IN THE WAITANGI TRIBUNAL

WAI 2500
WAI 914

IN THE MATTER OF **THE TREATY OF WAITANGI ACT 1975**

AND

IN THE MATTER OF **THE MILITARY VETERANS KAUPAPA INQUIRY (WAI 2500)**

AND

IN THE MATTER OF **A claim by Gilbert Kiharoa Parker, Marianne Huhana Renee Parker and Hone Tiatoa the Te Atatu Lands (Auckland) claim (WAI 914)**

CLAIMANTS

BRIEF OF EVIDENCE OF ROSLYN NEPIA HIMONA

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BRIEF OF EVIDENCE
MAJOR (RETD) R.N.HIMONA RNZIR

INTRODUCTION

1. My name is Roslyn Nepia Himona, known as Ross. I was born in 1943. I served in the New Zealand Army for just over twenty years from January 1962. My regimental number is N30763. My regiment is the Royal New Zealand Infantry Regiment (RNZIR). I rose from the rank of Staff Cadet in 1962 to Major in June 1974. I retired in the rank of Major in April 1982.

2. My evidence relates to service in Peninsula Malaysia, Borneo and Vietnam; mainly Vietnam.

3. I have decided to submit this evidence for four reasons:

   a. I have been asked to do so and I think I can make a worthwhile contribution of benefit to war veterans and their families;

   b. I administer and moderate the New Zealand Vietnam Veterans Group on Facebook with about 650 members, most of them veterans and some family members as well. Many of those veterans became perturbed by some of the evidence presented to the Tribunal at earlier hearings and were concerned that the more outrageous aspects of that evidence would bring our veterans' community into disrepute;

   c. Some of the evidence submitted to the Inquiry is indeed clearly exaggerated and embellished. I am concerned that the many obvious overstatements, might cast doubt on the whole Inquiry, when there are valid causes of disorder. I think also that one should look through the exaggeration and embellishment to the underlying mamae, anger and grief being expressed by veterans and their whanau; and

   d. I believe that the Inquiry can make a positive additional contribution to the ongoing quest by all veterans and their whanau to achieve satisfactory closure of their many concerns.

4. I acknowledge the expert assistance of Wayne Lindsay of the original Whiskey Company in fact checking my evidence and making suggestions to improve presentation. Wayne has acted as a voluntary veterans' advocate for many years and has an impressive record in preparing and presenting claims on behalf of veterans. He has generously made his decades of research and experience available to me as I compiled my brief of evidence.

5. I acknowledge also the help of many other veterans in providing comment, clarification and correction as I prepared this Brief. I am of course wholly responsible for any error in fact or interpretation.

SUMMARY

Introduction

6. The following is a summary of my evidence. Throughout this evidence I challenge the veracity of some other evidence submitted to the Inquiry.

7. However I acknowledge the reasons why that evidence might be overstated, exaggerated or embellished, including the inherent nature of human memory and perhaps an over-eagerness to support the claims. I also acknowledge that there is real underlying mamae expressed in the evidence.

The Concerns of Fellow Veterans

8. This section outlines concerns of fellow veterans who are not participating in the Inquiry but are watching with great interest and expressing their concerns in veterans' forums.

9. I do not share all of their concerns but I am aware that they may become public and affect the reception of the Tribunal's report by the general public, and perhaps by Government. By expressing their concerns I think that may be avoided.

Individual and Group Memory

10. I do share their concern that some of the evidence contains overstatement, exaggeration and embellishment. I include discussion on the fallibility of individual and group memory, with particular reference to war veterans' cohorts.

My Personal History

11. I outline my personal, mostly service related history, including the after-effects of operational service, or in my case the lack of them.

The Effects of War Service on Veterans

12. In this section I discuss many of the factors relating to war service that have led to poor health and disability of veterans; on members of the company I served in and on veterans in general.

13. Before I do that in some depth I discuss the issue of causal relationships between those factors and the disorders suffered by veterans and their whanau. I introduce the Statements of Principles that determine and describe the multiple conditions already accepted as being related to war service, and which eliminate any need to prove causation.

14. The factors I discuss include Agent Orange, insecticides, food, the possibility of DNA damage and immune system damage, skin conditions, parasitic infestation, anti-malarial prophylaxis, post-traumatic stress disorder, musculoskeletal damage, alcohol and tobacco.

15. I rule out some factors commonly referenced in evidence to the Inquiry, including the exaggerated focus on direct spraying by Agent Orange, and the false attribution of disorder to Dapsone. I introduce other factors that may be more relevant.

Veterans' Support Act 2014

16. This is a brief history of the decades' long struggle by Vietnam veterans' to gain proper recognition of their war service, and benefits commensurate with the effects of that service. The new Veterans' Support Act 2014 was a direct result of that struggle.

17. It notes also that the new act is due to be reviewed in 2016 and that recommendations from this Inquiry should be considered as part of that review.

Engagement with the Bureaucracy

18. Here I deal at length with Maori and bureaucracy, engagement with Veterans' Affairs, the need for competent advocacy, and the role of the Veterans' Affairs case manager.

Maori in the Combat Zone

19. This section discusses over representation of Maori in the forces committed to Vietnam and addresses the question about whether Maori were treated differently. I discuss Tikanga Maori and racism, or the relative lack of it, in the New Zealand Army. And I raise the question about how Maori engage or decline to engage with the veteran support system.

There has to be a better way

20. In this section I discuss the need to examine the underlying principles of VSA 2014 and the previous War Pensions Act 1954, adopted and incorporated into legislation in another time, and to revisit those principles with a view to designing legislation for this time and times to come.

21. I assert that the duty of care to war veterans and their families is a moral and social responsibility, not an economic liability. I examine the economics of providing more generous benefits.

Recommendations

22. There are six recommendations listed in detail at the end of my evidence.

THE DISCUSSION

CONCERNS OF OTHER VETERANS

Opposition to the Tribunal

23. Some veterans' comments about the Inquiry reflect a view in New Zealand society that is opposed to the existence of the Waitangi Tribunal and its inquiries. I do not share that opinion but I record it here.

24. There has been opposition to this claim (or these claims) being heard by the Tribunal because of a perception that Maori are claiming something "extra" that Pakeha veterans would not be entitled to when all veterans, Maori and Pakeha, should be treated the same.

25. It is a perception only, as I very much doubt that Government would accept any recommendation that Maori veterans and their whanau should receive more compensation or benefits than Pakeha veterans and their families. In a later section of this evidence I discuss measures that might benefit both.

26. One of my reasons for submitting this evidence, and sharing it with fellow veterans, is to try to head off the development of a rift between Maori and Pakeha veterans by demonstrating that this Inquiry could be of benefit to all veterans, rather than Maori alone.

27. The Vietnam veterans' community has been remarkably cohesive over many decades, uniting both Maori and Pakeha, reflecting the strong and close bonds of brothers-in-arms developed in training and in the combat zone, and I was concerned that perceptions about this Inquiry were beginning to endanger that unity. Sir Wira Gardiner and I have taken it upon ourselves to work with our veterans' group to mitigate their concerns. As commissioned officers and rifle platoon commanders in Vietnam we commanded platoons comprised of Maori and Pakeha, and valued and trusted both in equal measure. We still do.

28. I personally believe that the Inquiry can be of benefit to all veterans by identifying and recommending improvements to the veteran support system that will benefit all veterans.

Concern About False Claims

29. Initially considerable concern was expressed because it appeared that a veteran of an earlier campaign, who was helping to organise a hearing, was also claiming service in Vietnam. His claims were published in a regional newspaper and widely circulated in the Vietnam veterans' community. The fact that he was involved in the Inquiry in any capacity caused alarm and drew attention to the Inquiry.

30. The evidence that caused considerable outrage in our veterans' group was by a short term visitor to Vietnam in which he clearly invented exposure to Agent Orange and made other obviously false claims. It was an outrageously false claim by any standard. It sparked off an examination of other evidence by the veterans' group.

31. Veterans have been reading the briefs of evidence in the Tribunal website and pointing out many claims that are untrue, embellished or exaggerated. As a group we are in a position to attest to the truth or otherwise (as we see it) because we represent all of the sub-units that served in Vietnam.

32. I have carefully read through all of the evidence to date and from my own and others' knowledge of events have identified multiple cases of embellishment or exaggeration, ranging from mild to outrageous. There are probably many reasons for that, relating to time elapsed since Vietnam and to the notorious propensity of the mind to manufacture or reconstruct memory and narrative.

33. I personally think that we should look beyond the content of the claims, regardless of their veracity, to the mamae, to the grief and anger, and to the sense of being ignored or discarded by the system after giving honourable service to New Zealand. The claims themselves are an expression of that.

34. In "*The Effects of War Service on War Veterans*" I identify false claims and also identify reasons why false claims might have been made.

35. Whilst throughout my evidence I bring attention to overstatement, exaggeration, embellishment, and even false statements, the focus of my evidence and recommendations is to address those underlying issues and to make positive recommendations to help resolve them.

36. Vietnam veteran, highly respected and successful Maori advocate Hank Emery agrees. In an email communication[1] he states:

> *"I am glad that you have enlisted the help of Wayne in putting your strategy on paper to correct the erroneous views and opinions that are being put across to the Tribunal. I have read most but not all of the documents. More so, because you mention the lack of cross-examination at getting to the truth behind some of the statements being made and arriving at the hurt and anger that underpins much of the submissions. And the statements of Wayne and others that you mention will help achieve that".*

[1] Hank Emery, 25 May 2016.

Concern About Lack of Cross-Examination

37. There is concern that some of the evidence that is clearly exaggerated, embellished or false has not been challenged through cross examination.

38. This concern arises because many veterans do not understand that the adversarial court system does not apply to Waitangi Tribunal hearings but the panel does question evidence, the Tribunal has its own researchers, and Crown lawyers in their turn do get an opportunity to challenge all evidence, but not through adversarial cross-examination.

Concern About the Some of the Lawyers Representing Veterans

39. Concerns have been raised, concerning overstatement, exaggeration and embellishment in the evidence adduced before the Tribunal, that a "template" or "questionnaire" narrative to briefs of evidence seems clearly apparent.

40. I tend to share that concern.

41. A "template" approach to the briefs of evidence, based on incorrect assumptions, could have the effect of doing more harm than good, despite good intentions.

42. The problem may have arisen because an absence of collateral expertise in the field being available to counsel. I have reviewed a few briefs of evidence where exaggeration and embellishment are present and I believe obvious overstatement by witnesses. I seek to counter that in what I state in my brief of evidence.

Claims of Active Service

43. There are a few attempts to claim active service in Malaysia outside service officially recognised and gazetted as "qualifying operational service"[2]. Airfield protection duty at RAAF Butterworth at Penang in Malaysia is one often claimed by Australian soldiers, and by a witness at this Inquiry. Another has erroneously noted he served during the "Malaya Emergency" in 1967 – 69.

44. Such claims can only be addressed to NZ Defence Force for verification or otherwise. They are however not supported by the evidence[3] [4]. The list of qualifying operational service is at Appendix 1.

[2] http://legislation.govt.nz/act/public/2014/0056/latest/DLM5537933.html

[3] Datuk Dr Leong Chee Woh PhD, "Scorpio, The Communist Eater", Rocky Mountain Press, Colorado, 2014 (9th Reprint)

[4] Datuk Dr Leong Chee Woh PhD, "Scorpio, On the Dragon's Trail", Rocky Mountain Press, Colorado, 2008, 2014 (9th Reprint)

INDIVIDUAL AND GROUP MEMORY

General

45. In this section I am relying partly on the work of a friend and fellow Vietnam veteran who has become a peer reviewed and internationally published oral historian specialising in the Vietnam War[5], and on my own research into the field of cognitive psychology[6].

    a. I have helped the oral historian in some of his research, and have been a sounding board during the development of his Master's thesis. We have also discussed at length the methods of conducting interviews that he has developed to cut through the problems of memory.
    b. As a former Intelligence analyst I have continued to keep up with development in cognitive psychology for it has considerable bearing on intelligence analysis, and on memory.

46. In interviews with multiple participants in the same events the oral historian had discovered that there are as many versions of the same event as there are participants.

47. We are all of course absolutely convinced of the accuracy of our own recollections despite what the science of cognitive psychology now tells us about memory. It is comforting to believe that we are right.

Individual Memory

48. All memory is reconstructed memory. We all of us create in our unconscious minds narratives that explain and give meaning to our lives, and we reconstruct memory to accord with the narrative we continue to build throughout our lives. The narrative is who we are. It is us.

49. In reconstructing memory we unconsciously bury those events that don't accord with our narrative, and we unconsciously emphasise those events that help build the narrative. Sometimes we unconsciously embellish, exaggerate and even invent. No-one is immune although we probably all think we are.

50. One witness illustrated perfectly the unconscious burying and reconstruction of events. The witness stated that he had been put on the wrong aircraft and flew to Whenuapai instead of Vietnam. I was there at the time. He was not on the embarkation list for Vietnam and had been returned to New Zealand for disciplinary reasons. His sanitised version may well by now be his truth, some 49 years after the event. It's a minor discrepancy but does illustrate the point about reconstructed memory.

[5] Major (Retired) E.B.Morris, Royal Australian Infantry.
[6] Kahneman, Daniel, "Thinking Fast and Slow", Allen Lane, 2011, and others.

51. Another example of reconstructed memory is a witness who remembers that he couldn't be deployed to Vietnam in 1967 because his visa had expired. We did not need passports in 1967 unless we were going on leave to Thailand, Hong Kong and other leave destinations outside Malaysia, Singapore and Vietnam. I did not get my first passport until September 1970 by which time I had already entered New Zealand (multiple times), Australia (five times), and Singapore, Malaysia and Vietnam without a passport, or visa. It is a trivial matter but serves again to illustrate the point.

52. Thus it is that although I might classify much Tribunal evidence as being somewhere on my scale of veracity from mild to severe reconstruction, I cannot accuse the witnesses of deliberately lying. It is perhaps just a function of faulty human memory.

53. Thus it is also that a war veteran might grasp at whatever explanation is available to explain why he has a specific or general disorder[7]. There is a deep unconscious need to explain and to bring that disorder within a coherent narrative. How did this happen to me? There seems to be a deep human need to attribute causation or blame. I develop this further in my discussion on the effects of war service.

54. The veteran has the disorder or injury whatever the cause. However the need to discover a war related cause is a powerful unconscious motivator in the building of narratives to justify benefits under the present occasionally adversarial system. One might grasp at the only possible cause one knows about (i.e. Agent Orange) when there may be other more likely causes.

55. I need to emphasise that once constructed the narrative is the truth, as perceived by the mind that constructs it, regardless of the degree of reconstruction. Of course when our narratives are so far removed from reality as to be ridiculous or outrageous we are considered delusional, or even mad.

Group Memory

56. Group memory is a phenomenon common to all cohorts of war veterans, and has been observed in the WW1 and WW2 cohorts as well as our Vietnam cohort. Over time veterans meet at the pub or RSA, gather at reunions and share their stories. Beer often lubricates the sharing.

57. Over a fairly long period of time there develops a group memory in which individuals adopt the shared stories as part of their own narratives. This shared memory or narrative has a remarkable ability to slowly spread throughout a veteran community until it, or parts of it, are widely adopted.

58. The shared stories are augmented and added to by books about the war experience, films, TV documentaries, and the like, especially the images, and

[7] See my later comments on Agent Orange.

including these days, shared Internet stories. Veterans read and see these accounts and bring those stories to their reunions or to the RSA.

59. The oral historian developed an effective way of eliminating the group memory during his interviews with individuals. He would start the interview in childhood, long before the shared military experience, and slowly bring the interviewee up to and into his military service. By doing that he was able to condition the mind of the interviewee to remain in individual rather than group memory.

60. I have several military classmates and friends (all Vietnam veterans) who have worked on contract to the Australian Department of Veterans Affairs, researching claims to verify or refute them. Most claims are verified. But they notice spikes in very similar, sometimes invented claims, immediately after unit reunions where the group memory has been refreshed.

61. I have noticed similar clusters of group memory in the evidence I have reviewed. I note them as I discuss the various effects of war service in Vietnam.

Hearsay

62. One brief of evidence alerted me to the problems of hearsay. In it the brother of a deceased veteran related how his late brother had suffered from the effects of his war service, and how he had overheard his brother and his mates discussing how their company had killed women and children.

63. That evidence caused considerable anger among our group of veterans, including members of the company I served with. For it was our company the witness was referring to.

64. I can verify that his brother had suffered from his war service for it was I who had phoned the witness and informed him that his brother had died. But I was deeply offended by the accusation that our company had killed women and children.

65. When whanau members describe the effects of war service on their loved ones they are describing what they have witnessed. When they relate the stories they have heard it is of course hearsay, and therefore unreliable. Furthermore they are also prone to exaggeration, elaboration and embellishment, and the addition of valid or invalid information picked up from the media and elsewhere.

66. The whanau build their own second-hand narratives around the service of their veteran. Which is not to say that their concerns are not valid. Just some of the narratives. There are a few of them in briefs of evidence to this Inquiry.

MY ARMY SERVICE

67. This is my narrative. My narrative is a Veteran's perspective. If it should assist Veterans then that is its intention.

Enlistment

68. I joined the New Zealand Army straight out of school in January 1962 at the age of 18. My first three and a half years in the Army were spent in Australia training to be a commissioned officer. I was commissioned into RNZIR in June 1965, and was posted as a rifle platoon commander to the 1st Battalion Depot in Burnham for pre-embarkation training.

Malaysia and Borneo

69. About four months later in October 1965 I deployed from Burnham as a rifle platoon commander to the 1st Battalion RNZIR (1 RNZIR) at Terendak Camp near Malacca (now Melaka) in Malaya. Terendak was the base for 28 Commonwealth Brigade, part of the Commonwealth Strategic Reserve.

