



Australian Government

Defence Honours & Awards Appeals Tribunal

## Recognising their sacrifice

The report of the inquiry into recognition for members and families of members of the Australian Defence Force who are injured, wounded or killed in or as a result of service.





LETTER OF TRANSMISSION

The Hon Andrew Gee MP  
Minister for Defence Personnel  
Parliament House  
CANBERRA ACT 2600

Dear Minister

On 20 January 2021 your predecessor, the Hon Darren Chester MP, directed the Defence Honours and Awards Appeals Tribunal to inquire into and report on recognition for members and families of members of the Australian Defence Force who are injured, wounded or killed in or as a result of service.

Our report on this inquiry is attached.

In addressing this complex issue, we have proceeded on the following basis:

- Australia as a nation, and every individual Australian, owes a debt of gratitude to each person who enlists in the Australian Defence Force and thereby commits to place their own life at risk if necessary to defend our nation;
- where service in the Australian Defence Force leads to a member being killed, wounded or injured, the measure of that debt is materially increased;
- the families of members killed, wounded or injured in or as a result of service, while not themselves providing military service, nevertheless suffer grief and often major sacrifice by reason of the death, wounding or injury of their loved one; and
- it thus behoves Australia and Australians to appropriately recognise the resultant sacrifice of members and their families.

Australia, through the Order of Australia and the Australian Defence honours and awards system, already recognises the service of members of the Australian Defence Force. Additionally, as detailed in this report, Australia acknowledges the wounding, injury or death of such members in a variety of essential ways – for example, through health care, income support, compensation, family support, Service bereavement pins, and memorials. But none of these consequences of service are reflected in the present medallic forms of recognition, none expressly convey the gratitude of the nation for individual sacrifice, and none provide a suitably solemn and individual emblem of that gratitude.

We have concluded that it is timely, if not incumbent, for Australia to initiate such an expression of its gratitude to members and their families.

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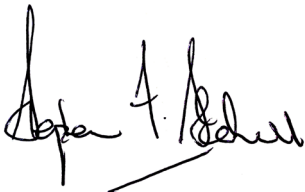
Email: [dha.tribunal@defence.gov.au](mailto:dha.tribunal@defence.gov.au)

Web: [defence-honours-tribunal.gov.au](http://defence-honours-tribunal.gov.au)

In the attached report we detail our proposal for what we believe to be a principled scheme for providing that recognition for service-related death and serious wounding, injury or disease. We believe it would provide a tangible and readily recognisable expression of national gratitude for the sacrifice of ADF members killed or suffering a serious wound, injury or disease in or as a result of their service and, quite separately, that of their families, and would do so in a way that allows existing defence honours and awards to better “tell the story” of that service.

While this scheme may be unprecedented in some respects, we believe it to be justifiable and achievable. We thus commend it to you and, through you, to the Government.

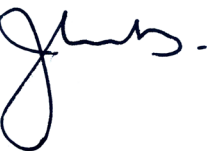
Yours sincerely



Stephen Skehill  
Chair



David Ashley AM  
Member



Josephine Lumb  
Member



Rear Admiral James Goldrick AO CSC RAN (Retd)  
Member/Consultant



Jane Schwager AO  
Member/Consultant

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The report of the inquiry into recognition for members and families of members of the Australian Defence Force who are injured, wounded or killed in or as a result of service.



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# GLOSSARY

<b>AAT</b>	Administrative Appeals Tribunal
<b>ADF</b>	Australian Defence Force
<b>ADM</b>	Australian Defence Medal
<b>APPVA</b>	Australian Peacekeeper and Peacemaker Veterans Association
<b>AWM</b>	Australian War Memorial
<b>AWWNSW</b>	Australian War Widows New South Wales
<b>CDF</b>	Chief of the Defence Force
<b>DRCA</b>	<i>Safety, Rehabilitation and Compensation (Defence Related Claims) Act 1988</i>
<b>DSM 5</b>	Diagnostic and Statistical Manual of Mental Disorders (5th edition)
<b>DVA</b>	Department of Veterans’ Affairs
<b>GARP M</b>	Guide to Determining Impairment and Compensation
<b>GARP V</b>	Guide to the Assessment of Rates of Veterans’ Pensions
<b>KIA</b>	Killed in action
<b>KVAA</b>	Korea Veterans’ Association of Australia
<b>ICD-11</b>	International Classification of Diseases – 11th edition
<b>JSP</b>	Joint Service Publication (United Kingdom)
<b>MRCA</b>	<i>Military Rehabilitation and Compensation Act 2004</i>
<b>NAC</b>	Department of Veterans’ Affairs National Advisory Committee
<b>NATO</b>	North Atlantic Treaty Organisation
<b>OAWG</b>	Office of Australian War Graves
<b>PM&amp;C</b>	Department of the Prime Minister & Cabinet
<b>PTSD</b>	Post Traumatic Stress Disorder
<b>RAACC</b>	Royal Australian Armoured Corps Corporation
<b>RAAF</b>	Royal Australian Air Force
<b>RAN</b>	Royal Australian Navy
<b>RSL</b>	Returned & Services League
<b>SI</b>	Seriously Injured
<b>SM</b>	Sacrifice Medal (Canada)
<b>UN</b>	United Nations
<b>VEA</b>	<i>Veterans’ Entitlements Act 1986</i>
<b>VRB</b>	Veterans’ Review Board
<b>VSI</b>	Very Seriously Injured
<b>VVAA</b>	Vietnam Veterans’ Association of Australia
<b>VVFA</b>	Vietnam Veterans’ Federation of Australia
<b>WIA</b>	Wounded in action
<b>WPI</b>	Whole Person Impairment



# EXECUTIVE SUMMARY

## Conduct of the inquiry

1. On 20 January 2021 the Hon. Darren Chester MP, then Minister for Defence Personnel, gave a direction to the Tribunal to hold an inquiry into recognition for members and families of members of the Australian Defence Force (ADF) who are injured, wounded or killed in or as a result of service. The terms of reference for the inquiry appear earlier in this report.
2. The inquiry was undertaken by the following Members of the Tribunal:
  - Mr Stephen Skehill (Tribunal Chair),
  - Mr David Ashley AM,
  - Rear Admiral James Goldrick AO CSC RAN (Retd),
  - Ms Josephine Lumb, and
  - Ms Jane Schwager AO.
3. The complexity of our task became apparent to us in the early stages of our inquiry. In response to representations from the veteran community, the issue of recognition for death, wounding or injury in or as a result of ADF service has been considered on a number of occasions. While this has resulted in the creation of some new initiatives, such as the bereavement pins issued by each Service, other proposals for medallic or emblematic recognition have been put aside for a range of reasons, most particularly due to the difficulty of establishing eligibility criteria that allow identification of those who deserve some further form of recognition, without causing further harm to the veteran or to the family of the veteran whose death, injury or wound falls outside the scope of those criteria.
4. The Terms of Reference for this inquiry gave specific direction to us to consult broadly. Consistent with this direction, we engaged in an extensive programme of consultation with the veteran and broader community concerning whether such recognition should be adopted, and if so, what form that recognition should take.
5. This consultation included a nationwide call for submissions, which generated 260 submissions from 222 individuals and groups. We then directly engaged with veterans, their families, veterans’ organisations and other interested parties in a series of over 70 public hearings held over 11 sitting days. We also conducted research into past and present systems of ‘like’ recognition in Australia, the Commonwealth and other countries, and undertook a series of informal, private conversations with a wide range of individuals and organisations. This included fruitful engagement with the Department of Defence, the organisation which will ultimately have responsibility for implementing our recommendations if they are accepted by Government.
6. This consultation led us to the conclusion that none of the existing forms of recognition for death, wounding or injury in service provide an adequate personalised expression of the gratitude of the nation for the sacrifice that a veteran has made through their service, or that their family has endured as a result. Australia lacks but should have, an emblematic recognition of that sacrifice in a form that can be publicly worn in commemoration and with pride.

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7. The most personal representations of a veteran’s service, their merit, campaign and service medals, depict only their service and say nothing about the consequences they or their family may have endured by reason of that service. The overwhelming majority of those who made submissions regarded this as a major flaw in the current scheme of recognition, and we agree with this view.

8. We thus concluded that there should be a new form of recognition for those killed in or as a result of their service, and for those who are seriously wounded, seriously injured or who suffer serious disease in or as a result of their service. We also concluded that a new form of recognition, which complements the recognition provided to the veteran, should be provided to families.

9. Being mindful of the complexity of our task, and having particular regard to the issues put to us in submissions from the veteran and broader community and identified through our research, we adopted a set of guiding principles which informed both our conclusions and our proposal, which is summarised below and set out in full in Chapter 13. Should these recommendations be accepted, we believe these principles should also be adopted by those who would be trusted with implementing the new forms of recognition.

- any new scheme to recognise those injured, wounded or killed in or as a result of service should be compassionate, but not so extensive as to recognise every death of, or wound or injury to a veteran so that it thereby becomes simply a “participant’s award”;
- the process of seeking recognition and establishing eligibility should not provide any increased incentive for further ill-health, should do no further harm to veterans or families and should, so far as possible, promote wellness and rehabilitation;
- the eligibility criteria should be transparent. They should be as clear as possible and made readily and publicly available;
- the eligibility criteria should, so far as possible, rely on objectively observable facts rather than subjective judgement;
- where eligibility criteria necessarily rely on subjective judgement, this should be, as far as possible, the judgement of a qualified professional;
- the scheme should be predictable, repetitively consistent and equitable in its application;
- the scheme should, so far as possible, be capable of timely and administratively simple processing;
- the eligibility criteria should be expressed, as far as possible, in readily understood language so that potential applicants have the opportunity to make a rational self-assessment of whether or not it is worthwhile making an application;
- the physical form of each new item of recognition should be of a design and quality commensurate with the solemn nature of the sacrifice it commemorates;
- there should be a simple, timely and readily accessible avenue for resolution of any disputes about eligibility;
- conferral of recognition should render the Commonwealth subject to no legal liability beyond that to which it would otherwise be subject; and
- any new form of recognition should be consistent with and maintain the integrity of the present Defence honours and awards system.

## Recommendations

### *Recommendation 1*

10. We recommend the institution of the following new forms of medallic and emblematic recognition:

- a) a **Memorial Clasp** – to be posthumously awarded to a member of the ADF or a veteran who dies in or as a result of service. The Clasp is to be attached to the Australian campaign or service medal most relevant to the circumstances in which the death occurred and bearing, at the discretion of the veteran’s family:
  - the date of death; or
  - the date of the incident leading to death; or
  - no date;
- b) a **Gratitude Clasp** – to be awarded to a member of the ADF or veteran who is seriously wounded, seriously injured or suffers a serious injury in or as a result of service. The Clasp is to be attached to the Australian campaign or service medal most relevant to the circumstances in which wounding or injury occurred and bearing, at the discretion of the veteran (or family where posthumous recognition is sought):
  - the date of wounding or injury; or
  - where multiple dates of wounds or injuries have been recognised, the number of such events recognised; or
  - no date;
- c) a **Memorial Star** – A full size brooch-like emblem of a uniquely Australian design that recognises the sacrifice of the family of a member of the ADF or veteran who dies in service or whose death is service related;
- d) a **Gratitude Star** – A full size brooch-like emblem of uniquely Australian design to recognise the sacrifice of the family of the member or veteran who has suffered a serious wound, serious injury or serious disease in or as a result of service; and
- e) for veterans awarded the Gratitude Clasp, a **lapel pin** of separate and appropriate design for everyday wear at the discretion of the veteran.

### *Recommendation 2*

11. We recommend that the Memorial Clasp, the Gratitude Clasp, the Memorial Star and the Gratitude Star be accompanied by a scroll, issued under the authority of the Governor General, to commemorate the sacrifice of the member, veteran or the family, as applicable.

### *Recommendation 3*

12. We recommend that the proposed new forms of recognition be available retrospectively, to recognise death, serious wounding, serious injury or serious disease that is or was brought about in or as a result of service after 2 September 1945.



## These medals tell a story



They were awarded to an Australian veteran who:

- served in the ADF for at least four years;
- completed active service in Iraq from 18 March 2003;
- served in the peacekeeping force in the Solomon Islands from 24 July 2003; and
- completed active service in Afghanistan from 28 July 2006.

## But it's not the full story

That's because these same medals could equally be owned by any of:

- a veteran who had retired in full health after a full military career;
- a veteran who had fully, or only partly, recovered from the trauma of an imminently life-threatening wound or injury suffered on duty;
- a veteran who had suffered a less immediately threatening wound or injury but was, perhaps much later, affected by an ongoing serious disability of gradual onset; or
- the grieving parent, widow or other family member of a veteran who had died in the course of serving their country.

## Should Australian military medals tell more of the veteran's story?

That's one of the questions we seek to answer in this report.

## CHAPTER 1 – Our Terms of Reference

The Defence Honours and Awards Appeals Tribunal (the Tribunal) is directed to inquire into and report on recognition for members and families of members of the Australian Defence Force who are injured, wounded or killed in or as a result of service.

In particular, the Tribunal is to seek and receive submissions and consider whether it is appropriate that members of the Australian Defence Force who are injured, wounded or killed in or as a result of service, or their families, receive an Australian honour or award, or another form of recognition for that service.

The Tribunal is to consult broadly in conducting this inquiry, and is otherwise to determine its own procedures. The Tribunal may conduct its own research, consult with and interview individuals and organisations it considers appropriate in public or in private, and consider material provided to it that is relevant to the Terms of Reference. The Tribunal is to report, in writing, to the Minister for Defence Personnel on the findings and recommendations that arise from the inquiry.

In making its findings and formulating its recommendations, the Tribunal is to have regard to the integrity of the Australian honours and awards system and identify any consequential impact any finding or recommendation may have on that system. The Tribunal may make any recommendation it considers appropriate, that arises from the inquiry.

Submissions to the Tribunal close on 31 March 2021.



*“They went forth willingly to do their duty to Australia; Australia must be equally ready to do its duty to them. It is the intention of the Government, so far as is humanly possible, to see that the debt is paid in full.”*

Prime Minister Billy Hughes - 1917 election address

## CHAPTER 2 - Interpreting our Terms of Reference

1. The terms of reference for this inquiry require us to address two fundamental questions:
  - should there be any new form of recognition for ADF members and families of ADF members killed, wounded or injured in or as a result of service; and
  - if so, what should be the form of that recognition and the circumstances in which it should be conferred.
2. In order to ensure that we have regard to all relevant considerations, we have interpreted our terms of reference in an expansive rather than overly constrictive manner. Having done so, we can then later incorporate any limitations that we consider necessary in defining those circumstances which might be worthy of recognition under any new form of recognition.
3. Accordingly, we have construed various words and phrases in the terms of reference as follows:

“Recognition” includes any right, entitlement, benefit, service, object or other thing conferred, given or offered in consequence of the death, wounding or injury of a member

“Members” includes serving and former members and includes also:

- permanent members;
- Reservists;
- ADF members assigned to serve with a foreign force;
- Defence or other government civilians who are force assigned; and
- other civilians who may be eligible for existing awards within the Defence honours and awards system (such as war correspondents and artists);

“Australian Defence Force” comprises:

- the Royal Australian Navy;
- the Australian Army;
- the Royal Australian Air Force; and
- the Reserve of each;

“Killed” includes death by any means, including accidental, self-inflicted and pre-existing causes;

“Wounded” means an injury to living tissue caused by a cut, blow or other impact;

“Injury” means any physical or mental injury and includes disease;



“Family” is not confined to designated “next of kin” but includes:

- biological, adoptive, step and foster parents;
- de jure and de facto spouses of any gender;
- biological, adopted, step and foster children;
- all other blood relatives or relatives by marriage; and
- other persons for whom a member has expressed a family-like relationship in their will or similar document.

“in service” is not confined to periods of actual performance of duty but can extend to the entire period between the commencement and end of service enlistment; and

“as a result of service” does not require that service must be the sole cause of death, wounding or injury but allows for circumstances where service is among the contributory causes.

4. In 2017 a Roundtable of Australian Veterans’ Ministers agreed that a “veteran” would be defined as anyone who had served at least a day in the ADF. Consistent with that agreement, in this report we use the term “veteran” to mean both current and serving members of the ADF, including those who have not deployed. Therefore, we only refer to “member” or “former member” where we wish to refer to one category of veteran but not the other.

***“Let us remember those whose lives were given that we may enjoy this glorious moment and may look forward to a peace which they have won for us. Let us remember those whose thoughts, with proud sorrow, turn towards gallant, loved ones who will not come back. On behalf of the people and the Government of Australia I offer humble thanks to the fighting men of the united nations whose gallantry, sacrifice and devotion to duty have brought us to victory. Nothing can fully repay the debt we owe them nor can history record in adequate terms their deeds from the black days that followed September 1939 and December 1941, until this moment.”***

**Prime Minister Ben Chifley - Victory in the Pacific speech 1945**

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## CHAPTER 3 - Preliminary matters

### *Conduct of the inquiry*

1. The Tribunal is established under Part VIIIIC of the Defence Act 1903 (the Act). Section 110UA of the Act sets out the functions of the Tribunal, which include inquiring into matters concerning Defence honours or awards for eligible service. Section 110W of the Act provides that the Minister may give the Tribunal a direction in writing to hold an inquiry into a specified matter. The Tribunal then must hold an inquiry into that matter and report on the outcomes of the inquiry to the Minister. The report may include any recommendations that the Tribunal considers appropriate that arise out of, or relate to, the inquiry.
2. On 20 January 2021 the Hon. Darren Chester MP, then Minister for Defence Personnel, gave a direction to the Tribunal to hold an inquiry into recognition for members, and families of members of the Australian Defence Force who are injured, wounded or killed in or as a result of service. The terms of reference for the inquiry appear earlier in this report.
3. The inquiry was undertaken by the following Members of the Tribunal:
  - Mr Stephen Skehill (Tribunal Chair)
  - Mr David Ashley AM
  - Rear Admiral James Goldrick AO CSC RAN (Retd)
  - Ms Josephine Lumb, and
  - Ms Jane Schwager AO

Major General Simone Wilkie AO (Retd) was part of the originally constituted panel for this inquiry, but withdrew from the constituted panel in April 2021 to attend to a family health issue. The terms of membership of Rear Admiral Goldrick and Ms Schwager expired on 6 July 2021 but they continued on a consultancy basis until the completion of the inquiry.

### *Conflict of interest*

4. The nature of the subject matter of the inquiry means that there are potentially millions of Australian citizens who have a family member who has been injured, wounded or killed in or as a result of service, and a lesser but still very significant number of current and former members of the ADF who may have been injured or wounded in or as a result of service.
5. No member of the panel has a personal or family connection to the subject matter of the inquiry that would not be shared with very many Australian citizens or, in the case of the former naval and military officers who constituted the panel, present or former ADF members. On this basis, the Chair concluded that other members participating in this inquiry did not have a disqualifying conflict of interest within the terms of Section 110XG of the Act, and Minister Chester reached the same conclusion in respect of the Chair.



**Steps taken in the inquiry**

6. The inquiry was announced on 21 January 2021 in a media release from Minister Chester. On 30 January 2021, advertisements were placed in major national newspapers giving further notice of the inquiry and calling for submissions by 31 March 2021. A further round of nationwide advertising took place on 28 March 2021, with submissions continuing to be accepted as the inquiry progressed. We also placed advertisements in service newspapers and the Department of Veterans’ Affairs circular VETAFFAIRS, and wrote to a number of agencies, veterans’ associations and other relevant bodies requesting a submission. A full listing of those approached for a submission is at Appendix 1.
7. Following the call for submissions, we received a total of 260 written submissions, from 222 individuals and groups. A list of these submissions is at Appendix 2.
8. We conducted an initial meeting on 25 February 2021 to consider the terms of reference and to consider research requirements. Further deliberative meetings were held between March and May 2021.

**Public hearings**

9. Due to the pandemic, we decided to hold all of our public hearings in Canberra, rather than travel to major state or regional cities to hear submissions as we might otherwise have done. Most submitters invited to provide evidence at public hearings did so via audio-visual link. While this meant that submitters and members of the public outside Canberra could not readily attend and observe the proceedings in person, it did allow submitters, some of whom shared emotional accounts with us, to do so from the security of their own homes and without the need to personally give evidence in front of members of the public. We heard 72 oral submissions over 11 separate days, as set out in Appendix 3.

**Research**

10. In addition to material provided in submissions, including the research material provided by the Department of Defence, the Tribunal and its Secretariat carried out additional research. Research material examined in the course of the inquiry is listed at Appendix 4. As part of our research, we conducted a number of informal discussions with a range of individuals, organisations, government entities and overseas organisations. A full listing of these consultations is included in Appendix 3.

***“We remember the wives and young families who struggled in remote areas, on the stations, and farms, and in cities, without husbands and fathers; and for the families who never saw their loved ones again.”***

**Governor-General Michael Jeffery - ANZAC Day 2007**

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## CHAPTER 4 – Acknowledgements

1. While we, as signatories to this report, assume full responsibility for its content and any shortcomings it may display, it is only appropriate that we pay tribute to the very many people and organisations who provided invaluable assistance to us in our deliberations.

2. First, we acknowledge the major contribution made by those scores of individual veterans and members of their families who lodged written submissions with us. Some were brief expressions of their personal desire for recognition of the sacrifice they felt they or their loved ones had made through service. Others, like that from Mr Kerry Danes and Dr Kay Danes who have long advocated for recognition of the sacrifice of service, provided more extensive analyses of the complex web of issues raised by our terms of reference and offered some detailed proposals for the many different categories of veterans and families that they perceived. In every case, however, these submissions brought a perspective that was invaluable to us in understanding the very personal impact that recognition, or the lack of it, may have on veterans and their families. As explained elsewhere in this report, our recommended course of action may not be exactly what any submitter sought, but we think it is very much in the spirit of the intent of those who advocated recognition and it was formulated only after paying due regard to the views of those who did not.

3. Second, we acknowledge those ex-Service and related organisations that provided written submissions. We especially thank those organisations that had gone to significant effort to ascertain and distil the views of the individual members that they represent. Again, their perspective was of vital importance.

4. Third, we express our very great thanks to all those who appeared at the public hearings which we held. These discussions were often emotional and challenging, not only for those who appeared but also for us. But they enabled us to better understand what on occasions may not be adequately conveyed in writing, and to test and refine our emerging thoughts on the issues addressed in this report.

5. Next, we wish to thank those individuals and organisations that play a vital role in caring for, and researching effects on, veterans and their families impacted by the consequences of service. In particular, we are grateful for the essential insights provided to us by Chaplain Robert Sutherland, Professor Sandy McFarlane, Professor Tom Frame and Phoenix Australia: Centre for Post-traumatic Mental Health.

6. Researching and understanding the practices and experience of overseas jurisdictions that provide recognition for the sacrifice of veterans or families impacted by service was of significant importance to us. We are particularly indebted to those officials of Canada, New Zealand and the United Kingdom who took the time and effort to meet with us and provide relevant documentation of the recognition schemes of those countries.



7. There are numerous Commonwealth Government officers and agencies that provided submissions to us and responded to approaches we made to them for information and insight. Without their generous and detailed input, our assessments and recommendations would have been far poorer. In particular we express our gratitude to:

- Ms Gabby Costigan and Mr Mat Jones of the Council for Women and Families United by Defence Service;
- Ms Gwen Cherne, the Veteran Family Advocate;
- Mr Matt Anderson and Major General Brian Dawson (Retd) of the Australian War Memorial;
- Ms Christine Morgan and Mr James Burchmore of the National Mental Health Research Commission;
- Mr Peter Rush and colleagues from the Department of Prime Minister and Cabinet;
- Ms Liz Cosson, Members of the Repatriation Commissions and officers of the Department of Veterans' Affairs, especially Mr Simon Hill; and
- General Angus Campbell and members of the ADF and Department of Defence, and especially Ms Lisa Phelps, Ms Petrina Cole and Brigadier Isaac Seidl.

8. Last, but by no means least, we have been energetically and enthusiastically supported by a very talented and industrious secretariat – Ms Tammy Hayes, Ms Billie Krsteski and Ms Marilyn Cunningham, ably led by Mr Jay Kopplemann. Among other vital tasks, the secretariat arranged the national advertising of the inquiry, the receipt and acknowledgement of submissions, the organisation of hearings and meetings despite the difficulties caused by the pandemic and extensive research, and made major contributions to the text of this report, all while maintaining the usual and efficient dispatch of the Tribunal's ongoing case reviews.

***“We try to grasp their loss: what it meant to their mates and comrades; what it meant to those left at home. Mothers and aunties; brothers, fathers, little ones. Grandchildren they would never meet. Lives they would never get to build.”***

**Governor-General Quentin Bryce - ANZAC Day 2009**

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# CHAPTER 5 – Background to the inquiry

1. From 2009, following the introduction of the Elizabeth Cross in the United Kingdom (itself based in part on older awards in Canada and New Zealand), Defence considered introducing a similar form of recognition for families of veterans killed in or as a result of service. This was primarily in response to submissions from veterans and veterans’ organisations seeking such recognition. Some of those submissions also suggested recognition for those wounded by the enemy on warlike operations, or otherwise injured in service, including in peacetime service. In response to these ongoing representations, the issue was brought to the attention of the Chiefs of Service Committee in 2011 and again in 2014. However, on each occasion Defence decided not to implement such recognition.

2. In its submission to this inquiry, Defence advised that it decided against implementing medallic recognition ‘as there was complexity and ambiguity surrounding the intent, implementation and eligibility criteria’.<sup>1</sup> Defence had encountered a number of practical difficulties associated with implementing a new form of recognition of the kind contemplated by this inquiry, including:

- the issue of ‘discriminating’ between different kinds of death in service, such as death in warlike, non-warlike and peacetime operations, including training;
- difficulty in dealing with grieving families not recognised by any new form of recognition;
- difficulty dealing with modern family constructs, and the potential for involvement in family disputes regarding potential beneficiaries of wills, etc.;
- establishing fair and equitable eligibility criteria for those wounded or injured in service, noting the range of ways in which members can be wounded or injured, including by psychological injury;
- how far back in time death, injury and wounding should be recognised by any new form of recognition;
- what severity of wounds and injury, if any, should be recognised; and
- whether resources should alternatively be directed towards improving the current system of rehabilitation and compensation.

We have had close regard to all of these issues in developing the recommendations set out later in this report.

<sup>1</sup> Submission 160, General Angus Campbell AO DSC, on behalf of the Department of Defence.



3. In 2018, the issue of recognition for those killed in service gained further momentum with the initiation by Mr Kerry Danes of an online petition to Minister Chester seeking the introduction of a clasp, to be affixed to a deceased veteran's 'campaign or service medal', to recognise the fact that the recipient had been killed in service.<sup>2</sup>

4. On 6 March 2019, Minister Chester, in his capacity as Minister for Veterans' Affairs, announced that the newly established Council for Women and Families United by Defence Service (the Council) would seek to identify an appropriate form of recognition for the families of service personnel killed or wounded in action and service.<sup>3</sup>

5. The Chair and membership of the Council was announced on 31 July 2019, with the Council holding its inaugural meeting on 2 August 2019, at which it agreed to focus on the priorities of female veterans, ADF spouse/partner employment and family support. On 20 May 2020, after receiving a briefing from Defence and holding further consultations and meetings, the Council provided Minister Chester with its proposals for recognition. The Council proposed the following:

- a) Death in Service Medal presented to the family of the Service veteran who died in service. The Council reported that this proposal would see official recognition in the form of a medal within the Australian honours and awards system, presented to one family member, generally the next of kin, of the veteran who died in service. The council proposed that there would be no differentiation between warlike and non-warlike service for the purposes of such recognition; and
- b) Killed in Action Clasp presented posthumously to the veteran. The Council reported that this proposal would see official recognition within the Australian honours and awards system, by way of a KIA clasp, which could be affixed to the deceased member's campaign award.<sup>4</sup>

6. On 20 January 2021, Minister Chester referred the matter to the Tribunal for consideration in accordance with the terms of reference on page 6.

<sup>2</sup> Website, Change.org, Australian Defence Force Members Killed in Service, <https://www.change.org/p/australian-defence-members-first-responders-killed-in-service>, accessed 3 February 2021.

<sup>3</sup> Media release, *Recognition of families left behind*, Minister for Veterans' Affairs, 6 March 2019.

<sup>4</sup> Report, *Proposal on recognition for families of killed or wounded service personnel*, Council for Women and Families United by Defence Service, communicated on 20 May 2020.

***"A spirit which says to us today a simple thing, but a profound thing – that service and sacrifice for others are the heart and soul of any nation that lays claim to greatness."***

**Prime Minister Kevin Rudd - Vietnam Veterans' Day 2009**

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# CHAPTER 6 – Historic forms of recognition for Australians injured, wounded or killed in or as a result of service

## The First World War – Death in service

1. During the First World War, the Australian Government authorised a Mothers' and Widows' Badge for issue to the mother or widow or nearest female relative of members of the Australian Imperial Force or Australian Naval and Military Expeditionary Force who had been killed in action, died of wounds or other causes while on active service, or who, after discharge, had died of wounds or sickness directly attributable to that service. A similar badge was issued to recognise the sacrifice of deceased Royal Australian Navy members.
2. The next of kin of a deceased member were also issued an official Memorial Plaque accompanied by a King's Message bearing the signature of King George V, that reads *'I join with my grateful people in sending you this memorial of a brave life given for others in the Great War.'*
3. Separately, a Memorial Scroll was issued to the next of kin as a gift from the King.
4. The Australian Government also distributed to families, on behalf of the (British) Imperial War Graves Commission, a booklet written by Rudyard Kipling titled 'Graves of the Fallen' which described the work of the Commission and bore illustrations of war cemeteries, memorials and headstones. In 1920, the Australian Government printed a booklet titled 'Where the Australians Rest' containing descriptions of many of the cemeteries overseas in which Australians – including those whose names can never be known – are buried.
5. Photographs of a deceased individual's grave, or other memorial site if there was no known grave, were also distributed to the next of kin.



Figure 1 - First World War Mothers' and Widows' Badge (Army)



### ***The First World War – Injury or wounding in Service***

6. The Silver War Badge was awarded to members of British and Dominion Forces who sustained a wound or contracted sickness or disability during the First World War, as a result of which they were invalided out of service. It was also issued to officers and non-commissioned officers who, being over military age, retired, resigned or relinquished their commissions or were discharged for reasons other than misconduct.

7. In 1916, with the approval of the King, the British Army began awarding a brass wound stripe. Dominion armies followed suit and issued wound stripes in accordance with British practice. In August 1916, General Sir William Birdwood, commander of the Australian Imperial Force, issued orders for distinctions in dress for officers and soldiers who had been wounded in any of the campaigns since August 1914. His orders stated that strips of gold Russian braid, two inches in length, were to be sewn on the left sleeve of the service dress jacket to mark each occasion on which the wearer was wounded.



**Figure 2 - First World War Silver War Badge**

### ***The Second World War and later conflicts – Death in service***

8. In 1940, the Australian Government approved a Mothers' and Widows' Badge, different in design to that issued for the First World War, to be issued to the mother and/or widow of a member of the Royal Australian Navy, Australian Imperial Force (including the Australian Army Nursing Service), Citizen Military Forces, Royal Australian Air Force or Merchant Marine who was killed in action, or who died from wounds or from other causes whilst in service or as a result of such service.

9. The Badge continued to be issued under similar conditions to commemorate deaths in service during the Korean War, Malayan Emergency, Confrontation and the Vietnam War. However, the Badge appears to have not been proactively issued during these later conflicts. The last recorded issue of this badge was in 1995, when three mothers were awarded the badge following recognition of the deaths of war correspondents killed in Vietnam.<sup>5</sup>



**Figure 3 - Mothers' and Widows' Badge - Second World War and later conflicts**

<sup>5</sup> Article, *Medals Awarded for Media Service in Vietnam War*, Canberra Times, 13 June 1995, p.6.

### ***The Second World War – Injury or wounding in service***

10. In 1943, British authorities introduced the wound stripe for members of the armed forces and mercantile marine wounded on duty. In 1944, the Australian Minister for the Army announced the wearing of a gold wound stripe for members of the Australian Armed Forces. A red wound stripe was also authorised to be worn in recognition of wounds a member received in a previous war. Wound stripes were also authorised in the Royal Australian Navy and Royal Australian Air Force during the Second World War, however this practice was discontinued in 1947 in the Navy<sup>6</sup> and the Air Force.<sup>7</sup>

11. After the Second World War, there was no official form of medallic or wearable recognition awarded to those injured or wounded in service.



**Figure 4 - Second World War Wound Stripes**

<sup>6</sup> John Perryman, *Kit Muster: uniforms, badges & categories of the Australian Navy 1865-1953*, Sea Power Centre, Canberra, 2011, p154.

<sup>7</sup> Air Board Paper 874, Supplement No. 1, 29 August 1947.



*“Those who have been to war - you who have been to war - never forget its horror. So many spend a lifetime comprehending the strange miracle of their own survival. The families of 102,000 Australians who died for us never forget war’s horror too. The dreadful sight of a clergyman or telegram boy coming up the driveway. Or the phone ringing unexpectedly in the cool of night.*

*The wounded never forget the horror of war, imprinted as it is on their bodies and their minds. They returned to lives that could never be what they once were.*

*Their loved ones often facing a different and longer battle behind the walls of the family home.*

*This is war as our country has known it - war as we remember it on this day. War as the worst of human experience, war with its full dreadful price.”*

Prime Minister Julia Gillard - ANZAC Day 2013

# CHAPTER 7 – Current forms of Australian recognition for service-related death and injury

## Australian War Memorial Roll of Honour

1. Currently, the Australian War Memorial’s Roll of Honour is the most eminent form of recognition for Australians killed in action. At the heart of the Memorial building is the Roll of Honour, a long series of bronze panels recording names of over 102,800 members of the Australian armed forces who have died during service or as a result of their operational service in war, warlike and certain peacetime operations.
2. The Memorial’s Roll of Honour policy states that, for an individual to be commemorated on the Roll of Honour for a contemporary conflict, their death must occur either during operational service or as a result of operational service within two years of return to Australia. The core of this policy has stood since 1955, when the Memorial Council resolved to include deaths by suicide or self-inflicted wounds. As a result, the Roll of Honour panels for the First World War include the names of 88 individuals recorded to have died by suicide or self-inflicted wounds, and the Second World War panels record a further 266 who died by suicide. <sup>8</sup>
3. Eligibility for the Roll of Honour is determined solely by the Memorial’s Council, and has been considered many times over the years by the Council and, before it, by the Memorial’s Board.

