



ADSO ALLIANCE OF DEFENCE SERVICE ORGANISATIONS

**ADSO RESPONSE
TO
PRODUCTIVITY COMMISSION INQUIRY
ON
COMPENSATION AND REHABILITATION FOR
VETERANS**

PO Box 4166
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Dated: 7 March 2019

GLOSSARY

The following abbreviations are used throughout this Response:

ADF	Australian Defence Force
ADSO	Alliance of Defence Service Organisations
ATDP	Advocacy Training and Development Program
BoP	Balance of Probability
C&R	Compensation and Rehabilitation
DCO	Defence Community Organisation
DoF	Department of Finance
DPMC	Department of Prime Minister and Cabinet
DRCA	<i>Safety Rehabilitation and Compensation (Defence-related Claims) Act 1988</i>
DSRS	Deseal-Reseal
DVA	Department of Veterans' Affairs
ESO	Ex-Service Organisation
ESORT	ESO Round Table
GARP M	Guide to Determining Impairment and Compensation 2016
ICT	Information and Communications Technology
JTC	Joint Transition Command
MRCA	<i>Military Rehabilitation and Compensation Act 2004</i>
MRCC	Military Rehabilitation and Compensation Commission
OPW	Operational Working Party
PFAS	Per- and Polyfluoroalkyl Substances
PFOS	Perfluorooctane Sulfonic Acid
QA	Quality Assurance
RC	Repatriation Commission
RMA	Repatriation Medical Authority
SoP	Statement of Principles
SRDP	<i>Safety, Rehabilitation and Compensation Act 1988</i>
TTTP	Time Taken to Process (claims)
VET	Vocational Education and Training
VEA	<i>Veterans' Entitlements Act 1986</i>
VCR	Veteran-Centric Reform
VSC	Veteran Services Commission

EXECUTIVE SUMMARY

Introduction

1. The Alliance of Defence Service Organisations (ADSO) is pleased to respond to the Draft Report from the Productivity Commission Inquiry into Compensation and Rehabilitation for Veterans.
2. ADSO's objective, through this Response, is a dispassionate focus on issues that concern us. We express our opinions frankly but do so without rancour. We seek to open for the Inquiry's understanding our presumptions and our opinions grounded in our 'lived' experience. Our intended outcome is dialogue through which, with the Inquiry, we develop a consensus about veterans' future compensation and rehabilitation. We also seek to help the Inquiry find that critical balance between necessary and justified change, and unjustifiable or unnecessarily-radical change.

Foundations of Response

3. This Response is the consolidated input of ADSO's eighteen ex-service organisation members. A number of our Members are submitting individual responses that address the specific policy and operational concerns of their constituency. This Response addresses principles and concerns at the strategic and high-policy levels. Legacy has advised its broad support for this Response.
4. ADSO acknowledges that senior veterans' needs have been secured through the VEA. We are therefore refocusing on a new strategic role and restructuring so that we are attractive to younger veterans' organisations. Without their membership and amalgamation of their values with ours we acknowledge that ADSO's future will most likely prove to be illusory. We must transform to ensure future veterans and families' entitlements are just as assured and beneficial as past generations.
5. We recognise that the Inquiry's Final Report must satisfy a range of constituencies:
 - a. To be supported, it must secure the broad support of veterans and families and civil society.
 - b. To be accepted by the Central agencies, it must be deemed authoritative and effective.
 - c. To be funded, its recommendations must be politically worthwhile.

Overview

6. ADSO concurs with a number of the Inquiry's findings, and supports a number of its key recommendations. We acknowledge the inevitable influences in the Draft Report of the Productivity Commission's professional structure and writing teams' educational and experiential background. Where we offer contrary views, we state them robustly - but without rancour.

7. Our acknowledgement notwithstanding, we are concerned by:
 - a. the extent to which the Inquiry is influenced by the evidence of a small number of disaffected veterans that has been reported by the Senate Inquiry into Suicide by Veterans;
 - b. the weight the Inquiry has placed on contemporary ADF Members' negative views about DVA;
 - c. the Inquiry's apparent dismissal of the positive opinions expressed in Satisfaction Surveys by a majority of veterans and the 'kick-back' in Facebook posts against ill-informed criticism of (especially) MRCC Delegates; and
 - d. the faith the Inquiry has placed in the 'marketisation' of veterans' services.
8. ADSO is concerned that the Inquiry proposes abolition of DVA, not only on the grounds of the fallacious evidence outlined at para 7, but also by understating the significance for DVA veterans' administration of:
 - a. the changes already implemented through VCR, including:
 - i. on-line lodgement of claims by Advocates' through the ESO Portal,
 - ii. personal on-line lodgement of claims through MyService,
 - iii. DVA's adoption (so far unique in the APS) of 'co-design' throughout development and implementation of VCR,
 - iv. close collaboration and on-line information exchange with Defence and CSC around and during discharge,
 - v. active internal program of culture-change across DVA,
 - vi. concurrent Needs Assessment and Liability Determination,
 - vii. employment of Case Coordinators, and
 - viii. the digitalisation of files;
 - b. the accelerating rate of performance improvement over the last 18 months; and
 - c. the Senior Leadership Groups' commitment to further Transformation.

ADSO Support

9. ADSO supports without reservation:
 - a. the Objectives and Principles the Inquiry outlines at Recommendation 4.1; and
 - b. the logic that a 100-year legislative and societally-accepted tradition, while arguably necessary, is a far from sufficient reason for DVA to remain the agency that administers veterans' legislation.
10. We contend that DVA must demonstrate to the satisfaction of Government, the Central Agencies, veterans and families and the wider community that it is fit for purpose – not just now, but also into the future
11. At a more detailed, high-policy level ADSO supports the Inquiry's:
 - a. proposed harmonisation of veterans' legislation,
 - b. focus on future veterans' (and families) entitlements,
 - c. assurance that future entitlements will be no less beneficial than current,

- d. whole-of-life (or as younger veterans term the application of this concept to families: 'cradle-to-grave') approach,
- e. no-detriment assurances,
- f. criticism of the consequences of previous *ad hoc* amendments of VEA,
- g. implicit intention that any future amendment of MRCA should be guided by a framework of principles that ensures integration, and
- h. pressure on Defence to ensure Commanders abide fully with their WHS obligations

ADSO Concerns

12. ADSO is very concerned that the Inquiry appears to have not understood the crucial:
 - a. value of families and dependents to Australia's strategic posture and defence capability,
 - b. importance of families and dependents' entitlements in veterans' legislation,
 - c. relevance to both the preceding considerations of war/defence widow(er)s' entitlements.
13. ADSO is also concerned that, by failing to interview experienced Wellbeing and Compensation Advocates the Inquiry has not secured evidence on:
 - a. the profound physical and psychological consequences of modern warfare's:
 - i. asymmetric nature, and
 - ii. operational tempo;
 - b. how radically unlike the older veterans' combat experience is from younger veterans' experience in contemporary warfare; and
 - c. how differences in the stressors encountered by younger veterans are exacerbated by inter-generational differences in the societal environment, pre-enlistment 'lived' experiences and social media.
14. ADSO is concerned that this exposure is essential to fully informed findings about:
 - a. the strategic importance of family support, and
 - b. contemporary and future veterans and families' and war widow(er)s' needs.

Unfortunate Inferences

15. ADSO accepts that what we infer from the Draft Report may not have been the Inquiry's intended message. Our observations, while stated robustly, are therefore offered with the objective of facilitating the Inquiry's removal in the Final Report of the inadvertent misimpressions.
16. We include the following, what appear to be presumptions that:
 - a. minimising changes to VEA entitlements would remove the possibility that older veterans may reject the Final Report;
 - b. the disaffected veterans that instigated the Senate Inquiry accurately represent the wider veteran community's opinion about DVA and its standard of service delivery;

- c. ADF members to whom the Inquiry has spoken really understand DVA and veterans' administration; and
- d. key recommendations are more likely to be supported by younger veterans if the Inquiry resorts to confirmation bias and 'band wagon' appeal.

ADSO Rejections

17. ADSO would like to draw to the Inquiry's attention our difficulties with a number of its findings and/or recommendations. These follow:
 - a. *Notion of Inequity.* ADSO is not convinced that the entitlements arising from differences in eligibility under MRCA through differences in ADF postings are inequitable. We specifically reject the recommendations that:
 - i. SoPs should have only one standard of proof; and
 - ii. there should be only one PI Table in GARP M.
 - b. *Compensation.* We reject the proposal that veterans' entitlements are just another civilian workers' compensation scheme and should be marketised. The human rights and employment risk factors that make ADF service unique justify veterans and dependents' entitlements.
 - c. *Veterans' Policy.* We reject the proposal that Veterans' policy is best developed in the Defence portfolio. Anything that diverts Defence effort from Australia's strategic posture and combat readiness is most unwise in a deteriorating geo-strategic environment.
 - d. *Future of DVA.* We reject the findings that DVA is not fit for purpose, should be abolished and veterans' services would be better governed by a statutory agency in the Defence portfolio. We contend, however, that DVA is on notice – and has been since at least the 2013 APSC Capability Review. It must continue to accelerate its performance improvements.
 - e. *Future of VRB.* We reject the proposed removal of VRB's independent review powers and veterans' right to a VRB Hearing. We contend this recommendation is inconsistent with the spirit of the Inquiry's no-detriment assurances.
 - f. *Creation of JTC.* We reject the proposal to create a Joint Transition Command. Such an entity would further divert Defence from its primary role: the defence of Australia. When compared with the activities of DCO, JTC would further divert Defence effort by extending administration of transitioning ADF Members well beyond discharge.
 - g. *Creation of VSC.* We reject the recommendation that a statutory agency (Veteran Services Commission) be created to fund, commission or provide services. The argument that a VSC is 'in line with institutional arrangements for contemporary civilian workers' compensation schemes' is unconvincing.
 - h. *Unacceptable Disruption.* We reject any notion that after DVA's abolition, its replacement by a policy cell in Defence and its administration by a VSC could be achieved seamlessly. Given DVA's unique corporate knowledge, command of veterans' legislation and management of the veterans' support system, its abolition

at any time would be unacceptably disruptive. This risk is so profound that it must be regarded as a significant deterrent of the radical change the Inquiry envisages. The strategic ramifications of any such disruption further underscore the need for caution - especially in a time of deteriorating geo-strategic stability.

ADSO Conclusions

18. ADSO concludes that the Inquiry would achieve its objectives with a significantly less radical approach. We therefore propose that the Inquiry:
 - a. recommend that Ministers determine a wider range of ADF hazardous activities to be non-warlike under MRCA, enabling SoPs at the 'relaxed' standard of proof and GARP M Table 23.1 to be applied to those activities;
 - b. recommend the Government require DVA to demonstrate its ability to meet the legislated needs of future eligible veterans and families;
 - c. recommend that the Central agencies require DVA to use impact assessment research as its performance assessment process;
 - d. as a priority, require DVA to:
 - i. develop a multi-disciplinary, mixed qualitative and quantitative impact assessment framework for approval by the APSC;
 - ii. establish and have approved by the APSC (and ANAO?) a suite of outputs-based metrics and performance targets against a timeline;
 - iii. co-develop with ESORT (as a Veterans' Strategic Advisory Council) a strategic plan for the period 2020 to 2025;
 - iv. supported by specialist Business Processes Improvement and Organisational Culture Change consultancies, develop and implement business plans for the period 2020 to 2025;
 - v. present that suite of strategic and business plans to the Central Agencies through the APSC for endorsement;
 - vi. report comprehensively to Parliament annually on its specific achievements against those targets and timelines;
 - vii. co-develop a business case for any funding needed, in addition to that already appropriated for VCR, to enable the strategic transformation to be achieved within the 2025 target date; and
 - e. against the preceding, ongoing strategic transformation framework, reinforce the Inquiry's current recommendations that:
 - i. VCR be continued to completion, and
 - ii. Schemes 1 and 2 have a commencement date of 2025.

Table of Contents

Introduction	2
About ADSO	2
Scope of ADSO Response	4
Background and Overview	5
Development of Key Rejections and Objections.....	7
Development of Key Concerns.....	11
Unique Nature of Military Service	12
Strategic Environment	15
DVA Transformation	17
Roles and Value of ESOs.....	21
Key Principles for the Final Report.....	22
Productivity Commission Charter	22
Complex Systems Approach.....	23
Where are the Risks?	24
‘Straight and Crooked Thinking’	25
Recommendations without Implementation Plan?	26
Structure without Strategy?.....	26
Structural and Economic Anachronisms	27
Market-based Workers’ Compensation.....	28
Another Perspective on Veterans’ Entitlements	30
Efficient, Effective and Ethical	31
Wellbeing is Holistic.....	32
Summary	33
Conclusions	36



ADSO RESPONSE TO PRODUCTIVITY COMMISSION DRAFT REPORT ON COMPENSATION AND REHABILITATION FOR VETERANS

'The Government will continue to support those who selflessly serve our nation and protect our interests overseas, and their families, when they come home.'
Budget 2018-19, 'Guaranteeing the essential services Australians rely on'.¹

Introduction

1. ADSO is pleased to respond to the Productivity Commission's Draft Report on its Inquiry into The System of Compensation and Rehabilitation for Veterans (serving and ex-serving Australian Defence Force members). We request that the Inquiry read this paper in conjunction with ADSO's submission to the Issues Paper and ADSO Member's responses to the Draft Report.

