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**Patron:** Colonel Mary Brandy, CSM (Retd)

**APPVA submission on Veterans' Legislation Reform**

The Australian Peacekeeper and Peacemaker Veterans' Association (APPVA) welcomes the opportunity to provide feedback on the Government's exposure draft of the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024*.

While the association supports the Government's policy intention to simplify the administrative arrangements for providing support arrangements for Defence personnel; veterans; and their families, we believe the proposed legislation is too narrowly scoped and will therefore fail to meet this objective.

We are particularly concerned that the proposed changes do not reflect the multi-agency nature of modern military and peacekeeping operations and will exclude current, and future non-ADF veterans, from the support that is rightly provided to their ADF comrades. Non-ADF veterans of these operations will be forced to seek support through adversarial compensation arrangements through entities that do not understand their experience nor their sacrifice on behalf of the nation.

Should the legislation proceed under the current minimalist model, the Government will continue to create the angst, complexity, and trauma that the recommendations of the Royal Commission into Defence and Veteran Suicide sought to address.

The association believes that this issue can be addressed through adoption of the following policy objective:

*For non-ADF veterans, the legislation will contribute to improving the wellbeing of all classes of veterans and other individuals who have deployed in support of military; peacekeeping; or other declared Australian Government operations, from the time of their selection for deployment and the rest of their lives.*

Once this legislation has been prepared in accordance with this objective, the alignment of future veteran's entitlements will equitably reflect the nature of contemporary service.

The APPVA appreciates the assistance provided by the United Nations & Overseas Policing Association of Australia (UNOPAA) and the Australian Federal Police Veterans Association (AFPVA) in preparing the submission and their formal support for the submission.

Yours sincerely,

Ian Lindgren  
Chairperson

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Attachment A: Veterans' Legislation Reform – Exposure Draft, Australian Peacekeeper and Peacemaker Veteran's Association (APPVA) submission

27 April 2024



## Attachment A: Veterans' Legislation Reform – Exposure Draft, Australian Peacekeeper and Peacemaker Veteran's Association (APPVA) submission

**Points to note:** This submission has been prepared by the APPVA with the support and assistance of the United Nations & Overseas Policing Association of Australia (UNOPAA) and the Australian Federal Police Veterans Association (AFPVA)

### Summary

The Australian Peacekeeper and Peacemaker Veteran's Association (APPVA) fully supports the Government's policy objective of simplifying and harmonising the framework for veterans' compensation, rehabilitation and other entitlements. However, the APPVA is concerned that a legislative limitation on the definition of a veteran, risks recreating the historical problems created by differentiating between different classes of veterans even when these veterans served side-by-side on the same operation. If this issue remains unaddressed, the government will simply recreate the policy complexity, inter-veteran tensions, administrative intransigence, and poor outcomes that have adversely impacted veterans' support arrangements for decades.

History demonstrates that Government will inevitably be forced to respond to the adverse publicity surrounding inequitable veterans' outcomes by piecemeal changes to the arrangements but only after causing serious harm to impacted veteran cohorts.

With the proposed legislative reforms, the APPVA believes the Government has a unique opportunity to future-proof Australia's veterans' affairs system by developing arrangements that can readily adapt to changes in the nature of war and contemporary integrated operations; particularly peacekeeping, peacemaking, and stabilisation operations.

The APPVA's proposes that the legislation be principles-based with an underlying concept that classification of a veteran for the purpose of accessing the Veterans Support Services (VSS) and veterans' affairs entitlements be broadly and generously granted to:

- All Australian ex-service personnel from the time of their recruitment into the ADF and for the rest of their lives; and
- All other individuals who have deployed by the Australian Government in support of military, peacekeeping, peacemaking, or other declared Australian Government operations, from the time of their selection for deployment and the rest of their lives.

Once classified as a veteran, the government will assess all subsequent VSS claims generously, by imposing an obligation on the Government, and all other VSS providers, to prove beyond any reasonable doubt that any claimed physical or mental injury was not caused by the veteran's service.

When developing veteran-related regulations or administrative arrangements under the auspices of the new legislation, the Government must ensure the arrangements are conceived and implemented in accordance with the Australian Defence Veterans' Covenant<sup>1</sup> which is a formal declaration of the social contract of mutual obligation that has been created between the veteran and the nation.

