the time and then have them changed retrospectively 50 years later for political expediency, it's just not acceptable, in my view or in the opinion of many others. So, in our circumstances of special area of operations in Malaysia in which we served and when, should be grandfathered, as it would be in any other legislation introduced 50 years after VA compliance date. I have read the changes enacted resulting from the previous committee's recommendation, in conjunction with Defence's oversight and there appears to be a lot of misinformation contained in this review. Refer to Roger Wickham's fax and comments, if you don't mind, on this important subject.

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Notwithstanding, I still cannot believe the government should be able to change the course of history that determined that specific date pertaining to operational areas to 30 September 67. When it was war-like, serving in a dangerous area, et cetera, we were sent there to serve in whatever conditions prevail and we carried out our orders according. We weren't posted there for the purpose of training exercises. We initially told we would be there for the duration, not just to train. That's what was referred to in the Clark report.

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5 In the same context, the issue of allotment, the IOA, very important, should also prevail for our cohort. Everyone else got it but we didn't get it, of national servicemen. The (indistinct) were served at 4RAR in Malaysia at the time, and I know there were more followed a bit later but I'm talking about - that was the date that was pertinent. That was the relevant date. I shan't go any longer because I know we're probably way over time.

10 **COMMISSIONER FITZGERALD:** I will stop you anyway so it's all right. Harold, thanks very much for that and we've got a written submission from you, together with extracts that you provided in relation to some of those materials you've referred to. So can I just ask a couple of questions. Given the strength of your case and the fact that, as you say, there was a review by Mohr, M-o-h-r, indicating that there should be support for your position, why do you think it was that the government at 15 the end of the day has decided to exclude your group? Because clearly it's not an aberration. They have clearly decided to do it. Why? Why do you think that's happened?

20 **MR HOGAN:** I think that it happened because they - there was - it was probably due to people that weren't experienced, didn't know the SEATO Treaty properly and why we were serving there in the first place. The unit was never sent over there initially to go to Borneo. That happened after they arrived. There's another mistake in the Clarke Report about when our 25 battalion took over from 3 Battalion. They say we took over at a certain date, yet 3 Battalion had been back in Adelaide six months before that. So there are some anomalies there which don't quite stack up.

30 **COMMISSIONER FITZGERALD:** According to your submission, effectively, and I may be simplifying this, had the notice of allotment actually been recorded you would be included.

**MR HOGAN:** Yes. Yes.

35 **COMMISSIONER FITZGERALD:** So from my layman's point of view that's an administrative error.

**MR HOGAN:** Agreed.

40 **COMMISSIONER FITZGERALD:** A big one.

**MR HOGAN:** Agreed.

45 **COMMISSIONER FITZGERALD:** And it's had substantial impacts on you and your colleagues that have served over there.

**MR HOGAN:** Yes.

5 **COMMISSIONER FITZGERALD:** Governments by and large generally fix administrative errors and normally that would occur. In your case, not only did they not do that, they actually ensured you were excluded by changing the dates.

10 **MR HOGAN:** They compounded the error.

**COMMISSIONER FITZGERALD:** So I go back to it. There's something missing in the story, not your story but as to why the government would not want to include your group in that.

15 **MR HOGAN:** I tell you what I think happened. Was when the settlement over the Borneo confrontation, the insurgency in Borneo was finished, our troops, our unit came back to Malaysia where they were all based in units before that under the South East Asia Treaty, and that's where they come in and said, "Look", you know, "these guys go back  
20 there - go back there and doing duties which don't - don't really apply". But that's somebody's hearsay. We were on call, we were - - -

**COMMISSIONER FITZGERALD:** So do you think it had anything to do with the fact that you were National Service personnel, rather than  
25 regular military?

**MR HOGAN:** I wouldn't like to distinguish if that was the case. I don't know.

30 **COMMISSIONER FITZGERALD:** And, secondly, as you indicate, you had no choice in the matter and you're saying to us that you were assured that it wouldn't affect your entitlements if you were sent either to Vietnam or Malaysia, they would be the same.

35 **MR HOGAN:** From when we got to reinforcing, they said that we could have full repatriation benefits because we were going to a special area of operations.

40 **COMMISSIONER FITZGERALD:** So when you and your colleagues have raised this with government, either through the Department of Defence or otherwise, what has been - not the change but what has been the explanation for refusal to acknowledge your claim?

45 **MR HOGAN:** Well, they've been brushed off without a lot of answers really, and there's been a couple of delegations go there.

**COMMISSIONER FITZGERALD:** Did you ever receive correspondence which set out the reason for this decision or anomaly?

5 **MR HOGAN:** No, only what I read in the Clarke Report, but that was something that we don't agree with. And I can only go on the expert, as I refer to, is Roger Wickham, who was - - -

10 **COMMISSIONER FITZGERALD:** Right. And when you say - sorry, I don't want to interrupt but, Harold, I just need to understand. In the Clarke review there was - they considered this matter?

**MR HOGAN:** I don't think they gave a lot of time to it.

15 **COMMISSIONER FITZGERALD:** But did they actually comment on it?

**MR HOGAN:** There was comment made.

20 **COMMISSIONER FITZGERALD:** They didn't provide a recommendation or anything in relation to this?

**MR HOGAN:** No, no they didn't. They just sort of just left it as it was. There are some comments there but they didn't spend a lot of time on it, they just said, "We'll" - and this advice must have come from defence.

25 **COMMISSIONER FITZGERALD:** Sure.

**MR HOGAN:** Who had some oversight, and a lot of these guys in defence they didn't know the full story and they intimated they were over there training; we went there as reinforcements to keep the force at full strength, to honour their obligations under SEATO.

30 **COMMISSIONER FITZGERALD:** In relation to your own issues, your health issues and that of your colleagues and friends, what Act do you fall under, do you think; VEO?

**MR HOGAN:** When I - because I'm working with an advocate, who's, God love him, he's doing the best that he can and he's a veteran, and he is Warrant Officer First Class. When he saw my record he said, "From what I can see you qualify for veteran entitlements". And I didn't say much because what I knew, I let it run its course.

40 **COMMISSIONER FITZGERALD:** So there's no question, given that you were in service, that you qualify for some form of veterans' entitlements, absolutely. All military personnel do. It just matters which

ones - sorry, the benefits you receive depend on the Act and the circumstances, so you certainly qualify in some way, shape or form in relation to that, but you're not sure which Act actually applies to you at this stage. You're working that through with your advocate.

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**MR HOGAN:** We reckon we qualify under the Australian Veterans or the Malayan Conflicts 1950, 1973, and there are other Acts as well.

**COMMISSIONER FITZGERALD:** Sure.

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**MR HOGAN:** Which we would qualify under, and I'll just get one.

**COMMISSIONER FITZGERALD:** No, don't worry. It's okay. I just want to understand which Act, but if you're not sure of which Act it is, that's fine.

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**MR HOGAN:** Yeah, no, I'm sure. There's also the Veterans' Entitlements Act 1986. There's two.

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**COMMISSIONER FITZGERALD:** Yes, so the VEA, yes, okay. No, that's fine.

**MR HOGAN:** The VEA Entitlements Act 1986 Schedule 2.

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**COMMISSIONER FITZGERALD:** No, that's fine. That answers my question. And of course we do understand that there is a difference in entitlements, depending on whether you're doing qualifying service or not, so we do understand the point that you're making.

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**MR HOGAN:** Yeah. The point, really what I'm after is, you know, we would like to see that qualifying service addressed properly and if there's no good reason why it shouldn't be, and as Roger Wickham has said many times, it just gets - it just gets shoved from pillar to post and people come up with all sorts of reasons why we shouldn't - why, you know, they don't go along with what his recommendations are, and he, as far as we know, he's got more experience in a legal way than anyone else. And no one's ever refuted, officially by documentation, to state otherwise.

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**COMMISSIONER FITZGERALD:** That's fine.

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**COMMISSIONER SPENCER:** Howard, just a quick question. When was the latest attempt to really try and revisit that issue?

**MR HOGAN:** When was it?

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**COMMISSIONER SPENCER:** Yes, this whole issue, when was the latest attempt to really get a reconsideration of it? Is that recently, or some years ago, or?

5 **MR HOGAN:** Yeah. The Mohr - we had a representative at the Mohr Commission and at the Clarke Commission but - my understanding they weren't given much time there to put the case.

10 **COMMISSIONER SPENCER:** So that's some time ago, so there hasn't been a sort of fresh attempt since then to try and get a reconsideration condition?

15 **MR HOGAN:** Not as far as I know. There's been attempts to make appointments, et cetera. We have seen our different MPs but it hasn't gone anywhere.

20 **COMMISSIONER SPENCER:** Can I just go back to your own situation. Engaging with DVA, when did you first engage with DVA about your own claims; how long ago was that?

**MR HOGAN:** My recent health claims?

**COMMISSIONER SPENCER:** Yes.

25 **MR HOGAN:** Very recently, about probably August.

30 **COMMISSIONER SPENCER:** Okay, right. And you mentioned in your submission about the statements of principle, and you'd commented earlier that to date your experience in working or being engaging with DVA has been positive.

**MR HOGAN:** Absolutely, yeah. Yeah.

35 **COMMISSIONER SPENCER:** But you mentioned about the statements of principle. I thought I read that you had some reservations about how they're operating. Do you want to comment on that?

40 **MR HOGAN:** Yeah. Just for example, under non-liability they approved me for mental health, that was okay, but they knocked me back for malignant cancer. Now I was a smoker in the army, I took up smoking in the recruitment training and I was a smoker for a long time, up until I was about 50. So I gave it away 22 years ago. Anyway, I had a kidney removed, because it was cancerous, last - 2010. I've had numerous squamous cell carcinomas and basal cell carcinomas removed from my



legs, arms and everywhere else. But SOPs, you can spend 4,000 hours in the sun.

5 And now a lot of these cancers don't manifest themselves until later on in life, whether it be through smoking, sun exposure. Nobody can pinpoint the sun exposure, when that occurred, but we were exposed to the sun when we were in Malaysia, when we were in Townsville. We finished our last term because we didn't sign on to go to Vietnam, we didn't sign on for - because when we got back to Enoggera they said for you guys to go -  
10 we were going to Canungra on the jungle exercise training, they said, "You - six intake" which was our cohort, "you must sign on for another 12 months". So some did and some didn't.

**COMMISSIONER SPENCER:** So just so I understand. The issue is  
15 trying to establish the criteria, or the criteria itself in the SOPs, you mentioned this figure of 4,000 hours. Is the difficulty trying to establish that?

**MR HOGAN:** I just said something like that. It's a figure. Difficult to  
20 comply - to make - to comply with all that and prove. That's very difficult because they seem to be pretty extreme, and you'd want to be in the army a long, long time to spend 4,000 hours in the sun with your shirt off and your shorts on.

**COMMISSIONER SPENCER:** So your claim has been decided or it's  
25 still - - -

**MR HOGAN:** No, still being assessed, Commissioner, yep.

**COMMISSIONER SPENCER:** Still being assessed, okay. Good. No,  
30 thanks, Harold.

**COMMISSIONER FITZGERALD:** Thanks, Harold.

**MR HOGAN:** I just want to say something.  
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**COMMISSIONER FITZGERALD:** Very briefly.

**MR HOGAN:** Well I will be very brief, because I did write in when they  
40 knocked me back - I did apply for qualifying service. So I contacted the person in DVA and said "Why did you knock me back. Why did you not approve my application?" and she said, "Well, you didn't qualify". I said "Yeah, well". She said "That's" - well I said "Well what makes you think that?" She said "Well you went to Butterworth". I said "No I didn't", but  
45 when you have a look at the records it says "Went to Butterworth", and

then on 16 May '67, "Went to Butterworth, deplaned. In plane at Sydney", and then after that it's got an entry "Now 4R unit. No location." So Defence do a lot of that. Their records are shocking, absolutely shocking, incomplete.

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**COMMISSIONER FITZGERALD:** All right.

**MR HOGAN:** That's the best - that's the best word I could say.

10 **COMMISSIONER FITZGERALD:** Well thank you very much, Harold, for your presentation, but also for your written submissions, and we very much value you drawing that particular matter to our attention, so thank you for that.

15 **MR HOGAN:** No, I thank you, Commissioners. Thanks for the time. Appreciate it.

**COMMISSIONER SPENCER:** Yes, thanks very much, yes.

20 **COMMISSIONER FITZGERALD:** Good. Thanks, Harold. Can we have Jay Devereux? Jay Devereux?

**MR DEVEREUX:** Thanks.

25 **COMMISSIONER FITZGERALD:** So you just grab a seat in the middle.

**MR DEVEREUX:** Thank you.

30 **COMMISSIONER FITZGERALD:** Good. If you could state your full name and, if you represent any organisation, the name of that organisation, please.

35 **MR DEVEREUX:** Ah, yes. My full name is Jason Devereux, and I'm the founder and CEO of the V360 Australia Ltd.

**COMMISSIONER FITZGERALD:** Terrific, thanks. If you could just make a brief opening statement. Do you go by Jason or Jay?

40 **MR DEVEREUX:** Jay.

**COMMISSIONER FITZGERALD:** Thanks.

45 **MR DEVEREUX:** Only my mother calls me Jason.

**COMMISSIONER FITZGERALD:** That's all right. We'll stick with Jay.

5 **MR DEVEREUX:** Thank you. Look, as I said, I'm the founder and CEO of V360 Australia. We're commonly called Veterans 360 as well. Look, I'm here to make comment in respect of some of the talk that's been out there from the report lately, of, I guess, integrating DVA into Defence, and to suggest that I think the reformation of DVA that has been undertaken under Liz Cosson's stewardship should be given a much bigger  
10 opportunity to succeed than we have this far. I've seen a great deal of change in DVA since about April of 2015 when I first started working in this area.

15 Our organisation is a very different organisation to what Australia's seen in the past. We're a very dynamic and proactive organisation, and we deal with veterans, and let's say the - probably the smallest percentage of veterans that end up in quite critical situations. So that situations could be homelessness, drug and alcohol, and other addictions, including gambling, having come into contact with the criminal justice system and,  
20 unfortunately, from time to time people experiencing suicidal ideation, and indeed, unfortunately, individuals that complete suicide.

25 It's my position, and the position of those that I work with, the Department of Veterans' Affairs didn't prepare adequately at the end of what we might call hostilities from Iraq and Afghanistan. It think that that falls on the Repatriation Commissioners at the time, who, in my view, and it's my personal opinion, could have had an opportunity to take a look at the amount of claims that would be likely to come in and how those might be better managed, how they could prepare for them with staffing levels,  
30 training, and other areas of, you know, adequate support. They certainly did a very good job in a number of cases in employing or engaging deputy commissioners around Australia that were well-versed and experienced in their work, and I've met a lot of those deputy commissioners and have a great deal of praise for them. I do note one who is here today, but I do  
35 think Peter does an excellent job of running Perth.

40 Look, there's a lot of difficulty in the work that we do. It's very high risk work and the Department's quite open about acknowledging that. It's also very high reward when we succeed with clients, and this far we've dealt with 393 veterans and their family members, and those presentations have been right across the board that I mentioned before, from homelessness, destitution, alcohol and substance abuse, criminal justice and mental health interventions.

I never served. I'm a civilian. My only work within the Commonwealth was at the Reserve Bank of Australia in Adelaide, where I headed up a security team there, and I was quite shocked when I found out that we were seeing service men and women who were leaving service, whether or  
5 not they'd served overseas, and they were finding themselves in these states of destitution. I was a believer that every man or woman that served overseas would return to Australia, somebody would meet them at the airport gate and hand them a Gold Card and a shake and say "Good on you, digger", and sent them off into a world of health and happiness with  
10 pensions and all the things that abound. The stark and shocking reality of that is, you know, one of the reasons we're all sitting here today.

That doesn't happen, and indeed it's an arduous task, and to get to that point I think that in the time since World War I and World War II, and  
15 more recently with Vietnam, we've had ample opportunity to have a look at what can and could be done - I'm reticent to use the word "should" - and what has been done in the past to assist our veterans to make the journey between service life and life back in the civilian community. I do not like the word transition. I think a lot of people have a problem with that word.  
20 We're not transitioning people at all. We might perhaps transition them into a military life, but we're then reintegrating them into our community, especially those that have joined young and those that have, you know, difficulty with things that we take for granted, perhaps financial literacy, dealing with connecting power for your house, in fact going and looking  
25 at a house that wasn't handed to you by DHA.

So, I have a look at the historical events from World War I and World War II and what we're seeing today, and I'm astounded that our larger and more prominent ESOs, ex-service organisations, haven't organised  
30 something nationally that addresses these issues of dereliction, for want of a better word. There have always been reports of alcohol and drug problems in the veteran community post-service, homelessness, starvation, you know, very low levels of employment in some subset, and again I'm surprised and shocked that it took until 2015 for a bunch of  
35 people to get together and say "Hang on, this doesn't look right. What can we do to improve it?"

Now, at that time it's fair to say the chief operating officer of DVA, who was not Liz Cosson - her predecessor, Mr Carmody - sat across from a  
40 desk with myself and a current serving Warrant Officer, Michael Spring, and said the DVA will never be in a position to fund our operations and organisational mission. We didn't take that as not prepared to, we took that as undercurrent auspices "We cannot", which was a shock to us, and for those of you who know me, somewhat of a challenge, which I  
45 accepted and I went forward in trying to find a way to make that work.

The fact there was no boots on the ground operation that was being funded by the government to help these individuals was scary to me. We had, at that point, seen a spike in veteran suicides that was off the charts.

5 We see a lot of blame placed on DVA for these suicides and for these areas of dereliction, and I think some of it is warranted. I think that a very small part of it is warranted, though, because we are in a new paradigm, we do have new personalities and personnel to deal with. There are, in some areas, high degrees of expectation. I don't use the word entitlement because I think if you're prepared to sign that line that 97 per cent of us aren't prepared to sign, and you're prepared to give your life in defence of your country, then there are entitlements that should be used in a positive sense, but there are some people that get confused and concerned about what those things look like.

15 When we see a lot of people that - in the civilian community that fall into drug abuse, alcohol abuse, domestic violence issues, all those sorts of things, that haven't served, there tends to be a bit of an attitude of casting them aside and leaving them to deal with the services available, and there are billions of dollars put into those services in the community every year. There are not billions of dollars put into those services in DVA. With the recent - I think in 2016 the heads of DVA got together and thought out a very good plan with the non-liability health, and they found themselves being able to assist anybody who had done one day's full-time service.

25 Prior to that I had a case of a gentleman who did two years and ten months of a three year enlistment, had massive problems with his mental health. Because he was two months short of three years' service he was unable to access that DVA assistance, and indeed we put that case forward to Minister Tehan at the time as a - sorry, he then did six years in Reserves with Commandos, so he certainly had a lot of time in service, and he's now, thankfully, got a Gold Card and he's being well cared for.

35 What we have seen come from what DVA have started to develop I think is a progression on what we've expected from then in the, say, decade before, and I do believe that, given another three or four years, they're going to be able to get their electronic systems aligned, which I think at the moment are a bit of a quagmire, and they're going to be able to get their personnel aligned. Now, I go back to saying that I think we could have done this better had we prepared earlier, or had DVA prepared earlier, but they are playing catch-up and, to a larger degree, we're seeing with our clients coordinated case management in those others areas of integration and advancement within the Department, the social-work teams that are following up, the now-called Open Arms have a case management process that they're able to integrate, so we are seeing these

changes, and unfortunately everything in government does take time, and these wheels turn very slowly, but we're on the ground, we're seeing these individuals, and we're seeing the changes very, very quickly.

5 I think that when he have a look at our demographic that we've dealt with, we're seeing a lot less suicidal ideation caused by frustration and not being able to access benefits, and certainly the Veteran Payment has alleviated that in a massive way. Again, I could sit here and talk for hours about cases and individuals, and people. Again, Mr King, on a Saturday  
10 afternoon, has taken a phone call and approved healthcare for somebody over the telephone when they've been in crisis. I think that if we were to put this into a DoD model, I think we're going to alienate the people who are suffering the most, and those are people who are perhaps medically discharged, who see that they've been broken by Defence and sacked for it. Then we're going to ask them to walk into an office with somebody  
15 who, to them, might represent that decision having been made.

**COMMISSIONER FITZGERALD:** Sure.

20 **MR DEVEREUX:** And they're going to have the uniform, and all of those areas that I think are going to push some people away and are going to make some people feel uncomfortable, and I could speak to the DoD - flaws in the DoD.

25 **COMMISSIONER FITZGERALD:** No, no, but I'll come back to that. So is there any other final comment you want to make, just so we can then go to questions?

30 **MR DEVEREUX:** Look, I think the last thing that I'd like to say is, we need to make DVA an easier place to approach, work with, and secure outcomes from, and you know, I've seen, if you have a legitimate claim, DVA will work with you and they'll process that as best they can. I think we need to have one piece of legislation that covers all veterans that are still alive.

35 **COMMISSIONER FITZGERALD:** All right. Well thank you very much for that, and thanks for your perspective. Can I ask a couple of questions, first in relation to V360? Are you currently funded by DVA?

40 **MR DEVEREUX:** We do receive - very complex - we do receive some funding, yes.

**COMMISSIONER FITZGERALD:** Is it a block grant or a grant.

45 **MR DEVEREUX:** No.

**COMMISSIONER FITZGERALD:** Or is it an individual service fee, or service-related?

5 **MR DEVEREUX:** So, basically what we do is, we put the money up for an operation. We will get a call, for example, today. We could be flying to Sydney tomorrow to assist a veteran who's in crisis. The expenses that are incurred are then proved back to DVA and those are reimbursed, and we provide a report of that service to DVA, for which they give us a fee.

10 **COMMISSIONER FITZGERALD:** So it's on an episode by episode basis, effectively?

**MR DEVEREUX:** Yes.

15 **COMMISSIONER FITZGERALD:** Do you believe that there is a better funding model that should apply to an organisation?

**MR DEVEREUX:** Yes, sir.

20 **COMMISSIONER FITZGERALD:** And what would that be?

**MR DEVEREUX:** That would be a block funding model. I believe that our biggest problem is I'm one man, and Craig Long keeps pointing that out, but I'm one man, and I can't keep doing this forever, and I think that if I were in a position to take this model, be able to employ other staff members, and we're not talking about a huge amount of money in comparison.

30 **COMMISSIONER FITZGERALD:** Sure.

**MR DEVEREUX:** We're talking probably \$500,000 for two years, and be in a position to be able to have really comprehensive case management teams working in conjunction with DVA and getting these people a lot better outcome than just the tip of the spear, critical Band-Aid stuff, and then handing them over to other organisations.

**COMMISSIONER FITZGERALD:** Sure.

40 **MR DEVEREUX:** Which does work for the majority of people, but not all.

**COMMISSIONER FITZGERALD:** Have you proposed a change in the funding model to DVA in recent times?

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**MR DEVEREUX:** In writing?

**COMMISSIONER FITZGERALD:** Generally, yes, in writing. Not yet?

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**MR DEVEREUX:** No. I've done it ad nauseam verbally.

**COMMISSIONER FITZGERALD:** The reason I'm raising that is, we actually believe that there is a - part of the problem in the Veterans' Affairs system is that one element that exists in all other human services doesn't exist in this area, and that is the funding of community and human services in a contemporary way. The whole system is skewed to benefits, pensions, entitlements, and the rest of the world's moved on to actually saying it's actually about outcomes for individuals.

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**MR DEVEREUX:** And well-being.

**COMMISSIONER FITZGERALD:** And so most of the ESOs are still talking about benefits and the rest of the world is actually talking about outcomes, and the Department operates in the same way. So one of the issues for as has been, how do you realign to actually deliver good outcomes for veterans, not just with benefits, and one of the things we're looking at it, how do you use non-government organisations to achieve that? So that was the purpose of my questions. It's actually an area that we are looking at. We're not going to be prescriptive about that, but it is an area of significant weakness in the Veterans' Affairs area, and it is in complete contrast to what we're seeing in the rest of human services. So, it's not just about better administration of benefits, it's actually that area.

Can I clarify just a couple of things, because I know it's been said by many? The only part of the whole DVA that we were saying goes into Defence was policy, nothing else, so we weren't proposing a takeover by Defence, and we weren't proposing a DoD model, and in fact quite the contrary. We say that there should be a commission which is purely for veterans, directly responsible to the Minister, with its own set of commissioners, and not reportable to Defence. Somewhere in the media - or it's been interpreted that we're moving into Defence. We're absolutely not, but we are saying about the policy, and we understand nearly everybody opposes what we've recommended in that area, and we'll look at that genuinely, and I'm sure in the next couple of minutes we'll hear some comments about that as well.

But can I just ask this question? We fully understand and appreciate the Veteran Centric Reforms, and in fact there's a chapter in a report which extols its virtues. We agree that the VCRs should continue to be

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implemented through to the mid 20-21s, and we support that view. Ultimately we, however, think the structure is not appropriate to deliver the long-term best practice compensation schemes going forward, and we've looked at other models for doing that. Can I just ask this question of you? In terms of the clientele you're dealing with, what is the single most important things that have changed, are changing, need to change, to actually improve them, because you're dealing with those people that are doing it very tough?

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10 **MR DEVEREUX:** Yes.

**COMMISSIONER FITZGERALD:** Traditionally, probably, at that - well, you know, the lowest point in the food chain, if you can use that expression, for getting services and supports. So that is it, do you think, that needs to fundamentally change to prevent people reaching those sorts of crisis circumstances, or to arrest those circumstances at an earlier time?

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20 **MR DEVEREUX:** I think that's a very hard question to answer. I think, if I'm going to be completely honest, some people are going to end up in these situations regardless of their previous career roles.

**COMMISSIONER FITZGERALD:** Sure.

**MR DEVEREUX:** There are some people that have propensity towards certain behaviours and situations and conditions in life. How do we arrest it entirely? I don't think we can. How do we mitigate the risk to people who might not otherwise end up there? I think that we need to have a look at the discharge system. I think we need to have a look at how people are introduced to DVA. I think that we need to address the Chinese Whispers that we see and hear from time to time in the community that put people off both DVA and other organisations.

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40 There's a lot of that sort of curtailing that goes on out there, and I think that, in order for us to be able to feel at peace that we've addressed all of the individuals, that all of them need to be - and I've been saying this for nearly four years - given information at the time of discharge, as well as loved ones given a mirror of that information, of services available, of people available, of numbers of places of situations that "If this, then that", and even if the veteran throws them in the bin, as we do see at those discharge cells, perhaps the mother, wife, brother, sister, or next of kin who's handed that other information will look at something and go "Oh, when he discharged I got this. I'll have a look there."

