

## Chapter 3

### Future submarines

3.1 The committee dealt exclusively with the tender process for the future submarines in its second report, which was tabled in November 2014. In this report, the committee expressed grave concerns about the direction being taken to acquire the submarines and urged the government not to enter into a contract for the future submarine project without conducting a competitive tender, including a funded project definition study.

3.2 Also, as noted in its second report, the committee was concerned about Australian industry being ignored, even quarantined, from the process so far.

3.3 Although the government is yet to respond to the committee's recommendations in its second report, there have been a number of recent significant announcements indicating that the government is continuing down a path that would prevent rather than promote openness and competition in tendering. In this chapter, the committee looks carefully at these statements and their implications for the future submarines and more broadly the naval shipbuilding industry as a whole.

#### Defence White Paper—2009

3.4 In the 2009 Defence White Paper, the government indicated its intention to replace and expand the current fleet of six Collins class submarines with a more capable class of submarine. This project to acquire the submarines would be a multi-billion dollar undertaking requiring very long lead-times for project development, acquisition and entry into service.<sup>1</sup>

#### *Schedule and design capability*

The White Paper indicated that this major design and construction program for the future submarines would span three decades, and be 'Australia's largest ever single defence project'.<sup>2</sup> Given the long lead times and technical challenges involved, the White Paper argued that the complex task of capability definition, design and construction must be undertaken without delay.<sup>3</sup> According to the White Paper, the

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1 Department of Defence, *Defending Australia in the Asia Pacific Century: Force 2030*, Defence White Paper, 2009, paragraph 1.14, [http://www.defence.gov.au/whitepaper/2009/docs/defence\\_white\\_paper\\_2009.pdf](http://www.defence.gov.au/whitepaper/2009/docs/defence_white_paper_2009.pdf) (accessed 8 August 2014).

2 Department of Defence, *Defending Australia in the Asia Pacific Century: Force 2030*, Defence White Paper, 2009, paragraph 9.3.

3 Department of Defence, *Defending Australia in the Asia Pacific Century: Force 2030*, Defence White Paper, 2009, paragraph 9.6.

government had decided that the boats were to be assembled in South Australia and would be conventionally-powered.<sup>4</sup>

3.5 To ensure the project's success, the government stated that it would need to engage with a number of overseas partners during the design and development phase. In particular, the government noted its intention 'to continue the very close level of Australia–US collaboration in undersea warfare capability', which, in its view, would be crucial in the development and through life management of the future submarine.<sup>5</sup>

### **Defence Capability Plan**

3.6 Details of the capability Defence was seeking to acquire from the acquisition of the 12 submarines specified in the White Paper were then translated into a more concrete proposal in the Defence Capability Plan (DCP) 2012. The future submarine project entered the DCP as SEA 1000. The DCP confirmed the government's intention that the future submarines would be assembled in South Australia.

3.7 The DCP anticipated that a staged acquisition process would be undertaken to acquire this capability and the government would on multiple occasions consider the project as information was gathered that facilitated government decision-making.<sup>6</sup>

3.8 Phases 1 and 2 of SEA 1000 would entail the design, build and delivery of 12 conventionally-powered submarines as well as infrastructure and integrated logistic support requirements. At the time of its publication, the DCP indicated that all options from military-off-the-shelf to a new design were being examined. Indeed, during the early stages of the program the following 4 options were being explored:

- Option 1—a military-off-the-shelf (MOTS) submarine modified to conform to Australian legislative requirements;
- Option 2—a MOTS submarine with a combat system of Australia's choosing that would be aligned pretty much to the combat system methodology used for the Collins class today;
- Option 3—an evolved Collins; and
- Option 4—broadly termed a new design.<sup>7</sup>

3.9 The 2013 Defence White Paper reaffirmed the government's intention to have 12 future submarines assembled in South Australia and again ruled out of

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4 Department of Defence, *Defending Australia in the Asia Pacific Century: Force 2030*, Defence White Paper, 2009, paragraphs 9.3 and 9.5.

5 Department of Defence, *Defending Australia in the Asia Pacific Century: Force 2030*, Defence White Paper, 2009, paragraph 9.8.

6 Department of Defence, *Defence Capability Plan, public version 2012*, p. 206, <http://www.defence.gov.au/publications/capabilityplan2012.pdf> (accessed 17 October 2014).

7 See Rear Admiral Gregory Sammut, Head, Future Submarine Program, DMO, *Proof Committee Hansard*, 30 September 2014, p. 35.

consideration a nuclear-powered submarine capability to replace the Collins Class fleet. It did note, however, that the project would now focus on options 3 and 4 with further investigations into options 1 and 2 suspended. It also recognised that the future submarine program represented 'a true nation building endeavour' which presented both challenges and significant opportunities for Defence and Australian industry. It argued that to complete the program successfully, the government would need to support the Australian naval shipbuilding industry to develop and maintain a workforce 'skilled in a wide range of specialist activities'.<sup>8</sup>

## Election and new government

3.10 In the lead-up to the 2013 general election, the then Shadow Minister for Defence visited ASC and said that the Coalition was committed to building 12 new submarines in Adelaide.<sup>9</sup> The Coalition's Defence Policy made clear that, within 18 months of winning the election, it would make the decisions necessary to ensure that Australia would not experience a submarine capability gap. It also gave assurances that the work on the replacement of the current submarine fleet would centre around the South Australian shipyards.<sup>10</sup> The Coalition won the election.

## New or evolved design

3.11 In April 2014, the newly appointed Minister for Defence, the Hon Senator David Johnston, reminded a conference on submarines that before the last election, he gave his support to Defence's charted course for the Future Submarine program—the suspension of investigations into options 1 and 2 and more detailed investigation of options 3 and 4.<sup>11</sup> The May 2014 Portfolio Budget Statement confirmed that work would proceed on options 3 and 4.

3.12 But by mid-year, the certainty evident in the 2009 and 2013 white papers and the 2013 election campaign pronouncements about an Australian build began to dissipate. In July 2014, at an industry and defence conference, the minister acknowledged that there was significant debate around the future submarine and

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8 Department of Defence, *Defence White Paper 2013*, paragraphs 8.46–8.50 and 12.53–12.54, [http://www.defence.gov.au/whitepaper/2013/docs/WP\\_2013\\_web.pdf](http://www.defence.gov.au/whitepaper/2013/docs/WP_2013_web.pdf) (accessed 20 October 2014).

9 Press Conference, 8 May 2013, <http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22media%2Fpressrel%2F2715770%22> (accessed 30 June 2015).

