THE ROYAL AUSTRALIAN ARMOURED CORPS CORPORATION
SUPPLEMENTARY SUBMISSION
TO THE DEPARTMENT OF VETERANS' AFFAIRS
PROPOSED LEGISLATIVE REFORM PATHWAY 2023

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The Responsible Officer
Legislation and Amendments
Department of Veterans' Affairs

SUBJECT: SUPPLEMENTARY SUBMISSION TO VETERANS' LEGISLATIVE REFORM 2023

PURPOSE

To put before the Responsible Officers, further submissions in relation to other recommendations cited in the Minister's Legislative Reform Handbook

Background

In its initial response (136pp) to the Productivity Commission's Draft Report the RAAC Corporation addressed the issue of Gold Cards and Rehabilitation contending a three-tire approach to rehabilitation should be considered
An examination of the recommendations cited in the Legislative Review Handbook, it was noted that a significant number of recommendations flowing from the Productivity Commission's final report were classed by the Royal Commission as being partly achieved or not progressed (at p.2).

A number of these recommendations were answered by the RAAC Corporation (where it considered it was competent to do so) in its response(56pp) to that report.
These recommendations were **Recommendations 14.2 to 14.10** inclusive, with **Recommendation 14.1** having been addressed in the RAAC Corporation's submission tendered on 17 March 2023.

Where relevant, the issues discussed have been amended/updated to reflect where necessary, any changes between 2018-19 and the present.

The RAAC Corporation contends that, the issues discussed herein are equally if not more so, relevant to the legislative reform process being undertaken and argues a need exists for the issues discussed to be considered as part of the legislative reform process.

PREFACE

"It is not difficult to understand that, as the nation becomes progressively more remote from times of war, some people – particularly those who have had no direct association with, or personal recollection of, the circumstances of war – should question the continued existence of special arrangements for returned servicemen.

In this respect other submissions have stated that this attitude fails to recognise the promise of the nation to care for members of the Forces killed, disabled or disadvantaged as a consequence of enlistment, voluntarily or otherwise, in time of war.

That the promise has been made and reaffirmed many times is beyond question.
Even if such a promise had not been made, it was said that the duty should arise as a matter of course in any civilised community.

It was asserted that the promise cannot be dismissed lightly and it is inconceivable that the passage of time should be permitted to lessen its impact on the national conscience."
(Justice Paul Toose).[1]

The word of Toose J emphasise the inviolable need to not cheapen the service and sacrifices of veterans. He reminds all of the duty owed by the nation to its veterans, former and currently serving, to refrain from failing in that duty through Governments remodelling veterans' legislation to veterans' detriment.

His Honour is clear on the fact that the care of veteran having equitable and reasonable access to benefits and entitlements both financial and other, is a duty owed by a civilised community. Australia is just such a community.

Government and DVA owe a duty to heed Toose J's words.

Governments who deviate from or fail to honour that duty, do so at their own peril.

[1] Toose, P., ***Independent Enquiry into the Repatriation System,*** AGPS, Canberra, 1975, pp 19 – 75, at p.58. Topperwein, B., Southern Cross University, Veterans Law 1, LAW 10069.

ISSUES

GOLD CARDS AND REHABILITATION

In its original submission of 30/5/2018 (63pp), to the Productivity Commissions Veterans' Compensation and Rehabilitation Inquiry the Corporation discussed the provisions of DVA Factsheet MRC09 Special Rate Disability Pension (SRDP) accessed 28/5/2918 (sub 29, p.56), in which it was stated by DVA that: *"Those eligible for the SRDP receive a Gold Card. Participation in rehabilitation is* ***a precondition*** *to being assessed as eligible for the SRDP."* (This writer's bold emphasis).

That statement was argued by the Corporation to be inconsistent with the law, specifically the provisions of s.199(1)(d) which provides that where a veteran fails to meet at least one of the legislative criteria in s.199, in this instance where, *"rehabilitation is unlikely to increase the person's capacity to undertake remunerative work"* an offer of either a SRDP pension or periodic payments must be made.

