



Veterans' Review Board

Annual Report

2006-07

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Veterans' Review Board Principal Registry

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The Hon Bruce Billson MP
Minister for Veterans' Affairs
Minister Assisting the Minister for Defence
Parliament House
CANBERRA ACT 2600

Dear Minister

In accordance with subsection 215(4) of the *Veterans' Entitlements Act 1986*, I present my report on the operations of the Veterans' Review Board for the year ending 30 June 2007.

Yours sincerely

A handwritten signature in black ink that reads 'Michael Griffin'.

M GRIFFIN
Principal Member

18 September 2007

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2006-07 PRINCIPAL MEMBER'S OVERVIEW

Perhaps the most significant event affecting the Veterans' Review Board (VRB) during this reporting year, was the appointment of Brigadier Bill Rolfe (Rtd) to the position of Repatriation Commissioner, on 26 January 2007.

Bill Rolfe had been Principal Member of the VRB since 8 April 1997. During the decade of his tenure Bill, through his strong leadership ability, sound legal skills and deep understanding of military service, forged a highly productive and technically accurate review tribunal which won the confidence of key stakeholders and, most importantly, of the ex-service community. Bill's contribution to the development of the VRB and to its reputation and standing in the community cannot be overstated. He will be missed at the Board but fortunately he continues his service to the community in his new role as Repatriation Commissioner.

I took up the appointment as Principal Member on 26 June 2007 and thus can speak with personal knowledge of only the remaining four days of the reporting period.

Mr Bruce Topperwien, Executive Officer of the VRB for almost the entirety of Bill Rolfe's tenure, acted in the position of Principal Member from 25 January 2007 until my appointment on 26 June 2007. During this period Ms Trina McConnell, Director of Legal Services, acted as Executive Officer and Mr Bob Loftus, Case Appraisal Officer in the Queensland VRB Registry acted as Director Legal Services. This leadership group with the support of members and staff maintained the high quality service traditionally provided by the Board for the remainder of the year.

There were other significant events during the year. The VRB in association with Southern Cross University, conducted a Veterans' Law Conference at Surfers Paradise on 27-28 July 2006. The speakers at the conference included: The Honourable Justice Garry Downes, President of the Administrative Appeals Tribunal; Professor Robyn Creyke, Australian National University; Professor Ken Donald, Repatriation Medical Authority and Professor John McMillan, Commonwealth and Defence Force Ombudsman. The conference was a considerable success and attracted the attendance of a wide variety of participants including veterans, veterans' representatives, legal practitioners and members of other review tribunals.

On 30 September 2006, the appointments of 20 VRB members expired. Ten of those members were reappointed on 1 October 2006 for three year terms, along with 15 new members. A member induction training and refresher program was held at Crowne Plaza Hotel, Gold Coast from 8-13 October 2006. This training and the

Board's general functioning ability was substantially enhanced by the publication, at that time, of the VRB Members' Handbook. This significant resource resulted from the combined efforts of Trina McConnell and Bruce Topperwien over a period of months. The Handbook rapidly gained acceptance by VRB Staff, VRB Members and key stakeholders and has greatly enhanced the store of corporate knowledge within the Board. Bruce and Trina deserve significant credit for their work in producing the Handbook. Indeed, Trina was awarded the 2007 Australia Day Achievement Medallion in recognition of her outstanding work for the VRB, including the Handbook.

In March 2007 Ms Marian Hodge, a highly valued member of staff for some 20 years, commenced long service leave with a view to taking retirement in due course. We thank Marian for her excellent contribution to the Board's work.

The VRB staff and members were deeply saddened by the death of Ms June Martin, a highly valued staff member of the Perth registry on 26 April 2007. June is sadly missed. Several members of staff volunteered to travel and ensure that the operations of the Perth office were maintained during this difficult time, a fine example of the collegiality of the VRB.

The operations of the VRB nationally, maintained a high volume of hearing and deciding review applications, across the spectrum of the Board's jurisdictional base. The total number of applications for review continued to follow the recent historical decline. However, the number and complexity of issues contained within those applications continues to increase in inverse proportion to that rate of decline. That is, as the number of veterans lodging applications for review reduces annually, the number of issues arising in those applications and their degree of complexity increases at a similar rate. This may be a reflection of the changing demographic of the veteran community and the medical issues confronting veterans and their bereaved spouses. It also reflects the growing impact of the addition of the *Military Rehabilitation and Compensation Act 2004* (the MRCA) to the VRB jurisdiction, which has grown from 11 cases last year to 36 cases this year and which on present indications may triple again in the 2007-08 year.

The first VRB All Staff Conference was held in Sydney on 31 May–1 June 2007 and this was preceded by a Registrar's Conference on 30 May 2007.

Throughout the year, the Board continued to interact with and provide support to various key stakeholders in the veteran community and to many individuals who sought assistance and advice, where this was appropriate and possible. By way of example, VRB members and staff continued to attend and speak at Training Information Programs (TIP) conducted for veterans' representatives around the country.

In his last annual report Bill Rolfe wrote, in part, 'Overall the VRB continues to provide a service that is valued by veterans, members and widows...In spite of the

difficult nature of its role the VRB holds a valued place in the compensation determining system'. With respect I concur entirely with that view and adopt it as an accurate statement of the current status of the Board.

I conclude by thanking the staff and members of the VRB for their generous support in welcoming me as Principal Member. I also want to thank the key stakeholders in the veterans community such as the Vietnam Veterans groups, the Returned and Services League, Legacy and several individual representatives who have offered support to me and the Board. I also wish to acknowledge the assistance provided to me and to the Board by the Department of Veterans' Affairs under Mr Mark Sullivan and by the Administrative Appeals Tribunal under Justice Downes.

I look forward to the VRB maintaining the high quality level of service to the Service and veteran communities that was established by Bill Rolfe.

OBJECTIVES, FUNCTION AND POWERS

Objectives

The VRB was established to implement the Government's decision to adopt the recommendations of the Administrative Review Council that a statutory review body be established to review on the merits of the case primary decisions made by delegates of the Repatriation Commission on claims for pension. On 1 July 2004 the VRB's jurisdiction was extended to review original determinations made by delegates of the Military Rehabilitation and Compensation Commission. To this end the VRB aims to:

- (a) finalise high numbers of applications for review;
- (b) do so at a quality level that affords a high assurance that review decisions are correct;
- (c) complete all process stages subject to the VRB's control on a timely basis;
- (d) undertake reviews in a manner that is efficient to resource usage; and
- (e) be accessible and responsive to veteran community stakeholders;

These objectives are directly reflected in the VRB's five outcomes.

Function

The VRB was established by the *Repatriation Legislation Amendment Act 1984* and began operations on 1 January 1985. It was continued in existence by the *Veterans' Entitlements Act 1986* (the VEA), which came into effect on 22 May 1986. Since then the VRB's operations have been governed by the VEA.

In conferring additional jurisdiction on the VRB, the *Military Rehabilitation and Compensation Act 2004* (the MRCA) applies provisions of the VEA with some modifications. This means that the VRB operates under the VEA, as modified, when deciding matters under the MRCA or the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*.

The VRB is a part of the governmental machinery for the delivery of Repatriation benefits to veterans and their dependants, and rehabilitation and compensation to members and former members of the Australian Defence Force (ADF) and their dependants. The principal components of the system are:

- the Department of Veterans' Affairs;
- the Repatriation Commission;
- the Military Rehabilitation and Compensation Commission;
- the VRB; and
- the Administrative Appeals Tribunal.

Although the VRB comes within the Minister for Veterans' Affairs portfolio and for administrative purposes is included as a sub-program in the Department of Veterans' Affairs, it is an independent statutory authority. The Minister has no statutory power of direction over the VRB.

The VRB's function is to review decisions or determinations of:

- the Repatriation Commission on such matters as:
 - claims for the acceptance of injury or disease as war/defence-caused;
 - claims for war widows'/widowers'/orphans' pensions;
 - assessment of the rate of pension paid for incapacity from war/defence-caused injury or disease; and
 - claims for the grant or assessment of attendant allowance; and
- the Military Rehabilitation and Compensation Commission on such matters as:
 - liability for compensation for injury, disease or death;
 - compensation for permanent impairment;
 - compensation for incapacity for work or incapacity for service;
 - treatment;
 - rehabilitation programs; and
 - allowances and other benefits; and
- the Service Chiefs of the Army, Navy, and Air Force in relation to rehabilitation programs for members of the Forces.

Powers

The powers of the VRB are set out in Part IX of the VEA. For the purposes of reviewing determinations under the MRCA and the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*, the VRB's powers in Part IX of the VEA are modified by s 353 of the MRCA.

Appendix 6 briefly describes each of the powers of the VRB, the Principal Member and presiding members. Decisions of the VRB must be made under and in accordance with the relevant legislation.

Claims are lodged with and investigated by the Department of Veterans' Affairs. They are then decided by the Repatriation Commission or the Military Rehabilitation and Compensation Commission (the MRCC). In most cases, this decision is made by an officer of the Department of Veterans' Affairs to whom the relevant Commission has delegated its decision-making power.

In conducting a review of a decision or determination, the VRB may, by s 139(3) of the VEA, exercise all the powers and discretions of the primary decision-maker. It may affirm, vary or set aside the decision under review and, where appropriate, substitute its own decision. The VRB does not have a general power to remit matters to the Repatriation Commission or the MRCC. This means that it must make a decision or determination itself using the same powers that the relevant Commission could use if it were deciding the matter again. The only limited power of remittal that the VRB possesses is in relation to the assessment of a rate of pension upon the acceptance of an injury or disease as war-caused or defence-caused under the VEA, or the assessment of an amount of compensation if the VRB has granted compensation under the MRCA.

Decisions and determinations of the VRB are, in turn, reviewable by the Administrative Appeals Tribunal (AAT) upon application to that Tribunal. Appeals from decisions of the AAT may be made, but only on a question of law, to the Federal Court of Australia.

The VRB aims to do all it can to ensure that those seeking a review quickly receive their proper entitlement under veterans' law and military rehabilitation and compensation law.

ORGANISATION

The VRB performs its adjudicative functions by the allocation of members to the hearing of particular cases. Details of membership during the year are provided in Appendix 4 at p 60 and Appendix 5 at p 62.

Membership of the VRB is in a number of categories – the Principal Member, Senior Members, Services Members (selected from lists of candidates submitted to the Minister by ex-service and related organisations), and Members.

The Principal Member is responsible for the efficient operation of the VRB and the arrangement of its business, including its procedures and the constitution of its panels. The Principal Member cannot direct any member on the law or on the decision to be made in a particular case.

For the purpose of conducting a review, a VRB panel is usually constituted by:

- the Principal Member or a Senior Member, who presides;
- a Services Member; and
- a Member.

A VRB panel may also be constituted by the Principal Member, a Senior Member and a Services Member.

A quorum of two members may sit if one of the three members who was to constitute the panel becomes unavailable. As a matter of practice, every reasonable effort is made to replace an unavailable member to avoid the need for the remaining two members to sit as a quorum.

With the consent of the Minister for Veterans' Affairs, the VRB may be constituted by one member sitting alone.

Depending on the number of cases available for hearing, panels generally sit for most weeks of the year in Sydney, Melbourne and Brisbane. As the need arises and subject to availability of resources, panels also sit in the other capital cities and in various regional centres.

In performing its adjudicative functions, members of the VRB are assisted by a number of administrative staff (see p 43 for further details).

The VRB has its Principal Registry in Sydney and a presence in each state capital. The Executive Officer acts as chief legal counsel to the Principal Member and is

responsible to the Principal Member for the direction and coordination of the activities of the staff. The Executive Officer is assisted by two Directors: one is responsible for the VRB's corporate services and the other for the VRB's legal services. A Registrar in each State is responsible to the Executive Officer for the administrative operations of the VRB in each State. The Registrar in Victoria is also responsible for operations in Tasmania.

The Registry addresses and the names of VRB officers, including the information officer, who can provide further details about the VRB, are set out at Appendix 10 at p 81.

Membership

All members of the VRB are appointed by the Governor-General and hold office for such period, not exceeding five years, as is specified in the instrument of appointment. They are eligible for reappointment.

The only circumstances in which VRB members can be removed from office are those set out in section 164 of the VEA. They are:

- proved misbehaviour;
- physical or mental incapacity;
- bankruptcy;
- engagement in outside employment without approval (if a full-time member);
- absence without leave for 14 consecutive days, or 28 days in any 12 months (if a full-time member).

OPERATIONS

VRB Procedures

The VEA sets out the broad procedural requirements to be followed by the VRB in dealing with applications under that Act, and as modified by the MRCA for applications for review of determinations made under that Act or the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*. In implementing these requirements, the VRB has supplemented and built upon them with additional procedures designed to meet the principles of procedural fairness and sound management practices.

In most cases, the procedures that govern the processing of an application are quite straightforward. The following paragraphs provide an outline of those processes.

Parties to the review

The parties to a review by the VRB are the applicant and:

- the Repatriation Commission (for a matter under the VEA); or
- the Military Rehabilitation and Compensation Commission (for a matter under the MRCA); and
- if the matter concerns rehabilitation of a serving member of the ADF under the MRCA, the relevant service chief may choose to be a party.

Each party may be represented at the hearing, but only by a person who does not have legal qualifications (s 147(2) of the VEA).

Lodgement of applications

An application to the VRB has to be in writing and lodged at an office of the Department of Veterans' Affairs. An application under the MRCA or an application concerning an entitlement matter under the VEA must be received by the Department within 12 months of notice to the applicant of advice of the decision he or she wishes to challenge. An application under the VEA concerning an assessment matter or an attendant allowance must be lodged within three months of notice of the decision.

The Department registers new applications, giving them sequential State-based registration numbers. That registration number is then used by the VRB as its reference number and is used as the VRB's file number for each application.

Section 137 Report

Within six weeks of receiving an application, the Department or the Military Rehabilitation and Compensation Commission must provide the applicant with a report prepared in accordance with s 137 of the VEA. That report contains a copy of those documents from the Department's files that Departmental staff have identified as relevant to the decision or determination under review. The applicant then has 28 days, or such further period as he or she may request, to provide the Department or the Military Rehabilitation and Compensation Commission with written comments on the report. At the end of that period the Department or the Military Rehabilitation and Compensation Commission formally transmits the relevant documents to the VRB. The documents comprise:

- the s 137 report;
- any comments or further evidence submitted by the applicant in response to the s 137 report; and
- any further evidence obtained by the Department or the Military Rehabilitation and Compensation Commission as a result of the applicant's response.

Under s 31 of the VEA, the Repatriation Commission can review its initial decision in the light of the applicant's comments, or any further evidence submitted by the applicant or obtained by the Department.

Similarly, under s 347 of the MRCA, the Military Rehabilitation and Compensation Commission can reconsider its original determination in light of the applicant's comments, or any further evidence submitted by the applicant or obtained by the Commission.