About ADSO

2. **Membership.** The Alliance of Defence Service Organisations (ADSO) represents the interests of 90 000 paid-up veterans in 18 mutually-supportive ESOs. Each ADSO Member is comprised of Branches, totalling nation-wide around 250 local veterans' organisations. With direct families and dependants included, ADSO advocates on behalf of well over 500 000 Australian citizens.
3. **Focus.** ADSO comprises a core of traditional (1920s-era) ESOs as well as other ESOs established up until the present. As a result, our membership² is substantively different to the other two traditional ESOs: RSL and Legacy.
4. **Commitment to the Future.** We recognise that the benefits to which older veterans, dependents and war/defence widow(er)s are entitled are well legislated in *VEA 1986*. Therefore, we accept without reservation our obligation to ensure that the benefits to which contemporary and future veterans and families are entitled will be no less beneficial than those enjoyed by older generations.
5. **Veterans Covenant.** A fundamental failing in MRCA has been of longstanding concern to ADSO Members. We refer to the beneficial intent of veterans' legislation, which we raised in our Submission on the Issues Paper. Finally, through our advocacy over many years about the need for a Veterans' Covenant, we have had the following success:

¹ <https://www.budget.gov.au/2018-19/content/essentials.html>

² Current ADSO Members are: Defence Force Welfare Association (DFWA), Naval Association of Australia (NAA), Air Force Association Ltd (AFA), Royal Australian Regiment Corporation (RAR), Australian Special Air Services Association (ASASA), Military Police Association Australia (MPAA), Army Apprentices Association (ACA), War Widows Guild of Australia (WWG), Australian Federation of Totally and Permanently Incapacitated Ex-Service Men and Women (TPI), Fleet Air Arm Association of Australia (FAAA), Partners of Veterans Association of Australia (PVA), Royal Australian Armoured Corps Corporation (RAACC), National Malaya and Borneo Veterans Association Australia (NMBVAA), Defence Reserves Association (DRA), Australian Gulf War Veterans Association (AGWVA), Australian Commando Association (ACA), Women Veterans Network Australia (WVNA), and Combat Support Association (CSA).

- a. The beneficial intent of VEA is specifically mentioned in the Second Reading of the VEA Bill and has been confirmed by multiple Court judgements over time.
 - b. On the other hand, the Second Reading of MRCA Bill makes no direct reference to beneficial intent. This fundamental flaw is being corrected.
 - c. In his Second Reading Speech on the *Australian Veterans' Recognition (Putting Veterans and their Families First) Bill 2019*, the Minister has recommitted Government's to this key principle:

*"The bill also includes a statement requiring the Department of Veterans' Affairs to adopt a beneficial approach when interpreting legislation and applying a fair, just and consistent approach to veterans' claims so that the public may trust and have confidence in the determinations made".*³
 - d. We are deeply appreciative that, at last, a fundamental provision is to be enshrined in law and applicable to MRCA and DRCA - as well as the VEA - and the instruments relevant to these Acts.
 - e. ADSO shares its pride with the other contributing ESOs that, through advocacy on behalf of younger veterans, MRCA and DRCA have legislated beneficial intent.
 - f. ADSO will hold future Governments responsible for honouring this commitment.
6. **Strategic Purpose.** Accordingly, ADSO has redefined its strategic purpose and is restructuring to ensure it can fulfil its obligation to younger generations of veterans and dependents. Although ADSO already includes a number of organisations established by and for contemporary veterans, we are actively seeking the membership of additional younger veterans' organisations.
7. **ADSO Transformation.** Preparing for the future has necessitated a total re-think of ADSO's values, role, structure and operations:
- a. ADSO is already reinforcing a culture grounded in the values: collaboration and unified action.
 - b. We have planning well underway for the incorporation of ADSO as a company limited by guarantee. Demonstrably, this corporate structure is essential to our meeting the legislative provisions for a charitable institution that will manage significant corporate/private donations, and Public and Members' funds.
 - c. Reflecting the needs and preferences of younger veterans and families, we are actively supporting the creation and operation of veterans' support centres ('hubs') through which to deliver veterans' advocacy services.
 - d. Respecting the need for increasingly professional advocacy support, we are actively supporting ATDP and the transition of veterans' advocacy from its prior focus on:
 - i. Compensation entitlements to Wellbeing support (including transition, community reintegration, and veteran and family resilience); and
 - ii. on aged care to Wellbeing's whole-of-life support

³ Source: https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r6268 [Accessed 17 February 2019]. Illustrating DVA's inherent values, its website has immediately canvassed the significance of the Bill; see: <https://www.dva.gov.au/about-dva/legislation/current-bills-parliament/australian-veterans-recognition-putting-veterans-and>

8. **Collaboration.** ADSO also works closely with Legacy and the Returned and Services League. Together, ADSO, Legacy and the RSL are the robust legs of an advocacy platform that represents the interests of over 2 000 000 Australian citizens. We have shared this Response with them, and, at the time of writing, Legacy has advised its support.

Scope of ADSO Response

‘Good government is founded on good policy, and good policy depends on good advice...Good advice is factually accurate and backed by evidence. It presents proposals based upon considered interpretation of alternative viewpoints and often reflects multiple perspectives.’

Professor Peter Shergold, AC. 2015.⁴

9. **Status.** This response is a consensus statement by ADSO Members. It is written at the level of underpinning principles and the strategic or high policy level. It develops Members’ key areas of support for and objections to the Draft Report. It also outlines principles that we commend for the Inquiry’s consideration in preparing its Final Report.
10. **Individual Member Responses.** A number of ADSO Members will submit individual Responses. Their responses will be framed by this ADSO Response but will focus on the operational consequences for their constituencies of the Inquiry’s draft findings and recommendations. Annex A summarises ADSO Members’ initial responses to the Draft Report.
11. **Premises.** ADSO brings five premises to this Response:
- a. We are concerned that the Inquiry is assured we are critically aware of the need for improvement. ADSO accepts – albeit with reasonable reservations – that change is the inevitable response to emergent influences: in this case in the political, societal and economic environment within which the veteran community is embedded.
 - b. ADSO understands that Productivity Commission researchers’ education and experiences - and hence perceptions⁵ - are probably diametric to those of ADF personnel, veterans and families.
 - i. Differences in personal experience, professional education, and institutional culture- whether consciously or not - influence each party’s perceptions.
 - ii. Inevitably, the Inquiry would be hard-pressed to comprehend how ADF personnel and their families’ willing acceptance of voluntary surrender of basic human rights in the service of the Nation shapes how they view the legislated veterans’ benefits to which they are entitled.
 - iii. Regrettably, findings presumed to have been made in the absence of ‘lived experience’ arouse suspicion or emotive responses. We do not condone intemperate behaviour; but we do acknowledge it. This underscores the need for a factual and objective Response.

⁴ Shergold AC, Professor P. 2015. ‘Learning from Failure: Why large government policy initiatives have gone so badly wrong in the past and how the chances of success in the future can be improved’, p.iii. [Accessed 19/02/2019]

⁵ ‘No matter how objective an inquiry intends to be, it necessarily reflects the distinctive perspective that the reviewer brings to the task.’ Shergold, op cit, pxii.

- c. Subparas 11. a. and 11.b, notwithstanding, ADSO is certainly not wed to the past. We do not see our Response as an opportunity to apply ‘prospect theory’⁶ - to ensure self-servingly that our generation’s entitlements are preserved. We accept without reservation our responsibility to ensure that the veterans’ legislation, governance structure, management system and administrative processes we bequeath to future generations of veterans and families is more fit-for-purpose and no less beneficial than that with which we have been engaged.
 - d. ADSO acknowledges that the Inquiry, through its Public Hearings and private conversations about the Draft Report are genuinely seeking a way forward that is acceptable to all parties. We note at para 9, the procedural context within which the Inquiry must function. From this perspective, we acknowledge the utility of the Draft Report. Taking a leaf out of DVA's recent and most effective initiative, we welcome to help ‘co-design’ the Final Report.
 - e. In this Response we express our opinions frankly but do so without rancour. Our objective is a dispassionate focus on issues that concern us. We seek to open for the Inquiry's understanding our presumptions and opinions grounded in our ‘lived’ experience. Our intended outcome is dialogue through which a consensus is developed by the Inquiry. We see this as fundamental given the Inquiry’s and the Senate Reference Committee’s reliance on the grievances of a disaffected minority.
12. **Scoping Study.** ADSO notes that the Inquiry is awaiting release of the Scoping Study before addressing ESOs and Advocacy.
- a. We are concerned that the Inquiry not be diverted by ongoing differences in interests and opinions voiced across the ESO community. While this complicates evidence-based decision-making, it is a healthy sign of democratic values at work.
 - b. That said, ADSO repudiates ego-driven and self-interested opinion. We therefore encourage the Inquiry to examine in detail the role that ESOs and Advocates and their advocacy play in veterans’ affairs. We would be very surprised if the balance is not tipped strongly in favour of ESOs’ value.
13. **Final Report.** ADSO trusts that the Inquiry recognises the probity with which we have drafted our Response. We trust that the Final Report will reflect the concerns and principles we outline below and will respond favourably to individual ADSO Members’ more detailed responses. To do so will greatly facilitate ADSO’s collective, and our Members’ individual support.

Background and Overview

‘There is nothing more difficult to take in hand, more perilous to conduct, more uncertain in its success [than] to take the lead in a new order of things.’

Niccolo Machiavelli, The Prince, 1513.

14. **Procedural Context.** ADSO’s response is made in light of Members’ recognition of the following context for the Inquiry:

⁶ Kahneman, Daniel; Tversky, Amos (1979). ‘Prospect Theory: An Analysis of Decision under Risk’ *Econometrica*. 47 (2): 263–291. CiteSeerX 10.1.1.407.1910. doi:10.2307/1914185. ISSN 0012-9682. JSTOR 1914185.

- a. The Treasurer has tasked the Productivity Commission to review the veteran support system.
 - b. The Productivity Commission's charter stipulates the provision of independent advice to Government.
 - c. The Government is not bound to accept the Productivity Commission's recommendations.
 - d. The Productivity Commission is inviting stakeholder input to the Draft report.
 - e. Stakeholders' responses may result in amendment of the Draft Report.
15. **Economic Assumptions.** While ADSO supports many of the Draft Report's findings and recommendations we remain concerned about the economic assumptions upon which the Issues Paper is grounded. We outlined these concerns in our earlier Submission to the Issues Paper⁷ and encourage its reconsideration.
16. **Continuing National Obligation.** ADSO rejects the popular view that veterans and families 'deserve'. On the other hand, we defend robustly the axiom of legislated entitlements. Our premise is that ADF Members, veterans and their families are not just another subset of society. Legislation that confers an additional level of benefit over the broader community continues to be justified by ADF Members':
- a. voluntary surrendering of basic human rights in peacetime; and
 - b. preparedness to lay down their lives or risk injury in defence of the Nation's freedom, or contract exotic disease through their service.
17. **Specific Rejections and Objections.**
- a. ADSO rejects the Inquiry's current findings that:
 - i. DVA is not fit for purpose and should be abolished;
 - ii. veterans' compensation:
 - (a) is just another type of workers' compensation, and
 - (b) should be subject to the same competition, contestability and user choice in the market place as are civilian schemes; and
 - iii. governance and administration of Veterans' legislation should be radically restructured.
 - b. ADSO objects to the Inquiry's draft proposals to:
 - i. sever the time and incident-tested relationship between veterans and the Department that administers their entitlements; and
 - ii. remove veterans and dependents' right to an independent, merits review by removing the VRB's decision-making powers and the Board Hearing.
18. **Specific Concerns.** ADSO is deeply concerned that the Inquiry:
- a. has focused almost exclusively on the veteran, and in so doing has overlooked:
 - i. dependents⁸ and their essential contribution to the Nation's defence, and

⁷ The URL for ADSO's initial response to the Inquiry is:
https://www.pc.gov.au/data/assets/pdf_file/0009/227439/sub004-veterans.pdf

⁸ *MRCA 2004*, s15(2) These are the persons who can be a **dependant** of a member for the purposes of subsection (1):
(a) any of the following persons:

- ii. war/defence widow(er)'s support while the veteran was alive (often with challenging behaviours and physical impairments); and
 - b. has failed to address:
 - i. the strategic, human and societal implications of its recommendations;
 - ii. the structural, organisational and cultural risks associated with its recommendations;
 - iii. the cost-benefit options to its recommendations;
 - iv. the fundamental role ESOs undertake with veterans and families, DVA and Governments through:
 - (a) interaction on veterans' affairs,
 - (b) informing insight into veterans and their families' needs,
 - (c) advocating on veterans' legislation, policy and administration, and
 - (d) providing whole-of-life support direct to veterans and families; and
 - v. the wide variety of challenges that will inevitably encountered in implementing its recommendations.
19. **Unfortunate Title.** Finally, ADSO contends that to title the Draft Report '*A better way to support veterans*' is, at best, unfortunate and, at worst, mendacious. We submit that the Inquiry needs the support of ADF Members, veterans, families and the broader community for its recommendations to be accepted. We are concerned that many veterans would be antagonised by the title.

Development of Key Rejections and Objections

20. Without any reservation whatsoever, ADSO cannot support the following findings and/or recommendations for the annotated reasons:
- a. *Notion of Inequity.* ADSO rejects absolutely the Inquiry's suggestion that the difference in entitlements arising from the nature of ADF service covered by eligibility under MRCA is inequitable.⁹ We are keen to ensure that the Inquiry understand that our rationale is factual. We repudiate claims of inequity that are

-
- (i) the member's partner;
 - (ii) a parent or step-parent of the member;
 - (iii) a parent or step-parent of the member's partner;
 - (iv) a grandparent of the member;
 - (v) a child or stepchild of the member;
 - (vi) a child or stepchild of the member's partner;
 - (vii) a grandchild of the member;
 - (viii) the member's brother, sister, half-brother or half-sister; or
 - (b) a person in respect of whom the member stands in the position of a parent; or
 - (c) a person who stands in the position of a parent to the member.

⁹ As an example of an apparent inequity: The current rate paid by DVA to veterans for private car travel for treatment is 35.5 c/km, compared with the current Comcare rate of 60 c/km [Jurisdictional Policy Advice No 2008/06 1 July 2008; current at 28Oct16]. (Of course, if a veteran's use of a taxi is authorised, the cost per km will be significantly higher.)

