



Cabinet

CAB Min (06) 15/13

Minute of Decision

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Minister of Defence

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Minister for ACC
Minister for Disability Issues
Minister for Senior Citizens
Minister of Veterans' Affairs
Minister for Social Development and Employment (MSD)
Minister of Women's Affairs
Secretary, POL

Additional Item: Report of the Joint Working Group on Concerns of Viet Nam Veterans

On 1 May 2006 Cabinet:

- 1 **noted** the briefing by the Minister of Defence and the contents of the paper tabled at Cabinet on the Report of the Joint Working Group on Concerns of Viet Nam Veterans;
- 2 **noted** that the recommendations of the Report range from a formal apology through to improving delivery of health and other services to veterans, and also include a proposed reparation and disability pension package;
- 3 **noted** that a detailed assessment of the recommendations of the Report will need to be undertaken, including the policy, fiscal, precedent and other implications;

- 4 invited the Minister of Defence and Minister of Veterans' Affairs to:
- 4.1 arrange for an officials group (including officials from Defence, Veteran's Affairs, Ministry of Social Development and DPMC, in consultation with the Crown Law Office, Treasury, and the Ministry of Health and other departments as appropriate) to undertake a detailed assessment of the Report's recommendations;
 - 4.2 report to the Cabinet Policy Committee on 24 May 2006 on the detailed assessment of the Report's recommendations and the proposed next steps.

Steve Hansen

Secretary of the Cabinet

Reference: Paper tabled by the Minister of Defence, *Preliminary Briefing on the Report of the Joint Working Group on Concerns of Viet Nam Veterans*

RELEASED UNDER THE
OFFICIAL INFORMATION ACT

1 May 2006

Cabinet Oral Item

Preliminary briefing on the report of the Joint Working Group on Concerns of Viet Nam Veterans

Background

1. The Government responded to the report of the Health Select Committee on 14 December 2004. Key elements of the response were acceptance that veterans were exposed to a toxic environment; and the tendering of an apology. The response was rejected by veterans' groups as inadequate.
2. On 15 February 2006 the Ministers of Defence and Veterans' Affairs established a Joint Working Group (JWG) to "*Recommend to Government, for its consideration, a package of actions and procedures to address the health and well being needs of Viet Nam Veterans and their families and to develop a historical record of New Zealanders' service in Viet Nam.*" Initially the group comprised veterans' representatives and officials from ministerial offices.
3. Michael Wintringham was appointed as an independent chair of the group on 11 July 2005. The Chair was given terms of reference [CAB Min (05) 28/16 refers]. These terms of reference required him to report to the Ministers of Defence and Veterans' Affairs on the recommendations of the JWG, and "*what actions can be taken to assist in the resolution of the grievances felt by veterans and their families.*" This report has now been delivered to me.

Recommendations of the JWG

4. The report contains a comprehensive set of recommendations intended to address the concerns of Viet Nam veterans related to, *inter alia*, their exposure to a toxic environment as a result of the extensive use of defoliant chemicals in Viet Nam. The *Summary of Recommendations* from the report is appended to this note.
5. In brief, these recommendations range from a formal apology through to improving delivery of health and other services to veterans, and also include a proposed reparation and disability pension package. This package links the level of entitlement in a clear manner to the degree of illness or disability suffered by the individual, taking guidance from generally accepted medical science as to what conditions are likely attributable to service in Viet Nam. To some degree, benefit of the doubt is urged to be exercised in veterans' favour.
6. Proposed amendments to the War Pensions Act 1954, required to give effect to some of the recommendations, would also affect entitlements available to Operation Grapple veterans.

7. The JWG was exposed to debate about the tax treatment of New Zealand personnel in Viet Nam, and in particular whether they were financially disadvantaged by the apparent decision of the government of the time not to designate South Vietnam an "operational area". The report proposes a universal *ex gratia* payment to all veterans or their estates in lieu of a tax refund. The issues and principles around this recommendation will require particular attention.

8. There is also an important focus in the report and its recommendations on re-engaging with Viet Nam veterans, many of whom have been marginalised as a result of the circumstances of their service. Successful re-engagement by Government, Army, and society in general will require significant political will and demonstrable and sustained commitment, but will have a corresponding pay-off in terms of resolving a historical social division and strengthening our sense of national identity.