Section 148 Notice

On receiving these documents from the Department or the Military Rehabilitation and Compensation Commission, the VRB, in accordance with s 148 of the VEA, writes to the applicant and the relevant Commission or service chief requesting written advice about whether they intend to be represented at the hearing. In addition, the applicant is asked whether he or she wishes to:

- attend the hearing of the application;
- discuss the application with the VRB by telephone or video link during the hearing; or
- have the VRB deal with the application in his or her absence.

If neither party wishes to be represented at or participate in a hearing ('in absentia' cases), the application is normally placed before a VRB panel for review without further correspondence with the parties. Such applications, where available, are also listed under the system of 'stand-by cases' in substitution for hearings postponed on notice too short to enable the hearing of another case to be arranged. Under s 148(4) of the VEA, cases can also be listed 'in absentia' if an applicant fails to respond to the VRB's request to advise whether the applicant wishes to appear at the hearing.

Certificate of Readiness for Hearing

The general practice is to list cases for hearing in the chronological order in which they become available to list – that is, when the applicant and/or representative certify that they have submitted all the documentary material on which they intend to rely and they are ready to proceed to hearing. This is done by lodging a Certificate of Readiness for Hearing with the VRB.

The cases are usually listed for hearing in the order in which certificates are received by the VRB. However, the late withdrawal of cases, or late requests for postponements often mean that substitution of another application is not possible. This means that available hearing slots are wasted.

Case management

As part of the procedures to achieve effective case management:

- cases are examined by case managers with a view to clarifying the issues, ensuring jurisdiction and standing, and checking sufficiency of information;
- at certain intervals, case managers contact applicants or their representatives to discuss progress and preparation of applications with a view to listing for hearing;
- in certain circumstances, Registrars, as delegates of the Principal Member, may ask the Secretary of the Department or the Military Rehabilitation and Compensation Commission, under s 148(6A) of the VEA, to conduct further investigations or obtain further documents essential to the application being finalised but not necessarily supportive to either party;
- while the Certificate of Readiness for Hearing system still operates:
 - applications may be listed at the Registrar's direction in certain circumstances; and
 - the Registrar can dismiss an application in certain circumstances.

Case appraisal

Registrars and Case Appraisal Officers conduct detailed examination of unrepresented applications to assist applicants in understanding the legislation, the evidentiary situation, and the legal and medical issues in their cases. Case Managers

conduct a more limited form of case appraisal when section 137 reports are received from the Department and again when a Certificate of Readiness is lodged. In a number of instances, applicants are assisted in the evidentiary development of their cases and in others they are assisted in obtaining representation.

Urgent hearings

The VRB recognises that there may be circumstances in which some cases should be afforded an urgent listing priority. An early hearing may be arranged if medical certification indicates that a delay in hearing may cause prejudice to an applicant's mental or physical health or that deterioration in an applicant's health over time may prejudice the effectiveness of a later hearing, or if an applicant is in severe financial distress that might be alleviated by a successful outcome to an application.

In these circumstances, and with cooperation between applicants, their representatives, the relevant Commission and the Department of Veterans' Affairs, hearings can be arranged at very short notice.

Hearings

The VRB is not bound by technicalities or the rules of evidence. Hearings are informal and normally conducted in private. The presiding member determines who may be present and, if requested by the applicant, may permit a hearing to take place in public. Although not usual, witnesses may be summoned and evidence may be taken on oath or affirmation.

Apart from 'in absentia' cases, all hearings are recorded on audiotape or digital media to provide an accurate record of what is said. Copies of these tapes or CDs are made available free of charge to the parties on request, or the original recording may be listened to at the VRB's premises. The recording is retained for two years and then destroyed in accordance with the *Archives Act 1983*.

Issues are decided according to the opinion of the majority of members constituting the VRB panel. A copy of the decision and reasons of the VRB is mailed to each party, the applicant's representative and the Department of Veterans' Affairs.

The VRB decision may affirm, vary or set aside the decision under review. If the decision is to set aside, the VRB must substitute its own decision – it cannot generally remit the decision-making to the relevant Commission.

The VRB may adjourn the hearing of a review, either at the request of the parties or of its own volition. Upon an adjournment the VRB may also request the Secretary of the Department of Veterans' Affairs or the Military Rehabilitation and Compensation Commission to seek additional information, reports or evidence for consideration by the VRB.

The above paragraphs reflect the procedures followed in most cases. In some cases, however, an application will raise different considerations – for example, questions may arise whether an application comes within the scope of VRB review as set out in s 135 of the VEA or s 352 of the MRCA, or whether there is some statutory bar in that legislation to the VRB reviewing the decision in question, or there might be information provided to the VRB which may cause physical or mental detriment to the applicant if directly disclosed. Procedures governing these limited circumstances are set out in the VRB's *Operations Manual*, a copy of which is available from the VRB's Internet site at www.vrb.gov.au.

The VRB offers each applicant the choice of having his or her application heard in a variety of ways:

- an applicant may attend and be represented;
- an applicant may be represented but not attend;
- an applicant may attend but not be represented;
- a hearing may be conducted by video link;
- an applicant may request the VRB to deal with the case in his or her absence ('in absentia'); or
- an applicant may discuss the matter with the VRB members by telephone during the course of the hearing and, in doing so, may or may not be represented.

Further review rights

The applicant, the Repatriation Commission, the Military Rehabilitation and Compensation Commission, or a service chief may apply to the AAT for a review of a VRB decision or determination affirming, varying or setting aside the decision or determination under review. Applications can also be made to the AAT for review of decisions taken by the Principal Member or his delegate under the dismissal legislation (s 155AA and s 155AB of the VEA).

From a decision of the AAT, a party may appeal to the Federal Court of Australia on a question of law. That Court may, at its discretion, transfer the appeal to the Federal Magistrates Court.

Under the *Administrative Decisions (Judicial Review) Act 1977* (the AD(JR) Act) the Federal Magistrates Court or the Federal Court of Australia may review any VRB decision on the basis that the VRB has erred in law, on a ground set out in that Act, but the Court may exercise its discretion not to review on the basis that the person has an alternative review right to the AAT (s 10, AD(JR) Act). An application for judicial review may also be brought under s 39B of the *Judiciary Act 1903*. An action may be commenced in the High Court for a constitutional writ or injunction under s 75(v) of the *Constitution*.

Outcome 1: Finalise high numbers of applications for review

In the course of the year, 4 022 new applications were lodged: 3 986 under the VEA and 36 under the MRCA.

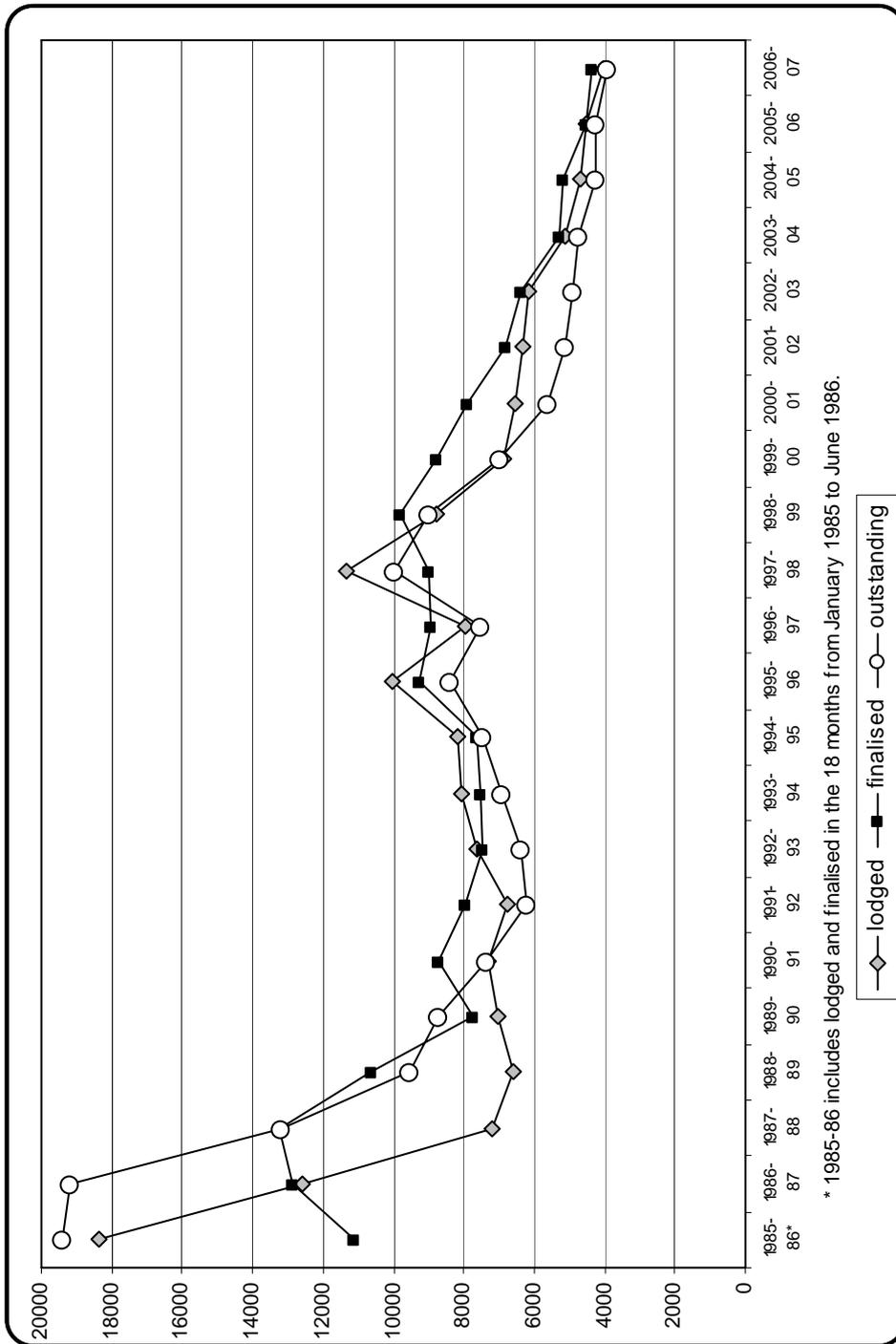
There were 4 336 applications finalised in the year: 4 324 under the VEA and 12 under the MRCA.

At year end, 3 914 applications were outstanding: 3 881 under the VEA and 33 under the MRCA. Overall, this was a reduction over the previous year of 310.

The geographic distribution of applications lodged, total applications finalised, applications finalised by decision, and applications outstanding, and the comparison with 2005-06 figures are shown in the following graphs and tables.

Graph 1 shows the lodgements and finalisations for each year of the VRB's operations, together with the number of outstanding applications at the end of each financial year. For the last nine financial years, the VRB has finalised more applications than it has received new lodgements, resulting in a reducing number of outstanding applications.

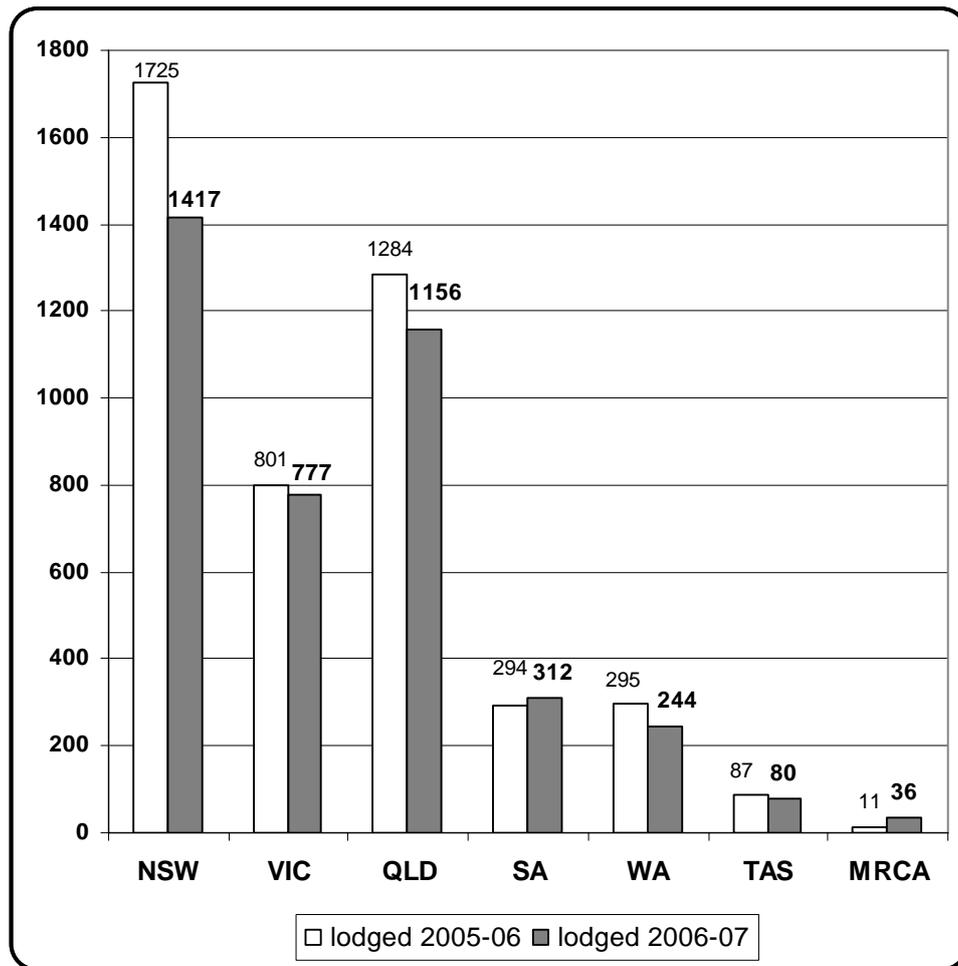
Graph 1 – Applications Lodged, Finalised and Outstanding, 1985-2007



Applications Lodged

During 2006-07, a total of 4 022 new applications were notified to the VRB compared to a total of 4 497 new applications during 2005-06. Of the new applications notified, 36 were under the MRCA, this figure was 11 in 2005-06.

