

Viet Nam - Starting to Put Things Right

A Submission

by

The Ex-Vietnam Services Association

to

The Joint Working Group

on the

Concerns of Viet Nam Veterans and their Families

1. Introduction

- 1.1** The Ex-Vietnam Services Association (EVSA) wishes to thank the Government for mandating the Joint Working Group (JWG) and the consultation process aimed at hearing from Viet Nam veterans and families their concerns resulting from Viet Nam service, and proposed remedies for addressing those concerns. The EVSA also appreciates the Government decision in mid 2005 to widen the scope of the JWG Process to address not only exposure to Agent Orange but all concerns relating to Viet Nam service. Feedback received from veterans and family members participating in consultation meetings has indicated cautious optimism that their concerns have been listened to and may well at last be addressed in a fair and sustainable way.
- 1.2** The EVSA is also grateful for the assurances received from the Government of its intentions to achieve resolution for veterans and families affected by service in Viet Nam. These assurances, from the Prime Minister in her address to the 2005 RNZRSA National Conference; from Ministers Burton and Hawkins during Working Group discussions; and from Ministers Goff and Barker in writing and in face to face meetings with EVSA representatives, have built the confidence of members of the Viet Nam veteran community, and encouraged their participation and constructive engagement in the consultation process.
- 1.3** The EVSA looks forward to participating in the next stages of the JWG deliberation and report writing, and to the Government's announcement of

remedies that will achieve the desired outcome of ‘starting to put things right’ for affected veterans and their families.

2. Background

2.1 Tragedy and Travesty. It is both a tragedy and a travesty that for more than 35 years New Zealand Viet Nam veterans and their families have been lied to, mistreated and betrayed by politicians and officials alike. Throughout this time, their particular needs and concerns have not been fairly considered let alone adequately addressed. There appears to have been inaction and oversights by officials, including senior military personnel charged with the responsibility of looking after the interests of those who serve. So prevalent have these instances been that Viet Nam veterans can be forgiven for believing there was a deliberate conspiracy of cover-ups. Regrettably, until recent years, veterans’ organisations have also done little to actively represent this group of constituents. Many veterans of earlier conflicts, and indeed some branches of the RNZRSA, treated Viet Nam veterans with disdain. EVSA itself focussed on organising reunions for some years before putting greater emphasis on welfare and pension issues. Rarely is it acknowledged or even understood that Viet Nam veterans loyally and creditably, and at great personal risk, carried out their duty in New Zealand’s interests as required by the government of the day. To a large extent, in the eyes of many in the media and therefore the New Zealand public, they remain ‘the pariahs who chose to fight in that most unpopular South East Asian war’.

2.2 The Scale of Human Cost. The magnitude of the physical, mental and emotional suffering of the Viet Nam veteran community can be fairly compared with the scale of suffering caused by any of New Zealand’s historic tragedies – the Napier earthquake, Tangiwai, Wahine, Erebus and Cave Creek. Each of these disasters has elicited a prompt and significant response from central and local government, and from the New Zealand public in support of those affected and their loved ones. The toll of physical and mental illness leading to the suffering and premature death of many Viet Nam veterans, and the further negative impact on the health and well being of veterans’ families, well exceeds the human cost of some of these other disasters, and yet for more than three decades little has been done to address the matter. This unforgivable delay has seriously exacerbated the scale of the human cost to the Viet Nam veteran community.

2.3 The Recent History. For the sake of the record, and to give a context for this submission, it is necessary to provide a brief historical summary:

2.3.1 Justice Delayed is Justice Denied. The shameful history of the handling of the Agent Orange issue in New Zealand has been a 30-year saga of official neglect and active interference with the course of justice. It is fair to say that if it had not been for the unstinting and selfless efforts of a few proactive veterans (and periodic

assistance from one or two politicians), officialdom and officially commissioned enquiries (notably Reeves and McLeod) would have succeeded in thwarting forever any hope of resolution. Viet Nam veterans would have all gone to their graves, as too many have already, with the knowledge they were leaving their families and future generations unaided in their struggle with the health effects of military service in Viet Nam.

- 2.3.2 **Parade '98.** In 1996 in the continuing absence of any official efforts on behalf of Viet Nam veterans, the EVSA endorsed and mandated a group of its members to undertake *Parade '98 - Vietnam Remembered* to be held in Wellington in June 1998. This major event included a Parade through the main streets of the capital city in which over 5,000 people participated, a Commemorative Service, sub-unit reunions, a special Exhibition and Schools Programme, concerts, forums and seminars. Over 1,000 Australians attended, including the Deputy Prime Minister Tim Fischer, and over 100 Americans. The event received extraordinary media profiling throughout New Zealand and internationally. Special guest to the event, Kim Phuc (the “Napalm Girl”), was invited by Prime Minister Jenny Shipley on behalf of the nation to receive a Parliamentary Tribute and standing ovation at the Beehive.
- 2.3.3 **Raised Awareness.** *Parade '98* raised veterans’ awareness of the scale of their community’s health problems, and for many veterans this was the first occasion in 25-30 years they and their families had publicly acknowledged or discussed even privately their personal involvement in the war or its after effects on their health and well-being. It was also the first time the media had analysed and presented the reality of the veterans and families health situation, thereby creating greater public awareness.
- 2.3.4 **The Genesis of Veterans Affairs New Zealand.** On the recommendation of the *Parade '98* organisers, and as a result of the overwhelming success of the event, the Prime Minister Jenny Shipley instigated both an official attempt to consider Agent Orange health issues (later to become known as the “Reeves Inquiry”) and the creation of a Department of Veterans Affairs.
- 2.3.5 **The Reeves Report.** Unfortunately, and justifiably, most veterans viewed the subsequent Reeves Inquiry into Agent Orange as a “whitewash”. The composition of the inquiry panel, the style and process of the Inquiry, its very tight time frame and limited number of hearings and venues, did not encourage veteran participation. Also, much of the official ‘evidence’ presented lacked credibility and has since been discredited. Suffice to say that veterans felt that the Inquiry and its Report did little to acknowledge the truth of their exposure to Agent Orange let alone address the consequential health issues.