70. By that time the Confrontation (or Konfrontasi) campaign by Indonesia against Malaysia had begun[8]. The battalion had deployed against an Indonesian incursion in Peninsula Malaysia in 1964, and onto the border in Sarawak (Borneo) for six months in 1965, before I arrived in theatre.

71. At Terendak Camp by the end of 1965 the whole of the 28th Commonwealth Brigade was officially on active service but there was no operational activity except for guard duty around vulnerable points in the garrison, and standby duty in case of another Indonesian incursion into Peninsula Malaysia. Our time was taken up in fairly intensive training as part of the British Commonwealth Strategic Reserve, and in preparation for another operational deployment to Sarawak in 1966.

72. In about May 1966 1 RNZIR deployed on operations to Sarawak for a six month tour[9]. By that time the war with Indonesia was winding down but we were still on an operational footing and spent five months patrolling and ambushing along the border with Indonesia, and in depth in the battalion area of operations (AO). I was a rifle platoon commander for the whole of that deployment. The terrain was tough, rugged, jungle covered and hard on the body.

73. There were no contacts with the enemy during that deployment and we mainly patrolled to intercept incursions by small groups of irregular insurgents known to be trying to cross into Sarawak. A ceasefire had been arranged towards the end of our time in Borneo although there were still incursions by irregulars.

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[8] Pugsley, Chris, 2003, From Emergency to Confrontation, The New Zealand Armed Forces in Malaya and Borneo 1949-66, Oxford, Australia, pp 195-231 and 293-335.

[9] Pugsley, pp 325-335.

74. The time spent preparing for and in Borneo meant that by the time we deployed to Vietnam most of my platoon had spent eighteen months together and we were very well trained.

Preparation for Vietnam

75. We returned to Terendak from Borneo in October or November 1966. The battalion received a half battalion changeover and reinforcement from the Depot at Burnham at that time, and the next few months were spent re-training. As soon as we returned from Borneo our Commanding Officer, Lieutenant Colonel (later Major General) Brian Matauru Poananga[10], visited Vietnam to report on options for the deployment of New Zealand infantry. He was hoping the battalion would be deployed. Sometime in March 1967 the battalion received orders to deploy just a company group to South Vietnam.

76. A new company was formed from elements of C Company and D Company (both of them rifle companies) supported by administrative staff, a mortar section, and an assault pioneer section, plus our own in-country reinforcement troops. We numbered 182 which was about 60 more than a normal full strength rifle company. The company was called Victor Company.

77. About 15% of the 182 were in-theatre reinforcements. We took with us an extra fourth platoon of about 15, and within each of the three rifle platoons we had an extra four soldiers designated as reinforcements. On operations we were forbidden from taking all of our soldiers into the field with us. The reinforcement platoon was detached to the 1st Australian Reinforcement Unit, and each rifle platoon had to leave four soldiers in base at all times, designated Left Out of Battle (LOBs). We rotated that reinforcement or LOB role.

78. Someone in operational planning had estimated that we might suffer up to 15% casualties, including serious sickness as well as battle casualties. Thankfully the estimate was way over the top.

79. Because most of us had already been in South East Asia for eighteen months, and had already been on one operational deployment in Borneo, the deployment to Vietnam of that company (and the one that replaced it – V2 Company) was limited to six months, instead of the twelve month deployments of the later companies. After intense training we flew to Vietnam in May 1967. I was a rifle platoon commander.

Vietnam

80. We joined 6th Battalion Royal Australian Regiment (6 RAR) under command of 1st Australian Task Force at its Nui Dat base in Phuoc Tuy Province. We were under operational control of 6 RAR which was the battalion that had

[10] http://www.vcoy67.org.nz/poananga.htm

fought in The Battle of Long Tan in August 1966. After a few weeks 6 RAR returned to Australia and we joined the replacement battalion, 2 RAR. We were not yet fully integrated as an ANZAC battalion. That did not happen until 1968, after our tour.

81. The official war history[11] records that "*within three days of arrival Lieutenant Ross Himona led 2 Platoon on the company's first patrol outside the perimeter of the base. Three days later the company had its first contact with the enemy*". It was not my platoon in that contact.

82. For the next six months we patrolled and ambushed and participated in a number of battalion and formation level operations[12]. Victor Company was involved in a number of contacts with the enemy but suffered only one KIA in a mine incident[13], and a small number of WIA.

83. However for the whole of that time we were, like all of the rifle companies who served in Vietnam, mostly outside the wire and in constant danger, night and day. The companies that followed us were not as lucky as we were and suffered more casualties than we did.

84. In mid-November 1967 we were replaced by V2 Company and we returned to Terendak. In December those of us who had completed our two-year tour of duty to South East Asia returned to New Zealand. Those who had been in theatre for just twelve months stayed on, and some of them later returned to Vietnam for a second tour.

85. We lost Corporal Morrie Manton[14] KIA in a mine incident during our tour. Three others were KIA on subsequent tours; Jim Gatenby with W2 Company, Malcolm Sutherland with V5 Company, and Ces Fisk with V5 Company. In the Original V Company Ces Fisk had been my platoon HQ machine gunner and personal bodyguard.

Subsequent Service

86. For the next fourteen years I was employed in a variety of roles:

    a. Two years in Wellington as a junior staff officer (1968-69);
    b. One year on a language and analyst's course in Australia (1970);
    c. Three years as an Intelligence analyst in Australia (1971-73);
    d. One year as a company commander training recruits in Waiouru (1974);
    e. Two years as a training staff officer in Waiouru (1975-76):
    f. One year as a student at Staff College in Australia (1977);

[11] McGibbon, Ian (for Ministry of Culture & Heritage), 2010, New Zealand's Vietnam War: A history of combat, commitment and controversy, Exisle Publishing Ltd, New Zealand & Australia, p 188.
[12] McGibbon, pp 188-195.
[13] McGibbon, p 193.
[14] http://www.vcoy67.org.nz/jumping.htm

g. One year as a rifle company commander with 1 RNZIR in Singapore (1978);
h. One year as Battalion Operations Officer & Battalion Training Officer with 1 RNZIR in Singapore (1979);
i. Two years as a staff officer in the Directorate of Infantry & SAS at Army Headquarters in Wellington (1980-82).

87. During my time with 1 RNZIR in Singapore (1978-79) I was also attached to the New Zealand Embassy in Jakarta Indonesia for several short assignments, and for one longer assignment as Acting Defence Attaché.

After the Army

88. In April 1982 I took retirement on Armed Forces Superannuation, which was not much but a welcome additional income. I had also taken out a Returned Serviceman's 3% rehabilitation housing loan through the Department of Maori Affairs and bought a family home in Wellington.

89. I determined that I would, as far as possible, work for myself from then on, and for the most part that was what I did for the next thirty years until I mostly retired in 2012. For most of that time I was a consultant offering various management and training services mainly to Maori development initiatives but also to government and the private sector.

90. For over 30 years I also worked on a voluntary basis in many Maori development organisations and programmes in education, training, health, business development, strategic management, financial management and whatever else needed doing. I probably spent more time in unpaid employment than paid employment.

91. I am now mostly retired focused on reading, research and writing. In some quarters I am best known by my ingoa de plume, "*Te Putatara*".

The Personal Effects of Operational Service

92. I have not personally suffered from my service in Borneo and Vietnam and I am not in receipt of any benefits through New Zealand Veterans Affairs. I did for a few years after my service suffer from musculoskeletal injury to the back, hip and shoulder, but eventually repaired the damage with the help of very good physiotherapist.

93. From about 1980 onwards I recognised that I had a number of health risk factors including:

a. Operational service in Borneo and Vietnam;
b. A stressful work life given that I had resolved to live on my wits and become self-employed for life;
c. Smoking;
d. Alcohol;

e. A strong family history of early death from obesity, heart disease and hypertension; and
f. Dietary intolerances related to Polynesian ethnic heritage such as to dairy products, refined flour and refined sugar.

94. I resolved then to take control of my own health. I have been vegetarian for 30 years and vegan for 15 years. I have been smoke free for 33 years and alcohol free for 28 years. I have exercised daily for the 34 years since I retired from the Army. I currently brisk walk 10 km daily.

95. I calculated that those measures would counteract the stress of self-employment, the family history, and hopefully the after-effects of war service. I don't know whether that regime will ensure longevity but I am trying to ensure good health for as long as I do live.

96. My health regime has worked, or maybe I have been lucky and destined to remain healthy for as long as I have anyway. I might be clinically diagnosed as having the condition known as *orthorexia nervosa*, or as being overly concerned with what I eat. However in the last thirty five years I have suffered no illnesses or ailments apart from the occasional but infrequent cold, and injuries caused by over-training. I have no medical or musculoskeletal conditions and take no medications. I am of sound mind; for the moment.

97. I acknowledge that no reasonable person, war veteran or otherwise, could be expected to adopt such an extreme regime, especially in the nutritional environment where sugar, salt and fat laden industrial and junk foods predominate, where that food is skilfully marketed as healthful when it is not, and where unhealthy food is often cheaper than healthy food.

98. However that harmful nutritional environment can only do further harm to the veteran who might be more susceptible because of conditions relating to war service, perhaps including exposure to toxic chemicals and immunodeficiency disorder.

THE EFFECTS OF WAR SERVICE ON WAR VETERANS

General

99. Notwithstanding my own obsessive focus on health I am acutely aware of the ill health of many of my brothers-in-arms in our company and on others in the Vietnam cohort.

100. In this section I will discuss those health effects. But before I do that I need to discuss the subject of causation.

Causation

101. Many veterans and their whanau are still trying to prove that their disorders were caused by war service. That battle was won in 2006 when the Memorandum of Understanding was signed with Government. Nevertheless some veterans battle on, despite there being a long list of recognised conditions for which no proof of causation is required in order to gain veterans' benefits[15]. The cause most often cited is Agent Orange.

102. There is significant disparity between the scientific evidence and the anecdotal evidence about the health effects of Agent Orange on Vietnam veterans and their whanau. Given the long running campaign to have government admit that herbicides were used in Phuoc Tuy province, and the success of that "*Agent Orange*" campaign in bringing about greater recognition of the needs of Vietnam veterans, Agent Orange has become imprinted deep into individual and group memory and narratives as the single biggest causal factor of disorders in veterans and their whanau.

103. It is Agent Orange that persists in individual and group memory and narratives, although most of the recognised war service conditions do not relate to Agent Orange. However the campaign was promoted as the "*Agent Orange*" campaign.

104. Agent Orange was the public focal point of that campaign but it was not the main issue. The actual main aim was to breach the political and bureaucratic defences, to confront the overall issue of how Vietnam veterans had been treated for decades, to gain wide ranging reforms, and to gain improved access to benefits for a wide range of conditions. Agent Orange was the Trojan Horse.

105. Wayne Lindsay who has successfully processed claims for over 110 veterans does not cite Agent Orange as a cause of disorder, for there are already multiple conditions that are accepted without the need to cite or prove any causation.

106. Those conditions are detailed in the Statements of Principles (SOP)[16] developed scientifically by the Australian Government Repatriation Medical Authority and adopted in their entirety by the Veterans Support Act 2014 (VSA 2014) and by NZVA. They cover the following:

- Blood and Blood-forming organs;
- Circulatory System;
- Congenital Anomalies / Hereditary Conditions;
- Digestive System;

[15] http://www.rma.gov.au/sops/
[16] http://www.rma.gov.au/sops/

- Endocrine, Nutritional, Metabolic Diseases;
- Genitourinary System;
- Infectious and Parasitic Diseases;
- Injury;
- Mental Disorders;
- Musculoskeletal System and Connective Tissue;
- Neoplasms;
- Nervous System, Sense Organs;
- Other;
- Respiratory System; and
- Skin and Subcutaneous Tissue.

107. Within each of the SOPs categories are a large number of Statements of Principles (SOPs), each covering specified medical or psychological conditions. There is really no need to search for causation, or to attribute causation to Agent Orange, or to some other factor, for the conditions have already been accepted. The SOPs also state exactly what symptoms are to be present, and to what degree, for the condition to be accepted as related to war service.

108. The complete list of SOPs (ten pages of them) is at Appendix 2. An example of an SOP, in this case PTSD, is at Appendix 3.

109. A determination to attribute an Agent Orange or other cause to various conditions, and an almost obsessive fixation on Agent Orange by some, may indicate that some veterans are unaware of the conditions that have already been accepted to be the result of war service.

110. I have been surprised during the writing of this Brief by just how many usually well informed veterans do not know about the Statements of Principles, and about the extensive list of accepted conditions.

The Effect of a Fixation on Cause

111. I am concerned that a fixation on proving causation, especially Agent Orange, might itself be having a detrimental effect within the veteran community, and in the case of this Inquiry, on Maori veterans and their whanau.

112. Culturally we have long accepted death, disability and deformity as part of life, much more so than our cultural partners in Aotearoa New Zealand. Our culture is not characterised by a need to endlessly seek causation or to attribute blame. We accept the normality of death, disability and deformity. We accept the grief that comes with it, and for those things that cannot be fixed or changed, we carry them with us into our lives. In that sense it is a mature culture.

113. It was the Greek philosopher Epitectus (55 – 136 AD) who put it succinctly when he said, *"It's not what happens to you, but how you react to it that matters"*. That is, when something happens, the only thing in your power is your attitude toward it; you can either accept it or resent it. And resentment can blight a life.

114. What we are seeing within the veteran community is that many of us have been unable to accept, to grieve, pick up the grief and carry on. Even when or if the death, disability or deformity falls within the statistical normal range for the New Zealand population, we seem unable to accept it, and determined to blame, and to link it to war service.

115. We seem to be stuck in limbo, stuck there for decades, grieving and angry and immersed in our mamae. I detect also a sense of guilt that we did this to our whanau. If we think it is beyond the range of normality, whether it is or not, we think it is our fault. When of course it is not. We served our country with honour. Our country took a long time to honour us in return but it did finally get round to it in 2008.

116. I think that the lingering sense of guilt is expressed in some of the mamae characteristic of so much of the evidence before this Inquiry. I don't know what we might do about that, but it is the mamae we should address, rather than the endless and ultimately damaging quest to attribute causation and blame. We need to find a way through the mamae.

117. Part of that may be in developing a greater understanding of the evolution of the claims process and particularly how it now operates under the revised legislation, VSA 2014. The end point in that is understanding just how many and what conditions have already been accepted as war related, without the need to prove causation.

118. Part of it might be as simple as a funded programme to proactively inform every veteran about all of the conditions covered by the SOPs, and to encourage veterans to take up the free annual medical examination (AMA) with their GP. At present only about 50% of veterans avail themselves of the free AMA.

The Evolution of the Claims Process

119. Under the War Pensions Act 1954, which was designed for WWII veterans, there was no provision for the possibility of different effects and disorders suffered as a result of different conditions encountered in different combat zones. For instance, the possibility of a toxic chemical environment was not envisaged when that Act came into force, and the medical establishment assessing the symptoms of veterans who might have been chemically exposed did not have the training and experience to assess its possible effects.

120. Under that legislation a veteran made a claim on VANZ (or its predecessors) and medical appointments were then made to establish:

    a. That the veteran actually suffered from the claimed condition:
    b. A medical opinion as to whether the specialist considered that the condition may have been attributable to the veteran's service; and
    c. The percentage of impairment for the disability.

121. That system was fraught with problems because older GPs did not understand the changed circumstances of the Vietnam veteran's service. It was also suspected by veterans' advocates, with some anecdotal justification, that some of the younger GPs had been opposed to the Vietnam War and along with many New Zealanders, were less than sympathetic. Whatever the reason many claims were denied. Furthermore, the long term NZ Government denials concerning Agent Orange served to distract and did little to appraise doctors of the true extent of the effects of war service in Vietnam.

122. An advocate who worked against those restrictive conditions comments:

> *"Added to that some Specialists provided negative reports (disadvantaging the veteran) so that they could remain on the lucrative gravy train of providing reports to ACC and Veterans Affairs. This may sound cynical, but believe me it was happening".*

123. As a result the claims process was a struggle for most.

124. The next step in the process was to apply for a review of the decision, and this is where various extraneous factors came into play (i.e. drinking from filthy contaminated streams).

125. In the mid to late 1990s and early 2000s John Moller, along with Vic Johnson and a few others, were very active in obtaining rightful entitlements for post WWII veterans as well as having recognised, despite NZ Government denials, that Agent Orange was used in Vietnam. John's submission to the Select Committee is a public document and a number of veterans and their advocates latched onto these aspects of his submission because they found that it assisted in having declined conditions overturned.

126. Over the years, VANZ and its predecessors have always maintained a reactive attitude towards veterans rather than a proactive approach and as a result dealing with them became a "them" and "us" struggle. As a result of that adversarial process many adopted the arguments John Moller submitted to the Select Committee in 2003, simply because VANZ accepted the argument.

127. This poses a conundrum in the present day, and at this Inquiry, in that some previously accepted arguments that were successful in gaining veterans' benefits, have since been shown to be no longer valid (e.g. the extent of Agent

Orange exposure, and the assumption about drinking Agent Orange contaminated groundwater). However with the introduction of the Veterans Support Act 2014 and the associated Statements of Principle, and perhaps with some new evidence about other chemical exposure, the conundrum has resolved itself.

128. The disorders are now attributable to war service even though the originally stated causes might no longer be valid. I am not in any way denigrating the work of my friend John Moller, and others, for at the time it was a valuable and significant piece of work. It has since been overtaken by new evidence and a new claims system.

129. And because some of those arguments regarding causation are no longer valid there is no place for them within the claims/review process. Nor, in my opinion, in the considerations of this Waitangi Tribunal Inquiry. I draw attention to them during my evidence.

