



# Veterans' Review Board

## Annual Report 2020–21





# Annual Report 2020–21



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

Dear Minister

I am pleased to present to you the 2020-21 Annual Report of the Veterans' Review Board, as required by subsection 215(4) of the *Veterans' Entitlements Act 1986*.

Yours sincerely,

A handwritten signature in dark ink, appearing to read 'Jane Anderson', with a stylized flourish at the end.

Jane Anderson  
Principal Member  
2021

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# About the VRB

We are a specialist tribunal that delivers justice to veterans. We listen to veterans and make decisions about their applications for review.

The law that establishes the VRB and governs our operations is the *Veterans' Entitlements Act 1986* (the VEA).

## About this report

Each year we must give the Minister for Veterans and Defence Personnel a report, as required under the VEA. It provides an account of our activities from 1 July 2020 to 30 June 2021.

This report is prepared for the Minister for Veterans and Defence Personnel and the Parliament of Australia, the veterans who use our services and the organisations that support them.

## VRB Vision and Values

### VRB vision

To deliver justice by listening to veterans and making high quality decisions in a timely, cost effective and efficient way.

### VRB values

Fairness, professionalism, integrity, impartiality, independence, efficiency, accessibility and respect for the service of all veterans.

### Our goal

To be an innovative and responsive tribunal that provides a specialist service to meet the unique needs of the veteran community.

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## The year in review



# Message from our Principal Member and National Registrar



Ms Jane Anderson, Principal Member and Ms Katrina Harry PSM, National Registrar

The challenges of COVID-19 in 2020–21 did not prevent the VRB from forging ahead with its reform agenda. Indeed, the VRB's digital transformation accelerated during this period, enabling it to respond to an increasing workload and to broaden its access to the diverse and evolving veteran and current serving communities.

## **Responding to the ongoing pandemic**

In the previous reporting year, the VRB responded proactively to the onset of COVID-19; fast-tracking digital innovation to enable it to deliver its review mechanism remotely without disruption.

2020–21 saw the resumption of in-person operations, combined with an enhanced online hearing platform to support complex applications with multiple participants. By offering in-person hearings on a case-by-case basis as well as continuing its online presence, the VRB has been able to respond to the changing conditions in each of the VRB's locations across Australia, as well as provide continuity of its full suite of operations.

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In 2020–21, the VRB remained committed to addressing the needs of vulnerable veterans at risk. Building on the VRB's Vulnerable Veteran Protocol, an online triage of applications involving veterans at risk has enabled quicker and more tailored resolution of their applications. Utilising on–papers review and virtual hearings, as well as offering face–to–face ADR events and hearings where appropriate, has remained key to ensuring the VRB is open and accessible to all veterans and serving members.

### **Launch of new services and expanded access to justice**

In 2020–21, the VRB launched two new digital services; the Justice Portal and Online Dispute Resolution (ODR).

For the first time, parties can upload documents directly to the VRB and track the live status of cases throughout the whole of the review process – from the initial documents through to the final decision. The Justice Portal allows all information about a VRB application to be accessed in one place, making it easier and simpler for veterans to resolve matters.

A veteran's access to justice has also been improved with the launch of Online Dispute Resolution (ODR). ODR enables veterans to engage in their applications at a time and place that suits them. Veterans across Australia, including those in rural and regional areas, are able to interact wholly online with the VRB's specialist ODR practitioners, with the aim of resolving less complex matters effectively and efficiently, without the need to participate in an ADR event or hearing. Pleasingly, since its introduction, applications are being resolved in ODR in under three weeks.

As part of its digital transformation, the VRB's new website was launched in November 2020, demonstrating another way in which the VRB is committed to being responsive to its users. Developed with a veteran-centred design approach, the website includes information about the VRB review system and provides a gateway to the Justice portal.

### **Workload, performance and budget efficiency**

Over the course of 2020–21, the VRB received 2772 applications, a 7.4 per cent increase on the previous year. Applications under the *Military Rehabilitation and Compensation Act 2004* (MRCA) increased by 30 per cent.

In the context of a growing caseload, the VRB finalised more applications than it received in 2020–21. The VRB cleared more than 100 per cent of its caseload and at the end of June 2021 there was no backlog of applications awaiting hearing or listing for ADR events. Additionally, the VRB's on–hand caseload was at its lowest level for at least the last two years. These results put the VRB in a strong position to respond to the increasing applications anticipated in the year ahead.

In 2020–21 the VRB also met its time targets. On average, applications in the ADR program were finalised within 3.8 months (a 1.7 month improvement on last year) and all applications, including those that went to a hearing, were finalised in 4.7 months (a 1.8 month improvement on last year).



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The VRB's ADR program continued to perform strongly in the reporting year, resolving 81.7 per cent of applications (a 5.2 per cent improvement on last year). This result demonstrates that the VRB's ADR program is sustainable and continues to meet its aim of resolving applications with mutually acceptable outcomes for parties.

The VRB's strong performance outcomes in 2020–21 were delivered on budget, operating within the resources provided by the Department of Veterans' Affairs.

### **Skilled for the future**

The VRB's staff and members are fundamental to the delivery of high-quality merits review. A positive culture fostered by people with the skills and the commitment to deliver justice consistent with the VRB's vision and values remained a key focus in 2020–21. During the reporting year, members and staff were offered a diverse range of internal and external professional development. The VRB's *Learn and Connect* program covered topics on the use of technology and digital platforms, procedural fairness, decision-writing, contemporary veterans' issues, and veterans' mental health.

In light of an ongoing need to transition to remote operations as well as utilising the opportunities for new ways of working, key themes of the *Learn & Connect* program for 2021–22 will be on building resilience and wellbeing of our staff and members. Other initiatives to support the learning of our people will include the development of dedicated training support guides and a new intranet site to support members and staff with access to relevant and up-to-date information.

With an emphasis on learning, in 2020–21 we released a new guide for self-represented applicants and advocates appearing before the VRB. The guide provides a comprehensive overview of the relevant legal framework, the available VRB processes, and where to get more information and support.





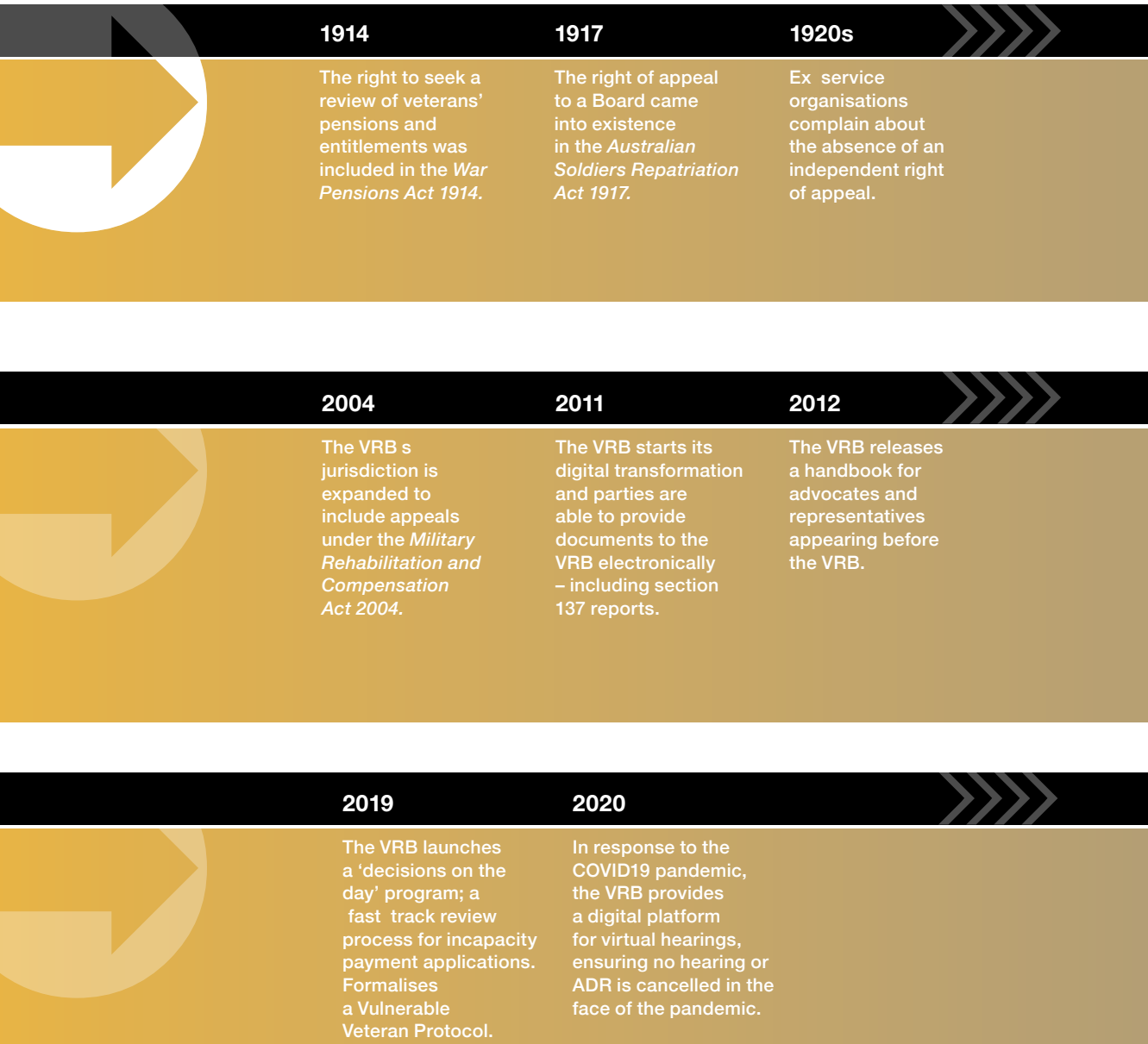
## **Our thanks**

Our sincere thanks to the members and staff of the VRB whose contribution has resulted in the excellent outcomes highlighted in this annual report. On a daily basis VRB staff and members demonstrate enthusiasm, capacity and dedication to providing a high-quality service to veterans, their families, and serving members. Their commitment to continually improve operations, and the way in which they have risen to the challenges of COVID-19 is inspiring.

We acknowledge and extend our thanks to those that access the VRB: veterans, serving and Reserve members, their families, representatives, veterans' organisations and the Department of Veterans' Affairs. Their enthusiastic cooperation and support for the VRB's programs and initiatives has enabled the VRB to consistently meet its statutory objective; – to provide a mechanism of review that is accessible, fair, just, economical, informal and quick.

As it approaches almost a century since the first of Australia's specialist veterans' tribunals were established, we continue to be enormously privileged to be leading the VRB. We are acutely aware of the important legacy of our predecessors and the responsibilities for providing a specialist system of review designed to meet the unique requirements of veterans and serving members. We will continue to prioritise access to justice for all veterans, including those veterans who are vulnerable and at risk. In addition, as a specialist tribunal, we will ensure that we continue to be closely attuned to the evolving nature of the military and the realities of those that serve within it. In the year ahead we will be responsive to their needs, ambitious in our transformation agenda, and focused on excellence in the administration of justice.

# OUR EVOLUTION



# Our evolution



## 1929

The first external appeals tribunals – the *War Pensions Entitlement and Appeals Tribunals* are established by the *Australian Soldiers Repatriation Act 1920*

## 1945

The number of appeal tribunals is increased to deal with an influx of applications at the conclusion of World War 2.

## 1979

The appeals tribunals are replaced by the *Repatriation Review Tribunal*.

## 1984

The Veterans' Review Board was established by the *Repatriation Legislation Amendment Act 1984*.

## 2014

The VRB launches two super registries in Sydney and Brisbane, designed specifically to meet veterans' needs including hearing rooms with technology to support videoconferencing.

## 2015

The VRB introduces Alternative Dispute Resolution (ADR). Important changes are made to enhance the VRB's case management powers. ADR events are conducted digitally.

## 2017

The VRB expands its ADR program and concurrent to a Senate Inquiry into suicide by veterans and ex-service personnel, the VRB commences a triage process for applications concerning vulnerable veterans.

## 2018

The VRB launches a new IT case management system, which streamlines processes and transitions the VRB to fully digital files.

## NOW

The VRB launches Online Dispute Resolution (ODR), the first of its type and starts to resolve certain applications in under 3 weeks.

A new website and the VRB Justice Portal is launched allowing parties to upload documents directly to the VRB and live track the status of cases throughout the whole review process.

The VRB expands its Vulnerable Veteran Protocol to include online triage of applications involving veterans at risk enabling a quicker and more tailored resolution of applications.

The VRB releases a new online guide for self-represented applicants and advocates appearing before the VRB.

The VRB enhances its online hearing platform to support complex applications with multiple participants.

# Delivering justice: a snapshot

Our services	2019 20	2020 21
Applications lodged	2587	2772
Applications finalised	3427	2978
ADR resolution rate	76.5%	81.7%
Time targets met	✓	✓

Feedback on our services	2019 20	2020 21
Compliments rate	1.1%	2.4%
Complaint rate	0.5%	0.6%

Our People	2019 20	2020 21
Members	42	35
Staff (full time equivalent employees)	22.4	22.8

Our Finances	2019 20	2020 21
The budget we are allocated	5,516	4,847

## At a glance

### Highlights 2020–21

We launched **online dispute resolution** enhancing access to justice for veterans and serving members. On average, ODR resolved applications in less than 3 weeks.

We launched the **VRB Justice Portal** where applicants can upload documents and track the live status of their applications throughout the VRB review process – from receipt of the S137 report through to a final decision.

We enhanced our **digital hearing platform** to support complex applications with multi-member panels and multiple participants.



# Overview of the VRB



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# Overview of the VRB

## ***Delivering justice for veterans: your right to be heard***

We deliver justice for veterans, current serving members and their families seeking to challenge decisions that affect their interests and, more broadly, we contribute to improving the quality of government decision-making.

## **What we do**

We are less formal than a court. Where possible, we help veterans or their family members resolve their applications by talking through the issues at an 'outreach' with a Conference Registrar or at a conference with a Commission representative. If an application cannot be resolved, our members will decide the case at a hearing.

