PRODUCTIVITY COMMISSION REPORT VETERANS SERVICES

General

1. Whilst usefully addressing some systemic and legislative Veteran issues,important problems receive little attention. The recent Senate Inquiry into Veteran Suicides demonstrated that some might have been avoided if only DVA Delegates had applied the now forgotten, but long established ,principles of: benefit of doubt to favour the Veteran, and beneficial interpretation of the law, including SoP's!
2. The recommendations regarding governance and funding are fraught with conflict, being reminiscent of a mythical statement attributed to Centurion Gaius Petronius in 64 AD: 'We fought well, we won battles, then we would be reorganised. I was to learn later that reorganisation created an perception of progress whilst concealing inefficiencies'.
3. Given that a Repatriation Commission (Repat) exists, at substantial taxpayer cost,there is no justification for the Veteran Services Commission recommended. What is needed is for the individuals within Repat to perform their traditional role of care for the Veteran Community. There is a perception (rightly or wrongly) is that Repat exists only to pay Lawyers to challenge reasonable claims and to attend commemorative services overseas! It is notable that Repat has NO column in the newspaper 'Vetaffairs'! And, during the recent tragic crop of suicides, Repat was silent! The founding Commissioner, Sir John Monash, would have been mortified!

Funding and Policy

4. The concept of funding and policy transfer to Defence would create a conflict of interest! The well publicised behaviour of certain senior ranks in the ADF, including an Australian of the Year, demonstrates senior ranks' low priority to Veteran welfare. For example, in a period of Budget restraint, an expensive ADF equipment item would receive priority over Veteran benefits!
5. There is ample ADF Community evidence, such as the DVA Client Survey noted in the Report, that improvement in service would result from:
   a. Benefit of doubt to favour the Veteran;
   b. Beneficial interpretation of legislation; and
   c. Simplification of the overly legalistic MRCA.

Australia's Response

6. Having correctly described the uniqueness of ADF service, the Report perpetuates the myth that Australia's Veterans' compensation and rehabilitation system is 'more generous overall than workers' compensation'! The fact is, that, in ADF cases which happen to meet all the complex criteria of eligibility, evidence, clinical onset, and SoP's, this might be so, but other genuine cases have found Centrelink easier to navigate than DVA!
7. Actual examples of non-military compensation:
   a. Policeman deceased on duty: Dependents received $ 1 million;
   b. Federal MP falls off bicycle, no permanent injury: $ 60,000; and, recently:
   c. Theiss Ltd truck driver, lumbar spondylosis but able to work: $ 720,000.

'Generous ?'

8. Current Special Rate (TPI) is $ 36,000 pa(rounded). That income would average mortgage payments virtually impossible.
9. Current rate paid for private car travel for treatment is 35.5 cents /km. If the Veteran used a taxi, the cost to the taxpayer would be at least three times that rate. Since the Veteran is saving the taxpayer so much, logically, the private car rate should be that allowed by the ATO for business travel: 66 cents/km (rounded).
10. Hence, whilst some Veterans may be adequately supported, other genuine cases are not, so the statement that the Australian system is 'generous' is a myth.

Rehabilitation and Lifetime Approach

11. Concepts of rehabilitation and lifetime approach are clearly desirable. Australia's economy is no longer as diverse as it was half a century ago, having lost most manufacturing industries. Consequently, there are fewer opportunities for civilian employment for Veterans, especially those lacking recognised 'in demand' skills. The USA addresses this problem by the 'GI Bill of Rights' which supports Veterans for education and training, as, indeed, the post WW2 Repatriation Act once provided. MRCA has some provisions, but these are so complex as to be almost unattainable. There is an overwhelming need for 'Transition' to include provision for income-supported education and training in areas where employment exists.

Employment Difficulties

12. For decades prior to 2000, there were opportunities for Veteran employment as civilians in the Australian Public Service (APS). Circa 2000, these opportunities disappeared, preference being officially given to 'minorities'. The irrational 'outsourcing' of such services as barracks catering and security has further denied such opportunities to Veterans, in addition to creating catering problems on deployment of ADF units overseas. Whilst a few Veterans have been accepted as VRB members, very few are to be found in DVA! Employment today is difficult enough, extremely so for a part disabled Veteran! Further, disabled /wounded Veterans used to be posted to Base Logistic and Reserve Units pending their rehabilitation. As those functions are also largely (and expensively) outsourced, those employment opportunities have disappeared. Transition therefore needs to provide income for Veterans, who have EARNED this right, as opposed to Veterans having to queue up at Centrelink, pending their rehabilitation and reemployment.