Publicity

9. I do not propose to make any public comment about the content of the Report at this time, other than to acknowledge receipt. There are active interest groups involved in this issue who were not directly involved in the JWG. It will take time to work through an appropriate response, and it would be unhelpful to that process if media debate around quantum of the proposed financial element of the package were underway.

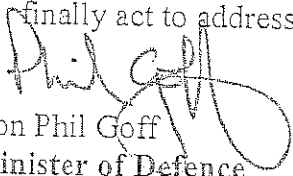
10. I propose to make the Report public at such a time as Government is able to articulate publicly its response.

Next steps

11. A detailed assessment of the recommendations has yet to occur. Advice will need to be sought from officials on the policy, fiscal and other implications of the JWG's recommendations. The Minister of Veterans Affairs and I will recommend to Cabinet an appropriate response to the Joint Working Group's recommendations in due course.

12. In considering that response, ministers will need to balance matters including:

- The personal health and well-being interests of the affected veterans and their children
- The wider social significance of this historical but unresolved issue to New Zealand, especially during the Year of the Veteran
- The public profile of the issue
- The potential policy and fiscal implications
- The high expectations amongst the veterans' community and more broadly that "this time" (following the mandating of the JWG process), the Government will finally act to address their grievances.


Hon Phil Goff
Minister of Defence

**JOINT WORKING GROUP ON CONCERNS OF VIET NAM VETERANS -
REPORT TO THE GOVERNMENT**

SUMMARY OF RECOMMENDATIONS

2. ACKNOWLEDGING THE PAST

2.1 Apology and Acknowledgement

2.1.2 The Government

The JWG:

1. Endorses the intention of the Government to make a statement of apology to Viet Nam veterans and their families.
2. Recommends that this statement acknowledge the service of Viet Nam veterans; the failures to address their concerns; the effects of those failures; and commits to action.
3. Recommends that, in making this statement, the Government takes account of the context in paragraph (9) on page 24.

Para 9 reads: The Government will form its own view on the style and setting of the statement of apology and the announcement of the accompanying reconciliation package. To the extent that it is made directly to veterans and their families, who can judge the significance of the occasion and the commitment of the Government, it will more likely be accepted as a serious attempt to help put things right.

4. Recommends that the Government sets aside, as a basis for future policy on Viet Nam veterans, the Reeves and McLeod reports.
5. Recommends that the Government notes the wish of many veterans that, as far as possible, there is a bipartisan approach to addressing their concerns.

2.1.4 Whakanoa

The JWG recommends that:

1. The NZDF acknowledges its past failures to use, and take action on, the information it was holding relevant to the Agent Orange issue.
2. The Government and Defence Force note, while the matters of incomplete medical records and a failure to make available

information on dioxin exposure of New Zealand service personnel in Viet Nam are unresolved, this will be a continuing source of concern to many veterans.

3. To allay these concerns, the matter be directly addressed by a public statement on the facts of these matters.
4. The NZDF readdress the "South Vietnam" Battle Honour on the 1 RNZIR Regimental Colour to recognise the service of Rifle Companies Victor 5 and Victor 6.
5. The NZDF recognises the role it has to play in helping all veterans achieve a transition to whakanoa, and even at this late stage, the contribution it can still make to help surviving Viet Nam veterans achieve this transition.
6. The NZDF should take steps to formally acknowledge and welcome back the surviving New Zealand veterans of the Viet Nam war.
7. In this process, the wishes and cultural needs of Maori should be recognised.

2.2.1 A campaign medal for Viet Nam

The JWG recommends that the case for a distinct national campaign medal for active service in the Viet Nam War be accepted in principle; and that the Honours Secretariat and the NZ Defence Force should now develop a suitable proposal in consultation with veterans' groups.

2.2.2 South Vietnamese gallantry awards

The JWG recommends that the Government recommend to the Queen that unrestricted permission to wear their insignia should be granted to the 12 New Zealand recipients of the South Vietnamese Cross of Gallantry.

2.4 Recording the Viet Nam Stories

The JWG recommends that:

1. Support for an oral history of the experiences, during and after their deployment, of the New Zealand participants in the Viet Nam War, and their families, be provided by the Government.
2. The recording begin in 2006.

