



Australian Government
Department of Veterans' Affairs

transforming
DVA

2021-22 Word Anzac Regulator Framework Report

March 2023

Endorsement

This document has been reviewed and approved by the people in this list. Evidence of the approvals is retained in TRIM.

Name	Title	Date	Role
Rory Walker	Acting Director, Community Engagement Team	13/12/2022	Approve
Tim Bayliss	Acting First Assistant Secretary, Commemorations and Transformation Division	24/05/2023	Approve
Donna Thomas	Assistant Secretary, Commemorations Branch	22/09/2023	Approve

Contents

1.	Introduction.....	3
2.	Process.....	3
3.	2021-22 Summary	4
4.	Key Performance Indicator	4
4.1.	Measured By:.....	4
4.2.	Evidenced By:.....	5
	Appendix A: Summary of feedback from consultation	8

1. Introduction

The *Protection of Word 'Anzac' Regulations 1921* (the Regulations) broadly state that to use the word 'Anzac' or any word resembling 'Anzac' in an official or corporate manner, permission from the Minister for Veterans' Affairs (Minister) is required. The Regulations are the responsibility of the Department of Veterans' Affairs (DVA) and are DVA's only regulatory activity. The Regulations affect a small number of organisations and individuals each year.

In 2014, the Australian Government released its Regulator Performance Framework (RPF) as part of its commitment to reduce the cost of unnecessary or inefficient regulation imposed on individuals, business and community organisations. Since 2016, DVA has published an annual externally validated self-assessment report against key performance indicators required by the RPF.

The 2020-21 assessment report was the last report produced under the RPF. On 1 July 2021, a new reporting framework, the Regulator Performance Guide (RPG) for regulators, was introduced.

DVA is not required to use the reporting mechanisms as prescribed in the RPG (via the corporate plan and annual performance statements). DVA has developed a new reporting model, the Word Anzac Regulator Framework (WARF) adopting the best practice principles outlined in the RPG:

- Continuous improvement and building trust;
- Risk based and data driven; and
- Collaboration and engagement.

DVA has used 2021 – 22 as a transition year to refine the WARF.

The outcomes of our efforts to manage the Regulations are measured against an overarching Key Performance Indicator (KPI) and several individual measurements, underpinned by the best practice principles. Requests to use the word 'Anzac' is demand driven and it is not reliably possible to measure this demand. High level statistics are included elsewhere in the WARF report for the current reporting period compared to previous years.

2. Process

The self-assessment report process is similar to the RPF in that it contains the KPI, performance measures and the evidence used to identify the extent to which DVA is achieving good regulatory performance. Once the draft report is prepared it is circulated to the Ex-Service Organisation Round Table (ESORT) for external validation, with their comments included in the final report. The final report is then published on the DVA website.

3. 2021-22 Summary

Specific DVA executives, as delegates for the Minister for Veterans' Affairs (the Minister), assess applications and issue permits to use the word 'Anzac'. The application process is simple and it is free to apply for a permit. Permits last for varying lengths of time, depending on the purpose of the permitted activity/product, but can be made to last a number of years, reducing the burden on regulated entities to re-apply. Once a permit has been issued, DVA does not usually require any regular follow-up reporting from regulated entities.

Permission is also required from the Minister or delegate to import goods into Australia that bear the word 'Anzac', under the *Customs (Prohibited Imports) Regulations 1956 (Cth)*. If an applicant requests permission to import 'Anzac' goods, it is considered on the same basis as any other application to use the word 'Anzac'.

4. Key Performance Indicator

The Regulations do not unnecessarily impede the efficient operation of regulated entities, building trust and confidence in Australia's regulatory settings.

4.1. Measured By:

- Actions taken to minimise the potential for unintended negative impacts of regulatory activities on regulated entities or affected supplier industries and supply chains. This includes regularly examining the end to end process for regulated entities to see where enhancements can be made.
 - Evidence of procedural fairness, being responsive and accessible by providing guidance and information that is clear, up-to-date and accessible.
 - 90% of applications receive an outcome within the published time frame of four weeks.
 - 100% of incoming correspondence is responded to within 7 days of receipt.
 - 100% of potentially adverse application recommendations are given the opportunity to provide more information to support their case before the recommendation is given to the delegate (procedural fairness).
 - Adopting a whole-of-system perspective and continuously analysing and improving performance, capability and culture, where possible, to reduce the costs of compliance for those it regulates.
 - Conducting environmental scanning, sharing intelligence through cross agency regulatory activity and cross border regulatory activity (interactions with the .au Domain Administration (auDA), Australian Taxation Office (ATO), Australian Border Force and the Department of Defence).
-

- Proactive interactions with peak bodies seeking their assistance to ensure regulated entities understand their obligations under legislation.
 - Conducting an annual mail out to peak bodies of relevant industries in advance of Anzac Day each year to draw attention to protections around the use of the word 'Anzac'.
- Proactive communication with the community about the Regulations:
 - In the lead up to Anzac Day each year, using a range of DVA communication platforms including social media, to raise broader community awareness regarding the protections around using the word 'Anzac'.