Injury Prevention

13. The writer's CV has 30 years ADF/APS,10 years Oil Industry, and 10 years Academia. ADF safety procedures are as rigorous as any. Even so, as proven by the Blackhawk disaster, tragic accidents occur, because the ADF must train for war. It is difficult to imagine greater focus on injury prevention without inhibiting realistic preparation for combat.

Reforms

14. The writer has been a part-time Volunteer Advocate for 24 years. Experience with Veterans and DVA supports the following:

    a. Continuity of rehabilitation care;

    b. Improved Transition, including income support;

c. Simpler system, including a less legalistic MRCA;

d. Improved governance; and

e. Greater focus on outcomes including employment.

Legislation

15. Legislation needs to be simplified, especially MRCA. Experience proves that even trained DVA staff have difficulty interpreting MRCA. In one notable case, a paraplegic Veteran disabled by a mine blast had to seek intervention at Deputy Commissioner level. In another, a part disabled Veteran's Claim, submitted with full medical records, was submitted in July 2017, but, as of November 2018, was still not resolved. Inquiries to DVA resulted in verbal apologies that the delay was due to staff illness, leave, and, as at Nov 2018, problems relating to the two Acts (VEA and MRCA) under which the Veteran served! The latter reason is not understood-the Veteran had incurred certain injuries under VEA and others under MRCA, so each should be assessed separately!

Claims Processing

16. Until at least 1980, a Veteran could approach DVA direct and be assisted by DVA with any Claim. At that time, DVA Claims Officers and, indeed, orthopaedic technicians would regularly visit ESO's, mainly RSL's, to assist Veterans. Once DVA had the Veteran's Medical File, the Veteran would be asked to visit the nearest Repat Hospital, interviewed by a Doctor, and the Claim processed within a month. If dissatisfied with the decision, the Veteran would then visit an ESO Advocate for Appeal advice. All that DVA help ceased early 1990's. Veterans came under attack by bodies such as the 1993 'Baume Committee' whose unjust Report resulted in anti-veteran VEA amendments. Those amendments, including the application of SoP's, were REJECTED by the Senate (Source: Hansard) but cunningly implemented in the context of the 1994 Budget! Thereafter, Claims assistance was delegated to ESO's, whose Advocates were mostly mature age Volunteers.

Statements of Principles (SoP)

17. The concept that all medical conditions arising from the unnatural stresses of war and family separation can be 'scientifically' proven is illogical, as proven by the fact that EVERY SoP has been amended at least three times! Thus, hundreds of just Claims have been rejected due to the limited scope of the SoP current at that time! The RMA (costing millions pa) should be abolished, and proof of any claim's relation to service accepted by the endorsement of any Registered Specialist Medical Practitioner in that anatomical field.

Processing/Navigating

18. The current system is difficult and time consuming to navigate. DVA needs to return to the pre-1990 system. Simple Claims under one Act should be processed within a month. Complex Claims should require the Veteran to be interviewed, with Service Medical Records,by a DVA Doctor, an experienced DVA Case Officer appointed, and all future contact thru that Case Officer or subsequent incumbent of that position. Thus, the Veteran should receive an initial decision within a month. Any appeal process can then proceed.

19. Rehabilitation should commence whilst the Veteran is still in the ADF. Even combat units have useful administrative work which may be within the abilities of injured/wounded personnel.

Compensation

20. Adequate and appropriate compensation for Veterans/Families for permanent disabilities indeed needs to include pain, suffering, effect upon lifestyle, and loss of income. There is ample anecdotal evidence that current payments, established decades ago and adjusted only to the CPI(since 1993, no longer a true indication of cost of living), need urgent review. The current employment market is difficult enough for a fit, healthy, qualified person. Therefore, employment is doubly challenging for a part-disabled Veteran!

Veteran Support

21. Whilst the Commission's recommendations on Veteran support are theoretically valid, the reality for Veterans can be different.

