PRODUCTIVITY COMMISSION

COMPENSATION AND REHABILITATION FOR VETERANS

MR R FITZGERALD, Presiding Commissioner
MR R SPENCER, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT ADINA APARTMENT HOTEL, 359 CROWN ST SURRY HILLS
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COMMISSIONER FITZGERALD: Good morning everybody, and thanks very much for participating in today's events. I've just got a formal statement which we read at the beginning of each of the days, so I'll just do that.

Firstly, again, welcome to the public hearings of the Productivity Commission inquiry into veterans' compensation and rehabilitation following the release of the draft report in December of last year.

I am Robert Fitzgerald. I'm the presiding Commissioner on this inquiry with my fellow Commissioner, Richard Spencer, and we've had the pleasure of meeting many of you in consultations that took place last year.

The purpose of these hearings is to facilitate public scrutiny of the Commission's work and to get comment and feedback on the draft report. It's also an opportunity for us to clarify, as we go through the day, misunderstandings and confusion that exists given the size of this report and the number of recommendations. We've been hosting hearings across Australia, and they've included in Adelaide, Perth, Darwin, Canberra, Melbourne, Wagga and Hobart, today in Sydney. The next two days are in Brisbane, and Friday in Townsville. They will be followed by some further informal consultations and perhaps one or two round tables as we contemplate the final report.

The report will go to government at the end of June of this year having considered all of the evidence presented at the hearings and in submissions as well as other informal discussions. Participants and those who have registered their interest in this inquiry will be advised of the final report's release by the government. The draft report is released by the Productivity Commission itself. A final report is released by the Commonwealth Government, but it must be released in full within 25 Parliamentary sitting days after the completion of the report.

We like to conduct all of the inquiries, all hearings in a reasonably informal manner, although you might question whether this is very informal, but I remind participants that a full transcript is being taken and for this reason, comments from the floor cannot be taken, but towards the end of the proceedings for the day I will provide an opportunity for any persons wishing to make a very brief presentation right at the end.

Participants are not required to take an oath but the Productivity Commission Act requires that the evidence being provided is truthful. Participants are welcome to comment on the issues raised in other people's submissions, and other presentations.

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The transcript will be made available to participants and will be available from the Commission's website following the hearings. Submissions are also available on the website. Any media representatives attending today would need to just to see our staff in relation to certain rules that apply to the reporting of these hearings.

Just in relation to occupational health and safety legislation just to remind you that there is an exit at the back of the room which takes you out to the lifts and there is a fire exit on the right-hand side of the lift foyer. And obviously if there is any emergency you are to listen to the hotel staff.

Otherwise, we'll get under way. I just want to say a couple of things if I can. We've had terrific feedback from the report; some positive, some negative, but most importantly it's been very educative and informative for our work. We understand it's an exceptionally long report. We understand that very few brave souls have had the chance to read all of it, but it has been important, and many organisations have put in considerable time and effort, and we very much welcome those responses, and we look forward to those today. So if we could have RSL New South Wales to start us off, that'd be terrific.

Hi, how are you? Good morning. So just the procedures are I'll ask you to give your full name and the organisation you represent and then you've got about 10 or 15 minutes to give us an opening statement and then Richard and I will have a discussion. And that will be roughly the way in which the whole day proceeds. So if you could give us your full names and the organisations you represent?

MR BROWN: James Alexander Brown, president of RSL New South Wales.

MR DALLAS: James Lloyd Dallas, and RSL New South Wales.

COMMISSIONER FITZGERALD: Good. Thanks very much. Those microphones are only for recording purposes. If anyone is hard of hearing and there are some, I can't imagine why, they should come to the front of the room and you can move your chair as close as you like, but they don't amplify, so that's it.

So if you could give us your opening presentation that'd be terrific.

MR BROWN: Sure, Thank you very much for having us this morning. RSL New South Wales is a membership organisation of 35,000 people here in New South Wales. It's part of the Returned Services League of

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Australia. I'll speak on behalf of the board of RSL New South Wales and outline our response to the report from a policy perspective, and James Dallas is a veteran himself and one of our professional support providers, and will give a practitioner's perspective on a response to the report.

I just want to note that we're currently directly assisting more than 3000 military families both through our network of sub-branches and volunteers, but also through our professional support team in the Sydney CBD.

At the outset I want to acknowledge on behalf of RSL the depth of the Commission's analysis and also particularly your willingness to truly consider the system from first principles. You haven't left many sacred cows untouched in this one, and the conceptual framework outlined in the draft is bold. To give you our bottom line upfront it's too bold. There are a number of recommendations in here that we support and I'll speak to several of the major ones at the outset, and in our written response we'll talk to some of the smaller recommendations that we support, and there are a number of recommendations in here that we do not support. Chiefly, we do not support the dismantling of DVA at this point in time.

Essentially we believe that the conceptual structure outlined in your draft report would be too great a shift from the current system at a time when veterans centric reforms are showing some degree of success and are showing some degree of enhancement of the process that veterans go through when they encounter DVA. To shift to such a new concept would cause significant disruption to the delivery of compensation and rehabilitation particularly to the largest generation of veterans, mostly Vietnam here and national service here are veterans who are now entering their seventies and understand the current system. The system may be a useful system in the future, but not right now.

We strongly support your draft recommendations to harmonise impairment, compensation and assessment of liability across the three Acts, and we quite like the way you've outlined how that might happen. We see the differing provisions in the different Acts as being one of the primary sources of friction within the system at the moment. They, as you rightly identify, are unnecessarily complex and in some cases are very unfair.

To that end we strongly support the recommendation to gradually transition DRCA into MRCA and the eventual transition to two schemes for compensation and rehabilitation, and we gratefully note the recommendation you've made there that existing payments under DRCA would be grandfathered. We see a number of inconsistencies in the way

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veterans under DRCA are treated, and we're grateful that you acknowledge that.

We agree that the Commission's proposal is the best way to significantly simplify the system whilst minimising the disruption to existing DVA clients. We strongly support the recommendation to transition responsibility for major commemorative activities from DVA to the Australian War Memorial. We spoke on this very recently. We don't think that the department is the best place for people or the skill - with the skills and the structure and the systems necessary to run major commemorative events at home or overseas. That's very different from the skill set of looking after the compensation and rehabilitation of veterans, and we think it would be best moved to the War Memorial, who have the budget and the leadership necessary to run that. At worst giving DVA responsibility for this increases its span of activity and distracts from its main role in looking after the health and wellbeing of living veterans.

We don't support the Commission's recommendation to reduce the responsibility of the VRB, and I just want to spend a little bit of time explaining that. We see the VRB as a particularly successful system mostly because of the culture and the environment it creates in which problems can be resolved, and particularly it's important to acknowledge here the state that many veterans who come before the department are contesting some of the decisions made by the department are in and how VRB acknowledges, respects and facilitates that state.

We understand the Commission's desire to improve the accuracy of DVA's initial decision making processes and we agree that there's much work to be done there but we don't see a reason that initiatives targeting some of the shortfall in that decision making process can't sit alongside a strong VRB.

From our perspective for our members and the veterans that we help with claims we see that VRB provides an independent review and that's very important; that actual and perceived sense of independence is very important. We think that it's a calming and deliberately non-adversarial environment that restores a sense of agency to the veterans and that's very important given that moving through the bureaucracy can be very debilitating in the loss of status and agency that veterans feel, and we believe that the VRB has demonstrated its success in minimising processing times for some of these claims that are being contested.

A couple of other points I make. We would be concerned if the Commission's final report recommended the adoption of a single rate of

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permanent impairment compensation for both operational and non-operational service. We see the arguments you've made in the draft report about reducing complexity and unfairness, but we don't think at this point they're sufficient to justify the removal of this condition of service for the current generation of veterans. The Australian public I think has demonstrated that it clearly expects that those who have served and suffered will be compensated and it also expects that those who have had the unique exposure to combat and combat related operations that often from operational service will be somewhat more generously compensated and certainly that's an expectation our members have as well.

So we would think that the maintenance of - you know, we understand that you can be severely impaired during non-operational service and you can suffer severe trauma during an operational service, but we think there is something unique about operational service, and it does need to be maintained in the system of compensation and rehabilitation. For the same reasons we don't support a move to a single standard of proof for linking a condition to service for both operational and non-operational service.

I'd also like to speak to the Gold Card. To clarify, we understand the Commission's arguments that the Gold Card scheme as it currently is laid out doesn't specifically target veterans with specific service related health and wellbeing problems, and we acknowledge that there is a potential for a portion of veterans and advocates to inappropriately see the card as some sort of prize to be gained, and for that reason we made comments in our original submission talking about changing the name.

But the Gold Card does acknowledge that the holder has been particularly severely impacted by their service. It is most importantly an attempt to limit the obstacles a veteran might have in receiving whatever care is required to manage the pain they've been left with, and at this stage we see that rorting and misuse of the Gold Card is currently far below a level that might justify a move away from the card altogether.

We don't think that general or targeted limitations on Gold Card access is a fair or appropriate path forward, and if there were to be limitations on the scheme in the way that the draft recommendations have outlined it would need to be carefully grandfathered in because people do join the ADF with the knowledge that they will receive the Gold Card when they turn 70, so that would need to be considered right from the start of the recruitment cycle.

At the moment access to a Gold Card is granted at 60 impairment points for MRCA claims which represents a severe degree of disability, and one

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of the key things we see in the feature is that at that point if you were a White Card holder for every additional issue you would need a new claim to be submitted and processed, and to give you a very practical example of that one of the veterans we have helped was a special forces soldier who received significant injuries to his abdomen and including gunshot wounds to his abdomen to a point where his impairment was severe, and before he was awarded the Gold Card he had significant difficulties in having his claim for irritable bowel syndrome accepted by the department, and you could imagine the impact that has on somebody when they're suffering from stomach gunshot wounds and they're having to argue that the irritable bowel syndrome is in some way related to that injury. That's where the Gold Card really comes into play for those who have been severely impaired. It reduced the friction in the system, the moral insult and the frustration that can arise from normal bureaucratic activities which can be really crippling in its own right.

And my final point is that we do not support the draft recommendations that point to the removal of dependent benefits. We're particularly conscious of the intense burden for Australian national security which is currently shouldered by Defence families and we think it's entirely appropriate that the veterans compensation and rehabilitation system should factor in the wellbeing and support of military families during service and after service particularly because the care that they often provide is the critical ingredient to whether a veteran flourishes after their military career or fails. Thank you very much.

MR DALLAS: Very short for me. I just wanted to highlight that on the ground we are experiencing a significant success working with the developing DVA and the Veteran Review Board. The Veteran Centric Reform is creating a positive reform within the department, and we do have a concern that such a significant overhaul of the service provision could reduce the impact of the Veteran Centric Reform.

COMMISSIONER FITZGERALD: Good. Thank you very much. If I could just raise just a couple of issues and then Richard will do the same. If I could just go to the Veteran Centric Reform, as you appreciate, we are supportive of the VCR, and we've indicated that it should be fully implemented by mid-2021, and that any structural change would take place after that date. So we agree with you that it should be able to run its life. Where we probably disagree is we think that a good military compensation scheme requires a different structure going forward to the next 10, 20, 30 years. So I just want to flesh this out, nobody is trying to disrupt the VCR, and in fact, our timing is deliberately cognisant of that fact. But where we have come to is a view that based on all of the modern experiences in Australian history no compensation remains within a

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department, and there's very good reasons why that's the case. So nine governments have all moved away from that model and they've done so with good reasons. I just want to clarify what's the concern there. If VCR runs its course and it gets adopted into the new Commission what's the disadvantage do you see in that?

MR BROWN: I suppose there's two concerns we would have: one is you have a very large generation of veterans moving through their seventies and eighties at the moment.

COMMISSIONER FITZGERALD: Sure.

MR BROWN: And the timing you've outlined would still impact on that generation. If assuming that the system you've outlined is the best, one of the most appropriate ones, and I acknowledge the point you've made about other transition schemes or other compensation schemes elsewhere, you would need to wait until the period after the Vietnam and National Service veterans, because that would give you more of a window to implement that kind of scheme, but we're now talking about a long way down the track.

COMMISSIONER FITZGERALD: But why does that affect the nature of the organisation as distinct from the benefits? So the VEA stays roughly intact with certain modifications. So that anybody that is currently eligible or would be eligible under the VEA stays that way forever if they so choose until there's a cut-off date. Equally MRCA and DRCA you've agreed should come together, so in terms of the major benefits, both impairment and incapacity, it doesn't change. So the back office, in a sense, which is the structure, why does that matter if the VEA recipient is not in any way disadvantaged, and they're not deliberately, how does that impact? I'm struggling between - if we were changing the VEA for example radically, yes, but we're not. We're not changing it at all for existing and new claimants up to that cut-off date.

MR BROWN: One of the unknown factors in that for us is the recommendations that the Cornall inquiry will make, because the infrastructure that surrounds whatever system is proposed is probably the area where we have the greatest input, and the ripple effect of effectively retooling our volunteer network - - -

COMMISSIONER FITZGERALD: Sure.

MR BROWN: - - -to support a new system would be considerable. Commencing in 2021 would put significant strain, I think, on the ESO,

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advocate networks and on the ESOs if they are to remain a part of the advocacy system.

COMMISSIONER FITZGERALD: So we have the Cornall report obviously but we can't use it until it's made public, so we're encouraging government to make public the Cornall report and as a consequence of that we will then use it and comment on its proposal in our final report.

Can I just go to a couple of other things? I presume the other thing in relation to the structure that you're opposed to is Defence taking over policy, which seems universally the case, although there were a couple of participants recently that have supported that proposal, but it's true to say not many.

What is your concern about that? We've heard it from many different angles, but what's the great concern that you have about policy residing in Defence department? It already sits within the Defence portfolio which most people don't seem to understand, but what's the problem with policy being in Defence?

MR BROWN: We spoke to a number of members about this. Members have a history of times when more veteran related functions have been more closely integrated under the Department of Defence and the Defence forces. Their chief concerns are a perceived conflict of interest both between the way Defence operates, its, you know, war fighting requirements and the administration of a veterans' compensation scheme. The other significant concern that has come from our members if the culture within Defence, which - and to give you a fairly real example of this, a number of soldiers will actively seek to hide injuries that they have because of the perceived loss of status in a medical downgrade or in needing to be taken offline from an operational unit and putting into a hold cell.

There is a strong cultural bias within the Defence Force at the moment to not fully acknowledge the extent of injuries people might have, and there are some efforts underway to change that culture. To some extent that culture will always remain because of the operational necessity in which the Defence Force operates.

So Defence may not necessarily be culturally equipped to administer the kind of programs you've suggested they might administer here and the skill set of the people making decisions on those kinds of programs may not necessarily be aligned to the most beneficial outcomes for veterans.

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COMMISSIONER FITZGERALD: So just a couple of things, as you know we only talked about policy going to the Defence. We didn't talk about the administration of the scheme going to the Defence department, and many ESOs have misunderstood that. But putting that aside, the question for us is given, as you say, that there are cultural issues is the long-term objective to get Defence more understanding of the impacts of its service has on its members? And I'll just put this in context, in New Zealand policy for veterans sits within the Defence department, and everyone says that's terrific, no problems at all. And in other parts of the world Defence have a dual responsibility; one is the defence of the nation, and the second is the long-term wellbeing of its personnel. And that seems eminently reasonable. But in Australia the second part of that is highly contested, and so veterans groups have been saying, as you have, Defence doesn't understand, doesn't really care, it's not culturally. Our question is should they? Should we be trying to move Defence to a better alignment in relation to the interests of its personnel in the long-term, and as a consequence become more involved in policy and maybe funding some of those impacts, or do you think we've got that wrong in terms of the direction we'd like to go.

MR BROWN: I think it's a reasonable aspiration, but if you look at the complexity of the Defence Force at the moment what it's scaling up to do, the operational environment it's going to be in for the next 10 years, it's capacity to - and it's running, you know, cultural programs on a number of fronts, its ability to undertake that program I guess is a question. You know, it works in New Zealand because New Zealand is a much smaller and less active Defence Force potentially.

COMMISSIONER FITZGERALD: Sure. But it's not just New Zealand. There are other Defence Forces which have a very clear recognition that the wellbeing of its personnel, its members is in fact seen as a lifelong duty of care. Here we seem to say Defence stops there and then somebody else has to take it over, whereas in some other jurisdictions that's less clear. All systems are different, so there's no universal right system.

MR BROWN: No. And I guess on the principle of that we see some merit in the proposal you've outlined to increase Defence responsibilities during the transition period.

COMMISSIONER FITZGERALD: Transition.

MR BROWN: You could potentially make that 12 months rather than the six months - - -

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COMMISSIONER FITZGERALD: I was going to ask you about that.

MR BROWN: - - -to give ongoing stability. So I think the essence of what you're getting at is right, but we just at this point can't see how you
5 could shift the entire system into Defence strictly.

COMMISSIONER FITZGERALD: No. Just one other question, then Richard will have some and then I'll come back. In relation to the harmonisation of various provisions across the three Acts, and the ultimate
10 merger of MRCA and DRCA, we are pleased that you support that. In fact, I think many organisations do, but not all, but your issue around recognising operational service, if I can use that term, as distinct from non-operational service the feedback we've been getting from young veterans is that an injury is an injury is an injury, and, as you know, the
15 government, through the introduction of MRCA in 2004, basically started us down that track. So our proposition is not very radical at all. It continues that trend.

When you say there should be a differential in terms of acknowledgement
20 for operational, precisely what to you want to retain? So if we make MRCA and DRCA come together and come to a standard rate for incapacity and for impairments, what are we left with? Are we left with the two standards of proof in the SOP, and perhaps the Gold Card issue? Those are the two central things that at the moment differentiate that or
25 could in the future.

MR BROWN: Yes. I mean, this is tightly linked to our argument on the Gold Card, and I might leave James to speak to the SOP point.

30 **COMMISSIONER FITZGERALD:** Sure.

MR BROWN: But, look, we'd acknowledge that the blur in between operational and non-operational is significant and particularly if you look at naval deployments on border protection. It is partly an emotional issue.
35 But it is a consistent piece of feedback we've had from our members. That process of deploying from your home location, being absent from your home location, being absent from the normal support networks of family and friends that would help you manage any injury that you might have is an additional factor and it is something that does make that experience
40 unique even before you get to the question of whether you experience combat or you experience a combat related role. But our members still very clearly see that differential between an injury that might be suffered in training or in domestic operations and something that might be suffered in a more adverse environment. And, James, I don't know whether you
45 want to speak - - -

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MR DALLAS: I think you highlighted the cultural aspect of it quite well. The additional aspect I'd like to raise is in regards to DRCA. DRCA is a peace time service of peace time coverage, so if that were to come across to the statement of principles, it would not in fact have the reasonable hypothesis, standard of proof, and would only in fact be covered by the one anyway.

COMMISSIONER FITZGERALD: Unless we chose to change that. So let me put this proposition to you, if we are of the view that statements of principle should be applied across the three Acts and ultimately the two schemes, the question in principles terms one proof is better than two, just as a principle, but I hear the arguments. If it were to go to one standard only of proof, what would it be?

MR DALLAS: To be honest, at the moment, we're unsure. We were looking at a few different models to try and ascertain exactly what it meant to be one standard of proof. Making sure that a benefit was not lost by a group of veterans, and it was as equal as possible within the current legislation. We're unaware of a system that would create that currently, however, we'd be very open to seeing any model.

COMMISSIONER FITZGERALD: Sure. No, that's fine. And we are looking at all the different options in relation to that.

COMMISSIONER SPENCER: Thanks, Robert. I'd like to just explore a little bit more some of the thoughts and recommendations you've given us on the role of ESOs. And as we know with the Cornall report we'll see that shortly hopefully, and that will be mainly around advocacy I would assume but also other additions as well.

What strikes me, and thanks very much for the extensive submission you've given us on what ESOs could do in the future. I think there's a lot of interesting material there. When we come to the consumer directed care model, which you've explored in your paper, which seems to have a lot of promise, and we'll have more to say about this in our final report, we did hold back a little bit about the role of ESOs because of the Cornall Report, you've mentioned alternative therapies, you've mentioned what's happening in aging and also in disability about consumer directed care. Could you tell me a bit more about how you see that operating, because there does seem to be potential. There have been some trials, as I understand it, but very modest trials at this stage. So when you look to consumer directed care in the future what do you see as a role that for example RSL New South Wales could help to facilitate in that space?

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MR BROWN: Do you want to speak to the ground level and then I'll speak to the system?

MR DALLAS: This is not an area of my expertise. However, we see huge benefit in providing additional choice to the veteran. In this age everyone of all ages are more well informed than we've ever been before, and veterans see a huge benefit in not necessarily just doing the one dictated strategy in terms of medical treatment and recovery and have huge benefits in being able to decide what they're able to do on the ground.

MR BROWN: So just to pick one specific example, so we've run programs around equine therapy, getting veterans to work with horses, we have - you know, we work with some racing organisations who provide us with their older horses, and we found that that's successful in some veterans who, you know, have emotional needs or service related needs. That's something that comes off our own back. There's no funding within the system that's really directed at those sorts of initiatives and that's quite different from, for example, the disability sector.

So one of the big issues we look at is we're at a point where because of our declining volunteer base ESOs really need to make some hard decisions about potentially professionalising their services. That doesn't mean no volunteers but it does mean the weight will probably shift to more staff like James. But currently there are no structural incentives in the government system to do that. There are no real structural incentives from DVA to build that kind of capacity within veterans organisations and that's very different from the way it works in other sectors, particularly the disability sector where essentially the service is funded, and then the community partner, the not for profit partner, the charity partner, can meet that service and build the capacity and it has that sort of certainty of funding to enable it to make decisions that, you know, might take three , four, five years to implement. At the moment we couldn't commit the level of funding required to build the capacity that would help with some of these things, whether it's in advocacy, whether it's in consumer directed care, because it would just be too much of a risk for the organisation to take.

COMMISSIONER SPENCER: So what's been of interest to us is we've looked at the ESO community, it's a huge resource, and to be frank in many ways an under-utilised resource in terms of services to veterans that some would argue only ESOs can provide. And often that's around points of connection. So sometimes the people most isolated from services, most in need don't engage with government, don't engage with government agencies, but through your networks, the volunteers and also your

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professional staff there can be outreach, there can be ways to bring those people in. So we start with an assumption that there's a huge resource. How is that best made use of?

5 The hub notion is one that's obviously getting quite a lot of interest. We've been to Townsville and we've seen what's happening up there with Oasis. Often this comes back to an issue you've raised, and that is, an investment. Frankly some of us have been a bit surprised at the amount of investment that's made in the networks, and in other areas, and other areas
10 of human services sometimes, and we had an inquiry into this last year, it's a matter of government looking at where can they leverage community resources within that sense.

So in this context, how can government leverage the value, the potential
15 value, and the added value you can bring to this system? So we don't think of it as a government system, we think of it as a whole system of which you are a part. So you've given us some thoughts about what that could look like. And could you just expand a bit on, you know, if the investment was there, what would that look like for you and other ESOs to
20 really provide services that frankly would be very difficult for government to provide?

MR BROWN: So I think you've hit the nub of it which is that the interface, you know, the sort of help, the sherpa role really, our volunteers
25 are sherpas for people navigating the system, they path find services, they bring together all - you know, as services become more specialised having someone who can bring it all together, it's informal case management in a way and welfare, that becomes a critical role the more complex the system becomes. Just the physical presence as well as a lot of these services that
30 we're talking about are highly centralised. A good number of our members live in isolated places and where they don't have access to these services, so in between visits or contact with professional service providers our volunteer network is providing that reassurance and contact and socialisation or, as we have referred to it throughout our history,
35 camaraderie. So that's very important.

I think in terms of how we leverage the huge volunteer base that we have we have a proposal before government at the moment for them to fund training of our volunteer base. in a couple of ways that will - essentially
40 first response contact counselling, which will help to identify people who might need professional services, and which will also help in crisis situations as well. And there is no real program at the moment that does training for the ESO volunteer network on the scale that we propose, so we're hopeful we will have some success in that proposal before
45 government, but that's a way that you can help to reduce the number of

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veterans who end up in protracted and complex disputes with DVA or other service providers.

MR DALLAS: In its simplest form Veteran Centric Reform is providing choice back to the veteran, and I can use an example of a recent initiative from RSL New South Wales in a positive manner, that being Veterans Sport Australia, in creating the newer way of rehabilitation through sport and additional rehabilitation. A more recent initiative is working with rugby league, Rugby League Australia in regards to a coaching program, acknowledging that, well, rehabilitation isn't just about seeing your local doctor and going through a standardised process. It can be far more broad than that.

So the RSL New South Wales and Veterans Sport Australia can certainly fit in and assist veterans in that space. It doesn't necessarily just have to be down a medical avenue. However, another example that we have a longstanding veteran we've been working with very severely incapacitated due to war service injuries. For him one of the biggest benefits that he found was through art and through yoga. These are two things that aren't covered due to the very narrow medical doctrine that DVA follow and so he was unable to receive those services. So for him it's about the acknowledgement that DVA are able to have a broader look or the government are able to have a broader look on what is going to benefit him, but acknowledging that there is still a space for organisations like Veterans Sport Australia to fill additional responsibilities.

MR BROWN: And one final example I'd offer is in the transition space too. No-one else has the network that the RSL has in terms of the physical presence across the country. In terms of facilitating transition for people we have a pilot project underway working with Defence so that when people discharge to an area they can voluntarily notify the ESO, in our case, the RSL, who essentially welcome them into that community and give them a point of contact and access to local services and other veterans. More specific building of capacity in that kind of space could be very helpful for the system you're trying to fix.

COMMISSIONER SPENCER: No, look, thanks for those comments, and just - and obviously what we're signalling is we're looking at this issue is what sort of investment can make sense to leverage the value of you and other ESOs in this space, so we think there's most likely potential there.

Look, and I just make a general comment, you haven't made this particular point, but a number of people have been really concerned about the Productivity Commission is on a cost-saving exercise, and, look, that's not what we're about. We're really trying to look at the current system. How

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do we maintain what we've got, and how do we improve it. But how does government get smart and focused about what actually achieves outcomes and results, and I think part of taking a look at the whole system it's enabled us to step back and we may not have all of this right, but that's what 's driving it. Where do you invest, and we think actually overall our report will require additional investment by government, and not a cost-saving, so I know you're not making that point, but I'm just wanting to, in this context, clarify that particular issue.

MR BROWN: And one thing we will mention in our more detailed written submission to this draft report your recommendations on both additional research in the sector and additional performance measurement I think are critical. You know, you can't manage what you can't measure and both in the compensation and rehabilitation system in terms of measuring outcomes, the services given by government but also in the ESO sector I think we've got a lot of work to do to work out how we measure what success looks like, and therefore how we allocate our resources.

COMMISSIONER SPENCER: Thank you.

COMMISSIONER FITZGERALD: Just the VRB if I can, just for a moment, we've heard many submissions along the lines that you've made in relation to VRB. The whole focus of our attention is to improve the quality of the initial decision making and then to introduce into the system a new level, a very rigorous level of reconsideration before you get to the VRB, and so that second stage is critical.

But if we were to actually start to see success, that is better quality decision making by the initial delegate, and much more effective reconsideration of the initial claim, and we have the benefits of the alternative dispute resolution procedures that the VRB is operating, whilst we understand why people want and admire and like the VRB, what we're trying to say is it's not necessary, it won't be necessary to have two decision making bodies, the VRB and an AAT if those things happen.

So is it so simply people are yet to believe that that's possible and therefore they want to keep what they've got, because very few other parts of Australia in public policy have two external decision making. And as you know there's been previous inquiry to recommend the abolition of the VRB and merger into AAT, which we have not recommended. We have recommended the retention of the VRB for a period of time.

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So can I just get to the essence of it, what is it that concerns people about it losing its determinative power but being retained for its, what is very effective, it seems to be very effective, dispute resolution processes?

5 **MR DALLAS:** So we find huge benefit in the Veterans Review Board acknowledging with improved services within DVA and improved processing may reduce the need for a VRB. However, as you've just stated the Veteran Review Board are unique to veterans.

10 It is a system that in the future may be reduced in its capacity, however it stills stands as a place, as James Brown raised earlier, it's a non-adversarial easier approach for a veteran to go through what is a very traumatic experience rather than going through the full AAT. So a very different experience going through AAT than it is to the Veteran Review
15 Board.

COMMISSIONER FITZGERALD: Sure.

MR DALLAS: And acknowledging that a lot of matters that go through
20 DVA and to be accepted can be quite complex and the Veteran Review Board allows that additional ability to pull apart the complexities of those matters.

COMMISSIONER FITZGERALD: But would you accept that the
25 VRB's existence in fact took some of the pressure off the frontline in DVA? In fact it had a perverse effect, that in fact we've heard from many people that there was a sort of an unsaid, "Well, if you get it wrong in the first instance it'll go to the VRB". So instead of driving improved behaviour within DVA it had a perverse effect of actually reducing quality
30 upfront all being pushed to the VRB and clearly our whole intent is to change that, and you don't just change it by saying it, you've got to change it in some ways by changing different levers. But would our assessment be right that in fact it did have a perverse effect?

35 **MR DALLAS:** So at the moment I would hate for the government to lose a positive organisation, that being the Veteran Review Board, due to inadequacies at an earlier stage. So DVA have even changed their current way they're processing and re-vitalised their internal revision processes.

40 **COMMISSIONER FITZGERALD:** Sure.

MR DALLAS: And however we are still seeing a significant increase in matters that are going through the Veteran Review Board. So in the future there may be - this is a discussion that may be reapproached in the future,

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however, at the current time in the space that we operate in we do not see a success in reducing the capability of the Veteran Review Board.

COMMISSIONER FITZGERALD: Sure.

5

MR BROWN: I think the point that you're making is that people might be letting VRB catch it and then being less diligent and upfront. Yes, I mean, look, we haven't got visibility on that but we understand that you might get that perverse incentive.

10

I think it comes back to two things: I think the aspiration for much more successful first round decision making is a critical one, but we are dealing with government, and without wanting to cast aspersions on our loyal public servants in a big bureaucracy you will always have a level of
15 problematic decision making, so I think for some time we will have that need for a backstop.

And the second is the culture of our members and the people who are going through this process; soldiers by their very nature don't trust the
20 higher command. They don't trust the bureaucracy and that is a critical part of our culture and psyche.

COMMISSIONER FITZGERALD: Sure.

25 **MR BROWN:** And so that idea that there can be an independent review that is external to a degree I think gives people great comfort going through the system which should not be underestimated, although I acknowledge that at a first glance the beneficial inclination of the VRB might seem to be a very unusual thing.

30

MR DALLAS: I would also like to highlight that the welfare around the RSL New South Wales, RSL DefenceCare, is providing a professional approach to claims assistance, lodging initial claims to DVA. Even with this approach we still see a number of those matters go through to the
35 Veteran Review Board. So even with the best effort put in at the earlier stage we still are utilising Veteran Review Board.

COMMISSIONER FITZGERALD: And I'm sure that will continue for some time. And, again, just to be clear for the audience, we are retaining
40 the VRB and what is emerging is it's most important and successful aspect which is the ADR, although that's still to be rolled out I think in Queensland.

Can I just go back to health cards, which is the sacred cow area, and it's a
45 very important area. Just to be clear we've been very explicit that nobody

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that's currently receiving a Gold Card or is currently entitled would lose that entitlement. So nobody that is currently entitled or has a Gold Card would be disadvantaged. But we are trying to look at the way in which we deliver health services to younger veterans and dependents.

So it's a hard area. It's full of emotion and it's full of judgment, and we're trying to work our way through that. So we understand the attachment to the Gold Card, but in your recommendations, as I understand it, you've made a recommendation that the non-liability health cover, the White Card, in relation to mental health conditions could be or should be extended to family dependent members; is that right.

MR BROWN: Yes.

COMMISSIONER FITZGERALD: Can you give me your rationale for that?

MR BROWN: They're a critical part of the treatment process and frankly even for someone in a privileged position accessing the mental health care under the White Card on a non-liability basis can be frustrating, and, you know, it is a generous scheme, but even myself going through that scheme I found it difficult, administratively difficult. Having family around that process who can support the veteran is beneficial to the overall system but that comes at a cost for those family members, and we see at the moment that the mental health cost to carers from families is one that is largely not acknowledged. The alternative for them would be to go and access a GP and get a mental health plan under Medicare.

COMMISSIONER FITZGERALD: Sure.

MR BROWN: And that really doesn't provide sufficient contact with mental health professionals for the kind of cases that, you know, we're dealing with with veterans. So we acknowledge that there's an additional cost to it, but we just think that firstly the frequency of visits - of consultations you can get under the Medicare system is not sufficient for carers for veterans, and there's no guarantee that the people they'll be going to have any experience with the veteran world at all.

COMMISSIONER FITZGERALD: So just at the moment the White Card is effectively going to be issued into the future to anybody who served in the military if they apply for it. Is it your proposition that any family member of any veteran would be able to access that card, or do you believe it should be restricted to those dependent members where there has been a claim for impairment or incapacity, so I'm sure your full

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submission will explain that, but what's the basic eligibility for a White Card for dependents?

MR BROWN: Yes. That needs to be clarified and ultimately that's going to come down to a cost factor. You know, you could start at the latter suggestion you made which is limiting family access to cases where there is a specific need and see whether that's sufficient or not.

COMMISSIONER FITZGERALD: Okay. Thanks. Richard?

COMMISSIONER SPENCER: Yes. No, that's good. Thanks.

COMMISSIONER FITZGERALD: Thank you very much for that.

MR BROWN: Thank you.

COMMISSIONER FITZGERALD: Much appreciated.

MR BROWN: Thank you.

MR DALLAS: Thank you.

COMMISSIONER FITZGERALD: Thanks very much. Could we now have Kel Ryan and Richard Kelloway? Good. Thanks, Kel and Richard, if you could both give your full name and the organisation that you represent, please?

MR RYAN: I'm Kelvyn Donovan Ryan, Defence Force Welfare Association and national spokesman for the Alliance of Defence Service Organisations.

COMMISSIONER FITZGERALD: Thank you.