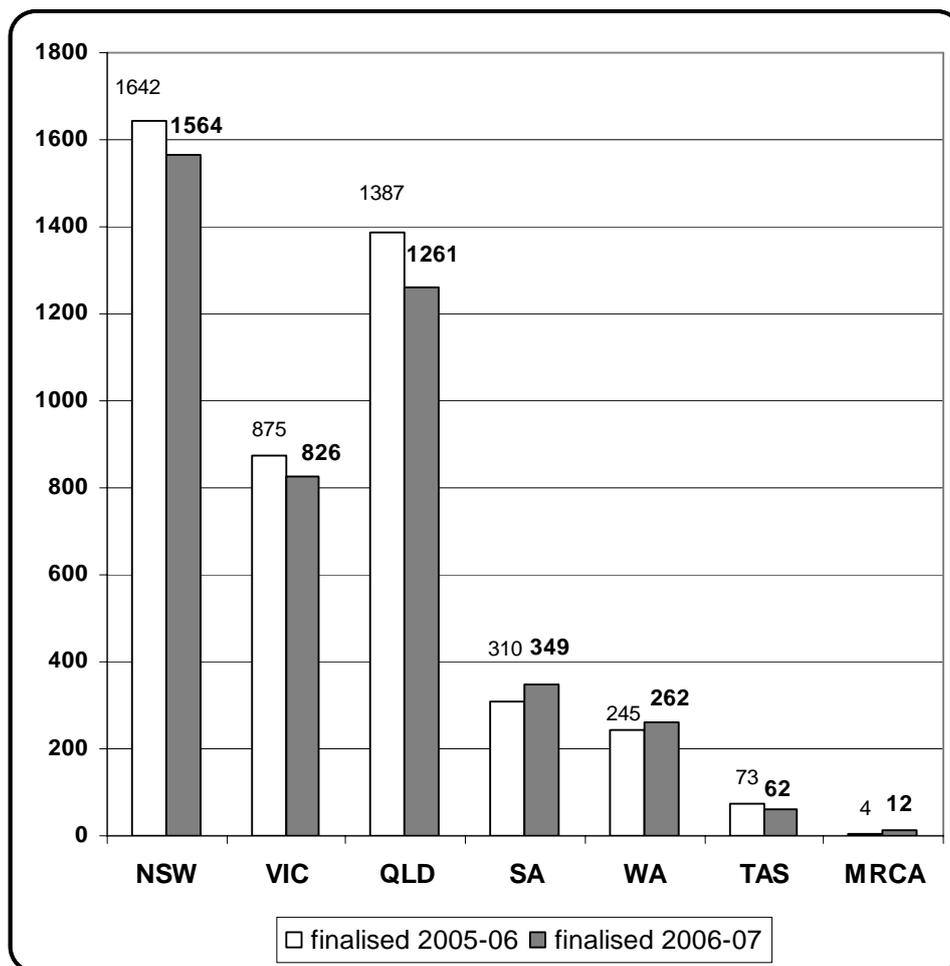
Graph 2 – Applications Lodged



Applications Finalised

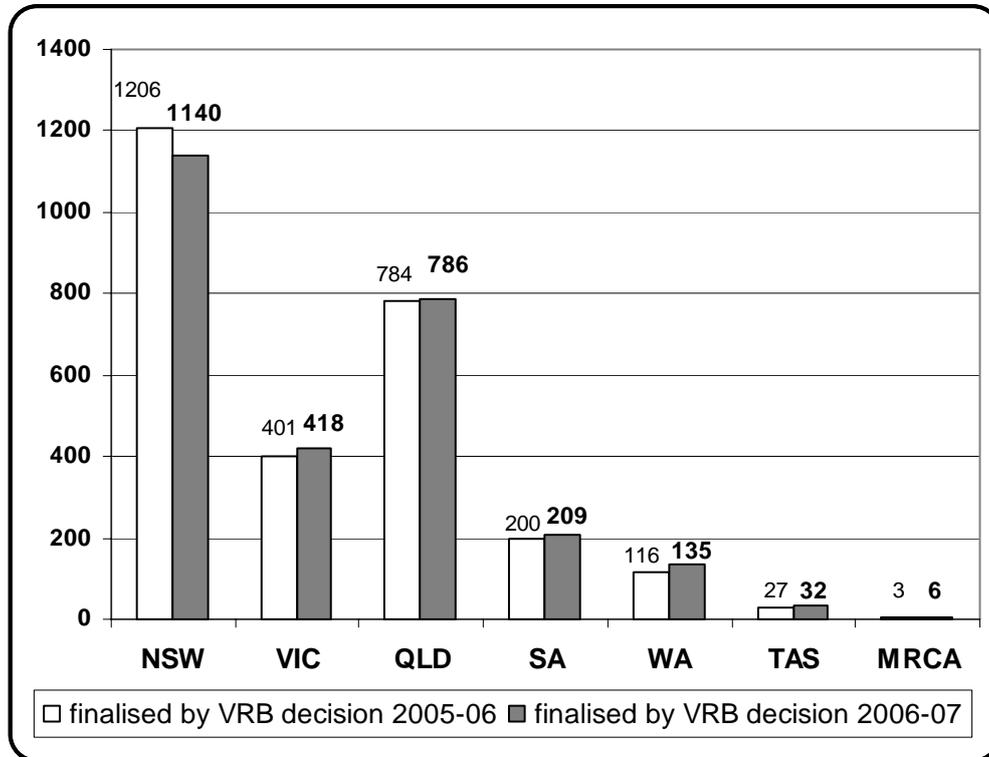
During 2006-07, a total of 4 336 applications to the VRB were finalised compared to a total of 4 536 applications during 2005-06. Of the applications finalised, 12 were under the MRCA, this figure was 4 in 2005-06. Applications may be finalised by dismissal (see p 36), lapsing (see p 37), withdrawal (see p 37), and by decision of the VRB following a hearing (see p 26).

Graph 3 – Applications Finalised



During 2006-07, a total of 2 726 applications were finalised by VRB decision following a hearing compared to a total of 2 737 in 2005-06. Of the applications finalised by hearing 6 were finalised under the MRCA, this figure was 3 in 2005-06.

Graph 4 – Applications Finalised by Decision of the VRB



An application may include more than one ‘matter’ to be decided. The following table sets out the numbers of matters decided in applications finalised by VRB decision (see also Tables 7 to 9 at pp 27-29).

Table 1 – Matters Finalised under the VEA by Decision of the VRB

	Entitlement		Assessment		Attendant Allowance	
	2005-06	2006-07	2005-06	2006-07	2005-06	2006-07
NSW	1 934	1 608	428	437	1	2
VIC	541	566	112	116	1	1
QLD	1 066	997	297	349	1	–
SA	232	250	73	83	–	1
WA	133	152	53	52	1	–
TAS	27	27	16	15	–	–
Aust	3 933	3 600	979	1 052	4	4

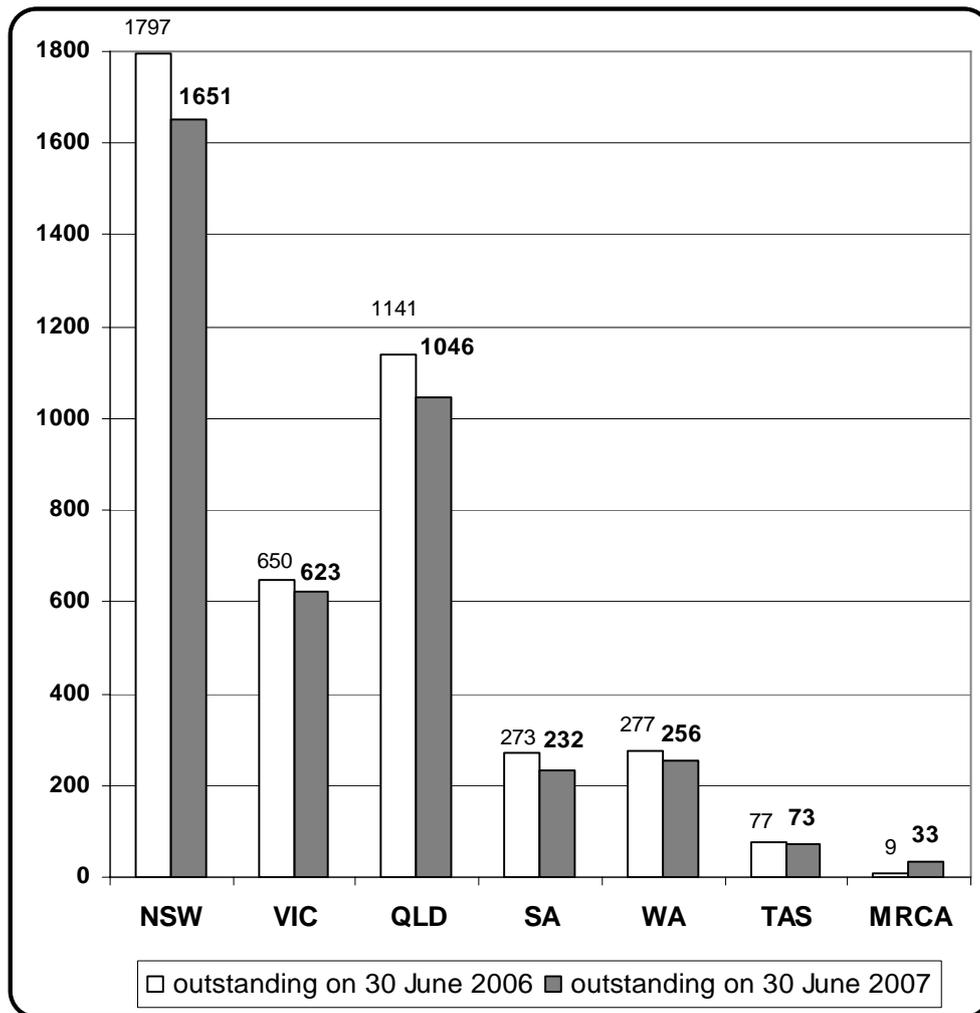
Table 2 – Matters Finalised under the MRCA by Determination of the VRB

	Liability		Compensation		Treatment		Rehabilitation		Other	
	2005-06	2006-07	2005-06	2006-07	2005-06	2006-07	2005-06	2006-07	2005-06	2006-07
NSW	1	4	–	2	–	–	–	–	–	–
VIC	1	–	–	–	1	–	–	–	–	–
QLD	–	1	–	3	–	1	–	–	–	2
SA	1	4	–	–	–	–	–	–	–	–
WA	–	–	–	–	–	–	–	–	–	–
TAS	–	–	–	–	–	–	–	–	–	–
Aust	3	9	–	5	1	1	–	–	–	2

Applications Outstanding

At the end of 2006-07, a total of 3 914 applications were outstanding at the VRB which included 33 MRCA applications. This compares with a total of 4 224 applications outstanding at the end of 2005-06, which included 9 MRCA applications.

Graph 5 – Applications Outstanding



Distribution of Applications Outstanding

Not all of the 3 914 applications outstanding are in the hands of the VRB, the following table shows the distribution of responsibility as at the end of 2006-07. The outstanding applications can be either in the hands of the applicants and/or their representative (and not ready to proceed), or in the hands of the Department (awaiting action under s 31, s 137, s 148(6A), s 152 or other administrative action) and the remainder are in the hands of the VRB.

Although the VRB is not directly responsible for applications that are not in its hands, Case Managers regularly follow-up those matters by seeking information from the applicant, representative, or the Department about the progress of the matters within their control.

Table 3 – Distribution of Applications Outstanding

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST
Department	2	210*	100	344	17*	50	8	731
Applicant	22	836	418	538	174	174	42	2 204
VRB	9	605	105	164	41	32	23	979
Total	33	1 651	623	1 046	232	256	73	3 914
% in VRB control	27%	37%	17%	16%	18%	13%	32%	25%

* The numbers of applications with the Department in NSW and SA (and thus the Australian total) are actually higher than the figures, above, indicate. In those States, the VRB is not notified of new applications until the Department has prepared and forwarded the s 137 reports to the VRB.

Age of Applications Outstanding

In 2006-07, the average time to process each of the stages of an application totalled 397 days. This compares with 385 in 2005-06. (See Table 10 at p 33 for further detail.) Table 4 shows that on 30 June 2007, 9% of outstanding applications were more than 2 years old. This figure was 9% on 30 June 2006. As noted above, these cases are regularly followed-up and nearly all of them are either with the Department for further investigation, or with applicants who are actively seeking further evidence, or are in the process of being listed for hearing, or dismissal action is being taken by the VRB. The VRB has an active program in place to seek to bring older cases to hearing as soon as possible.

Table 4 – Age and Distribution of Outstanding Applications

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST June 2007	AUST June 2006
< 1 year old	25 (76%)	926 (56%)	429 (69%)	730 (70%)	161 (69%)	157 (61%)	44 (60%)	2 472 (63%)	2 816 (67%)
1-2 years old	8 (24%)	564 (34%)	148 (24%)	240 (23%)	56 (26%)	66 (26%)	21 (29%)	1 103 (28%)	1 000 (24%)
2-3 years old	–	119 (7%)	37 (6%)	58 (6%)	11 (5%)	26 (10%)	4 (5%)	255 (7%)	303 (7%)
3-4 years old	–	32 (2%)	5 (1%)	12 (1%)	1 (1%)	7 (3%)	2 (3%)	59 (2%)	86 (2%)
> 4 years old	–	10 (1%)	4	6	3 (1%)	–	2 (3%)	25	19
Total	33	1 651	623	1 046	232	256	73	3 914	4 224

Statistical Summary

The following table summarises the VRB's major actions in processing applications during 2006-07:

Table 5 – Summary

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST
Outstanding Year End 2005-06	9	1 797	650	1 141	273	277	77	4 224
Lodged 2006-07	36	1 417	777	1 156	312	244	80	4 022
Heard 2006-07	10	1 410	555	967	263	192	53	3 450
Adjourned 2006-07	3	259	67	168	48	37	11	593
Finalised 2006-07	12	1 564	826	1 261	349	262	62	4 336
Withdrawn 2006-07	6	370	395	449	118	122	28	1 488
Dismissed 2006-07	–	45	12	17	17	3	2	96
Lapsed 2006-07	–	9	1	9	5	2	–	26
Outstanding Year End 2006-07	33	1 651	623	1 046	232	256	73	3 914

This table does not include the following actions undertaken by the VRB: transfer of applications between States, restoration of old applications (eg, applications that had been lapsed due to loss of contact with the applicant), deletion of duplicate applications, and follow-up of cases with applicants, their representatives, and the Department.

Outcome 2: Complete reviews at a quality level that affords a high assurance that review decisions are correct

For the VRB to make the correct or preferable decision in each case it must have a proper understanding of the law and sufficient material on which to make a careful decision about the merits.

VRB members are kept well informed of changes in the law and recent court and tribunal decisions by the VRB's Legal Services Section, a comprehensive Intranet site, members' meetings, and a training program for new members.

To ensure the VRB has adequate material upon which to consider the merits of each case, the Secretary of the Department provides copies of relevant material to the VRB under s 137 of the VEA. Under s 148(6A) of the VEA the Principal Member (or a Registrar to whom the power has been delegated) may request the Secretary or the Military Rehabilitation and Compensation Commission to conduct a further investigation and provide further material. VRB Case Managers inspect the material provided by the Department to conduct a preliminary assessment of its adequacy and relevance to the matters under review. As a consequence of this assessment, Registrars refer a number of cases to the Department or the Military Rehabilitation and Compensation Commission under s 148(6A) for further development of the material.

If a VRB panel reviews an application and receives further oral evidence during a hearing, issues might need clarification or further investigation, or the applicant might need a further opportunity, consistent with procedural fairness, to assess his or her position. In light of these considerations, the VRB might adjourn the hearing of a review.

Adjournments

The VEA confers two powers of adjournment. The first (s 151) is a general power exercisable at the VRB's discretion; the second (s 152) must be exercised if the VRB decides to seek further information from the Secretary of the Department or the Military Rehabilitation and Compensation Commission.