We can only hear cases where the law gives us this authority. The types of decisions that we most commonly review relate to:

- Claims to accept liability or entitlement for a service injury, disease or death
- Applications for increase in disability pension
- Compensation for permanent impairment or incapacity for work
- Claims for war widow(er)'s or orphan's pension

## **Our powers**

In reviewing a decision, we take a fresh look at the facts, law and policy relating to that decision. In many cases, new information is provided to us that was not available to the original decision maker. We consider all of the material before us and decide what the legally correct decision is or, if there can be more than one correct decision, the preferable decision. We can exercise all the powers and discretions available to the original decision-maker. We have the power to:

- affirm a decision (the original decision is unchanged)
- vary a decision (the original decision is changed in some way)
- set aside a decision and substitute a new decision (we make a new decision), or
- remit a decision to the decision-maker for reconsideration (we ask the decision maker to reconsider the whole decision again, or some aspect of it).

## **Our objective**

Whilst the VRB is an independent statutory tribunal, we are not a separate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013*. Rather, we are considered a Secondary Australian Government Body, receiving our funding and corporate services from the Department of Veterans' Affairs. As a result, we do not have a budget allocation in the Portfolio Budget Statements.



Our objective is set out in law. In carrying out our functions, we must pursue the objective of providing a mechanism of review of administrative decisions that:

- is accessible
- is fair, just, economical, informal and quick
- is proportionate to the importance and complexity of a matter, and
- promotes public trust and confidence in the decision-making of the VRB.

## Who we are

Our need for specialist expertise is met by the appointment of appropriately qualified and experienced members in the categories of Senior Member, Member and Services Member. Each member is appointed by the Governor-General on the recommendation of the Minister for Veterans and Defence Personnel. Additionally, to be considered for appointment, Services Members (who have military experience) must be nominated by an ex-service organisation. Members of the VRB are statutory appointees and are not public servants employed by the Department of Veterans' Affairs.

All our members must have:

- a high level of integrity
- sound judgment
- legal, military, health or other professional skills
- excellent communication and interpersonal skills
- the ability to conduct hearings
- a capacity to make fair decisions quickly.

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At 30 June 2021, there were 35 members of the VRB. Table 1 shows the breakdown of the membership by category is set out below.

**Table 1: VRB membership, 30 June 2021**

CATEGORY OF MEMBER	TOTAL (WOMEN)
Principal Member, full time	1(1)
Senior Members, sessional	11(5)
Services Members, sessional	14(3)
Members, sessional	9(6)
<b>TOTAL</b>	<b>35 (15)</b>

Members perform a variety of VRB work, including conducting online and alternative dispute resolution processes, providing opinions in the form of Case Appraisals and Neutral Evaluations, and sit on panels for VRB hearings.

### **Principal Member**

Our Principal Member is Ms Jane Anderson. Ms Anderson commenced as Principal Member of the VRB on 31 January 2018 for a term of five years. Ms Anderson holds the VRB's only full-time statutory appointment.

### **National Registrar**

Our National Registrar is Ms Katrina Harry PSM. Katrina also performs the role of the VRB's Chief Legal Counsel. The National Registrar's statutory function is to assist the Principal Member in managing the functions of the VRB across Australia.

### **Staff**

The National Registrar is supported by VRB staff, employed under the *Public Service Act 1999* and made available by the Secretary of the Department of Veterans' Affairs. The VRB does not have any Senior Executive Service positions. At 30 June 2020, there were 22.2 full time equivalent staff at the VRB. Staff are organized into two groups: client services and tribunal services.

Client Services teams include:

- South Eastern Registry headed by Jodi Ross (acting)
- North West and South Australian Registry headed by Andrea Flanagan PSM; and
- Alternative Dispute Resolution team headed by Jane Warmoll, who is also a Senior Legal Officer.

The Tribunal Support team includes member support, financial management and internal communications. Mark Huthnance is the VRB's Finance Manager and Carolyn Gordon is the VRB's Business and Systems Manager.



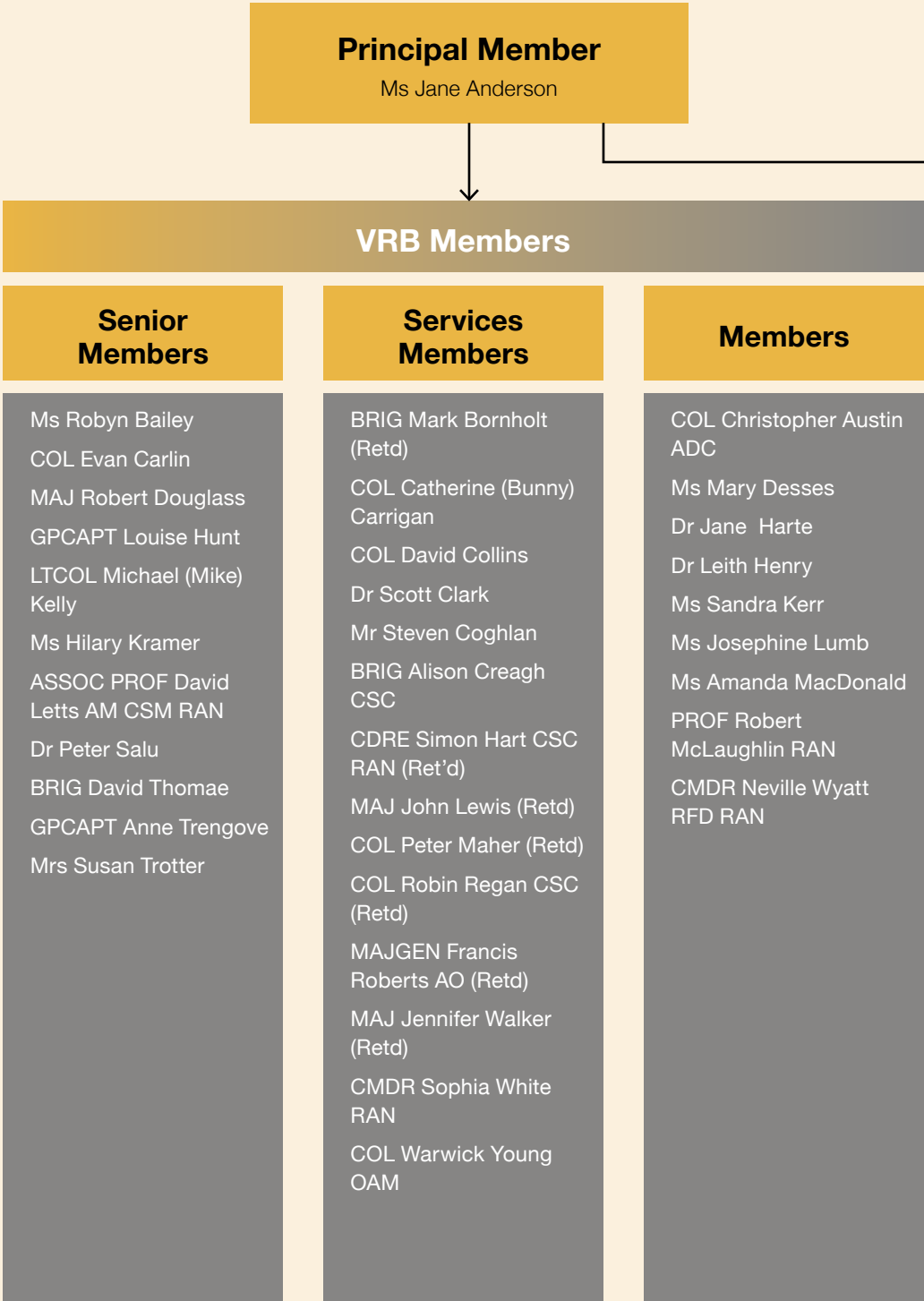
Staff in our client service teams:

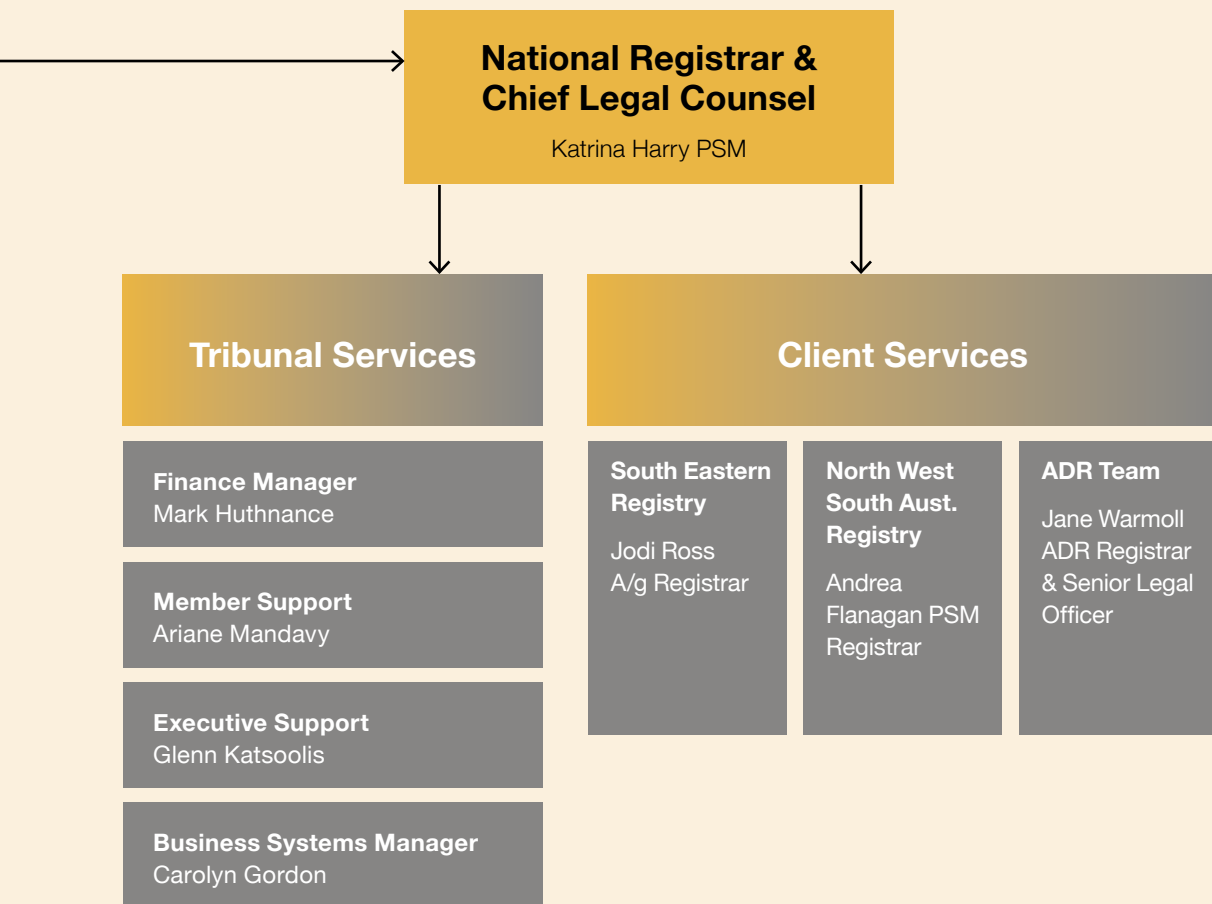
- provide a dedicated single point of contact for each veteran, ensure applications are ‘event-ready’ and facilitate the listing of alternative dispute resolution processes and hearings;
- liaise with veterans and advocates about their cases and give them information, and
- provide support services to conference registrars and members.

Conference registrars conduct VRB alternative dispute resolution processes.

Figure 1 Organisational structure

VRB organisational chart as at 30 June 2021











# Delivering justice

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# Delivering justice

***The VRB serves veterans and their families by listening and making decisions about their applications for review.***

In this section of our annual report we provide detailed information about the number of veterans' applications we handled in 2020–21, how quickly we resolved them, and the key factors affecting the delivery of these services.

## Year in review

### Key points

We cleared more than 100 percent of our case holding, ensuring there was no backlog of applications awaiting hearing.

We significantly improved our time targets, applications taking (on average) less than 5 months to be resolved.

We improved access to justice and increased the number of applications resolved by our ADR program to more than 80 per cent.

## Number of applications finalised

This is an indicator of how the VRB is carrying out its role of delivering justice for veterans, current serving members and their families.

### Target

Finalise more applications than received (**2772** in 2020–21)

### Result

✓ **Target met:** The VRB finalised **2978** applications in 2020–21, 7.4 per cent higher than the target.

## Applications finalised within time

This is an indicator of how quickly the VRB deals with applications. The VRB measures time taken for the stages that are within its control. It includes applications finalised within the ADR and ODR programs, as well as applications that proceed to a hearing.

The time taken to finalise applications can depend on a range of factors including the availability of the parties (particularly volunteer advocates) to participate in ADR events and hearings, the nature and complexity of the applications, and the overall level of VRB resources available. A target based on an average figure takes these variables into account.

Targets	Results
<ul style="list-style-type: none"> <li>• ADR applications: average number of applications finalised within <b>6 months</b></li> <li>• All applications: average number of applications finalised within <b>12 months</b></li> </ul>	<p>✓ <b>Target met:</b> on average applications in the ADR program were finalised within <b>3.8 months</b>. This is a 1.7 month improvement on last year. Additionally, applications referred to the ODR program were finalised in <b>2.2 weeks</b>.</p> <p>✓ <b>Target met:</b> on average all applications were finalised in <b>4.7 months</b>. This is a 1.8 month improvement on last year.</p> <p>The VRB is committed to continuing to improve its timeliness. In the reporting year, we continued to refine and develop our case management approach. The increase in the number of applications finalised by ADR and ODR this year contributed to the overall reduction in the time taken to resolve applications.</p>
<ul style="list-style-type: none"> <li>• Less than <b>10 per cent</b> of applications adjourned at hearing</li> </ul>	<p>✗ <b>Target not met:</b> 17.5 per cent of applications were adjourned at hearing. This is an increase of 11.6 percent compared to last year.</p> <p>In more than half of applications, adjournments were granted to ensure procedural fairness where the veteran or serving member was impacted by personal matters such as illness; the need to obtain a new representative or their representative not being available. Additionally, adjournments were granted in some applications where a veteran or serving member failed to appear. In such cases, adjournments allowed registry staff to make inquiries about the safety of the person. In adjourned matters, parties were also invited to provide written submissions to have their case decided 'on the papers' rather than proceeding back to a full hearing.</p>

## Proportion of appeals to the AAT

This criterion indicates the extent to which the VRB is providing a mechanism of review that is fair and just and that promotes public trust and confidence in its decision-making.