- 2.3.6 **The McLeod Report.** In November 2002 (some 18 months after it was completed) the then Minister of Veterans Affairs, Mr Hawkins, released the now infamous “McLeod Report” which raised fury among the Viet Nam veteran community as a result of its grossly inaccurate assertions about the extent of exposure of NZ troops to Agent Orange. The EVSA received a copy of the report for comment only 24 hours before its public release. A letter was sent by EVSA to Mr Hawkins protesting this lack of adequate notice, and the erroneous content of the report. An exchange of correspondence between Mr Hawkins and EVSA then followed. This further aroused the ire of EVSA when Mr Hawkins made incorrect assertions about the content of discussions between EVSA and other Viet Nam veteran representatives, and the Prime Minister. As the minister had not been present at this meeting it was assumed that VANZ officials fed this wrong information to him.
- 2.3.7 **The Health Select Committee Report.** Eventually in 2003, at the insistence of veterans appalled by the outright lies contained in the McLeod Report, the Parliamentary Select Committee on Health (HSC) began investigating the issue of Agent Orange and its health effects on Viet Nam veterans. In October 2004 the HSC reported to Parliament that New Zealand Viet Nam veterans were exposed to a toxic environment during their operational service, and that this exposure has led to ongoing health and well being problems for veterans and their family members. At last, after more than three decades, the veterans felt vindicated, and they eagerly awaited the anticipated follow-up action by the Government.
- 2.3.8 **The Government’s Inadequate Response.** In December 2004 the Minister of Veterans Affairs’ written response in Parliament to the HSC Report accepted the Select Committee’s findings on exposure and health effects and offered an apology of sorts, but stated that the needs of Viet Nam veterans and their families were being met satisfactorily by existing War Pension (WP) provisions and the support services of Veterans Affairs New Zealand (VANZ). As with the McLeod Report, in spite of much earlier communications from EVSA requesting a meeting, the EVSA and RNZRSA were belatedly invited to meet with the Minister, his Advisors and the Director of VANZ to “discuss” the Government’s Response less than 24 hours before it was tabled in Parliament. Not surprisingly, nothing was changed in the grossly inadequate response prepared with the participation of the (in EVSA’s view) already discredited Director of Veterans Affairs. The Government Response outraged the Viet Nam veteran community. It was considered yet another insult and a further ‘kick in the guts’ for veterans and their families. It was made all the worse because their hopes had been raised by the HSC Report.

2.3.9 **Agent Orange Joint Working Group.** In January 2005, the Ex-Vietnam Services Association (EVSA), supported by the Royal New Zealand Returned and Services Association (RNZRSA), approached the Government with a recommendation for a joint working group of government and veterans' representatives to properly address the recommendations of the HSC Report. In February 2005 an Agent Orange Joint Working Group (AOJWG) was formed, comprising representatives of the EVSA and RNZRSA and officials of the offices of the Minister of Defence and the Minister of Veterans Affairs. From March to July 2005 the AOJWG met a number of times in an attempt to develop an agreed approach for achieving a fair and sustainable resolution to the concerns of Viet Nam veterans and their families.

2.3.10 **Consultation and Reconciliation Process.** In April 2005 the EVSA provided the AOJWG with a detailed proposal for a consultation and reconciliation process. During this time officials involved in the AOJWG attempted unsuccessfully to devalue and delay the EVSA proposed process without them offering any workable alternative. Eventually, on 4 July 2005 at a meeting with Ministers Burton and Hawkins, the EVSA proposal was accepted in principle and EVSA was informed Cabinet had signed this off. The following week, at the RNZRSA Annual Conference, the Government announced that it had accepted the EVSA proposed initiative and also appointed an independent chair to the AOJWG.

2.3.11 **Consultation Meetings and Written Submissions.** The scope of the Joint Working Group's (JWG) mandate was enlarged to include not only Agent Orange issues but also the wider concerns of Viet Nam veterans and their families relating to Viet Nam service. The JWG began engaging with the Viet Nam veteran community, seeking written submissions and spoken presentations. From November 2005 to February 2006 consultation meetings have been held throughout New Zealand, and by videoconference with groups of New Zealand veterans and families living in Australia. The purpose of the consultation process has been to seek input from the veteran community on their concerns and proposed solutions so as to assist the JWG in developing recommendations to Government for a package of remedies.

2.4 **Veteran Community Expectations.** The loyal service these veterans gave their country, and the sacrifices endured by them and their families were not valued by consecutive governments and the public of New Zealand. In fact their service and sacrifice are yet to be validated. *Parade '98*, which went some way towards this validation, was entirely a veteran initiative with what government support there was being provided belatedly and begrudgingly. Moreover the extended denial, betrayal and mistreatment amounts to a grave injustice, a breach of trust, and mental and emotional abuse. The unreasonable delay and the veterans' hopes having been dashed on so many previous occasions, demands remedies conceived in a spirit of

generosity. These wrongs must be righted. A fair and sustainable resolution is well overdue, and the Viet Nam veteran community expects that such a resolution will result from the Government's acceptance and implementation of the JWG report and recommendations due on 31 March 2006.

