



Australian Government

Australian Government response to the
Joint Standing Committee on Foreign Affairs,
Defence and Trade report:

Contestability and Consensus: A bipartisan approach to more
effective parliamentary engagement with Defence

March 2019

**GOVERNMENT RESPONSE TO THE JOINT STANDING COMMITTEE ON
FOREIGN AFFAIRS, DEFENCE AND TRADE REPORT**

**“CONTESTABILITY AND CONSENSUS: A BIPARTISAN APPROACH TO MORE
EFFECTIVE PARLIAMENTARY ENGAGEMENT WITH DEFENCE”**

In November 2018, the Joint Standing Committee on Foreign Affairs, Defence and Trade (the Committee) tabled its report entitled “Contestability and Consensus: A Bipartisan Approach to More Effective Parliamentary Engagement with Defence”.

The Government thanks the Committee for its examination of Parliamentary engagement with Defence. The Government supports the Australian public and Parliament understanding how Defence contributes to the security of all Australians and the protection of Australia’s interests. The Government agrees the first recommendation, which is an ongoing activity and disagrees the second recommendation, as existing mechanisms of Parliamentary oversight of Defence are already substantial and broadly consistent with the oversight of other Government agencies.

Overview

The Government supports and upholds the longstanding principle of the Parliament being able to inquire into, and report on, certain activities within Commonwealth Departments and Agencies. The Department of Defence provides a substantial volume of reporting to Parliamentary Committees and to the Parliament, through:

- (a) Statutory reporting processes, including Annual Reports, Portfolio Budget Statements and Portfolio Additional Estimates Statements;
- (b) External audit and Review, including a substantial program of audits by the Australian National Audit Office and supporting various independent and ultimately publicly available reports into portfolio performance and organisation, such as the First Principles Review;
- (c) Regular briefings and appearances by officials at Parliamentary hearings, with 25 appearances before various Committees by multiple officials during the course of 2018, 25 private briefings of Committees and individual Committee members and 6 visits by Committees or Committee members to Defence facilities and bases.

Successive Australian Governments and Oppositions have sought to maintain a broadly bipartisan approach to Defence policy and capability. The Government seeks to maintain that bipartisanship and is confident that broad bipartisanship on Defence policy continues.

As the Committee recognises, the responsibility for the policy and operations of the Department of Defence are a matter for the Executive Government and for those Ministers appointed to Defence portfolio Ministries. The Government would not wish to change or dilute that longstanding arrangement as it is an essential component of effective operations of the Government. There are necessarily some matters within the Defence portfolio that are classified for intelligence, operational, policy planning or commercial reasons. The responsibility for ensuring these classified matters are carried out properly and with due diligence has always rested with the Executive and with certain statutory agencies with responsibilities for ensuring

that a number of sensitive matters are handled properly. The Government is of the view that this longstanding arrangement is appropriate and should continue. The Government would note that the Department of Defence has however provided numerous classified briefings to various Parliamentary Committees to support the examinations of particular issues by those Committees.

The Committee proposes a new and additional Committee with powers to examine in detail the planning, strategy development, administration and expenditure of the Department of Defence. It is not clear how the additional step of a Committee being deeply engaged in the operational management issues of the Department of Defence would lead to any greater sense of bipartisanship either in the Parliament or in the broader community above what already exists.

The Committee has also noted the need to improve contestability of Defence decisions. The Government through the First Principles Review has already established a strong contestability function within the Department, primarily focused on capability investment decisions, but also with an ability to contest decisions across the capability lifecycle, from Force Design to asset disposal. The First Principles Review also established an Investment Committee to ensure Defence major investments are strategically aligned, achievable and affordable across the lifespan of the asset. The Investment Committee, includes membership from the Department of the Prime Minister and Cabinet and Department of Finance, and receives contestability advice, to support good investment decision-making. This robust system supported by agencies other than Defence means additional contestability of such decisions is now not necessary.

The Committee further noted some concerns regarding stability of Defence funding. The Government has committed to Defence receiving 2% of GDP as a funding base over the next ten years. This is a long term commitment that brings surety to Defence planning and capability decisions. An additional covenant or arrangement to ensure this funding arrangement as suggested in part of the Committees report is therefore not necessary.

Finally, the Government would also note that a number of different Parliamentary Committees inquire into the activities of the Department of Defence and there is not agreement across the Parliamentary Committee system into whether the Committee proposed by this report would reduce the administrative burden for Defence to support other Committees.

Response to Committee Recommendations:

Recommendation 1

The Committee recommends that the Australian Government investigate measures to improve cooperation and coordination between the Department of Defence and states and territories to encourage constructive competition aimed at delivering the best capability to serve Australia's national interest.

Agree

The Department of Defence has an extensive range of contacts with the States and Territories, including cooperation on Defence aid to the civil community, major event planning, counter terrorism coordination and industrial and commercial discussions. Improving the relationships with the States and Territories is an ongoing requirement the Government has placed on Defence.

Recommendation 2

The Committee recommends that the Australian Government introduce legislation to establish a statutory Joint Parliamentary Committee on Defence. The purpose of the committee should be to improve parliamentary engagement with and oversight of the Department of Defence (Defence) and its portfolio agencies and should focus on the development and implementation of Defence strategy.

The Committee recommends that the legislation establishing the committee should be based on the provisions establishing the Parliamentary Joint Committee on Intelligence and Security (PJCIS), set out in Schedule 1 of the Intelligence Services Act 2001. Similar to the PJCIS, the legislation should ensure that the committee will have:

- power to review any aspect of Defence planning, strategy development, administration and expenditure referred by the responsible Minister or by a resolution of either House of the Parliament;
- access to classified information from Defence and other security agencies necessary to fulfil its functions (including information necessary to understand Australia's strategic defence and security environment), through the introduction of safeguards and restrictions for members and staff on the release of information, similar to those prescribed in Schedule 1, Part 1 of the Intelligence Services Act 2001; and
- its members appointed by a resolution of the House or Senate on the nomination of the Prime Minister (for House members) and the Leader of the Government in the Senate (for Senate members), with a majority of government members.

The Committee further recommends that the committee should have:

- power to initiate its own inquiries into the annual reports of Defence and its portfolio agencies, similar to the current powers of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which would enable it to investigate Defence strategy, capability planning and implementation of reforms arising from the First Principles Review; and
- at least 15 members in order to form sub-committees to undertake these proposed functions.

The Committee recommends that the committee assume the defence-related responsibilities of the Joint Standing Committee on Foreign Affairs, Defence and Trade, which should be re-established as the Joint Standing Committee on Foreign Affairs and Trade.

The Committee acknowledges that a number of existing parliamentary committees have oversight responsibility for different aspects of the Defence portfolio, including the Joint Committee of Public Accounts and Audit and the Parliamentary Standing Committee on Public Works. The Committee recommends that these committees retain their functions and where they identify issues related to Defence strategy or that require access to classified information, they may refer the issue to the proposed committee for inquiry and report.

Disagree

There are already substantial Parliamentary oversight measures in place for the Department of Defence. Australia has enjoyed a long period of broad bipartisan agreement on Defence policy, operations and force structure and additional measures to enhance bipartisanship are not necessary at this time. Defence's funding base has been secured through a long term funding arrangement announced by the Government.