10 The Coalition's Policy for Strategic Defence, p. 4, <http://www.liberal.org.au/our-policies> (accessed 17 October 2014).

11 ASPI, *The submarine choice*, Perspectives on Australia's most complex defence project, September 2014, p. 10. The conference, which was called, 'The Submarine Choice' brought together a 'group of distinguished speakers to discuss the reasoning behind, and the options for, Australia's most expensive and complex defence project—the replacement of the Collins class submarine fleet.

whether it should be built in Australia. He suggested that this debate must consider the cost, risk and schedule as well as the benefits of the different options.<sup>12</sup>

### **Speculation about Japanese submarine**

3.13 On 26 August 2014, a delegation of Japanese defence science technicians visited ASC, Osborne in South Australia. Mr Stuart Whiley, Interim CEO, ASC, informed the committee that DMO wanted to demonstrate to the Japanese the capability Australia had in-country in terms of the ASC facility and workforce.<sup>13</sup>

3.14 This visit by 18 Japanese dignitaries cast doubt over the government's stated intention to build the submarines in Adelaide. Media reports suggested that the visit had heightened fears that the Australian Government was contemplating building the future submarines overseas. For example, the South Australian Defence Industries Minister, the Hon Martin Hamilton-Smith, wanted to know whether the visit 'signalled a back down from the Coalition's election promise to build the submarines in Adelaide' and was urgently seeking an explanation from the Australian Government.<sup>14</sup>

3.15 In response to a question without notice seeking clarification on the government's intention with regard to the possibility of buying Japanese submarines, the Minister for Defence, told the Senate on 27 August 2014 that 'We are not ruling in or out anything here'. According to the minister there were only three places that Australia could approach for the design of a new submarine—France; Germany; and Japan.<sup>15</sup> Speculation continued to mount, however, about the possible decision to purchase the future submarines from Japan without an open competitive tender process.<sup>16</sup>

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12 'Minister for Defence—'Defence and Industry Conference 2014', Adelaide Convention Centre, 29 July 2014, <http://www.minister.defence.gov.au/2014/07/29/minister-for-defence-defence-and-industry-conference-2014/> (accessed 4 August 2014).

13 *Proof Committee Hansard*, 14 October 2014, p. 27.

14 ABC News, 'Japanese submarine experts visit Adelaide, sparking fears for shipbuilding future', 27 August 2014, <http://www.abc.net.au/news/2014-08-27/japanese-delegates-spark-fears-submarine-future/5699076> (accessed 27 September 2014). Evidence taken by the committee suggested that the delegation comprised 18 Japanese visitors. See *Proof Committee Hansard*, 14 October 2014, p. 1–2.

15 Questions without Notice, Defence Procurement, *Senate Hansard*, 27 August 2014, p. 41.

16 See for example, *Adelaide Advertiser*, 'Japanese subs could sink the budget', 10 September 2014; *Australian Financial Review*, 'Germans undercut Japan subs', 11 September 2014; *Daily Telegraph*, 'Don't torpedo this strategic industry', 12 September 2014; *Adelaide Advertiser*, 'Japanese subs deal will leave nation "at risk"', 13 September 2014; and Hugh White, the *Age*, 'What lies beneath: the real reason for Japan subs', 16 September 2014.

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## Committee's findings in second report—open tender

3.16 In its second report, the committee detailed at length the history of the future submarine project starting with its debut in the 2009 Defence White Paper, its entry into the DCP as SEA 1000 and confirmed in the 2013 White Paper. Having considered the activities of the government, the committee was concerned that the government was not only backing away from its commitment to build the submarines in Adelaide but that there would be no open, competitive tender. In the following section, the committee looks at developments in the tendering process for the future submarines since it tabled its report on this matter in November 2014.

### *Government's response*

3.17 As noted in the previous chapter, the government disagreed outright with the committee's recommendation that the government require an open tender process for any future naval acquisitions. The government stated that it supported open tendering whenever it was assessed as 'the best procurement method available to attain the core principle of achieving value for money for the Australian taxpayer'.<sup>17</sup>

3.18 In its second report, the committee drew attention to the emphatic and overwhelming support for a competitive process to select Australia's future submarine. Witness after witness agreed that decisive action must be taken to start the tender for the future submarines but insisted there was time for a truly competitive process where all proposals from tenderers could be tested and their claims validated.

3.19 Witnesses mounted numerous and compelling reasons for holding a competitive tender for the future submarines. But importantly, in their collective view, a competitive process was the only way that the government could ensure that Australia secured a conventionally-powered submarine that would meet the nation's unique requirements at a reasonable price for Australian taxpayers.

3.20 Witnesses outlined a process and timeline for a competitive tender to acquire the future submarines that would be effective and:

- challenge assumptions, interrogate assertions, question and compare proposals and finally allow specialist engineers and technicians to test and evaluate the tenderers' claims to ensure that the capability proposed was deliverable;
- place tenderers under competitive pressure so that they develop an optimal solution for Australia;

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17 Australian Government, Australian Government response to the Senate Economic References Committee report: Part I—Inquiry into the Future of Australia's Naval Shipbuilding Industry Tender Process for the Navy's New Supply Ships, p. [3], [http://www.apf.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Naval\\_shipbuilding/Additional\\_Documents](http://www.apf.gov.au/Parliamentary_Business/Committees/Senate/Economics/Naval_shipbuilding/Additional_Documents) (accessed 24 May 2015).

- stress test the costings associated with the proposals, compare costings to ensure value for money and pro-actively manage the risks associated with the proposals;
- ensure that the integration of other desired systems (particularly the combat system) was compatible with the proposed designs; and
- provide the means to give priority to an Australian build for the submarine and to maximise Australian content in the construction and through-life support of the boats.

3.21 Evidence, both before tabling its first report and since, recognised that Australia requires international partners to assist in the design to build a world-class submarine. Further, a competitive tender was the only way to ensure that Australia had access to the very best technology and was assisted by capable and reliable partners who shared Australia's commitment and ambitions. Based on this evidence, the committee remains firm in its view that anything short of this process would be folly and place the future submarine at unnecessary risk.

3.22 Although the government is yet to respond formally to the committee's findings in its second report, the government did refer to this project in its response to the committee's report on the new replenishment ships. In the case of the future submarine program, the government argued that an open tender process which involved approaching all submarine producers was 'clearly not an option'. It explained:

A formal request for tender to design and build the future submarine would be a lengthy process. It would involve extensive work to fully define submarine specifications against which competitors would then have to develop detailed designs that could be evaluated for performance and then priced with any degree of reliability.<sup>18</sup>

3.23 More recently, Mr David Gould, General Manager Submarines, DMO, indicated that he was not aware of any nation that 'goes to an open tender for a submarine'. He maintained that normally:

...even for a submarine that is a very close derivative of an existing design, you would expect a country to go through a very rigorous shortlisting process before they actually put it out to tender. Normally, after having made a selection of a designer, there is still an ongoing process of completing, perfecting and changing the design before a final contract is let.