2.5 Nation Building Opportunity. This shameful episode in New Zealand history must now be brought to an honourable close in the interests of the Viet Nam veterans and their families, and in the interests of the people of New Zealand. If not, then an important opportunity for reconciliation and nation building will have been squandered.

3 The EVSA Submission

3.1 Basis of the Submission. This submission by the Ex-Vietnam Services Association (EVSA) is based on the experiences of EVSA members, including those members working as unpaid volunteers in the EVSA War Pension and Welfare structure throughout New Zealand and in Australia, and which is available to all NZ Viet Nam veterans, not just EVSA members. It is not possible, nor is it necessary, to list here the numerous individual examples that would set the context for this submission. The members of the JWG will have encountered many similar examples during the consultation meetings. Suffice to say that the human suffering and financial cost borne by Viet Nam veterans and their families has been, and continues to be, considerable. The cost has been made greater and all the more difficult to bear because of the official and unofficial mistreatment of veterans and their families from the time of the Viet Nam War (1960's & 70's) to the present day.

3.2 Cover-ups. EVSA strongly believes that the view of many Viet Nam veterans that there have been a number of deliberate cover-ups (or at best serious incompetence) by government officials needs to be reflected in the JWG Report. The following are examples of the most commonly discussed episodes:

3.2.1 The 1980 letter from the NZDLO in Washington, USA to NZ Defence Headquarters alerting staff to the likelihood of NZ veterans having been exposed to defoliants in Viet Nam. Detailed United States records of the extensive spraying programme including areas in which NZ troops operated accompanied this letter. Apart from being signed off by a number of NZ Def HQ staff officers, no action seems to have been taken on the basis of this information.

3.2.2 Continuing official denials of NZ troops having been exposed to Agent Orange even after the New York Supreme Court 1984 ruling against chemical companies, in which it was clearly confirmed that NZ personnel had been exposed.

- 3.2.3 Demonstration of a lack of official Defence Department support for Parade '98, including the CDS and CGS attending the official launch function at Government House, Wellington dressed in civilian clothes. This occasioned an official complaint to the Minister of Defence from the Governor General.
- 3.2.4 Defence files on defoliation missions not being made available to the Reeves Inquiry by Colonel Gunn, Defence officer assisting the inquiry.
- 3.2.5 Director of VANZ (Ms Gunn) commissioning the McLeod Report contrary to the Prime Minister's specific undertaking to veterans that their exposure and consequent health effects were accepted and no further NZ studies or inquiries would be necessary.
- 3.2.6 A memo to Ms Gunn from Dr McLeod confirming Ms Gunn's earlier advice that no further information relevant to defoliant exposure was available, in spite of files on defoliation being held by her employers in Defence HQ.
- 3.2.7 The McLeod Report being held back for 18 months before being released to the public.
- 3.2.8 The evidence provided to the HSC Inquiry by Brigadier Ottaway and Colonel Seymour confirming that the information, including maps of defoliation missions, had been available in Defence files for many years but had not been acted upon nor provided to earlier enquiries.
- 3.2.9 The lost recording of the Director of VANZ evidence before the HSC in her 'natural justice' response to serious accusations about her performance. Losing the recording is one issue, but it is curious that Ms Gunn was not subsequently asked to provide the HSC with a written copy of her evidence.
- 3.2.10 The Director of VANZ participation in writing the Government's Response to the HSC Report despite being heavily criticised in the Report herself.

3.3 **Underlying Principles.** There are several underlying principles that EVSA considers important to how the concerns of the Viet Nam veteran community are addressed:

- 3.3.1 **The Value of Service.** Those who serve in the Armed Forces of our nation, and especially those who serve on military operations, must be recognised as making a special contribution to society. They give service above and beyond that required of normal citizens, and in doing so they submit themselves to abnormal risk. They also give up certain rights and, for example, are subject to a

special Code of Military Law, which is more rigorous than normal civil law. It is essential that our government and society at large recognise and respect this special service to the nation in public and tangible ways. It is equally important to recognise and acknowledge the sacrifices of Armed Forces families. Not only do the families experience the hardships of separations and the other 'exigencies' of service life, but also they often bear the brunt of a veteran's health problems following operational service. Acknowledging and honouring the 'out of the ordinary' contributions of veterans and their families is an essential element of nation building.

3.3.2 War Pensions and Veterans Support Entitlements. The application and administration of War Pension and Veterans Support Services needs to be provided in a way that shows respect for the service of the veteran and the sacrifices of their family. They are not to be lumped in with state beneficiaries, no matter how deserving those beneficiaries may be. The provisions of the War Pensions Act and associated regulations are not 'benefits'; they are entitlements for military service and for the consequences of military service. Veterans and their families must be treated with dignity by the individuals and departments charged with looking after them

3.3.3 Effect on Other Veterans. EVSA wants to ensure that measures taken to put right the concerns of Viet Nam veterans will not disadvantage any other group of veterans now or in the future. On the contrary, EVSA wants to see that measures are taken to ensure that no future group of New Zealand veterans has to endure the decades of denial and mistreatment suffered by Viet Nam veterans in gaining the acknowledgement and support they and their families deserve. Unfortunately, Viet Nam veterans also experienced denial and mistreatment from other veterans from previous conflicts. For this reason EVSA wants to ensure that never again will any group of veterans turn its back on another group of veterans.