## Australian War Memorial Last Post Ceremony

4. To commemorate and honour members who are recorded on the Australian War Memorial’s Roll of Honour, the Memorial holds ‘the Last Post Ceremony’ every evening for 364 days of each year. The Last Post Ceremony was first held on 17 April 2013 to commemorate the service and sacrifice of Private Robert H F Poate, 6th Battalion, Royal Australian Regiment, who was killed in Afghanistan in August 2012 and was read by Corporal Daniel Keighran VC. The Last Post Ceremony, is streamed live daily on the Memorial’s Facebook page, and on a dedicated You Tube Channel.

## War graves

5. The Office of Australian War Graves (OAWG) manages 76 war cemeteries and war plots commemorating our war dead. The OAWG also cares for more than 336,000 other final resting places of post-war dead, and other eligible veterans of wars, conflicts, peacetime and other operations to which Australia has been committed, in over 2,300 locations.

<sup>8</sup> Submission 049 – Mr Matt Anderson, on behalf of the Australian War Memorial.



6. An official commemoration is the provision of a memorial for an eligible veteran, at either the site of internment or by placement of a commemorative plaque in an official OAWG Garden of Remembrance. A veteran must meet at least one of the following criteria to be eligible for official commemoration:

- a Victoria Cross recipient;
- in receipt of a Disability Pension (Special Rate) at the time of death and where the veteran has seen service in a war or conflict;
- in receipt of a Disability Pension (Extreme Disablement Adjustment) and where the veteran has seen service in a war or conflict;
- in receipt of a Disability Pension (Temporary Special Rate) or Disability Pension (Intermediate Rate) and where the veteran has seen service in a war or conflict;
- a multiple amputee on the maximum applicable Disability Pension rate;
- an ex-prisoner of war; or
- someone whose death has subsequently been accepted as being due to war service.

***Bereavement pins***

7. Insofar as wearable items are concerned, current Australian recognition for those who have died in service is managed by individual Services by way of bereavement pins.

**Navy**

8. The Navy Bereavement Pin was introduced in 2009 to meet an expressed wish of families who have lost a close family member while serving in the Navy to have a tangible yet discreet memento of the service of their loved one. The Pin was initially issued to families of members who died while in service (regardless of cause). However, the Pin is now issued to the families of former members who have passed away, regardless of the time since discharge.

**Army**

9. The Army Remembrance Pin was introduced in 2015. According to Army policy, the Pin is available to eligible family members of all Army men and women who have died while in service, irrespective of the circumstances of death. An eligible family member is defined as a spouse or CDF-recognised partner, children, stepchildren and adopted children and parents and/or stepparents, with some discretion available to decision-makers to cater for the complex nature of families and relationships.<sup>9</sup> This policy is under review and, in the meantime, pins will be issued on application to the families of members who pass away, even if they have long since discharged (but not if they have long since died). There is also some flexibility in to whom the pins will be issued.

<sup>9</sup> Army Standing Instruction (Personnel), Part 11, Chapter 5, Army Remembrance Pin.

10. Army can also provide support to bereaved families through the Army Seriously Injured, Ill, Wounded Program. Approved measures of support under this program have included:

- travel and accommodation for a family to attend the funeral of a deceased member;
- accommodation for a family that is unable to live in the family home after a suicide of a member in that home;
- funding COVID-19 quarantine requirements for family members to attend the funeral of a deceased member; and
- home cleaning service to a family after the funeral of a deceased member (where the member was already receiving such a service due to their situation).

These measures are discretionary and are based on welfare, individually considered and not an automatic entitlement.<sup>10</sup>

**Air Force**

11. The Air Force's Bereaved Family Pin was instituted in 2006 to recognise deaths in service (regardless of cause). However, the Pin is also presented, upon request, to the families of former members who have passed away, and there is no hard cap on the number of pins that will be issued to a family.

12. In addition to bereavement pins, Air Force presents a framed certificate of service reflecting the member's posting history, promotions, deployments and medals. This is jointly signed by the Chief of Air Force and the Warrant Officer of the Air Force.

13. It is also recognised practice for the unit of the deceased member of the RAAF to present a framed service history board to the family of the member. The framed presentation generally comprises of badges of rank held, a unit or RAAF crest and medals held. There is no specific policy and practices do vary to some extent between units. Funding for these activities is generally raised by voluntary contribution.<sup>11</sup>



***Navy Bereavement Pin***

<sup>10</sup> Submission 160A, Directorate of Honours and Awards on behalf of the Department of Defence.

<sup>11</sup> Submission 160A, Directorate of Honours and Awards on behalf of the Department of Defence.



*Army Remembrance Pin*



*Air Force Bereaved Family Pin*

### Recognition at funerals

14. Where a death in service occurs, families are presented with either an Australian National Flag or a Service Ensign at a funeral. On a family's request, Defence can assist with the committal of ashes at sea, land or in the air. This is normally conducted with the assistance of service chaplains or the unit commanding officer, in accordance with cultural and spiritual beliefs and traditional kinship.<sup>12</sup>

### Assistance provided by Defence Member and Family Support

15. As part of its casualty support services following the death of an ADF member, Defence Member and Family Support may deliver both tangible and intangible support. The intangible

supports provided include: bereavement support; immediate and short term emotional support including psychoeducation to assist bereaved families following a death; referral to specialist services where required; information and advice in relation to organising a funeral, and, where necessary, liaising with a funeral director, with Service headquarters and unit commands (in relation to Military components of a funeral if required) and liaison with organisations including Commonwealth Superannuation Corporation, DVA and Legacy.

16. The tangible support provided includes a financial contribution of up to \$14,000 for funeral costs. Travel costs, reimbursement of meals and 2-3 nights of funded accommodation may also be provided to a deceased member's dependants and parents in situations in which the location of the deceased member's funeral is not in the location of the dependants or parents. Where financial dependency of an individual (most commonly, a deceased member's partner) can be demonstrated for the period immediately prior to the member's death, bereavement payments of four tax free fortnightly payments (equivalent to the deceased member's fortnightly pay) may also be provided. Defence Member and Family Support also facilitates release of any payments that may be due to the deceased member (e.g., payments related to leave including long service leave).

17. In some situations in which a bereaved family may have significant debts or financial issues, Defence Member and Family Support liaises with a range of ex-Service and community based agencies for possible financial assistance. This may include fuel vouchers and food vouchers. Ex-Service organisations including Legacy may offer additional financial assistance for education costs for children and RSL Queensland has, on occasions, provided other measures of financial support.<sup>13</sup>

### The Department of Veterans' Affairs

18. DVA's mission is to support those who serve or have served in the defence of Australia and to commemorate their service and sacrifice. It does this in a number of ways, including oversight of the Office of Australian War Graves, discussed earlier in this chapter. Legislation administered by DVA provides compensation and other benefits for eligible current and former members of the ADF, and their dependents.

19. The *Veterans' Entitlements Act 1986* (VEA), the *Military Rehabilitation and Compensation Act 2004* (MRCA) and the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988* (DRCA) are the basis for what is a complex legislative regime which has developed over time, in a sequential but often overlapping way. Generally speaking, while each Act applies to different cohorts of veterans relating to different types or periods of service, it is not uncommon for veterans to have liability accepted for the same condition under more than one Act.<sup>14</sup>

20. DVA's legislation allows for the provision of medical treatment, income support and compensation for conditions accepted as service-related. This includes incapacity and permanent impairment benefits and other required services to veterans and their families. Pensions and other compensation may also be provided to widows and dependents of deceased members and former members of the ADF, who died or who were severely injured as a result of their service.

21. In some cases, death benefits may be payable without a direct determination of death being related to service. This includes 'autogrant' payments of war widow's pension or dependant's

<sup>13</sup> Submission 160A, Directorate of Honours and Awards on behalf of the Department of Defence.

<sup>14</sup> Submission 196, Ms Liz Cosson on behalf of the Department of Veterans' Affairs.

<sup>12</sup> Submission 160, General Angus Campbell AO DSC on behalf of the Department of Defence.



benefits where the veteran was a former prisoner of war or had certain high levels of accepted disability at the time of their death.

22. Support provided by DVA is not always dependant on acceptance of a service-related condition. Subject to meeting eligibility criteria (which can be as little as one day's ADF service), DVA can pay for treatment for mental health conditions, cancers and tuberculosis without the need for a veteran to establish a causal connection between those ailments and their service. This is known as non-liability health care.

### **Open Arms**

23. Open Arms – Veterans and Families Counselling was first established by the Australian Government in 1982 as a result of ongoing representations from the Vietnam Veteran community. It is a nationally accredited mental health service delivering 24/7 free and confidential support services to current and former serving members of the Australian Defence Force (ADF), and their families. Open Arms is a Commonwealth Government funded service, and is a part of DVA. Funding for Open Arms is demand driven, meaning services are available to clients based on clinical need.

24. Through Open Arms, DVA provides mental health care to veterans and their families without the direct involvement of the Department. Additionally, the National Advisory Committee (NAC) provides independent advice regarding Open Arms' matters directly to the Minister for Veterans' Affairs. The membership of the NAC is drawn from different cohorts in the veteran and ex-service community, and from the mental health sector. Appointments are made at the discretion of the Minister.

***“And just as Queenslanders have never forgotten the bravery of the men who stepped ashore in that cold dawn at Gallipoli, more than a century ago, today we continue to keep in our minds these Service men and women, operating now so far away from home and family.***

***And in honouring, as we do this year, a centenary of beneficial work by what we now know as the Returned & Services League of Australia, the “RSL”, we must rededicate ourselves to acknowledging and supporting those who have returned from conflict, plagued by injuries, both physical and psychological.***

***Heartbreakingly, psychological injuries can be just as devastating as physical injuries. We must never forget veterans with war wounds which are not readily visible, or their families and friends.”***

**Governor of Queensland Paul de Jersey - ANZAC Day 2016**

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# CHAPTER 8 – Overseas practices and precedents

1. A number of Commonwealth and other countries and jurisdictions recognise death, wounding or injury in service with the issue of medals, emblems or other tangible items. The following examples have been selected as instructive for the purposes of this inquiry.

## Canada

2. The Canadian Government commemorates the service and sacrifice of the fallen and their families by way of a ‘Memorial Package’. The Memorial Package includes the Memorial Cross, the Memorial Ribbon, the Memorial Scroll, the Memorial Bar, any campaign or service medals the deceased may be entitled to (which may include posthumous award of the Sacrifice Medal (see below)), and inscription in the *Seventh Book of Remembrance – In the Service of Canada*. Eligibility criteria and policy are set out in the *Canadian Forces Honours Policy Manual – Annex V – Memorials*.

## The Memorial Cross

3. Created in 1919 following the First World War, the Memorial Cross is granted to up to three of the loved ones of the fallen, on behalf of the Canadian Government as a memento of personal loss and sacrifice in respect of military personnel who lay down their lives for their country. In the last 90 years, the Memorial Cross, also referred to as the Silver Cross, has firmly established itself as the preeminent symbol of Canada’s recognition of the sacrifices endured by the families of Canada’s fallen.<sup>15</sup> It is notable that both the equivalent New Zealand and British awards derive their design directly from the Canadian original.



Figure 5 - Canadian Memorial Cross

<sup>15</sup> Canadian Forces Honour Manual – Annex V – Memorial.



### The Memorial Ribbon

4. The Memorial Ribbon was established in 2012 and is offered to close family and friends of Canadian Forces members who lay down their lives for their country. The Memorial Ribbon is intended for the closest loved ones of Canada's fallen, especially children, who are not designated as one of the three recipients of the Memorial Cross.

5. Up to five Memorial Ribbons may be issued in commemoration of every Canadian Forces member whose death is attributed to an injury or illness sustained on or after October 1, 1947 due to military service. Those who have received the Memorial Cross are not eligible to receive the Memorial Ribbon.<sup>16</sup>



Figure 6 - Canadian Memorial Ribbon

### The Memorial Scroll

6. Following the example set by the British Government during the First and Second World Wars, the Memorial Scroll was introduced in Canada in January 2009 and is presented by the Canadian Government to commemorate the sacrifice of military personnel who lay down their lives for their country.

7. To be eligible, a Canadian Forces member must have served in the Regular Force, Primary Reserve, Cadet Organizations Administration and Training Service or Canadian Rangers after 6 October 2001 and died as a result of an injury or disease related to military service, regardless of location. Only one Scroll is issued for every eligible death and it is presented to the primary beneficiary of the estate of the deceased (usually the person who will inherit the deceased's medals).<sup>17</sup>

### The Memorial Bar

8. Unlike Australian conventions, Canadian medals are not engraved with the particulars of the recipient, nor are relatives permitted to wear them on commemorative occasions. The Memorial Bar was created and issued by the Canadian Government during the Second World War in memory of the fallen of that conflict, and to allow families to display and commemorate the sacrifice of their loved one. It was reintroduced in January 2009 using original Second

World War stock. The Memorial Bar is presented by Her Majesty's Canadian Government to commemorate the sacrifice of military personnel who lay down their lives for their country. To be eligible, a Canadian Forces member must have died as a result of an injury or disease related to military service, regardless of location. One bar is issued for every eligible death and is presented to the primary beneficiary of the estate of the deceased (usually the person who will inherit the deceased's medals).<sup>18</sup>



Figure 7 - Canadian Memorial Bar

### Books of Remembrance

9. The names of all the members of the Canadian Forces who have died as a result of their service since October 1947 are recorded in the *Seventh Book of Remembrance – In the Service of Canada*. The Books of Remembrance are administered by Veterans' Affairs Canada. The Books of Remembrance are kept in the Memorial Chamber of the Peace Tower in the Centre Block of the Parliament Buildings in Ottawa where the public can view them. The names recorded in the Books are also available on the Canadian Virtual Memorial on the Internet.<sup>19</sup>

### The Sacrifice Medal

10. The Sacrifice Medal was created in 2009 in the context of increased casualties in overseas operations to fulfil the desire of Canadians and the Government to provide formal recognition, through the award of an official medal emanating from the Crown, to those who die as a result of military service or are wounded by hostile action.

11. The Sacrifice Medal may be awarded to members of the Canadian Forces, members of an allied force working as an integral part of the Canadian Forces such as exchange personnel, civilian employees of the Government of Canada or Canadian citizens under contract with the Government of Canada, on the condition that they were deployed as part of a military mission

<sup>16</sup> Canadian Forces Honour Manual – Annex V – Memorial.

<sup>17</sup> Canadian Forces Honour Manual – Annex V – Memorial.

<sup>18</sup> Canadian Forces Honour Manual – Annex V – Memorial.

<sup>19</sup> Canadian Forces Honour Manual – Annex V – Memorial.

under the authority of the Canadian Forces, who have, on or after October 7, 2001, died or been wounded under honourable circumstances as a direct result of hostile action on the condition that the wounds that were sustained required treatment by a physician and the treatment has been documented. This includes psychological injury.

12. The Sacrifice Medal may also be awarded posthumously to any member of the Canadian Forces who served on or after 7 October 2001 in the Regular Force, Primary Reserve, Cadet Organizations Administration and Training Service or Canadian Rangers, or any member of the Supplementary Reserve who served in or with one of the components aforementioned on or after 7 October 2001, and died under honourable circumstances as a result of an injury or disease related to military service.

13. When a death is obviously related to service, the Sacrifice Medal will be issued immediately. When the cause of death is not clear, the SM will only be issued once Veterans Affairs Canada has officially determined that the death was related to military service.<sup>20</sup>



Figure 8 - The Canadian Sacrifice Medal

**New Zealand**

14. The New Zealand Memorial Cross was established by Royal Warrant in 1947 and awarded to family members of Service personnel who died on active service during the Second World War, including those whose later death was attributable to their war service. Eligibility included

<sup>20</sup> Canadian Forces Honour Manual – Annex J to Chapter 9 – The Sacrifice Medal.

both those serving with New Zealand forces and New Zealanders serving with other British Commonwealth forces.

15. Up to two crosses could be awarded to the family of each individual, and the award was intended primarily for widows and mothers. Where the mother had died, the first cross was awarded to the father or, if he had also died, to the eldest sister or eldest brother where there was no living sister. A second cross could only be awarded where the serviceman was married – to the widow, eldest daughter or eldest son.

16. In September 1960, an updated Royal Warrant was published extending eligibility to conflicts since the Second World War. Awards have since been made relating to service in later conflicts.<sup>21</sup>

17. New Zealand officials have advised that a project is now underway to review the eligibility criteria for the Memorial Cross as the dated legislation does not reflect modern family dynamics.



Figure 9 - New Zealand Memorial Cross in Presentation Box

**The United Kingdom**

18. On 10 June 2008, the British Secretary of State for Defence announced that the United Kingdom Chiefs of Staff had concluded that the time was right to recommend a new national award consisting of an emblem and a memorial scroll, to be given to the families of those who die on operations, or as a result of terrorism, in recognition of their loss and sacrifice.

<sup>21</sup> New Zealand Government Gazette 1960/128, p. 728 – The New Zealand Memorial Cross.



19. On 1 July 2009, the Secretary of State for Defence announced the details of the scheme and Her Majesty The Queen let it be known in a broadcast to her Armed Forces that she wished the emblem to be called 'The Elizabeth Cross'. The Elizabeth Cross and Memorial Scroll are granted under the authority of a Royal Warrant and further policy guidance is set out in a Joint Services Publication (JSP).

20. The Elizabeth Cross and Memorial Scroll are available to the next of kin of UK Armed Forces personnel who have died on operations or as a result of an act of terrorism since 1 January 1948 in national recognition of their loss and sacrifice. Eligible personnel to be remembered in this way are those who were serving with, or former members of, the UK Armed Forces (Regular and Reserve) and the Royal Fleet Auxiliary.

21. In accordance with the JSP, the next of kin of eligible personnel whose deaths fall into the following categories will qualify:

- a. Death from whatever cause whilst serving on a 'medal earning operation'. Medal earning operations are those in which deployed personnel received a Campaign Medal, General Service Medal or Operational Service Medal which demonstrated the risk and rigour involved. Operations where a UN, NATO, other international body or other nation's campaign medal was accepted for wear, in the absence of a UK medal, also qualify.
- b. Death as a result of an act of terrorism where the available evidence suggests that the Service person, whether on or off duty, was targeted because of his or her membership of the UK Armed Forces.
- c. Death on a non-medal earning operational task where the death was caused by the inherent high risk of the operational task (such as Search and Rescue and Explosive Ordnance Disposal)
- d. Subsequent and premature death as a result of injury or illness attributed to the circumstances outlined in sub-paragraphs a to c above.
- e. Death in the circumstances outlined in paragraphs a to d as a result of an incident that occurred after 1 January 1948 or as a result of service in Palestine between 27 September 1945 and 31 December 1947.
- f. Death in circumstances for which a gallantry/bravery award was made.

22. The next of kin will receive both the Elizabeth Cross and a Memorial Scroll. For retrospective claims when the next of kin is deceased, their legal successor may apply. Where the following are not determined to be the next of kin, they may apply for an additional Memorial Scroll only, with only two Memorial Scrolls normally being issued per death:

- a. the parents of the deceased, or
- b. the spouse/partner of the deceased or someone who had a 'substantive' relationship with the deceased.

23. A substantive relationship is generally based on joint financial commitment and must be proven by the applicant. As a Memorial Scroll was issued at the time to the next of kin of those who died in the Korean War, the Elizabeth Cross only (and not the new Memorial Scroll) is issued in remembrance of those who died during that war.

24. The JSP states that the Elizabeth Cross 'does not have the formal status of a medal', and that Service recipients have the discretion to decide whether or not to wear it. When worn with uniform, it is to be worn on the right side of the chest, and only worn when medals are ordered.<sup>22</sup>



Figure 10 - United Kingdom Elizabeth Cross and Miniature in Presentation Box.

<sup>22</sup> United Kingdom Joint Service Publication 761 – *Honours and Awards in the Armed Forces*.

## *The United States*

### The Purple Heart

25. The Purple Heart was established by General George Washington on 7 August 1782, during the Revolutionary War. It was re-established by President Hoover in 1932 and is currently awarded pursuant to a range of Executive Orders made between 1962 and 1998. In 2008, the Congressional Charter of the Military Order of the Purple Heart was revised to authorise associate membership for the spouse and siblings of a recipient of the Purple Heart medal.

26. The Purple Heart is awarded in the name of the President of the United States and is limited to members of the Armed Forces of the United States who, while serving under component authority in any capacity with one of the U.S. Armed Services after 5 April 1917 (the entry of the United States into the First World War), have been wounded, were killed, or who have died or may later die of wounds received under any of the following circumstances:

- in any action against an enemy of the United States;
- in any action with an opposing armed force of a foreign country in which the Armed Forces of the United States are or have been engaged;
- while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party:
- as the result of an act of any such enemy of opposing Armed Forces:
- as the result of an act of any hostile foreign force:
- after 28 March 1973, as the result of an international terrorist attack against the United States or a foreign nation friendly to the United States, recognised as such an attack by the Secretary of Army, or jointly by the Secretaries of the separate armed services concerned if persons from more than one service are wounded in the attack;
- after 28 March 1973, as the result of military operations while serving outside the territory of the United States as part of a peacekeeping force; and
- service members who are killed or wounded in action by friendly fire (unless the wound is a result of wilful misconduct by the member).

27. According to US Army guidance, while clearly an individual decoration, the Purple Heart differs from all other decorations in that an individual is not “recommended” for the decoration; rather he or she is entitled to it upon meeting specific criteria.

28. A Purple Heart is authorized for the first wound suffered under conditions indicated above, but for each subsequent award an Oak Leaf Cluster will be awarded to be worn on the medal or ribbon. Not more than one award will be made for more than one wound or injury received at the same instant or from the same missile, force, explosion, or agent.

29. When contemplating an award of this decoration, the key issue that commanders, as approving authorities, must take into consideration is the degree to which the enemy caused the injury. The fact that the proposed recipient was participating in direct or indirect combat operations is a prerequisite, but is not sole justification for award.

30. Examples of enemy-related injuries which, according to the US Army, clearly justify award of the Purple Heart are as follows:

- injury caused by enemy bullet, shrapnel, or other projectile created by enemy action;
- injury caused by enemy placed mine or trap;
- injury caused by enemy released chemical, biological, or nuclear agent;
- injury caused by vehicle or aircraft accident resulting from enemy fire;
- concussion injuries caused as a result of enemy generated explosions; and
- mild traumatic brain injury or concussive severe enough to cause either loss of consciousness or restriction from full duty due to persistent signs, symptoms, or clinical finding, or impaired brain functions for a period greater than 48 hours from the time of the concussive incident.

31. Examples of injuries or wounds which, according to the US Army, clearly do not justify award of the Purple Heart are as follows:

- frostbite (excluding severe frostbite requiring hospitalization from 7 December 1941 to 22 August 1951);
- trench foot or immersion foot;
- heat stroke;
- food poisoning not caused by enemy agents;
- chemical, biological, or nuclear agents not released by the enemy;
- **battle fatigue** (*emphasis added by the Tribunal*);
- disease not directly caused by enemy agents;
- accidents, to include explosive, aircraft, vehicular, and other accidental wounding not related to or caused by enemy action;
- self-inflicted wounds, except when in the heat of battle and not involving gross negligence;
- **post traumatic stress disorders** (*emphasis added by the Tribunal*);
- airborne (for example, parachute/jump) injuries not caused by enemy action;
- hearing loss and tinnitus (for example: ringing in the ears);
- mild traumatic brain injury or concussions that do not either result in loss of consciousness or restriction from full duty for a period greater than 48 hours due to persistent signs, symptoms, or physical findings of impaired brain function.
- abrasions and lacerations (unless of a severity to be incapacitating).
- bruises (unless caused by direct impact of the enemy weapon and severe enough to require treatment by a medical officer).
- soft tissue injuries (for example, ligament, tendon or muscle strains, sprains, and so forth).
- first degree burns.<sup>23</sup>

<sup>23</sup> Website, United States Army Human Resources Command, Purple Heart, November 10 2020. [www.hrc.army.mil/content/Purple%20Heart](http://www.hrc.army.mil/content/Purple%20Heart). Accessed 23 February 2021.



32. The large number of veterans with invisible wounds returning from conflict in Iraq and Afghanistan has the US Department of Defense re-evaluating Purple Heart eligibility for traumatic brain injuries and mental conditions such as post-traumatic stress disorder. The Department of Defense considers some traumatic brain injuries eligible for the Purple Heart, as many of those injuries can be diagnosed using brain scans and other objective medical tests. However, there is continued debate on the inclusion of mental conditions, such as PTSD, as part of the appropriate criteria for the Purple Heart. The US Congress, as well as various executive agencies and departments, is funding and conducting studies regarding PTSD. The National Alliance on Mental Illness, a national grassroots advocacy group representing families and people affected by mental illness, is advocating that the Purple Heart be awarded for psychological wounds including PTSD to eliminate stigma and encourage service members to seek care.<sup>24</sup>

33. The Gold Star Lapel Button – shown at the left of the image, is issued to the direct next of kin family members of US Service members who are killed in action. The next of kin of deceased personnel lapel button (shown on the right of the image) is provided to family members of those who lose their lives while serving honourably, but not on operations.



#### **The United Nations**

34. The Dag Hammarskjöld Medal was created on 22 July 1997 by the Secretary-General of the UN, Kofi A. Annan, to mark the 50<sup>th</sup> anniversary of peacekeeping operations. It was named after Secretary-General Dag Hammarskjöld who died in the service of the UN when the plane in which he was travelling crashed on 18 September 1961 while visiting the UN mission in the Congo.



35. The Dag Hammarskjöld Medal is presented by the UN to the families of those who gave their lives in the service of the UN. More specifically, it is awarded posthumously to all personnel of military, police or civilian components of UN peacekeeping operations who have lost their lives during service with such operations. According to its designer, the palm sized ovoid crystal medal commemorates the fragility, purity and strength of lost lives. Its shape emphasises the value of life easily held in the palm of one's hand as a posthumous benediction, not to be worn, but to be displayed in a family home.

<sup>24</sup> Congressional Research Service Paper, *The Purple Heart: Background and Issues for Congress*, updated 4 June 2020.

#### **France**

36. The War Wound Medal is a French Military Decoration which testifies to the gratitude of the nation to soldiers wounded in war or during an external operation. The award was originally created during the First World War by an act of 11 December 1916 and re-enacted by law in 1952. It was granted to the wounded soldiers, prisoners of war, deportees and internees of the Resistance of the First and Second World Wars and then to wounded soldiers of more recent conflicts. Although termed a 'medal', the formal insignia consisted only of a ribbon.

37. One hundred years since the introduction of such recognition, by Decree of 1130 of 17 August 2016 (since codified), the Medal of War Wounded was created. This retained the existing ribbon, but attached a medal in the form of a five pointed red enamel star mounted on a gold laurel and oak leaf wreath. The following persons are eligible:

- (a) Soldiers suffering from a war wound, physical or mental, noted by the military health service and approved by the Minister of Defence;
- (b) Prisoners of war injured physically or mentally during their detention.

#### **India**

38. The Parakram Padak or 'Wound Medal' is awarded to personnel who sustained/sustain wounds as a result of direct enemy action in any type of operations including counterinsurgency operations. The medal conditions came into effect from 15 August 1947, being the date of India's Independence from British rule.

#### **Sri Lanka**

39. The Uththama Pooja Pranama Padakkama (Medal of Honour for Supreme Sacrifice) is presented to the next of kin of all servicepersons of the military and police of Sri Lanka in recognition of a serviceperson's death in the line of duty. It is awarded to families of personnel of the regular or volunteer forces of the Sri Lanka Military and Sri Lanka Police confirmed killed in action or missing in action. The award was gazetted on 16 July 2010.

40. The medal has thus far been awarded by the Secretary to the Minister of Defence. Award Regulations stipulate that the medal be awarded jointly to the spouse, children and parents of a dead or missing serviceperson should he/she have been married at the time of (confirmed or suspected) death, and to the parents only should the serviceperson have been unmarried at the time of their death.

#### **Sweden**

41. The Swedish Armed Forces Medal for Wounded in Battle is a medal for Swedish Armed Forces personnel wounded directly or indirectly as a result of combat during national or international missions. The medal was instituted in 2011.

42. The medal is available in both gold and silver with a red-black ribbon, where the red symbolises blood and black for mourning. The silver medal is awarded to Swedish Armed Forces personnel wounded in action. Should the personnel receive more than one wound on different occasions, then a star is affixed to the ribbon. The gold medal can be posthumously awarded to those who have been killed in action.

### ***The Netherlands***

43. The Draaginsigne Gewonden ('insignia worn by the wounded'), a badge in the form of a cross, is available to Dutch naval and military personnel who have served in warlike conditions, including on international peacekeeping missions, and have been physically injured or suffered psychological injury as a result of that service.

*“And we join Australians everywhere in remembering all the men and women who have served our nation, and are serving it today.*

*We honour their bravery, their sacrifice and their loyalty.*

*We show that they are not forgotten.*

*For the best way to honour the courage and sacrifice of the diggers of World War One, is to support the service men and women, the veterans and the families of today.”*

Prime Minister Malcolm Turnbull, Anzac Day, Villers-Bretonneux, 2018



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## CHAPTER 9

### Views of submitters – recognition for service-related death

1. The inquiry terms of reference invited submissions concerning whether members of the Australian Defence Force who are killed in or as a result of service, or their families, should receive an Australian honour or award or another form of recognition for that service. Unsurprisingly, given the broad nature of these terms of reference, we were presented with a wide range of views concerning possible forms of recognition and the merits and possible risks associated with introducing such recognition, whether operative within or outside the Australian honours and awards system. The following summaries of individual and organisational submissions, both written and oral is representative rather than comprehensive.

#### *Submissions from individuals*

2. In 2004, Dr Kirstin Ferguson, a former RAAF officer and Churchill Fellowship recipient, completed a comprehensive study into support strategies for bereaved ADF families. Dr Ferguson told us of the disconnection from the ADF that some families had felt after the funeral of their loved one. Dr Ferguson explained that the desire to receive a visible, wearable token (such as something in the form of the Elizabeth Cross) that would make them stand out from other ADF families was a recurring theme in her research.<sup>25</sup>

3. While the existing Service bereavement pins go some way towards such visible recognition, and were described by one widow as ‘a step in the right direction’,<sup>26</sup> several submitters argued that the pins are not of a sufficient status or quality to adequately recognise the sacrifice of those killed in service.<sup>27</sup> Another submitter, Ms Renee Wilson, the CEO of War Widows NSW, argued for a common form of recognition across Defence and submitted that such recognition would help to unite the community of those affected by death in service.<sup>28</sup>

4. Several submitters sought recognition for families in the form of an emblem, similar in design and application to the British Elizabeth Cross, the New Zealand Memorial Cross and the Canadian Memorial Cross. In 2010, Mr Rene Van Oppen, who was then serving in the Army, made representations of this nature through his chain of command and drafted a supporting policy

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<sup>25</sup> Oral submission, Dr Kirstin Ferguson, 8 April 2021.

<sup>26</sup> Oral Submission, Squadron Leader Kim Morgan-Short, 5 May 2021.

<sup>27</sup> Oral submissions, Mr Rene Van Oppen, 7 April 2021 Major Paul Rosenzweig OAM, 14 April 2021 Squadron Leader Kim Morgan-Short, 5 May 2021.

<sup>28</sup> Oral submission, Ms Renee Wilson, CEO Australian War Widows NSW.

document, which he provided to us with his submission.<sup>29</sup> Mr Van Oppen proposed that the forms of recognition available in partner nations should also be available to Australian families who had lost a loved one in service.<sup>30</sup>

5. Commander Jennifer Wittwer RAN urged us to understand that death (or injury) incurred during service should not simply be accepted as a condition of service. Commander Wittwer explained that those who serve generally understand that death or injury may occur as a consequence of their service, but that did not mean that the ultimate sacrifice of a member should not be recognised in some meaningful way. Commander Wittwer believed, like other submitters, that there is a shortfall in the current system of recognition.<sup>31</sup>

6. In the creation of any new form of recognition, many submitters urged us against creating a perceived value ranking of certain deaths over others by creating different forms of recognition for different categories of service-related death. Chaplain Robert Sutherland, an Army Chaplain with a long period of service, including as an infantry commander in the 1970s and 80s, made a very compelling argument to the effect that every death of a current serving member is a tragic loss, and that 'in death all are equal'. Chaplain Sutherland explained that, almost regardless of circumstances, the death becomes a heartfelt loss for those who are important to the member, and on that basis recognition should be afforded equally.

7. Chaplain Sutherland told us that the sentiments and feelings of those left behind, expressed to him across a range of Service-related settings, are common regardless of the circumstances in which the member had died.<sup>32</sup> Ms Maree Sirois, the National Convenor of Defence Families Australia, also submitted that families of those who die while serving on operations and those who die in peacetime are both afflicted by the same form of grief.<sup>33</sup>

8. Mr Kerry Danes and Dr Kay Danes have, for many years, made representations to government concerning the issue of recognition of death and injury in service. Mr Danes told us that his interest in the issue began in 1996, when two Australian Army Black Hawk helicopters collided during a training exercise near Townsville. 18 Australian Servicemen died in this accident. Mr Danes told us that he and others 'had evolved the campaign to honour all ADF members killed in warlike, non-warlike operations or in general service'<sup>34</sup> along with recognition for those wounded or injured in service. Mr Danes' early representations sought recognition for those killed in action, including with a 'Sacrifice Medal', but over time this was expanded to include recognition for those killed in service, with recognition in the form of a clasp, rather than a medal. Mr Danes' two petitions attracted a total of 50,000 signatures.

9. Like other submitters, Mr Danes argued that a veteran's honours and awards should tell the story of the veteran's significant contribution to society, but that at present the medals of those killed in service do not adequately record the sacrifices shown on their service record or on the AWM Roll of Honour. Mr Danes told us that a clasp marking the fact that the recipient had been killed in action, or killed in service, would make an important statement to bystanders

<sup>29</sup> Submission 32, Mr Rene Van Oppen.

<sup>30</sup> Oral submission, Mr Rene Van Oppen, 7 April 2021.

<sup>31</sup> Submission 110A, Commander Jennifer Wittwer CSM RAN.

<sup>32</sup> Submission 123, Chaplain Robert Sutherland CSC, Oral submission 12 May 2021.

<sup>33</sup> Oral submission, Ms Maree Sirios, 14 April 2021.

