

SENATE INQUIRY INTO TPI/SRDP COMPENSATION PAYMENT

Peter Thornton

16 May 2021

Foreign Affairs, Defence and Trade Committee
Department of the Senate
PO Box 6100
Parliament House
Canberra ACT 2600

Dear Chair and Committee Members,

SENATE INQUIRY INTO THE TPI / SRDP COMPENSATION PAYMENT

References:

- A. TPI Federation Abridged Research Paper, dated October 2019. (please see [here](#))
- B. TPI Federation Open Letter to the Prime Minister, regarding the Tune Review, dated 27 October 2019 (please see [here](#))
- C. Thornton's Letter to the Minister for Veteran's Affairs regarding policy and procedural failures pertaining to Incapacity Payments for MRCA and SRCA/DRCA recipients, dated 18 April 2021.

INTRODUCTION & EXECUTIVE SUMMARY

1. Thank you for conducting this important Senate Inquiry and for providing the Author an extension. It is important to state up front that whilst the Author has been awarded honorary life memberships with several Ex-Service Organisations, he does not hold an executive position. The Author remains fiercely independent in providing unbiased and untainted research and commentary surrounding matters pertaining to not least, Veterans' Superannuation & Compensation. As such, the views expressed in this submission are those of the Author, and the Author's alone.
2. The aim of this submission is not to regurgitate much of what is already written about the TPI Compensation. It instead builds upon the Author's previous research and the formal public documents produced by the TPI Federation. For convenience, those documents can be accessed at the links found Ref. A., and Ref. B to this submission.
3. The TPI Federation's research paper, to which the Author gave input, provides considerable insight into the history of the TPI Compensation Payment since the 1950s. It looks at other related aspects also, such as: the loss of spouse / dependent compensation; the interplay between compensation and means-tested welfare; the egregious offsetting applied to the Special Rate Disability Pension (SRDP); and how TPI Compensation stacks up with similar arrangements of our closest ally – the United States. The open letter to the Prime Minister provides insights into the Federation's and the Author's disquiet about the conduct of the supposed "independent" Tune Review. The Author encourages the Committee to read those References first, before continuing to read the main body of this submission.

The following summarises what is to follow:

- a. That from the Author's independent vantage point, the TPI Federation has only ever sought to structurally adjust, via s 24(4) of the VEA, the overall TPI Compensation payment as seen at Figure 1, using only the notional component breakdown, as described officially by others, as an analytical and defensible means for doing so.
- b. That the notional 'economic loss component' contained within the total TPI payment, now measures at just 62% of the gross National Minimum Wage (NMW), a fact that after 6 years, even the DVA Secretary finally conceded was correct (i.e., at February 2019 Senate Estimates stating "63%").

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- c. With all things being equal, a TPI and his/her family were far better off financially in the early 1980s than they are today, relative not only to Average Weekly Earnings (AWE), but also relative to the tax system that has incrementally marginalised the purchasing power and tax-free nature of TPI compensation.
- d. Clear evidence will be provided of how DVA officers not only misled the FADT Senate Committee, but also Prime Minister Turnbull. It will also be shown how their misleading information then fed into supposedly independent Reviews; Reviews that in turn developed confirmation biases in their “dark arts” analysis and recommendations.
- e. That as per the Author’s letter at Ref C., all comparative analyses of VEA TPI Compensation to that of SRCA/ DRCA/MRCA are fundamentally flawed. That is, because expert Legal opinion supports the Author’s contention that nonfeasance exists in DVA’s procedures and calculation of Incapacity Payments for Veterans of contemporary compensation schemes.
- f. That TPI Compensation, when analysed correctly and with respect to just the economic loss & 100% of a means-tested welfare entitlement, still falls well short of the recommendations of the Government’s own November 2020 ‘Retirement Incomes Review’. And ...
- g. That in addition to the TPI Federation’s 2019 recommendation of the provision of Gold Cards for TPI Veteran Spouses and Dependents, that the Committee consider the restoration of the Spouses’ Compensation Allowance, to not only recognise their own compensable loss, but to also ameliorate some of the effects of means-testing against.

GENERAL

Graphs Are Worth A Million Words.

4. Figure 1 provides an overview of the historical decline of TPI Compensation relative to Average Weekly Earnings (AWE).

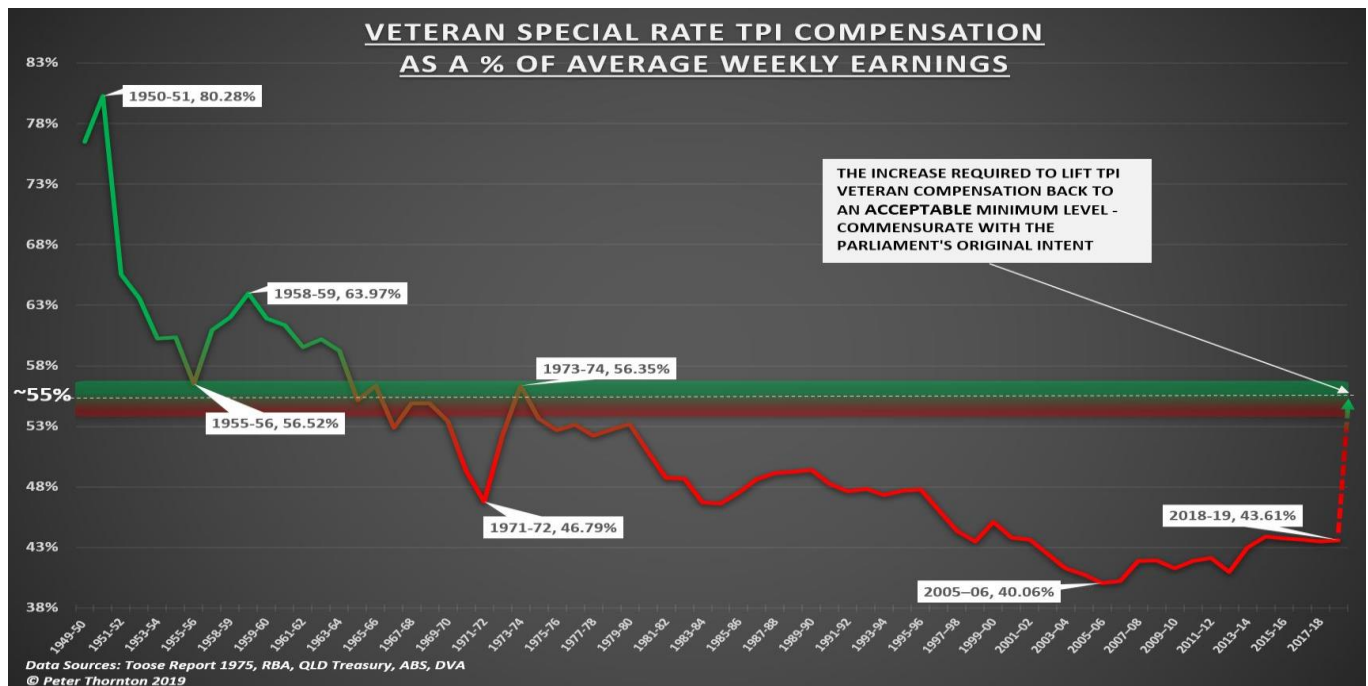


Figure 1

5. Contrary to the reprehensible misrepresentations made by the Tune Review, the construction of Figure 1 was not at all difficult, because it is basically just a ratio of TPI Compensation payments (annualised) as compared to 46 years of contiguous AWE data from the Reserve Bank of Australia (1950-1996). For simplicity and convenience, the Author appended and updated his downloaded copy of the RBA AWE dataset, with annualised AWE data published by the QLD Treasury.¹

¹ The RBA data provided the longest contiguous data, which importantly, spanned back into the pre-decimal period. The QLD Treasury provides annualised data that, when analysed carefully for compatibility, was then easily appended to the RBA data set.

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6. In addition to the research contained at Ref. A, Figure 1 is evidentiary of the Fair Work Commission's (FWC) own research paper 'Waltzing Matilda' that states:

'... Over the more than 100 years of the minimum wage (1907–2010), it has more than doubled in real terms (214%). By comparison, movements in real gross domestic product (GDP) per person have increased four and a half times (454%), while real average weekly earnings (AWE), have increased nearly four times (394%)'²

7. The FWC statement is a sobering thought when one considers the current plight of TPI Veterans and their families; the value of whose compensation alone has diminished considerably compared to community prosperity; prosperity that arguably rests on the sacrifice of all those who served to defend the freedoms Australia enjoys.