4 The Remedies

4.1 Introduction. From the EVSA perspective the remedies for the concerns of Viet Nam veterans can be encapsulated in four statements:

- Publicly acknowledge our service as an honourable contribution to our nation
- Apologise and make reparation to us and our families for the many years of denial and neglect we have suffered at the hands of New Zealand governments past and present

- Provide us with the fair and reasonable medical and financial support we deserve so we can live out our lives in dignity
- Give us peace of mind by ensuring our families - wives/partners, children, grand children (including future generations) - will continue to receive the health care and support they deserve

4.2 Proposed Remedies. EVSA proposes a number of remedies for resolving a wide range of issues and concerns experienced by members of the Viet Nam veteran community. Each of the remedies proposed addresses more than one of the following categories listed in the Joint Working Group's 'Suggested Headings for Written Submissions'

- Veterans' health and well being
- Health and well being of veterans' families
- Reconciliation issues
- Delivery of services

Therefore the proposals will be listed individually rather than under each particular category heading.

4.3 Implementation. It is anticipated that some remedies will be suitable for immediate implementation. Other remedies will require further processing and development before being implemented. EVSA recommends that all remedies are announced simultaneously and that periodic progress reports are published on the remedies that are being further developed.

4.4 Formal Public Acknowledgement and Apology. A formal public acknowledgement of the value of Viet Nam service and an apology for over 30 years of denial, neglect and mistreatment to be offered and underpinned by a statement of remedies to address the concerns of Viet Nam veterans and their families. The acknowledgement and apology to be offered jointly by the Governor General as Commander-in-Chief (or, should she not be available, her designated representative), and the Prime Minister and the Leader of the Opposition on behalf of the people of New Zealand, the current Government and previous governments. To ensure appropriate wording is included, the EVSA wishes to have input to the framing of the Acknowledgement and Apology statement. The history of this saga demands public support for this apology from ALL PARTIES of the New Zealand Parliament. The acknowledgement and apology and the statement of remedies to be delivered in Parliament so as to be entered into Hansard, and also at an appropriate public event meeting the following criteria:

- a) Involving as many Viet Nam veterans and their family members as possible

- b) Planned jointly by the government, the EVSA and RNZRSA, and implemented by event management professionals.
- c) To take place during the Year of the Veteran and to be paid for by government
- d) Involving representatives of current NZ Defence Force units/corps with a connection to service in the Viet Nam War (i.e. 1 RNZIR, 161 Battery RNZA, NZSAS, other Corps of the Army, and representation from the RNZN and RNZAF as appropriate).
- e) To be covered by national media, and ideally to be broadcast live on national television and radio, and to be broadcast in Australia
- f) Attendance at the event by the public of New Zealand to be encouraged by open invitation
- g) A signed copy of the acknowledgement, the apology and the accompanying package of remedies to be provided to every Viet Nam veteran and the families of those already deceased

There is an opportunity for such an event on Sunday, 4 June 2006. The EVSA is holding its biennial Reunion at Palmerston North on Queen's Birthday Weekend and traditionally schedules a Memorial Service on the Sunday morning. A significant number of Viet Nam veterans and family members will be attending the Memorial Service. The EVSA proposes that a 2 – 3 hour block during the period from 9.00am to 2.00pm on 4 June 2006 be made available to the Government and all members of the Viet Nam veteran community for an appropriately designed event to meet the above criteria.

4.5 Reeves and McLeod Reports. The government to officially state as part of the Formal Apology that the Reeves Report and the McLeod Report are NOT to be used as a basis for government policy, and that they are superseded by the Report of the Health Select Committee of October 2004.

4.6 Reparation. The issue of reparation to Viet Nam veterans, their families or estates to be addressed in the following ways:

4.6.1 Reimbursement. In reparation for pecuniary loss:

- a) Reimbursement to be paid for actual and reasonable expenses incurred in obtaining the health care and support that should have been proactively forthcoming for veterans and their families suffering service related health conditions. Where receipts for payments made are not available, reimbursement to be made on a basis assessed by an independent claims assessor appointed by the Health Insurance Underwriters Association.

- b) A one-time payment of \$5,000 to each veteran or their estate as reimbursement for tax paid while on operational duty in Viet Nam.

4.6.2 Restitution. Where a veteran or family member (or if deceased their estate) has been financially disadvantaged as a consequence of service related health issues, restitution to be paid so as to put them in a position similar to that which they could reasonably have expected had the health issues not arisen, or if adequate and timely treatment had been forthcoming. The level of restitution to be determined by independent actuarial assessment on a case-by-case basis.

4.6.3 Compensation.

- a) A War Pension linked top-up scheme for those suffering health conditions connected with exposure to a toxic environment. Details of this scheme to be developed as part of an overall review and updating of the War Pensions Act 1954 to take account of the hazards of modern warfare.
- b) A lump sum of \$30,000 to be paid to each Viet Nam veteran or, if deceased, their estate, for the mental and emotional anguish suffered as a result of over 30 years of official denial and mistreatment. In particular, this is to be compensation for the lack of timely action on evidence clearly available for many years, which action could have prevented or at least ameliorated the pain, suffering and untimely death of veterans. All Viet Nam veterans to be eligible for this compensation whether or not they have yet had any health issues connected with a toxic environment.

4.7 Veterans Register. A register of New Zealand veterans of all wars/operational deployments to be established and maintained by Veterans Affairs New Zealand (e.g. like the Cervical Cancer Register). EVSA, RNZRSA and other veterans' organizations can assist in establishing this register.