45 I think it's education. I think it's awareness. I think we need to focus more on letting people know what's available if they do feel - because if

we can catch them - if they feel they're falling. If we catch them before they fall, we're obviously in a better position to balance the outcome, rather than having to go and pick them up and say "Hey, do you need some help?"

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**COMMISSIONER SPENCER:** Just on that, Jay, the - you mentioned you don't like the word transition.

**MR DEVEREUX:** I don't.

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**COMMISSIONER SPENCER:** So I just want to explore that a little bit, because - and maybe there's better terminology around that, but what you've just been talking about struck us in many conversations we've had, the critical importance of doing that well. So, our suggested way of dealing with that is this, you know as the joint transition command, during that period to give a dedicated focus to that whole issue, starting quite early during service and then building up as you get closer to discharge, and then for a period of time afterwards, with Defence being responsible for that. So, what's your reaction to that? Is that starting to meet what you've just described, or do you have reservations? And I suppose it goes back to that word, transition. Is it just simply the word, or is it - what do you see - the way we use it?

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**MR DEVEREUX:** No, I think it's the implication. Yes, I think it's the implication, that it's a very immediate sort of circumstance, and again, I'll paraphrase from a client who said "Literally one week I was working and loving my life in service, and I had a conversation with the doctor about my headspace and I was (indistinct) downgraded and within" - he said it was weeks, he was out, gone, medically discharged, and no treatment, no - and this was not recent. I do note that there's been a bigger incidence of treatment attempts by Defence with some of our clients, but what we're seeing, I think, is the process of "This person is no longer viable as a Defence member, so we're just going to move them out".

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That person may not be viable as a frontline infantryman anymore. That person may not be viable as an air force refueller anymore, but that person may have other skills that they can retain in Defence, and it's my belief that if we find an area - and there have been all sorts of names posited for this - but an area where people that do need that retraining or that second look at life in the Defence Force can have a look at changing their career direction before it's determined that they have to leave.

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**COMMISSIONER SPENCER:** So you would generally be supportive of efforts to really try and deal with that much more proactively, both in service and before discharge?

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5 **MR DEVEREUX:** Absolutely, and you know, when somebody's sitting  
down at the (indistinct), you know, the meeting, and they're lying through  
their teeth about what they saw and what they experienced because they're  
fearful that their career is going to be ripped out from under them, I mean,  
to be that's abhorrent. These guys and girls expect to see and experience  
trauma. Post-Traumatic Stress, in my view, is not a disorder. It comes  
down to a normal part of psychology. If you see something traumatic  
you're going to have a reaction to it. Now, your reaction might be  
10 different to mine, and different to his, and different to other people's.

**COMMISSIONER SPENCER:** Sure.

15 **MR DEVEREUX:** That's subjective, but that doesn't mean that person  
is, from that point forward, undeployable or unusable. It just might mean  
that, as is the case with one of my close friends, who was seven times  
deployed to Afghanistan in 2 Commando Regiment, he had to change his  
job a little. He was therefore more useful in training and able to be  
worked into that position on a more permanent basis than going out on  
20 active deployments.

**COMMISSIONER SPENCER:** One of the issues that's challenged us a  
bit is how does the ADF discharge its duty of care? Quite a strong view  
that we hear back, that the duty of care only goes so far because the  
25 fundamental duty of Defence is to prepare people to serve overseas and do  
things on our behalf, and that needs a very clear and dedicated effort. On  
the other hand there is a view which says, well - and sometimes we think  
we hear this reflected in some of the comments you made about veterans -  
"They broke me and then they just cast me aside".

30 So, we're trying to really think, how do we both encourage and make sure  
Defence is more accountable or responsible for what happens during  
service, because in - if you look at the continuum from the beginning of  
service right through to the whole of life, in a wellbeing model, obviously  
35 you start with prevention. It's not possible to prevent all injuries, and in  
fact that would be, you know, arguably a failure to prepare properly for  
what they're going to encounter during service and deployment.

40 So, from your experience of dealing with the clients you have, what - how  
- or what thoughts do you have about - within Defence, with the ADF -  
their responsibilities for what happens early on in this process, and how  
can we address some of those cultural issues that we hear about?

45 **MR DEVEREUX:** Look, I think when we look at the ADF we're  
dealing with the only entity in Australia that can order people into harm's

5 way. Any other employer would be hung, drawn, and quartered in a similar environment. We need to balance that with the capacity and ability to be able to have that after career and whole of life care. Now, I think that this - again, this is a subject I could talk to for hours, because

10 To blanket statement, I would say that Defence need to have an outside monitoring agency or body, commissioners such as yourselves or people that have got experience in this - in the past - sorry, post-service life and lifestyles and wellbeing, to be able to look at those individuals to be able to formulate with medical professionals their viability for being retained in Defence, or indeed for being moved into other areas, and whether those other areas might include, you know, things like work in DVA. We see a lot of bureaucrats in DVA, a lot of people that I've dealt with in the last

15 that don't have very much of an idea what it's like to really struggle and, you know, yes, some hard times in uni and things like that that might have been brought about by irresponsible spending, et cetera, but you know, really living in the back seat of their car for months on end with a child, or in one case three children, things like that.

20 So I think our biggest area of concern with Defence relies on Defence being prepared to be responsible, to accept that duty of care and what that looks like, and, you know, I really think that unless Defence want to do it, we're all going to be talking to the wind about it. It's a hard question to

25 answer.

**COMMISSIONER SPENCER:** So I think that last point is the challenge for us. Two things have happened. One is the outsourcing of huge amounts of activities within the Defence; it's had a profound change,

30 so - you know, on-base security, catering, movement of people from base to base, so many other things have now been outsourced. So, a lot of the jobs to which a person that has some limitations could be put is now gone. Some might say, however, that's up to the Defence to be creative and work with their outsourced contactors, but it doesn't happen.

35 The second thing is, it's not at all clear, and I want to be clear about this, as to whether or not Defence - we hear this two versions: one is that there is a growing propensity within Defence not to want to keep people that have been injured, and that is countered by other views, and certainly

40 Soldier Recovery Centres and what have you are very active in trying to rehabilitate people back into service or duty. So that second part is much more contentious, but the common story at the moment is that very few people think Defence is proactively trying to restore people to duty once they get to a certain point. Now, it's very hard to verify that. So, the

45 question then is, in the absence of being able to change the way Defence

operates, then what do we need to do, and that's really where we come back to DVA or whatever version we have of that.

5 **MR DEVEREUX:** And NGOs and, you know, being in a position to be able to fill those gaps, and you know, gaps is a word that was used a lot in our inception and in the genesis of our organisational role, certainly what DVA was most interested in. They wanted to actually see the lived experiences of individuals and understand what happened between that point of being told "You're leaving", even before they were discharged, 10 being told that "This is your only option". What happened between then and today, when we're looking at this situation, and I think it's going to be something that unfortunately is going to take some time to resolve and for people to move forward with.

15 I believe - and look, I have to tell you, I have criticisms of DVA in many areas, but when I look back at what has changed in the last three-and-a-half to four years - those in the room that know me know I'm not prone to hiding my own truth - I've seen massive change, and I think that we need to give that an opportunity to get some more momentum, and I think that 20 Defence - look, I think that the way they're looking to transition people, in their words, at the moment, we're going to see a lot more failures and that continuum is going to rise, and I see another five to seven years before we start to plateau and people start to learn from the evidence-based outcomes that are being produced by organisations such as us and others working in 25 this critical space.

**COMMISSIONER SPENCER:** So, can I just take that last point? We are unashamedly about outcomes.

30 **MR DEVEREUX:** Yes.

**COMMISSIONER SPENCER:** And it's a very important refocussing of Veterans' Affairs and generally, as we are in the human services area more fully. So if I can just take that evidence-based, one of the things that is 35 not able to be criticised in our report is the fact that DVA, particularly with (indistinct words), are not outcomes focused. There's no information systems that allow them to manage that, the outsourcing takes place without appropriate oversights, and there is very little feedback loop so that anybody knows whether they're actually getting the outcomes we 40 desire, or for the value we desire. Now, those matters are uncontested and they've been subject to review after review after review.

45 So the question is, do you - what is it, do you think, that could bring about a change whereby we can actually use evidence to inform policy? What is it that's missing? Is it the collection of data, is it - what is it that's

fundamentally missing? And I've got to make the point, this has been subject to numerous reviews. It's not the Productivity Commission suddenly coming in.

5 **MR DEVEREUX:** Understood.

**COMMISSIONER SPENCER:** Every review has said the same thing, over many years, so.

10 **MR DEVEREUX:** Look, I can anecdotally speak to this. The reports that we started writing - and we discuss our reports with our veterans and make sure that they're happy with the content that's going to DVA. We're very detailed, very, very detailed, from the beginning of our discussions and dealings with them through telephone, or getting consent forms  
15 signed, right through to the outcome that we have a look at at the end of our engagement with them, and I think I've had about six renditions of our report document revised and sent to us, to make it shorter and easier to - or faster to read, and in continually refuse to use those documents because it doesn't tell the story of the veteran's passage from that point to this point,  
20 and I think if we're going to inform policy we need to look at those individual stories. We need to have some sort of an understanding, broadly, of what people experience and zero in on those experiences, to have a look at the person's story. We don't see enough of an individual story being told, and we don't encourage, I think, enough people to step  
25 up and say "Yeah, I've had that happen too".

**COMMISSIONER FITZGERALD:** Can I just ask one question, then Richard might have it, and then we'll conclude? Does your service have much interaction with the rehabilitation programs or services being  
30 offered as part of the DVA services?

**MR DEVEREUX:** Yes.

**COMMISSIONER FITZGERALD:** We are looking at rehabilitation,  
35 both in Defence, but in particular in the veterans' area - post-service for veterans' area - so any insights I relation to the way in which that rehabilitation service program is operation.

**MR DEVEREUX:** Look, absolutely. I think - and this is my personal  
40 opinion - I think it's costing a fortune and I don't think we're getting great outcomes. I have dealt with many rehabilitation providers that have come to us and said "Oh, we only wanted you to get this man housed", and I say "But he's a raging amphetamines addict. We can house him all week long. We're not going to get the outcome that we need for this gentleman by  
45 dealing with his underlying problems." "Oh yes, let us worry about that."

5 So, I feel that there - and I think you spoke to oversight before. I've been an advocate of oversight, indeed for our own operations, for some time. we are often criticised by individuals that have an agenda and we welcome oversight. We welcome that sort of interaction and we welcome that sort of model.

10 I think - as far as the majority of the occupational therapists and rehabilitation providers that I've dealt with have been excellent. They've been solutions focused. They have been happy to work with other organisations to look at other aspects of their program and how they can interact with newer or more contemporary ideas, and I just think there needs to be perhaps a division within DVA that manages that more comprehensively, and much more personally. There needs to have that - that contract manager that we've got with DVA is in Canberra. We can speak to her on a daily basis. She's a clinical professional. She's able to help us guide and advise, as well as put us into touch with other services we might not be aware of.

20 **COMMISSIONER SPENCER:** Just a quick comment. I mean, it comes - this thing comes up quite often, about what is current performance, improved performance, or what is system change that's needed, but whether it's the Veteran Services Commission, that we've talked about, or if DVA is continuing to play this role, what struck us, and I think it's come up several times in the comments you've made, is - and 25 it's not a criticism of the people in DVA, but it's the skill set, capability and experience of the people who are asked to administer the scheme, and I think the common theme we hear is that needs to be at a significantly higher level around key issues like mental health than perhaps is there at the moment.

30 So would you agree with that and think that that would be a contribution we could make to explore that a bit further, about what sort of capability and skill set is needed to really run a contemporary best practice evidence-based scheme?

35 **MR DEVEREUX:** Absolutely I'd agree with that, and I think that one of the things that I'm seeing now in our first full-time year of the contract is, there's a lot of emphasis placed on administration, as well there should be with taxpayers' money. The comment was made to be the other day "It's 40 not about the amount of money, it's about what the invoice and receipts look like", and I thought that's a pretty bizarre statement to make, because for us it's got nothing to do with invoices and receipts, it's got to do with the veteran and their outcome.

Now, I think that is probably isolated in that particular field, that accounting area, but I think there's a lot of emphasis on risk aversion, risk management. We want to make sure the government doesn't get sued because of this or because of that when we're using other organisations to do that work, and I'm sure that that's studious and diligent to a point.  
5 When you've got organisations that are innovative and are bringing new plans and new solution-focused programs to the table, we need to sort of sit back and take a look at that with fresh eyes, and look, I think the skillset of the people needs to be broadened.

10 I'm seeking to sit down with people that work in our area and to share with them what we do, and to get that feedback from them about what they do, and how we can look at being a party to the same sorts of outcomes for veterans, albeit doing it in our own individual ways. I don't think you're going to get cohesion in the veteran community across the board ever, but  
15 I do hope that we find a way to mix what's available through DVA, lighten up some of the funding opportunities, and to train their staff. I would love to take DVA staff on the road for a week. I think they'd have a big week afterwards.

20 **COMMISSIONER SPENCER:** Right. Thanks, Jay.

**COMMISSIONER FITZGERALD:** Well thanks very much, Jay. Thanks for that contribution, and we look forward to any other comments  
25 you might have during the next month or so. Good, thank you very much.

**MR DEVEREUX:** Thank you, gentlemen.

**COMMISSIONER FITZGERALD:** So look, we might just take a  
30 5 minute break. Then we're just changing the order a little bit. We're bringing Peter Larter - is that right - first, and then we'll go to Rick and to Geoff Chaffon. We're on time, so - but we've just got to make a change to that order, if that's okay. So just a very short break. There's tea and coffee out there. Bring that back in and then we'll continue on with Geoff - with  
35 Peter.

**SHORT ADJOURNMENT** [10.38 am]

40 **RESUMED** [10.45 am]

**COMMISSIONER FITZGERALD:** So we might just resume and very  
45 happy if you keep going and you're able to get to your coffee if it's there.



We'll start this session with Peter. If you could give me your full name and the organisation you represent.

5 **MR LARTER:** Yeah, sure. My name is Peter Michael Larter, advocate for the Special Air Service Regiment and here today not only as an advocate for the association but more purposely is about my personal views on a particular recommendation there as well, so it wouldn't necessarily be the whole SAS Association. I think there's independent SAS reps from different states making a comment.

10 **COMMISSIONER FITZGERALD:** That's fine. And Peter, if you could make just a brief opening statement, that would be terrific.

15 **MR LARTER:** Yeah, sure. Thanks for the opportunity for me to be here today and to accommodate my needs, considering my current employment, so appreciate that. The main part is to talk about the impact of recommendation 17.1 and what it has on dual and tri eligibility veterans and how that would go. And there's some positives and some negatives and I'd just like to explore that in detail a little bit more.

20 **COMMISSIONER FITZGERALD:** Sure. Please.

25 **MR LARTER:** So the main one is, is you've talked about moving the Veterans' Entitlement Act into scheme one or scheme two. The difficulty I have at the moment with this is that in the last probably two decades I'm dealing specifically with people with dual and tri act eligibility. So, when you look at a veteran and their needs it's quite easily to look at - the best footprint would be to put them under SRCA or DRCA incapacity payments and put them back in the workplace. There is psychosocial benefits there, there's a whole range of - you know, the government gets tax revenue, et cetera. But their body is hurting and there comes a time when those injuries or illnesses will get worse. Under the SRCA/DRCA incapacity arrangements at a time and age that income ceases. There is no income for them and any of the incapacity payments they are receiving is not superannuable. So they're not actually saving for that as well. And if they are on incapacity payments to a point where they're not working at all and their injuries stop, they're only on 75 per cent of their former income. So it's hard for that veteran to save money. There's no superannuation going. It's post-retirement. You've actually got a financial need there, and that's where a lot of the stressors I'm seeing right now with those individuals in that case, that particular case.

45 The general transition for a veteran that has eligibility under both of those Acts and we're just omitting MRCA at the moment, is the fact that as an advocate, and I'm quite transparently with you, you would guide that

person to incapacity payments, live a fulfilling life and at some point, depending on their doctors, their injuries will come worse, will come out, and they will transition over to the Veterans' Entitlement Act for a special rate, TPI. That would be the best way for that veteran to sustain long-term income. And if you're looking - now, there's some provisions there, of course, and there are stand-alone test ramifications there that must be satisfied - but if you look at that soldier and especially, I can only talk on behalf of SAS guys, they have a lot of injuries and each injury on its own would satisfy any test for permanent impairment, okay. But you're looking at co-morbid conditions, whether mental or physical. So you try to - if I look at a guy and I say, "Okay, you're 35 years of age, you've been shot up or you've survived a bomb blast and there's maybe early signs of depression, PTSD", I'm all for the rehabilitation and get them back in the workplace as best. If you steer that person to TPI, it's a 35 year old, that is not going to be good for that person at all, and certainly you know it's a drain on the financial services of our government as well. So it lends itself to steer that person to rehab. Get them back into some form of gainful employment, and the provisions there in our government, how DVA deal with it are actually pretty good. I think they're pretty good. The legacy there is what happens after retirement age for this person? So that's the strategy for tri act, dual act.

Now your recommendation 17.1 specifically says that, for example, those on VEA special rate disability pension and prima facie would be covered under scheme one. For veterans on incapacity payments they could be covered under scheme two. Their existing VA benefits would not be affected. But under a dual act, a person will be affected. It will most certainly will. If you're going to make that person have a decision, that's the dual act, and you're going to make them have a decision, are you going to choose under DVA or SRCA on your most primary condition? It's very, very difficult for that person to do that when they've got conditions under both acts, which on their own satisfy a permanent impairment. So, therefore, that veteran is seriously disadvantaged under this model and this recommendation.

If we look at the MRCA, special rate disability, SRDP, it is the most highly taxed entitlement because it takes into account any incapacity and permanent impairment. So as an advocate, and you look at a veteran, it's not the best scheme or the best facility to put that person under SRDP. And that is one of the reasons why you've got such a low interest in that. Okay. So under a MRCA client yeah, of course, incapacity payments, it's a good scheme, why not. But at the time and age there is nothing for that veteran. All entitlements, apart from physical care, but income-producing ceases. And there's a real legacy there and if that's seriously not addressed, when those veterans reach retirement age I really believe we're

going to have an increase with the stressors created and potentially for self-harm, and hopefully not suicide.

5           **COMMISSIONER FITZGERALD:** Okay, thanks Peter. You'll appreciate that many people called for one act. Some people have called for the three acts to stay. We've come up with a proposal, and thank you for paying attention to that proposal. Ultimately our aim, if it is able to be done, is to get people into one or other scheme. The second thing is what exists in each of those schemes, so your comments are interesting. Can I  
10 just understand this a little bit though. A person under MRCA, for example, can either take a lump sum payment in relation to the impairment or a pension.

15           **MR LARTER:** Yes.

**COMMISSIONER FITZGERALD:** Under DRCA they take lump sum payments, I think it is.

20           **MR LARTER:** Yes.

**COMMISSIONER FITZGERALD:** We are discovering that most people are taking lump sum payments. And so, in a sense, people are choosing to take lump sum payments instead of periodic payments or pensions under MRCA, and under DRCA they take lump sums anyway.  
25 So for those people, as their impairments increase, they're able to top those lump sum payments up until they get to a state of permanent disability, using my language.

30 Can I just talk about that aspect, putting aside incapacity for a moment. Those two schemes, we're looking at what that payment should be. If we merged DRCA and MRCA we say what should that payment for impairment be, and we've sought comment on that and undoubtedly people will give us some views about that. But is there anything fundamentally wrong in relation to that aspect of the schemes under  
35 MRCA and DRCA? Yes, you're right, it encourages people to return to work where possible, but at the end of the day it also does recognise if the injury is permanent and it's going to be sustained over a period of time, there's a payment.

40           **MR LARTER:** Sure.

**COMMISSIONER FITZGERALD:** And I'll deal with incapacity in a moment. But is there anything fundamentally wrong with that, for  
45 younger veterans going forward?

**MR LARTER:** Essentially I don't think so. To understand that the DRCA component, you can gain incapacity payments and not put a lump sum in, or you can get a lump sum and not put in incapacity payments. I think they're actually two different things. One's loss of employment, the other one is payment. So under MRCA it's combined, they have a choice. So whatever scale you use I think that's sound. You know, you generally put a claim in for those conditions, you would receive back from DVA what it is, and that person has a choice then, and you would steer that person to financial advice to make that decision. I think that's sound in principle and don't have an issue with it. But the underlying factor is that does cease over time.

**COMMISSIONER FITZGERALD:** So the issue is, can I just clarify, and again I don't want to discuss the actual detail of it, we will look at it. In relation to incapacity, the concept of incapacity is the inability to earn income during - that you would otherwise have been able to earn. Just in its simplest term, incapacity. So it's a substitution for income that you would otherwise have worked for, from work. The concept behind that is that it does stop when you would retire. It does come to an end. So the notion of incapacity is actually a substitution for work. And so when you're coming to an older age, like many of us in this room are, or have got there, in no other scheme would incapacity payments continue on. They would stop because your working life has stopped.

**MR LARTER:** Totally agree. Yeah.

**COMMISSIONER FITZGERALD:** So can you just explain from your point of view why that needs to change.

**MR LARTER:** Yeah, sure. So the incapacity as well for a defence member would be - a lot of the time it's - it can also be top up payments for the income that you're normally earning in that - your normal weekly earnings that you're in the Defence Force. If you're in civilian employment it's less, so we understand it's just not wholly the income, it can also be the top up. So if we appreciate that, and I wholeheartedly agree that at the time and age incapacity stops. Where the gap is, is what happens after that, to that person. So if that veteran is given an election and said, "Okay, you can get a fortnightly pension for life, or you can get incapacity payments", that is a financial decision and it's a bit of a roulette wheel isn't it, like, "How long am I going to live after retirement, and which one is better for me?", and that one is you don't know. The difficulty with not having any income-deriving pension that's suitable enough after retirement age for service-related injuries, the fact that people make elections to go into that potentially, elections to go into that

long serving pension well before they're actually probably due for it or willing, and that's the risk factor right there.

5 **COMMISSIONER FITZGERALD:** So the question for us is just about choice, if I can just use that. When I come to the end I will have to make a choice in relation to my super; whether I take a lump sum payment, part lump sum or an ongoing pension. And every citizen in Australia will make those sorts of decisions depending on the funds they're in. Why should it be any different for ex-service personnel? Why should we not  
10 simply allow them to make a choice? Now we know that some people make poor choices, that's true. Richard and I will make various choices. So the thing we're grappling with is there are some people I'm sure in the room who think they should all be pensions; pensions are the only way to go. But the rest of society doesn't want to operate on that basis, it says  
15 choice. So I want to just explore with you, I'm not critical of what you're saying but I'm only saying in the rest of society we say "you choose".

20 **MR LARTER:** Yep. So you're sort of categorising, I think, down, from what I'm hearing, is down the MRCA pathway. I'm okay with the concept of MRCA, it's an elected choice. The problem with MRCA is the fact that the SRDP is not advantageous whatsoever because of tax implications.

**COMMISSIONER FITZGERALD:** Correct.

25 **MR LARTER:** It's like 62 per cent. It's the most highest taxed ever, if you elect a lump sum, et cetera.

**COMMISSIONER FITZGERALD:** Correct.

30 **MR LARTER:** Right. So there's no incentive there. So your statistics on that one are going to be very, very biased, for a better word.

35 **COMMISSIONER FITZGERALD:** Well they're very low, as you know.

40 **MR LARTER:** Very low, yeah, and that's the reason, it's not an incentive. Even an advocate, you wouldn't advise someone down that pathway. So if we put that aside and those tax, so for example permanent incapacity wasn't part of the tax, you're going to have a more realistic view of someone going to make a decision, and that goes back to the decision, do you take a lump sum, incapacity or the ongoing life pension. If that happens that is sound, purposeful and it will probably work for the veteran and that's the choice.

I'm particularly interested in the component of the dual act between VEA and DRCA, which is pre-MRCA of course, and the implications of add-on for certain soldiers due to their nature of service when they enlisted and where they got injured, and how would determine what act. For example,  
5 you're going to have a person making a choice now, "Do I stick under DRCA or incapacity payments until retirement and forego my future TPI pension", that's proposing they're eligible for it and DVA accept that claim. That's the real issue there.

10 So post-MRCA I'm okay with, in a sense. So to put it a way for you, if you - the TPI provisions are very sound and have worked for many years for a lot of veterans that are entitled to the TPI. If you took that TPI and put it on the back end and substitute that for the MRCA SRDP, it would be a much better facility for even the government and also the veteran.  
15 Forget the provisions, the extra provisions, I'm talking about the financial fortnight pension.

**COMMISSIONER FITZGERALD:** So it's possible, and I'm not suggesting we do this, but it is possible to change slightly the  
20 arrangements under the DRCA/MRCA combined approach and still only be under one act.

**MR LARTER:** I'm okay with that actually. I think that's very sound, right, and I think - and administration-wise would be sound because you  
25 do add incapacity under MRCA, you do have other similar provisions. It's just the other one, the SRDP, is not an attractive at all.

**COMMISSIONER FITZGERALD:** Well, you will be aware that we're recommending the SoP under MRCA disappear.  
30

**MR LARTER:** Yes, of course. That's right. But what replaces it?

**COMMISSIONER FITZGERALD:** And of course people will say that's a terrible thing but when you actually examine it, it isn't, because of  
35 the reasons you've indicated. But we are open to looking at the design features of the MRCA/DRCA, absolutely, and that's very important. Because going forward, it is the better approach in terms of totality for younger veterans basically, and the government has been of that view since 2004. Without diminishing the importance of the - for those that are  
40 in that at the present time. So we can do that. Richard?

**COMMISSIONER SPENCER:** In addition to that, what else Peter, what else would need to change? Do you see any other issues in the two  
45 scheme approach you've taken?

**MR LARTER:** Yeah, thanks for raising that. It goes on, I mentioned before, the alone test and I'm sure you're very familiar with the alone test. Unfortunately a veteran under the Veterans' Entitlement Act who may claim a TPI pension between now and 2025, it doesn't matter, they may choose to go down the TPI route, and this is someone with dual eligibility. And all of a sudden you've got someone with a back and a head and whatever, it doesn't matter. The DVA will look at your alone test and say, "Okay, but you've got other conditions under the DRCA, so therefore we might knock you out for the alone test". And I think that's really unfair if that condition was service-related. If that other condition is service-related then that should not be the deciding factor to kick that person out of the TPI pension due to the alone test provisions. Because when you look at the history of the VEA and around the alone test, it was the sole act at the time for veterans. So now when we want to include the alone test, I really believe the methodology behind the alone test was a non-service related condition. If a non-service related condition was stopping that person from employment then, sure, the alone test should sustain. But if it's a service-related condition I don't think it should. And there is other ways that you can bypass the alone test legitimately but it's a journey that probably doesn't need to happen really. That's that one.