130. As I have noted above, before the new legislation (VSA 2014), and before the SOPs, the system of applying for benefits was much more adversarial and causation was important to justify claims. Many were successful based on what we now know to be implausible evidence of causation (e.g. direct spraying by Agent Orange, and Dapsone prophylaxis).

131. What are important now are the symptoms rather than the causes.

132. Notwithstanding that, there are sometimes service related conditions outside those covered by the SOPs. In those cases the veteran will need the services of a knowledgeable and experienced advocate to help him or her through the benefits screening process, and through the inevitable appeals arising from non-SOP conditions.

133. While veterans' disorders are now covered by SOPs, and there is no longer a need to focus on causation, there may be some children's disorders that are not covered. To date these are the congenital anomalies and hereditary conditions covered by the SOPs[17]:

- albinism
- alpha-1 antitrypsin deficiency
- autosomal dominant polycystic kidney disease (previously known as: polycystic kidney disease)
- Charcot-Marie-Tooth disease
- Gaucher's disease
- haemochromatosis
- haemophilia
- hereditary spherocytosis

[17] http://www.rma.gov.au/sops/category/congenital-anomalies-hereditary-conditions

- horseshoe kidney
- Huntington's chorea
- Marfan syndrome
- multiple osteochondromatosis
- osteogenesis imperfecta
- sickle-cell disorder
- von Willebrand's disease
- Wilson's disease

The Original Victor Company 1967

134. Of the 182 in the original Victor Company 54 or 30% served one more tour, and 7 of those served a total of three tours in Vietnam. Those who did multiple tours were mostly private soldiers and junior NCOs, for that was where the manpower was most needed to maintain the commitment.

135. With continuing good health I consider myself very lucky as about one third of my platoon has died since Vietnam; it seems some of them earlier than might be expected. More than another third suffer from a variety of serious illnesses, some of them life-threatening and terminal. I am one of the few without disorder.

136. Raymond "Red" Beatson, a friend and fellow platoon commander in the company has done a much more detailed analysis of his platoon and said this in an oral history interview in 2007[18]:

> *"I went to a funeral in Riverton of one of my soldiers. There were a number of veterans there, also from my platoon. Of the six pallbearers only one was in full time employment. The remainder were either total or partial beneficiaries. For me that was a wake-up call. The submissions that had been called for by the Working Group on Vietnam Veterans' Concerns were closing about ten days after that funeral. So I decided to get off my backside and do something about it. The fact that these guys were in need was a wake-up call for me.*
>
> *"I found that in my platoon of 35, 12 of them or 34%, were dead at the time I made my submission. Another 20% weren't working. More than half of those who in 1967 going to Vietnam were in peak fitness, were jumping out of their skins. Of those that were dead, two had been killed in action, four had cancer, five had heart problems and one had taken his own life. A number had circulatory problems. Others had bypass operations, system failures, diabetes and other forms of cancer. A lot appeared to have psychological problems as well.*

[18] Hall, Claire, "No Front Line, Inside stories of New Zealand's Vietnam War", Penguin, 2014, p 284

"I also had concerns about the effects on families with husbands with problems who were being supported by their wives, partners and their children. There were lots of issues that follow on. As well there were a number of my men who had children with birth defects, deformities which could be said to be related to the effects of toxic agents that we were involved with".

137. In relation to birth deformities in children of veterans Brian Wilson, a soldier in Beatson's platoon said in an oral history interview[19]:

"Like a lot of veterans who've got more than one child, some children seem affected and some don't. Joanne, our first child, seems to be normal in every way. Linda's the one who had things wrong with her at birth. She had the deformed foot and the extra nipples from birth. Her situation was driving me. I never talked to my wife Anne much about it because we didn't want to make Linda's problems a source of friction between us. I blamed myself, right from the birth. The minute I saw I knew straightaway it was something to do with me. And I tried to get my doctor to test for it and he didn't know what to do. He said there's nothing he could test for it and he didn't know what to do. It was the luck of the draw. He'd never heard that any herbicide would do damage like that. He thought it was some biological quirk. I couldn't get any answers from the medical community at all".

138. John Jennings was a soldier in my platoon. Both he and his family have been affected by his PTSD. They have submitted evidence to this Inquiry[20]. They too have suffered birth deformities.

139. In his brief of evidence Sam Williams[21], another soldier in my platoon, relates his experience and the after effects of war service on himself and his children. His experience would be typical of many who served in our company.

140. Richard Easton, a soldier in my platoon, talked about his problems in another oral history interview[22]:

"I took my frustrations out on people. I wasn't a nice person, to the extent that I focused purely and simply on work, work, work. When I got married I had a nasty streak. I wasn't violent but there was a residue. Joy had to put up with a lot, more mental abuse than physical. I still find that most nights I lie awake thinking about something that's happened in that period of my life. It still affects my

[19] Hall, p 286
[20] John Jennings & Sharmaine Jennings, Brief of Evidence, March 2016.
[21] Sam Williams, Brief of Evidence, 16 February 2016.
[22] Hall, p 281.

sleeping patterns. I wake up in a sweat, absolutely shitting myself, because the frogs have gone quiet".

141. A soldier who witnessed Corporal Morrie Manton killed by a mine records his own PTSD symptoms[23]. His complete recollection is at Appendix 4:

> "*It fucks me up to talk about this and I have nightmares about it fairly frequently, yelling out a warning to him not to move but no sound comes out of my mouth - The dream always ends the same way with a brilliant explosion and me waking up screaming*".

142. Brian Wilson also spoke about his own problems[24]:

> *"In those early years before the kids Anne used to have a hell of a time. I probably wouldn't have got through it without her; she was the rock that bloody held me together. She used to wake up with me strangling her. I'd have her at the end of the bed. Or I'd be dreaming I was getting shot and chopped up with a bayonet, and I'd be jumping around the bed and throwing things around. I don't know how she put up with me. Plus I was drinking an awful lot. Luckily, I suppose, Alcohol was the drug of choice. A few guys did go on the other stuff and it totally destroyed them".*

143. At our last company reunion in 2014 I was deeply disturbed to hear of more serious illness and disorder within our ranks.

Agent Orange

144. In this section I challenge the exaggerated emphasis on Agent Orange as a causal factor in disorders arising from exposure to toxic chemicals. However in the following section I present preliminary evidence of exposure to other toxic chemicals.

145. In matters concerning Agent Orange research, and the battle to have Agent Orange recognised as one causal factor in veterans' ill health, I defer to the expertise of John Moller (W2 Company), Rex Barron and Victor Johnson (V3 Company), and Noel Benefield (1st Australian Logistics Support Group). Vic Johnson[25] has submitted evidence and Rex Barron offered evidence to the Inquiry.

146. Rex Barron and Victor Johnson served in the same platoon in Victor 3 Company and have somewhat different views on Agent Orange. Yet both bring their own expertise and valuable insights. It is a difference of opinion

[23] http://www.vcoy67.org.nz/jumping.htm
[24] Hall p 282.
[25] Victor Johnson Brief of Evidence, 11 March 2016.

that will ultimately be resolved by the scientific evidence. In the meantime anecdotal evidence and scientific evidence co-exist.

147. Rex Barron disputes the theory of secondary contamination and exposure. He also disputes the assumed quantities of dioxin in the herbicides sprayed as part of Operation RANCH HAND. He disputes the widespread belief that New Zealand soldiers were directly sprayed with Agent Orange, and the effects of dioxin on human health. He produces epidemiology and mortality reports to validate his evidence about the effect, or lack of effect, that Agent Orange has had on the health of Vietnam Veterans.

148. Regardless of the validity of the evidence, whether anecdotal or scientific, Agent Orange has become a distraction from other possible causes of disorder. In one sense Agent Orange has become the catchall cause of all or most disorders suffered by many war veterans; a convenient shorthand explanation for everything in the mind of the veteran and his whanau (and perhaps their lawyer) when in fact there may be, and probably are, many more likely causes of disorder.

149. In my opinion that exaggerated focus on Agent Orange as the cause, or a major cause of disorder, is obvious in much of the evidence presented so far to the Tribunal. For instance, New Zealand soldiers were not directly sprayed with Agent Orange, contrary to all of the anecdotal evidence.

150. Data available shows that the actual aerial spraying of Agent Orange over Phuoc Tuy province was nowhere near the intensity and degree of saturation claimed in some of the evidence. Data also shows that the last actual aerial spraying of Agent Orange in Phuoc Tuy province was on 30th June 1968 (See Appendix 5 – Extracted Phuoc Tuy data from USAF Data Services "Herb Tapes, Defoliation Missions in South Vietnam 1965 – 1971"[26]).

151. Therefore the last infantry companies that may (or may not) have been directly sprayed, or that may have operated in recently sprayed areas, were V3 Company (June 1968 to May 1969) and W Company (November 1967 to November 1968). The companies that were in Vietnam up to that time represent only 45% of all the infantry companies that served in Vietnam.

152. All evidence by veterans who arrived in Vietnam after June 1968, and who have claimed to have been sprayed with Agent Orange whilst on operations "by planes overhead", and to have operated in a mist of spray or similar recollection, is exhibiting faulty or reconstructed or group memory.

153. And, as I recall, prior to July 1968 all Australian and New Zealand troops were kept out of areas about to be overflown by air missions. That obviously applied to pre-planned bombing missions. It also applied along the flight

[26] http://bluewaternavy.org/navydocs/herbtapes00108.pdf

paths of spraying aircraft to allow their airborne forward air controllers (FACs) and their fighter escorts to retaliate and suppress enemy ground fire. It was a simple command and staff procedure to establish those "free fire zones" in specified areas for specified periods.

154. Attached at Appendix 6 is an extract from the 1st Australian Task Force Commanders Diary for 8 January 1968. At Serial 1271 the duty officer's log records a request from 9 Division for approval to defoliate on a specific date at a specific time, and in specific areas. It was approved and clearance was given to "*return fire for fire*", confirming that troops would not be in that area at that time.

155. At Serial 1273 it records notification by the G2 (Air) that the TRAIL DUST defoliation mission would be flown on 9 January 1968, with times and areas specified. TRAIL DUST was the codename for the herbicide programme, now known as RANCH HAND after the codename for the actual missions.

156. That particular defoliation mission is also recorded in the USAF "Herbs Tapes" at Appendix 5. There are several such entries in the logs from February to June 1968 that correlate with the 'Herbs Tapes".

157. The Commanders Diaries[27] for all units and headquarters are available online at the Australian War Memorial. They record every LOCSTAT (location statement), SITREP (situation report), and contact report, and every radio communication. They also contain all instructions and orders. With a lot of work they can be used to track the location of every platoon and company on patrol or operations for the whole of the Vietnam deployment, and thus to correlate with spraying missions, which are also recorded in the diaries.

158. Appendix 6 (the duty officer log) illustrates this with LOCSTATS for Victor Company and Whiskey Company at Serials 1275, 1278 and 1282 over a 90 minute period on 8 January 1968.

159. Contrary to what many now believe, when they insist that they were directly exposed to Agent Orange, the "*Agent Orange*" campaign by Vietnam veterans was actually built on the premise that indirect exposure to herbicides and pesticides in Vietnam was as relevant as direct exposure. The case was made that there was a latency effect in which some of the toxic chemicals remained in the environment, affecting humans, and perhaps the food chain.

160. Colonel Ray Seymour[28] presented evidence to the Parliamentary Select Committee on Health in 2003, about the 356 occurrences where New Zealand troops "*most probably came into contact with the Agents Orange*"[29]. He identified one location that had been sprayed at least eight days before troops

[27] https://www.awm.gov.au/collection/awm95/

[28] Formerly Lance Corporal Seymour in the Original Victor Company

[29] Marriott, Allan, "A Bridge Over, the story of John Masters, veteran fighter", 2009, p. 168.

had arrived, 34 locations that had been sprayed between one month and six months prior, 48 locations between six months and one year prior, and 273 locations that had been sprayed over one year prior to New Zealand troops operating in the area. Given that the Agent Orange missions ended in June 1968, and the last troops pulled out in December 1971, some of those 273 "*most probable*" occurrences might have been up to 3 ½ years or more after spraying.

161. John Moller explains how direct spraying was not necessary to expose soldiers to the toxic effects of Agent Orange[30]

> *"It is a fallacy that the troops had to be directly sprayed in order to be contaminated with Dioxin which has the characteristic of binding to fine soil particles. This means that places like the Firestone and Blackstone trails plus fire support bases were a source of airborne contamination in the dry season when surface dust was formed by APC travel and helicopter downwash. Fine sediment in water sources such as streams close to defoliated areas meant exposure through drinking water as well. Some of the AO missions recorded by the USAF were in fact Agent Pink which had a much higher contamination level.*
>
> *"Some NZ units operated in other provinces other than Phuoc Tuy. My platoon at one stage acted as a protective shield for the US bulldozers in a land clearing operation out from Bien Hoa. The area had been defoliated prior to the land clearing".*

162. The question then is not whether our troops were directly sprayed with Agent Orange, but how many of them came into contact with residual dioxin in sufficient concentration to cause long term effects.

163. My own platoon did on one occasion in 1967 that I recall operate in an area or close to an area that had been recently sprayed, and we operated in a few areas that had been defoliated for some time. We also operated in areas that had been clear felled by Army Engineers. Some may have mistaken the clear felling for defoliation.

164. Some who served before and after 30th June 1968 may have confused Operation RANCH HAND (Defoliants - Agents Orange, White and Blue) with direct spraying by Operation FLYSWATTER (Insecticides). Operation RANCH HAND was flown by camouflaged C123 aircraft, usually three aircraft in formation. Operation FLYSWATTER delivered anti-malarial insecticide by a single un-camouflaged C123 aircraft. The aerially delivered insecticide was the slightly toxic Malathion (see Appendix 7 – Op FLYSWATTER).

[30] John Moller, email, 25 May 2016.

165. Other insecticides were also sprayed at Nui Dat by helicopter and by hand. These toxic insecticides have often been mistakenly identified as Agent Orange.

166. A few claims about large quantities of Agent Orange stacked in drums in Nui Dat or Vung Tau are not supportable. The aerially sprayed Agent Orange was stored, mixed and sprayed by the Americans in a few identified air bases, not in the Australian bases. There were however quantities of other chemicals in the bases.

167. I am not disputing that there are serious medical conditions suffered by veterans and their whanau. It is obvious that many of them have suffered a great deal. However it is also obvious that there is a great deal of imagination and exaggeration in many accounts of exposure to Agent Orange, and therefore in the degree to which disorder is attributed to Agent Orange.

168. Studies commissioned by the Australian DVA into Vietnam veterans mortality[31], and the wellbeing of families of Vietnam veterans[32] are interesting in that regard.

169. The Third Australian Vietnam Veterans Mortality Study 2005 found that in Army veterans:

> *"There were 4,045 deaths among the 41,084 Army Vietnam veterans. The most common causes of death were from neoplasms (1,323), circulatory diseases (1,136) and external causes of death such as suicide and motor vehicle accidents (954), comprising 84% of all observed deaths.*
>
> *"Army veterans had an overall mortality which was 7% lower than expected.*
>
> *"None of the causes of mortality analysed showed a higher than expected mortality rate for Army veterans .... However, mortality from several causes of death was significantly lower than expected. ... Notably, mortality from respiratory diseases, circulatory diseases and specifically cerebrovascular disease or stroke was lower than expected. Mortality from all other causes was not significantly different from expectation".*
>
> *"... 1,323 deaths from neoplasms among the Army Vietnam veterans. The most frequently occurring causes of cancer deaths were from lung cancer (339), gastrointestinal cancer (206) and genitourinary cancer (122).*

[31] http://www.dva.gov.au/health-and-wellbeing/research-and-development/health-studies/mortality-and-cancer-incidence

[32] http://www.dva.gov.au/health-and-wellbeing/research-and-development/health-studies/vietnam-veterans-family-study

"Overall mortality from neoplasms among Army veterans was not significantly different from the Australian population. There were no individual cancers for which mortality was lower than expected. However, mortality from lung cancer, cancer of the oral cavity, pharynx and larynx and its subgroup, head and neck cancer was higher than expected. Mortality from eye cancer was also significantly higher than expected based on 5 deaths. …. Mortality from all other cancers analysed did not differ significantly from the Australian population".

170. The Australian DVA Vietnam Veterans' Family Study found that:

"When examining mortality amongst the children of Vietnam veterans, the research found that the children of Vietnam veterans and Vietnam-era personnel had lower mortality rates when compared to the general population, and that there were no significant differences in deaths from cancer.

"The research did not find a causal link between a father being exposed to Agent Orange and the health of children".

171. The results chapter of the Mortality Study is at Appendix 8. The factsheet covering the four volumes of the Family Study is attached at Appendix 9.

172. Perhaps the intent of this Inquiry itself, to discover whether that war service, including exposure to toxic chemicals, has and will have long term intergenerational genetic and perhaps other effects on Maori, is bringing forth exaggeration, based on group narratives now widely believed.

173. There may be other more evidential causes of long term disorder, disease and illness throughout the whole cohort of Vietnam veterans, not just those who were, or may have been, or thought they were exposed to Agent Orange in Vietnam.

Insecticides

174. Although individual and group narratives about the prevalence of exposure to the Agent Orange herbicide have been way overstated in some evidence, and in many cases it did not happen, the possible exposure to toxic insecticides has probably been understated because of the undue focus on Agent Orange.

175. It has been raised by a few who were involved in insecticide spraying duties.

176. There is preliminary evidence that everyone who served in the Nui Dat base for the whole of New Zealand's deployment to Vietnam was exposed to the insecticides used inside the wire (i.e. inside the Nui Dat base), especially during the wet season, when the threat of insect borne disease was greatest. This could be a cause of problems veterans now attribute to Agent Orange.