8. Figure 2 is an extension of Figure 1, showing not least, the significant decline & depletion in Spouse Compensation.

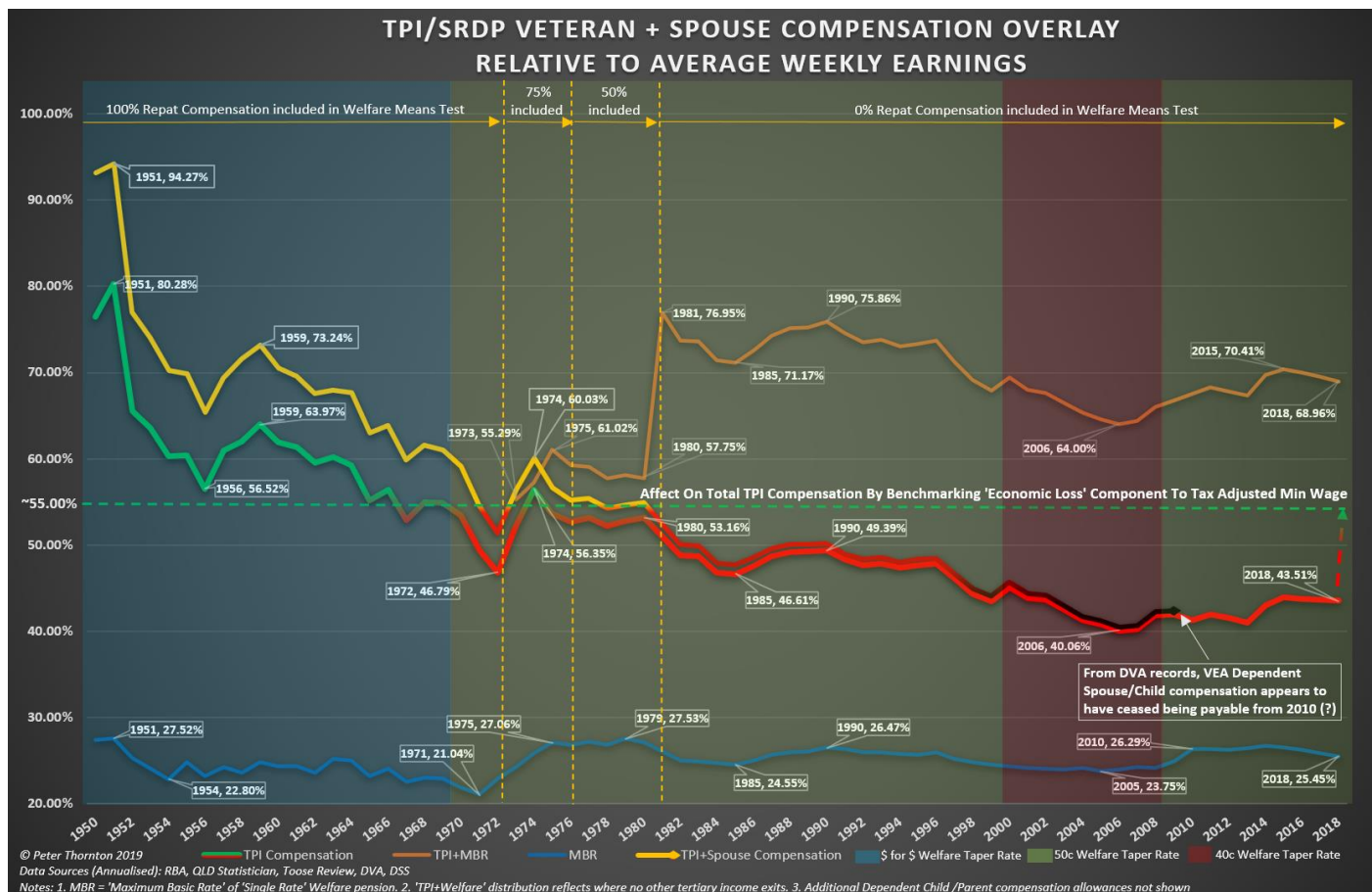


Figure 2

9. Whilst Figure 2. has a lot of moving parts, the Author makes no apologies, because in the first instance, it was part of a retaliatory response to the confirmation bias³ of the Tune Review; a bias so evident in the once only meeting that the TPI Federation and the Author had with the Reviewer in July 2019.⁴

10. With all things being equal, even with the overlay of 100% of a means-tested welfare pension, Figure 2. clearly illustrates that a TPI Veteran and his/her family were, in relative terms, much better off financially in the early 1980s than they are today. This is not only relative to AWE, but also relative to the significant changes in taxation over time.

² <https://www.fwc.gov.au/waltzing-matilda-and-the-sunshine-harvester-factory/historical-material/100-years-min-wage-stat-compare>

³ Please see here for an explanation of what Confirmation Bias is: https://en.wikipedia.org/wiki/Confirmation_bias

⁴ As an Independent Researcher and Commentator, the TPI Federation requested my attendance at this meeting to help assist its contingent; namely the TPI Federation President, Federation Vice President, and a Director from the ACT TPI Association. It was clear that Mr. Tune was already heavily influenced by DVA / KPMG dogma.

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11. Indeed, in 2012, the significant upwards shift in the non-taxable threshold from \$6,400 to \$18,200 only served to immediately marginalise the tax-free nature of TPI compensation. More recent and prospective changes to the tax system from 2017 have and will exacerbate the effects on a TPI's purchasing power even further.

12. Figure 2 also attempts to capture and layer TPI Compensation over the underlying changes in the taper rate for means-tested welfare (i.e., Service/Age/Disability pensions), whilst at the same time capturing from the mid-70s to the early-80s, the effects of the incremental removal of the means-test from all Veterans' compensation payments (i.e. both the 'General Rate' and 'Above General Rate').

13. The brown line projection is the final summation of the TPI Compensation Payment and the blue line reflecting a 100% of a single rate Welfare Pension. As can be seen, the dominant factor in the continued decline is directly attributable to the underlying erosion of the TPI Compensation Payment. This is primarily because it not currently benchmarked.

14. Figure 2 also attempts to illustrate how the Spouse's Compensation Payment (i.e., the yellow line projection superimposed (added) to the underlying TPI Compensation Payment) was never 'maintained or enhanced'⁵ by DVA, but instead, was allowed to wither on the vine, where in 2010, it appears to have magically disappeared from DVA's payment records altogether. Commentary about Spouse's compensation will be provided in a later section.

15. Figure 2 is also punctuated by the underlying crimson column, which represents a short period during which the taper rate for welfare provisioning, was 40 cents. The critical point here is that TPI Veterans who were granted Invalidity Service (ISP) or Disability Support Pensions (DSP) during the period 2000-2009, will suffer when they transition from ISP / DSP to age related Service/Age pensions, because they are then automatically subject to the new taper rate of 50 cents where tertiary income of the Veteran or the spouse exists, representing an immediate 20% reduction to their welfare bottom line.

TPI Compensation Payment Component Breakdown

16. Contrary to the false imputation made by the Tune Review, it has always been the Author's observation, that the TPI Federation has only ever sought to effect a structural increase to the overall compensation payment itself. In doing so, the Federation made specific recommendations to the Prime Minister and/or the Government to amend the dollar figure at s24(4) of the VEA legislation with a new dollar figure. It used by reference, the defensible argument of a component breakdown, as described officially by others, as seen in Figure 3.

**SPECIAL RATE TPI COMPENSATION IS MADE UP OF TWO NOTIONAL COMPONENTS -
NAMELY: 'PAIN & SUFFERING' AND 'ECONOMIC LOSS'**

Justice Toose, 'The Toose Report', 1975 - Conclusions and Recommendations, page 305-6
'The present war pension structure should be replaced by a new structure incorporating two separately identifiable components, namely: (a) disablement pension; and (b) income supplement' ... AND ... the assessment should take account of the following other possible effects: (a) pain and suffering; (b) loss of amenities and expectation of life; and (c) economic loss.'

Mr Campbell – Acting secretary DVA (Tuesday, 1 June 2004 Senate Estimates — Foreign Affairs, Defence and Trade):
"..... The special rate is broken into two components: pain and suffering compensation, which is up to 100 per cent of the general rate; and economic loss, which is Above the General Rate."

Mr Billson (Dunkley—Minister for Veterans' Affairs and Minister Assisting the Minister for Defence) - First Reading (Thursday, 20th September 2007):
".....Currently there are two components in the calculations for special rate and intermediate rate disability pensions. The general rate provides compensation for non-economic loss or pain and suffering, while the Above General Rate provides compensation for economic loss."

Senator Ellison (Minister for Human Services) Second Reading Speech (20th September 2007):
"... Currently there are two components in the calculations for Special Rate and Intermediate Rate disability pensions. The General Rate provides compensation for non-economic loss or pain and suffering, while the Above General Rate provides compensation for economic loss."



The Australian Federation of Totally & Permanently Incapacitated Ex-Servicemen & Women Ltd
(Incorporated in the ACT)

Figure 3⁶

⁵ See here for DVA's KPI 'maintain and enhance' <https://www.dva.gov.au/about-us/overview/our-purpose>

⁶ Reprinted with kind permission of TPI Federation.

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17. In prosecuting the case, the Federation often used the analysis as seen at Figure 4. In various iterations it provided the component breakdown, which logically compared the 'Economic Loss Component' to that of the gross / tax-adjusted National Minimum Wage (NMW). The Federation took the moral high ground of using Australia's lowest arbitrated wage standard as a legitimate means of doing so.

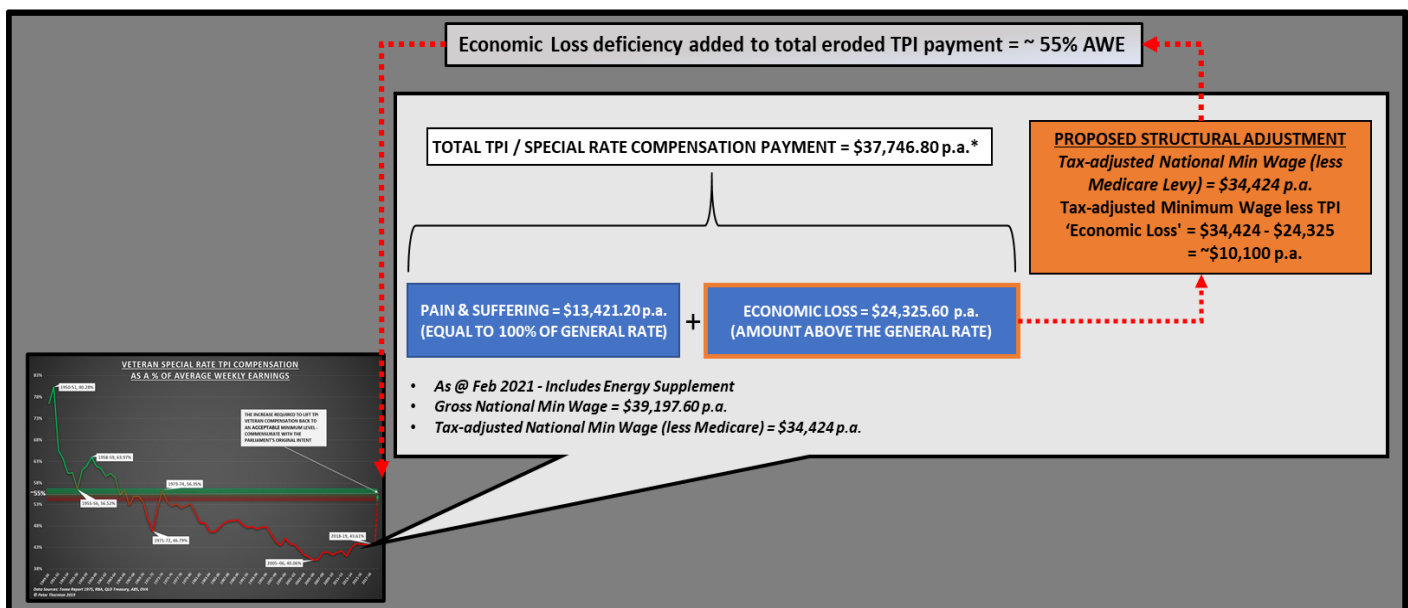


Figure 4

18. Over time, the concepts contained within Figure 4 were used to bring that analysis up to date, not only by analysing the component breakdown, but by illustrating the feedback loop that adds the identified deficiency to the base in order to structurally lift and restore the total payment back to a level that the Federation considers commensurate with Parliament's original intent.