The other one is, of course, advocates go to the VRB and the AAT and High Courts in there's case law. I'd like to see any case law determination be transparent down, and departments within DVA via this clique or otherwise get updated sooner and that be done. If you are an advocate and you're aware of the particular case law you can use that certainly, but it's not well known - well it's well known that DVA don't necessarily extrapolate that info quickly.

**COMMISSIONER SPENCER:** We've made a number of recommendations, as you know, about that future role of VRB, and there are a couple of principles underpinning that. One is to bring better information earlier in the process and more communication. Some of the things that VRB does in its outreach program to bring that right back to the initial claim process so that more decisions, more certainty and less stress, et cetera. Better feedback of information which perhaps goes to your point of decisions, why they're being made. So when you look at our recommendations around VRB, and there's a particular one that many people aren't that happy with, and that is they will not be a determining body, the ADF or the, you know, outreach process would be the key process. What's your reaction to that? Is that going, from your point of view, to meet the issues you've raised in the right direction, or are there other things we could be doing?

**MR LARTER:** Yeah, I think it's a good topic. In part it does. I've been fortunate enough to have cases go through the alternative dispute resolution and it was really rather seamless, without the veteran being exposed to the threat. In the organisation where I sit I would get a case generally that's already - an initial claim has been put in by somebody else and it's come to me to have a look at. And I can look at something and go, "Well the evidence doesn't sustain and DVA have done the right thing, you know, they've declined the claim for these reasons". And then it depends on what act, you might even do an internal review, but if you go to the VRB sometimes the alternative dispute resolution I think will work in a seamless case that's straightforward. New evidence. I think that process, your recommendation, is sound, it's been tested and it works. Others, I think you still need to go to the body. On those cases if the VRB has the knowledge set to make a determination would be helpful and less stressing for the veteran, because it is quite confronting for some people. Mind you, the advocate won't be legally trained because you can't have a legal representative, so then you're looking at a bush lawyer who's doing his best, but sometimes they have issues themselves and struggle and it's probably not the best foot forward for the veteran in that medium. Though I'm sort of for it in some ways, and I sort of think sometimes it's a disadvantage for the veteran on the other.

**COMMISSIONER SPENCER:** And, Peter, your role as an advocate, you've been doing that for some time, have you, or?

**MR LARTER:** Thirteen years now.

**COMMISSIONER SPENCER:** Right. If I just ask you a sort of broader, general question. In terms of your dealings with the department during that period, we've obviously got the Veteran Centric Reform process underway and we've heard a bit about that already this morning. What progress do you see, what your views and thoughts about how that was going?

**MR LARTER:** Yeah, sure, sure. The 13 year gap started with, you know, learning a little bit, a little bit and you learn more, and I think at 13 years I know a fair bit but certainly not everything, I'd be arrogant to think I do. In that process I've been fortunate to represent the association on the Emerging Issues Forum, a state consultative forum under Deputy Commissioner Peter King that's here. Emerging Issues Forum, Veterans' Younger Forums and a bunch of working groups on PI passive payments and the Veteran Centric Reform. I think DVA allowing ESOs to come and talk openly about that has been excellent. Not everything that's mentioned is accepted but certainly that voice in that room has changed certain elements of policy and I can give you probably half a dozen



examples where that's occurred for the positive. It's slow. It doesn't happen as quick as what we'd like, but there has been policy changes for sure. I think that facility should stay, should remain. I think the advocate world will always challenge DVA. I think that's going to exist and whether it be rebranding the new commission or whatever, it will be challenged and that's our democratic right, I guess, because a veteran might see something different to how DVA see it. And you'll look at the evidence and you'll challenge, and I think that will remain, regardless of how systematic improvements and efficiencies are done, the veteran and their advocate will still challenge DVA, and so they should. I would just like to probably see things where changes are made and happen quicker.

**COMMISSIONER FITZGERALD:** In relation to that, you're aware that the Robert Cornell report has gone to government, which is looking at advocacy broadly defined, and we will reflect on their recommendations. We will be making a distinction between claims-based advocacy or advocacy in relation to claims and then broader-based advocacy and support services. So we'll be looking at that.

The second thing is we actually see a very important voice for veterans and we've recommended a new ministry or advisory council that have representation on that. So the right of the veteran community to be able to express its views in relation to policy is critical and, of course, that should be at the ministerial level as well as at the departmental level or whatever it might be.

Can I just ask this? Many people have opposed our view that policy should go to Defence. That's the only thing we've said that should go to Defence, but we've said that. We did that in order to get an integration between policies in Defence and Veterans, because it's the one person. The person doesn't change, it just changes status, and at the moment we have real disconnect. The remuneration of a serving veteran is related to the compensation that's payable and actually at the moment there's no connection at all, it's like a black line. And so the individual is spliced according to the date of discharge and we've tried to look at a way of integrating that. Now that hasn't been warmly received, and that's okay, we'll have a look at that. But we are concerned that there has to be a much better policy making way that actually travels with the life of the veteran, between the time they're in service and out of service, and that brings us back to this issue of transition.

Can I just talk about the SAS and the organisation you represent. Have you got any particular views, and I know that wasn't part of your submission, in relation to the way in which the transitioning between Defence and post-Defence life needs to be improved?

**MR LARTER:** Sure. In 2017 there was a commencement of the special operation forces pilot program, which is a transition, and I was a part of. And basically it looked at when - from the time a soldier has been injured and what happens from the care to the transition out into the civilian world and carriage of DVA, and that's - it's public domain, public information - the soldiers that I know that have gone through it, it has been reasonably seamless for the fact that once they've been informed they haven't been released from the Department of Defence until such claims have been accepted by DVA, so one, the stresses of income has always been taken care of, and the medical care of course remains with Defence until such time they're stable enough to transition out. Some of course will choose to transition out earlier and that's generally with mental impairment. You can work, I think, if you align, and I know you're aligning in the civilian world, that the employee is responsible for that person's care until such time they're not. And there is that void between when does DVA pick it up, and sometimes DVA is at a loss for information, but that's certainly getting changed now.

I actually personally believe you're on the right track, that Defence do have carriage in policy in the initial stages of someone's care. At such time once that care has been stabilised then, sure, there's DVA or whoever it be takes that carriage. It's too easy. With Defence, you know, you look at it, and I've been there myself, where people are injured and Defence can't wait to get you out because you're a name on a sheet. Until you are moved they can't replace that name on that sheet. And that's just reality, you know, it's money, it's budget. And I've heard it directly from different generals that have said, "Get him out of the unit, so we can get another body and DVA can look after him", and that's not helpful at all.

**COMMISSIONER FITZGERALD:** That pilot that you've referred to, and I think when we were here last there was reference to it in a consultation, do you know whether that's now become a program, or is it still a pilot, or is it finished?

**MR LARTER:** The pilot program has finished, to my knowledge, and there has been successes. The view was to roll it out to the wider defence.

**COMMISSIONER FITZGERALD:** Do you know whether that's occurred?

**MR LARTER:** I don't know where that's at yet, no.

**COMMISSIONER FITZGERALD:** No. Because we heard positive things about that, and you've reiterated that. Is there any final comments

that you'd like to make, Peter? And we will certainly look at the comments you've made in relation to the design elements of that scheme too.

5 **MR LARTER:** No, that's fine I think. It's a tough job. My big one would be any decision you make, any adverse to the veteran will have significant errors for the care of that veteran.

10 **COMMISSIONER FITZGERALD:** Can I make a comment? Our intention is not to make changes that would be adverse to veterans. There are some payments that we think should disappear and there will be arguments about that and that's fine, but in relation to the major areas, our aim is not to do that but it is actually to try to come up with a much better system going forward to the next 20, 30 years, and so we are conscious of  
15 that. Our aim, and if there are significant disadvantages in what we're proposing, we want to hear about that. That's the whole purpose of the draft.

20 **MR LARTER:** Yes, that's right.

**COMMISSIONER FITZGERALD:** So thank you for raising those and we'll look at them. But the aim is not to save money and it's not to disadvantage veterans, but it is to change the system if that's warranted and any unintended consequences we need to know about.

25 **MR LARTER:** Well, that would be that - the initial one with the dual eligibility.

**COMMISSIONER FITZGERALD:** Sure.

30 **MR LARTER:** And it may be a case, you've mentioned there's only 4,000 or so people in that space, but maybe look at grandfathering those ones.

35 **COMMISSIONER FITZGERALD:** Sure.

**MR LARTER:** So they're not disadvantaged.

40 **COMMISSIONER FITZGERALD:** No, we'll look at that. Thank you very much.

**MR LARTER:** Yes, well, thank you very much.

45 **COMMISSIONER SPENCER:** Thanks, Peter.

**COMMISSIONER FITZGERALD:** Thanks. And if we can now go back to the schedule with Rick Ryan, please. Thanks very much for that.

**MR RYAN:** That's all right.

5

**COMMISSIONER FITZGERALD:** And being put out of it. So Rick, if you could give us your full name and the association or organisation that you represent.

10 **MR RYAN:** Yes, Ricky Raymond Ryan, major, retired, and I'm the President of the Australian Army Training Team Western Australian Branch Association.

15 **COMMISSIONER FITZGERALD:** Thank you very much, and Rick, I think we've received a written submission from you or your organisation.

**MR RYAN:** Yes. Yes.

20 **COMMISSIONER FITZGERALD:** So thank you for that, and if you'd like to make a brief opening statement that would be terrific.

**MR RYAN:** Okay, if you don't mind I'll read from this, but what I'll do, I'll pause at appropriate places where I'm sure that you may have something to say if that's okay with you.

25

**COMMISSIONER FITZGERALD:** Easier if you just go through and then we'll come back.

30 **MR RYAN:** Okay, righteo. As you mention, Commissioner, I refer to that after report submission made by our association on 14 December 2018, the day the draft report was released. This was responded to from your organisation but not on the website until I resubmitted the submission on 12 January this year, so I don't know what went wrong there. Anyway, that aside, in that submission our organisation took issue  
35 with the definition and the methodology as used by the Commission in relation to the term "veteran" used in the report.

40 There has been much angst among war veterans since the release of the report and to the definition used. I am sure that the Commissioners would have received feedback on the use of this terminology. There is no doubt amongst war veterans that the Commission needs to redefine this terminology or to ensure that in the acts that there is clear distinction between war veterans, non-war veterans, operational, non-operational, war-like and peace time service whichever way you wish to define it.

45

Also as stated in our submission, it appeared to be the easy way out for the Commission to come up with the definition of "veteran", that is a veteran now being a person who serves one day in the ADF so that all service personnel could be put in the same basket. Maybe the Returned and Services League of Australia should now remove the word "returned" from its logo and just be a services league, and when I refer to that angst amongst veterans, there's been - it's been virtually viral across the veteran community on the internet about that term, "veteran".

5  
10 **COMMISSIONER FITZGERALD:** Well, I might just pause just there for one thing. That wasn't our definition, that's the definition of the Government that's been in place for some time, so in the report we indicated that we would use the term defined by the Government of Australia. We didn't define that, so if it's viral, that's okay, but I want to be very clear, we did not redefine the word veteran.

15  
**MR RYAN:** Okay.

**COMMISSIONER FITZGERALD:** We accepted the government definition.

20  
**MR RYAN:** Well, the government needs a kick in the pants because - - -

**COMMISSIONER FITZGERALD:** So when I saw your submission I thought thanks for crediting something which we didn't do.

25  
**MR RYAN:** Yes, okay.

**COMMISSIONER FITZGERALD:** I'm quite happy to say it's the Government, but I will come back to it later and we'll seek some advice about that.

30  
35 **MR RYAN:** Okay. Righteo. That aside, our association here in WA found that the draft report also seems to be taking the acts to those that come under VEA Act 1986 which particular section being given to the totally and permanently incapacitated veterans and war widows. My comments are directed mainly in the defence of this act. In our submission, we have asked that this act be left to die a natural death. Our reasons are outlined in our submission, but in the main our arguments are based on the fact that this act mainly related to service of Vietnam and pre-Vietnam war veterans and of course service personnel on peace time service during this period.

40  
45 There have been changes through legislation that have been made due to pressure from the veteran community or through government policy,

changes over the years. The reason why I want to refer to, I'm one of the older generation veterans, to the VEA Act 1986 is that, yes, we believe that the three acts are complex, and we believe that those acts, the complexity, within the complexity of those acts they deal with the generations of veterans from World War I to today's service, and I'll just go on, and you'll probably get the inference from what I say here.

**COMMISSIONER FITZGERALD:** Sure.

**MR RYAN:** Your draft report shows that the majority of those covered under this act are now in their later years of life, mainly 70's, 80's and 90's. We of the opinion just to let us live out our last years in peace and cease trying to make change to that act now. As also explained in our submission, the Acts that the Commission are reporting on are complex, but this comes from the change to service life ranging from World War I through to today's service personnel. For those that have served in uniform, we know the varying conditions of service that have been endured over the decades. The ADF has evolved from a poor-paying service career under lousy conditions with questionable clothing, uniforms, et cetera, to now where people have good service pay, good military superannuation, far better conditions than we endured in our day, and I can probably, as an aside, a Vietnam veteran, I think we got about \$1.60, \$2 a day for being in a combat zone as opposed to the allowances which we believe are quite generous for those that now serve in operational service.

Our submission also took issue at the appearance of the attack on the TPI's and widows' eligibility for the Gold Card on the demise of the TPI. Interesting to see that in the past week or so the PM at the stroke of his pen is proposing to give the Gold Card to civilian doctors and nurses that volunteered for paid service in Vietnam, no Acts to define their entitlement but a captain's call by the look of it. The same could be said for Prime Minister John Howard when he gave the Gold Card to those aged over 70 years with qualifying service.

In essence, our opinion is that the Gold Card should be issued to the wife or the partner of the TPI veteran once a TPI pension has been granted, or at the very least, at age 60 years. The Commission fails to see that the dependent spouse/partner often suffers from ailments after looking after and caring for their TPI partner. In the draft report there was an inference that the - and this wasn't from the Commission by the way - that there was an inference that the Gold Card was looked at as being a prize. This is so far from the truth. TPI's see the Gold Card as security that they will be looked after under DVA for all conditions. After all, they have been through a complex system that has finally granted them the TPI pension,

and I'm sure the Commissioner would be aware that it is quite a gauntlet that a veteran has to go through to be qualified for the TPI.

5 They do still have concern that the dependants still have a problem of their own health, management and cost, and see the Gold Card being given to their widow as a worthwhile benefit, but in a lot of cases this is far too late, as the Commissioners would be aware that if you get the TPI at, say, about age 50 or 55 or something like that, your wives and that have probably been carrying the can for quite a while and their health and that  
10 can suffer as a consequence of caring for that TPI veteran and when I say wife, I mean, if it's a female wife or partner.

**COMMISSIONER FITZGERALD:** Sure.

15 **MR RYAN:** I'm sure you understand that.

**COMMISSIONER FITZGERALD:** Yes, I do.

**MR RYAN:** In our submission, we also question the Commission's  
20 attack on a number of allowances. One main concern for the TPI was that the vehicle allowance was seen as being far too generous. The government brought in the measure of removing the GST on new vehicles and spare parts for TPI's. The TPI, of course, still has to be able to afford a new vehicle, and although allowed a changeover after every 40,000  
25 kilometres or every two years, in reality this does not happen. My TPI vehicle, for example, was purchased in 1998 and I still have that same vehicle. I still however do not have to pay for the GST on spare parts which is a small benefit, but there's still a benefit factor we've got. We ask that the Commission leave this benefit alone.

30 I will not make comment on the removal of allowances such as decoration allowance, but suffice to say that those allowances were made in the interests of the recipient. The fact that some never have been adjusted of the CPI, for example, that allowance, the decoration allowance is not a  
35 reason to remove that.

In closing, I refer back to our earlier suggestion that VEA Act 1986 be left to die a natural death. Us old veterans need to be able to live out our final  
40 years in peace and quiet and not have to cope with the nit-picking by various inquiries into benefits for veterans. Most of us have endured war service, fought hard campaigns to get benefits, while the government of the day disregarded us and brought a system through DVA to gain our compensation for our injuries.

45 I thank you for allowing me to have a say.

5 **COMMISSIONER FITZGERALD:** No, no, thanks very much, Rick, and thanks very much for your clear articulation of those concerns, and we'll be hearing from various groups that represent people that are TPI throughout Australia. Can I just cover a couple of things. A very important decision for us was whether or not and how do we deal with these three acts and one of the areas we came to is, we decided we would keep the VEA, as you're aware.

10 **MR RYAN:** Yes.

15 **COMMISSIONER FITZGERALD:** We recognised that because there are many veterans, as you've described, that have, being entitled to that, have been receiving those benefits for a long time, and we do not wish to disrupt those, so we share that view.

**MR RYAN:** Yes, yes.

20 **COMMISSIONER FITZGERALD:** The question for us was whether or not the VEA should, in essence, remain open for new participants or there should be a cut-off, and so we've made a draft recommendation and I'd like your views about it where it cuts off for new claimants somewhere in 2025, mid-2025. From your submission, I presume you're saying that there should be no cut-off, or not?

25 **MR RYAN:** No, I think because of what I mentioned before where you're going through the decades and the generations of service, you can - there's certainly a correlation between the sort of conditions that I served under as opposed to the conditions that people are serving under now, and I can see, in essence I can see exactly what those others Acts are looking at with more on the rehabilitation side.

**COMMISSIONER FITZGERALD:** Sure.

35 **MR RYAN:** And I suppose with their paying allowances and things like that it's more akin to, I suppose you could say, someone in civilian employment that's probably doing a hazardous job and getting paid the right amount of money for it, that appears from us older veterans as what's happening with the veteran of today where they are getting good pay, good conditions of service and when they're in an operational system, yes, they're getting good benefits there as well.

40 **COMMISSIONER FITZGERALD:** So, Rick, do you, sorry, can I just understand, Rick, from your - does your association and yourself object to having a cut-off point for new claimants into the VEA of 2025?



**MR RYAN:** No.

**COMMISSIONER FITZGERALD:** Not in principle?

5

**MR RYAN:** And because of what I've stated there, I find that probably a little bit hard to accept how someone under today's conditions could fall back on that under VEA 1986.

10 **COMMISSIONER FITZGERALD:** That's fine. The second thing is, in relation to those that are currently eligible for the VEA, the changes that we're recommending, there's no changes to the benefits at all effectively.

**MR RYAN:** No.

15

**COMMISSIONER FITZGERALD:** There are some of those allowances, and in fact the eligibility criteria, the definitions remain unchanged. So the only thing we're looking at is whether the statement of principles which should apply across the three acts should have two tests, you know, there's two standards, and some people have said that should stay. One recognises a war like, a non-war like service and others don't so we're looking at that. Your view in relation to that, Rick, would be what?

20 **MR RYAN:** Our view is that that definition of war like and non-war like remain.

**COMMISSIONER FITZGERALD:** For the purposes of the standard of proof under that SOP?

25 **MR RYAN:** Yes, exactly.

**COMMISSIONER FITZGERALD:** Okay. No, that's fine. So we're looking at that and we understand the arguments. There have been previous inquiries that have talked about a mid-point which you actually have one, but it's a mid-way between the two, but I won't complicate this discussion. So this is an area that's been looked at before, and that's your view, it should stay as they are.

30 **MR RYAN:** Yes.

35

**COMMISSIONER FITZGERALD:** That's fine. In relation to the other issues that you've raised about health care cards for widows of TPI veterans.

40 **MR RYAN:** Widows, yes.

45

5 **COMMISSIONER FITZGERALD:** That's a really difficult call that we've made in this report and we expect feedback from it. Can you just explain to me why you think, right at the moment the partner of the TPI does not receive the Gold Card.

**MR RYAN:** Right.

10 **COMMISSIONER FITZGERALD:** Correct. The government has chosen that it only stays with the TPI recipient, the actual individual.

**MR RYAN:** The individual, and then when - once we kick the bucket then there's - - -

15 **COMMISSIONER FITZGERALD:** So - - -

**MR RYAN:** Just, can I just - - -

20 **COMMISSIONER FITZGERALD:** Yes, sure.

**MR RYAN:** - - - add to that point about once we kick the bucket? There seemed to be an inference in the draft report that the TPI, that you are looking at the TPI dying of service-related - - -

25 **COMMISSIONER FITZGERALD:** Yes, conditions.

**MR RYAN:** - - - conditions before the wife received or the spouse or whatever received the Gold Card. We don't agree with that at all. We're under all conditions. Our health varies.

30 **COMMISSIONER FITZGERALD:** I understand.

**MR RYAN:** Our problems with our health vary right to our demise. I'd like to see that knocked on the head.

35 **COMMISSIONER FITZGERALD:** So can I just, can I explore it because it is a difficult area and I know that your association and others will oppose our recommendation. I want to understand it a bit more fully. During the life of the TPI the partner does not receive a Gold Card.

40 **MR RYAN:** No.

45 **COMMISSIONER FITZGERALD:** Correct. So some people would say, well, the logic is that, in fact, that just continues on; that in fact once the TPI, the person passes away, the Gold Card ceases. It was never given

to the partner during the their life. Why would it now be given to them once the TPI partner has died?

**MR RYAN:** Because it's a condition.

5

**COMMISSIONER FITZGERALD:** So just explain that. When you say that, you mean it's an entitlement, or do you believe it fulfils a particular need?

10 **MR RYAN:** It's an entitlement under the VEA Act for the TPI that once he's gone, the wife becomes a war widow and receives the Gold Card. One of our arguments, and I've brought this up with the Minister for Veterans' Affairs on a couple of occasions, and that we believe that the carer or the partner carer of the TPI should receive the Gold Card at an  
15 earlier date.

**COMMISSIONER FITZGERALD:** And I was going to come back to that, so you'd actually extend it to the living.

20 **MR RYAN:** Yes.

**COMMISSIONER FITZGERALD:** But just let me deal with the current - your basis is that it's an entitlement under the act. I agree, it is.

25

**MR RYAN:** Yes.

30 **COMMISSIONER FITZGERALD:** The question is whether the logic behind that is sound. In other words, yes, it's an entitlement, but the question is, what is the reason for that entitlement. So if they're not receiving it when the partner is alive, why should they receive it when the partner is dead? So I'm just trying to understand, not that it's an entitlement, I understand that, but why should it continue in that way?

35 **MR RYAN:** Well, you could probably see it as a repayment for what the partner of the TPI's had to put up over the years. You know, I mean, it's like, to me it's a condition of service. If you're entitled to it, if it's been  
40 legislated that you're entitled to it, that's the expectation of the TPI that once he's gone, his wife's health will be looked after and she'll be on a war widow's pension. That takes a lot of stress off the TPI during his living, his time of living and that, whereas what I'm trying to say is that because we see the stresses that we put on our partners and our kids and things like that, that you know, if the Prime Minister can go at the stroke of a pen and ignore any acts or any definitions that are around and give the Gold Card  
45 to paid civilian doctors and nurses who served in Vietnam, without any

question to any act whatsoever, to me that's demeaning of the value of the Gold Card. And it's certainly not doing our spouses or anything any benefits whatsoever.

5 **COMMISSIONER FITZGERALD:** And you'd be aware that we wouldn't have recommended that anyway. Can I just come to the issue of the over 70s years of age and that was a Howard Government initiative.

**MR RYAN:** Yes.

10

**COMMISSIONER FITZGERALD:** Can I just understand, you're critical of that. Do you think it needs to be changed or do you leave it as it is?

15 **MR RYAN:** Well, once again, that was a captain's call by John Howard, but (indistinct) at the time, I don't know if people in the room can recall back, but I certainly do. But it was more a vote-catching exercise then because it was the time of election, if my memory serves me right. And it got up the nose of a lot of us; TPIs and that in particular, because we've  
20 been through the gauntlet of the complexity of the Act of the VEA Act to be able to get the TPI.

And here you have a Prime Minister who once again, at the stroke of a pen, and that, without any deference to any of those acts, whatsoever, is  
25 handing out Gold Cards willy-nilly. How do you think you as a veteran would feel? You'd think that the value of the Gold Card's been demeaned and that, which is one of the reasons I put in a – many years ago, I put in the proposal through the TPI Assoc. and that, but TPI endorsed on our Gold Card, which was accepted and the TPI has got TPI and his Gold  
30 Card for all conditions.

**COMMISSIONER FITZGERALD:** Sure.

**MR RYAN:** That's how much angst it caused within our association. I'm  
35 talking about the TPI Association, in that respect.

**COMMISSIONER FITZGERALD:** Okay. Yes, thanks. Thanks, Rick. The – I just want to go to the comment you made in the last paragraph of your submission, because we're trying to deal and we've obviously been  
40 exploring it in this discussion, but the complexity of the Acts; we know that creates a lot of confusion and stress and you put in a very interesting suggestion in that last paragraph saying that maybe case officers for veterans could be looked at. One of the comments we've heard a number of times is that the department seems quite passive when approached  
45 about "How do I go about making a claim, what are my entitlements?"

Are you suggesting here that there should be a change within the department, that'd be more pro-active about engaging with veterans and advocates around to assist them in (indistinct) their homes?

5 **MR RYAN:** Well, first of all, I've really got – I've got no complaints with the Department of Veterans' Affairs as such. I think it's a magnificent organisation. I think they're headed in the right direction with this reformation that they're doing or transformation, I think, that's the correct word, isn't it, Peter? A transformation that you're – they're doing,  
10 and that. They're going down the right track.

But the case officer aspect of it within the department, and I don't know how that'd go with the administration process within the department because they've probably got so many veterans to deal with, but I think it'd  
15 be nice if a veteran that was under, you know, a big White, Gold or whatever card under DVA, that they have a person that they could turn to within the department that knew their case if they had – had things to discuss rather than – you hear some people (indistinct) that they'll contact the department, might get referred to Queensland or something like that  
20 and they might speak to someone that they may get on with or then next time they call, there might be someone that seems to be not so communicative with what their problems are. Hence the suggestion of the case officer.

25 **COMMISSIONER FITZGERALD:** And just a quick comment, Rick, about – you mentioned earlier about the difference for contemporary veterans, compared to your experience some time ago, high levels of remuneration.

30 **MR RYAN:** Yes.

**COMMISSIONER FITZGERALD:** Additional allowances on deployment, that kind of thing. Just to – and it comes back (indistinct) sometimes to this issue of distinguishing between an injury in war,  
35 war-like or peace time service. And as you know, we're coming from a point of view which says an injury is an injury. But the question of whether being in war or war-like situations, should be recognised in a different way, goes to the comment that you made that today that is quite often, because of additional remuneration. And we understand that there  
40 may be, sometime in the near future, another review and look at how that remuneration works.