Broadly speaking, the VRB will adjourn a hearing in either of two situations – if it believes in the interests of procedural fairness that either or both of the parties to the hearing should have an opportunity to obtain further evidence or to consider their position in relation to issues or material before the VRB (s 151 cases); or if it considers that there is or may be other evidence not then available to it which is relevant to and necessary for a proper determination of the points in issue (s 152 cases).

It is accepted that some adjournments will inevitably occur. On occasions, issues previously not recognised by the parties will only become apparent during the course of a hearing, or a witness may cast his or her evidence in a way that places quite a different complexion on the probative nature of the material. But the aim of the VRB, and equally of the parties to the hearings, must be to confine adjournments to those that are inevitable – that is, the only hearings that should be adjourned are those where, with adequate case preparation, the representative could not reasonably have foreseen the eventual necessity for such an adjournment. This is particularly important where a representative has signed a Certificate of Readiness for Hearing or where a case is certified as ready for hearing following correspondence pursuant to the dismissal legislation. A request for hearing should only be made if a party is genuinely ready to proceed to a hearing. Any subsequent request for an adjournment may suggest in some circumstances that the certification of readiness for a hearing was not genuine. This would be an unacceptable practice.

If an applicant or representative is experiencing difficulties in obtaining relevant material they may approach a Registrar who, if he or she considers it appropriate, might exercise their power under s 148(6A) of the VEA to request the Secretary of the Department or the Military Rehabilitation and Compensation Commission to conduct an investigation to obtain the relevant material. This is a preferable course to asking the VRB to adjourn under s 152 and seek the information – which the VRB may or may not agree to do.

The VRB has adopted procedures designed to address unnecessary adjournments that result from the above circumstances, including the non-attendance of applicants at a scheduled hearing without adequate explanation.

The geographic distribution of adjournments during the year is shown in Table 6:

Table 6 – Section 151 and 152 Adjournments

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST
Applications Heard	10	1 410	555	967	263	192	53	3 450
Adjourned s151	–	76	12	49	11	7	3	158
s151 as % of Heard	–	5%	2%	5%	4%	4%	6%	4%
Adjourned s152	3	183	55	119	37	30	8	435
s152 as % of Heard	30%	13%	10%	12%	14%	16%	15%	13%
Total Adj % 2006-07	30%	18%	12%	17%	18%	19%	21%	17%
Total Adj % 2005-06	40%	20%	13%	15%	22%	23%	22%	18%

Outcome of VRB Decisions and Determinations

The review of a Repatriation Commission decision may involve deciding more than one substantive matter of entitlement and/or assessment. On average during 2006 -07, there were 2.2 matters decided by the VRB for each VEA application heard. During 2006-07, 5 052 decisions were published relating to 2 720 VEA applications.

The review of a Military Rehabilitation and Compensation Commission determination may involve determining more than one substantive matter of liability, compensation, treatment, rehabilitation or other matter. During 2006-07, determinations concerning 17 matters were published relating to 6 MRCA applications.

The outcome of the published decisions under the VEA and determinations under the MRCA is shown in the tables 7, 8 and 9.

Table 7 – Outcome of Published Decisions Concerning Reviews under the VEA

ENTITLEMENT	
Veteran’s death accepted as war/defence-caused and a war widows’/widowers’ pension granted	275
Injury or disease accepted as war/defence-caused and remitted to the Repatriation Commission to assess applicable pension rate	682
Injury or disease accepted as war/defence-caused and VRB assessed the rate of pension to be paid	128
Total Set Aside	1 085
Veteran’s death NOT war/defence-caused	389
Injury or disease NOT war/defence-caused	2 125
No power to review	1
Total Affirmed	2 515
TOTAL ENTITLEMENT	3 600
ASSESSMENT	
Set aside and rate of pension increased	504
Set aside and rate of pension reduced	5
Total Set Aside	509
Assessment decisions affirmed	540
No power to review	3
Total Affirmed	543
TOTAL ASSESSMENT	1 052
ATTENDANT ALLOWANCE	
Total Set Aside	–
Total Affirmed	4
TOTAL ATTENDANT ALLOWANCE	4
Entitlement – description of injury or disease varied[†]	271
Assessment – remitted[‡]	125
TOTAL DECISIONS PUBLISHED	5 052

† The VRB may vary the description of the injury or disease that was determined by the Repatriation Commission. For example, after examining the medical evidence, the VRB might vary the description of a disease from post traumatic stress disorder to post traumatic stress disorder with depressive features. If so, it will then go on to determine whether or not that differently described injury or disease is war-caused or defence-caused by setting aside or affirming the decision 'as varied'.

‡ If an entitlement matter is set aside, and a decision substituted determining the injury or disease to be war-caused or defence-caused, the pension assessment may be remitted to the Commission. If this happens, any assessment matter that was also the subject of that application for review is not determined by the VRB but is also remitted to the Commission.

In summary:

- 30.1% of entitlement decisions reviewed by the VRB were set aside; this figure was 28.3% for 2005-06.
- 48.4% of assessment decisions reviewed by the VRB were set aside; this figure was 48.7% for 2005-06.

Percentage VEA entitlement and assessment 'set aside' rates, by State, are shown in the following table:

Table 8 – Entitlement and Assessment Decisions Reviewed and Set Aside under the VEA

	NSW	VIC	QLD	SA	WA	TAS	AUST
Total Entitlement	1 608	566	997	250	152	27	3 600
Set Aside	561	154	258	64	39	9	1 085
% Set Aside 2006-07	34.9%	27.2%	25.9%	25.6%	25.7%	33.3%	30.1%
% Set Aside 2005-06	31.0%	22.0%	26.9%	28.9%	27.1%	14.8%	28.3%
Total Assessment	437	116	349	83	52	15	1 052
Set Aside	226	37	174	36	30	6	509
% Set Aside 2006-07	51.7%	32.0%	50.0%	43.4%	57.7%	40.0%	48.4%
% Set Aside 2005-06	53.0%	37.5%	51.9%	32.9%	49.1%	25.0%	48.7%

Table 9 – Outcomes of Published Determinations of the VRB on Review under the MRCA

LIABILITY	
Affirmed	2
Set aside and accepted liability	6
Varied description	1
TOTAL LIABILITY	9
COMPENSATION	
Affirmed	2
Set aside and compensation increased	3
TOTAL COMPENSATION	5
TREATMENT	
Affirmed	1
TOTAL TREATMENT	1
REHABILITATION	
Affirmed	-
TOTAL REHABILITATION	-
OTHER	
Affirmed	2
TOTAL OTHER	2
TOTAL DETERMINATIONS PUBLISHED	17

Set aside and affirmation rates may vary for a wide variety of reasons. Some of the factors that may have influenced these results would include:

- the approach taken by applicants and representatives as to the matters on which review will be sought;
- the extent to which intervention occurs by the Repatriation Commission under s 31 of the VEA or the Military Rehabilitation and Compensation Commission under s 347 of the MRCA;
- the adequacy of information presented to primary decision-makers;

- the nature and extent of new material presented on review; and
- changes in an applicant's degree of incapacity or impairment between the date of the decision under review and the date of the VRB's final hearing in an assessment or compensation matter.

Outcome 3: Complete all process stages subject to the VRB's control on a timely basis

Processing Times

There are three processing stages over which the VRB has primary control:

- from receipt of the s 137 report from the Department until a s148 notice is sent to the applicant;
- from receipt of a Certificate of Readiness until the hearing; and
- from the hearing until publication of the decision and reasons.

From Receipt of s 137 Report to s 148 Notice

When the s 137 Report is received, a VRB Case Manager examines the documents in the report for completeness and accuracy. If it appears that relevant documents are missing or incomplete, the Report is returned to the Department for rectification. Following this preliminary check, a s 148 Notice is sent to the applicant seeking advice about whether the applicant wishes to attend the hearing, whether the applicant wishes to be represented, and whether the applicant is ready to proceed at a hearing.

During 2006-07 the average time for the VRB to undertake this stage was 9 days, this compares with 11 days in 2005-06.

From Receipt of Certificate of Readiness to Hearing

When the VRB receives a Certificate of Readiness from an applicant or representative, the s 137 Report is again checked for completeness and DVA records are examined to determine whether there is further material that should be added to the Report. Depending on the availability of the applicant and his or her representative, the application is listed for hearing in the next available hearing slot, based on order of receipt of the Certificate of Readiness. Generally, the VRB seeks to give applicants and their representatives three or four weeks' notice of their hearing date and time.

In a significant number of cases there are restrictions on the availability of representatives, with the result that many cases are not available for listing for some weeks from when the Certificate of Readiness is received.

The average time for the VRB to undertake this stage was 97 days in 2006-07. This compares with 85 days in 2005-06.

From Hearing to Publication of Decision and Reasons

The VRB aims to publish its decisions and reasons as soon as possible, and at least within 28 days, after the hearing. Each VRB panel usually hears three cases each day. After each hearing the panel discusses the merits of the case and allocates one member to draft the reasons. All members type their own drafts. When the reasons have been drafted they are circulated to the other two members for comment and discussion. After each member is satisfied with the decision and reasons, the document is signed and given to the VRB staff for publication.

In finalising an application, the VRB seeks to ensure not only that the applicant receives his or her proper entitlement, but also that the decision is advised as soon as possible after the VRB hearing. VRB records are examined each week for all cases heard for which a decision has not been published. Each case more than three weeks old is then followed-up by the Principal Member to effect publication of the decision and reasons.

During 2006-07 the average time from the date of hearing to the publication of the decision was 12 days, this compares with 11 days in 2005-06.

Table 10 – Mean Times Taken to Process (in Days)

Figures in brackets in this table represent figures for 2005-06.

STAGE	Primarily under DVA control	Primarily under applicants' control	Primarily under VRB control
Lodgement to Receipt of s137 Report	48 (43)		
Receipt of s137 Report to s148 Notice sent			9 (11)
s148 Notice sent to s148 Reply received		32 (31)	
s148 Reply to Certificate of Readiness received		286 (282)	
Certificate of Readiness to Hearing			97 (85)
Hearing to Publication of decision & reasons			12 (11)
Total Average Time with DVA, applicants or VRB	48 (43)	318 (313)	118 (107)
Average % of Time with DVA, applicants or VRB	9.9% (9.3)	65.7% (67.6)	24.4% (23.1)

Not included in Table 10 are those times when applications are referred to the Department for further investigation or development of the material. The Department completed 3 360 requests for further investigation, provision of further documents, or development of the material in 2006-07 at an average time of 67 days. Of these, 2 895 requests were made by Registrars (at an average time of 49 days) and 465 following s 152 adjournments (at an average time of 178 days).

These figures compare with 2 674 requests in 2005-06 at an average time of 66 days, of which 2 195 requests were made by Registrars and 479 followed s 152 adjournments.

Outcome 4: Undertake reviews in a manner that is efficient in resource usage

During 2006-07, 4 022 new applications were lodged, 3 450 hearings were held, and 4 336 applications were finalised.

At 1 July 2006, 1 038 (25%) outstanding applications were with the VRB, 2 560 (60%) were with applicants or their representatives and not ready to be heard, and 626 (15%) were with the Department for action under s 137, s 148(6A), s 152 or s 31 (ie for the preparation of a s 137 report, obtaining further evidence at the request of the Principal Member (delegated to Registrars) or a panel of the VRB, or review by the Repatriation Commission).

The total number of applications outstanding as at the 30 June 2007 was 3 914. A total of 979 applications (25%) were with the VRB, 2 204 applications (56%) were with the applicant or their representatives and not ready to be heard, 731 applications (19%) were with the Department for action under s 137, s 148(6A), s 152 or s 31 (this figure, as previously explained, is probably understated in NSW and SA because of the Department's working practice in those States of not advising the VRB of new applications until the s 137 report is forwarded to the VRB).

Listing

During the year, the VRB aimed to list 15 hearing times per panel per week and those applications thought to be particularly complex or lengthy were allocated two or more hearing times. If an applicant had more than one application they were heard, where possible, during the one hearing time slot.

Of the 979 (25%) applications outstanding with the VRB, 251 had already been allocated a hearing date and time. Although a further 458 were ready to proceed to hearing, a proportion of these applications were in the hands of a relatively small number of representatives who maintain their own listing queues. Such representatives may only present one or two cases each week. This places limits on the capacity of the VRB to list such cases for hearing.

Postponements

A vital factor in the VRB's capacity to finalise applications is the effectiveness of its listing operations. If the VRB lists applications for hearing at times that subsequently become unsuitable to applicants or their representatives and the VRB does not receive timely advice of that unsuitability, the allocated hearing time may be wasted. Obviously there will always be some postponements – a sudden illness or other mishap cannot be avoided. However, it must be the aim of the VRB and those who regularly deal with it to ensure that the adverse effect of postponements is offset wherever possible by the substitution of another application. To this end, the VRB's procedures provide that requests for postponement on the day of a scheduled hearing will not be granted. In such cases, the hearing will commence as scheduled and the VRB panel will determine, after considering all the circumstances and the material before it, whether it will proceed with the hearing or adjourn the matter to a date to be fixed by the Registrar.

During the year, 289 applications listed for hearing were postponed prior to the commencement of the hearing. Substitute applications were found for 212 postponements. This resulted in 77 hearing slots not being able to be used (the equivalent of five weeks of hearings for a VRB panel). The VRB continues to seek the cooperation of all parties in ensuring the effectiveness of its listing procedures – the lower the effective postponement rate, the higher the finalisation rate and, obviously, the shorter the waiting time for other applications in the system. In particular, advocacy organisations should realise that, where they have signed a Certificate of Readiness for Hearing, or have certified that a case is ready for hearing as a result of letters sent pursuant to the dismissal legislation, a subsequent request for a postponement would, apart from exceptional circumstances, be unlikely to be granted.

The following table shows the geographic distribution of postponements during the year and the number and percentage of cases substituted for such postponements:

Table 11 – Hearings Postponed

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST
Applications Heard	10	1 410	555	967	263	192	53	3 450
Postponed	–	145	36	74	13	18	3	289
Substituted	–	119	19	51	7	14	2	212
% substituted 2006-07	–	82%	53%	69%	54%	78%	67%	73%
% substituted 2005-06	–	91%	47%	79%	60%	57%	50%	79%

Applications Dismissed

During 2006-07, the VRB sent out a total of 338 letters asking for a written statement from applicants as to why they were not ready to proceed at a hearing. This is a reduction of 94 on the previous year. These letters resulted in a total of 96 applications being dismissed, 35 being withdrawn and 71 requests for a hearing. The remainder provided reasonable explanations or were still being followed up in accordance with the legislation. There were no appeals concerning dismissals lodged with the AAT. For more information concerning AAT appeals see Appendix 2 at p 57. No dismissal action has yet begun in relation to any MRCA matters.

Table 12 – Dismissal Action

	NSW	VIC	QLD	SA	WA	TAS	AUST
Letters Sent	183	33	61	51	8	2	338
Reasonable Answer	63	16	14	10	-	1	104
Withdrawn	16	6	7	5	-	1	35
Hearing Requested	29	5	16	18	3	-	71
Dismissed 2006-07	45	12	17	17	3	2	96
Dismissed 2005-06	51	20	28	7	-	3	109

Applications Lapsed

Most applications lapse because an applicant dies and the legal personal representative does not wish to pursue the matter. An application, once registered, might also be disposed of if it is found to be a duplicate registration, or more properly regarded as a new claim for pension or an application for increase.