3. PUTTING THINGS RIGHT

3.1.6 Recommendations – Viet Nam veterans

The JWG recommends that:

1. Viet Nam veterans already diagnosed with a *Prescribed Condition* receive:
 - (a) As reparation, a tax-free lump sum payment of \$40,000; and
 - (b) Automatic eligibility for a war disablement pension under section 23 of the War Pensions Act, at the maximum rate (currently \$14,301 per annum), backdated to the date of diagnosis, and ongoing medical costs of treatment for the prescribed condition. (Note that no further medical or specialist consultation is to be required where the person is already in receipt of a war disablement pension for the prescribed condition.)
2. Viet Nam veterans diagnosed in the future with a *Prescribed Condition* receive:
 - (a) As reparation, a tax-free lump sum payment of \$40,000 at date of diagnosis; and
 - (b) Automatic eligibility for a war disablement pension under section 23 of the War Pensions Act, at the maximum rate of \$14,301 per annum, from date of diagnosis, and ongoing medical costs of treatment for the prescribed condition.
3. Pending an amendment to the War Pensions Act, as proposed in Annex 2, the recommendations in 1 and 2 above be implemented expeditiously by administrative action.

The JWG recommends that, where a Viet Nam veteran is diagnosed with an *Associated Condition*, there is an automatic presumption that the condition is due to service, and the veteran is eligible for a war disablement pension, at a percentage related to disability, under the current procedures applying for all veterans.

3.1.7 Recommendations – Viet Nam Veterans' progeny (children and grand-children)

The JWG recommends that:

1. Progeny of Viet Nam veterans diagnosed with one of the five conditions (and their sequelae) associated with a forebear's service in Viet Nam, and set out in Annex 3, receive:
 - (a) As reparation, a tax-free lump sum payment of \$30,000; and
 - (b) Under the automatic presumption that the condition is due to war service, eligibility for a war disablement pension, at a percentage related to the disability, and medical treatment costs, on the same basis as a veteran.
2. Pending an amendment to the War Pensions Act as proposed in Annex 3, the recommendations to be implemented expeditiously by administrative action.
3. The Government consider two further ways of broadening the support available to the progeny of Viet Nam veterans:
 - (a) That progeny of Viet Nam veterans without one of the five currently accepted conditions, but with two or more of the sequelae to those conditions (see Annex 3), be treated on the same basis as 1(b) above; and
 - (b) That progeny of Viet Nam veterans who, in the opinion of the Secretary of War Pensions, have conditions which are lifelong and seriously debilitating, qualify for reimbursement of medical expenses.
4. The Government commit to addressing the long-term inter-generational effects of exposure to the toxic environment of Viet Nam, by ensuring that relevant research is accessed and incorporated into policies for the descendants of Viet Nam veterans.

3.1.8 Recommendations – surviving spouses or surviving partners of deceased veterans

The JWG recommends that:

1. Surviving spouses or partners of Viet Nam veterans who have died with one of the *Prescribed Conditions*, prior to the measures above coming into effect (that is, their partner died before receiving the lump sum payment of \$40,000), receive an ex-gratia payment of \$25,000; and
2. The Government reviews the eligibility criteria for the surviving spouse pension, in particular those relating to cessation of the pension on remarriage or entering into a new relationship.

3.1.9 Recommendation – families

The JWG recommends that families of a Viet Nam veteran with a child or grandchild who has (or has died with) one of the (currently five) medical conditions associated with exposure to the toxic environment of Viet Nam, receive an ex-gratia payment of \$30,000. If the family is no longer together (for example, the parents have separated), there should be administrative discretion to allocate the sum equitably to those who have been, or now are, the primary caregivers of the affected child.

3.1.11 All veterans

The JWG recommends that:

1. An ex-gratia payment be made to all surviving New Zealand service personnel who served in Viet Nam, at the level described in paragraph (9) page 51; and

Para 9 reads: *Depending on the assumptions of salary, tax rate and discount rate, the amount could be between \$5,000 and \$8,000 per person.*

2. Consistent with the ex-gratia payment made to the New Zealand prisoners of war of the Japanese, the Government may consider making this payment to surviving spouses or surviving partners where the veteran is deceased.

3.2.1 EVSA Youth Development Trust

The JWG recommends that:

1. Assistance for a small grants programme for the progeny of Viet Nam veterans be provided by the Government.
2. The EVSA Youth Development Trust be considered as a well-established, effective vehicle for such additional assistance.
3. The Government enter into discussions with the EVSA and RNZRSA on this matter.

4. IMPROVING SERVICES TO VIET NAM VETERANS

4.1.2 Annual medical check

The JWG recommends that:

1. A free annual medical check be provided for all Viet Nam veterans, based on the Wellman check, and supported by

information for clinicians to enable screening for the particular risks faced by Viet Nam veterans.