Source:

https://www.comcare.gov.au/claims_and_benefits/benefits_and_entitlements/fees_rates_and_reimbursements/statutory_rates [Accessed 17 February 2019].

grounded in invidious comparisons and emotive responses to the vagaries of service employment. Our rationale follows:

- i. Standard of Proof. Differences in the Standards of Proof for warlike or non-warlike and peacetime service do not cause any inequity whatsoever. ADSO Advocates' experience is that veterans typically misunderstand what is a reasonable hypothesis. Typically, veterans believe that all a veteran with warlike/non-warlike service needs to do is concoct a reasonable story (hypothesis) that their condition is linked to their service and their claim will succeed. From this (incorrect) perspective, understandably, veterans would believe themselves disadvantaged if they have only peacetime service. The reality is:
 - (a) The global epidemiological standard requires that medical scientific evidence prove that it is more probable than not that a relationship exists between a medical condition and a cause. As it is the global standard, when (Statements of Principles) SoPs were first mooted, the Repatriation Medical Authority (RMA) proposed they be legislated at that standard. Accordingly, the Balance of Probability (BoP) standard of proof was the standard first applied to SoPs.
 - (b) When it became clear that some conditions veterans were suffering could not be related to their service at the BoP standard of proof, a 'relaxed' standard was legislated. This standard allowed the RMA to propose SoP for which there is substantive epidemiological evidence of a link between a condition and a veteran's service, but the evidence does not meet the BoP standard of proof. The evidence must, however, be sufficiently strong for the RMA's professional clinicians to determine that an epidemiologically reasonable hypothesis of a link exists
 - (c) We note that the 'relaxed' standard of proof is also justified by the beneficial intent of veterans' legislation. RMA's legislative ability to propose a SoP at the 'relaxed' standard of proof is a very significant benefit to veterans whose conditions do not satisfy the current epidemiological standard of proof. In an 'evidence-based' environment, the RMA can make a SoP where the epidemiological trend in the evidence allows it to hypothesise reasonably that the evidence will eventually meet the balance of probability standard.
 - (d) In summary, to judge the different standards of proof as inequitable is to fundamentally misunderstand their epidemiological and legislative basis.
- ii. Permanent Impairment. At Annex B we tabulate, and at para 27 summarise the relationship between ADF Members' employment risk and their legislated entitlements as a veteran. In brief:
 - (a) An employment risk-entitlements continuum exists in civil and military legislation from pre-enlistment, to peacetime service, to warlike or non-warlike service.
 - (b) The correlation of the level of employment risk in ADF service and the level of entitlements as a veteran justifies the legislation in GARP M of

- different Permanent Impairment (PI) tables in Chapter 23 for warlike/ non-warlike and peacetime service.
- (c) We acknowledge that the vagaries of service postings are seen by some as unfair, but the differences in veterans' entitlements resulting from differences in employment risk are in no way inequitable.
 - (d) There is an argument, however, that an inequity is created when the employment risk associated with some peacetime activities is similar to that encountered in warlike service but is not determined to be non-warlike. We discuss this further at para 24.d. The medical conditions suffered by a significant number of veterans attest to the reality of this inequity.
- iii. Hazardous Peacetime Service. Because of the increasingly apparent ill-health now becoming evident as a result of some ex-ADF personnel's being ordered to undertake to certain employment-specific tasks (e.g., para 24.d.), ADSO submits that, the Inquiry recommend:
- (a) independent examination of employment risk across the full range of peacetime activities; and
 - (b) where justified by the evidence, the Minister determine as non-warlike service those employments for which is evident the 'relaxed' standard of proof and GARP M Table 23.1 should be applied.
- b. *Compensation.* We reject the proposal that veterans' entitlements are just another civilian workers' compensation scheme and should be marketised. A variety of human rights and employment risk factors make ADF service unique. These justify veterans and dependents' entitlements above those legislated for the civilian population.
- c. *Veterans' Policy.* We reject the proposal that veterans' policy and administration be transferred into Defence portfolio. Of all government agencies, Defence is the least appropriate institutionally to perform these functions.¹⁰ To adequately assure the effective defence of Australia, the focus of Defence efforts must be on strategic posture and combat readiness. Anything that diverts that focus weakens Australia's defence. This is most unwise in a rapidly deteriorating geo-strategic environment.
- d. *Future of DVA.* We reject the proposal that DVA is not fit for purpose, should be abolished and veterans' services would be better governed by a statutory agency in the Defence portfolio. We do not, however, support the view that just because DVA has a 100-year tradition, it should remain the administering agency of veterans' legislation.
- i. We contend that DVA is on notice – and has been since at least the 2013 APSC Capability Review. Its performance improvements to date are substantial and have our full support and encouragement. We trust that DVA will draw on its unique corporate knowledge of the veteran support system and underpinning

¹⁰ We apply here specifically to Defence, Shergold's broader observation: 'The APS, I came to realise, is a brilliant creation ...Yet it remains shaped by its origins as an industrial scale, command-and-control organisation'. op cit, p2. We contend that this describes Defence perfectly.

- legislation. For the sake of future generations of veterans and families we want it to succeed.
- ii. We note that no other government agency has this depth of knowledge experience, and expertise. If given the opportunity to achieve but not realise its full potential and be abolished, the ramifications for veterans' administration are incalculable. We trust that DVA's values¹¹ will spur all staff to rise to the challenge.
 - iii. Owing to the enormity of the risk of poor veterans' administration, we support without reservation all demands by the Inquiry that:
 - (a) DVA set strategic development goals (we propose to 2025),
 - (b) embed the needed business systems,
 - (c) further reinforce its veteran-focus at all organisational levels,
 - (d) identify the necessary performance metrics,
 - (e) establish needed performance monitoring and middle-level management procedures, and
 - (f) achieve its full potential in a reasonable timeframe (we propose no later than 2025).
 - e. *Future of VRB.* We reject the proposal that removal of VRB's independent review powers and veterans' right to a VRB Hearing. We adjudge this recommendation as being inconsistent with the spirit of the Inquiry's assurances about:
 - i. veterans' future benefits, and
 - ii. no-detriment recommendations.
 - f. *Creation of JTC.* We reject the proposal that creation of Joint Transition Command. Such an entity would further divert Defence from its primary role: the defence of Australia. When compared with the current activities of DCO, creation of JTC would exacerbate the diversion of Defence effort by the extension of administration of transitioning ADF personnel well beyond transition.
 - g. *Creation of VSC.* We reject the proposal that a statutory agency (Veteran Services Commission) be created. Our rejection is grounded in the following considerations:
 - i. The Department of Finance Forms of Governance policy:¹²
 - (a) advises that a statutory authority has some advantages over the departmental structure for undertakings that require special powers defined by statute and appropriate combination of public accountability and operational autonomy, but
 - (b) on reflection suggests that the role and powers of a statutory agency, when compared with the other forms, are ill-defined - exacerbating discomfort about the Inquiry's intentions.
 - ii. Given the enormity of the Inquiry's recommendation, ADSO contends that the concept of informed consent is applicable. If the Inquiry is sincerely seeking

¹¹ In its 2013 Capability Review, the APSC commended DVA staff for their 'palpable, sincere and passionate sense of mission...namely, to support those who serve, or have served...' p.5. [Accessed 18/02/2019]

¹² <https://www.finance.gov.au/resource-management/governance/policy/structure-types/> [Accessed 15/02/2019]

- ADSO support, it must define the structure in detail so that the veteran community knows exactly what would govern and administer its entitlements.
- iii. As we reject the notion that veterans' compensation is no different to civilian workers' compensation schemes, we are unconvinced with the argument that creation of a VSC is 'in line with institutional arrangements for contemporary civilian workers' compensation schemes.'
 - iv. As we reject the argument that a VSC is the best governance arrangement, we are unconvinced that it is the best way to fund, commission or provide services. Indeed, we are concerned that a consequence would be the capping of veterans' currently uncapped medical support.
 - v. Having rejected the notion that veterans' compensation is no different to civilian workers' compensation we reject absolutely the Inquiry proposal that the VSC would comprise mostly members with experience in civilian workers' compensation schemes.

Development of Key Concerns

21. **Framework.** Noting that ADSO has addressed the Inquiry's underpinning economic assumptions elsewhere,¹³ this section outlines our concerns about four key strategic-level or high-policy issues that, we contend, the Inquiry has not dealt with adequately:
 - a. **The Unique Nature of Military Service.** ADSO notes that, although the Draft Report refers to military service as being 'unique', many veterans' entitlements are to be subsumed into those available to broader community
 - b. **Strategic Context.** ADSO accepts that the Inquiry is only a snap shot in a complex inter-related and inter-acting system of systems. Be that as it may, we argue that Australia's strategic environment is so crucial to the Inquiry's findings that the Draft Report must address:
 - i. Australia's current and future strategic environment,
 - ii. the relationship between an all-volunteer force and veterans' entitlements, and
 - iii. the ramifications for the Nation's defence posture of the Inquiry's recommendations.
 - c. **DVA Transformation.** ADSO acknowledges that the Inquiry refers to the improvements in veterans' administration that DVA has made under VCR. We also acknowledge that the Inquiry – quite appropriately – criticises DVA for past failures of implementation. We are, however, concerned that the Draft's ensuing thrust is dismissive of the very significant improvements DVA has been made in the last 18 months. Our Advocates also report that breadth of improvements and rate of improvement are accelerating.
 - d. **Evidentiary Bias.** ADSO is deeply concerned that the evidence taken by the preceding Senate Inquiry was biased and that the Inquiry has therefore relied on unsafe evidence. A majority of DVA clients are satisfied with the consideration

¹³ https://www.pc.gov.au/_data/assets/pdf_file/0009/227439/sub004-veterans.pdf

they have received from Delegates and the support they have received from other staff.

- e. **The Role and Value of ESOs.** As an active and effective Member of the community of ex-service organisations, ADSO is deeply disappointed that the Inquiry has failed to explore the role and value ESOs have in veterans' affairs. To await the Scoping Study is not convincing, as its focus is on advocacy and the delivery of advocacy services.¹⁴

22. Our Response now details ADSO Member's concerns about these matters.

Unique Nature of Military Service

'Australian repatriation legislation has long contained provisions for the resolution of disputed claims unusually favourably to claimants... These procedural advantages are only understandable as a national acceptance that volunteering to put life and health at risk for the nation demands special recognition.'

Heerey J. 1997¹⁵

23. **ADSO's Position.** ADSO:

- a. disagrees absolutely with the Inquiry's opinion that the different entitlements for veterans with warlike or non-warlike service and those with peacetime service is 'inequitable';
- b. contends without reservation that:
 - i. ADF employment and the effects on the family and its lifestyle of the Members' service is unusually stressful, prevails after separation and objectively is unique; and
 - ii. ADF Members, veterans and families:
 - (a) are **not** just another subset of community,
 - (b) have support needs that, although in some cases are similar to, are not homogeneous with the broader community's needs, and
 - (c) therefore, cannot be subject to the health, social security, workers' compensation and other legislative entitlements applied to the broader community; and
- c. acknowledges that the various 'first-responder' professions also involve traumatising – but not equivalent to – ADF employment. We analyse next why ADF employment is different.

¹⁴ ADSO's Submission to the Scoping Study is accessed via: https://www.dva.gov.au/sites/default/files/files/consultation_and_grants/atdp/Submission-1-2.pdf

¹⁵ Heerey J. 'Repatriation Legislation and Litigation 1920 to 1994' in *Ena Mavis Deledio v Repatriation Commission* [1997] 1047 FCA (10 October 1997), at II.

Heerey J.'s juridical opinion is by no means unique. See also:

- Anderson, D., *The Challenge of Military Service: Defence Personnel Conditions in a Changing Social Context*, Foreign Affairs, Defence and Trade Group 10 November 1997 online at https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/Publications_Archives/Background_Papers/bp9798/98bp06#1 [accessed 15/2/2019].
- The Cross Report cited in Australia Parliament. Joint Committee on Foreign Affairs, Defence and Trade. *Personnel wastage in the Australian Defence Force-Report and Recommendations*. November, 1988, p. 5.
- Glenn, G., 'Serving Australia: the Australian Defence Force in the Twenty First Century'. Canberra, 1995, p. 61, in Anderson, D., op cit.

24. **Analysis.** ADSO contends that the Inquiry must examine the unique nature of military service at, at least, three levels:
- a. *Surrender of Freedoms.* ADF Members surrender voluntarily many of the basic rights and freedoms to which all human beings are entitled by the UN Charter on Human Rights. Fundamental are Members' ceding on enlistment the right to an unfettered life and unconstrained liberty, and absolute freedom to express opinion. As a result, Members and their families forgo the choice of where they live, when they move, where children are schooled, the services they can access, and the community with whom they associate.
 - b. *Perceived Employment Similarities.* ADSO acknowledges the suggestions by some that ADF service can be equated with civil police or other emergency services. We strongly contest such perceptions. We do not deny that personnel in these occupations from time-to-time encounter dangerous and traumatising situations; however, the ADF service charters is totally different to theirs. Some of the key differences are outlined next.
 - c. *Vested Authority.* Military employment is unique. Of all vocations, it all alone is subject to the possible or actual direction by Government to apply lethal force in defence of the Nation. The ADF Member is not only authorised to take a human life in combat but is also expected to do so – not just to protect themselves and their comrades, but to kill the enemy. The military role can include identifying human targets, ordering their death and undertaking post-kinetic activity damage assessment.¹⁶ Such action may be taken in the field, on the sea, or in or from the air. No other occupation has this duty.
 - d. *Employment Risk.* Military employment is unique in another fundamental way. Of all vocations, it all alone is subject to the possible or actual direction by Government to prosecute combat operations in defence of the Nation, with the likelihood of injury or death. ADSO submits that, even in peacetime, ADF employment carries with it a significant risk of death, injury or disease; e.g.:
 - i. death (e.g., in helicopter crashes during disaster relief operations in Banda Aceh and during training at night on the High Range near Townsville),
 - ii. injury (e.g., physical during mine clearing operations, or in training with high explosives, live-fire exercises and some operations where night-vision devices limit the wearer's field of view; or psychological including moral injury during Border Force support or call-out in support of the civil power;¹⁷ or exposure

¹⁶ Post-activity damage assessment is a extraordinarily stressful and unusual ADF employment activity. Not uncommonly, the assessor is in Australia, but viewing video and still imagery of the aftermath of combat action in an overseas operational area. The duty day is spent the day counting dead or injured enemy fighters, or body parts. After the day's duty, the assessor returns to his/her family environment. The resulting psychic dissonance could not be more stark.

¹⁷ ADSO notes that:

- In some instances, aid to the civil power engages ADF personnel in tasks that to some in are repugnant (e.g. turning back refugee boats, the Intervention in Aboriginal communities in the Northern Territory or more distantly strike breaking on the wharves during WWII, HMAS Jeparit in 1966, and the Ansett airline pilots' strike in 1989.
- Mental health conditions arising from moral injury are not covered by a SoP.

