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May I congratulate the Commission on the enormous task it has taken for the Government following the recommendation of the Senate Foreign Affairs, Defence and Trade Committee recommendation.

For the first time , probably ever, we have a comprehensive view of the entire veterans' compensation package – not just disability compensation, but the entire stream of policy on benefits that flow from that. All that remains is the effectiveness of the health programs.

In this submission I don't intend to address matters outside my experience, including Defence OH&S, even though clearly it has improved dramatically. Nor do I wish to address transitional management, though I think the Commission is on the right track. I wish only to deal with the critical compensation policy issues which I covered in my first submission, and which to a degree the Commission seems to have accepted, especially the ridiculous inclusion of the legacy reward for risk on which the system is based, and which, if removed, will transform so much of the policy. Unfortunately however, the Commission, though accepting that, has stopped short of the logical extension, which completely compromises the entire Commission package, resulting in many awful compromises, contradictions, and a result which is just the status quo, differently managed, with minor refinement at the edges This will be easily dismissed by the most powerful of vested interests, including government which has always been terrified of serious and overdue reform in this area.

The two key questions the Commission has dodged are first why we need a separate disability compensation for the military at all, and second, why we need a parallel health and welfare system providing all the same services for a group of people whose length of employment averages nine years. It's one thing for soothsaying politicians and others to say "we'll look after you", but it's another far more important question to determine how. What applied in the 1920's is now totally irrelevant, but we still plod on in its shadow. Sadly I suspect the Commission has been swayed by the usual massive volume of submissions from rent seekers, putting emotional arguments - including the bureaucracy - in the absence of anything wholly rational. The Commission's attitude seems to be that while it acknowledges the dreadfully outdated policy basis for veterans' compensation, (see chapter 4) it seems to accept the status quo as a given – and then goes on to embroider it, leaving many shortcomings untreated.

Very disappointing.

Those same vested interests, especially Defence, will accept the nebulous, and hit for six anything which threatens the status quo – just look at their record of responses to Parliamentary and ANO reports. They are very good at bureaucratic warfare, and rarely do they have a Minister who can resist it, let alone the once forthright central agencies who no longer get a look in – but have been decimated in their capacity in any case.

The Commission's draft report therefore, while clearly and correctly describing the history, has given way to populist sentiment , which is the scourge of all western democracies. Good policy is not always what the community thinks it wants, or to simply defend what is has in ignorance of the alternatives – it is the result of full research, objective analysis, and the broad public and budgetary interest, providing an objective assessment of substantive options for government consideration. Unfortunately the draft report doesn't do that. It even leaves open the vital questions for further feedback, despite its rational findings and assessments. This will result in the inevitable opposition to any change from the most powerful vested interests in the country, and in a context where no-one knows or understands its mysteries, especially in the romantic and emotional climate generated by the commemorative program over the last 20 years.

That includes government and all its agencies. They know this is no-man's land – a vacuum where DVA survives and gets hundreds of millions extra for new process initiatives which are based on a complete mess of wasteful hundred year old policy, but which no one is willing or able to challenge. The politics of veterans health and welfare is dynamite and therefore untouchable. Yet the losers are the veterans themselves, but they still insist on the status quo. Like days of old they believe that whenever government looks at their benefits they are likely to lose.

The Commission is severely compromised and in my view is only half way. The report does little of substance to rein in the extravagance of benefits in this very rich gravy train, but offers significant creep in those benefits, especially if it's not more decisive in getting rid of the more generous standard of proof, and everything which flows from it.

It's a pity the Government relies so heavily on the Commission to do assessments free of political considerations, because there is no one else who can do it – and the taxpayer is stuck with it. SADLY, here the political environment seems to outweigh the rational.

My apologies for being so acerbic, but this seems to me to be the last chance for another 50 years to get it right – after a hundred years of evolutionary, incremental messing around.

I now wish to deal with a number of contextual and substantive issues on which I think the draft report is deficient.

#### Uniqueness.

It is absolutely true that the work and work environment of the military is unique, but as the Commission acknowledges, so are a lot of other work categories and environments. Uniqueness however, is a standard argument trotted out by the military, Defence and DVA as an industrial case to protect and extend benefits. Not to mention the other ones of recruitment and retention.

The difficulty however, is that it only gets tested when individual issues arise, as they do in this case of compensation. They never get considered in toto – and of course everyone succumbs. But should compensation be considered as a condition of service? It's probably never been addressed, but needs to be now because it's absolutely central to the need for a separate military compensation scheme which grew up in isolation but has now been more than matched by public schemes which are so more disciplined, rational and fair.