2. The first annual medical check of those veterans, who are not yet in receipt of a war disablement pension, include a thorough assessment of the impact of their service and their subsequent treatment, with the objective of determining their eligibility for a war disablement pension.

4.1.3 National register

The JWG recommends that:

1. A national register of Viet Nam veterans and their progeny be established, including those veterans who have died.
2. The register include, or be readily linked to, information on the health status of those registered or, in the case of those who have died, the causes of death (including contributory and associated conditions).
3. Protocols covering access to this information be established that will balance the need to encourage registration with making effective use of this information.
4. Consideration be given to the establishment of similar registers for those who have served in other theatres.

4.1.4 The veteran's card

The JWG recommends that:

1. A veteran's card be introduced for all veterans identifying his or her theatre(s) of service.
2. A similar card be introduced for the progeny of Viet Nam veterans, who are on the national register (see section 4.1.3).
3. The Government note that the principal purpose of the card, in the context of the JWG's responsibilities, is to facilitate early access to the right sort of medical services for veterans or their progeny, given the veteran's exposure to a toxic environment.

4.1.5 Information for clinicians

The JWG recommends that:

1. Consistent with the recommendations of the Health Committee, Veterans' Affairs New Zealand informs health professionals

about the specific health needs of Viet Nam veterans, based on the presumption that Viet Nam veterans were exposed to a toxic environment, with the intention that veterans and progeny are screened for conditions associated with this exposure, and regularly monitored for the same.

2. This information also address the nature and effects of PTSD, as it affects Viet Nam veterans in particular.
3. The same information be made readily available to Viet Nam veterans and their progeny.
4. This information be regularly updated, based upon the international research referred to in section 3.1.5.
5. Consistent with the recommendations of the Health Committee, VANZ compile a list of health professionals conversant with the health needs specific to New Zealand Viet Nam veterans, and provide this list to all New Zealand Viet Nam veterans.
6. Consistent with the recommendations on the EVSA Youth Development Trust, the Government enter into discussion with the EVSA and RNZRSA on the general need to improve services for Viet Nam veterans suffering from PTSD, and the Ranfurly Veterans Centre initiative in particular.

4.2.4 The post-establishment review

The JWG recommends that:

1. An independent review of the resourcing and structural arrangements for delivering services to veterans be carried out. The terms of-reference for the review to address:
 - (a) The placement of VANZ within the state sector structure;
 - (b) The functions and responsibilities of VANZ;
 - (c) Achieving a one-stop shop for the provision of services to all veterans;
 - (d) Minimising transaction costs between Government agencies in delivering services to veterans;
 - (e) Minimising delays and multiple steps in the approval processes for veterans' entitlements;
 - (f) Maximising the benefits of the case management system; and

- (g) Determining the baseline funding for the provision of services to veterans.
2. Pending the review in 1 above, VANZ progress its current initiative to remove the administrative bottlenecks in the approval process for war disablement and veterans' pensions, and report back to the Government on progress.
3. If not specifically addressed in the review in 1 above, the Government make a contribution, through VANZ, to the costs of the veterans' welfare and advocacy service of the RNZRSA.
4. The role and membership of the War Pensions Advisory Board be expanded to provide more robust, comprehensive and independent policy advice to the responsible Minister, on matters affecting the range and quality of services to veterans.
5. This expanded role includes monitoring, and reporting to the Government on, the implementation of the Government's decisions arising from this report.
6. If the roles of Secretary of War Pensions and Director of VANZ are not to be separated, the Secretary of War Pensions should not be the presiding member of the War Pensions Advisory Board.

4.3 New Zealand Viet Nam Veterans in Australia

The JWG recommends that:

1. VANZ develop an information kit, specifically for New Zealand veterans living in Australia, on the entitlements available to them, and the most effective ways of accessing those entitlements.
2. VANZ train Australian-based welfare officers for New Zealand veterans living in Australia, who can perform the role filled in New Zealand by RNZRSA and EVSA welfare officers.
3. Designated case managers in VANZ specialise in the requirements of New Zealand veterans living in Australia, including establishing relationships with Australian veterans' departments and organisations.
4. VANZ streamlines the processes for pre-approval and reimbursement of medical costs and, for New Zealand veterans living in Australia, align their documentation and processes as far as possible with the local Australian health systems.