After 6 Years, The DVA Secretary Has An Epiphany, & Finally Concedes An Inconvenient Truth



Figure 5 – YouTube of Senate Estimates Q&A (please click the image to launch video)

19. The video link at Figure 5 captures in part the February 2019 Senate Estimates Q&A between NSW Senator Jim Molan AO, DSC and DVA Secretary Ms. Liz Cosson AM, CSC. The Secretary's testimony speaks volumes about the TPI Federation's rightful claim. However, after eight (8) years later, the question remains: Why then, hasn't the PM's statement of 2nd April 2019 of a 'compelling case' not been fixed?

20. Indeed, when the Committee reflects upon the contents of Ref A, Ref B and the foregoing, then one could be forgiven for wondering why we are still here, given the Prime Minister's explicit acknowledgement of the 'Compelling Case' and the clear analysis provided over time by the Author and the TPI Federation. After eight years, it is reprehensible that the "economic loss" for TPI Veterans is still just (now) 62% the gross minimum wage.

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Some Background History Of The TPI Federation's Claim – The Author's Observation

21. In 2009, and after the Harmer Review had delivered its report, the TPI Federation mounted a campaign to have the base of TPI Compensation payment structurally adjusted by the same percentage adjustment that the Harmer Review had recommended for Welfare provisioning. DVA and the Minister (i.e. Alan Griffin) continued to reject the Federation's claim, citing that Harmer was purely "about welfare, and not compensation".

22. As an independent researcher and commentator⁷, the Author studied the Department's rejection and agreed that it was not good policy to equate, or rate adapt, compensation with that of welfare. Having considerable empathy for the plight of TPI Veterans, the Author undertook research into the TPI Compensation matter and proposed a new strategy and policy platform, which on presentation at its March 2013 Congress, was accepted by the TPI Federation.

23. The Federation mounted its campaign and engaged widely in a bid to have TPI Compensation restored to a level that it considered to be commensurate with the Parliament's original intent. However, this rightful claim was met by DVA's derision, obfuscation and equivocation, where using the old bureaucratic "One-Two"; the bureaucracy set about changing language and concepts in order to try and extricate itself out of the snare. Outrageously, DVA backflipped and asserted that means-tested welfare was now compensation!?

24. Over time, and in response to the Federation's rightful campaign, the Department started to deliver misleading information, not only to ESOs and Veterans, but to Members and Senators of the Parliament itself. Indeed, in support of the Federation, Mr. Andrew Wilkie MP kindly asked Prime Minister Turnbull a question, as can be seen at Figure 6.



Mr WILKIE (Denison) (14:18): My question is to the Prime Minister. Prime Minister, the TPI Federation has written to you repeatedly, seeking a resolution to the dreadful situation where about 28,000 totally and permanently incapacitated veterans have seen their economic loss compensation fall to just 65 per cent of the minimum wage. Prime Minister, given the gravity of this issue, and the Parliamentary Budget Office's validation of the independent analysis supporting the claim by the TPI Federation, will you now take personal responsibility and intervene to facilitate an immediate increase of \$176 a week in the economic loss compensation payments to Australia's TPI veterans?

Mr TURNBULL (Wentworth—Prime Minister) (14:19): I thank the honourable member for his question. My grandfather was a member of the TPI Federation, and I know well the work of the federation and respect the advocacy they provide, particularly that of TPI Federation President Pat McCabe. All Australians are immensely proud of our men and women in uniform. We thank them for their service and we owe them a debt we can never repay. Ensuring our veterans have adequate support and compensation is a vitally important role of government and one to which I am personally deeply committed. In gratitude for their service, the government provides \$12 billion annually in pensions and services to veterans and their families. We best honour the diggers of 1917 by providing the best support in every respect to the servicemen and servicewomen, and the veterans and their families, of 2017.

The honourable member has raised the subject of the TPI pension in relation to the minimum wage. I can advise the honourable member that the TPI pension is currently \$1,373.80 per fortnight. I'm further advised that more than 80 per cent of TPI pension recipients also receive income support payments, known as the service pension, of up to \$894.40 per fortnight. It's important to recognise that the TPI pension is part of a package of benefits available to veterans, which can also include additional income support payments and medical coverage for all health conditions through the gold card. In recognition of this important issue, I've asked the Minister for Veterans' Affairs to work with his department and the TPI Federation to analyse the basis of the federation's research and the data used in it. I want to thank the honourable member for raising these important issues and the TPI Federation for its ongoing role in representing the interests of Australia's veterans.

My government will always do the right thing by our veterans. I recognise there are various components to these entitlements and this compensation, but I'm less interested in the definitional distinctions, which as a former serving officer the honourable member would no doubt have a keen insight into, than I am in making sure our veterans have the support they need. I'm also interested in making sure they have financial support that is appropriate and commensurate with their service, that if they need medical support and treatment it is provided, and that if they need psychological support for mental illness it is provided too. I can assure the honourable member and all our veterans that my government is committed to them, just as they were committed to our nation in their days in uniform.




Figure 6 – Minister Turnbull's Answer to Mr. Wilkie MP, HoR 17 Oct 2017⁸

⁷ The reader may remember the Author's economic analysis and the Retirement Pay / Superannuation Erosion Graph, which was widely used by ESOs and individuals alike in helping to prosecute a rightful change to the indexation of DFRDB and MSBS retirement pay. DFRDB won the day in 2014, but unfortunately, MSBS recipients had their human rights breached and remain disadvantaged. Please see the erosion graph here: http://tiny.cc/Mil_Super_Erosion_Graph

⁸ https://www.aph.gov.au/Parliamentary_Business/Hansard/Hansard_Display?bid=chamber/hansardr/d07cb8b7-ae53-4f41-9cdf-34197a2b5bf2/&sid=0070

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25. Even though the Federation and the Author had on previous occasions briefed Ms Cosson and her subordinate officers to aid their understanding and to appreciate their folly with respect to the breakdown and distribution of Welfare. But just a few short days later, DVA just couldn't help itself, because it again doubled down and delivered the same misleading information to Senator Lambie during Senate Estimates. Senator Lambie asked a range of questions and was incredulous to some of the answers provided, as can be viewed in the video at Figure 7.



Figure 7 – YouTube of Senate Estimates Q&A (please click on the image to launch video)

26. The testimony delivered on that day was outrageous, because the Officer concern knowingly misled Senator Lambie and the Committee claiming that “80-85%” of TPI Veterans were in receipt of 100% of a means-tested welfare pension. This Officer, aided and abetted by those around her, continued to conflate compensation with other things.

27. The Officer that delivered this testimony was the Head of the Division responsible for all DVA compensation. Yet even after numerous engagements, prior and after this day, the ineptitude of this Officer and the Department was palpable, because it was clear they had no idea of what the welfare distribution was for TPI Veterans. In addition, the Officer concerned clearly had no idea that approximately 400 MRCA Veterans were in receipt of the MRCA equivalent of TPI – i.e. the Special Rate Disability Pension (SRDP). The officer attempted to conflate other State based entitlements as part of the old dogma of a “compensation package”. The fact remains that those concessions were hard won over many years by respective State/Territory TPI Associations and had nothing to do with DVA. As Senator Lambie rightly retorted, “... the same concessions that Age Pensioners get.”

28. Even though Ms Cosson and her subordinate officers were briefed several times about their folly, the Author and the TPI Federation were astounded to see DVA becoming addicted to its own BS⁹ flavoured KoolAid®, and that at every opportunity, it would try and serve it up to anybody prepared to consume it. 12 months later they were still trying to dish it up again, by misleading Senator Abetz, as can be seen at Figure 8.

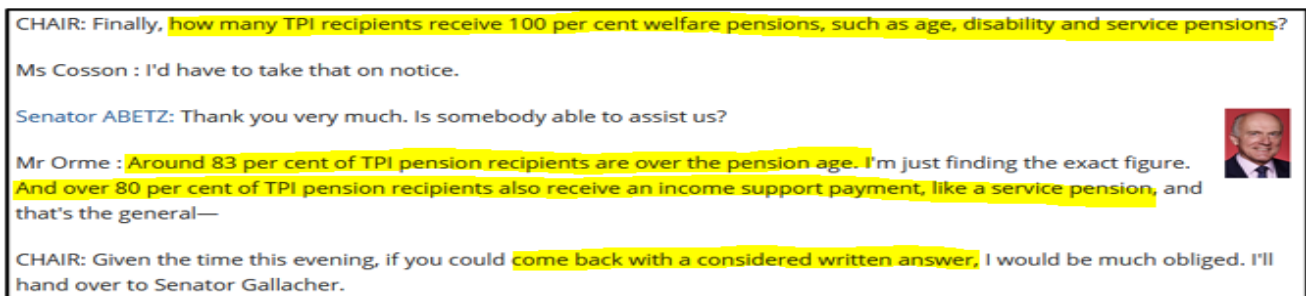


Figure 8 – Hansard Excerpt Senate Estimates 24 Oct 2018

29. However, Senator Abetz was gracious with his time, and so he was properly briefed by the Federation. He clearly understood the nuances of the case at hand, and therefore, he could detect a funny taste in the KoolAid®, thereby forcing the Department to put its answer in writing, as can be seen at Figure 9.

⁹ In the context of this submission, BS = ‘Bureaucratic Sugar’

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Answer
The TPI pension is paid to a person who, because of their incapacity resulting from eligible service, is unable to resume or to continue in remunerative work for periods aggregating more than eight hours per week. It is not affected by income or assets tests.