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18 Australian Government, Australian Government response to the Senate Economic References Committee report: Part I—Inquiry into the Future of Australia's Naval Shipbuilding Industry Tender Process for the Navy's New Supply Ships, p. [3], [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Naval\\_shipbuilding/Additional\\_Documents](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Naval_shipbuilding/Additional_Documents) (accessed 24 May 2015).

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I am not saying it has never happened. It was tried, so far as I understand, in the early stages of the Collins program and failed.<sup>19</sup>

3.24 Moreover, according to the government, this open tender process would take 'at least five years before reaching the point of selecting the international design partner'. In contrast, the government referred to its proposed competitive evaluation process that would be expected to run for at least 10 months after which the international partner would be selected.<sup>20</sup>

3.25 The committee has no understanding of how the government arrived at this unsubstantiated figure of 'at least five years' to complete an open tender for the future submarines, which contradicts the evidence presented in the committee's second report indicating there was time for a robust competitive tender process.

3.26 Thus, while the committee acknowledged that decisive action must be taken to get the process moving, it agreed with the contention that there was time for a competitive process where all proposals could be tested and claims validated. Indeed, Dr John White underscored the value of an open competitive process. He informed the committee:

The discipline of a well-structured competitive tendering process for major Defence assets has a solid track record for achieving the best value for money outcomes in recent naval projects such as the ANZAC Frigate and Minehunter projects.

Indeed the principle of open tendering has its roots in Australian Competition and Defence policy.<sup>21</sup>

3.27 In his view, a viable acquisition strategy over a tightly controlled timeframe was possible and supported his proposition by setting out a detailed schedule for such a competitive process.<sup>22</sup>

### **Commitment to build 12 submarines**

3.28 It should be noted that toward the end of February 2015, the Prime Minister raised doubts about acquiring the promised 12 submarines when he stated:

Now, sustainment alone on the basis of an eight submarine as opposed to a 12 submarine fleet will produce an ongoing 500 additional jobs. So, one

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19 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 53.

20 Australian Government, Australian Government response to the Senate Economic References Committee report: Part I—Inquiry into the Future of Australia's Naval Shipbuilding Industry Tender Process for the Navy's New Supply Ships, p. [3], [http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Economics/Naval\\_shipbuilding/Additional\\_Documents](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Economics/Naval_shipbuilding/Additional_Documents) (accessed 24 May 2015).

21 *Supplementary submission 21*, p. [1].

22 *Supplementary submission 21*, pp. [1–2].

way or another, there is going to be more submarine jobs here in South Australia.<sup>23</sup>

3.29 Many in the industry were concerned that the government was backing away from its commitment to build 12 submarines.<sup>24</sup> For example, the Hon Mr Hamilton-Smith, South Australian Minister for Defence Industries, referred to the Prime Minister raising 'the probability of building 8 submarines not 12, while making no commitment to an Australian build'.<sup>25</sup> Importantly, a number of specialists argued that 12 submarines would be prudent in order to provide 'at least one additional, operational submarine for other, concurrent tasks such as Task Group support at closer ranges or for ASW [anti-submarine warfare] force training'. In this regard, Rear Admiral Peter Briggs (Rtd) and Commodore Terence Roach (Rtd) maintained that allowing for the rule of three, Australia would require a total force of at least 12 submarines. The rule of three is based on the operational cycle requirement of three submarines—one will be in maintenance/refit, one will be training/preparing for a deployment and one will be available for deployment or deployed. They stated:

Twelve submarines is the minimum force size to enable Australia to sustain one deployed at long range in a demanding but practical cycle, provide one operational submarine available for other tasking and have some capacity for ASW training or other contingencies.<sup>26</sup>

3.30 The Submarine Institute of Australia (SIA) also indicated that at least 12 submarines were required.<sup>27</sup>

3.31 Importantly, in its second report, the committee detailed the integral role of the submarine fleet to Australia's national security. For example, the SIA stated that submarines were the only means available to allow the Australian Government to exert consistent influence along the full length of Australia's sea lines of

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23 Prime Minister, 20 February 2015, Transcript of the Prime Minister, The Hon. Tony Abbott MP, Joint doorstep interview with Mr Matt Williams MP, Federal Member for Hindmarsh, Adelaide, [http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/3676080/upload\\_binary/3676080.pdf;fileType%3Dapplication%2Fpdf](http://parlinfo.aph.gov.au/parlInfo/download/media/pressrel/3676080/upload_binary/3676080.pdf;fileType%3Dapplication%2Fpdf) (accessed 25 June 2015).

24 Peter Briggs, 'Future submarine: hybrid or Australian fitout?', *The Strategist*, ASPI, 16 February 2015, <http://www.aspistrategist.org.au/future-submarine-hybrid-or-australian-fitout/> (accessed 23 June 2015). Peter Briggs is a retired RAN submarine specialist, submarine commanding officer and past president of the Submarine Institute of Australia. See also, ABC News, 'Submarine program: Japan, France, Germany to compete for build process; Government promises hundreds of local jobs' updated 21 Feb 2015, <http://www.abc.net.au/news/2015-02-20/japan-france-germany-to-compete-for-submarine-build/6159834> (accessed 24 June 2015).

25 Martin Hamilton-Smith MP, Minister for Investment and Trade, Minister for Defence Industries, Minister for Veterans' Affairs, 'Federal Government's past promises a distant dream', 20 February 2015, <http://www.martinhamilton-smith.com.au/News/tabid/98/ID/3682/Federal-Governments-past-promises-a-distant-dream.aspx> (accessed 24 June 2015).

26 *Submission 17*, pp. 17–18.

27 *Submission 22*, p. 6.



communication.<sup>28</sup> Clearly, according to Rear Admiral Briggs, there are 'sound strategic, personnel and industrial reasons why we should build at least 12 and move to a continuous-build program'.<sup>29</sup>

3.32 Since the Prime Minister made his statement on 20 February 2015 suggesting the possibility of acquiring eight submarines, there has been no firm recommitment to build 12 submarines.