22. Wellness and ability: Reality: part-disabled Veterans always have employment difficulties.

23. Equitable: Comparing with, say, the Parliamentary scheme? Or the APS scheme in which a clerk can fall asleep at his desk, fall off, permanently injuring his neck, and get full compensation for life (actual case).

24. Veteran centric-indeed.

25. Needs based- but on what criteria?

26. Evidence based. This is a most contentious matter. ADF activities involve hazards. Because of the team cohesion essential to survival in war, not all incidents are reported or recorded. Further, the same 'ANZAC spirit' prevents personnel from reporting an injury, 'soldiering on' regardless. Therefore, Veterans earn the right for 'onus of proof' to be upon DVA , and 'benefit of doubt' ALWAYS to favour the Veteran! Further, as some recent VRB have become purely legal arguments, this 'benefit of doubt to the Veteran' needs to be inserted in EVERY piece of legislation!

Gold Card

27. The contentious 'Gold Card' is EARNED! Under Medicare, all citizens get free care anyway. Further, the automatic issue of a Gold Card to all Veterans after a minimum of 6 months overseas deployment would enable these personnel to discreetly seek medical/psychiatric support outside the ADF system, thus not inhibiting their career prospects.

'Some discourage wellness?'

28. Given the well reported financial scandals which have blotted that organisation, RSL NSW assertions need critical evaluation. Whilst there will inevitably a few Veterans whose object might be 'extraction of cash from the government', the majority would gladly 'return to being a 'productive member of society'. After all, those few Australians who signed up to put their lives and health at risk in an ADF which has no Union protection have already proven their desire to work! The simple fact is that so many Veterans, especially part disabled, cannot get employment of ANY kind! Therefore, Australia OWES them, and their families, a reasonable standard of living and health care.

DVA Administration

29. During 2018, improvement in simple claims processing has been noted. However, complex Claims involving two or more Acts seem to take excessive time. Again, onus of proof, benefit of doubt, and beneficial interpretation issues are major, unnecessary, causes.

VRB Appeals

30. Advocates have noted varying standards in current VRB's. Whilst some are sympathetic, others appear from the outset of the interview to be adversarial. Problems noted include:

31. Whilst VRB rules clearly require all evidence to be considered regardless of legal definition, some Senior VRB members still decline to accept any submission not meeting the legal definition! Indeed, the writer recently had to remind that Senior Member of her obligations to hear ALL evidence; and

32. Too many Service Members have limited experience only in one Arm of the ADF. Given that there are a number of applicants for that position with at least some experience of joint Navy/Army/Air Force operations, it should be an essential requirement that Service Members of VRB demonstrate an understanding of all parts of the ADF. Ideally,a VRB should have an Army, Navy, and Air Force member.

A Simpler System

33. The evidence for a simpler system is clear. MRCA emerged from the Blackhawk disaster, but the drafting bureaucracy made the legislation more complex than Parliament intended. Indeed, one assessment system should cover ALL service.

34. Similarly, SoP need to be simplified and only one criteria used instead of the two at present. Any benefit of doubt should favour the Veteran regardless of service.

Superannuation

35. Military Superannuation has further complicated the system. A Veteran discharged as medically unfit may be well supported by the current Milsuper Scheme. However, another Veteran under the superseded DFRDB Act would NOT be so supported. There is an urgent need to review the DFRDB Act to correct inherent injustices.

Widows/Dependant Benefits

36. Legislation granting dependants benefits on the death of a Veteran is queried in the Report. Such benefits were originally granted by Parliament as compensation for the care of a disabled Veteran whilst living. There is NO justification for these benefits to be removed!

Commission Recommendations and Conclusion

37. Draft recommendation 4.1.

38. Rehabilitation and Transition both need to be simply accessed with adequate financial support, at least 80% of the Veteran's salary, unless the Veteran currently qualifies for that level under Milsuper.

39. Adequate compensation, regularly adjusted according to MTAWE/CPI, whichever is the greater, needs to be provided for disabilities, and MUST allow for pain, suffering, lifestyle, loss of income and loss of superannuation which would accrue from that income.