The provisions of s.199(1)(d) are considered to be a beneficial and remedial provision. However on any reading, the precondition in MRC09 was not considered to be a beneficial or remedial provision, instead acting as a significant fetter to a veteran attaining SRDP eligibility, once all avenues of rehabilitation failed, by continuing to insist rehabilitation must be a precondition to receiving that level of disability pension.

The law is unambiguously clear that where an inconsistency exists, the legislation prevails to the extent the inconsistency occurs. This was certainly the case with the governing legislation, in this instance s.199(1)(d) MRCA when compared to MRC09.

The fact is that by imposing a precondition caveat on veterans in MRC09 which was not enshrined in law, the provisions of MRC09 were considered by the Corporation to be *ultra vires* the Statute.

The Corporation notes that since that time, MRC09 has been amended and the term ***"precondition"*** has been excised (effective 8/1/2019). While welcoming this adjustment to bring MRC09 in line with the law and operate in a beneficial and remedial manner for veterans, the Corporation contends that further adjustment needs to be undertaken to smooth the path to a SRDP Pension and remove another legislative tripwire.

Issues
The issue of rehabilitation and when to grant a level of pension to a veteran for the rest of their life due to a complete inability by virtue of their accepted disabilities to return to or remain in the workforce, is an area that is perhaps the most contentious.

This arises due the fact one Act, the VEA 1986, is not rehabilitation-focused and provides for disability pension coverage and health care to veterans for natural life. In contrast, the MRCA 2004 is very strongly focused on rehabilitation and has only one level of lifetime pension coverage the SRDP.

Under the VEA, once veterans are assessed and granted a Disability Pension, they essentially have no further contact with DVA from a purely pension perspective, other than lodgement of an AFI or claim for a new disability. However, under MRCA due the pervasive nature of the legislation related to rehabilitation, it is not an exaggeration to contend that in some instances, veterans are better off under a VEA regime than that of MRCA.

The difference of approach under the VEA and MRCA to veterans with significant and permanent accepted disabilities, is best illustrated by the situation that those unable to work, find themselves in.

Under MRCA (s.199) veterans are entitled to a grant of SRDP pension which is that Act's equivalent of a s.24 VEA Special Rate (TPI) Pension. The grant of SRDP comes with a caveat – either elect for a SRDP pension paid indefinitely (for life) or periodic payment to the age of 65 and then automatically come off MRCA payments and move to the Aged Pension and become a Centrelink dependant.

That is an appalling option on every level, and action should be taken to rid the Act of the Centrelink backstop in respect of any veteran deemed incapable of working more than 10hrs a week and who is granted a SRDP Pension.

The Centrelink option is seen to be an action that is a completely inconsistent factor in an Act that is supposed to look after those who served the nation and who, by virtue of that service are too disabled to work.

Placing them on Centrelink benefits at age 65 destroys that special veteran status through putting them into the huge cohort of an Aged Pensioner cohort and not keeping them as a military veteran under MRCA. It is on any analysis, tantamount to being thrown out of home (MRCA) and is considered to be one tripwire that needs to be eliminated.

According to DVA's recently amended Fact Sheet MRC09, which removed participation in rehabilitation as being a *"precondition"* to SRDP eligibility; "*If you are assessed as SRDP eligible,* ***you can still participate*** *in a rehabilitation program."*[2]

(This writer's bold emphasis)

Again, MRC09 is inconsistent with the provisions of s.199(1)(d) which states *inter alia*, *"rehabilitation is unlikely to increase the person's capacity to undertake remunerative work."*

The argument can be made that, in circumstances where a veteran is granted pension paid at the SRDP level, rehabilitation is not going to work at the higher end of the disability scale, due to the effects on a veteran of the severity at that level, of their accepted disabilities. The level of pension is commensurate with the severity and permanence of the accepted disability or disabilities.