- to toxins such as F111 DSRS solvents and sealants, or jet fuel, PFOS/PFAS fire-extinguishing agents, and the smoke from fire pits.¹⁸); and
- iii. disease (e.g., locally-endemic bacteria, viruses, protozoans and parasites during disaster relief or off-shore training exercises).
 - e. *Significance of Risk*. The Minister for Defence determines case-by-case whenever or not a type of service is other than peacetime activity. By definition, warlike, non-warlike and peace enforcement bring with them the ultimate level of risk.¹⁹ Notably, non-warlike service includes peacetime activities that carry with them a higher level of risk than normal ADF peacetime employment. ADSO is deeply concerned that the range of ADF activities discussed at para 24.d.ii. is not yet accepted as non-warlike. But the evidence is that they are resulting in serious medical conditions. With the type of service determined, veterans' legislation then codifies the relationship between employment risk and veterans' entitlements.
25. **Rationale for Veteran-Specific Entitlements.** Indicatively, as many Australian citizens have deployed in operations since 1990 as lost their lives in WWI. The legislative provisions that the Inquiry is considering are borne of a global conflict that, even though far from Australia, had profound consequences for Australia's society and economy. Today, in peacetime, the small number of ADF personnel has a comparatively minor impact on Australian society and economy. The commitment of this small number of volunteers is, however, no less momentous. When Government orders deployment the possibility of death, or lifelong disability or disease is no less real.
26. **Risk-Entitlement Relationship.** The preceding risk levels and the associated changes in veterans' entitlements are tabulated at Annex B. The Annex defines step-changes in:
- a. employment risk on enlistment and on deployment; and
 - b. entitlements increasing with changes in employment risk.
27. **Summary.** In summary, Annex B tabulates the following relationships between employment risk and veterans' entitlements at three levels of military service:
- a. Pre-enlistment:
 - i. employment risk is the normal, day-to-day level in the life of any citizen;
 - ii. the law to which he/she is subject is the law that all citizens must observe;
 - iii. the opportunities open are those open to all citizens; and

¹⁸ A soil analysis at the site of the RAAF Base Point Cook Fire Training School identified 132 different chemicals. As diverse and large hot fires were needed for training purposes, the School obtained a wide variety of flammable materials and industrial waste from Melbourne companies.

¹⁹ 'Warlike operations are those military activities where the application of force is authorised to pursue specific military objectives and there is an expectation of casualties.'

<http://clik.dva.gov.au/compensation-and-support-policy-library/part-1-service-requirements/12-service-types/121-qualifying-service/determinations-warlike-service>

'Non-warlike operations are those military activities short of warlike operations where there is a risk associated with the assigned tasks and where the application of force is limited to self defence. Casualties could occur but are not expected.'

<http://clik.dva.gov.au/compensation-and-support-policy-library/part-1-service-requirements/12-service-types/122-service-requirements-disability-pension/determinations-non-warlike-service> [Accessed 15/02/2019]

- iv. social and economic entitlements are those legislated for all citizens.
 - b. On enlistment, the ADF Member:
 - i. voluntarily surrenders the right to self-determination and the freedom to pursue personal 'happiness' in whatever way he/she chooses;
 - ii. becomes subject to military law - a more exacting overlay on the laws by which all other citizens are subject;
 - iii. routinely engages in work with a higher risk of death, injury or disease;
 - iv. will be deployed to defend Australia's interest on Government decision; and
 - v. can access veteran-specific legislated entitlements in the event of death, injury or disease that are justified by freedoms forgone and higher risk.
 - c. When deployed for warlike or non-warlike duty, the ADF Member:
 - i. is engaged in work that, by definition (Note 19), is likely to involve casualties;
 - ii. is authorised to apply lethal force; and
 - iii. becomes subject to an additional layer of law – the international law of armed conflict and rules of engagement – which authorise indictment and trial (possibly) by an international Tribunal rather than an Australian court.
28. **Conclusion.** The preceding considerations argue robustly for retention of the existing provisions.²⁰

Strategic Environment

*'We have been at war since the beginning of this century. There is no end in sight. Government and Opposition are joined at the hip when matters of defence and security are concerned.'*²¹

Professor Henry Reynolds, 2018

29. **Overview.** The Budget 2018-19 nominates the care of veterans and families amongst the Government's key essential services. This is the logical outcome of a reality: the defence of Australia is the principal essential service funded by the Commonwealth. If deterrence fails, the risk is increased that the Nation may need to go to war - with ramifications for the ADF employment risk-veterans' entitlements relationship. Relevant to the Inquiry, the level of international instability indicates that the possibility of direct threat to Australia is increasing.
30. **Current White Paper.** The potential loss of social and economic capital should Australia or its national interests be threatened is regarded by Government as being so serious that the current Defence White Paper terms expenditure on the Nation's defence an 'investment'.²² This perspective informs ADSO's position.
31. **All-Volunteer Force.** The defence of Australia relies on an all-volunteer force, including an increasingly substantial reliance on Reserve personnel. Therefore, anything that would diminish the attractiveness of enlistment is a strategic liability. As

²⁰ ADSO notes that the schema can also be applied to the relationship between risk and remuneration

²¹ <https://johnmenadue.com/henry-reynolds-the-best-of-2018-australias-perpetual-war-footing/>

²² <http://www.defence.gov.au/WhitePaper/Docs/2016-Defence-Integrated-Investment-Program.pdf>

- a corollary, any decision that increases the attractiveness of enlistment is a strategic asset.
32. **Strategic Benefit of Veterans Entitlements.** ADF Members and their families are pivotal to the preservation of the Nation's security. Their conditions of service and post-ADF entitlements in the event of death, injury or disease are crucial to voluntary enlistment and dedicated service. In other words:
 - a. How the Nation cares for veterans and dependents either attracts or deters enlistment.
 - b. Therefore, veterans' legislated entitlements have substantive strategic ramifications.
 33. **Strategic Value of Agency.** Legislated entitlements shape ADF Members and veterans' perception of the value the Nation and the Government place in their dedication and sacrifice. Many of the Draft recommendations erode ADF Members, veterans and their families' agency.²³ Undermined perceptions of value to society and, hence, sense of self-worth add a risk factor to Australia's defence posture.
 34. **Veteran and Family as Asset.** All ADF personnel and their families eventually transition into civil society. The Draft Report focuses on veterans' entitlements as an avoidable budgetary cost, and the veteran and family as a socio-economic liability. We challenge this perspective for its narrowness.
 - a. The 65% of veterans that 'thrive' after transition (viz. increase social and economic capital) far outweighs the much smaller proportion (30%) that 'struggle to survive'²⁴ and may therefore need to access DVA support.
 - b. ADSO contends therefore that the cycle of recruitment and transition is both:
 - i. a strategic asset, as it increases the proportion of the community with military experience; and
 - ii. a socio-economic asset, as it brings a disciplined, service-focused and team-orientated cadre into the civilian workforce and broader community.²⁵
 35. **Conclusion.** The history of nations suggests that, in the face of an aggressor, democracies are typically ill-prepared for war.
 - a. In the face of Australia's increasingly unstable geo-strategic environment,²⁶ the risk being accepted voluntarily by the few ADF personnel is exacerbating.
 - b. Therefore, the present seems a strange time to question the legislative provisions that attract voluntary enlistment, strengthen commitment to service, and maximise Australia's strategic deterrent.

²³ Dr Kari Lancaster, UNSW, ABC The Minefield, Wed 30Jan19

²⁴ Acknowledgement: Verity Firth, Macquarie University.

²⁵ ADSO also draws to the Inquiry's attention the remarkable voluntary work being done by disabled veterans through a variety of organisations. Team Rubicon Australia is one such organisation. It has global impact and enhances Australia's international disaster relief profile. See: <https://www.teamrubiconaus.org>

²⁶ Factors include international and societal economic inequality, climate change, refugees, economic migration, active repudiation of the rule of law in trade and international affairs, nationalism, nativism and intra-societal intolerance.

DVA Transformation

[DVA's] work is rarely the subject of major policy debate or front-page media attention and it does not have a high profile within the APS. Yet DVA is one of the oldest and most stable of Australian Government agencies and its work is well understood, recognised and acknowledged by its clients.

APSC Capability Review, 2013, p5.

36. **DVA Progress.** ADSO is pleased that the Inquiry has acknowledged the improvements DVA has made through VCR since the APSC's 2013 Capability Review. We do not overlook DVA's recent very public failures of duty of care and administrative process.²⁷ We are, however, disappointed that the Draft report:
- a. treats DVA's historical weaknesses as though they are current,
 - b. dismisses DVA's achievements – in our opinion, almost summarily;²⁸ and
 - c. places undue weight on the complaints of a vocal minority whose grievances precipitated and became the evidence relied on by the 2017 Senate Report 'The Constant Battle'.
37. **Veteran Centric Reform Achievements.** We are concerned that the Inquiry has failed to evaluate the individual and cumulative outcomes of the following improvements:
- a. on-line lodgement of claims by Advocates' through the ESO Portal;
 - b. personal on-line lodgement of claims through MyService;
 - c. DVA's, unique to the APS, adoption of co-design²⁹ throughout development and implementation of VCR;
 - d. close collaboration and on-line information exchange by DVA, Defence and CSC around and during discharge;
 - e. the active internal program of culture-change across DVA;
 - f. concurrent Needs Assessment and Liability Determination;
 - g. employment by DVA of Case Coordinators; and
 - h. the digitalisation of files.
38. **Commitments to Improvement and Consultation.** Since her appointment as Secretary, Ms Cosson and her Senior Leadership Group has committed publicly to the strategic change initiated by her immediate predecessor. She has also reinforced DVA's commitment to the Forums convened within, and those additional to, the National Consultation Framework.³⁰ Worthy of note, the latter commitment has

²⁷ An egregious example is disclosed in the Ombudsman Report on Mr A Investigation: https://www.ombudsman.gov.au/_data/assets/pdf_file/0022/86305/Investigation-into-the-Actions-and-Decisions-of-DVA-in-Relation-to-Mr-A.pdf

²⁸ For example:

- Finding 9.1: MyService merely has 'the potential to radically simplify' claims lodgement (our emphasis);
- p162 etc: focuses on case management as a desirable element of civil workers compensation schemes;
- p364: offers a complementary reference to case coordination but contextualises it with a quote from EML;
- fails to mention the ESO Portal and its fundamental enhancement of claims lodgement by Advocates.

²⁹ The closest other Commonwealth approach to 'co-design' is Participatory Action Research applied in health and indigenous policy and program research: https://www.dss.gov.au/sites/default/files/documents/06_2012/research_in_action.pdf [Accessed 12/02/2019]

³⁰ The National Consultation Framework Forums, their Memberships and copies of their proceedings are advised at <https://www.dva.gov.au/consultation-and-grants/consultation-ex-service-community>

already led to the Secretary's engagement with those that precipitated the Senate Inquiry.

39. **ADSO Support.** ADSO supports fully each of the following commitments:
- a. implementing Transformation Objectives that build on:
 - i. 'DVA Towards 2020', and
 - ii. the VCR achievements to date;
 - b. reforming the National Consultation Framework to:
 - i. transform ESORT into an ESO-DVA Strategic Council that focuses strictly on strategic issues, and
 - ii. consolidate the information flow between the other Forums and ESORT so that strategic decisions are informed of operational considerations;
 - c. co-designing with ESORT a new strategic plan (nominally 'DVA Towards 2025');
 - d. strengthening the Operational Working Party's (OWP) monitoring and change recommendations at the business operations level
 - e. strengthening the already effective, robust partnership with ESORT Members; and
 - f. further progressing the principles and practices of a 'learning organisation'.
40. **DVA's Public Profile.** ADSO Members have been invited routinely to participate with DVA officers on Working Parties and other forums. These provide invaluable insights into the rationale driving DVA's public profile – most informatively in times of ill-informed and damaging external pressures. One occasion is particularly relevant to the Inquiry:³¹
- a. At the time, DVA was under intense pressure from a small, rancorous group of veterans. DVA withheld response to abusive and defamatory comment on social media and directly with officers.
 - b. The episode highlighted DVA's broader failure to alert stakeholders to its core Mission, Vision and Values, research programs, objectives and achievements. As a result, DVA is a 'soft target' for the intemperate or those with inimical intentions.
 - c. The generally negative tone of the evidence heard by the Inquiry illustrates a possible outcome.
41. **Comparative Analysis.** ADSO is also disappointed that the Inquiry fails to analyse comparatively key findings and/or recommendations in:
- a. the APSC 2103 Capability Review,
 - b. DVA's Strategic Plan '*DVA Towards 2020*',
 - c. the 2017 Senate FADT References Committee Report '*The Constant Battle*',
 - d. the ANAO 2018 Performance Audit, and
 - e. Secretary Cosson and the DVA Senior Leadership Group's Transition objectives.
42. **Summary.** Annex C compares the documents and objectives identified at para 41. The comparison provides evidence of:

³¹ ESO representatives were invited by DVA to consider the Veterans' Affairs Legislation Amendment (Digital Readiness and Other Measures) Bill 2016, Schedule 2 - Disclosure of information.

- a. DVA's positive responses to the APSC criticisms over the period August 2013 to January 2019 include:
 - i. formulation and implementation in December 2013 of the strategic plan 'DVA Towards 2020';
 - ii. development of the suite of operational plans grounded in, and needed to operationalise the strategic plan;
 - iii. creation of the Transformation Team and implementation of Project Lighthouse which:
 - (a) developed the business case the led to appropriation of funds for VCR,
 - (b) co-designed the implementation plan for and continued consultation with ESO representatives during implementation of VCR from FY2017-18;
 - iv. updating of the VA strategic plan in 2016;
 - v. significant improvements in:
 - (a) ICT applications and initiation of whole-of-government networking,
 - (b) service delivery that is tailored to individual client's needs; and
 - vi. enhanced staff training and initiation of an organisation-wide culture change.
 - b. By the time of release of the Senate FADT References Committee Report:
 - i. initiation and, in some cases, completion of fundamental research programs into veteran and family health and wellbeing, and
 - ii. trial and initial employment of Case Coordination for support of clients with complex needs.
 - c. Identification in 2018 by the ANAO of outstanding weaknesses in:
 - i. performance metrics (time rather than performance criteria), and
 - ii. monitoring of service delivery outcomes and contractor performance.
43. **Performance Assessment.** ADSO affirms³² that the type of metrics DVA uses is critical.³³ Typically, quantitative measures are preferred (usually strongly) as they are assumed to assure certainty. On the other hand, qualitative measures are considered subjective and their veracity therefore uncertain. This is unfortunate. We contend that DVA's future effectiveness is best measured by 'impact assessment'. This will necessitate DVA's adoption of multi-disciplinary, mixed quantitative and qualitative research within a structured framework.³⁴ We are concerned, however, that the Central agencies may not yet be ready for this approach³⁵ – especially in light of the Inquiry's criticism of DVA's failure to respond to earlier reviews.

