
The Parliament of the Commonwealth of Australia

Review of the Defence Annual Report 2008-2009

Joint Standing Committee on Foreign Affairs, Defence and Trade

July 2010
Canberra

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Australian Super Hornets fly in formation with the F1-11 across the Pacific Ocean.
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Royal Australian Navy Fleet entry with the S-70B-2 Seahawk from 816SQN.
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Foreword

During the period July 2008 to June 2009, the Australian Defence Force (ADF) continued to be actively involved in operations both within and outside Australia. Overseas deployments, which numbered 18 in total, included East Timor, Solomon Islands, Papua New Guinea, the Northern Indian Ocean, Africa, the Middle East, Iraq, and Afghanistan. Defence also engaged in maritime security operations in the South China Sea in support of regional security, supported United Nations missions, and operated in the Gulf region and the Horn of Africa to counter the threat of piracy. Locally, Defence performed admirably assisting the civil authorities' response to devastating natural disasters such as the Victorian bushfires, and floods in Queensland and New South Wales.

During the review period, Defence also released two important policy and planning documents: the *2009 White Paper, Defending Australia in the Asia Pacific Century: Force 2030*; and the *Strategic Reform Program*. The measures and policies within these two documents importantly harmonise the cost saving measures needed to meet Defence's future force structure requirements. Simply put, without prudent fiscal management the ADF's future capability needs cannot be delivered or sustained. The relationship between these two capstone pieces of work will indubitably be an area of focus for the sub-committee in future years.

At the public hearing into the Defence Annual Report on 30 March 2010, the Defence Sub-Committee chose to examine a broad range of Defence issues as part of the process of accountability of government agencies to parliament. These areas of interest included major projects, recruitment and retention, overseas operational deployments, the Defence estate and the ADF's operational commitments.

The committee is well aware of the significant challenges the ADF, and in particular the Defence Materiel Organisation (DMO), faces in managing very complex, sensitive and technical projects. The committee also acknowledges the importance of implementing the reforms arising from the Mortimer review of defence procurement and sustainment released in September 2008.

More generally, it is the committee's view that the most important objective for Defence is to acquire needed capability in the shortest time practicable and at an appropriate cost. It was therefore pleasing for the committee to be advised at the public hearing that some previously listed projects of concern are no longer classified as such. Conversely, the committee also noted that there remain other projects, such as the Wedgetail Airborne Early Warning and Control aircraft, that continue to suffer an overly protracted delay in final acceptance.

The Joint Strike Fighter (JSF) project remains the most expensive single acquisition in Defence's history. The committee has watched with interest the developments within the United States (US) as the US Department of Defense struggles with the JSF development program. Noting this, the committee will continue to monitor whether the cost and schedule buffers built into the Australian JSF project will provide some assurance that similar problems will not be experienced here.

Recruitment and retention of ADF personnel, an area of concern in recent years as personnel targets consistently fell short, has seen a substantial improvement over the review period. This is a good result and reflects the emphasis placed by Defence in ensuring that the ADF is better placed to meet future demands of new equipment and ongoing operational commitments. The committee was particularly pleased to note an increase in the number of submariners recruited although further gains are still needed.

The committee acknowledges the service of the men and women of the ADF in their contribution to operations across the globe. The committee also recognises that the ADF could not meet these operational commitments without the support of those ADF personnel who remain behind in non-combat roles. Lastly, and importantly, the committee is grateful of the sacrifices endured by the families, friends and loved ones of those personnel deployed in the maintenance of Australia's obligations at home and abroad.

The Hon Arch Bevis MP
Chair of Defence Sub-Committee



Membership of the Committee

Chair Senator M Forshaw

Deputy Chair The Hon D Hawker MP

Members

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Senator the Hon J A L (Sandy) Macdonald (till 30/06/08)	Mr R Oakeshott MP (from 20/03/09)
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	Mr K Thomson MP (till 15/06/09)
	Mr W Truss (from 3/02/10 till 22/2/10)
	Ms M Vamvakinou MP

Secretary Dr M Kerley

Membership of the Defence Sub-Committee

Chair The Hon A Bevis MP

Deputy Chair The Hon B Baldwin MP

Members

Senator M Bishop

Senator the Hon A Ferguson

Senator M Fifield

Senator M Forshaw (*ex officio*)

Senator M Furner

Senator the Hon D Johnston

Senator S Ludlum

Senator K O'Brien

Senator M Payne

Senator R Trood

Mr M Danby MP

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Mr S W Gibbons MP

Ms S Grierson MP

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The Hon D Hawker MP (*ex officio*)

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Mr R Oakeshott MP

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Mr Robert Little

Defence Adviser CMDR Clive Dunchue

Office Manager Mrs Donna Quintus-Bosz

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Ms Sonya Gaspar



Terms of reference

Pursuant to paragraph 1 (b) of its resolution of appointment, the Joint Standing Committee on Foreign Affairs, Defence and Trade is empowered to consider and report on the annual reports of government agencies, in accordance with a schedule presented by the Speaker of the House of Representatives.¹

The Speaker's schedule lists annual reports from agencies within the Defence and Foreign Affairs portfolios as being available for review by the Committee.²

1 See *Votes and Proceedings*.

2 Speaker's Schedule: Allocation to Committees of Annual Reports of Departments, Agencies, Authorities and Companies.



List of abbreviations

AEW&C	Airborne Early Warning and Control
CBR	centre barrel replacement
ADF	Australian Defence Force
ANA	Afghan National Army
ANAO	Australian National Audit Office
ANEF	Australian Noise Exposure Forecast
ANP	Afghan National Police
ARH	Armed Reconnaissance Helicopter
AWD	Air Warfare Destroyers
CDF	Chief of the Defence Force
CDG	Capability Development Group
CEO	Chief Executive Officer
CFO	Chief Financial Officer
CT	Counterterrorism
CTOL	Conventional take-off and landing
DDG 51	US Arleigh Burke class guided missile destroyers
DCP	Defence Capability Plan
DMO	Defence Materiel Organisation

DNV	Det Norske Veritas
DSTO	Defence Science and Technology Organisation
EADS	European Aeronautic Defence and Space
EMD	Engineering, manufacturing and development
FCA	Federal Court of Australia
F-FDTL	Falintil-Forças de Defesa de Timor Leste
FFG	Guided Missile Frigates
FMA Act	<i>Financial Management and Accountability Act 1997</i>
FOC	Final Operational Capability
GAO	US Government Accounting Office
GIRoA	Government of the Islamic Republic of Afghanistan
HF	High Frequency
HMAS	Her Majesty's Australian Ships
IED	Improvised explosive devices
IOC	Initial Operational Capability
ISAF	International Security Assistance Force
ISF	International Stabilisation Force
JLTV	Joint Light Tactical Vehicle
JSF	Joint Strike Fighter
L-3	L-3 Communications MAS Inc
LARS	Launch and Recovery System
LHD	Landing helicopter deck
MOT	Military-Off-The-Shelf
MRH	Multi Role Helicopter

MSA	Manufactured and supported in Australia
NACC	New Air Combat Capability
NATO	North Atlantic Treaty Organization
NFH	Nato Frigate Helicopter
NZDF	New Zealand Defence Force
PBS	Portfolio Budget Statement
PER	Public Environment Report
PMV-L	Protected Mobility Vehicles - light
PS Act	<i>Public Service Act 1999</i>
RAAF	Royal Australian Air Force
SAS	Special Air Service
SES	Senior Executive Service
SETF	Submarine Escape Training Facility
TUCF	The Underwater Centre Fremantle
UN	United Nations
UNMIT	United Nations Integrated Mission in Timor-Leste
UNSCR	United Nations Security Council resolution
US	United States
USAF	United States Air Force
USN	United States Navy

Introduction

- 1.1 During the period July 2008 to June 2009, Defence continued its engagement in military operations around the world.
- 1.2 The Australian Defence Force (ADF) was involved in 18 overseas operational deployments between July 2008 and June 2009 in areas such as East Timor, Solomon Islands, Papua New Guinea, the Northern Indian Ocean, Africa, the Middle East, Iraq, and Afghanistan. Defence also engaged in maritime security operations in the South China Sea in support of regional security, supported United Nations missions, and operated in the Gulf region and the Horn of Africa to counter the threat of piracy.¹
- 1.3 In Australia, Defence assisted the civil authorities' response to devastating natural disasters such as the Victorian bushfires, and floods in Queensland and New South Wales.²
- 1.4 On 2 May 2009, Defence released the first *White Paper* in over eight years: *Defending Australia in the Asia Pacific Century: Force 2030*. Under plans announced in the *White Paper*, the Government is to double the number of submarines, build a new class of frigates, provide more than 1,100 new combat vehicles for the Army, and equip the Air Force with around 100 Joint Strike Fighters. In addition, the Government committed to fundamental and extensive reform of Defence business.³
- 1.5 Defence also released and implemented the *Strategic Reform Program*. The *Strategic Reform Program* sets out how Defence intends to save around \$20 billion (gross) over the next ten years. Defence announced that 'money

1 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 2.

2 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 2.

3 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 18.

will be reinvested in Defence to deliver stronger military capabilities, to remediate areas where there has not been enough funding in the past and to modernise the Defence enterprise 'backbone', which is essential to support the fighting force.'⁴

- 1.6 On 9 December 2009, Defence released the findings from the first ever ADF families survey. The results of the survey are being used to help shape the 20-year ADF *Housing and Accommodation Strategy* and inform the development of an improved *Absence from Home Support* program for ADF members and their families.⁵
- 1.7 The Defence Materiel Organisation (DMO) is managing over 210 major projects⁶ and more than 140 minor projects⁷ and in the 2008-09 financial period it expended \$4.8 billion on these projects.⁸ According to the Australian National Audit Office (ANAO), keeping major projects on schedule remains a major challenge for the DMO.⁹

Annual Report review objectives and scope

- 1.8 The review of the Defence Annual Report is an important task and an opportunity for the Defence Sub-Committee of the Joint Standing Committee on Foreign Affairs, Defence and Trade to inquire into a broad range of Defence issues as part of the process of accountability of Government agencies to Parliament. The sub-committee takes this responsibility very seriously.
- 1.9 The sub-committee took evidence from senior Department of Defence officials at a public hearing held in Canberra on 30 March 2010. The transcript of the hearing is available on the committee's website.¹⁰

4 Department of Defence, 'Defence Strategic Reform Program – Delivering Force 2030', Media Release, 4 June 2009.

5 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'First Ever ADF Families Survey Completed', Media Release, 9 December 2009, p. 1.

6 A major capital equipment project is defined as a project with strategic importance and is part of the Defence Capability Plan. Defence Portfolio Budget Statements 2009-10, p. 138.

7 Minor capital projects cover new equipment, modifications to existing equipment or enhancements to new equipment, and are generally valued at between \$500,000 and \$20m. Defence Portfolio Budget Statements 2009-10, p. 31.

8 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 28.

9 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 19.

10 See: <www.aph.gov.au/jfadt>

- 1.10 The proceedings of the hearing were webcast over the internet through the Parliament's website, allowing interested parties to watch the proceedings as they occurred.
- 1.11 The review examined a combination of information from both volumes of the *Defence Annual Report 2008-09* and the *ANAO 2008-09 Major Projects Report*.
- 1.12 The committee also encouraged public input through an advertising campaign, resulting in three submissions being provided to the sub-committee for consideration. The sub-committee thanks those individuals and organisations that have contributed.

Focus areas

- 1.13 The sub-committee selected a broad range of issues for examination at the public hearing. In broad terms, the focus areas were:
- Major Projects including the:
 - ⇒ Joint Strike Fighter
 - ⇒ Airborne Early Warning and Control Aircraft
 - ⇒ F/A-18 Hornets and Super Hornets
 - ⇒ Australian Light Protected Vehicle
 - ⇒ Air Warfare Destroyer, and
 - ⇒ the High Frequency Modernisation Project.
 - Personnel
 - Operations
 - Defence Estate, and
 - Other issues.

Conclusions

- 1.14 While this report does not include any specific recommendations, there are conclusions drawn by the committee that are identified in bold type.
- 1.15 The government should note these conclusions which identify matters of concern.

Major projects

- 2.1 During the 2008-09 financial year the Defence Materiel Organisation (DMO) expended \$4.8 billion 'on major and minor capital acquisition projects.'¹
- 2.2 According to the Australian National Audit Office (ANAO), keeping major projects on schedule remains a major challenge for the DMO. In its *2008-09 Major Projects Report*, the ANAO examined the history of the 15 major projects² noting that:
- eight project schedules slipped by a total of 378 months against original dates for achieving final operational capability (FOC); and
 - seven projects have experienced in year schedule slippage totalling 119 months or an average seven per cent increase in the FOC schedule.³
- 2.3 This chapter examines a number of joint major acquisitions as well as major acquisitions for the Navy, Army and Air Force focussing on the current status and challenges of each project.

1 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 15.

2 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 16.

3 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 19.

Tri-Service

High Frequency Modernisation Project

Background

- 2.4 The High Frequency (HF) Modernisation Project, JP 2043 Phase 3, provides:
- ...for the procurement of a Modernised High Frequency Communications System for Defence long-range communications. The Fixed Network component comprises four High Frequency stations, one station in each of the Riverina (New South Wales), Townsville (Queensland), Darwin (Northern Territory) and North West Cape (Western Australia) areas together with primary and backup Network Management Facilities in Canberra. The project will also provide upgrades to selected Australian Defence Force [ADF] sea, land and air mobile platforms to make them compatible with the top-level capabilities of the modernised network.⁴
- 2.5 The first stage of Phase 3, completed in 2004, 'replaced the existing Navy and Air Force High Frequency networks and is now supporting Australian Defence Force operations.'⁵
- 2.6 The second stage of Phase 3 'will provide increased levels of automation, improved capability, enhanced security and survivability, reduced reliance on staff and will incorporate the new equipment into selected mobile platforms.'⁶
- 2.7 The project has been subject to significant delays. In its *Defence Annual Report 2008-09*, Defence noted the difficulties experienced by the prime contractor with 'certain complex elements of design, integration and testing' and pointed out that a revised schedule had been agreed with the prime contractor.⁷
- 2.8 In its *2008-09 Major Projects Report*, the ANAO noted the schedule slippage and was of the view that these 'delays, together with platform availability

4 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 133.

5 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 102.

6 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 45.

7 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 45.

problems, mean that the Mobiles program⁸ may extend to 2016.⁹ Of particular risk to the mobiles program is:

The tasks of integrating the HF upgrade equipment with existing communications systems of varying levels of maturity and sophistication, and accommodating the new equipment within the spaces available...¹⁰

- 2.9 The ANAO did note that, despite the delays, the 'Core System is currently providing a highly reliable service in support of operational ADF platforms, meeting or exceeding the specified availability.'¹¹

Current Status

- 2.10 At the public hearing, Defence highlighted that the delivery schedule had been delayed and as a result the Commonwealth had sought compensation stating:

We completed the negotiations on 25 April last year and that adjusted the schedule in return for a net amount of compensation, both monetary and in kind, to the Commonwealth valued at \$13 million. The new schedule, as a result of that, is that final system acceptance is due to occur in July 2010. At the moment Boeing is ahead of that schedule, with the contract completion due on 20 August.¹²

- 2.11 Defence also noted that extensive delays in the project's schedule have required Defence to undertake a review of which platforms require upgrades to HF. Defence stated:

The platforms that are currently on the list are based on what was originally approved in the mid to late 90s. Now that we have demonstrated the system and we know what it is capable of, it provides us the opportunity to look at those platforms that can truly benefit from the additional level of functionality provided by the network versus those that just would benefit from straight HF

8 The second stage of the program incorporating new equipment into mobile platforms such as ships, aircraft and military vehicles.

9 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 237.

10 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 103.

11 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 237.

12 Ms McKinnie, Department of Defence, *Transcript*, 30 March 2010, p. 52.

communications. That review is currently underway by CDG [Capability Development Group].¹³

- 2.12 The Committee asked for Defence's views on whether recent acquisitions, such as the Armed Reconnaissance Helicopter (ARH) and the Multi Role Helicopter (MRH), have an equal or better communications capability than platforms retrofitted with HF communications.
- 2.13 Defence were of the view that the communication suites in the new ARH and MRH were both comparable and compatible with the upgraded HF communication suites in the Black Hawk and Chinook helicopters, stating:
- The ARH Tiger and MRH90 helicopter fleets have an improved suite of communications over current helicopters. The High Frequency (HF) communications capability of these two aircraft fleets is as capable as the HF upgrade to Black Hawk and Chinook, and is compatible with the modernised high frequency communication system. The ARH and MRH also have integrated satellite communication systems to assist with non line of sight communications (this is required, for example, for long range flying and in mountainous terrain). ARH and MRH also have data link systems which can operate via HF and satellite.¹⁴
- 2.14 Defence added that the contractor, Boeing Australia Limited, will deliver most of the requirements to the technical specifications of the system.¹⁵
- 2.15 On 12 May the Government announced that the 'final Fixed Network system has recently been formally accepted from the prime contractor, Boeing Defence Australia.'¹⁶

Multi Role Helicopter

Background

- 2.16 The Air 9000 MRH Program will provide forty-six MRH-90 helicopters and support systems for the Army and Navy to replace the existing Black Hawk and Sea King fleets.¹⁷

13 Ms McKinnie, Department of Defence, *Transcript*, 30 March 2010, p. 54.

14 Department of Defence, *Submission no. 2*, p. 3.

15 Ms McKinnie, Department of Defence, *Transcript*, 30 March 2010, p. 53.

16 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'Boost for ADF communications capability', 12 May 2010.

17 Department of Defence, 'Multi Role Helicopter (MRH) AIR 9000 Phase 2', viewed on 13 April 2010, <http://www.defence.gov.au/dmo/lsp/Multi_Role_Helicopter_Program.cfm>

- 2.17 In the *Defence Annual Report 2008-09*, Defence stated that:
- Six MRH-90 helicopters have been accepted and are in service with the Army 5th Aviation Regiment in Townsville. A further nine MRH-90 helicopters are expected to be delivered during 2009-10.¹⁸
- 2.18 Defence added that training of Army and Navy Aircrew and maintenance and support personnel is being conducted in training facilities but that a less than planned MRH-90 flying rate has resulted in some training delays.¹⁹ In particular, Defence highlighted that the 'Army Initial Operational Capability (IOC) of a troop of four aircraft is now expected to be achieved in late 2011, six months later than originally scheduled.'²⁰
- 2.19 The ANAO, in its *2008-09 Major Projects Report*, also observed the need to increase the rate of flying in order to train sufficient crews and complete aircraft role validation.²¹ The ANAO did note that despite the 'six month slip in achieving IOC for Army, although at risk, the schedule forecast for achieving the IOC for Navy and FOC remains as per the original plan.'²²

Current Status

- 2.20 Defence advised, at the public hearing, that the MRH Program was about 20 per cent complete and that 11 aircraft had been accepted, of which six were accepted in the current financial year (July 2009 – June 2010).²³ Defence elaborated on the status of the aircraft stating:

Five of those are in the intermediate level, with a next level of software load in particular that addressed some concerns we have had with it. It is true that we have not achieved the flying rate with this aircraft that we would have liked. The aircraft is still developmental, and some of the systems are portraying that developmental status.²⁴

18 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 68.

19 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 68.

20 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 49.

21 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 69.

22 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 69.

23 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 39.

24 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 39.

- 2.21 The committee sought Defence's view on news reports quoting an internal German Army report that there were serious deficiencies in the MRH-90 helicopter.²⁵
- 2.22 Defence stated that it shared the German Army's concerns and that it is 'taking action with the contractor and the multiple organisations that make up NATO helicopter industries to get these addressed.'²⁶ Defence noted that it had been in communication with Germany who provides a base level of certification of the helicopter.
- 2.23 Defence advised the committee that it had concerns about the MRH's floor being too thin for Australian requirements and the physical location of the door gun mounts.²⁷ Defence indicated that a newly redesigned floor for the MRH that was trialled recently did not meet Defence's requirements and that more work was to be done. Defence added that the floor may need to be retrofitted.²⁸
- 2.24 Defence was of the view, however, that the MRH engine was 'performing exceptionally well in the UK Apaches at the higher level compared to some different engine performance in some other craft';²⁹ and that its weather radar and forward-looking infrared were particularly strong compared to other aircraft.³⁰

MRH's role in counterterrorism

- 2.25 The committee questioned the MRH's role in counterterrorism (CT), and in particular when the Black Hawk helicopters would be phased out for the MRH.
- 2.26 Defence advised that the Black Hawk will continue to be used until the MRH has been assessed as suitable for the task. Defence added that the MRH would first be introduced into standard unit operations and forecast that the MRH will replace the Black Hawk in the CT role by about 2015.³¹
- 2.27 The committee also sought Defence's advice on the current differences between the MRH and Black Hawk in the CT role.

