

SUBMISSION – Review of Schedule 9 of the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Act 2025*

The Royal Commission into Defence and Veteran Suicide delivered its final report on 9 September 2024, which contained recommendation 122 to “establish a new statutory entity to oversee system reform across the whole Defence ecosystem.”

On 19 September, the Australian Government announced it would accept recommendation 122 to establish the Defence and Veterans' Services Commission (DVSC).

Prior to those occurrences, the *Veterans' Entitlements, Treatment and Support (Simplification and Harmonisation) Bill 2024* (VETS Bill) was introduced into the Parliament on 3 July 2024 and was scheduled for debate in the final sitting weeks of 2024. This timeline did not allow for inclusion of provisions to establish the DVSC in the VETS Bill. Consideration of the VETS Bill in the first sitting weeks of 2025 provided an opportunity for non-government and Government amendments to be moved including to establish the DVSC.

Schedule 9 of the VETS Act establishes the DVSC, as an entity with royal commission-like powers to drive systemic reform focussing on suicide prevention and improving the wellbeing outcomes of defence members and veterans. Drafting of Schedule 9 was informed by proposed amendments put forward by Senator Jacqui Lambie in November 2024 and the earlier National Commissioner for Defence and Veteran Suicide Prevention Bill 2020 but updated to align with the functions of the DVSC, as articulated by the Royal Commission in its final report (Recommendation 122 and Chapter 30).

The extent and efficacy of the Commissioner's information gathering powers are closely modelled on the equivalent powers of a Royal Commission under the *Royal Commissions Act 1902* (Cth), and underpinned by similar administrative arrangements, protections, and criminal penalties. The powers granted will facilitate the Commission's research and inquiry activities and corroboration with coroners across State and Territorial boundaries to understand practical actions to reduce suicide risk.

The Department of Veterans' Affairs (DVA) observes that there is a prescribed function of engaging with, and promoting lived experiences, which will enable the DVSC to play an important role in helping to destigmatise suicide and support better understanding of suicide risks and prevention. The Royal Commission also recommended for a non-statutory advisory body to provide advice to the Commissioner to reflect the diversity of the contemporary serving and ex-serving Australian Defence Force (ADF) community. This aligns with the consistent theme from the Royal Commission findings that future reform should prioritise a lived experience informed and inclusive culture.

DVA notes that the enabling legislation expressly provides for the Commissioner to have full discretion in carrying out their functions and that the Commissioner is not subject to direction in exercising their powers (section 110ZJD). The way the DVSC is designed and described in legislation is consistent with other Commonwealth

oversight bodies, providing the powers required for the Commissioner to undertake their purpose and functions without interference.

However, it is acknowledged that there may be criticisms about a perceived lack of independence or separation from the government of the day, noting the Commissioner is appointed by the Minister for Defence (section 110ZJE), and that the DVSC is established under the *Defence Act 1903*, which resides administratively within Defence.

Recognising the urgency expressed by the veteran community to establish the new oversight body, the amendments to the Defence Act were included in the VETS Act to allow the DVSC to be instituted as per the timeline recommended by the Royal Commission. Because the VETS Act was an amending piece of legislation (that is, rather than operating as a stand alone piece of legislation it amended other Acts such as the *Military Rehabilitation and Compensation Act 2004*), it could not be used to establish the legislative framework for the DVSC as a stand alone piece of legislation, and instead embedded this framework in the Defence Act. DVA understands the Government intends, in line with the original stated intention, for this to be an interim arrangement, and that provisions should be moved into standalone legislation at some future point in time.

Regardless of the provisions being embedded in the Defence Act on an interim basis, the DVSC is designated as a 'listed entity' (section 110ZKA) under the *Public Governance, Performance and Accountability Act 2013*, which provides both a safeguard to the independence of the Commissioner, as well as ensuring transparency in public financial reporting. This status provides for a degree of statutory independence and autonomy from the broader Defence organisation.

The Commissioner will have direct responsibility and accountability for the governance and management of the new entity, and the DVSC would exercise powers and perform functions in its own name. While the Minister for Defence may request the Commissioner to conduct a particular review (section 110ZFB), that is to ensure the DVSC can be responsive where different areas of government identify pressing matters requiring inquiry that relate to the functions of the DVSC. It does not compromise the independence or effectiveness of the Commissioner in making decisions about how the inquiry functions of the DVSC will be performed, and the manner in which those functions are performed.

The DVSC will have accountabilities to government parliamentary oversight on the outcomes of the research and inquiry that is conducted, including any recommendations.

There is also the requirement for an independent review to occur 36 months after the commencement of Schedule 9 (section 110ZLE). In examining the operation of the Commission, the review must also consider whether new standalone legislation should be enacted for the DVSC in the future. These arrangements will support independence and transparency, and public reporting on progress made towards improving Australia's suicide prevention for defence members and veterans.

DVA has received a number of queries about the meaning of the "defence and veteran ecosystem" referred to in the functions of the Commissioner set out in

section 110ZJB. DVA notes that this language draws directly from Chapter 30 of the Royal Commission's final report. The Royal Commission referred to the "ecosystem' of agencies responsible for the wellbeing of serving and ex-serving ADF members and their families (referred to collectively as the defence and veteran ecosystem) through the lens of suicide prevention" (volume 6, page 279). The Royal Commission went on to state:

*Responsibility for suicide prevention needs to be widely embedded. This requires an integrated and collaborative approach between **Defence, DVA, other agencies and non-government organisations at federal and state and territory levels**. This is further complicated by the defence and veteran ecosystem having many component parts, while services are delivered through multiple agencies and providers.*

DVA notes the comments made by the Royal Commission and acknowledged the range of government agencies and non-government organisations that must contribute to the prevention of suicide and suicidality in the defence and veteran communities.

While responsibility needs to be widely embedded, to ensure a systems-level focus and to avoid duplication of functions, the DVSC is not conferred with investigative powers on individual cases or external entities. The Royal Commission did not propose for the DVSC to receive complaints or investigate individual deaths, focussing instead on proactive monitoring and provide strategic policy advice. The establishment of the DVSC as a dedicated new body is specifically developed around the Royal Commission's recommendations to be a catalyst for change, to oversee and drive system-wide reform.

Concluding comments

Over the last two decades the provision of services supporting the mental health and wellbeing of serving and ex-serving members of the military has undergone a number of reviews and policy changes. Schedule 9 of the VETS Act implements one of the key recommendations from the Royal Commission into Defence and Veteran Suicide by establishing the DVSC. To carry out these functions, the Commission has been vested with a range of powers to support its ultimate purpose - the prevention of suicide and improving their wellbeing outcomes of defence and ex-serving ADF members.

DVA is continuing to evolve its understanding of suicide and suicidality risks and to identify services and programs that can be enhanced and tailored to deliver the right level of care, at the right time. DVA welcomes the opportunity to work with the DVSC and the Commissioner to draw insights from a coordinated approach across the whole defence and veteran ecosystem to deliver better outcomes for veterans and their families.