Most TPI recipients are eligible for an income support payment from either DVA or DHS in addition to their TPI payment. Examples include Service Pension, Age Pension and Newstart Allowance. These forms of income support are means tested against a person's income and assets, including the partner's income and assets for members of a couple. The income and assets tests for income support payments can reduce the rate of the income support payment, including reducing it to nil rate.

To receive the maximum rate of service pension, income must be below \$172 per fortnight if single or \$304 per fortnight for a couple combined. Assets, excluding the family home, must be less than \$258,500 if single or \$387,500 for a couple combined (higher limits apply for non-homeowners). Home owner individuals can hold assets valued at up to \$564,000 and couples \$848,000 and still be eligible for part Service Pension.

As at June 2018:

- 41.1 per cent of TPI recipients receive the maximum rate of service pension or social security age pension paid by DVA. A further 30.9 per cent receive a part rate.
- 5.4 per cent of TPI recipients receive DHS income support payments. DVA does not hold data on the rate of a person's DHS income support payment and so is unable to confirm what proportion of those TPI recipients receive the maximum rate of payment.
- In total, 77.4 per cent of TPI recipients receive some form of income support payment. 22.6 per cent receive no income support payment.

Figure 9 – Answer to Senate Estimates Questions on Notice - 24 Oct 2018¹⁰

30. The written answer finally put truth to the lie, confirming the validity of the TPI Federation's long-held claim, as underpinned by the Author's 'Welfare Distribution Chart'.

31. To the Author's knowledge, DVA has never corrected the public record for all those previous misleading indiscretions. Presumably, DVA remains in breach of not only the APS Code of Conduct, but Senate Rule No. 13 also (i.e. 'To give evidence that is not false or misleading').¹¹

Lindsay Tanner's "Dark Arts"

32. Most Committee Members will no doubt remember The Hon. Mr. Lindsay Tanner MP, who amongst numerous roles, was the former Finance Minister in the Rudd Labor Government. Mr. Tanner retired from Parliament in 2010 and went on to write a number of books about his experiences. Figure 10 provides an excerpt from his book 'Sideshow: Dumbing Down Democracy', where in part he reveals his use of the "Dark Arts".

As a shadow minister and minister for finance, I became adept at these dark arts, using some of what are now the standard tricks employed to maximise political appearances: switching between cash and accrual accounting; using nominal, real, or proportion-of-GDP indicators of spending, according to which indicator suited the argument better; classifying yearly spending as capital; making commitments beyond the forward-estimates years; and spending money at the end of the financial year when you know you're on track to exceed the original budget estimates. Some journalists are aware of these devices; but, as they need the truth to be inflated just as much as politicians do, they usually ignore the trickery. Political opponents point out the sleight of hand involved, but few in the media take any notice.

Figure 10¹²

33. When the Committee sees and reads the overlays and embellishments on images over the next few pages, then hopefully they will come to appreciate that there are many graduates from Sir Humphrey Appleby's School of Dark Arts.

¹⁰ https://www.aph.gov.au/Parliamentary_Business/Senate_estimates/fadt, Question No. 3, Hansard pg. 116, dated 24 Oct 2018. Senator Abetz tabled two documents that night, as found here: http://tiny.cc/Sen_Abetz_Tabled_TPIDocs

¹¹ https://www.aph.gov.au/About_Parliament/Senate/Powers_practice_n_procedures/Senate_Briefs/Brief13

¹² 'Sideshow: Dumbing Down Democracy', © Lindsay Tanner, 2011-2012, pg.107

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The Productivity Commission - A “Yes Minister” Review

34. Along with DVA’s commercial enabler - KPMG, the subsequent Reviews by the Productivity Commission and Tune seem to have a taste for DVA’s BS flavoured Koolaid®, developing ‘confirmation biases’¹³ and using the old bureaucratic “One-Two” of changing language and concepts so as to continue to perpetuate misnomers and flawed analysis that only serves to harm Veterans.

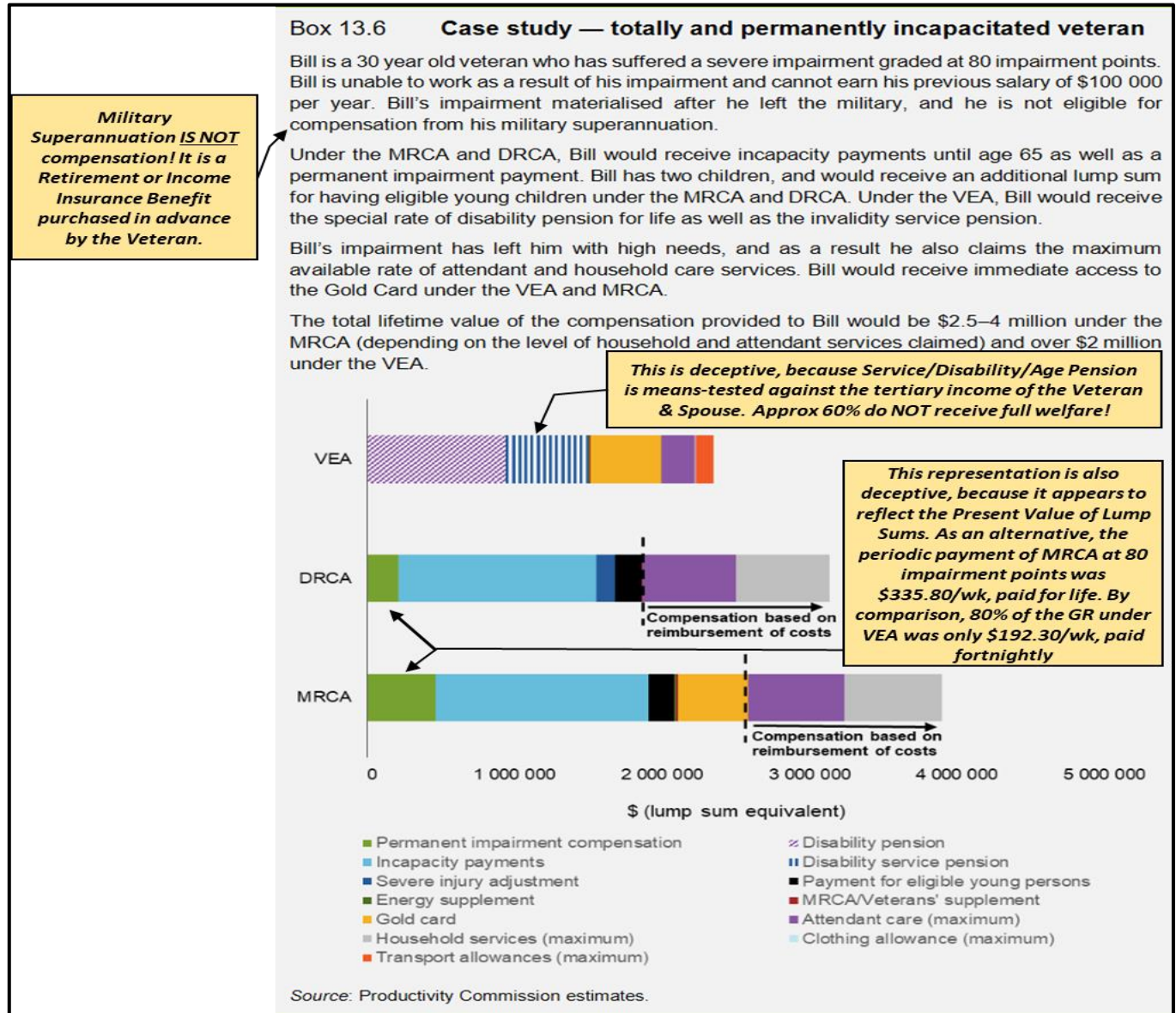


Figure 11 - Source: based on Productivity Commission data, *A Better Way to Support Veterans*, Report No. 93 – Vol 2 pg.598

35. Over the last few years it has been the Author’s observation that the Bureaucracy has been on a tear, where quite inappropriately, surreptitiously changing concepts and language whilst conflating with impunity numerous entitlements with paid-for benefits (e.g. Superannuation). All of this while continuing to falsely assert that everything is compensation, or part of the “compensation package”.

36. The critical observation from Figure 11., is the Blue Hashed area, representing means-tested welfare in the VEA projection. This is a means-tested welfare provision so it can be reduced or completely extinguished by any tertiary income and/or assets of the Veteran or Spouse. Indeed, 23% of TPIs receive no welfare supplementation at all. No such deleterious reduction applies to SRCA/DRCA/MRCA recipients, because the quantum of their compensation is not subject to means-tested welfare provisioning.

¹³ https://en.wikipedia.org/wiki/Confirmation_bias

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37. Whilst not applicable in the example at Figure 11, the Productivity Commission nevertheless reveals in the first paragraph of Figure 11., the flawed premise and egregious policy setting that subjects Veterans to superannuation offsetting for compensation. But as can be seen in Figures 12 & 13, Veterans clearly ‘purchased’ a benefit that included any range of benefits including retirement pay, ‘comprehensive (income) insurance’ - in the form of a superannuation invalidity pension, or a death benefit where applicable. The Author strongly contends that Superannuation is NOT compensation as the Productivity Commission and the bureaucracy asserts, and certainly not for discrete retirement benefits that were earned and purchased in their own right but are now used in egregious offsetting for compensation purposes.

D.F.R.D.B. Scheme

2. The Defence Force Retirement and Death Benefits Scheme is a benefit promise occupational superannuation scheme for members of the Defence Force.

3. A composite flat rate of contribution of 5.5 per cent of pay to purchase these benefits which are met by a special appropriation from Consolidated Revenue is paid by all members serving on continuous full-time service for a period of not less than one year.

4. There is no qualifying period for eligibility for ‘in service’ benefits and the cause of death or invalidity need not arise out of or in the course of employment. Thus, a benefit purchased under the Defence Force Retirement and Death Benefits Act is payable in addition to Employee Compensation or Repatriation benefits, for example.

Figure 12 - Source: Annual Report to Parliament – DFRDB Authority - 1 July 1974 to 30 June 1975, pg.1

3. The aim of the Scheme is to provide a form of comprehensive insurance for members of the Defence Force against the risks of invalidity and death during service as well as to provide benefits on retirement. The Scheme provides cover for the family, paying benefits to eligible dependants in the event of the death of a contributing or recipient member.