25 Murdoch L, 'Defence's new choppers are duds: report', *The Age*, 28 February 2010, p. 1.

26 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 40.

27 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 40.

28 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 41.

29 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 41.

30 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 42.

31 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 42.

- 2.28 Defence stated that fast-roping devices had yet to be developed for the MRH and that the entry and exit ramps still required certification. Defence noted that the Black Hawk and MRH were comparable in speed but that the MRH had additional internal endurance.³²
- 2.29 While Defence was of the view that both the Black Hawk and MRH were very capable and could undertake a CT role, it acknowledged that Defence had 'not yet tested whether they can actually get to the same task, at the same time.'³³
- 2.30 The committee raised the question on whether the air and ground crew have any concerns about the transition from the Black Hawk to the MRH.
- 2.31 Defence advised that:
- The onus is on us to get the reliability right on the MRH90 before we ask our users to operate the aircraft, and particularly CT, where everything has to work exceptionally precisely and right. We have seen the demands and we have lost people over time when it has not worked correctly. The work we need to do is to still not mature enough for them. I have asked the project team to mature our relationship with the end users and take the aircraft in and demonstrate to them. I have asked them to find the time, though, to make sure that we show how capable the aircraft is and work through the issues so that, collectively, we can develop a full CT capability using the MRH90.³⁴

Air Force

Joint Strike Fighter

Background

- 2.32 In 2002 the then government became a partner of the Joint Strike Fighter (JSF) project, at a cost of \$US150 million. In 2006, the then government gave first pass approval to join the JSF project's next phase.³⁵

32 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, pp. 42-43.

33 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 43.

34 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 44.

35 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 7.

- 2.33 In the 2009 Defence *White Paper*, the government announced its intention to acquire around 100 F-35 JSF aircraft, along with supporting systems and weapons.³⁶ In the *White Paper*, Defence also announced that the first stage of the acquisition would acquire:
- ...three operational squadrons comprising not fewer than 72 aircraft. The acquisition of the remaining aircraft will be acquired in conjunction with the withdrawal of the F/A-18F Super Hornet fleet, and will be timed to ensure that no gap in our overall air combat capability occurs.³⁷
- 2.34 The first decision to acquire the first 14 JSF aircraft occurred in November 2009.³⁸
- 2.35 As stated in the committee's previous report on the *Review of the Defence Annual Report 2007-2008*, the JSF acquisition will be the most expensive single acquisition in Defence's history. As our sole or principal air fighting platform, it is also arguably our most important defence acquisition.³⁹
- 2.36 In its *Defence Annual Report 2008-09*, Defence was of the view that the JSF program made good technical progress but identified key risks for the project such as 'cost immaturity and the prospect of technical issues and delays arising in the final development phase and the extensive ground and air test program.'⁴⁰
- 2.37 Defence was also of the view that the project's risks were mitigated stating:
- These risks are mitigated by NACC [New Air Combat Capability] project provision allowing for cost growth in excess of 2008-09 US [United States] Government estimates and aiming to achieve IOC [Initial Operational Capability] a number of years after the USAF [United States Air Force]. Additional schedule buffer is provided by the acquisition of 24 Super Hornet aircraft.⁴¹
- 2.38 Defence also noted, in its *Defence Annual Report 2008-09*, that it is working on 'shaping the future JSF workforce (aircrew, ground crew and project
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36 Department of Defence, *Defence White Paper 2009, Defending Australia in the Asia Pacific Century: Force 2030*, p. 78.

37 Department of Defence, *Defence White Paper 2009, Defending Australia in the Asia Pacific Century: Force 2030*, pp. 78-79.

38 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 7.

39 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2007-2008*, October 2009, Commonwealth of Australia, p. 30.

40 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 54.

41 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 54.

staff) and has commenced detailed facilities design for RAAF Williamstown, Tindal and forward operating bases.⁴²

Current Status

- 2.39 The committee noted testimony that Dr Ashton Carter, US Under Secretary of Defense (Acquisition, Technology and Logistics), made before the US House Committee on Armed Services that the average price of the JSF would be more than 50 per cent higher than it was projected to be when the program began in 2001.⁴³ The committee sought Defence's views on what it means for the costs that Australia is likely to incur.
- 2.40 Defence acknowledged that the total cost of the program had gone up by 50 per cent since the program started but stated that, as Australia does not pay a proportionate share of the aircrafts development, the average cost per aircraft is lower than the US average cost.⁴⁴ Defence added that as Australia is buying only the conventional take-off and landing (CTOL) version of the JSF, the cheapest of the three JSF variants, the average price is a little less.⁴⁵
- 2.41 The committee sought information on how Defence formulated its initial cost projections. Defence advised that:
- We look at the annual reports that the US program office delivers to congress, called selected acquisition reports, and they started as early as 2001. Every year we look at those reports as the basis for our estimates. We have looked at the trend in those prices year by year. We have also done our own analysis on the history of aircraft projects and how price has tracked over time. We did some sensitivity analysis on the key drivers for the cost of that. We put all those things together and we always had quite a higher estimate than the US estimate for our own provisions for a project. Then we explicitly carry contingency on top of that for unknown risks as well.⁴⁶
- 2.42 Defence also noted that, up till 2009, the US and Australia costed major programs differently:

42 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 54.

43 Dr Ashton Carter, Testimony before the US House Committee on Armed Services, 24 March 2010, p. 9.

44 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 2.

45 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 3.

46 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 3.

The Americans tend not to use contingency in their project costs. We have always traditionally used contingency in our project estimates. So, because major projects do increase in cost, what we do at the beginning of a project, like we have in the NACC project, is estimate a contingency, and it gets burnt down bit by bit as things happen to projects. The Americans tend to report their project increases year by year.⁴⁷

- 2.43 Defence advised that the expected recurring fly-away price for 100 JSF CTOL aircraft,⁴⁸ without including any broader project or development costs, 'was A\$75 million in 2008 dollars at a 0.92 exchange rate.'⁴⁹
- 2.44 The committee questioned whether Australia would incur any additional upfront costs for the research and development or engineering aspects of the program.
- 2.45 Defence pointed out that the US 'were going to put an additional US\$2.8 billion into the project to essentially build an additional test aircraft and an additional software test line and to cover the extra time involved in the 13-month extension to the test program' and that the US had not asked Australia to contribute any funds.⁵⁰ Defence added that the US were withholding US\$614 million of potential award fee from Lockheed Martin but that Lockheed Martin would have the opportunity to win some of it back providing that the project is on cost and schedule.⁵¹
- 2.46 The committee also sought Defence's views on a current assessment of the JSF's capability.
- 2.47 Defence stated that:

We continue to review the capability of the JSF, as it is contracted to be delivered against likely threats, and our assessment of that has not changed. We believe it can do the job for a considerable time into the future, but we note that we will have to continue the upgrade program, which is built into the program, and continue to deliver new weapons as they come into service, and the DCP [Defence Capability Plan] has provision for those.⁵²

47 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 3.

48 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 4.

49 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 4.

50 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 5.

51 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 5.

52 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 6.

2.48 When commenting on the current anticipated delivery date for the first JSF to Australia, Defence advised the committee that:

...at second pass approval for the first 14 aircraft, the plan is to achieve initial operational capability, with the first squadron ready for deployed operations, towards the end of 2018. To achieve that, we are looking at acquiring our first two aircraft for training in 2014. The initial aircraft will stay in the US for training and then the last four of those 14 will come out to Australia in 2017 to do our Australia specific operational tests.⁵³

2.49 Defence also advised the committee that there are many factors that influence when the JSF will become available stating:

So the question of availability of aircraft (1) goes to cost – the earlier you buy, the more it costs you – and (2) goes to slots, or which ones on the production line a particular customer can buy. All the countries are looking at the age of their current fleets. All of the partner countries have combat aircraft at the moment, and they are ageing, so we have got an optimisation question to look at between the cost of keeping the classic Hornets going and the cost of buying Joint Strike Fighters either ahead or behind particular dates. Those business cases are being worked on during 2010 so that we will have a much better piece of advice to offer government early next year.⁵⁴

2.50 The committee questioned whether Defence will be able to retrofit the JSF aircraft back through block 1⁵⁵ to ensure that each aircraft has a common capability and common line of parts.

2.51 Defence advised that there were three blocks of capability in the JSF development program and stated that:

The hardware basically freezes at block 1, so block 2 and block 3 are purely software upgrades. The plan beyond that is another block every two years. The vast majority of that is in software. But about every four years you might do some minor hardware change, which would flow back through the fleet. But the plan is to keep all aircraft throughout the fleet at the same block standard, primarily through software but also through some hardware upgrades throughout their life. ... One of the benefits we get is that we pay three per cent of the cost of those development

53 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 9.

54 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 9.

55 'Block' refers to the capability level of a JSF.

upgrades as a partner in the program but get 100 per cent of the benefits.⁵⁶

- 2.52 The committee asked Defence for an indication of how much extra noise impact there will be from the JSF compared to the current generation aircraft of F-111s or F/A-18s.
- 2.53 Defence advised that it had undertaken extensive testing in the US which showed that the JSF is noisier on takeoff using the afterburner but that it was less noisy in the circuit and approach than the current generation aircraft.
- 2.54 Defence added that it released a draft Public Environment Report (PER), incorporated community feedback and would release the final PER, with community comments, shortly.⁵⁷
- 2.55 Defence advised that it had also released the Australian Noise Exposure Forecast (ANEF) which contained the best estimate of likely usage of the JSF, stating:
- We have put that out based on the best estimate of likely usage of the aircraft with some noise mitigation procedures put in place. Now we have got the feedback, the report will go out and again we will engage with the community and the Air Force to see what other mitigation actions might be able to be put in place for those affected by the noise. We are engaging with the community and the councils to work through that.⁵⁸
- 2.56 Defence added that it was considering a number of options to mitigate the noise impact, including runway extensions, flight paths and conducting exercises away from the Williamstown base, and would conduct a full environmental impact study in the future with the Department of Environment, Water, Heritage and the Arts.⁵⁹
- 2.57 In responding to the question of whether Defence would acquire farmland in the vicinity of the Williamstown base to protect its approach and departure points, Defence highlighted that it 'generally does not acquire noise affected properties unless there are exceptional circumstances'.⁶⁰ More specifically, Defence stated:

56 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 11.

57 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 12.

58 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 12.

59 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 12.

60 Department of Defence, *Submission no. 2*, p. 2.

For properties in the vicinity of RAAF Base Williamtown and Salt Ash Air Weapons Range, these exceptions exist to support operational or training requirements, to expand the boundaries of the base, and to acquire properties in very close proximity to the runway and effectively within the boundaries of the base.⁶¹

- 2.58 Defence noted that a decision about extending the runway would not be made until 2012, 'when the majority of funding comes for the facility.'⁶²
- 2.59 The committee noted that there are noise monitoring devices at the Williamtown base and asked when Defence would have an assessment of the actual noise impact on the area.
- 2.60 Defence pointed out that 'actual noise levels are currently being measured for existing aircraft and will continue to be measured when new aircraft are introduced.'⁶³ Defence added:

Actual noise levels for all aircraft currently operating at RAAF Base Williamtown were included in the draft Public Environment Report for the proposed introduction of the Joint Strike Fighter to the base.⁶⁴

Airborne Early Warning and Control Aircraft

Background

- 2.61 Project Wedgetail, AIR 5077, will provide Australia with an Airborne Early Warning and Control (AEW&C) capability. Wedgetail is an AEW&C facility based on the Boeing 737-700 which carries a phased-array radar that can scan through 360 degrees.⁶⁵
- 2.62 In December 2000 a contract was signed with the Boeing Company to supply four aircraft, associated supplies and support. In 2004 the contract was amended to include an additional two aircraft.⁶⁶
- 2.63 In February 2007, Boeing announced that there was a two year slip in the program's schedule. In May 2008, Boeing made a further announcement

61 Department of Defence, *Submission no. 2*, p. 2.

62 Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 14.

63 Department of Defence, *Submission no. 2*, p. 1.

64 Department of Defence, *Submission no. 2*, p. 1.

65 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 161.

66 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 161.

that there would be an additional 10 month schedule delay due to ongoing problems with the radar, electronic support measures development and system integration.⁶⁷ The project is over 48 months behind schedule.⁶⁸

2.64 In December 2008 the Commonwealth entered into a standstill deed of agreement with Boeing:

...to enable the company to undertake a modified program of test and evaluation to determine the extent to which the aircraft system meets the specification and how well it will perform operationally.⁶⁹

2.65 Under the deed, the Massachusetts Institute of Technology's Lincoln Laboratories conducted an independent assessment of radar performance which was completed in April 2009. An operational utility demonstration was also conducted in April and May 2009 during Exercise Arnhem Thunder.⁷⁰

2.66 In the *Defence Annual Report 2008-09*, Defence stated that 'IOC is currently planned to be achieved by end 2011 and FOC by end 2012.'⁷¹

2.67 In its *2008-09 Major Projects Report*, the ANAO was of the view that the 'overall technical and schedule risk remains high to very high', noting in particular technical challenges such as integration of the Radar and Identification Friend or Foe subsystem, radar, electronic support measures, communication systems and data links.⁷²

Current Status

2.68 At the public hearing, Defence advised that it had taken initial delivery of two aircraft and that it had commenced flight crew training. Defence added that it is expecting initial acceptance in late April or early May and that Boeing was forecasting final acceptance in December.⁷³

2.69 Defence also highlighted the findings from the independent assessment of the radar undertaken by Lincoln Laboratories and noted that they would

67 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 161.

68 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 19.

69 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 43.

70 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 43.

71 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 43.

72 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 162.

73 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 18.

be seeking compensation as the assessment indicated that the existing technology could not deliver the intended capability at this time. Defence stated:

...we had an independent group, Lincoln Laboratory from the US, look at that radar. They advised us two things which were very important: one was that the radar was a sound basis for moving forward; and the second was that existing technology could not deliver that element of capability at this time. So our compensation is one to allow us over time to introduce that technology and get that capability; in fact, we are hopeful it will even improve the capability beyond the original specification.⁷⁴

2.70 Defence advised that the Wedgetail is expected to achieve a vast majority of its technical specifications, of which there are approximately 10,000. However, Defence indicated that the electronic support measures performance, the electronic system, and the deficiency in pulse Doppler radar performance remain problematic.⁷⁵

2.71 The committee sought Defence's view on reports that the Wedgetail's system was failing mid-flight.

2.72 Defence acknowledged that there were system stability issues predominantly due to software problems and that the system had different failure modes, stating:

It has a mode where, if there are elements not working, elements of, say, the complete radar – would you call it gradual degradation – you can keep operating. On other occasions you can get a hard shutdown...[for] significant periods – I think, more than 20 minutes to restart it.⁷⁶

2.73 Defence also indicated that there were certain hardware issues with the transmit-receive modules.⁷⁷ Defence, however, stressed that the Air Force considered that all the other matters were at an acceptable standard prior to initial acceptance, with the exception of the pulse Doppler radar performance. Defence added:

We anticipate 98 per cent compliance with spec at final acceptance. And radar stability is now at around 10 hours. But obviously we

74 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 18.

75 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 19.

76 Mr King, Department of Defence, *Transcript*, 30 March 2010, pp. 19-20.

77 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 20.

welcome the opportunity to brief the committee on the full aspects of the performance.⁷⁸

- 2.74 The first two Wedgetails were officially accepted by the Government on 5 May 2010.⁷⁹ However, the Electronic Support Measures and Electronic Warfare Self Protection Subsystems have yet to be delivered and improvements need to be made to the radar performance and integrated system performance before the aircraft reaches its full capability. This is likely to occur over the next 12 months.⁸⁰

Classic Hornet upgrade

Background

- 2.75 The project to upgrade the F/A-18 fleet, Air 5376, is being conducted in three phases:

...the first enabling the aircraft to more effectively perform its air defence role; the second enhancing pilot situational awareness; and the final stage providing additional aircraft self protection. Each stage also includes an upgrade to the aircraft software for ground support and training systems.⁸¹

- 2.76 Phase 1 (modification of the air defence role) and Phase 2 (enhancing pilot situational awareness systems) were 'completed in August 2003 and December 2008, respectively.'⁸²
- 2.77 In addition to upgrading the Hornet's performance, Defence is starting to encounter some fatigue management issues due to the age of the Hornet fleet. As a result, Defence has taken steps to replace the centre barrels⁸³ of

78 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 57.

79 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'Big boost for Australia's Defence surveillance capability', 5 May 2010.

80 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'Big boost for Australia's Defence surveillance capability', 5 May 2010; The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'Wedgetail Initial Acceptance Ceremony', 5 May 2010.

81 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 89.

82 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 89.

83 The centre barrel is the primary load bearing structure in the Hornet fuselage for the transfer of flight loads from the wings to the fuselage, and is the most significant component of the Hornet airframe in terms of aircraft life.

selected aircraft and undertake other structural refurbishment work to extend the fatigue life of the Hornet.⁸⁴

2.78 In its *2008-09 Major Projects Report*, the ANAO noted:

In May 2008 an engineering study showed that the fatigue life of Hornet Centre Barrels could be extended beyond the current limits. As a result only 10 aircraft will require Centre Barrel Replacement. Additional discrete structural modifications are being undertaken on 42 aircraft to address fatigue damage, corrosion and other emergent ageing aircraft issues; 19 of these aircraft have been completed as at 30 June 2009.⁸⁵

2.79 More specifically, the ANAO report noted that:

As at 30 Jun 09, the first two prototype and one production centre barrel replacement aircraft have been returned to the fleet. The 4th - 6th aircraft have had the centre barrels replaced and are undergoing final rebuild at RAAF Base Williamtown. The 7th - 10th aircraft have had the centre barrel replaced and are undergoing initial rebuild in Canada, before being transported back to Williamtown for final rebuild and delivery⁸⁶

2.80 The ANAO was also of the view that the project to replace the centre barrels remained within budget and on schedule to be completed by December 2012.⁸⁷

2.81 However, the ANAO noted that both projects contained the following challenges:

- The key risks relate to the development and integration of aircraft and system software, as the systems have not previously been integrated and installed in other F/A-18 Hornet fleets;⁸⁸
- The nature of structural refurbishment of an ageing aircraft is such that unknown conditions may be revealed in the process of disassembly. This may result in more extensive

84 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 96.

85 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 96.

86 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 96.

87 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 96.

88 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 202.

refurbishment work becoming necessary and its unpredictable nature poses a challenge to the production schedule;⁸⁹ and

- ...additional parts may be required to replace those that are found to be unserviceable. Obtaining these parts in time to maintain the production schedule is a major risk confronting the project.⁹⁰

Current Status

- 2.82 At the public hearing, the committee focused on the project to replace the Hornet's centre barrel and questioned the projects status, its cost, and the expected operational life of the Hornet.
- 2.83 Defence noted that the project was largely complete, having replaced seven out of ten Hornets⁹¹ at a total cost (for 10 centre barrel replacements) of \$292 million.⁹²
- 2.84 Defence was quite confident that the Hornet's would have an extended life up to 2020, with an official withdrawal date of 2018, and that no further centre barrel work would need to be undertaken for fatigue reasons. Defence did note that the aircraft still required some additional corrosion work to get to 2020.⁹³
- 2.85 The committee also queried whether any additional centre barrel testing work would be undertaken in Australia if it were required and whether L-3 Communications MAS Inc in Canada⁹⁴ (L-3) would have the capability for an international requirement of keeping centre barrels operational.
- 2.86 Defence advised that L-3 would most likely undertake any additional testing if it were required, stating:

In all likelihood we would probably do those in Canada. As you can imagine, it is a very complex modification. It involves breaking the aircraft apart and taking the wings off. It involves very complicated jigs and fixtures, for which L-3 have that expertise. So I would imagine that would be the case. Of course, if we were doing a very large number – indeed, when we were

89 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 222.

90 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 222.

91 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 9.

92 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 21.

93 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 9; Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 21.