[2] DVA, 'Special Rate Disability Pension (SRDP)', Factsheet MRC09, online at https://www.dva.gov.au/factsheet-mrc09-special-rate-disability-pension-srdp [accessed 9/1/2019].

No evidence of material fact as to the success of rehabilitated SRDP veterans coming off that level of pension, is available to show the derating of a veteran's pension to a periodical payment. The suggestion in MRC09 that rehabilitation might work at that level of physical or mental impairment, is not sustainable.

This is supported by the provisions of s.199(b) which state:

> *(b) as a result of the injuries or diseases, the person has suffered an impairment that is likely to continue indefinitely;*

The operative phrase in this instance is ***"indefinitely."*** It is not an exaggeration to contend that the level of physical and mental damage to a veteran where SRDP eligibility is being considered, is of such a nature that any attempts to become or remain a contributing member of society, will be for naught.

Regardless of the good-faith intent to rehabilitate a veterans as much as is reasonably possible, the reality is that instances will occur where this is just not possible – a fact acknowledged by s.199(b). It follows that, the provisions of s.199(d) which states:

> *(d) the person is unable to undertake remunerative work for more than 10 hours per week, and rehabilitation is unlikely to increase the person's capacity to undertake remunerative work.*

should at the first instance, be amended to have the second half of the sentence commencing with ***"and rehabilitation…"*** completely excised from what is a very difficult test for badly damaged veterans at that level of disability, to meet. As it stands, this rehabilitation caveat provision in s.199(d) imposed on the most badly affected veterans, defeats any beneficial intent of this legislation and is another tripwire that needs to be removed.

It is not an exaggeration to contend the provisions of VEA 1986 in respect of TPI veterans are on any analysis, far more beneficial.

The inference gained from the relevant MRCA provisions discussed, presupposes a SRDP veteran will recover. That is flawed thinking. The physical damage or mental damage or both, to a veteran at the level of pension eligibility, clearly argues in favour of a veteran being granted a SRDP without any further strings attached.

In trying to claw back from SRDP-category pensioners that level of pension based on a rehabilitation programme which will most likely never succeed, the Government is in fact keeping a SRDP veteran in a twilight zone of stress and uncertainty by placing a SRDP veteran undergoing a rehabilitation programme - never knowing if the SRDP is to be cut, forcing them to go through the review process all over again. The stress that that places SRDP veterans under - in particular vulnerable PTSD veterans, needs no further elaboration.

This is particularly so in circumstances where a veteran who is too ill or too disabled to work, is forced to step on the merry-go-round of constant doctor's visits to obtain doctors' certificates in order to receive disability payments.

There is no incentive on the merry-go-round for veterans to seek work, which places them at significant risk of becoming chronically dependent on compensation payments to the extent they are psychologically unable to go job hunting.

Failure to lodge such certificates results in payments being ceased forcing a veteran to start the process over again with its attendant stress and trauma, particularly in circumstances where PTSD is one of the disabling conditions.

Assessment Periods

A failure of MRCA is the complete absence in the Act, of any legislative provisions to enable veterans to be considered for grant of **Temporary SRDP** status for up to two years in order to see if rehabilitation of a veteran is successful. (This writer's bold emphasis).

The provisions of s.25 of the VEA provides for temporary payment of Special Rate Pension (TTPI) in certain circumstances within a period of time determined by the Repatriation Commission. In general terms this is seen to be between 12 months and two years and in this writer's experience, is considered to be a very effective measure in gauging stabilisation of condition in respect of determining grant of TPI or not, at the end of the specified period.

This level of pension is seen to be what is best described as an *order nisi* whereby after further assessment, a determination granting pension at substantive TPI level is seen to be an *order absolute*.

There is no option of a lump sum or pension, as is the case where interim compensation payments under MRCA are reviewed to assess permanence , once a condition has stabilised. It is noted that throughout the Draft Report's 704 pages, it is silent on discussing a specified time period (assessment period) to assess and determine permanent impairment as part of a stabilising assessment exercise. Similarly, s.75 MRCA and the DVA CLIK database are also silent on a specific stabilisation assessment period. This suggests an open-ended situation which has its disadvantages.