177. It might account for problems incurred by those who spent most of their time inside the wire, as well as by those who operated mostly outside the wire. The former would then not have to invent exposure to Agent Orange. Ironically those on base duty would have had more prolonged exposure to insecticides in the wet season than those on combat duty outside the wire.

178. I enclose a paper written by Dr John Mordike PhD, a former Australian officer and Vietnam veteran, now a professional historian (see Appendix 10).

179. He details what chemicals were used at Nui Dat, and in what quantities over specified periods. He cites evidence about the toxicity of the chemicals, and also shows that toxic chemicals were sprayed by air and by hand over and around the whole of Nui Dat, for the whole of the deployment in Phuoc Tuy. That was despite contrary advice from August 1970 onwards, by the experts in the Field Hygiene Unit.

180. He writes that six residual insecticides (more dangerous than knockdown insecticides) are known to have been used in the Nui Dat base; Dieldrin, Chlordane, Lindane, Diazinon, DDT and Malathion. The first three are classed as "extremely toxic" and Diazinon as "very toxic". DDT is "moderately toxic" and Malathion "slightly toxic". Dr Mordike notes:

> "On 22 May 2001, delegates from 120 nations, including Australia, signed an international treaty banning **twelve of the world's most dangerous chemicals** in Stockholm. The dangerous chemicals were described as *'persistent organic pollutants* [which] *are among the most dangerous of all manufactured products and toxic wastes* ***which cause fatal diseases and birth defects in humans*** *and animals'*.
>
> "Dieldrin was one of those chemicals. Chlordane was another.
>
> "Both of these insecticides were used regularly at the 1 ATF base at Nui Dat".

181. As an example of the quantities of chemicals dispersed Dr Mordike's paper states that "*in a three-month period in 1968, 1,120 gallons of 'extremely toxic' Dieldrin and Chlordane alone had been dispersed at Nui Dat*".

182. That international treaty (The Stockholm Convention on Persistent Organic Pollutants) specifically states that two of the chemicals used at Nui Dat cause "*fatal diseases and birth defects*". There is research that indicates that Chlordane inhibits the immune system and weakens the body's ability to fight cancer cells.

183. There is also evidence that some insecticides may be mutagenic. In genetics, a mutagen is a physical or chemical agent that changes the genetic material,

usually DNA, of an organism and thus increases the frequency of mutations above the natural background level.

184. This information does have implications for the children and grandchildren of Vietnam War veterans. It will need to be peer reviewed and independently confirmed, but more research into the long term effect of toxic insecticides on New Zealand Vietnam veterans and their whanau seems warranted.

185. Wayne Lindsay comments[33]:

> *"Although the Memorandum of Understanding signed off on 6 December 2006 acknowledged that Vietnam veterans operated in a toxic environment, nothing has been done about it since. It appears to be a case of "well we have apologised for that, so that is done and dusted". The government has sat on its hands ever since. This further supports your argument that proper toxicology testing should be carried out".*

186. That toxicology testing might, or might not, resolve the issue.

Insect Repellents

187. The insect repellent that we were issued in Malaysia to apply to the seams of our clothing was Dimethylphtalate (DPH). This had been found to be the most effective protection against the Scrub Typhus mite.

188. I am not aware of any DPH side effects suffered by my soldiers during my time in South East Asia.

189. In Vietnam, we were issued with the American product: N,N-diethyl-m-toluamide, commonly called DEET. DEET aided the absorption of the chemical 2,4-D and 2,4,5-T (components of Agent Orange) into the human system at a much greater rate.

190. DEET may have added to the toxic mix of chemicals some might have been exposed to in Vietnam (before July 1968) but on its own may not have been a major factor. The United States Environmental Protection Agency does not consider DEET to be a threat to human health.

191. Disease prevention is a very important concern in operational units and formations. Historically disease has caused a greater loss of fighting men than combat itself. In WW1 and WW2 dysentery was one of the main causes of manpower reduction. In the Asia Pacific from WW2 onwards it has been malaria. A strict prevention regime has been developed over the years to minimise the incidence of malaria.

[33] Wayne Lindsay, email, 26 May 2016.

192. Insect repellents were a necessary component of disease prevention, along with anti-malarial prophylaxis, mosquito nets and policy about minimum exposure of bare skin after dark. Ironically the insecticide spraying programme in Nui Dat was a major part of disease prevention policy and practice.

193. Apart from malaria there are other insect borne diseases and infections. A study in Phuoc Tuy province, Vietnam, found 17% of 94 soldiers with fevers of unknown origin (FUO) were suffering from scrub typhus infection.

194. Some of the skin conditions that have been ascribed to the use of insect repellents may actually have other causes and "insect repellent" may be another example of group memory, or convenient causation.

195. However from personal experience I can affirm that dhobi rash, when in contact with the insect repellent in the crotch of the trousers, did become a bit of a problem, sometimes quite a severe problem.

Dhobi Rash

196. *Tinea cruris* and *tinea pedis* were the most common skin conditions in the tropics, in both Malaysia and Vietnam. *Tinea cruris* was commonly known as crutch rot, jock itch or dhobi rash. *Tinea pedis* is athlete's foot.

197. In our battalion and companies *Tinea cruris* was known as dhobi rash. The dhobi wallah is the Indian name for the Indian, Chinese or Vietnamese washerman who contracted to wash all of the battalion's clothing. It was thought that fungal infections could be spread in clothing that had not been properly washed at very hot temperatures, hence the name dhobi rash.

198. One reason why *Tinea pedis* was prevalent in Vietnam was because of the timber duckboards in the showers which were constantly damp, and along with the hot climate, conditions were ideal for it to spread.

199. In the hot climate where the feet and crutch were constantly wet the fungal infection would flourish. Both conditions could become serious and debilitating if left untreated. Some soldiers contracted the infection more readily than others and had to be monitored to ensure they did not try to carry on soldiering without proper treatment. Officers and NCOs were trained to make sure that soldiers dried the feet and crutch whenever possible and applied powder.

200. After every operation or training exercise the platoon commander was supposed to inspect the feet and crutch of every NCO and soldier for signs of fungal infection. It was known as the FFI or "Freedom from Fungal Infection" inspection. To avoid my soldiers the embarrassment of having their boss poke around their private parts I usually delegated the task to the company or platoon medic.

201. Soldiers from some platoons do not recall frequent FFI inspections.

202. We would as often as possible put our platoons into shorts and sandals with no shirts to allow the sun and air to dry out the skin. It was not unusual in Malaysia to see most of a platoon walking around with purple toes from the gentian violet. In Vietnam it was not possible to wear sandals around the base but we did ensure that those with the worst infections remained in the platoon tent lines with their boots off until the infection cleared up.

203. Fungal infections in a variety of manifestations very often linger on for decades, even for life, unless properly treated and eradicated. The treatment may take weeks or months after returning from the tropics. *Tinea* is included in the Statements of Principles[34] as a war related condition.

204. *Tinea cruris* and *tinea pedis* may not be recorded in medical records because *tinea* was so prevalent it was often treated locally by the soldier himself or by the company or platoon medic. Gentian violet was often carried by the medic and foot and crutch powder was issued to every soldier from the Q Store.

Other Skin Conditions

205. The following skin and subcutaneous tissue conditions[35] are included in the Statements of Principles as conditions accepted by NZVA to be the result of war service:

a. allergic contact dermatitis (previously known as: contact dermatitis)
b. chloracne
c. dermatomyositis
d. discoid lupus erythematosus
e. ingrowing nail (previously known as: ingrown toenail)
f. irritant contact dermatitis (previously known as: contact dermatitis)
g. localised sclerosis
h. photocontact dermatitis
i. pilonidal sinus
j. porphyria cutanea tarda
k. psoriasis
l. psoriatic arthropathy
m. reactive arthritis (previously known as: Reiter's syndrome)
n. relapsing polychondritis
o. rheumatoid arthritis
p. seborrhoeic dermatitis
q. seborrhoeic keratosis
r. solar keratosis (previously known as: chronic solar skin damage)
s. systemic sclerosis

[34] http://www.rma.gov.au/assets/SOP/2015/012.pdf
[35] http://www.rma.gov.au/sops/category/skin-and-subcutaneous-tissue

t. warts

206. Skin conditions in veterans are common. A fellow veteran of Malaysia and Vietnam has been known to open a conversation about Vietnam by asking, "*Where do you itch?*"

Parasitic Infestation

Strongaloidias

207. In his email communication John Moller[36] describes the long term effect of infestation by a parasitic threadworm in Vietnam:

> *"Another issue is that of a parasite Strongaloidias which is endemic in Vietnam and caught by soil contact. The parasite can exist in the human without doing much damage until the person has to have radiation or chemotherapy treatment which suppresses the immune system. The parasite then overwhelms the patient's body and they die. So any veteran requiring immune suppression should first be checked for the presence of the parasite and I understand that the DVA in Australia were advised of this need quite a few years back.*
>
> *"A NZ nursing sister who lived in Australia had a long problem with severe bowel irritation and the medics were unable to ascertain the cause and eventually labelled her a hypochondriac. It was then discovered she had a heavy infestation of the parasite and was successfully treated".*

208. There are other infectious diseases and parasitic infestations in the tropics. I recall that in Malaysia in about 1965 a New Zealand officer died of unknown causes after a very short illness. It was later found that he had picked up a bacterial infection or a parasitic infestation from the soil on the rugby field.

209. We have no way of knowing the incidence of *Strongaloidias* in New Zealand veterans who may have died because of it. However extensive screening for that and other infestations and infections in veterans, especially those who have served in the tropics, ought to be mandatory.

210. The Australian DVA has published an information booklet about *Strongaloidias*[37].

[36] John Moller, email, 24 May 2016.

[37] http://www.dva.gov.au/sites/default/files/files/publications/health/strongyloides_brochure.pdf

Hookworm

211. Infestation with hookworm[38] was common:

> *"Seventeen (7.9 per cent) of 215 consecutive Vietnam veterans who had returned to the United States were found to have intestinal parasites, almost exclusively hookworm, on routine examination of stool. Fifty-six per cent of 55 veterans who were selected for study because routine blood eosinophilia was 8 per cent or higher were infested. In another group of 52 veterans with eosinophilia of 7 per cent or higher, 35 per cent were infested. Many of the thousands of Vietnam returnees harbor intestinal parasites. The finding of elevated blood eosinophils should alert us to perform a stool examination. Symptoms are essentially mild to subclinical. Successful treatment of hookworm infestation is readily accomplished with tetrachlorethylene. We recommend that Vietnam veterans, particularly those with combat or field service, be examined for possible intestinal parasitic infestation"[39].*

212. Wayne Linsday recalls:

> *"…. was the very high number of us who tested positive to Hookworm on our RTNZ. We spent half a day in Camp Hospital in Burnham after being dosed with a capsule which left a petrol-like taste in the mouth. On the day I was treated, every available bed in Camp Hospital was occupied by veterans being treated for it"[40].*

Anti-Malarial Paludrine and Dapsone

213. Wayne Lindsay had first-hand experience of the use of Dapsone[41]:

> *"Firstly, there seems to be a widespread misconception throughout the individual submissions that the universal anti-malarial that we were ordered to take (Paludrine) is harmful. I believe that this misconception came about through the use of Dapsone on some of us, and the troops have somehow completely misinterpreted it through verbal communication over the years.*
>
> *"In October 1968, the Australian Task Force ordered trials of the drug Dapsone to see whether it would be an effective measure to control Falciparum Malaria.* ***All New Zealand units were exempt from the trials*** *(which were ordered to cease in December 1968). The reason for this trial was that Dapsone, which was an*

[38] http://www.rma.gov.au/assets/SOP/2008/065.pdf
[39] Berke, Rudolph; Wagshol, Louis E.; Sullivan, Genevieve, "Incidence of Intestinal Parasites in Vietnam Veterans", American Journal of Gastroenterology, Jan 1972, Vol. 57 Issue 1, p63-67
[40] Wayne Lindsay, email, 30 May 2016.
[41] Wayne Lindsay, email, 9 May 2016.

accepted treatment for leprosy, appeared to prevent lepers from contracting malaria.

"In October 1968, there was a huge outbreak of Falciparum Malaria in Whiskey Company (approximately 80% of the Company contracted it) and to a lesser extent in Victor 3 Company. Those of us hospitalised in Vung Tau WERE treated with Dapsone. My own medical records show that I was treated with Dapsone for 11 days with a follow up of a further 20 days treatment with it after discharge.

"There was a lot of information flying around in the 1990s and early 2000s that Dapsone was carcinogenic, but subsequent investigations revealed that the major side effect from Dapsone was Peripheral Neuropathy. I myself was diagnosed with Peripheral Neuropathy some 10 years before being diagnosed with Type 2 Diabetes.

"I brought the Dapsone issue up with the Wintringham roadshow leading up to the drafting of the Memorandum of Understanding, and was in constant contact with Robin Klitscher [RNZRSA] *about my concerns. As a result, Dapsone was mentioned nine times in the final Wintringham report and was included as being part of the acceptance of "operating in a toxic environment" that was acknowledged under the terms of the MOU. Thus, the MOU signed off on 6 December 2007 brought the matter to a successful conclusion.*

"This would not have been clear to the "average" soldier (who probably wouldn't have read the Wintringham Report anyway) and only those who were following the progress of the roadshow leading up to the drafting of the MOU and closely following the end result would be aware of it.

"Thus the beginning of the myth that Paludrine was harmful".

214. The "Restricted" document that ordered the Dapsone Trials is at Appendix 11. An extract from an Australian DVA study on Dapsone is at Appendix 12.

215. The three-month Dapsone trial on Australian troops was discontinued in December 1968 because "*some adverse drug reactions were experienced, most notably among American troops*[42]".

216. Those New Zealand troops who were treated with Dapsone after contracting malaria would have it noted in their medical records.

[42] http://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/healthstudies/mortcanvietvet/dapsone.pdf

217. It does seem that the invented narrative of prophylactic use of Dapsone by New Zealand troops has travelled far and wide into group memory, and that it has then been assumed in group memory that all anti-malarial prophylaxis was harmful, including Paludrin.

218. However Bill Scott[43] who served at HQ NZ V Force in Saigon worked under a different multinational structure and adds:

> *"I know absolutely that we at HQ NZ V Force* [Saigon] *took dapsone the entire time (I think) in 1969. We took paludrin daily and dapsone once a week (which was often followed by a slightly loose bowel for a day). I suspect HQ Aust V Force did the same – our med cover was provided by their RAP* [Regimental Aid Post] *at Free World HQ".*

219. In my time in Vietnam at Nui Dat we did not use Dapsone prophylactically nor were any of us treated with it. We did use Paludrine on a daily basis as we had been doing in Malaysia for the previous eighteen months, and as the battalion in Malaya (later Malaysia) had been doing for many years. The difference was that in Malaysia we took one tablet daily, and in Vietnam two tablets daily.

220. To the best of my knowledge, including a South East Asian tour 1965-67 as a platoon commander, and a tour in Singapore 1978-79 as a company commander, and battalion operations and training officer, there were no known side effects from Paludrin.

221. One brief of evidence to this Inquiry confuses Paludrine with Chlorine. It states that large quantities of Paludrine were added to water supplies when in fact it was chlorine. We used chlorine in tablet or powdered form to sterilise all potable water as is common practice in many municipalities today.

222. I note that another brief of evidence stated that Dapsone was introduced because the Vietnamese enemy had deliberately developed a deadly weaponised strain of Malaria. That was not correct. It was introduced as a trial to test its effectiveness against a strain encountered in Vietnam that was resistant to Paludrine.

223. Most New Zealand soldiers were not prescribed or administered Dapsone.

Potable Water (Nui Dat) and Groundwater (outside the wire)

224. A witness claims that contaminated water was used within the Nui Dat base for washing and showering. All of the water supplied in Nui Dat for whatever purpose was potable. It was processed at the Task Force water point and was distributed to units by water trucks.

[43] Bill Scott, email, 5 June 2016.

225. Operational units and formations go to great lengths to ensure safe water supply. Otherwise fighting strengths are rapidly reduced. The 1st Australian Task Force at Nui Dat was no exception and included a professional water supply unit.

226. However the paper by Dr Mordike notes in relation to Malathion which was sprayed over Nui Dat base:

> *"Although Malathion was rated as 'slightly toxic' in the 1970s, in July 2006, the United States Environmental Protection Agency reported the results of research that: "Malathion … is converted to its metabolite,* ***malaoxon*** *… in insects and mammals'. The US EPA reported that tests on rats showed that Malaoxon was '61x more toxic to adults [rats] than Malathion'. When Malathion was dispersed it could convert to Malaoxon through oxidation in water treatment processes or through reaction with ambient air. It was inevitable that Malathion dispersed from aircraft over Nui Dat would settle on Rowe's Lagoon, the open water supply for Nui Dat. During the wet season, Residual Insecticides would also have found their way into the water supply through run-off".*

227. It is therefore possible that the potable water supplied in Nui Dat was contaminated especially during and immediately after the wet season which was the insecticide spraying season.

228. Some witnesses claim exposure to Agent Orange through drinking groundwater outside the wire. This is an example of a group narrative. The claimants could not possibly know that it was contaminated and it was never tested for contamination, although some of it in limited areas may have been. The claims of seeing a film of Agent Orange on groundwater are not supportable.

229. Near Vietnamese villages the water in streams might certainly have been contaminated by human and animal faeces.

230. When one considers the possibility of real exposure to insecticides in Nui Dat the assumption and claim about drinking Agent Orange contaminated ground water is an extraneous claim.

<u>Tin Mines and Arsenic</u>

231. Some witnesses refer to tin mines in Malaysia and exposure to arsenic as a causal factor in medical disorders. This is another example of group memory.