<sup>34</sup> Submission 138, Mr Kerry Danes CSM.

that the wearer had lost a loved one and that the wearer should be approached with appropriate sensitivity. Mr Danes gave the example of Mr Ray Palmer, the father of Private Scott Palmer who was killed in a helicopter crash in Afghanistan in 2010. Despite wearing his late son's medals on the right-hand side, Mr Palmer has had to explain to others that the medals are worn by him for his son. Mr Danes said that 'if you have something that says KIA or KIS it would signify that you are wearing them on behalf of someone you have lost'. Mr Danes also submitted that a third category should be introduced to recognise death, known as Died of Wounds, which might be used to signify someone who had been wounded and survived to reach a medical treatment facility, but subsequently died of wounds.<sup>35</sup>

10. In his oral submissions, Mr Danes clarified that, under his proposed scheme of recognition, designated recognition for those killed in action would only apply to those killed as a result of enemy action, rather than being afforded to those who die in warlike operations. For example, someone who died in theatre during a declared operation as a result of a vehicle accident that was not related to enemy action would be recognised as being 'Killed in Service' rather than 'Killed in Action'.<sup>36</sup>

11. Mr Danes submitted that recognition should extend as far back as the involvement of Australian colonial forces in the Sudan war of 1885, noting that such recognition had been afforded by the AWM Roll of Honour. Following his hearing, which discussed a possible start point of 3 September 1945, Mr Danes conducted an online poll to assist us in measuring the start point for any recognition. Mr Danes' poll asked whether the start point should commence on 3 March 1885, and specified that this would represent 100% of Australians who died, or 3 September 1945, and specified that this would represent 1.6% of Australians who died. 352 of 380 respondents indicated support for the first proposition. In a further submission, however, Mr Danes stated that as the next of kin of those members killed in service prior to 3 September 1945 were afforded Imperial recognition for their family's sacrifice (in the form of the Mothers' and Widows' Badge), then he and Dr Danes would not object to new recognition for families commencing after that date. Mr Danes again submitted that veterans who died in or as a result of service from 3 March 1885 should receive recognition in the form of a clasp.<sup>37</sup>

12. In response to the potential difficulty of affixing Australian recognition to an Imperial award, Mr Danes submitted that the Prime Minister should write to The Queen and seek her approval to allow a clasp or clasps to be affixed to such medals, and claimed that The Queen might also ask that this be applied across the Commonwealth. He cited the recent amendments to the eligibility criteria for the Meritorious Unit Citation as an example of the Governor-General and the Prime Minister's willingness to approach the Sovereign on such issues. Mr Danes also submitted that an alternative option could be to amend the eligibility criteria of the ADM to 3 March 1885.<sup>38</sup>

13. Mr Martin Rollins, a former soldier who has long campaigned for recognition for those killed or wounded in service, described what he and others perceived to be a gap in the current Australian honours and awards system, in that the sacrifice of those that died in action or in service had not been adequately recognised, whereas 'dedication, achievement and service' had been recognised through other medals, such as those created to recognise gallantry, distinguished, campaign and

<sup>35</sup> Submission 138, Mr Kerry Danes CSM.

<sup>36</sup> Oral submission, Mr Kerry Danes CSM, 6 May 2021.

<sup>37</sup> Submission 138e, Mr Kerry Danes CSM.

<sup>38</sup> Submission 138c, Mr Kerry Danes CSM.



long service. Mr Rollins strongly put forward the case for medallic recognition, in the form of a medal rather than a clasp.<sup>39</sup> Mr Rollins submitted that the loss of life required a greater level of recognition than through a campaign medal alone.<sup>40</sup>

14. A number of submitters made reference to the Graywood Medal. The Graywood Medal is an unofficial medal that acknowledges those killed or wounded in action in the service of Australia, or who have suffered permanent disability as a result of their military service. The medal is awarded by the Graywood Medal Association, through the Korean War Veterans Association. It was created and donated in 2010 by the late Mr Bruce Horgan, a Korean War Veteran and life member of the Association. The name 'Graywood' is taken from the names of four deceased Australian personnel from the Korean War.<sup>41</sup> When a person dies, the Graywood medal is awarded to the family of the deceased member. Despite it having no standing in the Australian honours and awards system, submitters expressed their gratitude on receiving this medal, and the merits of a similar form of recognition being provided by the Australian Government by a medal in the Australian honours and awards system that is awarded to the families of deceased members.<sup>42</sup>



15. Further to these proposals, a small number of submitters asked us to consider the establishment of a national memorial or arboretum, rather than an expansion of the honours and awards system, to recognise all of those killed in or as a result of ADF service.

#### Practical and financial assistance for bereaved families

16. We were particularly moved by the account of one submitter who was widowed when her husband was killed in an accident during an RAN deployment. While she was grateful for receiving a Graywood Medal, that submitter spoke of the importance of practical assistance to bereaved families. She told us that the often-repeated sentiment around 'always being part of the Navy family' seems diminished by practical, real-life implications such as the loss of eligibility for Defence concessions on private health insurance, family health programs and home ownership assistance, particularly when an element of that assistance is revoked, rather thoughtlessly, on the anniversary of the members' death, and before families felt 'back on their feet'.

<sup>39</sup> Submission 62, Mr Martin Rollins.

<sup>40</sup> Oral submission, Mr Martin Rollins, 8 April 2021.

<sup>41</sup> Submission 69, SA/NT Branch of the National Malaya & Borneo Veterans Association of Australia Inc.

<sup>42</sup> Oral Submission, Mrs Jodie Pierson, 15 April 2021.

#### Arguments against recognition

17. Mr Mervyn Smith, an Australian Army veteran with over 20 years' service, including active service in Vietnam, argued against further recognition for members or families of members injured, wounded or killed in service. Mr Smith argued for a 'quality vs quantity' approach, stating that 'the Australian and UK governments have not been noted for their generosity in handing out honours and awards (and that's the way it should be). What they have been noted for is maintaining the integrity of the honours and awards.'

18. Mr Smith argued that existing honours and awards, as well as monetary allowances, have been introduced to recognise and compensate ADF members for the nature of their service. Mr Smith explained that potential inequalities and injustices may arise if a medal created to recognise death and injury in service such as the Purple Heart were to be introduced, in that members who die in service might receive the same recognition as those who are injured severely or superficially, and that those who might develop post-traumatic stress disorder as a result of their service might not be recognised at all. Mr Smith also expressed concern that medical records from past conflicts may no longer be available to verify claims for recognition, and pointed out the differences between modern families and the widely accepted concept of the nuclear family of the past, and the potential for harm to be caused by failing to accept these new dynamics in the administration of any new award. However, in oral submissions, Mr Smith stated that he would not be opposed to a form of recognition, other than a medal, such as a clasp.<sup>43</sup>

19. Another submitter, Mr Christopher Mathias, argued that Australian honours and awards help define, encourage and reinforce national aspirations, ideals and standards by identifying role models, and that death in service is adequately recognised by campaign and service medals. Mr Mathias pointed to a range of practical difficulties in determining who should and who should not be recognised in any proposed scheme, such as the question of whether to recognise death by suicide, particularly where the connection to service was not clear or unknown, or death as a result of accidental or intentional action by own or allied forces. While Mr Mathias disagreed that members and families of members killed in service should receive an honour or award to recognise death in service, he did submit that there may be a case for an alternative form of recognition, such as a clasp, for those killed 'in the line of duty'.<sup>44,45</sup>

#### Submissions from ex-service organisations

##### The Returned & Services League

20. The Returned & Services League (RSL) Australia submission was tendered by its National President, Major General Greg Melick. The RSL submitted that the majority of its membership had indicated 'there is no impetus for further recognition for members and families of members killed as a result of ADF service'. However, the submission went on to state that there is majority agreement for the need for recognition of families, if an immediate family member is killed while serving on ADF operations or peacetime service, through a commemorative brooch or pin, as is the case with Service bereavement pins. The submission advised that any new recognition, if introduced, should be retrospective to the end of the Second World War, to align with eligibility for the ADM and

<sup>43</sup> Submission 43, Mr Mervyn Smith.

<sup>44</sup> Submission 174, Mr Christopher Mathias.

<sup>45</sup> Oral submission, Mr Christopher Mathias, 25 May 2021.

bereavement pins. The submission advised against recognition for families or members within the Australian honours and awards system.<sup>46</sup>

21. In his oral submission, Major General Melick clarified that the written submission represented what he believed to be a majority view, but emphasised the diversity of opinions across the RSL's 160,000 member base, and the difficulties of obtaining a consensus and even effectively communicating across such a large and dispersed organisation. Major General Melick expanded on the RSL's submission by informing us that it would be fitting to provide families with appropriate recognition for deceased members, such as a silver cross or other emblem, of appropriate quality, to be worn if they so wish on their clothing and in public. While stating that the RSL opposed the introduction of medallion recognition, Major General Melick advised that it would not oppose recognition in the form of a clasp or rosette that would signify a person's death, to be affixed to a campaign medal.<sup>47</sup>

22. Major General Melick went on to describe the RSL's roles of education and advocacy within the veteran community and stated that the RSL would support any Government decision along the lines of our proposal set out later in this report and assist with publicising and promoting any new forms of recognition.<sup>48</sup>

23. Along with a submission from RSL Australia, we received a submission from the Kenilworth RSL Sub Branch. This submission proposed that a deceased member's family receive a certificate or scroll signed by the Prime Minister on behalf of the nation, and a commemorative medallion outside the Australian honours and awards system. The submission also proposed that consideration be given to an honour board at the AWM that commemorates those killed as a result of peacetime service. The submission raised the inherent dangers of certain aspects of peacetime service, and discussed the tragic deaths that have occurred over time in peacetime training for warlike operations, such as the 1964 sinking of HMAS Voyager and the 1996 Blackhawk accident.<sup>49</sup>

24. In his oral submission, Mr Graham Mickelberg, the President of the Sub Branch, discussed how the Sub-Branch's proposals aimed to preserve the legacy of historical forms of recognition, such as commemorative scrolls and the Mothers' and Widows' Badge. Mr Mickelberg advised of the need for clear, objective eligibility criteria in any new scheme, and urged us to consider the notion of 'being on duty' in the Defence context in eligibility for any new form of recognition. Consistent with several other submitters, Mr Mickelberg explained that families affected by service-related death see those deaths as being in the service of the nation, regardless of whether those deaths occurred on operations or in peacetime.<sup>50</sup>

46 Submission 167, Major General Greg Melick AO RFD SC on behalf of the Returned & Services League of Australia.

47 Oral submission, Major General Greg Melick AO SC, 6 May 2021.

48 Oral submission, Major General Greg Melick AO SC, 6 May 2021.

49 Submission 118, Mr Graeme Mickelberg on behalf of the Kenilworth RSL Sub Branch.

50 Oral submission, Mr Graeme Mickelberg, 11 May 2021.

**The Korea Veterans' Association of Australia**

25. In its submission, the Korea Veterans' Association of Australia (KVAA) advised us to consider four main areas for possible recognition: killed in action, wounded in action, killed in service and injured in service. The KVAA submitted that there should be a medal awarded to the families of those killed in action or in service.<sup>51</sup>

**The Vietnam Veterans' Association of Australia**

26. In its written submission, the Vietnam Veterans' Association of Australia (VVAA) submitted that it supported recognition in the form of an emblem or pin, to be given to the next of kin of a deceased member who died in prescribed circumstances, similar to the eligibility criteria for the British Elizabeth Cross. The VVAA further submitted its view that recognition should be outside the honours and awards system and that the recognition should come from the Australian Government and not the Department of Defence. While acknowledging the availability of the Mothers' and Widows' Badge for post 1945 service, the submission advised that such recognition, if introduced should acknowledge service from the beginning of Australia's involvement in the Korean War.<sup>52</sup> While the VVAA did not advocate the concept of broader recognition, such as recognition in the form of a clasp, its National President, Colonel Max Ball (Retd) advised us that it would not object to broader recognition unless 'grossly out of line'.<sup>53</sup>

**The Vietnam Veterans' Federation of Australia**

27. In its submission, the Vietnam Veterans' Federation of Australia (VVFA) urged us to be mindful of the difference between warlike and peacetime service, and proposed that any new form of recognition appropriately delineate between these categories of service. The submission advised us to consider recognition for families of those killed in action, but outside the honours and awards system, by way of a brooch or lapel pin. Concerning peacetime service, the submission raised the inherent risk in certain streams of civilian employment, such as emergency services, mining and construction. However, the submission conceded that certain operational, non-warlike situations 'where safety precautions cannot be observed and supervised', could be classified as particularly dangerous. The VVFA stated that the next of kin of a deceased member could perhaps receive a brooch or pin in those circumstances.<sup>54</sup> Notwithstanding these concerns, the VVFA advised us that it would not object should a new form of recognition be introduced following the inquiry.<sup>55</sup>

51 Submission 189, Ms Debbie Munro on behalf of the Korea Veterans' Association of Australia.

52 Submission 153, Colonel Max Ball (Retd) on behalf of the Vietnam Veterans' Association of Australia.

53 Oral Submission, Colonel Max Ball (Retd), 25 May 2021.

54 Submission 164, Mr William Roberts OAM on behalf of the Vietnam Veterans' Federation of Australia.

55 Oral submission, Mr Graham Walker, 11 May 2021.



**The Naval Association of Australia**

28. In its written submission, the Naval Association explained that its preferred option to recognise death in service would be a device, in the form of a poppy, to be attached to the ribbon of an operational service medal or the ADM, to recognise death sustained in or as a result of operational or non-operational service. Consistent with other submissions that argued that a person’s medal set should ‘tell the story’ of their service, the Association submitted that a device to be attached to a specific operational service medal would provide a direct link to the conflict or campaign in which the person died. The alternative option proposed by the Association would be for recognition in the form of a medal. The Association advised that any new recognition should commence from 3 September 1945, consistent with eligibility for the ADM.

29. Aside from affixing recognition to particular medals, the Association counselled against the concept of different forms of recognition for death on operational and non-operational service, which would potentially attribute a differing worth or significance between deaths. The Association also advised that death by suicide should be included as satisfying the criteria of service-related death for the purposes of any new award, and that, particularly having regard to sensitivities related to death as a result of psychological injury, receiving such recognition should be by application only.

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30. The National President of the Association, Mr David Manolas, advised us that the reason recognition as part of the deceased member’s medal set had been proposed was due to the meaning and gravitas attached to a veteran’s medal set, and that the significance of such measures can be diluted through a less significant object such as a pin. Mr Manolas indicated that the Association would support a meaningful measure, such as a brooch or other emblem, which would add value to the degree of recognition provided to a member.<sup>58</sup>

**The Royal Australian Regiment Corporation**

31. In its submission, the Royal Australian Regiment Corporation noted that the broader issue of recognition for those injured, wounded or killed in service had been the subject of ongoing discussion over recent years, and that, notwithstanding some ‘caveats and concerns’, there is broad support for such recognition within the Corporation. The Corporation noted the ability of allied and like-minded nations to administer such schemes, and urged us to look at a similar form of recognition positively, particularly for those killed in action.<sup>59</sup>

32. The submission strongly argued for recognition in the form of a medal for the next of kin for those killed in action, within the Australian honours and awards system rather than separately, and subject to appropriate scrutiny and diligence.<sup>60</sup> In oral submissions, the Chair and National President of the Corporation, Mr Michael Von Berg, stated that, if recommended by us, the Corporation would not oppose recognition in the form of a clasp to be affixed to a corresponding medal in the member’s medal set. <sup>61</sup>

56 Submission 156, Mr David Manolas on behalf of the Naval Association of Australia.

57 Oral Submission, Mr David Manolas, 12 May 2021.

58 Oral Submission, Mr David Manolas, 12 May 2021.

59 Submission 158, Mr Michael Von Berg, on behalf of the Royal Australian Regiment Corporation.

60 Submission 158, Mr Michael Von Berg, on behalf of the Royal Australian Regiment Corporation.

61 Oral Submission, Mr Michael Von Berg MC OAM, 13 May 2021.

33. Concerning the starting point for recognition, Mr Von Berg advised that the consensus within the Corporation was that the commencement of current operations in the Middle East would be an appropriate starting point rather than going back further in time, having regard to the need to recognise younger veterans and expressed the view that to introduce new recognition of this kind for Vietnam might reopen old wounds for veterans and their families.<sup>62</sup>

**The Royal Australian Armoured Corps Corporation**

34. In its written submission, the Royal Australian Armoured Corps Corporation (RAACC) proposed the introduction of a bronze medal bar, with discrete recognition for different forms of death in service, effective from commencement of the Australian honours and awards system in 1975. The RAACC proposed that the bar be affixed to the relevant medal for the relevant category of service, and be accompanied by a ‘Certificate of Recognition’. Distinct from most other submissions, the RAACC submission argued that this recognition should be administered by DVA (and not Defence) with appeals heard by the Veterans Review Board (and not the Tribunal).<sup>63</sup>

35. The RAAC submitted that it was against recognition for families, beyond being able to retain the veteran’s medals with the emblem affixed to the relevant campaign medal. In its oral submission however, the Association conceded that the Mothers’ and Widows’ Badge established a reasonable precedent for further recognition of families.<sup>64</sup>

**The Australian Artillery Association**

36. In its submission, which was lodged by Mr Andrew Sloane, the Australian Artillery Association sought the introduction of discrete medals to recognise those killed in action and killed in service.<sup>65</sup> While Mr Sloane accepted that the form of recognition for such sacrifices was not a critical issue, in that a clasp or other device might be acceptable, he argued that recognition should delineate between death in action and death in service.<sup>66</sup>

**The Air Force Association of Australia**

37. In its written submission, the Air Force Association supported medallic recognition of death incurred as a result of service in warlike and prescribed non-warlike operations, together with a certificate of gratitude, to be given to a deceased member’s family following death on such operations, with recognition to commence from the outset of Australia’s commitment to the Vietnam War.<sup>67</sup>

38. In its written and oral submissions, the Association argued that there was a case for recognition of service in higher risk operations, but that death incurred in peacetime activities such as playing ADF sponsored sport, or in aircraft accidents during training, could be considered to be

62 Oral Submission, Mr Michael Von Berg MC OAM, 13 May 2021.

63 Submission 067, Mr Noel McLaughlin OAM on behalf of the Royal Australian Armoured Corps Corporation.

64 Oral submission, Mr Noel McLaughlin OAM, 7 April 2021.

65 Submission 134, Mr Andrew Sloane on behalf of the Australian Artillery Association.

66 Oral submission, Mr Andrew Sloane, 11 May 2021.

67 Submission 110, Group Captain Carl Schiller OAM (Retd) on behalf of the Air Force Association of Australia.

workplace accidents, no different to those incurred in a civilian workplace. However, concerning recognition for families, the Association submitted that families of those who have died in service should receive some form of recognition, regardless of the nature of service in which the member died.<sup>68</sup>

**Australian War Widows NSW**

39. In its written submission, Australian War Widows NSW (AWWNSW) reported that there was overwhelming support within its organisation for recognition of both members and families of members affected by death in service. AWWNSW submitted that the majority of respondents in its organisation proposed that there be no differentiation between the circumstances that gave rise to the death in service, submitting that, in its view, no death should be considered as more important than another, but that there should be a causal connection between death and service to ensure the fidelity of the system of recognition. AWWNSW proposed that the recognition for deceased veterans ought to be medallic in nature, through either the issue of a new medal or clasp worn on the ADM or relevant campaign medal.<sup>69, 70</sup>

40. Concerning recognition for families, AWWNSW submitted that it supported the formal recognition for the families of those who have died in and as a result of service, in the form of a lapel pin that is awarded to the family, with appropriate formality. AWWNSW noted that it provides its members with its own lapel pin that enables a shared sense of identity and to signify the bonds they share through grieving for their loved ones.<sup>71</sup>

41. The submission also gave a thoughtful perspective on the issue of veteran suicide and, while urging us to give the issue close and careful examination, it stated that it would like to see the families of those left behind by suicide appropriately recognised.

**Legacy Australia**

42. In its submission, Legacy Australia discussed the value of Service bereavement pins, and recommended ongoing presentation of those pins to the families of those members who die in or as a result of service. Legacy did submit, however, that the design of the current Army Remembrance Pin renders it difficult to distinguish from the Army Deployment Pin, and urged that it be redesigned.<sup>72</sup>

**Voice of a Veteran**

43. Major Heston Russell (Retd), of Voice of a Veteran, submitted that members killed in service should be awarded with a clasp to recognise their sacrifice. Major Russell submitted that the clasp should be affixed to the member's ADM as the common service medal, and that its uniqueness, in that there are no other clasps to the ADM, would allow it to 'stand out' for visual recognition. Major Russell also submitted that recognition be limited to those killed on duty and not in an accident in their own time, or unrelated to their prescribed duties.

68 Oral Submission, Group Captain Carl Schiller OAM (Retd), 15 April 2021.

69 Submission 135, Ms Renee Wilson (CEO) on behalf of Australian War Widows NSW.

70 Oral Submission, Ms Renee Wilson, 11 May 2021.

71 Submission 135, Ms Renee Wilson (CEO) on behalf of Australian War Widows NSW.

72 Submission 127, Rick Cranna OAM on behalf of Legacy Australia.

44. Major Russell counselled against recognition for those who die after service by circumstances such as chemical exposure during service, or death by suicide where the member is diagnosed with a mental injury or illness arising from their service. Major Russell warned that such recognition, and the processes families might have to navigate in order to obtain that recognition, had the potential to bring about more harm, moral injury and emotional trauma to those families.

45. Major Russell submitted that no further recognition should be afforded to families, aside from the inheritance of the veteran's medal set, to be worn by them as desired and appropriate, and endorsed the current forms of recognition provided by the Government.<sup>73</sup> However, in oral submissions, following discussion with us regarding a potential form of emblematic recognition similar to the Elizabeth Cross, Major Russell indicated his broad support, but emphasised the need for ongoing support to families in addition to such a form of recognition.<sup>74</sup>

**The Australian Peacekeeper and Peacemaker Veterans' Association**

46. In its submission, provided by Mr Paul Copeland, the Australian Peacekeeper and Peacemaker Veterans' Association (APPVA) recommended that Australia introduce a 'Sacrifice Medal' to recognise death (and injury/wounding) in service. The submission asked that the medal be awarded to one next of kin of the deceased member, and that a device similar to the Elizabeth Cross be issued to immediate family members of the deceased, together with a scroll issued to all family members as required.<sup>75</sup>

**The Australian Commando Combat Veterans' group**

47. In its submission, also provided by Mr Copeland, the Australian Commando Combat Veterans' group also recommended that Australia introduce a 'Sacrifice Medal' to recognise death (and injury/wounding) in service. The submission also asked that the medal be awarded to one next of kin of the deceased member, and that a device similar to the Elizabeth Cross be issued to immediate family members of the deceased, together with a scroll issued to all family members as required.<sup>76 77</sup>

**Consortium of Ex-Service Organisations in South Australia**

48. We received a submission from a consortium of representatives from ex-Service organisations in South Australia. This consortium included some of the organisations discussed above, but also others including Aboriginal Veterans SA and the Royal Australian Army Medical Corps Association (SA Branch). This submission argued for the introduction of a form of recognition for families, outside the honours and awards system, similar to the British Elizabeth Cross and the Memorial Crosses of New Zealand and Canada, with recognition commencing for service after the end of the Second World War.<sup>78</sup>

73 Submission 166, Major Heston Russell on behalf of Voice of a Veteran.

74 Oral Submission, Major Heston Russell, 11 May 2021.

75 Submission 199, Mr Paul Copeland OAM on behalf of the Australian Peacekeeper and Peacemaker Veterans' Association.

76 Submission 199, Mr Paul Copeland OAM on behalf of the Australian Peacekeeper and Peacemaker Veterans' Association.

77 Submission 200, Mr Paul Copeland OAM on behalf of the Australian Combat Commando Veterans group.

78 Submission 124, Mr Bill Denny AM, BM, on behalf of the Consortium of Ex-Service Organisations in South Australia.



49. The consortium spokesperson, Mr Ian Smith, co-Chair of Aboriginal Veterans Australia, stated that the view of the consortium was that, in order for a family to be eligible, there should be a direct causal link to between a person's service and their death, and that such recognition should be extended to anyone who was killed or died in or as a result of service.<sup>79</sup>

**The Council for Women and Families United by Defence Service**

50. In its submission to us, the Council expanded on its earlier recommendation to the Minister for Veterans' Affairs by recommending that families of members killed in operational service be presented with two 'Death in Service' Medals by the Governor-General. The Council further proposed that deceased members killed in action be awarded a clasp to recognise that they had been killed in action, and a different clasp to a deceased member killed in service (but not on operations), to be affixed to the veteran's ADM.<sup>80</sup>

51. During its appearance at hearing, we discussed with the Council a provisional proposal for recognition for members and families of members killed in or as a result of service, where the member's death could be attributed to service. We explained that recognition for the member could take the form of a clasp or device to be worn on the relevant campaign or service medal, and that recognition for families might take the form of an emblem or brooch outside the honours and awards system.

52. The Chair of the Council, Ms Gabby Costigan, indicated broad support for such a proposal, noting the inherent difficulties of working with mental health conditions, and challenges associated with dealing with families affected by suicide. Ms Costigan also raised the need for the clasp and emblem to be of sufficient standing and quality, and presented in an appropriate and dignified manner. Ms Costigan suggested the need for a well-managed communication strategy and plan for engaging with the veteran community and the public. Ms Costigan also indicated broad support for the proposal that recognition could be made retrospective to the end of the Second World War.<sup>81</sup>

**Submissions from Australian Government agencies**

**Defence**

53. In its written submission, Defence stated that recognition outside the Australian honours and awards system carrying official endorsement, eligibility criteria and patronage provides the most appropriate avenue to issue recognition to families who wish to recognise the sacrifice of their loved one, and that the flexibility of developing recognition outside the system can allow the issue of multiple awards 'thereby nullifying the inflexibility of the system under which only one award can be issued.'

54. Notwithstanding this submission, Defence cautioned us as to some practical difficulties associated with any new form of recognition, including the risk of unintentionally creating a perceived nexus between medallic or like recognition and other entitlements available under other Commonwealth laws. In doing so, Defence stated that it often encounters cases of veterans who

<sup>79</sup> Oral submission, Mr Ian Smith, 6 May 2021.

<sup>80</sup> Submission 162, Ms Gabby Costigan on behalf of the Council for Women and Families United by Defence Service.

<sup>81</sup> Oral submissions, Ms Gabby Costigan, Mr Mat Jones, 25 May 2021.

incorrectly believe that the receipt of a medal is substantive evidence of an entitlement to another benefit under veterans' entitlements, and vice versa.

55. Defence also explained that, when exploring recognition for an ADF member who dies in or as a result of service, it had encountered a number of challenges, in particular the sensitivities attached to working with bereaved families' differing and unique circumstances and identifying the next of kin. Defence also submitted that when considering recognition for death in or as a result of service, differentiating between some types of death in service is challenging (having regard to nature of service considerations), and further submitted that the death of one ADF member is not more or less significant than another because of the circumstance in which the death occurred. To that end, Defence also submitted that any eligibility criteria, by their very existence, could create disappointment for the families of those members who do not satisfy the criteria. Defence also emphasised that the intent to do no further harm to a bereaved family is paramount.

56. Describing differences in social structures and the changing nature of family dynamics over time, Defence outlined a number of practical difficulties associated with the issue of a medal to members, or to families of members, to recognise death in service. Defence explained the current convention of medals being issued to a member and gifted to one family member, and noted that if a form of medallic recognition was developed within the Australian honours and awards system, it could restrict issue to one family member in keeping with that convention, which may cause further harm. Defence submitted that the flexibility afforded by developing a recognition item (or items) outside the honours and awards system meant that it could be issued to multiple family members and other categories of persons, such as a close friend or godparent.

57. While not making a specific recommendation to us, Defence submitted that a 'memorial package' is one option that it had considered over time. Defence stated that such a package would provide flexibility to meet the various dynamics of the modern Australian family, while remaining fitting, significant and prestigious. Defence suggested that a memorial package might consist of:

- the current Service bereavement pins;
- a medallion or wearable item – similar to the Elizabeth Cross and the Canadian and New Zealand Memorial Crosses;
- a memorial/commemorative scroll or certificate; and
- other unspecified items.

58. Defence suggested that there be no limit to the number of packages, provided it was within the immediate family construct. For example, if a member died and they had a partner, living parents who are divorced and re-married, three siblings and two dependants, Defence would issue eight packages which would ensure every person who is directly related to the member had a form of recognition by which to remember their loved one. Defence also submitted that 'options of recognition outside the Australian honours and awards system would be important to further explore with the view to ensuring all family members are included'.<sup>82</sup>

59. Defence also advised us to consider whether any new form of recognition, if introduced, should be extended to persons outside the ADF who support it in prescribed areas of operations.

60. In its written submission, while stating that there are other points in time that could be

<sup>82</sup> Submission 160 – General Angus Campbell AO DSC on behalf of the Department of Defence.

explored, Defence suggested that any new form of recognition of death in service should apply after the end of the Vietnam War, when the Mothers’ and Widows’ Badge ceased to be awarded.

61. During Defence’s appearance at hearing on 13 May 2021, we discussed possible means of recognition for death in or as a result of service and we found that exchange of views and later informal discussions to be particularly helpful in assisting us in the formulation of our conclusion and recommendations. Together with this constructive input, at hearing Ms Lisa Phelps, Defence’s First Assistant Secretary People Services, advised us that a means of recognition for members and families of members killed in or as a result of service that is retrospective to 1945 would give rise to a large number of potentially eligible veterans and families, which would present a workload which would need to be managed through the allocation of appropriate resources. Aside from dealing with a backlog of claims arising from past service, Ms Phelps discussed the need to deal sensitively with newly bereaved families, who are likely to expect recognition to be presented in time for the veteran’s funeral, which would present ongoing resource implications.

**The Department of the Prime Minister and Cabinet**

62. In its written submission, the Department of the Prime Minister and Cabinet (PM&C) advised us against creating recognition within the Australian honours system where death or injury is the primary criterion for an award. The submission explained that the purpose of the Australian honours system is for the Australian community to ‘recognise individual outstanding merit, excellence and achievement’ and that those values guide the operation of the system.<sup>83</sup>

63. PM&C clarified this position in its oral submission by confirming that a form of visible acknowledgement of death or injury in service, such as a device or clasp affixed to a campaign award, would not present a conflict with the values and principles of the system. In doing so, PM&C acknowledged that such recognition would not create a form of primary medallic recognition for the event of death or injury itself.

64. Concerning recognition for families, the PM&C submission stated that the investiture of a family of an ADF member to recognise the family’s service (versus the member’s service) would be without precedent in the Australian honours system, without precedent in other comparable national systems, and raised practical issues with the operation of any potential new regulations drafted to allow such awards to families. PM&C’s oral submission raised the possibility of a ‘hybrid system’, where the family of a member is recognised by an emblem or device outside the system, and the sacrifice of the member is recognised by a device or clasp affixed to the member’s campaign or service medal within the system.

65. In oral submissions, PM&C confirmed its view that any new form of recognition should be of an appropriate quality of manufacturing, commensurate with the necessary dignity of such recognition, and that decisions regarding eligibility for the emblem or device should be reviewable in the Tribunal, even if the emblem was not within the Australian honours and awards system.<sup>84</sup>

66. Concerning retrospectivity, the PM&C submission advised us that, while there is precedent for considering service rendered before 1975 within the Australian honours system, instituting awards for acts prior to 1975 is not preferred, partly because of the overlap between the Australian and Imperial honours and awards systems. PM&C’s oral submission acknowledged that Australian

83 Submission 131, Mr Peter Rush on behalf of the Department of the Prime Minister and Cabinet.

84 Oral Submission, Mr Peter Rush, 6 May 2021.

awards had been introduced to recognise service prior to 1975, but counselled that British advice would need to be sought regarding any new clasp or device to be affixed to an Imperial award for service (such as those that were all that were available to Australians prior to 1939).<sup>85 86</sup>

67. The PM&C submission also raised the issue of equity, stating that the nature of a job ‘in the defence services requires a level of personal sacrifice and risk that can be significant but is not entirely unique’. The submission gave the example of first responders such as police, fire and ambulance services that do not have death or injuries honoured through a dedicated award in the Australian honours system, and that the creation of any new award in the system could create an expectation that the system would also recognise death (or injury) in those professions.

**The Australian War Memorial**

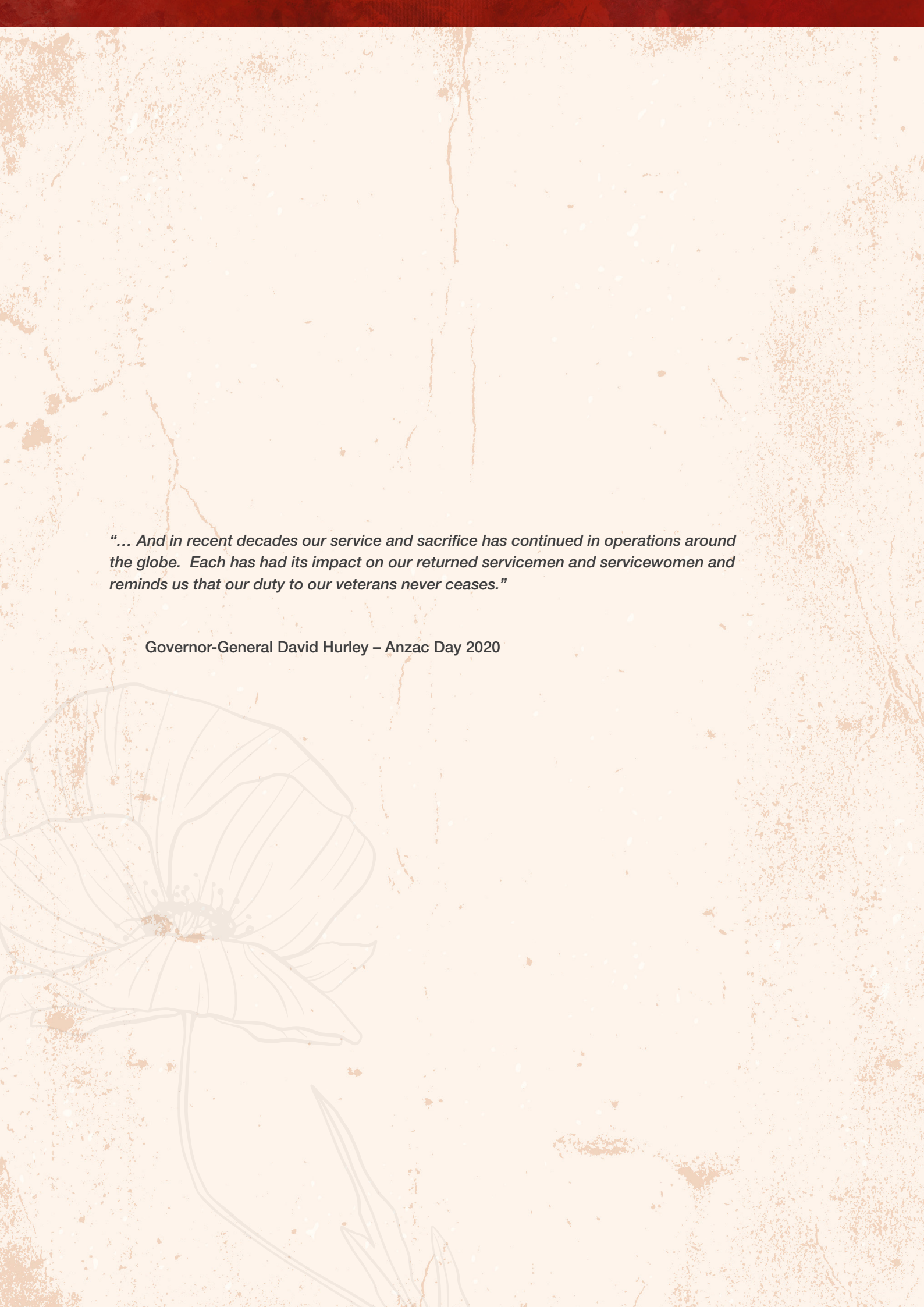
68. The AWM submission detailed the forms of recognition it affords to members of the Australian Defence Force who are killed in or as a result of service, such as by way of the Roll of Honour, and the procedures for determining eligibility for such recognition. The submission also discussed the complex issue of veteran suicide, and advised us to consult with organisations such as Phoenix Australia: Centre for Posttraumatic Health to provide specialist advice on the forms of recognition that we might consider during the inquiry.<sup>87</sup>

85 Submission 131, Mr Peter Rush on behalf of the Department of the Prime Minister and Cabinet.

86 Oral Submission, Mr Peter Rush, 6 May 2021.

87 Submission 49, Mr Matt Anderson on behalf of the Australian War Memorial.





*“... And in recent decades our service and sacrifice has continued in operations around the globe. Each has had its impact on our returned servicemen and servicewomen and reminds us that our duty to our veterans never ceases.”*

Governor-General David Hurley – Anzac Day 2020

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## CHAPTER 10

### Views of submitters – recognition for service-related wounding, injury and disease

1. Together with recognition for those killed in or as a result of service, the inquiry terms of reference invited submissions concerning whether members of the Australian Defence Force who are injured or wounded in or as a result of service, or their families, should receive an Australian honour or award or another form of recognition for that service. As noted earlier in this report, we have interpreted our terms of reference to extend to disease as well as wounding and injury. Again, given the broad nature of these terms of reference, we were presented with a wide range of views concerning possible means of recognition for those injured, wounded or suffering disease in or as a result of service and the merits and possible risks associated with introducing such recognition, within or outside the Australian honours and awards system. The following summaries of individual and organisational submissions, both written and oral is representative rather than comprehensive.