4.2. Evidenced By:

- A combination of quantitative and qualitative forms of evidence, as relevant to different measures. Measures and evidence are reviewed each year, and adjusted as necessary.

Guidance and information:

- The Use of the word Anzac Guidelines (Guidelines) associated with the Regulations are published on the DVA website. The Guidelines provide upfront information to applicants about using the word 'Anzac' and eliminates a significant workload associated with answering general enquiries. They are written in plain English, and help applicants interpret the Regulations. The Guidelines have codified several procedures associated with use of the word 'Anzac' including how to apply, when permission to use the word is required, and clarifying various exemptions from Ministerial approval under the Regulations. They also outline where to obtain further information.
- DVA has a dedicated mailbox that handles all client inquiries. The mailbox is monitored during office hours to ensure client inquiries and applications are acknowledged as soon as possible, with most actioned within 7-10 days.

Analysing and improving performance

Outcome for the 2021-22 reporting period

- No feedback was received from regulated entities about the regulations.
 - DVA received 61 complaints about potential misuse of 'Anzac' over this reporting period, from a range of different parties. Not all of the complaints actually regarded a product or service using 'Anzac'. The majority of the complaints were found not to be a breach of the regulations and required no further action. Nine compliance actions were undertaken, involving the contacting of offending parties to explain the rules around using the word 'Anzac'. No legal action was required during the reporting period.
-

- Applications, complaints and enquiries regarding the protection of the word 'Anzac' were logged over the reporting period (1 July 2021 to 30 June 2022).
- 76 applications were received (the same number as 2020-21), of which 50 were approved, one was declined, four were withdrawn and 21 did not require approval under the Regulations (two less than 2020-21).
 - Of the 50 approved applications during this reporting period, seven included permission to import 'Anzac' goods.
 - Every aspect of the Anzac caseload was examined, critiqued and documented to produce a handbook/guide for internal use by team members. This is a dynamic document designed for continuous improvement. The handbook has been an important tool during this reporting period in training additional staff in processing and recording regulated entity interactions.
 - The system for managing the use of the word Anzac is considered appropriate and the resourcing adequate given the low caseload.

Assessment against key metrics for procedural fairness, being responsive and accessible

- **90% of applications meeting the published timeframe:**
 - DVA fell short of the 90% benchmark of applications receiving an outcome within four weeks of receipt, with 11% of applications falling outside the timeframe. This was largely due to portfolio changes in June 2021 and the process to make the necessary change to ministerial instruments to allow the new Minister and delegates to process applications.
 - **100% of correspondence responded to within 7 days:**
 - DVA met the seven day benchmark for responding to incoming correspondence in all, but two instances. On both occasions, input was required from an external agency which led to a delay of six days and four days respectively when responding to correspondents.
 - **100% of potentially adverse findings engage procedural fairness processes:**
 - In all cases where an application is most likely to not be recommended for approval, DVA contacted the applicant, referred them to the relevant section in the Guidelines and outlined why the application was likely to be unsuccessful. At this point, the applicant was able to choose to continue with the application and provide further information in writing (DVA provided written advice to the applicant exercising procedural fairness) or withdraw their application.
 - Only one application to use the word 'Anzac' was declined. This was due to the sale and marketing of products associated with alcohol. The applicant was afforded procedural fairness and invited to provide further information in support of the application. After considering the additional information the delegate decided to not approve the application due to the association with alcohol products, and not meeting community expectations.
-

- **Engagement with peak bodies and proactive communication:**

- DVA continued to engage with the auDA extensively during the reporting period. This was due mainly to the introduction of Top Level Domains (.au - as opposed .com.au, .net.au, etc) and additional registrations of domain names that use the word Anzac.
 - DVA requested auDA to intervene on three occasions to ensure that domain names of regulated entities were not de-registered, thus not effecting their business operations.
 - DVA engaged with Defence regarding the use of protected Defence emblems who assisted by providing information to three DVA regulated entities.
 - In January 2022, DVA conducted its annual mail out to peak bodies of relevant industries and major sporting codes to draw attention to protections around the use of the word 'Anzac'.
 - In the lead up to Anzac Day 2022, DVA used different media platforms to raise awareness amongst the community about using the word Anzac including social media posts on the DVA socials, including a flyer in the annual Anzac Day mail out to schools.
-