It is the RAAC Corporation's contention that , a defect in the MRCA assessment continuum exists and is a defect that needs to be cured.

By applying an open-ended stabilisation assessment period, veterans subject to this process under MRCA and also DRCA, find themselves in a compensation limbo where no substantive final decision on permanent impairment can be made, generating stress and uncertainty in trying to have a final decision made as to their circumstances.

The imposition of a time limit on interim assessment would operate to give veterans a degree of certainty that there is an end date (meet an objective) they can work towards, in attempting to have their condition/s stabilised for final assessment.

It is the RAAC Corporation's contention that, that consideration should be given to examining the assessment period applied to s.25 VEA with a view to developing a similar protocol for MRCA and DRCA veterans who are undergoing a stabilisation assessment process. Certainty and a goal to aim for is a stress reducing process and can only make the compensation process smoother for veterans.

The RAAC Corporation acknowledges that, as the s.25 TTPI permits veterans to work up to 8 hours per week as for the TPI, and the SRDP allows up to 10 hours remunerative work per week, remedial legislation will need to be enacted to maintain the 10-hour rule for Temporary SRDP veterans. The no detriment rule must apply.

The beneficial intentions of higher-level disability pensions available to VEA veterans before becoming eligible for a grant of pension paid at the Special (TPI) Rate, are an excellent sounding board by which to assess how a veteran is rehabilitating.

If applied to MRCA, it would allow a determining authority to assess the need to grant a full SRDP pension without the detrimental caveat contained in s.199(d).

The inclusion in MRCA of two additional higher-tier pensions similar to the TTPI vide s.25 VEA and Intermediate Rate of Pension under s.23 VEA, will provide veterans with a stable time frame in which to have their conditions assessed for permanent SRDP, and will remove the stress of having to continually chase doctors' certificates for that specified assessment period, while on a Temporary SRDP.

It is the RAAC Corporation's very strong contention that, a three-tier Hierarchy of AGR pensions, should be considered for MRCA veterans; viz

- **Intermediate level (Tier 1)**
- **Temporary level (Tier 2)**
- **SDRP level (Tier 3).**

Similarly, an Intermediate-equivalent MRCA pension will enable veterans to undertake paid work for greater than 10 hours, albeit on a restricted basis. The Intermediate Rate in s.23 VEA permits veterans to undertake remunerative work for up to but not including, 20 hours per week. It is a measure the RAAC Corporation contends would find favour with veterans.

The risk to that lies in the offsetting that is enshrined in MRCA. Any salary earned under the restricted work-hour regime of an Intermediate equivalent under MRCA, should apply a different method of offsetting.

Any offsetting should not, under any circumstance, be equivalent to the 60% offsetting penalty in the Act, but should be calculated, based on the weekly disability payments i.e., an amount deducted from the pension, using a formula for VEA Service Pensions where a pro-rata deduction is calculated based on a veteran's after-tax earnings. This contention finds strong support from the National RSL.

It is also significant to note in MRCA the use of the term ***"person"*** instead of ***"veteran"*** which again operates to *de minimis* a veteran's service and deliberately ignoring a claimant as a veteran and reducing a veteran to a mere civilian worker. This again offends the unique nature of a veteran's service by lumping the in with the general community.

RECOMMENDATION 14.2 INTERIM COMPENSATION TO BE TAKEN AS A PERIODIC PAYMENT

The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 to remove the option of taking interim permanent impairment compensation as a lump-sum payment. The Act should be amended to allow interim compensation to be adjusted if the impairment stabilises at a lower or higher level of impairment than what is expected within the determination period.

The Department of Veterans' Affairs should adjust its policy on assessing lifestyle ratings for interim permanent impairment to more closely reflect the lifestyle rating a veteran would expect to receive once the condition has stabilised.