94 Prime contractor for the removal and replacement of centre barrels.

looking at that in the first instance with 49 we were looking at the business case for doing that in Australia, possibly using overseas expertise to augment our local capability.⁹⁵

- 2.87 However, Defence pointed out that while L-3 still had the capability, it had closed the centre barrel replacement (CBR) production line and that the Canadian Forces were 'retaining one CBR jig until 2017.'⁹⁶ Defence added:

Re-establishment of the capability would be possible; but would be costly due to re-installation of the jig, engagement of trained technicians and engineers, and the associated logistics and support infrastructure for this large and complex modification. It would also take at least several months to restart the CBR production line, but as L-3 MAS is the CF deeper maintenance contractor and will be until its planned withdrawal date, the capability to do so should still exist.⁹⁷

- 2.88 Defence were of the view that any additional CBR could be carried out by the United States Navy (USN) if required, stating:

CBR production lines at Fleet Readiness Centre South West (North Island) and Fleet Readiness Centre South East (Jacksonville) will continue for several years, with the Jacksonville line planning to be open until 2017. Due to the existing continuity this may be the best option if CBR is required for additional RAAF aircraft; although the modifications carried out by the USN differ slightly to those that L-3 incorporated on RAAF aircraft.⁹⁸

Super Hornet

Background

- 2.89 In May 2007, the Australian Government announced its intention to acquire twenty-four F/A-18F Block II Super Hornet multi-role aircraft, Project Air 5349.⁹⁹

95 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 21.

96 Department of Defence, *Submission no. 2*, p. 2.

97 Department of Defence, *Submission no. 2*, p. 2.

98 Department of Defence, *Submission no. 2*, p. 2.

99 The Hon Dr Brendan Nelson MP, Minister for Defence, 'Super Hornet Bridging Air Combat Capability', Media Release, 8 May 2007, p. 1.

- 2.90 The acquisition is intended to give the ADF a bridging air combat capability during the transition from Australia's current air combat capability (the F/A-18 Hornet and F-111) to the acquisition of Australia's new air combat capability (the Joint Strike Fighter).
- 2.91 In the *Defence Annual Report 2008-09*, Defence stated that:
- The program remains on schedule with the first four aircraft to arrive in Australia in the second quarter of 2010. IOC will be achieved in December 2010 and FOC will be achieved in December 2012.¹⁰⁰
- 2.92 On 26 March 2010, Australia received the first five Super Hornet's which will be based at the Royal Australian Air Force (RAAF) Base Amberley in Queensland.¹⁰¹

Current Status

- 2.93 Defence highlighted that it had recently signed a Super Hornet training schedule with Raytheon Australia Pty Ltd and that training had commenced. Defence was of the opinion that it was a fairly low risk exercise adding that:
- Raytheon Australia, who took on that contract, also do the training for the classic Hornets under contract. They have an experienced subcontractor, Milskil, who also do training for Super Hornets. They have a lot of experienced former Australian and former US instructors in that program, and we believe it is a fairly low risk enterprise.¹⁰²
- 2.94 The committee sought Defence's view on whether the Super Hornet was less susceptible to corrosion than its predecessor.
- 2.95 Defence noted that there were structural differences between the two aircraft, with the centre barrel being the most significant, but that all aircraft are susceptible to corrosion stating:
- ...the centre barrel on a Super is titanium, not aluminium, so it has a fundamentally stronger core. It has more composite in it, but it still comes down to aluminium. Yes, you can coat it, bond it and

100 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 43.

101 Department of Defence, 'Super Hornets are here', Media Release, 26 March 2010.

102 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 22.

do those sorts of things, but fundamentally, in the normal wear and tear of operations, it will corrode.¹⁰³

- 2.96 The committee also asked Defence to provide a status report on the current scheduled delivery dates for the remaining aircraft.
- 2.97 Defence advised that the current production rate was one aircraft a month which were being batched and tested in the US. Defence added that the aircraft would be delivered in six waves, comprising of four Super Hornets at a time, with waves two and three arriving towards the middle of 2010, wave four in early 2011, wave five in mid 2011 and wave six in late 2011.¹⁰⁴
- 2.98 Defence was of the opinion that it did not think there was a need to acquire any more Super Hornets¹⁰⁵ but noted that it would cost 'at least \$1.5 billion to \$2 billion or more to acquire an additional squadron of Super Hornets.'¹⁰⁶

Navy

Guided missile frigate upgrade

Background

- 2.99 The project to upgrade four Adelaide Class Guided Missile Frigates (FFGs), SEA 1390, involves both upgrading and integrating the:
- ...combat systems, sensors, missile launchers and associated platforms systems, an onboard training system to the ships' combat system, and improvements to the reliability of the ships' platform systems.¹⁰⁷
- 2.100 The project, which commenced in 2009, has undergone significant delays and is now over four years behind schedule.¹⁰⁸

103 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 23.

104 Air Vice Marshal Thorne, Department of Defence, *Transcript*, 30 March 2010, p. 24.

105 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 10.

106 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 24.

107 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 93.

108 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 211.

2.101 In its *2008-09 Major Projects Report*, the ANAO provided an indication of when each FFG was upgraded, stating:

- Provisional Acceptance of HMA (Her Majesty's Australian) Ships Sydney, Melbourne and the Team Trainer were achieved in December 2006, October 2007 and November 2007 respectively;
- HMAS Darwin achieved Provisional Acceptance in August 2008; and
- HMAS Newcastle achieved Provisional Acceptance in May 2009.¹⁰⁹

2.102 In the *Defence Annual Report 2008-09*, Defence stated that HMA Ships Sydney, Darwin, Melbourne conducted trials, evaluation, and training activities and that there continue to be high risks associated with the project:

The high risk to achieving contemporary capability effectiveness of the electronic support and torpedo defence systems is being mitigated by a remedial action program that will continue on through 2009-10.¹¹⁰

Current Status

2.103 Defence informed the committee, at the public hearing, that it had accepted all four FFGs from the contractor, Thales Australia, and that:

The Chief of Navy has provided initial operational release for the vessels and I think that project, which you know was troubled for many years, has been removed from the projects of concern list, as announced by Minister Combet. They are now in the hands of the Chief of Navy and are being used as operational units.¹¹¹

2.104 The committee noted the comments Defence made at the 16 April 2009 public hearing into the *Defence Annual Report 2007-08* that the electronic support measures system was a major area of concern¹¹² and questioned whether the issue was resolved.

2.105 Defence acknowledged that there were problems with the electronic support measures system and in particular that there were problems with

109 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 212.

110 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 51.

111 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 46.

112 Mr King, Department of Defence, *Transcript*, 16 April 2009, p. 46.

the antennae and reliability and software problems,¹¹³ but that the problems had been corrected, stating:

It also required a lot of testing and trialling to understand the issues, which is a thing we often find. We went through that structured campaign, found the problems and corrected those problems.¹¹⁴

Air Warfare Destroyer

Background

- 2.106 In the 2000 Defence *White Paper* the ADF announced that it would replace the Navy's FFGs with a class of at least three air defence capable ships.¹¹⁵
- 2.107 On 11 August 2004 the Federal Government announced that it had 'selected the Aegis air warfare system as the core of the combat system for Australia's new air warfare destroyers' (AWD).¹¹⁶ The Aegis system is comprised of the radar, the central command and control and the missile control system.¹¹⁷
- 2.108 On 21 April 2005 the Federal Government announced that Raytheon Australia Pty Ltd had been selected as the 'preferred bidder for a major electronic engineering contract in support of the combat system design and maintenance for the Air Warfare Destroyer.'¹¹⁸
- 2.109 A month later, on 31 May 2005, the Federal Government announced that ASC Shipbuilder Pty Ltd would be the preferred shipbuilder for Navy's Air Warfare Destroyers.¹¹⁹
- 2.110 The AWD Program is being delivered under an Alliance based contracting arrangement between ASC AWD Shipbuilder Pty Ltd, Raytheon Australia Pty Ltd and the Commonwealth of Australia.¹²⁰

113 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 47.

114 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 47.

115 Department of Defence, *Defence White Paper 2000, Our Future Defence Force*, p. XIV.

116 Senator The Hon Robert Hill, Minister for Defence, 'Aegis Combat System for Air Warfare Destroyers', Media Release, 11 August 2004, p. 1.

117 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 49.

118 Senator The Hon Robert Hill, Minister for Defence, 'ASC Chosen to Build Air Warfare Destroyers', Media Release, 21 April 2005, p. 1.

119 Senator The Hon Robert Hill, Minister for Defence, 'ASC Chosen to Build Air Warfare Destroyers', Media Release, 31 May 2005, p. 1.

120 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, pp. 52-53.

- 2.111 Defence stated, in the *Defence Annual Report 2008-09*, that the preliminary design review was achieved in December 2008 and the critical design review was on schedule for December 2009.¹²¹
- 2.112 In the Annual Report, Defence also stated that:
- the majority of combat and platform systems equipment selections were complete;
 - infrastructure work was ahead of schedule at South Australia's Common User Facility (Techport) and the ASC Shipyard; and
 - steel fabrication for the hull blocks was scheduled to commence in late 2009.¹²²
- 2.113 On 21 January 2010 the ASC shipyard was officially opened.¹²³

Current Status

- 2.114 In responding to a question on the status of the AWD project, Defence noted that despite the initial difficulties, overall progress was still good, stating:
- There [were]...difficulties encountered with the letting of the block subcontract, in particular with NQEA. That process was terminated for a number of reasons and, subsequently, that part of the block contract was let to BAE Systems operating out of Williamstown in Melbourne. I am able to report that blocks are under construction now at BAE Williamstown, Forgacs in Newcastle and fabrication work has started at ASC in Adelaide.¹²⁴
- 2.115 Defence added that it had completed the critical design review in December 2009 and opened the ASC shipyard and common user facility in Adelaide.¹²⁵
- 2.116 The committee questioned whether Defence had taken all steps to exercise due diligence when analysing the financial status of NQEA.
- 2.117 Defence advised that ASC, not DMO, conducted due diligence of NQEA prior to acceptance which was confirmed by the AWD alliance board.

121 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, pp. 52-53.

122 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 53.

123 Prime Minister, 'Address at the opening of the ASC shipyard', 21 January 2010.

124 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 47.

125 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 47.

NQEA subsequently amended its financial structure after the offer was accepted.¹²⁶

- 2.118 The committee asked Defence to provide an update on the project's next phase to integrate the communications systems and sensors onboard the AWDs and identify any risks or challenges.
- 2.119 Defence advised that the first system completed trials in November 2009 and is ready to be shipped to Australia, adding:

We called it the Australianised combat system so that we could add some features that were particular needs for Australia. The first element selected with the sonar. That work is progressing satisfactorily. We are just about to complete the EW, electronic warfare, system down select and should be in the process in the next week or two of informing the minister of the alliance's decision process. So I would say at this stage of the program we are obviously working very closely with the US on that integration. Kongsberg is doing what we call the Australian tactical interface, the interface into the Aegis system.¹²⁷

- 2.120 Defence was of the opinion that the technical performance measures and financial progress of the project was satisfactory and that the project was on schedule to deliver the first AWD in December 2014, despite the loss of some scheduled progress.¹²⁸
- 2.121 The committee sought Defence's view on acquiring a fourth AWD and whether the additional acquisition would become more or less financially viable overtime.
- 2.122 Defence advised that they had not undertaken any assessment of how much a fourth AWD would cost but noted that the cost of acquiring a fourth Aegis system for one more AWD would be particularly expensive. Defence added:

America has just announced it is going to restart its DDG 51 [US Arleigh Burke class guided missile destroyer] construction, and that would lead to them buying more Aegis combat systems. As our fourth one at that time would have been the very last Aegis after a break, it would have been potentially quite expensive. But it is possible now that the Americans will restart the Aegis production line the costs of that will come down. On the other

126 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 48.

127 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 49.

128 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 49.

side, you start to introduce inefficiency on the ship construction side of it. We have not done any detailed costing work on that for some time.¹²⁹

- 2.123 Defence acknowledged that there will still be an opportunity to acquire a fourth AWD within the next two years as the AWDs should be delivered up until 2018.¹³⁰

Amphibious ships

Background

- 2.124 Under the Amphibious Deployment and Sustainment Project, JP 2048, Australia will acquire two amphibious ships, two landing helicopter decks (LHDs) and associated supplies and support.¹³¹
- 2.125 The contract between the Commonwealth and BAE Systems Australia Defence for the acquisition of the two Spanish designed Canberra Class LHD ships and support systems came into effect in November 2007.¹³²
- 2.126 The ships hulls will be built and fitted out in Spain prior to being transported to Australia where they will be integrated with the superstructures in Melbourne. L3 Communications is subcontracted to provide the communications system and Saab Systems Australia will provide the combat system and integrate the combat management system.¹³³
- 2.127 In the *Defence Annual Report 2008-09*, Defence stated that:
- The hulls will arrive in Australia in July 2012 and February 2014 respectively. Delivery and acceptance of the ships is to occur in December 2013-January 2014 and July-August 2015. An in-service support strategy is currently being developed. The initial support contract is to be in place 12 months before first ship delivery.¹³⁴

129 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 50.

130 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 50.

131 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 169.

132 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 169.

133 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 53.

134 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 53.

Current Status

- 2.128 Defence advised the committee that 30 per cent of the modules of the first ship are now on the slipway in Navantia, Spain, and that it expects the ship to launch in the first half of 2010.¹³⁵
- 2.129 When asked about the integration of the combat system on the ship, Defence advised that the core combat system is a derivative of the ANZAC class frigates combat system and that the challenge would be to integrate the system.¹³⁶
- 2.130 Defence was of the view that the project had no significant delays or cost overruns at this stage but that they were closely monitoring the design process.¹³⁷

Armidale Class patrol boats

Background

- 2.131 In December 2003 the Government announced that Defence Maritime Services Pty Ltd had won the contract to provide 12 Armidale class patrol boats.¹³⁸ In May 2005 additional funding was provided for an additional two patrol boats.¹³⁹
- 2.132 The ANAO, in its *2008-09 Major Projects Report*, stated that 'all 14 vessels have been delivered, achieved IOC and commissioned into the Navy, with the 14th vessel achieving Initial Operational Release in November 2007 and commissioned in February 2008.'¹⁴⁰

Current Status

- 2.133 At the public hearing the committee highlighted recent reports alleging that the Armidale class patrol boats were commissioned with design defects.¹⁴¹

135 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 50.

136 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 51.

137 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 51.

138 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 245.

139 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 245.

140 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 245.

141 McKenna M, 'Navy failures blamed for gassing of four sailors on Armidale patrol boats', *The Australian*, 26 December 2009; McKenna M, 'Gas risk remains for navy boats', *The Australian*,

- 2.134 Defence advised that the patrol boats had two issues, water in the fuel and toxic gas in the accommodation compartment, which delayed their formal operational release but that the issues had been resolved.¹⁴² Defence added:

Both issues have now been resolved through implementation of a number of design changes. They have been proven in [HMAS] Glenelg and will be fitted to all of the ships in the fleet with a view to them being able to meet Navy's full operational release requirements by the end of 2011.¹⁴³

Collins-class submarines

Background

- 2.135 In 1985 a contract was signed with the Australian Submarine Corporation, now ASC Pty Ltd, to supply six Collins-class diesel-electric submarines.¹⁴⁴
- 2.136 Construction on Australia's first Collins-class submarine, HMAS Collins, began in 1990 and construction on Australia's sixth and final Collins-class submarine, HMAS Rankin, began in 1995. HMAS Rankin was launched in 2001 and commissioned in 2003.¹⁴⁵

Current Status

- 2.137 The committee examined the progress of replacing the generator in the Collins-class submarines and asked Defence to provide an update.
- 2.138 Defence informed the committee that the windings on the generators had failed and was of the opinion that the vacuum impregnation was 'not done properly when they were originally manufactured.'¹⁴⁶
- 2.139 Defence advised that it had initially estimated that repairing the generators would take around 23 weeks and noted the size of the task:

Just due to the physical dimensions, the requirement to get them in and out was a very big task. The Submarine Program Office – a

2 January 2010.

142 Ms McKinnie, Department of Defence, *Transcript*, 30 March 2010, p. 51.

143 Ms McKinnie, Department of Defence, *Transcript*, 30 March 2010, p. 52.

144 Department of Defence, 'Collins Class construction complete as 6th and final submarine HMAS Rankin commissioned into the Royal Australian Navy', Media Release, 29 March 2003.

145 Department of Defence, 'Collins Class construction complete as 6th and final submarine HMAS Rankin commissioned into the Royal Australian Navy', Media Release, 29 March 2003.

146 Mr Gillis, Department of Defence, *Transcript*, 30 March 2010, p. 57.

combination of ASC, the Navy and the DMO – have worked collaboratively to produce a much better system of getting them in and out.¹⁴⁷

- 2.140 Defence added that it is working with Hofmann Engineering, a confined-space engineering company, who are repairing the generators, stating:

Hofmann undertook the challenge to have them removed, repaired and put back in a period of approximately 57 days. They are currently on track. The first of the generators will actually go back into Farncomb today and will then go through a process. We are very pleased with the work that has been undertaken to date. It has been an excellent example of the cooperation between the whole team, as well as of getting the best of breed within Australian engineering to help us get these Collins-class submarines back into operations.¹⁴⁸

- 2.141 The committee asked whether Defence had any indications that generators on other submarines were likely to fail.

- 2.142 Defence noted that the original generators that were manufactured in France are very solid but that the ‘generators manufactured in Australia are susceptible to this particular failure.’¹⁴⁹

- 2.143 Defence pointed out that it was monitoring the generators and examining ways to reduce the failure rate, stating:

We are looking at the way in which we can ensure that we do not get the same sort of failure. We do have three generators on each submarine. The normal requirement is to only operate two. So what you can do is: by operating them at about 80 per cent of their normal operating profile, you restrict the likelihood of a failure. We have now also been able to prove a world’s best practice way of doing this work.¹⁵⁰

- 2.144 Defence also advised that it would be changing out the complete set of generators in its Collins-class submarines.¹⁵¹

- 2.145 The committee also sought Defence’s views on whether the original supplier of the faulty generators would be liable.

147 Mr Gillis, Department of Defence, *Transcript*, 30 March 2010, p. 57.

148 Mr Gillis, Department of Defence, *Transcript*, 30 March 2010, p. 57.

149 Mr Gillis, Department of Defence, *Transcript*, 30 March 2010, p. 57.

150 Mr Gillis, Department of Defence, *Transcript*, 30 March 2010, p. 57.

151 Mr Gillis, Department of Defence, *Transcript*, 30 March 2010, p. 57.

- 2.146 Defence commented that the original warranty period had lapsed and that it would not have a case to seek recompense from the original manufacturers.

Replacement of the Navy's combat helicopter capability

Background

- 2.147 The project to replace the Navy's tactical helicopter fleet comprised of Seahawks and Super Seasprite helicopters, AIR 9000 Phase 8, is in the early stage of development.¹⁵²
- 2.148 On 25 February 2010 the Government announced that the project had been given first pass approval, and that 'the new helicopter will be either the Sikorsky-Lockheed Martin built MH-60R [Romeo] sourced through the United States Navy, or the NATO Helicopter Industries NH90 NFH [Nato Frigate Helicopter] sourced through Australian Aerospace.'¹⁵³
- 2.149 On 28 April the Government announced that the DMO released the tender for the supply of a new naval combat helicopter, stating that:
- Under this project, the Government will acquire sufficient helicopters to provide at least eight helicopters concurrently embarked on ships at sea, which under the White Paper requires a fleet of 24 helicopters.¹⁵⁴
- 2.150 A decision about which naval helicopter will be acquired is expected to be made in 2011.¹⁵⁵

Current Status

- 2.151 At the public hearing, the committee briefly examined Defence's intention to replace the Navy's combat helicopter capability. In particular, when comparing the two aircraft the committee put forward the view that:
- the advantages of the Romeo are cost and risk - the risk is lower because it is a fully developed and proven aircraft; and

152 Department of Defence, 'Air 9000 Project details', viewed on 28 April 2010, <http://www.defence.gov.au/Capability/AIR9000/Project_Details.asp>

153 Senator the Hon John Faulkner, Minister for Defence, 'New Naval Combat Helicopter', Media Release, 25 February 2010, p. 1.

154 Senator the Hon John Faulkner, Minister for Defence, 'New naval combat helicopter tender release', Media Release, 28 April 2010.

155 Senator the Hon John Faulkner, Minister for Defence, 'New naval combat helicopter tender release', Media Release, 28 April 2010.