MR KELLOWAY: And Richard Neil Kelloway, Air Force Association and Chief Scribe for ADSO.

COMMISSIONER FITZGERALD: Thanks very much for that. And if you could just give us a 10 to 15 minute opening presentation and then we'll have a discussion.

MR RYAN: Commissioner Fitzgerald and Commissioner Spencer, thank you for the opportunity to present this response to the draft report of the Productivity Commission's inquiry into compensation and rehabilitation for veterans.

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You reproduced a voluminous draft report of over 700 pages in length with an overview of 73 pages, an immense undertaking on your part, but for us in the veteran community a rather daunting challenge to respond to in a considered way in the time available. Also to give a response that will acknowledge our credibility and provide you substance as you finalise your report.

Gentlemen, the Alliance of Defence Service Organisations or ADSO represents the interests of 18 ex-service organisations that have a national footprint with a collective membership of over 90,000 members. The member ESOs pride themselves on being determinatively collaborative and increasingly transformative as the veteran community faces the changing environment that is the 21st century.

ADSO members are focused on the future and are increasingly shunning the organisational structure and strictures of the past. It is these that have done untold damage to the veteran voice in the dynamic environment that we face today.

Gentlemen, the ADSO response will be presented by myself, national president of DFWA and spokesman for ADSO, and I come to these positions with over 30 years' experience and involvement in veterans organisations and the many issues that swirl around the veteran community, and Richard Kelloway, the Air Force Association national vice president for advocacy entitlements and coordinator of this ADSO response.

Underpinning the future: ADSO is committed to a future where there is a generational obligation to ensure well-legislated beneficial entitlements are no less than those enjoyed by veterans of previous generations committed to the passage and the implementation of the military covenant. It is the covenant that must resonate across all veteran related legislation. Beneficial intent must resound through DVA when interpreting and applying legislation in a just, fair and consistent manner.

Strategic purpose: as you will hear from Mr Kelloway ADSO has taken a strategic view in developing our response to the draft. Individually ESO members of ADSO have been encouraged to ground their response to the draft report on the issues that are relevant to or are important to their particular constituency. This is as it should be. And annex A to the ADSO response summarises members' responses to the draft report.

ADSO is moving towards incorporation as a company limited by guarantee. This move is progressing at a pace commensurate with change in organisations that are realising that the future success in advocacy of

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the many issues we face is not in the practices of the past but rather in the future. This demands a corporate structure that enables it to meet regulated good governance demands as well as veterans' demand that have until recently only been met by volunteers.

ADSO's response to the draft report has been crafted by volunteers from across the organisation, from across the country, and indeed from input from travelling scribes overseas. We realise that if we are to better represent the issues of all in the Australian defence community ADSO must become a professional organisation. I'll now hand over to Richard.

MR KELLOWAY: Thanks Kel. Good morning Commissioners. Thank you for the opportunity to participate in today's public hearing. We understand the value that the Productivity Commission must place in its independence. We also understand how complex the interactions between lived experience, professional education and organisational culture. The ADF, Defence organisation, ESOs and veterans and their families are no less complex. The differences between the inquiries and the ESOs' positions could probably not be more disparate.

However, ADSO is not here today to reiterate those differences. We wish to go beyond them. In this respect criticism comes easily. Achievable ideas require hard work. Our participation today is intended to start building a bridge. Our objective is to, with the inquiry, find the means by which the best possible outcome for government, veterans and families and the Productivity Commission is achieved.

It is for these and many other reasons that we are taking a helicopter view. Our submission did not address in detail the inquiry's findings and recommendations. We sought to address the underlying assumptions. We are forthright in expressing our opinions but we do so and did so without rancour.

In our, and we are sure your, experience differences of professional opinion are inevitable. The draft report and our response illustrate that reality. We are motivated to bridge those differences. We recognise that the inquiry is also. Our response to the draft report and our evidence today are the foundations. We trust that the final report is approached collaboratively. We envisage a report that to the maximum extent feasible represents shared views. If we achieve that outcome we will both have advanced the power of our advocacy.

Again, gentlemen, ADSO is very grateful for this opportunity to get the helicopter airborne. We understand that you have read our response. You will therefore be well aware of our objections. You will know and know

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why we cannot agree that: first, DVA is not fit for purpose and should be abolished; second, that governance and administration of the veterans' support systems should be transferred to the Defence portfolio; third, that the cost of veterans' compensation should be contracted to commercial workers' compensation insurers, thereby moving an uncapped expenditure out of consolidated revenue and capping it by profitability in the marketplace; and, fourth, veterans' legislation should be amended to enable the preceding and other recommendations.

We do not resile from our objections but we do not need to repeat them here. From the helicopter we are looking forward to the opportunities suggested in the draft report. We have the following in mind: first, daily our advocates see the result of Defence not having fulfilled its workplace and health and safety obligations. Our advocates are appalled by the number of 28 to 32 year old veterans with the body of a 70 year old that they are seeing. Then there are those on suicide watch all with severe mental health conditions, or others with multiple disabilities resulting from exposure to industrial toxins. We therefore support without reservation commanders' responsibility for their subordinates wellbeing and advocacy and that those responsibilities must be reinforced. We note, however, within the commander controlled based organisation there are other ways to incentivise behaviour change, therefore we cannot agree to Defence being charged a premium so as to enable market based workers' compensation insurers to access veterans' entitlements.

Second are the prospects for significant improvement of the veterans' support system. We see still much scope for improving DVA's ICT systems, veteran focused culture, delegate's knowledge and skill, research into veterans and family health and wellbeing, service delivery, and outcomes based monitoring and evaluation of DVAs and its contractors' performance.

Third, the veterans' support system is truly a wickedly complex system of systems. We see enormous scope, indeed a critical need for risks to be identified, risk mitigating strategies with sensitivity analyses to be developed.

Fourth, no changed program is complete without an implementation plan. Once again we see a critical need for development of a clear costed implementation pathway with outcomes based milestones.

Fifth, effective monitoring and evaluation is an absolutely critical improvement. As the draft report identifies this process must be outputs based. We recommend strongly that the inquiry require DVA to adopt impact assessments. In our experience this multidisciplinary mixed

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quantitative and qualitative research methodology is the only way in which the output of the veterans' support system, that is to say, veteran and family wellbeing, can be measured.

Undoubtedly impact assessment is a challenge for any organisation, but the Project Lighthouse team's co-designed methodology, the outcomes it has achieved spur optimism that DVA has the wherewithal to implement impact assessment.

Six, importantly, impact assessment will need to engage stakeholders well beyond DVA. This brings us to another fundamental opportunity, the role of ESOs and ADSO in particular. Wellbeing advocates maintain lifelong contact with veterans and their families. As the title "wellbeing advocate" suggests, they, supported episodically by compensation advocates, live the results of DVA's transformation process. Therefore, irrespective of the government's model recommended by the scoping study, ESOs and their advocates have a crucial wellbeing, co-monitoring role with the Department of Veterans' Affairs. This responsibility has consequences for advocacy training and development. ADT must include in its accreditation process knowledge and skills developments in impact monitoring and case management.

Seventh, and by no means least, there is the weakening of the rules based (indistinct), the strategic recital in human risks associated with any changes to veterans' legislation entitlements or administration have profound ramifications for Australia's defence posture. Jointly, we have an obligation to ensure that Australia's defence is not undermined. If we can transform the proceeding opportunities into reality we will markedly improve veterans' and their families' wellbeing. If radical change results we trust that it is effected in full awareness of the risks and the implementation pathway. To achieve reality risks must be understood. To really understand risk, those who will be impacted by the envisaged changes must be engaged in the evidence-gathering and analysis. We now turn to the design and engineering of that bridge.

The title of the - - -

COMMISSIONER FITZGERALD: You'll have to be quite brief so that we can have some time to - - -

MR KELLOWAY: Yes, I've almost finished, sir.

COMMISSIONER FITZGERALD: Thanks. Good.

MR KELLOWAY: So it's about a minute away I'd say.

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COMMISSIONER FITZGERALD: That's fine. Thank you.

MR KELLOWAY: We now turn to the design and engineering of the bridge. The title of the draft report is "A Better Way to Support Veterans". We are not yet convinced that this title is appropriate. However, if we work collaboratively, co-designing the final report, there is a real opportunity for us to jointly ensure that the title becomes a reality. Like you, our deep concern is the future of the veteran and her or his family, the tempo modern warfare, the effects on families and the deteriorating strategic environment demands nothing less.

We are committed to ensuring that future veterans' entitlements are no less beneficial than those we and our families, and those before us, have received. We honour the commitment that future ADF personnel will make to defend from external threat our nation's strategic, economic and societal interests. We note how vastly different is the nature and tempo of modern combat from that of our generation that our forefathers fought.

We honour the vastly different demands on contemporary ADF veterans, our members' professionalism that contemporary defence family support. In a deteriorating geostrategic environment, what must concern us all is the strength of Australia's deterrence and the demands that future ADF members and their families will face. The inquiry and the ESO community have an opportunity to collaborate to ensure that together first the strength of Australia's deterrence is not undermined, and second, that the future veterans' support system responds to the future needs of future veterans and families.

In conclusion, gentlemen, to be thoroughly well-prepared for the future, ADSO is looking forward to ongoing constructive dialogue that will fundamentally improve the veterans' support system, transform opportunities into reality, create strengths out of weaknesses. Future veterans and families and the wider Australian community are counting on us to do so. Thank you.

COMMISSIONER FITZGERALD: Good. Thank you very much, and we appreciate the positive approach that ADSO has taken in relation to these matters, whilst disagreeing with a number of our recommendations.

MR KELLOWAY: Of course.

COMMISSIONER FITZGERALD: Which is perfectly fine. Can I just go back a little bit, just a clarification. You, in your submission, have indicated that you, like just about every other ESO, has agreed with the

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goals and principles that we've set out both in terms of outcomes for veterans and of the system itself, and so we are on a shared page and that's an important start. We started with trying to understand what this system needed to provide for veterans , and what were the underpinning principles behind it. So would I be right that in fact there is almost no disagreement at all in relation to those outcomes?

So the question then is simply how do you get there, and of course we're going to have slightly different views. Can I clarify one position. At no stage have we recommended that this be outsourced to workers' compensation insurance arrangements at all. In fact, the government is outsourcing a lot of its stuff currently. We're actually recommending that it stays within government through a statutory authority owned and controlled by a government reportable to the Minister for Defence Personnel and Veterans, and be totally dedicated to a veterans' or military compensation scheme. So I just want to clarify we have not recommended that proposal at all.

What we have acknowledged is the government at the moment is outsourcing, and we've certainly looked at the outsourcing in relation to health services, rehabilitation services and all those and made some critical comments in relation to how that's being done at the moment so I just wanted to clarify that. This is not outsourcing to a private sector workers' compensation scheme, and there's nothing in the report that indicates that we would think that that's among our recommendations, so just let me clarify that.

Could I come back to a couple of other ones? The military covenant is an important document. What is it about the military covenant that you believe is so informing in relation to this scheme, and I want to go back to the point that you've raised yourself around Defence, so this is not an inquiry in DVA. It's an inquiry into Defence and DVA. So what is it in that military covenant that you think we need to be especially mindful of when we look at this both Defence and DVA, or Defence and Veterans' Affairs in our consideration?

MR RYAN: We see the military covenant as an expression of the nation's support for the unique nature of military service pure and simple. We see it as a recognition of that unique nature of military experience and the implications that flow from that. Unless we have that front and centre in legislation, it tends to get - drift off into the ether and we believe that it needs to be prominent in every piece of legislation.

COMMISSIONER FITZGERALD: And would it be your view that the current legislation, poorly drafted and very complex by and large, meets

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the needs of that - sorry, by and large gives full expression to that covenant?

MR RYAN: Yes and no, if I can be vague. We see the terminology, there is some discussion as to the term "military covenant". Others see it as a veterans' covenant, and the term "veteran" is synonymous with World War I and World War II and you and I have had this discussion.

COMMISSIONER FITZGERALD: Sure.

MR RYAN: The term "veteran" is problematic in the Australian context to the extent that we've moved from now veteran being a returned man from World War I, and that flowed through to the RSL's membership criteria which had bedded down a lot of other ESOs membership, to what we have today is a veteran is moving towards recommendation of being one day of military service and there is much debate about that within the veteran community, but that aside, the term "veteran" is synonymous with military service, and we see it as necessary for the covenant to be a full expression of that and the nation's support for it.

COMMISSIONER FITZGERALD: And so as you know, the definition of "veteran" is established by the Commonwealth Government, not by the Productivity Commission.

MR RYAN: Yes.

COMMISSIONER FITZGERALD: We simply, the terms of reference are based on the government's definition, not our own.

MR RYAN: Yes.

COMMISSIONER FITZGERALD: So we've not entered that debate, but it does have a practical implication when you come to the benefits. If I can just come to that, am I reading your submission correctly that you believe the distinction between operational service and injuries that arise from that, and non-operational services, using my language, and injuries that arise, should continue to be treated separately or differently?

MR RYAN: Yes.

COMMISSIONER FITZGERALD: Or do you think eventually you moved to a recognition that an injury's an injury?

MR RYAN: No, we believe there is a difference. Operational service or military service, and the nature of our military service is changing

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dramatically. Traditionally we have expressed military service, operational service overseas, whereas, as we know now, there is operational service being conducted across, for example, across the top of Australia. Now, is that operational service in the traditional sense? Do they, members who take part in that entitled to be called veterans in the traditional sense? Or where does it fit? There is a blurring we have at this stage, but there needs to be a definition.

COMMISSIONER FITZGERALD: But that - can I just be clear, isn't it the case that blurring's going to get worse, the whole nature of warfare and the whole nature in the way which military operates with multiple deployments happening more rapidly, people moving in and out of the ADF as full-time, as part-time, as reservists. In fact, these distinctions between what was warlike and war and non-warlike, and peace time all become merged, so in a sense if we are designing a system for 20 or 30 years hence, doesn't the logic eventually say that those distinctions will no longer be appropriate going forward?

I understand why they're in the past I understand that and I respect that. I also understand that older veterans were not well-remunerated for the deployments that they were sent on. Today's modern soldiers are much better remunerated and much better recognition for deployment. So isn't there an inevitability about the direction the Commission's taking it, arguing about the timeframe, but where we're going is to recognise an injury is an injury.

MR KELLOWAY: It's the way the injury is occasioned that's the issue, Commissioner, and our argument is that in war-like operations, and certain non-war like operations, the risks are commensurately higher, and therefore the response throughout the lifetime of the veteran and his or her family should therefore be taken care of at a different level of compensation at least, not necessarily rehabilitation.

COMMISSIONER FITZGERALD: I'll just make the point, and obviously I don't think you'd agree with it. We were very conscious that one of the reasons why we're concerned about policy is there's a very big disconnect between the policy in relation to serving personnel and those that have left. We think it's a continuum. We think we should look at the life of a veteran and their family in a continuous way and policy doesn't at the moment. It's Defence and it's not Defence, and we think there's a problem with that.

We've come up with a solution which nobody seems to like so that's okay, but there has to be a recognition that the policy is not right. One of those is, there's a link between the remuneration you pay a serving member and

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compensation. They're not discrete. So if you start to increase remuneration for military service personnel, it has to affect compensation. Everything can't stay the same. So I suppose I just want to put it back to you. I'm not asking you to agree with our position, but is there not some logic in what we're saying, both in terms of what I said before about the changing nature of the military service, but also if there are in fact different remunerations now for deployed personnel that has to be factored in in a way that at the moment we simply don't do that.

MR RYAN: I hesitate to agree with you.

COMMISSIONER FITZGERALD: Well, it'd be nice if somebody did. We like agreement occasionally during these days.

MR RYAN: But there is obviously, the way you express it, there is that transition to a new way of looking at military service and the consequences of that service, and we are more than open to listening to those views.

COMMISSIONER FITZGERALD: Sure.

MR RYAN: But I don't think that we've got to that stage yet.

COMMISSIONER FITZGERALD: No, no, I fully appreciate that.

MR KELLOWAY: Commissioner, if I could just come in there with a slightly contrary perspective.

COMMISSIONER FITZGERALD: Sure.

MR KELLOWAY: We've quite deliberately raised the issue of the strategic instability and I guess it therefore depends on whether one takes the glass half full or glass half empty, and so its proposal is that we do nothing that in peace time would compromise Australia's defence posture in the future. It is a fact, without doubt, that it is necessary now to pay a higher level of remuneration to a service person to get them to fight on our behalf, but that doesn't necessarily mean that the strategic consequences to that mean that if we are faced with something far worse than we currently have that the country then has the wherewithal to support them for the remainder of their lives after that strategic confrontation.

COMMISSIONER FITZGERALD: Sure, and we, as you know, are fully supportive of a beneficial or generous, and I know people object to that term, but that term, military compensation scheme, so the question is, how do you shape it for the future?

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MR KELLOWAY: Yes.

COMMISSIONER FITZGERALD: Can I just deal with one issue
5 before and hand back to Richard. One of your recommendations, I think, has been to disagree or query the Joint Transition Command. Already 80 per cent of transition takes place through the Defence Force, so from our point of view it is logical that Defence should have the bulk of the work in the transition space, and what we've got is a rag bag of approaches all over
10 the place, and it doesn't come together well for veterans. There are new models being trialled at Holsworthy and in Townsville and we're aware of those and we've commented on those, but I am a bit surprised by your reluctance to endorse that model given it actually directly deals with the issues we've heard from troops on the ground and who are currently
15 transitioning.

MR KELLOWAY: Perhaps I can come in there Commissioner. It strikes me that the issue is not necessarily the transition itself inside Defence. The issue is beyond Defence what happens there, and that's
20 where the Department of Veterans' Affairs and the ex-service organisation's advocates in particular have a lifelong role, so in other words, Defence is simply adopting a preparatory role or a preparatory phase that then continues for much longer, and looking at it another way, Peter Shergold of course has been arguing for 20 years about the need for
25 whole of government, and if there are imperfections in the current system, it's probably because of the institutional cultures and all the reasons that Peter Shergold has pointed out why whole of government is difficult to achieve.

30 **COMMISSIONER FITZGERALD:** We would also say that one of the problems in the transitions phase is, people keep coming up with very good ideas, but you've got to change the system and the structure to implement them, and at that time we're putting forward a proposal which will meet most of the objectives that we've heard. Without structural
35 change we don't think you can get there.

MR KELLOWAY: Yes.

COMMISSIONER FITZGERALD: So I think we agree where you
40 need to be, it's just the structure.

MR KELLOWAY: Yes.

COMMISSIONER SPENCER: Just a couple of quick clarifications.
45 In your submission you've mentioned what you describe as unfortunate

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inferences, and there were two in particular, so look, it's just for clarification. One that you said that it would seem to give a message that we're minimising changes to VEA entitlements to remove possibly older veterans rejecting the final report, so that was not our intention.

So I just wanted to clarify that because we have obviously had really, you know, very extensive consultations across all groups, all cohorts of veterans. We were responding to what we believe is a loud and clear message that VEA is valued, the benefits that people are getting under that scheme are valued, therefore in moving to the two scheme approach that we talked about, that was what was driving us in that direction. So just to clarify, that was not the issue there.

Look, the other issue is, and you've suggested we've been perhaps, and others have said this as well, that we've been unduly influenced by those people that are highly critical of DVA. So that's the next clarification. Our recommendations around a new structure in the longer term, over a 20, 30, 40 year period, it's not around the performance of DVA, that's not what's driving it. A few years ago it might have been, frankly, but as we've said already, we recognise what's happening with VCR and there are improvements taking place, but the question is, when all of that has happened is DVA still the best structure for what needs to happen? Now, what we've said in the draft report is, we don't think so. We don't think the department structure works, so I just want to clarify, we're coming from that position, not because DVA's not performing.

Look, the third area, and this, once again, you've referred to this well. Whenever we refer to workers' compensation schemes and use the word marketisation, and once again it's clarification, what we're looking for is, where is the best practice when you look at injuries and illnesses and how people in institutions respond to that. What was really evident to us is, when we sat down, and in fact in this room several months ago we had a round table. For those organisations and institutions outside the military in different contexts, they're responding to, how do you have from day one a way of prevention, rapid response, case management and treatment which is ultimately in the best interests of the individual? And there are substantial and significant things happening in that space which we don't see currently in the military system.

So when we refer to workers' compensation schemes, we're not saying, as Robert said earlier, it's not handing it back into that system. How do we take the best practices and bring those into the long-term health and wellbeing of veterans? So that was informing our thinking about the independent statutory corporation.

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So look, just very quickly, I'll come back to one issue. I think I heard you saying at the beginning, "Look, Defence or ADF has more work to do around its duty of care to its serving members", and we've certainly heard that from a number of people. So how does that behaviour change? So we've made several recommendations. The first one put policy into Defence. I've heard people don't like that idea so that's one. Joint Transition Command was another way to give both focus and responsibility to Defence and there are different views on that.

Another way which plays in other areas is the notion of some fiscal responsibility for the long-term consequences of what happens, the premium notion, and once again, you know, you've raised your objections to that, but you've said that you believe there are other ways to incentivise change of behaviour in Defence. Where do we go with this? Because I think there agreement that Defence has a duty to prepare around capability, but also has a duty of care. How do we help, how do we give the right incentives to Defence to strike the right balance around that really challenging issue?

MR KELLOWAY: Perhaps I can come in first before Kel. It strikes me that if I recall correctly, about a decade ago commanders attended a command course, and that command course started to alert them to something that was off their radar previously, and that was their responsibilities for workplace health and safety. So as the draft report recognises, culture change is an enormously difficult process. It's time-consuming and it requires a strategic objective with defined milestones and appropriate resources.

I would hesitate to guess that the fact that workplace health and safety obligations now recognised by Defence and are starting to be responded to is a classic example of a very large, very complex organisation responding to a culture that has not been on its radar previously. So you know, your mention of the 30 or 40 year timeframe is perhaps appropriate in a different sense and that is that any transformation, especially one that involves culture change of the magnitude you're proposing is going to take a long time.

On the other hand, we have an organisation that has already established a culture of relationship with veterans. Despite the voices of a few, it is trusted and I think the, what am I trying to think of, the satisfaction surveys illustrate the fact that the majority of people are in fact satisfied with the current structure and therefore with the current culture that that structure is evidencing, and it's not to say that there aren't further improvements necessary. We don't resile from that comment either.

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COMMISSIONER FITZGERALD: Well, I must say I - - -

MR KELLOWAY: Sorry, can I just make a point there. The issue of command responsibility is very essential in this. The nature of military
5 command is that commanders are responsible for the welfare and the wellbeing of those that they command. We see that there is a conflict there if you then move DVA into that if the potential for an uncertainty as to where responsibilities lie, whether it's with pure military command system or what we call DVA within the Defence structure. There is the
10 potential for conflict there, you've got two different responsibilities, two different roles. It's how you resolve that is, don't put it in there.

COMMISSIONER SPENCER: Yes, I just make a quick comment on that, because in the New Zealand example, for example, that is in
15 Defence, all of those issues, and so the balancing that duty of care and duty to prepare, what we heard was, and there is absolutely no question that all commanders have the wellbeing of their troops uppermost and foremost, and there are strong incentives around the capability and readiness of course.
20

I suppose the issue is, you don't know what you don't know, and what we think sometimes or what we've observed and what we hear from other systems is, there's much greater inside information and data available, but the long-term consequences of what's happening, which can inform what's
25 happening during service and particularly during training, that's a bit of a missing piece for us, and we are searching for ways to really try and put a bright spotlight on to that issue through some of the mechanisms we're exploring in the draft.

30 **COMMISSIONER FITZGERALD:** Can I just deal with one final issue. As we've indicated, we will be doing a bit more work on ESOs and advocates and hopefully government will release the report in relation to advocacy and we'll have some further comments, but can I just deal with this. ADSO, as you indicate, is going to be incorporated.
35

Can I just ask, we've heard from New South Wales RSL this morning, you may or may not have seen their submission in relation to the establishment of a peak body, and as you know, Richard and I know a lot about community services and human services and have run and been in charge
40 of peak bodies, so I know a lot about those two. Where do you think the landscape of ESOs needs to be five years from now? What do you think would be the ideal shape? Now, I want to make one point, it's not up to government to shape civil society or organisations, but it is able to shape it by who it wishes to deal with and who it wishes to fund so that's what it

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does, but where do you - what is your preference five years from now? What would the ESO landscape look like?

MR RYAN: The challenge we have in the ESO community is one of frankly confusion. We have an RSL that does not speak with one voice in that each state branch and different state sub-branches speak independently. We have different ESOs that come to this sort of issue independently and differently, and that adds to the confusion in the space. I would, my preference would be that the ESOs speak collectively on major issues like this rather than listening to the low hanging fruit and we've talked about that before. There are major issues that affect the veteran community and their families, and I include families in the community. We need to develop a cohesion, one voice to do that.

Now, ADSO is in the process of incorporating. That does not include Legacy or the RSL. Who do we speak to in the RSL that are not being overly critical? It's a reality. What we have to do is start to come together and that's up to us in the veteran community to come together. It's not up to government, I agree with you, but it's a fraught exercise if government started to, but government needs to acknowledge that, as I said in my introduction, these sort of papers that we respond to are developed by pure volunteers from across the country, and to present a paper to a volunteer entity five minutes to Christmas and ask us to develop a 700-page paper and ask us to develop a response in three to five weeks, maybe six weeks, is a big exercise, but we've done it and many other areas have done it. We need to professionalise to achieve that sort of outcome, and the only way to do that is with government's assistance in the short term, but we then need to become independent of that assistance.

COMMISSIONER FITZGERALD: Could I ask just, then, you may or may not have a comment on that, if there were to be a peak body of national ESOs, if there was to be a peak body, and assuming government would provide some financial support for that, as it does in other areas of particularly social policy areas. What do you think the role of ESORT is going forward. Now, again, you may not have a view on that, but how does that fit into your likely scenario?

MR RYAN: Do you want to say something? I'm happy to.

MR KELLOWAY: Perhaps if I could just take us back 30 seconds if I can, thanks, Commissioner. In the context of the scoping study it'll be advocacy that, if I understand correctly, is the peak body that's recommended. That being the case, ADSO's first response to the Productivity Commission, and in fact the scoping study proposed for the creation of a professional institute of advocates, that that would be the

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body that would do all of the things that you'd expect a professional institute to do. So a subset of Kel's comments is in fact that proposal which sets - that has been developed over the last couple of years.

COMMISSIONER FITZGERALD: But that will deal with the claims advocacy, perhaps welfare advocacy.

MR KELLOWAY: And wellbeing and both, both most certainly.

COMMISSIONER FITZGERALD: What about the general, beyond that, beyond the formal advocacy? So I understand advocacy. We haven't got a view yet. We're looking at that report as I'm sure government is at the moment, but in relation to the broader issue of support of veterans through the ESO, do you have a view about ESORT at all?

MR RYAN: ESORT at this stage comprises 14 ex-service organisations. A lot of ADSO members are members of ESORT, as is the RSL and Legacy, but the Vietnam Veterans' Federation. Some of the larger, smaller, if you understand that, ESOs are not members. ESORT is just, has developed over time. Its membership is at the whim of DVA.

COMMISSIONER FITZGERALD: Sure.

MR RYAN: ESORT, I believe, needs to become a more substantial body. It needs to take on tasks through DVA to review issues and that means that government or DVA then government acknowledges ESORT as the governing body, if I can use that term, don't quote me, as the governing body for the ESOs for which the government, and DVA need to work.

We have a surfeit of ESOs in the country at present, too many. Many are on social media and they confuse the space unfortunately, many a single issue. We need to tighten up the whole approach to ESOs and government's approach to veterans' issues.

MR KELLOWAY: And if I could just come in too. ESORT has in the last 12 months decided, and gained support, of the senior leadership group in DVA, that its focus will be strategic. That opens up the opportunity for a completely different role to the one that ESORT has taken in the past, and within ADSO there is the view, and this is expressed, shared also with Legacy and RSL at the national level, that ESORT should transition into a veterans' advisory council and adopt a quite different responsibility and gain a significantly different level of influence to ESORT.

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COMMISSIONER FITZGERALD: All right, thank you very much, Richard. Thank you very much. So could I have Nigel and - is it just Nigel? Noel, sorry. It's my misreading. Sorry about that. And Kel, you're staying?

5

MR RYAN: Yes.

COMMISSIONER FITZGERALD: Good.

10 **COMMISSIONER SPENCER:** You do the talking.

COMMISSIONER FITZGERALD: So we've - so these sessions are just slightly shorter than the opening two, but again I will ask you to give your full names, the organisation you represent first.

15

MR McLAUGHLIN: Thank you, sir, my name is Noel David McLaughlin. I'm the chairman of the Royal Australian Armoured Corps Corporation.

20 **COMMISSIONER FITZGERALD:** All right, and Kel again?

MR RYAN: Kel Donovan Ryan, wingman for the Royal Australian Armoured Corps Association.

25 **COMMISSIONER FITZGERALD:** That's fine, and firstly I just want to acknowledge the very extensive submission you've given to us. It's very detailed and very thorough and we're very grateful for that, so thank you for that.

30 **MR McLAUGHLIN:** I just have one thing to say about that, sir. Have mercy on me, be gentle.

COMMISSIONER FITZGERALD: We're very gentle. But you've got 10 minutes to give us your key points.

35

MR McLAUGHLIN: Thank you, sir. I've lived with this for 75 days as today since it landed in our inboxes on 14 December.

COMMISSIONER FITZGERALD: You might need to just speak up a
40 little bit just so the people at the back can hear,.

MR McLAUGHLIN: I've lived with this and breathed it for 75 days since it landed in our inbox on 14 December last year. On behalf of the Royal Australian Armoured Corps Association I thank the Commission
45 for inviting me to appear before it today, and I commend the Commission

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on the sheer depth and subject matter it covered in its draft report. Congratulations on what you actually put out. I thank Mr Ryan for being my trusty wingman here today as well.

5 This opening statement addresses very briefly only some of the matters discussed in our formal response. It is well settled that an advocate's duty is to the law and their client and to represent their client with frankness, honesty and candour. It is in that representational context the corporation's former response to the draft report was compiled, and it is 10 hoped that our response and what is discussed here today will be accepted in the spirit in which they were tendered.

The report in general. The report is a huge document travelling vast distances across the veterans' rights and entitlements landscape. It is a 15 document of tremendous breadth and depth. However, on a closer analysis, it is a document many in the ESO community struggle to relate to, and shows very little, if any, empathy with the veteran community. Notwithstanding the nine propositions we support in the draft report, the document is considered to be anti-DVA due to what it proposes is anti- 20 veteran.

The Commissioner's hubristic assertion at page 45 that the VSC will "replace DVA" is a frightening dangerous assumption. It suggests an economic rationalist wish list demonstrating the Commissioners' distorted 25 thinking arising from its biased attitude to veterans and DVA. Such a bias renders the Commissioners' impartiality open to challenge by government, ESOs, veteran and Defence communities.

Uniqueness of military. The nine references to the unique military service 30 are noted and the Corporation reinforces to the Commission that the uniqueness of military service is considered by every former and currently serving Defence member to be holy writ. The unique nature of military service requiring ADF members to apply lethal force, and to very possibly suffer death as part of their terms and conditions of service, is so vastly 35 and manifestly different from any other occupation that it must be treated as unique in terms of compensation, repatriation benefits and entitlements.

Abolition and dismemberment of DVA. Abolishing and dismembering DVA will see functions devolve to NDIS, My Aged Care, Centrelink, and 40 potentially a private sector model compensation and insurance scheme all of which are anathema to veterans, and we note your commitment not to go private on the compensation, sir.

To replace DVA with a Commission with limited powers run by part-time 45 commissioners, as opposed to permanent commissioners, is completely

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misplaced. DVA will be gutted, filleted, and shoe-horned into a statutory authority which, unlike DVA, will have limited control over its own budget, and will be budget depending relying on handouts in the form of government transfers forced to operate with reduced funding and reduced staffing, culminating in shrinkage of service delivery.

The end users, namely, veterans, serving members, their families and widows will be the ones who will suffer and suffer grievously now and into the future. Devolving DVA functions to the Department of Defence as projected, Defence is considered by the Corporation and kindred organisations to be not fit for purpose on any level.

Defence's primary role is to raise, train, maintain and deploy a viable and operationally effective fighting voice to protect this nation requiring serving members, particularly in the corporations' context soldiers to break things and kill people, and if necessary, to die as part of their job description. DVA is a pioneer government department with a long and proud history of veteran support and care and highly developed subject matter and expertise accumulated since 1916. It follows that any assertion DVA is no longer fit for purpose is rebutted.

Wellness model. The Commissioners' proposed wellness model is supported by the corporation. In order for the model to be effective, harmonising existing legislation or repealing and replacing it with omnibus legislation will be necessary.

Inconsistent treatment of claims. The issue of inconsistent treatment of claims is supported, particularly in light of certain tables in GARP V M, and the provisions of section 67, MRCA. The application testimonials 23.1 and 23.2 in GARP V M is oppressive and manifestly unjust. They act as a fetter to equitable and equal treatment of MRCA compensation claims in monetary terms. The corporation supports the Commissioners' proposal to harmonise tables 23.1 and 23.2 in GARP V M, subject to the caveats it argued in its response at page 23.

Special rate option. The corporation rejects recommendation 13.6 at page 527. Excising SRDP from MRC ignores on every level the catastrophic effects of service on veterans who now find themselves unable to remain the workforce. The Commissioners' are urged to have regard to the four contentions in the Corporation’s response at page 29. It is not an exaggeration to contend that the Commissioners fail to demonstrate a true appreciation of the catastrophic effects of military service resulting in the veteran being granted a TPI or SRDP.

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Gold Card issues. The Corporation's detailed response, pages 55 to 67, establishes quite clearly and unequivocally the vital importance of the Gold Card regime. It also rebuts the assertion by New South Wales RSL that the Gold Card is seen to be a cash grab and a prize akin to winning Lotto. The Corporation also notes the New South Wales RSL's failure to acknowledge that Gold Card recipients include widows in receipt of a war or Defence widow's pension. We completely reject the assertion that rorting and misuse of the Gold Card exists. We find it grievously offensive, not only for the veterans who actually have their hands through what is a traumatic process for them, sometimes taking years, but to the veterans who expend blood, sweat and lots of tears in helping veterans through that process and widows.

