

Part IV

Contestability and independent advice

In his *Review of the Defence Accountability Framework*, Dr Rufus Black suggested that Defence can achieve stronger decision-making and strategic direction setting in a number of ways including:

Establishing mechanisms for increasing contestability of key decisions (e.g., red teams) in a nonadversarial way to improve the quality of decision-making by formalising and institutionalising contestability for key decisions.*

He was of the view that to ensure high quality decisions for large and complex projects there must be space for contestability. In the following two chapters, the committee looks at contestability and Defence's quality assurance framework for its acquisition programs. It is interested in the extent to which ideas, proposals and decisions related to defence procurement are informed by independent and impartial advice.

*Department of Defence, *Review of the Defence Accountability Framework*, January 2011, p. 10.

Chapter 9

An informed organisation—contestability

9.1 In August 2009, the Minister for Defence identified a lack of contestability as a weakness in Defence's accountability and decision-making system. He indicated that measures would be taken to apply greater contestability and rigour, particularly in the pre-first pass phase of acquiring a capability.¹ In this chapter, the committee considers the role of contestability in the early stages of capability development.

Early stages—Defence White Paper

9.2 The Defence White Paper sets out the strategic approach that Australia will take to defend itself and protect its interests, and therefore provides the strategic structure upon which the DCP and other planning documents are developed. Given the importance of this document, it is essential that its contents are based on sound analysis and provides a coherent framework and process to ensure consistent compliance.

9.3 Professor Hugh White argued that the 2009 Defence White Paper recognised that defining strategic interests and objectives in a clear way was an important step in any rigorous process towards setting capability priorities. Even so, in his view, the White Paper failed to provide such clarity because its account was 'undermined both by conceptual muddles and by substantive strategic misjudgement'.² In chapter 3, the committee noted the call by a number of defence analysts for greater contestability to inform the capability decisions announced in the White Paper. Notably, the veracity of the decision-making process regarding the purchase of the 12 submarines was questioned.³ The underlying issue was why the capability was prescribed in the White Paper without any apparent robust contestability and before consideration of the procurement options, and the need for trade-off between cost, schedule and capability.

9.4 In regard to open and rigorous debate at the strategic level, the Black Review found 'insufficient contestability of decision-making' especially in respect of strategic decisions and 'big ticket' decisions related to the acquisition of capability. It continued:

1 Stephen Smith MP, Minister for Defence, 'Minister for Defence—Press Conference—Black Review', Transcript, 9 August 2011, <http://www.minister.defence.gov.au/2011/08/09/minister-for-defence-press-conference-black-review-9-august-2011/> (accessed 24 February 2012).

2 Hugh White, 'A Wobbly Bridge: Strategic Interests and Objectives in *Force 2030*', *Security Challenges*, vol. 5, no. 1, (Winter 2009), p. 29.

3 See paragraphs 3.2–3.13 and 3.18.

The theme emerging was a strong desire for internal mechanisms to produce more nuanced options around big strategic choices and to expose more frequently, well-argued alternative options around these choices.⁴

9.5 At the centre of these concerns is the issue of the quality of analysis that underpins the White Paper and the documentation derived from it. Whilst the committee accepts that much of the information that informs the White Paper process is a matter of national security, it takes the view that such analysis could be strengthened with the introduction of greater contestability within the process by way of independent review and analysis.

Former Force Development and Analysis Division

9.6 Some analysts and witnesses referred to the Force Development and Analysis (FDA) Division, which no longer exists, as a potential model for restoring contestability and independent advice back into the capability development process. For example, Dr Thomson noted that until the late 1990s, capital investment program and projects were subject to independent scrutiny and analysis by the FDA.⁵

9.7 The Australian Industry Group Defence Council explained that the FDA Division, including its Systems Analysis Branch, had its genesis in the 1960s McNamara model in the Pentagon. This model 'applied systems analysis as a basis for making sound decisions on complex weapons acquisitions'. McNamara also introduced Planning, Programming and Budgeting, including a Five Year Defence Plan (FYDP), which was 'the key policy document embraced by FDA'. The head of the FDA was responsible for developing the FYDP or 'Pink Book', now the DCP.⁶

9.8 Established as a central policy division in response to Sir Arthur Tange's 1973 report, the FDA was part of an effort to create an integrated system for study and debate around the Defence program. According to Dr Davies, the FDA was central to the concept of contestability and had two primary roles:

- to develop the paperwork on force development proposals for senior committee consideration; and
- to test the logic and quantify, through 'rigorous operational research and scientific inquiry', the effectiveness, costs and benefits of competing proposals.⁷

4 Rufus Black, *Review of the Defence Accountability Framework*, Department of Defence, January 2011, p. 51.

5 Andrew Davies and Mark Thomson, *Submission 8*.

6 Australian Industry Group Defence Council, *Submission 10*, pp. [15-16].

7 Andrew Davies, *Let's test that idea—contestability of advice in the Department of Defence*, Australian Strategic Policy Institute, 22 January 2010, p. 5.