³² Our affirmation is informed by the experience of those of our members' that are management consultants as well as through ADSO's own monitoring DVA performance and advocacy over many years.

³³ We note that Shergold acknowledges that this as a challenge faced by government agencies generally: 'Most public service agencies still have a way to go in moving from reactive, defensive risk management to proactive, performance-focused risk engagement. Too often there remains a tendency to focus on compliance...rather than performance.' Shergold, op cit, p.vi.

³⁴ See for example: <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1118057/> [Accessed 19/02/2019]

³⁵ We note that DPMC and DoF document the process, but do not appear to apply it to performance management. See:

- <https://www.pmc.gov.au/regulation/developing-regulation-impact-statement>
- <https://www.finance.gov.au/sites/default/files/RMG500-Local-Impact-Assessment-Methodology.pdf>

44. **Assessment.** On the basis of our Members’ engagement with DVA, our Advocates’ interactions with Delegates and Case Coordinators, and the opinion of Members’ representatives with professional consultancy experience, we contend that: DVA’s achievements demonstrate measured and reasonable progress; when set against a time-line with typical, identified organisational development milestones, the evidence is that DVA’s rate of improvement – as reasonably would be expected – is in the acceleration phase. Figure 1 illustrate this deduction.³⁶

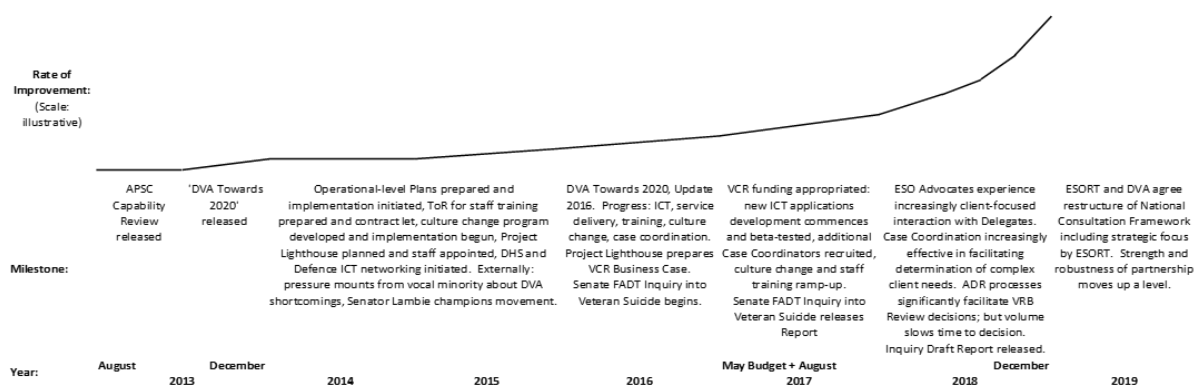


Figure 1. Illustrative DVA Performance Change since 2013

45. **Conclusions.** ADSO concludes as follows:
- a. There is no reason to doubt DVA’s ability to now focus on the weaknesses identified in its monitoring and performance metrics.
 - b. To ensure that the metrics, performance monitoring and management are optimal, we contend that DVA must employ ‘impact assessment’. We acknowledge that this multi-disciplinary, mixed quantitative and qualitative research methodology may be testing. We contend, however, that the quality of the performance measurements alone makes the test of impact assessment worthwhile.
 - c. Invariably, culture change is the greatest challenge faced during organisational development. The APSC finding about DVA’s values (Note 8), through our contact with the Senior Leadership Group, and from our Advocates’ recent experiences with Delegates, we assess that the culture change already underway is on firm foundations. DVA must now deepen and accelerate the process.³⁷
 - d. ADSO and ESO Advocates are reporting a step-change:
 - i. in Delegate’s client-focus,
 - ii. proactive and effective facilitation of claims processing, and
 - iii. significantly more effective VRB Review process through ADR.

³⁶ The deduction has been made by a Certified Management Consultant (<https://www.imc.org.au/become-cmc#the-cmc-qualification>) with specialisations in strategic planning and organisation development.

³⁷ ‘Adaptive government... is premised upon facilitative leadership, in which collaborative partnerships are formed with others to deliver results.’ Shergold. Op cit, p.xi.

- e. The literature correlates culture change, managerial competence and organisational performance.³⁸ DVA's recent achievements and evident rate of performance improvement support the research findings.
- f. A complete transformation if DVA culture is well underway. Again, DVA must now accelerate and deepen the process.

Roles and Value of ESOs

46. **Overview.** ADSO is an active and effective Member of the community of ESOs. As we have emphasised at paras 2-8, we are in fundamental transition. Our objective is to become an incorporated entity that is structured around and focused on the vision and needs of future generations of veterans and families. We contend that the Inquiry cannot reasonably propose recommendations about the legislation and administration of a future veterans' support system, unless it is aware of ESOs' contemporary role and value.
47. **Activities.** We submit that the Inquiry take note of ESOs' following activities as an indication of their role and value to Government, DVA and the veteran community. Our activities include:
 - a. providing welfare for veterans and families;
 - b. organising activities that promote veteran well-being;
 - c. visiting the sick in hospital, aged-care facilities and at home;
 - d. caring for their comrades who have a disability;
 - e. attending funerals of deceased comrades, delivering a eulogy and, in many cases, coordinating the funeral;
 - f. attending to the needs of widow(er)s and families of their fallen comrades;
 - g. mentor younger veterans and their families when invited;
 - h. participating in Transition Seminars and assist veterans and families with transition, employment and re-integration into the community;
 - i. assisting comrades and families in crisis;
 - j. assisting with accommodation needs for those who are 'homeless', including the 'hidden homeless';³⁹
 - k. arranging advice and support for veterans and families that are struggling financially;
 - l. advocating the interests of their members in veteran forums and to Government and Commonwealth and State agencies;
 - m. organising commemorative events, reunions and companionship activities;
 - n. maintaining close links with current serving members in their Service, Corps or Unit;

³⁸ https://www.anzam.org/wp-content/uploads/pdf-manager/2447_LI_HOU-JIUN_OT-03.PDF

³⁹ Mission Australia call the 'hidden homeless' those that move between the homes of family members or a series of friends, or 'couch surf', or stay in garages, backyard 'dongers', refuges, boarding houses, cheap motels, caravans or cars'. Source: <https://www.missionaustralia.com.au/what-we-do/homelessness-social-housing/what-is-homelessness> [Accessed 20/02/2019]

- o. speaking as a public voice on matters of concern to their members;
- p. providing ‘first responder’ support for those suffering from mental illness, or who are suicidal or in crisis;
- q. linking veterans and families in need of support with local Commonwealth, State and Local Government-funded, commercial and philanthropic service providers;
- r. providing accommodation and funding or co-funding either an in-house Advocacy Office or a collaborative Veteran Support Centre (viz., Veteran Hub);
- s. funding training and provide Mentors for trainee advocates;
- t. in some cases, funding the salaries of practising Wellbeing and Compensation Advocates;
- u. supporting the creation and operation of Communities of Advocacy Practice;
- v. monitoring the timeliness and quality of services delivered, and advocating on behalf of the veteran and family where deficiencies occur; and
- w. facilitating claims and appeals for legislated compensation entitlements for eligible veterans and families.

Key Principles for the Final Report

We may be custodians of the past; but, more importantly, we are the stewards of the future.
ADSO Statement of Commitment

48. **Recommendation 4.1.** ADSO supports without reservation the Objectives and Principles the Inquiry outlines in Draft Recommendation 4.1 (p.43).
49. **Overview.** We contend that the principles at Recommendation 4.1, while necessary, are not adequate. In this section we develop an additional suite of principles that, if incorporated in the Final Report, will remedy weaknesses and potentially fatal flaws in the Draft. We would like to reiterate that:
- a. while the following discussion is forthright, it is without rancour; and
 - b. our objective is to:
 - i. help the Inquiry understand the rationale underpinning our position;
 - ii. clarify the issues about which we may at this time disagree; and
 - iii. synthesise founding principles that the Inquiry and ADSO share.
50. **ADSO Concern.** ADSO would also like to express its concern that the Final Report be regarded as authoritative. Any other outcome would inevitably be detrimental to ADF Members and veterans and their families’ entitlements, DVA’s service delivery, ADSO and other ESOs interests, the Productivity Commission and the Government.

Productivity Commission Charter

51. **ADSO Support.** ADSO supports without reservation the Productivity Commission’s role as ‘the Australian Government’s independent research and advisory body on a range of economic, social and environmental issues affecting the welfare of Australians’. We:

- a. understand that the Productivity Commission and Government share mutual practical and moral responsibility on behalf of the Nation to interact productively;
 - b. note that legislators and decision-makers, broadly, will have neither the research capacity nor the socio-economic background of Productivity Commission staff;
 - c. are concerned that Governments are broadly more responsive to corporate than human, social and societal interests;
 - d. contend that the Commission has an ethical and practical responsibility to:
 - i. balance economic policy with the human, social and societal considerations;
 - ii. alert Government to:
 - (a) the trenchant criticism by the IMF and others of market-based economic theory;⁴⁰
 - (b) the gross social inequality and high level of national indebtedness that has resulted from ‘financialisation’;
 - (c) the damage being done to civil society by the ‘marketisation’ of essential services;
 - (d) the ephemeral allure of tax cuts and austerity;
 - (e) the social upheaval that is challenging the major democratic governments as well as developing countries around the world; and
 - (f) the populist ideas that are now starting to polarise the Australian community.
52. **ToR.** ADSO notes that the Terms of References direct the Inquiry to go beyond the Draft’s current economic focus:
- ‘The Productivity Commission should have regard to the current environment and challenges faced by veterans...’ (emphasis added)*
53. **Additional Analysis.** ADSO submits that the preceding ToR requires the Inquiry to, in addition to its economic focus, analyse the human, social and strategic environment and the consequences of its economic, financial and systems recommendations. We contend that such analysis will substantially increase the Inquiry’s authority and utility.

Complex Systems Approach

54. **Wicked Problem.** ADSO accepts that all legislation is changed from time to time as political, social and economic vectors evolve. We also appreciate that the

⁴⁰ See for example:

- Bartlett, Bruce. 2009. *The New American Economy*, Chapter 5, ‘The Rise and Fall of Supply-Side Economics’, Palgrave Macmillan, New York.
 - Jonathan D. Ostry, Prakash Loungani, and Davide Furceri, ‘Neoliberalism: Oversold?’, *Finance & Development*, June 2016, Vol. 53, No. 2: <https://www.imf.org/external/pubs/ft/fandd/2016/06/ostry.htm>
 - Elliott, Larry. *The Guardian*, 28 May 2016 ‘Austerity policies do more harm than good, IMF study concludes’ <https://www.theguardian.com/business/2016/may/27/austerity-policies-do-more-harm-than-good-imf-study-concludes>
 - Oldfield, Maurice. June 2, 2016, IMF Survey: ‘Evolution Not Revolution: Rethinking Policy at the IMF’ <https://www.imf.org/en/News/Articles/2015/09/28/04/53/sopol060216a>
 - ‘Neoliberalism: A Sustained Economic Failure and Attack on Democracy and Human Rights’, posted in *Democracy, Economics, Human Rights, Neoliberalism*, September 24, 2016.
- All authorities accessed 15/02/2019.

administration of veterans' legislation is a 'wicked' problem.⁴¹ Such problems – invariably embedded in complex systems – are, however, not solved simply. Any attempt to simplify by dealing only with the parts, or some of the parts, of the system therefore has a high level of risk. In some complex systems simple solutions may initiate a cascade of unwanted outcomes (refer also to para. 48).

55. **ADSO Concern.** When reduced to its essentials, the Draft Report prescribes only a small number of recommendations:
- a. DVA is not fit for purpose and should be abolished.
 - b. administration should be transferred to the Defence portfolio.
 - c. Defence is not fulfilling its WHS obligations and should pay a premium to:
 - i. incentivise behaviour change, and
 - ii. cover the cost of veterans' future claims.
 - d. The cost of veterans' compensation should be:
 - i. transferred from Consolidated Revenue, and
 - ii. contracted to a commercial workers' compensation insurer.
 - e. Veterans' legislation should be amended to permit the preceding and other recommendations.

We are concerned that the Draft fails to consider the interactions between each of the preceding recommendations and ignores their strategic, organisational and cultural ramifications.

Where are the Risks?

56. **Complexity.** ADSO is also deeply concerned that the Inquiry fails to analyse the risk inherent in its findings and recommendations. The failure to identify risk when analysing a simple system is significant. In the analysis of a complex system beset with wicked problems, the level of risk is potentially fatal.
57. **Risk Cascades.** Even in simple systems, there are 'known knowns and known unknowns'.⁴² In a complex system comprising multiple wicked problems, the existence of even one 'unknown unknown' is potentially the source of an exponential cascade of 'unknown unknowns'.
58. **Assessment.** We contend that, by failing to analyse the immediate and wider risk, the Draft Report contains a fatal flaw.

⁴¹ 'Tackling wicked problems: A public policy perspective', APSC,

Source: <https://www.apsc.gov.au/tackling-wicked-problems-public-policy-perspective>

⁴² In February 2002, Donald Rumsfeld, the (then) US Secretary of State for Defence, stated at a Defence Department briefing: 'Reports that say that something hasn't happened are always interesting to me, because as we know, there are known knowns; there are things we know we know. We also know there are known unknowns; that is to say, we know there are some things we do not know.'

‘Straight and Crooked Thinking’⁴³

59. **Evidence to Senate Inquiry.** ADSO notes the Inquiry’s inception in, and reliance on the opinions of the disaffected veterans that gave evidence to the Senate Inquiry. We are also aware that the Inquiry has heard negative evidence about DVA from contemporary ADF Members.
- a. We note that Client Satisfaction Surveys in 2018 indicate:
 - i. a very low level of dissatisfaction (6%), and
 - ii. sound ratings of ‘very satisfied’ (around 48%) and ‘satisfied’ (around 31%).⁴⁴
 - b. We also note the Survey’s very relevant observation that ‘the level of dissatisfaction among clients aged under 45 has fallen sharply since 2016’⁴⁵ (our emphasis).
- We are therefore concerned that the Inquiry has failed to gain more representative evidence than that currently quoted.
60. **Evidence in Draft Report.** We are surprised that the Draft Report contains very little comment supportive of DVA’s performance improvement and achievements. We also note that, even where both positive and negative quotations are included, the Draft Report focuses on those that support the Inquiry’s negative view of DVA. Unsupportive comments are typically ignored, and negative findings developed in the ensuing text.
61. **Facebook Posts.** ADSO’s concern is further aroused by the Inquiry’s posts on at least two Facebook sites.⁴⁶ We know from our monitoring that posts on these sites are typically abusive and their theme deeply hostile towards DVA.
62. **Confirmation Bias.** The Government should expect that the Final Report’s probity is unchallengeable. We contend that the prevalence of confirmation bias in the Draft renders it unsafe for Government. Given the momentous changes that the Draft Report envisages for the ex-Service community we are deeply disappointed by this very basic fallacy.