2. Consistent with the sentiments expressed concerning recognition for those who died in or as a result of service, a commonly expressed or supported theme was the need for a person’s medal set to ‘tell the story of their service’. Many submitters expressed disappointment that the potentially debilitating and life changing consequences of severe service-related injury are not adequately recognised in this way, and saw this inquiry as an opportunity to correct this oversight. Through the receipt of written submissions and by hearing personal accounts in public hearings, we heard compelling testimony from veterans and families of veterans who had been injured or wounded in or as a result of service which illustrated the significant and lasting impacts of those injuries on both individual veterans and their families.

#### *Submissions from individuals*

3. Several submitters told us that while their medal set provided them with a tangible summary of their career and a source of pride, it nonetheless reminded them of how opportunities for further service and deployment had been cut short due to service-related injury. Many of those submitters explained that an equal form of recognition that signified this considerable personal loss would assist in their ongoing rehabilitation and signify to others the sacrifices they had made in service, along with the challenges they continue to face each day in continuing to deal with their injuries and wounds.

4. One submitter who was discharged due to a range of significant medical impairments, including having significant difficulty standing, told us about receiving abuse from both veterans and members of the public for failing to stand during the national anthem on Anzac Day and other commemorative services. He told us that creating a visible and well-known form of recognition for such injuries, which he submitted should be a medal, might ensure that such incidents do not occur in the future.

5. While some submitters argued that recognition should be afforded to only recognise injuries or wounds suffered on operations or as a direct result of enemy action, other submitters presented the opposite view. One submitter who had been medically discharged for a range of service-related injuries, including PTSD, major depression and alcoholism, all attributable to peacetime service, urged us to introduce a form of recognition for those injuries. That submitter stated that recognition is both ‘powerful and empowering’ and would not only save lives, but would incentivise early medical intervention and veteran participation in rehabilitation.

6. Another submitter, the spouse of an ADF veteran suffering from debilitating physical and psychological injuries as a result of operational service, gave compelling evidence about how living each day equates to fighting a battle against the destruction caused by her husband’s post-traumatic stress disorder and other injuries. This account highlighted the extra burden carried by families in supporting partners and parents affected by physical and mental health conditions. That submitter explained the value her husband placed on his medals and explained that a wearable form of recognition on those medals would constitute a form of thanks, and provide him with reassurance that what he was going through was acknowledged. She also explained that she would be grateful for, and feel honoured by, a form of recognition for herself and for her family that would recognise their own challenges and sacrifice. In a similar vein, another submitter spoke of the ‘moral contracts’ entered into by Defence families, and the need for recognition of the ongoing sacrifices made by family members as they continue to honour those contracts by caring for affected veterans, including after the member’s discharge.

7. As set out in the preceding chapter, Mr Kerry Danes has made representations to government over a number of years concerning the issue of recognition of death and injury in service. Mr Danes proposed that clasps be introduced, to be worn on the veteran’s campaign medal or Australian Defence Medal, to signify that the recipient had been either wounded in action, or wounded or injured in service, with discrete clasps for each category.<sup>88</sup>

8. Mr Danes’ submission stated that recognition for ‘Injury in Service’ could be afforded to ADF personnel who sustain an injury during service and may be identified as having DVA-accepted health conditions. Mr Danes indicated that, in order to qualify, veterans may have been medically discharged from the ADF, or medically downgraded and still serving, undertaking rehabilitation training, or diagnosed with service-related mental illness or another accepted injury. Mr Danes suggested that recognition for a veteran ‘Wounded in Service’ could refer to someone who is physically or mentally, temporarily or permanently incapacitated. The submission reserved recognition for those ‘Wounded in Action’ to those ‘wounded while fighting in a combat zone during wartime, but have not been killed’, and that veterans ‘need not have fired their weapons but have been wounded due to hostile attack’.<sup>89</sup>

9. In his oral submissions, when pressed by us regarding a potential threshold for such recognition, Mr Danes indicated that the wound or injury would need to be ‘life changing’ in order to qualify for recognition under his proposed scheme. Mr Danes also clarified that under his proposed system of recognition, discrete recognition for wounding (rather than injury) would apply where the injury had been sustained by ‘some instrument’, but wounding would apply in circumstances such as vehicle or helicopter crashes.<sup>90</sup>

88 Submission 138, Mr Kerry Danes CSM.

89 Ibid.

90 Oral submission, Mr Kerry Danes, 6 May 2021.

10. As mentioned in the preceding chapter, Mr Danes submitted that recognition should extend as far back as the involvement of Australian colonies in the Sudan war of 1885, noting that recognition for death in wartime for these past conflicts had been afforded by the AWM Roll of Honour.<sup>91</sup>

11. As set out in the preceding chapter, Mr Martin Rollins, who has long campaigned for recognition for those killed or wounded in service, described what he and others perceived to be a gap in the current Australian honours and awards system, in that the sacrifice of those who had been injured in action or in service had not been adequately recognised, whereas ‘dedication, achievement and service’ had been recognised through other medals, such as those created to recognise gallantry, distinguished, campaign and long service.<sup>92</sup> In his oral submission, Mr Rollins acknowledged the inherent difficulties in establishing and managing such a scheme, but went on to say that those difficulties and complexities equally underlined the need for such a scheme to be properly considered, and introduced. Mr Rollins agreed that recognition should be contingent on severity, and suggested that medical discharge, or a requirement to change corps or employment category as a result of a wound, could be possible benchmarks.<sup>93</sup>

12. Mr Luke Gosling MP argued that it would be a mistake to allow the complexity of the detail of eligibility criteria to be used as an excuse to not proceed with the development of an award honouring sacrifice. Mr Gosling agreed that the scheme should be subject to a recognisable injury meeting a threshold for severity, such as a severe impact on a member’s life, and urged the Tribunal to engage with mental health experts to discuss appropriate recognition for those suffering from mental health conditions.<sup>94 95</sup>

**Arguments against recognition**

13. As set out in the preceding chapter, Mr Mervyn Smith, an Australian Army veteran with over 20 years’ service, including active service in Vietnam, argued against further recognition for members or families of members injured in service. Mr Smith argued for a ‘quality vs quantity’ approach, stating that ‘the Australian and UK governments have not been noted for their generosity in handing out honours and awards (and that’s the way it should be). What they have been noted for is maintaining the integrity of the honours and awards.’

14. Mr Smith argued that existing honours and awards, as well as monetary allowances, have been introduced to recognise and compensate ADF members for the nature of their service.<sup>96</sup> Mr Smith explained to us that potential inequalities and injustices may arise if a medal created to recognise death and injury in service such as the Purple Heart were to be introduced, in that members who die in service might receive the same recognition as those who are injured severely or superficially, and that those who might develop post-traumatic stress disorder as a result of their service might not be recognised at all. Mr Smith also expressed concern that medical records from past conflicts may no longer be available to verify claims for recognition.

91 Ibid.

92 Submission 62, Mr Martin Rollins.

93 Oral submission, Mr Martin Rollins, 8 April 2021.

94 Submission 151, Mr Luke Gosling OAM MP.

95 Oral submission, Mr Luke Gosling OAM MP, 12 May 2021.

96 Ibid.



15. Mr Smith, who also had a long career in Defence industry, advised us against a form of recognition for injury in the workplace, and that doing so would be against the currently accepted workplace culture of a ‘zero tolerance’ approach to illness and injury arising from inadequate workplace health and safety.<sup>97</sup> Mr Smith also raised the difficulty of objective decision making in relation to service-related injuries, and cautioned that the introduction of an award similar to the Purple Heart had the potential to invite divisiveness and ambiguity. Mr Smith submitted that there would be more value to individuals and families in committing resources to support, rehabilitation and practical assistance rather than in medallic recognition.<sup>98</sup> However, in oral submissions, Mr Smith stated that he would not be opposed to a non-medallic form of recognition, including a clasp.<sup>99</sup>

16. Another submitter, Mr Christopher Mathias, argued that Australian honours and awards help define, encourage and reinforce national aspirations, ideals and standards by identifying role models, and that death in service is adequately recognised by campaign and service medals. Mr Mathias pointed to a range of practical difficulties in determining who should and who should not be recognised in any proposed scheme, but conceded there may be a case for an alternative form of recognition for those wounded ‘in the line of duty’.<sup>100</sup>

**Submissions from ex-service organisations**

**The Returned & Services League**

17. The Returned & Services League (RSL) Australia submission was tendered by its National President, Major General Greg Melick. The RSL submitted that the majority of its membership indicated ‘there is no impetus for further recognition for members and families of members injured, wounded or killed as a result of ADF service’. The submission went on to state that the US example of the Purple Heart is not supported, ‘and was seen by many to devalue the current system of honours and awards’ (if introduced). The submission stated that ‘Wounded in Service personnel are often compensated and/or medically supported (such as by Gold Cards), and there is no impetus to change current practices’. The submission further stated that recognition for those injured or ill while in service (e.g., in sport, or private car accidents) and the complex nature of diseases and mental health, notwithstanding the importance of such matters, were not seen by the majority as appropriate for medallic recognition.<sup>101</sup>

18. In his oral submission, Major General Melick clarified that the written submission represented what he believed to be a majority view, but emphasised the diversity of opinions and the difficulty of obtaining the majority view and communicating across the RSL’s 160,000 member base. Major General Melick expanded on the RSL’s submission by informing us that recognition in the form of medals for injuries or wounds might ‘open Pandora’s box’, and expressed concern about the difficulty of administering such a scheme, particularly concerning the delineation of which injuries should be recognised, and the difficulty of administering claims for psychological injuries.

<sup>97</sup> Oral Submission, Mr Mervyn Smith, 7 April 2021.

<sup>98</sup> Submission 43, Mr Mervyn Smith.

<sup>99</sup> Oral Submission, Mr Mervyn Smith, 7 April 2021.

<sup>100</sup> Submission 174, Mr Christopher Mathias.

<sup>101</sup> Submission 167, Major General Greg Melick AO RFD SC on behalf of the Returned & Services League of Australia.

While stating that the RSL opposed the introduction of medallic recognition, Major General Melick advised that it would not actively oppose a clasp being introduced onto a relevant campaign medal to recognise a wound of sufficient severity.<sup>102</sup>

19. Major General Melick went on to describe the RSL’s roles of education and advocacy within the veteran community and stated that the RSL would support a government decision to implement a proposal such as we set out later in this report, and assist with publicising and promoting any new forms of recognition.<sup>103</sup>

**The Korea Veterans’ Association of Australia**

20. In its submission, the Korea Veterans’ Association of Australia (KVAA) advised us to consider four main areas for possible recognition – killed in action, wounded in action, killed in service and injured in service. KVAA submitted that veterans who have been seriously wounded or injured in the course of their duties should receive a clasp on their service medal signifying their serious injury or wound.<sup>104</sup>

**The Vietnam Veterans’ Association of Australia**

21. The VVAA submitted that it would be inappropriate to recognise, through medallic or other means, injury, wounding or death on peacetime service or training.<sup>105</sup> The National President of the VVAA, Colonel Max Ball (Retd) clarified this position in oral submissions by advising us that fundamental to the Association’s concerns was the practicality of defining injuries and wounds, including establishing whether such injuries or wounds occurred in a historical context having regard to the paucity of information on service records and the difficulty of administering such a scheme which would also recognise mental health conditions arising from service decades into the past. Having expressed these concerns, Colonel Ball told us that the Association would not object to the introduction of a new form of recognition, provided it was not ‘grossly out of line’.<sup>106</sup>

**The Vietnam Veterans’ Federation of Australia**

22. In its submission, the Vietnam Veterans’ Federation of Australia (VVFA) put forward the opinion that those immediately wounded in war are designated ‘Wounded in Action’ which is in itself a form of recognition. Concerning possible medallic recognition, the submission argued that the Purple Heart was a US tradition, not followed in the UK or the Commonwealth and raised concerns with the administration of a scheme that encompassed psychological injury, stating that ‘the award would become so common as to be worthless’.<sup>107</sup> Notwithstanding these concerns, the VVFA advised us that it would not object to a new form of recognition introduced following the inquiry.<sup>108</sup>

<sup>102</sup> Oral submission, Major General Greg Melick AO RFD SC, 6 May 2021.

<sup>103</sup> Ibid.

<sup>104</sup> Submission 189, Ms Debbie Munro on behalf of the Korea Veterans’ Association of Australia.

<sup>105</sup> Submission 153, Colonel Max Ball on behalf of the Vietnam Veterans’ Association of Australia.

<sup>106</sup> Oral Submission, Colonel Max Ball (Retd) on behalf of the Vietnam Veterans’ Association of Australia, 25 May 2021.

<sup>107</sup> Submission 164, Mr William Roberts OAM on behalf of the Vietnam Veterans’ Federation of Australia.

<sup>108</sup> Oral submission, Mr Graham Walker, 11 May 2021.

**The Naval Association of Australia**

23. In its written submission, the Naval Association explained that its preferred option to recognise injury and wounding in service would be a device, in the form of a sprig of golden wattle, to be attached to the ribbon of an operational service medal or the ADM, to recognise injury sustained in or as a result of operational or non-operational service. Consistent with other submissions that argued that a person’s medal set should ‘tell the story’ of their service, the Association submitted that a device attached to a specific operational service medal would provide a direct link to the conflict or campaign in which the person was injured. The alternative option proposed by the Association would be for recognition in the form of a medal. The Association advised that any new recognition should commence from 3 September 1945, consistent with eligibility for the ADM.

24. Aside from affixing recognition to particular medals, the Association counselled against the concept of different forms of recognition for injury on operational and non-operational service, which would potentially attribute a differing worth or significance between injuries. The submission urged us to take a broad view of the term ‘wounded’, noting past injuries and deaths of sailors due to friendly fire, and of those involved in logistic support roles in Vietnam who subsequently suffered the consequences of exposure to dioxins. The Association also emphasised that, particularly having regard to sensitivities related to death as a result of psychological injury, receiving such recognition should be by application only.<sup>109,110</sup>

**The Royal Australian Regiment Corporation**

25. In its submission, the Royal Australian Regiment Corporation noted that the broader issue of recognition for those injured, wounded or killed in service had been one of ongoing discussion over recent years, and while there is broad support for such recognition within the Corporation, there were some caveats and concerns with broader recognition. However, the Association did note the ability of allied and like-minded nations to administer such schemes, and urged us to look at a similar form of recognition positively.<sup>111</sup> In oral submissions, the Chair and National President of the Corporation, Mr Michael Von Berg explained the consultation that had taken place within the incorporated battalion organisations and how each had grappled with the difficulty of recognising and attributing PTSD and other mental health conditions to a person’s service.<sup>112</sup>

<sup>109</sup> Submission 156, Mr David Manolas on behalf of the Naval Association of Australia.

<sup>110</sup> Oral Submission, Mr David Manolas, 12 May 2021.

<sup>111</sup> Submission 158, Mr Michael Von Berg MC OAM, on behalf of the Royal Australian Regiment Corporation.

<sup>112</sup> Oral Submission, Mr Michael Von Berg MC OAM, 13 May 2021.

**The Royal Australian Armoured Corps Corporation**

26. In its written submission, the Royal Australian Armoured Corps Corporation (RAACC) proposed that recognition should be afforded to those who have been injured in service, where that injury resulted in discharge.<sup>113</sup> The RAACC further submitted that the injury must, as a minimum, be significant enough to satisfy payment of 100 percent of the disability pension payable under the *Veterans Entitlements Act 1986*.<sup>114</sup> However, an associated submission made by the 1<sup>st</sup> Armoured Regiment Association submitted that this benchmark should be set at 80 percent.<sup>115</sup>

**The Australian Artillery Association**

27. In its submission, which was lodged by Mr Andrew Sloane, the Australian Artillery Association sought the introduction of discrete medals to recognise those wounded in action and those injured in service.<sup>116</sup> While Mr Sloane conceded that the form of recognition for such sacrifices was not a critical issue, in that a clasp or other device might be acceptable, he argued that recognition should delineate between wounding in action and injury in service. However, distinct from some other proposals, Mr Sloane argued that all injuries sustained in an operational theatre, that were not as a direct result of enemy action, ought to be classified as wounds rather than injuries. When asked about a potential threshold for recognition, Mr Sloane submitted that such recognition should be subject to a severity rating, such as discharge from service.<sup>117</sup>

**The Air Force Association of Australia**

28. In its written submission, the Air Force Association supported medallic recognition of injuries incurred as a result of service in warlike and prescribed non-warlike operations, with recognition to begin from the outset of Australia’s commitment to the Vietnam War.<sup>118</sup>

29. In its written and oral submission, the Association argued that there was a case for recognition of service in higher risk operations, but that injury incurred in peacetime activities such as playing ADF sponsored sport, or in aircraft accidents during training, could be considered to be workplace accidents, no different to those incurred in a civilian workplace. In its oral submission, the Association urged that any new form of recognition be subject to carefully prescribed eligibility, linked to severity, in order to avoid devaluing such recognition.<sup>119</sup>

<sup>113</sup> Submission 067, Mr Noel McLaughlin OAM on behalf of the Royal Australian Armoured Corps Corporation.

<sup>114</sup> Oral submission, Mr Noel McLaughlin OAM, 7 April 2021.

<sup>115</sup> Submission 067 (Attachment B) 1st Armoured Regiment Association Incorporated.

<sup>116</sup> Submission 134, Mr Andrew Sloane on behalf of the Australian Artillery Association.

<sup>117</sup> Oral submission, Mr Andrew Sloane, 11 May 2021.

<sup>118</sup> Submission 110, Group Captain Carl Schiller OAM (Retd) on behalf of the Air Force Association of Australia.

<sup>119</sup> Oral submission, Group Captain Carl Schiller OAM (Retd), 15 April 2021.



**Australian War Widows NSW**

30. In its written submission, Australian War Widows NSW (AWWNSW) supported recognition for veterans, and families of veterans, injured and wounded in or as a result of service. AWWNSW submitted that the majority of respondents in its organisation proposed that there be no differentiation between the circumstances that gave rise to the injury in service. The submission also made reference to the Purple Heart, but stated that its exclusion of recognition for mental illness is ‘outdated’ and that, should Australia choose to include recognition for psychological injury, it would provide an opportunity for Australia to lead the world in reducing the stigma associated with those injuries and illnesses. At hearing, Ms Renee Wilson, the CEO of Australian War Widows New South Wales agreed that any new scheme should be subject to an injury or wound meeting an appropriate severity threshold, and discussed the potentially severe impact of mental health conditions, submitting that the whole of life impacts of mental illness are no different to those incurred through physical injury.<sup>120, 121</sup>

**Voice of a Veteran**

31. Major Heston Russell (Retd), of Voice of a Veteran, submitted that recognition should not be introduced for veterans who have been injured or wounded as a result of their service. Major Russell submitted that he had seen first-hand the negative effects that this has had on the US system, with some even ‘chasing’ such recognition and that such a scheme had the potential to cause further emotional harm.<sup>122</sup> In his oral submission, Major Russell suggested that, eventually, we would arrive at a place where almost every veteran who reaches advanced age is going to be able to trace back some form of injury to an operational experience, which might give rise to every family receiving a clasp, which would in turn devalue the system.<sup>123</sup>

**The Australian Peacekeeper and Peacemaker Veterans’ Association**

32. In its submission, provided by Mr Paul Copeland, the Australian Peacekeeper and Peacemaker Veterans’ Association (APPVA), recommended that Australia introduce a ‘Sacrifice Medal’ similar to the Canadian precedent, to recognise injury, wounding (and death) in service. For those injured and wounded in service, the APPVA submitted that the medal be awarded to recognise injuries or wounds suffered on operations, where those injuries and wounds were significant enough to warrant medical evacuation to ‘a higher level of care’.

33. The submission also argued that recognition be extended to recognise the sacrifice of those who serve in peacetime, by making the medal available to those who ‘sacrifice their health and wellbeing as a result of a traumatic event, whilst conducting their duty’.<sup>124</sup>

<sup>120</sup> Submission 135, Ms Renee Wilson on behalf of Australian War Widows NSW.

<sup>121</sup> Oral submission, Ms Renee Wilson on behalf of Australian War Widows NSW, 11 May 2021.

<sup>122</sup> Submission 166, Major Heston Russell on behalf of Voice of a Veteran.

<sup>123</sup> Oral Submission, Major Heston Russell, 11 May 2021.

<sup>124</sup> Submission 199, Mr Paul Copeland OAM on behalf of the Australian Peacekeeper and Peacemaker Veterans’ Association.

**The Australian Commando Combat Veterans’ group**

34. In its submission, also provided by Mr Copeland, the Australian Commando Combat Veterans’ group recommended the same proposals as those of the APPVA.<sup>125 126</sup>

**Consortium of Ex-Service Organisations in South Australia**

35. The submission from the consortium of representatives from ex-Service organisations in South Australia argued against recognition for those wounded or injured in action, arguing that, unlike in the United States and other countries, medallic or emblematic recognition has never been a tradition in Australia. The submission did however indicate that the consortium would support the reintroduction of wound stripes on ADF uniforms.<sup>127</sup>

36. The consortium spokesperson, Mr Ian Smith, co-Chair of Aboriginal Veterans Australia, discussed perceived flaws in overseas systems of recognition, such as the Purple Heart which is not awarded to recognise psychological injury, and the difficulty of attributing a service-related cause to injuries that manifest long after service. Mr Smith expressed concern that, because of such difficulties, inequities and injustices might arise due to veterans being unfairly excluded from recognition.<sup>128</sup>

**The Council for Women and Families United by Defence Service**

37. In its submission, the Council expanded on its earlier recommendation by submitting that veterans and families of veterans who have been wounded as a result of their service should be formally recognised through the Defence honours and awards system. The submission noted however, that the Council could not reach a consensus as to how such recognition should be best afforded, in terms of either the mode of recognition or the eligibility requirements.<sup>129</sup>

38. During its appearance before us at hearing, we discussed with the Council a provisional proposal for recognition for veterans and families of veterans seriously injured or wounded in or as a result of service.

39. The Chair of the Council, Ms Gabby Costigan, indicated broad support for such a proposal, noting the inherent difficulties of finding an appropriate severity threshold and applying such thresholds to mental health conditions. Ms Costigan also raised the need for any clasp and emblem to be of sufficient standing and quality, and presented in an appropriate and dignified manner. Ms Costigan suggested the need for a well-managed communication strategy and plan for engaging with the veteran community and the public.

<sup>125</sup> Submission 199, Mr Paul Copeland OAM on behalf of the Australian Peacekeeper and Peacemaker Veterans’ Association.

<sup>126</sup> Submission 200, Mr Paul Copeland OAM on behalf of the Australian Combat Commando Veterans group.

<sup>127</sup> Submission 124, Mr Bill Denny AM, BM, on behalf of the Consortium of Ex-Service Organisations in South Australia.

<sup>128</sup> Oral submission, Mr Ian Smith, 6 May 2021.

<sup>129</sup> Submission 162, Ms Gabby Costigan MBE on behalf of the Council for Women and Families United by Defence Service.

40. Mr Mat Jones, a member of the Council, also raised the possible difficulty in establishing links to service given the paucity of information on service records, and suggested the administration of the scheme be undertaken in such a way, as far as possible, to cause no further harm to the veteran or their family. Ms Costigan also indicated broad support for the recognition being retrospective to the end of the Second World War.<sup>130</sup>

Submissions from Australian Government agencies

Defence

41. In its written submission, Defence described the various means of support to injured and wounded veterans and their families through a range of medical, financial and rehabilitation services, including mental health and preventative and early intervention programs. Defence also explained that healthcare is provided to veterans regardless of the cause of illness or injury – which can take place in several settings between injuries sustained while on leave, but in service, to being wounded in action on warlike operations.

42. The table below, provided by Defence, gave some examples of possible different scenarios in which an ADF member may become injured, wounded or ill:

<sup>130</sup> Oral Submission, Ms Gabby Costigan, 25 May 2021.

	Description
Wounded in action	<p>This would include members who have been wounded during or as a result of warlike service, non-warlike service and certain peacetime operations.</p> <p><i>For example: a member is wounded in armed combat, during an insurgent rocket attack on a forward operating base, by an improvised explosive device or during a terrorist attack on home soil.</i></p>
Injured in operations	<p>This would include members who are injured whilst serving on or as a result of an operation, including peacetime operations.</p> <p><i>For example: members are injured as a result of an accident whilst on operational service overseas or during a domestic peacetime operation responding to a national emergency or natural disaster.</i></p>
Injured in a training exercise	<p>This would include members who are injured on, or as a result of, a training activity.</p> <p><i>For example: a member falls from an obstacle course during a training exercise and sustains an injury.</i></p>
Injured on duty	<p>This would include members not on operations, who are injured undertaking their ordinary duties.</p> <p><i>For example: a member undertaking routine maintenance of an aircraft as an expected part of their duties, and falls from a ladder, sustaining injuries.</i></p>
Injured whilst a serving member but not on duty or related to service	<p>This would include injuries sustained in an accident not related to Defence service.</p> <p><i>For example: a member is injured in a private motor vehicle accident, while undertaking home maintenance or while on holidays participating in a recreational activity.</i></p>
Becoming ill on duty related to Defence service	<p>This would include members who become ill during the course of undertaking their ordinary duties. This could occur while on operations, or during the course of their normal everyday employment.</p> <p><i>For example: a member is exposed to an environmental hazard in the workplace and develops a disease from this exposure, or develops an allergic reaction after exposure. Many mental health diagnoses would fit into this category as well.</i></p>
Becoming ill whilst a serving member but not on duty or related to service	<p>This includes members who become ill and where the illness is not related to Defence service.</p> <p><i>For example: a member develops an illness which may be due to personal lifestyle choices, or a genetic predisposition.</i></p>
Becoming injured or ill after discharge as a direct result of service	<p>This includes injuries and illnesses diagnosed after discharge accepted as attributable to service.</p> <p><i>For example: a delayed onset mental health condition which can be attributed to exposures during Defence service. It would also include conditions such as later onset arthritis, directly related to the volume of high impact activities undertaken during service.</i></p>



43. Defence submitted that the above categories demonstrate the complexity of compartmentalising illness and injury, and that it acknowledges the challenges involved in defining all the circumstances in which an ADF member may become injured or ill.

44. Defence further submitted that this complexity in definition of injury and illness, and its impact on members, provides challenges when considering eligibility for recognition. Defence appreciated that criteria for injury and illness would need to be met for the purposes of approving recognition, but it also acknowledged that psychological harm could potentially occur where a member has an injury or illness but the eligibility criteria were not met.

45. Defence also noted the risk that eligibility criteria also have the potential to ‘disincentivise’ appropriate clinical management and healing, in that if a member has to meet particular criteria in order to be recognised for that illness or injury, there is potential for the member to maintain particular illness patterns in order to retain eligibility.

46. Defence’s submission also discussed the varying definitions of injury classification within Defence and across government and submitted that each system was established for a particular purpose, such as:

- the casualty classifications set out in the Defence Casualty Manual, established to activate existing Defence and command processes which provide administrative support to ill and injured members;
- the Military Employment Category system – a personnel management tool used to communicate the risk of health conditions to Command, and to clarify the employability and deployability of permanent and reserve members;
- the various categories of discharge, including medical discharge; and
- the *Military Rehabilitation and Compensation Act 2004*, *Safety, Rehabilitation and Compensation (Defence Related Claims) Act 1988* and *Veterans Entitlement Act 1986*, which contain different definitions of disease and injury that reflect the purpose of each Act.

47. Defence’s submission indicated that sole application of criteria in any of these existing systems to determine eligibility for recognition of the kind contemplated by this inquiry would be both unwieldy and leave open the prospect of missing those who should otherwise be recognised.

48. Defence alerted us to further practical difficulties associated with any new form of recognition, including of unintentionally creating a perceived nexus between medallic or like recognition and financial benefits available under other Commonwealth laws.

49. The submission also advised that while some veterans or their families might welcome recognition, and view it as a positive experience, there may be other circumstances where recognition might cause or exacerbate distress for a veteran’s family. To this end, Defence urged us to take account of the wishes of the community at large including members, veterans and their families, and that individual preferences to wear or not wear such recognition, if introduced, be accepted.

50. While acknowledging that the identification of an appropriate form of recognition for injury and wounds is ‘particularly difficult’, the submission suggested that any new form of recognition for veterans and families should sit outside the honours and awards system. To this end, Defence submitted that this would allow recognition to be introduced sooner, provide more flexibility to

adjust any recognition over time, and allow the recognition to remain contemporary and valued.

51. While the Mothers’ and Widows’ Badge was no longer a form of recognition for wounding or injury in service, Defence submitted that if any new form of recognition were to be introduced it should be available to recognise service no earlier than the time when eligibility for that badge ceased (1973).<sup>131</sup>

52. At Defence’s appearance at hearing on 13 May 2021, we discussed possible means of recognition for injury and wounding in or as a result of service and we found that exchange of views and later informal discussions to be particularly helpful in formulating the conclusions and settling the recommendations set out later in this report.

53. At hearing, Defence emphasised that the various forms of medical classification outlined in its submission are used for discrete purposes unrelated to medallic recognition. However, Defence gave a useful exposition into practical usage of the Defence Casualty Management criteria in recent operations in the Middle East, and suggested that, in any application of this criteria for the purposes of medallic recognition, “Seriously Injured” would be an appropriate categorisation rather than the more stringent “Very Seriously Injured”. Defence also explained the difficulty in using medical discharge as the trigger for eligibility, noting that discharge can be for reasons other than service-related injury which can often be hard to determine, for example relating to musculoskeletal injuries, and that some members in critical occupations may be retained notwithstanding having suffered a particular injury or disease, whereas others may not.<sup>132</sup>

54. Defence further emphasised that any new scheme that might be recommended must be as administratively simple as possible, with a view to ensuring timely and efficient determination of eligibility, and to reduce the potential for further damage or harm to an applicant who has already suffered injury arising in or as a result of service.

55. Defence also discussed the complex issue of psychological injury, particularly PTSD, the possible difficulties of confidently linking such injuries to service, and assigning a severity rating which would be consistent with those that might be applied to physical injury. Defence also raised the issue of the difficulty of administering such a scheme retrospectively, given changes in the approach to medical treatment, and the availability of reliable records.

### **The Department of the Prime Minister and Cabinet**

56. As set out in the preceding chapter, PM&C’s written submission advised us against creating a form of recognition inside the honours and awards system where death or injury is the primary criterion for an award. However, in oral submissions it clarified this position by confirming that a form of visible acknowledgement of death or injury in service, such as a device or clasp affixed to a service or campaign award, would not present a conflict with the values and principles of the system.<sup>133</sup>

<sup>131</sup> Submission 160, General Angus Campbell AO DSC on behalf of the Department of Defence.

<sup>132</sup> Oral submission, Brigadier Isaac Seidl, 13 May 2021.

<sup>133</sup> Submission 123, oral submission, Mr Peter Rush, 6 May 2021.

57. Concerning recognition for families, the PM&C submission stated that the investiture of a family of an ADF member to recognise the family's service (versus the member's service) would be without precedent in the Australian honours system, and without precedent in other comparable national systems, and raised practical issues with the operation of any potential new regulations drafted to allow such awards to families. PM&C's oral submission raised the possibility of a 'hybrid' system, where the family of a veteran is recognised by an emblem or device outside the system, and the sacrifice of the veteran is recognised by a device or clasp affixed to the veteran's campaign or service medal within the system.

**The Department of Veterans' Affairs**

58. The Department of Veterans Affairs (DVA) provided us with a submission that outlined its role in administering each of the various veteran rehabilitation and compensation schemes within its jurisdiction. The submission emphasised the DVA's recent realignment to a wellness-based approach to rehabilitation and compensation, and cautioned us about the introduction of a new means of recognition that might steer veterans towards having further impairment accepted, possibly discouraging wellness, in order to achieve medallic or other recognition. The submission also explained the need for continued explicit separation of entitlement to repatriation benefits and honours and awards, given the confusion and uncertainty already in the minds of some veterans regarding these different regimes.<sup>134</sup>

59. Notwithstanding these important points, in response to a proposal from us at hearing, DVA advised that there may still be information that DVA could provide regarding potential eligibility for recognition, such as where an application has been made in response to a condition, liability has been determined, and impairment points have been assigned.<sup>135</sup>

60. After being provided with an exposure draft of our proposal as at May 2021, DVA provided us with another submission that reiterated some of the cautions put to us in its earlier submission, and warned of some practical difficulties associated with being wholly reliant on a veteran's level of impairment as determined by DVA. These include the potential for differences in the way impairment points are calculated under the various pieces of legislation that are administered by DVA, and the difficulty of identifying and isolating a degree of impairment attributable to particular injury where that veteran is suffering from multiple accepted conditions, which have arisen from different injuries. Finally, DVA also put to us a range of general observations and potential impacts which we have addressed in the recommendations at Chapter 13.