3.33 In the following section, the committee considers the government's proposed competitive evaluation process.

### **Competitive evaluation**

3.34 In early 2015, the government announced the acquisition strategy for the future submarine program. As noted earlier, this program is the largest Defence procurement program in Australia's history and represents an investment in the order of \$50 billion in Australia's security.<sup>30</sup>

3.35 On 8 February 2015, the Prime Minister stated that the government had always intended to have 'a competitive evaluation process' for the acquisition of the future submarines.<sup>31</sup> The following day, he noted that Australia wanted the best possible deal for the nation and the competitive evaluation process was 'exactly what you'd expect from a Government'.<sup>32</sup> The next day, on 10 February 2015, the Minister for Defence explained:

Notwithstanding much recent commentary, there are more effective and efficient ways to run a competitive evaluation process for complex capabilities such as submarines than just open tender.<sup>33</sup>

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28 Commander (Retired) Frank Owen, Secretary, SIA, *Proof Committee Hansard*, 30 September 2014, p. 1.

29 Peter Briggs, 'Future submarine: hybrid or Australian fitout?', *The Strategist*, ASPI, 16 February 2015, <http://www.aspistrategist.org.au/future-submarine-hybrid-or-australian-fitout/> (accessed 23 June 2015).

30 Australian Government, Budget 2015–16, *Defending Australia and its National Interests*, 2015, Department of Defence, p. 6, <http://www.defence.gov.au/Budget/15-16/2015-16-Brochure.pdf> (accessed 9 June 2015).

31 Prime Minister of Australia, the Hon Tony Abbott MP, Transcript, Interview with Chris Uhlmann, ABC News, 8 February 2015, <http://www.pm.gov.au/media/2015-02-08/interview-chris-uhlmann-abc-news> (accessed 18 May 2015).

32 Prime Minister of Australia, the Hon Tony Abbott MP, Transcript, Press Conference, Parliament House, 9 February 2015, Canberra, <http://www.pm.gov.au/media/2015-02-09/press-conference-parliament-house> (accessed 18 May 2015).

33 The Hon Kevin Andrews MP, Minister for Defence, 'Australian Submarine Corporation' Media Release, 10 February 2015, <http://kevinandrews.com.au/latest-news/2015/02/10/australian-submarine-corporation/> (accessed 18 May 2015).

3.36 This reference to a competitive evaluation process generated much confusion about what such a process would entail. Observers were seeking a working definition that would clarify the meaning of this phrase.<sup>34</sup> On 11 February 2015, the Prime Minister offered the following explanation:

There is quite a difference between an open tender and a competitive evaluation process. They're both competitive processes but an open tender is there for anyone and the last thing we would want to see is a Russian company, for argument's sake, bidding to produce an Australian submarine. It is standard defence procurement procedure for very sophisticated items of equipment to have a competitive evaluation process between selected tenderers but certainly we would encourage the Australian Submarine Corporation to be part of this competitive evaluation process.<sup>35</sup>

3.37 Within the fortnight, the Minister for Defence announced further details of the competitive evaluation process to be undertaken by Defence. The process was intended to provide 'a pathway for Australian industry to maximise its involvement in the program, whilst not compromising capability, cost, program schedule or risk'.<sup>36</sup> As part of the competitive evaluation process, Defence would seek proposals from potential partners for:

- pre-concept designs based on meeting Australian capability criteria;
- options for design and build overseas, in Australia, and/or a hybrid approach;
- rough order of magnitude (ROM) costs and schedule for each option; and
- positions on key commercial issues, for example intellectual property rights and the ability to use and disclose technical data.<sup>37</sup>

3.38 On Defence's advice, the government also endorsed a set of key strategic requirements for the future submarines:

- range and endurance similar to the Collins Class submarine;
- sensor performance and stealth characteristics that are superior to the Collins Class submarine; and

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34 See, for example, Andrew Davies, 'When the government says "competitive evaluation tender process"', *The Strategist*, ASPI, 11 February 2015.

35 Joint Doorstop Interview, Murrumbateman, 11 February 2015, Murrumbateman, New South Wales, Prime Minister, Treasurer, Minister for Agriculture, <http://www.pm.gov.au/media/2015-02-11/joint-doorstop-interview-murrumbateman> (accessed 18 May 2015).

36 Department of Defence Ministers, Minister for Defence—Strategic direction of the Future Submarine Program, 20 February 2015, <http://www.minister.defence.gov.au/2015/02/20/minister-for-defence-strategic-direction-of-the-future-submarine-program/> (accessed 18 May 2015).

37 Department of Defence Ministers, Minister for Defence—Strategic direction of the Future Submarine Program, 20 February 2015, <http://www.minister.defence.gov.au/2015/02/20/minister-for-defence-strategic-direction-of-the-future-submarine-program/> (accessed 18 May 2015).

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- the combat system and heavyweight torpedo developed jointly between the United States and Australia as the preferred combat system and main armament.<sup>38</sup>

3.39 At that time, and based on work completed by Defence, three countries emerged as potential international partners—France, Germany, and Japan. According to Defence, the three countries had 'proven submarine design and build capabilities' and were currently producing submarines. They were to be invited to participate in the competitive evaluation process that would 'assess their ability to partner with Australia' to develop a future submarine that meets Australia's capability requirements.<sup>39</sup>

3.40 Also, according to the government, Defence would soon be holding industry briefings to inform Australian industry about the process and how they could engage with potential international partners. In addition, an expert advisory panel would also be appointed to oversee the competitive evaluation process.<sup>40</sup>

### *Australian content*

3.41 According to the announcement, the government expected that significant work would be undertaken in Australia during the build phase of the future submarine including combat system integration, design assurance and land based testing. This would result in the creation at least 500 new high-skill jobs in Australia, the majority of which would be based in South Australia. Defence would invite potential international partners to seek opportunities for Australian industry participation in the future submarine program.<sup>41</sup>

3.42 Soon after the announcement, Mr Whiley told the committee that ASC was open to working with any potential submarine designer and builder and further that ASC had had informal conversations with three companies—Swedish SAAB, and the

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38 Department of Defence Ministers, Minister for Defence—Strategic direction of the Future Submarine Program, 20 February 2015, <http://www.minister.defence.gov.au/2015/02/20/minister-for-defence-strategic-direction-of-the-future-submarine-program/> (accessed 18 May 2015).

39 Department of Defence Ministers, Minister for Defence—Strategic direction of the Future Submarine Program, 20 February 2015, <http://www.minister.defence.gov.au/2015/02/20/minister-for-defence-strategic-direction-of-the-future-submarine-program/> (accessed 18 May 2015).