Service pensions not phenomenon. The corporation rejects the Commissioners' assertions that service pensions are a phenomenon. The corporation strongly contends that the service pension remains a critical and vital component of the current veterans' pension and compensatory continuum under VEA and MRC, and subject to the qualifying service criteria and must be retained.

Open Arms. Open Arms continues to be a vital link in the chain of support to veterans and their families as part of the wellness continuum. Its value to veterans, serving members and families is incalculable. It must always receive sufficient funding to enable it to carry out its charter. It's absolutely fantastic, gentlemen.

Veterans' Review Board. The corporation considers the VRB to be the court of last resort for a veteran or veteran's widow. It is a body that is highly regarded by veterans and advocates alike. The ADR process is but one limb of the VRB's function and it is not always successful. The corporation welcomes since the beginning of this month trialling a single board member adjudicating on less complex matters on completion of an ADR process. These expedited hearings enhance the administration of natural justice. The VRB must retain its primary statutory function as a merits review body and make determinations and hand down decisions according to law. These must never be diminished or repealed. The legislative prohibition on legal practitioners appearing before the board must remain in place.

Defence reservists. Defence reservists must be defined in MRCA. They currently are not. MRCA does not provide any cover for reservists who render standard reserve non-CFTS service only and who incur or aggravate an injury, illness or disease during their reserve commitments. The Corporation considers the application of this policy under MRCA to be an unacceptable gap in the DVA support continuum, while failing to

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look after those who serve the nation either as CFTS or non-CFTS reservists.

Insurance and compensation. In view of the facts as enunciated in this response at pages 91 to 95, the Corporation rejects the Commission's proposal to implement an insurance scheme that does not remotely resemble the current compensation regime for veterans, and again we acknowledge what you said here today, sir, in that regard.

Closing remarks. The creation by DVA of a policy committee is welcomed by the Corporation. We look forward to the opportunity in joining with our ADSO colleagues and DVA in a collegial and discursive process to help guide the five year plan to enable DVA's ongoing transformation. DVA has engaged in major cultural staff and attitudinal reform via the VCR process and the corporation welcomes the significant improvements in this regard.

DVA has sustained some damage, but not fatal enough to justify abolition. It has the 2013 capability review, sir, learned and continues to learn from its mistakes. DVA's achievements such as straight e-claims and reduced claims processing times from 109 days to 33 days exemplifies the success of the VCR process. DVA is the catcher's mitt for Defence members who are subject to politicians posing for happy snaps and selfies and who, by virtue of their military service, end up broken in mind and body long after the politicians with their selfies and happy snaps have departed.

DVA bears the brunt at first instance of the consequences and casualties of Defence's strategic decisions. As a department with over 102 long very hard years of accumulated corporate experience DVA is deeply embedded in our national psyche and should be elevated to Cabinet status.

DVA's operational changes are demonstrably and pleasingly positive. They auger well for DVA and the veteran community in toto now and into the future. DVA's leading strategic edge in veterans' care confirms it is on every level considered to be world's best practice and we look forward to discussing that aspect of it with you later, sir. The evidence clearly establishes DVA's entitlement to remain as a stand-alone department of state. It begs the question, is DVA fit for purpose? The unequivocal answer to that is, yes, it is. DVA must not be abolished.

In conclusion, the corporation commends its former response to the Commission and congratulations once again on the work it is doing. We wish you well in your future endeavours. I look forward to reading a final report that is better informed, balanced, more veteran-friendly and strongly supportive of DVA remaining on the departmental order of battle

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as is DVA's right. I commend this opening statement to the Commission. Thank you, gentlemen.

COMMISSIONER FITZGERALD: Good. Thank you very much, Noel. Just a couple of things if I can. How do you know that DVA is delivering outcomes for veterans when there's no data that shows that?

MR McLAUGHLIN: I'm not expert enough to answer that, sir. I come from down in the trenches where I'm actually out there with a trench knife fighting for veterans.

COMMISSIONER FITZGERALD: So we acknowledge that the processes in the last two years because of $100m a year funding by government has made a significant difference, and we support that, and as you would have read in our report, we are quite supportive, although the evidence is not yet in to be quite as effusive as you are, but we will wait and see.

But one of the things that is clear is that this is a system in which it is incapable of actually determining whether the outcomes for veterans has improved or not, whereas many other workers' compensation schemes, they have very robust ways of determining that.

So I'm not trying to criticise your position about DVA staying, but it is an article of faith in the veteran community that because you get benefits processed, that's actually increasing the outcomes when proving the outcomes for veterans, and we're saying you should keep the benefits. We are, VEA, MRCA, DRCA, and we're actually saying you should be able to determine whether that's actually improving outcomes and that's a holistic approach. So the approach we try to get to, you would support, I would imagine, better informed, better understanding, better outcomes.

MR McLAUGHLIN: I agree. I agree completely.

COMMISSIONER FITZGERALD: So structures in governments change all the time. They evolve, they develop. We learn. We learn from overseas, we learn domestically, we learn from each other, the nine governments of Australia. So again what Richard said before is, we're trying to take the best elements of those learnings and apply it to a military compensation scheme which is in itself unique, and sometimes that's about structures.

But I get the sense that your organisation does not believe that any new structure is necessary to achieve these outcomes, or, can I ask this, is there a deep suspicion or scepticism about new structures, or is it both?

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MR McLAUGHLIN: I think it's a human nature thing, but there's always a suspicion of change. Even in the army when they re-man a unit every 12 months, and you are reposted within a unit, you've got new changes, and some soldiers get a bit suspicious of that and cynical, but if I could put it another way.

Americans, when they recruit soldiers, they smash the soldier to pieces and they put these pieces back together and they don't end up with a perfect product. In Australia we take a recruit, we improve on that product that Mum and Dad give us. I would see that as being applied to DVA. We should have this department. Yes, it's got its warts and all and its lumps, but we should be able to build and improve on it and probably have a very, very well-structured, internal audit process to measure outcomes against the expenditure. I get the feeling that's what you're saying, that there is nothing there to measure these outcomes, and the only thing that I could look at outcomes in your report was more or less achievements with the list of things you put in one of those boxes about VCR. Am I on the right track here?

COMMISSIONER FITZGERALD: Well, we've actually looked at the outcomes for veterans, so what is the demonstration, and I'm not asking you. This question is Gold Card, White Card, anything? Where is the evidence that any of those are actually improving the outcomes for veterans?

MR McLAUGHLIN: I can't measure that.

COMMISSIONER FITZGERALD: No.

MR McLAUGHLIN: But I think the initiation of the Gold, the White Card for NLHC cases as has been explained by the two previous entities, is an outstanding achievement in its own right.

COMMISSIONER FITZGERALD: We support the White Card, but what I'm just trying to illustrate, it's only an illustration, is to try to say that we actually started, completely contrary to what everybody else seems to think, we started with the wellbeing of the veteran and said what is the system that would need to support that man or woman throughout their life, and then we said, and one of the principles, the outcomes that you would seek to achieve, and then what's the best way of achieving that. So we actually didn't start from structures and we didn't start from money, despite what people say. We have not had a conversation about reducing costs in the Commission because that wasn't our starting point.

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But can I come to a couple of ones you have mentioned. You've agreed that in order to enhance wellness that you would need to do some stuff with the legislation and the schemes.

5 **MR McLAUGHLIN:** Yes.

COMMISSIONER FITZGERALD: And I think you're broadly supportive of some of our measures in relation to that
.

10 **MR McLAUGHLIN:** We support nine. We found nine measures and proposals there that we could support and we thought they were good. I mean, you'd be a fool to go to a document like that and not support something, you know?

15 **COMMISSIONER FITZGERALD:** Sure. You've supported the harmonisation effectively the movement to two schemes. We've supported the Open Arms and all those sorts of things.

MR McLAUGHLIN: Yes.

20

COMMISSIONER FITZGERALD: I presume you support improved transition?

MR McLAUGHLIN: Yes, we discussed the transition as you saw in our
25 report. I gave evidence to the Molan Committee in Sydney in October. There are some things there. I have discussed one part aspect of that transition with the secretary of DVO on 15 January about the training.

COMMISSIONER FITZGERALD: So if you look at the core where
30 we're improving transition, reducing unnecessary injury, improving and increasing rehabilitation, maintaining VEA, improving - simplifying the system through harmonisation and those other arrangements, taking a life-long approach, commissioning better mental health services, tranching the ESOs so that they are better leveraged by government, how do you come
35 to the conclusion that's anti veteran?

MR McLAUGHLIN: It was anti veteran from that comment that DVA will be abolished. When you look at that - - -

40 **COMMISSIONER FITZGERALD:** What's that got to do with the department? Well, it's got to do with the department. We talk about structures all the time.

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MR McLAUGHLIN: But to turn around in a draft report, with the greatest respect, sir, and say will be abolished, it's a little bit early in the piece when not all the runs are on the board yet.

5 **COMMISSIONER FITZGERALD:** Well, it's called a draft report, but can I just make the point is, the fact that we constantly look at systems and structures, that's part of our job, doesn't mean we're anti either workers or women or children or when we did the paid parental leave we weren't anti children or mothers, but we look at structural issues. I just want to go
10 back to it. I don't understand how you can come to the conclusion that it's anti veteran. It may in fact have a negative view of the DVA and it does, and that's contrary to your view and I understand that and I appreciate your view, but I don't appreciate, and I can't understand where you get to the view that it's anti veteran.
15

MR McLAUGHLIN: If I could put it like this, there are about 90 references to remove and its variations in the document.

COMMISSIONER FITZGERALD: And you know how that - - -
20

MR McLAUGHLIN: And that means take, take, take.

COMMISSIONER FITZGERALD: And do you know how that - how did you come to that figure?
25

MR McLAUGHLIN: There are different - I counted them with control search.

COMMISSIONER FITZGERALD: You did a control search which
30 included when we said not remove?

MR McLAUGHLIN: Yes.

COMMISSIONER FITZGERALD: Which included not remove and
35 replace by. So you did a search to find the word remove.

MR McLAUGHLIN: I did, yes.

COMMISSIONER FITZGERALD: There is no way that we are
40 changing or removing 90 allowances of every description so a word search now becomes the, and we heard this at a number of seminars where people have said there's 87. All you've done is taken a word search of remove, even when it says don't remove, it comes up in that word search.

45 **MR McLAUGHLIN:** I can see your point, sir.

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COMMISSIONER FITZGERALD: So is it not true that despite your extraordinary examination of the document you've ascribed to us a motive we don't have and that is, we are anti veteran and that's not true.

5

MR McLAUGHLIN: If I could put it like that, if you're looking at abolishing a department, any abolition of that department and the creation of a new one is going to create untold stress. I think other speakers have said that within the veteran community, particularly the older veterans
10 who are not in good physical or mental health. That's going to land on them a tremendous amount of stress and grief again that will flow down to their families. To me, I see that remove of something that they've, shall we say, lived within its protective care and support umbrella, has been anti veteran by being abolished and put into a commission that may not be
15 good enough to manage them.

COMMISSIONER FITZGERALD: Well, let me just put the point. I fully appreciate that people have very strong views about whether or not DVA should be abolished, I accept that absolutely and we look at that, and
20 we will have consideration in it. I just want to make the point is, I would hate it to think that anyone in this room actually thinks the Commission, particularly Richard and I, have anything other than great admiration for veterans, and I don't need to go into that any further.

25 The point that I do want to make is, this is all about trying to enhance the wellbeing of veterans 20, 30, 40 years from now and I just want to put that on the table because I'm fully appreciative that some of our recommendations are not welcome in the veteran community, but our entry point was absolutely about their wellbeing.

30

MR McLAUGHLIN: Thank you for that, sir, and I appreciate your honesty and your candour in supporting the veterans, I really do. Thank you.

35 **COMMISSIONER SPENCER:** Noel, just some thoughts about what you've said because you're saying earlier you're concerned and other are concerned that this is a pathway to people going to NDIS, My Aged Care and more mainstream services.

40 **MR McLAUGHLIN:** Yes.

COMMISSIONER SPENCER: Once again, we're not saying that, so I just want to be clear about it, but look, I think this illustrates another point and that is that, and look, I just want to give a little bit of background here
45 because you kind of put the economist rationalist label on top of us, and

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both Robert's background and my background is extensive in community services.

So in community services if you look over the last ten to fifteen years you have an extraordinarily important part of civil society and the ESOs are part of that, motivated to help those people most in need so there is just no question about intention about wanting to do the right thing by the individuals. Frankly that's why we're pushing back a bit about the sense that this is anti-veteran because we're not coming from that place.

So if I go to community services, and I've led organisations in that space and I've had people say to me when I 've said, "How do we know we're making a difference? How do we know we're really ultimately doing the best by the individual, and how do we know the" - and funds are always scarce in community services. How do we know we're getting the best outcomes for people in that space? So I've sat in a room a long time ago and somebody said, "Oh, you're an economic rationalist". I said, "No, I'm not. I care about results. I care about when there are limited resources. How do we know it is achieving the best?”

So when we reference systems like NDIS and My Aged Care, it's not about saying, "Oh, we'll jump into that". It's saying, "What have we learnt there? What is informed better outcomes for older people, people with a disability?", and they're some of the great social reforms that have gone on in Australia. So when I come back to, and I commented on this earlier in the earlier session.

When I look at this issue of what ultimately is in the best interests of the veteran, there is a lot of learning and a lot of practices and a lot of structural changes in other parts of society that demonstrate you can get better results for the individual. So, for example, just to give a, you know, what does that mean, so we look at the outsourcing currently that goes on around rehabilitation and health care needs, and as we've commented several times, you know, the sort of collection of is that working, is that getting good results, we don't see that data and information when we're looking within the military system. We see a lot of concern and a lot of interest about those in other systems.

So once again, we're trying to look outside the military system to say, where can we take, where can we learn, where can we bring together something around the veteran in future. We're building a system for the future that's actually going to incorporate that thinking/learning evidence and at the end of the day it's all about the veteran being at the centre of those efforts.

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So there's much - there are very different points of view about how you get there, but that's the opportunity through an inquiry like this is to really scan the horizon and go and talk to people in other systems and other experiences and say how could that assist in what we're trying to do here.

MR McLAUGHLIN: Thank you, sir. I think my wingman would like to respond to that, sir.

COMMISSIONER FITZGERALD: Sure.

MR RYAN: Can I just make a point. A lot of it's in the language used. We are a suspicious lot in the veteran community, believe me.

COMMISSIONER SPENCER: No, no, and look, I always welcome that comment.

COMMISSIONER FITZGERALD: Absolutely.

COMMISSIONER SPENCER: If what we're intending is not coming across, we absolutely need to hear that because the language has got to convey the meaning.

MR RYAN: When you use terms like civilian compensation and equate it to ballet dancers and all this sort of thing, the - - -

COMMISSIONER SPENCER: Oh, the opera singer.

MR RYAN: The opera singer, yes, better. Music's good. That raises concern amongst people and use it as an example, that's fine, but we are, as I say, we are a suspicious lot so the language needs to be couched at people you're trying to convince as opposed to the broad spectrum, and I know that's going to be a challenge.

COMMISSIONER FITZGERALD: It's a huge challenge.

MR RYAN: Yes.

COMMISSIONER FITZGERALD: And we're going to fail to some degree in being able to do that.

MR RYAN: We hope you don't fail.

COMMISSIONER FITZGERALD: Because our audiences are multiple, as you know. They're government, they're bureaucrats specifically and obviously they're the veterans' community, and they're the

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wider Australian community. But can I just go to a couple of other things. Your position in relation to the ESOs, Noel, I haven't got in front of me exactly your recommendations in relation to that, but do you have any comment, and you would have heard the previous discussion with Kel and then James this morning about better utilisation of the ESOs going forward, which is not part of our draft but will be part of our final.

MR McLAUGHLIN: No, sir, I think it's fantastic it's on the table. I spoke with Mr Ryan last night and my colleague, Mr Del Geddes in relation to to this matter. I was surprised to see that was that well advanced in incorporating, and I think, given the Aspen report which found in October 2016 there were 3,000 ESOs out there, and June the following year that ballooned out to five and a half thousand, and lot of them pop up on social media, and they are acting in an inchoate manner. They're completely uncoordinated. There needs to be something pulled in to have them speaking as one voice and I endorse ADSO's proposal because being a member of ADSO we will probably be part of that one voice.

I do agree, too, that the RSL and Legacy are separate entities and they go their own way. The RSL nationally, up until the previous national president deposed, was very much a great friend to ADSO and (indistinct), and they are on board with us, but at the moment, as my colleague said, they speak with different voices now. It's almost as if they're at war with each other. There's no coordination from RSL national because there is no RSL national president, no CEO, no RSL national vice-president.

I speak as a life member of the league now, not as the chairman of the Corporation, and we need to get that organisation get its act together because we are telling veterans that we consider the RSL to be the lead in veterans' advocacy in this country because of the sheer size of the organisation, and the fire power it commands, but I do agree, we have to get coordinated, we have to speak with one voice. We can't go and be as organised as a bucket of worms for the next 20 or 30 years. It won't work.

COMMISSIONER FITZGERALD: And just, if I can just deal with your health recommendations just very briefly, I understand your recommendations in relation to Gold Cards and what have you. Are you seeing from your members a need for more proactive commissioning of services by DVA in the mental health space or health generally? So you've got the cards and they fund the services, but what are your members telling you about the actual ability to access services and the adequacy of those services, however funded?

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MR McLAUGHLIN: I've not experienced any, shall we say, negative complaints The only comment I've had, and our organisation's rather unusual. We provide representations for 12 unit regimental organisations, associations. Out of those, eight of those are army reserve units, the older soldiers, we call them, former CMF soldiers. The other four are for the hard core, hard line units, tanks and cavalry.

There are two advocates. There is one in Western Australia with our entity over there and there's me here on the east coast. I'm winding back for obvious reasons, but the thing is, I've not heard any problems at all with this. I will be speaking to the armoured corps conference at the School of Armour in March and I'll no doubt find more. I just do know that a couple of warrant officers I have spoken to do have the triple eligibility under the three acts have found it an absolute nightmare to navigate and these are highly intelligent men. That's, I think to me, more grist for the mill to get this thing harmonised.

COMMISSIONER FITZGERALD: Well, our intent is that in time people will be under one Act, whatever that is, and hopefully some of the confusion and tension can be reduced over time.

MR RYAN: Well, DVA legal say it will cost an awful lot of money to do it, more so because they're going to the plain English approach to the laws, as you can appreciate. I'd like to see the dollars, how plain English can be more expensive than a whole host of $50 words that nobody understands any more.

COMMISSIONER FITZGERALD: We will be recommending that the acts be simplified.

MR RYAN: Fantastic.

COMMISSIONER FITZGERALD: Not only in terms of how they operate.

MR RYAN: Fantastic.

COMMISSIONER FITZGERALD: But the wording. They're unduly complex.

MR RYAN: Good.

COMMISSIONER FITZGERALD: VEA's an exceptionally difficult document to read, and hopefully whilst retaining the benefits it can be

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slightly modernised in the way it's actually written, but anyway, that's up to government.

MR RYAN: You mean the VEA or the MRCA?

COMMISSIONER FITZGERALD: No, all of them frankly.

MR RYAN: Yes.

COMMISSIONER FITZGERALD: The VEA's very old and very convoluted, and then MRCA and DRCA have their own problems.

MR McLAUGHLIN: But I beg you, sir, please keep in the Henry the VIIIth clause.

COMMISSIONER FITZGERALD: Which is?

MR McLAUGHLIN: 121D.

COMMISSIONER FITZGERALD: I'll have to look it up.

MR McLAUGHLIN: No, it's the clause whereby if a decision is going to come down, say, from the common law is very adverse to not just a veteran but a whole cohort of veterans because of its decision, that the minister can turn around and draft a regulation overturning that adverse decision.

COMMISSIONER FITZGERALD: That's fine, well, we're not changing that stuff, no.

MR McLAUGHLIN: Good. That's great, sir.

COMMISSIONER FITZGERALD: All right. thank you very much and we'll now take a ten minute break. Thank you.

SHORT ADJOURNMENT **[11.00 am]**

RESUMED **[11.15 am]**

COMMISSIONER FITZGERALD: Okay, we will start. If I could have Malcolm Whitney please. Good, thanks Malcolm.

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MR WHITNEY: Thank you.

COMMISSIONER FITZGERALD: If you need to go to the toilets or get a cup of tea during these presentations please feel free to do so, but we just have a full agenda and we'll just keep rolling. So Malcolm, if you can give us your full name and the organisation that you represent please.

MR WHITNEY: Yes, thank you Commissioner Fitzgerald and Spencer. My name is Malcolm Hugh Whitney and I am the vice president and trustee of the Roseville RSL sub-branch.

COMMISSIONER FITZGERALD: Thank you very much. And if you can give us a ten minute precise of your main points, that would be terrific.

MR WHITNEY: Thank you, and thank you for the opportunity that you've given us today. I am deeply concerned and disappointed over the assumptions, conclusions and recommendations to come out of the draft veterans' Productivity Commission report. The inquiry says the objective of veterans' support should be to improve the wellbeing of veterans and their families to rehabilitation and social integration in a scheme like workers compensation. However, the objective of the recommendations appear to be more about government cost cutting rather than veterans' welfare.

Page 160 of the report refers to the objectives and best practice criteria and quotes the Insurance Council Australia who say, "The ICA considers one of the objectives of workers compensation schemes is to be affordable, financially viable, charge employer's premium that are affordable, reflect risk and fully fund reliability". In other words, all about cost saving for governments and employers.

I worked in the general insurance industry for 45 years. Sold hundreds of workers compensation policies and set up a legal compliance area for one of Australia's largest general insurers and dealt with some of the workers' complaints. The need to control costs was always far greater with this class of business than any other.

On p.331 of the report it says, "The Commission is of a view that the existing divides between operational and peacetime services are not justified. This is on the basis that an injury is an injury regardless of where it occurred. Moreover, there is nothing about operational service that justifies lower medical evidence before a condition can be said to be related to a causal factor of service. While personnel on operational service can be exposed to more risks than individuals on peacetime

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service, this would affect the frequency and severity of any - sorry - of any risks that individuals on peacetime service. This would affect the frequency and severity of any resulting conditions not the underlying issue of whether they were caused by the service". I wonder whether our prime minister is happy to include these words in his Anzac Day address, and what reaction he would receive from veterans across Australia. Yesterday we saw veterans' reaction to the change of the time for the Villers-Bretonneux service.

As a national serviceman who served in Vietnam between April 1967 and April 1968 I believe there is significant difference between a member of the Armed Forces who suffers an injury or disability in a war zone compared to an injured worker in a civilian life who is rehabilitated under workers compensation. There is also a big difference between a member of the Armed Forces injured in a war zone to someone who is injured in Australia. Most war veterans will remember their service and overseas involvement for the rest of their life. Emergency service personnel in Australia also suffer bouts of depression and anxiety as a consequence of their job. But they are far more likely to receive greater support and understanding from their friends and family and they weren't injured in a foreign country. I agree, it is important to get war veterans back into civilian life as soon as possible, but they deserve to be treated better and respected a lot more than is recommended in this report.

The report recommends that the Department of Veterans' Affairs be abolished, despite DVA clients giving it an 81 per cent satisfaction rating in a recent survey. The report provides various examples of how well veterans are compensated and even questions whether taxpayers are getting value for money from DVA. It suggests the veterans' Gold Card should be more needs-based. It questions why those who qualify at age 70 should receive the card. It recommends doctor co-payments. Even suggests there will be savings from reduced over-servicing if we change the colour of the card.

Having read the report at length I am concerned that the recommendations are more about government cost saving than improving veterans' entitlements or welfare, and it's an insult to those thousands of men and women who served this country in war and lost their lives or were left disabled. On p.77 the report says: "Military service is a unique occupation which presents a number of challenges and risks to ADF members and their families. These include higher than average risk of injury or death, lack of autonomy and frequent locations". On p.88 it says: "The Vietnam veterans' family study compared the outcomes of children of Vietnam veterans to children of Vietnam era military personnel who were not deployed. It showed high incidence of mental

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health problems, suicidal thoughts and behaviours and substance abuse among the children of the deployed veterans".

Page 93 gives us an insight into ADF remuneration, which is supposedly meant to be very good. An army colonel can earn between $147,000 and $197,000 which is less than a newly elected politician who previously sold fish and chips or who was a radio shock jockey. A captain earns between $68,000 and $128,000. A sergeant earns between $62,000 and $102,000. A private can earn between $47,000 and $85,000. There are some other allowances but surely this is pathetic for those men and women who place their lives at risk so you and I can live in freedom.

Page 142 tells us what is driving the increasing costs of injury. It says: "DVA initiatives could be driving up the number of claims, including enabling claims to be submitted online, the use of online DVA advices, closer liaison between the ADF and DVA, enabling veterans to claim for multiple conditions using the one form. The ADF notes of the lifetime liability associated with the medical cost of new injuries have risen on average 55 per cent each year over the last five years". Surely this isn’t a failure of the system but confirmation the system is now giving a true account of the cost of injuries. The only benefit put forward for abandoning DVA is the long-term sustainability of veterans' support system based on costs over a lifetime. Once again, the focus appears to be on the cost of the system to the government. Surely war veterans' service to the nation is what we should be acknowledging.

Then we come to the Gold Card. This is another example where the Commission fails to understand the difference between a war veteran and a civilian. The Gold Card to a war veteran is more than just a card for health-related services. It is a form of recognition that the country expects these veterans to be entitled to a special level of care and benefits following their service. The fact the card is gold is recognition in itself that these individuals are special. Simplifying the system has merit, of course, but I'm not convinced there is anything in the Productivity Commission findings that will necessarily achieve that result, especially the recommendation to do away with the existing DVA body. To simplify DVA you only need to reduce the criteria around veterans' assessment. Maybe you will end up paying a little bit more in money for health services but there will be assessment savings as a result. For instance, why not give every war veteran with six months' service in a war zone a Gold Card? Obviously the cost will be significant but you immediately remove the need for veterans to be assessed or go through a tribunal process. Those savings alone will be immense.

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The rest of the responses were in my submission to the Commission and at the January meeting of the RSL New South Wales Northern Metropolitan District Council they passed a motion that my submission to the Commission received their total support. The NMDC represents the RSL Sydney Sub-branches of Berowra, Brooklyn, Chatswood, Gladesville, Hornsby, Hunters Hill, Kirribilli, Lane Cove, Mosman, North Ryde, North Sydney and Roseville.

In conclusion, you've got around about 100 submissions and there's just a general theme coming right through from all the organisations. One is this area of workers compensation which people are opposed to the concept and the idea. They see no reason to replace DVA, a body that you are suggesting should be funded by the defence budget. Why? There seems to be no logical reason. They oppose the removal of the Gold Card and they are angered, I think, by the overall thrust to achieve government cost savings. Simply, I believe our war veterans deserve better.

COMMISSIONER FITZGERALD: Good, thanks very much for that and thanks for your considered submission. Can I just go to a couple of issues that you've raised and then Richard will. We haven't proposed the abolition of the Gold Card, so you'd be aware of that. All current entitled people - - -

MR WHITNEY: For future though.

COMMISSIONER FITZGERALD: For some groups, so just be very clear about that.

MR WHITNEY: Yes.

COMMISSIONER FITZGERALD: The second thing is that you've indicated one of your recommendations is to extend the Gold Card to anyone who has served six months of service generally, and you say well that will come at a cost. To what extent do you think governments should be concerned at all about the value for money, given the scheme itself? I mean I know you say that we come from a cost cutting approach. That's not true. As Richard has indicated our scheme will cost more. There will be more money in the hands of veterans, not less, after our proposals, and there will be certainly more services available in transition, rehabilitation and mental health services. So at the end of the day our proposals will cost government money, which might surprise people. But do you think governments should be concerned about the costs of entitlements?

MR WHITNEY: Well, you obviously must have some ability to look at what costs are, but in the last four years this country has spent probably

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billions of dollars recognising war veterans, mainly from the First World War. No one even questioned that. So, yes, maybe some things do cost money and I don't think that necessarily has to be checked to the last sort of dollar. If something goes over costing, like the Gold Card, I think you just accept that.

COMMISSIONER FITZGERALD: The second point about that, and given that you've worked in workers compensation areas or at least selling the insurances and being involved in that, shouldn't we be more concerned about the outcomes that are being achieved, irrespective of how that is funded? Whether it's a card, it's direct service provision and so on. The point we've been trying to say is that going forward for contemporary veterans, and that was this scheme is really about, is to try and say it's about outcomes. Getting people back to work if that's what they are able to do. Helping to live full lives. Providing appropriate rehabilitation services and so on. So whilst I understand cards and funding arrangements matter, shouldn't the focus be on whether this is the very best way to achieve good outcomes for veterans?

MR WHITNEY: I don't think it necessarily is and I don't think a workers compensation type scheme achieves that. Veterans are different. I have made reference, you may have noticed, that I am referring to war veterans rather than veterans Australia, and I think there is a dramatic difference, but I think because of that, that's why I believe there's a dramatic difference. If you were talking about a person who had worked for 20 years in the army in some sort of barracks, a workers compensation scheme would work. But I think that's very different for war veterans who have - it's more than just an injury, it's more than just losing an arm, it's more than just being injured for the rest of their life. There is an emotional, there is all these other factors there. I went back to Vietnam in 2008 with some war veterans. We went to Saigon, we went to Bun Tau. Everyone was laughing and joking. We ended up in Doi Dat and every one of those war veterans, especially the blokes from RAR, it was just sudden silence. They were back, back in the world. And that's the difference. That's the huge difference that has to go together with a disability.

COMMISSIONER FITZGERALD: And you would appreciate that we've been very conscious of the fact that transition back into civilian life and so on needs to be significantly improved and that's been something the government and others have been working on.

Can I just deal with this issue, if I might. The issue in relation to war veterans, to use your terminology, being treated differently. Our proposal is that war veterans largely in terms of incapacity and impairment

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payments remain. They are not diminished at all. They stay. All we're looking at is whether or not people that have been injured in non-warlike environments should in fact have their benefits raised or changed. So in the MRCA/DRCA, bringing those together, the question there is not whether somebody that served in the war - a war or in deployment gets less. It's whether or not the person that's injured on the way to that battle, on the way near training should in fact be paid more. So that's what we're looking at. So our proposal is not to diminish the war veterans, it's to see whether or not the young man or woman whose damaged badly in training, you know, can in fact or should be treated in a similar way.

MR WHITNEY: You do make reference though in the part that I had brought out there, you're making reference that you saw no difference, so an injury of a person who's whatever type of area of the armed service they're in, that the injury should be treated the same, and I had - - -

COMMISSIONER FITZGERALD: And young veterans, we've now had round tables on multiple bases, both our Air Force, Navy and Army bases, with contemporary veterans who are serving and those that are about to discharge. And they have explicitly said to us over and over and over again that an injury is an injury is an injury. Is there a generational dimension here between those that have served in the earlier conflicts and the current service men and women who do see the world just slightly differently? They're not saying that war should not be recognised. They're not saying that at all. But they are saying in relation to injury, the gap should not be what it is today.

MR WHITNEY: Well, you have spoken to those but I have also seen only a matter of one month ago a veteran who committed suicide. The young bloke, 32 years of age with family, who they had a wake for him at our Roseville Club and you saw 200 people come together for that person, and if you saw the emotion and reaction of those people there, it was - they had the wake there, I'm not quite sure where the funeral was but they had the wake there and I think - and most of those - a large percentage, not most, a large percentage of them had served in Afghanistan, and you could just see that, it's camaraderieship or whatever it is that you have when you’ve served overseas and you’ve seen people that have been injured. You may not have been involved yourself but you're part of that, and I can't see that there would be any difference today to a person who has served in Afghanistan or in Iraq to myself who served in Vietnam. I can't see there could be a difference.

COMMISSIONER FITZGERALD: And our report doesn’t go to that camaraderie or the difference.

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MR WHITNEY: No, I accept that, yes, yes.

COMMISSIONER FITZGERALD: It is simply about whether or not the scheme, both in terms of incapacity and impairment, how they should recognise that and that's the issue. It's got nothing to do with not - diminishing.

MR WHITNEY: No.

COMMISSIONER FITZGERALD: And I would hope no one reads that into our report. But anyway we'll put that aside.

MR WHITNEY: But that sort of comes out of it, do you know what I'm - what I'm trying to say is - - -

COMMISSIONER FITZGERALD: No, I understand that and we can't write reports that are intimate in terms of our - you know, we come as an objective outsider, not an insider to these issues. Can I make one other comment. In terms of the way in which the scheme operates, you've mentioned the satisfaction survey. But as you will know, that in that satisfaction survey there is a very distinct difference between those over age 50 and those under. So over 50 it's around 80 per cent satisfaction. Under 50 it's about 40. So in fact, going with what we're seeing is a very significant difference in the veteran community, represented in the ESOs, surveys and our own discussions. And we would think that's normal. We would think that's absolutely natural and normal.

MR WHITNEY: Yes, but I think you'd get that, if you were asked that same sort of survey about the government, you'll get the same sort of reaction because I think younger people expect things to happen instantly. As you get a bit older you're willing to accept things probably.

COMMISSIONER FITZGERALD: Or it could be they want something different.

MR WHITNEY: I'm not saying that DVA couldn't be improved or changed, but what I am saying is I can't see why you would want to change an organisation which we know is working effectively. It may not be perfect. You certainly can't say that you're going to create a new system which is going to be perfect either.

COMMISSIONER FITZGERALD: The level of imperfection we might disagree on. That's about it.

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COMMISSIONER SPENCER: Yes, just to give some context and again we've said this several times this morning, but to go there again. We're looking still about a 20 or 30 year time horizon, so - and this takes us all to an uncomfortable space. What, if anything, should change? Several speakers have said this morning we've been bold and in some people's eyes too bold about what we're putting on the table. But I just want to clarify something under the Veterans' Services Commission because, once again, we're not proposing this be outsourced to a civilian workers compensation scheme. In fact we're saying there's a very - there's a military context to this and that's why it's quite deliberately the Veterans' Services Commission, which would be set up as a statutory corporation and would have governance around that direct to the minister.