<sup>134</sup> Submission 196, Ms Liz Cosson AM CSC on behalf of the Department of Veterans' Affairs.

<sup>135</sup> Oral Submissions, Ms Kate Pope, Ms Veronica Hancock on behalf of the Department of Veterans' Affairs, 13 May 2021.

***“Sergeant Ricky Morris ...says “every medal tells a story” – whether its worn over the heart of a veteran or carried by one of their loved ones.***

***And that matters so much, especially today.***

***...***

***Today we honour the children, spouses, partners, parents and loved ones of the men and women who have served our nation in Afghanistan, and all the families of all who served at home and abroad.***

***Their love, encouragement and prayers have sustained our soldiers, sailors, aviators, nurses, padres and peacekeepers.***

***They have helped shoulder the burdens that follow service too.”***

**Prime Minister Scott Morrison, Anzac Day 2021**





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## CHAPTER 11

### Our analysis of the views of submitters

1. The preceding two chapters, while they provide only a summary of representative views put to us by submitters, are a vital element of this report for two reasons:
  - having responded to our invitation and having clearly taken considerable time and effort in preparing their often emotional submissions, our submitters deserve to have their views heard, not just by us but also by those who will read and take decisions based on this report; and
  - because those submissions disclose the depth and complexity of the issues that are raised by the apparently simple subject of “recognition for members and families of members of the Australian Defence Force who are injured, wounded or killed in or as a result of service” that our terms of reference direct us to consider.
2. Reading only the written text of those submissions, it was readily apparent to us that they conveyed a wide diversity of views. While the almost universal view was that there is a need for some additional form of recognition beyond that currently provided, there was no clear consensus about to whom and in what circumstances that recognition should be afforded.
3. Those very few who opposed any new form of recognition argued, in summary, that those who chose to enlist voluntarily assumed the risk of death or injury and that, when that resulted, there should be no different recognition beyond the compensation, health care and similar benefits that were available in civilian employment.
4. Many submitters told us that a veteran’s medals should ‘tell the story of their service’ and that currently, while a veteran’s medals give an adequate indication of their length of service, operational deployments and any particularly gallant, distinguished or conspicuous service, a service-related death or impairment is not afforded any medallic recognition. Others submitted that the current means of emblematic recognition of a death in service that are provided by the Services are inadequate, particularly in comparison to those provided by Commonwealth and allied countries.
5. A number of submissions advanced quite detailed proposals for a new form or forms of recognition, but none of these would by itself, it seemed to us, win universal or even majority support amongst those who made submissions to us or address all the complex issues raised by the terms of reference.
6. We thus believed it to be essential to seek greater clarity of and insight into the views of submitters. This we did through the public hearings we convened with what we felt were a representative group of individuals and with many ex-Service and related organisations. Through this process it became apparent that we should not rely solely on written submissions in assessing the views of submitters.

7. The individuals who made submissions to us, quite understandably, often prepared their written submissions from a very personal perspective. They expressed a view on the recognition they sought, either for themselves or their comrades or for members of their families, by reference to the particular circumstances of the individual case. It was thus appropriate for us to ask them whether they considered that recognition should be confined only to such circumstances. Their responses to these questions added a significant new dimension for our consideration.

8. For example, almost all submitters who only argued for recognition of death in the face of the enemy advised that, in so doing, they did not intend to imply that recognition should not also extend to others killed on other operations or in tragic training exercises such as the HMAS *Voyager* or Black Hawk helicopter disasters.

9. Similarly, those who only argued for recognition of wounding or injury on service generally told us that they would not wish to argue that recognition should not be extended to others who had contracted disease rather than suffering a wound or injury as a result of service.

10. Veterans whose written submissions only argued that they and others in like circumstances should gain personal recognition for the physical or mental impacts of their service, when asked by us, generally agreed that their families also warranted recognition for the impact that their impairment had had on family members such as parents, spouses and children. And family members who sought recognition for families, either in their written submissions or when asked by us, generally did so in respect of both death and wounding, injury and disease.

11. The ex-Service and related organisations who made written submissions did so from a somewhat less personal perspective and generally sought to provide a view of what they believed would be the consensus amongst the membership of their organisation. Some had gone to some lengths to engage directly with individual members; in other cases it appeared that there had been relatively little direct consultation, or consultation only with subordinate organisational structures rather than grass-root membership. This may explain why, when compared to submissions from individuals, organisational submissions tended to be more conservative in defining the groups for whom they sought additional recognition.

12. But, again, when asked by us whether their arguments for recognition for a particular category were intended to imply that other categories should not be recognised, they tended to advise that they did not wish to be seen to argue that other deserving cases should be excluded. Their general position seemed to be that they would not oppose a government decision that extended recognition beyond the scope of that for which their written submission had argued.

13. Many submissions argued for recognition for wounding or injury in service but often without any express limitation on the nature of the resultant wound or injury. However, when asked by us whether they sought recognition for every wound or injury, including those that every ADF member might be expected to incur in the ordinary course of service, there was almost universal agreement that recognition should be confined to wounding or injury that was “serious” or “severe”. While adjectives like these were helpful in expressing a general sense of limitation, submitters generally were not able to point us to metrics that would satisfactorily allow for the ready categorisation of wounds or injuries (or diseases) as either meeting or not meeting those terms.

14. For example, some suggested that the trigger for recognition might be DVA acceptance as totally and permanently incapacitated or at, say, 80% of the general rate pension. But a measure such as this could deny recognition to a veteran who suffered a life-threatening wound, was medically evacuated, endured long hospitalisation and rehabilitation and was finally left with

a residual disability that attracted a lesser pension. Again, others suggested that the trigger for recognition might be medical discharge. But using that measure alone could deny recognition to veteran who, perhaps ill-advisedly, sought administrative rather than medical discharge or whose service-related disability prevented their continued employment only some time after discharge. It seemed that there was a general view that affording recognition whenever there was any disability accepted or compensation paid under legislation administered by DVA would cast the net too wide because base-level pension and compensation payments can be made for relatively minor impairments.

15. In the course of our discussions with submitters during the hearings we convened, it quickly became apparent to both them and us that there was unlikely to be any one metric that would be applicable to the range of circumstances proposed to be recognised. Thus, settling on a series of metrics for distinguishing between those wounds, injuries or diseases that were sufficiently serious or severe to warrant recognition and those that were of a lesser impact would be a major issue for us to consider if we were to recommend a new form of recognition.

16. Amongst those submissions that sought a new form of recognition, many argued for a new “medal”. However, the Department of Prime Minister and Cabinet had indicated to us in its written submission that such a medal would be unprecedented in the national honours and awards system and thus might not be agreed. At the same time, however, that Department indicated that a form of device that could be attached to an existing defence medal would not give rise to the same concerns.

17. We thus asked many of those who appeared at hearings whether they would support something like a clasp rather than a medal. Some persisted with their preference for a medal. Others were comfortable with the alternative; for them it seemed to be the fact of recognition rather than its form that was more important. And yet others were quite enthusiastic about a device attached to the medal most closely related to the circumstances of death or impairment on the basis that this would convey to comrades and observers more about the individual’s circumstances that had warranted conferral of recognition.

18. Our hearings progressed over many weeks. During this period the input we received from initial and subsequent written submissions and from our discussions with submitters prompted us to contemplate various potential formulations for both the categories of veterans that might be recognised and for the consequences of service that might warrant recognition, if we were to recommend a new form of recognition. As these possibilities occurred to us, we sought to invite opinions on them at subsequent hearings and discussions. We found this process extremely helpful. Some potential formulations were thereby shown to be problematic; others clearly required further refinement; some seemed to win support.

19. Our terms of reference required us to “consult broadly” and we believe that this iterative process was fully consistent with that direction. Those terms of reference essentially require us to express a view on policy. They do not require us to come to a factual determination that seeks to reconcile or dismiss competing evidence, such as we must do when reviewing a decision relating to a person’s eligibility for an existing defence honour or award. At the same time, our inquiry function is not simply designed to arrive at a lowest common denominator compromise that would appease all (or even most) interested parties. As the terms of reference make clear, we must “have regard to the integrity of the Australian honours and awards system” and accordingly only recommend a form of recognition if it is principled and consistent with that integrity.



*“In recognising that the Anzac legacy was not etched into stone at Anzac Cove, and that each generation of serving men and women has successfully built on it, we also recognise that some paid a heavy price.*

*We know that many veterans experienced difficulties as a result of their service.*

*We must support those who serve, those who have served and their families.*

*That is not something that Australia and Australians did well in the immediate aftermath of Vietnam.*

*We may not be able to rectify all the wrongs of the past but we must try.*

*We do this through events like today’s. By remembering and honouring those who made the ultimate sacrifice, and by recognising the impact of their sacrifice on their loved ones.”*

**Governor-General David Hurley, 50th anniversary of Operation Overlord and the Battle of Long Khanh, 2021**

## CHAPTER 12 – Our conclusions

Our extensive public consultation and research lead us to these key conclusions concerning the questions raised by our terms of reference:

**Should there be a new form of recognition for ADF members killed, wounded or injured in or as a result of service, and their families?**

1. As evidenced by the various quotes highlighted in this report, Australia's national leaders have long acknowledged the sacrifice made by so many who have served in the Australian Defence Force, and by their families, and the debt owed to them by the nation. A question implicitly raised by our terms of reference is thus whether those words are sufficient or whether more should now be done to evidence that recognition.
2. Recognition of service-related death, wounding, injury and disease needs to be viewed thorough a multi-faceted lens. As detailed in Chapter 7, there are many ways in which these consequences of service are already recognised by Commonwealth and other agencies – the ADF and the Department of Defence, the Department of Veterans’ Affairs, the Australian War Memorial, the Office of Australian War Graves and others. Recognition takes many forms: ramp ceremonies and funeral services for the dead, health services for the survivors, compensation, income and other support for veterans and their families, monuments and memorial inscriptions, etc.
3. Some of those who made submissions to us were very satisfied with the recognition they or their loved ones received through these means. Others, however, were very dissatisfied with some aspects of the current regimes. It is beyond the legal capacity of the Defence Honours and Awards Appeals Tribunal under section 110W of the Defence Act to conduct any detailed review of all these forms of recognition because our inquiry function is confined to matters “concerning honours or awards for eligible service”. In any event, the need for improvement in some areas is already publicly acknowledged and accepted – most notably in DVA where some major reform programs are underway and others are in contemplation. In other areas there is an accepted need for improvement. For example, we were told that the duties of bereavement officers in each of the three Services are being reviewed to achieve better commonality and adoption of best practice. In some instances, perhaps a little more sensitivity could ease the grief and resentment felt by some. For example, one bereaved spouse told us of her distress at receiving on or very close to the anniversary of her husband’s death a letter advising that her entitlement to discounted private medical insurance was due to expire on that date.
4. But even if all these forms of recognition were being delivered in an optimal manner, none provides a personalised expression of the gratitude of the nation for the sacrifice that a veteran has made through their service or that their family has endured as a result, and none provides an emblematic recognition of that sacrifice in a form that can be publicly worn in commemoration and

with pride. The most personal representations of a veteran's service, their merit, campaign and service medals, depict only their service and say nothing about the consequences they or their family may have endured by reason of that service.

5. The overwhelming majority of those who made submissions to us regarded this as a major flaw in the current scheme of recognition. They sought some form of emblematic recognition, not simply because they wanted "more medals" but for other more fundamental reasons.

For example, for their sense of self-worth, to reinforce that their sacrifice had not been in vain, and to assist in healing the effects of often deep trauma arising from service.

6. As noted in the previous chapter, a very small number of submitters opposed any further form of recognition for service-related death, wounding, injury or disease. In their view, those who enlisted voluntarily assumed the risk of such consequences and should be afforded no greater compensation or other recognition than any other worker in other employment. While appreciating the argument, we do not agree with it. Service in the ADF is unlike other employment in many respects. Perhaps the biggest burden of ADF service is the requirement to render unlimited liability and there is no civilian organisation that is required to bear this onerous burden. Unlimited liability includes being directed to perform tasks and to respond to things that not expected of members of the civilian population. Members of the ADF during armed conflict are exposed to significant risk of physical and mental impairment and can be required to sacrifice their life at the nation's bidding, to accomplish their mission. In civilian professions there is an inalienable right to workplace safety which means that a worker has no obligation to obey a directive that they foresee will lead to their injury or death. In other words, there may be no limit to the sacrifice that members of the ADF can legitimately be ordered to make for the benefit of others.

7. Under the present Australian Defence honours and awards system, four identical medal sets would be worn without differentiation by:

- a veteran who had retired in full health after a full military career;
- a veteran who had fully, or only partly, recovered from the horror of an imminently life-threatening wound or injury suffered on duty;
- a veteran who had suffered a less immediately threatening wound or injury but was, perhaps much later, affected by an ongoing serious disability of gradual onset; or
- the grieving parent, widow or other family member of a veteran who had died in the course of serving their country.

While those current medal sets do reflect the length and areas of the service which each of those veterans provided, they say nothing about the vastly different consequences for each veteran and their families. While a medal set can never tell the full story of any individual veteran, they do not tell the story as fully as they might. We have concluded that this is a deficiency of the present system.

8. The bereavement pins currently made available by each of the three Services are clearly a step in this direction, but they have their limitations. They are issued by the Chief of the relevant Service and not on behalf of the nation. They are not well recognised and understood outside the ADF community. And they recognise only death and not the other potentially major consequences of service.

9. Having studied the approach taken by other countries, it is clear Australia's current system of Defence honours and awards and other forms of recognition provide no comparable recognition to ADF members and families impacted by death, or impairment on or as a result of service.

10. We have concluded therefore that there should be a new form of recognition for at least some ADF members killed, wounded, injured or suffering disease in or as a result of service, and their families. We believe this would be consistent with and give concrete form to the sentiments expressed by national leaders over the decades. It would be a mark of the compassionate society that Australia aspires and professes to be. It would be consistent with common standards of courtesy to express gratitude for and appreciation of the sacrifice that is made to keep us safe, and it may well be beneficial to the well-being of those suffering impairment and grief as a result of that sacrifice. It may also foster an atmosphere in which the ADF is better able to recruit, retain and protect the Service personnel that it and the nation requires. And it would see a return to the principles underlying the previous forms of recognition, the Mothers' and Widows' Badge and wound stripes, that for no compelling reason that we have been able to discern fell out of favour following the Second World War.

#### **What should be the form of that recognition and the circumstances in which it should be conferred?**

11. Having concluded that there should be a new form of recognition, we considered whether any of the overseas schemes that we have researched would provide a model that could be readily adopted for Australia.

12. There is considerable variance in the way injury, wounding and death in or as a result of service are recognised, particularly by 'like-minded' countries within and outside the Commonwealth. Some jurisdictions choose to recognise only death in warlike operations, whereas others have chosen to recognise 'service-related' death that is brought about in the course of a person's duty. Some countries do not provide any recognition for service-related injuries or wounds, while others do but limit such recognition to injuries or wounds suffered on active service. Others do not recognise the impacts of psychological injury or do not recognise the burdens placed on families that are impacted by service-related injury, wounding or death.

13. We thus concluded that, while they embody some concepts that should be borrowed, none of the overseas models could be satisfactorily adopted for Australia.

14. We also considered whether the proposal put to the Government by the Council for Women and Families United by Defence Service would be adequate. As previously mentioned, that proposal was for:

- a Death in Service Medal presented to the family of the service veteran who died in service which would be in the form of a medal within the Australian honours and awards system, presented to one family member, generally the next of kin, of a veteran who died in service. The council proposed that there would be no differentiation between warlike and non-warlike service for the purposes of such recognition; and
- a Killed in Action Clasp, presented posthumously to a veteran, which would be within the Australian honours and awards system and affixed to the deceased member's campaign award.

15. While those proposals clearly have merit, we noted that they were limited in their scope. This was because the Council had only put forward elements on which it was able to secure consensus amongst its members, and the Council expressly noted that further consideration needed to be given to expanding that scope.



16. We have therefore concluded that the better course is to develop a new scheme of recognition which is designed to meet Australian circumstances and which has regard to all the views expressed to us in the course of this inquiry.

17. As already noted, while the overwhelming majority of submitters favoured some additional form of recognition, there was great diversity in the proposals they put forward. Some sought recognition only for death in action; others only for death and wounds suffered in action; others favoured recognition for death or injury in any circumstance. So great was this diversity that there is no single proposal that could satisfy all submissions.

18. That, however, is no reason for doing nothing. Nor is it a reason for doing only what might be accepted as a suitable compromise by all. Consideration of additional recognition has been put aside on a number of occasions for such reasons. Clearly it is no easy task to develop a sound proposal for a scheme for further recognition of service-related death, wounding, injury or disease that will command majority support. Despite that difficulty, we believe it is time for principled action to bring the period of inconclusive deliberation to an end.

19. Despite the great diversity of proposals put forward in submissions, we did detect a clear sense from many submitters with whom we interacted that the proposals we outline later in this report would meet with their support even though they might differ from what they themselves had originally proposed.

20. **Death.** Service-related death can occur in many different circumstances: in action in the face of the enemy, on operational service other than in the face of the enemy, on humanitarian or peace-keeping missions, in training or when called out in aid of the civil powers.

21. Service-related death can also be brought about by many different means: by the deliberate act of a hostile third party, by accident or negligence such as in deaths by friendly fire, as a result of wounding or injury suffered on service or disease contracted on, aggravated by or arising as a result of service, or by self-inflicted harm.

22. Although we acknowledge these different circumstances and causes, we have concluded that they do not provide a sound basis for selecting between deaths worthy of recognition and those somehow considered to be not so worthy. In all cases the consequence is the same, the veteran is dead, and the family's grief is no less. As one submitter very poignantly put it to us, "In death we are all equal".

23. **Wounds, injuries and disease.** Damage to the body can be caused by a wound, an injury or a disease. A wound is generally regarded as a piercing of the skin leading to bleeding inflicted by a third party. But equal or greater damage can be caused by an injury arising in an accident and not involving a piercing of the skin, such as a broken bone suffered while diving for cover to avoid enemy fire. And disease caused by exposure to harmful chemicals while undertaking routine equipment maintenance in peacetime Australia can be of the same or greater severity as that caused by exposure to chemical or biological weapons. Accordingly, we have concluded that it would be inappropriate to provide recognition only for wounding, or only for wounding and injury but not for disease.

24. Disease may be defined as "a particular abnormal condition that negatively affects the structure or function of all or part of an organism, and that is not due to any immediate external injury". So defined, it includes mental disorder. We have concluded that, so long as there is an established service relationship, all disease including mental disorder should be within the scope of any new scheme for recognition.

25. While acknowledging that, as with death, differing circumstances may give rise to wounding, injury or disease, we have similarly concluded that those circumstances do not provide a sound basis for differentiating those wounds, injuries or diseases worthy of recognition from others deemed to be not so worthy.

26. Nevertheless, there are differences between wounds, injuries and diseases that need to be reflected in any consideration of recognition. For example, a major life-threatening wound suffered in action in the face of the enemy may be successfully treated and leave no ongoing physical disability while exposure to harmful chemicals while undertaking routine equipment maintenance in peacetime Australia may, perhaps much later, result in a life-threatening and ultimately fatal disease.

27. Notwithstanding the great diversity of the views put to us by submitters, there was one almost universal theme: recognition should not be provided for every service-related wound, injury or disease, but only for those that were "serious" or "severe". It is likely that every veteran will, at some time during their enlistment, sustain some form of wound, injury or disease in or as a result of their service. If every such incident were to be afforded additional recognition, this would thereby amount to what one submitter described as a "participant's badge". There was a clear belief that any additional recognition needed to be more limited so that its value was established and not demeaned. We fully agree with this view. Finding suitable metrics of severity to distinguish between serious and trivial damage to the body is clearly a major challenge, and one which has been found to be difficult in the past, but it is one which we believe can be satisfactorily overcome in the context of medallic recognition by the proposal we advance in the next chapter.

28. **Serving or former members.** While some who made submissions to us wrote in terms of recognition for "members" of the ADF, it seemed to be common ground that any new form of recognition should also be available to "former members" so that those who died or whose wounds, injury or disease only reached the "serious" threshold post-discharge were not denied eligibility. We have concluded that this is the correct approach. To confine recognition of death to only those occurring in service would mean that the death of a veteran who died shortly after medical discharge from causes that gave rise to that discharge would go unrecognised. And even a death that occurs many years after discharge or retirement should in our view not be denied recognition if the consequences of service were a cause of that death.

29. **Personnel coverage.** We have given consideration to whether any new form of recognition should potentially extend not only to permanent members of the three Services but also to Reservists, ADF members assigned to serve with a foreign force, Defence and other government officials who are force assigned, and other civilians who may be eligible for existing awards within the Defence honours and awards system (such as war correspondents and artists). We have concluded that there is no sound basis on which any of these persons, if killed or suffering a wound, injury or disease in or as a result of serving in those categories, should be excluded if, in so serving, they are eligible for an honour or award under the present Defence honours and awards system.

30. **Nature of recognition.** A new medal to recognise death, wounding, injury or disease would be without precedent within the Australian honours and awards system because current medals recognise service, not the consequences of service. The lack of Australian precedent is not a reason that necessarily means a proposal for new medals should be rejected – we routinely elect governments to take unprecedented action for the benefit of the community. Such a medal would mean that a veteran's medal set did convey more information about their service than at present.

However, we prefer a more complete option. Our proposal in the next chapter for devices within the current Australian Defence honours and awards system to be attached to the Australian campaign or service medal most closely related to the circumstances in which death, wounding, injury or disease occurred would convey more information about how, where and when that event arose and, we believe, would thereby be more meaningful. Our proposal would allow the medal set to “tell more of the veteran’s story”.

31. **Recognition for families.** Those who sought recognition for families acknowledged that it would be necessary to decide who constituted the “family” of a veteran and offered various views about the numbers of persons who might be recognised under this category and how many emblems might be available for them. We have concluded that recognition for families for the sacrifice that they suffer, separate from but related to the sacrifice of a veteran, should be available. However, we have also concluded that this recognition should be formally outside the Defence honours and awards system. This is for two reasons. First, families themselves do not provide the military service which is recognised within that system. Second, since the system itself provides recognition only to a single member and only for their own service, there can be far more flexibility about which family members are recognised and how they are recognised if recognition is provided outside the Defence honours and awards system.

*“I acknowledge, recognise and honour the critical role played by the families of our service men and women. They, too, are part of the Anzac legacy and, as a nation, we thank them for their support and sacrifice.”*

Governor-General David Hurley Anzac Day 2021



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## CHAPTER 13 – Our recommended proposal

1. In light of the conclusions set out in the preceding chapter, we recommend the institution of four new forms of recognition:

- within the Defence honours and awards system:
  - o a **Memorial Clasp** and accompanying scroll – to recognise the service-related death of a veteran;
  - o a **Gratitude Clasp**, a lapel pin<sup>136</sup> and accompanying scroll – to recognise serious wounding or injury suffered, or serious disease contracted or aggravated, by a veteran in or as a result of service;
- outside the Defence honours and awards system:
  - o a **Memorial Star** and accompanying scroll – to recognise the sacrifice of the family of a veteran whose death was service-related; and
  - o a **Gratitude Star** and accompanying scroll – to recognise the sacrifice of a family of a veteran who suffered a serious wound or injury or contracted or aggravated a serious disease in or as a result of service.

2. The names we have adopted for these forms of recognition above are, of course, only a suggestion. There may well be better and more evocative nomenclature. Later, in the implementation section of this chapter, we suggest that consideration be given to issuing a public invitation for interested parties to suggest alternative names for these new forms of recognition. This should not in our view be in the form of a competition but rather would be done as a matter of community consultation. Similarly, our use of the word “Star” is not intended to suggest any particular design form or that another form such as a cross should not be adopted. Rather, we have used the word solely as a convenient basis for distinguishing between the objects conferred on a veteran and those conferred on a family.

<sup>136</sup> We recommend that veterans awarded the Gratitude Clasp for attachment to their medal set should also receive a lapel pin for everyday wear (at their discretion). We do so because it would seem to be incongruous if members of their family could wear the Gratitude Star or miniatures of it every day, while the veteran on the basis of whose sacrifice those devices were issued could only wear the acknowledgement of that sacrifice on occasions when full medal sets were to be worn. We do not envisage that this lapel pin would be simply a miniature of the Gratitude Clasp or of that clasp attached to the service or campaign medal to which it was to be attached. Rather we envisage that it would be of a separate and appropriate design.

3. In developing the proposal outlined in this chapter, we have adopted the following guiding principles:

1. *The scheme should be compassionate, but not so extensive as to recognise every death of, or wound or injury to a veteran so that it thereby becomes simply a “participant’s award”.*
2. *The process of seeking recognition and establishing eligibility should not provide any increased incentive for further ill-health, should do no further harm to veterans or families and should, so far as possible, promote wellness and rehabilitation.*
3. *The eligibility criteria should be transparent. They should be as clear as possible and made readily and publicly available.*
4. *The eligibility criteria should, so far as possible, rely on objectively observable facts rather than subjective judgement.*
5. *Where eligibility criteria necessarily rely on subjective judgement, this should be, as far as possible, the judgement of a qualified professional.*
6. *The scheme should be predictable, repetitively consistent and equitable in its application.*
7. *The scheme should, so far as possible, be capable of timely and administratively simple processing.*
8. *The eligibility criteria should be expressed in readily understood language so that potential applicants have the opportunity to make a rational self-assessment of whether or not it is worthwhile making an application.*
9. *The physical form of each new item of recognition should be of a design and quality commensurate with the solemn nature of the sacrifice it commemorates.*
10. *There should be a simple, timely and readily accessible avenue for resolution of any disputes about eligibility.*
11. *Conferral of recognition should render the Commonwealth subject to no legal liability beyond that to which it would otherwise be subject.*
12. *Any new form of recognition should be consistent with and maintain the integrity of the Defence honours and awards system.*

**Form of Recognition**

4. Various designs for medals or devices were proposed by some of those who made submissions to us. These are depicted in Appendix 6. The design of any new form of recognition is, of course, a matter for the Government. We do not profess to have any special design expertise. Later in the implementation section of this chapter we suggest that the Government might consider issuing a public invitation for interested parties to offer their views not only about naming but also on appropriate design proposals. Ease of manufacture and cost are clearly relevant issues, but we also believe that simplicity of design will be a benefit not only for production but also in conveying the solemnity of the symbolic intent.

5. However, consistent with our conclusions in the preceding chapter and the principles listed above, our suggestions are as follows:

**Memorial Clasp**

a black clasp-like device, of a quality commensurate with that of other Defence honours and awards, to be attached to the Australian campaign or service medal most relevant to the circumstances in which death occurred and bearing, at the discretion of the veteran’s family:

- the date of death; or
- the date of the incident leading to death; or
- no date;

and with the text of the framed or bound accompanying scroll along the following lines:

Issued under authority of the Governor-General of the Commonwealth of Australia, this scroll commemorates the life of [rank/full name/any post-nominals] who, for his/her service in or with the [Royal Australian Navy/Australian Army/Royal Australian Air Force] from [date] to [date], was awarded [list all honours and awards] and expresses the gratitude of the nation for the sacrifice of his/her service in recognition of which he/she has now additionally been awarded the Memorial Clasp.

**Gratitude Clasp**

a red clasp-like device, of a quality commensurate with that of other Defence honours and awards, to be attached to the Australian campaign or service medal most relevant to the circumstances in which wounding or injury occurred and bearing, at the discretion of the veteran (or family where posthumous recognition is sought):

- the date of wounding or injury; or
- where multiple dates of wounds or injuries have been recognised, the number of such events recognised; or
- no date

and with the text of the framed or bound accompanying scroll along the following lines:

Issued under authority of the Governor-General of the Commonwealth of Australia, expresses the gratitude of the nation for the sacrifice of [rank/full name/any post-nominals] for his/her service in or with the [Royal Australian Navy/Australian Army/Royal Australian Air Force] from [date] to [date], for which he/she was awarded [list all honours and awards] and in recognition of which he/she has now additionally been awarded the Gratitude Clasp.

**Memorial Star**

a full-size brooch-like emblem of a size and quality consistent with medals within the Defence honours and awards system and of a uniquely Australian design which includes a black component indicating that recognition has been awarded to the member for service-related death (for comparison, the Canadian, New Zealand and British precedents are depicted in Appendix 5) and with the text of the framed or bound accompanying scroll along the following lines:



Issued under authority of the Governor-General of the Commonwealth of Australia, this scroll commemorates the life of [rank/full name/any post-nominals] who, for his/her service in or with the [Royal Australian Navy/Australian Army/Royal Australian Air Force] from [date] to [date], was awarded [list all honours and awards] and the Memorial Clasp and expresses the gratitude of the nation for the sacrifice of his/her family arising from that service.

Gratitude Star

the same brooch design as the Memorial Star but with a red component indicating that recognition has been awarded for service-related wounding, injury or disease and with the text of the framed or bound accompanying scroll along the following lines:

Issued under authority of the Governor-General of the Commonwealth of Australia, expresses the gratitude of the nation for the sacrifice of the family of [rank/full name/any post-nominals] arising from his/her service in or with the [Royal Australian Navy/Australian Army/Royal Australian Air Force] from [date] to [date] for which he/she was awarded [list all honours and awards] and the Gratitude Clasp.

6. Examples of scrolls previously issued in Australia or currently issued in other countries such as Canada, New Zealand and the United Kingdom are included in Appendix 5. The new scrolls should, we suggest, be of the same quality as those issued under the Order of Australia.

Eligibility Criteria for Recognition of Veterans

7. In the following paragraphs we set out the eligibility criteria we recommend for the award of the Memorial Clasp and the Gratitude Clasp. Explanations for our reasoning for these criteria are contained in the succeeding cross-referenced notes.

For death

8. The death of any veteran is a matter for remembrance and each of the Services already makes available a Bereavement Pin as a mark of that commemoration. We suggest that those pins should continue to be made available at the discretion of the relevant Service Chief or his or her delegate. However, over and above any Service commemoration, a more significant form of recognition should be made available to convey the nation's gratitude for and acknowledgement of the service-related sacrifice of a veteran.

9. We recommend that the **Memorial Clasp** should be awarded to recognise death in the following circumstances:
- death of a veteran while on duty (1)
    - o from any cause (2), provided it occurred in honourable circumstances (3)
  - a veteran formally declared to be missing-believed-dead while on duty (1)
    - o provided the member's disappearance occurred in honourable circumstances (3)
  - death during service (4) but not on duty (1)
    - o provided it was service-related (5) and occurred in honourable circumstances (3)

- death post service
  - o provided it was service-related (5) and occurred in honourable circumstances (3)

For wounds, injury or disease

10. Where a veteran suffers a wound or injury in service or contracts a disease on or as a result of service, they may receive a form of recognition though medical attention, rehabilitation services and compensation. However, some wounds, injuries and diseases are of such severity that they warrant additional recognition because of the significance of the consequence thereby deriving from the veteran's service.

11. We propose that the **Gratitude Clasp** should be awarded in the following circumstances:

- where a wound or injury was suffered on duty (1), however caused (2), provided it was incurred in honourable circumstances (3), and either:
  - o was at or above the specified severity threshold (6) during service (4); or
  - o reached the specified severity threshold (6) post service.
- where a disease was either:
  - o contracted on duty (1), however caused (2), provided that it was contracted in honourable circumstances (3), and either:
    - was at or above the specified severity threshold (6) during service (4); or
    - only reached the specified severity threshold (6) post service;
  - o pre-existing but aggravated by service in honourable circumstances (3) and either:
    - was at or above the specified severity threshold (6) during service (4) because of that aggravation; or
    - reached the specified severity threshold (6) post service as a result of that aggravation.

(1) "On Duty" is not a term that bears a universally accepted meaning within the ADF. However, we have used this term deliberately with the intention that it should be interpreted to cover not only those situations where an ADF member is self-evidently "rendering service" or "at work" in the sense of complying with orders of a superior but also those in which they are undertaking activities that might reasonably be expected of them as a consequence of their service.<sup>137</sup> For example, a member who dies or is injured while reasonably undertaking a recreational pursuit while on deployment should be eligible for recognition. Similarly, a member who dies or is injured while undertaking reasonable exercise in order to maintain the level of fitness which the ADF expects of them should not be denied recognition simply because that exercise was undertaken in a home or commercial gymnasium. But, at the same time, a member who dies or is injured who has chosen to engage in clearly unrelated or unreasonable activity should not be regarded as being "on duty". A Reservist would be

<sup>137</sup> It should be noted that not all these other activities will give rise to an entitlement under legislation administered by DVA. Elsewhere in this report we stress the necessity of ensuring that applicants for recognition understand that conferral of recognition does not necessarily mean that any other right or entitlement can be assumed.

“on duty” at all times his or her actions were subject to the *Defence Force Discipline Act 1982* (the DFDA), or when reasonably engaged in activities connected with his or her duties; government officials would be “on duty” when acting in their force assigned capacity; other civilians would be “on duty” only when performing a role that made them eligible for an honour or award.

(2) We consider that death (whether confirmed or believed in the case of a veteran declared missing-believed-dead) or serious wounding, injury or disease while on duty should be recognised without any necessity to establish a causal or any further connection to service. The ADF assumes responsibility for all medical care of service members, regardless of cause or connection to service. While on duty, the ADF is in a position to monitor the health and safety of a member and to assign or not assign them to any particular form of duty that may carry with it a risk to their health. In all other circumstances, the ADF is not in that position and so it is appropriate that the only deaths, wounds, injuries and diseases that should be recognised are those that bear more than a mere temporal connection to service. Thus, where such occurs other than on duty, we propose that it should be recognised only where it is service-related.

(3) The term “honourable circumstances”, which is used in the Canadian system, is not intended to create an additional qualifying criterion but rather is designed only to provide a mechanism by which the integrity of the proposed new form of recognition may be maintained by withholding a Memorial Clasp or Gratitude Clasp or by the forfeiture of one previously granted. The grounds for withholding or forfeiture would be the same as those applying to the forfeiture of Defence honours and awards. These apply where a person has been convicted under Australian law for:

- treason and related offences; mutiny and related offences; or
- sabotage of Australian and allied assets; aiding the enemy, or
- including assisting prisoners of war, and related offences; or
- serious terrorism related offences; or
- any other offence determined by the Governor-General.