40 Department of Defence Ministers, Minister for Defence—Strategic direction of the Future Submarine Program, 20 February 2015, <http://www.minister.defence.gov.au/2015/02/20/minister-for-defence-strategic-direction-of-the-future-submarine-program/> (accessed 18 May 2015).

41 Department of Defence Ministers, Minister for Defence—Strategic direction of the Future Submarine Program, 20 February 2015, <http://www.minister.defence.gov.au/2015/02/20/minister-for-defence-strategic-direction-of-the-future-submarine-program/> (accessed 18 May 2015).

French and German companies about the future submarines. He explained, however, that ASC did not have a grasp of what the companies were proposing. He informed the committee that ASC had not had that level of detailed conversations because it was waiting on advice from government to understand what the requirements were so that it could make 'appropriate choices at that time based on the requirements' and how they should be met.<sup>42</sup> He explained that once ASC had that understanding it could engage with some of the other parties but at the moment everything was 'speculative'.<sup>43</sup>

3.43 The committee took further evidence two months after the government announced that it would conduct a competitive evaluation. Confusion about what this process entailed, however, was still apparent. Mr Glenn Thompson, Australian Manufacturing Workers' Union (AMWU), told the committee that the first thing that should happen is for the government to clarify the process around the future submarine program. He stated:

We are still effectively in limbo, and thousands of jobs in Adelaide are still hanging in the balance around the government not having made a commitment on an Australian build of future submarines. The government needs to make clear that the build will occur in Australia and that the process underway is a genuine one that does not favour one of the three options over the other.<sup>44</sup>

3.44 In June 2015, Senator the Hon Mathias Cormann, Minister for Finance, described the process as 'a proper competitive evaluation process', which involved assessing the relative merits, strengths and weaknesses of each potential option.

### ***Probity framework***

3.45 A probity framework applies to the competitive evaluation process and the personnel involved in the process will be subject to that framework including matters such as conflicts of interest and confidentiality. As an example of how Defence would manage a conflict of interest, Mr Harry Dunstall, Acting CEO, DMO, explained:

...we would normally point to provisions in our conditions of tender along the lines that bids must not be prepared with the assistance of individuals who have previously or in recent times worked with the Commonwealth. We would then write to the tenderer and suggest to them, 'You have to meet that requirement, that condition of tender. We will be expecting you to provide evidence as to how you do that. We would be interested to understand how you can do that given that you are now proposing to employ the particular individual.'<sup>45</sup>

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42 *Proof Committee Hansard*, 19 February 2015, p. 23.

43 *Proof Committee Hansard*, 19 February 2015, p. 24.

44 *Proof Committee Hansard*, 14 April 2015, p. 1.

45 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 48.

3.46 According to Mr Dunstall, the department has post-separation employment policies that it would 'expect people to comply with when they are taking up employment following their departure from the organisation'.<sup>46</sup> The Australian Government Solicitor has been appointed the probity adviser.<sup>47</sup>

### *Expert panel*

3.47 An expert advisory panel has been appointed to oversee the process including to ensure its probity and the maintenance of confidentiality in relation to all sensitive information received during the process, and to manage any conflicts of interest.<sup>48</sup> The role of the panel of experts is to provide assurance to the government on the soundness of the competitive evaluation process: that the conduct of the process is 'defensible from a probity and accountability perspective'. The panel is also to provide assurance that the participants are treated 'fairly and equitably in accordance with Commonwealth legislative and policy requirements'.<sup>49</sup>

3.48 The Minister for Defence explained that the panel's oversight was to provide the government and the public with confidence that the process would robustly address all relevant factors. It would allow the government 'to balance important considerations, for acquisition and through life support, including capability, cost, schedule, and risk'.<sup>50</sup>

3.49 On 5 June 2015, the minister announced that the following members had been appointed to the advisory panel:

- Professor Donald Winter, a former Secretary of the United States Navy;

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46 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 48.

47 Mr Dunstall, Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 48.

48 Department of Defence Ministers, Minister for Defence—Speech—RUSI Submarine Summit, 25 March 2015, <http://www.minister.defence.gov.au/2015/03/25/speech-rusi-submarine-summit-25-march-2015/> (accessed 18 May 2015) and Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, pp. 46 and 48.

49 Department of Defence Ministers, Minister for Defence—Speech—RUSI Submarine Summit, 25 March 2015, <http://www.minister.defence.gov.au/2015/03/25/speech-rusi-submarine-summit-25-march-2015/> (accessed 18 May 2015). Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, pp. 126–128 and Question on Notice No. 2113—SEA 1000 Competitive Evaluation Process—Panel, Senator Xenophon asked the Minister representing the Minister for Defence on 7 April 2015, [http://www.aph.gov.au/Parliamentary\\_Business/Chamber\\_documents/Senate\\_chamber\\_documents/qon/question?number=2113&parliament=44](http://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/qon/question?number=2113&parliament=44) (accessed 9 June 2015).

50 Department of Defence Ministers, Minister for Defence—Speech—RUSI Submarine Summit, 25 March 2015, <http://www.minister.defence.gov.au/2015/03/25/speech-rusi-submarine-summit-25-march-2015/> (accessed 18 May 2015).

- The Honourable Julie Anne Dodds Streeton, a former Justice of the Federal Court of Australia;
- Mr Ron Finlay, one of Australia's leading infrastructure specialists with very extensive legal experience; and
- Mr Jim McDowell, a member of the First Principles Review team with very extensive Defence experience.<sup>51</sup>

3.50 The minister appointed the members of the panel from candidates proposed by the Department of Defence.<sup>52</sup> Collectively, the members brought with them experience in complex military acquisition programs, legal and probity matters, and major projects.<sup>53</sup>

### *Criteria—competitive evaluation process*

3.51 Defence informed the Senate that the common evaluation framework to assess the participants' proposals under the competitive evaluation process included the following criteria:

- Platform system criteria—used to evaluate the pre-concept designs and determine their ability to meet key capability requirements.
- Combat system criteria—used to assess the ability of participants to integrate the combat system and heavyweight torpedo jointly developed by Australia and the United States into the future submarine.
- Cost and schedule criteria—used to assess affordability and the acceptability and appropriateness of proposed timeframes for delivery of the future submarine.
- Project management criteria—used to assess plans by which the program will be executed. Design and safety management criteria have been developed to determine how the proposed design process would accommodate technology insertions and meet Australian legislative safety requirements.

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51 Department of Defence Ministers, 'Minister for Defence—Expert Advisory Panel on the Future Submarine Competitive Evaluation Process', 5 June 2015, <http://www.minister.defence.gov.au/2015/06/05/minister-for-defence-transcript-expert-advisory-panel-on-the-future-submarine-competitive-evaluation-process-5-june-2015/> (accessed 10 June 2015).