Figure 13 - Source: DFRDB Authority Circular – 1973/7, dated 2 Aug 1973, pg. 3

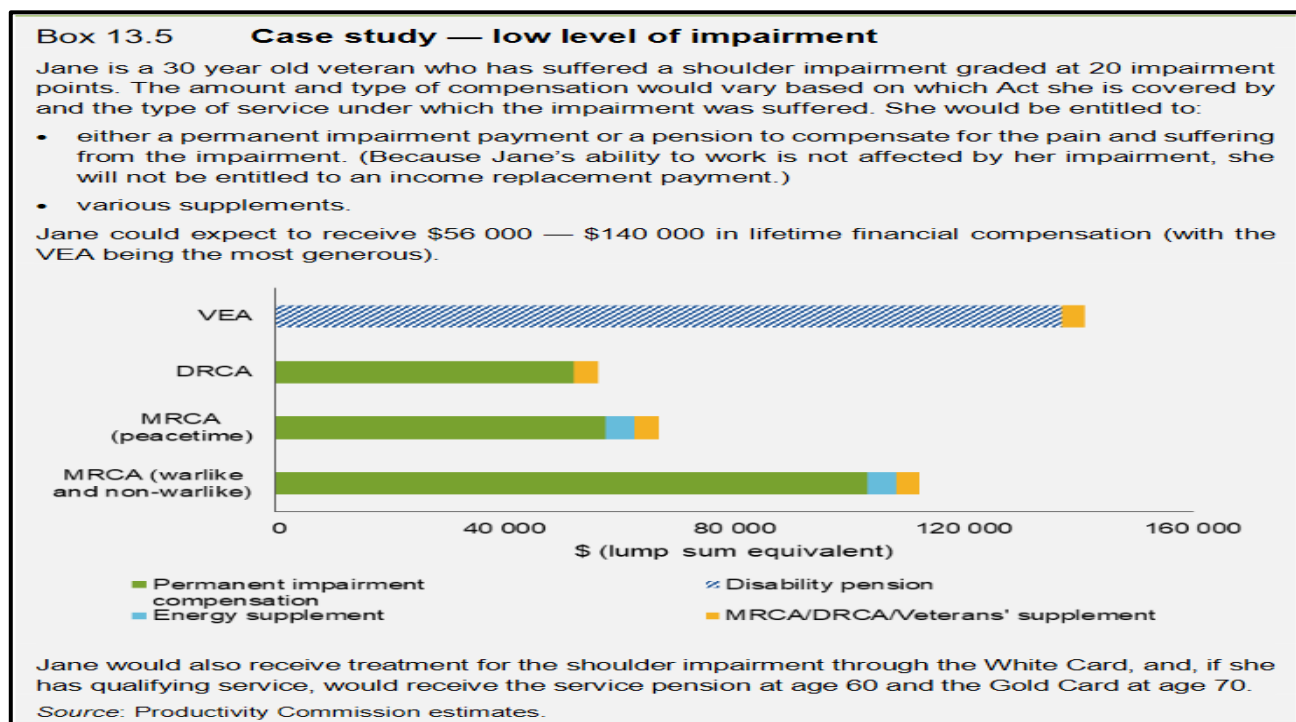


Figure 14- Source: Productivity Commission data, A Better Way to Support Veterans, Report No. 93 -Vol 2 pg. 599

38. On the back of the Author’s yellow note about the differences in periodic payments between VEA and MRCA, as seen in Figure 11., the Committee might start to see that something is definitely “Crook in Tullarook” when they gaze upon Figure 14. This is because the VEA projection is not a lump sum Present Value, like that of the actuarially derived lump sum figures seen in the DRCA / MRCA projections.

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39. Without getting into the definitions and technicalities of the “Dark Arts” (i.e. Cash Flows, Future Values, Present Values, and Discount Rates etc), the reader can, with respect to the example given in Figure 14, quite simply discern the bureaucratic deception, by just comparing the basic published information contained in DVA’s payment records for September / November 2016, where the starting fortnightly payments for 20% of the General Rate under VEA, was \$101.92/fortnight¹⁴, as compared to that of the Permanent Impairment payments provided under the MRCA (Warlike), which was \$74.53/week ... OR ... \$149.06/fortnight!¹⁵

40. Notwithstanding the application of the “Dark Arts” here, contrary to what the Productivity Commission has asserted, VEA is NOT necessarily more generous. As can be seen at Figure 15, it all depends!

The Blackhawk Tragedy - Sadly, It Become A Nefarious Opportunity To Save Money

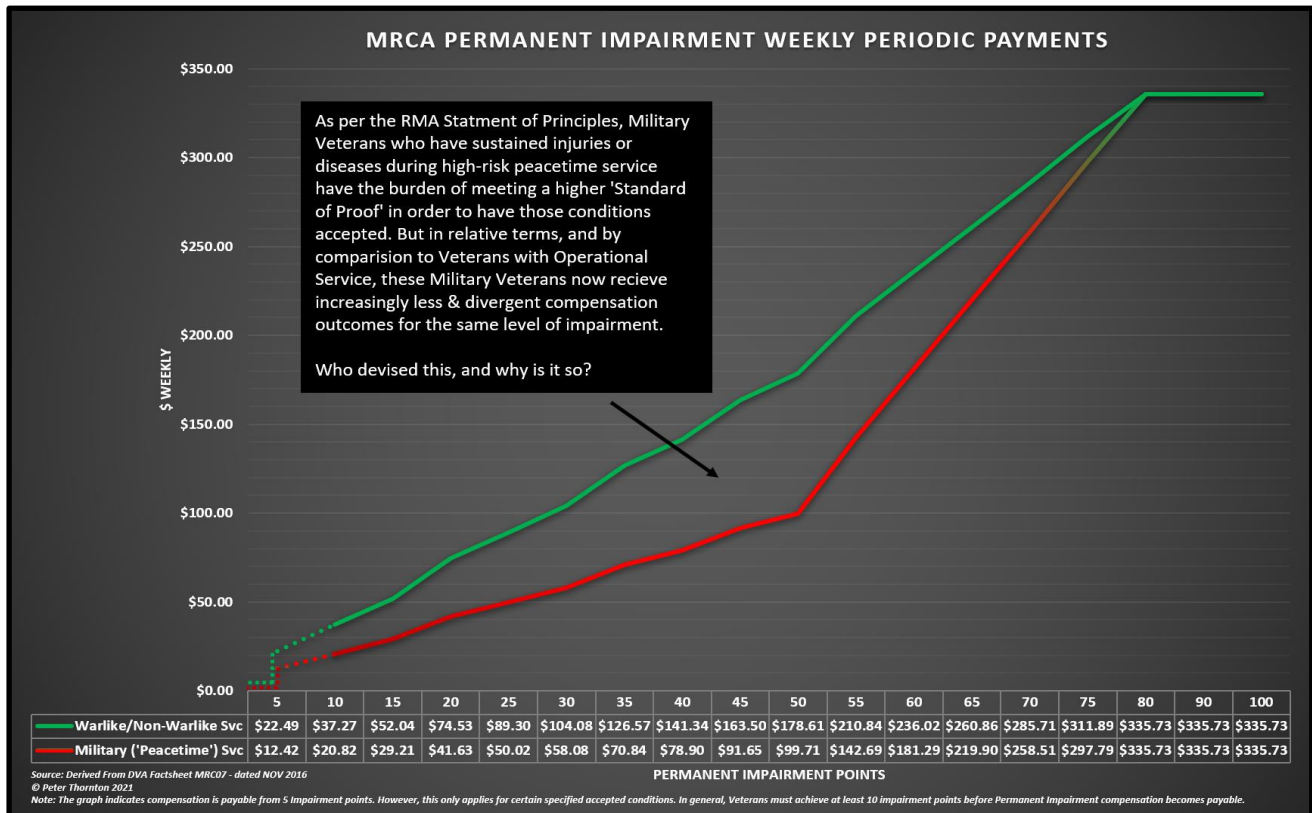


Figure 15

41. The Committee will no doubt remember the tragic events surrounding the 1996 Blackhawk Helicopter accident, that claimed 18 lives and severely injured 12 others. The Author knew a number of the Operators who were killed on that fateful day.

42. On the back of the 192 lives lost at East Sale in Victoria (aka Death Valley¹⁶) and the 24 Veterans killed at Kapooka in 1944, the Blackhawk accident was arguably one of the most defining moments in Australian military peacetime history, where the accident revealed and highlighted the inadequacies of compensation arrangements for contemporary Military Veterans, who whilst assuming great risk daily in training for war, were covered by an inadequate compensation scheme (i.e. SRCA).

43. As the record shows, the Government and Parliament had to respond to the immediate backlash of the media and the public when an awareness of the paltry sums in compensation that would be afforded to surviving families and/or the less than favourable compensation arrangements for the 12 Veterans who had survived, but who were seriously and

¹⁴ Please see here for a snip from the Sep 2016 Pension Payment rates http://tiny.cc/VEA_20Percent

¹⁵ For quick reference, the MRCA (Warlike) payment figure can be found in the data table at Figure 16.

¹⁶ Former CDF General Angus Campbell AO, DSC, stated in a documentary commemorating 100 years of the RAAF, that more lives were lost in training at East Sale than in the South-West Pacific during WW11.

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permanently injured. The Author understands that Cabinet made special ex-gratia payments to the families and soldiers affected.

44. With the VEA as a basis for comparison, the policy and data that underpins Figure 15 begs a serious question as to who devised such a regressive compensation scheme such as MRCA, where in relative terms to one cohort of Veterans (i.e. Warlike/Non-warlike), the scheme requires a higher burden of proof on the other cohort, whilst incrementally paying less compensation as one's same level of impairment increases to 50 impairment points, and where the quantum in compensation does not finally equate until 80+ impairment points is reached.

45. Whilst this matter is not strictly applicable to the Terms of Reference of this Inquiry, it nevertheless affects all those who may wish to consider SRDP as a viable compensation pathway. As per the Author's testimony in Canberra at the DRCA Inquiry, it is recommended that the Committee seriously consider removing the divergence as shown in Figure 15, so that MRCA once again reflects the same equitable compensation principles that underpin the VEA.