### Differing treatments between classes of veterans

The APPVA's membership includes members of the traditional ADF veteran community; along with police, other first responders and civilians who have deployed on peacekeeping or peacemaking operations. This is a wider membership cohort that traditional Ex-Service Organisation (ESOs), reflecting the whole-of-government and whole-of-national nature of contemporary operations.

The Royal Commission into Defence and Veteran Suicide's interim report noted that "Australia's veteran compensation and rehabilitation legislative system is so complicated that it adversely affects the mental health of some veterans – serving and ex-serving Australian Defence Force (ADF) members – and can be a contributing factor to suicidality"<sup>2</sup> and recommended that the Government should "should develop and implement legislation to simplify and harmonise the framework for veterans' compensation, rehabilitation and other entitlements"<sup>3</sup>. The APPVA full supports this recommendation, with one additional consideration that was not considered by the Royal Commission, presumably because it fell outside of its terms of reference. This issue is that the current legislative definition of a veteran creates different outcomes for individuals within the veteran community. This issue is most obvious when considering the differences in treatment afforded to veterans who have served side-by-side during the same operation. For example:

- Operation Sovereign Borders / Operation RESOLUTE (JTF639)<sup>4</sup>: ADF personnel and Australian Border Forcer (ABF) both participate in the military-led border "security initiative to stop the boats, prevent people from risking their lives at sea, and preserve the integrity of Australia's migration program"<sup>5</sup>. ADF personnel force-assigned to the operation are treated as

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<sup>1</sup> <https://recognition.dva.gov.au/>

<sup>2</sup> Royal Commission into Defence and Veteran Suicide Interim Report, Commonwealth of Australia 2022, p169,. [Royal Commission into Defence and Veteran Suicide – Interim Report](#)

<sup>3</sup> Royal Commission into Defence and Veteran Suicide Interim Report, Commonwealth of Australia 2022, p202. [Royal Commission into Defence and Veteran Suicide – Interim Report](#)

<sup>4</sup> For medallic recognition purposes, Operation RESOLUTE commenced on 17 July 2006. However it was preceded by a number of similar declared boarder protection operations, commencing with Operation CRANBERRY on 1 August 1997.

<sup>5</sup> <https://srilanka.embassy.gov.au/files/clmb/FINAL%20Offshore%20OSB%20fact%20Sheet%2023102015.pdf>

veterans and awarded the Australian Operational Service Medal – Border Protection<sup>6</sup> ABF personnel are not classified as veterans and do not receive VSS or medallic recognition, despite serving in the same operations.

- Regional Assistance Mission Solomon Islands (RAMSI) / Operation ANODE (JTF635): ADF personnel assigned to Operation ANODE were classified as veterans, Defence Civilians force assigned to JTF635 are not eligible for VSS. However, Defence Civilians and other classes of civilians were granted medallic recognition for their participation in the operation.
- Greater Middle East Operations: ADF and Defence Civilian Service in the Greater Middle East Operations were both recognised with medallic recognition, however, only ADF personnel are classified as veterans.
- AFP Operations: The Australian Federal Police (AFP) have deployed on a range of peacekeeping and peacemaking operations, both independently and in-partnership with the ADF. Under the terms of the *Veterans' Entitlements Act 1986 (Cth)* members of peacekeeping forces such as the Australian Federal Police (AFP) are Members of the Forces and veterans for most purposes of the Act (subject to any instruments relevant to specific operations). However, the AFP are not covered by the provisions of the *Military Rehabilitation and Compensation Act 2004 (Cth)*, creating differences in how ADF and AFP veterans can access VSS, despite having served on the same operations in East Timor, the Solomon Islands and Afghanistan. In some cases, AFP veterans are left to pursue their claims through the inadequate and adversarial provisions of the *Safety, Rehabilitation and Compensation Act (SRCA)* and *Comcare*.

The legislative changes necessary to simplify and harmonise the framework for veterans' compensation, rehabilitation and other entitlements provide an opportunity to address these anomalies. This can be achieved by widening the definition of a veteran to align provision of VSS with the realities of contemporary operations and to prepare for future changes in the nature of war and conflict.