On the absolutely critical issue of whether the risk of service should be built into compensation policy, the Commission is refreshingly frank, and asserts it should not (see chapter 4 and many times after), but that's where it ends. Further, the Commission's list of benefits already paid for 'uniqueness' is hardly comprehensive. For example it excludes superannuation to which the taxpayer contributes 23% (once in DFRDB was in excess of 40%), the home mortgage subsidy introduced in 2007 – not to mention a mountain of other allowances- which concern the top brass, being concerned about the entitlement mentality – until they get their spoon in as well. Like most other people in the community, if there an opportunity to exploit a benefit for personal gain, they will – but for the military it's been a rich menu for generations opportunists.

However, the Commission seems to have been persuaded by those arguing the need for continuing beneficiality, even quoting the soothsaying of politicians who say 'we'll look after you' – whatever that means.

#### Attitude.

As others have observed, military life is very inclusive of life needs, good pay, subsidised housing, free health care, clothing, sustenance etc. – in fact almost cradle to grave. So is it any wonder when after discharge they look for the same – and DVA and Defence seem willing to assist....now it's 'wellness' ... provided you have an accepted disability which is pretty easy to obtain. And that's the whole point of such a generous system – unlike any other workers compensation systems. Dependence is the norm, and is also unique, making transition more difficult. And as we hear so often, many in the military feel they are 'owed' - serving their country life on the line – milking the time honoured emotional blackmail now exaggerated by the commemorative program. Pity the police and paramedics who see and do many awful things, and probably more often, with a standard wage and only the general social welfare net available to all Australians.

#### Other workers' compensation schemes.

The Commission correctly sets out the principles by which most workers' compensation schemes are structured, but concludes that because the scales of maims are comparable (except warlike service) military compensation is fair. That is simply not true, though it was more comparable when only the SRCA applied. The difference between military compensation now (post SRCA) is that it is overwhelmingly more generous simply because of the ease of access and wide open processes which have little discipline or control attached to them. The Commission compares schemes for their benefit values, but has omitted processes which is where the beneficiality runs rampant. The comparison with overseas schemes is disappointing as it seeks to distinguish those schemes as less relevant because of differing social policy settings.

Most compensation schemes require applicants to provide the evidence – it's not the task of the assessors to find evidence to disprove a claim "beyond reasonable doubt". There must be evidence of an injury in the workplace, all the details verified by supervisors contemporaneously with the incident, including treatment and rehabilitation, and independent medical advice – not what your relatively unqualified GP says. Nor are there SoP's providing a shopping list for opportunists way after the event. Nor are sporting injuries accepted, especially those from contact sport which results in so many musculo/skeletal claims. If veterans think that the time taken to assess claims is inordinate then you need look no further than the processes, and where the onus lies for presentation of evidence. Those who have concealed injuries or who simply think the system will look after them, should wear the consequences. The Commission has noted the low reporting rates (2.5%), average delay 16 years, which of course means no rehabilitation, and thus a higher claim value. Just stupid. The point of course is that compensation claims made late after the event should be considered opportunistic (almost fraudulent), and given the age of applicants in many cases return to work is not desirable retirement income supplementation is the goal. Australian military compensation is designed that way- and the more points accumulated, the closer to the Gold Card - so it's just a complete disincentive to get better.

No other workers' compensation scheme is so ill disciplined – and impossible to insure in any real business-like way with respect to premiums reflecting real OH&S.

No mention is made of the fact that the US model is an insurance model, managed by a large US firm, with personnel able to opt for higher coverage (or that such an option has been trialled in Australia). Nor any mention of the UK who terminated their old scheme with only a five year period of grace – all new claims or claims for increase requiring assessment under the new scheme – and no acceptance of sporting injuries. The only claims accepted there after 5 years are those with long gestations eg cancer. And by the way, Australia has a mainstream health and welfare system the equal of the UK, including NDIS – so the distinction is meaningless.

#### Benefits creep .

In the last 20 years there has been enormous benefits creep, not so much in the value of benefits, but in the eligibility (except for Gold Card which the Commission properly disparages).

Extension of eligibility for veterans has been a major pressure point for many years with consistent resistance from governments, loathe to open the flood gates by redefining qualifying service from actually facing danger from an armed enemy (including crossing Bass Strait) to simply being overseas – despite the apparent unfairness pointed out by the Commission, viz., that peacetime service can be equally risky. The mould has been broken for pure political expedience, and all those claimants from BCOF, Malaya, Ubon and others including atomic servicemen from Maralinga, have broken down the wall. Noting though that during Vietnam, the crew of HMAS Sydney received the status – but not government funded nurses who faced much greater dangers than those on the ‘Vungtau ferry’. Describing every ex service person now as a ‘veteran’ may be appropriate as not many understood the original distinction – except those ‘returned’ men who had a badge to prove it, with lots of extra benefits, and who regarded everyone else as ‘could have beens’. We should sincerely hope that changing the nomenclature doesn’t extend eligibility to the rich benefits attached to qualifying service to everyone, and that the distinction is completely removed, with all the attendant benefits. That would be a major improvement – perhaps the greatest, and the bravest.