So one of the things we're wrestling with is, is how does the system best respond to the situation you've described that our current view on it is that  
45 an injury is an injury and that it should be looked at and to the extent that

war, war-like, involves, you know, exposing people quite clearly to additional risks that can be recognised in OA. So that's what we're trying to wrestle with at the moment.

5 **MR RYAN:** Yeah. I still believe that – and probably a lot of veterans of my ilk believe the same – the same thing, that if you serve in a war-like or an opportunity, a war-like situation, that it is completely divorced from whether you're in a peace-time situation. Often, the injuries are a lot more  
10 terrible than what you're faced with, generally, in peace time and things like this. That the stressors that are upon your body and your mental stability and that are a lot higher and we believe that the – that war-like – war-like situation sort of thing and that definition of war like and the gauntlet that you have to run through the system to be able to get  
15 recognised for that operational service needs to be left as is, that you do have – if you've got your (indistinct) war-like services and that, that's it.

**COMMISSIONER FITZGERALD:** Okay. So I think you mean - - -

**MR RYAN:** Leave it alone.  
20

**COMMISSIONER FITZGERALD:** Well, effectively, we've done that with the VEA.

**COMMISSIONER SPENCER:** Yes.  
25

**MR RYAN:** Yes.

**COMMISSIONER FITZGERALD:** So by – we've recognised your point in coming from a slightly different angle. But whereas for younger  
30 veterans, we are of the view and I think this is now universally accepted that we treat an injury as an injury. But by keeping the VEA, we leave that effectively in place for older veterans. And as you rightfully say in your submission, the – you know, the conditions, the payment you will receive were very different to that which has been received or by more  
35 modern services.

**MR RYAN:** Exactly.

**COMMISSIONER FITZGERALD:** So we think – we came to the view of keeping VEA, not only because it would be very difficult to get rid of  
40 it. But actually, we actually thought it was right. It's not a well-written Act. It's a horrible Act, I have to tell you.

**MR RYAN:** Yes, yes.  
45

**COMMISSIONER FITZGERALD:** I think it needs to be re-written. But nevertheless, the basic core of it serves your needs and we've respected that, even though we have made some minor changes to some of the allowances or recommended those.

5

Could I just come back to the word veteran itself? I understand – when I made the comment, I wasn't necessarily being critical of the Commonwealth Government, that's the definition they've chosen. We have not tried to redefine that. We've looked at the different Acts and all those, but for the purposes of legislation, we have dealt with it differently. But, can I just ask this question. You said if Government is to come up with a definition of veteran, the reason behind the definition that it's one day or service was to basically say that at some stage, all service personnel become veterans. That is, they become ex-service personnel and they may need various forms of support going through their life.

15

So the whole notion I presume was to recognise this continuity through the life of a service person and post service. Your view, however, is contrary to that.

20

**MR RYAN:** It doesn't – being an Australian we're probably a little bit different and I think that's taken off the US and probably the UK modelling.

25

**COMMISSIONER FITZGERALD:** Is it?

30

**MR RYAN:** But being an Australian serviceman, you're certainly – I certainly when I was in uniform, didn't earn the veteran status until I actually come back from war service. And hence my comment about the Returned and Services League.

30

**COMMISSIONER FITZGERALD:** Sure.

35

**MR RYAN:** And that maybe they should just call it the Services League, you know. It's a bit – and then again, you can, if you want to marry the same term that they're using for the veterans card and lapel – lapel badge, and that as well, whereas once again, you know, businesses and that, if they look at the definition of a veteran as being someone that served for day 1 in the ADF, they're not going to – they're not going to give him the discount that they'd want to give to a war veteran. I may as well go down and return – wear my return from active service badge.

40

45

And that to me would have more – more ammunition for a business and that to give me a discount. It's just – it just goes against the understanding within, as far as I'm concerned and as far as all my peers are concerned, is

exactly what a veteran is. It's very poorly defined. Whether the Government come up with it or not, I don't give a damn. It's not the definition that a veteran like myself sees as what a veteran really is.

5 **COMMISSIONER FITZGERALD:** Can I just ask one last question. It's not in your submission, but I'll ask it. It's in relation to access to health services. The Gold Card is a funding mechanism for you to be able to receive health services.

10 **MR RYAN:** Yes.

**COMMISSIONER FITZGERALD:** We've heard in some particular places that accessibility to some services is restricted, some would say because the DVA doesn't pay the market rate to the providers. You know, 15 the doctors. Some say that an access to service is pretty good. In the Western Australian experience, from your members' point of view, are they able to access both the health and mental health services that they need, pursuant to both the Gold Card and the White Card?

20 **MR RYAN:** I have never, nor have my members, ever, ever had a problem with accessing services with the Gold Card. And that I cannot recall any - any problems whatsoever. As a matter of fact, if you go into any place where you can, you know, be a specialist or a doctor's surgery or a hospital and that, if you've got the Gold Card they're only too happy 25 to look after you. And if anyone's ever had any sort of any problem by anyone, and they've contacted DVA, here in WA, DVA has resolved the issue just like that. So, the answer is no. No problems whatsoever.

30 **COMMISSIONER FITZGERALD:** Good, thank you very much. Any final comments or questions?

**COMMISSIONER SPENCER:** No, thank you very much.

35 **COMMISSIONER FITZGERALD:** Thank you very much for that, Rick. That's good.

**COMMISSIONER SPENCER:** I think we're going for the (indistinct). Yes, appreciate it.

40 **UNIDENTIFIED SPEAKER:** Thanks Rick.

**COMMISSIONER FITZGERALD:** Could I now have Geoff Shafran. Is that the right pronunciation?

45 **MR SHAFRAN:** Shafran, yes.



**COMMISSIONER FITZGERALD:** Thank you. Geoff, if you could give us your full name, and if you represent an organisation, the name of that organisation.

5

**MR SHAFRAN:** My name is Geoffrey Edward Kevin Shafran. I don't represent any organisation. This is a personal submission. I'd just like to apologise for my missing tooth. I have a prosthetic arrangement to stick in place, but it actually makes me sound more lisp-y than I do without it. So, given no one's really looking at me, I will - - -

10

**COMMISSIONER FITZGERALD:** I was going to say, some people might find lisp-y quite attractive or something, so you never know your luck. No, it's no problem at all. So, Geoff, if you can just give us a short opening statement, that would be terrific.

15

**MR SHAFRAN:** Sure. The draft recommendation 10.2 in the Productivity Commission report relates to taking the - essentially taking the outreach element of the - that's currently being housed at the VRB, and relocating it, for all intents and purposes, back into the commission. And I believe this is unnecessary. I don't feel there's a need for an outreach at either the VRB or the Commission, and I believe that what was installed in the legislation via section 137, back in 1986, actually does this task. It's just that no one's ever used it.

20

25

I presented the Commission with a sample of a comments of concern report, which is what I'm entitled to put to the Secretary under 137(3), and I believe that's quite extensive. And I feel that if these type of comments are concerned were actually issued to the Secretary on a regular basis, in relation to the 137 report, then the - there will be an overall improvement in how decisions are made, and not so - in regards to the individual, but also in the procedural processes as well.

30

**COMMISSIONER FITZGERALD:** So, have you got any other comments, or?

35

**MR SHAFRAN:** I'd like to read from - - -

**COMMISSIONER FITZGERALD:** Yes, please. Sure. Thank you.

40

**MR SHAFRAN:** I think it's fair - and I'm not reading all this, by the way.

**COMMISSIONER FITZGERALD:** That's good.

45

**MR SHAFRAN:** I think it's fair to suggest I've become somewhat of a dirty expert on claims review and administration. I've identified a number of points that I raised in my earlier submission, have percolated into the draft report. I've initiated the creation of a number of SoPs, I've created  
5 and administered a number of veteran social media groups, and in the last three months I've been invited to two Secretary's roundtables. This is despite having a Client Liaison Unit restriction.

10 It's with these credentials that I would state, like to state, that the Productivity Commission report generally, is as shallow as the aspect of which I have some detailed knowledge, then it is difficult to conclude it's little more than ill-informed, expensive, tax-payer funded thought bubble. I simply can't come to any other conclusion that the Commissioner's  
15 investigation into claims and review practice is made. I feel it's apparent he hasn't mined the appropriate material, especially the legislation, and if he has, he certainly hasn't digested it. And he definitely hasn't read the legislation as it was created.

20 Had he done so, he would have quickly identified that in isolation, paring back the review processes to as they were in 1986, and addressing the education of delegates will largely solve all the decision and review issues. To support my criticism, I would like to highlight an important  
25 recommendation from the draft report, and I say that's important because delegates getting decisions wrong is devastating to a veteran, and getting decision right builds foundations, trust and confidence in ongoing dealings.

Recommendation 10.2 from the Productivity Commission reports reads:

30 *The Australian Government should introduce a single review path for all veterans' compensation and rehabilitation decisions. The pathway should include internal reconsideration by the Department of Veterans' Affairs. In this process, a different and  
35 more senior officer would clarify the reason why a claim was not acceptable, partially or fully, request any further information the applicant could provide to fix deficiencies in the claim, and then make a new decision with all the available information.*

40 The Productivity Commissioner seems to have lost sight of the fact it is the job of the primary delegate, not only to decide, but to make adequate enquiry as to the fact, and if this was done, the additional layer in a decision making process that Productivity Commissioner would not be necessary.

Having a follow up officer explain why a claim was not accepted, and request further material, will in fact be confirming the primary delegate did not make an adequate enquiry as to the facts.

5 I would like to read not from a recommendation, but an actual commission decision in relation to expanded section 31 powers, which were introduced in the mid 1990s, to which major ESOs agreed. In part, the decision was:

10 *In all cases, contact should be made with the applicant, or advocate, to explain the original decision, ascertain the basis of the section 31 review request, the VRB - - -*

Sorry:

15 *- - - basis of the section 31 request, or VRB AAT application, clarify the issues and establish what additional evidence, if any, the applicant/advocate has or intends obtaining. And exception may be made where the section 31 review involves acceptance of entitlement matter, without the need for more evidence. The aim of this strategy is to make the right decisions at primary level, including section 31 reviews, and reduce the flow of applications to the VRB AAT.*

20 *It's quite clear that the expanded s.31 powers that were introduced some twenty plus years ago, to address - - -*

I'll start again.

30 *It's quite clear the expanded section 31 powers that were introduced some twenty plus years ago to address exactly the shortcoming of the Productivity Commissioner has identified and based a recommendation on. The VRB also has made no secret of the fact that assessors of the outreach process is largely as a result of the applicant providing further evidence.*

35 So the question is, bearing in mind the expanded section 31 powers, why aren't s.31 review officers identifying this same additional evidence at commission level that the board is unearthing at outreach? Well, the fact is, s.31 review officers don't contact the applicant. To digress slightly, the other question also needs asking, is why was outreach established at VRB, when clearly it largely replicated the function of the expanded s.31?

40 In relation to section 31 investigations, if you can call them that, DVAs bog-standard s.31 conclusion is: decision was open to delegate, matter to proceed to the VRB. And given the legislation provides for further option

of a reconsideration by a section 137, this statement is erroneous and misdirects.

Some very wise person is quoted in the draft report as stating:

5

*s.31 is little more than a procedural tick in the box.*

10 The fact that s.31 review officers don't contact applicants confirms I was right. No matter how poorly a s.31 review officer conducts their review, they have every right to formulate and present an opinion in relation to the original decision entirely as they see fit. However, in directing the matter prematurely to the VRB, and before 137 options have been explored by the applicant, it is intentionally misleading and unethical, and largely confirms the commission see the VRB as an element of the decision making process, rather than independent decision review instrument.

15 VEA section 137, sub-section 3, provides for an applicant to put comments of concern in relation to the evidence pertaining to the decision to the secretary. And sub-section 4 provides for the secretary to investigate these comments of concern. This happens prior to the board enrolment. This provision was drafted into the original Act in 1986, and there is no reason why this secretarial investigative instrument can't function as outreach and a reconsideration - sorry, can't function as the outreach and reconsideration process the Productivity Commission is searching for.

20 In relation to 137, Creyke and Sutherland, the Department's go-to reference for veterans' entitlement and military compensation law states, "To correct factual errors or to supply additional information in support of a claim, so the report of a claim, so the report will enable the Board to have the whole of the evidence before it at the hearing." Noting the commission's capacity to vary and substitute decisions, it's reasonable to consider the comments of concern have the potential to rectify decision in favour of the applicant prior to board involvement. Other than the primary delegate's investigation, any contact with an applicant prior to them receiving the 137 report is pointless.

35 The applicant will only be able to consider the next step when they are fully informed of and can digest what the delegate considers to be evidence, and if necessary, put it past an advocate lawyer, et cetera, and from there unearth and discover new evidence and present it to the secretary as comments of concern. Once the decision has been made, reviewing or reconsidering a decision or contact the applicant prior to the

applicant receiving the 137 report is simply an illogical and pointless waste of time and resources.

5 To summarise, the Productivity Commission has made a recommendation to introduce a commission level reconsideration instrument that on the face of it, looks very much like replicating the VRB's outreach process. However, this process already largely replicates DVA's expanded s.31 powers, which in turn largely replicate what those drafted into the legislation, built into the VEA, and by default the MRCA back in 1986 via  
10 section 137.

I have provided the Productivity Commissioner with a draft comments of concern in relation to a live matter with DVA. I am hard pressed not to believe that if those concerns were legitimate, it would bring about  
15 significant policy and process change in relation to how the commission makes decisions.

Finally, I can't help believe the system and its policies and processes would have been held to far greater account if applicants were able to be represented a the VRB by lawyers, which only seems just. In this regard, I feel the Commonwealth is failing in its duty of care by supporting a system and an agreement that deprives an individual of legally qualified representation, and I can't understand how this can be remotely considered ethical. Despite general support from ESOs for the VRB to remain lawyer  
20 free, presumably to allow unqualified advocates to play at being Matlock, the 90 year old agreement that supports the prohibition needs to be a focus point of the Productivity Commissioner.  
25

Lastly, and slightly unrelated, as I pointed out earlier I am an admin of a number of Facebook groups and I have discussed this with a number of other group admins. And although it's not possible to support it with figures, over the last six to eight months we feel there have been more postings outlining satisfaction on how veterans are being treated by DVA, and less postings of concern concerning prior or wrong treatment.  
30

**COMMISSIONER FITZGERALD:** Thanks very much, and we appreciate your detailed understanding of the section 137. However, the end point – can I just ask you this, is we end up at the same place. We've recommended in 10.2 a formalisation of the review processes that should  
40 apply across the three acts, the first thing, and the second thing is we bring forward in what we call internal reconsideration the elements that you've referred to in section 137.

**MR SHAFRAN:** Yes.  
45

5 **COMMISSIONER FITZGERALD:** So in a sense, we're very conscious of 137. We're trying to bring that to life as a formal part of the internal reconsideration process. So we're not actually at cross-purposes. VRB has outreach, that's true. But you're absolutely right, we think that DVA is, should and always has had the capacity to do outreach, and you've identified 137.

**MR SHAFRAN:** Via 137, yes.

10 **COMMISSIONER FITZGERALD:** So I think we're at one.

**MR SHAFRAN:** Okay, well it wasn't spelt out as clearly as it might have been - - -

15 **COMMISSIONER FITZGERALD:** No, no, yes.

**MR SHAFRAN:** - - - in the commissioner's - - -

20 **COMMISSIONER FITZGERALD:** No, but as you were going through your submission I was – yes, you're absolutely right, our draft doesn't refer to the section. But in a sense, what you're saying is you believe that DVA has always had that capacity.

25 **MR SHAFRAN:** Absolutely.

**COMMISSIONER FITZGERALD:** And just fails to use it.

30 **MR SHAFRAN:** I think it fails to use it because as I've said, when someone receives a 137 report, it says, "Matter to proceed to the VRB." Now if it said, "Comments of concern in relation to this document can be put to the Secretary," people would take that up. But they don't, because they sit there and wait until they get a letter from the VRB saying, "You're outreach is at this date or your review board is at this date."

35 **COMMISSIONER FITZGERALD:** So just so that I'm correct, just so that – and you may have a different view to us. We think that firstly, the whole goal of trying to improve the performance of DVA, both through the VCR, the Veteran Centric Reforms, and generally, is to get better decision making at the first instance, by the delegate.

40 **MR SHAFRAN:** Absolutely, no question about that.

45 **COMMISSIONER FITZGERALD:** So our report is all about that, trying to design that when we come to these reviews. So the second thing we see is once that delegate makes that decision, if the individual claimant

has a difficulty or a problem with that decision, wants to review it, it goes to a reconsideration. And it may well be that section 137 is the way to go it.

5 **MR SHAFRAN:** It's 137, because anything else – the applicant must be  
in possession of a 137 report. Now just to give you an idea, this is a 137  
report that I had made up about six months ago or so. This has got 71  
pages in it. Thirty-one pages of this – sorry, 13 pages are actually  
10 evidence, and eight pages of that are my original application form. So the  
other material shouldn't be in here. Now if they started putting just the  
evidence in these reports, then it would be a lot easier for people – for  
veterans to understand, and from there they could move forward. Now it  
may well be that one of those comments of concern is that the evidence  
15 that's on here doesn't support the original decision, in which case that  
would go to the secretary and she obviously would look at that and go,  
"Oh, he's right, let's redo this," but it must happen via 137. This outreach  
happening prior to receiving 137 is pointless.

**COMMISSIONER FITZGERALD:** Okay, well we'll look at that in  
20 more detail, but I just want to get to the general point. The general point:  
are we in agreement that you believe that after the original delegate makes  
the decision, there should be an internal reconsideration that is dealt with  
within the Department and not at that stage referred to the VRB? Whether  
it's by 137 or something else, just leave that open for a moment, that's  
25 what we're trying to get to, isn't it? A detailed reconsideration - - -

**MR SHAFRAN:** Yes.

**COMMISSIONER FITZGERALD:** - - - in which additional  
30 information can be extracted; there is communication with the claimant,  
and a determination made at that stage.

**MR SHAFRAN:** But it must be made after they've received this  
document.

35 **COMMISSIONER FITZGERALD:** Yes, I understand what you're  
saying.

**MR SHAFRAN:** Because this is the evidence, and if they don't have the  
40 evidence, how do they understand the decision?

**COMMISSIONER FITZGERALD:** So they've got to have enough  
information, as you say, to be able to understand how the decision's been  
made.

45

**MR SHAFRAN:** Exactly.

**COMMISSIONER FITZGERALD:** And you think the best instrument at the moment is section 137?

5

**MR SHAFRAN:** Absolutely.

**COMMISSIONER FITZGERALD:** Okay, well - - -

10 **MR SHAFRAN:** They got it right when they created the legislation, and there is no reason to have fiddled with it, ever.

15 **COMMISSIONER FITZGERALD:** Well you're more expert in it than I am, but I'll take that on board. The next stage, however, is if there's a failure – if there's not an agreement at that stage, then we've recommended that it goes to the VRB and goes through that dispute resolution procedure. And if it fails at that point, it goes to the AAT. So we've got a four stage approach. Original delegate, reconsideration, VRB dispute resolution, AAT. Can I have your view about that?

20

**MR SHAFRAN:** Outreach – the board functions well at the moment. But it functions well at the moment because no one is using the 137 process. And I believe if 137 was used as it was created and intended, then there would never be any requirement for outreach at the review board. It's so transparently obvious. I actually have a case live at the moment in the review board – sorry, comments of concern of my own at the commission level, and I put one in for somebody three months ago. It still hasn't been addressed. They don't know how to deal with it.

25

30 **COMMISSIONER FITZGERALD:** Sorry, who's "they" in that?

**MR SHAFRAN:** The Secretary does not know how to deal with comments of concern in relation to this matter that was put in three months ago.

35

**COMMISSIONER FITZGERALD:** Sure.

40 **MR SHAFRAN:** This despite a direction that was issued by the review board at an outreach that the commission was to deal with these comments of concern. They still haven't.

40

45 **COMMISSIONER FITZGERALD:** So why do you think, assuming what you've said is correct and I have no reason to doubt that the 137 exists and you believe it's a good instrument, why do you think it's not used in practice?



**MR SHAFRAN:** Firstly, because a matter to proceed to the review board. It's got a lot also to do with the fact that the advocacy corps is very familiar with taking something to the review board process, and they just do not know about the 137 as it stands. They are just totally ignorant to it. I've spoken to advocates that have done the job for 20 years, and they do not know about it.

**COMMISSIONER FITZGERALD:** The other thing that's happened, and I just ask your opinion, some people believe that the Veterans' Review Board, which is much loved by veterans and we understand that, has become a default mechanism. That in fact delegates – I'm not saying they don't care about the decision they make, they do. But in the sense they always know that there's the VRB that can be – to make that decision. And in fact some people, some advocates speak to us in those tones, that VRB has become a default.

**MR SHAFRAN:** I'm not an advocate, by the way.

**COMMISSIONER FITZGERALD:** No.

**MR SHAFRAN:** And I think if I were an advocate, I wouldn't have unearthed what I have. Because I've actually taken my processes through a very legalistic process.

**COMMISSIONER FITZGERALD:** Right.

**MR SHAFRAN:** I've followed the legislation bouncing ball process. I sense that what you're suggesting is correct, that there are a lot of advocates out there that do believe that DVA looks very much at the review board as part of the fault finding process in a decision, if you like. But I've had some horrifying decisions made. In fact the reason why I got into all of this is because two and a half years ago, I had a decision that was that bad that it caused me to almost become suicidal. And I just can't allow that to happen to someone else. So that's why I've spent the better part of two years trying to understand administrative law, the administrative decision judicial review process, and I started to really mine into the legislation, including the legislation as it was created. And you start to – these things just come out like – they're like, they're so obvious, it becomes unbelievable that people aren't using it.

**COMMISSIONER FITZGERALD:** So can I ask you a question – can I just shift you from the 137?

**MR SHAFRAN:** Sorry.

**COMMISSIONER FITZGERALD:** No, no, that's fine, to the Veterans' Review Board itself. Can you tell me what your views are about the VRB and any changes you think or modifications that would help that process?

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**MR SHAFRAN:** I actually think – well the first thing I have, I have problems with lawyers actually being on the board. Because the Review Board is a review of a natural justice decision. And I fail to see how someone with a legal mindset can actually look at a natural justice scenario and make a natural justice decision. I think they must be tainted by that legal knowledge.

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I think it's going to – like I said, I assisted this gentleman three months ago in relation to comments of concern. And I read a 137 report that he had on his file, and the Review Board referred to all kinds of case law.

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Now I just find that totally irresponsible. They should be referring to the evidence that was available to the primary decision maker, and that is it. And once they start introducing case law, this thing starts to blow into a surrogate AAT, and it shouldn't be that. It must be a much lower level, much more understandable sort of process, where somebody can actually go in there and understand exactly what's going on, and not be blown out to some – and you read it on Facebook all the time, that the Review Board is a very adversarial process.

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**COMMISSIONER FITZGERALD:** The VRB advised us that they've put a great deal of effort into the alternative dispute resolution, the ADR, including their version of outreach and a number of other aspects. Do you have a view about that shift over time?

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**MR SHAFRAN:** I've been to two ADRs. The first one was in relation to a TPI matter, and essentially all of the evidence that the original decision maker refused to address was addressed at the ADR. So if I'd have known about 137 back then, it would have never got to an ADR. I would have taken it to the Administrative Decisions Judicial Review before it ever goes anywhere near ADR.

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The second one, I was sent – and again, I sent you the documentation on this. I was actually sent to an ADR under a subsection of the VEA, and it's quite clear that I was sent – sorry, that the principal member of the VRB does not have jurisdiction over the matter until they're in command of the relevant documents. So in that regard, I've been bullied into an – sorry, into an Alternate Disputes Resolution process, and I should never have been there in the first instance. And when I did get in there, they issued another direction that they don't have the jurisdiction to issue.

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In my instance, it's a very bullying and uncomfortable process to be in, and I've asked for further and better information in relation to the decision, that's five or six weeks ago. I've not received anything.

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**COMMISSIONER SPENCER:** Just to comment, Geoff, that if – I mean I think there's – we're in sort of fierce agreement I think around some of the essential principles underlining these matters, back to what Robert earlier, is getting better decisions, correct decisions earlier in the process, we'd all agree with that. So this 137 process, I mean I think what you're suggesting, if that was fully utilised, there would be less need to go forward to the VRB.

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**MR SHAFRAN:** Absolutely.

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**COMMISSIONER SPENCER:** Right.

**MR SHAFRAN:** I couldn't imagine how many matters could be resolved by the 137 process that are currently going to outreach, and also – and remember I mentioned that the section 31 review officer is supposed to contact the veterans. They don't.

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**COMMISSIONER SPENCER:** So accepting that, and if that's the case, then it comes – so what is the VRB at that point? And as you know, our recommendation at this stage is the VRB not be a determining body; that it be actually a resolving body through the ADR if it's needed, and to your point that may be very few cases where that's needed.

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**MR SHAFRAN:** I honestly think so.

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**COMMISSIONER SPENCER:** Yes.

**MR SHAFRAN:** I actually believe that the reason why the Secretary and the Principal Member actually have a hand to hand handover of the relevant documents in this process, is their belief when they created the legislation, was there would be so few matters actually go to a Review Board that it needed that level of contact so that those people were cognisant of how there had been an error made somewhere in the process. I don't believe for one moment that when they created the legislation, they would – they believed that thousands and thousands and thousands of matters would go to the Review Board every year.

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I think if they'd have believed that that was the case, they would have changed the processes so that that didn't occur.

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**COMMISSIONER SPENCER:** So just a final observation, and you may want to comment on this. So we're seeing that over time, VRB would be retained, but it would be through an Alternative Dispute Resolution process. After everything we've been talking about, that may  
5 bring up the question of therefore, what is the appropriate skillset that's needed within the VRB. It may or may not be lawyers, don't know, but so to your point – so that scenario, do you think that works in terms of how you would see an effective process?

10 **MR SHAFRAN:** I actually don't see a need for the – now that the AAT has an outreach process, I really don't see a need for the VRB, because I believe the outreach process at the AAT – because when you look at the VRB, everyone thinks of it as being a bubble or an offshoot of the – of  
15 DVA. In fact it's not. It should be more viewed as a fact of like a bubble from the AAT. It actually serves their purpose more so than the veteran's purpose, because the decision has already been made. So it's not – it's part of the review process of the decision, if you like.