- while the NH90 NFH was more expensive, the aircraft was constructed from composite materials and offered greater capability because it can also operate as a ship-to-shore aircraft.
- 2.152 Defence acknowledged that it was ‘a fair summation of what has been publicly described’¹⁵⁶ and that:
- The task for us in Defence is to develop and gain the information for a full and accurate picture of both types.¹⁵⁷
- 2.153 The committee also questioned the cost differential between the two aircraft.
- 2.154 Defence acknowledged that there was a cost difference as they are very different aircraft, stating:
- One has different maintenance requirements to the other – that is, time taken to conduct that maintenance.¹⁵⁸
- 2.155 On the differences in the ongoing maintenance costs between the two aircraft, Defence added:
- We are measuring this across the 30-year, whole-of-life cost. It is the acquisition and the through-life costs, particularly where you can move them between one or the other to a degree. From a Defence position, our recommendations will be on the information gained for the total, whole-of-life costs for the aircraft.¹⁵⁹
- 2.156 Defence also advised that purchasing the aircraft ‘off the shelf’ would keep costs down and noted that:
- ...for the Romeo it is to take the benefits of the US Navy; and
 - ...for the European benefits it is to keep it as close as we can to the most common one, which is the French Navy variant in this case, and they are in the process of accepting their first aircraft,...which is only fitted for search and rescue. It does not have the weapons systems or a lot of the mission systems in it at this stage. That is not due to be delivered until sometime late in 2011.¹⁶⁰

156 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 44.

157 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 44.

158 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 45.

159 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 45.

160 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 45; Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 45.

- 2.157 Defence advised that it had engaged a contractor to examine the cost differences between the two aircraft and 'to look at alternative, innovative ways of approaching it.'¹⁶¹

Army

Light Protected Vehicle

Background

- 2.158 On 29 October 2008, the Government announced that it had given first pass approval to replace the ADF's Land Rovers with a fleet of Light Protected Mobility Vehicles (PMV-L), project LAND 121 Phase 4.¹⁶²
- 2.159 At that time, the Government also announced its intention to 'participate in the technology demonstration phase of the US Joint Light Tactical Vehicle (JLTV) Program, which is expected to replace over 60,000 vehicles in the US Army and Marine Corps from 2012 onwards.'¹⁶³
- 2.160 On 12 June 2009 the Government released a request for proposal seeking Australian manufactured and supported PMV-L. The Government also announced that the request for proposal would run concurrently with Australia's participation in the US JLTV Program.¹⁶⁴
- 2.161 While no decision has been made, the Government is considering three different options to acquire a PMV-L:
- simply purchase a Military Off The Shelf vehicle;
 - develop and manufacture a vehicle in Australia; or
 - continue in the developmental US Joint Light Tactical Vehicle program.¹⁶⁵
- 2.162 The project is currently at the pre-first pass approval stage.

161 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 45.

162 The Hon Joel Fitzgibbon MP, Minister for Defence, 'Australia to Join US Light Vehicle Program', Media Release, 29 October 2008.

163 The Hon Joel Fitzgibbon MP, Minister for Defence, 'Australia to Join US Light Vehicle Program', Media Release, 29 October 2008.

164 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'Opportunity For Australian Defence Industry', 12 June 2009.

165 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'Address to Australian Business Defence Industry Unit Canberra', 20 November 2009.

Current Status

2.163 The committee examined Australia's involvement in the US JLTV Program and enquired about the cost of participating in the program, the estimated cost of the vehicles, and whether Australian industry was consulted prior to deciding to participate in the program.

2.164 Defence advised that Australia spent US\$30.6 million to participate in the current phase of the program and that while Australia is not committed to continue in the program, it could cost an additional US\$100 million to be involved in the next phase. Defence stated:

In the middle of next year, the Americans will be thinking about the next phase. If they were to proceed and if we were to become involved, it could be up to \$100 million. But it really does depend – and this is the subject of ongoing negotiations between Australia and the US – on what we will know at the end of the phase that we are in now, on what the objectives are in their phase and on what information we get from it for what levels of investment.¹⁶⁶

2.165 Defence also noted that, to date, it had not expended any money in Australia on developing an Australian JLTV but that it would be making suggestions how it could be manufactured and supported:

In the advice that we will be presenting to government, the results of the RFP, we will be making suggestions such as: what could be done if it were manufactured and supported in Australia – what you would call the Australian JLTV; and what options could we explore in Australia so that decisions concerning the JLTV program are made with appropriate information about what is possible in Australia? There are basically two streams of development.¹⁶⁷

2.166 Defence was also of the opinion that there was a potential for the engineering, manufacturing and development (EMD) phase of the US JLTV program to align more closely with the Australian phase noting that:

I think that might also give you a level of assurance, perhaps, or comfort that, if we just follow the JLTV program, around the middle of the year [the US] will make a decision about progressing to the EMD phase and...they will re-tender. A whole bunch of new companies may come in to pick up the requirements that we

166 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, pp. 27-28.

167 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 28.

get from this test development phase and build brand new prototypes that might look nothing like the ones that we did the original work on. And around middle to late 2013-ish is when they expect to get to the end of the EMD phase to make a choice on the vehicle to buy. So if you take that as one stream, quite different but parallel, if the government proceeds with the MSA [manufactured and supported in Australia] version, there is a peg in the sand down here around 2013-14 where America will have got to the end of its development and will go: 'This is our vehicle.' So, if you like, that is a choice down here and that is a time line for the manufacture and support in Australia to also achieve some level of development so that the government of the day could make a comparison between what Australia is able to produce and what the American line produces. In around 2013-14 they will have a very good idea alternative to look at, provided the MSA can develop a vehicle that meets the requirements clearly.¹⁶⁸

- 2.167 When commenting on the unit cost for a JLTV, Defence indicated that it was unable to provide any costings given the project was in the technical development phase, and that:

It is a long time before we know the precise requirements and we know who is going to build it, what it will be built of, the level of integration and the sorts of things that will be on the vehicle.¹⁶⁹

- 2.168 Defence advised that the total cost of the program, as stated in the Defence Capability Plan, would be greater than \$1.5 billion.¹⁷⁰
- 2.169 On the question of whether Defence had consulted with Australian industry prior to agreeing to participate in the JLTV program, Defence advised that industry was consulted 'through the Land Environment Working Group and direct approaches before first pass on the JLTV program to see if anyone had any plans.'¹⁷¹
- 2.170 The committee asked how Defence initially undertook an assessment of the PMV-L, and in particular asked why the Thales Australia vehicle, the Copperhead Bushmaster, was not shortlisted.

168 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 31.

169 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 29.

170 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 29.

171 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 29.

2.171 Defence advised that the project had gone to tender twice and noted that the Thales Australia vehicle was not ready prior to completion of the first tender process. Defence stated:

We selected a preferred tenderer for that project, from memory back towards the end of 2007. That vehicle, which is an American vehicle, did not pass all its tests on the proving range, so we went out to re-tender. The first time round the Bushmaster Copperhead, or that variant produced, the Thales, was not ready. By the time we had gone through the re-tender, Thales had done a lot more development work and it was ready and it was included.¹⁷²

2.172 The committee noted reports that the US JLTV program was experiencing difficulties and asked Defence for an update.

2.173 Defence advised that the JLTV program is currently in the technical development phase and that Australia should receive its test vehicles by August-September 2010 with testing to complete around May 2011. Defence added that 'there was no indication that that program was going to be delayed or is in trouble.'¹⁷³

2.174 When questioned whether there would be an Australian variant of the JLTV that meet Australia's requirements, Defence advised that it was still making an assessment of its requirements as part of the technical development phase, stating:

We are participating in the technical development phase to test what is physically achievable balanced between protection, cost, the laws of physics and transportability and then we will have a set of requirements that we will know, with the Americans, is achievable.¹⁷⁴

2.175 Defence noted that the request for proposal process would be completed within a couple of months after which it would be 'providing government with advice on the outcomes of those assessments and recommending a way forward.'¹⁷⁵ Defence added that advice would be given to the Minister and subsequently referred to the National Security Committee of Cabinet which would lead to a request for tender process.¹⁷⁶

172 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 25.

173 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, pp. 25-26.

174 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 26.

175 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 27.

176 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 27; Mr Gibbons, Department of Defence, *Transcript*, 30 March 2010, p. 27.

Armed Reconnaissance Helicopter

Background

- 2.176 In August 2001 the Government announced that it would acquire 22 'Tiger' ARH under Project AIR 87.¹⁷⁷
- 2.177 The first four ARH were manufactured and assembled in France by the European Aeronautic Defence and Space (EADS) Company and the remaining ARH were manufactured in France and assembled in Brisbane by a subsidiary of EADS, Australian Aerospace.¹⁷⁸
- 2.178 In July 2007 Defence stopped payment to Australian Aerospace under the ARH acquisition contract due to extended delays in 'achieving the IOC¹⁷⁹ critical contractual milestone.'¹⁸⁰
- 2.179 In its *2008-09 Major Projects Report*, the ANAO stated that several factors contributed to the delay 'which in turn resulted in insufficient numbers of aircraft, training devices and logistics support in service to enable the required training outcomes.'¹⁸¹
- 2.180 In April 2008, Defence and Australian Aerospace agreed to:
...a revised Acquisition Contract Price and Delivery Schedule, a revised Through Life Support Contract pricing structure that transitioned it to a Performance Based Contract, and established networks for work done by third-party support subcontractors.¹⁸²
- 2.181 On 6 August 2008 Defence received the first three ARH¹⁸³ and on 1 October 2009 the ARH reached the initial operational test and evaluation readiness milestone which 'marks the point where the project transitions focus from individual flying, maintenance and support qualifications to
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177 The Hon Peter Reith MP, Minister for Defence, 'Armed Reconnaissance Helicopter', Media Release, 8 October 2001, p. 1.

178 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 177; The Hon Peter Reith MP, Minister for Defence, 'Armed Reconnaissance Helicopter', Media Release, 8 October 2001, p. 1.

179 Initial Operational Capability for the Tiger ARH Project is defined as the ability to conduct training.

180 Department of Defence, 'Defence Stops Payment on Armed Reconnaissance Helicopter Acquisition Contract', Media Release, 5 July 2007.

181 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 177.

182 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 178.

183 The Hon Warren Snowdon MP, Minister for Defence Science and Personnel, 'Tigers Land in Darwin', Media Release, 6 August 2008.

collective training and development of Army Aviation war fighting skills.’¹⁸⁴

- 2.182 At 9 July 2009 Defence had received 16 ARH. All 22 aircraft are to be delivered by 30 September 2010 ‘with final supplies acceptance due 30 June 2011.’¹⁸⁵

Current Status

- 2.183 Defence advised that the ARH project was about 80 per cent complete having accepted 17 aircraft which have achieved weapons certification, noting:

The plan is to have all aircraft accepted either at the end of this year or early next year. Some will undergo a retrofit program, but, importantly, we achieved the end of September milestone...where they were ready for operational test and evaluation, which means the aircraft were then migrated into the operational unit to allow them to conduct the collective training – the multiple aircraft type training – and develop their war fighting skills.¹⁸⁶

- 2.184 The committee asked when the ARH would have full operational capability.
- 2.185 Defence responded that the DMO is recommending that the ARH have a ‘deployable troop capability for a benign environment’ and once the Chief of Army has made a decision the ‘objective is to then build up the operational capability, the war fighting status, gradually as we continue to develop aircraft and these systems.’¹⁸⁷
- 2.186 Defence also advised that before the ARH can be deployed in higher threat environments some additional work needs to be completed, which includes work on the helmet-mounted sight and display, training for the trainers and crews, and improved logistics support for the aircraft.¹⁸⁸
- 2.187 Defence noted that it was working closely with the French who have deployed three aircraft in Afghanistan since August 2009. Defence added that the weapons system and reconnaissance sensors on the French aircraft were reported to be performing well noting that:

184 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, ‘Tiger Achieves Major Milestone for Army’, Media Release, 1 October 2009.

185 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 3.

186 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 37.

187 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 37.

188 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, pp. 37-38.

...the reliability of some elements of it has been much better than were forecast. Some others elements still need some work. It is still a new aircraft, relatively, in testing but the French are exceptionally pleased and I think, overall, we are all pleased with the performance of Tiger on operations in Afghanistan.¹⁸⁹

- 2.188 Defence indicated that Australia is about 18 months behind the French in operational capability.¹⁹⁰

Self-propelled guns

- 2.189 The Artillery Replacement program, LAND 17, will provide the Army with new protected self-propelled guns,¹⁹¹ new lightweight towed guns, and a digitised, networked Battle Management System.¹⁹²
- 2.190 On 26 September 2007 the Government released a 'Request for Tender for the acquisition and support of protected self-propelled howitzers.'¹⁹³
- 2.191 At the public hearing, the committee explored the acquisition of self-propelled guns and asked Defence to provide an update.
- 2.192 Defence advised that it was currently examining two tender responses and that it would be in a position to advise 'Government about which self-propelled gun might be the recommended gun.'¹⁹⁴
- 2.193 Defence noted that the project had been deferred for around 15 months until the offer-definition period is completed, stating:

At the moment, the self-propelled howitzers are planned for consideration for source selection by government in late 2010. It was going to be considered for second-pass approval back in July 2009, so it is probably about 15 months.¹⁹⁵

189 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 38.

190 Major Gen. Fraser, Department of Defence, *Transcript*, 30 March 2010, p. 39.

191 A self-propelled gun is a gun mounted on a motorised wheeled or tracked chassis.

192 Department of Defence, 'Projects: LAND 17 - Artillery Replacement - 105mm & 155mm', viewed on 3 May 2010, <<http://www.defence.gov.au/dmo/lcd/land17/land17.cfm>>

193 Department of Defence, 'Projects: LAND 17 - Artillery Replacement - 105mm & 155mm', viewed on 3 May 2010, <<http://www.defence.gov.au/dmo/lcd/land17/land17.cfm>>

194 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, pp. 54-55.

195 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 55.

2.194 Defence added:

The original tender process did not result in a conclusive assessment of either of the offers, so we went into this offer definition period before going to government to make a recommendation for the preferred tenderer. That has involved a number of tests and trials.¹⁹⁶

2.195 **The committee is mindful of the dramatic improvement in capability self propelled artillery provides over traditional towed weapons. Whilst this new platform includes some sophisticated systems, it is far from a complex acquisition in the context of many other ADF acquisitions. The 15 month delay is therefore of concern.**

2.196 The committee also notes that not all potential suppliers engaged in the tender process.

Committee conclusions

2.197 The committee is aware of the significant challenges in managing very complex, sensitive and technical projects. However, the committee agrees with the ANAO's assessment that keeping major projects on schedule remains a major challenge for the DMO.¹⁹⁷

2.198 Two projects in particular have experienced extensive schedule slippages: the High Frequency Modernisation Project and Project Wedgetail.

2.199 **While the committee is encouraged to hear the ANAO's assessment that the core system of the HF Modernisation Project is reliable and meeting Defence's requirements, it notes that this project is over 6 years behind schedule¹⁹⁸ and will not meet all of the projects technical specifications. The schedule slippage is so extensive that Defence has needed to reassess which platforms currently require upgrades to HF.**

2.200 Project Wedgetail is at least four years behind schedule, with FOC currently planned to be achieved by December 2012,¹⁹⁹ and it will not deliver the intended capability at this time.²⁰⁰

196 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 55.

197 Australian National Audit Office, *2008-09 Major Projects Report Defence Materiel Organisation*, November 2009, p. 19.

198 Australian National Audit Office, *Defence Materiel Organisation Major Projects Report 2008-09*, November 2009, p. 19.

199 Department of Defence, *Defence Annual Report 2008-09 Volume Two*, p. 43.

- 2.201 A 2009 review by The Helmsman Institute, commissioned by the DMO, comparing project complexity between Defence and other sectors, found that the more complex the project, the greater the risk in delivering within budget, on schedule and to the required capability.²⁰¹
- 2.202 In its *2008-09 Major Projects Report*, the ANAO was also of the view that 'the more developmental in nature a project, the more susceptible a project is to schedule delays compared to MOTS solutions.'²⁰²
- 2.203 The extensive delays experienced in both the above projects has been a concern to the committee and supports the views previously expressed by the ANAO and The Helmsman Institute.
- 2.204 The Joint Strike Fighter, another major developmental project, is currently experiencing delays due to a number of complex developmental issues.
- 2.205 In the previous report on the *Defence Annual Report 2007-08*, the committee noted the following about the JSF project:
- This is a highly complex acquisition with inherent risks that have been highlighted by the GAO [US Government Accounting Office]. When such issues are raised within the United States Government there are concurrent reassurances from the manufacturer and those involved in the project. From an Australian perspective, such inconsistencies are, at times, difficult to reconcile.²⁰³
- 2.206 **The committee's initial concerns with scheduling have proven to be valid in light of the recent reports that the JSF program is now facing some significant issues. It is hoped that other concerns raised by the committee and others in recent years about cost and performance prove to be less accurate.**
- 2.207 **The committee is aware that Australia has cost and schedule buffers built into the project but is all too aware that such buffers on large and complex acquisitions, such as the JSF, can slip considerably.**

200 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 18.

201 The Helmsman Institute, 'A Comparison of Project Complexity between Defence and other Sectors', April 2009, p. 12.

202 Australian National Audit Office, *Defence Materiel Organisation Major Projects Report 2008-09*, November 2009, p. 17.

203 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2007-2008*, October 2009, Commonwealth of Australia, p. 35.

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- 2.208 Defence's current aircraft fleet is ageing rapidly making it all the more critical that Defence manages the inherent risks of this project to ensure that Australia is not left without a vital capability.
- 2.209 It is important that Defence acquire the needed capability in the shortest time practicable and at an appropriate cost.
- 2.210 The unique nature of Australia's security environment sometimes requires tailored or special design assets and solutions. That said, many Australian defence needs can be properly met with appropriate Military-Off-The-Shelf (MOTS) acquisitions. The adoption of high-risk first-of-type acquisitions should only be entered into where it is clear that such an outlay, in terms of time and money, can be clearly justified by Australia's defence requirements. In the absence of a clear strategic case for such purchases, MOTS should be the default option.
- 2.211 **The committee will pay close attention to Defence's ability to complete these projects and ensure that they all meet final operational capability.**
- 2.212 **More generally, the committee will still require Defence to demonstrate that the post-Kinnaird reforms (Defence Procurement Review 2003) are sufficient, have been well-implemented, deliver projects on time and on budget, and with required levels of capability.**

Operations

- 3.1 Throughout 2008-2009, the Australian Defence Force (ADF) continued to follow the government's strategic objectives in line with the 2000 Defence *White Paper*. These objectives - defending Australia, contributing to the security of the immediate neighbourhood, and supporting wider interests - were reaffirmed in the new *White Paper* released in May 2009.¹
- 3.2 The most significant contribution remained in support of the NATO-led International Security Assistance Force (ISAF) in Afghanistan helping to deny international terrorist safe havens, and in the mentoring and training of Afghan national security forces. On a smaller scale, but nonetheless of significant importance, ADF personnel continued to be deployed on international operations to the Solomon Islands, Sudan, Lebanon, Israel, Iraq, Syria, the Sinai and East Timor.²

Afghanistan

Background

- 3.3 Australia's military contribution to Afghanistan is part of the Government's comprehensive approach to supporting international efforts to prevent Afghanistan from being used as a safe-haven for terrorism. The mandate for this peace enforcement mission is provided under Chapter VII of the United Nations (UN) Charter and at the invitation of the

1 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 124.

2 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 124.

Government of the Islamic Republic of Afghanistan (GIROA) and under the United Nations Security Council resolution (UNSCR) 1833.³

- 3.4 There are about 1550 Australian personnel based in Afghanistan whose focus is on reconstruction and development efforts and disrupting the Taliban led insurgency. Most of these personnel are located in Oruzgan province in a junior partnership with a contingent from the Netherlands. The Netherlands will give up their leadership role from 1 August 2010 and a new partner to the Australian Mentoring Task Force will need to be found. The Australian Government has made clear to NATO that Australia cannot lead in Oruzgan nor operate alone.⁴

Current status

- 3.5 Defence categorised the prognosis for success in Afghanistan as 'mission possible'⁵ on the basis that the right strategy is being fully resourced and implemented by the right leaders.⁶ Defence stated:

The strategy is an integrated military civilian strategy, which looks at establishing security, providing governance and providing development right across the board. With the approach being taken by General McChrystal⁷ and its emphasis on protecting the population, we have a lot of optimism that we will eventually prevail. Indeed, I would submit that the tide is starting to turn. We are seeing the coalition starting to get on top of the insurgents. However, I would not overstate that; there is a long, long way to go.⁸

- 3.6 The committee noted that there is a 'widespread misconception in the community' that the war is 'unwinnable' because the current conflict is similar to past state-on-state conflicts such as the Soviet-Afghanistan war. However, the committee agrees that there is a critical difference between the current situation and past conflicts.
- 3.7 Defence told the committee that part of the strategy being followed in Afghanistan is the *clear, hold and build* process whereby an area is cleared

3 Department of Defence, 'General Information', viewed on 11 May 2010, <<http://www.defence.gov.au/op/afghanistan/info/general.htm>>

4 The Hon. Dr Mike Kelly Parliamentary Secretary to the Minister for Defence, viewed 11 May 2010, <<http://www.minister.defence.gov.au/KellySpeechTpl.cfm?CurrentId=9613>>

5 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 72.