9.9 Dr Davies held that there was an 'enduring need' to apply scientific method to evaluations of defence proposals. He explained that whereas the DSTO engages in scientific work, it 'sits almost at arm's length—they are engaged in the defence business'. In his assessment, the reinstatement of an organisation which engages people who have the 'political, the organisational nous and the technical skills' to analyse projects was required.⁸

9.10 Dr Brabin-Smith, former First Assistant Secretary of the FDA Division, noted in his submission that the FDA's responsibility was to 'rigorously examine each and every proposed acquisition well before it went from the Department to the Minister'.⁹ He explained that the division had an experienced civilian head and was answerable through a Deputy Secretary to the Defence Secretary. The Division had several responsibilities including the provision of impartial analysis of whether proposals for force structure development (i.e. new capability proposals) were:

- individually and collectively consistent with government-endorsed strategic priorities;
- affordable overall; and
- sufficiently well-developed to be fit for submission for consideration by government for approval and acquisition.¹⁰

1997 Defence Efficiency Review and the abolition of the FDA

9.11 In 1997, the Defence Efficiency Review (DER) report, 'Future Directions for the Management of Australia's Defence' noted the call for 'substantial changes' to capability development analysis within the department:

Our starting point for change is to delineate much more clearly who brings the various bits of information to the decision and who is to be held accountable for achieving the various outcomes.¹¹

9.12 According to a former senior Defence policy official, Mr Allan Behm, whilst the efficiency review streamlined the department organisationally by removing duplication, 'it failed to maintain a capacity for disciplined analysis':

FDA ran the heavy rollers of its considerable analytical capability over all substantial acquisition proposals and, in consequence, was loathed by the military. With no friends in high places, FDA morphed into a new

8 Andrew Davies, *Committee Hansard*, 12 June 2012, p. 43.

9 'Changing the Structure of Defence', *Asia-Pacific Defence Reporter*, 2 September 2011, <http://www.asiapacificdefencereporter.com/articles/177/Changing-the-structure-of-Defence> (accessed 2 April 2012).

10 Richard Brabin-Smith, *Submission 2*, Attachment 1.

11 Defence Efficiency Review, *'Future Directions for the Management of Australia's Defence'*, 10 March 2007, p. 24, <http://www.defence.gov.au/minister/der/report.pdf> (accessed 2 April 2012).

capability systems division that brought together the various ADF groups against which FDA had battled. It was placed under a two-star officer, then quarantined. The highly qualified and experienced analysts—many of them with defence science and advanced policy development backgrounds—dispersed within weeks. They have never returned.¹²

9.13 By 1998, the analytical capability of the FDA had diminished and ultimately disappeared entirely from Defence Headquarters. Dr Davies noted further that:

Similarly, the ability of senior committee secretariats to independently scrutinise costs and to provide frank assessments in agenda papers is now a shadow of its former self.¹³

9.14 A number of analysts including Dr Thomson and Dr Davies as well as Dr Brabin-Smith recommended that the FDA be reinstated.¹⁴ While recognising that the FDA 'caused a lot of rancour' and sometimes got it wrong, Dr Davies asserted that it was important to have a group of 'well-informed devil's advocates'.¹⁵ Dr Brabin-Smith recognised that some of the responsibilities of the former FDA were dispersed between the Strategic Policy Division and CDF and recognised the need:

...to establish a strong central policy area with a remit to improve the application of strategic guidance to capability development and the associated industry support, and to conduct rigorous and independent analysis of capability proposals.¹⁶

9.15 Mr O'Callaghan of the Australian Industry Group held that the advice of the FDA was valued by consecutive chiefs of the Defence Force 'because to some extent it was separate, independent advice they were getting'. While he did not have a view as to whether the FDA should be recreated, Mr O'Callaghan recognised that providing a function that played the devil's advocate role made sense.¹⁷

9.16 Mr Woolner noted that one of the reasons the FDA had 'clout in an adversarial environment' was because it served as the gatekeeper for the money and that merely reinstating a scientific analysis function might not be adequate as:

It was the power of managing the forward budget that gave what FDA decided the wherewithal to be heard and acted on by other people in the

12 Alan Behm, 'Defence lacks solutions', *The Australian*, 11 March 2008, <http://www.theaustralian.com.au/news/opinion/defence-lacks-solutions/story-e6frg7ef-111115762336> (accessed 2 April 2012).