Appendix A: Summary of feedback from consultation

Ex-Service Organisation	Feedback
Partners of Veterans Association of Australia Inc	Nil comment.
Returned Services League of Australia	Nil comment.
Vietnam Veterans' Association of Australia	Nil comment.
Legacy Australia Inc	Nil comment.
Australian War Widows Inc	Nil comment.
Defence Force Welfare Association	Nil Comment
TPI Federation Australia	<p>1. Commented on the circulation of the Word Anzac Regulator Framework (WARF) report and the lack of visibility of previous performance reports (the Regulator Performance Report (RPF)) for external validation.</p> <p>DVA response: DVA has circulated the RPF for comment by ESORT and published on the DVA website since 2016 until it was phased out in 2021. The first WARF (for 2021-2022) was circulated in July 2023 to ESORT members and DVA invited their feedback. Commemorations Branch welcomes this feedback and will ensure an increased emphasis on the visibility of this process in the future.</p> <p>2. Requested advice on DVA writing to peak bodies each year in the lead up to Anzac Day.</p> <p>DVA response: Peak bodies include major supermarket chains, retail associations and industry bodies from hospitality and entertainment, real estate, publishers, marketing, sports clubs, small business, automotive industry, and major national sporting codes. The Minister for Veterans' Affairs (Minister) also writes to State and Territory veteran Ministers annually regarding the use of the word 'Anzac' and the requirement to seek permission to use the word, as outlined in the Regulations.</p> <p>3. Commented on the length of the WARF report as compared to the RPF (the WARF is shorter). Requested that if the WARF is not yet complete, then requested that the full WARF report be provided to ESORT for external validation.</p> <p>DVA response: The 2020-2021 report was the last RPF report produced. The new WARF report for 2021-22, addresses a revised KPI framework, designed to make performance reporting more accessible for stakeholders. In the revised framework we address each of the previous KPIs but in an alternate format with the intention of making it easier for stakeholders to view the report. The outcomes of DVA's efforts to manage the Regulations are measured against one overarching Key Performance Indicator (KPI): <i>'The Regulations do not unnecessarily impede the efficient operation of regulated entities, building trust and confidence in Australia's regulatory settings'</i>. This KPI is underpinned by a series of measures, which address actions taken, communication, compliance, transparency and continuous improvement. Having one overarching KPI has reduced the amount of</p>

Ex-Service Organisation	Feedback
	<p>repetition from the previous RPF reports, while still capturing the outcomes of DVA's efforts to effectively administer the Regulations.</p> <p>The complete WARF report was circulated, excluding any feedback from ESORT about the 2021-22 WARF through this out of session request. Any feedback will be included in the report prior to the report being published.</p>
Australian Special Air Service Association	Nil comment
Naval Association of Australia	Nil comment
Defence Families of Australia	Nil comment
Australian Peacekeeper & Peacemaker Veterans' Association Ltd	Nil comment
The Royal Australian Regiment Corporation	<p>Comment: The report and the entry on the DVA website are clear and self-explanatory. One thing that is, however, somewhat ambiguous, is who actually owns the Anzac or the ANZAC trademark. It appears there are eight current registrations using the Anzac/ANZAC brand in some capacity. Does the Commonwealth have a registration or some form of a lien on the trademark/brand, to be able to license it or approve its usage to others? What protection is there for DVA or the Commonwealth? Is there IP protection for the brand somewhere?</p> <p>DVA response: With regard to ownership of a trademark for Anzac/ANZAC, there is no owner as such, however DVA has other protections in place to ensure the word 'Anzac' is not trademarked without the relevant permissions. IP Australia effectively has a 'bar' in place, which prevents trademark applicants from registering a trademark that includes the word 'Anzac' or letters that form the word, unless the Minister has approved the use of the word 'Anzac' in the proposed trademark. Further information can be found on the IP Australia website here. On occasion, applicants who have applied to DVA to use the word 'Anzac' have included the advice from IP Australia where it sets out that the trademark cannot be registered without evidence of the Minister's approval. While DVA may approve the use of the word 'Anzac' in a proposed trademark, we cannot guarantee that a trademark will be allowed as this is a decision made by IP Australia.</p>
Defence Reserves Association	Thanked DVA for the opportunity to review and provide comment.
Australian Air Force Association	Nil comment
Vietnam Veterans' Federation of Australia	Nil comment
Department of Defence	Nil comment
Comcare	Nil comment
Head Military People	Nil comment
Soldier On	Nil comment