But look I go to another point and I just want to explore this with you, because with your background in the area of injury and illness, one of the fundamental starting points, as you know, is prevention in the first place and the duty of care that an employer has. And I know in the military context we talk about members, we don't talk about employees, but it's this challenge that we've had and we've explored a few times this morning about the responsibility of Defence, and we are hearing constantly a very clear view that Defence is about capability and preparing for combat. But it's this notion of duty of care; what encourages, what gives incentives to Defence to be conscious of, and thinking about, and proactive, around what it could be doing differently that appropriately prepares people for combat but minimises unnecessary injuries and long-term consequences of that, both physical and psychological. It is an extremely difficult challenge. Other military systems do wrestle with that within their departments but we've had this very strong view that Defence doesn't. That goes to DVA.

One of the things we're constantly running into is, that seems to us to miss a very important part of the lifetime wellbeing of the veteran from day one of their service. It's a continuum through their service and post-service. We currently divide their lives into two and give it to different departments. We have put some things on the table and we've got a lot of pushback; policy to Defence, no, don't like that. The idea of premium, you've commented on that, you don't like that particular mechanism. We've got the joint transition command idea to give Defence more responsibility - a bit more responsibility for what it does at the moment. How do you see that part of the whole system, to improve that part of the system; what could we do structurally to really - - -

MR WHITNEY: You are really meaning about improving - saving injury or stopping injuries.

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COMMISSIONER SPENCER: You know during periods - yes, when they're in the ADF, when people are in the ADF, how do we - - -

MR WHITNEY: Yes, well I mean the same - I mean there's no difference of that in the workplace as well and you'll find a very, very high percentage of workers compensation claims if you go - you'll see that somewhere in the system people haven't followed the correct rules, the procedures that were meant to be followed and that's why they get injured. I mean that's no difference in the army or to in any factory. I remember in early times, I'm not quite sure of what happens these days, but factories that used to have guillotines and there was a guard, and every employee didn't like having to wait for that guard to come up and down, so they used to prop it up and they'd put their hands in and cut their hands off. But that was an employer's responsibility, to make sure that their employee didn't do something like that. I didn't have a problem, the army should have the same responsibility. But it is very hard stopping individuals from doing something sometimes, and I don't - I can't imagine it's any different. I mean take Vietnam. One of the large percentage of serious injuries and deaths occurred because of land mines and a lot of those happened because people were laying land mines that they'd been trained in Australia with a different type of land mine. So we caused the injury ourself. It's just a fact of life.

COMMISSIONER SPENCER: When we've met with representatives from other schemes we've heard examples, and you would experience this no doubt, of a feedback of information about long-term consequences; how did the injury occur, why did it occur, should it have occurred. So it's a whole investigation that goes on to continually inform practice within - in the workplace. Because it comes back to something I said earlier. There's no question that people don’t set out to harm anybody and the wellbeing of individuals within your responsibility is taken - it's back to that issue, you don’t know what you don’t know, and unless there's the feedback work about long-term consequences of how things are done, injuries both physical, psychological, long-term mental health issues, if that started back during the period of service, are people aware of that, do they know it?

Now, some of the mechanisms in the best practice schemes have that feedback group of information and insight to help leadership and commanders really think about how do we strike that balance, the right balance between duty of care and duty to prepare. We see that - frankly, we see that missing and we've been trying to work out how do we give Defence, frankly, more responsibility or line of sight to help them with that challenge, which is - it's a really tough challenge but it does have long-term consequences for a lot of individuals.

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MR WHITNEY: A lot of that is definitely in the current Army. My son was in the Army Reserve only up to a few years ago, was there a number of years, and he was always frustrated, as I would've been, by some of the controls and regulations that were there, to stop injuries and things like that. But some of them probably went, you know, too far. But I think that's there. But you'll never get a perfect situation where you'll stop someone doing something wrong. You know, a person will have some drinks the night before, or something like that, and they drive a truck. It's reality and unfortunately that's no difference I don't think in - won't be any difference in the defence force to in the commercial world where you see employees injured in work situations.

COMMISSIONER FITZGERALD: The only difference of course is, and again we've heard disagreement with this, is that in any other workplace you bear the financial cost of that and in this case Defence doesn't. And so it's the only employer that we know of where the employer, and I know that ADF people talk about themselves as members and I accept that, doesn't bear the financial burden of that. In every other government agency, statutory authority, Productivity Commission, everybody, you bear the burden of that through insurance premiums. And so Defence is a unique beast, and it may well be that it's appropriately unique, but that's just the reality, it's the one missing piece. It's got the same regulations. It's got an incentive in order to - in terms of force capability to have, you know, men and women ready for deployment as necessary, but it's just that missing link.

MR WHITNEY: Well, maybe so, but I don't necessarily go along 100 per cent with that because I do think the army do have a lot of controls and regulations there and surely if I was the captain and five of my people would be injured through something that was totally my fault, then there would be blame back on me from my superior. I think - - -

COMMISSIONER FITZGERALD: I totally agree with you, but that's true in the army - sorry, that's true in all aspects of work, including the police and fire brigades and the first responders and all that. There's not a single commander of those units that would not be worried about that. It's just, look, that's where we're coming from on that and we hear that view.

MR WHITNEY: Yes, yes, yes.

COMMISSIONER FITZGERALD: Are there any other questions?

COMMISSIONER SPENCER: Just a quick one. You made some comments about the RMA and I just wonder whether there is any further

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comments you wanted to make about that. You queried the role of the RMA.

MR WHITNEY: You will have to remind me, but I remember you refer
5 to the RMA.

COMMISSIONER SPENCER: Yes, RMA. The RMA, yes, the medical authority and the SOPs.

10 **COMMISSIONER FITZGERALD:** You might have to do that.

COMMISSIONER SPENCER: Okay. You had referenced Agent Orange and you said that the suggested six month period would appear to be totally unrealistic and why is it necessary to impose any limitation.
15

MR WHITNEY: Oh, right, right, yes.

COMMISSIONER SPENCER: So I was a bit curious about that because we actually have suggested that there be an investment, further
20 investment and further resources for the RMA to speed up decision-making about contemporary medical evidence and knowledge.

MR WHITNEY: Yes. I mean that all sounds good. What I was trying to say there is that I think it's almost dangerous to sort of suddenly put an
25 exact period of time on something because maybe 70 per cent you could say they should be completed within three weeks. Let's say that might be a period of time. But there's going to be those incidences, that's why I related to Agent Orange. It's 50 years ago since the Vietnam war. We're still talking about it. I mean I see the Vietnam veterans' magazine comes
30 out every, whatever it is, every three months, what have you. They're still talking about it 50 years later, but we can't get some sort of understanding or agreement, and that's why I think that if you'd set a three - let's say you set a three month period for that, it would have just been totally wiped under the carpet and forgotten, whereas maybe it shouldn't be.
35

COMMISSIONER SPENCER: Look, I think we may have a disconnect on that one.

MR WHITNEY: Okay.
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COMMISSIONER SPENCER: We may be in fierce agreement on this one.

MR WHITNEY: Okay.
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COMMISSIONER SPENCER: That is, that what we were saying is that the additional resources and investment in the RMA could allow decisions to be made in a much more timely fashion and could be reduced to approximately six months. Whereas now it can stretch out, and it's your example, over years.

MR WHITNEY: Yes, well if you can reduce that, that's fine, but just as long as we're cautious.

COMMISSIONER SPENCER: So that's where we're going on that one.

MR WHITNEY: As one of the gentlemen said earlier, you did give us 704 pages to read. I first of all read the 76 pages, then I started on the 704 and it's a challenge.

COMMISSIONER SPENCER: No, you've done well.

COMMISSIONER FITZGERALD: You've done extremely well, Michael. I should warn you that the final report is likely to be a little longer, not a little shorter, but we are working hard to keep the team in check, let me tell you. But any other comments?

MR WHITNEY: No, I don't think so.

COMMISSIONER FITZGERALD: Thank you very much. Thanks for that, that's great.

MR WHITNEY: Thanks again. Thank you.

COMMISSIONER FITZGERALD: And could we now have Dr Paula Dabovich. Is that right?

DR DABOVICH: That's right.

COMMISSIONER FITZGERALD: Perhaps grab the middle seat if you can and there's some fresh glasses if you need it. Paula, if you could give us your full name and any organisation that you're representing.

DR DABOVICH: My name is Dr Paula Dabovich and I'm here in a private capacity.

COMMISSIONER FITZGERALD: Paula, can you speak up because those microphones don't pick up, they're only for recording. So, yes, if you can give us ten minutes of your key points that would be terrific.

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DR DABOVICH: Thank you, and it's more like five because I was really hoping to discuss the written submission that I've made. First, I'd just like to say, as others have as well, that the Commission ought to be commended for the considerable synthesis and the analysis of the problem presented to them and for the considered solutions proposed to date. I say this because issues of compensation, rehabilitation and transition are all extremely complicated matters sitting at the intersection of community, state, federal systems of care, all of which are complex in their own right. Stemming from that synthesis and analysis the Commission make some recommendations which I think are eminently feasible and some which I believe are not.

I have outlined the core of my testimony in my written statement and I would be very pleased to discuss this with you, but first I would like to place that testimony into context in relation to our current political leadership and then the previous and future generations of our veterans. First and foremost the Productivity Commission draft report has recommended that DVA be abolished and replaced with a compensation system more aligned to that of the civil sector whose underwriters serve our police and emergency service organisations. As most witnesses with a service history have testified, this approach is likely to have serious consequences for veterans who already do not fare well over time relative to their civilian peers. This is due to the unique nature of military service, which I won't elaborate on because I know that many fine witnesses have previously clarified this account, but this oversight must be highlighted as one of the critical issues at hand.

Because Australia has had very few operation engagements between the end of the Vietnam era in the mid-seventies and the Iraq wars in the nineties, our current government holds in its senior ranks very few politicians with military experience relative to previous generations. With this in mind it is easy to understand why the compensation model presented here must seem like a logical evolutionary step in the care we offer our veterans as a nation. But for those of us who have served, and even those who have had very difficult experiences with DVA, most have attested that abolishing it would be a grave mistake. This is because such a move would bring of a danger of repeating mistakes made in past generations. Dismantling and fragmenting something that should and must represent continuity, because this is the very issue of exposure to traumatic stress. It dismantles the very self-construct or the psychological membrane that makes personal continuity possible.

What the Commission must consider then is how to move toward a greater system of development and growth in terms of continuity rather than death and resurrection. And this is critical because what we are talking about

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here are not just the war fighters of generations past but also of generations future.

As I've outlined in my written submission it's internationally recognised that the children of veterans have poor outcomes compared with others in terms of hyperactivity and distractibility, emotional symptoms, peer rejection and bullying, and as has been mentioned earlier today Vietnam cohort studies show us that these symptoms can manifest as mental health disorders when these children become adults, which is striking, because many children of veterans go on to serve in the military themselves. And although we haven't captured how many Australian service men and women are the children of veterans we know that in the United States 57 per cent of active duty personnel are the child of at least one veteran. So, again, getting this right is an enormous responsibility not only for those in current receipt of DVA services but for the war fighters who are yet to be.

Before I finish I was going to say something about the proposed transition command because this is my area of expertise, but my views on that which are highly supportive are well covered in my testimony. But what I didn't mention in my testimony is that I might be one of the few people, along with the RSL, that support your proposal to move DVA's memorialisation function to the Australian War Memorial. I'm not sure if DVA employees are expert historians to manage its memorialisation services, but they're kind of damned if they do and damned if they don't. I'd be fascinated if they didn't because they're charged with an area of responsibility and if they don't have it in there they're going to be representing or managing something without a level of expertise. If they do have expertise embedded in there to manage memorialisation it would be quite an anomaly to have a DVA flushed with experts in history and yet almost completely devoid of health assets including expertise at the senior level, which may otherwise help focus the department in delivering and governing services for our veterans.

So if it now pleases you I'd be very happy to discuss my written submission.

COMMISSIONER FITZGERALD: Sure. Thank you very much. And thank you for your submission. Can I go back to this issue of continuity in relation to people who have suffered trauma and stress? We've heard many, many, many times from individuals that the system itself is stress inducing. So many people - and, again, this is largely individuals rather than ESOs, have talked about their experiences with DVA over a long period of time, and they paint a picture that has in fact added to the impacts of trauma, and, in fact, there's been research done on that.

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So one of the things we've been trying to do is to look at how to reduce that, and it's multi-layered, reduce the complexity of the systems improved processes. The VCR is part of that improved transition and so on. But what I don't quite understand is it about continuity of services and support as distinct from continuity of a single agency. What is most important, because you can achieve them in entirely different ways?

DR DABOVICH: So from a clinical perspective what we're really trying to achieve is a degree of continuity of care.

COMMISSIONER FITZGERALD: Sure.

DR DABOVICH: And obviously that care is going to be provided by, in the current context, different systems. So where we can reduce the disjointed nature of that care, or at least the care providers which is incumbent with the administration related to the wounds, injuries and illnesses received, the greater continuity the veteran will experience in their transition process.

COMMISSIONER FITZGERALD: So as long as they only have to deal with effectively, apart from Defence which they have to deal with and transition out of, provided they deal with one agency in relation to impairment, incapacity, health, mental health and those sorts of issues, that would meet your criteria?

DR DABOVICH: Look, I think as I mentioned in the written submission we really have to look at this from different levels of care that each individual is exposed to, and in the health care services we look at primary care, which is generally your GPs and - - -

COMMISSIONER FITZGERALD: Sure.

DR DABOVICH: - - -as you know, your expertise, your secondary care and tertiary care which represents specialists. And as I've mentioned there a change in all of these occurs when someone currently discharges from the military on medical grounds and they are required to deal with this sudden abrupt disjuncture in their care precisely at a time when they're least equipped to do so.

So I think what the Commission ought to be looking toward is developing a system of care that is more gradual, and what I've proposed is that an ideal situation would be perhaps that the military be responsible for providing primary healthcare services or garrison healthcare services plus those elements necessary for operations.

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When a service member's wound, injury or illness is complex enough to warrant secondary or tertiary care, that should be the point of entry into the DVA system, which should be ideally provided by direct DVA health assets. So the movement between systems becomes a gradual process that occurs when someone is mostly well, not facing a whole life disruption. In that case, what would basically happen, when people discharge the only discontinuation of care or the only change in care that will be needed is that of the primary healthcare provider or GP once provided by garrison and they would need to find a GP in their local community.

COMMISSIONER FITZGERALD: Sure.

DR DABOVICH: Which brings us to the point of how to find that GP with the cultural competence veterans so need and deserve but also who are across and accepting of the DVA healthcare payments and systems.

COMMISSIONER FITZGERALD: So one of the issues we've been struggling with in the health area is that whilst everyone is rightfully paying attention to cards that's only a funding mechanism. The issue for us is how active should government, DVA or whoever it is, be in commissioning of specific health and mental health services. So clearly they have a role in rehabilitation services for a period of time, as does Defence. But what we are concerned about is we've got these funding mechanisms but their funding is only part of the story. I know it's the most important part in the veteran space, but actually it's the service system that's the most important part if you actually want to get well or remain supported. So we're approaching it from a much more traditional position. So I'm just wondering whether you have a comment about the services that should or are available, physical and/or mental health, and to what extent government should be more proactive if you think that's the case in the commissioning of services.

DR DABOVICH: Look, we have looked back to the, I think, the mid-1990s when - or prior to that time every State had direct DVA assets which veterans could choose to utilise. When those direct health assets by way of the DVA or hospitals were abolished the White and Gold Card were introduced. And this, I think, was the beginning of what really we see now as this open-ended funding unmonitored expenditure for veteran health, because at that point in time DVA, although we can trace where the money is being spent, we don't have any forms of clinical governance to understand if the services that veterans are receiving are actually helping as has been discussed earlier today. And this is - and as I said in my report, this is striking because of the amount of money we do spend on veteran health services, but also particularly from a mental health perspective the lack of responsiveness that veterans experience in relation

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to the therapeutic modalities delivered to them, which has been said that 60 to 75 per cent of veterans, even who are on medication, still remain symptomatic of a lot of their mental health disorders despite this very high expenditure rate and unmonitored expenditure rate which is ultimately carried by the tax payer.

COMMISSIONER FITZGERALD: So you'd agree that it's unusual for a government agency or a government instrumentality to in fact provide funding for services without any capacity to monitor the outcomes of those services in relation to the population group. So whilst, as you rightfully say, they can tell you where the money is being spent, we have no evidence of whether it works or not in terms of enhancing wellbeing. That is unusual.

DR DABOVICH: That is 100 per cent correct, and - - -

COMMISSIONER FITZGERALD: Yes, sorry.

DR DABOVICH: Yes. I - - -

COMMISSIONER FITZGERALD: And it would be true that in workers' compensation schemes there'd be almost no scheme in Australia that would in fact operate on that basis.

DR DABOVICH: Absolutely. And this stems back to a point that was made earlier, in the military the military are not ultimately responsible for the fiscal or the humanitarian outcomes of their people, because that falls to DVA.

When our veterans are transferred to the care of DVA they also have no accountability because it's an open ended resourcing to which they are not motivated to monitor, and I think, you know, I am not one to suggest that our spending on veterans' health ought to be capped, but we need to do it more responsibly, and, Commissioner, you mentioned earlier about closing a loop, and this is what clinical governance is about.

COMMISSIONER SPENCER: No, look, thanks for that. Let me just go to the issues of the GPs because, I mean, as you say, that's at the heart of primary healthcare. So if I just mention your comments because - and I think DVA is actually doing some work to how can we better inform GPs about the specific needs of veterans. But in my experience in primary healthcare GPs just have every possible issue, cohort coming at them the whole time. They're within a system of kind of 15 minutes, that's how they get remunerated and all the bulk billing issues and co-payments are

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not allowed, so, you know, that plays out in ways that can be to the disadvantage.

So, look, I think having the GP as a focal point for a discharging veteran is key. How can it be done better though? How do we get the medical fraternity to sort of engage better with this as the key point. And, as you would know, there's this notion of a healthcare home model, patient centred medical homes around the GP, and DVA is actually by trial trying to sort of, you know, bring that to light as well, so what are your thoughts about how we do that better?

DR DABOVICH: So once again we have to look back toward - sorry, back before Gold and White Cards were issued, and not only did every State have DVA hospitals as a part of the veteran care process, DVA had also had direct health assets in terms of GPs. So we had embedded in our culture a number of primary healthcare physicians who were educated in and also represented a degree of health advocacy for our veterans.

So I think there are a couple of issues here: the first is not only educating GPs, and it's not only finding the GPs that have the willingness to see veterans at a reduced rate, it is about creating a network of GPs who collectively can act as a voice for veterans in the medical fraternity and that is a voice which has been severely lacking since the abolition of the DVA direct health assets.

So to make that system better I think there are a few things that need to occur. First and foremost we need to appeal to the general practitioners who have a genuine vocational interest in caring for our veterans. For example, there are going to be a lot of GPs out there who have service themselves, a service history themselves. There are going to be many GPs out there who have a family member who is a serving member, so that's where we start. A lot of GPs will tell you that trying to pull, I guess, GPs into this area is going to be impossible, because, you know, financially it's not working, but I think we can appeal to the higher nature of man and definitely find those GPs who have that vocational calling.

When we do find those GPs we need to give them incentive to receive training in what it means to be a veteran and how that impacts veteran health and veteran mental health, specifically and distinctly separate and differently to a lot of the civilian clients they may have, and that could perhaps go towards their annual professional education requirements.

The problem with that is that since the DVA has lost its health assets the tertiary education sector or colleges, which would provide such education, no longer are equipped with a theoretical foundation or professional

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expertise that could put a course like that together, so there is this real disillusioned and dilutement of the healthcare sector's understanding of how service impacts an individual.

5 **COMMISSIONER SPENCER:** So can I just go with that theme a little bit, because, you know, what you're describing is a very sort of proactive stance rather than just simply outsourcing things. So we did an inquiry into human services last year and we concentrated on this issue of government stewardship programs, and we were very clear about the
10 government needs to be thinking about what service does it need, who can provide that, what will the outcomes be that are expected and how will you evaluate that. So there's a discipline around that rather than handing it to a professional body and say, "You take care of it".

15 **DR DABOVICH:** Correct.

COMMISSIONER SPENCER: So let me go back to our recommendation under Veterans' Service Commission, because I think I heard you saying, not sure about that model or don't like that model. But
20 in our mind that model would be an absolute - and we need to say more about this, if that's going to be part of the final recommendation. What's the capability you would have within there? Now, it's a Veterans' Services Commission, so the kind of competence, capability and experience would need to be absolutely at the centre of a body like that to be exercising what
25 I would describe as stewardship or being proactive about what are you going to provide through your terms, your own assets, or what are you going to outsource, but who do you outsource to, and how do you know what is being achieved? So does that - if you've got a - and I describe that as a fit for purpose model around - I think some of the issues you're
30 talking about, you seemed to suggest earlier that you weren't seeing that. Have we got a disconnect here, or is there a problem there?

DR DABOVICH: Yes, I think we do, and I think one of the major concerns with the model that's being proposed is the Board or the
35 Commission has been part-time civilians, and that was made quite clear in the report, that these were civilians primarily with maybe some familiarity with military service, and I think that's a large mistake, and frankly I think it turned both myself and many other people who approached this report - - -
40

COMMISSIONER SPENCER: So if that was reconfigured what would that look like, if you were reconfiguring the governance of that body?

DR DABOVICH: I would have to consider that in more depth, I think, to
45 give you an accurate answer on that.

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COMMISSIONER SPENCER: Sure, okay. Yes, sure.

DR DABOVICH: But that's a very big question.

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COMMISSIONER SPENCER: Okay.

DR DABOVICH: And certainly something which may be achievable but I can just tell you from a personal perspective and certainly from the
10 perspective of many of my colleagues to have a commission that is looking out and caring for veterans that is primarily made of civilians is a disjuncture where we will have problems moving forward if you did persist with that model.

15 **COMMISSIONER SPENCER:** Okay. Right. Thanks. Robert?

COMMISSIONER FITZGERALD: Yes. Can I make one comment about that? Our report also says that it should have veterans on it, so that was clear also, so that's the first thing. It didn't say it should have military
20 personnel who are currently serving, and in fact I don't think that is necessary given the disjuncture between Defence, so we always anticipated there would be veterans. But nevertheless you do need to have people that have skills and expertise in running schemes and systems and all services, and one of the problems in the veteran space is it's often
25 missing those people, so it's got the voice of veterans at large which is perfectly fine, but what we've discovered is that there is not a lot of expertise coming in from other areas including health. So the question is a balance. You can't have committees of 30 people and if you're going to have a board of directors it's going to be a small number. But that's an
30 issue currently in DVA. I mean, DVA has that same problem, where are the voices of the experts in schemes, in healthcare in mental healthcare, in all sorts of stuff, so that's a broader issue, I think, from our point of view.

DR DABOVICH: And can I just make a comment on that? I think what
35 you are articulating is precisely the point. We have a DVA which is essentially a bureaucracy, and it's almost devoid of: (a) direct healthcare assets; and (b) expertise. It is being run as a bureaucracy as a financial backer to a whole bunch of health providers who ultimately, I don't want to sound disparaging, but I might just reverse a little bit there, but who
40 don't have an intimate understanding of the needs of veterans. And this also points to the issue that I mentioned before around the memorialisation, I suspect that is being run as a bureaucracy as well without the appropriate expertise and rank.

45 **COMMISSIONER FITZGERALD:** Sure.

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DR DABOVICH: And if you just let me finish, I think what the issue is here we don't need to dismantle DVA to bring that healthcare expertise in, we need to restructure DVA to be guided by, first and foremost, by the very experts in the field of veteran and military health as opposed to a bureaucracy.

COMMISSIONER FITZGERALD: Well, I think we agree in principle. I'm not quite sure we agree as to the structure, but bringing the right expertise, both veteran and other, is critical, and there is a problem in the current system.

DR DABOVICH: Yes, and I'll just give you an example as well. Psychology, for example, provides an excellent mechanism for people to work through and recover from mental health issues, but psychology is a very narrow and specific field of mental health. In the military, for example, most of the psychologists are trained in occupational psychology and we do have also clinical psychologists as well. In the military we have one, in the whole of the Defence Force, psychiatrist, and we have no mental health nurses, at least in the army. And these are whole professional bodies which are critical to the mental health and wellbeing of civilians who have not been exposed to trauma or work in a trauma mediated culture, and that's a significant oversight. I think another issue is that in DVA there are a lot of excellent and well-meaning clinicians with a psychological background but, once again, that's a very small part of mental health and the expertise that may also be found in mental health nurses and also in psychiatrists are almost devoid, let alone general practice. So there is this breadth of understanding around health and mental health which is absent in the current construct within the military and after service.

COMMISSIONER FITZGERALD: Can I just ask one last question. You have referred to the Canadian Armed Forces' approach to transition and rehabilitation, and we have heard of that and we're looking at that. What's the standout feature or features of the Canadian approach that appeals to you?

DR DABOVICH: Look I think their approach is exactly what you're driving at in this report. The problem with transition is no one takes responsibility. Defence think it's DVA's responsibility, DVA think it's Defence's responsibility and, as has been pointed out earlier today, no one is actually doing anything. It is still a mishmash of different approaches in different regions but no one really taking that firm stance. In the Canadian Armed Forces they have invested a considerable amount of resources, particularly led by medical men and women, to take

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responsibility for how their service personnel are transitioned from the military. I am specifically working with them in relation to transitioning of their wounded, injured and ill members, which is very relevant to this Commission, and we are in the early phases of development of a program and potential measures that look at not only symptoms of mental illness but also wellness, and that's a critical absence that we have in the current measures as well. So I wish I could say, you know, the more specific detail what their strength is but the point is at the moment they are doing something and they are taking the issue seriously.

COMMISSIONER FITZGERALD: You are right, we have looked at that and we believe we're heading in the same direction, and part of it is getting ownership so that they and structures and systems, matter. It's a very difficult area for people to get their heads around but structures actually matter, and so I'm curious about that.

Just my very last comment. Of your own background. You are on the South Australian Veterans' Health Advisory Council and we've met with various people in South Australia recently. The role of states in all of this, state governments, ultimately they are the service providers and in South Australia you have a dedicated official, you know, in relation to veterans' affairs and some of the other states have the same. Is there any learnings or lessons for us that we should reflect on in relation to state governments?

DR DABOVICH: Look, if the Commission were to not recommend that DVA have their own health asset, which would be my preference is that we did, but if we didn't, I think a lot of the responsibility would have to fall to the states to provide those services. But the only problem I think working with state governments is they do tend to neglect the very real and very important role of private health providers. It is difficult to maintain and sustain dialogue with state government health systems in terms of them really understanding the full breadth and depth of services that could be available to veterans. Once again, if direct DVA health assets weren't available I think the governments of the states need to take responsibility but that would need an almost an oversight mechanism involved as well to ensure that the services of private health facilities, who once again are equally important in the care of veterans, be considered in the total model.

COMMISSIONER FITZGERALD: Can I go back one point. It is unlikely that the government is of a mind to have veteran-specific medical assets, to use that word. Although it's interesting to me that in the redevelopment of Concord Hospital there is a special new holistic veterans - I think military and veterans' health centre going to be established. But

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putting that aside, where there does seem to be an appetite, and we've identified, is in the mental health space. I just want to put this proposition to you and then we'll finish. Most people are saying to us in the medical space it's not too bad. People, provided they get funding and DVA pays the right price for the service, they can navigate the medical system. But it's when you get to the mental health system that gaps and difficulties really emerge. Would that be a fair statement or do you think that's a different position?

DR DABOVICH: I think it's a very fair statement, m'hmm.

COMMISSIONER FITZGERALD: Okay. Good, thank you very much. Thanks very much Paula, that's great.

COMMISSIONER SPENCER: Yes, thanks Paula. Thank you.

COMMISSIONER FITZGERALD: Could we have Mr John George please. Good, thanks John. If you could give your full name and if you represent an organisation, the organisation's name.

MR GEORGE: My name is John George, Alexander John George. I don't represent an organisation, I'm a member of a number of ESOs but I'm here in my own right.

COMMISSIONER FITZGERALD: Good. And if you could just give us a ten minute appraisal or precise of your main points.

MR GEORGE: Just quickly to indicate my qualifications to be here as an individual. I joined the Army as a young Army apprentice at the age of 15 and left as a lieutenant colonel 24 years later. I was an infantry officer for 20 years and I saw operational service in Papua New Guinea during the Indonesian confrontation in 1965 and service in Vietnam as an infantry platoon commander in 1967/68. I have been on the wrong end of the two-way firing range on numerous occasions and thankfully God and luck were with me, unlike some of my colleagues. I have led and commanded soldiers at platoon, company and regimental level. I am involved with a number of ESOs. I am a member of Legacy and take an active part in that. I have also in my civilian capacity for 35 years employed hundreds of soldiers, veterans, with the return service both in Australia and abroad.

Firstly, if I could give my impression of the draft report. The Commission's draft report I think was needed, in fact well overdue, but in my opinion it was disappointing. With respect, I feel it somewhat simplistic in the way it addresses veterans' issues. If I might say so, the

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report to me anyway lacked empathy, especially in respect to those who have served on active service. Right or wrong I formed the impression that the veteran was coincidental in this whole thing and what mattered most was the bureaucratic process and giving the impression that government was serious in doing something for veterans. I thought the report missed the point in several areas, especially when it came to understand the realities of war and warlike service. There appeared an attempt to put the service, be it in peace or war, all under the one umbrella. I think this is a failing. There seemed to have been little dialogue with veterans at the grass roots, particularly those outside the current contemporary veteran paradigm. I don't think the report gave adequate recognition of war and warlike service and I'm suspicious that the report is more focused on cost saving than anything else. One thing good about the report is I think it has galvanised veterans and I think you would have seen a lot of veterans come before the Commission now to express their concerns about a number of issues.

The first point that really disturbed me was the definition of "veteran". Not too long ago the government redefined the word "veteran" as we've come to accept it. The intent of this I'm not sure, but it has clouded the entire issue of what it means to fight a war or be deployed on warlike service. The government in its questionable wisdom now defines a veteran as one who has worn a uniform for a day. Previously a veteran, in the wider understanding of it, was one who had served on active service, usually abroad. I can assure the Commission there is a vast difference between war and warlike service and peacetime service. The latter does not include the dangers nor the effects of the former. I am not suggesting that all service men and women should not be recognised for their service, but I am saying very firmly that the word "veteran" must be reserved and applied to those who have served in war or on warlike service.

I can assure the Commission that being shot at by someone who's trying to kill you and you he is not like having a regimental barbecue on a Sunday afternoon. If we leave the definition as it is the value of and depth to the community or that the community owes to those who have endured the unique life changing pressures and dangers of war and warlike service will be lost. I strongly urge the Commission to address this issue with government because if it doesn't it'll be doing those veterans with war or warlike service a grave disservice and also their dependents.

The understanding of war: to me the report shows a lack of appreciation of the difference between war and warlike service and peacetime service. If the report is to be at all meaningful this understanding must be gained. It will not be gained unless you speak to those who have been there and done that.

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I note, for example, that the term "injury" has been taken to mean an injury in peace or war regardless with benefits addressed in a similar context. I formed the opinion that subject has been corrected, the peacetime or, if you like, civilian OH&SE standards have been applied to or assumed to have been relevant in war. Let me assure you this must not be allowed be the case.

Unfortunately I think political correctness has overcome the ADF today and leaders talk in civilian terms principally because they've only been involved in limited slow tempo operations abroad. I suspect they have forgotten, indeed if they ever knew, the principles of planning casualties. How many, and how you deal with them. That used to be a logistical calculation required of military planners. When you go into battle you calculate the number of casualties you expect to have.

There is no getting away from the fact that in war when you have two sides trying to shoot each other there are going to be casualties on both sides. Some of these will be accidental that - - -

(Audio malfunction.)

- - -large scale war, even by Vietnam standards, whether that will occur. Our politicians and our bureaucrats in the main have no idea what war is. They may drop in to visit troops in the theatre of war or warlike operations but their exposure is really negligible. Having a prepared lunch in a secured area is a little different from eating rations pack with the enemy just around the corner. I can assure you that the Prime Minister and a cast of thousands won't be attending every military funeral if we have a large scale operation as they have been doing in the last couple of years.

We need to be mindful that on the battlefield, if I could call it that today, the environmental conditions are these: excitement, someone is trying to kill you; the tempo, the stress, the fear and the anger, the concern for mates, you stick your neck out because you hope that you can save your mate. That's how Victoria Crosses are won. You don't complain. You suffer the pain and the injuries for fear you will let your mates down. Injuries are often more than can be see with the naked eye on the spot.

There's an ever present concern for family and dependents in particular. Now, what I'm saying here is the realities of war need to be better understood and considered. There is a danger in being captivated by the

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low tempo operations of what we call involves - what we call a contemporary veterans.

The definition of injury: I've already mentioned there is a difference between being injured in war than there is in suffering an injury in peacetime. While the nature of the injury may be similar the circumstances in which those injuries are sustained will usually be entirely different. It is unfortunate that we have allowed the term "injury" to mean all things. We seemed to have perhaps conveniently forgotten the term "wounded". There is a difference.

When a solder is wounded that usually means the enemy has laid one on him either directly or indirectly. Either way the circumstances are usually horrific and the wound more often is deeper and more complex than that which you will physically witness at the time. Remember a soldier is wounded as a consequence of some other so and so trying to kill him. So there is much more to it; fear, uncertainty, disappointment. There is usually a psychological flow on effect which may not be evident at the time of the incident. While some of these things may result in a peacetime accident, their severity will, I believe, be much less. I know of many veterans who have not felt the effects of their wounding or their injuries till 20 or 30 years after the event.

So what we need to do here is clearly differentiate between war and warlike injuries and those incurred in peacetime. The term "wounded in action" needs to find its way back into the report. Treatment programs will likely be very different and even more complex in the case of injuries sustained in war or on warlike service.