The APPVA believes the creation of the Australian Contingent<sup>7</sup> for a peacekeeping force and the 'member of a Peacekeeping Force'<sup>8</sup> will address this issue. However, limiting the application of these provisions to identified peacekeeping operations only, creates a risk that police, APS staff, contractors and other individuals force-assigned to non-peacekeeping operations (for example the large number of individuals who deployed in support of ADF operations in Afghanistan; Iraq and the Greater Middle East Area of Operations), would be excluded from the reformed VSS and be obliged to pursue claims post-operational support through adversarial work health and safety arrangements such as Comcare.

The association is also concerned that the currently list of Peacekeeping Forces (Section 6A) excludes a number of Australian Government-supported operations including:

- TMG (the Truce Monitoring Group in Bougainville) 1997-1998;
- PMG (the Peace Monitoring Group in Bougainville) 1999-2003;
- Solomon Islands International Peace Monitoring Team 2000-2002;
- UNOTIL (the United Nations Office in Timor-Leste) 2005-2006;
- UNMIT (the United Nations Integrated Mission in Timor-Leste) 2006-12; and
- UNMISS (the United Nations Mission in South Sudan) 2011 onwards.

Exclusion of these operations from the list of recognised Australian contingents to Peacekeeping Forces undermines the Government's policy aim of providing appropriate equitable support to all veterans. It should be noted that on a number of these operations police and civilian peacekeepers served alongside ADF peacekeepers and some of the operations were concurrent with; replaced by; or transitioned to those operations listed under Section 6A, making their exclusion illogical as well as inequitable.

### **A new operational paradigm and a new definition of veteran**

The APPVA acknowledges the unique nature of military service, which explicitly acknowledges the risk that service personnel may be killed or injured in the course of their employment and that they may be required to use violence and coercion to achieve national objectives. The acceptance of this risk by service personnel creates a social contract of mutual obligation between the member and the nation. The nation is obliged to treat the veteran's claims for service-related injuries generously. Unfortunately, it is the lived experience of veterans that Governments have often broken the contract by seeking to minimise their reciprocal obligations to achieve policy or budgetary outcomes. These attempts at minimisation and differentiation are a root cause of the complexity in veteran's affairs arrangements that in-turn has resulted in veterans' feelings of disillusionment and abandonment that have been identified by the Royal Commission as a root cause of the prevalence of suicide and suicidality among serving and ex-serving ADF members.

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<sup>6</sup> <https://www.defence.gov.au/adf-members-families/honours-awards/medals/australian-awards/1975/australian-operational-service-medal/australian-operational-service-medal-border-protection>

<sup>7</sup> Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2024 50 Subsection 5(1).

<sup>8</sup> Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2024 54 Subsection 5(1).

While fully supportive of the concept of a social contract underpinning ADF service and legislative changes to reflect this, the APPVA is concerned that the scope of the legislative changes, focused on supporting defence and ex-defence members, is too limited and does not reflect the integrated whole-of-government nature of contemporary operations. During operations in East Timor, the Solomon Islands, Iraq and Afghanistan, AFP, Australian Public Service (APS) officers and contractors served and lived side-by-side with ADF members. In Afghanistan, several APS members of the Australian Provincial Reconstruction Team were severely wounded in IED blasts and were forced to seek remedy via Act of Grace legislation when Comcare could not provide the adequate and appropriate support provided to ADF members received under DVA. While they shared the same risks, their service has not been recognised as equal from a veterans' affairs administrative and legislative perspective. It is the view of the APPVA that this is short-sighted and will create future problems for Government, as contemporary and future operations are not, and will not be, bounded by the traditional domains of air, sea and land and will not be neatly divide into military and non-military domains. Particularly during peacekeeping, peacemaking, and stabilisation operations.

One of the major shortcomings of past policy approaches to veterans' issues has been the reluctance or inability to adjust veterans support arrangements to changes in the nature of war. Including how operations are conducted; where; and by whom. The new legislation provides an opportunity to future proof veterans' affairs arrangements by broadening the definition of veteran to ensure that all Australian citizens who have made the commitment to serve in support of Australian operations are treated equally. This is particularly important as new operational domains (cyber and space) and new ways of conducting operations (deep strike, information operations; remotely operated and autonomous systems, and artificial intelligence) emerge.