4.8 Veterans Card and Veterans Family Card. All veterans to be issued with a *New Zealand War Veterans Card* identifying the wars/conflicts in which the individual veteran served, and including current eligibility for War Pension entitlements. Veterans' family members eligible for entitlements as a consequence of a veteran's service to be issued with a *New Zealand War Veterans Family Card* detailing their current entitlements. These cards to include encoding of details that, on presentation to GP/medical specialist, activates a list of potential health conditions to be considered as a result of the individual's association with particular operational service. These cards to be a vehicle for providing future entitlements, including priority medical

treatment for cardholders when compared with non-veterans with otherwise similar eligibility.

- 4.9 **Annual Medical Checks.** All veterans to be eligible for free of charge annual medical checks with particular focus on the physical and mental health conditions associated with their war service. This remedy to also apply to veterans' family members (spouses/partners, sons, daughters and grandchildren) from the time they are included in the War Pension system.

4.10 **External Review of VANZ and War Pensions Administration.**

- 4.10.1 An **external** review of VANZ and War Pensions to be conducted without delay. The review to include examination of VANZ and War Pension Processing Unit responsibilities, internal and external structure, accountability, resourcing, efficiency, effectiveness, accessibility and consistency of needs assessment and service delivery.
- 4.10.2 VANZ to be removed from the Defence Department and to be either a stand-alone department or to be part of the Department of Social Development.
- 4.10.3 VANZ to focus on War Pensions and veteran health and welfare functions and no longer to be responsible for ceremonial, reunions, war graves etc. These functions to be placed under Department of Internal Affairs and/or Department of Culture and Heritage as appropriate.
- 4.10.4 The positions of Director VANZ and Secretary for War Pensions to be separated and held by different individuals to be appointed by the State Services Commission in an openly advertised and contestable process. (EVSA strongly believes that to ensure support for the restructured department from the Vietnam veteran community the current Director of VANZ and Secretary of War Pensions should not be eligible for reappointment to either of these positions as her performance in the role(s) to date, and her unfortunate involvement in the Reeves Inquiry, McLeod Report, and Health Select Committee hearings has engendered a lack of trust and confidence in her).
- 4.10.5 VANZ responsibilities to include inter alia:
- a) Continual monitoring of, and publicising to relevant NZ veterans' organisations, studies into the health status of US and Australian Viet Nam veterans, rather than devoting resources to relatively statistically insignificant studies of NZ veterans; and to give the international research reports

the status and level of acceptance gained in their countries of origin.

- b) Maintaining close links with Australian and US veterans departments with the objectives of:
- maintaining up to date information on the effects of exposure to chemicals and disorders resulting from such exposure
 - furnishing such information to relevant NZ veterans' organisations as it becomes available
 - providing such information on a regular basis to its Pension Panels, National Review Officer and Appeals Board.
- c) Provide guidelines to its Medical Specialists that the linkage between active service in Viet Nam and the existence of certain prescribed medical conditions is accepted without further evidence. The “reverse onus of proof” provision of the War Pensions Act 1954 is not to be limited in any way by such a prescribed list of conditions.
- d) Increase the staffing and resources available to the Case Management system, and arrange the placement of Case Managers at the four main centres. Delegate decision-making authority to Case Manager level to the maximum possible degree.
- e) Provide more comprehensive training for those involved in the War Pensions process:
- War Pension Panellists, with particular emphasis on the application of the “reverse onus of proof” provisions of the War Pensions Act, which is currently being very unevenly applied.
 - Advocates for applicants, in particular those who are available to assist with submissions to the Appeal Board
 - RSA Welfare Officers and EVSA Pension Representatives
- f) Arrange increased resourcing for the review and appeal process to speed up the consideration of cases.
- g) Establish and maintain a register of Viet Nam veterans' children and grandchildren to ensure that they retain access to free health care for service-linked disorders.

- h) When assessing the condition of children and grandchildren of Viet Nam veterans, ensure they receive the same "benefit of the doubt" and "reverse onus of proof" consideration, as should be applied to veterans under the War Pensions Act.
- i) Establish and maintain working relationships with the Australian Department of Veterans Affairs so as to provide efficient and effective VANZ and NZ War Pensions services to Australian domiciled NZ veterans and family members.
- j) Maintain and proactively promote to the veteran community a complete register of current War Pension entitlements and available VANZ services.
- k) Liaise with other government departments to ensure all relevant documentation includes specific provision for recording information relating to war service (e.g. health records, WINZ, IRD, census etc.).

4.11 Review of the War Pensions Act 1954. A review and update of the War Pensions Act 1954:

- a) To reflect the risks and the health consequences of modern operational service,
- b) To bring War Pension entitlements in line with levels that will enable War Pensioners (including veterans, surviving spouses and eligible family members) to live with dignity.
- c) Improve the portability of War Pension entitlements for New Zealand veterans living overseas, especially in Australia and the Pacific Islands.
- d) Increase the level of funeral costs to meet the actual cost of an average funeral.
- e) Review Section 23 so that it has wider applicability to the range of disabilities suffered by today's veterans.
- f) Lift the limitation on payment for cumulative disabilities from the present 100% to 160%.

4.12 Policy Advice and Consultation. The current War Pensions Advisory Board to be replaced by a Veterans Affairs Board to advise the Minister of Veterans Affairs on all policy affecting veterans (not just War Pensions). The Veterans Affairs Board to meet at least four times a year and to comprise seven members as follows:

- 1) The Chair and Veterans Commissioner appointed by the Minister of Veterans Affairs

- 2) The Secretary of War Pensions (ex officio)
- 3) The Director of VANZ (ex officio)
- 4) The President of the RNZRSA (ex officio)
- 5) One Member appointed by the Minister of Defence
- 6) One Member appointed by the Minister for Social Development
- 7) One further member appointed by the National Executive Committee of the RNZRSA.