Target	Result
Less than 10 per cent of decisions made by the VRB in 2020–21 appealed to the AAT	<b>Target met:</b> Appeals to the AAT in 2020-21 amounted to 2.4 per cent of the decisions made by the VRB in 2020-21. This is a decrease of 0.4 per cent from the previous year.

## Accessible to the veteran community

This criterion indicates how accessible the VRB is to the veteran community.

Targets	Results
<ul style="list-style-type: none"><li>• ADR available to all veterans across Australia as the preferred option for resolving applications</li><li>• Provide accessible and welcoming venues across Australia, including regional areas</li><li>• Enhance digital capability to support ADR events and hearings</li><li>• Increase the veteran community's awareness of the VRB's role and services</li></ul>	<p>All veterans across Australia could access ADR to resolve their applications. This year 81.7% of applications were resolved by ADR. This is a 5.2% improvement on last year.</p> <p>We conducted hearings in-person and online, ensuring no hearing was cancelled in response to the ongoing COVID19 pandemic. Overall, we conducted 540 hearings.</p> <p>We launched the VRB Justice Portal to make it easier to do business with us anytime, anywhere.</p> <p>We expanded access to justice for veterans this year by making online dispute resolution (ODR) available to all veterans across Australia. ODR is not mandatory and provides a quick and informal way for veterans to resolve applications, regardless of where they live.</p> <p>We launched a refreshed VRB website to increase awareness of the VRB's role and services.</p> <p>We conducted online advocates' forums and training across Australia in 2020–21 and participated in a variety of stakeholder events.</p>

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## Budget efficiency

In 2020–21, we cleared more than 100 per cent of our case holding and there was no backlog of applications awaiting hearing. Additionally, we finalised more applications through our ADR program and improved the time taken to resolve applications, while operating within the reduced budget allocation (4,847M) provided by the Department of Veterans' Affairs. We achieved a balanced budget.

## Summary of our performance

During 2020–21 we embraced innovation and enhanced our digital technology to meet the service expectations of the veteran and current serving member communities. We improved our digital hearing platform to support complex applications with multi-member panels and multiple participants. As well as digital hearings, we continued to list applications to be heard in-person on a case by case basis, in locations that were not impacted by COVID19 restrictions. The challenge for next year will be ensuring our hearing rooms in Sydney, Brisbane and Melbourne have digital functionality in-built to enable more efficient hearing of applications.

We also launched two major new digital services – the VRB Justice Portal and Online Dispute Resolution. For the first time, parties can upload documents directly to the VRB and track the live status of cases throughout the whole of the review process – from the initial documents through to the final decision. The Justice Portal allows all information about a VRB application to be accessed in one place, making it easier and simpler for veterans to resolve matters.

A veteran's access to justice has also been improved with the launch of Online Dispute Resolution (ODR). ODR enables veterans to engage in their applications at a time and place that suits them. Veterans across Australia, including those in rural and regional areas, are able to interact wholly online with the VRB's specialist ODR practitioners, with the aim of resolving less complex matters effectively and efficiently, without the need to participate in an ADR event or hearing. Pleasingly, since its introduction, applications are being resolved in ODR in under three weeks.

As part of its digital transformation, the VRB's new website was launched in November 2020, demonstrating another way in which the VRB is committed to being responsive to its users. Developed with a veteran-centred design approach, the website includes information about the VRB review system and provides a gateway to the Justice portal.

In 2020–21 the VRB also released a new online guide for self-represented applicants and advocates appearing before the VRB. The guide provides a comprehensive overview of the relevant legal framework, the available VRB processes, and where to get more information and support.

While the COVID19 pandemic persisted into the reporting year, the VRB continued to demonstrate its capacity to adapt and respond quickly to change, reflecting our strong commitment to serve the veteran and current serving member community and deliver essential services without interruption.



# Caseload overview

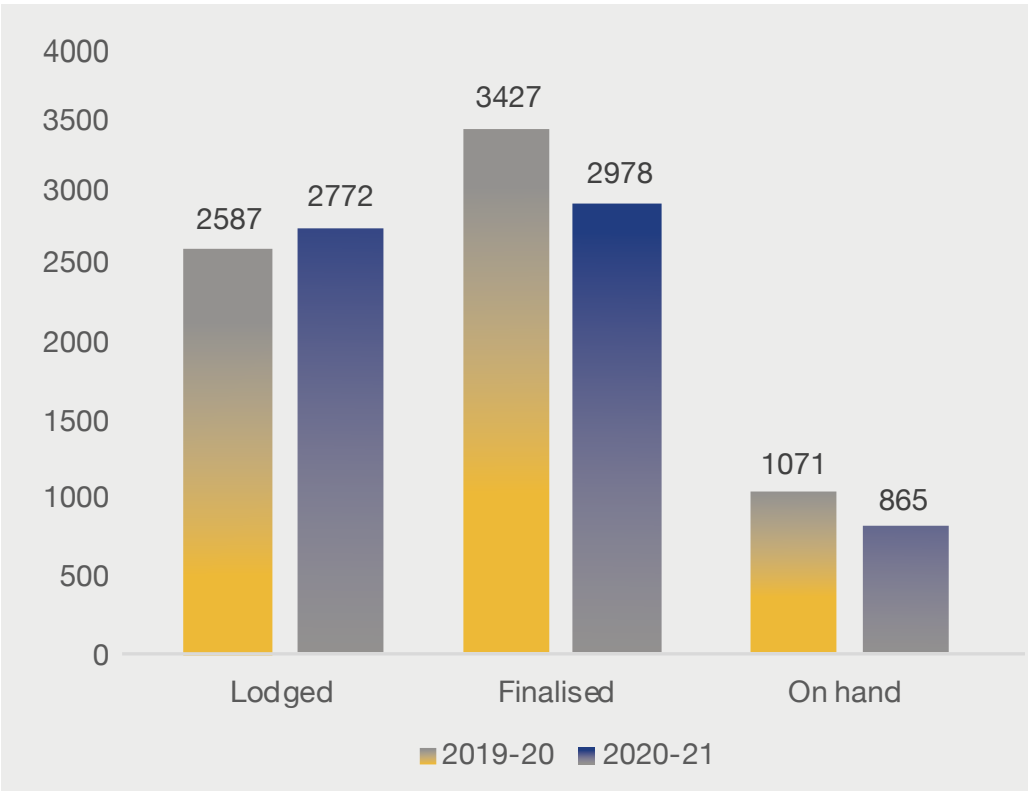
In 2020–21, VRB applications increased by 7.4 per cent. At the end of the reporting year over 600 VRB applications remained with DVA or the MRCC for report preparation. On average, these reports ('section 137 reports') were provided by DVA to the VRB more than 10 weeks after a veterans' VRB application had been lodged with DVA or the MRCC.

Applications under the *Military Rehabilitation and Compensation Act 2004* (MRCA) increased by 30 per cent.

We cleared more than 100 per cent of our case holding this year and at 30 June 2021 there was no backlog of applications awaiting a hearing.

Chart 3.1 illustrates the number of applications lodged and finalised in the last two financial years, and the number of applications on hand (in progress) at 30 June in each year.

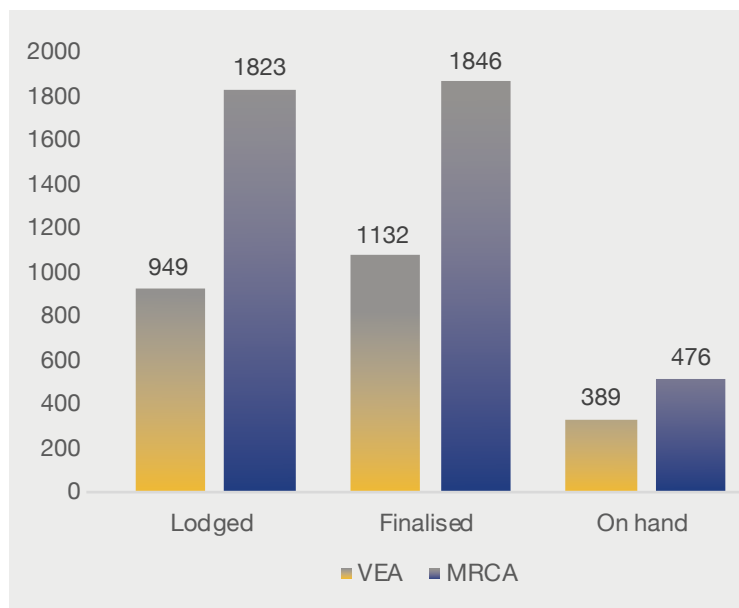
**Chart 3.1 Total applications lodged, finalised and on hand, 2019–20 & 2020–21**



# Our jurisdictions

The size of our workload differs slightly between jurisdictions: 65.8 per cent of applications were made in relation to the MRCA and 34.2 per cent in relation to the VEA. Our clearance rate for the MRCA jurisdiction was 101.3 per cent and for VEA it was 119.3 per cent.

**Chart 3.2 Applications lodged, finalised and on hand, 2020–21 – By jurisdiction**



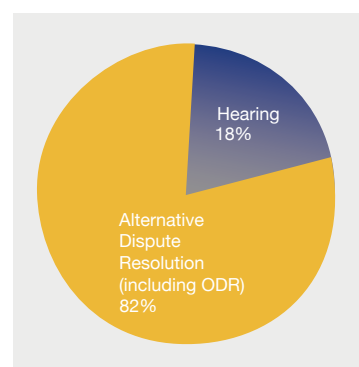
## How we resolve applications

We resolve applications in different ways. In 2020–21, we resolved the majority of applications by an Alternative Dispute Resolution (ADR) process. This can include a decision being made on the papers (without a full hearing), a decision being made by the VRB which reflects an agreement made by the veteran and the Commission, or a veteran choosing not to proceed further with an application for review. In 45.8 per cent of applications resolved by ADR an outcome was reached that was favourable to the veteran.

In the remaining applications that could not be resolved by an ADR process (or were transitional cases that had commenced prior to the introduction of ADR) the VRB conducted a hearing and made a decision following the hearing. In 34.1 per cent of these applications, the VRB made a new decision that was favourable to the veteran.

Overall, as a proportion of the number of primary decisions made by the Commissions that could have been reviewed by the VRB, the VRB made a different decision in 3.2 per cent of cases that were resolved in ADR and 0.5 per cent of cases that went to a hearing.

**Chart 3.3 Mode of finalisation of applications for review of decisions, 2020–2021**



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# External Scrutiny

Our operations are subject to external scrutiny through various mechanisms. Our decisions can be appealed to the Administrative Appeals Tribunal or the courts. We can also receive requests made under the *Freedom of Information Act*, complaints to the Commonwealth Ombudsman and other bodies, audits by the Australian National Audit Office. We can also be called to attend senate estimates hearings.

## Appeals

If a veteran is unhappy with a VRB decision, he or she can appeal to the Administrative Appeals Tribunal (AAT) for a review “on the merits.” This means the AAT will take a fresh look at the relevant facts, law and policy and arrive at its own decision.

A veteran may also seek judicial review of certain decisions made in the course of the review process and in respect of certain final decisions under the *Administrative Decisions (Judicial Review) Act 1977*. There were no judicial reviews of VRB decisions in the reporting year.

The table below shows the number of AAT appeals lodged in 2020–21 as a proportion of VRB decisions and the number of cases where the AAT, at hearing, made a different decision to the VRB. This amounted to 0.4% per cent of all VRB decisions which could have been appealed to the AAT.

	AAT appeals lodged	Proportion of total VRB decisions	Finalised	Percentage of cases where AAT at hearing decided differently to VRB*
2019–20	97	2.8%	163	0.4%
2020–21	72	2.4	95	0.4

**\* This measure identifies those appeals heard by the AAT and excludes those cases where a consent agreement was reached by the parties.**

## Court Decisions

While there is no direct right of appeal to the Federal Court from a decision of the VRB, decisions are subject to review by the Federal Court under the *Administrative Decisions (Judicial Review) Act 1977*.

*Davis v Veterans’ Review Board* [2021] FCA 131(8 February 2021) was decided in the reporting year. The Court dismissed the application.

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# Summary of AAT cases

The case summaries below relate to a sample of matters where the AAT made a decision different from that made by the VRB. In the majority of cases, the AAT had before it new evidence that was not available to the VRB.

## **Toyer and Repatriation Commission (Veterans' entitlements) [2020] AATA 2640 (28 July 2020)**

Mr Toyer served in the Royal Australian Navy and rendered operational service in Vietnam from 20 September 1971 to 17 December 1971 and defence service from 7 December 1972 to 16 January 1973. Mr Toyer made a claim that his adjustment disorder with depressed mood was caused by his service-related pleural plaques condition. Specifically, Mr Toyer contended that he met the following factor in the relevant SOP:

(7) having, or being diagnosed with, a medical illness or injury which is life-threatening or which results in serious physical or cognitive disability, within the three months before the clinical onset of adjustment disorder;

The Commission contended that the evidence before the Tribunal did not support Mr Toyer having a serious physical or cognitive disability within the three months before November 2016 (the onset of his adjustment disorder).

The Tribunal considered the expert opinion evidence before it and found that Mr Toyer's pleural plaques resulted in *serious physical disability* (loss of lung function) and this occurred within three months before the clinical onset of adjustment disorder. The Tribunal noted that the loss of lung function was a *serious physical disability* as that phrase was used in the relevant Statements of Principle. The decision under review was set aside.