Experience suggests that future governments will ultimately be forced to assume responsibility for cohorts of veterans operating in these new domains and operations. However, experience suggests that unless the legislation is designed with this future operational paradigm in mind, the assumption of responsibility will only occur following harm to those who have provided this service. The recent extension of medallic recognition to personnel for Counterterrorism / Special Recovery<sup>9</sup> and civilian contractors supporting contemporary ADF operations<sup>10</sup>, along with granting of veterans' affairs support to British nuclear testing veterans are precedents for changing the policy settings for who constitutes a veteran.

Given the multi-dimensional and integrated nature of current and future military and peacekeeping operations, it is highly likely that the challenges faced by the veteran community will increasingly reflect this whole-of-government (and often whole-of-nation) operational paradigm. Consequently, it is the APPVA's position that the design of the new veterans' affairs legislation must be designed to reflect the likely scope of future military and security obligations by adopting a widely conceived concept of who qualifies as a veteran.

### **Alignment of veteran's entitlements**

The Royal Commission recommended that the Government implement legislative reforms to simplify and harmonise the veteran entitlement system as a matter of urgency. The APPVA fully supports this recommendation, with the additional recommendation that this be accompanied with the wider definition of a veteran for the reasons outlined above.

In the consultation paper on the establishment of a new entity to promote the wellbeing of Defence members and veterans, the purpose of the new entity was to:

*'contribute to improving the wellbeing of Defence members and veterans and preventing suicide and suicidality—from the time of their recruitment into the ADF and for the rest of their lives'<sup>11</sup>.*

The APPVA believes this appropriately reflects the nature of ADF service and its underpinning social contract. It should therefore underpin the design of the new legislation and be explicitly incorporated into the object of the new legislation. However, this would not address the issue of who should be considered a veteran for the purposes of providing VSS.

In response to the consultation paper the APPVA recommended that the purpose of the new entity should be expanded to include:

*'The entity will also contribute to improving the wellbeing of other classes of veterans who have deployed in support of military peacekeeping; or other declared operations, from the time of their selection for deployment and the rest of their lives.'<sup>12</sup>*

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<sup>9</sup><https://www.defence.gov.au/adf-members-families/honours-awards/medals/Australian-awards/1975/aosm-ctsr>

<sup>10</sup> <https://defence-honours-tribunal.gov.au/wp-content/uploads/2023/10/Ryder.pdf> and <https://defence-honours-tribunal.gov.au/wp-content/uploads/2021/10/210915-Tribunal-decision-report-in-the-review-of-Mr-Corey-Wilsons-eligibility-to-the-Afghanistan-Medal-and-Iraq-Medal.pdf>.

<sup>11</sup> Proposed new entity to promote the wellbeing of Defence members and veterans. Consultation Paper, Royal Commission into Defence and Veterans Suicide, 15 November 2023. <https://defenceveteransuicide.royalcommission.gov.au/system/files/2023-11/proposed-new-entity-promote-wellbeing-defence-members-veterans.pdf>.

<sup>12</sup> Richardson, G. & Merryman, N. (2023). Submission to Royal Commission into Defence and Veteran Suicide: Proposed new entity to support the wellbeing of Defence members and veterans. Australian Peacekeeper and Peacemaker Veterans' Association Ltd (APPVA).

This would provide an appropriate recognition for non-ADF veterans, while providing a defensible limit to the provision of VSS and future proofing the definition of a veteran. This definition should also be incorporated into the object of the new legislation as follows:

*...and all other individuals who have deployed by the Australian Government in support of military, peacekeeping, peacemaking, or other declared Australian Government operations, from the time of their selection for deployment and the rest of their lives.*

Once this legislation has been prepared in accordance with the new objective, the alignment of future veteran's entitlements will equitably reflect the nature of contemporary service.

In addition, to comply with the underlying principles of equity and simplicity, the new legislation should apply to all Australian Government supported and declared operations post-the second world war, to ensure that no contemporary, or future, veterans are inadvertently disadvantaged by the proposed legislative changes.