If an application for review has been made to the VRB of an original determination under the MRCA and the MRCC reconsiders that determination under s 347 and varies or revokes it, the original determination of which review had been sought no longer exists and the application to the VRB concerning that determination lapses. Under s 345 of the MRCA, a determination made under s 347 is a new 'original determination', and so if the applicant is dissatisfied with the s 347 reconsideration by the MRCC, a fresh application may be made to the VRB for review of that new determination.

During 2006-07, a total of 26 applications (none of which were MRCA applications) were lapsed. The figure for 2005-06 was 35.

Applications Withdrawn

During 2006-07, 1 488 applications were withdrawn by applicants; this represents 34% of applications finalised during the year. This compares with 1 655 withdrawals (37%) in 2005-06. The VRB is usually not advised of the reasons for withdrawal,

but it appears likely that a substantial proportion of withdrawals are the consequence of intervention by the Repatriation Commission under s 31 of the VEA. The geographic distribution of applications withdrawn during the year is shown in the following table:

Table 13 – Applications Withdrawn

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST
Finalised	12	1 564	826	1 261	349	262	62	4 336
Withdrawn	6	370	395	449	118	122	28	1 488
% Withdrawn 2006-07	50%	24%	48%	36%	34%	47%	45%	34%
% Withdrawn 2005-06	–	23%	52%	40%	33%	51%	59%	37%

Members

As at 1 July 2006, the membership of the VRB was 37.

From 1 July 2006 to 30 June 2007 the following changes in membership occurred:

- 10 part-time member's term of office expired from 30 September 2006:
 - David Caryl Blaikie, Member, Adelaide
 - Peter John Cappe, Member, Sydney
 - James Stewart Dickson, Services Member, Melbourne
 - Robert Eadie, Senior Member, Melbourne
 - Deirdre Ann FitzGerald, Senior Member, Melbourne
 - Andrea Marilyn Hall-Brown, Senior Member, Brisbane
 - Jonathon Scott Hamwood, Services Member, Brisbane
 - Naida Isenberg, Senior Member, Sydney
 - Derek Alan Purcell, Member, Perth
 - Kathleen Adair Sanders, Member, Melbourne

- 10 part-time members were reappointed from 1 October 2006 to 30 September 2009:
 - Frank Edward Burt, Services Member, Sydney
 - Anthony Michael Carwardine, Services Member, Canberra
 - John Charles Cooke, Senior Member, Sydney
 - Julie Cowdroy, Senior Member, Brisbane
 - Hilary Lorraine Kramer, Senior Member, Sydney
 - Laurence John Lewis, Services Member, Adelaide
 - Morag Angus McColm, Member, Brisbane
 - Alan Leslie Thompson, Senior Member, Melbourne
 - Anthony James Wales, Member, Adelaide
 - Leslie James Young, Senior Member, Sydney

- 16 part-time members were appointed from 1 October 2006 to 30 September 2009:

- Robert Barham Black, Services Member, Adelaide
 - Sharon Elizabeth Brennan, Member, Melbourne
 - Robert Anthony Brumm, Member, Brisbane
 - Marella Louise Denovan, Senior Member, Brisbane
 - Susan Denise Gillett, Member, Perth
 - Elayne Joyce Hayes, Member, Sydney
 - Robert Walter George Hume, Senior Member, Brisbane
 - Alexander Richard Main, Services Member, Brisbane
 - Virginia Anita Ryan, Member, Brisbane
 - Loretta Margaret Re, Senior Member, Sydney
 - Roger Alfred Tiller, Services Member, Sydney
 - David Symon Wilkins, Member, Sydney
 - Sylvia Winters, Member, Brisbane
 - Bruce Robert Wood, Services Member, Sydney
 - Christopher Charles Hamilton Wray, Senior Member, Melbourne
 - Beverley Christine Wright, Services Member, Canberra
- 3 part-time members resigned:
 - Marella Louise Denovan, Member, Brisbane, from 7 July 2006
 - Virginia Anita Ryan, Member, Brisbane, from 31 January 2007
 - Loretta Margaret Re, Senior Member, Sydney from 30 January 2007
 - 1 full-time member resigned:
 - William D Rolfe, Principal Member, Canberra, from 25 January 2007
 - 1 full-time member appointed from 26 January 2007 to 25 June 2007:
 - Bruce Neville Topperwien, Acting Principal Member, Canberra
 - 1 full-time member appointed from 26 June 2007 to 25 June 2012:
 - Michael Griffin, Principal Member, Sydney

At 30 June 2007, there were 40 members of the VRB: the Principal Member, 11 Senior Members, 16 Services Members and 12 Members. Of these, only the

Principal Member was a full-time appointee and all others were part-time. The number of women holding appointments was 15.

The break-up of membership as at 30 June 2007 is set out in the following table:

Table 14 – Members

Class of Member	Full-time	Part-time (women)	Total (women)
Principal Member	1	–	1
Senior Member	–	11 (5)	11 (5)
Services Member	–	16 (1)	16 (1)
Member	–	12 (9)	12 (9)
Total	1	39 (15)	40 (15)

Full details of the VRB membership as at 30 June 2007 are set out in Appendices 4 and 5.

Staff

Under section 172 of the VEA, the Secretary of the Department is required to make available any staff required to assist the VRB in the performance of its statutory functions.

At 1 July 2006, there were 38 staff employed by the VRB. That figure was 40 at the end of the financial year. There is one Senior Executive Service staff position at the VRB – that of the Executive Officer.

The break-up of staff as at 30 June 2007 is set out in the following table, with the number of women shown in brackets:

Table 15 – Staff

	SES 1	EL 2	Legal 1	EL 1	APS 6	APS 5	APS 4	APS 3	APS 2	Total 30 June 2007	Total 30 June 2006
ACT	1	1 (1)			2 (2)		2 (1)			6 (4)	6 (5)
NSW			1 (1)	1	2*(1)	2 (1)		7 (5)	1 (1)	14 (9)	11 (5)
VIC				1~			2 (1)	3 (2)		6 (3)	5 (3)
QLD				1 (1)	1		3 (3)	4 (4†)	1 (1#)	10 (9)	10 (9)
SA					1		1 (1)	1 (1)		3 (2)	3 (2)
WA					1 (1)			1		2 (1)	2 (2)
TAS										-	1
TOTAL	1	1 (1)	1 (1)	3 (1)	7 (4)	2 (1)	8 (6)	16 (12)	2 (2)	41 (28)	38 (26)

- * 1 part-time, # 1 part-time, † 3 part-time.
- ~The Registrar in Victoria is also responsible for operations in Tasmania.

Resources

Table 16 outlines estimated expenditure for the VRB for the 2005-06 and 2006-07 financial years. Expenditure is said to be estimated rather than actual because some corporate costs directly attributable to the VRB are in fact borne by the Department of Veterans' Affairs.

Total estimated expenditure for the VRB in the financial year 2006-07 was \$7 253 000 compared to \$7 091 000 in 2005-06. Average expenditure on each application finalised by the VRB during the year was \$1 673. In 2005-06 the figure was \$1 563.

The difficulty in this situation is that fixed costs remain constant while being apportioned against reduced numbers of cases. The result is increasing costs per case despite the reducing workload.

Additional expenditure was incurred as all members, including 15 new members appointed in October 2006, attended an induction and refresher conference at the Gold Coast. Also, a national staff conference was held in Sydney in May 2007.

Table 16 – Veterans’ Review Board – Expenditure (\$000s)

	1 July 05 – 30 June 06		1 July 06 – 30 June 07	
Salaries (includes superannuation)				
Members	2 365		2 743	
Staff (includes o/time & temps)	2 664	5 029	2 429	5 172
Rental of Premises (includes outgoings)	891	891	902	902
Applicants’ Expenses	35	35	27	27
Fares				
Members	181		244	
Staff	49		77	
Cars (includes parking)	52	282	69	390
Travelling Allowance				
Members	275		398	
Staff	34	309	68	466
Office Requisites				
Stationery and office requisites	28		42	
Library	38		23	
Printing	27		21	
Equipment	30	123	14	100
Postage and Telephones				
Postage	28		24	
Telephones/fax #	28	56	–	24
Office Services				
Furniture	–		1	
Plant hire	4	4	4	5
Computer Equipment (includes services) #				
vrbsAM (System for Application Management) development	214	214	–	–
Incidental Expenditure				
Freight & cartage	44		48	
Advertising	7		22	
Training	17		20	
Miscellaneous	8	76	12	102
Comcare Premium	60	60	50	50
Archiving	12	12	9	9
Legal	–	–	6	6
TOTAL		7 091		7 253

As a consequence of oneDVA, these costs are now met by the Department of Veterans’ Affairs.

Outcome 5: Accessible and responsive to veteran community stakeholders

Representation for Applicants

Representation for applicants at VRB hearings is provided by a number of ex-service and related organisations and by some private individuals.

The geographic distribution and numbers of applications heard where the applicants were represented, compared with 2005-06 figures, are shown in the following table:

Table 17 – Representation at VRB Hearings

	MRCA	NSW	VIC	QLD	SA	WA	TAS	AUST
Unrepresented	1	86	41	66	9	19	3	225
In absentia / unrepresented	2	75	33	24	10	8	1	153
In absentia / represented	-	114	32	24	-	11	-	181
Represented	7	1 135	449	853	244	154	49	2 891
Total	10	1 410	555	967	263	192	53	3 450
% Represented 2006-07	70%	89%	87%	91%	93%	86%	92%	89%
% Represented 2005-06	80%	85%	83%	90%	94%	87%	91%	87%

A substantial proportion (54%) of applicants who have ‘in absentia’ hearings are represented, but both the applicant and the representative have chosen not to appear at the hearing. The representatives in those cases sometimes provide written submissions to the VRB.

Regional Hearings

During 2006-07 regional hearings were again arranged in Bundaberg, Cairns, Canberra, Launceston, Townsville and Tweed-Gold Coast Region.

Table 18 shows the number of days hearings held in the above locations. The figures in brackets indicate the number of applications heard in those locations.

Table 18 – Number of Days Hearings Held in Regional Locations

Location	2005-06	2006-07
Bundaberg, Qld	13 (36)	20 (50)
Cairns, Qld	4 (13)	4 (13)
Canberra, ACT	21 (53)	34 (81)
Launceston, Tas	5 (13)	8 (18)
Mackay, Qld	4 (13)	- (-)
Townsville, Qld	10 (28)	20 (51)
Tweed-Gold Coast Region, Qld	59 (151)	54 (140)
Total days of hearings	116 (307)	140 (353)

In 2000-01, the VRB undertook a trial of video hearings to enhance its service to applicants in regional areas. The number of video hearings has varied but has become a popular method of hearing cases with some representatives. The provision of video hearings is a useful additional means of providing hearings on a timely basis for applicants in regional areas. The VRB remains committed to conducting regional hearings while there are sufficient cases available in those areas. However, video conferencing enables some applications to be heard sooner as the VRB does not have to wait for other applications in that region to be ready for hearing. The following table shows the location and number of applications heard by video in 2006-07.

Table 19 – Applications heard by video hearing

VRB Brisbane			VRB Melbourne		
Remote location	2005-06	2006-07	Remote location	2005-06	2006-07
Cairns, Qld	9	6	Albury, NSW	5	7
Gladstone, Qld	2	–	Benalla, Vic	3	4
Hervey Bay, Qld	7	3	Burnie, Tas	4	3
Mackay, Qld	1	17	Geelong, Vic	–	1
Port Macquarie, NSW	1	–	Heywood, Vic	1	–
Rockhampton, Qld	11	13	Hobart, Tas	2	4
Townsville, Qld	18	12	Mildura, Vic	1	–
VRB Perth, WA	–	2	Rosebud, Vic	–	1
Total Applications	49	53	Sale, Vic	1	–
VRB Perth			Wonthaggi, Vic	1	1
Remote location	2005-06	2006-07			
Albany, WA	–	2			
VRB, SA	–	1			
Total Applications	–	3	Total Applications	18	20

Representation at VRB Hearings by the Repatriation Commission, Military Rehabilitation and Compensation Commission, and Service Chiefs

The Repatriation Commission and the Military Rehabilitation and Compensation Commission are formally parties to all proceedings before the VRB for matters arising under the VEA and MRCA respectively. Additionally, the service chiefs may choose to be a party in applications concerning the MRCA. As a matter of practice, however, they have seldom been represented at VRB hearings. During 2006-07 neither of the Commissions nor a service chief was represented in any VRB hearings.

Other Activities

The VRB worked closely during the year with ex-service and related organisations and the parties to its hearings with a view to ensuring that its procedures worked effectively. Senior VRB staff participated in various workshops and seminars conducted by ex-service organisations and the Department.

The Principal Member and other members and staff attended a number of military history and administrative law conferences and contributed to the Training and Information Program (TIP) managed by the Department and ex-service organisations for the training of pension and welfare officers and representatives. The Principal Member, Executive Officer and Director (Legal Services) attended and addressed a number of State and national ex-service organisation meetings and maintained close contact with the larger advocacy organisations within the veteran community.

Research and information services

The VRB's intermediate role and high-volume jurisdiction mean that members have to deal with their caseload as expeditiously as possible. At the same time, both parties expect the VRB to consistently reach the correct or preferable decision in accordance with the facts and relevant law. In order to accommodate these competing requirements, the VRB has developed research and information services to provide members with a research service on particular problems that arise from time to time, and to speedily provide them with:

- the relevant law as interpreted by the courts and the Administrative Appeals Tribunal;
- legislative amendments;
- relevant research papers; and
- details of significant or interesting VRB decisions.

An internal legal and information bulletin and a comprehensive Intranet assists in providing members with this material.

The VRB publishes a quarterly journal called *VeRBosity*. This journal includes information about Statements of Principles, legislative amendments, and decisions by the Administrative Appeals Tribunal and courts in the veterans' and military compensation field together with other items of interest. It is distributed on request to people involved in the jurisdiction. During the year, four regular editions of *VeRBosity* were published.

The VRB also publishes:

- an information brochure, which is sent to all applicants prior to their hearing;
- an *Operations Manual*, which sets out details of the administrative processing of applications to the VRB; and
- a monthly summary of statistics relating to the operations of the VRB.

In order to optimise the quality of VRB decisions, it is important that members, applicants and advocates have access to appropriate library resources to enable research on material not contained in sources such as *VeRBosity*. Some library and source material is maintained in each Registry with the larger concentrations in Canberra, Sydney, Melbourne and Brisbane. These materials can be provided overnight between Registries.

Internet site

The VRB also maintains a comprehensive Internet site (www.vrb.gov.au) with detailed information and publications for applicants and their representatives, including material and links concerning jurisdiction and procedures, relevant legislation, case law, and guidance for practitioners.

Access and equity

In conjunction with the Department of Veterans' Affairs strategy to comply with the Government's social justice policy, the VRB observes the requirements of access, equity, equality and participation.

