



ATTORNEY-GENERAL

Departmental No. 33

Executive Council

Meeting No. 16

Minute Paper for the Executive Council

Subject

Royal Commissions Act 1902

Issue of Commissions by Letters Patent to:

Mr Naguib Kaldas APM
The Honourable James Sholto Douglas QC
Dr Peggy Brown AO

to inquire into defence and veteran death by suicide.

Recommended for the approval of His Excellency the Governor-General in Council that he issue Letters Patent in the attached form.

David Hurley
Governor-General

8 July 2021

Filed in the Records
of the Council

Michaelia Cash
Attorney-General

ENTERED ON RECORD by me in Register of Patents No.

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, page 37, on

8 July 2021

Secretary to the Federal Executive Council

ELIZABETH THE SECOND, by the Grace of God Queen of Australia and Her other Realms and Territories, Head of the Commonwealth

TO

Mr Naguib Kaldas APM,

The Honourable James Sholto Douglas QC, and

Dr Peggy Brown AO

GREETING

RECOGNISING the unique nature of military service, and the ongoing impact such service may have on the physical and mental health of defence members and veterans.

AND that as a community Australians value the contribution and sacrifice made by defence members and veterans in their service, and the sacrifice of their families.

AND that every death by suicide is a tragic event, and that there is an overrepresentation of defence and veteran deaths by suicide in Australia, and that this overrepresentation should be acknowledged and understood to ensure that learnings are made and to prevent future deaths by suicide.

AND the critical role played by, and broad concept of, families, carers, friends and others as the support network for defence members and veterans.

AND that government and non-government organisations including the Australian Defence Force (the ADF), the Department of Veterans' Affairs, ex-service organisations and the health care system provide important services (including mental health support services) and support for defence members, veterans and their families that are beneficial to wellbeing and whole-of-life care.

AND that Australia as a nation must take action to examine and expose all systemic issues and risk factors related to suicide, and implement actions to address the systemic issues and risk factors exposed.

AND that hearing from defence members, veterans, their families and others about their individual experiences will be a central contribution to your inquiry and these experiences can inform best-practice, strategies and reforms and can assist in prevention and healing.

AND all Australian Governments have expressed their support for, and undertaken to cooperate with, your inquiry.

AND that your independent inquiry, including its findings and recommendations, will provide a foundation for the future work of the National Commissioner for Defence and Veteran Suicide Prevention.

NOW THEREFORE We do, by these Our Letters Patent issued in Our name by Our Governor-General of the Commonwealth of Australia on the advice of the Federal Executive Council and under the Constitution of the Commonwealth of Australia, the *Royal Commissions Act 1902* and every other enabling power, appoint you to be a Commission of inquiry, and require and authorise you to inquire into the following matters:

- (a) systemic issues and any common themes among defence and veteran deaths by suicide, or defence members and veterans who have other lived experience of suicide behaviour or risk factors (including attempted or contemplated suicide, feelings of suicide or poor mental health outcomes);
- (b) a systemic analysis of the contributing risk factors relevant to defence and veteran death by suicide, including the possible contribution of pre-service, service (including training and deployments), transition, separation and post-service issues, such as the following:
 - (i) the manner or time in which the defence member or veteran was recruited to the ADF;
 - (ii) the relevance, if any, of the particular branch, service or posting history, or the rank of the defence member or veteran;
 - (iii) the manner or time in which the defence member or veteran transitioned from the ADF or transitioned between service categories;
 - (iv) the availability, accessibility, timeliness and quality of health, wellbeing and support services (including mental health support services) to the defence member or veteran, and the effectiveness of such services;
 - (v) the manner and extent to which information about the defence member or veteran is held by and shared within and between different government entities;
 - (vi) the reporting and recording of information, relevant to the mental and physical health of defence members and veterans, at enlistment and during and after service;

- (c) the impact of culture within the ADF, the Department of Defence and the Department of Veterans' Affairs on defence members' and veterans' physical and mental wellbeing;
- (d) the role of non-government organisations, including ex-service organisations, in providing relevant services and support for defence members, veterans, their families and others;
- (e) protective and rehabilitative factors for defence members and veterans who have lived experience of suicide behaviour or risk factors;
- (f) any systemic issues in the current availability and effectiveness of support services for, and in the engagement with, families and others:
 - (i) affected by a defence and veteran death by suicide; or
 - (ii) who have supported a defence member or veteran with lived experience of suicide behaviour or risk factors;
- (g) any systemic issues in the nature of defence members' and veterans' engagement with the Department of Defence, the Department of Veterans' Affairs or other Commonwealth, State or Territory government entities (including those acting on behalf of those entities) about support services, claims or entitlements relevant to defence and veteran deaths by suicide or relevant to defence members and veterans who have other lived experience of suicide behaviour or risk factors, including any systemic issues in engaging with multiple government entities;
- (h) the legislative and policy frameworks, administered by the Department of Defence, the Department of Veterans' Affairs and other Commonwealth, State or Territory government entities, relating to the support services, claims and entitlements referred to in paragraph (g);
- (i) any systemic risk factors contributing to defence and veteran death by suicide, including the following:
 - (i) defence members' and veterans' social or family contexts;
 - (ii) housing or employment issues for defence members and veterans;
 - (iii) defence members' and veterans' economic and financial circumstances;
- (j) any matter reasonably incidental to a matter referred to in paragraphs (a) to (i) or that you believe is reasonably relevant to your inquiry.