4.13 Transition Management. The Veterans Affairs Board to oversee the implementation of the package of remedies, with meetings being held at least every two months for an initial period of 18 months or until all remedies are fully implemented.

4.14 Acknowledgements.

- Appropriate acknowledgement and recognition to be given to veterans Victor Johnson and John Moller, who have played a significant role in keeping alive the issue of Agent Orange for several decades at great personal cost, and who at times suffered unfounded hostility and ridicule.
- Also acknowledgement and recognition to be given to the key members of the *Parade '98* organising committee – Lindsay Skinner and Paddy Driver, and in particular Brian Monks who gave his time voluntarily for more than 18 months; and John Dow of Agenda Limited who placed his company and personal resources at risk in underwriting the *Parade '98* event, and who has contributed a considerable amount of his own professional time on a pro bono basis in support of veterans' issues.

4.15 Post Traumatic Stress. There is a high incidence of Post Traumatic Stress Disorder amongst Viet Nam veterans. VANZ records show PTSD is fourth on the list of prevalent conditions behind hearing disabilities, orthopaedic and joint problems, and skin conditions. Overseas figures indicate that the true incidence of PTSD is likely to be much higher because many veterans and their health providers do not recognise the condition, and at best only one or more of the symptoms is identified and then treated in isolation (e.g. alcohol, drug and other addictions; hypertension; sexual dysfunction; irritable bowel etc.). Also many veterans are unwilling to admit to 'mental problems' because of the associated stigma. The serious flow-on effects of untreated or misdiagnosed and mistreated PTSD for veterans, their spouse/partner and their children/step children, and the social and economic benefits of early diagnosis and proper treatment is now well documented overseas, yet in New Zealand finding suitably qualified and experienced mental health providers for PTSD sufferers is very much a hit and miss affair. The Ranfurly Veterans Centre in Auckland is undertaking a

project aimed at establishing a National Centre for PTSD based on a very successful Australian Model funded by the Australian Department of Veterans Affairs. The intention is to provide a support service to mental health providers and practitioners so they can be trained and accredited to more effectively diagnose and treat PTSD patients in their home location. The Ranfurly project is in its infancy and is making slow progress as it relies entirely on the efforts of voluntary mental health specialists. The initial aim is for the Centre to assist war veterans, but in the longer term its services will be available to other organisations where PTSD causes loss of productivity and even total loss of skilled staff – police, fire service, ambulance and emergency services, prison service etc. The EVSA recommends a ex-gratia contribution from Government of \$250,000 to enable the PTSD Centre to get established more quickly and commence helping Viet Nam veterans and families suffering the effects of PTSD as well as other veterans, including those recently returned or still currently serving in operational areas. EVSA further recommends that the PTSD Centre receive an ongoing contribution to its annual operating costs from Vote Veterans Affairs.

4.16 Regimental Colour of 1 RNZIR – Insulted by Our Own. 1 RNZIR, while based in Malaysia and later in Singapore, provided the nine New Zealand Rifle Companies (Victors 1 – 6 and Whiskeys 1 – 3) that joined with units of the Royal Australian Regiment to make up the series of ANZAC Battalions that served in Viet Nam over a period of almost five years. Some years after its return to New Zealand from Singapore, 1 RNZIR received its new Regimental Colour with the added battle honour “*South Vietnam*”. There was shock and disbelief when the Colour was unfurled on the Colours Presentation Parade and veterans of Victor 5 (May 1970 – April 1971) and Victor 6 (May – December 1971), some of whom were present at the Parade, realised that the official dates embroidered on the Viet Nam Battle Honour were “*1967 – 70*”. Consequently, four months of Victor 5’s operational tour of duty and all of Victor 6’s Viet Nam tour are not officially recognised. This insult was made all the worse when enquiries elicited the explanation that the senior officers who had made this decision had strictly applied the rules of the much larger British Army, which required ‘a substantial part of a unit’s combat strength to be engaged in operations’ for operational time to ‘count’ towards the award of Battle Honours. Apparently it mattered not that at the time, one rifle company group with numerous attachments deployed on operations in Viet Nam represented more than one quarter of the deployable infantry strength of the New Zealand Regular Army. Officially, therefore, the combat service of the men of V5 and V6 and their battle casualties (including those killed in action) accounted for nought! To further highlight this injustice, and assuming the accuracy of the explanation given at the time and described above, in 1967 there was also only **one** rifle company (Victor 1- commanded by Major John Mace, later CDS Lt Gen Sir John Mace) serving on operations in Viet Nam. The EVSA asks that the Minister of Defence directs the Defence Department to have the year ‘1970’ on the 1 RNZIR Regimental Battle Honour South Viet Nam replaced by the year ‘1971’ in order to remedy this ridiculous situation. If 1 RNZIR would be so

kind as to provide EVSA with ‘before and after’ photographs of the Regimental Colour, EVSA will undertake to circulate to members of V5 and V6 this evidence of the correction having been made.

4.17 EVSA Youth Development Trust. An ex-gratia payment of \$1 million to be made by the Government to enable the Trust to continue its work assisting the education and development of the children, grand children et seq of Viet Nam veterans. The Trust Deed prohibits the expenditure of the investment capital so such a government grant would provide approximately \$75,000 for distribution each year.