COMMENT
The first part of this recommendation is not supported. The operative phrase here is ***"option."*** The removal of this option imposes a dictatorial approach on veterans, to compensation matters.

This is completely unfair. The recommendation is considered to be nothing more than a money-saving attempt by the Commission and may cause veterans to suffer financial detriment if agreed to. Veterans should be allowed under the law, to exercise their right to consider either option and after receiving financial advice, be able to make an informed decision based on that advice.

The proposal that DVA adjust its policy on Lifestyle Ratings is to be treated with the same degree of suspicion as that discussed in relation to reviewing GARP 5 and 5(M)).
As Lifestyle Tables form part of both GARPs, the need for ESO consultation on this matter is paramount.

That part of the recommendation is conditionally supported.

41 ***RECOMMENDATION 14.3 INTERIM COMPENSATION TO BE FINALISED AFTER TWO YEARS***

The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 to allow the Department of Veterans' Affairs the discretion to offer veterans final permanent impairment compensation if two years have passed since the date of the permanent impairment claim, but the impairment is expected to lead to a permanent effect, even if the impairment is considered unstable at that time. This should be subject to the veteran undertaking all reasonable rehabilitation and treatment for the impairment.

Once a condition has reached a level where it is now permanent, consideration should be given to enabling DVA to have the discretion to offer veterans final PI compensation after a reasonable time (the stabilisation assessment period), has elapsed. Section 75 MRCA and the DVA CLIK database are silent on a specific stabilisation assessment period. This suggests an open-ended situation, which has its disadvantages.

By applying an open-ended stabilisation assessment period, veterans subject to this process under MRCA and also DRCA, find themselves in a compensation limbo where no substantive final decision on permanent impairment can be made, generating stress and uncertainty in trying to have a final decision made as to their circumstances.

In examining this recommendation, the RAAC Corporation again refers to its comments above regarding the implementation of a Temporary SRDP based on the s.25 VEA TTPI Model where a decision must at law, be made after a period of up to 2 years (from an *order nisi* to an *order absolute*).

The imposition of a two-year time limit on interim assessment would operate to give veterans a degree of certainty that there is an end date they can work towards, in attempting to have their condition/s stabilised for final assessment. This recommendation is supported.

RECOMMENDATION 14.4 ELIGIBLE YOUNG PERSON PERMANENT IMPAIRMENT PAYMENT

The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 to:

- *remove the permanent impairment lump-sum payments made to the veteran for dependent children and other eligible young persons*
- *increase the rate of permanent impairment compensation by about $37 per week for veterans with more than 80 impairment points. This should taper to $0 by 70 impairment points.*

COMMENT

The pittance recommended by the Commission is an insult to veterans who suffer lifelong and debilitating injuries which impact adversely on their capacity to work and enjoy the amenities of a normal family and social life. Similarly, the proposal to remove the young person' component is an insult and is tantamount to penalising young persons, due to their parent's impairment.

The recommendation is not supported.

RECOMMENDATION 14.5 IMPROVE LIFESTYLE RATINGS

The Department of Veterans' Affairs should review its administration of lifestyle ratings in the Military Rehabilitation and Compensation Act 2004 to assess whether the use of lifestyle ratings could be improved to more closely reflect the effect of an impairment on a veteran's lifestyle, rather than being a 'tick and flick' exercise.

COMMENT

Any proposal to review lifestyle ratings with a view to **improving** them is welcomed. However, it must be viewed by the ESOs and the veteran community in general with caution as discussed previously in this commentary. (This writer's bold emphasis).

It is not on any level a *flick and tick* exercise. Such a contention is completely rejected. It is a process requiring significant discretion and tact when discussing with a veteran client the effects of a disability/ies on their lifestyle (quality of life). The recommendation is supported.