AND We direct you to make any recommendations arising out of your inquiry that you consider appropriate, including recommendations about any policy, legislative, administrative or structural reforms.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to have regard to the following matters:

- (k) the findings and recommendations of previous relevant reports and inquiries (including relevant coronial inquiries, the Productivity Commission *A Better Way to Support Veterans* inquiry (2019), and other relevant Royal Commissions and commissions of inquiry), including any assessment of the adequacy and extent of implementation of those recommendations;
- (l) the work of, and any relevant information and data provided to you by, the interim National Commissioner for Defence and Veteran Suicide Prevention or the National Commissioner for Defence and Veteran Suicide Prevention;
- (m) the support available to members of the defence forces of other countries and veterans of such defence forces, particularly in Canada, New Zealand, the United Kingdom, and the United States of America;
- (n) ways in which government and non-government organisations and the community could:
 - (i) address systemic risk factors relevant to defence and veteran death by suicide; and
 - (ii) better protect and support vulnerable defence members and veterans;
- (o) desirable support services for, and engagement with, families and others affected by defence and veteran death by suicide or who have supported a defence member or veteran with lived experience of suicide behaviour or risk factors;
- (p) opportunities to promote understanding of suicide behaviour and risk factors, and protective factors, within the ADF and veteran communities, and the broader Australian community.

AND We further declare that you are not required by these Our Letters Patent to inquire, or to continue to inquire, into a particular matter to the extent that you are satisfied that the matter has been, is being, or will be, sufficiently and appropriately dealt with by another inquiry or investigation or a criminal or civil proceeding.

AND We further declare that you are not required by these Our Letters Patent to make findings on the manner or cause of death in relation to a particular defence and veteran death by suicide.

AND, without limiting the scope of your inquiry or the scope of any recommendations arising out of your inquiry that you may consider appropriate, We direct you, for the purposes of your inquiry and recommendations, to consider the following matters, and We authorise you, as you consider appropriate, having regard to the date by which you are required to submit your final report, to take (or refrain from taking) any action arising out of your consideration:

- (q) the need to establish accessible and appropriate trauma-informed arrangements for the following people to engage with your inquiry and to provide evidence to you, and share information with you, about their experiences, recognising that some people may not wish to share their experiences:
 - (i) defence members and veterans with lived experience of suicide behaviour or risk factors;
 - (ii) families and others affected by defence and veteran death by suicide, or who have supported a defence member or veteran with lived experience of suicide behaviour or risk factors;
- (r) the need to focus your inquiry and recommendations on systemic issues, recognising nevertheless that you will be informed by individual experiences and may need to make referrals to appropriate authorities;
- (s) the need to establish mechanisms to facilitate the timely communication of information, or the furnishing of evidence, documents or things, in accordance with section 6P of the *Royal Commissions Act 1902* or any other relevant law, including, for example, for the purpose of enabling the timely investigation and prosecution of offences;
- (t) the need to ensure that evidence that may be received by you that identifies particular individuals as having been subject to inappropriate treatment is dealt with in a way that does not prejudice current or future criminal or civil proceedings or coronial inquiries or other contemporaneous inquiries;
- (u) the need to establish appropriate arrangements in relation to current and previous inquiries, in Australia and elsewhere, for evidence and information to be shared with you in ways consistent with relevant obligations so that the work of those inquiries, including, with any necessary consents, the testimony of witnesses, can be taken into account by you in a way that avoids unnecessary duplication, improves efficiency and avoids unnecessary trauma to witnesses;

- (v) the need to recognise and appropriately protect any intelligence information or operationally sensitive information obtained by you;
- (w) the need to establish appropriate arrangements with the heads of the relevant Australian intelligence entities for obtaining, storing, accessing, using, disclosing and returning intelligence information relating to an Australian intelligence entity.

AND We appoint you, Mr Naguib Kaldas APM, to be the Chair of the Commission.