The Tune Review – A “Yes Prime Minister” Review

46. The conduct of the Tune Review was not much different. From the Author's standpoint, Tune was no doubt a “Yes Prime Minister” Reviewer of prearranged agendas and confirmation bias. Indeed, and as three TPI Federation Executives could readily attest, Tune outrageously misrepresented what the Author said in their meeting with him, so that he could summarily dismiss the Author's/Federation's analysis in favour of perpetuating DVA's biases and his own “Yes Prime Minister” narrative.

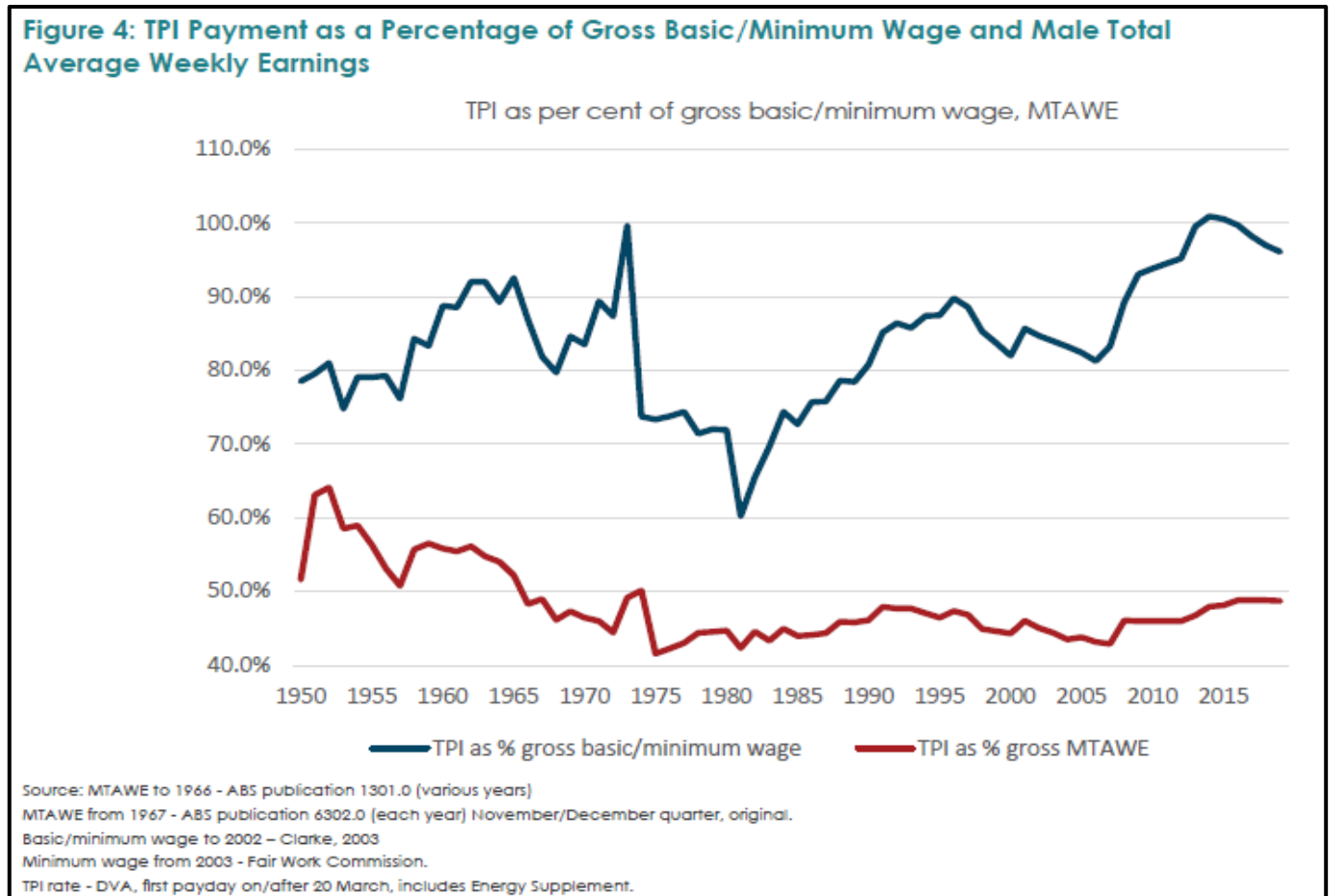


Figure 16¹⁷

47. But the Author cautions the reader when looking at “eye-candy” charts, because if one reflects carefully on the blue line distribution seen in Figure 16, then you may rightly question how Tune reconciles that in 1950 his chart suggests that TPI compensation, as a % of gross basic/minimum wage, was approximately 78% , but where Justice Toose who

¹⁷ ‘Independent Review into the TPI Payment’, Mr David Tune AO PSM, Fig 4. pg.17

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undertook an extensive review of several years duration, provides a table that clearly shows that the TPI Compensation Payment was 104% of the Basic Wage, as seen in Figure 17? Clearly, it was an attempt to hoodwink those who are not well acquainted with the subject material.

	<i>Special Rate</i>	<i>Special Rate as % of wage Index</i>		<i>Special Rate</i>	<i>Special Rate as % of wage Index</i>
1917	4.20	66	1948	10.60	93
1918	4.20	64	1949	10.60	85
1919	4.20	58	1950	14.00	104
1920	8.00	93.5	1951	17.50	99
1921	8.00	98	1952	17.50	81
1922	8.00	100	1953	18.50	79
1923	8.00	99	1954	18.50	79
1924	8.00	95	1955	19.50	83
1925	8.00	95	1956	19.50	79
1926	8.00	91	1957	22.00	86
1927	8.00	9.1	1958	23.00	88
1928	8.00	9.1	1959	24.50	89
1929	8.00	88	1960	25.50	92
1930	8.00	92	1961	26.50	92
1931	8.00	115	1962	26.50	92
1932	8.00	123	1963	27.50	95
1933	8.00	125	1964	28.50	92.5
1934	8.00	121	1965	28.50	92.5
1935	8.00	121	1966	30.50	93
1936	8.00	118	1967	30.50	82
1937	8.00	114	1968	33.50	87.5
1938	8.00	104	1969	36.00	91
1939	8.00	101	1970	38.00	86
1940	8.00	100	4/71	39.00	90
1941	8.00	93	9/71	42.50	90
1942	8.00	89	4/72	44.50	94
1943	9.60	100	9/72	48.00	93
1944	9.60	100	12/72	51.10	99
1945	9.60	100	1973	55.60	91
1946	9.60	99	3/74	60.10	99
1947	10.10	95	11/74	64.10	93

Figure 17 – Toose Report – 1975, Table A, pg. 660

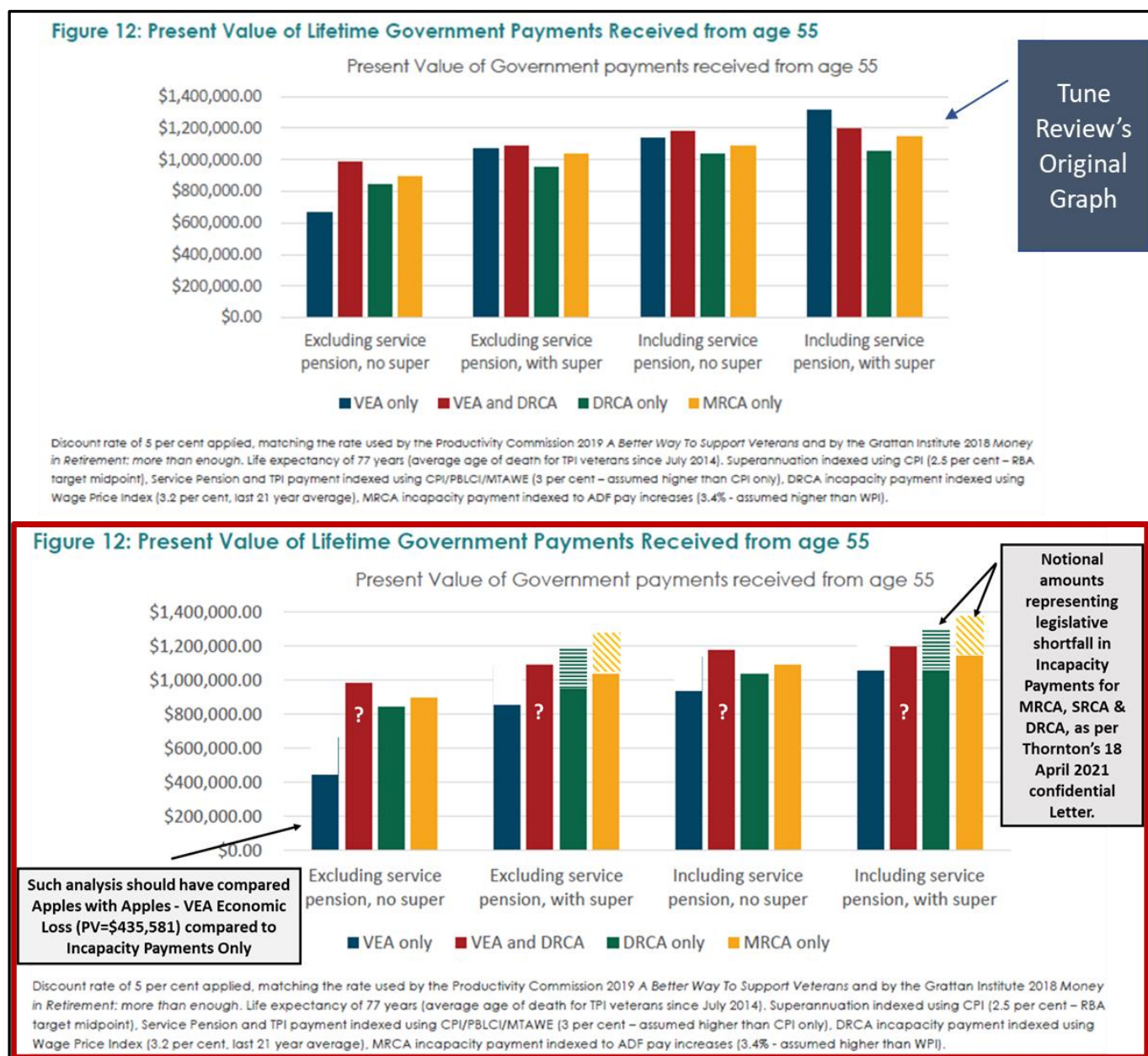
48. In addition, had there been a drop of such magnitude in TPI Compensation in 1975, as the Tune Review's Basic Wage chart suggests, then surely the major news story of that year would not have been the 'Dismissal', but instead, tens of thousands of TPI Veterans armed with pitchforks storming the Parliament. Indeed, it is incongruous that in relative terms to the Basic Wage, that TPI Compensation could have dropped by more than 40% in just five (5) years or so.