The Gold Card: the report appeared to attack the Gold Card with inference that it was to be removed as a benefit to those presently entitled to it. There was even comment made that at least one ESO, or by at least one ESO, that some recipients saw the award of a Gold Card as a prize. I find this insulting at best. It has been inferred that instead of a Gold Card that covers all medical matters, both physical and mental, that veterans only receive treatment for those injuries that are recognised by the authority, currently DVA. This is a simplistic and unfair approach. It shows a complete lack of understanding of the effects of war on the human body, again, both physically and mentally.

As I said earlier the full effects of injuries sustained in war are often not fully realised until many years after the event. Let us not forget that the nation is indebted to all those who serve in war or on warlike service. The Gold Card is no prize. It is a form of recognition that a veteran has given

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his body and mind to the defence of the nation and has suffered physically and mentally as a consequence.

In my view, every individual who serves in war or on warlike service should receive a Gold Card immediately they are discharged from the service. Veterans should not have to wait till they are 70 to get the card unless of course they're a TPI. This, in my opinion, is a very small price to pay. Let's face it; we now have the NDIS, what is supposed to care for disabled civilians and others. Surely we can recognise those with war and warlike service the deserving standard at least equal to and probably more than those.

It is reasonable that all widows and widowers of veterans receive the Gold Card on the death of their spouse. Remember that they too have suffered the injuries that their partners have suffered. At the moment the Gold Card is only available to those whose partners - it can be proven their partners died of war related injuries.

Compensation for injuries: in recent years injury compensation become more complex but I must say in certain circumstances it appears to have improved. But I'd like to make a few points which I believe are pertinent and warrant further consideration.

COMMISSIONER FITZGERALD: Just briefly. We've only got a couple of minutes and then we'll have a conversation.

MR GEORGE: Well, perhaps then I'll skip over these things. Let me then just talk about the future of DVA. The - - -

COMMISSIONER FITZGERALD: Well, perhaps you - - -

MR GEORGE: Sorry?

COMMISSIONER FITZGERALD: No, that's fine.

MR GEORGE: The report alludes to the fact that we should transfer the responsibilities of DVA in the most part to Defence. I think that's a conflict of interest for Defence. Defence is there to prepare for and fight wars, not to fix people up after war. DVA has been around a long time, and it does, in my view, an outstanding job. And I think most veterans would agree with that, certainly older veterans.

There are veterans who are critical of DVA but I suspect that many of those are people who think the world owes them a living as a result of their war service or their military service and they unfairly cast aspersions

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upon DVA. In my view, DVA must remain. If I'm running out of time I'll leave it at that, but it's - - -

COMMISSIONER FITZGERALD: Thank you very much.

5

MR GEORGE: I would've preferred more time.

COMMISSIONER FITZGERALD: No, no, that's terrific. Thank you very much. Can I just go back to this issue which you've been very strong
10 with in relation to the war and warlike and non-warlike, you know, the peacetime. We understand what you're saying, but how do you think it should be recognised? So the modern soldier today gets recognised through particular deployment allowances for deployment and that's appropriate, and in a way that wasn't so in earlier times. Now, the
15 generosity or otherwise of that people can argue. So if we've got a person that's been trained in one of the Darwin barracks, like Robinson, and gets injured parachuting or whatever it might be, how should he be treated differently from those that parachute into a war zone?

20 **MR GEORGE:** Well, I just went through it.

COMMISSIONER FITZGERALD: What is it practically that you think should be the difference?

25 **MR GEORGE:** Well, I just went - - -

COMMISSIONER FITZGERALD: Because I have to say, can I just contextualise this, we understand that warlike circumstances are entirely different from peacetime, understand that. I've not been there, but I
30 understand that. We recognise that people that have been in war and warlike circumstances should be recognised, absolutely. When you come to the compensation scheme it's really about how that should actually play out in compensation, so what is the difference? Because younger veterans are saying to us, "No, no, if I'm injured parachuting in Darwin, if I'm
35 injured parachuting in Afghanistan, in terms of compensation and other payments it should be the same. It's not about recognition, that's a different issue. So what's the difference you'd like to see?

MR GEORGE: Well, firstly I'd say to the young veteran who thinks that
40 being injured in peacetime is like being wounded in a war environment it's that he's probably not been there at the receiving end. People get injured in peacetime as they do in any job. You can apply the best of OH&SE standards but people still get injured for whatever reason.

45 **COMMISSIONER FITZGERALD:** Sure.

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MR GEORGE: And there's no question that the employer, in this case Defence, has a responsibility to look after those people by way of compensation or rehabilitation, whatever.

5

COMMISSIONER FITZGERALD: Sure.

MR GEORGE: War service is a totally different thing, as I've gone through the list of points. Some bugger is trying to kill you.

10

COMMISSIONER FITZGERALD: Sure. I understand that.

MR GEORGE: That's the first thing. So, you know, the heat is on and you can't apply the same OH&SE standards in a theatre of war that you
15 can apply in a peacetime.

COMMISSIONER FITZGERALD: Correct.

MR GEORGE: So the cause of the injury is totally different to the cause
20 of injury in peace.

COMMISSIONER FITZGERALD: Sure.

MR GEORGE: So I'm not saying we shouldn't look after the person in
25 peacetime. We must. It's a legal responsibility. But our person in war deserves a far greater understanding as to the circumstances and therefore the level of care can be the same, but we need to be much more conscious of it.

30 **COMMISSIONER FITZGERALD:** So, we agree but in terms of transitioning it's similar. In terms of providing mental health services we have to have a full range. In terms of health services, all those things are moderated according to the needs of the individual and people that are being traumatised in war are likely to suffer high levels of mental health
35 and that should be accommodated, but could I just be a bit practical, John, what is it that you actually think should be different in the actual payment system, because that's where it's at. I mean, really despite what people say about our report, it does try to recognise that. The question is how does it recognise that? So what is it that should be different between those two
40 characters? Is it the level of payment of impairment or incapacity? Is it just the Gold Card? Is this all about the Gold Card? What is it?

MR GEORGE: Well, let's just - - -

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COMMISSIONER FITZGERALD: What is it? I just need from you a practical demonstration if you can, and you may not be able to do this, and that's perfectly fine. What is the difference you actually think in terms of a compensation scheme? What's the difference?

5

MR GEORGE: Let me say that the TPI for example, now when the TPI was brought in after World War I some years after, totally and permanently incapacitated. It had a certain level of purchasing power. It is my understanding, and I stand to be corrected on the quantum but that is

10 now only 40 per cent of what it was back then. Now, what that tells me is that government along the way have tended to step aside from their responsibilities to take care of the veteran who no longer has earning capacity. All right.

15 So we need to remember too that the government put the soldiers, the sailors and the airmen into that situation where the chances of being killed or wounded are much greater than in the peacetime environment. Now, I don't care if the people who have been injured in peacetime, I don't care if they get as much as what the fellow that's been on war service gets by way

20 of compensation. What I am concerned is that we don't reduce the effort and the recognition that we give to veterans.

COMMISSIONER FITZGERALD: So, really that's the point that I got to. Because one of the things, we've kept VEA largely with very few

25 modifications to it. We're trying to bring MRCA and DRCA together which you know MRCA was introduced by the government in 2004 with a recognition of emerging needs for veterans. The question for us is what's the rate, or what's the rate we pay for in MRCA/DRCA. It might be low, middle or high. In other words it might be the same as somebody

30 that's injured in warlike - your last proposition.

I want to be very clear, you're not opposed to that. If they came up to the same level by and large you wouldn't be opposed to that?

35 **MR GEORGE:** No, I wouldn't. But my distrust is that we will push the veteran, we will drag the veteran back.

COMMISSIONER FITZGERALD: Sure.

40 **MR GEORGE:** And wind up treating him just like any other person out in the community, so the lowest common denominator will win, and the veteran will be disadvantaged. That's my concern.

COMMISSIONER FITZGERALD: So that's of course why precisely

45 we kept VEA. Previous inquiries have said VEA should disappear as you

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know, so we, unlike what everybody thought we'd do, decided to keep it. So actually we went a long way down your path I have to say. I know that's not recognised, but VEA has those quintessential features that you're referring to and remain. Is there anything else but against the difference? Is it around - just put the Gold Card on the table. I hear your advocacy for it and we have a different view about some aspects of it. We certainly have not recommended that people that currently have got a Gold Card would lose it. That's never been our proposal, never, and it's not in our report. But can I just ask this issue, fundamentally you see the Gold Card as a very important recognition of that service in what's called qualifying services or warlike services?

MR GEORGE: It's recognition but it's also - it shows an understanding that veterans have injuries, as I said, that go beyond the injuries that you actually see.

COMMISSIONER FITZGERALD: Sure.

MR GEORGE: And there are other parts of the body that, and I'm not a doctor, but there are other parts of the body - - -

COMMISSIONER FITZGERALD: Sure.

MR GEORGE: - - -and I know from experience that break down probably quicker than if you didn't have that war service.

COMMISSIONER FITZGERALD: Sure.

MR GEORGE: Because war does funny things to you, your mind and your body, and the Gold Card safeguards against those injuries coming to light, and having to be dealt with. If the Gold Card wasn't there - look, it's a battle now for some veterans to get their injuries or their wounds or whatever recognised by DVA, and I'm not criticising DVA for that. I think they go through a fairly exhaustive process, and of course there are shonks in any world, but it would be much harder and it'd make it much harder on the veteran if he couldn't get those things that come to light later in life dealt with at no cost.

COMMISSIONER SPENCER: John, you've got very clear views about the definition of veteran, and as you know, we're operating with the government's definition, so how would you deal with that in terms of - because there are two issues: one seems to be a very emotive view around what "veterans" means, which, you know, very legitimately. Secondly, is the consequences which flow from that. So when you say the definition

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of "veteran", you disagree with it at the moment. What do you think should happen?

5 **MR GEORGE:** Firstly, there's the - I guess it's the - there's an emotive factor about it that people who actually go to war or serve a warlike service and that includes like fighting a terrorist operation here in Australia, that that needs to be set apart out of respect for the individuals who participate in those actions. And it is, it's vastly different to serving in a uniform. I mean, I've seen some of the biggest clowns on two legs
10 wear a uniform, but I've also seen the people who actually go to war and perform in war and warlike operations. It's a totally different environment, and it's hard to imagine I guess unless you've been there, but it needs to be recognised and I think veterans expect to be given recognition for that. We give them a return from active service badge,
15 but: (1) it's too big, but (2) people don't like to go around bragging about it. They just like to receive the recognition that they've been there and gone that extra mile for the nation, and the mere fact that we now blur the line and say, "Well, you wore the uniform, that's exactly the same as going off to a war or serving on warlike service", and I just think that's on the
20 nose.

COMMISSIONER SPENCER: Okay.

MR GEORGE: And I think you'll find that's pretty common amongst the
25 veteran community.

COMMISSIONER SPENCER: Yes. So, John, let me bring you back to this notion of, you know, we've been discussing this idea an injury is an injury and, you know, you've expressed your strong views on that. I think
30 one of the things that we're trying to grapple with here is whatever the injury is, and the injuries are vastly different, physical and psychological, they can be more profound, as you've said, through what happens during combat. How do we have a system that responds to the needs of a particular individual through their life course? And you've made the point
35 which is absolutely right that many injuries particularly psychological won't manifest themselves until later in life, and unpredictably. But we're trying to look at how do you - and the previous discussion we've had with Paula goes to this point, how do we have structures which support a system that can respond to the different needs and the varying needs of
40 veterans through their life course?

So some of our comments around cards, we hear the strong objections and the interpretation of what that is about, but our view is trying to actually get the right service to the right veteran at the right time to get the right
45 result. And sometimes frankly cards can be a bit of a blunt instrument.

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You can have a card but you can't find the service or get the service. You'll be familiar with the issues about some specialists in particular who won't, you know, respond to a Gold Card and others.

5 So that's what we're grappling with which we think is a laudable goal, so I just want to be clear about that, because we think that's what we're trying to get to in a system if it's going to be, you know, the right sort of system into the future.

10 **MR GEORGE:** I go back to DVA. DVA can only operate effectively within the bounds of their financial and other support, their resources. Right now I believe they're under-resourced, and I'm not talking a quantum of money but the actual structure and the resourcing. There's been talk of having regional hubs for example for DVA, but manned by 15 volunteers. I think there is a need to DVA to spread its wings so that they are more accessible and regional hubs makes a lot of sense, but if they're established they have to be manned by DVA. They have to be managed by DVA with the support of volunteers. Volunteers can certainly be an adjunct but they mustn't run the hub, they mustn't be responsible for it, 20 because they're not equipped to do it.

So DVA has got to be more than - at the moment it's just hard to access it. If you know your way around you probably can but it's still very, very difficult and it has to be more in the face of the veterans. So, yes, the 25 Gold Card for the treatment but the provision of advice and support still has to come from DVA and that might mean it's going to be a much expensive exercise but it's a small debt for the nation to pay at the end of the day. How we get politicians to recognise that, I don't know. I don't have a lot of faith in politicians. Most of us probably don't. That's as I see 30 it.

COMMISSIONER SPENCER: Well, I think it's - was it Winston Churchill that said there are many problems with parliamentary democracy but it's better than the rest so - - -

35

MR GEORGE: Absolutely.

COMMISSIONER SPENCER: - - -we all have views about that. Look, just one further question, you've referenced NDIS and so I think there's an 40 issue here which I'd welcome your views on. NDIS was about saying that there's a group of people in Australia who have permanent and significant disabilities and the nation should respond to that.

MR GEORGE: Yes.

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COMMISSIONER SPENCER: So that's roughly about 475,000 people. It then says if you get an assessment around what your needs are and a package will be allocated to you and within that package you have choice and you have control about what services you get, so this is their consumer directed care model that's referred to. We've heard some commentary earlier this morning about how that gives more agency responsibility to the veteran to determine what their care needs are and how that's best met.

And so once again that's an example. It's not to say take veterans and put them into the NDIS scheme, but how do you take some of the thinking there, which is proving to be very successful in terms of rehabilitation and continuing health needs, and bring some of that into the veteran space. So that notion of having, for the veteran, being able to get some more choice and control over how their needs are best met, do you have any views on that?

MR GEORGE: I think, again, most of the people covered by the NDIS the government had no role in causing those disabilities. With a veteran who served on a war or warlike service and been injured or wounded in that environment the government has. The government sent them there. We the people sent them there, so we the people have that added responsibility to make good for that.

COMMISSIONER SPENCER: Yes, but the NDIS is just not about compensation. Quite rightly you say, no, no, the government is not responsible. It is about their continuing health needs, both psychological and physical and a way of actually trying to give to the individual what best meets their needs. So - - -

MR GEORGE: Well, that's what I'm talking about with veterans too.

COMMISSIONER SPENCER: Yes.

MR GEORGE: I think that's more important than the actual compensation, and if I could say one point on the compensation, and one of the issues that concerns myself and others in the ESO space is the lump sums that are paid out to soldiers, sailors and airmen these days, and we've got one example in my local area, for example, where there's a payment of several hundred thousand dollars to this young fellow who's still alive, and he and the now estranged partner went on a round the world trip and blew all that, and there's a dependent or two around the family as well. The husband has fled the coop and there's no money. So it's then up to the ESOs, people like, you know, Legacy for example to support the family, and they've blown that 300,000, and it's one of the points I wanted to

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make is that I think with - lump sum payments need to be looked at, because there's two parties or three parties to this; there's the veteran, who has been injured, and hence the payment is due. But then there's the families who are dependent on him, and there needs to be some provision to care for the family in the longer term, not just the veteran, because the family is equally, sometimes more so, affected by the injuries to the veteran.

COMMISSIONER FITZGERALD: Well, I mean, it's a challenge, and those that have heard us before it's right at the moment our proposal is that VEA stays which is a periodic or pension payment and MRCA and DRCA you would have the option of either a periodic payment or a lump sum. The issue here is, and it's a very serious issue, is in all other parts of compensation both in terms of common law damages and workers' comp, people are offered the lump sum, and the question is whether you take that away, that right, or not, and it's a very a difficult one.

There's a portion of all people that receive lump sums, not just veterans, don't use that wisely. Now, that's true. That's right across Australia. The bigger question is whether or not government should say, "Well, we're just not going to give it to you", and that's a big question. So we're looking at that. We understand the downsides but it's a very important issue, and I've confronted it in many different other, you know, areas of compensation, so it's a different one.

Can I just go back one step, but to your comment about hubs. You will be aware that a number of ESOs are promoting veterans hubs.

MR GEORGE: Yes.

COMMISSIONER FITZGERALD: The model that is largely being put by the veteran community is an ESO or a consortium of ESOs would own the hub. It would have a range of functions. Advocates might be part of that hub and then we're looking at whether or not DVA would fund other services in that hub. So all the models we've seen so far from across Australia have the ESOs running, owning, operating the hub, but with DVA providing some funded services. Do you have a different view about it?

MR GEORGE: The problem I see with that model is that the quality of output from that hub will be dependent upon the quality of the people in the ESOs, and that fluctuates, and it will fluctuate year from year as appointments change and people's enthusiasm wains and flows, whatever.

COMMISSIONER FITZGERALD: Sure.

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MR GEORGE: I think it's got to be - to maintain a consistently high quality it needs to be managed by DVA, and I think it's a DVA responsibility. It shouldn't be up to volunteers. Volunteers are great, and I'm one myself, but, you know, we're not the experts, and the experts are in DVA or people hired by DVA.

COMMISSIONER FITZGERALD: Got anything?

COMMISSIONER SPENCER: No, that's good.

COMMISSIONER FITZGERALD: Any final comment?

MR GEORGE: No, other than to go back to this definition of veteran, and I know what the government has done, but we've got to clout the government, and says, "Listen, this is not good enough, go back to your thinking board".

COMMISSIONER FITZGERALD: Well, we are required to use the government's definition.

MR GEORGE: I understand that.

COMMISSIONER FITZGERALD: But where the rubber hits the road is actually not so much about the title but about what we've been talking about; what payment goes to what group and what recognition goes to what group. Yes, but we're not changing the titles generally.

MR GEORGE: No, just that as we know the government goes off on a tangent as it did yesterday with the (indistinct) and had to change pace pretty quickly.

COMMISSIONER FITZGERALD: Anyway I'm sure the veterans community will continue to say that.

MR GEORGE: So much for our politicians. Thank you very much.

COMMISSIONER FITZGERALD: All right. We will now take a break and we have to be back here at 1.40 precisely, 1.40. Thank you.

LUNCHEON ADJOURNMENT **[12.48 pm]**

RESUMED **[1.38 pm]**

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COMMISSIONER FITZGERALD: Okay. We might get under way. Thank you very much. So Meg and Jennifer, if you could give your full names and the organisations you represent.

MS GREEN: Margaret Ann Green, national president, War Widows' Guild of Australia.

MS COLLINS: Jennifer Collins, deputy chair, New South Wales War Widows' Guild.

COMMISSIONER FITZGERALD: Good. Well, you know the routine, so if you can give us 10 minutes of presentation in relation to the key aspects of your submission that'd be great.

MS GREEN: Thank you. We'd like to thank you for the opportunity to present the War Widows' Guild of Australia's view on the Productivity Commission's draft report, a better way to support veterans.

Just by way of explanation a little history of the Ward Widows' Guild. It had its beginnings in Melbourne at the Melbourne Town Hall in November of 1945, some 73 years ago. Three hundred women attended the meeting, and the meeting was called by Jessie Vasey, who was the widow of Major General George Vasey. He had been killed returning to New Guinea in May of 1945. Mrs Vasey had been assisting widows and families of servicemen and so was very aware of the issues that women faced during that time.

The Guild united women who were affected by defence service into a major lobbying body. Jessie was a strongly opinionated well-connected, well-educated woman and would've been considered ahead of her time in those days. She was the catalyst for the establishment of the War Widows' Guild across all States and Territories in Australia. Jessie and her team of two drove around Australia and within two years a guild had been set up in every State.

Jessie was passionate about supporting women and their families who were forced to live below the poverty line in most cases with limited access to funds and a limited knowledge of how to access the systems. Many women after World War II suffered poor health and lived in poor living conditions and died of tuberculosis due to those conditions.

By 1966 at the time of Jessie's death the Guild had grown into an influential national lobby group and at the height of its tenure had more

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than 68,000 members. Of course since 1945 the landscape for women in society has changed. Most women work and there is compulsory superannuation, but women remained the primary care givers within society and continued to be disadvantaged.

As at 31 June 2018 the Department of Veterans' Affairs recorded 59,001 war widows under the VEA scheme and 121 widows or widowers under the MRCA scheme; 42,400 of those VEA widows receive income support. There are still 155 orphan pensioners under VEA and 125 children under MRCA, and the greatest number of widows under VEA are aged 85 or more, and there are still 55 widows from World War I.

When I joined the Guild 10 years ago there were 108,000 widows or widowers, so we've had a total loss of 49,000 in 10 years. The Guild today continues to support the ideals that led to the establishment of the organisation. It continues to support all women affected by Defence service and the Guild is of the opinion that women are best placed to mentor and provide peer to peer support for other women in similar situations.

We do, however, recognise that the needs of the contemporary widows differ from that of Second World War widows and even Vietnam widows. The War Widows' Guild continues to support the younger contemporary widow. The organisation in New South Wales has appointed a contemporary widow to their board and has also instituted a contemporary widows' forum to address the differing needs and requirements.

The Guild recognises that these widows who fall under the MRCA legislation have different expectations to those widows from an earlier generation. The Guild, particularly in New South Wales, have embraced women affected by Defence service, the mothers of those young men who have been killed or who have transitioned out of Defence for many reasons and those mothers are now the primary care givers for their adult children.

My personal connection to the Guild and the Defence community is that I am the daughter of a Second World War RAAF veteran and a RAAF veteran mother. My husband was a Vietnam veteran who served in 1 field squadron, the Royal Australia Engineers. I have two sons, both of whom have served in the Australian Army. My husband died in 2008 aged 60 years as a result of his service, technically 25 years earlier than he should have if you go by the average male age. I'm also a registered nurse and a registered midwife and I hold a Masters of Nursing. I had worked for 40 plus years in the New South Wales public health system and I resigned in 2007 to be the full-time carer for my husband. I actually completed my

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training at the Repatriation General Hospital at Concord in 1973 during a period when servicemen were returning from Vietnam.

After my husband's death I returned to work in the aged care sector, a total of some 50 years of service to the care of others. I believe that my personal and professional involvement in this space enables me to understand on a number of levels the challenges which face these groups. But we would, however, like to say thank you for allowing us to be here today, and our submission does agree with some of your suggestions, but it also disagrees, and I've been tasked to speak to those today.

One of your comments on page 35 was that there is a lack of coordination among ESOs and it may be diluting their effectiveness. The Guild would agree with this statement. ESOs do play an important role in the veteran space, however, the reported 3,500 ESOs who have veterans in the list of people they assist and support is not feasible. One would question how effective this number might be, even amongst the more established ESOs who have existed for many years and are not just online or Facebook ESOs. There is limited but improving collaboration within the more established ESOs.

The War Widows' Guild is a federated model and each State is a member of the national Guild, but each State is autonomous. Over the last two years I have been working to bring together each of the States into a national cohesive group. This has not been without its challenges.

The Minister has challenged all ESOs to speak with one voice. One voice in this community will never be entirely reasonable as some organisations, i.e., RSL and combative organisations do not provide any or very little advocacy for widows and perhaps limited advocacy for families.

With regards to the occupational health and safety every other organisation in this country is expected to monitor occupational health and safety of their members and report incidents and accidents no matter the degree of illness or injury. There is an expectation in other sectors that a staff member would report an injury immediately and would be seen by their GP for treatment and/or referral and the appropriate paperwork completed. Without that level of reporting there is limited compensation. The culture of not supporting the appropriate and timely recording of the incidents and accidents within the Defence should be discouraged.

With transition, draft recommendation 7.2, the Guild believes that a joint transition command should be established within Defence. The Guild also believes that the ADF should be talking to its members about transition from day 1 of enlistment. Members should be encouraged to think beyond

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their Defence careers. Both physical and mental health injuries can and do occur at any time during a member's career, and they need to be better informed and aware of the importance of the possible long-term effects of a poor or inadequate transition. Transition needs to be equitable and fair across the entire Defence system, Army, Navy and Air Force, with no distinction of rank in the transition processes. The younger age-group need to be targeted with greater support in an attempt to prevent self-harm.

The Guild agrees that families need to be included in the transition process. Defence should actively support family attendance at transition seminars and any other information sessions available. Currently the transition process in our opinion is not family orientated and the language associated with transition does not include family and this needs to change.

Where there is no spouse or partner and the person documented as next of kin, mother, father, brother, sister, aunt, grandparents should be involved. The Guild believes that the Joint Transition Command should continue to remain in contact with the transitioned member for at least 12 months, and for complex cases this timeline should be extended according to individual needs.

Before a member can be removed from the joint transition command responsibility a senior Defence member should review and clearly document the reasons why. Recognition of prior learning and equivalent civilian qualifications all need to be made available prior to transition and members should not transition without such documentation.

On draft recommendation 7.3, education, we do believe that veterans should be encouraged to undertake further education and that payment of an education allowance should be supported by both Defence and DVA. The Guild also believes that DVA and Defence should make contributions to the education and training of spouses should the member not be able to participate.

We thought the Austudy allowances would provide a starting point for a basic education allowance for both a spouse and partner, or member and the spouse. The Guild believes that it is important that the Department of Veterans' Affairs is adequately funded to support Veterans and families in the most beneficial way possible.

The veteran policy group; we did not agree that a veteran policy group should be created within Defence. We did not feel that Defence had the best interests of transitioned members on its radar, but their responsibility

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is to train members to prepare for combat. The Guild does not believe that some, not all, commanding officers have the best interests of the serving members as their core value and therefore transitioned members even less so. There are many examples of this, but on a personal example my son was transferred to Darwin two weeks before his father's death despite the fact that his commanding officer was well aware that his father's death was imminent. The telephone call at 2.15 am to let him know that his father had died was the most difficult phone call I have ever had to make.

The Veterans' Services Commission, recommendation 11.2 and 11.3, the Guild believes that the Department of Veterans' Affairs should remain an independent body and not sit entirely within the Defence portfolio. It does not agree that a veterans' advisory council should be established. As we said in our submissions there is a prime ministerial advisory committee already in existence primarily for mental health, but perhaps there should be an expansion of membership and a rewriting of the terms of reference.

We also did not agree with the suggestion of the removal of automatic eligibility for dependents. The death of any partner is a significant event, and removal of benefits is returning the surviving partner to a potential life of disadvantage similar to what occurred after the Second World War.

We were disappointed, however, that our suggestion of aged care payments by widows was not included in the report, and to explain that, the war widows who live in residential aged care, and as at 31 December there are 11,299 war widows in permanent residential aged care, and they all pay approximately 13,000 more per year in fees, which equates to about 148 million per year, because their war widows' compensation payment is counted as income where for some veterans it is not. But in comparison there are only 4894 veterans in residential aged care. We request your consideration for this matter to be included in your final report.

On behalf of all members of the War Widows' Guild I would like to thank you for the opportunity to present our thoughts on your draft report. We look forward to your final report in June or July, and do hope that it will be favourable to the maintenance of the Department of Veterans' Affairs.

But I would like to make one comment on Paula, I think, who made the comment about standalone healthcare for veterans. As I said, I trained at Concord and it was a standalone hospital for veterans. However, veterans needed to be treated many hours and many miles from home often separated from family and friends, and that sort of environment is not conducive to good mental health and physical recovery. Thirty-two per cent of Australians live outside of major capital cities, so treating veterans

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in their own areas I think is absolutely essential, much better for mental and physical wellbeing.

COMMISSIONER FITZGERALD: Good. Thanks very much, Meg. Jennifer?

MS COLLINS: Look, I don't need to add anything. I think Meg has done that quite well, but I'm happy to take any questions.

COMMISSIONER FITZGERALD: Good. Terrific. Can I come back to a couple of matters which you've raised? The first one just in relation to the ESOs, your submission, and we won't go through it in detail, but you've got quite a number of, or three key recommendations in relation to ESOs. Can you just give me - one of those is around the ACNC applying a particular test. One of those is around the DVA.

MS GREEN: Can I just interrupt, I think that's Queensland you're talking about.

COMMISSIONER FITZGERALD: That's Queensland's one.

MS GREEN: She's talking tomorrow at 9 o'clock.

COMMISSIONER FITZGERALD: She's got that one, okay. So you're not recommending those?

MS GREEN: Well, I'm not saying I disagree with that, no. We do think there needs to be more monitoring of those ex-service organisations, and more accountability, and what are their outcomes.

COMMISSIONER FITZGERALD: Okay. No, that's fine. Well, I'll leave that for her tomorrow then. That's all right.

MS GREEN: Natasha.

COMMISSIONER FITZGERALD: Because I was just looking at the top. It had War Widows' Guild of Australia Inc and I thought, "Oh, this is the submission", but it's the other one.

MS GREEN: It's the other one.

COMMISSIONER FITZGERALD: Can I just come back to this, the ESO area that we were referring to, as you say, is a complex and fraught area, it's got lots of players in it, what do you think is the single most important thing the government needs to do in relation to the ESOs?

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Where would you start? I mean, just to repeat you've heard us, because you've been to a number of our hearings, that we don't believe governments have a right to control civil society but they do in fact have a right to influence who they listen to and who they fund, and that's the case.

MS GREEN: I think that, well, from my perspective the national bodies we can apply every year for a grant, a maximum of 10,000.

COMMISSIONER FITZGERALD: This is the BEST program or something else?

MS GREEN: No, this is the grant in aid.

COMMISSIONER FITZGERALD: Okay. All right.

MS GREEN: So the BEST program is really more relevant for those who are providing welfare services.

COMMISSIONER FITZGERALD: Yes. Yes.

MS GREEN: And nationally we don't do that. That $10,000 has to be acquitted, as you would expect, but it has been $10,000 for many, many years. And $10,000 in this day and age does not go very far if you're trying to do things with a national organisation.

COMMISSIONER FITZGERALD: Sure.

MS GREEN: So we think it should be funded more appropriately, but you also should have to be accountable for and be able to document clearly what you are achieving.

COMMISSIONER FITZGERALD: Sure.

MS COLLINS: Can I just add to that, I think nationally governments need to listen to a national body, not individual States, so that I think collectively ESOs need to re-organise themselves so that there is a national body who is lobbying or advocating on their behalf.

COMMISSIONER FITZGERALD: So you've heard this morning from at least one organisation and we've heard from others that the development of a peak body of national ESOs has some merit, and governments tend to fund those to some degree or other human service and community services. What's your view about that, the development of a national peak

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body? And the second part of that is what do you think the role of ESORT should be if a peak body were to be established?

MS GREEN: The War Widows' Guild does belong to ADSO which is - - -

COMMISSIONER FITZGERALD: Yes.

MS GREEN: And they're talking about being the peak body and incorporating, but from a widow's perspective and a family's perspective they don't really concentrate on female issues so to speak, so I think it's still important that we would have a voice of our own but we would support their ideals as I would expect them to support our issues as well.

ESORT is - to be frank, has been a 'talk at you fest' I think for many years. I think it is now beginning to change and become much more strategic in their thinking, and there are a number of other meetings that DVA hold an operational working part in and, you know, a female veterans and families forum which - but you never, and I don't like to criticise DVA because I think they do quite a good job, but you never seem to get too much outcome from some of those.

MS COLLINS: And it's also fair to say that the ESORT advises the department.

MS GREEN: Yes.

MS COLLINS: Not the government.

MS GREEN: Not the Minister.

COMMISSIONER FITZGERALD: Well, we - yes.

MS COLLINS: Yes. So there is a distinct difference in its objectives.

MS GREEN: Yes.

COMMISSIONER FITZGERALD: Yes.

MS COLLINS: So a national body or advisory committee such as what PMAC was in its original concept where it advised the Minister of the day on matters to do with veterans, even though there was war widows and females on that, it was still dominated by veterans and male dominated health conditions.

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COMMISSIONER FITZGERALD: So how do you think your voice - and we're obviously hearing from the partners of veterans as well and other groups, how do you think the voice of predominantly women but spouses and partners or generally can be heard at the table? Clearly you're going through those processes, ESORT or a peak body, is there an alternative way or an additional way that those voices need to be heard, or do you think it's simply a matter of making those particular, you know, forums more attentive to your needs?

MS GREEN: Well we have, following a lot of discussion, decided that there should be a council that honours women and families affected by defence and Minister Chester actually after the success of the Honouring Women dinner and Last Post service last year was very supportive of that.

COMMISSIONER FITZGERALD: And without going into the detail, how would that actually operate? Is that an advisory council, or?

MS GREEN: It's an advisory council, yes.

COMMISSIONER FITZGERALD: To?

MS GREEN: To government. Direct to government.

COMMISSIONER FITZGERALD: And when you say government, do you mean the department or to the minister?

MS GREEN: No, to the minister.

COMMISSIONER FITZGERALD: Yes, okay, thanks for that.

MS GREEN: Or the prime minister, if we find him.

COMMISSIONER FITZGERALD: We'll wait and see who that is.

MS GREEN: Exactly.

COMMISSIONER FITZGERALD: In the coming months. The second thing is you've given us some material previously and you're right, we didn't deal with the aged care issue. And I presume when you're talking about that, because I have read the Queensland submissions a moment ago, it's in relation to having the war widows' pension removed as an assessable income. Is that basically it?

MS GREEN: Yes.

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COMMISSIONER FITZGERALD: So I've got the right issue. And I notice the Queensland submission sets out a couple of examples, so I'm sure yours does too. This is obviously a very important issue to you. Have you prosecuted this with the government to date, and if so what's been the general response in relation to this matter?

MS GREEN: We've certainly brought it up with the department and on meetings I've had with the minister I've also brought it up with the minister and also with the opposition spokesperson, Amanda Rishworth. I think it is primarily under the aged care legislation and social services legislation, so it's - you have to move through all of those sorts of legislations. I'm not a lawyer, so I do attempt to read the legislation but I don't know how well I go at that. But I think it is very complex, but if there can be exceptions then I think that should be.