232. In Peninsula Malaysia the tin mining area is north of Kuala Lumpur generally around the Ipoh area. After moving from the Taiping/Ipoh area to Terendak in 1961/62 the battalion rarely exercised in tin mining areas. I have consulted with others who operated and trained in Peninsula Malaysia over a period of

about twenty years and no one can recall ever hearing of a case of arsenic poisoning, of anyone drinking water from tin mines, or of any adverse effects from exercising near tin mines.

233. The first we heard of it was in evidence at this Inquiry.

DNA Research

234. I am aware of preliminary DNA research on Vietnam veterans conducted by Massey University[44] some years ago in which they found that 100% of their research sample had damaged DNA, measured against a control group. I note that the report on that research has been submitted to this Inquiry.

235. The officer who first brought this research to my attention[45] is a close friend and was a member of the sample group. He was employed as a duty officer in Nui Dat and rarely if ever ventured outside the wire, and certainly not into areas that might have been defoliated. That would seem to rule out Agent Orange as a causal factor in damaged DNA.

236. However that research has not, as far as I am aware, been peer reviewed; and it has definitely not been independently replicated. For laboratory based scientific research to be validated, it must be able to independently replicated, in this case by another laboratory, in order to rule out inconsistencies in methodology, data and interpretation[46]. The Massey University DNA study was an important breakthrough in progressing the claims of Vietnam veterans, and should therefore have been replicated. Unless and until it is replicated its findings can only be considered preliminary.

237. I was surprised that the research was not replicated and repeated with a wider sample group, for the results of the research could have long term ramifications for the children and grandchildren of veterans.

238. Given the Mordike information (Appendix 10) on insecticides used at Nui Dat, and the possibility of carcinogenic, immunotoxic and mutagenic effects, further DNA and other research would seem to be indicated.

Food

239. I think that the focus on Agent Orange has also diverted attention from research that might have been conducted to determine other factors leading to impaired health apart from toxic chemicals.

240. One possible factor is the food we all consumed. Along with exposure to insecticides, and perhaps herbicides, food was the most common possible

[44] Edwards, Louise, Institute of Molecular Biological Sciences, Massey University, Genetic Damage in New Zealand Vietnam War Veterans, Participant Report.
[45] Colonel George Mathew, RNZ Sigs.
[46] http://undsci.berkeley.edu/article/howscienceworks_17

factor in Vietnam, affecting both combat and support soldiers, yet it has to my knowledge never been researched.

241. There was very little fresh food. It was mostly industrial and processed food, sometimes powdered or dried then reconstituted, probably laden with preservatives, and possibly sourced from US military warehouses where it may have sat on shelves since the Korean War or earlier. We were never told.

242. My recollection is that there was very little fibre in that food. A healthy intestinal flora (gut microbiota) is absolutely essential to good health, and bacteria need fibre from fresh fruit and vegetables to maintain a healthy intestinal environment. In Borneo for instance our battalion "B Echelon" in Kuching kept us supplied with fresh food.

243. A healthy biota is absolutely essential to maintain a healthy functioning immune system. With poor food, and compromised biota, the immune system could be more susceptible to the effects of toxic chemicals.

244. Additionally all 24-hour ration packs contained cans of food that had been gas irradiated with gamma rays. The larger bulk cans provided to the individual unit cookhouses in Nui Dat were also irradiated. Gas irradiation destroys most of the B Group vitamins in the food. There are several health effects arising from Vitamin B deficiencies.

Compromised Immunity

245. My knowledge of adverse medical conditions prevalent in the soldiers and families of the original Victor Company, and my reading of all of the evidence submitted to this Inquiry, indicate to me that there is a distinct possibility that, whatever the cause or causes, the immune systems of many Vietnam veterans might have been compromised, and that this may be hereditary.

246. Research into immunodeficiency disorders might include the effects of exposure to toxic chemicals, the effect of the processed food supplied in Nui Dat, and other as yet unidentified causes.

247. The Stockholm Convention on Persistent Organic Pollutants (POPs) notes that:

    a. Chlordane (one of the chemicals used at Nui Dat) "*may affect the **human immune system** and is classified as a possible human carcinogen*"[47].
    b. For Lindane, another chemical used at Nui Dat it states "*there is evidence for long-range transport and toxic effects (**immunotoxic**, reproductive and developmental effects) in laboratory animals and aquatic organisms*".

[47] http://chm.pops.int/TheConvention/ThePOPs/The12InitialPOPs/tabid/296/Default.aspx

c. Dieldrin "*is highly toxic to fish and other aquatic animals, particularly frogs, whose embryos can develop spinal deformities after exposure to low levels*".

Post-Traumatic Stress Disorder (PTSD)

248. An Australian friend of mine[48] has made a detailed study of PTSD as part of his historical research. He was a platoon commander in Vietnam. He is also a peer-reviewed and internationally published oral historian who specialises in the Vietnam War. I have helped him with some of his research and served as a sounding board as he developed one of his Master's theses. He has interviewed many veterans with PTSD, including mutual friends.

249. He contends that every one of us who had a combat role during our war service suffers from PTSD, across a spectrum from quite mild to very severe. He may be right, and if so there is really no need to prove PTSD, merely to show that one was exposed over prolonged periods to the constant threat of death.

250. From the moment the soldier stepped outside the wire, be he an infantry rifleman, a member of an artillery forward observer party, or a combat engineer, an armoured vehicle crewman, or a soft skinned vehicle driver, his life was at risk.

251. Every step he took, and every breath he took, might have been his last.

252. Apart from the threat of death by bullet, rocket, mortar or gunfire, the main cause of death for Australians and New Zealanders in Vietnam was the anti-personnel mine. These were strewn on tracks and other places and at any moment a soldier could step on one despite the great care we took to locate them. This threat has been chronicled in detail in a book by Greg Lockhart, "The Minefield: An Australian Tragedy in Vietnam"[49].

253. The likelihood of death was a constant all the time outside the wire. This constant background threat and the fear it generated was and is the major cause of PTSD. One cannot say with certainty that anyone so exposed does not suffer from PTSD on a spectrum from mild to severe.

254. Apart from that there were contacts or firefights where soldiers were killed or wounded, where they witnessed their mates being killed or wounded, where they carried the dead and wounded to helicopters, or where they themselves killed and buried enemy soldiers. These are all obvious causes of PTSD, but the constant threat of death was the cause that affected everyone in a combat role over the whole period of deployment.

[48] Major (Retd) E.B.Morris, R Aust Inf.

[49] Lockhart, Greg, 2007, The Minefield: An Australian Tragedy in Vietnam, Allen & Unwin, Australia.

255. Others, not in combat roles, such as doctors, nurses and chaplains, would also have PTSD caused by their exposure to the horrors of war.

256. There are however some veterans in support roles in Nui Dat or in the logistic base at Vung Tau who were never so exposed yet manufacture or exaggerate exposure to danger for whatever reason, usually in the pursuit of disability pensions.

257. These mental disorders[50] including PTSD are included in the Statements of Principles:

- acute stress disorder
- adjustment disorder
- alcohol use disorder (previously known as: alcohol dependence and alcohol abuse, alcohol dependence or alcohol abuse, psychoactive substance abuse or dependence)
- anxiety disorder (previously known as: anxiety disorder due to a general medical condition, generalised anxiety disorder)
- bipolar disorder
- chronic multisymptom illness
- depressive disorder
- eating disorder
- panic disorder
- personality disorder
- posttraumatic stress disorder
- schizophrenia
- somatic symptom disorder
- substance use disorder (previously known as: drug dependence and drug abuse)
- suicide and attempted suicide

258. The Statement of Principles that defines PTSD is attached at Appendix 2.

259. From my observations it is important that PTSD be recognised and treated as early as possible in order that the veteran may lead a full and productive life despite the condition. I have friends who have been in psychiatric and pharmacological treatment for decades yet lead reasonably normal lives. This is especially important for veterans of recent deployments.

260. For this reason alone the veterans' support system should proactively ensure that all veterans are engaged by the system as soon as possible after deployment, and that when they disengage from the armed forces they do not disengage from the veterans' support system. That, it seems to me, is the minimum requirement of the duty of care due to every veteran.

[50] http://www.rma.gov.au/sops/category/mental-disorders

261. I have recently been part of a small group of Vietnam veterans trying to coax a veteran of Afghanistan into making a claim for he obviously has physical injuries resulting from his service and has a degree of PTSD. His disabilities will catch up with him eventually. The system has made little or no effort to engage with him.

262. He has been left out in the cold, as it were, which is a criticism common to many of the witnesses at this Inquiry, and I note, common among veterans of the post-Vietnam era. I know of some who remain untreated and often self-medicate with alcohol or dope.

PTSD and Families

263. It is important to note the conclusions of the Australian Vietnam Veterans Family Study (Appendix 9):

> *"The key findings found that the majority of sons and daughters born to Vietnam veterans are leading healthy and productive lives. However, analysis found that the families of Australia's Vietnam veterans are more likely to have significant emotional, physical, and social problems when compared to families of those who served in that era who did not go to Vietnam.*
>
> *"The key factors that appeared to explain the intergenerational impact of deployment were:*
>
> - *servicemen's posttraumatic stress disorder (PTSD);*
> - *harsh parenting in childhood among the offspring of Vietnam veterans; and*
> - *problems at school among the sons and daughters of Vietnam veterans".*

Musculoskeletal Damage

264. I have noticed in some evidence to the Tribunal that veterans ascribe musculoskeletal damage to "*jumping off moving trucks*" usually during training. It seems to me to be another expression of group memory.

265. We did indeed jump off moving trucks (up to about 30 mph) during training for service in Malaysia because it would sometimes be an operational necessity during the Malayan Emergency (before the age of the helicopter) and we had to teach soldiers how to do it without damaging themselves. I do not recall that being part of training for Vietnam, where jumping or ungracefully climbing out of grounded helicopters was more likely.

266. All soldiers jumped from stationary trucks, often fully laden with pack and weapon.

267. Like Agent Orange, I think "*jumping from moving trucks*" has become a catchall descriptor for the physically demanding and often damaging role of the combat soldier.

268. During our deployment to Borneo in 1966 the 1 RNZIR doctor did several "weigh-ins" as platoons departed to go on patrol. In that theatre we were often required to carry fourteen days rations and enough radio batteries to last fourteen days, as well as the normal load of ammunition, water, weapons, bedding and clothing, and a range of "platoon stores". In some cases soldiers were carrying 90 pounds (40 kg) or more on their backs, shoulders and hips.

269. The doctor was adamant that it was a load that would cause serious musculoskeletal damage that would have long term effects. He did the "weigh-ins" because he had seen an unusual recurring incidence of musculoskeletal injury in his surgery.

270. We did not usually carry the same loads in Vietnam but the combat soldier was still required to carry heavy loads for the whole of his tour. Some soldiers for instance carried up to six full water bottles in addition to heavy loads of ammunition. Those loads were also carried during his pre-deployment training of between six and twelve months.

271. With those loads the soldier was required to walk on patrol from dawn to dusk for all of the days he spent outside the wire across a variety of often difficult terrains. McGibbon records[51] that the original Victor Company spent 68 of 92 days on operations in July to September 1967, that Victor 2 Company spent 154 of its 183 days on operations, and Victor 5 Company 270 out of 365. That represents up to 85% of total time in theatre spent on operations usually carrying heavy loads over broken ground.

272. I note that one veteran has claimed he and his comrades carried loads up to 100 kilograms in weight (over 220 lbs). I don't think so. There are a few others who have overestimated the weights they carried.

273. Additionally the soldier climbed on and off trucks, armoured personnel carriers and helicopters during deployment on patrol or operations. He was also required to run or jump with those loads. We sometimes jumped out of low hovering helicopters.

[51] McGibbon, p 277

274. Wayne Lindsay (W1 Company) has spinal problems (cervical, thoracic and lumbar, requiring multiple operations). He relates in his oral history interview[52] and in an email[53] to me:

> *"1 Platoon W Company were the first into a hot LZ and Bill Broughton's Section was in the first helicopter into an LZ which consisted of lelang grass about 7ft high. We came under heavy automatic fire and RPG rocketing from the tree line. We were about 20ft off the ground and the chopper pilot wouldn't go any lower. The door gunner indicated for us to debus. Bill made a shrugging gesture suggesting that we drop our packs off and jump unencumbered but the door gunner shook his head. We jumped out in full kit into the lelang grass from a height of around 27 feet. I was carrying my SLR and also the M79 which was slung over my shoulder. When I hit the ground, I hit the edge of a paddy bund (obviously it had previously been a paddy field). I tumbled forward, the pack flew over my head and the M79 swung around and hit me in the eye, opening up a gash just above my right eye. Obviously, being in such a hot situation, we made our way to the tree line to provide cover for the rest of the Company yet to arrive. My body ached for several weeks after this incident and I was provided with APC tablets (Aspirin, Paracetamol, Codeine) by my Section 2 IC".*

275. Wayne Lindsay states that this account can be verified by his section commander Bill Broughton and his platoon commander Grant Steele.

276. This was far from the normal or regular debus from helicopters, and was a one off situation. Occasionally in Malaya, Borneo and Vietnam I and my platoon did jump from low hovering helicopters, never from that dangerous height.

277. Not all musculoskeletal injury is caused by one single identifiable incident as in Wayne Lindsay's case. And there is no need for the combat soldier to manufacture or exaggerate by resorting to the "jumping off moving trucks" group narrative. Just the normal wear and tear of being a combat soldier is sufficient to cause long term musculoskeletal injury or damage. Many in my own platoon are examples of that.

278. Musculoskeletal damage is fully catered for by the Statements of Principles. Again there is no need to prove causation; no need to have jumped off moving trucks. Included musculoskeletal and connective tissue disorders are[54]:

    - Achilles tendinopathy and bursitis (previously known as Achilles tendonitis or bursitis)

[52] Hall, p 287.
[53] Wayne Lindsay, email, 18 May 2106.
[54] http://www.rma.gov.au/sops/category/musculoskeletal-system-and-connective-tissue

- acute articular cartilage tear
- acute meniscal tear of the knee
- adhesive capsulitis of the shoulder
- ankylosing spondylitis
- cervical spondylosis
- chondromalacia patella
- chronic multisymptom illness
- dermatomyositis
- discoid lupus erythematosus
- dislocation
- Dupuytren's disease
- dysbaric osteonecrosis
- epicondylitis
- fibromyalgia
- hallux valgus (previously known as: acquired hallux valgus, congenital hallux valgus)
- heel bursitis (previously known as: posterior adventitial heel bursitis)
- iliotibial band syndrome
- inflammatory bowel disease
- internal derangement of the knee
- intervertebral disc prolapse
- joint instability
- labral tear
- localised sclerosis
- lumbar spondylosis
- osteoarthritis (previously known as: osteoarthrosis)
- osteomyelitis
- osteoporosis
- Paget's disease of bone
- patellar tendinopathy
- pes planus (previously known as: acquired pes planus, acquired pes planus and congenital pes planus, congenital pes planus)
- plantar fasciitis
- polymyalgia rheumatica
- psoriatic arthropathy
- rapidly progressive crescentic glomerulonephritis
- reactive arthritis (previously known as: Reiter's syndrome)
- relapsing polychondritis
- rheumatoid arthritis
- rotator cuff syndrome
- shin splints
- somatic symptom disorder
- spasmodic torticollis
- spondylolisthesis and spondylolysis

- systemic sclerosis
- thoracic spondylosis
- trochanteric bursitis and gluteal tendinopathy

279. Injury disorders[55] in the Statements of Principles cover the following:

- accidental hypothermia
- acute articular cartilage tear
- acute meniscal tear of the knee
- animal envenomation
- chilblains
- concussion
- cut, stab, abrasion and laceration
- decompression sickness (previously known as: caisson disease)
- dislocation
- dysbaric osteonecrosis
- electrical injury (previously known as: Effects of lighting , non-fatal effects of electric shock and death from electrocution)
- external bruise (previously known as: external bruises and external contusions)
- external burn
- fracture
- frostbite
- iliotibial band syndrome
- immersion foot
- joint instability
- labral tear
- moderate to severe traumatic brain injury
- otitic barotrauma
- physical injury due to munitions discharge (previously known as: gunshot wounds)
- poisoning and toxic reaction from plants and fungi
- pulmonary barotrauma
- sinus barotrauma
- sprain and strain
- suicide and attempted suicide

Alcohol & Tobacco

280. There is no doubt that the use of alcohol in the combat theatre was often excessive and used to break the tension and stress of spending long periods on patrol or operations in harm's way, and perhaps to forget the fear, for a

[55] http://www.rma.gov.au/sops/category/injury

time. For some it may have been habit forming and ultimately damaging to health. "*Alcohol use disorder*"[56] is included in the Statements of Principles.

281. Many veterans have used alcohol to self-medicate trauma related conditions ever since their war service. A few of my own are examples of that.

282. Many soldiers were introduced to tobacco during their service, and cigarettes were issued in the US Army 24-hour ration packs we all consumed while on patrol or operations. Cigarettes were one way of relieving stress. It was of course habit forming and harmful to health. Cancers[57] and other conditions related to smoking[58] are included in the Statements of Principles.

283. In the scientific literature tobacco and alcohol related conditions resulting in veteran deaths are clearly elevated in relation to the general population[59].

VETERANS' SUPPORT ACT 2014

284. For decades after the Vietnam War veterans fought against Government and bureaucracy to have their voices heard and to have the veterans' support system (War Pensions Act 1954) updated and improved. Central to that long struggle was the debate over Agent Orange. That debate was eventually won by the veterans.