The VRB serves an identifiable segment of the community. The VRB is aware of its obligations in dealing with elderly persons, people with non-English speaking backgrounds and persons with disabilities. The VRB holds hearings and video hearings in some regional areas to ensure easier access for applicants. All applicants are advised of their right of appeal to the AAT on receiving advice of a VRB decision. Senior VRB staff speak on a regular basis at pensions seminars run by ex-service organisations and the Department of Veterans' Affairs, and visit regional areas to discuss the VRB's operations with ex-service organisation representatives.

In recognition of the fact that its staff are made available by the Department of Veterans' Affairs and operate in a comparable environment, the VRB acts consistently with Departmental policies and initiatives in such matters as occupational health and safety, enterprise bargaining, industrial democracy and equal employment opportunity.

Complaints

In the course of the year the VRB received 20 letters of complaint.

Six of the 20 complaints were referred for comment from the Minister's office and involved the following issues: concern over the conduct of a hearing, the decision or aspects of the decision (3); and concern over length of appeal processes (1), allegation of improper conduct (1), concern over appointment and location of VRB members (1). The Executive Officer or the Principal Member investigated each of these matters and responses were provided.

Other complaints sent to the VRB were: concern at the decision or aspects of the decision (3); concern over the conduct of the hearing (8); concern over VRB procedures (2); allegation of improper conduct (1).

Each of these concerns was examined in detail and responses were provided in a timely manner. In some cases personal contact by telephone was initiated by the Principal Member in order to confirm or add to any explanation offered.

The VRB is gratified that the complaints are few relative to the total of matters dealt with. Nevertheless it is clear that the issues raised were significant to the individuals concerned. The VRB continues to aim at reducing the possibility of complaint.

APPENDIX 1

Court Decisions

Under the VEA, the MRCA and the *Administrative Appeals Tribunal Act 1975*, decisions of the VRB are subject to review on the merits by the Administrative Appeals Tribunal (AAT). Parties to proceedings before the AAT may appeal to the Federal Court on questions of law from decisions of the AAT.

There is no direct right of appeal to the Federal Court against VRB decisions under the VEA. However, decisions of the VRB or conduct relating to the making of decisions are subject to review by the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977* (the AD(JR) Act), on the grounds set out in that Act, or alternatively by way of judicial review under the *Judiciary Act 1903*. Certain matters may also be heard in the Federal Magistrates Court, either in its original jurisdiction under the AD(JR) Act or upon transfer from the Federal Court.

High Court of Australia

During the year, the High Court did not hear or deliver judgments in any matters directly concerning the VEA or MRCA.

Federal Court of Australia

Administrative Decisions (Judicial Review) Act 1977 and Judiciary Act 1903

No applications directly concerning the VEA or MRCA were decided under either the *Administrative Decisions (Judicial Review) Act 1977* or the *Judiciary Act 1903* during the year.

Administrative Appeals Tribunal Act 1975

During the year, the Federal Court handed down 17 judgments, including 2 judgments of the Full Court, concerning matters related to VRB decisions on cases that were appealed from decisions of the AAT. The AAT decisions were set aside in

six cases and those matters were remitted to the AAT for re-hearing. The appeals in the other 11 cases were dismissed. The Federal Court judgments were (in chronological order) as follows:

Brown v Repatriation Commission [2006] FCA 914
Iversen v Repatriation Commission [2006] FCA 942
Streatfield v Repatriation Commission [2006] FCA 984
Byrne v Repatriation Commission [2006] FCA 1326
Repatriation Commission v Milenz [2006] FCA 1436
Repatriation Commission v Cotton [2006] FCA 1523
Repatriation Commission v Patterson [2006] FCAFC 165
Byrne v Repatriation Commission [2006] FCA 1667
Rodda v Repatriation Commission & Principal Member, VRB [2006] FCA 1689
Repatriation Commission v Dunn [2006] FCA 1703
Wooding v Repatriation Commission [2007] FCA 318
Fenner v Repatriation Commission [2007] FCA 406
Repatriation Commission v Butcher [2007] FCAFC 36
Wodianicky-Heiler v Repatriation Commission [2007] FCA 834
Repatriation Commission v Warren [2007] FCA 866
Repatriation Commission v Codd [2007] FCA 877
Jakab v Repatriation Commission [2007] FCA 898

Federal Magistrates Court of Australia

During the year, the Federal Magistrates Court handed down four judgments that concerned matters related to VRB decisions:

Finger v Repatriation Commission [2006] FMCA 1075
Cox v Repatriation Commission [2006] FMCA 1744
Repatriation Commission v Malady [2006] FMCA 1050
Gittins v Repatriation Commission [2007] FMCA 167

These matters had been remitted to the Court from the Federal Court on appeal from a decision of the AAT. The appeals in *Cox* and *Malady* were allowed, and the AAT decisions set aside and remitted to be reheard. The appeals in *Finger* and *Gittins* were dismissed.

Issues Dealt with by Court Decisions

Application of *Deledio* steps and the nature of evidence required to raise a reasonable hypothesis

A number of cases concerned the application of the four steps set out in *Repatriation Commission v Deledio* (1998) 83 FCR 82. In summary, the four steps are: (1) After consideration of all the material, is a hypothesis of a connection to service raised? (2) Has the Repatriation Medical Authority made a Statement of Principles (SoP) concerning the kind of injury, disease or death claimed? (3) Is the hypothesis reasonable? Does it fit the template of the Statement of Principles? (4) Has the reasonable hypothesis been disproved beyond reasonable doubt.

In *Dunn*, the Federal Court upheld an appeal by the Commission on the ground that there was no evidence pointing to the late veteran's alleged high fat diet for 20 years after his service having any relevant on-going connection with his service, and so the AAT had made an error of law in finding that a reasonable hypothesis was raised connecting the veteran's death from prostate cancer and his operational service.

In *Streatfield*, the Federal Court noted that for a hypothesis to be reasonable it had to be more than a mere possibility and it had to be pointed to by evidence. The Court upheld the decision of the AAT that had found that it was mere speculation to suggest that the veteran had suffered a headache at the time of his fatal accident.

In *Malady*, the Federal Magistrates Court upheld an appeal by the Commission on the ground that the AAT had failed to consider the whole of the material at step 3 of the *Deledio* process and not merely that which was favourable to the claimant. The AAT had also erred in not applying an objective test as well as a subjective test as to whether the veteran had experienced a severe stressor as defined in the relevant Statement of Principles. The Court also held that it was an error of law for the AAT to fail to decide which of alcohol abuse or alcohol dependence the veteran suffered from for the purposes of applying the relevant Statement of Principles, as the time of clinical onset was a critical matter. Without the material pointing to the existence of all the relevant symptoms at the relevant time for the relevant disease, the factor could not be met.

In both *Byrne* [2006] FCA 1326 and *Byrne* [2006] FCA 1667 (different cases concerning different veterans), the Federal Court held that the AAT had not erred when it rejected, on the beyond reasonable doubt standard of proof, the factual basis of each applicant's hypothesis at step 4 of the *Deledio* process.

The Federal Magistrates Court in *Finger* upheld a decision of the AAT to affirm the refusal of claims on the basis that there was no evidence that the veteran suffered a relevant stressor as defined by the appropriate Statement of Principles while rendering operational service.

In *Fenner*, the Federal Court held that the AAT erred in finding beyond reasonable doubt that because it found the veteran had exaggerated and was unreliable in his evidence concerning certain events, that he was not sufficiently affected by those events for them to have caused his alcohol problem given that other witnesses had confirmed the potentially stressful nature of those events.

In *Cox*, the Federal Magistrates Court held that it was open to the AAT on the evidence before it to reject the applicant's evidence concerning certain alleged stressful events on the beyond reasonable doubt standard of proof, and so no error of law was demonstrated in that regard. However, in relation to a different claimed condition the Court found that the AAT had erred when it found, without medical evidence, that symptoms of back pain during service were not due to the applicant's claimed back condition but were due to suffering from scrub typhus.

Identification of the 'kind of death' or 'kind of injury or disease'

In *Codd*, the Federal Court found that the AAT had failed to properly consider the 'kind of death' met by the veteran as a preliminary issue before deciding whether there was a hypothesis of a connection between the veteran's death and his service. The Court said that the kind of death concerns the question of medical causation, including the contributing or underlying medical cause of death.

In *Brown*, the Federal Court found that the AAT had not erred in describing the 'kind of death' as 'death from non-Hodgkin's lymphoma', a disease that it found had contributed to the veteran's terminal pneumonia-related infection.

In *Warren*, the Federal Court held that the question of the nature of the claimed injury or disease is a separate question from its causation, and so the definition of the injury or disease in a relevant Statement of Principles is not relevant at that preliminary stage of determining the claim.

Whether persons who were entertainers in Vietnam are 'veterans'

In *Iversen and Wooding*, the Federal Court came to opposite conclusions regarding whether a person who was sponsored by the Australian Forces Overseas Fund (AFOF) to entertain the Australian Forces in Vietnam could be considered to be a 'veteran' under the VEA. The question turned on whether such a person was a 'representative' of AFOF. In *Iversen*, the Court held that being sponsored by AFOF did not mean that the person represented AFOF. In *Wooding*, the Court noted the judgment in *Iversen* but took a broader view of the word 'representative'. The Court held that a 'representative' of AFOF included a person who provided welfare services to the Defence Force in Vietnam 'under the banner' of AFOF, even if the person was not a member of AFOF.

Identification of ‘clinical worsening’

In *Milenz*, the Federal Court found that the AAT had erred in finding that there had been a ‘clinical worsening’ of alcohol abuse and depressive disorder on the basis that the veteran had consumed more alcohol after his operational service. As the quantity of alcohol consumed was not one of the defined features or symptoms of either disease in the relevant Statements of Principles, such a finding could not lead to the conclusion that there had been a clinical worsening of the diseases. For a finding of ‘clinical worsening’ there at least needed to be medical evidence of the worsening of a defined feature or symptom of the disease.

Meaning of ‘cannot be decreased’

In *Cotton*, the Federal Court considered the meaning of the phrase ‘cannot be decreased’ as it appears in the context of a factor concerning the weekly level of consumption of alcohol in the Statement of Principles concerning hypertension. The Court held that this did not mean that the person had to be incapable of decreasing his or her level of consumption of alcohol, but merely emphasised that the minimum level of consumption specified in the factor was an essential requirement that had to be related to the person’s service.

Inability to obtain appropriate clinical management

In *Jakab*, the Federal Court upheld a decision to reject a claim on the basis that the ‘inability to obtain appropriate clinical management’ factor did not apply. The Court held that the AAT had not made an error of law in finding that the symptoms suffered by Mr Jakab during his service were not symptoms of his claimed condition. As he did not suffer from that condition before or during his service, the ‘inability’ factor could not apply.

The Federal Magistrates Court, in *Gittins*, also held that the ‘inability to obtain appropriate clinical management’ factor did not apply if there was no evidence that during his service the applicant suffered from the disease from which he died.

Special rate of pension

In *Butcher*, the Full Federal Court considered the meaning of ‘remunerative work that the veteran was undertaking’ as used in s 24(1)(c) of the VEA. The court agreed with the Court from which the appeal was taken that the provision requires that the remunerative work be substantial or substantive and that the characterisation of the type of remunerative work that the veteran was undertaking must be made in a ‘realistic and practical way’ and that it was appropriate to consider it ‘on a broad basis’ rather than a narrow characterisation of the type of work undertaken. However, the Full Court considered that the matter should have been remitted to the AAT to be reheard rather than the Court itself decide factual issues inconsistent with facts found by the AAT.

In *Wodianicky-Heiler*, the Federal Court held that while epilepsy had been accepted as war-caused, it was open to the AAT and the VRB to find that epilepsy derived from a different, non-accepted disease was a reason other than the veteran's incapacity from war-caused injury or disease to preventing him from continuing to undertake the type of work that he had been undertaking.

Dismissal of VRB application

In *Rodda*, the Federal Court dismissed an appeal from the AAT that had affirmed a decision of a Registrar to dismiss Mr Rodda's VRB application on the grounds that while his representative had attempted to respond to a notice under s 155AA of the VEA, the applicant had not given the representative a written authorisation to do so in accordance with s 155AC, and neither had the applicant, himself, responded to the notice.

VeRBosity

All Court decisions concerning veterans' entitlements and relevant military rehabilitation and compensation matters are noted and summarised in the VRB's publication, *VeRBosity*, which is usually published four times a year.

APPENDIX 2

Administrative Appeals Tribunal

Review of VRB Decisions

All parties to a VRB application (including the applicant and, when relevant, the Repatriation Commission, the Military Rehabilitation and Compensation Commission, or a service chief) are entitled to apply to the Administrative Appeals Tribunal (AAT) for review of a VRB decision to affirm, vary or set aside a decision reviewed by the VRB. However, the VRB is not a party to these subsequent proceedings before the AAT.

Following notification of the lodgement of an application for review by the AAT, the decision-maker must lodge with the AAT, within 28 days, a statement and associated documentation pursuant to s 37 of the *Administrative Appeals Tribunal Act 1975*. Where the decision of the VRB relating to a matter under the VEA was to set aside the decision reviewed by it, the s 37 statement is prepared by the VRB. Where the VRB has reviewed and affirmed or varied a decision or it is a matter under the MRCA, the s 37 statement is prepared by the Department of Veterans' Affairs on behalf of the Repatriation Commission or the Military Rehabilitation and Compensation Commission. During 2006-07, the VRB was notified of the lodgement of 717 applications for review by the AAT of matters involving VRB decisions. During the same period, the VRB lodged 80 s 37 statements with the AAT. The average time taken for preparation and lodgement of those statements was 16 days.

While it is not possible to determine the appeal rate accurately, it can be estimated by comparing the number of applications lodged with the AAT with the number of applications finalised by VRB decisions. This is not an accurate measure because applicants have up to 12 months from notice of the VRB decision to apply to the AAT. Nevertheless this method of estimation is the best available. During 2006-07, there were 717 AAT applications and the VRB finalised 2 726 applications by decisions made at hearings. This represents an estimated appeal rate of 26.3%. The estimated appeal rate for 2005-06 was 29.3%.

The Repatriation Commission lodged one appeal in relation to a VRB decision during 2006-07. The Military Rehabilitation and Compensation Commission and the service chiefs lodged no appeals in relation to a VRB decision during 2006-07.

Statistics obtained from the Administrative Appeals Tribunal indicate that, of applications finalised by the Veterans' Appeals Division of the AAT during the year:

- 40% were withdrawn by the applicants; and
- 38% were conceded in some respect by the Repatriation Commission.

Of the remaining 22% that were finalised by decisions formally published with reasons:

- 101 (60%) involved an affirmation of the decision under review; and
- 68 (40%) led to some part or all of the decision under review being varied or set aside.

In virtually every published case where the VRB's decision was set aside or varied by the AAT, there appears to have been evidence before the AAT that was not put at the VRB.

There were no matters finalised in the AAT concerning appeals from the VRB under the MRCA.

Selected decisions of the AAT relating to VRB decisions are noted and summarised in the VRB publication *VeRBosity*.