COMMISSIONER FITZGERALD: Sure. But can I just ask this, and again you may not be able to answer that. You say that a war widow is more adversely affected than a women or a person of the same age in the general community? Or are you saying that there's a - it's a relative disadvantage. I am just trying to understand your concern in relation to that area, specifically in relation to aged care.

MS GREEN: For a lot of our widows they did care for their husbands who had returned and even after Vietnam a lot of women cared for their husbands. So they've been disadvantaged in that they have not worked, they have not got superannuation. They, you know, have cared for that veteran for many, many years, yet when they are paid a small compensation payment, and it is small in comparison to some payments, they are disadvantaged because that is then counted as income for the purposes of aged care. If that could be excluded from their income, and currently it's $931.50 a fortnight, it would be of some benefit to them.

COMMISSIONER FITZGERALD: Undoubtedly that's absolutely right. The question I was just really trying to see is whether or not they're disadvantaged vis-à-vis a person in the general community. But you're not saying that, you're really saying they're disadvantaged within their own category.

MS GREEN: Yes, within their own category, yes.

COMMISSIONER FITZGERALD: Yes, that's fine.

MS GREEN: I mean many of them have put up with - and they won't tell you unless you have a one on one conversation, but there's been domestic violence, alcohol abuse, all of those sorts of things which they have never

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ever discussed with anybody. So, you know, all that leads to disadvantage.

COMMISSIONER FITZGERALD: Could I just go to the issue of the Gold Card so I can understand your position clearly. So, could I just understand, you're seeking it to be extended to new groups, or additional groups?

MS GREEN: The War Widows' Guild would like to see that Gold Card extended to all widows of veterans who are on DVA's books obviously, from the age of 80, and not necessarily a compensation payment to go with it but a Gold Card for their healthcare. So that they can access proper adequate treatment when it's needed. Not sitting on a hospital - a public hospital waiting list for 18 months to get their knees done, or get their cataracts done because they can't afford to pay privately for that sort of treatment.

COMMISSIONER FITZGERALD: So could I just clarify. When you say they have to be on the DVA books, are you saying that where they were the partner of or are the partner of, but as war widows were the partner of a person that had been in qualified service and had been injured as a consequence of that, then the widow would receive the Gold Card at the age of 80. That's your proposition.

MS GREEN: Under VEA, yes.

COMMISSIONER FITZGERALD: Under VEA. Can I just ask this. I understand that they've had a lifetime of service through their experience with their particular spouse or partner. Can you articulate a little bit further for me why you think that should come in at the age of 80. I mean there's been - as you know we've raised issues around the card being given to veterans at the age of 70. So we've raised questions, we haven't come to a view or a position about that. So just to extend the Gold Card anywhere, to any group, we just need to understand more fully the rationale for that.

MS GREEN: I know that veterans with qualifying service get the Gold Card at 70, and that was a 2002 election promise. We are of the opinion that if a woman has been looking after the veteran, but if they, you know, should fall off the twig, then at 80 she would be in need of probably healthcare, well more intense healthcare, so therefore the provision of a Gold Card to allow her to access those services would be beneficial and would in some way compensate for the years that she has spent caring for that veteran. And he may not have been entitled to a TPI or a special rate, but it would just compensate that person for that length of commitment.

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MS COLLINS: And I would think financially government might be more agreeable to 80 plus, because the numbers in that group are far less than the numbers in the 70 plus. So it's really a financial.

COMMISSIONER FITZGERALD: I was going to ask you about the 80. Yes, okay. All right.

COMMISSIONER SPENCER: I just went to the section in your submission to deal with the notion of a Defence family. You have set out some very compelling views there about why the interconnectedness, as it's described here, really matters. My question really goes to this question of Defence's responsibility. We have explored in many ways this morning what should be defence's responsibility and its duty of care to the veteran and that ultimately can translate into issues that partners have to deal with for the rest of the veteran's life. But I come back to the issue of when the member is in service and the impact on the family and the spouse, what I think we're consistently hearing is there is some recognition of that, there are some bright spots in the system to assist with that, but overall the system doesn't seem to really be adequate at all in terms of the impact issue you've described here. So that in some ways probably goes to the culture of Defence.

So in terms of how to shift that culture, as you were saying earlier one way is through an advisory council to the minister about those issues foremost. But why do you think the culture hasn't shifted over a long period of time, because these are not new issues. This goes on for decades. So I'm just curious as to your thoughts about why hasn't military culture better embraced the needs, both during service and after service, of the spouse and the family?

MS GREEN: I think it's a very male dominated society, Defence. I mean I know there's 18 per cent of women now in the ADF, but I think it's - for Defence, their aim is to train their people for combat. They're not really concerned about whether, you know, the wife or the spouse or the partner or whatever is at home struggling. That is not their core business. Their core business is to train people for combat but the consequences of not having family in mind is that they crumble and, you know, there's numerous people in Defence who are separated because the wife doesn't want to go to the next posting because she's got a job and, you know, the children are happy in school and there might be family support available. Where you move them to Tindal, whatever, Air Force Base in the middle of nowhere, what support is there? And if she's struggling with perhaps mental health issues herself, you know, the distances that people are

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separated, I think that is all part of - Defence has to be more aware that the impact on families is huge.

COMMISSIONER SPENCER: So would you have thoughts different from what we've heard this morning? I mean we constantly hear that issue, that it's the duty to prepare for combat and that overrides everything else, but you've made the connection between actually a part of that is the current, right now wellbeing and the mental state of that individual, and if things are falling apart on the home front that directly rates capability, I'd suggest. So all our efforts to kind of give Defence more responsibility always get pushed back on this issue, which strikes us as really a missing part of what sets up for both the individual to be capable and successful during their military career and post their career. If things go wrong fundamentally during service for the individual, which needn't have gone wrong, there are going to be like time consequences. And what you're describing to us is that really impacts on the family; the ripple effect of that with families and children, dependents, is very profound. And would you see that Defence being given more responsibility for the wellbeing, beyond just capability but wellbeing, lifetime wellbeing of its members being a significant part of really trying to shift culture over time? None of these things happen overnight. How do you shift the culture over a period of time?

MS COLLINS: Part of the problem is I think they go from the person that he is goes from one family to another family and that new family doesn't necessarily integrate the previous family. But as soon as they're ready for transition back to the old family, and they're supposed to pick up the pieces. So I think the culture of Defence, as Maggie suggested, is around combat training, very professional organisation. If you start to involve the families what's the complexity of now trying to manage that individual and their service versus their families. It's quite a complex issue.

COMMISSIONER SPENCER: Very challenging but I think the key question is should Defence be at the table to try and get that balance right.

MS COLLINS: Yes, I think so, and I mean we've had conversations with some very senior military people and they all agree that families need to be, you know, a bigger part but it's as you go down through the ranks, I mean the corporal who's, you know, in charge of the private, what does he care about your family? He probably doesn't because he's got his own issues. So I think it needs - the culture from the top is very positive that families should be involved but it doesn't filter down the line as well as it should. And, yes, I think Defence should take responsibility. You know, they do cause a fair degree of dismay at times.

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COMMISSIONER SPENCER: So with the Joint Transition Command, it was just to clarify because you said your support involved that and our model is that Defence has responsibility through for a period of six, and I think you're suggesting that could be a longer period of 12 months. So you would agree that that's part of the piece of - or part of the puzzle.

MS COLLINS: Yeah.

COMMISSIONER SPENCER: For you to try and get some of that responsibility? Right. Just another area you mentioned, the family law issue, and you've described there what happens afterwards. That's a very challenging one I guess, isn't it?

MS GREEN: It is.

COMMISSIONER SPENCER: But you've got a clear recommendation there about the Chief Justice of the Family Court. I am not sure whether that can extend to our inquiry. But you commented, you see quite a bit of this in different ways and different issues, do you, of - - -

MS GREEN: Particularly the contemporary. With those, of course, these days it's not a traditional what we know as families. Many of them are blended. Many of them are multiple, you know with one or two. Particularly you would want that, after their partner died you would want them to go on and remarry and that's where it becomes an issue around those assets. Pay for compensation for the death of the spouse should not be included in any settlements.

COMMISSIONER SPENCER: No, I think we should - we will think more about that one because it's a feature of contemporary life as you've rightly pointed out.

MS COLLINS: And it's quite, you know, disruptive to the entire family.

COMMISSIONER FITZGERALD: Can I just go one question in relation to services. So I understand your submissions and we've had discussions before in relation to Gold Cards and other things. But I'm still perplexed, if I can be honest, as to what are the services that are missing all with aid widows. So I get a sense that if the benefits and the pension entitlements are sorted, that's fine. But what we know is, particularly in relation to mental health issues and others, that's a very important issue but the main issue is actually accessing services as and when you need it. As Richard said, you know, right services, right time, right people, all that stuff, which I must say in this inquiry gets less attention. I'm not quite

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sure why that is but it certainly does. But I am just wondering with regard to widows and I know they're ageing and there's probably less likely to be an increase in future generations of widows, basically do widows receive the services that they require, or are there gaps in the service system that you've been able to identify? Whether it's health, or mental health, or something else.

MS COLLINS: Well, widows can access Open Arms. The older widows perhaps are not necessarily aware of that. But Veterans' Home Care Services are poorly monitored. They are outsourced from the department and I know for instance my mother, who is also a war widow, used to move the chairs in the lounge room so the cleaners could clean but they refused to move them back. And they didn't dust and they didn't clean kitchen benches, but nobody was monitoring that. So Veterans' Home Care is, you know, fine if you want your mirrors dusted but, you know, nothing else would be get dusted and the cleaning standards are poor and I think that needs to be better - better provision of those sorts of services. Widows under VEA, unless there is an extreme circumstance where they're going to trip or fall over a tree branch, can't get any gardening done and, you know, or change a light globe, and you don't want to climb, if you're 90, a ladder because you're likely to fall off and do some serious damage and it will cost more money, you know, in health care.

MS GREEN: There are a number of medical conditions that are female specific. They are not covered under the Gold Card.

COMMISSIONER FITZGERALD: That are not covered under the Gold Card?

MS GREEN: Yes.

COMMISSIONER FITZGERALD: Is that so?

MS GREEN: Yes.

COMMISSIONER FITZGERALD: And is that an issue or just classification of what is covered by the Gold Card, or is there an argument as to whether or not it's a rightful condition?

MS GREEN: Well I don't think the model of healthcare provision under the Gold Card has kept up the pace with some of the newer type technology. Where in the past, I mean it wasn't that long ago where IVF was only accepted. So if we move on from there, there are a number of female specific medical procedures that are not covered.

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COMMISSIONER FITZGERALD: And you've made representation to the government over time on those matters?

5 **MS GREEN:** Yes.

COMMISSIONER FITZGERALD: And without going into the detail of those - - -

10 **MS GREEN:** We can.

COMMISSIONER SPENCER: We know.

COMMISSIONER FITZGERALD: What's been the reaction of the
15 government to those things?

MS COLLINS: Well I have to say, when you bring them up all the men in the room cross their legs. They don't want to know about female issues. You know, it's just - but if you don't bring them up in that sort of
20 environment, you know, what's the point? Because you've got to talk to people who - and shock them a bit really about what isn't covered and what is.

COMMISSIONER FITZGERALD: Sure.

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MS COLLINS: You know, but there's lots of other things, like there's some new cardiac scans that they do that aren't covered.

COMMISSIONER FITZGERALD: I won't take much time, but what's
30 the process by which you can influence that? Just taking the last one for example, or those issues that are specific to women, if you've got those concerns how do you raise them? Do you raise them through ESORT? Do you raise them through conversations with DVA?

35 **MS GREEN:** Through ESORT.

COMMISSIONER FITZGERALD: Do you write them in a submission? Is there a formal process I suppose I'm asking whereby the updating of whatever Gold Card covers - - -

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MS COLLINS: Yes.

COMMISSIONER FITZGERALD: - - -you can access or is this all very ad hoc and random?

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MS GREEN: To be honest, it's probably ad hoc and random. It's when someone brings an issue to us we can then bring it up with Department of Veterans' Affairs. You can put a submission in to ESORT, but it then has to go back through, and a lot of the things that are covered by the repatriation health benefits are also linked to the Medicare benefit.

COMMISSIONER FITZGERALD: Yes.

MS GREEN: Yes, you can, you know, like for exercise physiology and stuff like that - - -

COMMISSIONER FITZGERALD: Yes, sure.

MS GREEN: - - -you can have unlimited it seems access to that.

COMMISSIONER FITZGERALD: Right.

MS GREEN: But there are specific things that are female related.

COMMISSIONER FITZGERALD: Okay. That's fine.

MS COLLINS: So there is no formal process.

MS GREEN: No.

COMMISSIONER FITZGERALD: Okay.

MS COLLINS: Of once a year or every six months prior to budget putting forward a submission on items that could be considered to be covered under the Gold Card.

COMMISSIONER FITZGERALD: Well, you've answered the question.

MS COLLINS: Yes.

COMMISSIONER FITZGERALD: Because that's something we want to look at, not a great deal, but a little bit.

MS COLLINS: Can I - - -

COMMISSIONER FITZGERALD: Whether it's a VSC or it's a DVA there should be a process by which you can review whole ranges of things and this is one of those.

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MS COLLINS: And the other group that also has specific needs that are not well addressed are paediatrics, children dependent of widows.

COMMISSIONER FITZGERALD: Right.

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MS COLLINS: There are a number of, again, medical type procedures or medication, a whole range of things that are not covered.

COMMISSIONER FITZGERALD: Right, okay.

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MS COLLINS: So, again, that's an area that tends to get forgotten because it's the veteran, the war widow, and then of course there's those dependencies that relies on the widow doing the advocating on their behalf.

15

COMMISSIONER FITZGERALD: Sure.

MS COLLINS: Yes.

20 **MS GREEN:** I mean, for many years there were young contemporary veterans or widows. I mean - yes, so, and - - -

MS COLLINS: It's only since 2004.

25 **MS GREEN:** Yes, and now there's little children involved and DVA weren't well-equipped to look after paediatric patients.

COMMISSIONER FITZGERALD: All right. Okay. Good. You have any final comments?

30

COMMISSIONER SPENCER: No. No, that's good. Thank you.

COMMISSIONER FITZGERALD: Thank you very much for that.

35 **MS GREEN:** Thank you.

COMMISSIONER FITZGERALD: Very much appreciate the submission.

40 **MS GREEN:** Thank you.

COMMISSIONER FITZGERALD: I'll see your colleagues in Queensland. So could we now have Narelle and Lesley I think it is. So you know the drill?

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MS BROMHEAD: Yes, we know the drill.

COMMISSIONER FITZGERALD: So could both of you give your full names and the organisation that you represent, please?

5

MS BROMHEAD: Narelle Bromhead.

COMMISSIONER FITZGERALD: Good.

10 **MS BROMHEAD:** Partners of Veterans Association of Australia.

COMMISSIONER FITZGERALD: Thank you.

MS MINNER: Lesley Minner, Partners of Veterans Association of
15 Australia.

COMMISSIONER FITZGERALD: Okay. And you'll just need to speak us as loud as you can because there's no amplification.

20 **MS MINNER:** No.

COMMISSIONER FITZGERALD: So that's fine.

MS BROMHEAD: So this isn't working?

25

COMMISSIONER FITZGERALD: Yes, it's working perfectly, but that woman over there is the only one that can hear you.

MS BROMHEAD: Okay. Probably no wonder we couldn't hear.

30

COMMISSIONER FITZGERALD: So you have to just speak up as loudly as you can.

MS BROMHEAD: Okay. All right.

35

COMMISSIONER FITZGERALD: And, again, for anyone who is a bit hard of hearing please come to the front. As I said the other day it's not a Catholic gathering so you are allowed to sit in the front seat. Okay. Thanks. If you could give us just 10 minutes in terms of the key points
40 and the things you'd like us to consider.

MS BROMHEAD: Okay. I'll start with our association. We formed in August 1999. We'll be 20 years old this August, and we formed because of the VVCS at that time was doing courses for partners and so many
45 partners who were quite lost with what was happening to their veteran

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went along to these courses and when we finished the courses, which were either six or eight weeks, we decided that we just didn't want to be apart. The support was so great from the other women and also we sort of - we thought that we were the only one in the world that these things were happening to and we found out that we weren't; that it was right through the veteran community, and of course, these girls were partners of Vietnam veterans, which was not a good time for the government. The men weren't - they were rejected by the public when they came back, and it was just - was a whole era that was very, very bad.

So that was how we formed. We formed first in New South Wales, and then we had girls from other states who would write to us and say that they would like to join New South Wales. So eventually we incorporated in New South Wales, Queensland, Western Australia, Victoria, South Australia and Tasmania. So we have those six State branches which are all incorporated and we have a national body, which is two people from every State that forms our national body.

We look after and represent partners, spouses, ex-partners, widows and war widows, widowers and the children, the family. We are a member of the ESORT and also a member association of ADSO. We are a lobby group. We lobby the government, the Minister, and we also represent our association on many extra forums.

We would dearly love to see DVA take over the partners under their legislation or under their wing more than what they're doing. We would love to see recognition for what we do as far as the looking after the veteran, and through the entire Productivity Commission the word "families" is mentioned so many times and yet in your first one it says:

> *The overarching objective of the veteran support system should be to improve the wellbeing of veterans and their families*

Well, you know, we would love to see the word "family" defined and widened to include partners and spouses. We're disappointed that it seems that the partner has no identity or connection to the word "family". A clearer definition of the role played in the health and wellbeing of the entire family seems more than warranted.

The partner seems only to be considered when the veteran has passed away. The widow and any dependent children are recognised and catered for by the Department of Veterans' Affairs, however the partner seems to be virtually invisible whilst the veteran is alive.

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There have been countless studies which, in our original submission, we actually put quite a lot of information on the published research of the effect on the partners of the long-term looking after a veteran, and how it also affects our mental and physical health. Much damage is done to the partner due to the very act of living and caring for a veteran affected mentally or physically by his service. In the case of untreated and largely unrecognised mental illness such as for many Vietnam era veterans the full extent of that mental illness has visited on the partner for many decades. The partner's life in all ways, mentally, socially, physically and financially has been impacted severely and yet if no attempt is made to offer tangible support it will continue to grow into the future.

It's well documented that depression, anxiety and stress lived under for lengthy periods of time will have a huge effect on the long-term health of any person. For the Commission to suggest that Open Arms is the answer is to minimise the damage done and to merely pay lip service to the treatment of the partner. Open Arms has a place in the rehabilitation and wellbeing of both the veteran, the partner and the family, but is never going to be the only answer. The cost to the partner, who in fact has held not only the family together but the veteran as well, is being totally ignored by the government.

We know as an association that has researched, supported and presented partners and families to government departments for 20 years the toll taken on the health of the partner is enormous. We know from our own lived experiences were it not for the care and sacrifice made by the veteran that the cost to government over decades would far outweigh the cost of a non-liability health card, White, or whatever colour, to cover the cost of treatment for a partner for mental health and stress related issues.

That's me done. Could I ask Lesley to go on about the children and VVCS.

MS MINNER: Further on with what Narelle was saying, not only is it not the partners who are not considered and given no credence that all extends really down to their children. When the veteran does pass away, yes, there is care given. VCES, veterans and - no, VVCS, I'm sorry - - -

MS BROMHEAD: Open arms.

MS MINNER: - - -we have begged for many years - Open Arms, sorry - for many years for them to have adequate programs for our children living with a veteran. They are still living with veterans. This is mainly back in the Vietnam Vet era. I mean, I know I had young children.

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COMMISSIONER FITZGERALD: Sure.

MS MINNER: I begged for some sort of assistance with that child, and so do many other partners who were at home as eight, 10, 12 year olds watching a father literally falling apart and in many instances, in my instance, watch my son sleep on the bedroom floor at 12, when he was 12 years old because he was afraid of what his father would do. Those issues were not addressed. We now, thank Heaven, and we've pushed for this very heavily, Kookaburra Kids are taking up the slack. It is actually probably far too late for many of the Vietnam Vets' kids because they already had three times the rate of suicide. We have incarceration issues with children of veterans. It is only the veteran who suffers. Children are innocent. They deserve, and really, as far as I'm concerned, I demand that the kids get what they should get. They did not deserve a veteran with psyche problems. It was not their fault.

And to go further on to that with regards to VCES I find it astounding that there is a suggestion or recommendation that the children, once they turn 16 are wiped from VCES. When the soldiers' children's - I forget the score now. I should know, I've said it enough. When it originally came in children didn't go to school. They finished pretty much well before 15. Children no longer finish their HSC at 15. They finish it at 18, and we have said, why is it not simply kept at the $56.70 with the VCES pay for high school until they are 18 and finish high school at least. That would keep the parents - because there seemed to be some concern that people are actually accessing VCES, education schemes, which didn't happen before because that parent got the money from Centrelink, DSS under family tax benefits. That changed and DVA refused to go along with it. They had missed the boat, didn't notice the problem, and therefore at the time they realised Treasury said, "No, we won't change it". We've got 444 high school children, 444, and we are fighting to say those 16 to 18 year old to finish high school should be wiped and put on youth allowance. They don't go on youth allowance when they come under Centrelink, because youth allowance you do not have to be in full-time education. You can be at home playing computer games. To actually be on VCES you must be in full-time education, so I can't see the problem. Continue the $56.70 payment as you did non-taxable rather than putting them onto the youth allowance equivalent. Look, it's hard to explain it. It's very - - -

COMMISSIONER FITZGERALD: No, that's fine. We understand the issue, and it's one of our recommendations as you know.

MS MINNER: It's just so simple. And just there would be no problem with them getting income tested. They'll be income tested for family tax benefit, so that wipes that concern out.

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COMMISSIONER FITZGERALD: Okay.

MS BROMHEAD: Okay. The next point that we put to you in our original submission as well was veterans' home care and household services. Your draft recommendation 14.5 we actually agree that the same household and attendant services be made available under the VEA, SRCA, DRCA and MRCA.

COMMISSIONER FITZGERALD: Yes.

MS BROMHEAD: For the reasons we stated in our original submission all veterans regardless of which Act they serve under should have their needs assessed by an occupational therapist in their home, so that the occupational therapists can see what is actually occurring. Many of the veterans do have one visit a year from an occupational therapist which is by referral from their GP, and I can't see any reason why that same therapist could just look at the different types of what's available in their home. We want to keep these veterans in their home as long as possible. To combine the two services just seems like a no-brainer to me, and we absolutely agree that to do this would be excellent.

COMMISSIONER FITZGERALD: We're just running out of time, so is there any final point you have before we have a chat?

MS MINNER: No.

MS BROMHEAD: No. Only the transitioning, we support your view - - -

COMMISSIONER FITZGERALD: Yes.

MS BROMHEAD: - - - to create a new command in Defence responsible for transition, and basically what the War Widows Guild said about the family. It should be more family involving.

COMMISSIONER FITZGERALD: Good. Thank you very much. We appreciate your contribution. And we have heard from your other member organisations as we've gone around. Can I just go to a couple of things? The word "family" we will absolutely take on board your recommendation, because it was always intended the family was a broad definition including widows and widowers, partners and dependent children, so we'll be explicit about that, and I think you've counted up that we've mentioned it 400 times. So every time you see it be assured that you're in there. But that only gets us to the starting point. The real issue,

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of course, is what are the needs that partners have that we should be addressing in our report? So we welcome your support of our transitional issues.

5 Can I just deal with a couple of specific ones, but - - -

MS BROMHEAD: Yes.

COMMISSIONER FITZGERALD: When we've spoken to living
10 partners, sorry partners - it's very hard to speak to the dead, but the partners of living veterans. We're not into seances just yet.

MS BROMHEAD: No.

15 **COMMISSIONER FITZGERALD:** Although by the end of this road trip it might happen. The issue that keeps coming up is really about the mental health.

MS BROMHEAD: Yes.

20

COMMISSIONER FITZGERALD: And people talking about depression, anxiety and we're familiar with a number of other of those stresses. So the question is, and you talk about approval of a card - - -

25 **MS BROMHEAD:** Yes.

COMMISSIONER FITZGERALD: - - -which covers mental health and you say stress related disorders, which would be in that. Some people would say and have said to us, well, if you're going to the GP you can get
30 a mental health plan and there's a limited number of services that you can get, psychologists, and there's an unlimited number through psychiatrists. So I want to understand from your perspective, Narelle and Lesley, why the current system of mental health care isn't adequate for your needs, the needs of your members. So I'm sure you think that's a dumb question, but
35 I just - - -

MS MINNER: No.

COMMISSIONER FITZGERALD: If we're going to expand or even
40 look at, for example, you know, the extension of a card of any description, we just need to be sure that we understand why that is such an important issue, and part of that is why the current system isn't meeting your needs.

MS BROMHEAD: Okay. You can - - -

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MS MINNER: Well, I think a lot of us end up biting the bullet and joining our veterans taking antidepressants. It's the only way - I know I've taken them for years. It's the only way I can cope, and many of us can, I'd say, almost - - -

COMMISSIONER FITZGERALD: Sure.

MS MINNER: - - -can cope when you are having an episode at home. An episode at home - I'm just saying episode, I mean, usually we say it as it is, when they've fallen off their perch for a while.

COMMISSIONER FITZGERALD: Sure.

MS MINNER: Not meant to be disrespectful to them.

COMMISSIONER FITZGERALD: Sure.

MS MINNER: But the fact is that if they are doing that you by that stage are so - and I never really knew what it was, afraid and you don't know what you're afraid of. It's just a feeling of almost terror. And I'm not a wilting lily. It's simply the consequences that could erupt out of an event where the veteran is - and I'm not married to an explosive veteran, I'm married to a very - one that gets miserable, but it is also - you're in the middle of that, you're also trying to protect your children and hope they don't notice.

COMMISSIONER FITZGERALD: Sure.

MS MINNER: So you end up walking around being falsely cheerful. In the end you then - eventually it just collapses and you roll into a ball but you can't go anywhere to get help. You've just got to wear it - - -

COMMISSIONER FITZGERALD: So can I just - - -

MS MINNER: - - -until you get yourself up.

COMMISSIONER FITZGERALD: - - -press that point, if I can, Lesley. Why can't you go anywhere else to get that help? So I'm trying to understand it. I’m not trying to criticise it.

MS MINNER: Yes. And it's very hard to explain. I think because - I can only explain it in my experiences that when it is that bad you're almost frozen into inactivity.

COMMISSIONER FITZGERALD: Sure.

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MS MINNER: Also there is the shame at having to go anywhere, to a doctor, to your own local doctor because your veteran is not a bad man. He is a good person, you need to protect him. You can't go and tell people that he's being a right toad outside your family. You can't.

COMMISSIONER FITZGERALD: So how does - and, again, I'm just trying to understand this, how does getting a White Card for mental health conditions change that?

MS MINNER: I guess maybe you could access - the only thing I can think of is at least you'd be able to access a psychiatrist for assistance. We know we can go to Open Arms. I've been to Open Arms. I know all the right words to say. I go to Open Arms, I've been there, I don't go anymore, I used to. I know exactly the right words that I should say because it's just one, two, three, you know, you should say this and then they're happy. We know the steps of it. You need to go somewhere where's it more of an in-depth, a proper evaluation of your mental health and your mental state before you then have a heart attack. Not after you've had it.

COMMISSIONER FITZGERALD: Sure. All right.

MS BROMHEAD: No, I was just going to say that the help that we're being offered is not in-depth enough. You know, it's - to ring up Open Arms and get an appointment which might take up to a week, depending where you are and how - but I think the best thing to do and the women that we've struck in the time have absolutely just almost had a breakdown. They've gone to Open Arms and Open Arms have recognised that they actually need help straight away. They need to get away from that - the person at home. They need to be accommodated away until he either sobers up or doesn't want to hit them and comes down. So it's just emergency care that's - it's really, really lacking. You can ring up and get respite or get your veteran with respite, but you've still got to wait. You're in a position where you need help straight away and mental facilities and that sort of stuff.

COMMISSIONER FITZGERALD: Should you need that sort of help that you've just described, Narelle, is your first point of contact now, in the current system, do you ring up Open Arms and say "It's all going belly up", or do you ring up DVA and say, "Where do I go?" Where does a woman in that circumstance currently go?

MS BROMHEAD: To my welfare officers in the association, I'm afraid. That's where I go to because I find they can talk to me and give me help,

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then they might say, "Ring up Open Arms, go and get an appointment, you know, or just get out of the house, go for a drive, go for a walk and just get away". But I find that partners are my first point of contact.

5 **MS MINNER:** And sometimes they have no money. Sometimes the younger - particularly when you have children and you are younger, you don't have any money to go anywhere. I mean we've picked up one person in her pyjamas. He took her money. She didn't have any money, so she was running down the road just to get out of there, no money in her
10 pocket, in her jarmies, and a child at home.

MS BROMHEAD: I think the point is that - I don't know, we've had just a case lately of a young partner with three young children who the husband said, "You've got to get out". Now she left with the children
15 because he was turning violent. But does Defence, if they're still in, does Defence help them in any way? Does Defence look at the partner and think, "Oh gosh, you know, this young woman with three children is", you know.

20 **COMMISSIONER FITZGERALD:** You might answer the question that you've just posed. Do they?

MS BROMHEAD: Well, if they ring us, we - we accommodate them.

25 **COMMISSIONER FITZGERALD:** So could I ask this question. In a number of other areas that I've been engaged with and I'm sure Richard has, you know access - when people are in crisis the access point is very important. So we have a whole lot of hotlines for all sorts of different conditions; mental health, domestic violence, many, many others, you
30 know, abuse and so on. From what you're saying, there's no central point where a woman or a partner who is suffering great stress or might even be under some threat naturally can go and have a response to that.

MS BROMHEAD: No. They tend to not worry about the Veterans Line.
35 I think they'd be more likely to ring Lifeline or they would ring our association.

COMMISSIONER FITZGERALD: Is there, and we haven't thought about this, you might give me some guidance, is the Veterans' Line and
40 Open Arms in need to some sort of modification to better be able to be a place where a partner that's under stress or under threat can go? Is that the right sort of approach, in addition to whether or not there's a White Card or otherwise?

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MS BROMHEAD: I think it would be a great idea if it was, and maybe the Veterans Line could be veterans and family line.

COMMISSIONER FITZGERALD: Sure.

5

MS BROMHEAD: Because then a veterans line to someone who's under threat from a veteran would think, "No, I'd better not ring them, you know, I'll ring someone else, Lifeline".

10 **MS MINNER:** And sometimes it's an older vet. We have cases, quite a number and they're increasing, of older people, and you've got some 72 year old women contacting you because her 80 year old veteran has turned violent. It's astounding. Maybe it's not, but it's not just the young people, it's right across it and it just - and they don't know what to do or where to
15 go.

MS BROMHEAD: I don't know how - the younger girls today, the younger partners today have more on offer than what the older ones did, but I still don't think there is enough there for a partner who is suffering,
20 and I mean you've only got to read social media to see what's sort of happening and when there is something specifically for a partner, which there was I think in Townsville just lately, the comments that come back, "About time, this is great", you know, we can sort of - something is actually concentrating on the partner, because it is a hard slog. You know,
25 it's hard for the current serving member just to, after two years, up and move. You know, you've got the whole thing; new house, new school, new whatever and it is very stressful on the partner to be doing this, and I just think that there should be more medical things that are accessible to her easily and for stress-related illnesses.

30

COMMISSIONER SPENCER: Just to go back up to the main issue. We will have more to say around this whole issue and the family, in the wide definition of family because you and others have brought that home to us, as to the critical role that is played by families and the impact of
35 when things go wrong. Look, a couple of thoughts. We've been exploring the space of where do you go when things are going wrong and how to navigate a system like that. One of the things we are looking at across a range of ESOs and organisations that are there to support veterans and their families is how can government leverage what exists. So the peer
40 group model is a very powerful model in most human services because the lived experience is often the most important point of contact, and you said yourself that's one of the first places you reach out for support. So we'll be exploring where government may be able to invest, to be able to, what I would describe as leverage the sort of network you have. It's an informal
45 network out there but it's a really important part of many services and

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people in crisis, or getting to that point, to be able to work out, "Where do I go from here?" and to be navigated or pointed in the right direction. So I just make that comment.

5 I come back to a very practical issue and that's the Veterans' Home Care household, and look this is my ignorance, but I don't know what flexibility you are given in those arrangements. Is it more or less said, "These are the services you will get under that banner", or is there some choice that you have, or some - about what you receive. You mentioned
10 gardening, you mentioned other things. It seems obvious to me that a starting point is to say to an individual, "Well you need help in the home. What would you like?" Does that happen or is it?

MS BROMHEAD: Okay, so if - there's two fact sheets for veterans'
15 home care which is for veterans under the Veterans' Entitlements Act and then there is household services for SCRA - DRCA I would say, and MRCA. Okay. So basically there's the same - similar sort of things available but there is more under household services. I mean this should have been available to veterans further back, Timor, Vietnam, but it
20 wasn't. So I just can't understand why - a veteran is a veteran, if their needs are all to have their grass mowed, if that's going to keep that man in his home and not go into aged care, if the veteran is physically unable to, not because of age, physically.

25 **COMMISSIONER SPENCER:** But who decides what service you get within the package?

MS MINNER: The Act.

30 **MS BROMHEAD:** The Act.

COMMISSIONER SPENCER: The Act, okay. Because look I think that's something we should look at because with community aged care packages, which is the, you know, for want of a better expression, the
35 wider mainstream service, and I'm not suggesting we go there.

MS MINNER: No.

COMMISSIONER SPENCER: There's a need for a military-specific
40 response there, but the notions of having choice about what you would value and what you will need within a package that's allocated to you.

MS MINNER: One package, yes.

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COMMISSIONER SPENCER: It's a really important part of giving people some control over what they value in their own lives.

MS MINNER: It is, you know - - -

5

COMMISSIONER SPENCER: I mean there are limitations around that, you know you can't go and spend it on things which are not assisting you, but - - -

10 **MS MINNER:** You can get other things, like say, there may be times when I don't want to climb up and do the gutter, okay?

COMMISSIONER SPENCER: Yes.