And so now that there's this outreach process, which from accounts is  
20 fairly comfortable, I see that the VRB, especially if the 137 process was fully utilised, the only thing that should really be going through to the review process is something along the fact of either (a), our decision is absolutely bulletproof, in which case it can go to the AAT, or  
25 alternatively, there is an issue with the decision and then the comments of concern from the secretary would say something along the lines of, "We recognise we've made an error, or the new evidence has provided us with a capacity to approve this," so it just ping pongs in and out of the Review Board, back to the Commission for the correct decision. Honestly, I think you made a recommendation about looking at it in 2025.

30 **COMMISSIONER SPENCER:** Yes, yes.

**MR SHAFRAN:** I honestly believe that if there was will, the VRB could  
35 be extinguished entirely as an entity.

**COMMISSIONER FITZGERALD:** Well let me be clear about it. There have been reviews previously that have indicated the VRB should be merged into the AAT. So there is a view that the VRB should not be  
40 there. Our view is a midpoint. We've described it - - -

**MR SHAFRAN:** Well Migration – sorry, Migration and Immigration have already merged into the AAT, yes.

**COMMISSIONER FITZGERALD:** No, no, most have. Our starting  
45 point was it's very unusual to have two external bodies that can make

review decisions. Very, very few parts of public policy in Australia have that, and there's good reasons why you don't have that. We understand fully where VRB came from. The question is, what should its purpose be going forward, and ultimately whether or not it's required. But our point has been as Richard's explained. So we understand where it's come from, we understand the veterans like it. Nevertheless, it's a very unusual arrangement and in many other parts of public policy, that layer of review has disappeared. Nevertheless, our recommendation we are keen to get feedback on is to retain it, but in the way that Richard's described. But we do believe it should be reviewed in five years' time, so yes.

**MR SHAFRAN:** I do feel that if the 137 process was exploited, that the amount of material or matters that would go to the Review Board would just – it would just drop down to virtually zero. I honestly think that that would be the case.

**COMMISSIONER FITZGERALD:** Okay. Well just to repeat what I said, our aim is to get the better decision making in the first instance, and a quick reconsideration, full reconsideration, as early as possible, so that reviews to the VRB and/or to the AAT would reduce over time. That's our goal. It's not to save the VRB and have that having more and more work, it's actually the reverse. It's to actually push it back.

**MR SHAFRAN:** Yes.

**COMMISSIONER FITZGERALD:** Into the decision making process within the Department, and I think we're agreed on that.

**MR SHAFRAN:** And like you said, a good initial decision is a great grounding for a relationship with the Department.

**COMMISSIONER FITZGERALD:** Sure.

**MR SHAFRAN:** And a bad one ends up with people up in the Client Liaison Unit, because they know they're right, and they know the Department is wrong.

**COMMISSIONER FITZGERALD:** Yes. Okay, any other comments, Richard?

**COMMISSIONER SPENCER:** No, that's fine.

**COMMISSIONER FITZGERALD:** Thank you very much. Thanks very much for that.

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**MR SHAFRAN:** No worries.

**COMMISSIONER FITZGERALD:** I just want to check, Imogen, are we – that's it for this morning's session?

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**SPEAKER:** (Indistinct words.)

**COMMISSIONER FITZGERALD:** So we'll resume at 1 o'clock. If anyone hasn't got their name down and would like to make a short statement at the end of the proceedings, they might just see Imogen at lunchtime. We have a couple of people who've added their names to the list, but we will try to finish around 4-ish. But if you'd like to make a comment and you – but a very, very brief one – then just see Imogen.

**COMMISSIONER SPENCER:** Thank you very much. We'll come back at 1.

**SHORT ADJOURNMENT** [12.10 pm]

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**RESUMED WITH CONFIDENTIAL PARTICIPANT** [1.01 pm]

**RESUMED** [1.36 pm]

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**COMMISSIONER FITZGERALD:** Max Ball, please.

**MR BALL:** Good afternoon.

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**COMMISSIONER FITZGERALD:** Good to see you again.

**MR BALL :** Yes, nice to see you here.

**COMMISSIONER FITZGERALD:** Max, if you can give us your full name and any organisation that you're representing.

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**MR BALL :** Maxwell Joseph Ball. I'm not representing any organisation. I'm here on my own.

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**COMMISSIONER FITZGERALD:** And that's enough. So that's good.

**MR BALL :** Yes, I'm involved with some organisations but we are still working through this.

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**COMMISSIONER FITZGERALD:** That's terrific.

**MR BALL :** So these are my views.

5 **COMMISSIONER FITZGERALD:** Max, if you can give us an opening statement that would be terrific.

10 **MR BALL :** Well, this will be a little bit variation to my notes but on the same line. My view is the Commission should be commended for the work it's done so far. I think it's a complex matter and I'm of the view that there has been significant change external to DVA and by the nature of any government department, the department has not been able to keep up. That's not a slight on anybody, that's just a fact of life. So I do welcome the major recommendation, which I think is the major recommendation, 15 which is 11.2. So I'm coming from that position overall.

20 But I would like to just comment on some other parts of my theme. First all, I did note in my first comment that it does seem to me that overall, and perhaps outside the terms of reference of yourselves, the government does address the matter of compensation and rehabilitation benefits separately to the matter of remuneration of members of the Defence Force. So we have the situation where members of the Defence Force who are deployed overseas on operational duties receive tax-free salaries and benefits, and some of the benefits are, in your words perhaps generous, and the benefits 25 that accrue to their employment through compensation and rehabilitation legislation seem to be different and I think there's a debate needed to put the whole package of employment because that's what we would do in private industry as you would know. We don't have this bit and that bit, so that's a very broad thing which may be outside the scope.

30 Look, I do acknowledge the improvements made in DVA in recent years, but I do, as I said earlier, believe the only way forward is with radical change of the nature you've recommended. I notice in the rhetoric from ESOs an absence of recognition or acknowledgement that the current 35 inquiry was an outcome of the Senate report on suicide in veterans, and of course, what seems to be getting a little bit lost in the atmosphere is the fact that there were a significant number of suicides and I think that needs to be on our plate all the time, and without trying to draw bows at anybody, bows and arrows, there does seem to me to have been systemic failures in the Department of Veterans' Affairs, notwithstanding the best 40 efforts of all involved.

45 On another broad comment, I think the definition adopted recently of a veteran is incorrect. I think it's clouding the debate. I think it's causing confusion and if it's not changed some other definition is needed. If I

could just comment briefly on some of the recommendations, I won't comment on all of the ones I've written in my notes. 10.3 proposes changes to the Veterans' Review Board. I do not agree with this recommendation in totality and I particularly - you have not addressed this issue, but I particularly still draw attention to the fact that at the Veterans' Review Board a veteran cannot be represented by a legal practitioner.

On the other hand, the alternative dispute resolution process is being praised as successful, and lo and behold, at the ADR a veteran can be represented by a legal practitioner. If the ADR process fails the matter goes back to the VRB and then the ability to be represented legally is removed. I just have noted in my comments here that I just think that's Gilbert & Sullivan policy, and probably from HMAS Pinafore.

Statutory authority, 11.2, which I refer to. By way of explanation of part of my thinking I recall that in the fishing industry in the 1980's we had a serious situation where the industry, the Commonwealth fisheries industry, or the industries that were Commonwealth fisheries, suffered a severe lapse of confidence within the department. The fishing industry was changing dramatically due to external factors such as the floating of the dollar and the change in tariffs and other export/import arrangements. The department just did not keep up. It was no way. We in the industry were struggling to keep up, but private enterprise will always move much faster than any government department.

We had a review which went for more than a year. The outcome of that was the creation of the Australian Fisheries Management Authority, a statutory authority with a board of directors appointed by the Minister, a chief executive officer, a CEO, chairman, I'm sorry, who I think was one of your colleagues at the time, Jim McColl, you may recall, and we took over and I was fortunate enough to be an inaugural member of the board.

We took over many of the function of the Department of Fisheries. We took over a lot of their staff, we discarded quite a few. We rearranged and retrained quite a few and within a very short, an amazingly short time in my memory changes were made to the way Commonwealth fisheries were managed in Australia and I think that's an interesting lesson of the past that perhaps is relevant to what we're doing here.

It is of concern that there are a lot of people who are opposing the idea of change. I think again they forget that the department itself was formed in 1976. Prior to that it was called the Department of Repatriation and something, and before that there was the Repatriation Commission itself, so it has not been a changeless face. The Department of Veterans' Affairs has been reasonably new in generations, but the generational change has



5 been more significant. Vietnam veterans got along reasonably well with the department, and I think the Vietnam generation was closer to World War II veterans in many ways than the current veterans, and I think it's impossible to expect a government department to change its attitudes and policies and method of working to match the speed with which society is changing, and so that's why I'm in favour of a statutory authority.

10 An issue has been made about war-like and non-war-like compensation being the same. I think that there is no comparison between circumstances in training and circumstances in operation of (indistinct). The most stringent conditions in training can never replicate where you might be in reality; where things go wrong and what is supposed to happen doesn't, and generally the world is upside down. And when things go wrong sometimes help is not at hand. And, of course, all those  
15 alternatives are what happens in peace time. And what interests me about the argument that compensation arrangements should be the same for both operational and non-operational circumstances is, if the circumstances are the same, why then do members of the ADF who are on deployment be paid additional allowances? It seems to me that's in recognition that their  
20 lives are in danger. So I am a fierce advocate that compensation arrangements should be different for those who are injured mentally or physically in operational war, or war-like conditions.

25 Finally, the recommendation 17.1 is the creation of two schemes of veteran support and I just draw to the fact in my notes that there have been some presentations or representations by ESOs that suggested that the three Acts that currently are in use be harmonised. I think that would be a silly mistake, an administrative nightmare, and I'm pleased to see that the Commission and the report agrees with that view. I suggest that the  
30 creation of the two schemes as put forward might not be perfect, there might be some fine tuning but it is surely the most economical and efficient way to go forward. In that sense, I would also note that in the not too distant future, it might be 20 years for some of us, the number of people under the VEA will have diminished dramatically and be fairly  
35 settled. Thank you.

**COMMISSIONER FITZGERALD:** Thanks very much, Max. Just if I can just go back to the VRB one for the moment. You've raised before I think with us this issue of being able to get legal representation and not  
40 being able to get legal representation within the VRB. There is a report being done by Robert Cornell, as you are aware, and we have seen that report but it hasn't been released yet by the department or by the government. To some extent that may help inform some of that discussion, so that's a piece of work and we've really been waiting for that  
45 report. It was only completed in December.

5 By and large though, can I just understand this, most people are still saying to us, I think, that at the VRB level where the board makes a determination, there are not many people in favour for that having legal representation at that level. At the AAT certainly that happens, and there's issues around that. But can you just explain to me, are you proposing that - there's an inconsistency, I understand that.

10 **MR BALL:** Yes.

**COMMISSIONER FITZGERALD:** But is the inconsistency resolved by allowing legal representation, both in the ADR process and the Board. Is that your proposition?

15 **MR BALL:** Yes. Where I come from is purely, in a sense, an academic point of view perhaps because I have never attended a VRB meeting or review session. But I'll just put it this way. The legislation says that the VRB is designed not to be a legal process. Well, if you take the services members off the VRB panel, the majority of the members of the VRB are all lawyers. The registrar, or whatever chain it's called now, is a highly  
20 qualified lawyer. So it's a legal process and there's just no question it is a legal process. So why do we deny the right - I'm not saying veterans who appear before the VRB have to be accompanied by legal representation, but why do we deny them the right? And no one can answer that  
25 question.

Now, it is on the record that some years ago the ESO round table discussed this and the ESO round table members gave advice to the department and the minister that that denial of rights should continue. But  
30 I put to you that despite all that might be said, the ESO round table meetings do not represent broad consultation with the ESO community. For a number of reasons; such as the agenda is often put out very late. Sometimes the items on the agenda are embargoed, in other words the only person that can deal with it is the person attending. And it is a  
35 fallacy to think that what is discussed at the ESO round table necessarily represents the views of mainstream veterans. So I'm just taking it from the point of view of, if I'm going to the VRB - if I'm going to the Supreme Court on an action I can take a lawyer with me. If I'm going to VRB I can't. Why am I denied that right? Explain that.

40 **COMMISSIONER FITZGERALD:** We have, as you know, proposed that the VRB lose its right to determine matters but rather just simply deal with the ADR matters, and from what I'm understanding, you're opposed to that. Is that correct?

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**MR BALL:** Yes, I think that's an error. I think, and I'll acknowledge that the VRB seems to work reasonably well, although the ADR seems to be working better. Again if I've read your recommendations correctly, what bothers me is that if you get down to a review by one member of the VRB, that member's a lawyer and the person he's dealing with is not a lawyer. And we all know how lawyers are trained and how they operate and the range of skills they have, and that includes sometimes being difficult with people who are appearing before them. That's all fine, it's part of the game. But I just get back to the fact that there should be legal representation, but I don't really see the need for that change. And again I do stress the point and I'm happy to admit I have not appeared myself before the VRB.

**COMMISSIONER FITZGERALD:** No that's fine. But could I just make a point about that. Whether the VRB, in our proposal where it's alternative dispute resolution only, and that's an extensive range, so it's many different forms, the board member or the registrar, whether they're a lawyer or not is only acting as a mediator or seeking to get a resolution between the two parties, the claimant and the, in this case, the department.

**MR BALL:** Yes.

**COMMISSIONER FITZGERALD:** So whilst what you say about lawyers is true, they can be inordinately difficult - both of us, and we are - the process is actually meant to be one that gets resolution. So it doesn't actually matter who's the person - the mediator, in effect, in that case, not the determiner, which is the full board, but actually just simply trying to get resolution. And of course as you know, our recommendation is a single person can make a recommendation and either party, the department and/or the claimant, can say "No, not happy with that" and it goes off somewhere else.

**MR BALL:** You're on the edge of my experience here.

**COMMISSIONER FITZGERALD:** Right.

**MR BALL:** I'm prepared to concede that that may be the case. The way I read it, I - it seemed to me that it was a different situation.

**COMMISSIONER FITZGERALD:** Okay. No, that's fine, thank you.

**COMMISSIONER SPENCER:** Just a couple of comments. Thanks very much for the - what you describe with the Department of Fisheries and what happened in the translation or transition to a statutory corporation. Part of our thinking behind that is what you picked up on.

We think the departmental structure is a very difficult one to be able to respond and to be appropriately capable and flexible to provide the sort of service that's needed. So it's interesting to see an example from a quite entirely different sector.

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Just coming back to this, it's a difficult issue, it's this distinction between war-like and peace and you commented about, you know, your family or you that there should be a difference in the compensation arrangements. We at this stage have taken a different view, as you know.

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**MR BALL:** Yes.

**COMMISSIONER SPENCER:** But we are trying to respond to this issue that, yes, there is a difference. But the point that you made, the remuneration arrangements are very different when we go on deployment.

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**MR BALL:** Yes.

**COMMISSIONER SPENCER:** So we're looking at the view that, yes, that needs to be recognised but it is recognised and could be recognised in ways of additional remuneration or additional benefits whilst you are exposed to that risk.

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**MR BALL:** I would just reinforce my view that the circumstances that prevail, in a combat situation particularly, are totally unlike anything else we experience in our lifetime. And so that needs to be taken into account in a very serious way. And I'm certainly not suggesting that people who are injured in peace time training, receive any different medical treatment. That should be the same. That's the same. The question runs around compensation.

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But I go back to my very opening large comment about the total matter of compensation and rehabilitation of veterans and their remuneration. Again, coming from in more recent years an industry background where we have high risk occupations, we employ deep sea divers, we employ crew, sometimes quite young unfortunately, who operate on small fishing vessels, medium size fishing vessels in significantly rough seas and distances from shore, down as far as - I'm not involved anymore but down as far as Antarctic waters. And so we have all the combination of when you're out there commercially fishing of the risks that occur when you're on the battlefield or in a combat zone. Now, the remuneration that the fishermen get is a total package which takes into account the risks involved in the occupation. The total risks. The same as when I've had to employ deep sea divers, you find that you're paying - you know you have a rate to employ a deep sea diver and then, in my day, you then had

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another rate you had to pay on top of that which went towards his either superannuation fund or his insurance fund. Because if he was injured, and deep sea divers do get injured, as you know, he may not be able to work. Abalone divers have a high rate of injury as well.

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So when I come to the point of recognition of the two circumstances I think there are two parts. First of all, what I haven't mentioned is I think that - and this gets back to the definition of a veteran - there needs to be recognition of people who served in the ADF and who, at the direction of the government or their superiors, have had their lives put at risk. Now, part of the counter to that is, yes, but in peace time they're all volunteers, they volunteered for the job as well, and I acknowledge that. And the second part, which I commented earlier on, was that we shouldn't - I think it's not logical to have one part of government setting out high levels of compensation for people who are injured, on the battlefield or not, and another part of government setting out high levels of remuneration for people because they're in a - where their lives may be at threat. So I do agree with the idea of a broader overview of those circumstances. So I don't want to be seen as saying members of the ADF should be paid less, they probably should be paid more but I don't know that, I have no measure of that. But I do think that that debate has, at a high level, not been conducted. And I suspect it probably has, whilst you can refer to it in your report, I suspect it probably has to be dealt with outside the recommendations of the Productivity Commission itself because the focus of this government or the next government will be more important at a departmental structure than this issue of remuneration. So, in part I agree with you, except I do think there is a distinction.

And for the persons themselves there is this question of their own self-image as to the fact that they have done something in a substantial way for their community, as opposed to having served but not served.

**COMMISSIONER SPENCER:** And we understand that there may be a review at some point in the future around that whole remuneration structure. So as you say, the principle is an important one to grapple with but we only see part of that.

**MR BALL:** Yes.

**COMMISSIONER SPENCER:** I just wanted to - just a follow up question to, I think if I understood you correctly you indicated in broad terms you support the notion of moving to a two-scheme approach.

**MR BALL:** Yes.

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**COMMISSIONER SPENCER:** There is no perfect solution, I think as you said, and we're acutely aware of that. When you look at what we're proposing for the two-scheme approach do you have any comments or thoughts of issues we should be looking at, to, in a sense, fine tune that?

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**MR BALL:** No, not in detail, no. I'd certainly like to place on record, because you know it's very easy to be seen as criticising the department, I do remind my colleagues that, when they grizzle about the department and the legislation, I do remind them that the department doesn't pass legislation. Indeed, doesn't write it. And they should talk to their local member because it was in the House and the Senate the legislation was passed. I think the MRCA legislation is not perfect. No legislation is, but I think it's sufficiently imperfect to require review and change, but in the meantime the short administrative solution, to me, is this two-scheme thing, and allow government time to get on with making change. Because there are other matters that may have to be dealt with before that occurs, from your report.

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**COMMISSIONER SPENCER:** Thank you.

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**COMMISSIONER FITZGERALD:** Well just on that, as we've indicated earlier, we looked at whether or not we become one act or keep three acts, whatever.

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**MR BALL:** Yes.

**COMMISSIONER FITZGERALD:** VEA is a unique creature and it serves its purpose and serves older veterans sufficiently well, and as you know we've decided to keep that, basically.

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**MR BALL:** Yes.

**COMMISSIONER FITZGERALD:** So it's for the emerging veterans and younger veterans that second scheme and it will become, of course, the ultimate scheme, but it is, as you say, tricky. And again I just want to comment, the analogy you used in relation to the Fisheries. When we looked at the VSC, the Veteran Services Commission, it wasn't just about what are the failings in DVA. It was actually trying to say what is the new mechanisms by which we deliver these sorts of services; compensation, rehabilitation and others, and nowhere else in the rest of Australia do we deliver it through a department.

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**MR BALL:** No.

**COMMISSIONER FITZGERALD:** Because the departments have inherent weaknesses. Whereas the commissions, as you understand, have particularly unique features that make them ideal, not perfect, but ideal for these sorts of arrangements. So our view was, it's not about whether DVA is good, bad or indifferent, which is what people are interpreting. It's actually about is there a better way? And frankly the better way has been around for a while, and you identified that. So thank you for that intervention. This is not a unique or revolutionary concept that we're putting forward. In fact its time came many years ago, but your point was valid. So whether or not there is a DVA or not, the notion of a VSC remains very important in the scheme of things if we're really going to use the best practices available. We'll see where that gets to. Any other final comments, Max?

**MR BALL:** Well just to follow that up, if I may. Again this is a little bit of a gloss perhaps but broadly in the public's eye departments are there to serve the Minister and serve the Government. That's not what we want. We want an organisation that serves the veterans. And the first word is the right word, it's a Veterans' Commission. It's not a department of veterans. I think that's important. These little things are overlooked frequently but I do think that part of the virtue of your recommendation is the very nature of the name.

**COMMISSIONER FITZGERALD:** Well thanks for raising that. People have different views to that, so we'll just see where it all goes.

**MR BALL:** Yes, I know that.

**COMMISSIONER FITZGERALD:** That's fine. Thanks very much, Max.

**MR BALL:** Thank you indeed.

**COMMISSIONER FITZGERALD:** Can we have Angela Rainbow and Lisa Smith. Is that right? That's right. Make yourself at home. So, Angela and Lisa is it?

**MS RAINBOW:** Yes. Angela.

**COMMISSIONER FITZGERALD:** Great.

**MS RAINBOW:** We've just got a copy of our - - -

**COMMISSIONER FITZGERALD:** Fine, thank you very much. That's great. So if you both can introduce yourself and the organisation you

represent, and then either one or both of you make a short presentation and then we'll have a bit - oh, my goodness, this is the long version. Richard, just read it.

5 **MS RAINBOW:** So that was just an analysis that Lisa and I did on the proposed DVA allied health reform, which we've been promoting.

**COMMISSIONER FITZGERALD:** All right. Just stop for a second. If you could give us your names and your organisation, and then you can explain it.

**MS RAINBOW:** My name is Angela Rainbow. I'm actually here presenting myself, but I do have an occupational therapy service that does service a number of veterans.

15 **COMMISSIONER FITZGERALD:** And you're representing yourself?

**MS RAINBOW:** Myself, yes.

20 **MS SMITH:** And I'm Lisa Smith and I work with Angela.

**COMMISSIONER FITZGERALD:** And can I be very clear for the record, are you representing Life Live It or not, or are you both representing individual views?

25 **MS RAINBOW:** I'd probably say individual on both.

**COMMISSIONER FITZGERALD:** Okay. That's fine by us.

30 Sorry, can you just – you were explaining before I rudely interrupted, that this document here is?

**MS RAINBOW:** That was an analysis that we did on the proposed DVA allied health reform which is a part of the veteran centric reform.

35 **COMMISSIONER FITZGERALD:** Okay.

**MS RAINBOW:** And we have some serious concerns about it and we have been promoting it with various ministers and MPs as well as speaking to both the Shadow Minister and the Senior Advisor to the Minister for Veterans' Affairs.

**COMMISSIONER FITZGERALD:** This document, however, just for the record, is from the organisation, Life, Live it?

45



**MS RAINBOW:** It's from me, as an individual.

**COMMISSIONER FITZGERALD:** But it's under the title of Life, Live it. Is that right?

5

**MS RAINBOW:** Okay. I see that, there. Well, that was a letter sent to the Minister Keenan who we first raised the issue with, yeah.

**COMMISSIONER FITZGERALD:** Okay. But you want me to treat this as being from you?

10

**MS RAINBOW:** Yes, please.

**COMMISSIONER FITZGERALD:** No, that's fine. I know I'm just being a bit pedantic.

15

**MS RAINBOW:** No, no.

**COMMISSIONER FITZGERALD:** But it's necessary we do that.

20

**MS RAINBOW:** Yes, we've sent a hard copy to you as well, yes. Yes.

**COMMISSIONER FITZGERALD:** Thanks very much. So if you'd like to make an opening statement. That would be great.

25

**MS RAINBOW:** Okay. Thank you, firstly, for the opportunity to provide comment on the Productivity Commissions' draft report. We are occupational therapists providing home visiting services to veterans and their dependants under the DVA RAP program.

30

I have been providing services to veterans since 1997 over a 21 year period. During this time I have also provided occupational therapy services to other government and non-government organisations and client groups. My colleague, Lisa, who is here with me, has been providing occupational therapy services to veterans since 2007 and helped me, I guess, articulate my point of view and consult and confer with my position.

35

We would like to provide our opinion and experiences as a health professional involved in the delivery and management of veteran health support services. In particular, occupational therapy services. Our feedback relates to findings and recommendations formed by the Productivity Commission relevant to the DVA program. And basically, what we've done is, eight of your key points, we have provided some – or will be providing some response to.

45

**COMMISSIONER FITZGERALD:** Thank you.

5 **MS RAINBOW:** Just to reconfirm, the DVA RAP program, it provides services to eligible veterans who hold a Gold or White Card. And it provides aids and appliances to veterans to enable them to be as independent and self-reliant as possible at home and in the community. As stated on the DVA website, the provision or the framework or objectors and principles of the RAP program is to minimise the impact of  
10 disability, illness or injuries, maximise quality of life and maximise independence and participation, and that is – it is – that's a – you know, a fantastic wellness approach.

15 Just the first key point that we will address is the statement, "The veteran's compensation and rehabilitation system is not fit for purpose. It requires fundamental reform. It is out of date and is not working in the interest of veterans and their families or the community." We strongly affirm and believe the RAP program's framework or objectives and principles is fit for purpose. We strongly affirm and believe however, the administration  
20 of the RAP program is not fit for purpose and, yes, does require fundamental reform.

25 When allied health professionals undertake services for the DVA RAP program, we are all governed and directed by the following documents. These documents are legally binding and include the Acts, the treatment principles, DVA notes for allied health providers and the relevant DVA schedule of fees.

30 These governing documents, as mentioned, are legally binding and set the expectations upon the way in which allied health professionals service the DVA program and how we deliver these services to the veterans. These documents, however, do not translate to a fair and workable day-to-day system and we therefore strongly assert and believe that this is actually  
35 due to the poor administration by the DVA management and clinical advisers, which has been going on for decades. As a consequence of this poor administration, it has led to and will continue to result in a decrease in a veteran's ability to access allied health services in general and, in particular, quality allied health services.

40 In the very near future, with the DVA allied health reform, which has already commenced rollout, it will not be financially viable for practitioners to continue to provide allied health services to veterans. I can personally confirm with the plan implementation of the 12 treatment cycle due for implementation July 2019, it will no longer be viable for my  
45 organisation to provide OT services to veterans.

5 The NDIS, which is the National Disability Insurance Scheme, they have commissioned an independent pricing review into the NDIS or the NDIA and following the release of the report by McKinsey & Company, the NDIA stated they were "Committed to ensure a vibrant market for disability supports that enables participants to achieve better outcomes." They also state that "A vibrant and financially viable market is essential to the longer term sustainability of the scheme."