4.18 Viet Nam War Memorial. A National Viet Nam War Memorial to be commissioned and paid for by the Government. The Memorial to be sited at the place already set aside for memorials to all New Zealand wars near the National War Memorial in Wellington. The EVSA to be consulted regarding the design of the memorial.

4.19 Official History. The Government to continue to support the Official History of the Viet Nam War already commissioned by the Department of Culture and Heritage, and to ensure it incorporates:

- The reasons for New Zealand’s involvement and subsequent disengagement
- The experiences of the troops (oral history)
- The aftermath – a combination of research and further oral history covering the return home, subsequent events, Parade ’98, the Agent Orange saga and the current process of consultation and reconciliation

4.20 Education. The core school curriculum to include at primary, intermediate and secondary levels programmes and resources regarding the extraordinary nature of military service, and the valuable contribution this has made, is continuing to make, and can again make to New Zealand. Such a set of resources was created for the Schools Programme associated with *Parade ’98*.

4.21 Costs Reimbursement. The Government to reimburse EVSA and RNZRSA for the actual and reasonable costs incurred (including professional fees) directly associated with developing and implementing the EVSA initiated process of consultation and reconciliation mandated by the Government. It is neither fair nor appropriate for these voluntary veterans advocacy organisations to be required to spend significant amounts of their members’ limited funds to bring to the Government a case for the righting of wrongs perpetrated on veterans by the government.

5 Summary of Recommendations

- 5.1 Implementation of Remedies.** All remedies to be announced simultaneously, and periodic progress reports to be published on remedies undergoing implementation.
- 5.2 Formal Public Acknowledgement and Apology.** A formal Public Acknowledgement and Apology together with a statement of remedies to be delivered in Parliament and at an appropriate public event in accordance with the criteria provided at **paragraph 4.4**. EVSA recommends such an event be planned for Sunday, 4 June 2006 in conjunction with the EVSA Reunion in Palmerston North.
- 5.3 Reeves and McLeod Reports.** The government to officially state as part of the Formal Apology that the Reeves Report and the McLeod Report are NOT to be used as a basis for government policy, and that they are superseded by the Report of the Health Select Committee of October 2004.
- 5.4 Reparation.** The issue of reparation to be addressed as follows:
- a) Reimbursement.**
 - 1) Reimbursement of actual and reasonable or independently assessed health care costs paid for service related conditions by veterans or families
 - 2) A payment of \$5,000 to each veteran or their estate as reimbursement of taxes paid on operational service in Viet Nam
 - b) Restitution.** Where a veteran or family member (or if deceased their estate) has been financially disadvantaged as a consequence of service related health issues, restitution to be paid so as to put them in a position similar to that which they could reasonably have expected had the health issues not arisen, or if adequate and timely treatment had been forthcoming. The level of restitution to be determined by independent actuarial assessment on a case-by-case basis.
 - c) Compensation.**
 - 1) As part of an overall review of the War Pension Act 1954, a War Pension top-up scheme for those suffering health conditions connected with exposure to a toxic environment.
 - 2) A lump sum of \$30,000 to be paid to each veteran or their estate for the more than 30 years mental and emotional anguish resulting from official denial and mistreatment.
- 5.5 Veterans Register.** A register of New Zealand veterans of all wars and operational deployments to be established and maintained by Veterans Affairs New Zealand.

- 5.6 Veterans Card.** A New Zealand War Veterans Card and a New Zealand War Veterans Family Card to be issued. **See paragraph 4.8**
- 5.7 Annual Medical Checks.** All veterans to be eligible for free of charge annual medical checks with particular focus on the physical and mental health conditions associated with their war service. This remedy to apply also to veterans' family members (spouses/partners, sons, daughters and grandchildren) from the time they are included in the War Pension system.
- 5.8 Review of VANZ and War Pensions Administration.** An external review of VANZ to be conducted without delay. **See paragraph 4.10**
- 5.9 Review of the War Pensions Act 1954.** A review and update of the War Pensions Act 1954 to include the requirements listed in **paragraph 4.11 and in recommendation 5.4, c), 1).**
- 5.10 Veterans Affairs Board.** A Veterans affairs Board to be established to replace the War Pensions Advisory Board. The new Board's role and composition to be as detailed in **paragraph 4.12.**
- 5.11 Transition Management.** The Veterans Affairs Board to oversee implementation of the package of remedies.
- 5.12 Acknowledgements.** Appropriate acknowledgement be given, and awards of public recognition be made to the people named in **paragraph 4.14.**
- 5.13 Post Traumatic Stress.** The Government to make an ex-gratia payment of \$250,000 to the cost of establishing a National Centre for PTSD at Ranfurly Veterans Centre, Auckland. An ongoing annual contribution to its operating costs to be made from Vote Veterans Affairs.
- 5.14 Regimental Colour, 1 RNZIR.** The dates on the Battle Honour, South Viet Nam on the 1 RNZIR Regimental Colour be changed to reflect the years of operational service of all New Zealand rifle companies that served in Viet Nam.
- 5.15 EVSA Youth Development Trust.** An ex-gratia payment of \$1 million to be made by the Government to enable the Trust to continue its work assisting the education and development of the children, grand children et seq of Viet Nam veterans.
- 5.16 Viet Nam War Memorial.** A National Viet Nam War Memorial to be commissioned and paid for by the Government. The Memorial to be sited at the place already set aside for memorials to all New Zealand wars near the National War Memorial in Wellington. The EVSA to be consulted regarding the design of the memorial.
- 5.17 Official History.** The Government to continue to support the Official History of the Viet Nam War already commissioned by the Department of Culture and Heritage and to ensure it incorporates the items listed in **paragraph 4.19.**

- 5.18 **Education.** The core school curriculum to include at primary, intermediate and secondary levels programmes and resources regarding the extraordinary nature of military service, and the valuable contribution this has made, is continuing to make, and can again make to New Zealand.
- 5.19 **Costs Reimbursement.** The Government to reimburse EVSA and RNZRSA for the balance of actual and reasonable costs incurred (including professional fees) directly associated with developing and implementing the EVSA initiated process of consultation and reconciliation mandated by the Government.