AND We direct that the Chair be responsible for ensuring the effective, orderly and expeditious conduct of the inquiry in all its facets and, in discharging that responsibility, the Chair may give directions to other appointed Commissioners.

AND We declare that you are a relevant Commission for the purposes of sections 4 and 5 of the *Royal Commissions Act 1902*.

AND We declare that you are a Royal Commission to which item 5 of the table in subsection 355-70(1) in Schedule 1 to the *Taxation Administration Act 1953* applies.

AND We declare that you are authorised to conduct your inquiry into any matter under these Our Letters Patent in combination with any inquiry into the same matter, or a matter related to that matter, that you are directed or authorised to conduct by any Commission, or under any order or appointment, made by any of Our Governors of the States or by the Government of any of Our Territories.

AND We declare that in these Our Letters Patent:

Australian Defence Force or *ADF* has the same meaning as in the *Defence Act 1903*.

Australian intelligence entity means:

- (a) the Australian Secret Intelligence Service; or
- (b) the Australian Security Intelligence Organisation; or
- (c) the Australian Geospatial-Intelligence Organisation; or
- (d) the Defence Intelligence Organisation; or
- (e) the Australian Signals Directorate; or
- (f) the Office of National Intelligence.

defence and veteran death by suicide means the death of a defence member or veteran by suicide, or suspected suicide.

defence member means a member of the Defence Force (within the meaning of the *Defence Act 1903*).

Note: The Defence Force includes the Naval Reserve, the Army Reserve and the Air Force Reserve.

Department of Defence means the Department administered by the Minister administering the *Defence Force Discipline Act 1982*.

Department of Veterans' Affairs means the Department administered by the Minister administering the *Veterans' Entitlements Act 1986*.

head, of an Australian intelligence entity, means:

- (a) in relation to the Australian Security Intelligence Organisation—the Director-General of Security; or
- (b) in relation to the Australian Secret Intelligence Service—the Director-General of the Australian Secret Intelligence Service; or
- (c) in relation to the Australian Signals Directorate—the Director-General of the Australian Signals Directorate; or
- (d) in relation to the part of the Department of Defence known as the Australian Geospatial-Intelligence Organisation—the Director of that part of the Department; or
- (e) in relation to the part of the Department of Defence known as the Defence Intelligence Organisation—the Director of that part of the Department; or
- (f) in relation to the Office of National Intelligence—the Director-General of National Intelligence.

intelligence information means information:

- (a) that was acquired or prepared by or on behalf of an Australian intelligence entity in connection with its functions; or
- (b) that relates to the performance by an Australian intelligence entity of its functions; or
- (c) that identifies a person as being, or having been, a staff member (within the meaning of the *Intelligence Services Act 2001*) or agent of the Australian Secret Intelligence Service or the Australian Security Intelligence Organisation.

law enforcement or security agency means any of the following agencies:

- (a) the Australian Defence Force;
- (b) the Australian Federal Police;
- (c) the Australian Criminal Intelligence Commission;
- (d) the Department administered by the Minister administering the *Australian Border Force Act 2015*;
- (e) the Office of the Special Investigator;

(f) the police force of a State or Territory.

operationally sensitive information means:

- (a) information about information sources or operational activities or methods available to a law enforcement or security agency; or
- (b) information about particular operations that have been, are being or are proposed to be undertaken by a law enforcement or security agency, or about proceedings relating to those operations; or
- (c) information provided by a foreign government, or by an agency of a foreign government, where that government does not consent to the public disclosure of the information.

veteran means a person who has served, or is serving, as a member of the Permanent Forces (within the meaning of the *Defence Act 1903*) or as a member of the Reserves (within the meaning of the *Defence Act 1903*).

AND We:

- (x) require you to begin your inquiry as soon as practicable; and
- (y) require you to make your inquiry as expeditiously as possible; and
- (z) require you to ensure the inquiry is conducted in a professional, impartial, respectful and courteous manner, including appropriately managing any actual or perceived conflicts of interest; and
- (za) require you to submit to Our Governor-General an interim report that you consider appropriate not later than 11 August 2022, focusing on:
 - (i) issues requiring urgent or immediate action; and
 - (ii) any other matters you consider necessary or you consider should be referred to the interim National Commissioner for Defence and Veteran Suicide Prevention or the National Commissioner for Defence and Veteran Suicide Prevention; and
- (zb) require you to submit to Our Governor-General a report of the results of your inquiry, and your recommendations, not later than 15 June 2023.

IN WITNESS, We have caused these Our Letters to be made Patent.

WITNESS General the Honourable David Hurley AC DSC
(Retd), Governor-General of the Commonwealth of Australia.

Dated

8 July 2021



By His Excellency's Command

Attorney-General