## **Hunt and Repatriation Commission (Veterans' entitlements) [2020] AATA 5156 (21 December 2020)**

This application was remitted to the Tribunal by the Federal Court and re-heard by a differently constituted Tribunal.

Mr Hunt served in the Australian Army from 21 February 1966 to 20 February 1972. During that time, he rendered operational service in Vietnam from 6 November 1969 to 6 May 1970. Mr Hunt submitted that his mental health conditions were caused by bullying and disharmony at Nui Dat and two incidents in Saigon where he said he observed, while on guard duty, South Vietnamese military police shoot a civilian.

The Commission submitted that the incidents cited by Mr Hunt were not acts of bullying but an application of military discipline. The Tribunal rejected this submission noting the findings of a DART assessment that concluded Mr Hunt's claims of bullying and harassment at Nui Dat, "...were... sufficiently plausible because of the level of detail provided in his account and...extensive supporting documentation." The Tribunal went on to find Mr Hunt, while serving at Nui Dat experienced a category 2 stressor.

In respect of the Saigon incidents, the Commission submitted that there was no contemporaneous documentary evidence recording either incident, which would ordinarily have been recorded in Occurrence Sheets. A military historian gave evidence of searches and enquiries undertaken to locate such records, but that they could not be located. In this respect, the Tribunal noted "the observations made by Steward J in this matter that in effect, a persistent search for corroborating material can have the effect of denying an applicant the benefit of the standard of proof to which he is entitled under section 120(1) of the Act."

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Mr Laurie who was a Sergeant in the RAA Provost Corps from 1 October 1969 until 1 October 1970 gave oral evidence to the Tribunal. Mr Laurie said he did not see any reports resembling the Saigon incidents and that these would have been considered major events. The Tribunal noted that “Mr Laurie’s evidence did shift on this topic when he was in the witness box when compared with his written statements...”

The Tribunal went on to note, “Once again having the benefit of the reasons of Steward J in the Federal Court, his observations should be repeated that a lack of corroborating evidence is also not inconsistent with, or capable of preventing the Tribunal from accepting the Applicant’s evidence concerning the Saigon incidents.[29] Indeed, it is hardly a novel proposition. Courts and tribunals habitually are required to, and frequently do, accept or reject evidence and make findings of fact where there is no corroboration, and the only evidence is that given by a party from the witness box... The Tribunal has, as observed earlier, found the Applicant to be a credible witness. Those observations are repeated. It also accepts his evidence concerning the Saigon incidents. It does not believe that the account he gave by affirmation in the witness box and the statement that he made were either the product of reconstruction, recent invention or lying. He simply did not seem that Machiavellian.”

The Tribunal set aside the decision under review.

### **Parkes and Repatriation Commission (Veterans’ entitlements) [2020] AATA 3358 (31 August 2020)**

The applicant, Mr Parkes, enlisted in the Australian Army on 21 January 1964 and was discharged on 20 January 1973, rendering operational service in Vietnam from 21 May 1969 to 30 April 1970. Mr Parkes had a number of conditions accepted as war caused. He made an application for increase in his disability pension. When he made the application, Mr Parkes was aged over 65 years and he was seeking an increase in his disability pension to the Special Rate.

Mr Parkes gave oral evidence to the Tribunal, stating his ‘expertise’ was in ‘fine measuring instruments’. Mr Parkes stated that he had been working in that regard ‘on a continuous basis’ since 1968 in various capacities, including in aircraft, at the University of Queensland, at James Cook University and in his own business. Mr Parkes stated that he had established two businesses, both of which were structured as a partnership with his wife. Mr Parkes stated that he and his wife ‘never drew a salary’ from either business, but instead ‘lived on the profits’ of both businesses. Mr Parkes indicated that both businesses were shut down in 2016 and that he was unable to sell his business, ultimately being forced to close the business on 18 December 2018. Mr Parkes stated that what prevented him from continuing to work was that he ‘couldn’t see’. Despite having cataract surgery in 2010, one morning in 2011 he woke up and was blind in his right eye. Mr Parkes stated that by 2015 the operation of the businesses was no longer sustainable, because of the substantial decline in his ability to be productive.

The Commission submitted that the facts in Mr Parkes’ case were similar to those in *Reidlinger and Repatriation Commission* [2016] AATA 646, where it was held that the Applicant in that Application did not satisfy section 24(2A) (d) and (e) because the financial downturn of the business was a factor that contributed to preventing the Applicant from undertaking the last paid work as a self-employed business manager.

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The Tribunal noted Mr Parkes was attempting to sell the business some six years before the business finally concluded and by 2015 Mr Parkes stated that the business was 'not sustainable', before the beginning of the assessment period in 2017.

The Tribunal found that 'the Applicant would not be operating the businesses in the assessment period after 5 September 2017 (and therefore not be suffering a loss of salary or wages or of earnings on his own account), including by reason of the conditions other than the conditions that have been accepted as related to service. As stated in the second reading speech by the Minister as to the Veterans' Entitlements Bill 1985: "I would not expect many veterans over the normal retirement age to qualify for payment of pension at this rate as there would usually be reasons other than the effect of a war-caused incapacity which precluded continuing in employment". In the assessment period after 5 September 2017, it is found that the Applicant was not prevented from undertaking his last paid work and suffering a loss of salary or wages, or of earnings on his own account, if the Applicant were free from that incapacity.'

The Tribunal then turned to consider if Mr Parkes was entitled to the extreme disablement adjustment rate of pension. The Commission submitted that the evidence did not support a finding that Mr Parkes had a lifestyle rating of at least six points in accordance with Chapter 22 of the *Guide to Determining Impairment and Compensation 2016*.

The Tribunal noted correspondence dated 21 June 2018, where the Commission accepted a disability pension claim for Mr Parkes' depressive disorder and erectile dysfunction and which increased his disability pension to the extreme disablement adjustment with effect from 5 June 2017. The Tribunal also noted a decision made by the Commission on 7 October 2019 which accepted Mr Parkes alcohol use disorder and continued his disability pension at the extreme disablement adjustment rate.

The Tribunal found that Mr Parkes had a lifestyle rating of at least six points in accordance with Chapter 22 of the *Guide to Determining Impairment and Compensation 2016*.

The Tribunal varied the decision under review finding Mr Parkes disability pension was to be assessed at the extreme disablement adjustment with effect from 5 September 2017



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## Freedom of information

In 2020–21, we received 8 requests for access to documents under the *Freedom of Information Act*. All applications were finalised during the reporting year. Additionally, we received one request for an internal review and were notified of one request made to the Information Commissioner. The application was withdrawn by the applicant.

## Information Publication Scheme

Agencies subject to the *Freedom of Information Act* are required to publish information to the public as part of the Information Publication Scheme. This requirement is in Part II of the Act and has replaced the former requirement to publish a section 8 statement in an annual report. Each agency must display on its website a plan showing what information it publishes in accordance with the IPS requirements. Our plan is on our website.

## Complaints to external bodies

In 2020–21, no complaints about our operations were made to the Office of the Information Commissioner in respect of privacy, the Commonwealth Ombudsman, the Australian Human Rights Commission or any other external body.

## Reports on our operations

Our operations were not the subject of any report by the Auditor–General, any parliamentary committee or the Commonwealth Ombudsman in 2020–21.



## Services to veterans

Each application is different and we will work with the parties to find the best way to resolve an application. Options for resolving applications include – Online Dispute Resolution, Alternative Dispute Resolution (outreach, conference or appraisal) or a VRB hearing.

### **Alternative Dispute Resolution**

Our review processes are designed to resolve applications using Alternative Dispute Resolution (ADR). The processes are also designed to ensure that those matters that are unable to be fully resolved via ADR can be finalised at hearing informally and without undue delay.

ADR is available to all veterans across Australia. ADR can be faster than a hearing and gives the veteran more control over the outcome.

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**Outreach** is the first step in the VRB's ADR program. Outreach is about helping the parties resolve applications.

VRB Conference Registrars and Members are dispute resolution experts who will guide the parties through process. They are also independent.

At an outreach, the applicant and their advocate can talk to an independent VRB Conference Registrar or Member about the decision they have received from DVA. The VRB will contact applicants and advocates to set up a time for this discussion. It can take place by phone, video or face-to-face.

The VRB Conference Registrar or Member will explain the review process and ask the applicant or their advocate to explain why they are unhappy with the decision. They will also help the applicant and advocate to identify the issues in the case and discuss the next best steps to resolve it.

Outreaches are private, confidential sessions and the VRB Conference Registrar or Member will not disclose anything an applicant or advocate has said without their consent.

In some cases, the VRB Conference Registrar or Member may recommend that an application be resolved by a favourable decision 'on the papers'.

If the case can be resolved in this way, the parties will be sent a copy of a draft decision.

If applicant accepts the draft the VRB will make a final decision, a copy of which will sent to the parties.



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## Online Dispute Resolution

The VRB is now offering Online Dispute Resolution (ODR) to increase veterans' access to justice by providing a modern, simple, efficient, user-friendly and accessible forum for veterans, current serving members and their families seeking review of decisions that affect their interests.

ODR lets current serving members, veterans and their families resolve applications when and where it's convenient for them. This could be at home, at work or on a phone.

### **What are the benefits of ODR?**

ODR further advances the benefits of the VRB's current ADR program ('offline ADR'). ODR sits alongside ADR, providing an easy and accessible process whereby VRB Conference Registrars facilitate the early resolution of applications. ODR broadens veterans' access to justice by:

- giving greater choice and flexibility to veterans to resolve their applications;
- providing a more accessible and informal way of resolving certain applications;
- removing restrictions on the time at which the VRB online processes can be used;
- avoiding veterans having to travel lengthy distances (particularly from regional locations) to participate;
- avoiding veterans needing to take time off work;
- enabling veterans to participate from their homes (or places where they feel most comfortable) and alleviating the need to attend the VRB in person;
- veterans not being restricted to being in the same locations as their representatives;
- providing an immediate start to the resolution process, allowing veterans to resolve their applications as quickly as possible;
- allowing veterans to communicate at a pace that suits them; rather than communicating 'on-the-spot'.

In addition, not only does VRB ODR provide greater choice and flexibility, it also alleviates some of the pressures placed on the volunteer advocates who support veterans.

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## How it works

There are three steps involved:

### 1. *Request ODR*

After a person has made their application for review they can ask for ODR by using the VRB Justice Portal.

### 2. *Facilitation*

A Conference Registrar will help the applicant to resolve their application online.

### 3. *Decision*

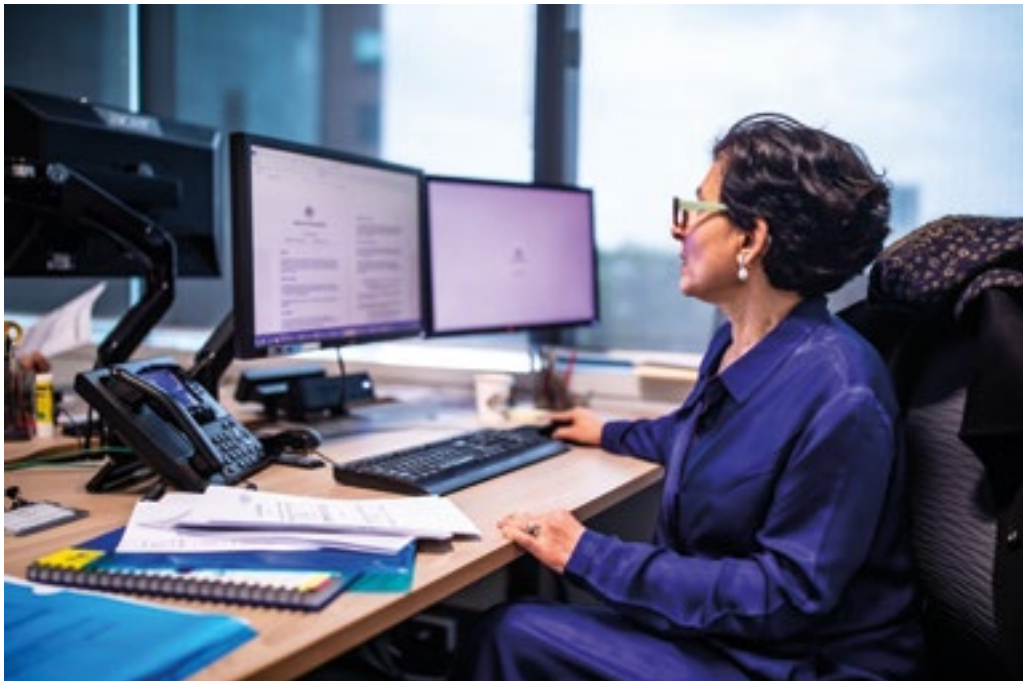
If an application can be resolved by ODR, the applicant will be given a binding decision, delivered online.

## How does an applicant request ODR?

ODR provides an applicant with an opportunity to resolve their application fairly and quickly. It is the applicant's choice to request ODR.

There is no form required. An applicant can simply upload a document (e.g. a screen shot or word document) into the VRB Justice Portal saying, "I would like my application to proceed to ODR". An applicant should do this after:

- An application for review by the VRB has been lodged with DVA;
- DVA or the MRCC provides the application and the Section 137 report to the VRB;
- An applicant tells us if they have a representative; and
- The applicant (or their representative) have registered for the VRB Justice Portal.



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## **Facilitation**

A Conference Registrar will start the facilitation process within a week of receipt of the veteran's election to proceed via ODR. Online Conference Registrars will have a facilitative, inquisitorial role and provide evaluative assistance to veterans from the start of the ODR process.

The veteran will not be asked to submit evidence until requested by the Conference Registrar. This will avoid the scenario where applicants who are uncertain as to the material required to support their cases, often upload documents in large quantities, many of which may not be relevant to the application.

Any request by the Conference Registrar for additional material will be made online, and if any such material is obtained, it will likewise be required to be submitted online, via the VRB Justice Portal.

The time to resolve an application will depend on the complexity of the application and the issues involved. However, the VRB has set a relatively short timeframe of two weeks for the provision of material through the ODR process in order that applications can be progressed without undue delay.