15 **MS MINNER:** Now, I don't have to climb up – well, I can. But you can actually say, "Okay, I would like my service people to arrange to have the gutters done as long as it's not the second story and you pay I think – I forget how much it is. Anyway, they come out and they do the gutter, they clean the gutter. Or they may even wash the windows because
20 I always turn them into mud piles. But you can request those extra and pay and I don't see – well, firstly I don't see an issue with that.

COMMISSIONER SPENCER: Yes, okay. Well, it's something we'll look at because I think the flexibility - it doesn't seem to me to be as
25 flexible and perhaps it should be.

MS MINNER: No, basically what happens if the veteran can't do it, either physical or mentally, it comes back to the partner. Which, you know, and particularly like, I mean, I can speak to that at the moment. I'm
30 mowing the lawns, my husband has been and will get better, but has been very unwell. He can't mow the lawns. I'm mowing them, I hate it. It damn near kills me. But I can't get that lawn mowing even temporarily because he's VEA even though he's been in hospital and extremely sick, I get to do the lawns for him and you can't find anyone to mow them. But
35 if he was under the MCRS one, the younger vets can. And you know, I've got this bloke at home that I'm doing it. So, its things like that, it's just a matter of working - - -

COMMISSIONER SPENCER: Yes, exactly. Okay, we'll look at that
40 because some – more flexibility there could make sense.

MS MINNER: Yes.

COMMISSIONER SPENCER: Look, just coming back to another issue
45 and that's – and I'm not suggesting that this is a fix-all. There's no fix-all

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for some of the issues we're talking about. But the transition, we've obviously spoken about that a number of times and the importance of transition. It's been put to us in some of the other hearings that there's a dimension to transition which is really, really quite profound and goes to a person's sense of who they are in themselves. So, when somebody goes into the military, they enter an institution. It's a very different culture and understandably part of preparing them for what they will do is to really take them into a deep space in that culture, which changes them. So, we've had parents say, you know, "My child is different. It's changed them profoundly." That's not a judgment it's just what happens. But the comment that's been made is – so during transition, when they leave, there is no similar focus of attention on helping that person to become a member of civilian society again. So, practical things are addressed, like, you know, how do you get a Medicare card and you've got to find a GP. But something that's deeper and more profound about their sense of who they are, and they're going to be entering a very different culture in the one they've been in. So, I'm just wondering whether you've got any thoughts on that because we see it from other examples of people who have been through profound periods of change in their lives. The dedicated effort over that to a period of time, it's not a two-day course, it's not a two week course, it's over a period of time, can actually produce far better results for the individual, therefore, in turn for the family. Because we do hear a lot of the anger, a lot of the manifestation of different behaviours is a sense of confusion about who I am, what I have been part of, what I'm no longer part of. There is a bit of a sense that we're hearing from others that more work needs to be done in that area and more attention given.

MS MINNER: Yes.

COMMISSIONER SPENCER: So, I'm just wondering whether you have any reflections on that from your experience and those clients you work with.

MS BROMHEAD: Yes. You talk in your draft about education options. I think this should be something that should be really, really worked on with a member who is transitioning, that there should be options for them to go to, apprenticeships. I know that seems silly to say that, you know, someone who's perhaps 26 or 7 should look at an apprenticeship. But they need to have some sort of purpose and goal that they work towards, and I think the idea – that the education that can be offered to them, you know, when they start to – well, I think that that should be something that's even spoken about while they're in. That upon, you know, if they think about transitioning that this, this, and this is available, you know, for people to perhaps look at doing when they get out. Some people get out and they

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have a real purpose and they know what they're going to do, they've arranged a job before they even get out. Others just get out and then what, wonder around and, sort of, don't know what to do. If they're married it creates an awful situation because the partner then thinks, you know, "you've got to get work, do this, do that, I'll have to work, you know, who's going to mind the kids?" And it can lead to a break up of a home. So, I think that there's got to be a purpose and a goal in their mind and I think that Meg said that transition should be spoken about virtually from the day they get in. And I think that this is something that, you know, I think the average is about seven years that they stay in.

COMMISSIONER SPENCER: Yes.

MS BROMHEAD: So, you know, seven years, if you join at 18 or 19 and get out after seven years, you're only 25 or 26. You've got a lot of life left and a lot of work to be doing. One other thing that I think I've sort struck too, our husbands or Vietnam veterans and I'm not sure about Timor, but there was a housing loan that you could get, okay. And it was very small but, I mean, that's all right, houses were cheaper then. Nowadays, apparently if you get out, you have two years to actually use that loan, there's a limit of two years. If you haven't bought a house in that two years, you're not eligible for that loan. I find this wrong.

MS MINNER: Well, how can you save up. I mean they get out of the military and if you want to buy a house in Sydney, I imagine you'd be looking at a million dollars. They get out of there, how do they save up 300, $400,000 in two years.

MS BROMHEAD: In two years. I think it's something that should be taken away.

MS MINNER: It's ridiculous it should be there, the same as war service homes were.

MS BROMHEAD: That's something that they – they'd be discouraged. They would be discouraged, especially if they were 25 or 26, with a partner and a couple of kids, you know, and they'd been in housing in their job and then they come out and they've got to, you know, get that loan or apply for that loan within a two year period.

MS MINNER: And they don't have enough deposit and they don't have enough for the incidentals that go with it. That should be open ended. You should be able to do that when you're 40 or whatever. Whenever you - - -

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MS BROMHEAD: And you talked about a veteran education allowance. I think that there should be an education allowance if they're in study or as an apprenticeship until they finish their TAFE, and they're probably into their, maybe third year. I think there should be something to help them if they want to educate themselves to go on to do something. That would also be a good incentive.

COMMISSIONER FITZGERALD: Can I go back to a matter that I think Lesley raised, just in relation to 16 year old young people. As I understand it, just reading your submission and just listening to you, we've said that when the person turns 16, they move to an equivalent payment which is the Youth Allowance. Now, as I understand it, that's the same amount of money.

MS MINNER: Youth Allowance by Centrelink is about 3 or $4 a fortnight less than the amount - - -

COMMISSIONER FITZGERALD: Okay, but it's almost equivalent.

MS MINNER: Yes.

COMMISSIONER FITZGERALD: Your objection is, that with the Youth Allowance there's no requirement for you to be in study.

MS MINNER: The Youth Allowance paid by Centrelink.

COMMISSIONER FITZGERALD: Yes, by Centrelink.

MS MINNER: Yes.

COMMISSIONER FITZGERALD: Whereas, you're saying to us, the only change necessary just reading to the current scheme is to accept that it is now a general requirement for children to complete Year 12 in order to achieve the best possible outcome for their future. So, you want to retain the current payment for kids 16, 17 years of age, in order to encourage them to stay in education.

MS MINNER: Yes.

COMMISSIONER FITZGERALD: And your concern is that if you move it to the Youth Allowance, that incentive disappears. Is that - - -

MS MINNER: Well, generally because the parent receives Youth Allowance, from Centrelink.

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COMMISSIONER FITZGERALD: Sure.

MS MINNER: And it's income - - -

5 **COMMISSIONER FITZGERALD:** Tested, yes.

MS MINNER: So, they receive it as they did when the kid was 15, okay.

COMMISSIONER FITZGERALD: Yes.

10

MS MINNER: So, therefore, I don't know about anybody else but I mean, we fully – our children at that age were fully dependent whilst they were at high school.

15 **COMMISSIONER FITZGERALD:** Sure.

MS MINNER: So, therefore and my last son, I didn't give him the amount I got from Centrelink. When he turned 18, I did because he finished – as he was finishing school.

20

COMMISSIONER FITZGERALD: Sure.

MS MINNER: But you are still getting the money from – if you qualify, met the criteria, from Centrelink. The major part, the Family Tax benefit.
25 The Veterans Children Education Scheme was always meant to be an over the general rate for the general community, to help veterans children.

COMMISSIONER FITZGERALD: But it doesn't - - -

30 **MS MINNER:** And it is up until their 16.

COMMISSIONER FITZGERALD: Yes, but it doesn't work that way once they turn 16.

35 **MS MINNER:** No, and it should until they're finished high school.

COMMISSIONER FITZGERALD: All right. We'll have another look at that.

40 **MS MINNER:** Yes. So, it's sort of – to me, I know it's - - -

COMMISSIONER FITZGERALD: No, no, it's confusing. No, it's fiddly. But it's one of many allowances we're looking at, as you know.

45 **MS MINNER:** Yes.

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COMMISSIONER FITZGERALD: Any final comments you'd like to make? Thank you very much. Very much appreciated. Kathleen Moore, is that right?

5

MS MOORE: Yes, (indistinct).

COMMISSIONER FITZGERALD: Very good. I have you down as Mr Kathleen Moore, but I suspect that's not right.

10

MS MOORE: No.

COMMISSIONER FITZGERALD: That's very good. But I don't presume anymore so I have to be very careful. Kathleen if you can give
15 your full name and any organisation that you represent.

MS MOORE: Okay, can I just gather my paper?

COMMISSIONER FITZGERALD: Absolutely, take your time.

20

MS MOORE: Okay, so my name is Kathleen Moore. I'm a mother, carer and next of kin for our son, who served for 20 years in the Australian Army and was medically transitioned in January 2018.

25 **COMMISSIONER FITZGERALD:** And you are speaking on your own behalf?

MS MOORE: Yes, I'm speaking personally.

30 **COMMISSIONER FITZGERALD:** Thank you. So, again if you can just give us ten minutes of the key points.

MS MOORE: Yes.

35 **COMMISSIONER FITZGERALD:** And we have your submissions. Thank you, very much.

MS MOORE: Thank you. Our son is the third generation war family member who has served our country. His great uncle in the Light Horse
40 Brigade, his great-grandfather in World War 1, his grandfather in World War 2 and other family members, male and female who also served in World War 2.

Our son deployed 16 times over a period of seven years. These
45 deployments included war in conflict zones, humanitarian disaster relief

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operations, including loss of life disasters, air crash sites, tsunamis, earth quakes and floods. He has taken part in village meetings with community leaders, elders in Afghanistan, Pakistan, Papua New Guinea and East Timor, and worked with communities in disaster zones. He has patrolled with Special Forces in Afghanistan and attended many of the rank ceremonies and funerals for our fallen soldiers many of whom he knew and had patrolled with.

During the last five years my husband, Malcolm and I, have been the main carer and support for our son who was diagnosed with PTSD, anxiety and depression. There have been many dark days and I knew early on that I needed educate myself about PTSD if we were to keep our son alive. I just need to have some water to keep the voice going.

The stress to parents like us and of course to families in general, cannot be underestimated. Our health has also suffered and our stress related health issues are the wounds that we now live with. We have taken the full responsibility for the care of our son and are proud to be able to do that. Defence command failed to care for our son and we stepped in to make sure we kept him alive.

Currently, there is no acknowledgement, assistance or support for families like us, older parents who are supporting and caring for their injured veteran family member. And I'd just like to, sort of, add something here that isn't in my notes but I keep hearing organisations talk about families and there's no mention of parents and that needs to change.

The New South Wales – The New South Wales War Women's Guild have opened their arms to mothers who have suffered the loss of their serving family member. They have now also welcomed and opened their arms to me, a mother and carer of her son who has mental and physical injuries. The New South Wales War Women's Guild is the only group that has recognised my role. They are progressing with changes to embrace the contemporary defence family of the 21st Century. They are setting the bar high and they should be acknowledged for what they are endeavouring to achieve.

From the day that our son advised his command he had been diagnosed with PTSD, his career took a significant downturn. His workplace became a toxic environment for him, where he was isolated, ignored, intimidated and bullied. It was at this time that I became aware I needed to support him in whatever way I could. I attended every individual welfare board as his carer and next of kin for the next four years.

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Despite the excellent medical care he was receiving, this was continually undermined by a command that questioned professional medical diagnosis, interfered with professional medical advice and medical incompetence. And became aware of the negative verbal and body language being displayed, including the total disregard of his previous achievements and capabilities, and the continuing undermining of his efforts and be included at the work place. It became obvious he was no longer wanted and they would do everything they could to get rid of him. The continual negativity directed to him, saw him spiral into the depths of despair.

Our son's medical transition in January 2018, following 20 years of service was a disgrace and highlighted the empty promises made by Defence about new and improved transitioning. Twelve months later we are still dealing with the consequences and repercussions of that. My endeavours to have some of these shortcomings addressed have met with bureaucratic brick walls and deafening silence. Changes and improvements need to start at the Defence workplace. Not after they've been kicked to the curb or disappeared down a crack in the floor. Those who are charged to deploy them should also be responsible for ensuring they are supported and encouraged in a positive working space when they return injured and ill.

It is not enough to have policies and procedures to look after Defence wounded injured and ill. It requires the emotional intelligence from good leadership in command to also provide a positive and supportive environment for these personnel to be given the opportunity to retrain and or receive a positive medical discharge and transition that recognises their service and contribution.

Over the last five years, I have written to Defence, the Ombudsman and contributed to and attended numerous Senate inquiries relating to defence. It is of concern that with so many inquiries, forums, committees, meetings et cetera, that significant changes and improvements to the transition process for Defence members are yet to be implemented. Where are the results and outcomes, this is not rocket science.

Military personnel are highly skilled members of our society who have lived a very unique lifestyle. Discipline, respect, duty, purpose, honour, motivation, drive, determination, resilience, all highly desired and unique attributes which many employers seek as secondary skills from their employees.

Prior to being deployed or sent on operations, Defence personnel attend force preparation. This program covers a wide range of information about

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up to date intelligence of an operation, which includes possible threats. They also conduct a large amount of personal administration to ensure everything is in place when they arrive on operations. Some operations can be in excess of nine months. There is a lot to mentally prepare for, to maintain and sustain themselves within a dynamic and possible hostile environment.

It is surprising and disappointing to veterans that the military have overlooked the most dangerous and unknown operation of all, leaving the ADF. Unfortunately there are no force preparation courses, or training provided to members before they leave the ADF, the biggest operation and deployment of their life.

If an individual commits suicide while on a military operation with the ADF, there is a huge inquiry. Those who have taken their own lives, while on this life change changing deployment are the tragedies of an operation which the Department of Defence has failed to deliver and compare these ADF members and their families for. The life changing operation deployment back into civilian life. The first 18 months of an individual's departure from the Department of Defence, should be treated exactly the same as the operations and deployments they appear for within the military.

So, the document attached to my personal submission, S2S Stepping Out With Dignity program, ensures a dignified transition for all ADF members regardless of rank, regardless of State or Territory, it is honourable and includes community and most importantly it includes family. The Stepping out with Dignity program provides greater substance , encouragement and positive prospects and outcomes which the ADF is still failing to deliver. To my knowledge this is the only program that provides a solution and positive outcome that addresses the needs of the individual, the family with community.

The Steps to Success program, put forward by Chris Moore, is a workable program that ensures that that transitioning member, whether it be a medical transition or otherwise is given the honour, respect and dignity due to them. I urge the Commission to take a considered look at this program. There has been enough talking, it is now time to listen to the veterans like Chris.

I'd like to also draw the Commissioner's attention to these two documents. The first one is the medical separation notice. This document is authorised by the Chief of Army and officially advised the individual when and how their service will be medically terminated and/or separated.

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There is no official logo on this document for Army or the Chief of Defence. It is devoid of any official seals or status.

With that page there's a set of boxes to tick or flick. The wording is confusing and unclear and yet if you tick the wrong box you will not be able to request held in abeyance or given an extension of time to get your affairs in order. Again, this is an official document that has no army logo or seal. It is very poorly worded and presented. Nowhere is there any information available or assistance on how you can complete or understand these forms. There is no transparency in this process

Our son's 20 year appreciation of service certificate following his transition was not presented to him as he had requested but delivered by Australia Post to the wrong address. The letter that accompanied his certificate for 20 years states:

> *The chief of Army requires soldiers to be accorded a transition ceremony and presentation of an appreciation of service certificate.*

But due to the separation date imposed on our son this did not allow for a formal presentation. There should be no transitions in December or January which was when our son was transitioned. And it is a time when Defence and the transitions are also on stand down.

The letter further quotes the values and high ideals and distinctive codes of behaviour unique to their organisation, and yet it seems it was okay to ignore all of these values and high ideals and send a 20 year certificate of service via the mail. Adding insult to injury, nil accountability from Defence for their failure to provide honour, respect and dignity to a member who has served for 20 years. It wasn't our son who left the Army, it was the Army who left our son.

COMMISSIONER FITZGERALD: Thank you very much.

MS MOORE: Thank you.

COMMISSIONER FITZGERALD: Thank you very much for that presentation. Well done. Can I just ask a couple of questions going back?

MS MOORE: Sure.

COMMISSIONER FITZGERALD: Your son was transitioned or discharged in 2018; is that correct?

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MS MOORE: January.

COMMISSIONER FITZGERALD: So that's very current?

5 **MS MOORE:** Yes.

COMMISSIONER FITZGERALD: And you've expressed your deep concern about that transitioning process, but can I just go back a little bit in time.

10

MS MOORE: Sure.

COMMISSIONER FITZGERALD: When your son first disclosed to his commander or the unit that he had been diagnosed with PTSD you said
15 really at that point things disintegrated?

MS MOORE: Yes.

COMMISSIONER FITZGERALD: Can I ask roughly what period of
20 time we're talking about? When do you think he would've done that?

MS MOORE: His second trip home from Afghanistan he arrived home in December, Christmas Eve, December 2013.

25 **COMMISSIONER FITZGERALD:** Right.

MS MOORE: And it was around late February/March the following year.

30 **COMMISSIONER FITZGERALD:** That's 2014.

MS MOORE: Yes.

COMMISSIONER FITZGERALD: We've heard from Defence, and
35 we visited numerous barracks and bases during the course of this inquiry, that there is a change in culture in relation to people that disclose mental health. It's very hard to actually know whether that's true. So by 2014 your own son's experience was that wasn't the case?

40 **MS MOORE:** Definitely not. And the upsetting thing was that the messaging coming from the, from the Chief of Army was that things were changing and that they were being encouraged to speak up and not try and hide it.

45 **COMMISSIONER FITZGERALD:** Sure.

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MS MOORE: And so when he did, he did not expect the outcome that happened. He was isolated in his office. It was like he was a leper. That's how he's described it. He was - and it was like no-one really wanted to engage with him because - well, a warrant officer told me they didn't know how to talk to him.

COMMISSIONER FITZGERALD: And what was the role, if at all, of the Joint Health Command during that period of time? He was obviously in there for about three or four years after he disclosed. Do you have any views or comments around how the Joint Health Command interacted with him?

MS MOORE: Yes. I'm familiar with Joint Health Command and I'm very familiar with Tracey Smart, and I have to say she's the only person in Defence who's actually engaged with us as a family. And they acknowledged that errors had been made in their side of it and our son received an apology from them, but the other problems that had come and surfaced quite significantly came under what they called a command problem, so Joint Health Command can only talk about what comes under their command.

COMMISSIONER FITZGERALD: Sure.

MS MOORE: And anything else had to go to the direct command which I have no idea. You know, it's - - -

COMMISSIONER FITZGERALD: No, that's fine. It's a mystery to most of us. But can I just, again, when he was going through these three or four years had he come to a view that he wanted to leave the ADF, or had he wanted to stay within the ADF?

MS MOORE: He wanted to stay. He wanted to be retrained and he had a significant number of operations, and each time he endeavoured to recover from those and pass his BFA, the basic fitness assessment - - -

COMMISSIONER FITZGERALD: Sure.

MS MOORE: - - -he knew he probably wouldn't deploy again, but he was very keen to stay in and be retrained, but they just put the shutters on and - - -

COMMISSIONER FITZGERALD: So we've recently visited a soldier recovery centre in the barracks at Darwin, Robertson Barracks, I think it's called. Was any such service available to him?

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MS MOORE: No.

COMMISSIONER FITZGERALD: No.

5

MS MOORE: And it was promised to him. They do not have any soldier recovery centre in Sydney, in Canberra. Yes, up in Townsville and in Darwin, and it was promised to him by his command that they would let him go to Townsville but that never eventuated. There were a lot of
10 broken promises.

COMMISSIONER FITZGERALD: And eventually he did transition in 2018. And was he medically discharged?

15 **MS MOORE:** Yes. Yes.

COMMISSIONER FITZGERALD: He was. Against his will or by that stage had he come to a view that it was probably - - -

20 **MS MOORE:** I think he was so broken.

COMMISSIONER FITZGERALD: Right. Can I just return to the central issue that you've been raising, the role of parents.

25 **MS MOORE:** Yes.

COMMISSIONER FITZGERALD: So we will absolutely acknowledge in the final report that families includes parents. But, again, as I said to the last presenter, that only gets to the front door. The
30 question is what are the supports that you need as a parent. So I was wondering whether you've got a clear - and I know we've got a submission, but just a couple of things that would have helped you as a parent. I understand there's a lot of things that went wrong for your son.

35 **MS MOORE:** Yes.

COMMISSIONER FITZGERALD: But for you as a parent, what would have made a difference for you to be able to support your son and ultimately support yourselves as parents?

40

MS MOORE: I think initially it would've been helpful if Defence had recognised us. I think, you know, that just wasn't in their sort of - I mean, I turned up, you know, I was probably a bit of a pain in the arse to put it nicely, but I sort of knew that when they had these individual welfare
45 boards - - -

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COMMISSIONER FITZGERALD: Yes.

MS MOORE: - - -which the command call that, he should have had
5 someone there with him who was sort of supporting him. And I said to him - I knew because I'd worked in government before that you would never go to something like that without some sort of support. And when I suggested to him he might want to have a mate or somebody, he wasn't feeling confident about that, so he asked me to go along, and I went - as I
10 said, I went to every one for four years, but they were very confronting. I don't believe that command being in charge of those welfare boards is a good idea at all, because they would openly question his diagnosis. They would belittle him even with the doctor there, question the doctor about the medical diagnosis, question the doctor about it, and it was just
15 appalling.

COMMISSIONER FITZGERALD: And when he finally did transition the same question if I can, Kathleen, what do you think should have been - should be in place for parents where their son is struggling?

20

MS MOORE: Gosh, it's a minefield really. And I understand you're asking me this question, but, you know, I think we're still in the learning phase. You know', it's been fantastic that the War Women's Guild have sort of recognised me as a mum, you know, whose son is still alive, and
25 that sounds like an odd thing to say but, you know, it's very difficult to know what we would need.

COMMISSIONER FITZGERALD: Sure.

30 **MS MOORE:** I think to be recognised is a good start.

COMMISSIONER FITZGERALD: It's a good start. Sure.

MS MOORE: And we're not looking for handouts or anything like that,
35 but we're not getting any older and both my husband and I have serious health issues.

COMMISSIONER FITZGERALD: Sure.

40 **MS MOORE:** As a result of the stress. So we just want to be there and help our son.

COMMISSIONER FITZGERALD: Have you been offered any opportunities for counseling through Open Arms or any other service by

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DVA or any other organisation? Obviously you're getting the support through the War Widows.

MS MOORE: Yes.

COMMISSIONER FITZGERALD: But outside of that?

MS MOORE: Well, actually it might sound strange but it was my son who started to see the cracks in me and that I was putting on the brave armor, and he's told me about VVCS and Open Arms, and he actually rang them on my behalf, and I was able to have some assistance there. But that actually has a timeline on it, so if you want to extend that there's restrictions on that, so - - -

COMMISSIONER FITZGERALD: Yes. And I'm not aware of what those restrictions are, but are they very difficult to be meet or not really?

MS MOORE: Well, I think if you've had so many weeks or whatever of counseling you've, you know, sort of reached your limit, and I don't know if they just assume that you're all okay now, but - - -

COMMISSIONER FITZGERALD: Or do you get re-assessed or something do you at that point?

MS MOORE: No, we haven't.

COMMISSIONER FITZGERALD: You're not sure.

MS MOORE: No.

COMMISSIONER FITZGERALD: Okay.

MS MOORE: It's all a bit of - yes.

COMMISSIONER FITZGERALD: But would that be helpful if you had greater access to Open Arms or a body like that over a longer period of time, would that beneficial to you and your husband?

MS MOORE: Most definitely. And as a family.

COMMISSIONER FITZGERALD: And your son put you on to that?

MS MOORE: He did. Yes, he did.

COMMISSIONER FITZGERALD: Good.

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MS MOORE: So, yes, that was easy.

COMMISSIONER FITZGERALD: Good on him.

5

MS MOORE: Yes. Yes.

COMMISSIONER FITZGERALD: That's good. Richard?

10 **COMMISSIONER SPENCER:** Look, just a couple of follow up questions, and thank you for sharing your story. Part of what we're looking at, as you know, is to ways in which Defence can take more responsibility. So I think, you know, your story illustrates frankly the need for that to happen.

15

MS MOORE: Yes.

COMMISSIONER SPENCER: There's a lot of disagreement about Defence's role in this, but we think there should be ways for Defence to
20 have to confront the responsibility they have for the long-term wellbeing of their members.

MS MOORE: Yes.

25 **COMMISSIONER SPENCER:** In terms of your son's engagement with DVA since separation has that been satisfactory?

MS MOORE: Yes.

30 **COMMISSIONER SPENCER:** From his point of view.

MS MOORE: And that is an important factor because when he transitioned, you know, we heard the words DVA and had no idea what it was all about, and really had to put on the running shoes. Well, our son
35 was not in a mental sort of situation to be able to cope with any of that. And then so colleagues that I knew mentioned about the veteran centre at Dee Why and I can't speak highly enough of Ben who is the manager there and Sue, who is one of the advocates and there's some other Vietnam Vet advocates there who really were the life line for us for the last 12
40 months in terms of helping Chris to get his - you know, put in his claims, which is a minefield anyway, but anyway they were fantastic, and I found that they have very good communication with DVA and so for our experience it was very good because it was very open and transparent. There were phone calls or phone hook ups, there were explanations if we
45 didn't understand or our son wasn't able to comprehend things that day

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they would reschedule it. So I can only speak highly of the, you know, veteran centre at Dee Why.

COMMISSIONER FITZGERALD: Good.

5

MS MOORE: And I can't speak highly enough of them and their, you know, as I say, open communication with DVA, and I found DVA were very helpful. I mean, you hear all the things, but I don't like to judge. I never judge anything until you've got your own experience, and I can only
10 say - the only thing I'd mention now is that 12 months down the track that's all stopped, and I feel, "No, hang on, we still might need you", you know. And, again, we're left - again, it's the 12 month anniversary of the medical transition. It's 12 months and sort of DVA have stepped back now. We have still got the veteran centre which is great.

15

COMMISSIONER FITZGERALD: Okay.

MS MOORE: But we are still - well, I am, I'm feeling, gosh, you know, I'm feeling a bit stranded. And, again, I have to say in terms of social
20 engagement for the veteran who's got mental health issues and physical health issues, you know, that's a whole other thing, because I'm sure if there's other families here, would recognise that when there's PTSD involved there's a whole withdrawal from community.

25 **COMMISSIONER FITZGERALD:** Yes.

MS MOORE: So our very social son who joined the Army 20 years ago has now totally withdrawn.

30 **COMMISSIONER FITZGERALD:** Withdrawn, yes.

MS MOORE: And that's something as a mum you just can't organise play dates and things, you know. You can do that with a dog, but, you know, so this is something that I'm going to have to sort of research in the
35 future how we find someone to engage - - -

COMMISSIONER SPENCER: So your concern at the moment is the first year's experience has been very helpful but where to from here.

40 **MS MOORE:** Yes. Yes.

COMMISSIONER SPENCER: And how his needs are met into the future.

45 **MS MOORE:** Yes.

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COMMISSIONER SPENCER: Okay. That's very uncertain.

MS MOORE: And, you know, yes, very much so. And very - you
5 know, we'll be there as long as we can obviously.

COMMISSIONER SPENCER: Sure.

MS MOORE: But I don't know what happens after that.
10
COMMISSIONER SPENCER: Right. Thanks.

COMMISSIONER FITZGERALD: The submission that you've given to us, Steps to Success, Stepping out With Dignity Program.
15
MS MOORE: Yes.

COMMISSIONER FITZGERALD: And thank you very much for that and we'll obviously read it and our team may have already done so. But
20 what was it that struck you about this program? You've been very praise worthy of it, but what was it that sort of leapt out at you?

MS MOORE: Okay, I have to be honest, this is my son, so he put this together.
25
COMMISSIONER FITZGERALD: This is your son?

MS MOORE: Yes, this is my son.

30 **COMMISSIONER FITZGERALD:** I had a - I was going to ask that question.

MS MOORE: Yes. No, no, I have to - you know, so, you know, I can put the mother's hat on and say I'm very proud of what he did.
35
COMMISSIONER FITZGERALD: Good.

COMMISSIONER SPENCER: Yes, it's terrific.

40 **MS MOORE:** But it's not just about him. He has colleagues who have not had a successful transition either, and he actually wrote this before he'd transitioned because he submitted it to a couple of Senate inquiries. So he's never known that his actual transition was going to be such a failure. But I think it just seems to address even sitting in the public
45 hearing last week in Canberra, when people talk about transition, they talk

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about the member who's transitioning. They talk about family and they talk about community. Well, let's just get that together.

COMMISSIONER FITZGERALD: Sure.

MS MOORE: You know, and I believe, even though people will look at this and say, "Well, that doesn't tick all the boxes", well, it does a damn sight better than what's happening at the moment, you know.

COMMISSIONER FITZGERALD: Good. And this submission, am I correct, that your son had submitted this to the inquiry that was held on transitioning last year; is that right?

MS MOORE: I believe it was that one, yes.

COMMISSIONER FITZGERALD: Yes. Anyway, there's been so many inquiries.

MS MOORE: Yes. Yes, that's right.

COMMISSIONER FITZGERALD: So thank you very much for that. And just again you found support through the War Widows. Do you feel that - and, again, I'm not aware of this, is that parents have a natural place within the community support network, the ESO network, or do you think parents - I think you feel a bit stranded as you've just said.

MS MOORE: Very much so.

COMMISSIONER FITZGERALD: Yes.

MS MOORE: And I think even when we heard James speak this morning, and I did speak with him at morning tea.

COMMISSIONER FITZGERALD: This is from the RSL?

MS MOORE: Yes. That, you know, what is his definition of family. Because I don't believe that - you know, if you're talking about parents, well, include them in that narrative, you know.

COMMISSIONER FITZGERALD: Sure.

MS MOORE: Don't just say family and then when we knock on your door, "Oh, no, sorry, that doesn't include you", you know.

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COMMISSIONER FITZGERALD: And is it your feeling or sense that some of the traditional ESOs are just simply not aware of the needs of parents or do you think they actually don't think that's their role?

5 **MS MOORE:** I really don't know.

COMMISSIONER FITZGERALD: Don't know. That's fine.

MS MOORE: I think there's - and I think it's the same in Defence that,
10 you know, everyone who's, you know, expected to have been married or have a partner. Well, you know, our sons falls into the category where his long-term relationship broke down due to all of his deployments, and he doesn't have a partner. We're his next of kin, we're his carers. When his back injury causes him to be incapacitated it's us who have to go to him or
15 get to him and help him.

COMMISSIONER FITZGERALD: Sure.

MS MOORE: Yes.

20

COMMISSIONER FITZGERALD: Did you have anything?

COMMISSIONER SPENCER: No, I was just going to make another comment, and that is that the issue you speak of in the disability sector
25 this is a very significant issue as well. Parents who are prime carers for adults - - -

MS MOORE: Yes.

30 **COMMISSIONER SPENCER:** - - -and what happens in the future, and I think it's an area that does need to be looked at in terms of veterans.

MS MOORE: Yes.

35 **COMMISSIONER SPENCER:** The NDIS arrangements and the capability in the hands of the individual is one long-term and has been of great comfort to many parents where there are long-term issues.

MS MOORE: Yes.

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COMMISSIONER SPENCER: So I don't know what that looks like, but I think you've highlighted a very important point, and that is for some individuals, you know, this may be short-term, may be medium-term, may be longer term - - -

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MS MOORE: Yes.

COMMISSIONER SPENCER: - - -but how does the system respond appropriately to provide the support for the individual needs, but also to give you comfort as to what happens in the longer term.

MS MOORE: Yes.

COMMISSIONER SPENCER: Yes.

MS MOORE: Very much so. Thank you. Yes.

COMMISSIONER FITZGERALD: Good. Thank you very much.

MS MOORE: Thank you.

COMMISSIONER FITZGERALD: That's great. Terrific. And you did very well.

MS MOORE: Thank you very much.

COMMISSIONER FITZGERALD: And Greg Isolani? Greg, hi.

MR ISOLANI: Good afternoon, Commissioners.

COMMISSIONER FITZGERALD: That's fine.

MR ISOLANI: Thank you for the opportunity, and I apologise for my late submission, it was emailed to Mr Rundell.

COMMISSIONER FITZGERALD: No, that's fine. So if you can do a couple of things for us, Greg.

MR ISOLANI: Sure.

COMMISSIONER FITZGERALD: I think you know the drill. If you give us your name and any organisation that you represent.

MR ISOLANI: Certainly.

COMMISSIONER FITZGERALD: And then you've got ten minutes to give us the key features.

MR ISOLANI: Thank you, Commissioners. My name is Greg Isolani, I'm a private practitioner and partner of KCI Lawyers. By way of

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background I've been practicing in the area of military compensation since 1992 as a plaintiff lawyer. I was with a large plaintiff firm who were the first no win no fee firm to advertise. As a Commonwealth compensation lawyer and the only lawyer I got all the Defence enquiries in '92. By '95 I realised there was a huge cohort of people who I as an individual had not had a lot of direct involvement with. I'm a first generation ethnic. My father hasn't served in the Australian Army. My grandfather was a fascist in World War II and I really had no contact with the ADF community other than as a plaintiff lawyer.

My experiences through the individuals who have gone through peacetime service primarily, and obviously the Vietnam veterans, was quite startling. The compensation scheme administered by the Department of Defence appeared to be very crude in administering claims. Clearly there was no information like there is today with the internet and access to information. There were a lot of people who were denied benefits, administratively discharged who should otherwise have been medically discharged.

I evolved into another firm in the mid 90s and commenced advertising in the service newspapers with a 1800 number. I became a lawyer for a number of ex-service organisations, in particular the Armed Forces Federation in '95. I made very public the disgraceful lack of policies and procedures dealing with sexual harassment and the rapes that were going on at ADFA in '97. That was the basis of the Grey review into the ADFA issues.