6 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 72.

7 General McChrystal is the commander of US and NATO forces in Afghanistan.

8 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 72.

of Taliban, local community leaders are engaged by way of tribal meetings or *shura*, and then the right level of governance and support infrastructure is established.⁹ By way of example, Defence told the committee of the ongoing operation in Helmand province, Operation MOSHTARAK. This operation, which Australian forces and assets have supported, has seen the Taliban cleared from around the town of Marjah, *shuras* held and the beginnings of 'establishing the right level of governance, good policing services and delivering the appropriate services.'¹⁰

- 3.8 Complementing operations such as MOSHTARAK, the strategy in use also involves building up the competency of the Afghan National Army (ANA) and Afghan National Police (ANP) leading to a point where they will 'take care of their own affairs.'¹¹ In this regard, Australia is responsible for the training of the ANA's Fourth Brigade in Oruzgan province by means of operational mentoring and liaison teams.
- 3.9 Defence, referring to media reporting that suggested otherwise, reminded the committee that Australian forces do regularly operate outside Oruzgan province by highlighting operations in the contiguous zones of Helmand, Kandahar, and within Zabul and Paktika provinces. Furthermore, Australian Special Forces have, and will continue to operate in northern Kandahar while the Chinook helicopters operate widely throughout the southern provinces.¹²
- 3.10 The committee asked Defence whether the participation of Oruzgan based ANA battalions, or kandaks, in any operations in Kandahar would be a good training opportunity. Defence opined that the experience would be valuable while highlighting that in Oruzgan the Kandaks are 'in the fight all of the time anyway.'¹³
- 3.11 In relation to who is likely to take-over from the Dutch, when they leave the province in late 2010, Defence told the committee:

We were hoping that the Dutch would remain in the province. They have been very good partners ...We were hoping that they would be able to continue. With the collapse of their government in February, I guess all bets are off. The advice we have is that they will cease their leadership role on schedule on 1 August this year and we start to see their forces drawing down. My expectation is

9 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, pp. 67-68.

10 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, pp. 67-68

11 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 71.

12 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 68.

13 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 71.

that most of the military people will be out of the province by the end of the year.

We have been engaging NATO at all levels, from the minister down. ...we are assured by NATO that they will come up with suitable arrangements which will take care of our needs....We have made it quite clear that being a non-NATO nation that we don't expect to lead in Oruzgan.¹⁴

- 3.12 Defence told the committee a significant threat to personnel comes from the use of improvised explosive devices (IED). However, according to Defence, 'the government has invested a lot of money in doing everything we can to enhance our force protection status.'¹⁵ Notwithstanding, countering the problem has been exacerbated by the increased 'use of non-metallic improvised explosive devices, which means that it is more difficult to detect them with conventional detection methods.'¹⁶
- 3.13 On the question of when Australian involvement in Afghanistan is likely to end, Defence told the committee that no withdrawal or exit date has been set although once the job of training of the 4th Brigade of the ANA is complete; this will put Australia in a 'good position to pull our training forces out of Oruzgan.'¹⁷

Iraq

- 3.14 The ADF ceased land combat operations in southern Iraq on 1 June 2008 and handed over security responsibility to the Iraqi forces. During the course of operations in southern Iraq, successive Battle Groups completed approximately 8700 patrols travelling more than three million kilometres, and completed more than 250 reconstruction projects in Dhi Qar and Al Muthanna provinces since April 2005.¹⁸
- 3.15 The committee noted that although the ADF military contribution to the multinational force in Iraq has been withdrawn, there is still an ADF presence in the country via the security detachment at the Australian

14 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 70.

15 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 69.

16 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 70.

17 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 71.

18 Department of Defence, *Defence Annual Report 2007-08 Volume One*, p. 42.

Embassy in Baghdad¹⁹ and two military advisers to the UN Assistance Mission for Iraq.²⁰

Timor-Leste

Background

- 3.16 Operation ASTUTE is the ADF's contribution to the maintenance of peace and stability in East Timor, following a request from the Government of Timor-Leste to the Australian Government. The ADF deployed to East Timor to assist the Government of Timor-Leste and support the UN in bringing stability, security and confidence to the Timorese people.²¹
- 3.17 The New Zealand Defence Force (NZDF) is working alongside the ADF to assist with this mission. Together, the ADF and NZDF personnel form the ISF in East Timor. Timor-Leste authorities have primary responsibility for policing and security, supported by UN police officers from Australia and 20 other nations.²²
- 3.18 While the primary role of the ISF continues to be the provision of security assistance to the Government of East Timor, the improving security situation has enabled ISF efforts to increasingly focus on building the capacity of the East Timorese Defence Force (F-FDTL)²³ enabling a drawdown of total ADF numbers in support of Operation ASTUTE.
- 3.19 Operation TOWER is the ADF's contribution to the United Nations Integrated Mission in Timor-Leste (UNMIT) and was established by United Nations Security Council Resolution 1704 following civil unrest in East Timor in 2006. UNMIT is the UN's fifth East Timor mission since 1999 and the third since Independence in 2002.²⁴

19 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 124.

20 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 128.

21 Department of Defence, 'Operation Astute: General Information', viewed on 11 May 2010, <<http://www.defence.gov.au/op/eastTimor/general.htm>>

22 Department of Defence, 'Operation Astute: General Information', viewed on 11 May 2010, <<http://www.defence.gov.au/op/eastTimor/general.htm>>

23 Chief of Defence Force media release 'Chief of Defence Force visits East Timor' MSPA 71/10 <<http://www.defence.gov.au/media/DepartmentalTpl.cfm?CurrentId=10057>>

24 Department of Defence, 'Operation Tower: General Information', viewed on 11 May 2010, <<http://www.defence.gov.au/op/eastTimor/generaltower.htm>>

- 3.20 With representation from 13 countries, the UNMIT Military Liaison Group conducts daily monitoring of the security environment as well as providing military advice on the restoration and maintenance of security. ADF members are also employed as staff officers based at UNMIT headquarters in Dili. These and other Military Liaison Officers play a crucial role in security reform, including contributing to the professional development of the East Timor Defence Force by designing and delivering Liaison Officer training to personnel.²⁵

Current status

- 3.21 Defence told the committee that there is a feeling of 'normality' and confidence, and a certainty amongst senior people in Timor-Leste 'that things are going to be different this time around.'²⁶ This has set the conditions for the ongoing drawdown of Australian troops as 'there is a confidence that [the East -Timorese] can provide the stability that is required to take the nation forward.'²⁷
- 3.22 With the drawdown of forces, there is a 'gradual transition from a stabilisation force into a very large and comprehensive enhanced Defence Cooperation Program, which is all about capacity building.'²⁸
- 3.23 The Defence Cooperation Program has four main pillars: maritime security, peacekeeping, engineering and an English language program.²⁹ This program is, according to Defence, 'going well' and there is hope that in the 'not-too-distant future, we will see the ISF in a position where it is able to leave.'³⁰
- 3.24 In response to a question from the committee on East Timorese maritime security and progress of their patrol boat program, Defence indicated that although the East Timorese are yet to take delivery of their Shanghai Class patrol boats, they have been 'seized with the need to develop the right professional standards within their maritime force'.³¹ This has meant that the East Timorese Armada want to 'adopt a lot of our processes, a lot of our professional standards and, indeed, they want to leverage off our

25 Department of Defence, 'Operation Tower: General Information', viewed on 11 May 2010, <<http://www.defence.gov.au/op/eastTimor/generaltower.htm>>

26 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

27 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

28 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

29 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

30 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

31 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

naval culture.’³² Defence thought that once they got their patrol boats, ‘they will use them quite effectively, provided we can give them the necessary professional training that is needed in the immediate future.’³³

Committee conclusions

- 3.25 **The committee acknowledges that the ADF continues to be an important contributor to a significant number of diverse and challenging operations across the globe. Additionally, in some of these operations, the ADF is leading and commanding forces and assets from other countries, and this reflects creditably on the ADF and Australia more generally.**

32 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

33 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 73.

Personnel

- 4.1 In the *Defence Annual Report 2008-09*, Defence highlighted that the permanent Australian Defence Force (ADF) strength increased by 1,925, noting that:
- Defence had 70,311 permanent employees comprised of 55,068 permanent ADF members and 15,243 APS staff;¹
 - the Reserve component of the ADF, both Continuous Full Time Service and Active Reserves, increased by 617 to 25,493; and
 - the total ADF workforce was 81,106 which comprised of 17,918 Navy members², 45,166 Army members and 18,022 Air Force members.³
- 4.2 There continue to be considerable disparities between the proportion of men and women in the ADF. In 2008-09, of the total⁴ ADF personnel, 80.1 per cent were men and 19.9 per cent were women.⁵

1 This number includes all APS staff recorded as active employees and included full-time, part-time, ongoing and non-ongoing, and paid and unpaid employees.

2 Members are comprised of permanent, gap year and reserve members.

3 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 195.

4 Grand total only includes ADF Permanent and APS.

5 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 199.

4.3 Table 4.1 below provides a greater illustration of the gender gap:

Table 4.1 Defence workforce by gender as at 30 June 2009

	Trained Force Officers (%)		Reserves (%)		Two Star Ranked Officers		One Star Ranked Officers	
	Men	Women	Men	Women	Men	Women	Men	Women
Navy	13.5	3.1	13.5	3.1	9	0	32	2
Army	15.2	2.4	15.2	2.4	16	1	50	2
Air Force	22	4.8	22	4.8	9	0	37	2

Source *Defence Annual Report 2008-09 Volume One, Appendix 7 People, pp. 195-231.*

Recruitment and retention

Background

- 4.4 In the *Defence Annual Report 2008-09*, Defence pointed out that the ADF enlisted 6,968 permanent members: 6,020 men and 948 women. This was 108 less than in the previous 2008-07 reporting period.⁶
- 4.5 Of those enlisted, '1,517 entrants had prior military service in either the Reserves, another Service, another nation, previous permanent force or transferred from the Gap Year initiative.'⁷
- 4.6 In addition, 2,370 reservists were enlisted: 99 Navy, 2,056 Army, and 215 Air Force.⁸
- 4.7 The separation rate decreased slightly from 9.8 per cent in 2007-08⁹ to 9.4 per cent in 2008-09 which comprised of: Navy 10.8 per cent; Army 10.3 per cent; and Air Force 6.4 per cent.¹⁰
- 4.8 In December 2009, the Chief of the Defence Force (CDF) and Secretary for Defence launched *People in Defence – Generating the Capability for the Future Force* – a blueprint designed to ensure Defence attracts and retains the people needed to deliver the capabilities set out in the 2009 *Defence White Paper*.¹¹

6 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 203.

7 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 203.

8 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 207.

9 Department of Defence, *Defence Annual Report 2008-09 Volume One*, Key Defence Statistics.

10 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 209.

11 Department of Defence, *People in Defence – Generating the Capability for the Future Force*, p. 1.

Current status

- 4.9 At the public hearing, Defence was of the view that recruitment was going very well, stating:

Currently, we have 57,212 people in the Australian Defence Force. Our long-term target, as you know, is 57,800 and, to a large extent, we are overachieving in terms of authorised funded strength. Our recruitment has been very successful. Year-to-date recruitment is running, essentially, at 96 per cent. Our target, as at 1 February, was 4,288. We achieved 4,113, by 1 February, which is 96 per cent of the target. Just to give you a feel for how that is compared to the past, it was 86 per cent at the same time last year. So that is a substantial improvement in recruiting performance.¹²

- 4.10 Defence was also of the view that it had recorded its lowest separation rate in years at 7.5 per cent noting that:

It is very pleasing indeed that Air Force is running at an all-time record of 5.1 per cent separation rate. That compares to 6.9 per cent this time last year. Army is running at 8.1 per cent, compared to 10.6 per cent this time last year and Navy has had a dramatic turnaround, at 8.6 per cent, as compared to 11 per cent last year.¹³

- 4.11 More specifically, Defence noted that the separation rate for both men and women in the ADF had decreased:

The rate for women separating from the ADF in the most up-to-date data set has come down to 7.9 per cent compared with a rate of 9.2 per cent at the end of the last financial year. For men it has come down to 7.4 per cent from 9.4 per cent at the end of the financial year.¹⁴

- 4.12 Defence was of the view that its success in retention and recruitment had been spread across skill base, gender and ethnicity noting that its ethnicity and gender ratios remain the same with:

- a slight increase in the number of women serving in the ADF; and
- numbers in the general workforce and those in critical skills areas improving.¹⁵

12 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 74.

13 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 74.

14 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 86.

15 Department of Defence, *Submission no. 2*, p. 7.

4.13 Defence highlighted that its principal requirement was to grow the size of the Army and recruit 'people who are capable of transitioning into the highly skilled areas where we have some shortages.'¹⁶

4.14 The committee asked Defence to provide a status report on the recruitment and staffing levels for submarines.

4.15 Defence advised that, since July 2009, it had increased its submarine force by 25 people. Defence added that it had three fully manned submarines and that it hoped to establish a fourth submarine crew by the end of 2011, stating:

Our target this year is to increase from the current 468 people in the submarine force to 500 by the end of the year. Essentially, if we make that target and then we qualify 100 people a year, we will be well on the way to restoring the submarine force to where it needs to be. That will enable us to establish a fourth crew by the end of next year.¹⁷

4.16 Defence considered that it was crucial that the separation rate with the submarine force remain below 10 per cent noting that another period of strong economic growth would make both recruitment and retention challenging.¹⁸

4.17 The committee asked when Defence would have six qualified crew to man six submarines.

4.18 Defence pointed out that no other country maintains a full crew for each submarine they possess, stating:

Nobody in the world maintains six for six or 50 for 50 or whatever. Submarines just are not like that. Submarines are the most complex weapons system that defence forces operate, and what you should anticipate is that, of those submarines, at least 50 per cent will be in some form of maintenance servicing at any one time. We have benchmarked against all of our friends and allies, and I can assure you that the way we run our submarines is consistent with the way all of our allies run their submarines. Nobody has one crew for each submarine they possess. What they have is sufficient submarine crews to sustain the capability that is defined by the government that owns that capability. In our case, we could not employ six submarine crews.

16 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 86.

17 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 74.

18 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 75.

- 4.19 Defence was of the view that the recruitment and retention of submarine crew was looking good and noted that Defence was 'seeing a lot of interest from junior recruits in the business of being a submariner.'¹⁹

Pay issues

Background

- 4.20 In October 2009 the Senate Standing Committee on Foreign Affairs, Defence and Trade highlighted that a number of enlisted personnel were overpaid by Defence while serving in Afghanistan.²⁰
- 4.21 On 31 March 2009, the Government commissioned KPMG to undertake an independent audit of the implementation of the Defence Force Remuneration Tribunal determinations for special forces pay. KPMG's report found that a number of factors contributed to the pay problem including:
- a complex and detailed Determination process;
 - a complex pay and allowance structure;
 - ageing systems;²¹ and
 - a change management and accountability environment which is complex and at times lacking in end to end control.²²
- 4.22 On 22 January 2010, the Government announced that Defence had identified another error in the payment of international campaign allowance to over 60 personnel.²³
- 4.23 On 2 February 2010, the Government announced that it would establish a Payroll Task Force to 'drive the ongoing reform of the ADF pay and personnel processes, and report to Ministers on a monthly basis.'²⁴

19 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 75.

20 Senate Standing Committee on Foreign Affairs, Defence and Trade, *Estimates (Supplementary Budget Estimates)*, Wednesday, 22 October 2008, pp. 14-15.

21 KPMG, *Department of Defence: Independent Audit: Re: The implementation of the DFRT Determinations for Special Forces Pay*, 31 March 2009, p.28.

22 KPMG, *Department of Defence: Independent Audit: Re: The implementation of the DFRT Determinations for Special Forces Pay*, 31 March 2009, cover letter.

23 Senator the Hon John Faulkner, Minister for Defence, 'International Campaign Allowance Overpayment', Media Release, 22 January 2010.

Current status

4.24 The committee identified that during the 2008-09 reporting period there were a number of issues concerning payments to Special Air Service (SAS) and Air Force personnel and asked Defence whether they had been resolved and whether there were any outstanding pay issues.

4.25 Defence advised that, to the best of its knowledge, both the SAS and Air Force payment issues had been resolved but that it was currently looking at a whole range of payroll system issues stating:

...we have an ongoing program that is part of our Strategic Reform Program to look at how we position ourselves to improve payroll right across the system. Part of that will be implementing a technical refresh which improves the software over the next couple of years.²⁵

4.26 Defence also advised that it was upgrading the payroll system, as it was currently using a very outdated CENRES pay system, stating:

At the same time we will also be looking at our business practices in the payroll space and then moving to a complete upgrade with what we refer to as JP 2080 2.1 and over a five-year period that should bring us up to a modern payroll system which will support the men and women of the ADF and the whole organisation.²⁶

4.27 Defence acknowledged that, while it was using an old IT system, human error substantially contributed to the current payroll system issues, stating:

The problem with payroll is about a system. It is about a system from the time that an action occurs to the time a payment is made, receipted and checked by the individual. It is not predominantly about an IT system, which people often think. While we have an old and antiquated IT system, the problems we have had with payroll have not been because of that IT system. It is a system which has human intervention all the way through the line, and that is where we have the difficulties.²⁷

24 The Hon Greg Combet MP, Minister for Defence Personnel, Materiel and Science, 'ADF Payroll and Pay System Reform', Media Release, 2 February 2010.

25 Mr Gleeson, Department of Defence, *Transcript*, 30 March 2010, p. 79.

26 Mr Gleeson, Department of Defence, *Transcript*, 30 March 2010, p. 79.

27 Dr Watt, Department of Defence, *Transcript*, 30 March 2010, p. 81.

4.28 Defence elaborated:

The important thing to remember is that the pay problems are not because the IT system spits out the wrong results. People often blame IT systems for the output of the system. The IT system does not give you incorrect answers. It is cumbersome, it is slow, it is old, it is not as easily interrogated as a modern system – all that is true – but if you change just the IT system and do not change the way we operate, professionalise and deliver information into the pay system and the way we follow it up then you will not get a fix. You will have a system that is more agile, that is a bit less cumbersome and that is easier to interrogate, but you will not have a system that serves you a whole lot better.²⁸

4.29 Defence advised that it would be implementing comprehensive training strategies for its personnel throughout 2010, while upgrading the Human Resources and Payroll system, to ‘ensure that system operators are appropriately trained in the use of the new technology.’²⁹

4.30 Defence also pointed out that the complex allowance structure would also continue to cause payroll issues, stating:

We pay an enormously complex number of allowances, many of which are structured in the most difficult way possible for them to be paid accurately, because they are on-occurrence allowances – not time allowances, not competency allowances but on-occurrence allowances. So you go on them and you go off them. There will always be an issue or two in the defence payroll system.³⁰

4.31 The committee questioned Defence about whether the complex allowance structure was currently being reviewed.

4.32 Defence noted that there were over 200 pay points available, depending on the way entitlements are earned, and that:

In the longer term I think what we would be seeking to do is to look at a remuneration strategy that sees the base pay as a fairly common and consistent payment for members of the ADF, and then looks at some standard allowances, if you like, that reflect what we typically require of ADF members and, in the process,

28 Dr Watt, Department of Defence, *Transcript*, 30 March 2010, pp. 82-83.

29 Department of Defence, *Submission no. 2*, p. 6.

30 Dr Watt, Department of Defence, *Transcript*, 30 March 2010, p. 81.

minimises the number of on-occurrence and, particularly, triggered allowances.³¹

- 4.33 Defence was of the opinion that it would be possible to develop a remuneration strategy within the five years it will take to upgrade the payroll system.³²
- 4.34 The committee also asked whether Defence had any plans to link recruitment and retention strategies with skill bases and competencies and pay structures.
- 4.35 Defence highlighted that the current ADF pay model has a strong competency link but that competency data and ADF pay are held in two different systems causing communication problems. Defence indicated that it hoped to generate a single pay and human resources system to contain all the data.
- 4.36 Defence acknowledged that there would continue to be pay issues noting the challenge would be to promptly address those issues, stating:
- ...we pay in excess of 100,000 people on a fortnightly basis and I think that compared to industry at large we have less than a one per cent operational error rate. But I do not think that I could ever say that there are no unresolved pay issues. Similar to any other large organisation, there will be issues that crop up from time to time. Our challenge is making sure that we address those quickly and we put system processes in place that will do the best to mitigate that so it does not reoccur.³³
- 4.37 Defence also noted that the Government had released a blueprint in March 2010 for Reform of Australian Government Administration which:
- ...identifies that the vision for the future is an Australian Public Service unified by an enterprise agreement bargaining arrangement that embeds greater consistency in wages, terms and conditions.³⁴

31 Mr Minns, Department of Defence, *Transcript*, 30 March 2010, pp. 81-82.

32 Mr Minns, Department of Defence, *Transcript*, 30 March 2010, p. 82

33 Mr Gleeson, Department of Defence, *Transcript*, 30 March 2010, p. 79.

34 Department of Defence, *Submission no. 2*, p. 6.

Rebalancing the Army

Background

- 4.38 In May 2009, as part of the 2009 Defence *White Paper*, the Government announced its intention to develop a plan to rebalance the Army in an effort to 'deliver the right balance, in terms of the number, types and mix of land force capabilities and units.'³⁵
- 4.39 In September 2009, Defence announced that it would 'develop a plan by end 2009 to rebalance Army and decrease its number of endstate establishment positions by approximately 1,700 positions by 2014.'³⁶

Current status

- 4.40 Defence advised that the project to rebalance the Army was a long and involved process involving both the permanent side of the Army and the Army reserves.³⁷
- 4.41 Defence noted that the Army were implementing a number of projects, including hardening and networking the Army and enhancing the land force, that would increase the number of positions:
- It is quite a complex relationship between a number of projects running concurrently – that is, hardening and networking the Army, enhancing the land force and then the rebalancing of the Army. In addition, the vice chief is running another project under the Strategic Reform Program which relates entirely to reserves, not just to reserves in the Army but to reserves across the board.³⁸
- 4.42 Defence pointed out that the size of the Army had increased dramatically over the last few years stating:

The permanent Army at the moment is just under 30,000 – in fact, 29,017. If you go back just three or four years, we were down around 25,000. So it is quite a dynamic process and it is quite hard to excise out each particular element of it.³⁹

35 The Hon Joel Fitzgibbon MP, Minister for Defence, 'A Balanced and Flexible Army', Media Release, 2 May 2009.

36 Army, Royal Australian Corps of Transport, 'Adaptive Army', Presentations From the RACT CORPS Conference 2009, 18 September 2009.