If a veteran is required to provide additional evidence and they cannot meet the short time frame, the application can be referred out of ODR and into the VRB's offline ADR program. This will be appropriate in those cases where further evidence gathering needs to be undertaken and an opportunity for a veteran to have more time to prepare his or her case.

## **A VRB decision**

Once the facilitation process is complete, a VRB member will be assigned to the application within 3 days. If the VRB Member considers the application can be resolved by a decision, a draft decision will be communicated to the parties.

If the veteran consents to the draft decision, the application will proceed to a virtual hearing before the VRB Member who will deliver the reasons for the decision orally online to the parties. The veteran and a representative of the respondent will be notified of the hearing and invited to attend. Given the 'virtual' nature of the hearing, either party can participate in the hearing from any location with internet access.

If an application can't be resolved via ODR because the veteran has not consented to a decision, within a specified short timeframe he or she can elect to (1) discontinue their application; (2) have their application referred to offline ADR; or (3) proceed to a hearing (including the option of a virtual hearing) before a panel of 3 VRB members.

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## Hearings

We encourage all veterans to participate in their hearings. Attending a hearing may seem daunting, but VRB hearings are much less formal than a traditional legal hearing. VRB hearings are held in private, online or in person and they are not open to the public. A representative from the Commission will generally not attend VRB hearings. Applicants are welcome to bring a friend or support person to their hearing, regardless of whether they are represented.

Our hearings generally take less than one hour.

## Decisions on the day

Where possible, VRB members will make their decision on the day of a hearing and tell the veteran and his or her advocate the reasons for their decision. The veteran, the advocate and the Commission will also receive a written copy of the VRB's decision.

VRB decisions and reasons are not published or made public. They are only provided to the veteran, the representative (if applicable) and the relevant Commission.

## Composition of hearing panels

In most review hearings, the VRB is made up of three members. One of the three members is a Senior Member, who generally has legal qualifications and presides over the hearing. Another is a Services Member, who has experience in the Australian Defence Force. The Services Member does not need to be from the same arm of service as the applicant seeking review, but whose general knowledge and experience of military service assists the panel in interpreting the material before it. The remaining panel member is a Member, who has relevant qualifications within the community and/or professional sector, for example, a health professional.

The three-member multi-disciplinary panel is one of the most important features of the VRB. The combined knowledge and experience of each category of membership provides an appropriate setting in which veterans, current serving members, or family members are able to tell their stories.

In some less common situations, a veteran (or other applicant) may not wish to attend a VRB hearing to give oral evidence, or participate at all in the VRB hearing. In this circumstance, a hearing may be conducted by a single VRB member sitting alone. In appropriate cases, a single member may also conduct a short hearing where there has been an adjournment following a hearing.

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## Information about our review process

This year we launched a refreshed website to increase awareness of the VRB's role and services.

The website contains information about:

- How to apply;
- The types of decisions the VRB can review; and
- Steps to resolve an application at the VRB including online dispute resolution.

Veterans and the serving community can access the VRB Justice Portal from our website.

Additional information and resources are available on the website, along with our Service Commitment and Vulnerable Veteran Protocol.

## Service Commitment

### **Our commitment to you**

The Veterans' Review Board (VRB) is a specialist, independent tribunal that reviews decisions affecting veterans, current serving ADF members, and their families. The VRB is committed to providing a mechanism of review which is accessible, fair, just, informal, economical, economical and quick.

### **Our service commitment**

We aim for service excellence by being: accessible, respectful, responsive, timely, impartial, consistent, professional and efficient.

When you contact the VRB you can expect:

- to be greeted in a polite and courteous way
- a dedicated Client Service Officer to manage your application
- answers to your queries from 8:30 am to 5:00 pm on working days
- accurate information about VRB processes.



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## **Your rights**

The VRB respects your right to:

- fair and helpful assistance, including appropriate arrangements for people with special access needs;
- be represented in your proceedings;
- a fair and just ADR event and/or hearing;
- timely decisions with reasons provided either orally or in writing.

## **How you can help us provide excellent service**

To assist the VRB to provide high quality service to you we ask that you:

- participate in your hearing
- keep hearing or other appointments, or tell us beforehand if you cannot keep an appointment
- provide us with complete and accurate information
- comply with any directions about your application
- treat staff, members and other parties with respect and courtesy
- understand that we cannot give you legal advice about your application

## **Vulnerable veteran protocol**

This protocol addresses the needs of those veterans and current serving members who face particular difficulties in the review process, and whose ability to understand and effectively present their case or fully participate in the review process may be impaired.

### **Early identification and priority attention**

A veteran may be identified as vulnerable at any stage during the review process. There are various ways in which the VRB can identify a veteran who may be vulnerable, or at risk of self-harm or harm to others. These sources include:

- the veteran or his/her family member
- the veteran's advocate
- treating health professionals
- government departments or agencies, including the Veterans' Affairs and Defence Departments, and law enforcement agencies
- VRB members, Conference Registrars or staff.

It is important that vulnerable veterans are identified as early as possible in the review process and that appropriate action is taken by the VRB as soon as possible to manage their applications. Where the VRB identifies a vulnerable veteran, the veteran's application will be immediately triaged for an on-papers review by one of the VRB's subject matter experts. If the application cannot be resolved on the papers, consideration will be given to arranging an urgent hearing with a full panel or a directions hearing, depending on the particular circumstances. If a veteran is unrepresented, the VRB will assist the veteran to appoint an advocate.

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## Hearing arrangements

All VRB hearings are held in private. In listing a hearing, the VRB will liaise with the veteran's advocate, treating health professional and/or Departmental Liaison Officer. Consideration of a range of factors include:

- the most convenient/appropriate time for the hearing for the veteran and whether the veteran attends in person, by phone or video conference;
- the attendance of support persons including the veteran's advocate, treating health professional or others such as family members or assistance dogs etc;
- the panel composition (e.g. an all-female or male panel or members with specialist expertise).

VRB members conducting a hearing will be specifically informed of any cases scheduled which involve a vulnerable veteran and that this should be properly taken into account in conducting the review. At any hearing, VRB members are committed to creating an open and supportive environment. Questioning of the vulnerable veteran by members is to be done in a sensitive and respectful manner and questions will be formulated in a way that the vulnerable veteran understands. Additionally, the VRB may consider taking evidence from family members or close friends. During the hearing, the VRB will also ensure any vulnerable veteran is provided with breaks as appropriate. In every case the VRB will endeavour to complete the review without delay.

## Notification of the VRB's decision

At the conclusion of any VRB hearing involving a vulnerable veteran, careful consideration will be given as to how the decision should be delivered; i.e. orally on the day of the hearing, or in writing following the hearing. The presiding Senior Member will make this decision after consultation with the advocate, treating health professional or other support person.



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If a decision is to be given in writing, either following a hearing or on–papers review, Registry staff will contact the veteran’s advocate, treating health professional and/or Departmental Liaison Officer to make arrangements for the decision to be conveyed to the veteran. For example, a written decision can be delivered to the office of the veteran’s advocate or treating health professional. The aim is to ensure that the veteran has appropriate support persons available and accessible to discuss the VRB’s decision, whether favourable or unfavourable.

Generally, Registry staff will seek to ensure that decisions are not delivered on a Friday, or prior to a public holiday (or commemorative events such as ANZAC Day), or any other date that may be significant to the veteran. Similarly, the VRB will ensure that hearings for vulnerable veterans are not listed on or around these days.

### **Immediate threats**

If there is an imminent threat at any point in the review process, Registry staff may contact the relevant arm of emergency services in order that a welfare check be undertaken. Additionally, Registry staff will also notify the Department of Veterans’ Affairs security team with a view to an incident assessment being undertaken.

### **Support services**

The VRB will encourage any vulnerable veteran to seek appropriate counselling or other support services after a hearing, or will recommend to the veteran’s advocate that such services be sought. In locations where the VRB is co–located near Open Arms, Registry staff, where appropriate, will endeavour to arrange an immediate referral or support.



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## Obtaining evidence

### Types of evidence

The VRB commonly receives the following types of evidence:

- Medical evidence: including service medical records, hospital notes or surgery reports and doctors' expert opinions.
- Documentary evidence: including service records, unit diaries or other published historical or contemporary accounts of events that took place during service.
- Witness statements: including those of fellow service personnel who can confirm the details of incident/s, participation in a sporting activities/occupations, or postings or deployments.
- The veteran's own story that describes the details of the disability, incident, or service event.

The veteran's own personal story is often the most important evidence the VRB receives.

It may be new evidence that the Department did not have when the primary decision was made. A veteran's own story is often an important factor in the VRB making a favourable decision for a veteran. As such, the VRB encourages veterans to participate in their appeals by participating in ADR events and attending VRB hearings.

### How evidence is obtained

As is the case for many Tribunals, the VRB does not apply the strict rules of evidence. Rather, the VRB encourages the parties to obtain relevant and probative material in a manner that is informal, economical and quick. In order to avoid unreasonable costs to the parties and reduce the risk of unreasonable delay to the finalisation of veterans' applications, the VRB requests the parties to consider:

- Where appropriate, obtaining oral evidence from a doctor or specialist (who has reviewed the veteran) over the telephone during a hearing or ADR conference, rather than requiring the veteran to undergo a further medical assessment and obtain a full medical report. The oral evidence can be confirmed in a follow up email following an ADR outreach event;
- Where a medical report is required, the examination of the veteran is conducted by video or telephone conference, to avoid unnecessary travel, expense or delay;
- Witness statements provided by colleagues or other persons by email;
- The parties agreeing to obtain reports jointly, using a collaborative approach.

A veteran or representative is welcome to ask a Conference Registrar in an ADR event (or Registry staff prior to a hearing) if evidence can be obtained via one of the ways noted above.

**Assistance in obtaining your own evidence**

Rather than asking the respondent to obtain material, it may be quicker and more economical for veterans to obtain their own medical evidence. It also gives the veteran more control over the choice of health professionals, location and timing of appointments, including the option of using tele-health where appropriate.

A veteran or representative is welcome to ask a Conference Registrar in an ADR event for help in drafting a schedule of questions for a health professional. The schedule of questions can be included in the direction that is issued following the ADR event.

**Reimbursement for veterans**

If a veteran chooses to obtain his or her own material for the purposes of the application, the Department of Veterans' Affairs will reimburse the costs of obtaining medical evidence up to a maximum amount of \$1000.00 per claimed condition.

Additionally, reimbursement of reasonable travelling expenses incurred in obtaining such medical evidence (and travelling expenses for those of an attendant) to a maximum of \$500 may also be paid.

**Complaints**

During 2020–21, 0.6 per cent of complaints were made for every application we resolved. This was a small increase of 0.1% in comparison to the previous year.

	2019 20	2020 21
Applications finalised	3427	2978
Percentage of complaints per applications finalised	0.5%	0.6%

**Compliments about our service**

During 2020–21, 2.4 per cent of compliments were made for every application we resolved. The rate of compliments increased by 1.3% as compared to the previous year.

	2019 20	2020 21
Applications finalised	3427	2978
Percentage of compliments per applications finalised	1.1%	2.4%

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# Engagement

We are committed to engaging with the broad range of external stakeholders who use our services. By seeking feedback, we are able to continue to improve our services and build public trust and confidence in our decision-making.

The Principal Member and National Registrar met with a range of people and organisations in 2020–21, including the Secretary of the Department of Veterans' Affairs and other members of the Repatriation Commission and Military Rehabilitation and Compensation Commission. Our senior staff worked closely with the Department during the reporting year on matters such as our membership and budget.

In addition, the Principal Member and National Registrar continued liaison with advocates across Australia, and attended and presented at various events hosted by ex-service organisations. Due to the COVID19 pandemic, much of the stakeholder engagement in the reporting year was undertaken online.

The Principal Member and National Registrar also conducted a series of online advocate's forums. Advocates can express their interest in participating in these forums via the VRB website.







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# Feedback about our service

## User feedback

We regularly ask our users to evaluate the level of service we provide and seek their views on how we can improve our services. Recent feedback to the VRB has included some of the following comments:

*"Firstly, I have no words and I wanted to thank you from the bottom of my heart...You have changed my life and I hope you know this. It's been a wild couple of years and at many times I did want to give up because I felt like I had to continuously prove my injuries and doing that whilst having mental health issues, is just the last thing you want to do...I hope you can smile today knowing you have changed someone's life..."*

*"...I understand that you are all experiencing an influx of cases at present and the professionalism, efficiency and care in which you have acted has been greatly appreciated...Thank you...for helping this whole process through from the beginning..."*

*"I'd just like to thank VRB in whole, anyone in the background who was working on my case... [VRB Staff and Member] have gone above and beyond their job description to ensure that my case was dealt with the respect it deserved. They are both a great reflection of what the Veterans Review Board is about and I will be spreading the good word through my social networks..."*

*"I sincerely thank you so much for your assistance today some would say it's a little bit of help I would say it's a massive help given the feelings of anxiety and despair I have at the moment but you have eased my mind that things are heading in a good direction..."*

*"Thank you VERY much indeed for your comprehensive, courteous and informative email. I now have a much clearer idea about how the "outreach"/mediation functions, and the progressive steps involved. I am most appreciative of the 'personalised' approach you have taken to appraise me of these procedures. Thank you once again..."*



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## Other feedback mechanisms

### **VRB Justice Portal**

During the reporting year we launched the VRB Justice Portal. The VRB Justice portal engages veterans and advocates with our case management processes allowing for the provision of documents online, viewing application status, history and filed documents, and receiving notification of events such as ADR or hearing dates. Plus, the VRB Justice Portal also allows group management for Ex Service Organisations with multiple practicing advocates.

Prior to the launch, the VRB Justice Portal was trialed with staff from the Department of Veterans' Affairs, key advocates and Ex Service Organisation (ESO) representatives.

Veterans, current serving members and advocates are supported in registering and using the portal by the VRB's dedicated help desk.

The VRB Justice Portal has received exceptionally positive feedback and users have welcomed the benefit of quicker, easier and more seamless interaction with the VRB. Recent feedback included the following:

"The Justice Portal is great even a luddite like me feels comfortable. Thank you for your endeavors and patience relating to my various emails...Again, many thanks, another step forward for the VRB..."