⁴³ In ‘Straight and Crooked Thinking’, Robert H. Thouless describes, assesses and critically analyses flaws in reasoning and argument. The book lists 38 fallacies, a number of which are detectable in and undermine the authority of the Draft.

⁴⁴ <https://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/DVA-CSS-Public-Summary-Report.pdf>, p.6. [Accessed on 11 February 2019.]

⁴⁵ op cit, ‘Overall satisfaction - by age’, p. 7.

⁴⁶ **Quote:**

‘From the Productivity Commission

‘Hello, Productivity Commission here. We recently found your DVA Claims, Cards and Payments Veterans Information Group on Facebook of which you are admins, and wanted to reach out to your members. Our agency is looking at ways to improve the veteran support system in Australia. We are currently taking comments, submissions and registrations for public hearings.

‘Your members might be interested in this short video outlining some of our ideas for better outcomes for veterans and their families so we hope you might share it with them

(<https://www.youtube.com/channel/UCdsl7j2swiLQanVN5RPvhmA>) We also have more information on <https://www.pc.gov.au/veterans/draft>

‘Kind regards,

‘Veterans inquiry team

‘Productivity Commission’

This post was also lodged on the Facebook site: DVA Entitlements

63. **Conclusion.** The Inquiry's preceding decisions, at least, raise a question about the Inquiry's judgment. At worst, they leave the Inquiry open to allegations of fallacious argument and unethical conduct. The authority of the Draft Report is undermined.

Recommendations without Implementation Plan?

64. APSC Guidelines. ADSO notes:
- a. the APSC guidelines on implementation planning;⁴⁷ and
 - b. the absence in the Draft Report of:
 - i. risk and sensitivity analyses, and
 - ii. a costed, comprehensive implementation plan.
65. **Conclusion.** We acknowledge that the Inquiry may not be subject to the APSC guidelines; however, we contend that:
- a. the Final Report would be incomplete without a comprehensive analysis of risk and an implementation plan; and
 - b. such a fundamental flaw would have unacceptable consequences for Australia's defence posture, citizens' faith in the probity of public administration and veterans and their families' wellbeing.

Structure without Strategy?

66. **Overview.** ADSO notes that the relationship between the strategy and structure of an organisation has long been debated. Pragmatically, strategy, structure, and external environment are closely linked and highly interactive. In practice, the structure of an organization is almost invariably built first. The Inquiry is repeating practice. This is a mistake. The evidence is that structure later constrains the strategic choices that may need to be made.⁴⁸
67. **Conclusion.** ADSO contends that the Inquiry is building in fatal flaws by:
- a. failing to analyse in detail DVA's Transformation strategy and significant achievements since 2013, and
 - b. recommending total structural re-engineering without a transformation strategy and associated implementation plan.

⁴⁷ 'All Cabinet submissions, memoranda and new policy proposals (NPPs) that have significant implementation risks or challenges are required to attach implementation plans. As a guide, a Cabinet submission is likely to have significant implementation risks or challenges when it:

- addresses a strategic priority of the Government
- involves major or complex changes
- involves significant cross-agency or cross-jurisdictional issues (cont. p.16)
- is particularly sensitive (for example where the policy affects many stakeholders, has received or is likely to receive adverse media attention or is particularly risky)
- requires urgent implementation
- involves new or complex technology or service delivery arrangements, or
- has been developed over a very short period.

New policy proposals must be assessed using the [Risk Potential Assessment Tool \(RPAT\)](#).

Source: <https://www.pmc.gov.au/sites/default/files/.../guide-to-implementation-planning.docx>

⁴⁸ Hall, David J. and Saias, Maurice A. April-June 1980. 'Strategy follows structure!', *Strategic Management Journal*. Vol1, Issue 2, pp. 149-163. Source: <https://onlinelibrary.wiley.com/doi/abs/10.1002/smj.4250010205>.

Structural and Economic Anachronisms

68. **Overview.** ADSO notes that, not only does the Inquiry recommend structural change without strategy, but also ignores organisational and market realities. The digital revolution has rendered hierarchical structures⁴⁹ and market economics anachronistic.⁵⁰ We are concerned that the Inquiry perpetuates anachronisms yet, in parallel, extols the power of ICT. A contemporary analysis is needed.
69. **Reality.** Information is now ubiquitous. For many years, DVA has provided through its website open access to Factsheets, Forms, SoPs, GARP, the proceedings of the various National Consultation Forums, and research reports. Already, through VCR, DVA has created a wizard-based online claim form completion of which requires minimal client key strokes and automatically downloads serving Members' service and health records. These are significant applications of IT. Further improvements are planned.
70. **Bricks and Bouquets.** While ADSO notes as evidence of anachronistic thinking the creation of a veterans' administration hierarchy in Defence, we support strongly the proposal that DVA data augment Defence's Sentinel database to 'surface' the cost of certain illnesses and injuries. ADSO is, however, disappointed that this is the Inquiry's only recommendation that indicates awareness of the power of 'big data' and artificial intelligence.
71. **ADSO Recommendations.** We recommend that the Inquiry now:
- a. explore the wide set of options that are accessible through emergent ICT; and
 - b. define the role that ESOs can undertake to facilitate DVA's transformation and the better administration of veterans' legislation;⁵¹ and
 - c. pursue truly radical systems re-engineering and business process improvements to:
 - i. further propel veterans' administration into the future by:
 - (a) supporting Project Lighthouse's advanced co-design processes,
 - (b) buttress the importance of as-yet-unachieved VCR objectives, and
 - (c) reinforce the need for implementation of Transformation objectives; and
 - ii. because veterans' administration is so important to Australia's strategic posture, recommend sufficient additional funding to achieve the preceding objectives.

⁴⁹ Adaptive government calls for greater organisational flexibility...requires much more agility than the traditional structures and workforce systems of public administration allow. Shergold, op cit, p.xi.

⁵⁰ Paul Mason, 2015. 'Postcapitalism; A Guide to Our Future', p118: 'Mainstream economists assume that markets promote perfect competition and that imperfections – such as monopolies, patents, trade unions, price-fixing cartels – are always temporary. They also assume that people in the marketplace have perfect information. Romer* showed that, once the economy is composed of shareable information goods, imperfect competition becomes the norm.'
* Romer, P. 'Endogenous Technological Change' *Journal of Political Economy*, vol 98, no 5, pt 2 (1990) pp. S71-S102.

⁵¹ 'Private and public sector organisations around the world have come to recognise that diversity of perspectives in the workplace and the boardroom improves performance. Diversity increases critical analysis of information, results in better decision-making and challenges 'groupthink'. A mix of backgrounds, viewpoints and experience can, wielded together, generate more creative processes and better service. Productivity is enhanced.' Shergold, op cit, p. viii

Market-based Workers' Compensation

72. **Wider Insurance Approaches.** ADSO eschews the notion that veterans and families 'deserve' benefits above those legislated for the wider community. We note, however, that:
- a. Government self-insures through Comcare APS officers whose entitlements are legislated in SRCA 1988; and
 - b. civilian employers are required to fund workers' compensation premiums through a market-based insurer, which exposes their workers to:
 - i. profit-based judgements about competitive equilibrium;
 - ii. profit-based judgements open the likelihood of moral hazard for the consumer through insurer risk-minimisation; and
 - iii. risk of insurer insolvency.
73. **Considerations Arising.** We note that the Inquiry proposes that Defence pay a workers' compensation premium and that veterans' compensation be 'marketised'. We find these proposals instructive. A number of considerations come immediately to mind:
- a. First. ADSO acknowledges that most Government agencies pay a workers' compensation insurance premium to Comcare. We contend, however, that ADF employment is unlike any other Commonwealth employment. Because of the nature of ADF service (paras 23-27) and the authorities below, it is the Government that is the ADF Member's employer. These following are unique powers:
 - i. The Government alone has decision-making authority to commit the ADF to operations or to call out the ADF in Australia against perceived threats to 'Commonwealth interests'.⁵²
 - ii. The Minister for Defence' has the authority to determine service is warlike or non-warlike.
 - iii. The Minister for Veterans' Affairs has the authority to make determinations about operational areas⁵³ and eligible persons.⁵⁴
 - b. Second. Only 30% of veterans receive some form of disability pension (for life under VEA, until compulsory retirement age for DRCA and MRCA), rehabilitation and medical care. Nonetheless, the Inquiry appears to have concluded that the risk of successful veterans' claim is too high for the expense to be borne by Comcare and should be placed in the market.
 - c. Third. Marketisation of veterans' compensation moves the cost and its un-capped provisions out of Consolidated Revenue.
 - d. Fourth. Given the high level of employment risk in the ADF and the high level of successful veterans and dependents' claims, marketisation would result in either:

⁵² Discussed by Head, M. 2001. 'The Military Call-Out Legislation – Some Legal and Constitutional Questions'. 29(2) Federal Law Review 273. Source: <http://classic.austlii.edu.au/au/journals/FedLawRw/2001/12.html> [Accessed 18/02/2019]

⁵³ VEA 1986, s5B.

⁵⁴ VEA 1986 s5R and MRCA, ss6-12.

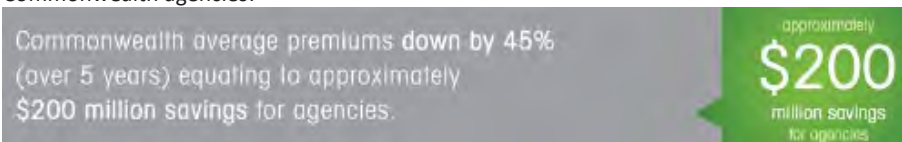
- i. the employer containing its risk by implementing strategies that reduce both the number of claims and the cost of those claims, or
 - ii. the insurer:
 - (a) setting a higher premium, or
 - (b) containing its risk by significantly reducing the rate of acceptance of claims (when compared with veterans' legislation).⁵⁵
 - e. Fifth. Were Australia to engage in another conventional high tempo war, with mass casualties, we submit that a market-based insurer would not be prepared to accept that level of risk. The Government would therefore need to reassume the risk, as it currently does for veterans' compensation.
 - f. Sixth. A market-based workers compensation insurer would find the legislation and legislative instruments (SoP and GARP) commercially onerous and an unfortunate precedent for its wider market exposure.
 - g. Seventh. The Inquiry's oversight of families and war/defence widow(er)s and (for example) proposed transfer of children's education entitlements into schemes for the wider community make sense: dependent-support is not part of market-based workers' compensation.
74. **Market Influences.** Against this background, ADSO is particularly concerned by the apparent influence of Employers Mutual Ltd (EML)⁵⁶ in the draft. Therefore, while we do not support the marketisation of veterans' compensation, we support the Inquiry's intention to obtain a wider view from other than market-based workers' compensation providers.⁵⁷ To be clear:
- a. we acknowledge that, from the Inquiry's perspective, these findings and actions are reasonable; but
 - b. ADSO does not support the presumption that market economic theory and austerity should drive veterans' compensation.
75. **Evidence of Attitude?** If the preceding concerns are indeed evidence of an underlying attitude, ADSO can only deduce that the Inquiry's writing team presumes that veterans and their families are just another subset of society. This premise is of specific concern to not only ADSO but all ADF Members, veterans and families. The level of inequality that has eventuated globally from contemporary economic theory -

⁵⁵ ADSO notes that an insurer sets the initial premium on the basis of an assessment of risk, and then adjusts premiums on the basis of claims experience. The greater the number and expense of the claims, the higher the premiums. This should force the employer to implement strategies to reduce both the incidence of claims and the cost of claims.

⁵⁶ We note:

- EML's commercial significance and market power as the claims manager for *icare* NSW, which in turn insures more than 284000 NSW employers and their 3.4 million employees and has more than \$32 billion in assets.
- with particular concern the first line in EML's website leader: '*Reduce your claim costs and manage your workers compensation requirements with EML.*' <https://www.eml.com.au/> The influence of market economics in EML's introduction could not express more pungently our concern about the marketisation of veterans' compensation.

⁵⁷ In this respect, however, we note that even Comcare must appeal to the market as workers' compensation insurer for Commonwealth agencies:



https://www.comcare.gov.au/annual_report [Accessed 15/02/2019]

and financialisation in particular - is incontestable. We are therefore led to the unavoidable conclusion that marketised veterans' compensation would be detrimental to veterans and families.

76. **ADSO Commitment.** ADSO will oppose any recommendation that ignores its future strategic, societal and human ramifications.

Another Perspective on Veterans' Entitlements

77. **Are Veterans' Entitlements just an Economic Drain?** ADSO's concerns have led us to seek another way to understand veteran and dependents' entitlements. Following Stiglitz,⁵⁸ we contend that their entitlements should be regarded as an 'efficiency wage premium' paid during ADF service and honoured post-service in the form of assurances of targeted:
- a. rehabilitation support to:
 - i. facilitate return to productive employment, and/or
 - ii. live as normal a lifestyle as is possible given individual conditions;⁵⁹ and
 - b. financial and medical security if permanently incapacitated through ADF service.
78. **Efficiency Wage Premium.** ADSO submits that the Inquiry accept the concept that service is an efficiency wage premium. We contend that acceptance is justified by the terms of employment under which every ADF Member serves.⁶⁰ The unique nature of military service requires that veterans' have - and their families' have borne the consequences of their spouse and father having:
- a. surrendered voluntarily the fundamental freedoms enjoyed by all other citizens,
 - b. accepted exposure to levels of risk in the workplace that are well above those experienced by the broader workforce,
 - c. undertaken tasks under orders that many in society find abhorrent (examples include strike-breaking and border protection), and
 - d. applied lethal force against fellow human beings in the Nation's defence.
79. **Social Insurance Perspective.** From another perspective, the efficiency wage premium is social insurance that returns a number of social and economic dividends:
- a. Veterans and dependents' legislated entitlements have been earned as a result of the social premium paid by ADF service.
 - b. Their investment is the personal and family capital they expend in preparing for the Nation's defence:
 - i. acting as a deterrent to external aggression or threat, and
 - ii. in time of war, being prepared to lay down their life to keep Nation free.