A Defence honour or award may also be forfeited where the Governor-General determines, on the recommendation of the Chief of the Defence Force, that a person has been convicted of an offence that is so disgraceful or improper for the person to retain the award or that the award has been obtained by the making of a false declaration.

(4) The period of “service” for a permanent member of the ADF would run from enlistment to discharge. For a Reservist, their period of service would be any period where they were on duty and their actions were subject to the DFDA, or when reasonably engaged in activities connected with their duties; the period of service for government officials would be when acting in their force assigned capacity; the period of service for other civilians would be only when performing a role that makes them eligible for an existing Defence honour or award.

(5) Death should be as accepted as “service-related” if one or more of the following circumstances applies:

- death has been accepted by DVA, or by the VRB or AAT on review, under either:
  - o the *Veterans Entitlements Act 1986*; or

- o the *Military Rehabilitation and Compensation Act 2004*; or
- o the *Safety, Rehabilitation and Compensation (Defence-related Claims) Act 1988*; or

- the death certificate, coroner’s report or other official documentation lists as the cause, or as a contributory cause, of death:
  - o a wound or injury that is shown on the veteran’s service record as having been suffered on duty; or
  - o a disease that is shown on the veteran’s service record as having been contracted or aggravated on duty; or
  - o a condition which:
    - has been recognised by the award of the Gratitude Clasp; or
    - has been accepted by DVA, or by the VRB or AAT on review, as a service-related disability; or
- the death certificate, coroner’s report or other official documentation records death by suicide and:
  - o death by suicide has been accepted by DVA, or by the VRB or AAT on review; or
  - o a mental disorder has been accepted by DVA, or by the VRB or AAT on review, and nothing in the death certificate, coroner’s report or other official documentation attributes death to any other form of mental health condition; or
  - o there is other evidence that leads to a reasonable conclusion that death was attributable to a service-related mental health condition (9); or
- a police or similar investigation determines that death occurred because the deceased was targeted by terrorists or other extremists because of, or for reasons that include, their present or former status as an ADF member.

(6) The “severity threshold” for wounding, injury or disease should be accepted as reached when either:

- service records expressly classify a wound or injury as SI or above [a Defence member is reported SI when an illness or injury is “of such severity that it could endanger life, significantly disable or materially affect the member’s future life”]; or
- where that is not the case, service records detailing a wound or injury and its treatment allow a suitably qualified Defence medical practitioner to subsequently determine that the wound or injury could properly have been classified as SI or above; or
- the member was medically discharged by reason of, or for reasons that include, the effects of a wound or injury suffered on duty or a disease contracted on duty (whether or not caused by service) or aggravated by service; or
- DVA, or the VRB or AAT on review, has accepted as service related a disability caused by wounding or injury suffered or disease contracted on service and that disability has been assessed at or above 30 impairment points under either:



- o the *Guide to the Assessment of Rates of Veterans. Pensions (No 2) 2016 (GARP V)*; or
- o the *Guide to Determining Impairment and Compensation 2016 (GARP M)*; or
- o at 30% Whole Person Impairment (WPI) under Part 2 of the *Guide to the Assessment of the Degree of Permanent Impairment* (Edition 2.1) (PI Guide); or
- a mental disorder has been:
  - o accepted by DVA, or by the VRB or AAT on review, regardless of its impairment rating (7); or
  - o diagnosed by a qualified treating psychiatrist or clinical psychologist in accordance with DSM-5 or another internationally recognised standard such as ICD-11 and who has expressed the view after detailed consultation that, in their professional opinion, service was a contributing cause to the onset of that disorder (8); or
- a wound has been inflicted or an injury or disease suffered by a veteran being targeted by terrorists or other extremists because of, or for reasons that include, their present or former status as an ADF member and that wound, injury or disease either:
  - o has been or would be classified as SI; or
  - o has resulted in ongoing disability that has been accepted by DVA, or by the VRB or AAT on review, as service related and assessed at or above 30 impairment points/30% WPI.

(7) We consider that, where DVA or the VRB or the AAT has accepted a mental disorder as service-related, it should not be necessary for there to be any prescribed level of impairment rating as a pre-condition to recognition. This is for two reasons. First, diagnosis of such conditions is only made in accordance with standards such as the DSM-5 where clinically significant symptoms have been found by the specialist making the diagnosis. For example, in the case of PTSD, the American Psychiatric Association website indicates that a diagnosis under DSM-5 is only to be made where its trigger “causes clinically-significant distress or impairment in the individual’s social interaction, capacity to work or other important areas of functioning ...[and] is not the physiological result of another medical condition, medication, drugs or alcohol.” And second, the expert advice we have received is that to specify that a mental disorder must be rated at or above any particular level of impairment may contribute to a worsening of that condition and thereby be contrary to the second guiding principle we have set out above.

(8) We consider that it should not be essential for a mental disorder to have first been accepted by DVA as service-related before recognition can be granted. Again, consistent with the expert evidence we have received, we think it would be inappropriate to require a veteran with such a diagnosis to have to additionally submit to a DVA process that could itself be potentially deleterious to their mental health, solely for the purpose of gaining recognition under this proposal. We note that, through the non-liability health care claim scheme, DVA provides free mental health care for any mental condition to any veteran without the need for disability to have first been accepted and thus veterans with a mental disorder do not need

to make a full claim and have it accepted by DVA. Thus, so long as a treating psychiatrist or clinical psychologist has considered and reported on service connection, their diagnosis should be sufficient justification for recognition. We suggest that guidelines be issued to such practitioners to indicate that their reports in such cases should provide detailed reasoning for their conclusions. Such guidelines might be correlated not only to the requirements of DSM-5, ICD-11 or other standard by which they have made their diagnosis but also to any Statement of Principles issued by the Repatriation Medical Authority that is applicable to the disorder they diagnose.<sup>138</sup>

(9) It is well accepted that many who suffer mental disturbance, including veterans, for whatever reason do not engage with mental health care practitioners even though, if they were to do so, a recognised form of mental disorder might be diagnosed and treated and a claim might be made and accepted by DVA. Should such a veteran take their own life, we believe it would nevertheless be appropriate for their family to have the opportunity to seek to make a case for recognition of what they may fervently believe to be a service-related death. Close family members might be able to attest to the nature and extent of mental disturbance exhibited by the deceased and statements the veteran made to them or provide diary records the veteran kept about its causes. They may also be able to provide records from treating non-specialist medical practitioners, social workers or others who had discussed such issues with the veteran even though a formal diagnosis was not reached or care provided. Such material presented by a family under cover of a statutory declaration could then be checked against the veteran’s service record or the records of units in which they served to see whether a claimed connection to service was not inconsistent with those records, and the entirety of the file could then be assessed by a Defence medical practitioner against the Repatriation Medical Authority’s Statement of Principles for suicide.<sup>139</sup> In this way, families of veterans who have a deeply held belief that their loved one’s death was due to an untreated service-related mental disorder may gain appropriate recognition for their grief.

12. It is important that we make a number of observations on our selection of 30 impairment points/30% WPI as the most appropriate measure of severity where DVA accepted disability is relied upon to qualify for the Gratitude Clasp.

13. We have settled on 30 points/30%WPI after closely considering the descriptions of impairment set out in GARP V, GARP M and the PI Guide. In our view, to adopt a lesser level of 10 or 20 would extend recognition to impairments that, while real, are not so serious as to warrant medallic recognition. Equally, we have concluded that adopting a higher level of 40 or above would deny recognition to too many seriously impaired veterans.

14. In using a metric based on GARP V, GARP M and the PI Guide, we note that there is some potential for the same disability to be assessed somewhat differently under the various Acts

<sup>138</sup> Subject to meeting certain criteria, the non-liability health care claim scheme also provides health care to a veteran suffering from malignant cancer or pulmonary tuberculosis without the need for that condition to be first accepted by DVA. However, we do not believe that those qualifying for health care for such conditions under that scheme should be automatically entitled to recognition under the proposal we advance in this report. Unlike mental health disorders, the requirement to seek acceptance by DVA is unlikely to exacerbate such a condition, and diagnosing specialists are less likely to focus their professional view on connection to service as opposed to physically observable impacts.

<sup>139</sup> Such assessment would of course only be for the purpose of assessing an application for recognition, and would have no necessary implication for any DVA determination under entitlement legislation administered by it.

administered by DVA. Nevertheless, we believe that ratings arrived at under these legislative instruments for the purpose of such significant issues as compensation and income maintenance can be validly used for the purpose of recognition of the impact of wounding, injury or disease. The alternative of developing a new and comprehensive assessment tool that would apply uniformly across all veterans just for the purpose of the recognition we propose would be far too costly and has the very real potential to cause great confusion in cases where it generated different assessments to those arrived at by DVA.<sup>140</sup> Additionally, some disabilities that may be regarded by those afflicted as serious are required by law to be assessed below those levels. But wherever a severity threshold is set, there will always be some who may feel dissatisfied where they fall below that level and assessments made by expert professionals under legislative instruments are to be preferred to subjective assessment by an affected individual.

15. In adopting the 30 point/30% WPI metric we note that in some cases it will be readily apparent that a veteran's single accepted disability is at or above this level; in other cases more analysis may be required – for example, where a single incident such as an IED explosion has resulted in a series of separate but inter-related impairments (such as damage to a limb, to sight, to hearing and to skin, all derived from the same explosion) which, viewed in isolation, may individually each attract a rating less than 30 points/30% WPI. It is not our intention that such inter-related impairments should be excluded from recognition where together their combined assessment exceeds that level. But, where a veteran has a number of disabilities that are separate and distinct and not inter-related by nature or by causation and none of these is rated at or above 30 points/30% WPI, we do not believe medallic recognition is warranted even though the combined rating of all those disabilities may be at or above 30 points/30% WPI. If our recommendation is accepted by Government, there will be a need for Defence and DVA to work collaboratively in the implementation phase to develop establish timely, and preferably simple processes for assessing these cases and differentiating between those that should attract recognition and those that should not.

### Recognition of Families of Veterans

16. We recommend that recognition by the Memorial Star or Gratitude Star should be available to the family of any veteran who is recognised for death, wounding, injury or disease by award of the Memorial Clasp or the Gratitude Clasp. We recognise that making family recognition dependent on veteran recognition does have some limiting effects:

- a Memorial Star would not be available to the families of some veterans who have died during their period of enlistment, if they were not on duty or their death was not otherwise causally linked to service. However, the on duty concept defined at Note 1 does allow a degree of latitude in granting recognition for death that occurs during service but not while actually at work. Extending recognition to other deaths not causally linked to service would mean that the Memorial Star would effectively become a “participants award” for any deceased veteran regardless of the cause of their death; and
- if a surviving veteran declines for any reason to seek recognition for their wounding, injury or disease, their family would not be recognised for the sacrifice that they may separately endure in their relationship with that veteran. However, we believe that the wishes of the veteran about matters intensely personal to them should prevail. If a veteran does not want it to be publicly known that they have suffered serious wounding, injury or disease,

<sup>140</sup> See further discussion at paragraphs 55-56.

we consider that the family should not be able to publicly declare that fact by wearing a Gratitude Star.

17. Of course, where death does not meet the eligibility criteria for the Memorial Clasp, we suggest that Service bereavement pins and boxed ensigns/flags should still be made available to family members to provide a degree of recognition and solace in their grief.

18. “Family” should be defined flexibly so as to recognise the changed and changing nature of family structures in modern society and cultural sensitivities and should include:

- biological, adoptive, step and foster parents
- de jure and de facto spouses of any gender
- biological, adopted, step and foster children
- all other blood relatives or relatives by marriage
- other persons for whom a member has expressed a family-like relationship in their will, designation of next of kin in service records or similar document.

19. A nominal total of three full-size Memorial Stars or Gratitude Stars, each accompanied by a framed or bound scroll, should be available: one to each biological parent and one to the member's current de jure or de facto spouse (at the time of death for the Memorial Star, and at the date of award for the Gratitude Star) if those persons are alive at the time of application. If any of them are not then alive, the emblem they would otherwise receive would not be issued.

20. However, there should be a discretion to award additional stars in special circumstances – for example, where the veteran was brought up by a grandparent or older sibling acting *in loco parentis* but still maintained a close familial relationship with a biological parent; or where biological parents had divorced but the veteran had maintained close personal relationships with both and a step-parent. For others within the family as defined above, lapel miniatures of the emblem and (unframed or unbound) copies of the scroll could be issued to other close family members such as children and siblings.

### Applying for Recognition

21. Granting of recognition for death, wounding, injury or disease prior to inception of the proposed new recognition should be in response to the lodging of an application. Recognition for death, wounding or injury occurring after scheme implementation should be offered to the veteran/family as far as possible, but still involve the completion of a written application so that there is a clear record of authoritative consent for the making of necessary inquiries. We anticipate that, in cases of death, Service bereavement officers would assist the family with this process.

22. As will be apparent from the above eligibility criteria, consideration of whether or not death, wounding, injury or disease should be recognised necessarily involves ascertaining at least some very personal information about the veteran concerned. That information will either be held by that individual, or will need to be obtained from record-keepers such as the ADF, DVA, coroners, police or treating medical practitioners who have obligations under privacy laws and cannot simply release it to anyone requesting it.

23. For these reasons we suggest that an application for award of the Gratitude Clasp to a living or former veteran must be made by the veteran themselves or, if they lack the physical or mental capacity to make that application and thereby give consent to the release of necessary personal information, by a person who has lawful authority to do so on their behalf. This might be:



- someone with an enduring power of attorney;
- a person who was nominated in writing by the veteran while they were capable of giving consent; or
- a person recognised for such purposes under relevant laws, such as a guardian or a “person responsible” under the *Guardianship Act 1987 (NSW)*;

24. An application for posthumous award of either the Gratitude Clasp or the Memorial Clasp should be made by:

- a person named by the veteran as their next-of-kin on their service records if they were serving at the time of death;
- the executor of the estate of the veteran; or
- where administration of the estate has been relevantly concluded, the person who has the legal ownership of the veteran’s medal set under their will or applicable intestacy laws or, if that person has since died, another family member who has legal ownership under that person’s will or intestacy.

25. Because the above eligibility criteria for the Memorial Star and the Gratitude Star provide that award is dependent upon recognition having been conferred on the veteran by award of either the Memorial Clasp or the Gratitude Clasp, an application for initial grant of either form of family recognition will need to be made with the written consent of either the veteran themselves or one of the persons listed above.

26. Once an initial grant of either the Memorial Star and the Gratitude Star has been made, an application for a further star, a further scroll, a lapel miniature star or a copy of a scroll may be made by any family member not covered by the original application. In that circumstance, the applicant will need to demonstrate only their familial relationship with the veteran and will not need to adduce additional information about the veteran’s service or medical history.

27. Of course, in establishing the arrangements we propose in this chapter, the authorities involved should seek expert legal advice in relation to all aspects, particularly in relation to privacy laws and whether any legislative support would be required to comply with those laws.

28. We note that it is a consequence of the above application arrangements that when a spouse or other family member wants recognition but a surviving veteran does not, recognition will not be available to the family. We believe, however, that the veteran’s wishes must prevail, given that the whole concept of recognition flows from his or her service.

29. It follows that an application cannot be made for any of the proposed new forms of recognition by a medal collector or other person who happens to come into legal possession of a medal set other than as a family member.

### Application forms

30. The standard form used to apply for defence honours and awards should not be used to apply for the recognition recommended in this report. In our view, use of that form would facilitate, and perhaps encourage, the lodgement of applications by persons who were not entitled to apply and in respect of veterans who may not meet the eligibility criteria for issue. Such an outcome would raise unwarranted expectations on the part of applicants and could cause unnecessary distress if refused. Extensive follow-up and investigation would also impose unnecessary workload for those required to administer the recognition scheme, causing inevitable processing delay and incurring considerable expense.

31. The format of applications should be much more tailored than a simple request for recognition. The eligibility criteria proposed essentially turn upon documentation that is pre-existing and should be either in the possession of, or readily obtainable by the veteran or other person eligible to make an application for recognition – for example, death certificates, coroners reports, DVA advice of accepted disability, service details and records, reports from psychiatrists or clinical psychologists. As such, it is reasonable that an applicant should be required to supply that documentation with the application form (and the associated Regulations and guidance for applicants should make clear that it is the applicant’s responsibility to do so).

32. The application form should also, consistent with obligations under privacy legislation, provide clear authority to allow any necessary inquiries to be made of third parties. At the time of application, an applicant should also specify other relevant information, such as whether they would wish clasps or stars to be presented personally or by mail. The applicant should also be asked to acknowledge their understanding that the grant of recognition carries with it no necessary implication for other entitlements such as compensation, income support or medical treatment.

33. Accordingly, application forms should be carefully designed so that they:

- give clear instruction and guidance to those contemplating making an application, allowing them to self-assess whether they are able to lodge an application for recognition and, if so, whether an applicable eligibility criterion can be met;
- require the submission of all relevant documentation and information so that applications can be decided and recognition awarded as quickly and at as little cost as possible; and
- deter as far as possible the making of applications that cannot be accepted.

34. While printed application forms will need to be available, online application should be encouraged where possible. Such technologies, carefully designed, could prevent the lodgement of applications that do not attach necessary documentation or include all necessary information.

### Time limits for applying for recognition

35. Currently, there are no time limits on the lodging of an application for the issue of a Defence honour or award. An application can be lodged today in respect of past service covered by any applicable honour or award.

36. For consistency, at least initially there should similarly be no time limit on the lodgement of an application for recognition under this proposal in respect of the consequence of any service within the retrospectivity period proposed below.

37. If time limits were to be introduced for applications for Defence honours and awards more generally, care would need to be taken in setting limits for recognition applications made under those eligibility criteria that relate to consequences of gradual onset because, in such cases, eligibility may not be apparent for some considerable time after service.

### Evidence to establish that eligibility criteria are met

38. Most of the eligibility criteria we have set out above turn upon facts that will be already established at the time an application for recognition is contemplated. For example:

- DVA acceptance of death or disability will have been decided;
- a death certificate will have been issued; or
- service records may have recorded injury or illness as SI (or above).

39. There may be occasions where, following death, an application cannot be made immediately, such as where a coroner's report has not yet been published or a police or similar investigation has not been completed. But, once those matters are finalised, there will be evidence to establish (or rebut) the facts on which a claim for recognition might then be based.

40. However, there may be some relatively limited situations where service records and third-party documents are not sufficient to support a claim for recognition. For example:

- service records of a wound or injury and the treatment given for it may be missing or incomplete; or
- a treating psychiatrist or clinical psychologist's report may provide a clear statement of diagnosis but not address the question of service connection adequately or at all.

41. In such cases we consider there is no reason why an applicant should not be able to obtain and present additional evidentiary support for their claim if they wish by, for example:

- statements from eye-witnesses about the nature of a wound or injury or the treatment provided; or
- a more detailed statement from a treating psychiatrist or clinical psychologist.

#### **Standard of proof**

42. Because most of the eligibility criteria we propose depend upon facts set out in records generated by third parties, we believe there is no need to consider whether or not any special provision needs to be made about the standard of proof that should apply in assessing recognition applications.

43. Those facts will have been established by reference to whatever standard was legally applicable in the process leading to the generation of the record in question. This will generally be the civil "balance of probabilities" standard but, in some cases of disability accepted under the VEA and the MRCA, it will be the more generous "reasonable probability/reverse criminal onus" standard. But, once those processes are completed, accepting the resultant facts as determined by DVA by reference to the civil standard gives rise to no issue in our view. Applying that standard does not therefore impede the proposed recognition scheme being compassionate.

#### **Multiple awards**

44. There are a number of situations in which a veteran's service and its consequences might conceivably qualify for multiple awards of recognition under the above eligibility criteria. The following examples, while not exhaustive, indicate the recommended approach.

45. Where a veteran receives multiple serious wounds in the one incident (for example, loss of one limb and severe damage to another arising from an IED explosion), we consider that only one Gratitude Clasp should be issued.

46. Where a veteran receives multiple serious wounds in the same battle, we consider that only one Gratitude Clasp should be issued.

47. Where a veteran receives multiple serious wounds but in different battle engagements, albeit within the same campaign, we consider that multiple Gratitude Clasps should not be issued but that the clasp issued for attachment to the relevant campaign medal should bear a numeral to

recognise those multiple serious wounding incidents.

48. Where a veteran receives serious wounds but in different campaigns, we consider that multiple Gratitude Clasps should be issued – one for attachment to each relevant campaign medal.

49. Where a veteran receives a serious wound on one campaign and another on peacetime duty, we consider multiple Gratitude Clasps should be issued – one for attachment to the relevant campaign medal and the other for attachment to the ADM.

50. Where a veteran receives a serious wound and later contracts a disease as a result (for example, sepsis due to the underlying wound), we consider that only one Gratitude Clasp should be issued.

51. Where a veteran receives a serious wound and, some time later, dies of that wound without having been discharged from medical care, we consider that only the Memorial Clasp should be issued. However, where death occurred some time after the member had been discharged from medical care in the expectation that the wound had healed, we consider that both a Gratitude Clasp and a Memorial Clasp could be issued.

52. Where a veteran is awarded a Gratitude Clasp and some time later dies in circumstances that qualify for the Memorial Clasp, we consider that the latter should be issued without requiring that the former be surrendered, regardless of whether or not the service event leading to the grant of the clasps was the same or different.

53. Where application is made posthumously for both a Memorial Clasp and a Gratitude Clasp, we would favour the issue of both if the basis for eligibility for each is unrelated. So, for example, if death was due to the same wounding, injury or disease, only the Memorial Clasp would be issued, but if death arose from a DVA accepted disability that did not give rise to eligibility and there was another DVA accepted disability that qualified for the Gratitude Clasp, both would be issued.

#### **Events not accepted by DVA**

54. Where an application has been made to but rejected by DVA and the veteran does not otherwise qualify for recognition, we consider that recognition should not be granted even though the veteran might dispute DVA's decision. There is an appeal pathway against unfavourable DVA decisions, through the Veterans' Review Board and the Administrative Appeals Tribunal. The Directorate of Honours and Awards should not be called upon to second-guess the outcome of those processes. If the veteran successfully appeals the DVA decision, they could then reapply for recognition.

55. Alternatively, if DVA acceptance is only one of multiple ways in which the eligibility criteria may be met in a particular case, then DVA rejection of an application should not preclude recognition via another criterion (such as classification at SI or above, or medical discharge). For example, if DVA has rejected an application for acceptance of a physical injury suffered during service on the basis that it was not causally linked to service but it was nevertheless treated on service and classified as SI, recognition may still be granted because the alternative SI criterion was met. Similarly, if DVA has rejected an application for acceptance of a mental disorder, recognition may nevertheless be granted where a report from a treating psychiatrist or clinical psychologist means that the alternative criterion is met.



56. There will also be situations where a veteran has not applied to DVA but would be successful if they did so. There can be multiple reasons for not applying to DVA:

- there may be no financial advantage to be gained from DVA recognition of an additional disability;
- the veteran may already be entitled to mental health treatment under their White Card and may thus not need to seek acceptance of a service-related mental disorder;
- the veteran may, rightly or wrongly, have found previous encounters with DVA to be unsatisfactory and confronting, and may not wish to risk a similar process; or
- the veteran may simply find engagement with bureaucracy too difficult.

57. We gave some consideration to whether or not, solely for the purpose of deciding recognition entitlement, Defence recognition administrators might mirror the decision-making process that DVA would otherwise follow if an application was made. This would involve:

- identifying the nature of the service in question to determine what eligibility test DVA would apply;
- ascertaining the medical diagnosis for the condition that would be subject to a DVA application;
- locating the applicable Statement of Principles issued by the Repatriation Medical Authority;
- determining whether any of the causative factors set out therein were evident in the particular case; and
- investigating whether or not any such factors were service related.

58. We concluded, however, that this would not be appropriate. This was for a number of reasons:

- it would call for a range of medical and other skills not readily available within Defence and in limited supply within the workforce generally, thereby potentially adversely affecting DVA's capacity to recruit those with the skills it requires;
- it would potentially impose a major administrative burden and expense on Defence that might be better directed to other purposes; and
- it would likely lead to serious confusion within the veteran community if one arm of Government was coming to a conclusion that had no standing with another arm charged with applying the same test if an application as lodged with it or, worse still, that later came to a contrary conclusion when determining an application subsequently made to it.

59. In light of the above, we have concluded that, if the only way a particular death, wound, injury or disease can qualify for recognition is after DVA acceptance, then the decision whether or not to seek that acceptance must rest with the veteran (or their family where posthumous recognition is sought).

### Retrospectivity

60. Although many submissions we received suggested dates from which recognition should be available for service, few focussed in any detail on the justification for their choice or its consequences.

61. Because our proposed scheme is able to provide recognition for the consequences of all service, it would not be appropriate to set a start-date by reference to the commencement of any particular conflict in which Australia has participated. Two other dates of relevance are fairly obvious possibilities:

- the date from which Australia ceased to nominate ADF personnel for Imperial honours and awards – 5 October 1992; and
- the date from which the Australian honours and awards system commenced, in February 1975.

62. However, we are firmly of the view that all service since the end of the Second World War (that is, from 3 September 1945) should be eligible for recognition. That is the earliest date from which service in the ADF can be recognised by the ADM. It would in our view be wrong to preclude recognition for service in Malaya, Korea, Vietnam, the Middle East or other deployments, for disasters such the *Voyager* and Black Hawk collisions, or for service generally that has resulted in death or serious wounding, injury or disease, by setting any later date.

63. However, one submission argued strongly that recognition should commence for service from 1885 so as to include not only both World Wars but also the Boer War and the Sudan. That submission initially argued that all of the forms of recognition that we recommend should be available for service from 1885. In subsequent iterations, however, it was amended so that only veterans killed in service would be recognised for service prior to the end of the Second World War, to the exclusion of veterans suffering wounds, injuries or disease as a result of such service and to the exclusion of their families. While we have carefully considered this issue, we have concluded that it would not be appropriate to extend that far back in time for a number of reasons. We have also concluded that it would not be appropriate to recognise only deceased veterans, and not those who survived service or their families.

64. Prior to 1901, those who fought were not Australians. They were citizens of the then British colonies that occupied the Australian continent. Australia did not exist as a nation until Federation in 1901.

65. In the First and Second World Wars there were forms of recognition for death and wounding that were available to veterans and their families: the Mothers' and Widows' Badge and Wound Stripes. They reflected societal mores of the day. Wound Stripes were not awarded beyond the Second World War. It appears that it was believed by most that the Mothers' and Widows' Badge was similarly not awarded beyond that date, although our research has revealed that there were some awards made up to, as well as during and even well after the Vietnam War to recognise the dead of that conflict, but almost certainly to very many fewer than would have been entitled. Accordingly, since the end of the Second World War Australia has lacked a clear and widely available regime for the recognition of service-related death, wounding, injury or disease commensurate with contemporary societal mores or standards.

66. While cost and administrative workload of themselves should not be regarded as necessarily valid grounds for rejecting a proposal for a particular start date for recognition, they cannot be disregarded. Over 2 million people have served in the ADF since 1901; more than 100,000 have died in conflict; and unknown but undoubtedly much larger numbers could conceivably qualify under the eligibility criteria we now propose if recognition were backdated to 1901. We are concerned that living veterans and young families who have experienced the loss of a loved one might not receive the priority they deserve if such an early commencement date was adopted.

It must also be recognised that the cost and effort of such a massive recognition task would be so great that it may, quite reasonably, place the whole scheme that we now recommend at risk of rejection.

67. All other currently afforded forms of recognition and commemoration will continue to apply to service prior to 3 September 1945.

68. For all these reasons, while backdating prior to 3 September 1945 is a matter for decision by the Government, we are unable to recommend that course of action.

**Presentation of awards**

69. Given the solemnity of the events to be recognised, recipients should have the opportunity to attend a formal presentation ceremony. However, as acceptance of recognition should be entirely at the discretion of the veteran or their family, they should also have the option of a less formal presentation or, if they so desire, simply receipt by mail.

70. There are existing protocols for ceremonies for presentation of honours within the Order of Australia, and of existing Defence honours and awards, and for conferral of citizenship. We suggest that these might provide useful guidance for establishing arrangements for the presentation of the proposed new forms of recognition.

**Wearing of awards**

71. Where accepted, attachment of devices or wearing of emblems should be entirely at the discretion of the veteran or family member concerned. Where a veteran had not yet qualified for any medal (for example, because injury has occurred within the first four years of continuing service and ADM eligibility has not yet been met), the Gratitude Clasp should be able to be worn by itself.

72. Where the relevant medal to which a clasp already had a number of other clasps attached to it, the Memorial Clasp or Gratitude Clasp should be attached above other clasps and the ribbon should be extended in length if necessary to accommodate all clasps.

**Scheme administration and dispute resolution**

73. Applications for the Memorial Clasp, the Gratitude Clasp, the Memorial Star and the Gratitude Star should be administered by the Directorate of Honours and Awards within the Department of Defence as it already has skills, systems and experience of relevance.

74. Because the eligibility criteria set out above are generally factual in nature and dependent upon pre-existing determinations by third parties, we anticipate that there should be few disputes about eligibility for the award of a clasp or star. Nevertheless, should such a dispute arise, review on the merits by the Tribunal should be available as is the case with other Defence honours and awards. However, applications for such review should be required to be made within a reasonable time after advice of an unfavourable decision is provided – say, within 56 days - unless an extension of time is approved by the Tribunal in exceptional circumstances. While the Tribunal's jurisdiction is currently limited to honours and awards within the Defence honours and awards system, section 110T of the *Defence Act 1903* would allow not only the Memorial Clasp and Gratitude Clasp but also the Memorial Star and Gratitude Star to be added to that jurisdiction, despite the fact that the latter are outside that system, by a simple amendment to the present Regulations.

**Legal liability**

75. It would not be appropriate for conferral of these new forms of recognition for either veterans or their families to render the Commonwealth liable to any additional legal liability over and above that to which it might be subject as a result of the service or sacrifice thereby recognised. Accordingly, Regulations introducing this recognition should specifically provide that such an effect is not to flow and application forms for recognition and any form of receipt to be signed on delivery of recognition should provide for acknowledgment that recognition is separate to, and does not imply entitlement to benefits under veterans' legislation.

**Moral injury**

76. A few submissions made reference to the concept of “moral injury” and questioned whether it should be afforded recognition under the scheme now contemplated. Moral injury can be defined as the psychological, social and spiritual impact of events involving betrayal or transgression of one's own deeply held moral beliefs and values occurring in high stakes situations.<sup>141</sup> It is a particular issue of importance amongst veterans because of the nature of their duties and is therefore attracting increasing attention.

77. However, mental health is an evolving field and moral injury is not yet recognised as a mental disorder in internationally recognised standards such as the DSM-5 or the ICD-11. The National Mental Health Commission advised us that “There are no formally agreed diagnostic criteria or management guidelines for moral injury and it is not recognised by the Department of Veterans Affairs as a specific injury for treatment. As such, moral injury would not currently meet eligibility for recognition as a discrete injury.”<sup>142</sup> Similarly, in discussion with us, Professor Tom Frame said that in his view there was not yet a consensus on the definition, diagnosis and treatment of moral injury which he considered to be an existential state rather than a mental disorder.

78. In these circumstances, we do not believe it would be appropriate at this time to make any special provision for the concept within the scheme outlined in this chapter. Of course, if it is later included within standards such as the DSM-5 or the ICD-11 or otherwise recognised as a more “traditional” injury, it will thereby fall within the scope of the scheme without any further amendment.

**Implementation**

79. If the Government were to agree to the proposals we outline in this chapter, it would necessarily take some time for that decision to be implemented and for the first clasps and stars to be issued. We anticipate that the tasks required between approval and Defence being in a position to receive and assess applications could take 18-24 months.

80. Those tasks would include at least the following:

- Letters Patent and associated Regulations will need to be prepared and promulgated to create the entitlement to Memorial and Gratitude Clasps within the Defence honours and awards system and to allow them to be attached to pre-existing awards within that system. In this latter regard, we suggest that consideration be given by Defence and the Office of Parliamentary Counsel to an omnibus amendment of existing Regulations, rather

141 Shay, Jonathan, *Achilles in Vietnam: Combat trauma and the undoing of character*, Simon and Schuster, 2010, p.12.

142 Submission 219, Ms Christine Morgan on behalf of the National Mental Health Commission



than multiple amending Regulations. These new Regulations need to make clear that it is the applicant's responsibility to provide documentation and information in support of eligibility and that the grant of recognition carries with it no necessary implication for other entitlements such as compensation, income support or medical treatment;

- A new Regulation will need to be made under the Defence Act to establish the Memorial and Gratitude Stars;
- An amending Regulation under that Act will also need to be made to confer jurisdiction on the Tribunal in the event of a dispute about eligibility to a clasp or star;
- The naming and design of clasps and stars will need to be settled. As noted above, we suggest that the public be invited to put forward suggestions in this regard;
- The wording of scrolls will need to be finalised. Again, it may be desirable to invite public suggestions in this regard;
- Manufacturing arrangements will need to be negotiated for the production of clasps, stars, scrolls, lapel miniatures and associated packaging;
- Application forms will need to be designed and made available in both paper and online form. As noted above, these forms need to be specifically tailored to the recognition scheme and provide sufficient guidance and instruction to prevent and deter the lodgement of applications by persons ineligible to apply or in respect of veterans who do not meet the eligibility criteria. They should either include or be accompanied by simple, easy to read fact sheets explaining how to make an application and what evidence is needed to make a successful claim. Given the nature of the subject matter with which they deal, they should be very sensitively designed so as not to cause any further distress to veterans and families, especially in relation to mental health and suicide. In these respects, we recommend that officials liaise with the Australian War Memorial to gain the benefit of their experience and the professional advice received before commemorating veterans who have committed suicide, which we believe was done in an exemplary manner. Before forms are finalised, we suggest that draft forms should be extensively road-tested with representative groups of veterans and families to ensure that they are comprehensible and effective.
- IT systems will need to be adapted to facilitate and record scheme administration;
- A procedure manual and pro forma correspondence designed to deal with all foreseeable eventualities will need to be developed. Importantly, the manual should include guidelines and processes collaboratively developed by Defence and DVA for examining individual DVA files to ascertain and identify those veterans with multiple accepted disabilities who meet the 30 impairment point/30% WPI criterion if this is the metric being relied upon as the basis for eligibility.<sup>143</sup> This manual should also, amongst other things, dictate any priority order in which applications are to be processed;
- Protocols and other arrangements for presentation ceremonies will need to be developed and negotiated;
- An effective public awareness campaign will need to be designed and implemented to both alert members and families to the availability of recognition and to build public awareness of the significance of clasps and stars;

- Liaison will be needed with ex-Service and related organisations who might be called upon to assist veterans and their families in applying for recognition. Such organisations and the advocates they provide will need to understand the limitations on who might apply and the eligibility criteria for grant of recognition;
- Consideration will need to be given to whether or not the Commonwealth should retain intellectual property in the designs of clasps and stars in order to limit the unauthorised production of replicas that might otherwise demean their significance; and
- Additional staff, with appropriate skills and experience in dealing with sensitive personnel matters, may need to be recruited and trained, particularly in the interpretation of the third-party documentation submitted in support of applications (such as that from DVA) to ensure the smooth issuance of clasps and stars when applications begin to be received and processed.