## Practice notes and VeRBosity

We continue to issue our journal VeRBosity, along with regular practice notes to promote the availability of information about our decision-making and provide current information about the VRB. Practice notes also include short, plain English summaries of recent decisions from the AAT and the courts. These resources continue to be well received by our stakeholders.

### **A guide for self-represented veterans and representatives**

During the reporting year we launched a guide for self-represented veterans and representatives. The guide is designed to provide information to applicants who may not have a representative, as well as representatives who assist veterans and their families through the VRB review process. The guide provides information on:

- what type of applications can be reviewed by the VRB;
- what it means to be 'self-represented';
- stages in the process and what happens at each stage; and
- documents the parties need to provide.



# Management and accountability

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# Our governance

## Senior Management

We are established by the *Veterans' Entitlements Act 1986* (Cth). This is the principal law that governs our operations. Under this law, the Principal Member is responsible for ensuring the expeditious and efficient discharge of our business and for managing the administrative affairs of the VRB. The National Registrar assists the Principal Member in managing our administrative affairs.

## Risk management

Risk management is an integral part of delivering services to veterans and being accountable. We apply the Department of Veterans' Affairs (the Department) Risk Management Framework to identify and manage strategic and operational risks. Further information in relation to risk management can be found in the Department's Annual report.

## Fraud control

We are committed to preventing, detecting and dealing with fraud in relation to our operations. We apply the Department's Fraud Control Plan and fraud policies. Fraud control awareness forms part of the induction program for new staff and members. Staff participate in the Department's online learning module on fraud control.



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## Certification of our fraud control arrangements

I, Jane Anderson, certify that the VRB:

- has fraud risk assessments and fraud control plans;
- has in place appropriate mechanisms for preventing, detecting incidents of, investigating or otherwise dealing with, and recording or reporting fraud that meet the specific needs of the VRB, and
- has taken all reasonable measures to deal appropriately with fraud relating to the VRB.



Jane Anderson  
Principal Member  
2021

## Maintaining ethical standards

We promote and encourage the maintenance of appropriate standards of ethical behaviour in a range of ways both for members and staff.

*A Guide to Standards of Conduct for Tribunal Members*, published by the Administrative Review Council provides guidance on appropriate conduct and professional behaviour for members.

Our staff are required to work in accordance with the APS Values, Employment Principles and Code of Conduct. Information relating to the APS ethical framework forms part of our induction process and ongoing awareness-raising activities are also undertaken. During the reporting year, specific APS Code of Conduct training was offered to all staff through the Department.

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# Our people

Our members and staff are integral to our functions as a specialist, independent merits review tribunal. Our need for specialist expertise is met by the appointment of appropriately qualified and experienced members in the categories of Senior Member, Member and Services Member.

## Overview of our members

At 30 June 2021, there were 35 members appointed to the VRB. A list of our members is set out below. The Principal Member is the only full-time member of the VRB

Name	First Appointment	Appointment Expires	State
<b>Principal Member</b>			
Anderson, Jane Elizabeth	12 Nov 2015	30 Jan 2023	NSW
<b>Senior Members</b>			
Bailey, Robyn	12 Nov 2015	11 Nov 2023	NSW
Carlin, Evan	1 Oct 2014	18 July 2023	QLD
Douglass, Robert	1 Oct 2014	11 Nov 2023	VIC
Hunt, Louise	12 Nov 2015	31 Dec 2023	WA
Kelly, Michael	1 Jan 2019	31 Dec 2023	QLD
Kramer, Hilary	30 Jul 1998	31 Dec 2023	NSW
Letts, David	1 Jan 2019	31 Dec 2023	NSW
Salu, Peter	1 Oct 2014	18 Jul 2023	SA
Thomae, David	1 Jan 2019	31 Dec 2023	QLD
Trengove, Anne	1 Oct 2014	18 July 2023	SA
Trotter, Susan	1 Jan 2019	31 Dec 2023	QLD
<b>Services Members</b>			
Bornholt, Mark	1 Jan 2011	11 Nov 2023	ACT
Carrigan, Catherine	19 Jul 2018	18 Jul 2023	VIC
Clark, Scott	1 Jan 2011	11 Nov 2023	QLD
Coghlan, Steven	1 Jan 2019	31 Dec 2023	WA
Collins, David	1 Mar 2013	18 Jul 2023	VIC
Creagh, Alison	1 Jan 2019	31 Dec 2023	NSW
Crimston, Nadine	12 Nov 2015	11 Nov 2020	NSW
Hart, Simon	1 Jan 2011	11 Nov 2023	NSW
Lewis, John	19 Jul 2018	18 Jul 2023	SA
Maher, Peter	12 Nov 2015	11 Nov 2023	QLD



Name	First Appointment	Appointment Expires	State
Regan, Robin	28 May 1999	31 Dec 2023	VIC
Roberts, Francis	12 Nov 2015	11 Nov 2023	QLD
Walker, Jennifer	19 Jul 2018	18 Jul 2023	QLD
White, Sophia	1 Jan 2019	31 Dec 2023	NSW
Young, Warwick	31 Mar 2008	31 Dec 2023	NSW
<b>Members</b>			
Austin, Christopher	12 Nov 2015	11 Nov 2023	QLD
Desses, Mary	1 Jan 2019	31 Dec 2023	NSW
Harte, Jane	19 Jul 2018	18 Jul 2023	QLD
Henry, Leith	19 Jul 2018	18 Jul 2023	QLD
Kerr, Sandra	12 Nov 2015	11 Nov 2023	VIC
Lumb, Josephine	12 Nov 2015	11 Nov 2023	ACT
McDonald, Amanda	1 Oct 2007	18 Jul 2023	NSW
McLaughlin, Robert	1 Jan 2019	31 Dec 2023	NSW
Wyatt, Neville	12 Nov 2015	11 Nov 2023	NSW

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## Overview of our staff

At 30 June 2021, 22.2 full time equivalent staff members had been made available to the VRB by the Secretary of the Department of Veterans' Affairs. In the reporting year, we did not have any Senior Executive Staff or APS Level 1 – 3 positions. Our staff are based in our Sydney, Adelaide and Brisbane offices only.



Classification	NSW	QLD
APS Level 4	3	3.2
APS Level 5	3	0
APS Level 6	3	1
Executive Level 1	5	2 (and 1 in Adelaide)
Executive Level 2	1	0

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## Employment agreements and arrangements for staff

At 30 June 2021, all on-going staff were covered by the Department's Enterprise Agreement (2020–2022) and one staff member had an individual flexibility arrangement. Salary ranges available to staff which are set out in the agreement are noted below:

Job Classification	Salary Range (reporting year)
APS Level 4	\$71,641 – \$76,410
APS Level 5	\$79,867 – \$83,233
APS Level 6	\$87,783 – \$99,680
Executive Level 1	\$110,428 – \$121,264
Executive Level 2	\$133,176 – \$149,897

## Strengthen workforce diversity

We are committed to reflecting the diversity of the Australian community in our workforce and building an inclusive culture in which employee backgrounds, skills and views enrich our working environment and quality of work. Strengthening workforce diversity includes developing a supportive and inclusive culture. We have contributed to and apply in our recruitment strategies, the Department's *Diversity Strategy 2018–2023* and *Gender Equality Action Plan*.

In implementing the Diversity Strategy we have ensured a range of flexible working arrangements are available to our staff to effectively balance their work, family, caring, other responsibilities and interests. Our flexible working arrangements for staff, including part-time and home based work, have been focused on rethinking how our work can be done in a way that improves service delivery for our users. All VRB staff and members have undertaken home based work in response to the COVID19 global pandemic. Staff also returned to the registries in a COVID Safe way in a rostered arrangement of 2–3 office based days each per week.

We value diversity in the workplace and at the end of the reporting year 77.5 per cent of the VRB's staff and 42.8 per cent of our members were women, with strong representation across all classification levels.

Principal Member	Number	%
Female	1	100%
Male	0	
Total	1	100%

Senior Member	Number	%
Female	5	45.5%
Male	6	54.5%
Total	11	100%



Services Member	Number	%
Female	3	21.4%
Male	11	78.6%
Total	14	100%

Member	Number	%
Female	6	66.7%
Male	3	33.3%
Total	9	100%

Staff	Number	%
Female	17.2	77.5%
Male	5	22.5%
Total	22.2	100%



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## Work health and safety

We are committed to providing and maintaining a safe and healthy work environment through cooperative, consultative relationships. We apply the Department's established work health and safety (WHS) strategies and systems that promote continuous WHS improvement and a positive safety culture.

In the reporting year, we participated in regular workplace hazard inspections conducted jointly by managers and trained workplace health and safety representatives. Our staff were also able to access Department sponsored training programs including Accidental Counselling, Mental Health First Aid, Planning and Managing Change and Domestic and Family Violence Awareness. Staff were also able to access annual flu vaccinations, subsidies for eyeglasses and fitness equipment and ergonomic workstation assessments.

More broadly, members and staff are also able to access VRB specific and external training programs that are designed to promote a healthy culture for mental and physical wellbeing. Some of these external training opportunities have included programs by the Council of Australasian Tribunals and the Law Societies of the various states and territories.

## Notifiable incidents, investigations and compensation

No notifiable incidents arising out of the conduct of our operations occurred in the reporting year, nor were there any compensation claims.

# Skilled to deliver justice

Ensuring our people are properly skilled to deliver high-quality, specialised services continues to be a key priority. In 2020–21, we delivered a wide range of activities to meet the needs of members and staff and strengthen the capability of the VRB.

## Delivering targeted skills development for staff and members to meet VRB needs

VRB members and Conference Registrars participate in monthly sessions as a part of our online *Learn and Connect* program. Our most experienced members, staff and external presenters share their expertise with the membership. Highlights to date included topics on procedural fairness, decision-writing, contemporary veterans' issues, and veterans' mental health. To support our fast-tracked digital transformation, we also provided members with training on the use of technology and digital platforms. Our suite of VRB training webinars also remains available for members and staff to view on an ongoing basis.

Members and conference registrars attended a range of external professional development online seminars during 2020–21, including sessions arranged by the Council of Australasian Tribunals and the Law Societies of the various states and territories.

Members and conference registrars were also provided with further revised decision writing templates and guides. Additionally, a regular email update of notable cases from the AAT and court was provided to all VRB staff and members.

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We continued to survey our members and staff for their feedback to ensure our learning and development program continues to meet their needs and the needs of the VRB.

## Staff performance management program

All of our staff are required to participate in the performance management program established by the Department. The Scheme requires staff to have a performance agreement which sets out capability and behavioural expectations required in their role as well as learning and development priorities. It also covers the processes for reviewing and rating performance, and performance-based salary advancement.

In 2020–21, in addition to the learning activities provided by the VRB our staff were also able to participate in the various training and development programs offered by the Department.

Our staff were also able to access a Studies Assistance Scheme, which offers financial support and/or study leave to develop their own capability, and that of the VRB, through vocational and tertiary education.



## Building a united culture to deliver justice

During the reporting year, we strengthened opportunities for greater collaboration and communication across the VRB including twice weekly senior staff and registry discussions, weekly Conference Registrar meetings and monthly ADR practice forums. These meetings have allowed us to engage members and staff in consultation around our transformation journey and harness a shared vision for how we deliver justice to veterans. During our remote work arrangements in response to the ongoing COVID19 pandemic we have also engaged staff in daily 'stand-ups' and weekly one on one meetings to ensure that our people continue to feel connected and engaged in keeping justice alive for veterans.

## Productivity gains

Significant productivity gains were made in the reporting year. Our digital transformation and initiatives to improve case allocation, case management practices and support for members and conference registrars has allowed us to clear more than 100 per cent of our case holding. Importantly, user satisfaction also improved, reflected in an increased number of compliments received in the reporting year.

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## Purchasing

We can access the support provided by the Department's Contract Advisory Unit in relation to procurement and contracting activities in accordance with the Commonwealth Procurement Framework.

## Consultants

We may engage consultants where independent research or short-term projects are required; or for specialist knowledge or skills that are not available within the VRB. During the reporting year, we did not enter into any new consultancy contracts.

### **AusTender**

Annual reports contain information about actual expenditure on contracts for consultancies. Information on the estimated value of contracts and consultancies is available on the AusTender website: [www.tenders.gov.au](http://www.tenders.gov.au).

## Financial Information

While we are an independent statutory tribunal, we are not a separate Commonwealth entity under the *Public Governance, Performance and Accountability Act 2013*, but are considered a Secondary Australian Government Body, receiving our funding and corporate services from the Department of Veterans' Affairs. As a result, we do not have a budget allocation in the Portfolio Budget Statements

In 2020–21, we were provided an allocation of \$4,824M which was a decrease in funding compared to the previous financial year.

In the reporting year, the majority of our operating expenditure was related to payroll costs for members and registry staff in the direct delivery of our services. Our travel expenditure reduced significantly in the reporting year following the introduction of virtual hearings. While the majority of our accommodation costs are met by the Department, a small property cost was also generated by the hire of hearing and conference rooms in other tribunal premises for in-person hearings, where we no longer have a physical registry presence.

**Table 14: Veterans' Review Board Expenditure**

	2019 20 (\$'000)	2020 21 (\$'000)
<b>Salaries (includes superannuation)</b>		
Members	2,211	1,859
Staff (includes o/time & temps)	2,998	2,830
TOTAL	5,209	4,689
<b>Travel (includes fares, accommodation and allowances)</b>	120	9
<b>Supplies and services</b>		
Printing, postage, stationery and other office expenses	176	105
Communication and couriers	2	2
External training	9	9
Advertising	—	10
TOTAL	187	126
GRAND TOTAL	5,516	4,824

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# Appendix 1

## Membership Biographies

### **Ms Jane Anderson**

Ms Jane Anderson was appointed by the Governor-General as Principal Member of the Veterans' Review Board (the Board), commencing in the role in January 2018. For two years prior to her appointment, Ms Anderson had served as a general member of the Board.