37 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 76.

38 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 76.

39 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 76.

- 4.43 The committee questioned how Defence intends to rebalance the Army.
- 4.44 Defence indicated that it would try and find the best way to deliver the required capability rather than a need to find 1,700 positions, stating:
- What is driving the Chief of Army is to find the best way to deliver the capability that he has to deliver to government through me [the CDF]. He is seized with the need of basically coming up with the best configuration, in terms of both permanent positions and reserves, to deliver the capability effect required by government.⁴⁰
- 4.45 In response to the committee's question on whether the project to rebalance the Army would impact on the reserves, Defence advised that work was currently being undertaken but that the objective is to 'enhance the capability of the Reserve and the contribution it makes to the Defence Force.'⁴¹
- 4.46 Defence advised that it had just about completed its review on the project to rebalance the Army and that the findings would be presented to Government shortly.⁴²

Australian Defence Force Reserves

Background

- 4.47 Reservists join the Navy, Army or Air Force as part-time members of the ADF. At 30 June 2009, there were 25,493 continuous full time Service and active reservists representing just over 45% of the ADF's total permanent Force. The total Reserve Force is comprised of:
- Navy - 4,771 reservists;
 - Army - 17,064 reservists; and
 - Air Force - 3,658 reservists.⁴³
- 4.48 Annual service commitments for reservists vary depending on the role undertaken by the reservist, their time availability, and the needs of the

40 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 76.

41 Lt Gen. Hurley, Department of Defence, *Transcript*, 30 March 2010, p. 77.

42 Lt Gen. Hurley, Department of Defence, *Transcript*, 30 March 2010, p. 75.

43 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 201.

Service. Higher readiness roles generally require a greater annual commitment.⁴⁴

- 4.49 A 20-day minimum service period in each financial year establishes a reservist's eligibility for Long Service Awards, Health Support Allowance and subsidies under the Defence Home Ownership Assistance Scheme.⁴⁵

Current status

- 4.50 The committee sought Defence's view on reports that training days available to the reserve will be reduced by 20 per cent and that there will be a range of other cutbacks.

- 4.51 While Defence acknowledged that there had been some reductions in the training days available to the Reserve, and particularly the Army, it was of the view that the reductions were not tremendous, noting that:

...we have had to reorganise how we distribute the days to make it more effective, because the buying power of a Reserve day has changed. So what the Chief of Army has done in particular is to put his resources where he gets the best bang for his buck.⁴⁶

- 4.52 The committee also questioned whether the reduced training days would inhibit reservists from obtaining Defence Home Loan subsidies.⁴⁷

- 4.53 Defence stated that it would provide a waiver for people to access the scheme, providing that a reservist could not get 20 days of reserve service within a financial year for legitimate reasons under the regulations.⁴⁸

- 4.54 In response to the committee's question on the status of the High Readiness Reserve,⁴⁹ Defence was of the view that it had not met its overall goal in force numbers but that the High Readiness Reserve was quite effective.⁵⁰

44 Department of Defence, 'Training Requirements', viewed on 12 May 2010, <<http://www.defencereserves.com/asp/requirements.asp>>

45 Department of Defence, 'Training Requirements', viewed on 12 May 2010, <<http://www.defencereserves.com/asp/requirements.asp>>

46 Lt Gen. Hurley, Department of Defence, *Transcript*, 30 March 2010, pp. 77-78.

47 In order to be eligible to apply for the Defence Home Ownership Assistance Scheme, reservists must complete eight consecutive years of effective service ("Effective service" involves completing at least 20 days of Reserve service within a financial year).

48 Lt Gen. Hurley, Department of Defence, *Transcript*, 30 March 2010, p. 78.

49 The High Readiness Reserve provides a short notice response force to complement the full-time ADF in the event of a declared Defence emergency.

50 Lt Gen. Hurley, Department of Defence, *Transcript*, 30 March 2010, p. 78.

- 4.55 Defence was of the view that the High Readiness Reserve Combat Teams will continue to grow, stating:

As at 27 March 2010, the six High Readiness Reserve Combat Teams are currently manned at an average of 80 per cent, with the highest at 96 per cent and the lowest at 57 per cent. The levels of manning achieved within the High Readiness Reserve Combat Teams are considered a significant achievement. The numbers of personnel within the High Readiness Reserve Combat Teams will continue to grow as more members achieve the additional competencies required for service in this category.⁵¹

- 4.56 The Review of the Army Reserve Approved Future Force is currently with the Secretary of Defence and the Chief of the Defence Force for consideration and, once approved, will be presented to the Government.

Gap year program

Background

- 4.57 On 9 August 2007 the Government launched the ADF Gap Year program⁵² which enables young Australians, who have finished Year 12 or its equivalent within the previous two years, to undertake a work experience program in the ADF for a year without further obligation to stay in the service.⁵³
- 4.58 At 30 June 2009 the ADF had 545 participants in the Gap Year program, 342 men and 203 women,⁵⁴ a slight drop in the participation rate from the previous reporting period.⁵⁵ The 545 participants comprised of 170 from the Navy, 274 from the Army and 101 from the Air Force.⁵⁶

51 Department of Defence, *Submission no. 2*, p. 5.

52 The Hon Dr Brendan Nelson MP, Minister for Defence, 'Launch of ADF Gap Year program', Media Release, 9 August 2007.

53 Department of Defence, 'ADF Gap Year', viewed on 12 May 2010, <<http://www.defencejobs.gov.au/education/gapyear/>>

54 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 198.

55 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 197.

56 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 197.

Current status

- 4.59 The committee asked Defence to provide the most up to date statistics on the Gap Year program.
- 4.60 Defence advised that its enlistment target for 2009-10 is 700: comprised of 267 in the Navy, 317 in the Army, 116 in the Air Force. Defence highlighted that while the Navy and Army each spread their intake over several months, the Air Force program commences in January and runs through to December each year.⁵⁷
- 4.61 Defence added that, at 1 April 2010, 574 participants had commenced their gap year program comprised of 154 in the Navy, 304 in the Army and 116 in the Air Force.⁵⁸
- 4.62 Defence also pointed out that, at 1 April 2010:
- 50 Navy and 5 Army participants from the previous year's program were still serving in their Gap Year; and
 - the remaining 126 Gap Year participants (113 from the Navy and 13 from the Army) will commence the program by the end of June 2010.⁵⁹
- 4.63 Defence was of the opinion that the Gap Year program was oversubscribed and noted that this placed an additional stress on the budget, stating:
- We have so many people that we have overachievement in terms of authorised, funded strength, particularly in the Army and the Air Force; the Navy is about where it needs to be. In those circumstances, having a large number of people on the Gap Year puts a huge strain on the budgets of the services that are affected.⁶⁰
- 4.64 When responding to the committee's question on whether Defence had any intentions to close down the Gap Year program, Defence commented that, while there was no intention to close the program, it could be more flexible in order to respond to labour market conditions, community demand and the budget allocations available to each service.⁶¹

57 Department of Defence, *Submission no. 2*, p. 6.

58 Department of Defence, *Submission no. 2*, p. 6.

59 Department of Defence, *Submission no. 2*, p. 6.

60 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 86.

61 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, pp. 85-86.

Defence Reconciliation Action Plan

Background

4.65 This first Defence Reconciliation Action Plan was released in 2007 in response to a whole-of-government drive for a national approach to reconciliation.⁶²

Current status

4.66 The committee questioned whether Defence had met the following objectives set out in the first Defence Reconciliation Action Plan:

- to establish new cadet units in remote northern communities; and
- to encourage Defence Aboriginal and Torres Strait Islanders in Defence to identify on PMKeyS⁶³ to inform policy development and implementation.

4.67 Defence advised that the Review of the Australian Defence Force Cadets Scheme, released in November 2008, concluded that 'smaller communities have a limited capacity to support a number of youth organisations.'⁶⁴

4.68 Defence also advised that the review 'recommended close consultation with the Directorate of Indigenous Affairs to ensure cultural protocols and customs are considered in future youth initiatives.'⁶⁵

4.69 Defence added:

Once the review is accepted, the Directorate will provide opportunities for indigenous youth in remote communities through the Indigenous Youth Connections Program.

4.70 Defence pointed out that it has 'ongoing programmes to actively encourage Aboriginal and Torres Strait Islanders to identify on PMKeyS' noting that there is no requirement, in accordance with Commonwealth privacy legislation.⁶⁶

62 Department of Defence, *Defence Annual Report 2006-07 Volume One*, p. 139.

63 Defence's human resources information system: Personnel Management Key Solution.

64 Department of Defence, *Submission no. 2*, p. 9.

65 Department of Defence, *Submission no. 2*, p. 9.

66 Department of Defence, *Submission no. 2*, p. 9.

- 4.71 Defence noted that the Defence's 2007-2009 Reconciliation Action Plan was released on 19 April 2010 and is available from the Reconciliation Australia website⁶⁷ and the Defence Fairness and Resolution website.⁶⁸

Other Issues

- 4.72 Defence, in the Defence Annual Report 2008-09, stated that the employment of Ms Jane Wolfe, a senior executive within the DMO, ended in March 2009.⁶⁹
- 4.73 The committee noted that a Federal Court of Australia ruling of 8 April 2010 led to the reinstatement of Ms Jane Wolfe to her previous role within the DMO.⁷⁰
- 4.74 In view of this, the committee subsequently asked Defence whether the annual report would be amended to reflect Ms Wolfe's reinstatement and status of tenure. Furthermore, noting the circumstances of Ms Wolfe's initial dismissal and subsequent reinstatement, the committee asked what, if any, follow-up action is being undertaken by Defence under the Australian Public Service Code of Conduct.
- 4.75 Defence is yet to respond to the committee's question in regard to these matters.

67 Reconciliation Australia website: www.reconciliation.org.au

68 Department of Defence, *Submission no. 2*, p. 9. Defence Fairness and Resolution website: www.defence.gov.au/fr

69 Department of Defence, *Defence Annual Report 2006-07 Volume Two*, p. 7.

70 Federal Court of Australia case *Jane Alice Margaret Wolfe v Dr Stephen Gumley & Anor*, [2009] (P)ACD16/2009 (8 April 2010).

Other issues

- 5.1 In addition to an examination of major projects, Defence operations and personnel, the committee also inquired into a range of other current issues.

Defence Capability Plan

- 5.2 The *Defence Annual Report 2008-09* defines the Defence Capability Plan (DCP) as:
- ...a costed, detailed development plan for Australia's military capabilities over a ten-year period. The plan is reviewed regularly to take account of changing strategic circumstances, new technologies and changed priorities, in the context of the overall Defence budget.¹
- 5.3 At the public hearing the committee sought Defence's views on the 2009 DCP which covered the 2009-2013 forward estimates period.²
- 5.4 Defence noted that in the previous year the Government made a decision for the 2009 DCP to cover four-years. Defence also noted that:
- ...government made a decision to have people look at the amount of public information that is disclosed. It received a report. It has considered that report, amongst other considerations, and it has

1 Department of Defence, *Defence Annual Report 2008-09 Volume One*, p. 370.

2 Department of Defence, *Defence Capability Plan 2009*, p. 1.

now decided that it is in the public interest that we go beyond the four years.³

- 5.5 Defence highlighted that, in response to the review of the public DCP, the Minister for Defence Personnel, Materiel and Science announced that future public DCPs will return to a 10 year forward estimates period. Defence stated:

The government has made a decision on its review of the public DCP. The minister has already said that they would extend the length of the forecast if you like, the horizon of the DCP, to 10 years. They view it as giving an appropriate level of forecast, horizon, visibility, to the audience of the public DCP – that is, taxpayers, obviously, and industry, importantly, on the sorts of plans that are out there, with a varying degree of fidelity in that information, depending on how far away the horizon is. The further you go out, there have to be broader indications because it can be up to 10 years away in that sort of planning.⁴

- 5.6 Defence added:

The whole point of the long-term DCP is to allow industry to engage with us, to give us ideas about what might be the best way to progress and what is the best balance for them between cost and opportunity and time to make a decision and so on.⁵

Progress of the reform agenda

- 5.7 The committee noted that prior to February 2004, 12 per cent of projects were over budget and 74 per cent were under budget. The committee also pointed out that after February 2004 the number of projects over budget increased to 25 per cent while the number of projects under budget slipped to 51 per cent.⁶
- 5.8 The committee sought Defence's opinion on why its budget appeared to shift significantly within the last five years.
- 5.9 Defence pointed out that typical Defence Materiel Organisation (DMO) projects take 5-25 years to complete, stating:

3 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 30.

4 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 30.

5 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 35.

6 House of Representatives, Questions in Writing, Question 1064, 3 February 2010, p. 365.

Specialised military equipment projects have lengthy lifecycles and varying stages of maturity across those cycles...Depending on where projects sit in their lifecycles determines their susceptibility to either budget over-runs or budget savings.⁷

- 5.10 Defence pointed out that 'there is not always a correlation between a driver for cost change and the year that the financial impact materialises.'⁸ Defence highlighted the financial impact of two troubled projects, the cancelled Seasprite helicopter and the Airborne Early Warning and Control platform, noting that:
- the cancelled Seasprite helicopter had its root causes of failure from events in the late 1990s, but the financial impacts were not fully seen until 2005; and
 - additional cost pressures as a result of over ambitious technical specifications set in 2001 for the Airborne Early Warning and Control platform showed up as a real cost increase in 2006-2007.⁹
- 5.11 Defence was of the view that it would be reasonable to undertake a proper assessment of budget performance in 2018-2020 due to the significant length of projects.¹⁰

Outstanding litigation matters

- 5.12 The committee sought Defence's views on the progress Defence had made in settling any outstanding litigation issues.
- 5.13 Noting that discussions of the settlements were confidential, Defence advised:

Thirty-one former deseal-reseal maintenance workers and three of their spouses lodged writs with the Supreme Court of Queensland, seeking damages. We have attempted to resolve the claims without the need to proceed to full litigation. Twenty one of those have been mediated since November 2008 and 17 of those claims have now been settled.¹¹

7 Department of Defence, *Submission no. 2*, p. 3.

8 Department of Defence, *Submission no. 2*, p. 3.

9 Department of Defence, *Submission no. 2*, p. 3.

10 Department of Defence, *Submission no. 2*, p. 4.

11 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 87.

5.14 The committee also questioned the legal costs associated with the High Court of Australia case *Brian George Lane v Colonel Peter John Morrison*.

5.15 Defence stated:

First of all, with regard to the professional solicitors' fees Mr Lane's costs there was an amount of \$30,191.64 paid to the plaintiff on 15 February 2010. There was an additional amount of money: a certificate of taxation for the total amount of \$38,250 for the counsel's fees component of the cost was issued by the High Court on 1 February 2010 and received by AGS on 18 February 2010. These were paid on 22 February. The full amount paid to the plaintiff under the costs order was \$68,441.64.¹²

5.16 The committee sought some additional information from Defence on the actual costs Defence incurred for its legal representation in the High Court.

5.17 Defence advised:

A total of \$446,042.23 was incurred by Defence for its legal representation in the High Court proceedings in *Lane v Morrison*. \$65,257.94 was paid to Counsel, \$364,758.49 to the Australian Government Solicitor and \$16,025.80 was incurred for Counsel's travel and other general disbursements. No costs are payable for the services provided by the Solicitor-General.¹³

5.18 **Defence has previously advised the committee that it seeks to behave as a model litigant. Although the Question on Notice provided to Defence sought Defence's view as to whether they believe they have behaved as a model litigant in this case, Defence has failed to respond to this question.**

5.19 **The committee is concerned that Defence's conduct in settling Mr Lane's legal costs rely more on a strict adherence to the minimum required by the law than to the standard of a model litigant.**

5.20 **Financially punishing Mr Lane and/or his legal representatives is not the actions of a model litigant.**

5.21 **The committee expects that Defence will seek to resolve this matter with a payment more in keeping with actual market legal costs that would reasonably have been incurred by Mr Lane. A simple comparison of Defence's legal costs and the taxed assessment illustrates the point.**

12 Air Chief Marshal Houston, Department of Defence, *Transcript*, 30 March 2010, p. 88.

13 Department of Defence, *Submission no. 2*, p. 8.

Role of the Defence Materiel Organisation

- 5.22 As a result of recommendations made in the Defence Procurement Review,¹⁴ on 1 July 2005 the DMO became a prescribed agency under the *Financial Management and Accountability Act 1997* (FMA Act).¹⁵
- 5.23 As set out in the Chief Executive Officer (CEO) of the DMO Ministerial Directive and under the agreed business model for DMO as a prescribed agency, the CEO of the DMO is directly accountable to the Minister of Defence under the FMA Act for DMO's performance and finances but remains accountable to the Secretary of the Department of Defence (the Secretary), under the *Public Service Act 1999* (PS Act), and the Chief of the Defence Force (CDF).¹⁶
- 5.24 The DMO has separate accounts and performance targets, but in all other policy and administrative aspects is part of the Defence portfolio.¹⁷
- 5.25 The committee asked for the DMO's view on where it sits within the larger Defence structure and whether it should continue as a prescribed agency.
- 5.26 The DMO stated that it was comfortable with its status as a prescribed agency noting that the Secretary had delegated a number of human resources responsibilities 'which gives a reasonable control over elements of workforce management that are necessary to have a project management purchasing culture'.¹⁸
- 5.27 The DMO provided an overview of its running costs noting that about '93 [cents] in the dollar of what we spend goes to the private sector; about seven per cent is kept for internal staff, running costs, project management, purchasing, auditing and assurance.'¹⁹

14 Department of Prime Minister and Cabinet, *Defence Procurement Review 2003*, 15 August 2003, pp. 37-38; Led by Malcolm Kinnaird and known as the 'Kinnaird report'.

15 Department of Defence, *Inside the Defence Materiel Organisation*, June 2008, p. 12.

16 Department of Defence, *Defence Portfolio Budget Statements 2009-10, Figure 2: Organisational Chart*, 9 May 2009, p. 14; Department of Defence, *Inside the Defence Materiel Organisation*, June 2008, p. 12.

17 Department of Defence, *Inside the Defence Materiel Organisation*, June 2008, p. 12.

18 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 61.

19 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 61.