The second cause of benefits creep has been with the constant health reviews, behind which the concerns may have been quite justified e.g. Agent Orange , atomic fallout – though also a bit speculative and opportunistically reflecting a slightly different American experience. Any doubt about the government’s hard line opposing these extensions, eventually bore fruit. The outcome has been the acceptance of a wider range of disabilities, and the extension of eligibility beyond the legacy policy. This is symptomatic of the power and the influence of veterans, and their use of political leverage, now elevated significantly by talk of a compact . Seems like a lock in to benevolence going way into the future – or hopefully, just more motherhood statements and words to be quoted back.

Finally on benefits creep I regret to say that the Commission in this draft has been sucked in, contradicting the principle that the main focus should be to get injured personnel back to work as soon as possible – but knowing full well that the system actually works against that due to lack of discipline in the processes. The Commission seems to have endorsed the principle of ‘wellness’ which seems to me to have been taken out of promotional material from the health and welfare industry. It’s very caring of course, but it’s also motherhood, providing more succour for those who want cradle to grave services, simply because they have served an average of 9 years. It’s simply preposterous, and can’t be defined or costed – nor insured for. It suits DVA of course, who has long been a cost plus provider with a theoretically poor future. It also contradicts the main principles of OH&S and rehabilitation – to get people back to work asap - except perhaps for the tiny minority who are severely disabled – and that doesn’t include T&PI’s these days. NDIS can do the same thing and I suspect better. Clients and their advocates in this industry will seize upon ‘wellness’, and it will become a principle by which they can remain dependent even longer.

Likewise the ‘whole of life ‘ concept presented by DVA – another load of bollocks. It must be remembered that the number of severely disabled people requiring such treatment is tiny and does not require this ridiculous bureaucratic overload.

#### Insurance and organisational change.

The Commission’s recommendation that Defence fund veterans’ compensation by an annual premium, rather than the current model of open ended line funding to DVA, makes some theoretical sense , for as the Commission correctly says it will force Defence as an employer to be accountable for this massive downstream cost. Its worth trying but it won’t work with current legislative mess. It would be far easier to revert to the SRCA as a tried and proven model. I haven’t ever heard an argument against that except the

usual 'we're unique', 'we risk our lives for our country' etc. The fact is that injuries in the military are only different in severity and number. Your chapter 4 says it all.

The concept of an insurance premium as a means of providing budget and OH&S discipline is highly desirable, right down to operational units. Defence of course resist this saying they can't control injuries, but that's a classic cop out, contradicted by the growing success of the Defence OH&S program. If compensation processes were tightened up it would be even better – at least with respect to reporting.

However, the model which applies around the world in many industries applies to disciplined entitlements and processes which simply don't apply here. No commercial insurance company would bid on thus model because it is so loose and open ended, unless of course there was a complete reversion to SRCA or DRCA as it's now known. Given the entitlement mentality in Defence it's likely there will be no change and compensation will just remain a cost plus item, subject to the same political pressures as the current regime . It could be simply shifting DVA into Defence, and without significant legislative change by radical policy decisions, I suspect there will be little change. After all Defence has done little to change their entitlement culture, nor to wind in benefits and allowances. In fact the cat may get a better hold on the key to the canary cage. It's therefore vital there be no military representation on the new body whatsoever. The historic plea that such bodies need to know and understand the uniqueness of military life is simply bid for bias on beneficiality – as it has been with the Repatriation Commission, the Veterans' Review Board and everything else to do with oversight of military policy. Civilians can't be trusted.

Nevertheless, given the extent to which DVA and government are completely captured by the veteran community, it's worth a try – especially if some mainstreaming to Human Services and Health could be pulled off. But veterans have to stop blaming DVA for their misfortune when in fact it's simply the result of outdated law and government weakness on reform. Not to mention passing the buck by Defence. There is then great hope that the disasters of transition and rehabilitation can be brought back to those responsible. DVA has been a convenient patsy for too long, struggling with law which has not been fit for purpose for a very long time. No amount of expenditure on new systems can change that, and it's pity the Commission has hitched its wagon to DVA's assertions. I call it wasteful grasping at straws. Maybe it's a poor analogy, but you can't retrofit a car made in the 1920's to perform the modern functions we all expect.