⁵⁸ Nalebuff B. and Stiglitz J, 1983, Prices and Incentives: Towards a General Theory of Compensation and Competition
Source: <https://econpapers.repec.org/RePEc:rje:bellje:v:14:y:1983:i:spring:p:21-43>

⁵⁹ See MRCA 2004, s38, Aim of Rehabilitation.

⁶⁰ We also contend that, although the concept originated in the 1980s, implicitly it has been honoured by Governments and the Nation for over a century.

- c. On discharge, the social and economic dividend arising from the investment that those that 'thrive' (viz., around 70% of ex-ADF Members) return to the Nation in the form of:
 - i. technical skills that are recognised under VET legislation;
 - ii. invaluable human skills such as:
 - (a) loyalty,
 - (b) commitment to serving the interest of the broader community,
 - (c) reasoned response to direction,
 - (d) team-work,
 - (e) initiative,
 - (f) thinking and working effectively despite high levels of stress,
 - (g) adaptability, and
 - (h) ability to train others, imbue an ethos, and transfer their own qualities;
 - iii. societal enrichment in the form of worldly experience; and
 - iv. contributions to Australian society and economy as a result of these qualities.
80. **Conclusion.** ADSO understands that education and experience inevitably shape the Inquiry's analysis and recommendations.⁶¹ We contend, however, that there is an economic perspective that the Inquiry has not yet acknowledge. Veterans' legislated entitlements are a social and economic investment. They need not be viewed purely in market terms as another budget cost that should be subjected to austerity measures.

Efficient, Effective and Ethical

81. **Overview.** ADSO notes the following Department of Finance definitions.⁶² We are not convinced that the Inquiry fully reflects their intent:
- a. **Efficient:** The extent to which an activity's inputs are minimised for a given level of activity outputs, or the extent to which outputs are maximised for a given level of inputs.
 - b. **Effective:** The extent to which an intervention has attained its major relevant objectives.
 - c. **Ethical.** The extent to which the proposed use is consistent with the core beliefs and values of society.
82. **DVA's Efficiency.** ADSO supports the logic that, for its efficiency to be ascertained, an agency's outputs (as well as its inputs) must be measured. The 2018 ANAO Audit has found that DVA is not measuring its outputs. As we have tabulated at Annex C, DVA had a very significant amount of ground to make up after the 2013 APSC Review. We support the Inquiry's finding that DVA must demonstrate its effectiveness and efficiency. We go further: to justify a future role as the independent agency that

⁶¹ ADSO understands that professionals schooled in a particular discipline will, inevitably, focus on the issues with which they are familiar. We also understand that this predilection will be reinforced by their broader lived experience. Because of their professional unique education, training and experiences, ADF Members, veteran and family members will have a very different world view to others. veterans and their families

⁶² Source: <https://www.finance.gov.au/resource-management/pgpa-glossary/proper-use/>

administers veterans’ legislation, DVA must remedy fully the shortcomings identified in the APSC 2013, ANAO 2018 and the Inquiry’s Final Report.

83. **Effectiveness.** ADSO is disappointed that the Inquiry has dismissed almost summarily⁶³ DVA’s achievements through VCR. We contend that:
 - a. the benchmark against which the Inquiry should measure DVA’s effectiveness is to be found in the APSC 2013 Review (see Annex C);
 - b. DVA’s achievements since VCR funding was appropriated in 2016 demonstrate a substantive level of managerial expertise; and
 - c. from the perspective of veteran and family support, the following features are exemplary:⁶⁴
 - i. the co-design process adopted by Project Lighthouse, and
 - ii. the qualitative improvements in service delivery already made through VCR’s:
 - (a) culture-change program, and
 - (b) recruitment of Case Coordinators.
84. **Ethics.** ADSO is deeply concerned that the Inquiry fails to analyse and apply the ‘core beliefs and values of society’. We note, however, that it cites:
 - a. community concerns about the adequacy and fairness of veterans’ support and entitlements, and
 - b. whether they represent value for money from the community’s perspective.

We contend that Australian core beliefs and values are attested to by:

 - c. the community’s support for veteran and family entitlements, reinforced by court findings for over a century; and
 - d. the increasing level of community participation in commemorative activities.
85. **Conclusion.** On the basis of some of our members’ experience as management consultants in strategic organisation change and business process improvement:
 - a. the Draft Report does yet not demonstrate fair and equitable analysis of DVA’s efficiency, effectiveness or ethics; and
 - b. given the enormity of the changes identified in the APSC 2013 Review DVA’s inattention to claims metrics, while arguably understandable, is inexcusable.

Wellbeing is Holistic

86. **Overview.** We note that the Inquiry criticises DVA’s perceived failure to adopt a lifelong approach to wellbeing and refers continually to wellbeing and factors that

⁶³ ‘While VCR has had some early successes, its rollout will need to be carefully managed and closely supervised to ensure that success is consolidated and DVA’s history of poor change management is not repeated.’ Draft Report, p.349.

⁶⁴ We also submit that comparison of FY2017-18 customer satisfaction survey results is informative.

DHS - Centrelink		DVA	
Transaction	Relationship	Reliable	Client-Focused
75.20%	46.50%	75%	66%

Sources: [Accessed on 11 February 2019]

<https://www.humanservices.gov.au/organisations/about-us/annual-reports/annual-report-2017-18-html/part-4-customer-engagement-and-feedback/customer-satisfaction>

<https://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/DVA-CSS-Public-Summary-Report.pdf>

- undermine wellbeing before transition. ADSO:
- a. not only contends that at least 12 months ago DVA's Transformation objectives began focusing on veteran and family,⁶⁵
 - b. but also finds it remarkable that the Draft Report does not define the term.
87. **Definition of Wellbeing.** ADSO would be disappointed if, when defining the term, the Inquiry were to approach wellbeing from a purely economic perspective.⁶⁶ We propose that the following inform the Inquiry's definition and application of wellbeing.
88. **Concept of Wellbeing.** To respect the Productivity Commission's Charter and for the Inquiry to enhance its credibility, ADSO submits that an holistic concept of wellbeing be adopted.⁶⁷ We propose that the Inquiry reflect the following wellbeing elements:⁶⁸
- a. **Psychological Wellbeing.** The ability to practice stress-management techniques, be resilient, and generate the emotions that lead to good feelings.
 - b. **Physical Wellbeing.** The ability to improve the functioning of the body through healthy eating and good exercise habits.
 - c. **Social Wellbeing.** The ability to communicate, develop meaningful relationships with others, and maintain a support network that helps overcome loneliness.
 - d. **Societal Wellbeing.** The ability to actively participate in a thriving community, culture, and environment.
 - e. **Workplace Wellbeing.** The ability to pursue interests, values, and purpose in order to gain meaning, happiness, and enrichment professionally.
 - f. **Financial Well-Being.** Financial wellbeing is not correlated with income; but includes the financial resilience to cope with crises and ability to manage available money so that the other elements of wellbeing are accessible.⁶⁹

Summary

'Minister, you are about to make a serious mistake and I am not leaving here until you are determined not to make it.'

Eulogy to Sir William Cole. Kim Beazley. February 2019.

89. **Overview.** ADSO is grateful for the opportunity to respond to the Productivity Commission Draft Report on Compensation and Rehabilitation for Veterans. While we can support some individual recommendations, ADSO does not support radical

⁶⁵ Along with ADSO's advocacy of a Veterans Covenant, DVA's Transformation objective culminated on 14 February 2019 in the Minister of Veterans' Affairs Second Reading of the *Australian Veterans' Recognition (Putting Veterans and their Families First) Bill 2019*.

⁶⁶ Apart from the reference at p89 to the Family Wellbeing Study Wellbeing (Daraganova, Smart and Romaniuk, 2018, p253), wellbeing is defined no more closely than '*rehabilitation, transition support and other services*' and this categorisation is then linked directly to budget outlays (p5) and the cost of the system (p11).

⁶⁷ *Wellbeing* is not just the absence of disease or illness. It is a complex combination of a person's physical, mental, emotional and social health factors. *Wellbeing* is strongly linked to happiness and life satisfaction. In short, *wellbeing* could be described as how you feel about yourself and your life. Accessed 30 January 2019; **Source:** <https://www.betterhealth.vic.gov.au/health/healthyliving/wellbeing>

⁶⁸ Adapted from: <https://www.psychologytoday.com/au/blog/click-here-happiness/201901/what-is-well-being-definition-types-and-well-being-skills>

⁶⁹ Adapted from: <http://adviceservicetransition.org.uk/wp-content/uploads/2015/05/Taylor-Jenkins-et-al-2009.-Financial-capability-and-wellbeing-Evidence-from-the-BHPS-118.pdf>

restructuring of veterans' administration. The reasons for our position are summarised below.

90. **Eligible Veterans Population.** ADSO rejects the populist term 'deserve'. That term is not applicable to veterans or their families. Rather, veterans' legislation confers certain entitlements that are accessible only if legislated eligibility criteria are satisfied. Only one third of veterans and their families satisfy those eligibility criteria.
91. **Veteran Population that Thrives.** The other two thirds 'thrive'. Following discharge, they get on with their lives, find employment, establish healthy relationships in the community, educate their children and, importantly, bring with them a strong reflex of service and team spirit, as well as a range of economically and societally critical skills.
92. **Premises.**
 - a. ADSO rejects the market economic theory that underpins the Draft Report. We reject the abolition of many legislated entitlements in pursuit of austerity justified by undefined efficiency objectives.
 - b. We do not support an argument that a century-old, nationally-hallowed tradition justifies retention of an independent Department to administer veterans' entitlements. We state unequivocally that DVA must demonstrate its capacity to meet the performance standards identified in APSC and Central Agency documents.
 - c. Equally unequivocally, however, we contend that Governments and the Nation have a duty of care for those injured or diseased as a result of, or the dependents of those killed during ADF service. reject the broader repudiation
93. **Ramifications and Considerations.** ADSO is deeply concerned that, to date, the Inquiry:
 - a. ignores the strategic, societal and human ramifications of the radical changes it is proposing;
 - b. proposes radical change:
 - i. without benefit-cost analysis if options, and
 - ii. fails to develop n implementation plan;
 - c. disregards the structural, organisational, and cultural risks attendant on its radical proposals.
94. **Context.** It has taken a century for the relationship between ESOs, ADSO Members and DVA to mature into a partnership. Although we support unreservedly all actions needed to remedy suicide by veterans, we regret that the rancorous behaviour of a minority of veterans:
 - a. precipitated and then ill-informed key findings in the Senate Inquiry about DVA's performance,
 - b. led to similar evidence becoming a focus for the Inquiry despite the evidence of Satisfaction Surveys and positive posts by younger veterans on Facebook about DVA's performance, and
 - c. accumulated in the Draft Report as a bias on which the abolition of DVA has been grounded.

95. **Selective Support of Findings.** Our concerns aside, we acknowledge, and support the number of sound recommendations. We also note those that call for, what are in our opinion, unnecessarily radical change. We commend the Inquiry's reinforcement of the need for further improvements in the delivery of services to veterans and families. That said, our support would be more robust were the Inquiry to:
- a. compare the critical reviews of DVA's capabilities with its achievements since 2013,
 - b. identify the key outstanding shortfalls that DVA must remedy and sets a timeline for remediation, and
 - c. make a clear finding that DVA's shortcomings are an opportunity, not a reason for abolition of DVA.
96. **Specific Outstanding Improvements.** ADSO supports without reservation
- a. the need for ongoing improvements in DVA's IT systems, organisational culture, Delegate knowledge and skill, research into veteran and family health and wellbeing, service delivery and monitoring of its and its contractors' performance against outcomes; and
 - b. greater attention by Defence to the prevention of avoidable injury, disease and death.

We contend that these are opportunities. They do not - even collectively - justify many of the radical solutions the Inquiry is recommending.

97. **Commitments to Performance Improvement.** We commit to working robustly with:
- a. the DVA Secretary and Senior Leadership Team, and (through our Advocates) with RC and MRCC Delegates, to accelerate the improvements already made through VCR and planned through Transformation objectives; and
 - b. with Defence to facilitate:
 - i. understanding of the ramifications of inadequate WHS practices, and
 - ii. transition of ADF Members into civilian life.
98. **Proposed Inquiry Outcomes.** ADSO would like to issue a challenge to the Inquiry. We would to encourage its rethink of some parts of its Draft Report. We contend that the outcome of the Inquiry be a Final Report that:
- a. acknowledges the strategic, economic, societal and human risks Australia faces into the future;
 - b. recognises DVA's past under-performance but demands accelerated improvement must be the objective;
 - c. acknowledges, and reinforces DVA's wellbeing and Veterans and Families First Transformation objectives;
 - d. that supports the Senate FADT References Committee recommendations for:
 - i. funding of additional Case Coordinators,
 - ii. alleviation of the pressure on claims processing staff, and
 - iii. a reduced claims backlog.

99. **Proviso.** ADSO will support well-reasoned recommendations for performance improvement that are based on defensible assumptions and compelling evidence developed through logical argument. We are not able to support unjustifiable legislative amendment, business systems and process change, or radical restructuring.

Conclusions

[You have the responsibility to provide to others what you expect for yourself.]