### Cost

81. If the Government decides to implement the proposal set out in this report, then clearly funding will have to be made available to provide recognition to every veteran and family that seeks recognition and meets the eligibility criteria.

82. We are informed, and accept, that current funding levels of neither the Directorate of Honours and Awards nor the Defence People Group of which it is a part would have sufficient flexibility to meet the costs involved. Accordingly, additional funding would need to be provided, whether by reallocation of existing departmental Forward Estimates or by a new allocation from the Consolidated Revenue. The funding source is of course a matter for the Government and we offer no comment in that regard.

83. In discussions with Defence, we have reached relative consensus on the likely cost of assessing an application for recognition and sourcing and providing the physical forms of that recognition. However, despite detailed inquiries of and discussions with both Defence and DVA, we are unable to derive any definitive figure for the number of veterans and families who would qualify for and seek recognition. This is principally because relevant data does not exist, either at all or for each year from the end of the Second World War. Simply multiplying out the annual rate of a data set which may be available for a recent and limited period on the assumption that it would be applicable through each year back to 1945 is not logically sound and generates clearly unreliable results.

84. Accordingly, we believe that it is not possible to determine an exact cost for the proposal we recommend.

85. However, we do think an indicative costing can be developed that would allow initial funding to be agreed and then subjected to periodic review in light of actual experience.

86. On the basis of the assumptions we set out in Appendix 7, we estimate that this indicative cost of the proposal we recommend would, at today's values, be:

- \$500,000 per annum during the Implementation phase of 18-24 months; and
- in the following five years, a total of between \$17,000,000 and \$24,000,000.

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143 See the discussion at Footnote 138.

87. While the eventual cost might prove to be higher, we believe these figures represent a rational basis for initial funding allocations which would be subject to review and supplementation (or reduction) in the light of actual experience. Appendix 7 also notes the potential for some resource impact on DVA which, if it were to occur, is not included in the above figures.

#### Testing our proposals against the principles we have adopted

88. At the commencement of this chapter, we identified a number of principles that we believe should be met by any scheme for recognition that we were to propose. Having now detailed our proposal, it is only appropriate that we provide an assessment of whether or not our proposal meets those principles.

*1. The scheme should be compassionate, but not so extensive as to recognise every death of, or wound or injury to, a veteran so that it thereby becomes simply a “participant’s award”.*

Neither the Memorial Clasp nor the Gratitude Clasp can be described as a “participants award”. Unlike Service Bereavement Pins, the Memorial Clasp does not provide recognition for any and every death of a veteran, but only for those deaths that have a defined relationship to service. And the Gratitude Clasp does not provide recognition for every wound, injury or disease suffered in service, but only for those that meet a specified test of severity.

At the same time, we believe our proposal is compassionate because it does provide recognition for those veterans and families where service has led them to make a sacrifice.

*2. The process of seeking recognition and establishing eligibility should not provide any increased incentive for further ill-health, should do no further harm to veterans or families and should, so far as possible, promote wellness and rehabilitation.*

The eligibility criteria we propose in almost all cases leverage pre-existing documentation and thus in those cases only an application form attaching that documentation will be required. As such, the application process should provide no increased incentive for further ill-health and should be at least consistent with other processes and programs designed to promote wellness and rehabilitation. In respect of mental health disorders and veteran suicide, however, our eligibility criteria make some special provision specifically designed to allow recognition to be afforded without the need for further processes that could be potentially harmful to the health of veterans or very distressing for families.

*3. The eligibility criteria should be transparent. They should be as clear as possible and made readily and publicly available.*

Inherent in our proposal, application forms should set out each eligibility criterion so that they are obvious to potential applicants for recognition, together with clear explanatory guidance and instructions. Moreover, we have recommended above that draft application forms be extensively road-tested with representative groups of veterans and families to ensure that they are comprehensible and effective.

*4. The eligibility criteria should, so far as possible, rely on objectively observable facts rather than subjective judgement.*

As already noted, the eligibility criteria we propose in almost all cases leverage pre-existing documentation such as a death certificate, a coroner’s report, a DVA notification, or service records showing an SI rating or medical discharge, all of which will be objectively observable by those responsible for administering the recognition scheme we propose. In the only situations where an eligibility criterion does not rely upon pre-existing documentation, the purpose is to allow an application for recognition to be made where that might otherwise not be possible.

*5. Where eligibility criteria necessarily rely on subjective judgement, this should be, as far as possible, the judgement of a qualified professional.*

In what we believe will prove to be very few cases, a subjective judgement will be required but this will almost always be that of a qualified medical practitioner. It is only in assessing whether death, wounding, injury or disease has occurred in other than “honourable circumstances” that the Governor-General may be called upon to make a subjective judgement on the advice of the Chief of the Defence Force to withhold a forfeit recognition, or where a decision-maker who may not have a formal professional qualification is considering whether death, wounding, injury or disease occurred while engaging in clearly unrelated or unreasonably risky activity that should not be regarded as undertaken “on duty”, that a subjective opinion may be required to be made. We expect that such decisions would be made only in quite obvious and rare cases.

*6. The scheme should be predictable, repetitively consistent and equitable in its application.*

Because our proposal relies so heavily on objectively observable facts and professionally qualified views, there is no reason why it should not be predictable and repetitively consistent in its application.

We also strongly believe that it will be equitable in its application. In saying this, we note that equity of treatment does not necessarily meant equality of treatment. Indeed, treating everyone equally can create inequity where there are differences between people that should be taken into account. Our proposals do reflect some differences in treatment for different groups of veterans:

- a veteran who suffers an imminently life-threatening wound, injury or disease will qualify for recognition for the harrowing nature of that event even though they may make a complete recovery or be left with little resultant disability;
- in contrast a veteran who suffers a lesser wound, injury or disease will qualify for recognition if the resultant disability is assessed by DVA at or above 30 impairment points/30% WPI because, while their experience may not have been so harrowing, its effect is enduring; and



- a veteran with a mental disorder will not have to demonstrate that the resultant disability has been either accepted by DVA or assessed by DVA at or above 30 impairment points/30% WPI. DVA acceptance is not necessary for a veteran to receive treatment for a mental health condition (regardless of severity or cause) under the non-liability health care claim scheme administered by DVA. Requiring that a specified degree of impairment be assessed may in fact exacerbate mental health. Our proposal allows for recognition to be granted on the basis of the professional opinion of a treating psychiatrist or clinical psychologist. While this means that a veteran with a mental disorder that is in remission or resolved could gain recognition, the fact remains that the diagnosis of that condition attests to clinically significant symptoms which might re-emerge at any time.

We believe each of these differences are justifiable in the interests of providing equity across these different categories of veterans.

*7. The scheme should, so far as possible, be capable of timely and administratively simple processing.*

If application forms are carefully designed, trialled and implemented, then the administrative process on receipt will be very simple and capable of timely completion in the vast majority of cases.

*8. The eligibility criteria should be expressed, as far as possible, in readily understood language so that potential applicants have the opportunity to make a rational self-assessment of whether or not it is worthwhile making an application.*

It is possible that the wording we have used in this report to describe the eligibility criteria we propose may need to be refined in the process of road-testing the application forms and drafting the supporting legislation to ensure it is as comprehensible as possible to applicants. Our intention in preparing this report has been to describe those criteria rather than to attempt to set wording in stone.

*9. The physical form of each new item of recognition should be of a design and quality commensurate with the solemn nature of the sacrifice it commemorates.*

This is a clear recommendation in the above text.

*10. There should be a simple, timely and readily accessible avenue for resolution of any disputes about eligibility.*

Because our proposal leverages so strongly on pre-existing documentation and objectively observable facts, we anticipate that there should be few disputes about eligibility. In those isolated cases that do arise, access to the Defence Honours and Awards Appeals Tribunal will allow timely resolution in an expert forum.

*11. Conferral of recognition should render the Commonwealth subject to no legal liability beyond that to which it would otherwise be subject arising from the service thereby recognised.*

As noted above, this proposition should be reflected in the supporting legislation and made clear on application forms and guidance for applicants.

*12. Any new form of recognition should be consistent with and maintain the integrity*

*of the Defence honours and awards system.*

The clasps we recommend would be attached to existing Australian Defence awards and would allow them to tell more of the relevant veteran's service as otherwise reflected by the Defence honours and awards system. They could also be withheld or forfeited in the same circumstances as those in which an honour or award under that system would be forfeited. As such, we believe they would be not only consistent with but would enhance the integrity of the Defence honours and awards system. In contrast, the Stars we recommend would be conferred outside the Defence honours and awards system and would thus preserve and not challenge the principal purpose of that system, which is to reflect the contribution of those who provide military service.

89. In light of the above, we believe that our proposal outlined in this chapter satisfactorily meets the principles that have guided us in its development.

**APPENDIX 1 – List of Persons and Organisations from whom information was sought**

Air Force Association  
Australian Childhood Foundation  
Australian Commando Association  
Australian Institute of Family Studies  
Australian Peacekeeper and Peace Maker Veterans Association  
Australian War Memorial  
Beyond Blue  
Black Dog Institute  
Children of Parents with Mental Illness  
Council for Women and Families United by Defence Service  
Defence Families Australia  
Department of Defence  
Department of the Prime Minister and Cabinet  
Department of Veterans' Affairs  
Korea Veterans' Association of Australia  
Legacy Australia  
Lifeline Australia  
Mates 4 Mates  
Mental Health Australia  
Naval Association of Australia  
Open Arms Australia  
Relationships Australia  
Returned & Services League of Australia  
Royal Australian Armoured Corps Corporation  
Royal Australian Artillery Association  
Royal Australian Engineers Foundation  
Royal Australian Regiment Association  
Royal Australian Signals Corps Association  
Soldier On  
TPI Federation of Australia  
Veteran Family Advocate  
Vietnam Veterans Association of Australia Inc.  
Vietnam Veterans Foundation of Australia  
Voice of a Veteran  
War Widows Guild

**APPENDIX 2 – Individuals and organisations who provided submissions to the inquiry**

1	Mr Jason Gardner
2	Mr Lawrence Walker
3	Mr David Harris
4	<i>Name withheld</i>
5	Mr Christopher Perrin
6	<i>Name withheld</i>
7	Mr Peter Dalton
8	Mr Troy Simmonds on behalf of Special Air Service Association - WA State Branch
9	<i>Name withheld</i>
10	<i>Name withheld</i>
11	Mr Gregory Brydon
12	Mr Brian Harman
13	Mr Alexander McPherson
14	Mr Ian Richardson
15	Mr Clifford Charles Thompson
16	Mr Douglas Gregory
17	Mr Ashley Mills
18	Mr Maxwell Ezzy
19	Mr Mark Doolan
20	Mr Dimitrios Petrellis
21	Mr Phillip Drysdale
22	Mr Mostyn Hancock OAM on behalf of the Willunga and Districts Returned & Services League Sub-Branch
23	Mr Keith Edwards
24	Squadron Leader Daniel Wilson
25	Mr Bruce Davey
26	Mr Barry Yeomans
27	Mr Ian Little
28	Mr Sam Cuce
29	Mrs Georgina Howorth-Ross
30	Mr Michael Minihan
31	Mr William Burns
32	Mr Rene Van Oppen
33	<i>Name withheld</i>
34	Mr Stephen Muller
35	Lieutenant Colonel Christopher Holcroft RFD (Retd)



36 Mr Eric Bland

37 Sergeant Glenn Matthews

38 Mr Michael Sim

39 Mr Gary Matthews

40 Mr Shane McCallum

41 Mr William MacLachlan

42 Mrs Beverly Jones

43 Mr Mervyn Smith

44 Mr Leslie Vincent

45 Mr Peter Thomson

46 Mr Brian Borland on behalf of 45th Infantry Battalion Association

47 Mr Daniel Kerton

48 Dr Kirsten Ferguson

49 Mr Matt Anderson on behalf of The Australian War Memorial

50 Mr Donald Tate

51 Mr Jonathan Skuthorpe

52 Mr Gavin Paine

53 Mr William Fletcher

54 Mr Robert Maylor

55 Mr Matthew Sanderson

56 Mr Donald Brown

57 Mr Darren Harvey

58 Mr John Burridge MG

59 *Name withheld*

60 Mr Adam Fry

61 Mr Kevin Berryman

62 Mr Martin Rollins

63 Mr Kevin Trent OAM RFD on behalf of 9 Battalion Royal Australian Regiment Association WA Inc

64 *Name withheld*

65 Ms Maree Sirois on behalf of Defence Families of Australia

66 Mr John Clarke

67 Mr Noel McLaughlin OAM on behalf of the RAAC Corporation

68 Mr Harold Skinner

69 Major Paul Rosenzweig OAM (Retd) on behalf of South Australia and Northern Territory Branch National Malaya & Borneo Veterans' Association of Australia Inc.

70 *Name withheld*

71 Mr Graeme Andrew

72 Mr John Mark

73 Mr John Edge

74 Colonel Charles Gillman-Wells (Retd)

75 Mr Geoffrey Waters

76 Mr Terence Pickard-Clark

77 Major Ralph Sadler (Retd)

78 Mrs Louise Paine

79 Mr Maurice Haward

80 *Name withheld*

81 Mr Paul Hyland

82 Mr David Nicolson

83 *Name withheld*

84 Mr Anthony Miller

85 Mr John McCullough

86 Mr Robert Creek

87 Mr Daniel Western

88 Mr Mark Blowers

89 Mrs Kathleen Moore

90 Mr Raymond Robertson

91 Mr Stephen Windahl

92 Major Ricky Ryan (Retd) on behalf of AATTV Association WA Branch

93 Mrs Jodie Pierson

94 Lieutenant Colonel Donald Hughes (Retd)

95 Mr Kenneth Young

96 Mr Richard Barry OAM

97 Major Glen Coburn

98 Major Gordon Hooker (Retd) on behalf of Australian IEDD Operations 1971-1994 Claim Action Group

99 Mr Dean Strautins

100 Commander Jennifer Wittwer CSM RAN

101 *Name withheld*

102 Lieutenant Colonel Kas Paul (Retd)

103 Mr Robert Smedley

104 Mr Terence Hetherington OAM on behalf of the Fleet Air Arm Association of Australia

105 Mr Steven Buckingham

106 Margaret Walters

107 *Name withheld*

108 Mr Wayne Wood

109 Mr George Bury

110 Group Captain Carl Schiller (Retd) on behalf of Air Force Association

111 Brigadier Ian Wills (Retd)

112 Mr Campbell Philp

113 *Name withheld*

114 Mr Mark Ford

115 Mr Mark Armstrong

116 Mr Stephen Phillips

117 Mr Rodger Wilkinson

118 Mr Graeme Mickelberg on behalf of the Kenilworth RSL Sub Branch

119 *Name withheld*

120 Ms Pat McCabe on behalf of TPI Federation of Australia

121 Mr Gary Lancaster

122 Mr Stephen Waterman

123 Chaplain Robert Sutherland

124 Mr Bill Denny on behalf of a consortium of 13 ex-service and kindred organisations from South Australia

125 Mr Todd Pryse

126 Mr Rick Meehan OAM on behalf of Keith Payne VC Veterans Benefit Group

127 Legatee Ian Wills on behalf of Legacy Australia Incorporated

128 Major Matina Jewell (Retd)

129 *Name withheld*

130 Dr Peter Kane

131 Mr Peter Rush on behalf of Department of the Prime Minister and Cabinet

132 Squadron Leader Kim Morgan-Short

133 Mr Jeff Henley

134 Mr Andrew Slone on behalf of Australian Artillery Association

135 Ms Renee Wilson on behalf of Australian War Widows NSW Ltd.

136 Mr Brian Buzzard

137 Mrs Janice McNess

138 Mr Kerry Danes CSM

139 Major Michael Rodger (Retd)

140 Mr Keith Woods

141 Major Glenn Ernst OAM (Retd)

142 Mr William Dunstan

143 Mr Kimberley Dunstan

144 Mr Garry Chad

145 *Name withheld*

146 Major Garth Wheat (Retd)

147 Mr Neil Derrington

148 *Name withheld*

149 Ms Tamara Bundy

150 Air Commodore Noel Derwort CSC RAAF (Retd)

151 Mr Luke Gosling OAM MP

152 Mr Andrew Behrndt

153 Colonel Max Ball (Retd) on behalf of the Vietnam Veterans' Association of Australia

154 Commander Stephen Dunning (Retd)

155 Mr Bruce Gray

156 Lieutenant Commander David Manolas RAN (Retd) on behalf of Naval Association of Australia

157 Mr Timothy Dalli

158 Mr Michael von Berg MC OAM on behalf of The Royal Australian Regiment Corporation

159 Mr Michael Witcher

160 General Angus Campbell AO DSC on behalf of the Department of Defence

161 Private Chad Elliott

162 Ms Gabby Costigan MBE on behalf of The Council for Women and Families United by Defence Service

163 Mr Paul Lindsay

164 Mr Graham Walker AM on behalf of Vietnam Veterans' Federation of Australia, Inc.

165 Mrs Noelean Best

166 Major Heston Russell on behalf of Voice of a Veteran

167 Major General Greg Melick AO RFD SC (Retd) on behalf of the Returned & Services League of Australia

168 Mr Douglas Mackrill

169 Mr Vernon Clive Bechaz

170 Dr John Carroll

171 Major Glynn Daryl Snare (Retd)

172 Mr Jonathon Cooper

173 Mr Neville Devereux

174 Mr Christopher Mathias

175 *Name withheld*

176 *Name withheld*

177 Mr Daniel O'Kearney



178	Mr Steve Schulz	213	Mr Gary Heath
179	Mr Gary Strickland	214	Mr Michael Arnott
180	Mr Brett Ambler	215	Ms Pippa Morris
181	Mr Dale Misfeld	216	Mr Raymond Duthie
182	Mr Robert Richardson	217	Major John McNamara (Retd)
183	Mr David Fleming OAM	218	Mr Allan Pye
184	Mr Stephen Bishell	219	Ms Christine Morgan on behalf of the National Mental Health Research Commission
185	Mr Greg Rogers	220	Mr Jeff O'Brien
186	Mr Mikhail Chizhik	221	<i>Name withheld</i>
187	Mr Thomas Crowhurst	222	Mr Adam Jackson
188	Mr Terence Reynolds		
189	Ms Debbie Munro and Mr Colin Berryman OAM on behalf of Korean War Veterans' Association Australia		
190	Mr Patrick McMahon		
191	Mr John Davis MM		
192	<i>Name withheld</i>		
193	Mr Keith Morris		
194	Mr Rodney Crookes		
195	<i>Name withheld</i>		
196	Ms Liz Cosson AM CSC on behalf of the Department of Veterans' Affairs		
197	Mr John Harrison		
198	Mr John Woodward		
199	Mr Paul Copeland on behalf of The Australian Peacekeeper & Peacemaker Veterans' Association (APPVA)		
200	Mr Paul Copeland obo Commando Combat Veterans		
201	Mr John Berger		
202	Mr Geoffrey Hawkins		
203	Mr Bryan Wilson		
204	Mr Peter Collins		
205	<i>Name withheld</i>		
206	Sergeant Scott Newman		
207	Mr Kenneth Duthie		
208	Mr Aubrey Hogan		
209	Mr James Cairns-Cowan		
210	Mr Rodney Graham		
211	<i>Name withheld</i>		
212	Mr Michael Pollard		

**APPENDIX 3 – Tribunal hearings**

The Tribunal conducted public hearings, and heard oral submissions from the listed submitters on the below dates:

**Wednesday 7 April 2021**

- o Mr Brian Harman (via videoconference)
- o Mr Rene Van Oppen (via videoconference)
- o Ms Beverley Jones (via videoconference)
- o Mr Mervyn Smith (via teleconference)
- o Mr Geoffrey Waters (via videoconference)
- o Mr Donald Tate
- o Mr Noel McLaughlin OAM and Mr Peter Rosemond CSC OAM, on behalf of the Royal Australian Armoured Corps Corporation and the 1<sup>st</sup> Armoured Regiment Association Incorporated.

**Thursday 8 April 2021**

- o Commander Jennifer Wittwer CSM RAN (via videoconference)
- o Mr Rick Meehan (via videoconference)
- o Dr Kirstin Ferguson (via videoconference)
- o Major Gordon Hooker (Retd) (via videoconference)
- o Mr Martin Rollins (via videoconference)
- o Mr Kevin Trent OAM RFD (via videoconference)  
on behalf of the 9 Battalion, Royal Australian Regiment Association
- o Mr John Burridge MG (via videoconference)

**Wednesday 14 April 2021**

- o Ms Maree Sirois, Defence Families Australia
- o Major Paul Rosenzweig OAM (via videoconference)  
SA/NT Branch, National Malaya & Borneo Veterans’ Association of Australia
- o Private submission (via videoconference)
- o Mr Terence Pickard-Clark (via videoconference)
- o Major Ralph Sadler (Retd) (via videoconference)
- o Mrs Louise Paine (via videoconference)
- o Private submitter (via videoconference)

**Thursday 15 April 2021**

- o Ms Pat McCabe, TPI Federation of Australia
- o Mr Darren Harvey (via videoconference)
- o Mr Stephen Windahl (via videoconference)
- o Mrs Jodie Pierson (via videoconference)  
Group Captain Carl Schiller OAM CSM RAAF (Retd) (via videoconference)  
The Air Force Association
- o Ms Margaret Walters (via videoconference)

**Wednesday 5 May 2021**

- o Squadron Leader Kim Morgan-Short RAAF (Retd) (via videoconference)
- o Dr Peter Kane (via videoconference)
- o Commander Stephen Dunning RAN (Retd) (via videoconference)
- o Private submitter

**Thursday 6 May 2021**

- o Mr Kerry Danes CSM (Retd) and Dr Kay Danes OAM
- o Mr Ian Smith (via videoconference)  
SA ex-service organisations
- o Legatee Ian Wills (via videoconference)
- o Legacy Australia
- o Mr Gary Lancaster (via videoconference)
- o Mr Peter Rush, Ms Alison Bamsey and Ms Willow McGregor  
Department of the Prime Minister and Cabinet
- o Major General Greg Melick AO RFD SC (Retd)  
RSL National President

**Tuesday 11 May 2021**

- o *Name withheld* (via telephone)
- o Mr Graeme Mickelberg (via videoconference)  
on behalf of the Kenilworth RSL Sub-Branch
- o Mr Graham Walker AM (via videoconference)  
National Research Officer, Vietnam Veterans’ Federation of Australia
- o Major Heston Russell (Retd) (via videoconference)  
Voice of a Veteran
- o Mr Timothy Dalli (via videoconference)



- o Mr Garry Chad (via videoconference)
- o Ms Renee Wilson (via videoconference)  
Chair, Australian War Widows NSW
- o Mr Andrew Sloane (via videoconference)

**Wednesday 12 May 2021**

- o Mr Richard Barry OAM (via telephone)
- o Mr Paul Lindsay (via telephone)
- o Major Glen Coburn (via telephone)
- o Lieutenant Commander David Manolas RAN (Retd)  
Naval Association of Australia
- o Major Matina Jewell (Retd) (via videoconference)
- o Mr Luke Gosling OAM MP (via videoconference)
- o Mr Troy Simmonds (via telephone)
- o Chaplain Robert Sutherland CSC (via videoconference)

**Thursday 13 May 2021**

- o **Department of Defence**
  - Ms Lisa Phelps  
First Assistant Secretary, People Services  
Defence People Group
  - Brigadier Isaac Seidl AM  
Director General, Health Business and Plans Joint Health Command
  - Brigadier Matthew Patching - Director General, Army People Capability
  - Group Captain Peter Gibb RAAF - Bereavement Family Liaison Officer
- o Mr Michael Von Berg MC OAM (via videoconference)  
The Royal Australian Regiment Corporation
- o Private Chad Elliott (via videoconference)
- o Department of Veterans’ Affairs
  - Ms Kate Pope - Deputy President, Repatriation Commission
  - Ms Veronica Hancock - First Assistant Secretary, Veterans’ and Families’  
Policy Division
  - Mr Don Spinks, AM - Repatriation Commissioner
  - Mr Jude Van Konkelenberg - Director, Liability and Service Eligibility Section,  
Policy Development Branch
  - Mr Neil Bayles - Special Adviser, Productivity Commission

- o Mr Matt Anderson PSM and Major General Brian Dawson AM CSC (Retd)  
Australian War Memorial

**Tuesday 25 May 2021**

- o Colonel Max Ball (Retd) - National President (via telephone)  
Vietnam Veterans’ Association of Australia
- o Private submission (via telephone)
- o Mr Jonathon Cooper (via videoconference)
- o Mr Christopher Mathias (via videoconference)
- o Mr Daniel O’Kearney (via videoconference)
- o Mr Thomas Crowhurst
- o Mrs Noelean Best (via telephone)

**Wednesday 26 May 2021**

- o Ms Gabby Costigan MBE and Mr Mat Jones (via videoconference)  
Council for Women and Families United by Defence Service
- o Paul Copeland OAM
- o Commando Combat Veterans
- o Paul Copeland OAM and Mr Ian Lindgren
- o Australian Peacekeeper and Peacemaker Veterans’ Association
- o Mr Patrick McMahon (via videoconference)
- o Mr John Davis MM
- o Mr Robert Richardson (via telephone)
- o Mr Jeff Henley (via telephone)

In addition to the above hearings, the Tribunal conducted a number of informal discussions, on the following days:

**Tuesday, 23 March 2021**

- o Mr Donald Anderson - Deputy Director Medals Policy and  
Mr Jack Hayes - Senior Adviser Medals Policy (via videoconference)  
New Zealand Defence Force
- o **Department of Defence**
  - Mrs Leisa Craig, Assistant Secretary, Human Resources
  - Commodore Paul Kinghorne RAN, Director General Veterans Support

- Air Commodore David Hombsch CSC RAAF, Joint Operations Command
- Captain Rebecca Jeffcoat RAN, Joint Operations Command
- Colonel Bronwyn Johnstone CSM, Army Headquarters
- Colonel Laura Sinclair CSC, Joint Health Command
- Group Captain Amanda Cornell RAAF, Joint Operations Command
- Group Captain Peter Gibb RAAF, Air Force Headquarters
- Commander Paul Fothergill RAN, Navy Headquarters
- Ms Petrina Cole, Director Honours and Awards
- Mr Brett Mitchell, Research Officer, Honours and Awards
- Ms Cathy Davis, Defence Community Organisation
- Mr Michael Hicks, Nature of Service Branch
- Medical Officer (Clinical), Joint Health Command

**Wednesday, 24 March 2021**

- o Ms Gabby Costigan MBE and Mr Mat Jones  
Council for Women and Families United by Defence Service
- o Mr Matt Anderson – Director  
  
Major General Brian Dawson AM CSC (Retd) – Branch Head National Collection  
Australian War Memorial  
  
Air Commodore Nigel Bradshaw RAF, Mr Ian Keith and Ms Cath Lawrence  
(via videoconference)  
UK Ministry of Defence

**Tuesday, 4 May 2021**

- o Lieutenant-Colonel Carl Gauthier MMM CD ADC  
Director Honours & Recognition  
Canadian Armed Forces

**Tuesday, 11 May 2021**

- o Professor Sandy McFarlane AO  
Director, Centre for Traumatic Stress Studies, University of Adelaide

**Thursday, 27 May 2021**

- o Ms Sharon Prendergast LVO  
Mr Mark Jordan  
Australian Honours and Awards Secretariat  
Government House

**Tuesday, 15 June 2021**

- o **Department of Defence**
  - Brigadier Isaac Seidl AM, Director General, Health Business and Plans
  - Colonel Laura Sinclair CSC, Chief of Staff to the Surgeon General
  - Ms Petrina Cole, Director Honours and Awards
  - Mr Wayne Parker, Manager Service Assessments and Awards
  - Ms Cindy Chinnery, Policy Manager

**Thursday, 17 June 2021**

- o Ms Christine Morgan, Director  
Mr James Burchmore, Assistant Director  
National Mental Health Research Commission
- o Ms Gwen Cherne, Defence Family Advocate
- o Professor Andrea Phelps, Assistant Director  
Dr John Cooper, Consultant Psychiatrist  
Phoenix Australia: Centre for Post-traumatic Mental Health

**Wednesday, 30 June 2021**

- o **Department of Defence**
  - Brigadier Isaac Seidl, Director General, Health Business and Plans
  - Ms Petrina Cole, Director Honours and Awards
  - Mr Wayne Parker, Manager Service Assessments and Awards
  - Ms Allison Augustine, Assistant Director, Current Recognition
  - Ms Eleonor Pritchard, Stakeholder Engagement Manager
  - Mr Brett Mitchell, Research Officer

**Thursday 15 July 2021**

- o Professor Tom Frame AM  
  
University of New South Wales

**APPENDIX 4 – Additional material examined by the Tribunal**

**Acts**

*Australian War Memorial Act No 18 of 1925*  
*Australian War Memorial Act 1980*  
*Australian Veterans Recognition (Putting Veterans and their Families First) Act 2019 [includes The Australian Defence Veterans’ Covenant]*

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accessed 9 March 2021



Memorial Cross (Canada)



Memorial Ribbon (Canada)





**H**e whom this scroll commemorates  
was numbered among those who, at the  
call of their country, served in Her Majesty's  
Canadian Forces and, following the path of  
duty, passed out of the sight of humanity,  
giving up their lives in the service of Canada.

Let those who come after see to it  
that his name be not forgotten.

*Rank First Middle Surname, CD*  
*31 May 2017*

Memorial Scroll (Canada)



Sacrifice Medal (reverse) (Canada)

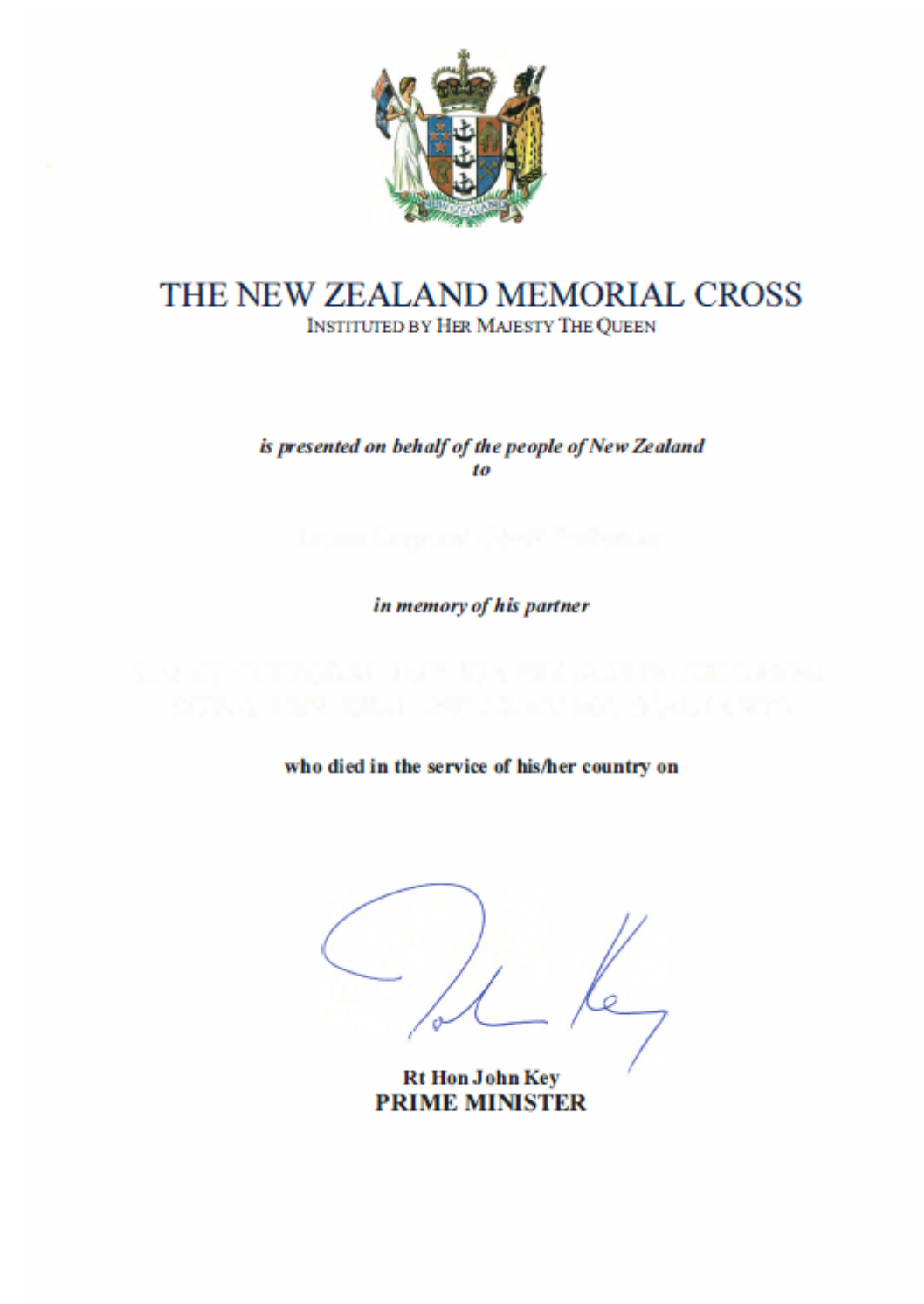


Memorial Bar (Canada)





Memorial Cross (New Zealand)



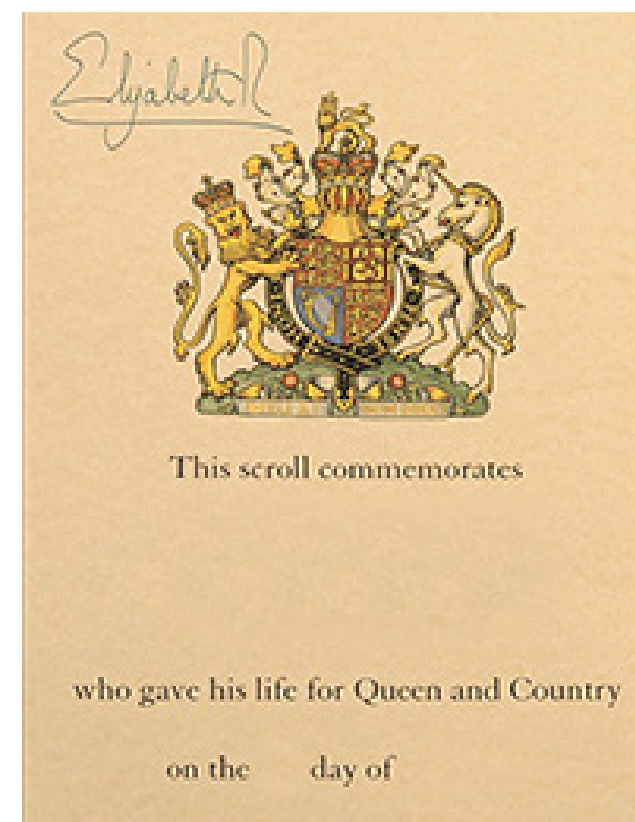
Memorial Scroll (New Zealand)



Elizabeth Cross (United Kingdom)



Elizabeth Cross and miniature in presentation box (United Kingdom)



Elizabeth Scroll (United Kingdom)

APPENDIX 6 – Forms of recognition proposed by submitters

W


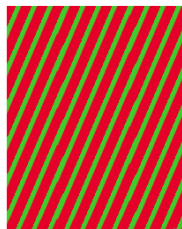
WIA

KIA

Wounded (non warlike)

Wounded In Action

Killed in Action

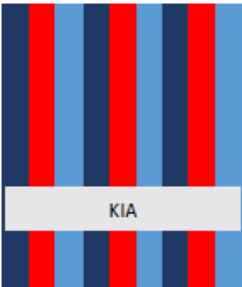




- The medal is the [Anzac Medallion](#) issued in 1967 to surviving Gallipoli veterans or next of kin
- Bronze for wounds/serious personal injury sustained in domestic operations (not to be issued for injuries sustained in training or in normal daily duties)
- Silver for members WIA (on warlike operations (whether overseas or domestic)
- Gold for members KIA (same as for silver)
- Ribbon colours based on CSM/CSC, but with red and gold for blood and wattle, and stripes in the opposite direction
- No postnominals

The Simpson Medal

Proposed by Mr Jason Gardner

1. I recommend that if an award be instituted for the ‘recognition of members and families of members, injured, wounded or killed in or as a result of service’, then it should be an award that holds status above those for general service, distinguished service, etc. Being injured, wounded or killed in the service is a legacy that scars those members and their families for lifetimes. An award needs to recognise this sacrifice.
2. The award should have clasps, or a separate level of award, to indicate the type of service being rendered, when the injury, wounding or death of the member occurred. E.g. Active Service/Operational Service vs Peacetime/Peacekeeping Service.
3. The award should represent the three services in both the colour of the ribbon and the award design. A suggestion could be: Using the iconic image of Simpson’s Donkey from Gallipoli WWI with the ADF TRI Service emblem on the obverse.