### Legislative reform

If we put aside the question of whether we need a military compensation scheme at all (we don't), the biggest issue for the Commission is how to proceed with legacy VEA, SRCA, and the new bastard child MRCA – which actually involves such overlap as to result in five schemes of multiple eligibility. This is monstrous – and simple because of political weakness, preserving entitlements ad infinitum. The Commission asks what to be done? The answer to which will be keep all the entitlements. Don't expect anything rational or sensible.

The only answer of course is to terminate the VEA and SRCA forthwith – giving five years grace, after which all new claims should be considered under a severely amended MRCA ( assuming we are going with the flow...). This is what the UK did. However, it's also fundamental that the MRCA be amended, not just to remove the cute little redundancies and glitches identified, but to adopt a tightly claims process like SRCA or any state system. Nothing will change of any great order until this is done.

### The standard of proof.

\_It should go without saying that if you accept the absolute logic of Chapter 4, the higher standard of prof is no longer relevant. It's an historic anachronism devised for entirely different circumstances, and is

responsible for a great part of the current delay and procrastination in the claims process. Risk should not be paid for in this way.

It ought to be obvious that when you don't require applicant to make a case with sufficient detail (especially in this modern age of educated employees and electronic data), within a tight time frame, and you require claims assessors to establish a negative case beyond reasonable doubt, the result will be the current mess. The only reason it remains is that it is so easy, and at the end of all the exhaustive appeals, all the riches attached are there to be plundered. It's just a game where the taxpayer loses every time. You can get rid of the service pension which is redundant anyway, a large part of the Gold Card, and all the other benefits which simply provide a holy grail for constant claiming. If these aren't scrapped then benefits creep will become a gallop.

## Conclusion

The Commission's report needs to go much further, because while it makes the right rational noises, its changes aren't holistic, fail to address some of the driving forces causing the mess at DVA and will be dismissed in a trice by the power of veterans and Defence. Without a convincing case, central agencies will have little to fly with and Cabinet will fall over, as usual.

I agree with the following:

- Abolish DVA and the Repatriation Commission as they are complete anachronisms, transfer the whole disability compensation operation to them as an integral part of Defence OH&S, rehabilitation and health care – Defence breaks them, they should fix them – no more passing the parcel
- Abolish the VRB as it is only a quality control check on a system which is highly discretionary and based on poor law and therefore poor administration. All appeals should go to the AAT after internal review, with all new evidence requiring claims to be returned for reassessment by the department – otherwise the fishing expedition seeking higher compensation and therefore more benefits, will continue.
- Institute an insurance model for disability compensation based on the SRCA model whereby it is an integral part of the OH&S, rehabilitation and health care system.
- Abolish the completely anachronistic standard of proof requiring a reverse criminal standard whereby the Government has to disprove beyond reasonable doubt claims which are not sufficiently supported by evidence – including all the benefits which go with it – the Commission should be consistent and strictly apply its findings in chapter 4, namely that reward for risk should be provided for in allowances and not by completely unfair and ridiculous differentials.
- Agree – transfer the War Graves function and the Commemorations function to the AWM as a body more aligned to such responsibilities, noting though that the commemorative program which got underway in the early 1990's is really only a political stunt serving only to inflate the status of the military and support their 'uniqueness'. It is pure financial waste.

Further I would add:

- Terminate the VEA with effect in five years, with all later claims to be considered on a whole of body basis under a single act. That new act should be SRCA (or DRCA) because it meets an existing public standard for all government employees (military personnel may do unique things, but in

themselves they are not physically unique, differing only in severity and number of workplace injuries), or a dramatically amended MRCA – far more than the minimal embroidery the Commission has recommended.

- Amend any new single scheme to provide for a disciplined claims process whereby the onus is placed on the claimant to produce the evidence, based only on contemporaneous incident reports, rehabilitation evidence of the degree of permanency, after assessment by professionally trained medical assessors, not GP's. Claims should be limited to five years after the claimed incident, except for illnesses with longer gestations. All claims should be settled with pensions and not lump sums which are too easily dissipated and just reinforce the culture that compensation is just a grab for short term income/capital supplementation. Concealment and lack of immediate rehabilitation can be minimised in this way.
- All other services after discharge should be evaluated for their capacity to be mainstreamed, as was done most successfully with the repatriation hospitals. Benefits such as the service pension (redundant) should be amalgamated with the age pension at Centrelink for example, grandfathering those currently eligible for five years. Likewise Veterans Home Care should be amalgamated with HACC and the severely incapacitated should be managed by NDIS.. The notions of life long care and 'wellness' should be abandoned as part of the thrust to increase dependency, continued duplication of services., and institutional preservation.
- Limit the Gold Card only to those severely disabled, or replace it with subsidised private health cover