



Committee Secretariat

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

FLIGHT TEST SOCIETY OF AUSTRALIA DISCUSSION ON THE DEFENCE CAPABILITY ASSURANCE AND OVERSIGHT BILL 2023

Purpose of the Society

1. The Flight Test Society of Australia, herein referred to as the Society, was founded in 1987 to support and celebrate the achievements of the Australian flight test community. Membership consists primarily (but not exclusively) of individuals who have served in capability assurance roles as Qualified Test Pilots, Flight Test System Specialists and Flight Test Engineers and who have graduated from the following tertiary institutions:
 - a. the Empire Test Pilot School, Ministry of Defence Boscombe Down, Wiltshire
 - b. École du Personnel Navigant d'Essais et de Réception, Istres, Bouches-du-Rhône
 - c. the National Test Pilot School, Mojave, California
 - d. the United States Air Force Test Pilot School, Edwards AFB, California and
 - e. the United States Navy Test Pilot School, USN Patuxent River, Maryland.
2. Many of the Society's members – by virtue of their professional training – are:
 - a. current members of the Australian Defence Force (Service Category 6 or 7)
 - b. 'reservist' members of the Australian Defence Force (Service Category 3, 4 or 5) or
 - c. former members of the Australian Defence Force (any other Service Category or no Service Category).
3. Those members that have not graduated from these institutions might otherwise hold test and evaluation responsibilities or influence within Australia's leading universities and aerospace companies. Members need not necessarily be in test and evaluation roles currently, although each of them will have served at some point in their career to independently test and evaluate those capabilities that contribute to air power or aviation, ordinarily concluding with a report that assures or otherwise the health of programs, projects or systems that contribute to

those capabilities.

4. The Society is affiliated with comparable (albeit much larger) societies in the US, including the Society of Experimental Test Pilots and the Society of Flight Test Engineers. The Society also maintains a professional association with the Royal Aeronautical Society, albeit this organisation tends not to be solely focussed on test and evaluation.

5. Based on the qualifications, skills and experience of members, the Society is confident that the membership has the pedigree and experience to contribute meaningfully on the content of this Bill and the Explanatory Memorandum.

Forming the Society's position

6. The Society wrote to all members inviting them to provide input to the Society's submission on this Bill. The Society's Committee parsed all submissions into this response and then forwarded an early draft to members for comment. These comments were then considered, and the draft was adjusted to form this final response.

7. It was notable to the Society's Committee that no responses were received by members who are also current members of the Australian Defence Force.

Conflict of interest

8. This Bill was introduced to the Senate by Sen David Fawcett and he is known by most of the Society membership in a professional sense through Sen Fawcett's own career as a Qualified Test Pilot. Sen Fawcett is not a current financial member of the Society. Whilst the Society is confident that no actual conflict of interest exists, the Society can do little to mitigate any perceived conflict of interest the relationship with Sen Fawcett might generate, given the small and tight knit flight test community that exists in Australia. Nevertheless, the Society's response sought objectivity from member's feedback and enlisted review from independent personnel to mitigate any real or perceived conflict of interest. The Society seeks to provide a frank and fearless position on this Bill, as our members would when critically assessing any aerospace capability during their own careers.

Intent of the Bill

9. The Society strongly supports the intent of the Bill, the establishment of a Defence Capability Assurance Agency (herein referred to as the Agency) and considers the Bill to be of value to Defence and the Australian public. The Society's collective experiences (albeit largely limited to the aerospace domain) is that the ability of Defence to assure capability can be improved. The Society is compelled to support the Bill, as the alternate view would be to support continued sub-optimal capability assurance, informed (or otherwise) through sub-optimal test and evaluation activities.