Principles

40. Wellness focus agreed, BUT on condition that adequate income is provided during transition and rehabilitation.
41. 'Needs based' is questionable. MRCA 'needs assessment' wastes time and frustrates Veterans. Any just assessment should take account of the Veteran's potential loss of earnings.
42. 'Evidence based' is NOT always possible for disabilities arising from ADF service!Any onus of proof or benefit of doubt MUST favour the Veteran.
43. Inserting 'benefit of doubt to favour the Veteran' and 'beneficial interpretation ' need to be inserted as amendments to ALL legislation. Such amendments of themselves would significantly improve assessment and Delegate/ VRB decisions.

Rehabilitation and Transition

44. Rehabilitation has traditionally been the responsibility of Repat thru DVA, and should remain so. Rehabilitation must include income support at a level of 80% of Veteran's salary if this amount not received from Milsuper.
45. Draft recommendation 7.1.Transition is currently the responsibility of the ADF. Where unsuccessful, DVA should accept this role. The concept of a Joint Transition Command is therefore supported.
46. Draft recommendation 7.3. Education and vocational training need to be easier to access (as they once were under the post-WW2 Repat Act), and as they are under the USA equivalent known as the 'GI Bill of Rights', administered by DVA.

Liability

47. Draft recommendation 8.1. The question of liability needs to be simplified. Since each ADF enlistment is thoroughly examined medically, all subsequent disabilities should be accepted unless proven otherwise.

Statements of Principles(SoP)

48. SoP and RMA are a waste of taxpayer funds. Relation to service should be accepted by certification from a Registered Specialist Medical/Psychiatric Professional in that field.
49. If SoP continue, then recommendation 8.2 is supported.

Claims Administration

50. Draft recommendations 9.1,9.2, and 9.3 , DVA training, reporting, and quality assurance are supported.

Reviews and VRB

51. In view of the perception that VRB's are unduly legalistic and adversarial,further to recommendation 10.1, should be added: 'All VRB's need to be reminded that the Veteran is entitled to benefit of doubt, and (of the Federal Court decision circa 1990), that interpretation of legislation is intended to be beneficial to the Veteran'.
52. In the selection of a Services Member, every candidate should demonstrate an understanding of ALL arms of the ADF, or all VRB should have an Army, Navy, and Air Force member!
53. Draft recommendations 10.2 and 10.3, including alternative dispute resolution, are supported. However, to maintain some independence, the VRB needs to remain separate from DVA, so draft recommendation 10.4 is NOT agreed.

Governance and Funding

54. The Commission offers no REAL evidence to support Veteran policy becoming a Defence responsibility. Indeed, the very few senior ex-ADF officers involved in Veteran Advocacy demonstrates that group's lack of concern for the Veteran community. There would always be a conflict of interest for funding. Draft recommendation 11.1, 11.2, and 11.5 are NOT supported.

Compensation Packages

55. Given the hazards of peacetime training, different rates of compensation cannot be justified. Therefore, draft recommendation 13.1 is supported.

56. The issue of 'permanent and stable' impairment was the documented cause of one recent local Veteran suicide. The Commission concerns that a person/dependant who has given so much might be 'overcompensated' by a lump sum is disgraceful! Draft recommendations 13.2, 13.3, 13.4,13.6,13.7, and 13.8 MUST NOT BE ACCEPTED!

Simplifying

57. Draft recommendation 14.1 re exemption of DVA disability payments from income tests is logical and agreed.

58. Given the costs of tertiary education, draft recommendation 14.2 is NOT agreed.

59. Given the increasing cost of electricity, recommendation 14.3 is NOT agreed.

60. Recommendations 14.4, 14.5, and 14.6, are logical and should be supported.

Health Care

61. Given that all citizens receive Medicare, the relatively small extra cost of the Gold Card for eligible Veterans is well justified. Recommendations 15.1, 15.2, and 15.3 MUST NOT BE ACCEPTED!

'Bringing it together'

62. Whilst there is logic in only two schemes for Veteran support, the problem will be in the detail to ensure no disadvantage. The Commission makes no comment regarding the obvious complexity of MRCA. MRCA desperately needs simplification and to be less legalistic. MRCA also lacks any consideration of onus of proof, benefit of doubt, or beneficial interpretation, the lack of which has contributed to Veteran hardship and suicide! Recommendation 17.1 should only be accepted if MRCA is simplified, and onus of proof, benefit of doubt, and beneficial interpretation amendment are included.