Following the Black Hawk disaster on 12 June 1996 on the anniversary, the eve of the anniversary Bronwyn Bishop announced a Tanzer review into the compensation arrangements. On behalf of the Injured Servicepersons Association and the Armed Forces Federation and drawing on my own experiences I provided submissions to Noel Tanzer, retired Supreme Court judge. That inquiry evolved into recommendations, one of which was that Veterans Affairs who as a department were dwindling their numbers, and compensation recipients were dwindling because obviously they were only dealing with operational veterans and those with peacetime service up to 7 April '94, limited the amount of people they were literally servicing. So Tanzer decreed that DVA should take over the running of the compensation scheme for those under the SRC Act as well as the VE Act.

My concern at that time was that the Defence delegates who were transferring across to DVA would infect the goodwill and largely beneficial approach shown by delegates in DVA at that stage. DVA has clearly had an 80-odd year history as you quite well documented in your

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report. The issue of the review, the Tanzer review into a standalone compensation scheme for veterans was commenced shortly after in 2001.

I was part of a working group, the ESO working group looking into the military rehabilitation and compensation bill that went from '01 to the inception of the Act in '04. I was the only lawyer on that panel and I was largely marginalised because I stood out on behalf of the Armed Forces Federation, I was there on their behalf. A couple of features; I didn't on their behalf agree with the Statement of Principles and the Veterans Review Board model that clearly DVA wanted to bring across into the new MRC Act. My concerns were and they still remain that the SOPs are extremely prescriptive. They don't allow for flexibility that largely arises in what's essentially a personal injury jurisdiction.

There was some features of SOPs that relate to the beneficial nature or the standard of proof, which is as you're aware reasonable hypotheses. With my friend here we have been discussing the nature of what is a reasonable hypothesis and it's largely - it's creative, it's conjectural, it gives the benefit of the doubt to the veteran and the circumstances in which we say as their lawyers or advocates or representatives the injury or disease relates to service.

There are a number of examples though where that type and rigid framework just clearly creates essentially a mockery and a dichotomy of those veterans who would have their claims accepted under the DRC Act using a balance of probability standard as opposed to the SOP requirements for a factor to be met, and importantly the clinical onset. It's a little term, but makes a huge difference whether your claim succeeds of fails.

I am sorry, I have jumped quite into the nub of my paper, but in terms of my representation I have remained a lawyer for the Vietnam Veterans Federation and Peacekeepers and Peacemakers Association as well as from time to time I give seminars through New South Wales Legal Aid and other organisations who care to invite me. I've tried to be involved with TIP training, but they're largely resistant to lawyers. There's a huge pushback by the ex-service organisations reliance or referral of clients to lawyers. It doesn't matter if I go to DefenceCare and do seminars I'll still get people saying, "I asked DefenceCare if they knew of a lawyer who could help me with an MSBS or DFRDB decision and they said they know of no one."

The review which I'm grateful, and I'd like to acknowledge the role that the former senator Jacqui Lambie had insofar as the *Constant Battle* Senate review has gone, and also in the mental health review that was in

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the senate in 2014. It was in that latter review that I was a part of, and out of that I think I tried to highlight what I'd been saying and what I believe has been a big cornerstone of what the Commission is seeking to achieve, which is ideally wonderful, and that is to have Defence have an employer type responsibility for the serving member and the member who's transitioning out to be enmeshed with the Department of Veterans Affairs or the VSC as you propose.

As I outlined to the senate inquiry in '03 when the MRC Bill was coming in the problem has been historically, and I think has continued to be, that there are real breakdowns in the role that Defence plays as an organisation - they're not an employer, they're ostensibly the Crown, and these people are not employees, they're servants of the Crown. There's a huge discretion that Defence had as to who stays in and who doesn't. There's a huge discretion as to who can ask for rehabilitation and what form that takes. It seems to be split across the services. I think Army does it marginally better, RAAF is somewhere in between, and Navy in my anecdotal experience have a fairly poor track record of trying to provide light duties, to use the workers compensation vernacular, and to assist people to transition.

I think with respect to what the Productivity Commission has attempted to identify through the wellness model, which is something different I think to the rehab model, with respect you really need to have Defence accept this fundamental role of - you know, they broke them, they have an obligation to fix them. I know that's just a pithy cliché and easy to throw around, but again in my experience to write to the Chief of Defence Force or chief of the particular service and say, "You're a rehabilitation authority as defined under the MRC Act. My client is not likely to be medically discharged" - but they are medically downgraded - "Can you please assist them into a transfer, a core transfer, service transfer." It doesn't happen. I shouldn't say it doesn't, it happens rarely. It happens with high profile cases.

We all know of the clearance diver who was attacked by a shark and we all know he stayed in, one arm and one leg. An amazing success story and to be commended. Army officer blinded, able to stay in, in operational service, high profile. I call them the pin-up boys for the ADF, and the reason why I say that is, and with all due respect, if there is something quirky or you were wounded or injured on a deployment then you're with 2 Commando or with an up-tempo type unit or the SASR there is a greater likelihood that you will be assisted and transitioned. Transition is a big issue and it's a big cornerstone of the Act, the MRC Act, and it's failed. It's failed because there's a section of the Act called transitional management, section 64. A very simple section, reads really easy, you are

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to be coordinated with case officers, you are to be assisted with claims. The segue between the ADF service and your civilian life should be seamless, as best as it can give or take.

So my Senate submission in 2014 about ADF returning from operational service and mental health I've provided case studies of these issues where I'm the one having to find their particular medical discharge form. It was never lodged, it was left in the orderly room. It creates a huge issue with a back payment when you get a retrospective pension and they've been on Veterans Affairs incapacity payments.

So they're some of the issues that I would highlight that in my respectful view and experience you are likely to encounter. The level of advocacy there is widely and markedly. So clearly DVA wanted to get rid of lawyers in 2015 when they abolished the dual appeal pathway, and they did that because it meant that if a veteran had only gone through the VRB, or could only go through the VRB, they wanted to appeal to the AAT and they were ineligible for Legal Aid, then as a lawyer I could not run your case on a contingency. Not all cases - this is important - not all cases are about lump sums where I get paid. They're about wives who become ostensibly full-time attendant carers and are denied the attendant care payment.

There's a huge sexist element that runs through the scheme and from DVA from the top down and it's in policy. DVA will not fund a wife, and I'm using the sexist language in generalising, that we have women who become full-time carers, they may or may not have given up paid employment, but they have certainly lost their opportunity and livelihood and their lives are qualified by virtue of looking after their partners. Every case or nearly every case I ask for, for a wife to be recognised and paid as an attendant carer to get $480 a week as opposed to $180 a fortnight from Centrelink, is bitterly contested, and it's a policy.

Now, I ran a case in '97 called Hopgood and Hopgood was the first wife who had not lost paid employment and was recognised to be doing 12 hours of work that was not fortuitous, but should be recognised and paid by Comcare. Mr Hopgood was a Department of Defence employee, but not a serving member. So this notion that there's a policy that binds us if you're DVA is a fiction. I would also say, I'd also caution again, with respect, the movement towards a new scheme that's modelled on the MRCA and modelled on the impairment points of the MRCA.

So how it works is the case of Robson was my case. So Hamish Robson was a Rwandan veteran who suffered - and the case is reported, so there's no breach of privacy - so Robson has woeful experiences in Rwanda in '94

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and has a near death parachute accident and has multiple musculoskeletal injuries ten years later in '04. He has two separate and distinct psychiatric conditions. Under the DRCA there is nothing perverse or unusual to be properly compensated if your injuries result from different events or if there's two different impairments, even though there's one accident for example. The MRCA groups together your injuries under this concept of your whole person. So what that means is if you're blinded in an accident under the MRC Act and you get 80 impairment points, if that accident, if you were hit by an IED in Iraq, you got shrapnel in your neck, musculoskeletal problems from where you fell off and you developed PTSD, DVA will say, look we're very sorry to hear of those circumstances, please lodge your claims. You lodge them. Please tick a box for a needs assessment. They'll assess your need, they'll assess your lump sum. You can't get any more. You can't get any more. Once you get 80 points it doesn't matter if you have new conditions that manifest, if the existing conditions worsen, you've hit in DVA's lexicon, you know, the ceiling as to where you can go.

You have to decide as Commissioners and what you're going to propose to the Commonwealth. Do you want a compensation scheme that DVA public servants or yourselves as Commonwealth public servants are eligible to receive more compensation for multiple injuries, whether they arise over the course of your working life or due to one event, because that is what will happen. So that's - again I don't want to be seen as advocating about lump sums, but there is one harsh reality, and that is the stark difference in the schemes.

COMMISSIONER FITZGERALD: We are just going to run out of time, so if you can just give me the last couple of minutes and then we'll have a chat.

MR ISOLANI: Sorry, yes, thank you. Look, I can perhaps raise three questions, other issues that I've gone through in my paper. The only last thing I'd say is I think, with respect, there was a seminal review done in 2009 that resulted in the review of the military comp arrangements in 2011. That addressed a number of these anomalies that I think you as Commissioners have identified. So you've looked at different standards of proof under SOPs, you've looked at balance of probabilities, you've looked at BRB, you can't have lawyers but you can have them at the AAT.

For me it has been frustrating that, you know, what came out of the review into suicides, and we had Professor Dunt do that in 2009 and one of the cases was mine of McColley who at the end of an unrelenting DVA investigation incinerated himself as a public protest. So McColley is a public case. I established through the Supreme Court in the ACT that

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DVA had a duty of care when administering the compensation scheme. It's about, in my view, not reinventing the wheel, but perhaps step back and take stock of what have been the recommendations. I've been fed up being constantly asked to attend - I volunteer, but there's another review, there's another submission - you know, no personal offence to the Commission, but to wade through a 700 page report is hard work as a private practitioner with a busy workload and demanding clients.

I would just ask that as part of the final report the Commission looked at the military comp review. That review was extensive in the sense, again without denigrating the Commission's work, but the stakeholders were wide and varied, the input was substantial, it was four years into the inception, or five years into the inception of the MRC Act. There were a lot of issues identified and transitional management was one. They did a review of the SOPs that for some reason the Commission wants to embrace. It found looking at knee injuries that you had under the SOPs 56 per cent - they did 196 case studies - 56 per cent would be accepted under the SOP, 96 per cent under the SRC Act. So, you know, is it the case that this SRC Act is just so beneficial and generous, or is it a case that the SOPs are so restrictive, and I would really caution the Commission about embracing this system that I think from what you hear from advocates, it's like, oh well, it's all pretty easy. It's like, yes, it's easy for DVA to say no as well and for you to accept that slavishly, because you don't have an appeal right because you don't meet a factor. So that's my just general overview. Thank you.

COMMISSIONER FITZGERALD: That's fine. Thank you very much, and there's a number of issues I'm sure in your submission which we will look at. So first thing we've looked at all the inquiries going back a long way, including those ones, so we've been very cognisant of the fact that this is an area of public policy littered with inquiries. So we're conscious of that. Just if I can take the last point; your view in relation to SOPs is a view that we've heard, but only from a very small minority of participants, including during our consultation. So you would be aware that your view in relation to not going down the line of SOPs is a minority position.

The issue about the flexibility I'll deal with that separately. So why is it that you hold this view and so many others don't, because they actually love the SOPs, and we have been encouraged over and over and over again to extend SOPs across all three Acts. So what is it that you and a few of your colleagues, and the other people that have said the same thing are lawyers, so what is it that stands out for you?

MR ISOLANI: Sure. So as a standard of proof, so as a lawyer and you say, well what do we need to meet, is it a balance of probability test or is it

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a rigid template. So clearly the template defines a trauma to mean you fall, you have immediate pain that lasts for 24 hours. You have cervical spondylosis, it means you must have been walking around with, you know, a 10 kilo weight on your head for 25 hours. It's bizarre, without denigrating the RMA. You have Mefloquine which on the one hand the RMA say there is no scientific evidence of the anti-malarial is producing long term effects, produce a statement of principle or amend one that says we will accept if someone commits suicide within 30 days of taking Mefloquine.

So if someone committed suicide on the 35th day of taking the drug they would not be accepted. There are perverse outcomes and they're not - to rationalise them by saying, you know, look asbestos exposure needs to be of a certain - you know, fibres in the air and so forth. It's just a very rigid structure and this is beneficial legislation, isn't it.

COMMISSIONER FITZGERALD: So the question is this is a trade off, isn't it? I mean, yes, you can go to the normal common law approach and balance of probabilities and work that through, but of course at some stage during the system's life people have said we actually needed to create certainty. So statements of principle effectively create certainty, whether it's the reasonable hypothesis or the balance of probabilities, and people seem very content with that at all levels, both in terms of DVA, in terms of the ESOs, in terms of ADSO, because as you said they say to us this is a really good scheme. New Zealand is now adopting SOPs as you would be aware.

The issue for us has always been that group of people that don't neatly fit within the SOPs, and we've spoken to a number of lawyers about that and tried to understand that, but our impression is that for the vast majority of people that put claims in SOPs works well enough. Now, clearly you don't think that's right, or is it that it's that little group at the end that you really do worry about?

MR ISOLANI: So if I talk empirically, so I'm not the lawyer here, I look at stats. So if the Department statistically looked at 196 claims and just ran them through the two different systems and you get a 40 per cent variation would you say - just purely we're dealing with knee injuries - would you say that that system is beneficial because it consistently denied more claims than it accepted. So it's consistent, whereas a balance of probability, there may have been some conjecture about the circumstances, but you have certainty with a SOP, absolutely, but what the certainty means; certainty your claim is going to be rejected.

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The case I've referred to of Reilly is a veteran client of mine who had passed away, dropped dead in a workplace. On 30 June 2004 his widow and children would not needed to have seen me, liability would be accepted without a doubt under DRCA. There's a whole raft of High Court and Federal Court authorities that you're aware of. Under MRCA he came under a SOP, so he needed to by hypertensive, the hypertension needed to cause ischemic heart disease and the heart disease was the cause of death. To get hypertension in he needed to have, amongst other things - he was a smoker, but smoking has been disregarded since '97 - we needed to show the musculoskeletal problems that he had affected his ability to exercise to greater than 2.4 METS level of activity that caused him to become hypertensive. We got there, except we had the fitness test that he could run for 20 minutes.

So what did they do, they pulled out someone from Defence and said, no, that fitness test would be indicative of this man's level of fitness. We had the person who passed his test who said, "No, no, I fudged it. Mr Reilly's a good bloke, you know, I wanted to get him over the line. A big overweight guy, but, you know, been around forever, East Timor." We lost that claim. If you say let's embrace the system that so starkly discriminates against a Commonwealth public servant why should an Aussie Post employee as opposed to a servant of the Crown have a claim accepted for death - so we always recognise death and dependence and family members as being in the highest echelon of those most in need of support.

So you really have to, I think, if you want my opinion, get the RMA to reconcile this. Get the RMA to say, look, you know, do you think your template works in cases where if we run another battery of tests on back injuries, neck injuries, heart attacks and strokes, when we compare them to DRCA/SRCA is there something that's slightly rigid or your scientific, you know, modelling doesn't accord with what happens in the day to day scenario?

COMMISSIONER FITZGERALD: Well, rest assured we're about to meet with the RMA shortly.

MR ISOLANI: Great.

COMMISSIONER FITZGERALD: Again, so I shall put your proposition to them.

MR ISOLANI: Please send them my regards.

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COMMISSIONER FITZGERALD: Just a couple of other issues and then - - -

MR ISOLANI: Sure.

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COMMISSIONER FITZGERALD: I am interested in your notion of Defence. We have had, as you would be aware, most of the ESOs and others have opposed our view that Defence should have policy. Putting that aside the broader issue is one that we've canvassed over a long period
10 of time is Defence taking a much greater responsibility for the impacts of injuries and illnesses that arise, and you've talked about this issue of return to duty or return to lesser duties or alternative duties. Whilst the ESO community basically agrees that that's the problem almost nobody is saying and Defence should change. It's like, well we just accept that's the
15 way Defence is. You're saying, if I'm reading you correctly, Defence does need to change in relation to the way in which it deals with people within its service and accept greater responsibility for the impacts of injury or illness arising from that.

20 **MR ISOLANI**: Absolutely. I have the benefit and disadvantage of not being a former or current Defence member. So I look at this as an organisation that I've seen on the outside and, you know, being fairly left and green growing up in the 70s, not being a fan of the Vietnam war, but meeting Vietnam veterans, like I said in the early 90s when I got into this
25 space I was appalled, meeting the widows, meeting the wives of disabled vets who had been discharged in the 80s, in the 50s, and my rage was against Defence because Defence were administering the compensation scheme. Over time I realised these were Commonwealth public servants within the Department of Defence. I would dearly love to see what I
30 thought were the basic tenets and the cornerstone of the MRC Act come to life. I've always talked about this. I've talked about vertical as opposed to horizontal rehabilitation within DVA by DVA for those who have discharged in rehab.

35 I'm not one to say leave the TPI person alone, and I understand there's a huge dichotomy between taking the "P" out of TPI as we were told for three years in this working group, right, in the '01 to '03 working group, and I understand that, but on the one hand you want to encourage and foster and fulfil people's expectations, and I heard the lady talk about a
40 younger veteran. You don't want to squash them with stamping their Gold Card TPI if you think that's going to - they'll adopt a lifestyle. But Defence I think are part of the problem if they make you feel that you're no longer part of this family, and that's what people feel on the whole and they feel betrayed if they are discharged quickly with the separation
45 notice, not having that opportunity. You know, they've got to go through

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this convoluted redress grievance and they try and put off the separation notice. I do it all the time and it's disheartening.

The organisation should say, "Look, Bill/Jill, you've been medically downgraded for some time. We tried to identify your skillset. We want to move you to this section, that section. We've got rehab providers over here. We've got social workers." I think it needs - it has to be from Defence pushing this, that, you know, they value all Defence members equally, those who are battle fit and ready to be deployed at 24 hours notice, and those who are in admin positions and other positions, without demeaning - clearly you're not going to get a doctor in the cue store, people involved in policy writing. It's a huge organisation. This isn't like for my workers comp clients who, you know, they work for a trucking company and they're a truck driver and of course they don't get light duties, they get sacked after 12 months. That's the norm, but these aren't the norm, these are servants of the Crown who forego their own safety, their liberty, how they look, what they wear, where they're going to go. I wouldn't do it, but if they do it, the (indistinct) should look after them.

COMMISSIONER SPENCER: That option seems to have diminished dramatically over the last two decades, because as you would be aware they've outsourced so many of the different issues where there could be light duties. So that's been something that's perhaps had a perverse outcome and that is there is nowhere for somebody to go and that seems to run contrary to the notion of Defence family. I just mention that. I just want to come back to the VRB. Most lawyers have said to us, no, VRB is fine, in fact there should be lawyer representation of the VRB. We have gone a different direction, we've looked at it and said this is one of the few if only places where you have two determinative bodies.

Now, we understand the history, we understand the lack of trust. The sense that veterans have, no, we have a place to go that we trust and gives good decisions and good outcomes, and particularly with the new ADR process that they're using, and a lot of our recommendations are about the medium to longer term. It's not about next year or the year after, it's about where to go in 10, 15, 20 years. So what we're saying is actually a lot of things seem to go wrong at the outset, wrong assessments, claims mishandled. A big effort underway in DVA at the moment to correct a lot of those things, but everybody would agree better decisions upfront, clearer decisions, less controversy, more kind of less stress, that is good. So we want to move some of those processes that are working well in VRB into the first determination process, and then we're saying that the VRB should continue, but not be a determinative body. If there's a need for that, that will go to the AAT.

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So there are arguments about, well, a lot of cases will go to the AAT, but in other areas they don't if the process up front is better and people are more trustful of it. So your views on that.

5 **MR ISOLANI:** So, they're vexed, because clearly I've been vilified as a lawyer and because of my qualification I can't sit with the veteran in the – at the VRB hearing.

So, and also my experience is qualified. I think, with respect to some of
10 these organisations who I like to think I'm an integral part of, ESOs are predicated, funded, established with an advocacy model attached to it.

So if, as you're proposing, to disregard, abolish the VRB as a hearing model, so use it as an ADR type. Can we mediate it? Of course you're
15 going to get all this resistance, because the ESOs are saying, well, what do we do? And that's part of the problem.

There's a model that's integrated into the problem in many ways, and that is – and with respect to those advocates, and their skillset is wide and
20 varied, but I've said consistently, why would you have this duplicity.

You know, my client comes to me after going to the VRB, and they're disillusioned when I go, oh, we start the process again. We're going to get more medicals. I need a statement. We're going to subpoena your
25 medical records, and we might end up in front of a two or three member AAT panel. Not that often these days.

But this time it's different, because we're going to have barristers. You're going to be cross-examined. We're going to have a chance, and not only
30 that, some of the anecdotal feedback veterans get from the VRBs, they find it intimidating. They found the VRB members condescending. The ex-service members, some of them knew them in their roles. The officer, the hierarchy thing prevailed during the hearing.

35 Advocates were also confused, uncertain about their roles. One of the seminars I gave, I just got the practice direction from the VRB and said, look, you have to be fearless. When you're in there and the member says, no, I want to hear this from the client, or from the veteran, you say, no, that's a loaded question. Don't answer that.
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And they say to me, well, the VRB won't let us do that. You know, they'll say, I want to hear from the Veteran. It doesn't matter what the veteran says, because it's not a de novo review at the AAT. You know I get the transcript thrown in my face.

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So although it's, yes, it's de novo, it's like, well, your client's evidence in the VRB is used against me in the AAT. That's a huge issue. That's why I say to clients, you're mad if you go to a VRB hearing.

5 So, to answer your question, I think the AAT has that specialised review. If there is a level playing field, and my case of Rollins showed that there was, and I represented Rollins from 08, plus the 70 or 80 odd cases that are published in Federal Court, and other cases I've run, DVA have the whip hand because they have panel firms who can strangle the system 10 through legal technicality.

A Federal Court case in mind, Brian Sharpe, unrepresented in the AAT, a VEA case. Two weeks before his hearing, Sparke Helmore get parachuted into the case. They run it, a three day case against this man 15 who, the judgment, if you read it, highly traumatised, damaged individual. He wins.

What do DVA do? They appeal to the Federal Court. What's in their grounds of appeal? They want their legal costs. I've still got an FOI case 20 going as to how much they paid Sparke Helmore just to run the AAT case, and then how much did they spend in the Federal Court?

So these, you know, without being dramatic or emotional, it's really hard. You know, the reason why Maurice Blackburn, and Slaters, they're not 25 here, because this is a hard jurisdiction to run tactically on behalf of a client on a contingency, or if you're prepared to do it, as I am, on Legal Aid rates, because – I'm sorry. It's just my alarm to get my flight back.

Because I know the reality, and that is, you know, I can barely find 30 barristers to run a two day case at $2,500 dollars. You know, DVA's panel firms don't have those constraints.

So while, yes, I say use the ADR process, which I personally have found to be constructive and useful. I'm a big fan of ADR across all 35 jurisdictions, not just tribunals, but in courts in which I practice.

I think something seriously has to be done with DVA's panel firms. I always say to them, why don't you run your case, when the squabble about my legal costs, they say, did you run this case on Legal Aid rates? 40 You know, I'm sure you haven't come down here to do this on Legal Aid rates like I have.

And that's what I'm finding now. You know, I've got Legal Aid cases and I'm up against the panel firms. This happened in 2011 and 12 and the

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department got rid of that because of the strong lobbying by Tim, the late Tim McCombe, the former President of the Vietnam Vets Association.

So I think you need to be very careful with this review model, sorry, the review of decisions, and funding is a big issue, because you can bypass or you can modify this VRB type model and say, well, you go to the AAT.

But are you going to have an advocate going to the AAT, or are you going to hope there's other lawyers like me. Thank you.

COMMISSIONER SPENCER: No, no. Thank you.

COMMISSIONER FITZGERALD: This last question, and I'm conscious of the time, you talked about the duty of care during the DVA process.

MR ISOLANI: Yes.

COMMISSIONER FITZGERALD: Can you just, in a short space of time, tell me what you mean by the duty of care during the DVA process?

MR ISOLANI: So I use the case of McColley. So he was a Vietnam Vet, former President of the Queensland Vietnam Vets. Set it up in 92. Highly troubled man. Attempted suicide on two occasions. Again, this is in a published decision.

DVA had an unrecorded denunciation that he'd supposedly committed fraud. They spent two years investigating the so called fraud, to the point where he, after a final phone call with DVA, went to a service station in Varsity Lakes, just out of the Gold Coast, got a tin of petrol, you know, when you run out of petrol, filled it up, went out in the street, doused himself and incinerated himself, in the style of the monks in Vietnam.

So the Queensland coroner found that there was this direct link between his actions and the investigation. I brought a claim on behalf of the widow and dependents in the ACT Supreme Court. DVA put on a strikeout application to say there is no duty of care owed by a statutory body, so like whether it's a WorkCover, an insurer.

So the case, we lost at first instance, and we appealed to the full court of the Supreme Court who found that, no, DVA, like the police, when they're investigating, do owe a duty of care.

So that duty of care, extrapolating that, DVA are in a unique position. They are administering a compensation scheme for troubled individuals,

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and I heard this story of the lady before me, and one that's known to me, and as a lawyer, it's a really difficult area. Your clients are emotional.

Quite often, their income may be affected. There's a step down in the compensation arrangement which I find odd. Like, why can't you get your Comsuper class saying that DVA top up at 100 per cent after 45 weeks if you're seriously injured and you're not going to go back to work. Your cost of living doesn't drop by this 25 per cent mark.

Put that to one side. People are highly emotional, and I think, and the Dunk Review, and I think there is – you touched on the Jesse Bird case, and I believe, again anecdotally, that it will be before a Victorian coroner. DVA have to be very careful when they are administering a compensation scheme for a fragile cohort.

So what does that mean? Timely decisions. Not drawing things out. When you get an overpayment, because Comsuper didn't get a clearance and you got a back payment of your MSBS pension, DVA say you owe us $120,000.

Don't deduct it from their lump sum. Just say, look, we're prepared to take this money back over 10 years, because you're likely to be on compensation.

There's quite a bit of sort of automated decision making and responses by the Department that can compound what's already a difficult situation for an individual.

But I think timely decision making. I think there is generally a greater degree of sensitivity, and I'll acknowledge the work that Liz Cosson, as secretary, I think has done, or is part of a movement to really, at the front end, get delegates who are a bit more sensitive.

But, you know, I still think there is a way to go. As I said to Liz, I've got a 94-year-old World War II Veteran. He was part of the British Commonwealth occupational forces in Japan. He served in Korea, in Vietnam. He worked until he was 92. Stopped work. He's been denied a pension because they say, well, you just got old and stopped working.

This man had his own business as a building inspector at 92. He can't crawl under floors and get into roof cavities, and his PTSD is so profound he wants to throw himself off ladders.

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So he decided to stop work, but he didn't go to his doctor and talk about it. He said, look, I got to the end where I just couldn't do this work anymore. I deregistered my business.

5 Why does this man have to litigate? Why do I have to be up against Sparke Helmore? To say, we're going to subpoena all of his medical records.

So, I see some good work at one end, and these – I have another 92-year-
10 old, and I've spoken to Ms Cosson about this, and the shoulders are shrugged and it's business as usual.

COMMISSIONER FITZGERALD: Thank you very much for that. We appreciate that. Thank you for your time. Where's your practice, by
15 the way?

MR ISOLANI: I'm in Melbourne, but I do a lot of work in Sydney (indistinct).

20 **COMMISSIONER FITZGERALD:** Thank you very much for your time.

MR ISOLANI: I really appreciate you accommodating me at short notice.

25

COMMISSIONER FITZGERALD: No, that's good. No worries. So, I indicated at the beginning of today that we would take very short presentations at the end from anybody who would like to do so.

30 So we have one person that would like to make a presentation. If there's anybody else, we'll do it immediately after this gentleman, and these are short presentations and Richard and I might ask a question or two. But it's really just to give anyone that's been sitting in the audience most of the day an opportunity to make a comment, if they would so like.

35

So if I could have Mr Red William. Around this way.

MR RED: William Red.

40 **COMMISSIONER FITZGERALD:** Sorry, Mr William Red. Sorry. I've always wondered why we do that. Good. Thanks very much.

MR RED: Thank you, Commissioners.

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COMMISSIONER FITZGERALD: Sorry to get your name muddled. So, Mr Red, if you could give your full name and, if you represent any organisation, the name of that.

5 **MR RED:** William Red. I'm an individual representing my own views.

COMMISSIONER FITZGERALD: Good. If you'd like to make a brief statement, that would be terrific.

10 **MR RED:** Okay. My background, I'm a retired lawyer. I spent six years in the Navy. I spoke at a private session in the Royal Commission. I worked in Defence from 2007 to 2011. I have PTSD and anxiety issues through what happened as a child in the Navy.

15 I am very grateful for the Royal Commission, because the – Judge McClellan made the announcement that DVA had been acting unlawfully for decades. Now, as a lawyer, that rang so many alarm bells. You can't act unlawfully for decades and not commit criminal offences.

20 From my perspective, lawyers, all the lawyers at DVA for 40, 50 years, knew they were acting unlawfully. Because what Judge McClellan was that DVA were expecting the claimants to get corroborative evidence and all kinds of evidence that they weren't required to provide to prove their case.

25

Now, as a lawyer, I know that if my client acts unlawfully, I have to first of all advise that client, you're acting unlawfully, and second of all, I have to say if you continue with this, I cannot act for you.

30 But the DVA lawyers didn't do that. They hired private firms. Once again, those private firms didn't say, you're acting unlawfully. We cannot act for you. They all came into the mix.

All these legal cases happened when they shouldn't have happened.
35 Billions, I guess, over decades were spent. There are 8,000 homeless vets. Those billions could have put those guys in homes. Instead, they put lawyers in mansions and Mercedes.

There is something inherently evil in the way that the, I guess, employees
40 at DVA have been acting. You can't do this for decades. You can't just say, okay, we will change and we'll be veteran centric. You can't say to Ivan Milat, hold on, we won't worry about your previous misbehaviours, because you're a good guy now.

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We haven't had an investigation into DVA that's required. The Australian Government investigations s.2.4 requires that the police be informed, and it seems to me very unreasonable that the police haven't been called in, and that DVA is investigating itself.

5

The kinds of laws that I believe are broken by DVA, the first one is, when DVA knocks back a suicidal vet and doesn't provide the medical services that that person's entitled to, when they do it unlawfully, and that person commits suicide, that amounts to manslaughter.

10

And you'll a good publication in Neil Foster, Manslaughter in the Workplace, and that outlines where indifference can be just good enough reason to convict you of manslaughter. Now, my estimate is that in 40 years, there are probably 1,000 Vets who were manslaughtered by DVA.

15

Another thing, we're hearing lawyers, hundreds of them, I guess, over decades, have acted unlawfully. Well, one or two accidents is something, or two or three is an incompetence, but when you've got successive lawyers and heads of legal departments doing it for decades, it's a fraud.

20

They know it's wrong, and they're doing it. The fraud is, the government expects them to comply with the law and advise others of the law. Instead, they're going over the top and not worrying about it.

25 So they're not doing their job. They know it's unlawful, so they don't have a defence that they didn't know the law. So there's manslaughter and fraud.

One of the more scary things for me is when a secret ops vet goes and
30 makes a claim, everyone knows they are restricted in what information they can provide. Otherwise they'd be disclosing secrets.

They've come up against a claims manager who will say, we can't give you your claim, because we need more information. Well, Vets have been
35 put on the back foot, but the reality is, what that DVA claims manager is doing is inciting the Vet to commit a crime.

You can't pressure someone to give you more information. They don't really need it, DVA, and the only reason they want it is so they can
40 dispute a claim. It's a very scary thing, because the tiniest amount of a secret that gets out can put the whole country at risk. So DVA are acting criminally there.

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These days, they're doing another thing. Duress. They send some of the vets to a particular medical assessor. One that I know of is MLCOA who requires that they sign a waiver they won't record things.

5 Now, we have a right to record things, and that's in Surveillance Device section 7 sub-section 3, paragraph B. That's the New South Wales Act. The Commonwealth Act section 4 cedes the rights to the states.

All the states allow us to record things. We don't have to tell people, but 10 we can't publish it. We have to have a legal interest. So when we're there recording our psychiatrist interview, and I can tell you as someone with PTSD, that's a very precious moment that we got to remember what we did and didn't say.

15 But if I have a recording and can review what I said, wow, it makes a huge difference. But to have an organisation working under policy that says I can't do that, and I have to waiver my rights, that amounts to duress.

And there's a couple of things I'd like to say about that duress.

20

COMMISSIONER FITZGERALD: Sorry, we just need to be careful of time. So just if you can just make two brief points to conclude.

MR RED: Okay. DVA have been acting unlawfully for decades, and 25 there are many, many, many criminal offences in there. I want a proper police investigation. I want really a Royal Commission, because there's been decades of it, and there are so many people that need to be charged.

Because if we retain these criminally minded people there, it doesn't 30 matter what administrative changes, what policy changes, what new benefits you bring in, you will still have the spirit and culture of DVA, this one that's criminal.

COMMISSIONER FITZGERALD: Thank you very much. I am 35 familiar with the matter that you've raised in relation to the Royal Commission that you've referred to, chaired by Justice McClellan, and I was on the hearing that actually dealt with that matter.

So I am very conscious of what you raised. So thank you for raising it 40 publicly, but I am very familiar with that matter. And I thank you again for your presentation. Thank you very much.

MR RED: Thank you very much.

45 **COMMISSIONER SPENCER:** Thanks very much.

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COMMISSIONER FITZGERALD: Is there any other person that would like to make a statement before we conclude? Going, going, gone.

5 It's only left to me to firstly say thank you, especially those that have sat through the whole day. We're very grateful, and we'll now adjourn the hearing until we meet in Brisbane tomorrow morning. Thank you very much.

10 **ADJOURNED AT 4.18 PM**
UNTIL WEDNESDAY 27 FEBRUARY 2019

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