52 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 46. See also Mr Gould, Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 93.

53 Department of Defence Ministers, 'Minister for Defence—Expert Advisory Panel on the Future Submarine Competitive Evaluation Process', 5 June 2015, <http://www.minister.defence.gov.au/2015/06/05/minister-for-defence-transcript-expert-advisory-panel-on-the-future-submarine-competitive-evaluation-process-5-june-2015/> (accessed 10 June 2015).

- Australia's sovereign ability to sustain the future submarine—assessed through sustainment criteria and the proposed level of Australian industry involvement would also be evaluated.
- Build strategy criteria—used to assess the method of build and associated facilities requirements while crewing and training criteria would consider the ability to implement Australia's preferred crewing concept, habitability and training requirements.<sup>54</sup>

3.52 The adequacy of the intellectual property arrangements, technology access, commercial arrangements and ability to achieve Australia's sovereign support requirements would be assessed under commercial and government criteria. The participants' appreciation of program risks and their management would also be assessed.<sup>55</sup> The Minister for Defence indicated that weightings would not be applied to any of the selection criteria.<sup>56</sup>

3.53 The committee is unsure of the extent to which through-life support, maintenance and upgrades are to be evaluated in this competitive evaluation process, particularly in light of the strategic importance of self-reliance in keeping these vessels operational and at the cutting edge of technology. Indeed, as highlighted in its first report, the costs and effectiveness of keeping the future submarines operational and enhancing their capability as technology advances should be central to any consideration. Given the experiences of the Collins Class submarines, the committee is of the view that this evaluation should require the contenders to detail what their design would be to meet the top level requirements and essential specifications and standards needed to maintain and operate the submarines in Australia.

3.54 Also, given that weightings would not be applied, the committee is similarly, unsure about the priority to be afforded to maximising Australian content. Indeed, the committee suggests that this competitive evaluation should be premised on an Australian build. In other words, the request for proposal should be seeking details on the proposed preliminary design for the future submarines that would show how the

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54 Answer to Question on Notice No. 2112—SEA 1000 Competitive Evaluation Process—Criteria and Strategic Considerations, Senator Xenophon asked the Minister representing the Minister for Defence on 7 April 2015, [http://www.aph.gov.au/Parliamentary\\_Business/Chamber\\_documents/Senate\\_chamber\\_documents/qon/question?number=2112&parliament=44](http://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/qon/question?number=2112&parliament=44) (accessed 9 June 2015).

55 Answer to Question on Notice No. 2112—SEA 1000 Competitive Evaluation Process—Criteria and Strategic Considerations, Senator Xenophon asked the Minister representing the Minister for Defence on 7 April 2015. [http://www.aph.gov.au/Parliamentary\\_Business/Chamber\\_documents/Senate\\_chamber\\_documents/qon/question?number=2112&parliament=44](http://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/qon/question?number=2112&parliament=44) (accessed 9 June 2015).

56 Answer to Question on Notice No. 2112—SEA 1000 Competitive Evaluation Process—Criteria and Strategic Considerations, Senator Xenophon asked the Minister representing the Minister for Defence on 7 April 2015. [http://www.aph.gov.au/Parliamentary\\_Business/Chamber\\_documents/Senate\\_chamber\\_documents/qon/question?number=2112&parliament=44](http://www.aph.gov.au/Parliamentary_Business/Chamber_documents/Senate_chamber_documents/qon/question?number=2112&parliament=44) (accessed 9 June 2015).

tenderer would meet Australian requirements and provide an indicative price for an Australian build. This requirement would not preclude the tenderer from submitting an indicative price for an overseas or hybrid build. But, consistent with the committee's recommendation, the preferred choice should be a local build.

### ***Purpose of the competitive evaluation process***

3.55 Essentially, the purpose of the evaluation is to choose a design for the future submarines and a build partner for Australia. To date, Defence have preselected three entities backed by their governments and who, according to Mr Gould, are well qualified by their pedigree to go through the complete design and build process. Defence have provided the three contenders with a very specific set of documentation. He explained that Defence have:

...asked them a series of very specific questions based on the performance requirements that we have, questions about our industrial approach, questions about their commercial approach, and the degree of industrial involvement they would see happening in Australia to bring out, first of all, what is the quality of their understanding of the relationship between the technical and performance requirements of the design and how much adaptation of designs they would start with and have to do. What we expect to do, having selected somebody, is to go into the detailed design in concert with them.<sup>57</sup>

3.56 The three contenders must now undertake pre-concept designs that meet these 'very specific mission and performance requirements'. Mr Gould noted that:

These are not final designs; they are pre-concept designs. It requires them to produce options for builds that have previously been discussed in different ways. It requires them to release rough order of magnitude costs and particularly the basis on which those rough order of magnitude costs have been assembled and their positions on the key commercial issues. There is a very specific set of contract deliverables in there. The companies are on contract to do that. The way in which they have to engage in the process has been set out in terms of workshops, meetings, progressive evaluation and the way in which the answers to the contract deliverables are actually produced and given to the project team. So it is not vague; it is very, very specific.<sup>58</sup>

3.57 Although the tenders would contain time lines and dollar figures, they would 'not be fixed for the full program'—they would provide a 'rough order of magnitude' for the schedule and the cost. As Mr Gould indicated, the design would not be sufficiently mature to fix the cost and timescale:

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57 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 53.

58 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 60.



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To try and fix either of those things at that point would be basically asking the companies to mislead us. The design will not be sufficiently mature in any of those circumstances for them to do that. What the cabinet will get is an analysis of the merit of partnering in the long-term with one of the three contenders.<sup>59</sup>

3.58 Mr Gould expanded further:

None of the contenders have suggested to me that they would be in a position at that point to have developed a design to the point of maturity where they could commit to a complete production of the contract. They understand very well that the normal process in their own countries of going through this sort of program is to produce a concept design to the point where they have an outline solution to the technical tenders in the program, and then to work very closely with their client to take that design through and make the appropriate trade-offs of cost, capability and time to produce a program of which there can be good assurance about the outcome.

...What we need to do here is to make sure that we can engage, unencumbered by competition, with the lead design partner to make sure that we produce an outcome which is understood by the Commonwealth, which produces the right trade-offs of cost and capability for the Commonwealth, and which we can be assured will produce an outcome in a timescale that we understand and at a cost that we understand.<sup>60</sup>

3.59 For the committee, the numerous references to the maturity of the design raises some alarm bells. One of the most telling lessons from previous major builds, from evidence before this committee and the most recent RAND report is the emphasis on ensuring that the design is sufficiently mature before committing to the design and builder. This matter is discussed later in this chapter.