Review of Dismissals

Applications can also be made to the AAT for review of decisions taken under the dismissal provisions of the VEA. Unlike the position with other appeals, the Principal Member of the VRB is a party to those proceedings.

During 2006-07, there were no applications concerning dismissal decisions lodged with the AAT.

APPENDIX 3

Other Forms of Administrative Review

Decisions and actions of the VRB may be the subject of complaints to the Ombudsman. In addition, access to documents held by the VRB may be sought under the *Freedom of Information Act 1982*.

Ombudsman

During 2006-07, the Ombudsman did not formally notify the VRB of any complaints.

Freedom of Information Act 1982

There were two requests to the VRB for access to documents under the *Freedom of Information Act 1982* during 2006-07. Access was granted in full in both cases.

APPENDIX 4

Membership of the Veterans' Review Board – By Category

	Commencement of Appointment	Expiration of Appointment
PRINCIPAL MEMBER		
Michael Griffin	26 June 2007	25 June 2012
PART-TIME SENIOR MEMBERS		
Mr John Charles Cooke	1 January 1990	30 September 2009
Ms Julie Cowdroy	1 January 1993*	30 September 2009
Ms Jennifer D'Arcy	1 June 2001	30 March 2008
Dr Marella Louise Denovan	1 June 2001*	30 September 2009
Mr Robert Walter George Hume	1 October 2006	30 September 2009
Ms Hilary Lorraine Kramer	30 July 1998*	30 September 2009
Mr William Bennett Lane Commodore	29 May 1990*	30 March 2008
Alan Leslie Thompson AM (Rtd)	1 January 1998	30 September 2009
Ms Andrea Michelle Treble	1 June 2001	30 March 2008
Mr Christopher Charles Hamilton Wray	1 October 2006	30 September 2009
Colonel Leslie James Young (Rtd)	1 October 1997	30 September 2009

- Ms Cowdroy – Resigned 12 July 1996, reappointed 30 July 1998
Dr Denovan – Resigned 7 July 2006, appointed as Senior Member from 1 October 2006
Ms Kramer – Changed category: Member to Senior Member from 1 October 2006
Mr Lane – Changed category: Member to Senior Member from 1 October 1997

PART-TIME SERVICES MEMBERS

Mr Francis Harding Benfield	28 May 1999	30 March 2008
Dr Robert Barham Black AM RFD	1 October 2006	30 September 2009
Major General		
Murray Phillip Blake AO MC (Rtd)	28 May 1999	30 March 2008
Lieutenant Colonel Francis Brown (Rtd)	1 June 2001	30 March 2008
Wing Commander		
Stuart Alexander Bryce (Rtd)	25 November 1991	30 March 2008
Air Commodore		
Frank Edward Burt OBE (Rtd)	1 January 1998	30 September 2009
Rear Admiral		
Anthony Michael Carwardine AO (Rtd)	1 January 1998	30 September 2009
Group Captain Collins Joseph Fagan (Rtd)	1 January 1985	30 March 2008
Captain Allan John Farquhar RAN (Rtd)	1 June 2001	30 March 2008
Brigadier Laurence John Lewis AM (Rtd)	1 January 1998	30 September 2009
Lieutenant Colonel		
Alexander Richard Main (Rtd)	1 October 2006	30 September 2009
Major Gregory Mawkes (Rtd)	1 January 1993	30 March 2008
Colonel Robin Terence Regan CSC (Rtd)	28 May 1999	30 March 2008
Colonel Roger Alfred Tiller AM CSC (Rtd)	1 October 2006	30 September 2009
Air Commodore		
Bruce Robert Wood (Rtd)	1 October 2006	30 September 2009
Colonel Beverley		
Christine Wright CSM RFD (Rtd)	1 October 2006	30 September 2009

PART-TIME MEMBERS

Ms Zita Rose Antonios	1 June 2001	30 March 2008
Ms Sharon Elizabeth Brennan	1 October 2006	30 September 2009
Mr Robert Anthony Brumm PSM	1 October 2006	30 September 2009
Ms Jackie Miriana Fristacky	1 October 1997	30 March 2008
Ms Susan Denise Gillett	1 October 2006	30 March 2009
Major Janet Ann Hartmann (Rtd)	1 June 2001	30 March 2008
Ms Elayne Joyce Hayes	1 October 2006	30 September 2009
Ms Kerrie Ellen Laurence	1 June 2001	30 March 2008
Ms Morag Angus McColm	1 January 1998	30 September 2009
Colonel Anthony James Wales (Rtd)	1 October 1997	30 September 2009
Colonel David Symon Wilkins (Rtd)	1 October 2006	30 September 2009
Ms Sylvia Winters	1 October 2006	30 September 2009

APPENDIX 5

Membership of the Veterans' Review Board – By State

AUSTRALIAN CAPITAL TERRITORY

Part-Time Services Member

Rear Admiral Anthony Michael Carwardine AO (Rtd)
Colonel Beverley Christine Wright CSM RFD (Rtd)

NEW SOUTH WALES

Principal Member

Michael Griffin

Part-Time Senior Members

Mr John Charles Cooke
Ms Jennifer D'Arcy
Ms Hilary Lorraine Kramer
Colonel Leslie James Young (Rtd)

Part-Time Services Members

Lieutenant Colonel Francis Brown (Rtd)
Air Commodore Frank Edward Burt OBE (Rtd)
Colonel Roger Alfred Tiller AM CSC (Rtd)
Air Commodore Bruce Robert Wood (Rtd)

Part-Time Members

Ms Zita Rose Antonios
Major Janet Ann Hartmann (Rtd)
Ms Elayne Joyce Hayes
Ms Kerrie Ellen Laurence
Colonel David Symon Wilkins (Rtd)

VICTORIA

Part-Time Senior Members

Commodore Alan Leslie Thompson AM (Rtd)
Ms Andrea Michelle Treble
Mr Christopher Charles Hamilton Wray

Part-Time Services Members

Group Captain Collins Joseph Fagan (Rtd)
Colonel Robin Terence Regan CSC (Rtd)

Part-Time Members

Ms Sharon Elizabeth Brennan
Ms Jackie Miriana Fristacky

QUEENSLAND

Part-Time Senior Members

Ms Julie Cowdroy
Dr Marella Louise Denovan
Mr Robert Walter George Hume
Mr William Bennett Lane

Part-Time Services Members

Mr Francis Harding Benfield
Major General Murray Phillip Blake AO MC (Rtd)
Captain Allan John Farquhar RAN (Rtd)
Lieutenant Colonel Alexander Richard Main (Rtd)

Part-Time Members

Mr Robert Anthony Brumm PSM
Ms Morag Angus McColm
Ms Sylvia Winters

SOUTH AUSTRALIA

Part-Time Services Member

Dr Robert Barham Black AM RFD
Brigadier Laurence John Lewis AM (Rtd)

Part-Time Members

Colonel Anthony James Wales (Rtd)

WESTERN AUSTRALIA

Part-Time Services Members

Major Gregory Mawkes MBE (Rtd)

Part-Time Member

Ms Susan Denise Gillett

TASMANIA

Part-Time Services Member

Wing Commander Stuart Alexander Bryce (Rtd)

APPENDIX 6

FOI Statement

Section 8 of the *Freedom of Information Act 1982* requires the VRB to include within its Annual Report certain information relating to its organisation and function, powers, document holdings and procedures for access thereto, and any arrangements that may exist for persons outside the Commonwealth to participate in policy making or administration of the VRB.

Details of the organisation of the VRB are set out in the body of this Report – see under Outcome 4 at p 34, Appendix 4 at p 60 and Appendix 5 at p 62. Details of the function of the VRB are set out under Objectives, Function and Powers at p 4.

The following provides the additional details required by section 8 of the *Freedom of Information Act 1982*.

Powers of the VRB

The powers of the VRB are set out in the VEA, and are modified by s353 of the MRCA when the VRB conducts reviews under that Act or the *Military Rehabilitation and Compensation (Consequential and Transitional Provisions) Act 2004*. In conducting a review of a decision, the VRB may, by s139(3) of the VEA, exercise all the powers and discretions of the primary decision-maker. For the purpose of the conduct of a review, the VRB also has the following specific powers conferred on it by the VEA:

- subsection 139(3) – the VRB may affirm, vary or set aside a decision or determination and, if it sets aside the decision or determination under review, it may substitute its own decision or determination;
- subsection 139(4) – if the VRB sets aside a decision and substitutes its own decision to grant a pension, it can assess the rate at which pension is to be paid or remit the matter to the Repatriation Commission
- subsection 139(4) – if the VRB sets aside a determination and substitutes its own determination to grant compensation, it can assess an amount of compensation to be paid or remit the matter to the Military Rehabilitation and Compensation Commission;

- subsection 140A(1) – the VRB may give directions to a Registrar or Deputy Registrar to alter the text of a decision or determination or statement of reasons if it is satisfied that there has been an obvious error in the text;
- subsection 140A(4) – the Principal Member or a presiding member may exercise the powers of the VRB in subsection 140A(1);
- subsection 142(2) – the Principal Member may give directions for the purpose of increasing the efficiency of the operations of the VRB and as to the arrangement of its business;
- sections 143 and 144 – the Principal Member may give directions in writing as to the members who are to constitute the VRB for the purposes of reviews to be conducted by it;
- subsection 148(3) – the Principal Member may defer the hearing of a review until the parties advise that they are ready to proceed;
- subsection 148(4) – where a party fails to advise, within the time specified in the notice served on the party, whether they wish to appear at the hearing of a review, the VRB may determine the application in the absence of that party;
- subsection 148(5) – the Principal Member may give general directions as to the procedure of the VRB with respect to reviews, including reviews the hearings of which have not been commenced;
- subsection 148(6) – the presiding member may give directions as to the procedure of the VRB with respect to a particular review, whether or not the hearing of that review has commenced;
- subsection 148(6A) – the Principal Member may request the Secretary of the Department of Veterans' Affairs or the Military Rehabilitation and Compensation Commission to conduct an investigation, arrange a medical examination, or provide additional documents in relation to a review;
- subsection 150(2) – the presiding member may give directions as to the persons who may be present at any hearing of a review;
- subsection 150(3) – the presiding member may permit a hearing, or part of a hearing, of a review to take place in public;
- subsection 151(1) – the VRB may take evidence on oath or affirmation and may adjourn the hearing of a review from time to time;
- subsection 151(2) – the presiding member may summon a person to appear at the hearing of a review, to give evidence or produce documents, and to take an oath or make an affirmation;
- subsection 151(5) – the VRB may take evidence by a person authorised by the presiding member, and may do so within or outside Australia;

- section 152 – the VRB may request the Secretary of the Department of Veterans’ Affairs or the Military Rehabilitation and Compensation Commission to conduct an investigation, arrange a medical examination, or provide additional documents that the VRB thinks necessary for the conduct of a review;
- section 153 – the VRB may make additional evidence in its possession available to the parties to the hearing of a review;
- subsection 155(1) – the VRB may consent to the withdrawal of an application the hearing of which has commenced but has not been completed;
- subsection 155AA(5) – the Principal Member must dismiss an application if a written statement has not been provided within 28 days;
- subsection 155AA(7) – the Principal Member must dismiss an application if he considers that no reasonable explanation has been provided;
- subsection 155AB(5) – the Principal Member must dismiss an application if a written statement has not been provided within 28 days;
- subsection 155AB(7) – the Principal Member must dismiss an application if he considers that no reasonable explanation has been provided;
- section 157 – the VRB may set the date from which its decision is to operate;
- subsection 165(2) – if the Principal Member becomes aware that a member has a pecuniary or other interest in relation to a particular review, the Principal Member can direct that the member not take part in the review or disclose the interest of the member to both parties;
- subsection 166(1) – the Principal Member may delegate his powers under Part IX to a Senior Member or acting Senior Member;
- subsection 166(2) – the Principal Member may delegate his powers under subsection 148(6A) or section 155AA or 155AB to a Registrar or Deputy Registrar; and
- subsection 171(3) – the VRB may order that the Commonwealth shall pay the fees and allowances of a witness summoned to appear at a hearing before the VRB.

Arrangements for Outside Participation

The only statutory arrangement for external participation exists in the right of organisations representing ex-servicemen and women throughout Australia to submit, when requested to do so by the Minister, lists of names of candidates they recommend be considered for appointment as Services Members. Once appointed, members so selected have the same obligations and take the same oath or affirmation of office as other members.

The Principal Member seeks, through meetings and correspondence, the views of the Department of Veterans’ Affairs, the Repatriation Commission, the Military

Rehabilitation and Compensation Commission, the service chiefs, and ex-service and related organisations on administrative matters of concern to the VRB.

Categories of Documents

The following provides the details required by section 9 of the *Freedom of Information Act 1982*.

The following are the categories of documents maintained by the VRB in its Principal Registry and in Registries in each State:

Operations Manual

This is issued by the Principal Member and includes directions and guidelines from the Principal Member for members and staff concerning the processing of applications to the VRB. The Manual is supplemented from time to time by memoranda issued by the Principal Member or senior staff of the VRB.

Members' Handbook

This is issued by the VRB's Director (Legal Services) and concerns technical and legal matters relating to the functions of VRB members.

vrbsAM User Manual

This concerns the procedures for the use and operation of vrbsAM the computerised System for Application Management used by VRB staff to track and manage applications for review.

Files

Individual VRB files are held for each application for review by the VRB. Policy and operational files are held for various areas of the VRB's administration and include files on staffing, procedures, accommodation and furniture, stores, publications, meetings, etc.

Discussion Papers and Legal and Information Bulletins

These are prepared by the Executive Officer and the Director (Legal Services) to inform and to promote discussion among members and staff concerning topical legal and operational issues.

Facilities for FOI Access and Initial Contact Points

Requests under the *Freedom of Information Act 1982* for access to or copies of documents held by the VRB may be made to the Executive Officer or a Registrar of

the VRB. General information about freedom of information matters and facilities for physical access are available at any VRB Registry.

Registry addresses and the names of those who can assist with enquiries or requests for information, including the name of the information officer, are listed in Appendix 10 at p 81.

APPENDIX 7

Occupational Health and Safety and Commonwealth Disability Strategy

The VRB is within the Veterans' Affairs portfolio and although it is an independent body from the Department of Veterans' Affairs, it generally follows Departmental guidelines concerning access and equity issues. The VRB is included within the Department's occupational health and safety strategy, which is outlined in the Department's Annual Report.

Of the 5 roles specified in the Commonwealth Disability Strategy's Performance Reporting Framework (Policy Adviser, Regulator, Purchaser, Provider and Employer), the VRB performs 2 – Provider and Employer. Accessibility to VRB hearings by applicants and representatives with disabilities is covered by the Provider role. Accessibility issues for VRB employees and job applicants with disabilities are covered by the Employer role.