285. However Agent Orange was not the only matter in dispute. The way that Vietnam veterans had been shabbily treated by the nation for decades was a primary concern. That included the way veterans had been treated by the veterans' support system, and how seemingly legitimate claims for veterans' entitlements had been disallowed by the existing system.

286. That system seemed designed to minimise the number of medical and other conditions accepted as war related, and to minimise the number of war veterans' entitled to war related benefits. Many applications for support were rejected, and many veterans simply gave up trying. Many others didn't bother trying.

287. Those existing attitudes and the existing system created a deep well of anger and resentment within the Vietnam veterans' cohort and their whanau. That anger and resentment is still present although not as widespread as previously, despite new remedies and legislation, and is obvious in much of the evidence submitted to this Inquiry.

[56] http://www.rma.gov.au/sops/condition/alcohol-use-disorder
[57] http://www.rma.gov.au/sops/category/neoplasms
[58] http://www.rma.gov.au/assets/SOP/2015/129.pdf
[59] http://www.dva.gov.au/sites/default/files/files/consultation%20and%20grants/healthstudies/mortcanvietvet/mortality_study.pdf

288. The result of those decades of activism was the 2008 official government apology to Vietnam veterans, and a range of remedies including a revamp of legislation. It was a major victory for veterans and a major step forward.

289. The Veterans' Support Act 2014 (VSA 2104) that finally came into force on 12th December 2014 was perhaps the main long term outcome of the 2008 capitulation by Government and bureaucracy to the demands of veterans.

290. I think it worth noting that the new veterans' support regime was achieved through a relationship of trust built by the negotiating team with Minister of Defence Phil Goff, who then became a champion for the cause of Vietnam veterans. However the key to swaying Government was the support of Prime Minister Helen Clark who had family who had served in earlier conflicts. I was informed at the time by members of the negotiating team[60] that the support of those two Cabinet members was crucial to the success of their negotiations.

291. Previously rejected applications are now able to be revisited under the new legislation, and many veterans have successfully re-applied. However the process is still often difficult to navigate and is best done with the assistance of an experienced and competent advocate. The need for good advocacy is discussed later in this evidence and is a recommendation.

292. The veterans' support system is also now much more veteran friendly although bureaucracy is still a barrier for many. Engagement with bureaucracy is discussed later.

293. From my reading of evidence at this Inquiry I get the impression that much of the genuine mamae expressed in that evidence is historical and relates to the pre-VSA 2014 era. I would expect that with encouragement and support, and good advocacy to help navigate the system, more Maori veterans and their whanau would be able to receive their entitlements, including those who have presented evidence to this Inquiry. My recommendations are designed to facilitate that outcome.

294. Although VSA 2014 was introduced to address the long standing grievances of veterans, it would seem from the mamae expressed in evidence to this Inquiry that there has not been enough effort put into proactively ensuring that all veterans and their whanau are brought into the fold.

295. Notwithstanding the improvements in VSA 2014 vis-à-vis the War Pensions Act 1954 that it replaced there are still shortcomings. I defer to John Sturgess in his analysis of the shortcomings of VSA 2014 in his brief of evidence to this

[60] Chris Mullane and the late John Campbell.

Inquiry[61]. As with our Agent Orange experts we have our recognised experts in relation to the legislation and regulations. John is one.

296. VSA 2014 is to be reviewed in 2016 and I would expect that recommendations from this Inquiry would be considered by that review. From my point of view there is much that can be improved, including proactive engagement with all veterans, professional advocacy, and case manager performance. These are discussed later.

ENGAGEMENT WITH THE BUREAUCRACY

General

297. Many veterans have successfully engaged with the bureaucracy, are in receipt of entitlements, and happy with the quality of care they receive. Many of those are Maori veterans. Some of those have given evidence to this Inquiry.

298. However, of those who have successfully engaged there are varying degrees of satisfaction, and the reasons seem quite straight forward. I will discuss those later. Some who have successfully engaged are not aware of the full range of conditions they might claim.

299. There are those, however, who have not successfully engaged, or who haven't tried to engage.

Maori and Bureaucracy

300. Even with VSA 2014, and the SOPS, getting to the point of being engaged in the process is not always easy.

301. Anecdotally, and from observing veterans of my own platoons (Borneo and Vietnam), I think that the percentage of Maori who successfully engage is lower than for Pakeha. Regardless of the veracity of that observation I think the Government should fund research to determine just how successfully Maori have engaged with the veteran support bureaucracy, and the reasons for not successfully engaging.

302. I know from working within the Maori community for the last 35 years that many Maori have difficulty engaging with any sort of bureaucracy. I myself do not willingly deal with bureaucrats who are sometimes obstructive and high handed, with their regulations and decisions that sometimes just don't make sense. That is the nature of bureaucracy.

303. Maori (and others I suspect) are often deterred simply by the form filling requirements of bureaucracy. And in this day and age it is getting even more

[61] John Sturgess, Brief of Evidence, 2 October 2015, paras 7 -21.

difficult with online forms that are rarely designed and coded to work for the non-technical person and his or her smartphone.

Engagement with Veterans Affairs

304. Currently the onus is on the veteran to engage with the system. Many have done so successfully. At the other end of the scale there are an unknown number who have not, for whatever reason. We do know that about 50% have not availed themselves of the free Annual Medical Assessment.

305. We know of some who live isolated lives, sometimes untreated for PTSD, who will never of their own accord engage with the system. There are others who just cannot bear to submit themselves to the bureaucratic process and form filling, and some who try and give up. We know of one who committed suicide after having his claim rejected.

306. With proper proactive support and encouragement, and expert advocacy, all of those could successfully engage with the system and claim their rightful benefits.

307. Statistics provided by an advocate:

> *"I did an analysis of all veterans I have assisted (to the extent that I have raised a folder on my computer). Total veterans = 115 comprising of 38 Maori and 77 Pakeha which, surprisingly, is very close to the statistics you have quoted in your* [this Brief of Evidence] *draft*[62]*".*

308. I understand that in Te Tai Tokerau there is a strong support network among veterans, and veterans are encouraged to engage and to apply for their entitlements. Ross Miller MNZM JP, who is the Board Chair of the Vietnam Veterans (Neville Wallace Memorial) Children's and Grandchildren's Trust and very active in veterans' affairs, describes the Tai Tokerau system[63]:

> "[You refer] *to the support network that exists in the Mid/Far North. I have some knowledge of that. We meet formally three times every year (Mar/Jul/Nov) at someone's home for drinks and a meal. Partners/family welcomed. We use those occasions to brief everyone on developments that affect the VVet community. We are all linked by e-mail and if someone puts up their hand for help or if we hear of someone needing assistance then that is provided. The system works and we have been particularly 'brutal' in insisting that members avail themselves of the free AMA* [Annual Medical Assessment]. *We have been fortunate to access medical practitioners in the area with recent combat experience (Brit Army and Royal Marines). They have*

[62] Wayne Lindsay, email, 5 May 2016.
[63] Ross Miller, email, 25 May 2016.

our confidence. My understanding is that the national uptake on the AMA is about 50%. Up here it is at 75%".

309. I also know of veterans with no such support and encouragement. At the moment an advocate is trying to get a seriously ill Maori Vietnam veteran to apply for his entitlements and he refuses because of previous negative experience with VANZ. The advocate has enlisted me to try to convince him to apply. This is all voluntary support and advocacy and is somewhat hit and miss.

310. In one case a few of us only found out about a destitute New Zealand Vietnam veteran after he died in NSW. Even then we couldn't convince the New Zealand system to engage with him and we paid his funeral expenses ourselves. At his graveside I found out that he was Maori and we mounted an impromptu poroporoaki. The system should work to ensure that wherever possible no veteran dies destitute and alone.

311. Another Vietnam veteran from the original Victor Company died in Melbourne, alone. The Victorian Police knew he was Maori and a possibly a Vietnam Veteran, and it was only after the veterans' network contacted me that I was able to ID him and inform his whanau. I thought then that all veterans should be issued with an ID card.

312. The veteran support system should be able to keep in touch with as many veterans as possible, to ensure they do apply for and receive the benefits they are entitled to, and to ensure that all veterans, when their time comes, are accorded the dignity and honour of a funeral paid for by the NZ Government, and a veteran's headstone on their grave.

313. Ironically it is so much easier and less bureaucratic to engage with New Zealand Defence Force and get sent to war, than it is to engage with New Zealand Veterans Affairs after returning from war. The legislative and regulatory barriers to participate in war are few, but to war related benefits are many.

<u>Advocacy/Representation</u>

314. Applying for entitlements is one thing. But advocacy is the key to successful engagement with the veterans' support system:

    a. In many cases veterans are able to successfully advocate for themselves.
    b. Most veterans would benefit from the assistance of a good advocate, who may or may not also be an accredited RNZRSA welfare officer.
    c. Advocates can also steer their (non-paying) clients towards GPs and other health professionals who are conversant with the veteran support system and its requirements and regulations. That is an important factor in successful engagement.

315. The expertise of the advocate is important:

a. There are highly competent volunteer advocates who are often veterans. They are those who have done courses in veteran welfare, and have devoted a great deal of time to their own research. They are familiar with the Statements of Principles, keep up with relevant medical research, know the system and are able to appeal negative decisions. Wayne Lindsay, one of the most competent and successful I know, has over 100 veterans on his books.
b. There are some who are reasonably competent except with difficult-to-prove claims. Some of those are not fully conversant with the Statements of Principles.
c. There are others touting themselves as advocates who are not at all competent, often giving bad and erroneous advice.

316. The experienced advocate will also filter out those claims that have no basis in fact. Hank Emery has yet to lose a case or an appeal against NZVA. Because of his own health issues he has now almost completely retired from advocacy. He writes in an email[64]:

> *"But, and a big but at that, even now I find it hard to say 'No' when a veteran comes knocking at the door genuinely pleading for help. I use that phrase pointedly. For that is exactly what it is – a last forlorn plea for help after all other avenues for help have been shut down by the bureaucrats.*
>
> *"To qualify that even further, yes there are individuals who have come to me for help but have been told by me to F-Off as it is obvious to me from the start that they are trying to cream the system so to speak".*

317. Comment from Wayne Lindsay:

> "*A very good draft* [this evidence] *which, as far as I am concerned, identifies the problems with the system. I also concur with your in depth analysis of the problems faced by veterans and the nightmare of dealing with a rigid legislatively orientated bureaucracy. The reason I originally began working as an advocate was that I consider myself to be a reasonably intelligent man and I had trouble getting my head around the system and had to learn by trial and error and I then realised that this would be a major problem for most veterans*"[65].

[64] Hank Emery, 25 May 2016.
[65] Wayne Lindsay

318. A properly appointed advocate (now called a representative) can:

a. Access files relating to the claimant and get personal information about him or her (under Privacy Act 1993);
b. Give information about the claimant to Veterans' Affairs;
c. Change the claimants details with Veterans' Affairs;
d. Receive a copy of the claimant's mail from Veterans' Affairs (all mail is still sent to the veteran/ claimant); and
e. Speak or make enquiries on the claimant's behalf.

319. It is a however hit and miss system. Access to good advocacy depends on where you live, who you know, who is available in your area, and the expertise of the advocate(s) in your area.

320. Comment by a veteran generally opposed to the Tribunal Inquiry process:

> *"We can certainly agree on the reliance on volunteer advocates being hit and miss and the need for a professional independent agency. Just one example: I was at a VANZ information meeting at my local RSA where among some of the angst there stood up an Advocate who was looking after a small group of particularly vulnerable veterans. This clown had interpreted to these veterans that if the VANZ plan was not signed and returned within 8 days then the veterans pensions would be stopped! Jacki struggled to be polite to the effing idiot. I trust many of the others [like the clown] seem to have their own anti VANZ agenda which would make anything coming across VANZ desks from them subject to very close scrutiny and therefore unhelpful to those in need".*

<u>The Complexities Explained</u>

321. Attached at Annex A is an essay by Wayne Lindsay, "*An Informative Essay on the Complexities of the Claim System when Dealing with Veterans Affairs New Zealand*". With a mountain of documentation it details a five year struggle to obtain recognition of a condition for Bradley Stevenson, a veteran of Victor 6 Company. Brad Stevenson has signed a privacy waiver so that this case can be presented to the Inquiry.

322. It illustrates how difficult it is sometimes to access benefits for non-SOP conditions. In this case the claimant was ably represented by Wayne Lindsay. Without that expert advocacy the claim would not have been successful. Almost all veterans would have given up in the face of the bureaucratic obstacles. Many do.

<u>The Veterans Affairs Case Manager</u>

323. The competence, diligence and empathy of the Veterans Affairs case manager is an important factor in successful engagement. A veteran can be deterred

from pursuing a claim by the attitude of the assigned case manager. Conversely he or she can be encouraged to continue.

324. Each claimant is assigned a case manager. Satisfaction with the service received from case managers varies widely. Some veterans are very happy with the service they receive from their case managers. Some are not. This may be due to heavy caseloads, to inadequate training, or to individual inadequacy.

325. Comment by an advocate/representative:

> *"In June this year, all Case Management will be conducted out of Wellington and I am sad to say that I have already been contacted by 3 very good Case Managers that they have opted NOT to relocate to Wellington. This is unfortunate as they are, to my mind 3 of the better ones"*[66].

326. Comments by veterans:

> *"As a Government entity VANZ operates under relatively strict guidelines and procedures imposed upon them which inhibits their ability to be as proactive as we would like. If you want real and significant change it is the Government that needs convincing if we are to change outcomes".*
>
> *"The irony about all these services they offer, might be ok in the bigger centers but getting contractors to do the bloody work in small rural towns is like pulling teeth. they turn up after phone calls from my case manager. rattle on for ten minutes about what they GOONER DO. that was 3 months ago / We pay a local contractor job done / don't bother with VANZ"*
>
> *"Are you also interested in hearing from those who believe that VANZ is not only meeting their expectations but exceeding them! Many talk to lots of people but how many of the talkers listen? I listen. What I'm hearing from listening is a whole heap different from the whinging that I see in many submissions".*
>
> *"I've never had a problem with vanz, in fact my case manager goes out of way to see me right. im sure i have all my entitlements. perhaps im one of the lucky ones".*
>
> *"I hear good feedback about VANZ and my own experience is positive. My case manager periodically calls to check up on me - tell me that's not being proactive".*
>
> *"I'm a bit different , I now live in Australia but my case worker in NZ still keeps in touch with me Les me know what I'm entitled too, what*

[66] Wayne Lindsay

the Government is proposing, mainly putting a tax on my war pension because I live off shore.. I think the present system is okay. Like bob says it's at Government level that things have to change, and I don't mean taxing me on my war Pension!"

"yes,i have a mate from v,coy over there,he has the same worrys.no help from the aussie vet affairs either.i dont think youll get much change out of the key,govt"

"I've only just found out via the latest newsletter from Jacqui [GM NZVA] that my prescriptions and Doctors visits for all service related illnesses, you do not have to pay for them. When I queried my Case Manager tell the chemist and Doctor, otherwise pay for them and submit a claim form. Yes totally support your intentions Ross".

"Ross, there seems to be a huge variation in the performance of case officers and the subsequent engagement with VANZ. I have never been contacted by my case officer despite having a few outstanding matters. I have to chase her and rarely get any real answers. Don't know what the training regime is for these people".

"Don't envy your challenge Ross, my simple observation to date, is the service you get from VANZ depends on the experience of your Case Manager. Some of the answer for eligibility need to be investigated for the Vet. Prior to a unqualified or un- researched option is given on the phone. Not sure on their client load, but a simple email/ or phone call to confirm the arrival of a written request. Not a deafening silence when you wait to find out if it has arrived at VANZ or has been misplaced after a month".

MAORI IN THE COMBAT ZONE

Over-Representation

327. The official war history on Vietnam has a few paragraphs on "Maori-Pakeha Relations"[67] in which the author Ian McGibbon estimates that about 35% of those New Zealand soldiers who served in Vietnam were Maori, and "*despite having constituted more than 20% of the army serving overseas since the early 1950s, Maori were under-represented in the higher ranks …*".

328. It notes also[68] that "*Two of the initial Victor Company's four platoon commanders, Ross Himona and John Marsh, were Maori*." It mentions Capt Eru Manuera, Lt Wira Gardiner and Capt George Mathew.

329. It also mentions three Maori Warrant Officers who served in Vietnam; Matiu Rangiuia, Richard Shepherd and Tom Rangi. To that list I would add Rata

[67] McGibbon, pp 297-299
[68] McGibbon, p 298

Rewiri, Toko Samuels, John "Scoff" Cootes, Len Hepi, Matt Edwards, and quite a few more Maori Staff Sergeants and Sergeants[69]. However on doing a count through the Flinkenberg List recently, I discovered that Maori were also under-represented in the Warrant Officer and Senior NCO ranks, although not as much as commissioned officers.

330. I have done a count of Maori commissioned officers who served in Vietnam and there were a total of fifteen[70] over the period of the war, three of them not generally known or declared to be Maori. Seven of those served in combat roles. Only four were rifle platoon commanders, out of 28 platoon commanders (about 14%). The remaining eight were in combat support or staff roles.

331. Those fifteen represent just over 6% of all NZ Army commissioned officers who served in Vietnam, excluding those who served in the Services Medical Team, and excluding visitors. They represent under 5% of all commissioned officers who served in Vietnam, including RNZAF officers.

332. There are some who might argue that our Maori soldiers who comprised about 35% of all those in Vietnam would have been disadvantaged by not having more Maori officers in the chain of command. I would like to have seen more Maori officers in my time. Whether more Maori officers would have made any sort of difference in the war zone is a matter of conjecture.