AUSTRALIAN REMEMBRANCE MEDAL				
FRONT		BACK		NOTES
				<p><u>COLOURS</u> Red - denotes the sacrifice of all injured/wounded/killed Black – In remembrance of those killed in service. Silver medal and clasps</p> <p><u>EMBLEMS</u> Wattle – Australia’s floral emblem representing all Australians. Australian Coat of Arms – represents the medal as a federal award</p> <p><u>CLASPS</u> Can have one of each regardless on the number of times injured or wounded. -Injured in service -Wounded in service -Killed in service</p>
CLASPS				
Injured in Service		Killed in Service		Wounded in Service

Proposed by Sergeant Glenn Matthews



Proposed by Mr Gregory Brydon



## Proposed Memorial Badge Variants



*Memorial Badge Necklace Version (32mm x 32mm)*



*Memorial Badge Mounted Version (32mm x 32mm)*



*Memorial Badge Brouch Version (32mm x 32mm)*



*Memorial Badge Pin Version (16mm x 16mm)*

Proposed by Mr Rene Van Oppen

## Memorial Cross Description



### Obverse

A Greek Cross similar to the Military Cross with relief map of Australia surrounded by the raised letter 'For Australia' in the centre. The arms of the Cross are of equal length and straight, with a slight concave curve to the ends. Round the edges of the arms is a slight ridge and the field is raised. Onto this is superimposed another matching Cross, but with no curve at the ends. The arms of the Cross have V's inset in their ends and there is a raised central spine. On the upper arm is the St Edwards crown. A laurel wreath, comprising three leaves which overlap in each bunch and two bunches of leaves to each quadrant, appears between the arms of the larger Cross. The gap between the wreath and the Cross is segmented.

### Reverse

Plain and flat.

### Size

**Memorial Cross** . 32mm x 32mm.

**Memorial Pin**. 16mm x 16mm.

### Suspension

**Memorial Cross (Necklace)**. A small ring attached to the top leg of the Cross and this ring is attached to another small ring on a bar, which is the same design as the horizontal arm of the Cross except it does not have the relief map of Australia nor the words 'For Australia'.

**Memorial Cross (Suspended brooch)**. A small ring attached to the top leg of the Cross and this ring is attached to another small ring through which a Violet ribbon 750mm long and 10.5mm wide is passed.

**Memorial Cross (Brooch Mount)**. A brooch style clip is positioned on the reverse of the Cross along the horizontal arm of the Cross.

**Memorial Pin**. A pin and clutch grip is fitted to the reverse of the Cross. Sterling Silver / Nickel.

### Composition

Eric Stein.

### Designers

### Naming

The serial number, rank and name of the deceased is engraved on the rear of horizontal arm of the Cross. Engraving is not required for the pin.

### Ribbon

None.

### No. of clasps

None.

### Other emblems

None.

### Qualification

Presented to a serving members immediate family where the serving member dies as a result his or her service.

Proposed by Mr Rene Van Oppen



**Name:** Governor General Cross (GGC)  
For Sacrifice - Life

Recognition of: The loss of life in War or Peace

Ribbon: Purple and White

Star: Nickel matte

Colours denote: Purple representing Sacrifice borne of the heart – Representing the heartfelt gratitude of a Nation – Representing an enduring burden and sacrifice of one loved and lost.

White vertical column: Representing ascension, rest and peace.



**Name:** Chief of Defence Force (CDF)  
Star of Sacrifice - Wounds

Recognition of: The loss of utility due to rendered service

Ribbon: Purple and White

Star: Nickel matte

Colours denote: Purple representing Sacrifice borne of the heart – Representing the heartfelt gratitude of a Nation – Representing commitment and resolve of the heart to place oneself at risk and/or peril for mates, mission and country.

Three (3) white vertical columns: Representing sacrifice of utility (Health-Abilities-Opportunity) that is enduring.



**Name:** Chief of Army (CA)  
Medal of Sacrifice - Injury

Recognition of: The loss of utility due to rendered service

Ribbon: Purple and White

Star: Nickel matte




Colours denote: Purple representing Sacrifice borne of the heart – Representing the heartfelt gratitude of a Nation – Representing commitment and resolve of the heart to place oneself at risk in service of the nation.

Three (3) white vertical columns: Representing sacrifice of utility (Health-Abilities-Opportunity) that is enduring.






Proposed by Mr Martin Rollins

#### Current categories in use in militaries worldwide

	<b>Killed-In-Action (KIA)</b> is a commonly used term by militaries to describe military personnel killed on the battlefield. KIAs do not come from incidents such as accidental vehicle crashes and other “non-hostile” events. KIA is applied to front-line combat personnel and to naval, air, and support personnel. The Australian War Memorial also uses the term KIA as a cause of death category. The KIA clasp could be worn on a campaign medal, or other appropriate medals which currently exist or may be introduced in future.
	<b>Wounded-In-Action (WIA)</b> is a globally accepted term used by militaries to describe soldiers’ <i>wounded while fighting in a combat zone during wartime, but have not been killed</i> . Temporarily or permanently physically incapacitated (having an open or closed wound). Members eligible to receive the status of WIA need not have fired their weapons but have been wounded due to hostile attack. WIAs do not come from incidents such as accidental vehicle crashes and other “non-hostile” events. There is also a sub-category that describes military personnel who have <b>Died of Wounds (DOW)</b> in this category. Generally, someone who survived to reach a medical treatment facility and subsequently dies from those wounds. The North Atlantic Treaty Organization (NATO) also uses <b>DWRIA</b> , rather than DOW, for “Died of Wounds Received in Action.” However, historically, militaries and historians use DOW. The time period is specified in that the member dies soon after reaching a medical treatment facility. The Australian War Memorial also uses the term DOW. The WIA or DOW clasps could be worn on a campaign medal, or other appropriate medals which currently exist or may be introduced in future.
	

#### Proposed new categories for the ADF

	<b>Killed-In-Service (KIS)</b> clasp worn on the Australian Defence Medal could offer the most potential and greatest flexibility and sensitivity in defining the categorisation of an ADF member’s death in military service. It could also be worn on a campaign medal, or other appropriate medals which currently exist or may be introduced into the future.
	<b>Injured-In-Service (IIS)</b> could be used to describe ADF personnel who sustain an injury during service and may be identified as DVA ‘accepted health conditions’ (Refer to DVA Cardholders <a href="#">Link</a> ). Members may have been medically discharged from the ADF, or medically down grounded and still serving, or undertaking rehabilitation retraining, or a veteran diagnosed with a service-related mental illness or another accepted injury. IIS could be interchangeable with ADF personnel who have been <b>Wounded-In-Service (WIS)</b> and are physically or mentally, temporarily or permanently incapacitated. The Australian War Memorial also uses the term ‘illness’ and ‘injuries’ as a cause of death category. The IIS and WIS clasps could be worn on the Australian Defence Medal, a campaign medal, or other appropriate medals which currently exist or may be introduced in future.
	
Other categories could be created in the future, depending on the requirement.	

Proposed by Mr Kerry Danes CSM



# Killed — Honour the Fallen — Injured

Award a Killed-in-Service (KIS) clasp on their campaign or service medal to complete their story of personal service and sacrifice.



Proposed by Mr Kerry Danes CSM following appearance at hearing and discussion of Tribunal's initial proposals



Proposed by Mr Leslie Anderson via Mr Keith Woods

## Medal Devices – Concept Images

### Devices



Poppy for Killed



Wattle Sprig for wounded or injured

### Incurred in Non-Operational Service



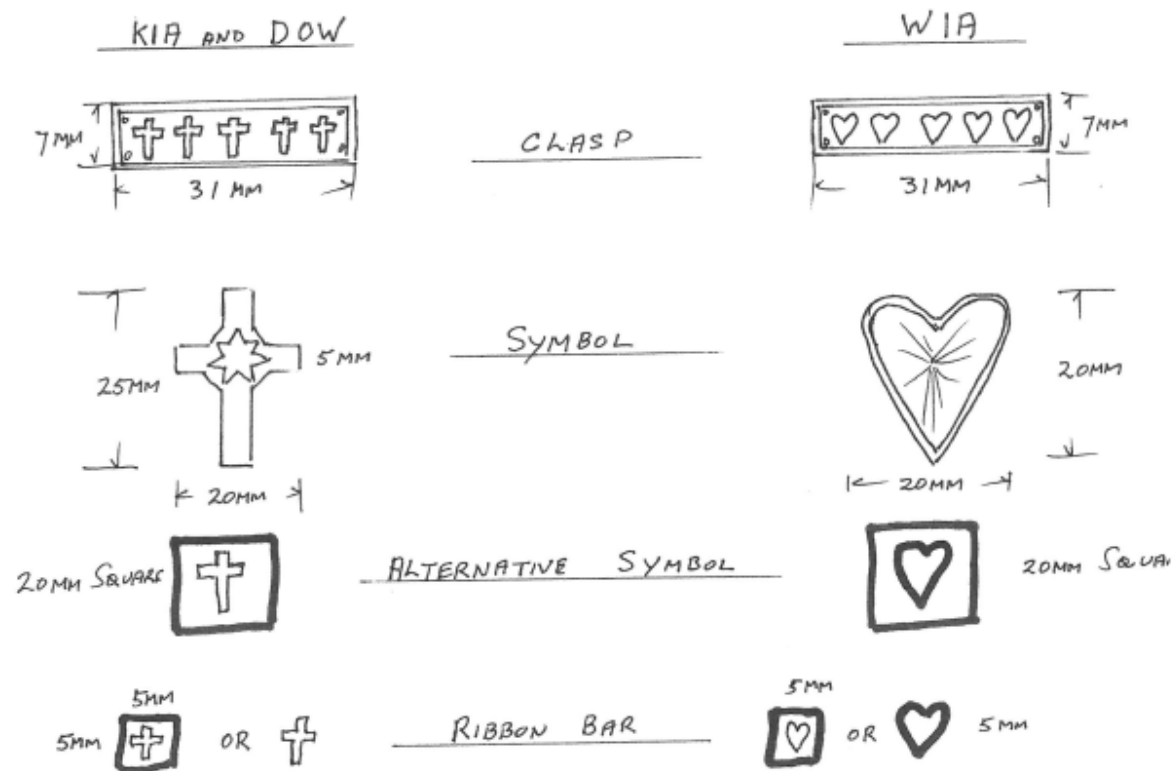
### Incurred in Operational Service



Proposed by the Naval Association of Australia



Designs for a Device to be attached to the ADM Ribbon

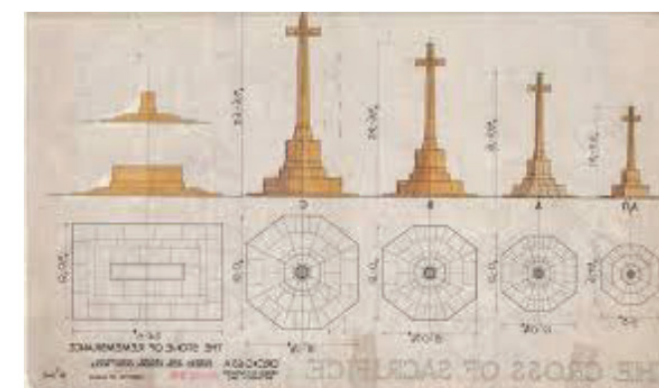


Proposed by Mr Daniel O'Kearney



Proposed by Mr Vernon Bechaz

Logistically speaking we would suggest that the design of the *Cross of Sacrifice* Medal be suitably modelled on the Cross of Sacrifice as consistently memorialised in all Commonwealth War Graves Cemeteries globally. A diagrammatic from the Commonwealth War Graves website ([www.cwgc.org](http://www.cwgc.org)) is shown below:



Proposed by Mr Keith Morris



Proposed by Sergeant Scott Newman

## APPENDIX 7 – Costing estimation

1. If our proposal only conferred recognition where death, wounding, injury or disease arose from service after the date of implementation, we are confident that the cost would be low as relatively few veterans and families would be eligible. We know that, for example, in a Defence Force of around 59,000 permanent members and 29,000 reservists, on average over the five years to 2020:

- there have been 51 deaths in service per year;
- there have been 1360 medical discharges per year;

and, on average over the four years to 2020:

- there have been 102 wounds, injuries or diseases rated as SI or above per year; and
- approximately 1360 serving members have been diagnosed per year with PTSD or another mental disorder.

2. It would be wrong, however, to assume that those annual rates would have applied in each year since 1945, as that longer period involved far different incidences of peacetime service and armed conflict.

3. Alternatively, if recognition were conferred only where an eligibility criterion was met after the date of implementation even though wounding, injury or disease occurred during service prior to the date of implementation, the numbers of eligible veterans and families would be somewhat higher, but probably still relatively low. In this regard, DVA advises that, on average over the 5 years to 2021 it has assessed 2263 disabilities related to post-Second World War service at or above 30 impairment points/30% WPI.<sup>144</sup>

4. Again, it would be wrong to assume that this annual rate would have applied in each year since 1945, both because that longer period involved far different incidences of peacetime service and armed conflict and because the figures for those few years cover disabilities incurred at any time since 1945 but only recently reaching the severity threshold of 30 impairment points/30% WPI.

5. However, each of these options is, in our view, inadequate and we do not recommend either. As noted earlier in this report, we believe recognition should be available for all service-related deaths and serious wounds, injuries or diseases arising from service after the end of the Second World War. [Up to that point, there were forms of recognition for wounds and injuries that were consistent with then-prevailing societal mores. After that date, Wound Stripes were no longer issued and the Mothers' and Widows' Badge essentially fell into disuse.]

6. Extending eligibility back to service from 3 September 1945 will clearly mean a significantly greater number of veterans who would be eligible for the Memorial Clasp or Gratitude Clasp (and, as a result, significantly more families who would qualify for a Memorial Star or Gratitude Star).

7. If the Government decides to implement our recommended proposal for recognition of veterans and their families, funding will be required to meet the cost of assessing every application

<sup>144</sup> This figure relates to any post-Second World War service, not just to service within the 5 years to 2021. If the severity criterion were instead set at 20 impairment points/20%WPI, then the 5-year average would be 4671; alternatively, if the severity criterion were instead set at 40 impairment points/40%WPI, then the 5-year average would be 1240.



and of providing clasps, stars, scrolls and pins to all veterans and families who apply for and are found to qualify under our proposed eligibility criteria.

8. We are advised, and accept, that the existing resourcing of the Directorate of Honours and Awards within Defence, and of the Defence People Group of which it forms a part, would not allow that cost to be met. It would of course be a matter for the Government to determine sourcing for the additional resourcing required, whether from reallocation of Forward Estimates within the Department or by new appropriations from Consolidated Revenue.

9. The likely cost of our proposal is therefore a relevant consideration for the Government in deciding whether or not to accept our recommendations.

10. We are unable to offer any definitive estimate of the likely cost. This is partly because statistics are not available for some of the key costing determinants – for example, DVA's legacy systems cannot provide a figure for the number of post-Second World War veterans who have had an accepted disability assessed at 30 percentage points/30% WPI (although that information is held on the individual veteran's file). And significantly, it is also because we cannot predict with any certainty how many veterans, or their families, will apply for and be entitled to the recognition we recommend.

11. We do think, however, that it is possible to make some reasonable observations that would allow provisional funding to be agreed in principle and periodically reviewed and reduced or supplemented in light of experience.

12. We note that some who made submissions to us argued that the issuance of recognition of the type recommended in this report would assist veterans and families in their "healing" and may in fact prevent some health conditions, particularly mental disorders, from deteriorating. If benefits of these types did flow, they could lead to a reduction in the costs that would otherwise be borne by the Commonwealth through DVA or by States and Territories through their health systems. While we think there is a distinct possibility that some such benefits may flow, we do not consider that the resultant cost reduction is capable of any reliable assessment at this stage.

13. We thus accept that a decision to implement the proposal we recommend will need to be made by reference only to its likely cost without any allowance for countervailing cost reductions, although the potential benefits flowing from implementation should not be ignored when making that decision.

14. Cost will be influenced by a number of factors:

- how many veterans have served in the ADF since 3 September 1945;
- of those who have served since that date, how many have service that could have resulted in death or serious wounding, injury or disease warranting recognition;
- of those, how many might meet the eligibility criteria;
- how many persons will be entitled to apply for recognition;
- how many applications will be received;
- when and at what rate will those applications be received;
- what administrative effort will be required to confer recognition;
- how quickly will applications be required to be processed; and
- how much will it cost to provide and present clasps, stars, scrolls and pins to successful applicants?

*How many veterans have served in the ADF since 3 September 1945?*

15. We know that approximately 1,200,000 veterans have served in the ADF since 3 September 1945, but this number includes around 520,000 who served only briefly while awaiting discharge in the demobilisation period between 1945 and 1947 following service in the Second World War.

*Of those who have served since that date, how many have service that could have resulted in death or serious wounding, injury or disease warranting recognition?*

16. While undoubtedly many of the 520,000 veterans who were discharged between 1945 and 1947 have since died or had disabilities accepted by DVA, we expect that in only very few cases would such death or impairment be attributable to peacetime service in that period while awaiting discharge. Therefore, those Second World War veterans who were discharged in that period would generally not have service that would qualify for the recognition we propose.

*Of those, how many might meet the eligibility criteria?*

17. Of the remaining 680,000 veterans with post-Second World War service that may potentially have led to death or serious wounding, injury or disease, clearly many of these would not be eligible. Of those who have died, many will have passed away from old age or causes unrelated to service. Of those still living, many will be free from service-related health conditions. And others with service-related disabilities will not have a disability or multiple inter-related disabilities assessed at or above 30 impairment points/30%WPI.

18. Under our proposal, recognition would be conferred for:

- death during service;
- death post service if service-related;
- service-related wounding, injury or disease which meets one of a number of specified severity thresholds (or, in the case of mental disorder, certain other pre-conditions).

19. While statistics are not available for some of the key eligibility criteria that would be costing determinants, there are some statistics that may be useful in forming a basis for an educated estimate of the likely number of the 680,000 veterans with post-Second World War service who might meet a qualifying criterion.

20. As noted above, on average over the last 5 years:

- there have been 51 deaths in service per year;
- there have been 1360 medical discharges per year; and
- DVA has assessed 2263 disabilities related to post Second World War service at or above 30 impairment points/30% WPI;<sup>145</sup>

and, on average over the four years to 2020:

- there have been 102 wounds, injuries or diseases rated as "SI" or above per year; and
- approximately 1360 serving members have been diagnosed per year with PTSD or another mental disorder.

<sup>145</sup> DVA is unable to ascertain from its legacy systems a total figure for all veterans with single or inter-related disabilities assessed at or above 30 impairment points/30%WPI (although this information is able to be extracted on a case-by-case basis from the individual veteran's file).

We also have ascertained that:

- in total, DVA has accepted 25,203 deaths as related to service where service was post Second World War;
- in total, 49 veterans have been listed as missing-believed-dead since the end of the Second World War;
- between 2001 and 2019 there were 1273 certified deaths by suicide among veterans with service since 1 January 1985;<sup>146</sup> and
- while 137,260 veterans have accessed free mental health care under the no-liability health care claim scheme since 2006, we expect that a much lower number would have been formally diagnosed with a mental health condition that would meet the criterion in our proposal.

21. It is particularly important to note that not all of these figures would be cumulative – for example, we expect that many deaths certified as occurring by suicide would have been accepted by DVA as service-related. And as previously noted, simply assuming that the rates applicable in each year of those limited and recent periods for which data is available is not logical and would produce clearly unreliable figures.

22. In light of the above it is our best estimate that between 100,000 and 140,000 of the 680,000 who have served in the ADF since the end of the Second World War could meet one or more of the proposed eligibility criteria.

23. Notwithstanding that we estimate that this number of veterans (and their families) might be eligible for the recognition we recommend, we believe it would be wrong to now allocate funding on the assumption that successful applications will be lodged in respect of every such veteran and that every successful application will lead to the issuance of the maximum number of possible clasps, stars, scrolls and pins. For the reasons outlined below, we believe that these would be unrealistically high assumptions. We think it would be preferable to make an initial provisional funding allocation on alternative assumptions, albeit recognising that some later supplementation (or reduction) might be warranted in light of actual experience with the proposal once implemented.

*How may persons will be entitled to apply for recognition?*

24. Under our proposal, there are limits on who might apply for recognition:

- an application for award of the Gratitude Clasp to a living veteran must be made by the veteran themselves or, if they lack the physical or mental capacity to make that application and thereby give consent to the release of necessary personal information, by a person who has lawful authority to do so on their behalf;
- an application for posthumous award of either the Gratitude Clasp or the Memorial Clasp can only be made by:
  - o a person named by the veteran as their “next-of-kin” on their service records if they were serving at the time of death;
  - o the executor of the estate of the veteran; or

<sup>146</sup> Report, Serving and ex-Serving Australian Defence Force members who have served since 1985: suicide monitoring 2001 to 2019, Australian Institute of Health and Welfare, Canberra, 2021, p.7.

- o where administration of the estate has been relevantly concluded, the person who has the legal ownership of the veteran’s medal set under their will or applicable intestacy laws or, if that person has since died, another family member who has legal ownership under that person’s will or intestacy;
- an application for initial grant of either the Memorial Star or the Gratitude Star forms of family recognition can only be made with the written consent of either the veteran themselves or one of the persons listed above; and
- only once an initial grant of either the Memorial Star and the Gratitude Star has been made, can an application for a further star, a further scroll, a lapel miniature star or a copy of a scroll be made by any other family member not covered by the original application.

25. This means that, while applications might conceivably be made by all surviving veterans, there are limits on the numbers of family members who might apply in respect of a deceased veteran. Not all deceased veterans will have married or had children, and not all Australians who have a relative who has died as a result of post-Second World War service will be able to make an application. The more dated a deceased veteran’s service, the less likely that their parents will still be alive; similarly, the more dated the service, the less likely that the veteran’s spouse will still be alive to lodge an application.

26. As a result, applications will only be able to be made in respect of an (indeterminately) lesser number than 100,000-140,000 veterans.

*How many applications will be received?*

27. Even if every surviving veteran with post-Second World War service could apply personally or had someone else with the capacity to do so, and even if every one of the deceased veterans with post-Second World War service had a family member who was entitled to apply for recognition under the rules set out above, it is certain that not every entitled applicant will in fact be motivated to make an application.

28. In relation to the clasps and stars that we now propose:

- some veterans indicated to us that, while they supported the proposal for recognition and would themselves qualify, they would not in fact apply for various reasons. Some just did not want “any more medals”, and some did not want to publicly declare that they were suffering from a disability;
- some spouses who survive a deceased veteran may not wish to apply where their relationship with the veteran had broken; and
- where it is a member of a generation one or more times removed who has legal possession of a deceased veteran’s medals, it is less likely that they would apply than if they were the veteran’s parent or spouse.

29. That not all those eligible to apply will be motivated to do so is well illustrated by experience with the Australian Defence Medal. While the vast majority of the approximately 680,000 veterans who have served in the ADF since the end of the Second World War would be eligible for that award either while alive or posthumously, in fact only 340,867 ADMs (or around 50% of the total eligible) have been issued (and this figure includes an unknown number of replacement medals that have been issued over time).



30. If that experience were repeated in respect of the recognition we propose, the number of veterans in respect of whom a valid application might be made would be in the order of 50,000 to 70,000.

31. While one cannot be certain that the ADM experience would be repeated here, it does seem to be a reasonable working hypothesis on which to base a provisional funding allocation (subject to periodic review in the light of actual experience).

*When and at what rate will those applications be received?*

32. It seems to us that two principal factors will influence the time within which and the rate at which applications will be received. The first is the extent to which entitled applicants are aware of the availability of recognition, which will in turn be significantly affected by the extent and significance of the public awareness campaign that we have recommended should be a part of the implementation program. The second will be simply the extent to which entitled applicants prioritise making an application over other day-to-day concerns.

33. Again, experience with the ADM offers some possible indication. Of the 340,867 ADMs that have been issued, only 224,895 were issued within the first 5 years of the ADM becoming available. Making allowance for the fact that some veterans were not eligible for the ADM when it was first introduced and only became eligible as the eligibility criteria were relaxed or expanded in subsequent years, this suggests that only between 35,000 to 50,000 applications might be received in the first five years after recognition becomes available. Again, this seems to be a reasonable working hypothesis on which to base a provisional funding allocation.

*What administrative effort will be required to process those applications?*

34. The administrative effort involved in our recommendation falls into two phases:

- the Implementation phase, during which all necessary legislation, systems and procedures will be put in place to enable applications to be made and processed; and
- the Recognition phase, during which applications will be received and processed, and recognition conferred where eligibility is established.

35. We have set out earlier in this report the detailed steps that we believe will need to be accomplished during the Implementation phase. We believe that these steps will take 18-24 months and will require a staffing level of 3 officers - one each at EL1, APS6 and APS4. The annual salary and standard on-costs for this team would be approximately \$440,000, and there would need to be allowance for some administrative expenses.

36. During the Recognition phase, applications will be received and processed. If application forms are carefully designed and road-tested as we recommend, there should be relatively few applications where there is no entitlement. Undoubtedly however, there will be some. But because almost all of our proposed eligibility criteria leverage off pre-existing third-party documentation, invalid applications should be readily identifiable and rejected under cover of standard-form correspondence.

37. For valid applications, in a typical case we expect that the following steps would be required:

- confirm that the application is properly completed;
- confirm the veteran's service dates. These should be readily available in most cases from information already available to the Directorate of Honours and Awards;
- ascertain what other honours and awards have been issued (as this data will appear on the accompanying scroll);
- confirm that documentation submitted with the application in fact meets the claimed eligibility criterion;
- issue pro forma advice confirming the application has been successful and notifying presentation/delivery arrangements;
- order preparation of clasps, stars and scrolls; and
- consign the same, either to the applicant by mail, where requested, or to the presentation ceremony host.

38. We anticipate that only very few applications would require any more detailed consideration, such as by a Defence medical practitioner to retrospectively confirm an SI rating or above, to assess an opinion from a treating psychiatrist or clinical psychologist, or to determine from the DVA file the total assessment of multiple but inter-related disabilities.

39. We would be surprised if the average application could not be dealt with by a suitably trained but relatively junior officer within less than an hour. We are advised that a trained ADM assessor at APS4 level can complete 50 ADM assessments each week and we suggest that a similar number of recognition assessments could be expected from assessors trained for the recognition we propose.

40. APS4 assessors will of course require supervision and perhaps assistance in what will we expect be a limited number of more difficult cases. We thus suggest that a team of six APS4 assessors should be led by an APS6 officer. The annual salary and standard on-costs for such a team of seven officers would be approximately \$891,000 at current cost levels. Each such team would be able to process on average 14,400 initial applications per annum.

41. In addition to initial applications that will require full assessment, there will almost certainly be some subsequent applications from family members not covered by an initial application. However, because all aspects of the veteran's eligibility will have already been determined in assessment of the initial application, these subsequent applications will require only minimal assessment for the sole purpose of determining that the applicant is in fact a family member of the veteran.

42. Staff engaged for these tasks need not be permanent APS staff. We expect that most would be casual or contract staff, or ADF reservists.

43. We note Defence has advised that it would propose to conduct a full medal assessment in respect of each veteran covered by an application, to see whether they are entitled to any other defence award in addition to the clasp sought. We would certainly not object to that being done, but do not believe the cost of doing so should be attributed to our proposal. This is because a full medal assessment forms no part of that proposal, and because veterans are already entitled under the existing law to make application for other awards at any time.

*How quickly will applications be required to be processed?*

44. The number of assessment teams that would be required would clearly depend upon the rate at which applications were received and the time within which each application was required to be assessed (which would be a matter for prescription by the Government or Defence). But, if 35,000 - 50,000 applications were to be received and processed in the first five years of the Recognition phase, we anticipate the staffing cost at current cost levels would be in the range \$2,163,000 - \$3,090,000 over that period.

*How much will it cost to provide and present clasps, stars, scrolls and pins to successful applicants?*

45. The cost of each clasp, star, scroll and pin will of course depend upon the designs finally selected and the negotiation of manufacturing contracts. We cannot make any accurate prediction of these matters.

46. The cost of presentation will depend on whether this is to be by mail or at a ceremony. In the latter case, if ceremonies are to be conducted by local government bodies in the same way as citizenship ceremonies are currently hosted under existing Commonwealth untied grants, there may be no direct cost to Defence.

47. A key costing element will be the number of clasps, stars, scrolls and pins that are conferred in respect of each successful application. Not every veteran covered by an application will have two surviving parents and a spouse, and not every family will seek lapel pins for all family members.

48. Allowing for these variations, it seems a reasonable working hypothesis on which to base a provisional funding allocation that, on average, one clasp, three stars, three scrolls and two lapel miniatures might be issued in respect of every veteran in respect of whom a successful application is made.

49. Having regard to indicative costs for existing medals, scrolls and pins in the Australian honours schemes, we consider that the cost of providing and presenting would range between \$14,000,000 and \$20,000,000 over five years for 35,000 to 50,000 successful applications.

*Other potential Defence costs*

50. During the Implementation phase, we anticipate that work will need to be undertaken to upgrade the Directorate's existing internet site so as to allow for the streamlined lodgement of online applications attaching necessary supporting documentation. We estimate that this might attract a total cost of \$35,000.

51. During the Recognition phase, we expect that the Directorate will undertake a publicity campaign to encourage applications from across the veteran community. While the cost of most of this will be negligible due to the utility of social media, we anticipate that a national press advertising campaign during each year of the recognition phase would cost approximately \$15,000 per annum.

*Potential DVA costs*

52. It was suggested to us by DVA that there might also be a cost implication for that Department if veterans, in order to gain eligibility for a clasp, were motivated to seek acceptance of a disability where they would not otherwise do so and are not current clients or, if they were current clients with a disability assessed at less than 30 impairment points/30% WPI, were motivated to apply for reassessment where they would not otherwise do so in order to have that assessment raised to the qualifying level. The Department also suggested that there may be impacts for it if veterans had their discharge reclassified as due to medical reasons for the purpose of gaining recognition, and then sought collateral entitlements from DVA.

53. We cannot dismiss those possibilities but, at the same time, we believe there are a number of reasons for thinking that any increased workload within DVA may not be particularly significant.

54. As noted above, we estimate that 1.2 million veterans have served in the ADF since the end of the Second World War. Of these DVA estimates that 622,500 were still alive at 30 June 2020 (including 102,100 Reservists), at which date it had 328,310 clients (including dependants). Of those who are not current clients however:

- a relatively small number will be Second World Veterans discharged during demobilisation;
- many will be free of service-related health conditions; and
- some will simply not want to apply to DVA for a variety of reasons:
  - o they may be financially self-reliant;
  - o they may otherwise have adequate medical coverage;
  - o they may not want to acknowledge their disability; or
  - o they may just not want to engage with DVA.

55. As for current clients who have a disability assessed at below 30 impairment points/30% WPI who might potentially seek to have that assessment raised in order to gain a Gratitude Clasp:

- some would apply for reassessment in any case because they believed their accepted disability had worsened;
- some will not apply because they know that they would not succeed in seeking a higher assessment because their disability was not sufficiently severe;
- some will not do so because they qualify for that clasp under another criterion – such as an SI rating or medical discharge; and
- some will not be so motivated if their accepted disability is a mental disorder because recognition would be available regardless of DVA's impairment rating.

56. And, of course, if a non-client applies and gains a benefit to which they are entitled or if a current client is entitled to an increased benefit because their disability has worsened, that is not a bad thing.

57. Finally, while we believe that the recognition we propose is very important, it is questionable whether a clasp would provide any greater motivation to apply to DVA than the existing major benefits of medical treatment, rehabilitation, compensation and income support which are of far greater monetary value.



58. In light of all the above therefore, while we acknowledge the potential for some impact on DVA if our proposal is accepted and believe the Government should take that potential into account in considering our proposal, we assess that the impact, if it arises, should not be particularly significant.

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