Our commitment to people with a disability

- The VRB's Service Charter states the VRB's commitment to ensuring access to services for people in the veteran community with a disability. The VRB's policies and practices take into account the physical, mental and social well-being of applicants and representatives; and
- VRB staff are provided by the Department of Veterans' Affairs and are covered by the Department's employment policies, procedures and practices. The Department's Enterprise Agreements, Workplace Diversity Strategic Plan, Equal Employment Opportunity Plan, Disability Discrimination Action Plan, People Policies and Managers' Guide indicate the commitment to employees with disabilities and ensure employment practices that do not discriminate against people with disabilities. The same disability strategy policies apply to VRB members.

The following information covers the VRB's current level of performance against the Commonwealth Disability Strategy's Performance Reporting Framework for the Provider role. The VRB's Employer role is included within the Department's performance reporting in the Department's Annual Report.

Performance indicator 1 — Providers have established mechanisms for quality improvement and assurance

Performance measure

Evidence of quality improvement and assurance systems in operation

Current level of performance

The VRB liaises with veterans' representatives in relation to access issues. We are able to provide hearings for all applicants. The VRB endeavours to provide a better service by reviewing complaints as they arise to identify priority areas for improvement in meeting the needs of the veteran community. The VRB provides telephone and video hearings, which give easier access for disabled and/or remote locality veterans.

Performance indicator 2 — Providers have an established service charter that specifies the roles of the provider and consumer and service standards, which address accessibility for people with disabilities

Performance measure

Established service charter that adequately reflects the needs of people with disabilities in operation

Current level of performance

The VRB has a Service Charter, which specifies the provision of equitable access. The Charter also identifies an avenue for comments, suggestions or complaints.

Performance indicator 3 — Complaints/grievance mechanism, including access to external mechanisms, in place to address issues and concerns raised about performance

Performance measure

Established complaints/grievance mechanisms, including access to external mechanisms, in operation

Current level of performance

The VRB has a Feedback Management System in which complaints and grievances are recorded. We use this mechanism to assist in assessing our performance.

APPENDIX 8

Service Charter

This Charter sets out our commitment of service to you. It is a public statement regarding the type and quality of services that the veteran community can expect to receive from the VRB.

The VRB is committed to maintaining and improving the quality of its services. We monitor our performance in meeting the commitments set out in this Charter. Your suggestions for improvements are welcome.

The VRB's Annual Report details our performance against the standards we set in this Charter.

ABOUT THE VRB

The Veterans' Review Board (VRB) is part of the Repatriation determining system but is independent of the Repatriation Commission, the Military Rehabilitation and Compensation Commission and the Department of Veterans' Affairs.

The VRB is a tribunal created by Parliament to review:

- decisions about pensions (other than service pensions) and attendant allowance under the *Veterans' Entitlements Act 1986* (the VEA); and
- determinations about liability, compensation, rehabilitation and other benefits under the *Military Rehabilitation and Compensation Act 2004* (the MRCA). It aims to provide correct, high quality, impartial decisions in a timely and efficient manner.

The VRB is made up of staff who manage its affairs and assist members, and panels of members who hear and decide applications for review. A panel consists of up to three persons with a wide range of skills, including service experience and legal qualifications. All panel members are independent persons appointed by the Governor-General.

OUR COMMITMENTS

The VRB will:

1. Treat you with courtesy and respect

When you visit us, we will acknowledge your arrival and attend to you promptly. We will ensure our office is tidy and functional and that you are made to feel as comfortable as possible.

We will answer your telephone call promptly during normal office hours. We will identify ourselves to you and give you accurate and helpful information. We will return your call if a more detailed answer is necessary.

When you write to us, we will reply to your letter within 14 days. We will answer fully the questions or issues you raise. If a full reply is not possible within 14 days we will indicate when it will be available. We will use language that is clear and easy to understand. All letters will include the name and telephone number of the person who wrote to you.

We will listen to and carefully consider the matters you put to us.

2. Provide equitable access

We hold hearings in all capital cities and in some regional centres.

Wheelchair access is available to all our offices.

If you let us know your needs, we will assist you with special access or other requirements.

If you are telephoning from outside the metropolitan area, we can return your call to save you some of the cost of a STD call. We also have 1300 and 1800 phone numbers available for your convenience.

3. Provide appropriate explanatory material

We will send you pamphlets that will help you to prepare your case.

We will provide, on request, a *Handbook* designed to assist representatives appearing at the VRB.

We will tell you about organisations that may be able to assist you to prepare your case.

We have a VRB web site which provides details of our processes, contacts and general information to assist you. The address is www.vrb.gov.au. You can also email the VRB at contact@vrb.gov.au.

4. Give you an opportunity to be heard

You or your representative will have the opportunity to present your case to a VRB panel.

You may choose to appear in person and/or be represented at a hearing (refer to 6. Allow representation). Alternatively, you may choose to have a telephone hearing.

You may choose to have your case considered in your absence by reference to your application and all relevant files.

You or your representative may make written submissions to be considered in your absence.

We will arrange a hearing as soon as possible after you or your representative advise us that you are ready.

We will conduct hearings in an informal atmosphere but with due regard to the importance of the matter and your dignity.

Hearings with you and/or your representative present, or telephone hearings, are tape recorded and retained for two years. We will provide a copy of the tape on your request at any time up to two years after the hearing.

5. Provide confidentiality, where appropriate

VRB hearings are held in private.

Information about your case will not be given to other people unless authorised by law or with your consent.

6. Allow representation

You can conduct your own case at the VRB or you may choose to be represented by an advocate from one of a number of ex-service organisations which provide such a service free of charge.

You are entitled to seek any assistance you want in preparing your case but this will be at your own expense if you do not wish to use the free services available to you.

You may be represented by anyone, at your own expense, other than a legal practitioner (precluded under the *Veterans' Entitlements Act 1986*).

We will always allow you to bring a friend or relative to your VRB hearing, whether or not you are represented.

7. Provide reasons for our decision

We will give our decision and reasons in writing as soon as possible after the hearing and usually within 28 days.

We will let you know of your rights of appeal if you are dissatisfied with our decision.

8. Listen to any comments or complaints

We welcome your comments or suggestions about our operations.

We will respond quickly to complaints.

If you have a complaint, it is best first directed to the local Registrar. If the complaint cannot be resolved by the Registrar, we will let you know of further avenues available to you.

9. Cooperation and Independence

We will cooperate with all persons interested in assisting us in furthering our aims of providing correct, high quality, impartial decisions in a timely and efficient manner.

We will guard our independence in the interests of all parties.

YOUR RESPONSIBILITIES

To enable the VRB to meet its commitments you need to:

1. Respond to requests from VRB Registry staff in the way we ask you to.
2. Give us complete and accurate information within required time limits.
3. Treat VRB Registry staff and members in the way you would wish to be treated, that is with courtesy and respect.
4. Keep hearing or other appointments, or tell us beforehand if you cannot keep an appointment.
5. Let us know of any change of circumstances which might affect your VRB application for review, including any change of address.

APPENDIX 9

Business Plan

ROLE

The Veterans' Review Board (VRB) is an independent statutory tribunal established under the *Veterans' Entitlements Act 1986* to provide merits review of decisions or determinations of:

- the Repatriation Commission on such matters as:
 - claims for the acceptance of injury or disease as war/defence-caused;
 - claims for war widows'/widowers'/orphans' pensions;
 - assessment of the rate of pension paid for incapacity from war/defence-caused injury or disease; and
 - claims for the grant or assessment of attendant allowance; and
- the Military Rehabilitation and Compensation Commission on such matters as:
 - liability for compensation for injury, disease or death;
 - compensation for permanent impairment;
 - compensation for incapacity for work or incapacity for service;
 - rehabilitation programs;
 - treatment; and
 - allowances and other benefits; and
- the Service Chiefs of the Army, Navy, and Air Force in relation to rehabilitation programs for members of the Forces.

FUNCTION

On application for review the VRB is to:

- have regard to the evidence before the Repatriation Commission, the Military Rehabilitation and Compensation Commission or a service chief when the decision or determination was made and any further relevant evidence;

- satisfy itself with respect to or determine all matters relevant to the review in reaching the correct or preferable administrative decision; and
- record its decision and reasons for that decision in writing, indicating in its reasons its findings on any material questions of fact and referring to evidence on which the findings were based.

METHOD OF OPERATION

The VRB

- is headed by the Principal Member who is:
 - appointed by the Governor-General (s 158);
 - responsible for its efficient operation (s 142); and
 - required to report annually to the Minister on operations (s 215).
- comprises staff provided by the Secretary of the Department of Veterans' Affairs (the Department) to the Principal Member to support the functions of the VRB and members appointed by the Governor-General to hear and determine applications for review;
- is funded as a sub-program in the Veterans' Affairs portfolio;
- is managed centrally from a Principal Registry in Sydney through Registries in Melbourne, Brisbane, Adelaide, Perth and Canberra;
- conducts hearings before three member panels convened by the Principal Member in hearing rooms at Registries and in ad hoc hearing rooms in regional centres or by video as the occasion requires;
- promotes cooperation and liaison to the fullest extent possible in its relations with stakeholders in the review process.

AIM

The VRB aims to provide a means of review that is fair, just, economical, informal and quick in an environment, which ensures respect for the service of applicants and dignity in the conduct of proceedings.

VALUES

The VRB seeks to integrate administrative law values of lawfulness, fairness, openness, participation and rationality with high standards of personal conduct reflecting independent and impartial minds, respect for the dignity of others, personal integrity and diligence.

OUTCOMES SOUGHT

Outcome 1 – Finalise high numbers of applications for review

Achieved by:

- promoting accessibility;
- effective case management;
- flexibility in modes of hearing and locations.

Performance assessed by:

- measuring numbers finalised and hearing rate;
- user satisfaction with modes and location of hearings.

Outcome 2 – Complete reviews at a quality level that affords a high assurance that review decisions are correct.

Achieved by:

- making appropriate and relevant findings of fact and correctly applying legal principle in concise well written reasons for decision;
- internal consideration of general issues, AAT and Federal and High Court decisions to promote accuracy and consistency in the application of principles.

Performance assessed by:

- internal review and discussion of issues and principles;
- general level of satisfaction in veteran community with decision and reasons;
- reference to cases reviewed in AAT and Federal and High Courts.

Outcome 3 – Complete all process stages subject to the VRB's control on a timely basis.

Achieved by:

- identifying impact on stakeholders of timeliness issues;
- paying due regard to qualitative issues in setting timeliness objectives;
- establishing time based performance objectives for process stages.

Performance assessed by:

- measuring achievement in relation to timeliness objectives;

- general level of satisfaction among veteran community stakeholders with performance in relation to timeliness.

Outcome 4 – Undertake reviews in a manner that is efficient in resource usage.

Achieved by:

- effective management and regular review of utilisation of human and material resources;
- effective application of technology to support role and functions;
- promoting skills and development in available workforce.

Performance assessed by:

- cost effectiveness in human (morale and efficiency) and monetary terms.

Outcome 5 – Accessible and responsive to the veteran community stakeholders.

Achieved by:

- effective cooperation and liaison with stakeholders consistent with independent role and function;
- frank and forthright communication of aims and performance data to stakeholders.

Performance assessed by:

- general level of satisfaction among veteran community stakeholders.

STRATEGIES

Strategy 1 – Management

- Maintain centralised management to promote national approach, to allow Registries to focus on core function, and to allow oversight of flexible management by Registries of devolved functional responsibilities.

Priorities 2007-08

- Assess staffing levels in Registries in light of changing workloads.
- Assess adequacy of Case Appraisal method.
- Review management structure.
- Review staff levels in registries.
- Review case management procedures.

Strategy 2 – Utilise Information Technology

- Employ effective IT based measurable systems to register, assess and list applications and to prepare, track, complete and publish written decisions and reasons.

Priorities 2007-08

- Continue enhancement of vrbSAM.
- Continue project to incorporate decision writing with vrbSAM.
- Review vrbSAM capacity to adapt and process MRCA.

Strategy 3 – Continuous Training

- Promote continuous training and professional development focused on high quality processing, hearing and determination of applications.

Priorities 2007-08

- Maintain register of staff training and relate to performance assessments.
- Implement standard documentation for decision writing in relation to the VEA and MRCA.
- Assess adequacy of in house publications *Bulletin* and *VeRBosity* and possible extension of *Bulletin* to representatives.
- Promote ‘workshops’ for all staff.
- Conduct workshops for members on the MRCA.
- Conduct a Veterans’ Law Conference.

Strategy 4 – Communication

- Employ effective communications at all levels of processing and determination to promote education in the role and functions of the VRB and transparent participation and cooperation.

Priorities 2007-08

- Establish effective VRB personal links in States and at national level with the Department and ex-service organisations.
- Review all published documents and materials and identify changes necessary to recognise jurisdiction under the MRCA.
- Promote Veterans’ Law Conference in veteran, Australian Defence Force and legal community.

APPENDIX 10

VRB Contact Information

The Principal Member is responsible for the VRB's operations. The Registrar in each State is responsible to the Executive Officer for arranging the VRB's day to day business. Registry addresses and the names of those who can assist with enquiries or requests for information are:

Principal Registry

Level 2, Building B
Centennial Plaza
280 Elizabeth Street
Surry Hills NSW 2010

Executive Officer
Bruce Topperwien

Director (Corporate Services)
Narelle Peck

Director (Legal Services)
Trina McConnell

Information Officer
Narelle Peck

Phone: (02) 6285 1911 Fax: (02) 6289 4848

Information about the VRB is available on the Internet. The VRB's Internet address is: < <http://www.vrb.gov.au> >

VRB email: contact@vrb.gov.au

New South Wales Registry

Level 2, Building B
Centennial Plaza
280 Elizabeth Street
Surry Hills NSW 2010

Registrar
Peter Godwin

Phone: Local: (02) 9211 3090
Phone: City: 1300 550 460
Phone: Country: 1800 550 460
Fax: (02) 9211 3074

Victorian & Tasmanian Registry

14th Floor
300 La Trobe Street
Melbourne VIC 3000

Registrar
Ian Hunt

Phone: Melbourne: (03) 9602 8000
Phone: Hobart: (03) 6221 6646
Phone: City: 1300 550 460
Phone: Country: 1800 550 460
Fax: (03) 9602 1496

Queensland Registry

Level 8, Bank of Queensland Building
259 Queen Street
Brisbane QLD 4000

Registrar
Joedy Bauer

Phone: Local: (07) 3221 3772
Phone: City: 1300 550 460
Phone: Country: 1800 550 460
Fax: (07) 3220 0041

South Australian Registry

1st Floor
199 Grenfell Street
Adelaide SA 5000

Registrar
David Smith

Phone: Local: (08) 8290 0270
Phone: City: 1300 550 460
Phone: Country: 1800 550 460
Fax: (08) 8290 0569

Western Australian Registry

7th Floor, AMP Building
140 St Georges Terrace
Perth WA 6000

Registrar
Robyn Davis

Phone: Local: (08) 9366 8580
Phone: City: 1300 550 460
Phone: Country: 1800 550 460
Fax: (08) 9366 8583

Canberra Office

10th Floor, Lovett Tower
13 Keltie Street
Woden ACT 2606

Contact Officer
Narelle Peck

Phone: Local: (02) 6285 1911
Phone: City: 1300 550 460
Phone: Country: 1800 550 460
Fax: (02) 6289 4848

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