10 In order for DVA to ensure a long term sustainable allied health service to the veteran community, they must also fully commit to ensuring a vibrant and financially viable market exists to allied health professionals as per the NDIS or just like the NDIS. The level of DVA reimbursement for the RAP program, equates to approximately 20 per cent of NDIS and all other  
15 current and state funded hourly rates for occupational therapy services. The DVA RAP remuneration, in accordance with their schedule of fees is approximately \$40 per hour. So that's what we're being remunerated per hour for our services, compared to the NDIS which is at a rate of \$180 per hour.

20 Despite continued, regular, frequent and formal discussions, since 2008, from our professional association, OT Australia, DVA have side-stepped and delayed their promise to address our hourly remuneration rate and service structure. Most recently, DVA said they would address the matter  
25 in the DVA's review of dental and allied health arrangements, however, DVA has still shown no commitment to address the issue in any meaningful way.

30 We have compiled an analysis of DVA's allied health reform package, which is that bound document there and we'll provide that electronically, as mentioned. In summary, the objectives and principles of the RAP program and the allied health practitioners delivering the service for the DVA RAP program, I believe, are working in the interest of the veterans and their families and the Australian community. The DVA  
35 administration processes, management and clinical advisors, are not.

Moving on to the second key point.

40 **COMMISSIONER FITZGERALD:** So we're just going to be careful on time.

**MS RAINBOW:** Yes. Sorry.

**COMMISSIONER FITZGERALD:** So I just want to make sure. If you can pick up, just for a couple of minutes, the key. And then we'll start to have a discussion about that.

5 **MS RAINBOW:** Okay. Sure. Okay, yes, no worries. Okay. So the second point about "The system fails to focus on the lifetime wellbeing of veterans. It's complex, difficult to navigate, inequitable, poorly administered, places unwarranted stress on claimants, supports in it will not focus – are not wellness focussed and not well-targeted, are archaic and dating back to the 1920s".

We believe the DVA RAP program does focus on the lifetime well-being of veterans as it focusses on their health and well-being, post-service, up to and including their death. In terms of their health and related well-being. Yes, as said, DVA RAP program addresses this very well.

We strongly agree with you that the administration of the DVA RAP program is poorly administered and mentioned we've got serious concern with the rollout of the allied health program. This reform – this will place unwarranted stress on veterans. It will reduce their access to allied health, especially quality health. Basically, what it will be doing in essence, it will be forcing the veteran back to the GP on a regular basis, purely to request and gain consent for continuation or completion of clinically required allied health treatment. And this reform package is part of the veteran centric reform. However, the treatment cycle is certainly not based on a wellness model and instead adopts an archaic and non-contemporary medical model of health care.

This model is very disempowering form of health service, and it does not support the Veteran's Entitlement Act and Repatriation Private Patient Principles Legislation which was designed to promote the veteran's right to health.

A Gold Card allows access to and funding for all clinically indicated services. Furthermore, this reform does to support basic human rights to dignity and freedom. GPs are already thin on the ground. This will place further time demands on an already overloaded GP service and I heard last week the Productivity Commissioner reviewing the overload on GP services and emergency admission, you know, unnecessary emergency hospital admissions, and also this reform is only going to increase red tape for DVA and a part of the veteran centric reform was about decreasing red tape.

The Productivity Commission made a comment regarding equitable access and a proposal to provide a lump sum payment instead of the Gold

Card. However, I affirm this does not support the overarching wellness approach for veteran care which is, I feel, like the crux of the new reform for veterans.

5 The DVA Gold Card communicates lifetime support, care and an importance and value on an individual's wellbeing. A monetary benefit communicated by a lump sum payment does not support a lifetime wellness approach.

10 **COMMISSIONER FITZGERALD:** Okay. We might have to just stop it there.

**MS RAINBOW:** Okay.

15 **COMMISSIONER FITZGERALD:** And I've just flipped through the rest of the paper which reasserts a number of those comments over and again. So can I just understand, the fundamental change to the - you're obviously a greater support of the RAP program.

20 **MS RAINBOW:** Yes.

**COMMISSIONER FITZGERALD:** And you believe it's wellness focus and it's got a lifetime approach, but the changes, as I understand it, from what you've just said here is two things. Firstly, in order to access the services you're going to have to go back through to a GP on a regular basis.

25 **MS RAINBOW:** Yes.

30 **COMMISSIONER FITZGERALD:** And the second thing is, correct me if I'm wrong, it limits the number of sessions to what you call a 12 session treatment cycle. Is that right?

**MS RAINBOW:** Yes.

35 **COMMISSIONER FITZGERALD:** And are they the two components - and a third thing you've raised is what you believe to be an under-funding or an under-pricing by DVA.

40 **MS RAINBOW:** Yes.

**COMMISSIONER FITZGERALD:** Are they the three major concerns that we've got?

45 **MS RAINBOW:** Yes.

**COMMISSIONER FITZGERALD:** Okay. Why do you think the DVA is moving to this new model if it has those weaknesses in it. What do you think's driving the new arrangements?

5

**MS RAINBOW:** Well, I sort of feel like, I mean, they talk about - well, they're sort of saying that it's not wellness, it's not supporting wellness, so it's sort of like the health services aren't actually making people better. It's creating a dependency and they're concerned about over-servicing. So I feel a lot of these changes are about trying to control that, whereas I feel strong, just like the NDIS have done, they've got their own internal audit teams where they create a lot of rigour around, you know, accountability and evidence base around supporting why you're actually visiting that veteran.

15

I also feel that, you know, they talk about the whole point of the reform is actually -like, they've actually got no measures or evidence to say good, bad or otherwise, personally DVA, and I guess there's no talk about, like, you know, putting - as long with our guiding notes for allied health practitioners, a part of that should be in-built saying, look, you know, with every client you see with any service delivery we want you to use a standardised assessment and then provide that in the report back to the GP or make sure you have that on note so that will actually provide some evidence around outcomes. So I guess that's sort of why I'm feeling that, I feel like it's a bit of a knee jerk reaction in terms of health service provision from my perspective.

20

**MS SMITH:** The other point to make in relation to the allied health reform package is, it's centred on more or better feedback to the GP but they propose no measure for allied health practitioners to do that so there's no, currently there's no reimbursement to pay for reports from allied health practitioners to GPs, but they continue to propose no measure to facilitate that ongoing communication.

30

**COMMISSIONER SPENCER:** Could I just understand, you've referenced NDIS a couple of times.

35

**MS SMITH:** Yes.

**COMMISSIONER SPENCER:** Do you have NDIS clients?

40

**MS SMITH:** Yes. Yes.

**COMMISSIONER SPENCER:** So NDIS is obviously quite a different approach so the individual gets their assessment They get their package.

45

There is this issue you've referred to here, what are the costs if they're not self-managing. So that's quite a different (indistinct) that came from the McKinsey, did it?

5 **MS SMITH:** 180?

**COMMISSIONER SPENCER:** 180.

10 **MS SMITH:** Yes, well, that's what we get paid, but also you get paid that through Comcare, the Insurance Commission of WA. Like, it's a standard.

**COMMISSIONER SPENCER:** Quite common.

15 **MS SMITH:** Yes, it's a standard hourly rate across the board. I mean, we know that, in our written submissions we'll reply to a response, like you quote some Victorian remuneration rates so we'll provide some comment around them which we feel are not a true reflection of national, state and Commonwealth remuneration rates for allied health services. Yes.

20 **COMMISSIONER SPENCER:** So when you say just the issue of the financial viability of the service that you've raised, I appreciate it's early days for a National Quality and Safety Commission, but in terms of being the safeguard of our quality and you've referred to that and suggested, I think, that there be something similar here.

**MS SMITH:** Yes, yes.

30 **COMMISSIONER SPENCER:** What's your experience to date of quality of outcomes focus in the NDIS environment as compared to what you're experiencing with DVA or is it too early to - - -

35 **MS SMITH:** Well, I mean, I guess we're due for an audit in March, so they're coming out and there's - they've got a three-stage process of auditing, so the first one, it's a bench top audit, but they're looking at, I guess, the administration of the organisation, looking at policies and procedures. What other things, just, complaints, how, you know, customer satisfaction.

40 **MS RAINBOW:** Quality improvement.

**MS SMITH:** Quality improvement.

45 **MS RAINBOW:** Staffing.

**MS SMITH:** So all those things that sort of, you know, yes.

5 **COMMISSIONER SPENCER:** If I come back to another observation and it seems that you could comment on this, you say the Gold Card is a good wellness, lifetime focussed way of responding to need, but at the same time saying, "But you're not allowed to effectively do what needs to be done in order to respond to the needs" and - - -

10 **MS RAINBOW:** Well, with their proposal that's going to be rolled out in July, yes.

15 **COMMISSIONER SPENCER:** Yes, so we have, in our report, when looking at health care, currency's one way to go and we've put forward an argument that we don't think it's well-focussed because it doesn't respond to the particular needs. It's all conditions, so it seems to me that, say, if you look at the NDIS there's a scheme which is actually trying to identify what is the need and how best to respond to that need and how to give the flexibility and a sustainable system to providers like yourself to be able to operate in that system. So when you think of a model like that, how could something like that be better focussed for the veteran on what they need? How could - - -

25 **MS RAINBOW:** Well, I guess I just probably want to go back to the start in the Productivity Commission report that they say that the overarching objective of the reform is that it's going to be a wellness approach, so in terms of wellness you have to be holistic, so I guess that term with the Gold Card saying that they want to reduce it down to some identified work-related. service-related injury, like, that's not wellness focussed because wellness is looking at the whole person, so I guess just on that point, I, you know, it's not going to be supporting wellness if you're reducing it down to, you know, a fracture that someone had in their arm, like, you need to look at that person in totality, and as they age, I mean, they could get a secondary condition subsequent to that initial condition from overuse.

35 You know, we've had a veteran that, he has bilateral - he's a bilateral above knee amputee from service and now he's got, as a result, because he's in a wheelchair and he has to transfer using his arms, I mean, he's had to have shoulder replacements, so because of the initial injury, it's produced a secondary injury somewhere else, and then you might get some depression or adjustment disorder, and you know, it sort of has a flow-on effect, so if you're looking at wellness, I mean, you know, you actually do need to have a look at the whole person, but is there another point with that?

45



5 **MS SMITH:** I guess from the perspective of the NDIS, we've had a client that's had a head injury and is confined to a wheelchair and required some stockings for leg swelling and the application was made and it was declined because the stockings weren't - the leg swelling wasn't a listed condition, but in terms of relating that back to her head injury, it is actually related, so it's looking at the whole body and the whole person and how the medical conditions interrelate to each other. So was it because she had a head injury, she wasn't walking as much so the circulation was poor and it was building up oedema.

10 **COMMISSIONER SPENCER:** But if one thinks about the Gold Card, I mean, the theoretical right to get what you need when you need it for the whole of lifetime wellness approach, I mean, what you're illustrating here is that that may well be the theory, but in practice there are a number of  
15 restrictions, and we also hear that sometimes veterans are seeking services but they can't find the services and there are some providers who won't provide the service, and you're indicating that the viability of your service may be at risk here due to - - -

20 **MS RAINBOW:** It might be. Yes, I mean, some - - -

**COMMISSIONER SPENCER:** - - - these sorts of restrictions.

25 **MS RAINBOW:** Yes.

**COMMISSIONER SPENCER:** So whether it's via a card system, whether it's via some other system, I think what we're all trying to do is to work out how do we maximise the possibility and opportunity for the needs of the veteran to be met, whether it comes through a card system or  
30 some other system such as the one that's being designed for the NDIS, and that's not an easy thing to do. So part of the request that we have out is to think about how can it be better done, but it's - I mean, this is obviously quite a piece of work, so we will - - -

35 **MS RAINBOW:** I mean, just basically the first - it's abbreviated in the column, so it's our main points.

**COMMISSIONER SPENCER:** Sure. Yes.

40 **MS RAINBOW:** It's only 23 pages and there's about 500 pages of references to support the facts.

**COMMISSIONER SPENCER:** That's reassuring.

45 **MS RAINBOW:** Yes, yes, so that's one thing.

**COMMISSIONER SPENCER:** No, no, that's terrific. Thanks very much for sharing that.

5 **MS RAINBOW:** And we've got a key message which summaries that. There's probably a couple of other points I wouldn't mind mentioning.

**COMMISSIONER FITZGERALD:** Yes, can I just ask a couple of questions. One of the things we've been very critical of DVA in relation to the fact that it is not very outcomes focussed, and you've identified that and DVA acknowledges that, I might say to a lesser degree but nevertheless a significant degree, so too is Defence, other than of course returning to duty. You can actually measure whether people return to duty or not.

15  
Clearly the DVA as part of this is trying to get some handle on outcomes and they're using both the GP, the regular going back to the GP as the way of doing that, but you indicated to us that there's actually no - there's no prescription, there's no way of actually reporting in a sensible way back. So how do you think DVA should deal with this outcomes issue, and it's related to the comment. You think the DVA is trying to deal with what they believe is over-servicing, but as you also said, there's no evidence because nobody collects any information, so nobody knows. So just tell us, how do you think DVA should deal with this issue of understanding outcomes for veterans?

20  
**MS RAINBOW:** Yes.

**COMMISSIONER FITZGERALD:** And secondly, dealing with that issue which could arise, that is over-servicing, I'm not suggesting it does exist but I'm saying it could exist.

30  
**MS RAINBOW:** Yes.

**COMMISSIONER FITZGERALD:** So how do you think DVA should approach those twin issues?

35  
**MS RAINBOW:** Well, I mean, a part of them say that a report back to the doctor is mandatory which they've always said but they've never paid us for. Maybe also say that it's also essential or mandatory that a standardised assessment is also provided, so, and each health discipline could come up with a number of suitably satisfactory assessments that each professional could go on to the website and say, "Oh, they like to use this one and this one", and it could sort of develop from there. I guess the point about over-servicing is that, I mean, APRA now is our governing

body, and also we've got a - and within that we've got the OT - well, each professional's got their registration board.

**COMMISSIONER FITZGERALD:** Sure.

5

**MS RAINBOW:** And AHPRA's been running for about five years and I mean, my sense of it from other colleagues and personally is that it's a very, you know, they're running a very tight ship, and there's a great amount of rigour with what they're doing, and part of us being a health professional and our code of conduct and our AHPRA registration is that we're only delivering, you know, clinically appropriate services. We're not over-servicing and basically that we're doing the right thing, so basically if I don't do the right thing and I get found out then I've lost my profession, so I mean, that's a pretty big incentive for me to do the right thing. So, yes, so I just - - -

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15

**COMMISSIONER FITZGERALD:** No, that's fine.

**MS RAINBOW:** Sort of lost my point there, but - - -

20

**COMMISSIONER FITZGERALD:** Can I ask this question, you deal with Comcare or like agencies?

**MS RAINBOW:** Yes, so WA Insurance Commission.

25

**COMMISSIONER FITZGERALD:** Yes, and your experience with that organisation, vis-à-vis DVA, how different is that?

**MS RAINBOW:** So Insurance Commission we would deal with case managers or therapy provision, so we get the referral. Then we would provide our report on our assessment; provide, you know, say we want to see this person X amount of times to achieve these goals, go and do it, report back, how's it gone, continue on that way.

30

**COMMISSIONER FITZGERALD:** And how does that operate from your point of view? Is that a good way of operating?

35

**MS RAINBOW:** Yes.

**COMMISSIONER FITZGERALD:** And how does that differ from dealing with DVA?

40

**MS RAINBOW:** The GP's not involved in terms of referrals. I guess the client and their goals are more involved.

45

**MS SMITH:** You mean equal?

**MS RAINBOW:** Yes, and they're more informed.

5 **MS SMITH:** Yes, it's client-centred.

**COMMISSIONER FITZGERALD:** And is the level of oversight of what you're doing through that organisation, not DVA, the insurance, WA Insurance, do you think that that's an appropriate level of oversight and  
10 engagement with you as a provider?

**MS RAINBOW:** I think so.

**MS SMITH:** Yes, yes. And if the - - -  
15

**COMMISSIONER FITZGERALD:** Because what we've - sorry.

**MS SMITH:** I mean, I guess that they all, they, yes, in our experience, they've always supported clinically indicated servicing so, you know, you  
20 can actually get really good outcomes from, like, clients that we've had. I mean, there was a man that I saw for four years almost five times a week and he had a catastrophic injury and he was bedridden and he was in his 20's, and he was, by the end he was actually walking around with a quad stick and doing meal prep and it was just astounding just the improvement  
25 and that he got his life back.

**COMMISSIONER FITZGERALD:** Okay. Look, the reason, just to sort of explain that, is we've been looking at different systems. This hasn't been an evaluation of DVA in isolation. We've actually looked at other  
30 insurance arrangements, other workers' compensation arrangements, and we're trying to say, well, what's best practice in this space.

**MS SMITH:** Yes.

**COMMISSIONER FITZGERALD:** And we're trying to learn from that and then to say, well, how would we put this into, you know, the Veteran Services Commission or whatever the delivery agency is, or DVA as it currently is. So we're trying to get these comparators and they all operate  
40 differently, but there are some industry best practice and we just try and say, well, you know, what does that look like which is hardly revolutionary but it's not what's happened so far.

You said you wanted to make a couple of points. We've just got a couple of moments left.  
45

**MS RAINBOW:** Okay, I guess this is on the - - -

**COMMISSIONER FITZGERALD:** So you've got three minutes.

5 **MS RAINBOW:** Okay, thank you. Just regards to the best practice  
models in the final report, you know, I would like to know what the best  
practice models were, and I do feel that, you know, doctors just aren't  
going to be interested in reviewing the allied health intricacies and  
outcomes that the veterans had and they're not the - we're actually the  
10 expert in terms of working out if they need more services. I hurt my hand  
and I went and saw the doctor and she said, "Oh, well, you'd know more  
about it than me", because I'm the professional in that area.

15 One thing I wanted to raise was just around the comments around  
wellness and the Commission made some comments regarding the Gold  
Card discouraging wellness on page 19 of the overview, and I do believe  
that those comments were misleading and out of context, and, yes, it  
appears that the comment made by the RSL New South Wales reference in  
the Commission's report has been made out of context and I believe that  
20 the view of the system as a contest to be won is the view of the DVA, not  
the entitled veterans, but I felt like how it was written in the heading  
above it, I felt like it actually came from, New South Wales were saying  
that about veterans are not actually - they're actually referring to the  
department staff, so I, yes, need to point that out.

25 **COMMISSIONER FITZGERALD:** That's fine. Any other final  
comments or questions Richard?

**COMMISSIONER SPENCER:** No, that's fine, thanks.

30 **COMMISSIONER FITZGERALD:** Thank you very much for the  
written submissions, the short one and the other documents. So thank you  
for that. I mean, it is a really important issue, this whole issue of  
rehabilitation, and obviously the work of allied health is very important  
35 and we are ably convinced that there is a better way to do this going  
forward over the long-term, so you coming forward today and also putting  
so much effort into that is very helpful.

40 The issue about pricing is also very important to us, and there does appear  
that DVA under-prices some things and is relatively comparable to the  
market in others, but from what you've said, if it is the case, is there's a  
very substantial difference between the payment by DVA and what other  
organisations are paying in this particular area.

45 **MS RAINBOW:** Yes, yes, that's right. Yes.

**COMMISSIONER FITZGERALD:** So we'll have a look at that.

**MS RAINBOW:** All right. Thank you very much.

5

**COMMISSIONER FITZGERALD:** Good. Thank you very much, that's good. Thank you very much. That's good. That's really helpful.

**COMMISSIONER SPENCER:** Thank you very much.

10

**MS RAINBOW:** Thank you.

**COMMISSIONER FITZGERALD:** Rebecca Coghlan I think I think it is. Is there a Rebecca or have I got the wrong name? We're right on time.

15

Just grab a seat. Just sit in the middle. Just the middle seat would be terrific, and grab some water if you need it.

**MS COGHLAN:** Thank you. So the people in the audience are - - -

20

**COMMISSIONER FITZGERALD:** Sorry, just one moment. Sorry. If you want to grab a water or that, please just do that. So Rebecca? It's Rebecca Coghlan?

25

**MS COGHLAN:** Yes.

**COMMISSIONER FITZGERALD:** That's fine. Now, you had a question, sorry?

30

**MS COGHLAN:** I wanted to know who would be in the audience today.

**COMMISSIONER FITZGERALD:** Anybody who likes to be. It's the general public.

35

**MS COGHLAN:** Okay, that's good, but no reporters?

**COMMISSIONER FITZGERALD:** Well, I'm not aware if there are.

**COMMISSIONER SPENCER:** We can check on that.

40

**COMMISSIONER FITZGERALD:** But the reporters are entitled to be here.

**COMMISSIONER SPENCER:** We'll just check on that in a moment because we had asked anybody from the media to register and I'm not sure - - -

5 **COMMISSIONER FITZGERALD:** There's nobody from the media in here at the moment.

**COMMISSIONER SPENCER:** I don't think so.

10 **COMMISSIONER FITZGERALD:** Having said that, this is transcribed and is publicly available.

**MS COGHLAN:** Yes.

15 **COMMISSIONER FITZGERALD:** Unless you request otherwise, but public hearings are what the name entitles.

**MS COGHLAN:** Exactly.

20 **COMMISSIONER FITZGERALD:** Unless you ask otherwise. Is that okay?

**MS COGHLAN:** Yes, yes. Sure. It's Robert and?

25 **COMMISSIONER FITZGERALD:** Sorry, Richard.

**MS COGHLAN:** Richard, yes. Yes, no, that's fine.

30 **COMMISSIONER FITZGERALD:** So Rebecca, we've got 30 minutes maximum.

**MS COGHLAN:** I thought it was five, so.

35 **COMMISSIONER FITZGERALD:** So if you'd like to give your full name and - give your full name, and any organisation that you represent.

**MS COGHLAN:** I'm an individual and my name is Rebecca Coghlan.

40 **COMMISSIONER FITZGERALD:** That's fine. Just pause there. And if you can just make an opening statement of five or 10 minutes and then we'll ask some questions.

45 **MS COGHLAN:** Certainly. I'm here because my mother passed away and I actually wanted to honour her. That's a younger photo of my mum, but she was a Gold Card holder with DVA after my father's death in 2011.

So Dad died in December 2010, so Mum got the Gold Card some time in 2011 and she was extremely grateful for that, and Dad got a Gold Card from services in Borneo in the Second World War.

5 But one can say while you're here your parents benefited as did my mother-in-law, but we're less familiar with how she went because she was in Victoria. My husband wasn't close, but I always worried about the open risk to the taxpayer. The reason I worried about the open risk to the taxpayer was because I never saw an account the entire time my mother  
10 was under the DVA, so Mum actually had a lengthy period of hospitalisation unfortunately, and had to wear a very heavy poly jacket, and that poly jacket made her life a misery, but she wore it, and she wore it with some dignity.

15 But unfortunately what happened was, the poly jacket was hard and rigid, and she had to go from Sir Charles Gairdner, so when you go to Sir Charles Gairdner they can't wait to get rid of you. They say, "Let's go up to Hollywood Private Hospital". So the last hospitalisation on 1 October we refused for Mum to go up to Hollywood Private Hospital, and she  
20 stayed at Sir Charles Gairdner, and then 10 days later she went to Royal Perth Hospital where she went into the spinal unit and then 10 days later after the poly jacket was measured she went to St John of God, Mount Lawley, and I've been a health consumer advocate probably for 25 years, and I always worried about the accounts and I worried about the contract.  
25 Mum was less worried, but I just had no idea.

Now, when she was in the spinal unit at Royal Perth one of the nurses said that the DVA contract at Hollywood Private Hospital had expired. See, they bought the hospital, Ramsay, from the Department of Veterans'  
30 Affairs when it was put up for sale, and they had obviously some years of a contract, and then there was a new contract. So because we were told she would have a lot of rehab the first time when she went into hospital in June, but she didn't. She got a pressure ulcer, and so my brother and my husband and I decided to take Mum home. So we got her home for nearly  
35 two and a half months and then she fell again.

So I ask those questions because I want to know about the quality use of the health service, the end point for the health service. What I'd actually like is for the recipient, and she was entitled to choose a doctor. When I  
40 read your draft report, and she was never asked, you know. So did she have real private hospital patient status? No, she didn't. At Hollywood Private Hospital veterans, Gold Card holders like my mother are put in the Woods Ward at the back of the hospital and the same geriatrician that treated Dad when he had heart failure and subsequently died at 89 in 2010,  
45 Dr AC, was still there, and I think he had 14 or 15 veteran patients and he



5 moved them, and I pushed hard for Mum to go into the heart ward when she had a heart attack, and he came down and he held her hand and he said, "Mrs Cubitt, I can't give you optimal care here", and wanted her back in that medical ward at the back and she was moved back to the medical ward.

10 So DVA can't fix the health system, and you would not expect them to, and I'm really just thinking more about the allied health services that Mum got at home, the physiotherapy Mum got at home, the dental bills that she had. I just had no idea what any of those providers were collecting from DVA. Why couldn't she have a statement sent every month, just like HBF sends, and then there's some transparency and then the end user, as well, has to take some responsibility for usage, because I think, and I don't want to make any offence to anybody here, that that age group, and Mum was a very dignified person and she can't defend herself, but that age group, well, most had an attitude that DVA would take care of things for them, and she was always very good. There was no rorting of the system or anything like that, but they've got benefits that the rest of us will never have, and there really needs to perhaps be a greater appreciation of that. It's like a credit card where you never receive a bill.

25 So one has to wonder sometimes whether the physio coming was doing a social visit for Mum or was it actually improving her physical care. The OT was marvellous. You know, sheepskins would come, lights in the house. A hospital bed came in. It was marvellous, but again, do they get a mark-up? Does a physiotherapist buy the light and then get a 50 per cent mark-up like the drug companies do? What does DVA pay for prostheses? What does DVA pay for medical devices because you know that until the devices were listed they were going up like this, and Ramsay just makes a big mark-up on them all.

35 So it's well-known, there's been huge reports in The Australian about what Australians pay for these prostheses, and the government pays much less than the private hospitals pay because the government's got fixed contracts, but I digress. Mum got to choose a doctor when she had scheduled elective surgery but not if she went in through the ED Department which they so frequently do at that age. I noted in the report - we're jumping around a lot about the health system - that you have a lot of veterans over 79 years of age. What's the risk, the open risk, you see it's uncosted. DVA is costing 13 billion dollars a year to run. I worry for the future, I really do. I worry for the sustainability for the young veterans, I worry for the army, the defence forces, I worry for , does that budget take away from equipment for the army; does that budget take away for greater resources for them when they're discharged. Does that budget take away from optimal training.