5.28 While the DMO acknowledged that it could be working more efficiently but that it was 'reasonably comfortable with the level of resources being applied to deliver these very complex projects and the sustainment of fleets.'²⁰

5.29 In responding to the question of where the DMO sits within the larger Defence structure, it stated:

In terms of where we fit with the Secretary and the CDF, I am very comfortable with the relationship at the moment. It is professional and constructive. We also have a good relationship with Matt Tripovich, who is running the Capability Development Group [CDG]...as the delivery organisation, it is very useful for CDG to work through their specifications and interpret what the military want for operational deployment and through that mostly military determination to tell the DMO what it needs to acquire.²¹

5.30 The committee also sought confirmation from the DMO that, as a prescribed agency, it was governed by the PS Act.

5.31 The DMO acknowledged that it was a part of the Australian Public Service and as such has responsibilities under the FMA Act and is audited by the Australian National Audit Office (ANAO).²² The DMO added:

All of our employment and other conditions are under the PS Act other than for the quarter of the staff in DMO who are military people that are effectively outsourced to us by the military organisations – they are hired under the Australian Defence Act.²³

Defence assistance to the civil community

5.32 From time to time Defence provides counter disaster, emergency or non-emergency assistance to the civil community and civilian authorities.

5.33 According to the Defence Instruction General (Operations) 05-1, *Defence Assistance to the Civil Community Policy and Procedures*, requests for

20 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 61.

21 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 61.

22 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 61.

23 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, pp. 61-62.

non-emergency assistance can be received at any level of Defence or made through the Minister.²⁴

5.34 The committee noted that a local council put forward an application for non-emergency assistance in order to access a number of outdated line-of-communication bridges sitting in a disposal store and asked Defence why the application was turned down.

5.35 Defence provided some background on the councils application, noting that:

Army personnel from the School of Military Engineering were requested by the Greater Taree City Council to provide technical advice to support their consideration for the "acquisition or hire of line of communication bridges" ...Army personnel supported the site survey based on it being a preliminary investigation. The purpose of the survey was to assist the Council's deliberation by determining whether the site suited the use of line of communication bridging.²⁵

5.36 Defence acknowledged that the 'Army personnel involved in the site survey did not have an authority to provide any support beyond the technical advice of the site survey.'²⁶

5.37 Defence advised that the council's application was not approved because:

The use of Defence assets and personnel to provide this type of support would normally be restricted to civil emergency situations, to provide immediate short term relief pending a longer term civil solution.²⁷

Tender process

5.38 The committee questioned Defence about its current tender process.

5.39 Defence advised that a manufacturer will fill in a detailed tender specification and based on the paperwork Defence will make an

24 Department of Defence, *Defence Instruction General (Operations) 05-1, Defence Assistance to the Civil Community Policy and Procedures*, 16 March 2004, p. AL9.

25 Department of Defence, *Submission no. 2*, p. 4.

26 Department of Defence, *Submission no. 2*, p. 5.

27 Department of Defence, *Submission no. 2*, p. 5.

assessment of which is the preferred tenderer to go through to the next phase – the exact technical trials.²⁸

- 5.40 Defence pointed out that it relies on a manufacturer's submission to present a product, stating:

We are also very challenged and listen to the industry comment. It always works two ways. Industry says, 'Don't put me to too much expense.' So you try and balance those up and you rely on submissions by the companies to present their product to us with veracity.²⁹

- 5.41 Defence also noted that every tender lists a process for a manufacturer to follow³⁰ but that the tender process differs depending on whether the product has been developed or not, stating:

It depends very much what you are acquiring. Sometimes it has never been developed, so you have to rely on a submission from a company that they can meet a certain specification with a product they have never developed. On other occasions when it is a smaller, less expensive item, we will test those items – fabric strengths or whatever, we will test it. It depends very much on what the acquisition is and what cost you are putting industry to demonstrate its compliance with the requirements.³¹

- 5.42 In response to the committee's question on who assesses the tender specification, Defence stated that a combination of the Defence Science and Technology Organisation (DSTO), Defence and the DMO capability manager make an assessment during the evaluation period:

We are also involved in the Defence Science and Technology Organisation, who do the technical risks of the proposals being provided by the companies... Sometimes prototyping is a valid acquisition strategy to take; to get someone to bring a prototype – for example, the vehicle fleets. Where it is well proven, well understood and the companies are able back up their claims with hard data – something that may be already in service, for example – a combination of the DMO capability people and Defence Science and Technology Organisation make an assessment during the evaluation process of how valid the claims are, the basis of the claims and what facts underpin it. At the end

28 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 33.

29 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 33.

30 Dr Gumley, Department of Defence, *Transcript*, 30 March 2010, p. 34.

31 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 33.

of the day, you make an assessment about whether you need to go to the cost of prototyping or you proceed with the contract and carry some risk which you have assessed as being manageable, for which you have either time or money set aside to deal with it.³²

- 5.43 Defence also pointed out that it engaged with industry extensively in the tender process running:

...a pre-tender industry briefing where we talk about what the steps of the process are most likely to be – whether it is going to be preferred tenderer and then test, or whether we are going to test multiple vehicles before we go to preferred tender, or whatever the particular thing.³³

Sea King accident

- 5.44 On 2 April 2005, nine Navy and Air Force members tragically perished when their Navy Sea King helicopter crashed on the island of Nias, Indonesia. The flight crew and medical personnel were providing humanitarian aid as part of Operation Sumatra Assist II following the Nias earthquake.³⁴
- 5.45 On 6 September 2005, a Board of Inquiry established to examine the accident started its proceedings.³⁵ The Board of Inquiry report into the Sea King accident was publicly released on 21 June 2007 and the Chief of Navy announced that all 256 recommendations from the report had been implemented on 18 March 2009.³⁶
- 5.46 Defence advised the committee that the Chiefs of Service Committee were monitoring progress of implementing the Board of Inquiry's recommendations across Defence and was of the view that:

Implementing all of the Sea King Board's recommendations was a significant step to embedding a 'can do safely' attitude into Navy's aviation activities.³⁷

32 Vice Adm. Tripovich, Department of Defence, *Transcript*, 30 March 2010, p. 34.

33 Mr King, Department of Defence, *Transcript*, 30 March 2010, p. 35.

34 Department of Defence, 'Sea King Board of Inquiry', viewed on 5 May 2010, <http://www.defence.gov.au/sea_king_boi/>

35 Senate Standing Committee on Foreign Affairs, Defence and Trade, *Estimates (Supplementary Budget Estimates)*, Wednesday, 2 November 2005, p. 7.

36 Department of Defence, *Submission no. 2*, p. 7.

37 Department of Defence, *Submission no. 2*, p. 7.

5.47 In response to a question on whether any disciplinary action had been taken against those who were found to be responsible, Defence stated:

The Board made adverse findings against a number of individuals who appeared before it. Careful consideration was given to whether administrative or disciplinary action should be commenced against those individuals. After having regard to all the relevant information, adverse administrative action was commenced against eleven individuals. Action against one individual remains outstanding.³⁸

5.48 Defence pointed out that the Navy had appointed a Family Advocate to act as the central point of contact to ensure that all relevant information is available to the survivors and family members of the deceased.³⁹

Allegations of phantom contracts

5.49 At the public hearing, the committee examined news reports alleging that Defence had awarded 'phantom contracts' to companies for goods or services that were never supplied and asked Defence to provide an explanation.⁴⁰

5.50 Defence advised that it had taken the allegations very seriously and engaged its chief audit executive to undertake a review of the contracts. Defence advised that it had resolved all of the alleged 'phantom contracts' satisfactorily and provided an overview on six cases, stating:

- the payment for Q20 Standard Aero, a contract to maintain the engines and propellers for the C130 Hercules, was confirmed;
- the contract with Pel-Air, who have supplied Learjets that used to test equipment, was terminated and no money spent;
- the payment to the Hyatt Regency for a workshop was confirmed noting that the workshop participants were charged \$9,000 each for accommodation;
- the payment to the Bentley Suites for six Melbourne based DMO staff, staying there while in Canberra, was confirmed;

38 Department of Defence, *Submission no. 2*, p. 7.

39 Department of Defence, *Submission no. 2*, p. 7.

40 Besser L, 'The Wrong Stuff', *The Sydney Morning Herald*, 9 March 2010.

- Blazing Saddles also confirmed that it had received payment for ‘the provision of six horses to test up with NORFORCE in Northern Australia as a means of having our Indigenous members of the ADF move into a territory that cannot be accessed by motor vehicle’;⁴¹ and
 - the Royal Australian Navy’s purchase of branded marketing items used at public events and activities as part of the Navy’s community engagement program, valued over \$30,000, was appropriate and correctly approved, and the contract was executed properly.⁴²
- 5.51 Defence was of the opinion that its contracts were executed properly but acknowledged that it had not paid enough attention to the descriptors in AusTender.⁴³
- 5.52 Defence advised that it is ‘re-educating all staff involved in procurement processes on correct and appropriate data to be entered into systems to ensure transparency and accuracy of procurement activities.’⁴⁴

Capital Investment Program

- 5.53 At the public hearing, the committee examined Defence’s budget estimate that proceeds from the sale of Defence land and buildings would total \$229.6 million for the 2009-10 financial year and \$102.2 million for the 2010-11 financial year.⁴⁵ The committee asked Defence to provide an indication of what the forward estimates were based on and what Defence land and buildings had been sold up to 30 March 2010.
- 5.54 Defence initially provided some background on how estimates in the Portfolio Budget Statement (PBS) are made, stating:

The PBS is put together primarily by our CFO [Chief Financial Officer]...The estimate is put together roughly like this. In each budget process, we are asked by the government for an estimate of sales of Defence property likely to be made during the coming year. The numbers that go into the PBS are based on that estimate.

41 Mr Brown, Department of Defence, *Transcript*, 30 March 2010, pp. 91-92; Air Vice Marshal Harvey, Department of Defence, *Transcript*, 30 March 2010, p. 92.

42 Department of Defence, *Submission no. 2*, p. 8.

43 Dr Watt, Department of Defence, *Transcript*, 30 March 2010, p. 93; AusTender provides centralised publication of Australian Government business opportunities, annual procurement plans, multi-use lists and contracts awarded.

44 Department of Defence, *Submission no. 2*, p. 8.

45 Department of Defence, *Defence Portfolio Budget Statements 2009-10*, 9 May 2009, p. 31.

They are usually only tentative because there is always an element of conjecture in what is projected to be sold and what is projected to not be sold.⁴⁶

- 5.55 Defence advised that the 2009-2010 budget estimate of \$229.6 million and the 2010-2011 budget estimate of \$102.2 million related to 'the budgeted proceeds from the planned sale of the properties identified through the Property Disposal Program agreed by government.'⁴⁷
- 5.56 Defence added:
- Estimated proceeds over the forward estimates are based on independent property valuations where available. Otherwise, estimate proceeds reflect property values on the asset register which is based on market value.⁴⁸
- 5.57 Defence highlighted that it had revised its additional estimate of \$229.6 million to \$85.5 million noting that:
- during 2009-10 it had sold eight properties with receipts totalling \$7.6 million; and
 - four properties were sold in previous years with receipts received in 2009-2010 totalling \$3.9 million.⁴⁹
- 5.58 Defence estimated that the proceeds from the remaining planned sales, before the end of the 2009-2010 financial year, would total \$74 million.⁵⁰
- 5.59 At the public hearing, the committee also examined Defence's budget estimate that proceeds from sale of infrastructure, plant and equipment would total \$37.3 million for the 2009-10 financial year and \$38.5 million for the following financial year.⁵¹ The committee also asked Defence to provide an indication of what the forward estimates were based on.
- 5.60 Defence advised that the figures above were for the sale of assets under the Commercial Vehicle disposal program noting that 'vehicles under this program have a useful life of five years and are sold at the end of this period.'⁵²

46 Dr Watt, Department of Defence, *Transcript*, 30 March 2010, p. 93.

47 Department of Defence, *Submission no. 2*, p. 8.

48 Department of Defence, *Submission no. 2*, pp. 8-9.

49 Department of Defence, *Submission no. 2*, p. 9.

50 Department of Defence, *Submission no. 2*, p. 9.

51 Department of Defence, *Defence Portfolio Budget Statements 2009-10*, 9 May 2009, p. 31.

52 Department of Defence, *Submission no. 2*, p. 9.

Submarines

- 5.61 During the course of the committee's review into the *Defence Annual Report 2007-08*, the committee examined the submarine escape training facility at HMAS Stirling, which was not in use at that time, and the submarine rescue vehicle Remora, which was out-of-service at that time.⁵³
- 5.62 In its report on the review of the *Defence Annual Report 2007-08* the committee recommended that:
- Defence ensure the provision of submarine escape training at HMAS Stirling be re-established; and
 - the deployability issues governing the Australian Submarine Rescue Vehicle Remora be resolved without delay.⁵⁴
- 5.63 At the public hearing into the *Defence Annual Report 2008-09* the committee revisited this issue and asked Defence to provide an update on the status of the submarine escape training facility and the Australian submarine rescue vehicle.

Escape Training Facility

- 5.64 Defence advised that a contract had been awarded to a submarine escape training provider, stating:
- A tender was released in February 2009 to establish a training provider for Submarine Escape Training Facility (SETF) in-water training services. The Underwater Centre Fremantle (TUCF) was the successful tenderer and the contract was awarded in July 2009.⁵⁵
- 5.65 Defence added that the training provider, TUCF, had commenced staff training at the SETF but that training was put on hold due to:
- the detection of non volatile residue contamination in SETF life support systems; and

53 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2007-2008*, October 2009, Commonwealth of Australia, pp. 91-97.

54 Joint Standing Committee on Foreign Affairs, Defence and Trade, *Review of the Defence Annual Report 2007-2008*, October 2009, Commonwealth of Australia, p. 97.

55 Department of Defence, *Submission no. 2*, p. 10.

- replacing the obsolete components in the recompression chamber systems.⁵⁶
- 5.66 Defence acknowledged that these delays prevented TUCF from completing its full staff training program.⁵⁷
- 5.67 Defence advised that:
- final "safe to dive" certification is expected to be achieved in June; and
 - training of submariners in Australia is expected to commence at the end of October once the training of the TUCF workforce is complete.⁵⁸

Submarine rescue vehicle

- 5.68 Defence acknowledged that the Australian submarine rescue vehicle is still out-of-service, stating:

The Australian Submarine Rescue Vehicle ('Remora') remains in storage in Western Australia having been repaired, upgraded and re-certified for Harbour Acceptance Trials...

- 5.69 More specifically, Defence advised that the Remora's Launch and Recovery System (LARS) faced significant design re-certification issues but that it was considering alternate options, stating:

In December 2008 the DMO was advised by the marine classification society Det Norske Veritas (DNV) that the Remora's Launch and Recovery System (LARS) faced significant design re-certification issues. The designer of the LARS, Caley Ocean Systems, subsequently developed a design for modifications to the system. The DMO is reviewing this design to determine whether it presents a basis for a practical and cost effective launch and recovery capability that could support operational deployments. The DMO is concurrently considering alternate options for launching and recovering the Remora for sea trials.⁵⁹

56 Department of Defence, *Submission no. 2*, p. 10.

57 Department of Defence, *Submission no. 2*, p. 10.

58 Department of Defence, *Submission no. 2*, p. 10.

59 Department of Defence, *Submission no. 2*, p. 10.

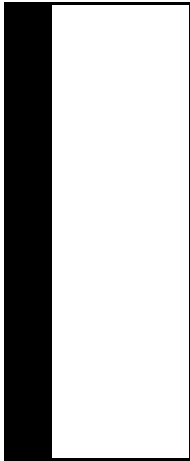
5.70 While the Remora remains out-of-service, Defence has contracted 'James Fisher Defence UK for the provision of the LR5 submarine rescue system.'⁶⁰

Senator Michael Forshaw

Chair

Joint Standing Committee on Foreign Affairs, Defence and Trade

⁶⁰ Department of Defence, *Submission no. 2*, p. 10.



Minority Report – Mr Robert Oakeshott MP

- 1.1 The Defence sub-committee of the Joint Committee on Foreign Affairs, Defence and Trade does not divide on partisan lines. Members have accepted that their participation on the Committee requires them to form judgments only after careful assessment of both public and confidential materials – and that this is a special responsibility.
- 1.2 Members put aside any issues of party advantage and bring their independent judgment to bear on all material issues.
- 1.3 Where possible the Joint Committee attempts to reach consensus. In the past that has resulted in unanimous conclusions on the various matters that have been the subjects of report.
- 1.4 However, in this rare instance, although not disagreeing with the Committee's report, I feel that it is important that I add to some sections of it.

Part 1: Defence Materiel Organisation – Personnel and employment issues

- 1.5 During the Defence sub-committee public hearing into the Review of the Defence Annual Report 2008-2009 (the Report) I asked several questions in relation to the action being taken by Ms Jane Wolfe, General Manager Commercial, SES band, against CEO of Defence Materiel Organisation (DMO) Dr Stephen Gumley as first respondent, Public Service Commissioner Lynelle Briggs as second respondent (now CEO of Medicare Australia), and the Commonwealth of

Australia as the third respondent in the Federal Court of Australia (FCA). The questions asked were in regard the termination of Ms Wolfe's employment, the processes involved, and the specific reference in the annual report which stated;

In March 2009, Ms Jane Wolfe's employment with the DMO ended.¹

- 1.6 The transcript of questioning between myself and Dr Gumley can be found on the Committee's website and is relevant to my final comments and recommendations to Government.²
- 1.7 At the time of the public hearing, the matter of Ms Wolfe vs Dr Gumley, Ms Briggs and the Commonwealth, was before the FCA and therefore, quite understandably, General Council Harry Dunstall was present and cautiously answered questions on Dr Gumley's behalf.
- 1.8 What he did indicate, which I believe to be of interest, was that he personally approved the use of the language in the report that stated Ms Wolfe's employment with DMO had 'ended' in 2008-2009.
- 1.9 Without having sought industrial relation or employment law advice, and now having the benefit of hindsight through a clear and exact ruling from the FCA, I am of the view the term 'ended' was inappropriate, is factually incorrect, deserves correction, and that a code of conduct inquiry is warranted into the actions of Dr Gumley and relevant, associated parties under the *Public Service Act 1999 (Cth)*, who participated in this highly questionable process of attempting to 'end' Ms Wolfe's employment.
- 1.10 The FCA ruling is also attached to the Report to emphasise that Ms Wolfe's employment has not 'ended' and indeed, certain decisions made by the CEO of DMO Dr Stephen Gumley, Ms Lynelle Briggs in her capacity at the time of Public Service Commissioner, and the Commonwealth through such agencies as the Australian Government Solicitor, have now been legally ruled upon under current public sector administrative law and have found to be without authority. My understanding is these matters as ruled by the FCA will not and have not been appealed, and therefore do have authority, exposing

1 Department of Defence, *Annual Report 2008-09*, Chapter Two
<http://www.defence.gov.au/budget/08-09/dar/vol2/ch02_01.htm> accessed at 30 June 2010.

2 *Transcript*, 30 March 2010, p. 59-65,
<http://www.aph.gov.au/house/committee/jfadt/defenceannualreport_2008_2009/hearings/Official%20Hansard%2030%20March%202010.pdf>

the decision-making process of the time, and exposing the above individuals and their agencies for poor decision-making processes.

- 1.11 Following the FCA ruling on 8th April 2010 and in light of the questions put to DMO on the 30th March 2010, I submitted further questions to the Department of Defence. They are:
- In light of the Federal Court of Australia ruling determined on the 8th April 2010 that led to the reinstatement of Ms Jane Wolfe to her previous role within the DMO, will the Department of Defence now agree that the 2008-2009 annual report is incorrect by referring to Ms Wolfe’s employment as having “ended”, and will they now be correcting the annual report to correctly reflect the truth of the matter?
 - Following evidence given by the DMO CEO Dr Stephen Gumley to the Defence sub-committee, as well as the subsequent Federal Court ruling on the Ms Wolfe matter, will a public service code of conduct inquiry be undertaken into the actions of Dr Gumley in relation to the termination of Ms Wolfe in 2008?
 - If so, when? If not, why not? And if not, what actions are being taken by the Department in relation to this matter and the decision of the Federal Court?
- 1.12 To date, the Department of Defence and DMO have not answered these questions. The fact the Department and DMO has failed to provide any answers to questions raised, particularly now the FCA has made a ruling in relation to this matter, and in light of the Department and DMO answering all other questions put to them by all other committee members on all other issues, is of grave concern.
- 1.13 The following issues remain unresolved due to a lack of transparency from this process:

The ruling of the FCA

- 1.14 This ruling leaves open many management-related questions regarding performance management processes within DMO. It also opens the question of a lack of understanding of administrative law processes from the CEO of DMO who is supposed to be one of Australia’s most senior public servants, if not its most senior (on pay/salary equivalence). And it clearly demonstrates, through the ruling, that the DMO CEO exposed himself, and therefore the Commonwealth and Minister, by not following due process, nor seemingly has a due process to adhere to.