Further considerations for the Explanatory Memorandum

10. **Balancing the focus of Program Managers.** The Society notes the reference to the Government Accountability Office (GAO) and the US Directorate of Operational Test and Evaluation (US DOT&E) within the Explanatory Memorandum. Members of the Society who have experience working in cooperative programs with US partners have seen the effectiveness and reach of such organisations. These US organisations – and the Office of the Under Secretary of Defense for Research and Engineering (USD R&E) – bring a healthy

tension between themselves, the Services and Program Managers, leading to a more mature view of the value of test and evaluation generally. An early and frequent contest of ideas between the acquisition agency, the test agency and the organisations responsible for assuring capability is vital to optimal capability delivery. The Society understands that this engagement is underpinned by these US organisations having a legislative requirement to provide advice to the US Government prior to the commencement of full rate production. Put simply, no significant money flows to industry and no capability to the Services until Government is satisfied that an adequate level of independent assurance has been completed by suitably qualified, skilled and experienced practitioners. The Society's understanding, informed through a handful of careers embedded into collaborative programs with the US, is that this encourages Program Managers to strike a healthy balance between capability, schedule and budget. Further, the Society's prima facie understanding is that these organisations can hold individuals accountable for acquisition decisions made – even after having left office – leading to a more just culture, better behaviours and by extension, an increased likelihood to generate more capable Defence materiel. The Society does not insist that all US acquisition is fit for purpose; nor would all Australian acquisition be guaranteed to be fit for purpose with the establishment of the Agency as proposed by this Bill. However, the Society expects that the consequence and likelihood of acquiring sub-optimal Defence capability will be reduced.

11. **Understanding the size of the bureaucracy.** Each of these US organisations are understood by the Society to be large and complex. They tend to have tiger teams against all priority projects to perform the following functions:

- a. reviewing key project documentation including but not limited to the Test and Evaluation Master Plan and subordinate test plans and reports
- b. attend and contribute to Test Integrated Project Teams
- c. support the conduct of test and evaluation activities or live fires and
- d. attend and contribute to Program Manager project reviews.

12. Should Australia subject all current projects within the Integrated Investment Program to the scrutiny of the Agency, the Society expects that the workload and hence the size of the bureaucracy to deliver the value sought through this Bill will be significant and perhaps unsustainable. The Society anticipates that the Explanatory Memorandum could address whether the Agency can tailor application to those programs or projects based on a risk-based assessment i.e. programs or projects thought more likely to generate suboptimal capability or those of greater consequence to national security.

13. **Incorporating science and technology.** The Society considers that it is critical that the Agency has a strong relationship with the Defence Science and Technology Group to inform and validate technical risk effectively and efficiently. Mandating this relationship within the Bill itself is not necessary, but the Supporting Memorandum could identify this relationship (and perhaps the relationship with other Groups) as being a key enabler to achieving the intent of the Bill.

14. **Partnering with allied nations.** The Society considers that it is critical that the Agency has a strong relationship with GAO, US DOT&E, USD R&E and perhaps others. To realise the benefits of the AUKUS Security Partnership and the more complex, integrated capabilities to be delivered, the Society expects that a partnership with these agencies will be

necessary to assure that Australian equities are considered as and when fundamental resourcing decisions around test and evaluation are being made. This might also assure that Australia is afforded greater access to assessments already made by these US organisations. Mandating this partnership within the Bill itself is clearly not appropriate, but the Supporting Memorandum could identify these types of partnerships as being a key enabler to achieving the intent of the Bill.

15. **Securing independent funding.** The Society was concerned that the Supporting Memorandum identified that funding for the Agency would come from Defence's Integrated Investment Program. The Society considers that the most logical means of seeking to keep the Agency independent to the Department of Defence would be to have independent funding, vice funding moderated by the very Department the Agency seeks to provide a governance and audit function. The Society recommends that the Supporting Memorandum be revisited to consider independent funding arrangements for the Agency.