49. In addition, the large downward swathes in the middle of Figure 16 don't appear against the RBA's AWE data, as per Figure 1.

50. In the later part of his analysis, the premise upon which the graphs within Figure 18 have been constructed remains fundamentally flawed, because in the first instance, Tune did not compare apples with apples. This is because Tune incorrectly compares the full TPI Compensation Payment (made up of the two notional components as described officially by others) with just that of Incapacity Payments of MRCA/DRCA alone (i.e. he has completely disregarded the Permanent Impairment payments (Present Value = \$303,345) that a MRCA Veteran would also receive).

51. As such, Tune's Present Value figure at the start of his analysis of approximately \$670,276 (Author's calculation) should have instead been only \$435,581, as modified and as shown in the bottom pane of Figure 18.

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Figure 18 (modified from source)¹⁸

52. The Committee may wish to ponder this question. How does Mr. Tune reconcile the economic loss of a Major General who was TPI'd under VEA¹⁹, who today would receive just \$24,325 p.a. in economic loss, as compared to a contemporary under MRCA, where with all things being equal, and based upon the latest pay scales²⁰, a Major General compensated under MRCA would receive \$245,113 for the first 45 weeks, rate adapting down to 75% thereafter, arriving at a final figure of approximately \$184,000 p.a.?

53. But of course, comparing Major Generals is an over exaggeration, so at the other end of the spectrum is the Private soldier, who with just the basic service allowance added to salary²¹, can be paid anywhere from \$63,848 to \$103,304 for the first 45 weeks, rate adapting down to \$47,886 through to \$77,478. The Private soldier at the lowest end of the spectrum would be just above borderline to that of a TPI. That is why SRDP compensation is so vitally important.

¹⁸ 'Independent Review into the TPI Payment', Mr David Tune AO PSM, Fig 12. pg.29. The original graph by Tune has been modified here to only show and compare VEA Economic Loss to that of MRCA / DRCA Incapacity Payments.

¹⁹ i.e. Former Governor Major General Michael Jeffery

²⁰ https://content.defencejobs.gov.au/pdf/triservice/DFT_Document_PayRates.pdf

²¹ The soldier may have other allowances that are applicable for superannuation purposes (e.g. Special Forces Allowance)

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54. The Author maintains that there is no reasonable comparison to be made between the various compensation schemes. Clearly, any attempt to make such comparisons is offensive and ridiculous.

55. *Finally for this section, the Author would draw the Committee's attention to one extremely critical point with regards to all of these Reviews, and that is, that without exception, the comparative analysis between TPI Compensation (VEA) and SRCA/DRCA/MRCA are all effectively null and void.*

56. *This because these Reviews have relied upon DVA policy pertaining to the incorrect calculation of Incapacity Payments, where policy and procedure is not in accordance with the law.*

57. *The Author and Legal Counsel assisting has clearly revealed and demonstrated the nonfeasance of the Department. This will likely result in a significant and financial shortfall for approximately 18,000+ Veterans.*

58. *If this information is foreign to any Committee Member, then in the first instance, the Author would draw the Committee member's to the letter sent to the Minister of Veterans Affairs, as per Ref C.*

TPI Compensation & Retirement Income

59. The Prime Minister's Tune Review provided a discussion about the supposed 'adequacy' of TPI compensation and how it stacks up against various retirement models, citing a Grattan Institute study as just one example.

60. However, the Author draws the Committee's attention to the Government's own '**Retirement Income Review**', which was handed down in November 2020, where the Chair of that Review, Mr. Mike Callaghan AM PSM., stated in a recent 7:30 Report that:

"... when it comes to the definition of what's an adequate retirement income, well the metric for that is what we suggest is the replacement rate ... saying that it should be 65-75% replacement rate of your working life income."²²

61. As discussed previously, the TPI compensation is a total payment that is made up of two distinct components, namely 'pain & suffering' & 'economic loss'.

62. The Author contends that it is important to recognise that TPI Veterans represent a broad cross section of the community. TPIs could have been candle-stick makers or CEOs of a large multinational company; or Private soldiers to Major Generals, one of whom became a Governor General.²³ As such, the Author believes that AWE once again provides the most appropriate wage standard for comparative analysis purposes, when considering policy prescriptions.

63. Such analysis should compare apples with apples, because the compensation component for '*pain & suffering*' is not compensation for loss of income, but instead compensation for the physical, mental, and lifestyle effects of the Veteran. Therefore, this component should not be factored in when considering an analysis of retirement income.²⁴

64. If the reader considers that current dollar value of the notional 'economic loss component' (i.e. \$24,325 p.a.), and if one assumes that the Veteran analysed is of the lowest means, thereby receiving a full means-tested Service/Disability/Age Pension (i.e. \$24,552 p.a.²⁵), then when measured collectively against the current AWE (i.e.

²² 7.30 Report Special – '[The Future of Retirement](#)', Part 1 - 5:15-5:32min. First aired 29 March 2021.

²³ That TPI Veteran was Major General Philip Michael Jeffery, AC, CVO, MC, the 24th Governor-General of Australia.

²⁴ AWE reflects all earnings received by the Australian workforce and the wage parameter used is not gender specific.

²⁵ Including energy supplement

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~\$92,034²⁶ p.a.), then it becomes patently clear that compensation, plus a full means-tested welfare entitlement, equalling \$48,877 p.a., falls well short of the AWE retirement income range of 65% (i.e. \$59,822 p.a.) to 75% (i.e. \$69,026 p.a.).

65. Not surprisingly, the TPI Federation's 8 year campaign for a structural adjustment to the total TPI Compensation Payment, as analysed and as illustrated at Figure 4, just reinforces once again, that the deficiency calculated in the economic loss is almost the exact same quantum required to elevate the retirement income of TPI Veterans of the lowest means to just below the minimum threshold of 65% of AWE that Mr. Callaghan suggests is required for retirement purposes. No matter how one looks at it, the maths provided by the Author/TPI Federation over 8 years about the deficiency in TPI compensation continues to stack up!

An Alternative Proposal To The TPI Compensation Issue

66. In February 2021, the TPI Federation contacted the Author to seek an opinion about a proposal mounted by the 'Disable Veterans of Australia Network'.

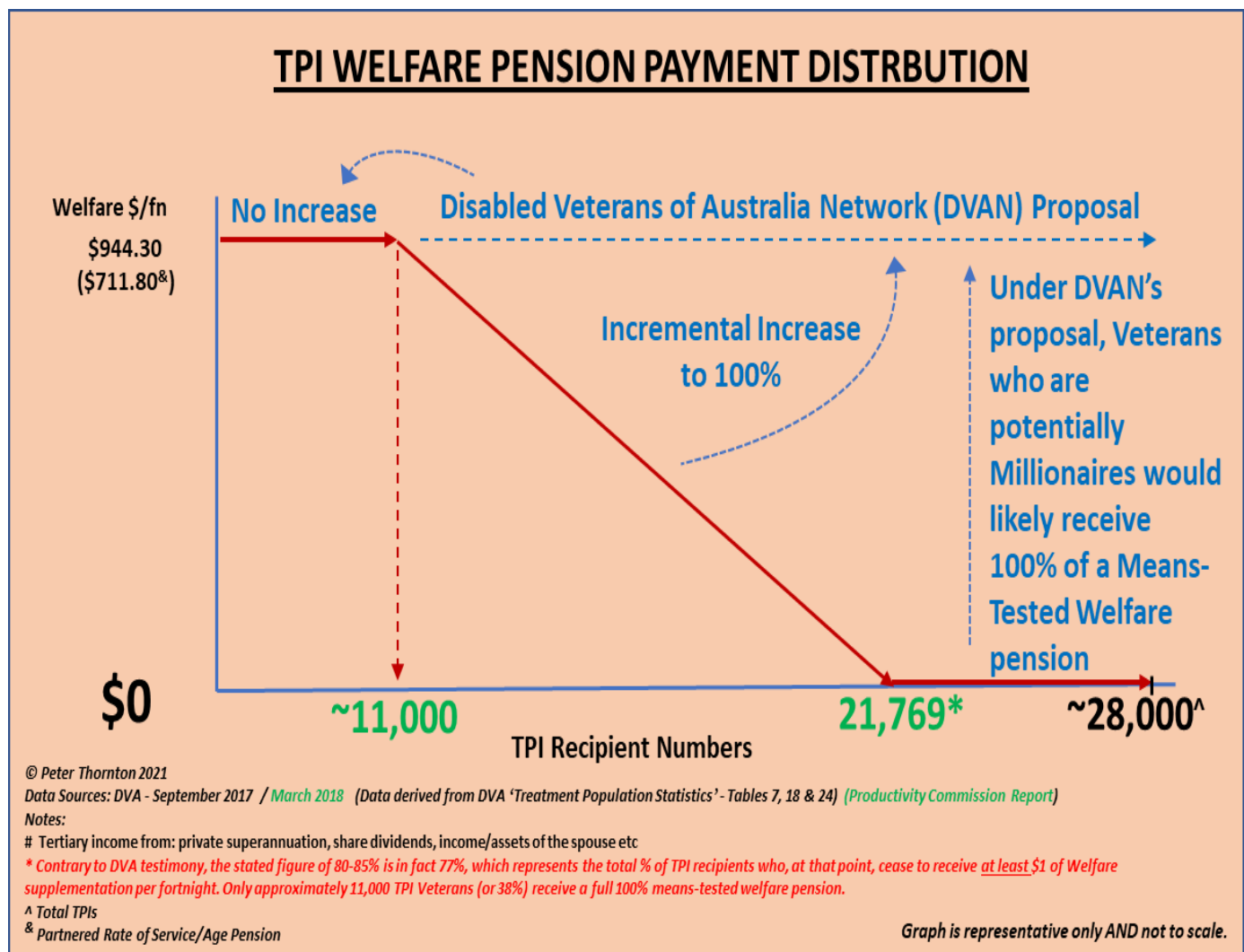


Figure 19

67. As can be seen at Figure 19., the Author responded by providing a conceptual overlay to the 'Welfare Distribution Graph' and provided some back of the envelop calculations for the TPI Federation's consideration. I understand that this information was presented and discussed at the Federation's Congress in March of this year.