RECOMMENDATION 14.6 TARGET INCAPACITY PAYMENTS AT ECONOMIC LOSS *The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 to:*

- *remove the remuneration loading added to normal earnings for future claimants of incapacity payments*
- *provide the superannuation guarantee to veterans on incapacity payments who: – were members of the ADF Super or Military Superannuation and Benefits Scheme when they were in the military – are not receiving an invalidity pension through their superannuation – have been on incapacity payments for at least 45 weeks – are not receiving the remuneration loading.*

Noted.

RECOMMENDATION 14.7 REMOVE THE MRCA SPECIAL RATE DISABILITY PENSION
The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 to remove the option of taking the special rate disability pension. Veterans who have already elected to receive the special rate disability pension should continue to receive the payment.

This recommendation mirrors that of Recommendation 13.2 in the Commission's Draft Report. It follows that, the Corporation's position as set out in its response (pp.28-29) remains unchanged; viz.

The import and intent of this recommendation is profoundly disturbing.

Such a proposal flies in the face of Parliament having in place, an Act that is remedial in intent.

The grant of a SRDP pension vide s.199 is considered on any analysis to be a remedial provision and intent. The Act, notwithstanding its many flaws, is remedial in nature as its intent is to provide a level of compensation for veterans who are so severely impaired they are incapable of undertaking remunerative work for more than 10hours per week, due to the effects of their accepted war-caused or eligible Defence-service caused disabilities, of themselves alone.

The Commission's assertion that "the criteria for the payment runs counter to the rehabilitation focus of the MRCA," *(p.527) is not supported.*

Similarly, the Corporation also disagrees with contention by DVA that it "also noted that the SRDP 'is complex to administer and can act as a barrier to employment' (sub. 125, p. 32) (Draft Report p.527).

Regardless of administrative complexities, it is not the pension that is a barrier to employment. It is the ***totality*** *of the effect on a veteran of their accepted disability or disabilities of itself alone or of themselves alone, on a veteran's capacity to undertake remunerative employment of more than either 8 hours per week (TPI s.24 VEA, TTPI s.25 VEA) or 10 hours per week (s. 199(c) DRCA), coupled with the reluctance by employers to employ veterans with service-related disabilities.*

The Commission is unable to appreciate that, regardless of the very best efforts at rehabilitating veteran back to an employable level of fitness, instances will occur where a veteran is permanently unfit for any remunerative employment for which a veteran is suited, by education, training or experience.

Additionally, the kinds of remunerative work that a veteran might reasonably undertake by virtue of their skills is no longer possible, due to the catastrophic effects of their accepted disabilities or compensible injuries. That is the stark reality facing some veterans.
To deny otherwise is to deny reality, which the Commission appears to be doing in this instance.

The removal of this level of pension from the MRCA is an insult to the service and sacrifice of veterans who have been rendered incapable of remaining in the workforce.
It is also relevant to consider:

1. *Younger veterans may not have a Superannuation scheme to fall back on should they end up as a SRDP recipient;*

2. *The SRDP pension like the TPI, is a level of pension that is subject to the vagaries of twice-yearly pittances known as the CPI increase;*

3. *The SRDP as with the TPI, is well below the MTAWE and as such keep recipients below al level of financial comfort other members of the community enjoy.*

4. *Younger veterans who do not have qualifying service are ineligible to receive a Service Pension (Income Supplement) so will be forced to exist on a SRDP or TPI Pension.*

The failure by the Commission to not have an appreciation of the physical and psychological effects of service to the nation, resulting in a veteran being granted a SRDP, is unacceptable.

This Draft Recommendation fails completely, any test of reasonableness.
In that regard, the Corporation relies on the decision of the Federal Court in the Australian Doctors case[3] in which the Court held that the term "reasonable" to be construed as defined in the Concise Oxford Dictionary, that is, "Agreeable to reason, not irrational, absurd or ridiculous".

Nothing in the draft recommendation remotely meets that Common Law test which has not been disturbed by a Court of superior jurisdiction. The recommendation to abolish the SRDP is on any analysis, an egregious proposal that should never have seen the light of day.
The Commission's case to close off access to this level of payment has not been made out.