16. **Reviewing organisations of similar purpose.** The Society notes that the establishment of an independent agency to make assessments on the conduct of capability acquisition within the Department of Defence is not entirely dissimilar to the remit of the Australian National Audit Office. The Society notes that the Explanatory Memorandum suggests that these audits have been ineffective at changing the resourcing and conduct of the test and evaluation function within Defence to date. This makes clear to the Society that the products generated for Government by the Agency must demonstrably offer more value through greater insight and sustainable, nuanced solutions than those received previously. Similarly, the Society understands that Contestability Division within the Department equally seeks to bring a healthy contest of ideas through the Smart Buyer process within the One Defence Capability System. The Society considers that the Supporting Memorandum could identify why both Australian National Audit Office and Contestability Division do not satisfactorily improve capability assurance, to in turn improve the justification for this Bill.

17. **Understanding the impact on operational test and evaluation.** From the Supporting Memorandum, it is unclear as to how this Bill will apply to operational test and evaluation activities, despite other phases of test and evaluation activities being addressed. This may be an oversight, but it may also be recognition that passing operational control of operational test and evaluation activities to the Agency is problematic. The Society recommends that the role of the Agency in the conduct of operational test and evaluation could be clarified within the Supporting Memorandum to improve the justification for this Bill.

Implementation

18. Whilst the intent of the Bill is strongly supported, the Society recognises that the implementation of the Bill may be stymied unless the following challenges can be overcome:

- a. Bilateral support is achieved for legislation that was not introduced by the Government of the day.
- b. The prognosis of the Australian economy in the short to medium term and the competing interests for funding may hinder successful implementation. Although the Supporting Memorandum identifies that the Integrated Investment Program will be used to fund the activities of the Agency, the Society understands that this is already considerably overcommitted (perhaps by design). Consequently, the Society expects

that additional and independent funding to the Agency will be required.

- c. Like any long-standing, large and complex organisation, the Society anticipates that there will be considerable organisational inertia within Defence to comply with this legislation should the Bill be passed. The Society anticipates there to be a natural reluctance and scepticism from Defence to seamlessly integrate the activities of the Agency into the regular patten of the One Defence Capability System. This will require exceptional leadership from both organisations at the strategic, operational and tactical levels to achieve the intent of the Bill.
- d. At risk of confirmation bias, the Society considers that the training afforded through one of the aforementioned Test Pilot Schools (see Paragraph 1) represents excellent grounding for those needed to staff the Agency. However, comparable training facilities for professionals with backgrounds in domains other than aerospace is not known to exist. The inherent dangers of flight, coupled with a highly regulated environment, were the precursors for investment in training institutions that could safely, effectively, and efficiently assess aerospace capability. Discovering or establishing similar training organisations to provide high-end training for non-aerospace professionals should be anticipated.
- e. The Agency will need instant credibility to prosecute the intent of the Bill. This will need to be achieved through strong leadership, adopted best practice, and qualified, skilled and experienced staff. Such individuals are already in demand within Defence. The creation of this Agency – even with the use of a tailored risk-based approach to Defence programs and projects (see Paragraph 12) – will likely draw heavily upon the same, limited resource pool already in demand within Defence until such time that the training institutions identified within Paragraph 18.d begin to generate appropriately qualified, skilled and experienced staff. Sustained investment to rapidly grow and then maintain a cadre of professionals (with appropriate security clearances) to ensure the new agency is respected and adds value will require a collaborative approach between Defence (and associated career management agencies) and the Agency to ensure that the capability assurance function that this Bill seeks to address is not degraded further.
- f. To ensure ‘speed to capability’, the Agency must generate outcomes by working in an integrated yet independent approach to the Department’s own acquisition activities within the One Defence Capability System. This will require astute leadership within the Agency to ensure that staff elicit information as required to support capability assessments without prejudicing capability delivery to service personnel.
- g. Parallel implementation of other change management programs (the Defence Strategic Review being but one) will require more complex organisational change management abilities in Defence and the Agency.

Release of FTSA submission

- 19. The Society approves the public release of this submission by the Committee as necessary.

Contact details

20. Any clarification or additional material sought can be achieved by contacting the Society's Secretary on secretary@ftsa.org.au.

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14 August 2023