Ms Anderson is a lawyer with more than 20 years' experience, including as a former senior legal member of the NSW Civil & Administrative Tribunal and a former Deputy President of the South Australian Guardianship Board, during which she presided over legal proceedings involving people with impaired decision-making capacity. Ms Anderson was also a Board member of the Mental Illness Fellowship of South Australia, overseeing the management of a not-for-profit organisation providing advocacy and support for people with mental illness, and their families.

As well as her expertise in administrative law, Ms Anderson previously practised in criminal law, enjoying a career as a senior lawyer with the Commonwealth Director of Public Prosecutions, during which she appeared as prosecuting counsel and provided legal advice to government departments and agencies.

Ms Anderson has a strong interest in human rights and international law, and has a Master of Law degree in international law from Cambridge University, UK. She is an officer of the International Bar Association, a global organisation of legal practitioners, bar associations and law societies, and is a Chair of its Access to Justice and Legal Aid Committee.

Ms Anderson has a keen interest in the participation and contribution of veterans and current serving members of the Australian Defence Force, and has family members who are serving, or have previously served, in the Australian Army, the Royal Australian Navy and the Royal Australian Air Force.

### **Colonel Christopher Austin, ADC**

Colonel Austin has served in the Australian Army since 1980. He is currently an Active Reservist holding the rank of Colonel and is posted as the Deputy Adjutant General – Army. He also conducts complex inquiries for the ADF within Australia and overseas and is appointed as an Assistant Inspector General of the ADF. He has experienced operational service in East Timor, the Middle East and the Queensland Floods and is an Aide de Camp to the Governor General. Having enjoyed a corporate career within the building industry for over 20 years, Chris now runs his own consulting business and sits on a number of Boards and Committees. He was appointed to the VRB in 2015.

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### **Ms Robyn Bailey**

Ms Bailey holds Bachelors of Law and Arts as well as a Master of Laws degree from the University of New South Wales. After working in private practice she was appointed as a Member of the Guardianship Tribunal in 2007 and to the Consumer Trader and Tenancy Tribunal in 2009. She is currently employed as a Senior Member of the NSW Civil and Administrative Tribunal and also works as a Mediator in the District Court of NSW, the Workers Compensation Commission and for her own company. She is also facilitator for the Defence Abuse Response Taskforce.

### **Brigadier Mark Bornholt (Retd)**

Mark Bornholt graduated from Officer School Portsea in 1978. He served in the 3rd and 6th Battalions of the Royal Australian Regiment. He was appointed a Member of the Order of Australia for his leadership of the 1st Battalion and was commended for distinguished service during

the war against Iraq. His senior appointments included Chief of Staff Land Headquarters and Commandant Royal Military College of Australia. He retired in 2009 and worked as the CEO of a business unit of a publicly listed company until 2014 when he was appointed to the Defence Honours and Awards Appeals Tribunal. He remains a Chief of Army delegate for Redress of Grievance issues, a Director of the Royal Australian Regiment Foundation and is the Colonel

Commandant of the Australian Army Band Corps. He previously served as a Services Member of the VRB in 2010–2011.

### **Colonel Evan Carlin**

Colonel Carlin holds Bachelor degrees in Arts and Laws. He joined the Australian Army as a Legal Officer in 1987, and has extensive legal experience with the Australian Defence Force, including postings to the UK (NATO), Iraq, the Balkans and Sumatra. Colonel Carlin was appointed to the VRB as a Senior Member in 2014.

### **Colonel Catherine Carrigan**

Colonel Catherine (Bunny) Carrigan has over 30 years' service in the Australian Army and is a currently serving member of the Army Reserve. She served for 20 years as a logistics officer in the Australian Regular Army before transitioning to the Army Reserve in 2005. She saw operational service in Somalia in 1994. On leaving the full-time Army, Colonel Carrigan established a niche supply chain and business reform consultancy which she still owns and manages. She has

been active on several committees and Boards, has been an Honorary ADC to the Governor of Victoria, and is currently the Victorian/ Tasmanian Colonel Commandant for the Royal Australian Corps of Transport. Her qualifications include a Bachelor of Applied Science, a Graduate Diploma in Transport and Distribution, a Masters of Defence Studies, a Masters of Business (Logistics Management), and she is a graduate of the Australian Institute of Company Directors. She was appointed a VRB Services member in 2018.

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### **Dr Scott Clark**

Dr Clark is a Psychologist with a background in both clinical and organisational psychology. He has a particular interest in psychology of old age and has worked in acute, extended care and community services. Dr Clark has served in the Army Reserve since 1990 initially as a Rifleman before becoming a Psychologist in 1997.

### **Mr Steven Coghlan**

Steve served as an Army Signals Officer from 1998 to 2006 during which time he saw operational service in Bougainville and Pakistan. Since transitioning he has held senior management positions within both the telecommunications and broader infrastructure sectors.

He is a graduate of both the Australian Defence Force Academy (ADFA) and Royal Military College — Duntroon (RMC–D) and holds a Bachelor's degree in Politics (UNSW), a Master's degree in International Relations (Macq) and Diplomas in Business, Personnel Management and Administration.

He spends his spare time helping serve the families of our deceased veterans as part of Legacy WA.

### **Colonel David Collins**

Colonel David Collins has served in the Australian Regular Army and the Army Reserve. He holds a Bachelor of Education and Training, Diploma of Law and a Masters of Management and Governance. He has deployed on operations several times. In 2005 he was the Officer in command of the 2nd rotation of the ADF Medical Detachment attached to the US Theatre Hospital, Balad, Iraq. In 2006 the 2nd rotation ADF Medical Detachment was awarded a Meritorious Unit Citation for its efforts in Iraq.

He is currently employed by the Royal Children's Hospital Melbourne and St Vincent's Hospital Melbourne. He is also a member of the Australian Health Practitioner Regulation Agency's, health performance and professional standards panel. He was re-appointed as a VRB Services member in July 2018.

### **Brigadier Alison Creagh CSC**

Brigadier Alison Creagh CSC was appointed to the Veterans' Review Board as a Services Member for a five-year term in January 2019. She also Chairs the ACT Veterans' Advisory Council, the Board of Governors for The Road Home and The Hospital Research Foundation ICT and Cyber Security Committee. She is a Non-Executive Director of The Hospital Research Foundation, an ACT Defence Ambassador and member of the ACT Defence Industry Advisory Board, a member of the AustCyber Canberra Node Industry Advisory Group and Strategic Adviser for the University of NSW Defence Research Institute. Brigadier Creagh is the Representative Colonel Commandant for the Royal Australian Corps of Signals. Brigadier Creagh retired from the Australian Regular Army in March 2015 after a 30-year career and continues to serve in the Army Reserve. She served on operations in Cambodia East Timor, Iraq and Afghanistan.



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### **Ms Mary Desses**

Ms Desses has been appointed as a Member of the Veterans' Review Board commencing 1 January 2019 for a period of five years. She holds a Bachelor of Arts from Griffith University, a Bachelor of Laws from the University of New South Wales, a Graduate Diploma of Adult

Education, and a Vocational Graduate Diploma of Family Dispute Resolution. She was admitted as a solicitor in 1992.

Mary worked as an Associate for two Federal Court judges, a Mediation Officer at the Retail Tenancy Disputes Unit, an advocate for the Repatriation Commission and a Conference Registrar at the Administrative Appeals Tribunal.

Mary is a nationally accredited mediator with over twenty years' experience as an Alternative Dispute Resolution practitioner.

### **Major Robert Douglass**

Mr Douglass holds Bachelor degrees in Economics and Laws from Monash University and a Masters degree in Arts (Military History) from the Australian Defence Force Academy. He joined the Department of Veterans' Affairs in 1993 and was an Assistant-Director in the Rehabilitation and Compensation Group from 1995 to 2010, before working as a Senior Lawyer in the Legal Services Group from 2010 to 2014. Mr Douglass has served as a Legal Officer in the Australian Army from 2007 and remains an active member of the Reserve. He was appointed a Member of the VRB in 2014 and a Senior Member in 2015.

### **Commodore Simon J Hart CSC RAN (Ret'd)**

Simon Hart served in the ADF for 33 years from 1973 until transferring to the Naval Reserve in 2006. Simon's operational background is primarily in guided missile Frigates and Destroyers with extensive Command experience in Destroyers. His two key positions in the Navy Senior Leadership Group were Director General, Navy Personnel and Training Organisation; and Commander, Australian Surface Combatant Force Element Group. He is a graduate of the Royal Australian Naval College; University of NSW; US Navy Postgraduate School (Computer Science); and Kings College, London (International Relations). He is a Fellow of the Australian Institute of Management and a member of the Australian Institute of Company Directors. Simon was appointed to the VRB as a Services Member in 2011.

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### **Dr Jane Harte**

A consultant corporate psychologist in the defence, security, mining, higher education and health sectors in Australia and the UK, Dr Harte has also served in the Australian Army Psychology Corps (Reserve) for nearly 30 years. She has degrees from Australian and Swedish universities and academic appointments with James Cook and Southern Queensland Universities in addition to delivering annual lectures in the Graduate School of Management at St. Andrews University in Scotland. In 2007 Dr Harte was appointed to the Defence Honours and Awards Appeals Tribunal in Canberra as one of the foundation members, with her tenure completing in 2015. Subsequently she has been appointed as a professional member of the Queensland Civil and Administrative Tribunal and as a researcher member on the Defence and Department of Veterans' Affairs Human Research Ethics Committee.

### **Dr Leith Henry**

Dr Henry is a Psychologist with significant leadership experience in workplace health, including work related illness/injury and workers' compensation. She holds a Bachelor degree in Psychology (with Honours) and a PhD in Organisational Psychology. Dr Henry commenced duties in 1995 as an Army Reserve Psychologist, serving periods of full time service and deploying on operations.

### **Group Captain Louise Hunt**

Ms Hunt is a graduate in Law and holds a postgraduate Master of International Law. She entered private practice as a Solicitor in 1983 and joined the Royal Australian Air Force Reserve Legal Panel in 1984. She is currently a Panel Leader for the Royal Australian Air Force Specialist Reserve Legal Panel. Ms Hunt leads teams conducting military justice audits at Australian Defence Force establishments for the Inspector General of the Australian Defence Force. She was appointed a Services Member in 2015 and a Senior Member in 2019.

### **Lieutenant Colonel Michael (Mike) Kelly**

Lieutenant Colonel Kelly holds Bachelor degrees in Arts and Laws and a Graduate Diploma in Management. He is an admitted legal practitioner and the Director of an incorporated legal practice. He joined the Australian Army in 1986 and has held a range of RAAC regimental, and staff appointments. His service includes operational service in the Middle East Area of Operations.

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### **Ms Sandra Kerr**

Ms Kerr has extensive experience as a member of Federal Tribunals having previously been appointed to the Migration Review Tribunal, Refugee Review Tribunal and Social Security Appeals Tribunal. She holds a Bachelor of Laws from the University of New South Wales and a Masters in Law from the Australian National University. Ms Kerr also has qualifications in Medical Imaging and Executive Leadership. She served as a Legal Officer in the Army Reserve and has family members who have participated in various Australian military operations.

### **Ms Hilary Kramer**

She has administrative law experience on the Social Security Appeals Tribunal, Mental Health Review Tribunal, Guardianship Board and in assessing offshore asylum-seeker refugee status claims. She has also undertaken mediation training.

Previously Hilary worked for the Legal Aid Commission representing clients in criminal, prison and mental health law. She has also worked in criminal law research and compiled the report of the Women in Prison Task Force to the Minister for Corrective Services.

Hilary was appointed a member of the VRB in 1998 and senior member in 2006.

### **Associate Professor David Letts AM CSM RAN**

David Letts completed more than 30 years of fulltime service in the RAN at the end of 2012. During his military career David worked as supply officer and a legal officer, as well as holding senior appointments in Navy and Defence. He is now the Director of the ANU College of Law's Centre for Military and Security Law where his academic teaching and research interests centre on the application of the law to all aspects of military legal practice.

### **Major John Lewis (Retd)**

John Lewis is a Barrister & Solicitor in private practice with Lindbloms Lawyers in Adelaide and a graduate of the University of NSW, University of New England and the College of Law. John is a nationally accredited dispute resolution practitioner, an accredited mediator with the Law Society of South Australia, and undertakes pro bono mediations with the Adelaide Magistrates Court. He is also graduate of the Royal Military College Duntroon and his military service included two tours of service with the United Nations in Cambodia. His Unit was awarded a Meritorious Unit Citation in the 2014 Australian Day Honours List.

### **Ms Josephine Lumb**

Ms Lumb holds bachelor degrees in Arts and Law. She has 20 years' plus experience in both legal and policy roles across a range of Commonwealth Government agencies. Ms Lumb worked with the Department of Foreign Affairs and Trade from 1998–2011, including serving on diplomatic posting in Chile from 2001–2004. She also served on the Defence Abuse Response Taskforce in 2014–15. Ms Lumb was appointed to the Defence Honours and Awards Appeals Tribunal as a member in 2017.

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### **Ms Amanda MacDonald**

Ms MacDonald has extensive experience working in Commonwealth Administrative Review Tribunals. She was a member, senior member and the Deputy Principal Member of the Migration Review Tribunal and the Refugee Review Tribunal, a member of the Social Security Appeals Tribunal and a Conference Registrar and District Registrar of the Administrative Appeals Tribunal. She is currently a part-time member of the Superannuation Complaints Tribunal. She is also contracted to the Department of Agriculture and Water Resources to implement changes to the Commonwealth biosecurity system. She holds a Bachelor of Science and a Masters in Administrative Law and Policy from the University of Sydney.

### **Colonel Peter Maher (Retd)**

Colonel Maher graduated from the Royal Military College, Duntroon in 1973. He holds a Bachelor of Arts in Military Studies and a Graduate Diploma in Management Studies, and he is a 1984 graduate of the Command and Staff College, Queenscliff. Colonel Maher has overseas service with the United Nations in Kashmir, the British Army in Germany and the United States Marine Corps at Quantico, Virginia. He was the Deputy Chief of Operations, HQ Multi-National Security Transition Command in Baghdad, Iraq in 2006. He completed his Army full-time service in 2007 as the Commander, Land Warfare Centre, Canungra. Colonel Maher was appointed to the VRB in March 2013.