6. Conclusion

- 6.1 New Zealand Tardy.** New Zealand has been extremely slow to deal honestly and openly with the concerns of Viet Nam veterans and their families. The United States and Australia dealt with these issues many years ago. This is all the more reason for a particularly compassionate approach by the Government in establishing a package of remedies to underpin a public acknowledgement of valued service and a sincere statement of apology to Viet Nam veterans and their families.
- 6.2 Closure May Not Be Achievable.** Viet Nam veterans and families have suffered in many ways. For many there has been the physical, mental and emotional suffering resulting directly from the health effects of service. For far too many this has resulted in the untimely death of a loved one. For all members of the Viet Nam veteran community there has been the added suffering and frustration of decades of denial. Added to this has been the suffering of uncertainty as to the future health of themselves, and also of their family members, especially of children and grandchildren. For these reasons closure may not be achievable.
- 6.3 Not Full and Final.** The future health effects for the children of Viet Nam veterans, and especially for the generations to come, cannot be predicted. For this reason any settlement, however generous, cannot be full and final. The remedies put in place must therefore provide mechanisms that will allow the future unpredictable needs to be dealt with fairly and reasonably as and when they arise. When the last Viet Nam veteran has been buried, the systems we have put in place must look after the health and support needs of those who may yet continue to bear the legacy of our service to our country.
- 6.4 Maintaining Communications.**
- a) **Keeping Veterans Informed.** As the consultation process draws to a close, feedback from veterans indicates they are cautiously optimistic. During the consultation meetings many have unburdened themselves of long suppressed grief and some have found the beginnings of a healing process. Therefore it is important that communications between the Government and

veterans are maintained, especially during the period when the JWG is preparing its Report and Recommendations, and then while the Government is considering the Report and planning its announcement. As the process continues behind closed doors, veterans should be informed of the overall process and the key steps as they occur. The EVSA would like to discuss with the Government how best to achieve this so that the goodwill already gained is maintained and the integrity of the JWG process is honoured.

- b) Providing Input to Government.** The EVSA believes the Government would benefit in its consideration of the JWG Report if key Ministers were to have an opportunity to read, with the originator's permission, a representative selection of submissions and transcripts from the consultation process. EVSA also recommends that key Ministers and perhaps the Prime Minister would benefit from an opportunity to meet with the JWG to gain an overview of the JWG Report and a feel for the process to date, and an opportunity to ask questions. The sense and scale of the issue is unable to be adequately conveyed by the written word alone.
- c) Consultation in Confidence.** As mentioned elsewhere in this submission, it is the unfortunate experience of the EVSA that insufficient prior notice and inadequate time for consultation has been given when the government is about to announce a decision or release a report that affects veterans. Consequently, veterans' representatives have been too often placed in an adversarial role when adequate prior in-confidence consultation could have averted a public conflict. The EVSA is hopeful that on this occasion, and in the spirit of cooperation already established during the JWG process, the Government will take the veterans' representatives and the JWG into its confidence well in advance of announcing its decision on the JWG's Report and Recommendations. In return, the veterans' representatives will honour the arrangement by respecting the Government's confidences. The EVSA believes that such an arrangement will enable the veterans' representatives to understand the thinking behind the Government's decisions and therefore in a spirit of partnership they will be better able to manage an outcome that is beneficial to all parties.

6.5 Votes of Thanks. In closing, it is important that EVSA offers a vote of thanks to those who have facilitated the process to date. In the Introduction we have already thanked the Government and key ministers for supporting EVSA's initiatives, for mandating the process, and for their consistent assurances of good faith in working together with the veterans for a fair and sustainable outcome. Without the Government's goodwill this issue will never be resolved.

We also wish to thank the following:

- a) The RNZRSA National Executive Committee, and in particular John Campbell (National President) and Robin Klitscher (NEC Member), for their continuing support of EVSA initiatives in this process
- b) The Independent Chair, Michael Wintringham, for the sensitive and caring way in which he has conducted the consultation meetings, and the diplomatic and effective way in which the difficulties that occurred at some meetings have been resolved to everyone's benefit. He has earned the confidence of the veterans as to his independence and his fairness.
- c) The many local RSA clubs and branches that have supported the consultation meetings and have made people feel welcome by providing meeting facilities and catering, and the occasional unexpected musical entertainment.
- d) Based on specific unsolicited feedback from many veterans and family members, perhaps the greatest vote of thanks should go to the small and very effective JWG Administration team, in particular, Marama Paki and Christine Burgess who quickly established an excellent rapport with members of the veteran community. Whether by phone, by email, by letter, by fax or in face-to-face contact, their communication was at all times professional, considerate and helpful. There is no doubt that this contributed considerably to encouraging veteran participation, and to creating a positive context for each consultation meeting.

BAS NISSEN

National President

Ex-Vietnam Services Association

22 February 2006