The Commission should have instead, focused on abolishing the unconscionable 60% offsetting provisions in MRCA and considered a complete repeal of the Act and not engage in disenfranchising veterans who are too impaired to work.

The proposal espoused in this recommendation as for the previous Draft Report, is rejected by the Corporation and is not supported in any way.

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[3] ***Australian Doctors' Fund v Commonwealth*** (1994) 34 ALD 459, per Beazely J; (***Department of Industrial Relations v Burchill*** (1991) 33 FCR 122; 105 ALR 327, considered).

46 *RECOMMENDATION 14.8 REMOVE AUTOMATIC ELIGIBILITY FOR MRCA DEPENDANT BENEFITS*

The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 (MRCA) to remove automatic eligibility for benefits for those dependants whose partner died while they had permanent impairments of more than 80 points or who were eligible for the MRCA Special Rate Disability Pension.

COMMENT
The best that can be said in respect of this recommendation is that it is callous in the extreme. To even remotely suggest that War/Defence widows are to be disentitled to an automatic grant of relevant pension benefits on the death of their spouse/partner, is astonishing.
This recommendation is not supported.

47 *RECOMMENDATION 14.9 COMBINE MRCA DEPENDANT BENEFITS INTO ONE PAYMENT*
The Australian Government should amend the Military Rehabilitation and Compensation Act 2004 to:

- *remove the additional lump sum payable to wholly dependent partners of veterans who died as a result of their service*
- *increase the wholly dependent partner compensation by the equivalent value of the lump-sum payment (currently about $115 per week) for partners of veterans where the Department of Veterans' Affairs has accepted liability for the veteran's death.*

The recommendation is not supported. It is seen to be a consolation prize for widows should they be disentitled under MRCA to receive War/Defence widows' pension benefits as recommended in **14.8** above.

48 *RECOMMENDATION 14.10 HARMONISE THE FUNERAL ALLOWANCE*
The Australian Government should amend the Veterans' Entitlements Act 1986 (VEA) to align its funeral allowance with the Military Rehabilitation and Compensation Act 2004 funeral expenses benefit for veterans who:

- *were receiving the special rate of disability pension*
- *were receiving the extreme disablement adjustment pension*
- *were receiving an allowance for being a multiple amputee*
- *were a former prisoner of war*
- *died of service-related causes.*

Other groups eligible for the VEA funeral allowance should remain on the existing benefit.

COMMENT
Families of deceased veterans are better off financially under MRCA than they are under VEA in terms of funeral benefits. Funeral benefits under MRCA are superior to those under VEA, namely $12,270.59 (at the time of writing) under MRCA and a mere $2000 under VEA. This operates to create a gross disparity between both schemes and is in urgent need of harmonising.

The Corporation contends that the other groups under VEA, namely persons who have died:

- *from an accepted service-related disability;*
- *in needy circumstances;*
- *in an institution (including a hospital or nursing home);*
- *travelling to or from an institution;*
- *after discharge from an institution in which the veteran had received treatment for a terminal illness; or*
- *while being treated at home for a terminal illness.*

A funeral benefit may be payable where a war widow(er), child under 16 or full-time student under 25 dies in severe financial need. Applications must be made within 12 months of the dependant's death[4]

should be entitled to an improved level of benefit.

The recommendation is supported on the condition all other groups under VEA should also be entitled to a new benefit level.

CONCLUSION

The conclusion is, the matters discussed in this Supplementary Submission are of significant importance and should be considered for inclusion in the legislative reform process.

RECOMMENDATION

1. That you note the above; and

2. Join this Supplementary Submission to the RAAC Corporation's primary submission tendered on 17/3/23; and

3. Consider the recommendations contained in this Supplementary Submission for inclusion in the legislative reform process.

For your consideration and action.

Noel Mc Laughlin OAM MBA
Chairman
RAAC Corporation
22 March, 2023

[4] Factsheet BR04 - Bereavement Information, online at https://www.dva.gov.au/factsheet-br04-bereavement-information [accessed 9/7/19].