### **Professor Robert McLaughlin RAN**

Prof Rob McLaughlin is Professor of Military and security Law at UNSW Canberra. He researches, publishes, and teaches in the areas of Law of Armed Conflict, Law of the Sea, Maritime Security Law and Maritime Law Enforcement, and Military Law. He routinely engages in research activities, and course development and delivery, with the ICRC, the Australian Red Cross, the International Institute for Humanitarian Law, and the UN Office on Drugs and Crime. Rob joined academia after a career in the Royal Australian Navy as a Seaman officer and a Legal officer.

### **Colonel Robin Regan CSC (Retd)**

Colonel Robin (Rob) Regan, CSC has over 34 years' service in the Australian Army. He enlisted as a soldier in April 1964, attended the Officer Cadet School, Portsea in 1966 and was commissioned into the Royal Australian Army Service Corps. He saw operational service with 26 Transport Company in Nui Dat, South Vietnam in 1969/1970. On the disbandment of the Royal Australian Army Service Corps in 1973 he was reallocated to the Royal Australian Corps of Transport and served in a variety of regimental and staff postings including exchanger postings with the British Army and the US Army. He is also graduate of the Australian Command and Staff College and the Joint Services Staff College. In 1988/1989 he commanded the Army School of Transport and in 1990 he was promoted Colonel and served in senior logistics postings until his retirement in February 1998.

In March 1998, Colonel Regan was appointed as a full-time advocate with the RSL Melbourne Branch, representing veterans before the Veterans' Review Board. In August 1999, he was appointed as a Services Member on the Veterans' Review Board, a position he has held since.

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### **Major General Francis Roberts AO (Retd)**

Mr Roberts served as an Army Officer from 1970 to 2005. He then held a Senior Executive Service position in the Department of Defence from 2005 until 2013 before undertaking private consultancy work until his retirement in 2014. Mr Roberts has graduated with a Bachelor of Civil Engineering, Master of Science and Graduate Diploma in Management Studies.

### **Dr Peter Salu**

Dr Salu holds a Bachelor of Laws (with Honours) and a Doctor of Philosophy from the University of Adelaide. He commenced legal practice as a solicitor in 1988, and since 2006 he has practised as a barrister. Dr Salu was appointed to the VRB as a Senior Member in 2014.

### **Brigadier David Thomae**

Brigadier David Thomae graduated from the Royal Military College Duntroon in 1988 and was appointed to the Royal Australian Infantry Corps. He has commanded a platoon, company and battalion in the Infantry and is currently the Commander of the 11th Brigade, the reserve brigade in Queensland. His operational service has been with the United Nations in Syria, Lebanon, East Timor and Iraq. Since 2003 he has practised as a barrister in Queensland.

### **Group Captain Anne Trengove**

Group Captain Anne Trengove was reappointed to the Board in July 2018 as a Senior Member, having previously served on the Board from August 2014 to February 2018. She also sits as a member of the Defence Force Honours and Awards Appeals Tribunal.

Group Captain Trengove is a Reserve Legal Officer in the Royal Australian Air Force and has served since 1997. She holds a Bachelor degrees in Arts (Jurisprudence) and Laws from the University of Adelaide, and a Graduate Diploma in Military Law (with merit) from the Australian National University.

### **Mrs Susan Trotter**

Mrs Trotter holds Bachelors of Law and Commerce from the University of Queensland. From 1989 to 1991, Mrs Trotter worked as an Associate with the Administrative Appeals Tribunal and then worked in private practice as a lawyer for 13 years. Mrs Trotter is currently also a member of the Administrative Appeals Tribunal (practising in its Migration and Review, Child Support and Social Security and National Disability Insurance Scheme Divisions) and previously, from 2007, was a member of the Social Security Appeals Tribunal. Further, Mrs Trotter has been a member of the Migration Review Tribunal/ Refugee Review Tribunal and a reviewer for the Independent Protection Assessment Office. Additionally, Mrs Trotter is an accredited Mediator.

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## **Ms Jennifer Walker**

Jennifer served 16 years in the Australian Intelligence Corps (Army Reserve) attaining the rank of Major. She holds a Bachelor of Business and a Diploma of Market Research and is a graduate of the Australian Institute of Company Directors. Jennifer has a varied career in technical, management and organisational development roles, spanning over 30 years, in the private and public sectors, working at all levels of government and in a number of jurisdictions. She also has had extensive experience in consulting including the conduct of board reviews, director recruitment, organization reviews and grievance investigations. She was the CEO of Legacy Australia from 2014 to 2018 and Chaired the Strategic Governance Board of the Advocacy Training and Development Program. Jennifer was initially appointed to the VRB in March 2013 and was reappointed in July 2018.

## **Commander Sophia White RAN**

Sophia White served in the Royal Australian Navy for 16 years, full time, transferring to the Active Reserves in 2018. She has operational experience in Afghanistan, on border protection operations, in Headquarters Joint Operations Command and served as the Fleet Legal Officer in 2017. She is a lawyer and holds postgraduate qualifications including a Master of Laws (Maritime Law) and Master of Military and Defence Studies. She is a member of the Australian Institute of Company Directors.

## **Commander Neville Wyatt RFD RAN**

Mr Wyatt served full-time in the Royal Australian Navy from 1981 to 1993. Since then he has continued to serve with the Royal Australian Navy Reserve. He is a graduate in Law and Communications. Since 1993 he has been in practice as a private solicitor. In 1999, he started up his own successful firm now known as Wyatts Lawyers and Advisors, which he continues to run with his legal practitioner wife.

## **Colonel Warwick Young OAM**

Warwick Young has served as an officer in Australian Army since 1991, in both a full-time and part-time capacity. Warwick saw active service in Iraq in 2006 and is currently the Deputy Commander — Training at Headquarters 5 Brigade.

Warwick has a diverse background and is a multi-award winning filmmaker. His films have won multiple awards when screening at several international film festivals.

In 2014 Warwick was instrumental in the design and delivery of the Australian Defence Force Theatre Project, a joint venture between the Australian Defence Force (ADF) and the Sydney Theatre Company.

On Australia Day 2019, Warwick was awarded the Medal of the Order of Australia (OAM) for services to veterans and their families. Warwick has been a Services Member of the Veterans' Review Board since 2008.



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# Appendix 2

## **Advertising and market research**

We commission press advertising in 2020–21 in relation to a VRB member vacancy process, which is reflected in Table 14. We did not undertake any market research in 2020–21.

## **Grants**

We did not administer any grants programs in 2020–21.

## **Ecologically sustainable development and environmental performance**

The VRB does not develop or administer legislation or policy relating to the environment but takes steps to ensure our operations are environmentally sustainable. We work closely with the Department who provides our accommodation to ensure compliance with a range of Australian Government policies, including the Energy Efficiency in Government Operations Policy and the National Waste Policy. More information can be found in the Department's Annual Report.

We also limit our impact on the environment in day-to-day operations by implementing simple measures such as ensuring lights and electrical devices are switched off when not required, encouraging double-sided printing, providing facilities to support staff who walk or cycle to work, and recycling office waste.



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# Appendix 3

## Glossary

AAT	Administrative Appeals Tribunal.
ADF	Australian Defence Force.
ADR	Alternative Dispute Resolution
ADR processes	Procedures and services for the resolution of disputes, which includes outreach, conferencing, neutral evaluation and case appraisal.
AD(JR) Act	<i>Administrative Decisions (Judicial Review) Act 1977</i>
Adjournment	Suspension of a hearing.
Applicant	A person or body that has applied for a review (to the VRB or AAT), or applied for an allowance or increase in pension (to DVA).
Applied provisions	Provisions of the VEA that set out the VRB's powers and functions, which are applied by s353 of the MRCA for the purpose of the VRB's review of an original determination under Part 4 of Chapter 8 of the MRCA.
Assessment matter	A case under the VEA concerning the assessment of the rate of disability pension.
Assessment period	Period over which the decision-maker must assess the rate or rates of pension that were payable. It begins on the day the claim or AFI was lodged (the 'application day') and ends on the day the decision-maker determines the claim or AFI, or determines the review.
Attendant Allowance	A fortnightly allowance paid towards the cost of an attendant for a person needing such assistance and who has accepted disabilities involving one of a number of types of amputations or severe types of disability, or an injury or disease similar in effect or severity to a disease of the cerebro-spinal system.
Case Manager	VRB staff member who looks after the administrative matters concerning an application for review.
Case appraisal	The Conference Registrar can request a Case Appraisal be conducted by a VRB member as part of the ADR process. It involves a VRB member examining an application with a view to clarifying the issues, checking that the VRB has jurisdiction and that the applicant has standing, checking sufficiency of information, and readiness for hearing and then providing a non-binding opinion. This is requested to assist the parties to finalise the application.

Certificate of readiness for hearing	A notice to the VRB that all the material on which the applicant wishes to rely has been lodged and the applicant is ready to proceed to a hearing.
Claimant	A person who has made a claim for a pension (to DVA) or claim for acceptance of liability and/or compensation (to the MRCC).
CLIK	Consolidated Library of Information & Knowledge: a computer research tool for decision-makers and pension officers and representatives produced by DVA.
Conference	A meeting conducted by a VRB member or Conference Registrar with the applicant and/or their representatives as part of the ADR program. Conferences allow for discussion and clarification of issues, identification of further evidence that would assist to resolve the application, and consideration of whether the application can be settled without the need for a hearing.
<i>Deledio</i>	<i>Repatriation Commission v Deledio</i> (1998) 83 FCR 82. A Federal Court case that established a four step process by which the beyond reasonable doubt and reasonable hypothesis standard of satisfaction is to be applied in the context of cases to which the Statements of Principles regime applies.
Directions Hearing	A hearing conducted by either the Principal Member or a Senior Member of the VRB for the purpose of clarifying issues that are delaying the progress of an application.
DVA	Department of Veterans' Affairs.
Entitlement matter	A case under the VEA concerning whether an injury, disease, or death is war- or defence-caused.
ESO	Ex-service organisation.
FOI	Freedom of Information: the right to obtain documents from a Commonwealth Department or agency under the <i>Freedom of Information Act 1982</i> .
Liability matter	A case under the MRCA concerning whether an injury, disease, or death is service-related.
Member	A member of the VRB appointed by the Governor-General.
MRCA	<i>Military Rehabilitation and Compensation Act 2004</i> .
MRCC	Military Rehabilitation and Compensation Commission.
Neutral Evaluation	An option under the ADR process for the applicant to request that a VRB member provides a non-binding opinion on the likely outcome of a case.
Original determination	A determination of the MRCC or a service chief under the MRCA that is capable of being reviewed by the VRB or being reconsidered by another delegate of the MRCC or a service chief.

Outreach	The first step in the ADR process is one mandatory outreach. The purpose of outreach is to explain VRB practices to unrepresented applicants and to give them an opportunity to consider representation. For all other cases, the purpose of an outreach is to discuss how the application will proceed before the Board.
Principal Member	The member of the VRB appointed by the Governor-General who is responsible for the national management of the VRB, and who must have legal qualifications.
Reconsideration	A new consideration or review of an original determination under s347 or s349 of the MRCA.
Registrar	VRB staff member who manages a State Registry of the VRB.
Registry	An office of a court, tribunal, or the VRB.
Respondent	A person or body against whom a claim, application, or appeal is brought; the party that responds to an application brought by an applicant.
s31 review	Review by a delegate of the Repatriation Commission.
s37 documents	Documents prepared by the decision-maker for the purpose of an AAT review (also called 'T-documents').
s137 report	Documents prepared by DVA for the purpose of a VRB review.
s148(1) letter	Letter sent to an applicant by the VRB seeking advice concerning how or if the applicant will appear or be represented at the VRB hearing.
s148(6A) request	Request sent by VRB Registrar as delegate of Principal Member to the Secretary of DVA or MRCC seeking further investigation or documents.
s151 adjournment	Adjournment of a hearing by VRB usually at the applicant's request, but can be for any reason.
s152 adjournment	Adjournment of a VRB hearing in order that the presiding member can ask the Secretary of DVA or the MRCC for further investigation or further documents.
s152 request	The request made to the Secretary of DVA or the MRCC by the presiding member of the VRB panel for further investigation or documents.
s347 reconsideration	Reconsideration of an original determination by a delegate of the MRCC or a service chief at their own discretion.
s349 reconsideration	Reconsideration of an original determination by a delegate of the MRCC or a service chief at the request of a claimant. If such a request is made, the person cannot also seek review of the same determination by the VRB.
Senior Member	A member of the VRB appointed by the Governor-General who usually presides at VRB hearings, and who usually has legal qualifications.
Service chief	The Chief of the Army, the Chief of the Air Force, or the Chief of the Navy.

Services Member	A member of the VRB appointed by the Governor-General who was nominated by an organisation representing veterans throughout Australia, and who usually has broad and extensive military experience.
SoP	Statement of Principles determined by the Repatriation Medical Authority.
Special Rate	The highest rate of disability pension (also called the 'TPI' rate). It is paid if the person is blind due to accepted disabilities, or if the person meets certain tests concerning incapacity for work. One of these tests involves being unable to do more than 8 hours of remunerative work a week due to accepted disabilities.
SRCA	<i>Safety, Rehabilitation and Compensation Act 1988.</i>
Telephone hearing	A VRB hearing conducted by telephone between a VRB hearing room and another location.
TIP	Training and Information Program funded by DVA for training pension and welfare officers and representatives, conducted by ESO, DVA and VRB trainers.
VEA	<i>Veterans' Entitlements Act 1986.</i>
Veteran	A person who has rendered eligible war service under Part II of the VEA.
Video hearing	A VRB hearing conducted by video-link between a VRB hearing room and another location.
VRB	Veterans' Review Board.
War-caused death	A death for which liability has been accepted under Part II of the VEA as related to eligible war service.
War-caused disease	A disease for which liability has been accepted under Part II of the VEA as related to eligible war service.
War-caused injury	An injury for which liability has been accepted under Part II of the VEA as related to eligible war service.

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