333. I am reminded of the old adage that "*there are no bad soldiers, only bad officers*". To which I would add, "*regardless of ethnicity*". A warrior is a warrior, regardless of ethnicity. Warriors respect warriors, regardless of ethnicity. Soldiers will follow a good officer who leads by example, and who is himself a warrior, regardless of ethnicity. And a good officer will treat all of his soldiers with respect, push them hard, and demand the best of them, regardless of ethnicity. He will work closely with, and be backed up, by good NCOs, regardless of ethnicity. There is no other way in a fighting unit.

334. I know Pakeha officers, who nearly fifty years down the track, still retain the total respect and loyalty of all of their soldiers, Maori and Pakeha.

335. When I was recruited in 1960 to go to Australia to train as an officer (in 1962) I was told by the senior NCO who recruited me direct from school[71] that he and other recruiters had been told unofficially to proactively recruit suitable Maori officer candidates because there were and had been a large number of Maori volunteering for service in the overseas battalions but few Maori officers. In my cohort of officers commissioned in the early to mid-1960s there were about thirty Maori, which was a large increase on previous numbers.

[69] My apologies to those I may have missed.
[70] Subritzky, pp 265-294.
[71] SSgt (now Major (Retd)) Roly Manning RNZIR

336. There are many veterans who have claimed that Maori comprised over 50% of all those who served in Vietnam, or more than 50% of all the infantry companies. I note that one witness claims that 60 to 70% of the 1963-65 Gurr Battalion in Malaya was Maori. It was actually less than 50%. I think McGibbon's 35% overall estimate for Vietnam would be closer to the truth, although Maori were more highly represented in the infantry, but certainly not more than 50%.

337. My platoon (2 Pl V Coy) in Vietnam in 1967 was, I think, the "most" or one of the most Maori platoons of the twenty eight rifle platoons that deployed. My platoon had a Maori platoon commander, a Maori platoon sergeant, three Maori corporals, two Maori lance corporals and fourteen Maori private soldiers. Of the command and leadership group of eight there was just one Pakeha, a lance corporal. Twenty one of the total thirty seven in my platoon were Maori, or about 57%. The command and leadership group was 87.5% Maori. I am reasonably sure that was the only platoon of the twenty eight platoons in Vietnam to have more than 50% Maori.

338. My platoon (9 Pl C Coy) in Borneo in 1966 was 50% Maori (13/26). The command and leadership group in that platoon was 100% Maori (7/7), six of them also in the command and leadership group of my Vietnam platoon.

339. Ross Miller comments on the platoon he commanded in Victor 3 Company[72]:

> *"You referred in detail to the ethnic makeup of your own platoon. My platoon was the reverse. Two out of the eight in the command team were Maori (one Corporal and one Lance Corporal)* [25%] *while I had three Maori private soldiers. Those five constituted 15% of my platoon (which also included two Australians)".*

340. The only separate unit to surpass 50% was the first SAS troop which was about 57% Maori[73]. MacGibbon also records that V4 Company had about 44% Maori[74]. The original V Company (V1) that I served in had about 44% Maori[75].

341. In a book of oral histories[76] a member of the original Victor Company (the one I served in) claims a greater percentage of Maori than there actually was. However the author states[77]:

> *"By official estimates, Maori made up one third of the country's combat deployment in Vietnam. But individual estimates of platoon,*

[72] Ross Miller, email, 25 May 2016.
[73] McGibbon, p 297.
[74] McGibbon, p 297.
[75] http://www.vcoy67.org.nz/nominal.htm
[76] Hall, Clare (for Ministry of Culture and Heritage), 2014, No Front Line, Inside Stories of New Zealand's Vietnam War, Penguin, Auckland, p 210.
[77] Hall, p 210.

company and troop composition reveal a perception of Maori and Pakeha as equal in numbers – and in standing".

342. The perceptions of greater percentages of Maori are, in my opinion, a result of "group memory" in which that perception has grown in memory and become the group reality.

343. Notwithstanding that, one can say with certainty that Maori who comprised somewhere between 10 and 12% of the New Zealand population at the time were certainly over-represented in the army overseas (about 20%), and in the Vietnam deployments (about 35%). About 20% of those Killed in Action (KIA) in Vietnam were Maori.

344. The reasons for that over-representation are probably many and varied. I know that there were strong whanau traditions of service across the generations from WW2, and there were many whanau with multiple members serving at the same time. The Army was and is certainly a whanau environment in which Maori thrive and in which pan-Maori bonds are developed.

345. There were probably also economic reasons for joining the Army.

346. The first few rifle companies and the first artillery batteries that served in Vietnam did not join the Army specifically to serve in Vietnam, but after that, from about 1968 on, everyone who engaged, especially in the infantry and artillery, did so in the knowledge that they would be deployed to Vietnam.

347. There are many inferences one might draw from that about the over-representation of Maori in Vietnam. One should not however rely on the hoary old myth of the "warrior race", although some might have joined for that reason.

Were Maori Treated Differently?

348. Esprit de corps is essential in any combat unit, to create and maintain a cohesive and tight knit team, totally trusting in each other's loyalty and abilities. To achieve that there is no differentiation between ethnicities, for everyone has to rely totally on everyone else to stay alive. I think most veterans, Maori and Pakeha, acknowledge that we were all the same up there, expected to perform to a uniform standard, and treated the same.

349. I know in my platoon I was equally reliant on both Maori and Pakeha, although I obviously must have exercised a degree of unconscious bias in the initial selection of my platoon and its command and leadership group.

350. Written accounts based on oral histories of New Zealanders in Vietnam generally agree that Maori and Pakeha were treated the same.

Moral and Spiritual Resilience

351. When I was trained as a commissioned officer one of the key lessons we were taught from the experience of veterans of WW1 and WW2 was the importance of moral and spiritual strength to the resilience of units and soldiers.

352. At that time the spiritual was outwardly catered for by the posting of Roman Catholic and Protestant chaplains to each battalion. Nearly 100% of us were nominally Christian. In my time in Vietnam I arranged one voluntary church service for my platoon and only three of us attended. I got the message and didn't bother again.

353. Tikanga Maori was not then considered part of Army life. It has since become an everyday aspect in Ngati Tumatauenga.

354. However esprit de corps does have a non-religious spiritual dimension in the bonding together of brothers-in-arms. It is a very strong dimension that persists long after a war, even unto death.

Tikanga in the Service

355. Some evidence concerns the lack of space for the practice of tikanga in the service. When I joined the Army as an officer cadet in January 1962 we (two Maori and six Pakeha) were given a brief introduction to tikanga, mostly haka and waiata, before we headed off to Australia. That was about it.

356. I think we should remember that in the 1950s, 60s and 70s the New Zealand Army was a reflection of New Zealand Society. At that time in general society Tikanga Maori was still confined to Maori spaces and Maori occasions. The activism of those times eventually changed that, and the New Zealand Army did change with the times. It was not ahead of the times.

357. The dominant tikanga in the Army, including in the battalion overseas, was tikanga military, a distinct military culture. It had been the culture since the beginning of military service in New Zealand. It was unmodified by the existence and exploits of 28 Maori Battalion in WW2 because 28 Battalion was a cultural enclave, a distinct Maori space within 2 NZEF.

358. There may well have been expectations amongst whanau that the post-WW2 army would privilege tikanga Maori as it had been in 28 Battalion. But 28 Battalion was almost entirely Maori whereas the post-WW2 army was mostly Pakeha until the Korean War and Malayan Emergency, and even then with an influx of Maori was still mostly Pakeha. And the leadership was certainly mostly Pakeha.

359. Perhaps incorrect assumptions and over-estimations about the actual percentage of Maori in the New Zealand Army may have caused some to expect that it would be a space where Tikanga Maori would flourish.

360. However, even in my own very Maori platoon (57%) we did not practice tikanga Maori. Although in conversation with some of my Maori soldiers some years after the war they did mention the wairua Maori they felt ran through our platoon.

361. The New Zealand Army did make some attempt to modify practice after the influx of Maori during the Malayan Emergency. The then Captain Alan Armstrong (deceased), a Pakeha with a Maori wife and a deep interest in Tikanga Maori, wrote a paper on the differences between Maori and Pakeha soldiers and how to relate to Maori soldiers. It was widely distributed among infantry officers but I'm not sure that it changed the culture much at all, although I think all officers were very aware that different approaches were often needed when dealing with Maori soldiers.

362. As I related in my own narrative I was told when I was recruited in 1962 that the Army was unofficially seeking to increase the numbers of Maori officers.

363. The Maori Concert Party in the overseas battalions was a firm fixture from the last days of the Malayan Emergency, and was still active when I last served in the battalion in 1979. It was however not central to the life of the battalion. The wero was part of many formal battalion parades to welcome distinguished visitors, and the concert party performed at many official and unofficial events. It was also used to support the Department of Foreign Affairs in South East Asia.

364. The battalion erected its own marae in Terendak in 1962, took it to Singapore, and then to Linton. It was often used but was not central to battalion activities. I recall one tangihanga on the marae in Singapore in 1978; for my batman who was killed in a motorcycle accident.

365. That is in stark contrast to the present. I attended and spoke at the official farewell on the occasion of the retirement of Chief of General Staff Major General Maurice Dodson, and his handover to Major General (now Lt Gen) Jerry Mateparae on the Army Marae, "Rongomaraeroa o Nga Hau E Wha", in 2000. It was an occasion steeped in tikanga, in which tikanga was obviously embraced by the Pakeha senior officers, warrant officers and NCOs present.

366. In 1975 when I was the President of the Maori Club in Waiouru we started to build a marae, and named it "Rongomaraeroa o Nga Hau E Wha". WO1 Matt Edwards was the impetus behind the project and he drafted me in as the President & Tekoteko, being the senior Maori officer in Waiouru at the time. Owen Lloyd who has provided evidence to this Inquiry[78] was part of that committee. Those buildings were later shifted and became part of the new Army Marae in the 1990s.

[78] Owen Lloyd, Brief of Evidence, 25 August 2015.

367. We had no official support from the Army although we did acquire disused buildings and fittings, and the Ministry of Works helped us with some of the major construction. The Commander of Waiouru at the time, Colonel Ron Harding, was very supportive.

368. In 1976 I asked the visiting Minister for Maori Affairs, Duncan McIntyre, and the Chief of General Staff, Major General Ron Hassett, to visit the marae, and proposed to them that it be funded and become the Army Marae. Duncan McIntyre agreed and pledged $36,000 if the Army would match it. General Hassett later apologised to me because he was unable to get approval from Defence to make his part of the grant.

369. Many years later after I retired from the Army I was stopped in Lambton Quay in the 1990s by the then Chief of General Staff, the late Major General Tony Birks[79], who delighted in telling me that the Army Marae was an official project and that the Army would become known as Ngati Tumatauenga. It had taken nearly 20 years from when Matt Edwards had first raised the idea with me in 1975.

370. But it did eventually happen, and tikanga Maori seems to be part of Ngati Tumatauenga today. Big changes take time, especially cultural changes which are generational changes. From the 1950s when the Malayan Emergency started, to the advent of Ngati Tumatauenga, was only about 35 years.

371. The image that remains in my mind is of a Pakeha battalion commander, John Howard, leading his 1 RNZIR battalion in haka on the parade ground in 2005 during the battalion anniversary celebrations.

372. In 1998 during the big "Parade 98" Vietnam veterans' reunion in Wellington, my friend the late John Rangitihi Tahuparae, organised, and with his roopu performed a mass whakanoa ritual for our Vietnam veteran contingent, on the waterfront before we marched to Parliament. We discussed it before the event and concluded that the whakanoa ritual at the beginning of the reunion, and the military ritual (ode, last post, laying of poppies) at the end of the reunion, complimented each other and were but two expressions of the same ritual.

373. The whakanoa and the military rituals were over 25 years late but they were finally done, although not all Vietnam veterans were there to participate. Fittingly the late Bishop Te Whakahuihui Vercoe, claimant for Wai 1401, was our rangatira and kaikorero on the day.

[79] During the whole of his service very few people knew that Tony was Maori. He never spoke of it.

374. Ten years later I collaborated with Rangitihi Tahuparae to help produce the Maori ritual on the occasion of "Tribute 08", the 2008 reunion in Wellington focused on the official Crown apologies. It was a major part of Tribute 08. On that occasion we blended expression of elements of Maori and Military tikanga into the same ritual.

Participation in Maori Spaces in the Army

375. Some Maori space was created at our own initiative within the Army. The Waiouru Maori Club was involved in providing activities for teenagers, in kapahaka, and building a marae. 1 RNZIR had kapahaka, and a marae.

376. The thing I recall in relation to those Maori spaces is that we had some difficulty engaging Maori soldiers in Maori activities, and only a small minority participated. In my experience single soldiers, especially in South East Asia, had other far more pressing distractions and attractions on their minds during their free time.

377. In both places, Waiouru and South East Asia, married soldiers and their wives (or vice versa) were the mainstay of the kapahaka and other activities. They were often the same people.

Racism, or the Comparative Lack of it

378. In the New Zealand Army there was a relative lack of racism in the Army during my service. I emphasis relative because I acknowledge that there was some racism.

379. Growing up in Hawke's Bay in the 1940s and 1950s we experienced racism on a daily basis. The Army that I joined in 1962 was by comparison almost devoid of racism. There was no obvious institutional racism. Over my twenty years' service I did encounter several instances of personal racism but not on an everyday basis.

380. Which is not to say that some individuals in the Army did not hold racist attitudes but, along with politics and religion, the expression of such divisive attitudes and opinions was carefully avoided in the interests of promoting unity and esprit de corps. It would however occasionally come to the surface, sometimes fuelled by alcohol.

381. I can remember two instances where soldiers refused to serve under me because I was/am Maori. One was a recruit who was quite smart and may have decided that was a quick way to get discharged. He was right. The other was a very senior Warrant Officer Class 1 who declared that he would not serve under a Maori officer. I was a Major at the time. He quietly took his retirement from the Army within the week.

382. There were a small number of officers who whilst on the surface were not racist, could not abide Maori officers of intelligence and intellect, especially

those who were smarter than they were. This was pointed out to me on several occasions by other Pakeha officers. I had thought I was the only one who had noticed.

383. On the other hand most of my colleagues in the officer corps were not at all racist. I made many good and loyal friends. I watched some of them develop over the years from knowing absolutely nothing about Maori, to the point where they celebrated the ethnic diversity of the Army.

384. That diversity was characterised by a comparatively relaxed relationship between most officers and their soldiers, especially in the infantry; a feature that distinguished us from all of the other nations we worked alongside. It was a feature not always understood and appreciated by our Australian colleagues in Vietnam; or the British and Australians in Malaysia, who thought we were too close to our troops.

385. So, while the New Zealand Army did not provide space for the practice of Tikanga Maori it was, in my opinion, way ahead of its time with a relative but not complete absence of racism. I felt that the daily burden of the racism I had lived under as a child and teenager had been lifted and I was grateful.

386. At the end of 1967 when I returned to New Zealand from Vietnam with my English bride of seven months we got the car from Customs and set out to slowly wind our way down to Hawke's Bay, then later on to Wellington to take up my next posting. We stopped at quite a few places on the way.

387. We soon noticed that whenever I tried to book an upmarket hotel or motel over the phone or in person there were no vacancies, but when my English wife did the booking there were vacancies. We tested it out. I would try to make a booking and get the "no vacancy" routine, then my wife would book us into the same establishment. We encountered that all the way down the North Island, and even in Wellington.

388. And I had never declared that I was a Vietnam veteran. It was pure racism. A commissioned officer who had just spent two and a half years leading Maori and Pakeha troops at peace and at war.

389. Nearly fifteen years later, after I retired from the Army, I spent a lot of time back home and immediately noticed that racism had not changed much in the provinces. I wrote this poem not long after I retired and after I thought I might return home to live. I changed my mind:

Yours Sincerely

Situations Vacant.
Secretary / Manager.
Our RSA invites

applications
from suitable people.

Dear Sir,
Enclosed is my CV.
I believe I am
a suitable applicant.
Yours sincerely
Major R.N.Himona.

Dear Major,
We would be pleased
to interview you
for the position
of Secretary / Manager.
Yours sincerely,
Returned Services Association.

Dear Major,
We were impressed
but regret to advise
you were not
successful.
Yours sincerely,
Returned Services Association.

Dear Major,
I'm ashamed
of my RSA.
You were the best by far.
We didn't select you
because you're Maori.
Please accept
my personal apologies.
Yours sincerely.

390. It was a bit of a rude awakening after twenty years in a profoundly different Army environment. It was not the only example. In 1983 in Hawke's Bay Maori were still not welcome in Pakeha spaces, and Tikanga Maori was still practiced only in Maori spaces on Maori occasions.

391. If that was indicative of the thanks of a grateful nation given to a Maori major and war veteran with twenty years' service what was it like for other Maori war veterans when they left the service?

392. The New Zealand Army was not perfect but was at least a generation ahead of the times.

After the War

393. After Vietnam, and after disengagement from the Army, there may have been and continue to be differences in the way some Maori veterans view the veteran support system and its bureaucracy, engage or refuse to engage with the system, and are sometimes treated by the system. I have discussed that possibility but without conclusive research and comparative data that is yet to be determined.

THERE HAS TO BE A BETTER WAY

Legislative Principles

394. After researching and writing this Brief of Evidence, and after slowly, carefully and with great difficulty reading my way through the complexities of VSA 2014 and the claims process, and after consulting with advocates who have been dealing with this and with the previous legislation, it seems to me that there has to be a better way:

    a. A way that is easily understood by all veterans;
    b. A way that makes it easy for veterans and their whanau to engage with the support system, and easy to administer;
    c. A way that proactively engages with all war veterans and their families and brings them all into the support system;
    d. A way that helps veterans and their families deal with the long term psychological grief and mamae that many suffer;
    e. A way that longitudinally monitors the health of veterans and their families and initiates and funds new research when research is indicated;
    f. A way that is fair and that generously compensates all war veterans for their service; and
    g. A way through which a grateful nation is seen to be grateful and generous.