5 My husband was in the army for nine years. I was an army wife in  
Townsville and I was an army wife in Melbourne, so I have a greater than  
normal interest in the defence force. He had no involvement since he was  
discharged at 24, and went on to work for the Water Corporation for 35  
years, but he's very interested in defence, and he follows it and so it flows  
on to me a little bit. But mum couldn't have cared less. She just dropped  
her private health insurance. Dad was given the Gold Card. Remember  
when John Howard gave the Gold Card to everybody, and when we were  
10 over in Victoria last year we met up with one of Peter's friends from  
Perth, from Irwin Barracks, and he said that his Gold Card had just arrived  
in the mail at 70, because he'd been in Vietnam but he hadn't been in the  
army for years. And, you know, he doesn't pay any tax in Australia. It's  
worrying that – it's just worrying about the lack of accountability, and taxi  
15 fares.

**COMMISSIONER FITZGERALD:** Sure.

20 **MS COGLAN:** What do you do with that in regional areas? If you live  
in Albany there's a PAT scheme here, so patient assisted travel. What  
does veterans do? I don't know, because we always lived in the city, so  
you can see that there's risks all over the place for – what does a GP get?  
I saw the enrolment and then the quarterly payments in the report, and  
25 you've got a new quality use of general practice initiative came in last  
September. But that puts a lot onto GPs who are busy and who have got  
extensive numbers on their books. They've also got to get in a partnership  
with the veteran.

30 **COMMISSIONER FITZGERALD:** So I just need to bring that to a  
conclusion and thank you.

**MS COGLAN:** Yes, stop.

35 **COMMISSIONER FITZGERALD:** Firstly, thanks for honouring your  
mother. Could I have your mother's name? Her first name?

**MS COGLAN:** Pamela Lylie Cubitt.

40 **COMMISSIONER FITZGERALD:** Cubitt.

**MS COGLAN:** C-u-b-i-t-t.

45 **COMMISSIONER FITZGERALD:** Good. Thank you very much.  
Thanks for raising the issues, and there are different issues that have been  
raised in the couple of days, so thanks for that insight. When your mother

was receiving the care, various services, who was authorising those services? So do you have to act on behalf, was she dealing directly with DVA? How were those services approved, whether they're in-home or otherwise?

5

**MS COGHLAN:** Thank you for the question. If mum was receiving in-home help, like, via a service such as a cleaning lady, that was organised through veterans' home care on the phone and mum would make that call, and they were always very good on the phone line, as I said in my submission. If she was receiving any form of respite care, which she had after her first hospitalisation in June, and her later hospitalisation in 1 October. We went over east to help my daughter and my brother's wife went into hospital and we had carers in for four hours a day. We rang up veterans' home care, which is separate to DVA, so mum initiated that, and we were able to have that because she was at least in hospital, discharged. But you can't just ring up yourself. It can be verified. If it was anything to do with general practice it was always the GP, and if it was any prescription medication it was always the GP. If it was a referral to a specialist it was always the GP. So mostly her GP.

20

**COMMISSIONER FITZGERALD:** So she basically organised it in a sense through various avenues, either the GP or through the department?

25

**MS COGHLAN:** She did. She did.

30

**COMMISSIONER FITZGERALD:** Yes. And your point is that – was there any checking up by the department as to whether the services were delivered? So did people say to your mother, you know, "Have you been receiving these services? Are they adequate?" or anything like that?

35

**MS COGHLAN:** I think mum might've got a – years ago might have got a survey sent in the post, but she was a wonderful woman, but she wasn't very form literate, and I think I helped her fill that out. But, no, there were no phone calls, and, in fact, I think lights lit up behind providers' eyes when they knew she had a DVA Gold Card. As soon as she said, "I've got a DVA Gold Card", "Oh, good", said the pharmacist, "Oh good", said the doctor. So that number, that WX whatever number was just a passport to a whole raft of services.

40

**COMMISSIONER FITZGERALD:** Sure. Had the information – you indicated that those statements are produced certainly to the owner of the Gold Card, your mother in this case, or anybody else, and we're aware of that. That has been raised with us previously. If statements were produced and your mother, in this case, would've received a sort of a

summary of the services that DVA had approved and supported, would anything have changed?

5 **MS COGHLAN:** Yes, I think so. Yes, I think she would've thought, "Wow, that physio visit was \$95", you know or, "That kettle cost DVA" so and so, and someone stole her brand new walker when I took her to the Andre Rieu concert, because they just put them all outside, and I made sure that the stadium paid for that, not DVA, because it was a lovely new one. She never knew what anything cost. Yes, I do think so, because I  
10 think it's like anything, I know you're not allowed to charge gap payments, it's illegal with DVA, so there's no co-payment, there's nothing. So there aren't any – it's invisible to the user.

15 **COMMISSIONER FITZGERALD:** You make the point and very colourfully - - -

**MS COGHLAN:** Sorry.

20 **COMMISSIONER FITZGERALD:** - - - and it's true. No, no, I'm actually praising you, because in the sense that it is actually an issue in the system. The controls in relation to the expenditure of these matters is an issue we've been looking at and so your comments are – can I just go to another issue and then Richard may have some comments. You talked about – am I correctly understanding this, when your mother went into, it  
25 was either a retirement village or a nursing home at Sir Charles Gairdner?

**MS COGHLAN:** She went into Sir Charles Gairdner from independent living, so she lived 15 years at the old Salvation Army which became Regis Nedlands in Monash Avenue directly across the road from the old  
30 Repat hospital.

**COMMISSIONER FITZGERALD:** Sure.

35 **MS COGHLAN:** So she lived and was independent and didn't own the unit, but she paid hundreds of thousands to go in there. So when she fell the first time I got her back home there only because of DVA, the second time she went into residential care.

40 **COMMISSIONER FITZGERALD:** She went into residential care. And just so that I understand it is that Sir Charles - - -

**MS COGHLAN:** For two weeks.

45 **COMMISSIONER FITZGERALD:** Only for two weeks.

**MS COGHLAN:** She died in residential care.

5 **COMMISSIONER FITZGERALD:** What was the unit where you said that she had to be moved back into the medical ward at the back of the building?

10 **MS COGHLAN:** Sorry, that is Hollywood Private Hospital, the Woods Ward. It's the oldest ward in the hospital and it pays less than private health insurance. The DVA contract must pay less because it's all four shared – they've only got four single rooms. The front of the hospital is the more glamorous parts that Ramsay – I'm sorry, I'm colourful again, but it's true, you step into an atrium and you see Brislee wing, and, you know, bring in Bullwinkel and then you step right up the back and that's where all the veterans go.

15 **COMMISSIONER FITZGERALD:** So what I'm supposed to take from that is that the level of care and the quality of care for those that are presented with a Gold Card or Veterans was of a different character to those in the rest of the hospital?

20 **MS COGHLAN:** I think the hospital care is outstanding but, yes, the quality of the accommodation if you measure a hospital on accommodation, the choice of geriatrician was missing. It was supposed to be the rehab ward, and that's what we were told, but the rehab was a social worker appeared when mum – I think she got good care but it wasn't – yes, it must be because the daily fee is less than the private health insurers because you had to fight really hard to get into the bathrooms and the equipment wasn't as good. Far better than Charles Gairdner but let's think about that for a minute. What is the contract with Hollywood Private Hospital per day, has it changed since the first contract expired, do veterans get a choice of doctor, which they have a right to, and if they do choose the doctor, is it just the second doctor from the same practice, which is not a choice as such, that's just a different voice to the same practice, but a different person delivering it sometimes. That's what I mean by second opinion.

35  
40 How do you empower the veterans to know their rights, and how do you empower the veterans to ask the right questions about the treatment that they're getting, and that's an individual thing, unfortunately. A family and individual thing. There's no measuring lengths of stay. Certainly we experienced it with that polyjacket on, it's St John of God Mt Lawley because we were asked to leave.

45 **COMMISSIONER SPENCER:** Rebecca, thank you for that. You're describing a very opaque system, and as you say, there's a lot of money

5 flowing around the system. It's not clear to the outsider what exactly has been purchased, how much and if that's been delivered. So that raises nearly a concern, obviously. But the other issue is one that we're particularly focused on, and that is whatever the amount of money being spent is, it should be used efficiently, but it should produce outcomes. It should actually deal with the issues that the individual, you know, is concerned about, and - and give good outcomes.

10 So, from your experience, you clearly, you know, have described very well the lack of transparency around the money, but from the point of view of your mother, was she - leaving the accommodation aside, was the treatment that she was getting, generally speaking, appropriate? Was it achieving what you think it should have been, or were you concerned quite often that there was -there were things happening that wasn't entirely clear. Is that treating the current conditions, is that currently changing her condition?

15 **MS COGHLAN:** I think if you went in for a knee replacement, I remember when mum had her knee replacement just after dad died, she did a little bit of extra time there for rehab, and she went home, and that was fine. As I said, the July, unexpected entry from the fall at home, when she fractured two ribs - sorry, fractured two vertebrae, T10 and 11, and then had a mild heart attack in there, she became disabled in there.

20 So, Simon and I quickly looked at the new nursing home, with an entry point of \$550,000, at one point \$2 million, smack-bang next door to where she lived, and thought, "We'll have to get mum home with help from DVA." We were, in our own minds, pressure ulcers formed on mum's bottom. We could see she was just lying there, becoming - she had no stimulation, so we literally asked to be discharged, and they discharged mum very quickly.

25 The social worker came, and the doctor watched her walk with a walker, and she went home. She did very well at home for two and a half months, with a lot of support, Silver Chain showering her, and 15 minutes at night to give her medication, but she went to the pictures at the Windsor Theatre with her 97-year-old friend, and toppled backwards before the movie started. Then, did a nasty T8 fracture.

30 Now, I asked that here. I said to them at Royal Perth, you've got my mum here, in the spinal ward. You're measuring her up at Fiona Stanley for this polyjacket. Would her care be any different is she was a Medicare patient, or a privately insured patient, and they said, "No. This is the standard treatment for this spinal injury." Is her age taken into account here, because honestly, it was so uncomfortable going from here to here with

three pieces of Velcro. She was, you know - found it very hard to breathe. And they said that's the standard treatment.

5 And we never, ever saw the consultant. They said, "Oh, he doesn't come on the ward unless there's a very interesting case." So we found the spinal fellow on day 9, and my two brothers and I stood there, and he said, "Your mother's spine is ankylosed all the way through. She fits all the criteria for ankylosing spondylitis," and I knew what that was straight away. And I sat there, and said, "Well, she's complained of aches and pains, and it's  
10 been fobbed off as dramatics." That's irrelevant right now, but it meant that her (indistinct) spine pivoted off that and she needed to wear that jacket.

15 And it was clear that she couldn't go home, but her care wouldn't have been any different, and in fact, Royal Perth would have then sent her as Medicare patient, for rehab at that age, because she lived alone a well, to a bed that they costs at St John of God Mt Lawley or one of their other places.

20 **COMMISSIONER SPENCER:** Can I just ask, you mentioned earlier on that you're - you know, you're a health consumer advocate. So, you're probably be familiar with - - -

25 **MS COGHLAN:** Was. Was.

**COMMISSIONER SPENCER:** Was, okay.

**MS COGHLAN:** That's right.

30 **COMMISSIONER SPENCER:** So you're probably familiar with the patient, and reported outcome measures, the patient reported experience - - -

35 **MS COGHLAN:** Yes, yes.

**COMMISSIONER SPENCER:** - - - which increasingly is a way of trying to understand, from the patient's perspective, whether what is happening. Did your mother ever have the opportunity to participate in anything like that, to give feedback about her experience, or what was happening to her,  
40 that DVA would have been able to get line of sight on. Are you aware of anything that happened around - - -

**MS COGHLAN:** Never.

45 **COMMISSIONER SPENCER:** - - - what was happening to her?

5 **MS COGHLAN:** Absolutely never. No, no. No. And in fact, when she went to St John of God Mt Lawley, she - she toppled at physio one day, and she toppled with the nurses one day. I was with her on one of those occasions. It was low level rehab. It was for people with ankle injuries, and other people who couldn't go home. But I haven't answered your question.

10 There was never a form filled in. In fact, the geriatrician, sort of, (indistinct) in, and looked at Mum, and I didn't think he was pro-actively looking after her, and he would have charged for that case conference, you know, on that last day. So we didn't get a report. Mum never saw anything. It was a lovely view down the river, lovely view down the Perth Stadium. I'm ashamed to say that it was, in my opinion, excellent  
15 accommodation, a bit of low-level rehab, good food, and all being billed to DVA.

20 **COMMISSIONER SPENCER:** Thank you very much for that. And it wouldn't surprise you to hear we've commented on in our report, is that there is just a distinct lack of information to demonstrate any sort of outcomes, what's been achieved. So, your story, of what your mother experienced, is consistent with what we've heard, and what we've commented on in our report. Which obviously needs to change in future. We're suggesting (indistinct).

25 **MS COGHLAN:** Yes, yes. Especially for the younger cohorts, who are - need to be active partners. Towards the end there, mum was in such a state of shock from it that she became quite passive, and we had to advocate for her. To give the hospital credit where credit is due, they did  
30 try to discharge mum through the social worker before her first follow up at Royal Perth, and we said we'd wait until the first follow up, if we could. And then the day after that follow up they said look, she's got to go, so we quickly went on a maintenance fee, and a lesser room. And we quickly got her into an aged care facility.

35 And she toppled over on Christmas Day, and had a head injury, so she went down to Sir Charles Gairdner Hospital, and then she - yes, the palliative care was very poor. But that's for every consumer. You catch the Christmas-New Year period, it's not distinct to DVA.

40 **COMMISSIONER FITZGERALD:** No. Well, again, just to echo was Richard said, thank you very much. You've been able to illustrate in a short period of time a number of concerns that we're tried to address. So, thank you for that. Thank you for honouring your mum. And again, just  
45 as Richard indicated, this whole issue about outcomes, accountability,



value for money - all of those things which you've talked about in different ways, are part of the sort of reforms we're trying to - to bring in, or at least recommend to government. So thank you for that.

5 **MS COGHLAN:** I hope it's helped. And no disrespect to the other people, the Gold Card holders.

**COMMISSIONER FITZGERALD:** That's all right. They're a hardy bunch.

10

**MS COUGHLAN:** They are. And you're hardy commissioners.

**COMMISSIONER FITZGERALD:** Thank you very much.

15 **MS COUGHLAN:** And I came as an individual. I want to stress that.

**COMMISSIONER FITZGERALD:** No, that's fine.

20 **MS COUGHLAN:** Don't want to get in trouble with the family, you know?

**COMMISSIONER FITZGERALD:** That's all right. So, we now have a couple of shorter presentations. Marc Jones, is that right? Hi, Marc.

25 **MR JONES:** Hi. How are you doing?

**COMMISSIONER FITZGERALD:** You'd like to grab a seat, just in the middle.

30 **MR JONES:** Yes, no worries.

**COMMISSIONER FITZGERALD:** Good. Marc, if you can give your full name, and whether you're representing an organisation, or here as an individual.

35

**MR JONES:** Full name is Marc Allen Jones. No, I'm not representing an organisation.

40 **COMMISSIONER FITZGERALD:** So Marc, if you just want to make a short presentation, and then we'll ask some questions.

45 **MR JONES:** Yes. My name's Marc Jones, I've just - I left the Army as of two weeks ago, so I've just come back from 8/12 regiment in Robertson Barracks, Darwin. So, I was former artillery. And, pretty much, I heard about this hearing through the RSL, and they said they were going to, like,

5 talk about the compensation, rehabilitation program. The fact that you  
come back home, and there's nothing to fall on. I couldn't even get my  
hands on a forklift licence or a HR licence while in the army. There's very  
little services programs, fitness programs for soldiers leaving the Defence  
Force, and so thought I'd come here and just let it be known that I'd like to  
know what DVA's doing about it.

10 You know, because of services for former veterans who are leaving, I just  
– it's not really that good. I could have stayed in Darwin and gotten a HR  
and forklift licence up there through the universities, but they don't have  
that service down here. Like, Queensland, New South Wales and Victoria  
have all got veteran employment programs. WA's not even at that level  
yet. So you know, it's just constantly frustrating falling behind the other  
15 states when, you know, so many people come from Perth. And  
considering the fact we've got a large number of reserves in the thing, and  
we've also got the SAS based out here and the moment your time's up,  
you're just left to fend for yourself and, hopefully, you can find a job.

20 **COMMISSIONER FITZGERALD:** Mark when you left the service in  
Darwin - two weeks ago?

**MR JONES:** M'hmm.

25 **COMMISSIONER FITZGERALD:** Can you just explain to us what's  
happened in the last eight months of that. Were you offered any transition  
supports, packages, advice?

30 **MR JONES:** Yeah, so pretty much the thing we were offered was, they  
went into DVA. My staff will like try and get you a White Card before  
you leave. I've got my White Card. It's very limited on what I can get. It  
covers full mental health, which I'm doing counselling for now.

**COMMISSIONER FITZGERALD:** Sure.

35 **MR JONES:** Yeah. As for transitions, they said that they'd ring me.  
They're meant to ring you once a month because of the high suicide rate  
for soldiers and they said that's come down from Scott Morrison, the  
Prime Minister. I'm yet to receive that phone call because I haven't been  
out for a month, yet. So that's probably happening next week or the week  
40 after.

45 Yeah, they said that there would be a program that DVA would be a  
separate program. I'd be able to move in and do transitions on base. And  
help soldiers go through the transition process. And you'd be able to work  
with that. I've heard nothing of that since leaving Darwin.

5 **COMMISSIONER FITZGERALD:** Who did you liaise with as you were moving towards a discharge? So did you go to a transition seminar? Was there a person in a particular transition office or anything like that that supported you?

10 **MR JONES:** Yeah, so the company we worked with was, I think, IP – I think it's IPAC, they're based up in Darwin. You go with those guys, they put you in a two day course where they set you up with writing resumes and cover letters and possibly helping you with applying for jobs and, yeah, that was pretty much – that was pretty much it. Apart from that, you get a couple of – you get like five days where you're allowed to have – you can take time off to go to job interviews, if you had job interviews. And so the – you know, you'd have to pay for travel yourself and then –  
15 and then they – you know, they fly you back and this and that. So there are all those services, but there was very little jobs going in Darwin.

20 **COMMISSIONER FITZGERALD:** So if you were moving, as you have from Darwin to Perth, what was the advice that was given to you when you landed back near Perth? What were you meant to do when you got back here?

25 **MR JONES:** Pretty much, when we got back here, there was really – there was no advice. There was just like, hey, just keep looking around for jobs and see what you can get.

30 **COMMISSIONER FITZGERALD:** Were you put in touch with a particular ex-service organisation or a particular branch of DVA or anything like that?

**MR JONES:** The only services I've been in contact with – I've only been in contact with two services, so far. One's Open Arms. I have – they organised for me to do counselling up the middle neck of the woods, so I am seeing a bloke there. And I've contacted Soldier On. But they have  
35 not got back to me.

**COMMISSIONER FITZGERALD:** And in relation to your discharge, were you voluntarily discharging?

40 **MR JONES:** Yes.

**COMMISSIONER FITZGERALD:** All right.

45 **MR JONES:** I wasn't medically discharged.

**COMMISSIONER FITZGERALD:** No, no. That's fine. And what was your expectation? What did you think the Army should have provided or were going to provide on discharge? What did you think would happen?

5

**MR JONES:** So with me it was very – it's very touch and go. I went through the Aboriginal programs. We were offered a fair bit, so we all went in as ECN 500. I was kind of hoping that, you know, I'd be able to leave and at least, a truck driver qual, or maybe some forklift

10 qualifications, like even a couple of certificates, just to help you gain a better foot to land a job, since I've got out. Like, most of the recognition of prior learnings, with all your weapons training and all your debriefs you've been in, nothing. Diddly-squat to fall on.

15 **COMMISSIONER FITZGERALD:** Did that surprise you?

**MR JONES:** It did. It's quite frustrating, considering that the Army pushes so hard for people and that they're like, no, no, no, you know, you've got to come to these training, like – like it's mandatory. So if you

20 don't rock up, you get charged for it. And so, you know, you're sitting in these debriefs and everyone's sitting there going what are we doing here? It's wasting our time. Like this isn't helping us get a job on the outside. So it's quite – it can be quite frustrating and I can understand why a lot of guys have, you know, have suicidal tendencies while sitting in these

25 programs. I mean, I've got a couple of my mates I'm still in contact with up in Darwin and their discharges are already in because they're just like, "Mate, we're over it."

**COMMISSIONER FITZGERALD:** You indicated just then, that these – sitting in these sort of seminars or programs. What programs are you referring to there? Is this this two day program you're talking about, or is this something else?

30

**MR JONES:** Well, this is like mandatory briefs, like, you know, that – make sure that your training's up to date, you know, that someone's been fooling around on base, like drink-driving and that, you have to go and sit in mandatory briefs for that. So everyone has to be, you know, make sure you're – because in the Army, it's one in, all in.

35

40 **COMMISSIONER FITZGERALD:** Sure.

**MR JONES:** So if someone stuffs up, everyone gets dragged in to a meeting.

**COMMISSIONER FITZGERALD:** One of the issues we have heard from veterans is – and this is a serious issue – is many expected to come out of the Army with readily useable qualifications. And as you've indicated, certain parts of the Army do not lead to that. And you've  
5 identified, and that's a significant issue, because the expectation is quite different. So your experience is common. We've heard that. From our point of view, what do you think needs to be in place? You're only recently discharged, so I'm sure there'll be some supports around. But what do you think needs to be in place to assist people like yourself?

10  
**MR JONES:** I think, personally, there needs to be like – maybe like a fitness program. Something like three months where DVA can chip in. And you know, you think – because that's the one thing that veterans do. We're used to doing PT twice a day. Like, you know, you're used to  
15 working out and keeping your fitness up. A lot of guys that leave the Defence Force end up putting phenomenal weight on because that – you know, the access to gyms aren't there anymore. And you know, we can't, you know – unless you've saved and the majority of us do, I mean, I've got a mortgage, so you know I bought a house before I joined the Army. So,  
20 you know, and now I've got to worry about payments of that, this and that and that's why I'm trying to look around and find a job.

So I think that maybe, you know, where they've got – they can put you into, like, certain areas where you can study. They're like, hey man, what  
25 do you want to do. Like, you know, can I step into maybe counselling or somewhere along those lines where they can set you up, where you can, you know, step into like maybe a certain trade, like carpentry and this and that and work as trade assistants and at least you've got some form of money coming in. And then you can – you know, you've got that –  
30 something to fall back on. You know, qualifications to fall back on, or, you know, as they do up in Darwin, you go down to Charles Darwin University and most are veterans there. They go in and do, like, you know, traffic management courses, HR, forklift and all you do is pay for the licence and the university takes care of the rest.

35  
Where, none of those – I've been looking around. There's none of those programs down here in Perth for veterans. Like, they ring you up and they're like, all, you know, where if you ring them up and tell them that you're a veteran, they basically – Charles Darwin University would  
40 purposely put your name on the list, they'd give spots to you because they realise that you know, the high employment – high unemployment rate for veterans is through the roof.

**COMMISSIONER FITZGERALD:** You've said that you've contacted Soldier On. What's your expectation of what they might be able to provide for you?

5 **MR JONES:** I've contacted them about like, you know, a couple of education courses, maybe, you know, support and that. I mean, because obviously when you leave, a lot of your mates disappear.

**COMMISSIONER FITZGERALD:** Yes.

10

**MR JONES:** Because all your mates are based up in the base and this and that and you come back here and it can be quite lonely. A lot of your mates that you had before you joined have all moved on because you've trained to a better – like, because – without training, we are trained to a better standard. You know, we're more disciplined in certain areas, you know. Very rarely, will we walk around without shaving within like a day or two. So you know, it's just that thing. And you've got different mindsets to what everyone else has got. So most of your mates that you had before you joined have all disappeared. So you come back home, you've got no qualifications to fall on and you can't get jobs and then you're struggling to find mates and you know, have that social ability, where, you know, you live on base. And the boys are literally across the cul-de-sac from you and you go and have a couple of beers with them. And then, you know, you communicate with the boys that way. Where, here, it's a different story, you know. You text some of your mates and they don't get back to you and you're just like, what's going on.

20  
25  
30 So and then all of a sudden, that's when soldiers start to fall into that pit and go down a very dark road.

30

**COMMISSIONER FITZGERALD:** You've not thought of contacting any of the other ex-service organisations around?

**MR JONES:** I've contacted – I think Soldier On, I'm - - -

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**COMMISSIONER FITZGERALD:** Soldier On, you have. Yes.

**MR JONES:** Yeah. I've contacted RSL, because I was looking at joining an RSL. I wanted to possibly join up where I live or out, where – out where I'm living at the moment, in Midland. So, yeah. I don't know of very many other services. I mean - yeah, apart from what they gave us in a book 'cause they give you a list of services and some - some of the services are based over East and they're not even over here in the West, yet, so it's a little bit hard.

40  
45

**COMMISSIONER SPENCER:** Okay, can I ask how old you were when you went into the ADF

**MR JONES:** I was 29.

5

**COMMISSIONER SPENCER:** Okay.

**MR JONES:** I'm 32, now.

10 **COMMISSIONER SPENCER:** And you served in the ADF for how long?

**MR JONES:** Two years.

15 **COMMISSIONER SPENCER:** Okay.

**MR JONES:** I was given a two-year ROSO.

20 **COMMISSIONER SPENCER:** Right, look, we've heard - and you're probably aware up there - but there are various employment schemes, educational support schemes - I mean, there's been some recent announcements by the government around those and presumably, I assume you've sort of been looking at that.

25 **MR JONES:** Yes, exactly.

**COMMISSIONER SPENCER:** When you look at that, are they helpful? Do they give you any indication of where you might be able to go to address either educational support - educational opportunities or  
30 employment or do you look at it and go - - -

**MR JONES:** Yeah, I - well, me - it's good seeing them on there, you know, and - yeah, I mean it's a little bit disappointing that the army can't pick that services up themselves and, then, get soldiers into that thing. So  
35 it's good that they're out there and they start to realise that that, you know, the government's like, you know, "We're not looking after veterans when we should be." So it's been - it is - it is a bit - like, kind of - it is a bit hard when you've got that kind of thing where a lot of the services you look at, a lot of them are over east and they're ringing you from Sydney or  
40 Brisbane or Victoria and because WA is so far behind, we don't have daylight savings, so majority of those states are anywhere between two to three hours in front of us and, then, they're like, "Oh, yeah, here's, like the progress we've got." Then, you tell them you're in Perth and they're like - they get you in contact with, like, someone that they've linked up over

here and, then, after a while it just fades away because WA's not as advanced on those programs as the eastern states are.