68. Whilst the Author has great empathy for the plight of all TPI Veterans who suffer a detriment because of how means-testing reduces welfare entitlements, the Author nevertheless believes that this proposal is not an equitable

²⁶ Full-time adult average weekly total earnings = \$1,711.60, as at 9 May 2021

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substitute to the Federation's long held campaign that aims to address the erosion in TPI Compensation that effects all TPI Veterans, no matter their means.

69. However, the Author does not dismiss the legitimate grievance that underpins the DVAN proposal, which remains raw and palpable to many Veterans families that are affected. In essence, the spouse is subsidising the Commonwealth's ineptitude to pay fair compensation. You have to wonder who would devise such a change in a once beneficial scheme that had the explicit intent to compensate Spouses and Dependents for their own discrete losses, but to then completely turn the tables on the Spouse to where s/he now pays a penalty of a 50 cent taper rate, a minimum tax rate of 19 cents in the dollar, and the 2% Medicare Levy? Indeed, who else would dream up such a system? Well, none other than Sir Humphrey Appleby and his "starched shirt brigade"²⁷. This issue once again demonstrates that means-tested welfare is not compensation!

70. In properly considering this matter further, the Author would draw the Committee's attention to Justice Toose's advice in this regard, and also to the original schedule from the 1920 Repatriation Act, as seen Figure 20, where compensation was once afforded to the spouse (and dependents) in their own right. Justic Toose rightly states:

*'... it has been argued that the death or disablement of a member can result in much more than economic loss for a dependant. In the case of a wife the additional loss can include that of love, comfort and society, while children may lose parental love, guidance and advice. It has been claimed that the traditional approach to the Repatriation legislation has always taken these additional factors into account and it was put strongly that this approach should continue.'*²⁸

AND ...

*'I am of the view that the traditional approach of the Repatriation System in providing compensation to dependants for loss arising from the service-related disablement or death of a member has been valid. The loss or disadvantage suffered by some dependants, particularly the member's immediate family, goes well beyond economic loss'*²⁹

THE FIRST SCHEDULE. GENERAL PENSIONS RATES. <i>Scale of Pensions payable subject to the provisions of the Third Schedule to Widow or Widowed Mother on Death of a Member of the Forces, or to a Member, or to the Wife of a Member, upon his total incapacity.</i>																			
COLUMN 1. Rate of Pay of the Member per Day.				COLUMN 2. Pension Payable to Widowed Mother on Death of Member.				COLUMN 3. Pension Payable to Widow on Death of Member.				COLUMN 4. Pension Payable to Member upon Total Incapacity.				COLUMN 5. Pension Payable to the Wife of a Member who is Totally Incapacitated.			
s.	d.			£	s.	d.		£	s.	d.		£	s.	d.		£	s.	d.	
6	0	and		2	0	0	per fort-	2	7	0	per fort-	4	4	0	per fort-	1	16	0	per fort-
		under					night				night				night				night
7	0			2	3	0	"	2	7	0	"	4	4	0	"	1	16	0	"
9	0			2	9	0	"	2	9	0	"	4	4	0	"	1	16	0	"
10	0			2	12	3	"	2	12	3	"	4	4	0	"	1	16	0	"
10	6			2	13	9	"	2	13	9	"	4	4	0	"	1	16	0	"
11	6			2	16	0	"	2	16	0	"	4	4	0	"	1	16	0	"
12	0			2	17	3	"	2	17	3	"	4	4	0	"	1	16	0	"
13	0			2	19	6	"	2	19	6	"	4	4	0	"	1	16	0	"
17	6			3	10	0	"	3	10	0	"	4	4	0	"	2	0	0	"
22	6			3	17	6	"	3	17	6	"	4	5	0	"	2	2	6	"
30	0			4	9	0	"	4	9	0	"	4	15	0	"	2	7	6	"
37	6			5	0	9	"	5	0	9	"	5	5	0	"	2	12	6	"
45	0			5	12	3	"	5	12	3	"	5	15	0	"	2	17	6	"
50	0			6	0	0	"	6	0	0	"	6	0	0	"	3	0	0	"

Figure 20 – Schedule One – 1920 Repatriation Act³⁰

²⁷ The Author is channelling the colloquialisms and characterisations often made by Mr. Allan Jones AO here.

²⁸ Toose Report, pg. 140

²⁹ Ibid pg. 141

³⁰ http://tiny.cc/1920_Repat_Act

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71. The decimal equivalents of the highlighted fields in Figure 20 are 4.2 and 1.8 for the Veteran and Spouse, respectively. Therefore, in 1920 a Spouse's Compensation Payment was 42.85% of the TPI Veteran's Compensation Payment.

72. In addition, the last time Spouses Compensation was increased was in 1964, where it then represented just 14.21% of the then TPI Compensation Payment. Whilst the Author cannot be sure, at that time, consideration may have been given to the fact that spouses and dependents were afforded free medical care and that the Veteran may have received either a full or partial Service Pension also (i.e. the Service Pension was introduced in 1939).

73. Whilst the structural adjustment to the TPI Compensation Payment remains paramount to fixing the clear and present deficiency in TPI compensation arrangements, the Author would nevertheless encourage the Committee to carefully reflect upon the erosion of the Spouse's Compensation Payment, as shown in Figure 2.

74. In doing so, and on the back of the TPI Federation's first recommendation about the provision of Gold Cards for Spouses and Dependents up to age 21, then the Committee might also be gracious enough to consider recommending to the Parliament, the restoration of the Spouses Compensation Payment, that was once an integral part of a TPI Family's overall compensation arrangement; - a modest allowance that is not counted as income, would be tax-free, be non means-tested, and paid for the life of the spouse who has been directly responsible for the care of the Veteran).

CONCLUSION & RECOMMENDATIONS

75. Senators, after eight (8) years the evidence is clear. As demonstrated, at numerous times you have been clearly misled, and then continued to be hoodwinked by Sir Humphry Appleby and his "Starched Shirt Brigade" where surreptitiously they exploit the "Dark Arts".

76. The facts are clear and irrefutable: the TPI Compensation Payment in total has eroded over many decades to a point where it is now just approximately 43% of Average Weekly Earnings. The notional economic loss component imbedded within the total TPI Compensation Payment rates at just 62% of the gross National Minimum Wage.

77. The immediate solution is clear and defensible. That is, to structurally adjust the Total TPI Compensation Payment by a factor that benchmarks the notional 'economic loss component' to the tax-adjusted National Minimum Wage. As the TPI Federation has stated many times, this requires some political will, and a single line amendment to s24(4) of the VEA, which in turn will automatically flow through to SRDP recipients covered under the MRCA scheme.

78. The Detriment to the Spouse and Dependents of TPI Veterans is clear. There was once a '*clear and unequivocal intent by the Commonwealth to ensure that compensation was also provided to a Veteran's family, for their respective loss of amenity and enjoyment in not having a fully functioning spouse and/or parent.*'³¹ It is recommended that in addition to Paragraph 77, that further serious consideration be given to extending Gold Cards to Spouses and Dependent children below age 21, and to reintroduce the Spouse Compensation Payment, so as to restore compensation entitlements to the dependent family members of TPI Veterans.

79. The Author would also draw the Committee's attention to the TPI Federation's recommendations, in its October 2019 Research Paper. Of note, is the egregious determination of Special Rate Disability Pension, where offsetting creates an inequitable and deleterious outcome for a once viable compensation pathway. The Author equally supports the TPI Federation's call to repeal all offsetting that is set against that provision, and for DVA to provide reparation for those duly affected.

80. Given the deleterious effects on Special Rate Disability Payment (SRDP), it is recommended that the Committee give serious consideration to immediately extinguishing at law the egregious and inequitable divergence that exists in the provision of Permanent Impairment compensation, as shown in Figure 15. In doing so, this would facilitate that all Veterans covered under the MRCA would be afforded compensation on the same equitable basis that underpins the VEA.

³¹ TPI Federation Research Paper (abridged), '*An Inconvenient Truth In The Affairs Of Totally & Permanently Incapacitated / Special Rate Disability Rate (TPI/SR) Veterans*', dated Oct 2019, pg.

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81. With the foregoing in mind, I hope the Committee will recommend that Government and the Parliament rectify these long-standing injustices.

82. I remain at the Committee's disposal if further information or assistance is required, or if the Committee wishes my attendance at any prospective hearing.

Yours sincerely

PETER THORNTON

About the Author

Peter Thornton is a retired member of the Australian Defence Force & Commonwealth Public Service. Peter provides independent analysis and commentary on matters relating to Commonwealth & Military Superannuation and Veterans' compensation issues. Peter's independent research aims to underpin the advocacy and representational activities of national peak bodies and individuals alike. Peter has tertiary qualifications in economics, engineering, and management.

Acknowledgements:

My good friend Mr. Bert Hoebee, who apart from being a bloody good bloke, is a comrade in arms fighting the good fight for Veterans. Bert provides the Author with much needed support and peer reviews from time to time and sage advice and calibration on divisive issues. Thanks Mate!

My good friend Ms. Patricia McCabe, who is one of the most caring individuals I have ever met. Whilst Patricia operates under significant diminished TPI circumstances herself, she never tires in being available 24/7 for TPI Veterans and their families far and wide. From where the Author sits, the Veteran community owes you a huge debt of gratitude for your continued tenacity and advocacy on Hearing Aids, Pharmaceuticals; and Veterans Age / Home Care. Thanks Pat!

To all current and past Presidents and Directors of the TPI Federation. It has been the Author's great pleasure to work and be associated with the par-excellence of executive members of such a wonderful Ex-Service Organisation. Against all odds, the TPI Federation continues to deliver great leadership and remains resolute in prosecuting the rightful claims for the benefit of all 28,000 TPI/SRDP Veterans and their families. Thank you, Ladies and Gentlemen!