395. That way is through a totally new approach that seeks to minimise bureaucracy and to be seen to be actively serving the needs of veterans and their whanau. The present system, improved as it is by VSA 2014, is still a legislative and bureaucratic nightmare, and is still reactive rather than proactive.

396. VSA 2014 is pretty much a rewrite of the War Pensions Act 1954. It incorporates some but not all of the recommendations of the Joint Working Group, and acknowledges many but perhaps not all of the disorders suffered by the Vietnam veterans' cohort. But it is based on many of the same principles underlying the earlier legislation. They too need to be updated to accommodate the needs of veterans of modern warfare in modern times.

397. PTSD has always been a major factor in veterans' welfare, except that prior to the Vietnam War it was not acknowledged as such. It was even looked down

upon as a weakness rather than an illness. PTSD will continue to be a major medical and psychological outcome of warfare, perhaps more so if soldiers continue to deploy on multiple tours in multiple theatres.

398. The present so called "War on Terror" began in 2001 and has been going now in fits and starts for fifteen years. Some expert commentators have stated that it is likely to continue for another 100 years. I too think that is a distinct possibility; a continuing low level threat with occasional spikes of medium and high intensity synchronous and asynchronous warfare.

399. That being a possibility the legislation should be forward looking and designed to cope with another hundred years of PTSD and other common war related disorders.

400. It should anticipate the welfare requirement and be designed to proactively minimise the adverse after effects of war service on veterans and their families.

401. The legislation needs to acknowledge that new PTSD reality, and that most if not all soldiers committed to combat and command roles will be afflicted. The legislation needs to proactively provide for the immediate and continuing care of all of those soldiers rather than requiring them to present themselves for assessment and to show impairment long after the event.

402. The underlying principle of legislation should be that the nation has a duty of care to the lifelong welfare of all veterans, and that duty of care is a moral and social responsibility, not a bureaucratic necessity or an economic liability.

403. The same duty of care should apply inter-generationally to veterans' families if there is an intergenerational disorder specific to any theatre of operations. The Australian Families Study shows that PTSD in the veteran has intergenerational effects.

404. Continuing research into the effects of war service in general, and service in specific theatres of war, should be required by the legislation. Longitudinal monitoring of the welfare of veterans and their families should also be required by the legislation.

405. Perhaps the main lesson arising out of the Vietnam War and its adversarial aftermath is that the nation, through its Government and through legislation, should proactively care for its veterans and be seen to be caring and generous. It is a question of attitude, and moral and social responsibility.

406. The most effective way to demonstrate that attitude and responsibility would be through financial compensation for all war service, unrelated to disorder and disability.

The Economic Impact of More Generous Veterans' Benefits

407. The present system of assessment and entitlement had its origins in the world wars when 100,000 men and women served in WW1 and 140,000 in WW2. In both wars that represented about 9% of the population. The equivalent commitment in 2016 would be over 421,000. Presently there are only 31,000[80] war veterans.

408. The larger numbers have never been approached since the world wars. About 6,000 served in Korea (including 1,300 on RNZN frigates), 3,368 served in Vietnam, and about 4,000 in East Timor. The numbers now deployed in modern warfare are nowhere near the number or percentage of population during the world wars, and that trend will almost certainly continue. The nation can no longer afford to commit huge numbers to wars, and it does not have the will or the manpower and womanpower to do so anyway.

409. There are about 31,000 veterans, and most veterans who do engage with the system end up being paid some benefits. The process by which this is achieved is often difficult and frustrating for the veteran, and costs the country about $140 million.

410. 2014/15 budget allocations for veterans' affairs approached $340m:

Veterans Affairs Defence Force:

Policy advice and other services - $9,232,000
War disablement pensions - $118,892,000
Medical treatment - $14,640,000
Other benefits & related services - $6,900.000
TOTAL - $140,232,000.

Veterans Affairs Social Welfare:

Processing pensions - $438,000
Veterans pensions - $193,440,000
TOTAL - $193,878,000

411. Vote Veterans Affairs Defence Force represents about 0.05% of Vote Defence Force (about $3 billion).

412. Vote Social Development for 2014/2015 was over $23 billion, of which $11.613 billion was for New Zealand Superannuation.

413. Statistics from Ministry of Social Development[81] show that as at March 2016 nearly 280,000 working age people were receiving a main benefit. At the 2103

[80] http://www.veteransaffairs.mil.nz/

[81] https://www.msd.govt.nz/about-msd-and-our-work/publications-resources/statistics/benefit/post-sep-2013/all-main-benefits/latest-quarterly-results.html

census over 600,000 were receiving New Zealand Superannuation. By comparison the number of eligible war veterans (31,000) is miniscule. Perhaps half of that 31,000 are already receiving a Veterans Pension or New Zealand Superannuation.

414. The present veterans' support system is a development of a system that was designed in another time in different economic circumstances to minimise the economic impact of ongoing payments and health and disability support to veterans, in a time also when many of the long term effects of war service were not known, and perhaps ignored.

415. That might have been a valid economic imperative when there were about 200,000 war veterans after WW2 and a much smaller GDP. But today there are only 31,000 and that number is not likely to increase beyond the economic capacity of the country to provide more generous benefits to all veterans.

416. Compared to the total of Vote Defence and Vote Social Development ($26 billion) a much simpler and more generous veterans' support regime would have minimal economic impact.

A Meaningful Financial Gesture

417. In and around ANZAC Day we hear a lot of fine words about the "sacrifice" of soldiers and about how grateful the nation is for their service. Within the veterans' community there is quite a bit of scepticism about how genuine that is.

418. A much more meaningful gesture of thanks from a grateful nation, recognising the hazards of operational service and providing practical help to ease the retirement years, would be a small financial contribution.

419. It would have little economic impact compared to the present expenditure on New Zealand Superannuation and other benefits. However it would have a major effect on how veterans think about the way they are valued by their government and their nation, far beyond the financial. A simple gesture that would go a long way to heal the mamae, and to demonstrate what medals and fine words do not.

420. A guaranteed 5% premium on top of the Veterans' Pension (or New Zealand Superannuation) at the guaranteed age of 65, for instance, would provide visible and beneficial compensation for all war service. It would be the grateful gesture of a grateful nation, and would once and for all symbolically embrace and value the war veteran.

A Moral and Social Duty of Care

421. It is not an economic issue but a moral, social, and ultimately a political issue.

422. Does New Zealand do the best it can to look after those it has sent to war? Is it good enough to rely on a hit and miss support system that catches many yet by its very design allows others to slip through?

423. How does New Zealand honour its war veterans? There has to be a better way, other than medals, and fine words on ANZAC Day.

CONCLUSIONS

Causation and Accepted Conditions and Disorders

424. Many veterans, including many who have given evidence to this Inquiry, seem intent on proving causation for their physical and medical conditions and disorders. They seem unaware that the Statements of Principles now cover a very wide range of conditions and disorders, for which there is no need to prove causation, except for those conditions and disorders not covered by the SOPs.

425. The intent to prove causation leads in some cases to the adoption of group narratives and to exaggeration and embellishment; sometimes invention.

426. The only causation that needs to be affirmed is qualifying operational service as defined by VSA 2014 (Appendix 1).

427. Navigating through the range of conditions and disorders, both those covered by the SOPs and those that are not, can be very challenging and is best done with the guidance of a good advocate or representative.

Dealing with the Mamae

428. Notwithstanding the enhanced list of "presumptive conditions" now covered by the Statements of Principles, and the fact that there is no need to prove causation in order to access benefits, many veterans and their whanau are still enmeshed in trying to attribute causation. It manifests in heart rending expressions of mamae.

429. Somehow or other we have to find a way to help those veterans and their whanau move away from the causation fixation, and to help them move through the mamae. The endless focus on causation serves only to perpetuate the mamae. They need to know that they can already do something about it.

430. We might start by proactively engaging with all veterans, educating them about their entitlements, encouraging them to avail themselves of the free Annual Medical Assessment, and helping them secure their entitlements. Even those who already access entitlements might not be aware of the full range available to them.

431. Our New Zealand veterans might also benefit from having ongoing research conducted in the same way that the Australian DVA conducts its studies and publishes its findings, so that scientific evidence is available to balance the anecdotal evidence. To date we must rely on the Australian studies, being the most relevant based on relatively large samples of Vietnam veterans who served alongside New Zealand veterans in Phuoc Tuy province.

432. There does seem however some reluctance or resistance to the acceptance of the Australian studies. Chapter 6 – Results, The Third Australian Vietnam Veterans Mortality Study 2005 is attached at Appendix 8.

Toxic Chemical Exposure

433. Veterans' concerns about the plausibility of much of the evidence presented to the Inquiry are indeed justified, although there are good reasons for some of it. The over emphasis on and invention of exposure to Agent Orange has its roots in the long fight against Government and the medical establishment to gain recognition that it was used in Phuoc Tuy province and that it does cause certain disorders.

434. Given the fallibility of human memory, the influence of group memory, and the long public struggle to have Agent Orange spraying in Phuoc Tuy officially recognised, it is not surprising that after nearly five decades many veterans truly believe they were directly exposed to Agent Orange when it is unlikely.

435. It is now known that Agent Orange was not sprayed in the province after June 1968 and that it cannot have had the major effect previously attributed to it. Prior to that date it was also not sprayed in the concentrations, and over the wide areas, previously thought.

436. In order to prove causation when claiming veterans' benefits Agent Orange, Dapsone, insect repellents, and contaminated ground water were often wrongly cited as causes of medical disorders. That was as much the result of an adversarial claim system as it was of incomplete information about the toxic chemical environment.

437. We now know that toxic insecticides were sprayed in and around the Nui Dat base, for the whole period of NZ deployment, in concentrations and quantities that would have exposed everyone who served there to dangerous levels. Apart from directly affecting the health of veterans it is possible that those toxic insecticides have caused intergenerational genetic and immunodeficiency disorders in their children and grandchildren.

438. VSA 2014 and the Statements of Principle have largely but not entirely eliminated the need to attribute causation to the symptoms of disorders.

Different Campaigns May Have Different Effects on Veterans

439. All wars have some common physical, medical and psychological effects on those sent to fight them. Wounding by gunshot, fragmentation, or blast is the obvious commonality. PTSD and musculoskeletal injury are also common effects of warfare.

440. A defining feature of WW1 was the use of nerve gases. Specialised health care had to be provided for soldiers who had been gassed, for the rest of their lives.

441. The defining feature of the Vietnam War was thought to be the toxic chemical environment, and that has consumed the energy of the Vietnam cohort ever since.

442. The legislation (VSA 2014) should provide for scientific on-site monitoring in war zones to determine whether or not there are, or might be, health issues specific to that war zone. The proactive and early identification of specific health issues would minimise or eliminate the need for veterans to go through a long period of activism and negotiation to have their specific needs met after the war.

443. The care of the veteran should begin in the war zone.

Engagement with the Bureaucracy

444. Despite revised legislation (VSA 2104) engagement with the veterans' support system is still not easy, and it is still a reactive system requiring the veterans and their families to firstly engage with the system and secondly to navigate their way through the often difficult process, sometimes with little help from case managers at NZVA.

445. There needs to be a proactive engagement with all veterans and their families and a full time professional advocacy service to guide them through the process.

Maori Veterans

446. To my knowledge there has been no research to determine whether or not Maori are proportionately disadvantaged in engaging with the veterans' support system. It would be helpful to know how many Maori veterans and what percentage of Maori veterans have successfully engaged with the system, relative to Pakeha veterans.

447. I do not believe that in my era Maori were disadvantaged either in general service or in combat service, relative to Maori in general society. I believe that the New Zealand Army while not being ahead of the times in incorporating Tikanga Maori, was way ahead of the times in being relatively if not completely free of racism.

A Better Way

448. Finally I believe that there has to be a better way. Essentially, that is a way based on a duty of care based on moral and social responsibility, and the political will to embrace, value, honour and reward war veterans in recognition of their extraordinary service to their nation.

449. Financial reward has far more impact on the life of the war veteran than any other. I demonstrate that a more a generous system of compensation and reward will have minimal economic impact.

RECOMMENDATIONS

Introduction

450. These recommendations are intended to relate to all veterans, not just Maori veterans. They are however designed to provide remedy to the claims and concerns expressed by many of those Maori veterans who have submitted to this Inquiry.

451. I note from consultation with veterans' advocates, and from the Brief of Evidence of Richard Thame[82], that had the Memorandum of Understanding[83] been fully implemented some of these recommendations would now be redundant.

Recommendation #1: Scientific Research

452. That Government initiate and fund an independent longitudinal genetic disorders and immunodeficiency disorders scientific research project:

    a. Following on from the initial genetic research conducted by Massey University;
    b. To determine the immediate and intergenerational health effects of Chlordane, Dieldrin, Lindane, Diazinon, DDT, Malathion and Malaoxon exposure and ingestion;
    c. To determine the likely effect of the food supplied in Vietnam on the health of veterans;
    d. To determine the genetic effects and immune system effects of Vietnam War service on veterans and the descendants of veterans; and
    e. To determine what extra conditions should be added to the Statements of Principle.

[82] Richard Thame, 10 March 2016.

[83] MOU between the Government (the Minister of Defence and the Minister of Veterans' Affairs), and the Royal New Zealand Returned and Services Association (RNZRSA) and the Ex-Vietnam Services Association (EVSA)

Recommendation #2: Service to Maori

453. That Government initiate and fund an independent research project to determine how many and what percentage of Maori veterans have successfully engaged with the veterans support system, how many have not been successful, or have not tried, and the reasons for non-engagement.

454. It might be instructive to include all veterans in the survey.

Recommendation #3: Proactive Engagement with the Veteran

455. That Government establish and fund a full time independent proactive agency or service that will keep track of all war veterans and their families and engage with them on a regular basis, to keep them informed and to encourage them to seek support and assistance as early as possible.

Recommendation #4: Advocacy Service

456. That Government establish and fund a full-time independent and professional advocacy service to represent the war veteran and family in his or her dealings with New Zealand Veterans Affairs, and the veterans' support system. The service to include suitably qualified medical staff.

457. A similar recommendation was made by veterans' advocate Gavin Nichol[84] in his brief of evidence.

Recommendation #5: Review of New Zealand Veterans Affairs

458. That Government initiate an independent review of New Zealand Veterans Affairs, in particular its relationship with war veterans through its case managers, to identify both the strengths and weaknesses of the case manager system, and to recommend any improvements, including increased numbers of case managers and enhanced training if necessary.

Recommendation #6: A Generous Benefit

459. That Government approve a guaranteed 5% premium on top of the Veterans' Pension (or New Zealand Superannuation) at the guaranteed age of 65. That would provide visible and actual compensation for all war service. It would be the grateful gesture of a grateful nation, and would once and for all symbolically and actually embrace and value the war veteran.

R.N.HIMONA
23rd June 2016

[84] Gavin Nicol brief of evidence, 14 March 2016.

Appendices:

1) Qualifying Operational Service
2) Complete list of Statements of Principles.
3) Statement of Principles for PTSD.
4) "Jumping Jack" – the death of Corporal Morrie Manton.
5) Extracted Phuoc Tuy data from HQ USAF Data Services "Herb Tapes, Defoliation Missions in South Vietnam 1965 – 1971".
6) Extract from 1 ATF Commanders Diary January 1968, Sheet 105, Duty Officer's Log, 8 January 1968.
7) "Operation FLYSWATTER: A War Within a War", Cecil & Young, 2008.
8) The Third Australian Vietnam Veterans Mortality Study 2005, Chapter 6 – Results.
9) Factsheet covering Vietnam Veterans Family Study, DVA Australia.
10) "Insecticide Deceit? The truth about insecticides used at Nui Dat" by Dr John Mordike PhD, 3 Sep 2013.
11) HQ AVF Instruction for a trial of Dapsone, 16 October 1968.
12) DVA Australia report on the Dapsone trial.

Annex: A. Wayne Lindsay, "Informative Essay on the Complexities of the Claims System When Dealing with Veterans Affairs New Zealand", 9th June 2016.

Dedication

Throughout this Brief of Evidence I refer often to “my platoon”. In truth it was “our platoon”; mine and all of those who served in it. I shared the command responsibility with all of my NCOs especially my platoon sergeant Scoff Cootes. Scoff and I served together for two years in Malaya, Borneo and Vietnam, a “*well matched pairing*”[85] we two. Arising out of that shared experience we became close and life-long friends. Dedicated to the late WO1 John "Scoff" Cootes MBE who passed away at his home in Ngaruawahia on 9th June 2009 and who now rests on Taupiri Mountain, and to all of the members of Victor Company who have fallen since our formation in 1967. The poem was originally written for Scoff Cootes in 1997.

Softly I Hear You

Softly I hear you
across the marae
at Turangawaewae
down through the times from
Malaya, Borneo and Vietnam,
and across the intervening
forty years or more,
and though the ears are
growing old, sprouting hairs
like my grandfather's,
they instinctively know
that barely heard whistle,
just a fine-pitched whisper
really, dancing on the air,
flitting through the trees
and along the jungle track
for our ears only, so quiet
an enemy would never know,
but calling my name, as clear
as if you shouted it
from the mountain top
forty years ago, echoing
still in my head, "Over here",
it says, "Over here",
and I turn my head, smiling,
and see you standing there,
still, we two highly trained
fit and strong young men,
alert to ever-present danger,
a finely tuned team, we two,
in tiring bodies now, but
living just that instant
in another time.

[85] Barnz, Billy, “Voices from Vietnam, The Stories of New Zealanders Who Served Their Country in Vietnam”, Wilson Scott, Christchurch, 2008, p 326.