5 **COMMISSIONER SPENCER:** And just to follow Robert's earlier question about for somebody in your situation, we hear about a lot about that. That you've served in one part of Australia and then you move back somewhere else, so there's that disconnect and so - yes, here, in Perth, what would have been helpful to you? What's the one thing that could've been helpful to you as a point of contact, someone to answer questions, 10 somebody providing information? What tangibly would have helped or could be helping right, now, in the situation you're in?

15 **MR JONES:** Yes, it would've been good to have an organisation where they - where you're based up in Darwin, they find out where you're going to and you're like, "Oh, you're going to Perth. Sweet." "Contact these guys when you get to Western Australia and they'll look after you. And then in the process, while you're going through your discharge, because it takes three months, you contact them. They're like, "Hey, man, once 20 you're in come see us and then we'll start going through some stuff in Perth. We'll start putting you onto educational programs," you know, "We'll start giving you those support things where you can catch up with all the veterans who are also going through the same stuff and then you've got the mentality where they can" - you know, "You can meet up with other people who have served like yourself."

25 **COMMISSIONER SPENCER:** Right, and you knew you were coming back to Perth and so that - - -

30 **MR JONES:** Yes, I think it was half and half at one stage. I was trying to get a job in the prisons in Northern Territory. Didn't kind of work out so there was not a lot going in Northern Territory at the time, job-wise. So I'd been looking around for a while and I just went, "I think the best option was to come back to Perth," because the employment rate was a lot better here - here in Western Australia than it is in the Northern Territory. 35 Their employment rate was going downhill, like, quite fast, where WA's was picking up because the mining boom had kicked back in again.

**COMMISSIONER SPENCER:** Right, thanks, mate, yes.

40 **COMMISSIONER FITZGERALD:** You're accessing some sort of counselling or support through Open Arms?

**MR JONES:** Yes.



**COMMISSIONER FITZGERALD:** Did you say - and correct me if I'm wrong - that you've already received a White Card?

**MR JONES:** Yes, yes, I have, yep.

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**COMMISSIONER FITZGERALD:** You've got that? And how are you finding the support from Open Arms? I mean you've only been here a short time, but are you able to access that when you - when you actually need it?

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**MR JONES:** Yes, yes, I've got a session tomorrow.

**COMMISSIONER FITZGERALD:** Good.

15

**MR JONES:** Tomorrow's my fourth session. So I'm getting along really well with the guy that - that Open Arms have hooked - have kind of thing - and hooked me up. So they do about six. I'm probably going to do another couple sessions with him, so Open Arms has been really helpful. Like, it takes them 24 hours and you've already phone call from one of their - from one of their trained registered counsellors and they're like, "Yeah, man." Like, you know, and when I left the Army there was a lot of resentment there, you know, a lot of anger that, you know, you'd just been, like, turfed and left, you know, after serving your country. So, you know, they said, "Look, you've got to get that out," and I didn't want to get into a work place and, then, you know, have the resentment and, then, you know, kind of get angry at someone at work and, then - yeah, 'cause I mean a lot of soldiers that do come out end up, you know, having border-line PTS - like, D - conditions, so and that's what I didn't want. I didn't want to be stuck in that situation.

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**COMMISSIONER FITZGERALD:** And we are looking at some of those issues. So we are looking at educational allowances that might be appropriate when people leave. We're going to look at these issues, you know, like, veterans' hubs that some of the ex-service organisations are looking at where people like yourself can go and get both support and also some services. So there are some initiatives underway or at least going to be proposed. But right at the moment you're a bit lost in this. In the process of dealing with Open Arms, would I be correct in assuming that they may assist you in better identifying some of these services around or that's not there, that hasn't been their role to date?

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40

**MR JONES:** I don't think it's been their role to date. Like, they've helped with the counselling side of things, so they've actually done a really good job in that area.

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**COMMISSIONER FITZGERALD:** Right.

5 **MR JONES:** And they've identified a lot of areas in the whole mental health area for me a former veteran. So they've been really helpful with that and I think they've kind of really stuck with that. Where, you know, the whole education side of things and this and that is not really their forte at the moment. I think they're trying to move into that field but, yeah.

10 **COMMISSIONER FITZGERALD:** Okay, no, that's good. In terms of your own support, family and what have you, are you part of a supportive network here; a family or friends and all that?

15 **MR JONES:** Oh, yeah, my Pops is a veteran himself. He was a major in Vietnam, so my grandfather was an ex-officer who served, so he's seen a fair bit of tours back in the day when Vietnam, Malaya and all that were around. So Pop kind of understands what it's like and he's got a Gold Card and so, like, my mum's grown up in army bases most of her life. So my parents and my family and all that are quite supportive and they understand what's going on.

20 **COMMISSIONER FITZGERALD:** Can I ask a question? Given that you've been in the service for just on two years, maybe a little bit longer than that, do you look back on that decision as a good decision to have gone into the Army or is that something you're thinking about?

25 **MR JONES:** Look, I mean, serving in the Army is a huge honour. I mean only 3 per cent of the Australia population are good enough to make it into the service. For me, it was something I wanted to do and I was happy that I achieved it. You know, I felt I could've probably stayed and maybe done another two to three years and maybe I was in the process of trying to move to a different corps, maybe to like ordinance or something like that where I could get good qualifications. But, look, it kind of didn't work out. There was nothing going on at the time and, yeah, I mean I don't regret serving in the Army. I mean I'm proud to - you know, I'm proud to be a veteran and, you know, to successfully say that, you know, "I've served my country."

35 **COMMISSIONER FITZGERALD:** Look, thank you very much, Mark. Is there anything final you'd like to say or do would you have any other final questions?

40 **MR JONES:** No, no, nothing at all.

45 **COMMISSIONER FITZGERALD:** Terrific, thank you very much, Mark, for that.

**MR JONES:** No worries.

**COMMISSIONER FITZGERALD:** That's great.

5

**MR JONES:** Thank you, guys.

**COMMISSIONER FITZGERALD:** Thank you very much. Yes, thanks for coming in.

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**MR JONES:** No worries, mate.

**COMMISSIONER FITZGERALD:** And our last participant for the day, I understand, is Beverley Benporath. You know the routine so that's good.

15

**MS BENPORATH:** I do by now.

**COMMISSIONER FITZGERALD:** That's very good. Thank you for being here all day.

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**MS BENPORATH:** Thank you, gentlemen.

**COMMISSIONER FITZGERALD:** Beverley, if you could give us your full name and any organisation that you represent.

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**MS BENPORATH:** Sure, my full name is Beverley Benporath. I am representing the Partners of Veterans Association of Australia Inc. I am a national board director. I am also the president of the West Australian branch of Partners of Veterans' Association.

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**COMMISSIONER FITZGERALD:** Thank you very much, and am I correct in saying that we did hear from an organisation associate yesterday?

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**MS BENPORATH:** You did.

**COMMISSIONER FITZGERALD:** In Adelaide.

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**MS BENPORATH:** You heard from Cleo Field in South Australia who was also a national director. Our association did put in a submission last year to the Commission.

**COMMISSIONER FITZGERALD:** Yes, no, that's fine. Thank you very much. If you'd like to make an opening statement.

45

**MS BENPORATH:** I would. I am part of that association. But I would also like to let you know that I am a wife of a Vietnam veteran; I am a carer for a World War II veteran and my Vietnam veteran husband. I'm a wellbeing advocate for our association and doing my training under the national scheme. I attend the female veterans forum as a representative of our association as well. The submission we made was on three parts. The first part was about the education scheme for children. There seemed to be an anomaly that over the years that they have - for DVA children - it stopped at 15. Whereas if we're in reality, children now go to school and are educated until they're 18. I do believe that that is being addressed, but it needs to be addressed as well because that payment that's there for the scheme is very important for children to continue their education. That, I might point out, is not my field either. It was a national decision to put that through.

The second emerging issue, which is a part of my field, is the emerging issue of the home care services. I understand under VEA there is one set of home care services that are provided, and then under MRCA, DRCA, there are (indistinct) issue.

DVA provides the in-home service and community support programs focused on assisting veterans and war widows to continue to live independently, and to manage their daily life, and that is very important. The services offered under the veterans home care facility is great. But, like anything, it needs to be updated and brought into relevance.

The example I gave is of a 95 year old veteran living alone in his independent unit. During winter, the weeds come up through the cracks in the pavement. Now, that is not classed as an issue where the gardener can come in and do it. The gardener doesn't do the weeding. But to me, it's a safety issue. Because if he slipped on that, then he needed them out.

So it's broadening that side of it. We're trying to minimise the issues that happen to people, so that then, at the other end, you're not looking at hospitalisation. You're not looking at operations. You're not looking at ongoing care products.

By putting these services in, you are minimising the impact on those sorts of things. And also, a veteran, in those sorts of situations, or any of them, like to have their independence. It's very important for them to have their independence to keep going.

There is another case of a study of a war widow who had, living on her own, again unable to maintain her garden over a lengthy time due to

illness. Again, the weeds got high, so again, it wasn't covered, so she pulled them out. That caused a back injury, which then caused hospitalisation, then caused surgery, which has caused ongoing rehabilitation.

5

They are both in the same line, but there are many other issues and cases that I could put. That was just simply one of them. But I do think, as our population is ageing, that we need to broaden those services to maintain them in the home.

10

The 95 year old still goes out seven days a week in the morning. He still goes to rehabilitation gym. He plays pool. He goes to indoor bowls. He goes to church. That lifestyle is making him live longer and healthier. His wellbeing of that social contact is really important.

15

The third area that we brought for recognition on our submission, and I was very pleased to hear – I'm just looking at his name. The man this morning, Ryan, speak – was about getting identification for partners or carers of a veteran for our health issues.

20

I would like to have a definition of what you think in the same – that you say about living veteran. Not a deceased veteran, and then they get the Gold Card. I know Cleo brought this up yesterday.

25

Because we are the ones that are there supporting that veteran. We are the ones there providing the care for that veteran. We are the ones that tread on eggshells when things are not so good, but we stay, we maintain, we help that veteran through his life.

30

I've heard other submissions today where they ask, well, why should we have that Gold Card. But I think, also, the point made was that the veteran wants to feel security that their partner or carer who's looked after them all these years will be looked after, after he is gone.

35

They have served their country. They have been there and done their job, and I would make the distinction there, whether it's overseas or at home. I know that there is some talk about that. But a veteran who has trained in our forces has that right, I think, to have that sense of security.

40

The other thing with us asking for this card is for our health. If you maintain our health, we will look after the veteran. But if our health goes down, then the veteran is going to require greater services.

45

A simple example of these stress related ones, there was a study done and I know that Cleo brought that to your attention yesterday, was the – I'll

just look up what they called it. I'm sorry. Excuse me. It might be in this part.

5 That it was done on stress related illnesses called the road home, and that study showed that partners or families of our veterans do contract stress illnesses. There is a link.

10 So we need to be able to treat those. We need to know that we can go and get help when we need it. Not just Open Arms. Open Arms is a wonderful organisation, and our one here in WA run excellent programs, and I have the highest regard for them, because it's so easy for us to say, hey, we've got a problem, and they're there to help.

15 But there are other things that come out of this stress. It could be Parkinson's. Shingles is a big one. Now, the Australian government and under – I think under DVA as well, they have a program out for Veterans between 70 and 79 that can get the free shingles injection. My dad, at 95, cannot get that injection free, and just for the moment, I've forgotten how much it costs, but it's quite an expensive thing.

20 It's those sorts of things that will help keep the partner, the carer, and the family healthy.

25 **COMMISSIONER FITZGERALD:** Thank you very much for that, and you put the arguments very well, Beverley. Can I just deal with the home care one at the moment, and perhaps Richard will take over the health one.

30 We understand from, I think, Cleo yesterday that there are two different types of health – home care services operating, and if I recall her submission yesterday, it was to have one single scheme across all of three Acts.

**MS BENPORATH:** Correct. Yes.

35 **COMMISSIONER FITZGERALD:** And that seems eminently sensible to me. But you also indicated today, Beverley, that you believe that they need to be changed and made a bit more expansive, or is more expansive or simply more flexible as to how they operate?

40 **MS BENPORATH:** That's a great word, flexibility. They need to be tailored to the veteran. The service should be there for the veteran, to maintain the veteran's health, and that might be flexible. That might not be the same for someone else, but for that veteran, it's a services that's required.

45

**COMMISSIONER FITZGERALD:** So when a person is accessing either of these two sort of home help schemes, if I can use that term, is that part of a package that is given to you by an officer within DVA, or is there a third party provider? How does that operate?

5

**MS BENPORATH:** I think the girls from Life Live It said it, the RAP program.

**COMMISSIONER FITZGERALD:** Right.

10

**MS BENPORATH:** It's under that, and the rehabilitation program. If there is something specific needed, you can ring Canberra and talk to the DVA person there.

15

It has to be referred. Your provider, and I know this again through personal experience, once they are on that program, that provider comes and does a home visit once a month.

**COMMISSIONER FITZGERALD:** Right.

20

**MS BENPORATH:** To check up on how things are going. The OT girls have a contract for how many. Maybe it's once every six months, come and check how safe the house is for the person, how they're going, what their requirements need – are.

25

**COMMISSIONER FITZGERALD:** All right, and from your members' point of view, or the people you're associated with, are people able to access these services as and when they need it? You've identified some issues around what they do, the gardening one, but is it a service that is generally able to be provided as and when needed?

30

**MS BENPORATH:** Yes. You need to ring DVA and they will give you, whether or not it's – who's available, who the provider is, and what happens there.

35

**COMMISSIONER FITZGERALD:** So there's not a problem with accessibility?

**MS BENPORATH:** No. I don't think so.

40

**COMMISSIONER FITZGERALD:** No, that's fine.

**MS BENPORATH:** From my personal view, it's not. My comment that I was going to make further, I think people have to understand that DVA

do run on statements of principles and what's available out there, and you have to be eligible.

**COMMISSIONER FITZGERALD:** Sure.

5

**MS BENPORATH:** But I have always found our DVA very positive. I've always found them very helpful and if I need to find out something, I get on the phone and ring the person and say, "Where do I go? What do I do?"

10

**COMMISSIONER FITZGERALD:** And can I just go back to the education scheme. We are looking at the education schemes and your point is really it should be extended to young people of age 18.

15

**MS BENPORATH:** Yes.

**COMMISSIONER FITZGERALD:** So we're looking at – we are making some further adjustments to our recommendations in relation to those schemes, so thank you for that. Richard?

20

**COMMISSIONER SPENCER:** Yes, just a follow up question with the help in the home. We had the system which operates generally across Australia where there's – which you're probably familiar with, the level 1, 2, 3, 4.

25

**MS BENPORATH:** Yes.

**COMMISSIONER SPENCER:** That in the last few years has moved more to a – the choice of the individual as to how they – what services they want to get, and they in a sense have control of the funds.

30

**MS BENPORATH:** Are you talking about home care, the Australian package, or DVA?

35

**COMMISSIONER SPENCER:** No, no, I'm talking about the Australian home care packages.

**MS BENPORATH:** Yes.

40

**COMMISSIONER SPENCER:** Yes.

**MS BENPORATH:** And that is entirely different.

45

**COMMISSIONER SPENCER:** Yes. But does aspects of that – would that be of interest in the context to veterans?



**MS BENPORATH:** I can tell you no.

**COMMISSIONER SPENCER:** Yes.

5

**MS BENPORATH:** Because I have been down and looked at that.

**COMMISSIONER SPENCER:** Right.

10 **MS BENPORATH:** It sounded wonderful when it was rolled out.

**COMMISSIONER SPENCER:** Yes.

15 **MS BENPORATH:** But when you put it into practice and you means  
test it and you look at the super income and all those other bits that go to  
that veteran, I went down the track with the 95 year old and that then  
turned out he was entitled to \$14,700 a year for services, which gave him  
a great range. Yes, he could get someone to take him to church. Yes, he  
could get someone to have a cup of coffee with. All the social sides. But  
20 to put it into place he had to then co-pay \$14.72 a day.

**COMMISSIONER SPENCER:** That's the administrative costs, isn't it?

**MS BENPORATH:** Now you add that up per week on top.

25

**COMMISSIONER SPENCER:** Yes. So, from your experience the  
veterans' scheme is a more beneficial scheme?

**MS BENPORATH:** It's far more beneficial. It can be tailored to the  
30 veteran.

**COMMISSIONER SPENCER:** Right.

35 **MS BENPORATH:** Your issue of how do people know, is often the  
issue. How do they know where to ask and what to do? DVA has a  
wonderful website but you need to be literate and able to use that and that  
often – our association, and particularly here in the west, hold information  
days. So coming up in March I've got DVA coming in to talk about  
MyService because that's changed. We've got someone on palliative care.  
40 We've got someone from Life Live It on pain management.

That's what I see our organisation's role, is to get the information out to  
our members.

**COMMISSIONER SPENCER:** So, if I could switch to the health care needs at the moment, and you make the arguments very strongly and very well about supporting the care of the support the veteran. Look the issue we're grappling with is whether the card is the best solution to that or  
5 whether there are other ways in which when there is the need and the support that's required can be provided in better and different ways. Now you mentioned Open Arms and for a certain range of services Open Arms obviously is there to respond to that need, and as you said that's been a, you know, very worthwhile service here in the west and highly valued.  
10 But it's around a specific set of issues.

So what we did in our report is we asked for what other ways could the system respond to that need. The difficulty we're having with the cards is we think that's very broadly based for a whole range of issues which may  
15 go well beyond what's related to the needs of the veteran and the role of the carer, and we've got to strike a balance here between the needs versus a system that starts to not focus the available resources on those who really do need it, and that's a difficult thing to do in the system design. So, that's what we're struggling with. So, what other ways could that work?  
20 Could that be possible?

**MS BENPORATH:** I can't work through that one because for me it comes back to knowing that like the pharmaceutical card is an orange card. When I need my service I've got something I can tangibly go in with  
25 and get it. It allows me to know, and I may not access it, you know, it's that knowledge that it's there. When I need it, I can go and get it. Go and get the help or go and have – go and have – I'm trying to think. Have the shingles injection for an example without having to think, okay I've got to carry through the cost of doing that, where's that coming out of the  
30 budget? Who am I going to have to – you know, talk to to get from that point of view? I'm lucky, we can afford private health cover but not a lot of our members can. So they don't have that help.

**COMMISSIONER SPENCER:** Some people might say, and this might sound a bit harsh but, you know, we're exploring all the possibilities here.  
35 Some people might say look we have a universal health system, and there are many people and many families who experience similar situations for all kinds of reasons which is beyond their control, and yet the universal health system is there to offer support and provide that support to  
40 individuals to meet their needs.

So, in a situation like this why wouldn't the universal health system be adequate? There's particular issues around the counselling and support and Open Arms' response to that, but what would you say to those people  
45 who say, well, I'm in the same situation you are, I arrived in a different

way. Why should there be a superior, in a sense, set of benefits or supports for you?

5 **MS BENPORATH:** I don't call it superior.

**COMMISSIONER SPENCER:** Yes.

10 **MS BENPORATH:** I'm saying to you, I have looked after a veteran who has served and given his all to his country, been away, been on deployment. I have carried a family. I have organised all sorts of things. Dealt with PTSD. All of that. So do I not get any value or benefit for what I have done? I'm not saying I'm superior, but what I am saying is that is what I have done to be where I am now.

15 **COMMISSIONER SPENCER:** Okay, yes, thank you for that.

20 **COMMISSIONER FITZGERALD:** So the issues of carers is something we're looking at. I've just completed another inquiry into a part of the disability system in Australia and the issue of carers for people with disabilities was a very important part of the inquiry and the government just – we handed the report to the government last week. So, that issue of carers is very – a very – is a very important issue.

25 **MS BENPORATH:** Yes.

**COMMISSIONER FITZGERALD:** So thank you for your comments on that.

30 **MS BENPORATH:** I'm not asking for monetary side.

**COMMISSIONER FITZGERALD:** No, no.

**MS BENPORATH:** I'm asking for support.

35 **COMMISSIONER FITZGERALD:** But just in relation to the support of carers generally. In the ESO area we're looking at the way in which – in this next (indistinct words), how could governments better leverage off the extraordinary commitment of ESOs generally? You regard yourself as an ESO?

40 **MS BENPORATH:** Yes, we are an ESO.

**COMMISSIONER FITZGERALD:** Yes you do.

45 **MS BENPORATH:** We're a part of it.

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**COMMISSIONER FITZGERALD:** So putting aside cards and what have you, do you have a view as to how governments could better utilise, support ESOs generally? And the term we're using is leverage off that, now there are thousands of ESOs, some of them don't want to be supported and shouldn't be, they're quite content where they are. But we see this enormous commitment of volunteers everywhere but frankly we don't see much value for money in terms of service delivery, supporting, helping members, the stuff you're doing, extremely important.

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So, the question is whether or not they could be better used to provide direct services in a more formalised sense or not? You may have no view about that. But we're not trying to diminish what's happening out there, it's terrific. But we're trying to say, but is there something additional to that? And that would require government support to do that.

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**MS BENPORATH:** It certainly would and I think from – again, from our organisation point of view, if we have an issue we take it to ESORT, which is the national one.

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**COMMISSIONER FITZGERALD:** Yes.

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**MS BENPORATH:** But we also take it to the Minister.

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**COMMISSIONER FITZGERALD:** Sure.

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**MS BENPORATH:** And say these are the things that we are facing, these are the things that need some tweaking, if you like, in legislation. I understand legislation and policy takes time.

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**COMMISSIONER FITZGERALD:** Sure.

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**MS BENPORATH:** And I certainly want to give credit to Liz Cosson at this point here. She is wonderful for listening to what is happening and because she is a veteran, because she's had a veteran father and all of that, she at least identifies with what we are saying.

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**COMMISSIONER FITZGERALD:** Yes, and you'll continue to have access to the Minister no matter what happens.

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**MS BENPORATH:** I certainly will.

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**COMMISSIONER FITZGERALD:** There's no question about that, we can assure you. So, that's good. Is there any final comment you'd like to make before we conclude?

**MS BENPORATH:** Am I allowed to make a couple of comments on what I've heard today?

5 **COMMISSIONER FITZGERALD:** Yes, but briefly so, yes.

**MS BENPORATH:** All right. Firstly, was the one about the Gold Card and TI - - -

10 **COMMISSIONER FITZGERALD:** TPI

**MS BENPORATH:** - - - TPI Vets have peace of mind. The secondly was the definition of family I would like changed. That it includes the living part of the family, not when someone - - -

15 **COMMISSIONER FITZGERALD:** Can I ask a question about that? I - we think it does and so could I – and I know you clearly yesterday raised this. Our definition – we haven't got a definition. Families for us includes living partners and everybody. But Cleo raised that yesterday. So what's behind that concern?

20 **MS BENPORATH:** Well, if you look at that, DVA is very good at cope – or working with the Veteran, and then, part of the Gold Card being passed on to the deceased's partner.

25 **COMMISSIONER SPENCER:** That's right.

**MS BENPORATH:** If they're eligible. Because there is criteria.

30 **COMMISSIONER SPENCER:** Yes.

**MS BENPORATH:** But then they can get access to the services.

35 **COMMISSIONER SPENCER:** Yes.

**MS BENPORATH:** Right. But again, the living partner of the family doesn't have that access. But it comes back to your other issue. I understand that, but if they're going to say "family" when they do their inclusiveness of what they're providing for, they need to make it living family.

40 **COMMISSIONER SPENCER:** So can I just clarify that. The definition of "family", we would think, includes living partner. But that doesn't mean that the entitlements – then you get down to who's entitled to what.

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**MS BENPORATH:** Yes.

5 **COMMISSIONER SPENCER:** So the definition, certainly from our report, we would believe it includes living partner. But that's a very different issue to then one of the benefits, and that becomes much more complex.

10 **MS BENPORATH:** Okay. Yes, that is more complex, and I understand that.

**COMMISSIONER SPENCER:** So I just wanted to understand that, because we actually do include them in our thinking, absolutely.

15 **MS BENPORATH:** Yes.

**COMMISSIONER SPENCER:** That's good.

20 **MS BENPORATH:** Okay. The allied health changes, you've heard the presentation, and that is something that concerns us. Because again, it puts more stress on the partner who's got to take the person to the doctors and the – I'm not going there. I went in there a month ago, and whatever. We understand that it's about the over-servicing and things like that, but that is a stressor for us.

25 The other one was the transition process. From my work in the voluntary scene, ADF and people like Karyn Hinder that's here with Working Spirit, are working quite hard at the transition process, and I was surprised to hear that young man talk, because I know that the female veterans I talk to, it started at least six months before they – but, the point there is, the person then, the ADF member, isn't ready to hear it then.

30 **COMMISSIONER SPENCER:** That's right.

35 **MS BENPORATH:** So I really appreciated the point about it going to the partners as well.

40 **COMMISSIONER FITZGERALD:** Well, I can just comment on that. In the substantial recommendations we've made in relation to transition, one of the things that became very clear to us is, firstly, the point you raised is people have to be ready to listen, and often they're not.

45 The second is, partners are always ready to listen, and if we involve partners, we'd actually have a better outcome for the Veteran. That is very clear.

So one of the emphases we've put on the transition arrangements, and they are very significant recommendations, is a much greater involvement of the partners and family members, and you're spot on.

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**MS BENPORATH:** Correct. Thank you.

**COMMISSIONER FITZGERALD:** So we've recognised that. It's a very change to make, but it's operationally not happening.

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**MS BENPORATH:** And also, some of the legislation has to change for it to happen as well.

**COMMISSIONER FITZGERALD:** I agree.

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**MS BENPORATH:** I do appreciate it.

**COMMISSIONER FITZGERALD:** Thank you very much for that.

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**MS BENPORATH:** Thank you.

**COMMISSIONER FITZGERALD:** That's much appreciated. Good.

**MS BENPORATH:** Thank you, gentlemen.

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**COMMISSIONER FITZGERALD:** Well done. Thank you.

**MS BENPORATH:** (Indistinct).

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**COMMISSIONER SPENCER:** No, that's terrific. Thank you.

**COMMISSIONER FITZGERALD:** Imogen, is that it? So, unless there's anybody else who needs to, or wishes to, make a comment, and there isn't, I just need to formally adjourn the public hearing until Thursday, when the next hearing will be in Darwin.

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So again, thank you for your participation, and this public hearing process continues on throughout the month of February. And just a reminder, if you're going to make a written submission, we would like to receive it as soon as possible, but certainly no later than the end of this month.

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So thank you again. Thanks very much.

**COMMISSIONER SPENCER:** Thank you.

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**COMMISSIONER FITZGERALD:** Good.

5 **MATTER ADJOURNED UNTIL  
THURSDAY, 7 FEBRUARY 2019**