***Schedule for competitive evaluation process***

3.60 The government anticipated that the competitive evaluation process would take approximately ten months, that is, have the bids by the three potential partners finalised by the end of 2015. Following this process, the National Security Committee, which would typically involve the Prime Minister, the Treasurer, the Minister for Defence, the Minister for Finance and the Minister for Industry, would take account of 'all sorts of factors' and arrive at a decision. At the end of the process, the government would judge the best way to proceed. Senator Cormann stressed:

But fundamentally and ultimately what will drive our decision is obtaining for Australia the best possible submarines for the best possible defence and

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59 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 91.

60 Foreign Affairs, Defence and Trade Legislation Committee, Estimates, *Proof Committee Hansard*, 1 June 2015, p. 92.

national security outcome at the best possible price and subject to these objectives to maximise Australian industry involvement.<sup>61</sup>

### *Engagement with prospective partners*

3.61 In the meantime, ASC was engaging with all the potential international partners—Germany, France and Japan—to assess who might be able to help Australia achieve the best possible value.<sup>62</sup> This engagement was consistent with ASC position as 'a very significant stakeholder' and government business enterprise that would be involved in some way in the procurement and maintenance of the next generation of submarines. According to the Minister for Finance, ASC's participation was to ensure that it and prospective partners could understand each other's capabilities, requirements and opportunities to partner'.<sup>63</sup>

3.62 Indeed, representatives from France, Germany and Japan have visited ASC over recent months.<sup>64</sup> In April 2015, Mr Andy Keough, General Manager, Business and Strategic Development, ASC, informed the committee that while the competitive evaluation process was specifically between the government and the three invited to participate, ASC was working with those parties.<sup>65</sup> He explained that a German delegation had visited the ASC and the engagement was not just with TKMS. He noted that the meetings involved a broader range of representatives from German industry, science and technology. He indicated that ASC would also meet and talk with the French company and some of their delegates, as well as attend a conference in Japan and in due course meet the Japanese delegation.<sup>66</sup>

3.63 Subsequently, Mr Whiley informed the committee that a Japanese delegation had visited ASC on 26 May 2015 and were to visit Henderson the following day, 'generally to see our capability and understand what we may have to offer in terms of their proposal'. The Japanese delegation comprised different agencies—the Japanese Ministry of Defense, representatives from Mitsubishi Heavy Industries, and representatives from Kawasaki Heavy Industries. Mr Whiley thought there were in the order of about 19 participants in the forum.<sup>67</sup>

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61 Finance and Public Administration Legislation Committee, Estimates, *Proof Committee Hansard*, 27 May 2015, p. 69.

62 Finance and Public Administration Legislation Committee, Estimates, *Proof Committee Hansard*, 27 May 2015, p. 49.

63 Finance and Public Administration Legislation Committee, Estimates, *Proof Committee Hansard*, 27 May 2015, p. 48.

64 Finance and Public Administration Legislation Committee, Estimates, *Proof Committee Hansard*, 27 May 2015, p. 47.

65 *Proof Committee Hansard*, 14 April 2015, p. 7.

66 *Proof Committee Hansard*, 14 April 2015, p. 7.

67 Finance and Public Administration Legislation Committee, Estimates, *Proof Committee Hansard*, 27 May 2015, p. 47.

3.64 According to Mr Keough, the overseas delegations that had visited the shipyard had given 'very favourable' feedback' both directly to ASC and to other parties. Mr Keough informed the committee that:

Certainly, as to the facilities we have put down there and the capital investment we have made, some of those parties have been very impressed to see that capital investment and to see how we have been able to use that for greater outcomes and productivity.<sup>68</sup>

3.65 Mr Keough stressed, however, that ASC was proceeding 'politely and carefully'. He explained:

...before we start into this, there is an enormous amount of work that needs to be done from a legal probity perspective that we are working on at the moment to make sure that we respect the process, understand the process and follow the process.<sup>69</sup>

3.66 Mr Whiley explained that for the competitive evaluation process, ASC had been instructed to make sure that it was open and fair across all the three recipients.<sup>70</sup> ASC had a small team that was working on the process with the CEO, the chairman, the board and all the executives 'very closely attuned' to what was going on in the competitive evaluation process.<sup>71</sup>

3.67 The Minister for Defence was also actively engaged in consultation with the three countries. For example, during the third week in April 2015, the minister met his French and German counterparts and industry leaders to discuss their involvement in the competitive evaluation process, emphasising the need to maximise Australian industry participation.<sup>72</sup> On 23 April 2015, he attended a bilateral meeting with Minister for Defence, Dr Ursula von der Leyen and later toured ThyssenKrupp Marine Systems shipyards.<sup>73</sup> The following day, he spoke with his French counterpart,

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68 *Proof Committee Hansard*, 14 April 2015, p. 13.

69 *Proof Committee Hansard*, 14 April 2015, p. 8.

70 Finance and Public Administration Legislation Committee, Estimates, *Proof Committee Hansard*, 27 May 2015, p. 49.

71 *Proof Committee Hansard*, 14 April 2015, p. 8.

72 Department of Defence Ministers, Minister for Defence—Visit to Germany, France, Belgium and the United Kingdom, 21 April 2015, <http://www.minister.defence.gov.au/2015/04/21/minister-for-defence-visit-to-germany-france-belgium-and-the-united-kingdom/> (accessed 18 May 2015).

73 Department of Defence Ministers, Minister for Defence—Bilateral meetings in Germany, 23 April 2015, <http://www.minister.defence.gov.au/2015/04/23/minister-for-defence-bilateral-meetings-in-germany/> (accessed 18 May 2015).

Minister for Defence Jean-Yves Le Drian and toured the Direction des Constructions Navales Services (DCNS) shipyards.<sup>74</sup>

### *Adequacy of tender process*

3.68 The committee notes that at the end of this competitive evaluation process, an international partner will be selected based on the criteria described above. The committee is concerned, however, that to select just one contender at this early juncture may be premature and that the government should consider proceeding with two tenderers who would then further refine their proposals and develop their design to a more mature stage. To support the committee's findings, it refers to the recent RAND study which recommended, *inter alia*:

- selecting a mature design at the start of the build and limiting the amount of changes once production begins;
- the necessity of ensuring a well-integrated designer, builder and supplier team; and
- ensuring there is visionary leadership provided by company management.<sup>75</sup>

3.69 Also, in its second report, the committee detailed some of the potential complications in selecting a Japanese designer. The committee takes this opportunity to reiterate some of these concerns, which include language barriers, the lack of experience in, and Japanese political sensitives around, exporting military technology and differences in industrial culture and organisational processes. The recent experience with Navantia that produced their drawings in Spanish is a timely reminder of the pitfalls in knowledge transfer. In contrast to the Japanese, Germans are very experienced as are the French to some degree in exporting Defence technology.