- 1.15 At a broader level, this FCA ruling is therefore of grave concern regarding the existing culture within DMO and the Commonwealth SES Band public service, as well as having serious implications for the future of the DMO and the Commonwealth public service if left unaddressed.

Questions of timing in relation to the use, or misuse, of taxpayers' money

- 1.16 Under Part 7 of the *Financial Management and Accountability Act 1997 (Cth)* (FMA), there is an obligation that the CEO spend taxpayers money in an 'efficient, effective and ethical'³ way. These legal proceedings came at a cost of approximately \$2 million to the taxpayer in legal fees, and currently without clear evidence to suggest otherwise, there is a chronological argument that Dr Gumley and others continued spending money on a legal case they knew had no prospect of success.
- 1.17 It still remains unclear what was the exact cost of this matter (including disbursements, legal fees and cost orders and reinstatement costs for Ms Wolfe) to the tax payer and at what point were fees escalating when legal advice indicated it was a case without any prospects of success?
- 1.18 There is, based on the evidence before me, reasonable concern of a breach of s14 of the FMA for the misappropriation or improper use of public money.
- 1.19 This is of grave concern regarding the existing culture within DMO and the Commonwealth SES Band public service, as well as having serious implications for the future of DMO and the Commonwealth public service if left unaddressed.

Legal Council from AGS

- 1.20 The AGS, who represented Dr Gumley, have indicated in court documents they were providing advice as early as March 2008 in relation to Ms Wolfe's employment. This is as early as 4 months after Ms Wolfe's SES employment began.

3 *Financial Management and Accountability Act 1997 (Cth)* s44.

- 1.21 Without evidence to the contrary, this raises questions of why Dr Gumley was seeking legal advice so soon after her employment commenced, and whether any non-legal avenues were pursued prior to seeking legal advice, and why such a litigious approach to management was taken by Dr Gumley so quickly.
- 1.22 Given the early commencement of the AGS's advice, and based on court documents, this also raises the question of what advice AGS were providing to Dr Gumley, including the widely known cultural practice in the Australian public service of "performance managing" someone out of a position. This would be inappropriate legal advice from AGS to Dr Gumley, and would be inappropriate for Dr Gumley to have acted upon if provided, but based on the evidence both in the court and before the committee, no other conclusion can be drawn as to the events that saw Ms Wolfe's employment deemed 'ended'
- 1.23 Secondly, the legitimacy of the Affidavit of Mr Doug Galbraith used by the AGS was ruled hearsay by the FCA which continues to raise questions around the legitimacy of how this case was conducted by the AGS.

The Public Service Commissioner

- 1.24 The relationship between Dr Gumley and the then Public Service Commissioner Ms Lynelle Briggs is also left questioned based on the evidence before me. The reason behind why the Defence Annual Report 2008-2009 states that Ms Wolfe's employment has 'ended', is because Dr Gumley or an agent on his behalf sought from Ms Briggs a Section 34 certificate under Part 4 Division 2 The Senior Executive Service of the *Public Service Act 1999 (Cth)*.
- 1.25 For such a certificate to be issued, Ms Briggs must be confident that she has reasonable grounds to sign such a certificate. Based on the evidence before me, it looks to be a highly unusual practice that two sworn statements from former employers of up to twenty years ago were used as grounds for the certificate being signed. As the FCA ruling found, this was an incorrect decision, and therefore raises the question surrounding the material Ms Briggs used to authorise the termination certificate.
- 1.26 If such action by the Commissioner remains unaddressed we are left with the possibility that this may occur again in the future.

Ministerial Advice

- 1.27 It is imperative that the advice provided by the CEO of DMO and the Chief Audit Executive of DMO, Mr Tony Hindmarsh to the Minister be scrutinised to ensure impartial, transparent advice was provided to the Minister at all times between March 2008 and April 2010 concerning this matter.
- 1.28 On 8th April 2009 the *Canberra Times* quoted a spokeswoman for the then Defence Personnel Minister Warren Snowden saying “The Government is confident that the Public Service Commissioner [Lynelle Briggs], together with the CEO of DMO, have complied fully with their legislative responsibilities and acted with due regard to fairness, natural justice and privacy.”
- 1.29 The ruling of the FCA has indicated the both Dr Gumley and Ms Briggs did not act in this way and I therefore question the advice provided to the Minister at the time.
- 1.30 I am of the view that my questions that have been asked of the DMO that still remain unanswered is a breach of the Committee process and a matter for the full Joint Parliamentary Standing Committee of Foreign Affairs, Defence and Trade to consider separately.
- 1.31 The following documents are appended to this report:
- Appendix C: Federal Court ruling
 - Appendix D: Questions on notice of relevance and response from Ludwig of relevance.
- 1.32 Therefore, in light of all the above, I recommend that the Defence Department remove the reference to Ms Wolfe’s employment having ‘ended’ from their Annual Report.

Recommendation 1

I recommend that that the Defence Department remove the reference to Ms Wolfe’s employment having ‘ended’ from their Annual Report.

- 1.33 Further, in light of the above, and the FCA ruling that was delivered mid-way through the committee review of the Defence Annual Report 2008-2009, that a Code of Conduct inquiry should be held into the actions of Dr Gumley and any other party who failed to act in accordance with the *Public Service Act* and the *Financial Management and Accountability Act* in relation to this very costly, and very avoidable matter.

Recommendation 2

I recommend that a Code of Conduct inquiry be held into the action of Dr Stephen Gumley and any other party who failed to act in accordance with the *Public Service Act* and the *Financial Management and Accountability Act* in relation to this very costly, and very avoidable matter of the termination of Ms Jane Wolfe.

Part 2: Afghanistan

- 1.34 Neither the Prime Minister nor the Leader of the Opposition speaks for all members of the House of Representatives on the issue of Afghanistan, and it is for this reason in light of the 2008-2009 Defence Annual Report review, that I take the opportunity to put on the record my views.
- 1.35 It is now nine years since the Afghanistan War began in 2001, and I acknowledge much of the combat has been intense and comparable with the worst combat situations ever experienced in any war. Coalition forces on the ground, including Australian forces, have done an incredible job in surviving in what has been difficult combat in difficult terrain. They are to be congratulated for their strategic and operational combat work to date. Sadly, lives have been lost, and out of respect for those lives lost and for the existing troops on the ground, Australia needs a more explicit strategy on its mission in Afghanistan.
- 1.36 As a member of the Australian Parliament, the focus and obligation must be on the broader policy of Australian involvement. The broader policy questions include:
- After nine years, what exactly is our mission in Afghanistan?
 - In the interests of Afghanistan and Australia's sovereignty as nation-states, and with safety as a priority for Australian forces, when is the most appropriate exit point, and how do we reach this point as quickly and efficiently as possible?
- 1.37 According to language from the Chief of Defence Force (CDF), Ministers and others, our mission today seems to be focused on the democratisation of Afghanistan. This is a noble mission statement, so long as the expectation of the type of democracy within Afghanistan is not to be a mirror of democracies such as Australia's which has a long history of liberalism and an understanding by most within the

country of the rule of law and a general understanding of structures and institutions.

- 1.38 Democracy within Afghanistan will have to be different, and the Australian mission needs to both acknowledge this, and accept a different form of democracy as an end goal for any sort of success in an Afghan context. As Russian Lieutenant-General Ruslan Aushev, highly decorated for his nearly five years in Afghanistan during the Russian invasion from 1979 to 1989, has warned Coalition forces through his interviews with the British *Sunday Times Magazine*, the current occupation will be *“a doomed attempt to impose Western institutions on a country steeped in feudalism.”*
- 1.39 If a different type of democracy is accepted by Australia and the Coalition forces as an outcome, then I disagree that this is a doomed attempt at democracy. But Australia and the Coalition must be “eyes wide open” that feudalism, clan-based culture, and regional and religious diversity are all known parts of Afghan life and culture, and therefore accepting a vastly different democracy structure than our own is the only outcome we can realistically expect.
- 1.40 The reference to a key Russian military lieutenant-general is not done lightly. I refer to Mark Franchetti’s *“Unlearned lessons from Afghanistan”*,⁴ where Russian and British military leaders are brought together, and through discussion, identify the fact that most tactics currently being used by the Taliban are resembling those used by the Mujahadin against the Soviets throughout the eighties. Indeed, through reading of books such as Mullah Zaeff’s *“My Life in the Taliban”*, it is easy to see why this is, as the Taliban culture grew from Soviet invasion and departure, and the success and then subsequent failure of the Mujahadin to move from defenders of their land to democratic rulers of their land. A void was arguably filled, rightly or wrongly, by the Taliban in Afghan civil and political society following the Russian departure due largely to the inability of the Mujahidin to move into leadership within Afghanistan following their ten years of bitter and costly struggle with the Russian forces.
- 1.41 The conversations between Brigadier Ed Butler, the original mastermind of Britain’s strategy to fight the Taliban in the southern province of Helmand, and Lieut-General Aushev in the Franchetti article, is therefore an important comparison for policy makers to reflect on and holds many a cautionary tale for involvement as well as proposing a sensible strategic way forward for consideration.
-

4 Mark Franchetti, ‘Unlearned Lessons from Afghanistan’, *Sunday Times*, article reprinted in *Weekend Australian* 9 January 2010.

1.42 Amongst these conversations, considerations for Australian policy makers include:

- Supporting one element of Afghan society against another was and is a mistake. Like it or not, the Taliban as a people are part of the Afghan population. There is an element of terror amongst them, but it is wrong to assume most Afghans are opposed to the Taliban and want to get rid of them, as can be demonstrated by the way they are fed and harboured by the locals.
- Most Soviet veterans now view the 1979 invasion as ill-judged. At the height of the conflict there were 120,000 Soviet troops in Afghanistan, nearly the equivalent of present numbers of Coalition forces. About 15,000 Soviets and 1.3 million Afghans were killed from 1979-89.
- Importantly, the Mujahidin could never defeat the Russians in military terms, but the Russians could never keep control of the areas seized, a problem with which the current Coalition has become painfully familiar, and a problem that will remain after Coalition forces have departed.
- Importantly, through the conversations between these two distinguished military strategists, both with an intimate knowledge of Afghanistan, neither comprehends a military solution. Aushev is adamant that any troop increase like 40,000 is doomed to fail, saying “You’d need a million to control it, and you’d still have terrorist attacks”.
- Nation-building alone has been identified as not enough. The Russians built roads, factories, hospitals and schools and trained the Afghan elites, but this is over-shadowed by the fundamental mistake made by both the Russians and the Coalition of getting bogged down in the pursuit of unattainable goals. The Russians sent in troops to stage a coup and stabilise the situation but then sought to ‘sovietise’ Afghan society. By comparison, the Coalition wanted to remove Osama bin Laden and the Taliban, but is now trying to ‘democratise’ the country. As Aushev says “now, you (the Coalition) are trying to stage western-style elections in a country where most people can’t read. You dispersed the Taliban and had some local support. That’s when you should have gone home, leaving the Afghans in charge”.

1.43 And the key strategic considerations include;

- Afghanistan should be ruled by a council made up of respected tribal elders and ethnic leaders.

- The Karzai Government should take responsibility for the country.
- The President of the United States should state his plan for achieving his goals and be given a specific time to make progress. Australia should not be afraid to take a position of holding the Coalition forces, and the US leadership in particular, to account on this issue of an explicit progress-based timeframe.
- The Coalition and Australian forces in particular, must help build a strong Afghan army, police and intelligence agency capable of tackling the security problems the country will inevitably face whenever the Coalition departs.
- The Coalition must focus on a long-term program to develop Afghanistan's economy, through direct investment and aid, and to concentrate on generating income for local communities. Engagement with tribal elders on this point is an important starting point for a more secure nation-state.
- And finally, and the most difficult "pill" for us all to swallow after nine years in Afghanistan, is that no viable political solution can fail to include the Taliban, even if they insist on imposing Sharia law in areas where they are strongest. As Aushev finally points out; "it's the same law used in Saudi Arabia but you (the Coalition) are not seeking to impose democratic elections there".
- Therefore, it is hard to form a view different from Aushev and Butler on the above strategy through and out of this war for Australia.

1.44 I recommend that both these policy and strategy options be deeply considered by Government, and done so with recognition that the most 'controversial' of these is the inclusion of the Taliban in discussions about the future of Afghanistan as a democratic country.

Recommendation 3

I recommend that the policy and strategy options contained in my minority report at paragraphs 1.43 and 1.44 of my minority report be deeply considered by Government, and done so with recognition that the most ‘controversial’ of these is the inclusion of the Taliban in discussions about the future of Afghanistan as a democratic country.

**Mr Robert Oakeshott MP
Federal Member for Lyne**



Appendix A – List of Submissions

1. Campaign for International Co-operation and Disarmament
2. Department of Defence – Answers to Questions on Notice
3. Department of Defence - Answers to Questions on Notice – classified
CONFIDENTIAL



Appendix B – Witnesses appearing at public hearing

Canberra, Tuesday, 30 March 2010

Department of Defence

Mr Geoff Brown, Secretary – Audit Committee

Mr Mark Cunliffe – Head, Defence Legal, Defence Support

Mr Harry Dunstall, General Manager – Commercial and Special Consul to the Chief Executive Officer, Defence Materiel Organisation

Major General Anthony Fraser, Head – Helicopter Systems Division, Defence Materiel Organisation

Mr Kim Gillis, General Manager – Collins, Defence Materiel Organisation

Mr Kieran Gleeson, Acting Deputy Secretary – Defence Support

Dr Stephen Gumley, Chief Executive Officer – Defence Materiel Organisation

Air Vice Marshal John Harvey, Project Manager – New Air Combat Capability

Air Chief Marshal Angus Houston, Chief of the Defence Force

Lieutenant General David Hurley, Vice Chief of the Defence Force

Mr Warren King, General Manager – Programs, Defence Materiel Organisation

Commodore Vickie McConachie – Director-General, ADF Legal Services, Defence Support

Ms Shireane McKinnie, Acting General Manager – Systems, Defence Materiel Organisation

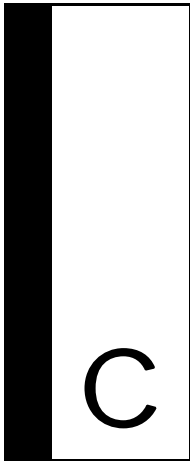
Mr Phil Minns, Deputy Secretary – People Strategies and Policy

Mr John Owens, Head – Infrastructure, Defence Support

Air Vice Marshal Colin Thorne, Head – Aerospace Systems Division, Defence Materiel Organisation

Vice Admiral Matt Tripovich, Chief – Capability Development Group

Dr Ian Watt, Secretary – Department of Defence



Appendix C – Federal Court Order

Order NOT
Entered

**IN THE FEDERAL COURT OF AUSTRALIA
AUSTRALIAN CAPITAL TERRITORY DISTRICT REGISTRY
GENERAL DIVISION**

No: **(P)ACD16/2009**

JANE ALICE MARGARET WOLFE
Applicant

STEPHEN GUMLEY
First Respondent

LYNELLE BRIGGS
Second Respondent

COMMONWEALTH OF AUSTRALIA
Third Respondent

ORDER

JUDGE: Justice Stone

DATE OF ORDER: 8 April 2010

WHERE MADE: Canberra

THE COURT NOTES THAT:

The respondents' concession that the decision of the first respondent made on 16 March 2009 and the decision of the second respondent made on 13 March 2009 are each vitiated by jurisdictional error in that the applicant was denied procedural fairness as pleaded in paragraphs 66A, 66B and 66C of the Further Amended Statement of Claim.

BY CONSENT THE COURT ORDERS THAT:

The application be allowed only to the extent that:

The decision of the first respondent made on 16 March 2009, as delegate of the powers of the Secretary of the Department of Defence under section 29 of the Public Service Act 1999, being the decision to terminate the employment of the applicant, be set aside with effect from 16 March 2009 and the matter be referred to the Secretary of the Department of Defence for further consideration of the matter, in accordance with law, by the Secretary, or a delegate of the Secretary other than the first or second respondent.

The decision of the second respondent made on 13 March 2009, in the exercise of her powers under section 38 of the *Public Service Act 1999* in her then capacity as the Public Service Commissioner, being the decision to issue a certificate under section 38 of the Public Service Act 1999 in respect of the termination of the employment of the applicant, be quashed and the matter be referred to the Public Service Commissioner for further consideration, in accordance with law, by the Commissioner or a delegate of the Commissioner other than the first or second respondent.

The third respondent pay the applicant's costs as agreed or taxed.

The applicant shall have leave to otherwise discontinue the proceedings, noting the applicant's undertaking that:

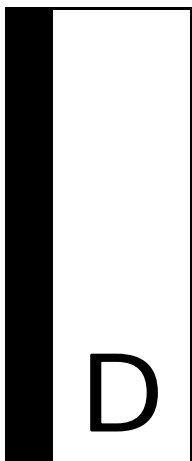
She will forthwith discontinue the proceedings accordingly, and will

Not commence fresh proceedings for the same or substantially the same, causes of action set out in the Amended Application and the Further Amended Statement of Claim, including in relation to paragraphs 3, 6, 7, 8, 9 and 10 in Part A of the Amended Application.

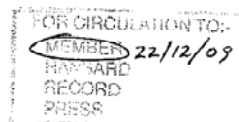
1.

Date that entry is stamped:

Deputy District Registrar



Appendix D – Documents in relation to
Ms Jane Wolfe



MINISTER FOR DEFENCE

HOUSE OF REPRESENTATIVES QUESTION

(QUESTION No 1065)

Mr Oakeshott asked the Minister for Defence Personnel, Materiel and Science, in writing, on 29 October 2009:

In respect of the dismissal of Ms Jane Wolfe from the Department of Defence in March 2009,

(1) Can the Minister outline the legislative responsibilities of the (then) Public Service Commissioner and the Chief Executive Officer (CEO) of the Defence Materiel Organisation (DMO) when reviewing the dismissal of Ms Jane Wolfe, and confirm that these legislative responsibilities and the requirements of fairness, natural justice and privacy were complied with in the review.

(2) In respect of the DMO's Wikipedia website, can the Minister confirm (a) that it is normal practice for a Government department to maintain such a site, (b) who monitors the publication of information on this website, (c) how the integrity of the Wikipedia page is maintained given the ability of registered users to freely edit content, (d) the guidelines for the publication of information in Wikipedia and whether the DMO adheres to these guidelines, (e) that it is appropriate to publish the sacking of any employee on such a website, and (f) why there is a reference under *Leadership* on the website to the dismissal of one leader of DMO, but no other information regarding any other leader of DMO.

Mr Combet—The answer to the honourable member's question is as follows

(1) The *Public Service Act 1999* does not provide for reviews of termination of employment decisions. Ms Wolfe made the decision to have the matter reviewed via a judicial review in the Federal Court.

(2) (a to e) As DMO and Defence neither control, contribute to, monitor, maintain or check the integrity of Wikipedia pages, it is not appropriate to respond.

**SENATOR THE HON JOE LUDWIG**

Cabinet Secretary
Special Minister of State
Manager of Government Business in the Senate
Senator for Queensland

Reference no: RG10-064

The Hon Robert Oakeshott MP
PO Box 6022
House of Representatives
Parliament House
Canberra ACT 2600

Dear Mr Oakeshott

Thank you for your letter to the Prime Minister dated 12 April 2010 which has been passed to me for a response.

Under the *Public Service Act 1999* issues relating to the conduct of individual public servants are a matter for the relevant agency head. In Dr Gumley's case this is the Secretary of the Department of Defence, Dr Ian Watt AO. This includes consideration of allegations that employees of the Department may have breached the Code of Conduct. I have therefore forwarded your correspondence and this response to Dr Watt.

With respect to Ms Briggs, I am advised that while her actions were as the Public Service Commissioner, as she is now the Chief Executive Officer of Medicare, the appropriate person to consider the matter is the current Public Service Commissioner Mr Stephen Sedgwick. Mr Sedgwick is also the relevant person to consider the conduct of any person within the Public Service Commission. Mr Sedgwick will contact you shortly about this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Joe Ludwig'.

Senator Ludwig

25 June 2010

cc: Dr Ian Watt AO