Steven Pinker

100. **Less Radical Approach.** ADSO concludes that the Inquiry would achieve its objectives with a significantly less radical approach. We therefore propose that the Inquiry should
- a. recommend that Government require DVA be to demonstrate its ability to meet the needs and expectations of future veterans' administration';
 - b. recommend that the Central agencies require DVA to use impact assessment research as its performance assessment process;
 - c. require DVA to:
 - i. as a priority, develop a multi-disciplinary, mixed qualitative and quantitative impact assessment framework for approval by the APSC;
 - ii. once approved, identify and have approved by the APSC (and ANAO?) specific outputs-based metrics and targets against a timeline;
 - iii. co-develop with ESORT (as a Veterans' Strategic Advisory Council) a strategic plan for the period 2020 to 2025;
 - iv. supported by specialist Business Processes Improvement and Organisational Culture Change consultancies, develop and implement business plans for the period 2020 to 2025;
 - v. present that suite of plans to the Central Agencies through the APSC for endorsement;
 - vi. report comprehensively to Parliament annually on its specific achievements against those targets and timelines;
 - vii. co-develop a business case for any funding needed, in addition to that already appropriated for VCR, to enable the strategic transformation to be achieved within the 2025 target date.
 - d. against the preceding strategic transformation framework, reinforce its current recommendations that:
 - i. VCR be continued to completion, and
 - ii. Schemes 1 and 2 have a commencement date of 2025.
 - e. recommend that the Ministers for Defence and Veterans' Affairs determine a wider range of ADF hazardous activities to be non-warlike under MRCA, enabling SoPs at the 'relaxed' standard of proof and GARP M Table 23.1 to be applied to those activities;

101. **Relaxed Determination of Hazardous Peacetime Service.** ADSO contends that the evidence is clear that a wide range of ADF activities are exposing personnel to high levels of risk. We propose that the Inquiry recommend that Defence:
- a. examine employment risk across the full range of peacetime activities; and
 - b. be required to, where the combination of employment risk and clinical evidence justifies, recommend that the Minister determine as non-warlike service a comprehensive range of hazardous ADF activities.

Our objective is to ensure that SoPs at the 'relaxed' standard of proof and GARP M Table 23.1 are applied to peacetime employment where the evidence demonstrates a high level of risk.

102. **Value of ESOs and Advocacy.** Should the Inquiry substantiate the importance of ESO, Advocates and advocacy (para 47), ADSO submits that the Inquiry must address the need for adequate funding to facilitate ESO's operations.
- a. We acknowledge that to a greater or lesser extent, ESOs have assets and cashflow. A synergy with current economic imperatives is suggested.
 - b. Irrespective of their individual interests, all ESOs – whether traditional or contemporary – are deeply motivated by the same axiom: 'mates helping mates'.
 - c. In combination, these considerations suggest the possibility of a co-funding arrangement whereby, reflecting ESOs' shared interest in veterans and families' wellbeing:
 - i. ESOs contribute to a pooled fund according to their capacity to pay;
 - ii. ESOs' seed funding be matched by Public funds appropriated through DVA.
 - d. We note that we have discussed a similar arrangement in our Initial Submission to the Inquiry dated 19 April 2018, pp10-13.



Kel Ryan

National Spokesman

Alliance of Defence Service Organisations

- Annexes.**
- A. Summary of Recommendations Rejected by ADSO
 - B. ADF Employment Risk-Veterans' Entitlement Relationship
 - C. Comparative Analysis of DVA Progress since 2013

Summary of Recommendations Rejected by ADSO

A Meeting of ADSO participants convened on 14 January 2019 resolved to oppose the following Recommendations in the Draft Report of the Productivity Commission Inquiry on Compensation and Rehabilitation for Veterans:

1. Recommendations 11.1 to 11.3
Issue: transfer of veterans' support to Department of Defence
Argument: potential conflict of interest: Defence responsibility is to prepare for/prosecute operations and care for personnel to limit of primary role
2. Recommendation 11.1
Issue: creation of a single Ministry
Argument: would change veterans funding relationship with Treasury
3. Recommendation 11.2
Issue: Transition from a Departmental structure to Statutory Authority.
Argument: ill-defined powers of a statutory authority are problematic.
4. Recommendation 11.1
Issue: creation of a Veteran Policy Group in Defence
Argument: diverts Defence from its primary role.
5. Recommendation 11.4
Issue: Transition of commemoration to AWM
Argument: commemorations are national activity; AWM is Canberra-centric,
6. Recommendation 11.5
Issue: adoption of fully-funded compensation with levy on Defence (viz., 'Public Insurance' to replace self-insurance by Government
Argument: national governance assumes peacetime; cannot predict or legislate an unknown crisis; unlikely Govt would not be concerned about paying increased premium in time of war
7. Recommendation 13.1
Issue: veterans' entitlements are inequitable
Argument: accept that inequity exists between VEA and MRCA; note Minister Vale's lack of commitment in Second Reading of MRCA Bill to any beneficial intent; examples (dependents of deceased vets better off under MRCA, younger dependent women social, economic and cultural circumstances very different to Vietnam and earlier eras of widow(er)s; request detailed evidence by PC
8. Recommendation 17.1
Issue: amalgamation of DRCA and MRCA
Argument: loss of Henry VIII clause in DRCA
9. Recommendation 12.1
Issue 1: harmonisation of veterans' legislation not opposed-in-principle provided 'no detriment/loss' provisions are inviolate
Issue 2: what is intended by not recalculating DRCA PI entitlements?

- Argument: clarification to be requested
10. Recommendation 12.2
Issue: administration of CSC invalidity pensions by VSC
Argument: inefficient; would fracture administration of DFRDB, MSBC and MilSuper
 11. Recommendation 13.1
Issue: reflecting 'One Injury. One Benefit' principle, GARP M Table 23.2 be excised
Argument: employment risk suggests not a source of 'inequity'
 12. Recommendation 13.2
Issue: remove option of interim PI payment of lumpsum
Argument: pension for life preferred as ill-informed financial management decisions by many young veterans and families despite legislated availability of funded financial advice
 13. Recommendation 13.4
Issue: remove PI lump-sum payments for dependent and other eligible children
Argument: homogenisation of entitlements with civilian community ignores unique nature of military service
 14. Recommendation 14.1
Issue: DFISA, DFISA Bonus and DFISA-like payments be removed from VEA
Argument: clarify the PC's intent
 15. Recommendation 14.2
Issue: remove education payments for 16 year-old and replace with means-tested Youth Allowance
Argument: compare amounts payable under VEA/MRCA schemes and Youth Allowance; trigger for no-detriment principle?
 16. Recommendation 14.3
Issue: consolidation of smaller payments
Argument: detailed information needed
 17. Recommendation 14.4
Issue: pay-out and remove 'outdated payments'
Argument: clarify what constitutes outdated payments?
 18. Recommendation 14.5
Issue: replace VEA entitlements with MRCA household and attendant services
Argument: social and economic benefit-cost analysis required
 19. Recommendation 14.6
Issue: amend VEA Vehicle Assistance Scheme and DRCA s39(1)(d) to reflect MRCA
Argument: compare each Act's provisions before responding; trigger 'no-detriment' principle?
 20. Recommendation 8.1, dot-point 3
Issue: eliminate one of the standards of proof
Argument: consolidate into SoPs grounded in Reasonable Hypothesis Test

21. Recommendation 8.2
Issue: eliminate Specialist Medical Review Council and augment RMA Review
Argument: independent review function lost; note that few reviews undertaken by SMRC
22. Recommendation 10.2
Issue: create single review path for all veterans' legislation
Argument: ensure DRCA Reconsiderations are undertaken by delegate other than original determining officer
Note: DRCA ss62(1)(b) and 62(4) provide this assurance
23. Recommendation 10.3
Issue: remove VRB Hearing from single review path; appeals unsuccessful at ADR to proceed to AAT
Argument: obviates (veteran-friendly) inquisitorial environment of VRB and places veteran in highly adversarial, barrister-driven AAT
24. Recommendation 10.4
Issue: further Review in 2025
Argument: represents another opportunity for entitlements to be lost
25. Recommendation 7.1
Issue: create Joint Transition Command
Argument: diversion from Defence fundamental role
26. Recommendation 15.1:
Issue: Gold Card eligibility not extended to any new categories of veterans or dependants.
Argument: misconstrues the rationale for the GC, its health benefits and its acceptance in the market place
27. Recommendation 15.2:
Issue: amend Coordinated Veterans Care to reflect risk rating
Argument: may lead to co-payments; seek more information
28. Recommendation 15.4:
Issue: review Open Arms performance
Argument: strongly support dedicated veteran and family counselling service; no reason why OA should not be monitored or performance reviewed

ADF Employment Risk-Veterans' Entitlement Relationship

	Employment	Entitlement	Rationale
1	Pre-enlistment civilian	Normal community-wide health, social security and workers' compensation entitlements.	Free within law to pursue personal interests. No unusual, unexpected, or onerous demands or encumbrances by Government. Deployed with authorisation to apply lethal force Normal, community-wide risks. Subject to civil law, community-wide health, social security and workers' compensation legislation
2	Post-enlistment ADF peacetime service	Peacetime entitlements under <i>VEA 1986, DRCA 1988, MRCA 2004</i> . Causal relationship codified in veteran-specific legislative instruments: <ul style="list-style-type: none"> • SoPs apply the global epidemiological 'balance of probability' standard of proof. • GARP M, Table 23.2 applies a level of entitlement that reflects the level of risk of peacetime. 	Voluntary surrender of basic human rights and freedoms. Subject to civil law and also unique military law. Increased entitlements over civilian community justified by higher level of employment-related risk of death, injury or disease through hazardous training activities and deployment for disaster relief. Liable to deployment at the will of Government for combat, international or national disaster relief, UN peacekeeping or peace enforcement, or aid to civil power (which has included strike breaking and law enforcement against Australian community).
3	Warlike or Non-Warlike Service	Warlike or Non-Warlike entitlements under <i>VEA 1986, DRCA 1988, MRCA 2004</i> . Causal relationship codified in veteran-specific legislative instruments: <ul style="list-style-type: none"> • SoPs apply the relaxed standard of proof, which allows the RMA to propose SoPs that, while there is some epidemiological evidence of causal link, it does not yet meet the global epidemiological 'balance of probability' standard of proof. This is a very significant benefit. • GARP M, Table 23.1 applies a level of entitlement that reflects the higher level of risk that warlike or non-warlike service entails. 	Subject to not only civil law and unique military law, but also indictment for infractions of international law of war and rules of engagement. Increased entitlements over peacetime service are justified by: <ul style="list-style-type: none"> • deployed with authorisation to apply lethal force • the nature of employment and associated risk are the result decision by Government that Australian forces be deployed for combat, international or national disaster relief, UN peacekeeping or peace enforcement/aid to civil power • unique risk of death or injury in combat operations, peace-keeping, aid to civil power.

Comparative Analysis of DVA Progress since 2013

SIGNIFICANT DOCUMENTS – KEY FAILINGS, RECOMMENDATIONS AND DVA ACTIONS					
APSC 2103 Capability Review of DVA	DVA’s Strategic Plan ‘DVA Towards 2020’ and 2016 Update	2017 Senate FADT Committee Report: ‘The Constant Battle’	ANAO 2018 Performance Audit	Current Transition Objectives	DVA Achievements since 2013
<p>Weaknesses that DVA must address include its operating structure, governance arrangements and information and communications technology.</p> <p>ADSO also notes the APSC’s implicit criticism of DVA’s middle-level management.¹</p>	<p>Drives business planning and improving service delivery into the future.</p>	<p>Rec 6: PC review C&R legislative framework for ADF members & veterans.</p> <p>Rec 7: continue the ‘Veteran Centric Reform’ program.</p> <p>Rec 12: PC review governance, administration and service delivery.</p> <p>Rec 13: ANAO conduct performance audit,</p>	<p>1. Business systems and processes do not adequately support efficient service delivery</p> <p>2. Improved structure and consistency of workflow management of claims needed.</p> <p>3. Measures (median & average TTTP claims) preclude complete picture of performance, & obscure reputational and client welfare risk.</p> <p>4. Claims monitoring and reporting not alerting management to risk of excessive TTTP.</p>	<p>1. Transformation will continue</p> <p>2. Focus on legislative reform</p>	<p>Secretary’s Message in 2016:² significant improvement includes:</p> <ol style="list-style-type: none"> 1. e-data exchange between DVA and Defence 2. Planning to pre-populate Defence information into new claims 3. Leveraging DHS’ ICT capabilities 4. Red tape removal

Cont. overleaf

¹ APSC, 2013. Capability Review: Department of Veterans’ Affairs, p.17: ‘Within DVA a lack of communication manifests itself horizontally across offices and work areas, as well as vertically. There are no consistent insights and contributions from lower-level staff adequately communicated to the top. Similarly, strategic priorities and whole-of-department messages are not always sufficiently communicated from the top down and staff generally feel they are ‘talked at’ rather than being part of the dialogue.’

² DVA Towards 2020, Update 2016, p3.

<p>Weaknesses that DVA must address include its approach to clients, culture and staffing.</p>	<p>Strategies span client support, development and maintenance of culture, shape the organisation, and help DVA achieve its Vision.³</p>	<p>Rec 8: Fund measures to alleviate pressure on claims processing staff, reduce claims backlog & more case coordination staff for complex client needs. Rec 9: Review staff training: military service and veterans’ health understood, right communication skills & understand medical assessments. Rec 15: Intensive support for ‘at risk’ clients: claims & wellbeing support, employment assistance, social connectedness, health & wellbeing. Rec 19: Review support for partners of veterans. Rec 21: Trial assistance-animal program.</p>	<p>1. Majority of R&C services delivered within TTTP targets. 2. Minority of claims taking excessively long period with significant impacts for veteran.</p>	<p>1. Focus on veteran and family wellbeing 2. Remove ‘privacy wall’ that is stymying referral and case management 3. Further refine Case Management</p>	<p>Secretary’s Message: significant improvement includes: 1. progress with the Rehabilitation Review 2. reduced average TTTP 3. successful Veterans’ Employment Assistance Initiative trial program 4. Veteran Mental Health Strategy 2013–2023 implementation Other initiatives: Wellbeing Advocate training program has added Restoring Wellbeing and Community Reintegration.</p>
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³ [DVA] will be a responsive and flexible organisation, efficiently delivering high quality, connected services to all generations of veterans and the wider veteran community.’ Op cit, p5.

Weaknesses that DVA must address include its efforts to formulate effective strategy, establish priorities and use feedback are weaknesses.	Lead document in the Planning Framework, including Corporate, Divisional Business and Individual Development Plans.			Maintain Veterans Support System	Secretary’s Message: Significant improvement includes veteran and family health and wellbeing research (Peacekeepers’ Health Study, Vietnam Veterans’ Family Study, Australian Gulf War Veterans’ Follow up Health Study)
DVA’s commitment to 21 st Century service principles and practices is essential.	Key Strategies matrix ⁴ focuses the services to be delivered, and embedded behaviours.			Reinforce prevention, rehabilitation, wellbeing, transition and health care.	

⁴ See: DVA Towards 2020, Update 2016, p6.