3.70 Furthermore, the committee notes the importance of the Australian Government moving away from government-to-government discussions with Japan to an Australian government-to-commercial-entity discussions with Kawasaki and Mitsubishi and whether it is to be one company or a joint enterprise.

3.71 The short-listing to two contenders after the initial 10-month evaluation process would allow them time, during the next stage, to develop and offer full design definition and fixed price contracts for an Australian build with overseas options as a

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74 Department of Defence Ministers, Minister for Defence—Ministerial visit to France—24 April 2015, <http://www.minister.defence.gov.au/2015/04/24/minister-for-defence-ministerial-visit-to-france-24-april-2015/> (accessed 18 May 2015).

75 See, for example, Department of Defence Ministers, Minister for Defence—Release of the RAND Corporation report, 16 April 2015, <http://www.minister.defence.gov.au/2015/04/16/minister-for-defence-release-of-the-rand-corporation-report/> (accessed 18 May 2015). For copy of Rand report, *Australia's Naval Shipbuilding Enterprise: preparing for the 21<sup>st</sup> Century*, [http://www.rand.org/content/dam/rand/pubs/research\\_reports/RR1000/RR1093/RAND\\_RR1093.pdf](http://www.rand.org/content/dam/rand/pubs/research_reports/RR1000/RR1093/RAND_RR1093.pdf) (accessed 9 June 2015).

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comparator. Thus, importantly, Defence would require a price for defined, through-life support. Indeed, the tenderers would need to demonstrate that the submarines would be totally supportable within Australia without reliance on overseas supply chains. The committee believes that this approach is important because it would make the designer and the builder think exactly about what it takes to maintain, service and provide the spares to the submarines for a defined period—10 or 15 years.

3.72 It may also be worthwhile for the government to consider establishing a Naval/Submarine Construction Authority as a 'non corporate Commonwealth entity with appropriate industry and Defence expertise and authoritative leadership to deliver the future submarine'.

3.73 Finally, the focus of this inquiry, in particular, has been on the tender process for the new supply ships and the future submarines. It has highlighted the importance of having a robust, open and competitive tender process to ensure that Australia selects the best design and build partner to acquire the future submarines. There have been a number of previous reports that have delved deeper into Defence tender and contracting processes for major acquisitions that went to critically important matters such as the need for the early engagement of industry and timely test and evaluation processes. The 2012 FADT References Committee report on procurement procedures for Defence capital projects gave special attention to the future submarine and the committee notes in particular recommendation 16.<sup>76</sup>

## Conclusion

3.74 Despite the announcement that Defence would conduct a competitive evaluation process, the committee remains deeply concerned that this process falls short of a truly rigorous procurement process for the largest and most complex defence program in Australia's history.

3.75 Evidence given during Budget Estimates in June confirmed that the competitive evaluation process was not designed to deliver three competitive contract options; would not produce accurate costs and build schedules; nor would the resulting designs be of a 'mature' nature.

3.76 Evidence was also presented during Budget Estimates that Japan's involvement in the process to acquire the future submarines is based on political imperatives rather than merit. This is concerning given that the government has restricted the potential involvement of Australian industry, and other international bidders, on the basis that the competitive evaluation process was a merit-based process. Evidence clearly indicates that this is simply not the case.

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76 Foreign Affairs, Defence and Trade References Committee, *Procurement procedures for Defence capital projects*, Final Report, August 2012, recommendation 16. See Appendix 3 at the end of this report on the future of Australia's naval shipbuilding industry for the recommendation in full.

3.77 While the committee agrees that timeliness is an important consideration, it remains strongly of the view that the government's decision not to undertake a competitive tender is poorly-considered and highly risky. Noting the strategic importance of the future submarines, the complexity of the undertaking and the costs involved, the committee believes that further caution in conducting the tender is warranted.

3.78 The committee is concerned by recent reports that the government is considering the acquisition of eight submarines instead of 12. The 2009 and 2013 Defence White Papers outlined the strategic rationale for the quantum of vessels. Navy confirmed recently at Budget Estimates that the threats underpinning this strategic assessment had not diminished.

3.79 In a speech to the Australian Submarine Institute in March this year, the Minister for Defence said that '[b]y 2030, half of the world's submarines will be in Australia's broader strategic region'. Evidence given to this inquiry by submarine experts also reaffirmed the need for 12 submarines to provide an effective submarine force. The committee is particularly concerned that a potential reduction in the number of submarines to be acquired from 12 to eight does not reflect the strategic realities that the Defence Minister has recently acknowledged, nor would it result in an effective force to meet both current and future challenges.

3.80 It is also the view of the committee that eight submarines will not provide the certainty industry requires to ensure that the economic value of this project is optimised.

3.81 Based on evidence given by expert submariners and industry, the committee is of the view that an acquisition process that is competitive, allows for maximum participation from prominent submarine builders and is complete by the end of 2016 would ensure that the first of 12 future submarine would be in the water by the middle of the next decade.

3.82 Noting this, the committee makes the following recommendations:

### **Recommendation 2**

**3.83 The committee recommends that the government adopt the following procurement process to acquire 12 future submarines:**

- **a twelve to eighteen month procurement process, involving a Request for Proposal, followed by a Request for Tender;**
- **invite the most prominent and relevant submarine designers to participate in the process, encompassing Germany, France, Japan and Sweden;**
- **conduct a Funded Project Definition Study; and**
- **down-select two submarine builders to provide full design definition and fixed priced contract bids.**

**3.84** The committee also reaffirms recommendation three from its report on the future submarines that:

**3.85** Given the weight of evidence about strategic, military, national security and economic benefits, the committee recommends that the Australian Government require tenderers for the future submarine project to build, maintain and sustain Australia's future submarines in Australia.

**3.86** Also, given the national significance and complexity of the project to acquire the future submarine, the committee recommends that the government establish a Naval/Submarine Construction Authority as a 'non corporate Commonwealth entity with appropriate industry and defence expertise and authoritative leadership to deliver the future submarine'.

**3.87** The committee further recommends that Defence heed and apply the lessons learnt from the AWD regarding the transfer of knowledge and those of the Collins Class submarine about the consequences of being a parent navy to the future submarines.