13 Andrew Davies, *Let's test that idea—contestability of advice in the Department of Defence*, Australian Strategic Policy Institute, 22 January 2010, p. 6.

14 Andrew Davies and Mark Thomson, *Submission 8*, p. [2]. See also Richard Brabin-Smith, *Submission 2*, Attachment 1, p. 13.

15 Andrew Davies, *Committee Hansard*, 12 June 2012, p. 43.

16 Richard Brabin-Smith, *Committee Hansard*, 12 June 2012, p. 42.

17 John O'Callaghan, Australian Industry Group, *Committee Hansard*, 12 June 2012, p. 44.

organisation, because it foretold the problems that you would get into with your budget if you did not. So whether you could create it just for the third role and have it working effectively without some sort of organisation or political clout is a question you would have to think about very carefully.¹⁸

9.17 Another witness, however, was highly critical of the FDA. In his assessment the system produced:

...a series of project disasters on one or more of cost, capability or schedule. FFG Upgrade, original watercraft, Seasprite helicopters, Amphibious ships, F111 Armaments upgrade projects, the original bushmasters, Wedgetail, HF Modernisation, Vigilare etc. Some were rectified after much hard work, others were scrapped at large capability and financial cost.¹⁹

9.18 General Hurley, CDF, informed the committee that the FDA operated when the consideration of options for new capabilities was done 'in house'. At that time, there was limited transparency of the process and a 'single option was provided to government for each possible acquisition as a paragraph or two on each project as part of the budget submission—the old omnibus process'. According to the General, the FDA operated in a context in which government did not get the same rigour in terms of advice that it gets today. He noted further that the FDA was in place when the 'Super Seasprite, HF mod, FFG upgrade and purchase of the LPAs—*Kanimbla* and *Manoora* and *Vigilair* were established'.²⁰

9.19 Although Mr King indicated that there could be a role for an organisation such as an FDA, he was of the view that current arrangements for contesting ideas, assumptions and proposals were far more structured.²¹ The committee considers Mr King's viewpoint in the following chapter.

9.20 In his report, Dr Black acknowledged that there was concern that the 'levels of scrutiny and contestability had diminished' since the division's abolition. Highlighting the fact that contestability is a precursor to good decision-making, he recommended that:

Defence formalise and institutionalise a revised approach for Defence decision-making, based upon a more formal and auditable mechanism for decision-making across the full spectrum of Defence activities and increased contestability for key decisions.²²

18 Derek Woolner, *Committee Hansard*, 12 June 2012, pp. 44–45.

19 *Confidential Submission*, p. 48.

20 General David Hurley, CDF, *Committee Hansard*, 13 June 2012, p. 22. See also Defence's *Supplementary Submission*, 21B.

21 *Committee Hansard*, 7 October 2011, p. 21.

22 Department of Defence, *Review of the Defence Accountability Framework*, January 2011, p. 51.

9.21 In this regard, Dr Black suggested that Strategy Executive on behalf of Defence create a set of formal criteria for contestable decision-making that should 'proceed from an analysis of the potential political, strategic, financial and capability risk likely to accrue from a particular decision'.²³

Associate Secretary (Capability)

9.22 In August 2011, in response to Dr Black's recommendation, the Defence Minister announced the establishment of an Associate Secretary (Capability) position and that the Secretary of Defence would initiate filling the position 'immediately'.²⁴

9.23 As noted in chapter 8, the Associate Secretary (Capability) would have been responsible for strengthening the linkages between strategy and capability. The creation of the position was intended to ensure the 'more effective contestability and integration of advice at the early stages of the process, as well as for ensuring the performance and accountability of the overall capability development, acquisition and sustainment chain'.²⁵

9.24 While the proposal to appoint an Associate Secretary (Capability) was still alive, a number of commentators expressed doubts that a single position could introduce contestability and at the same time enable Defence to operate as a single, integrated enterprise. One of the central concerns was that such an appointment would only add to the complexity and bureaucracy of the capability decision-making process rather than provide for a rigorous, transparent and contested process. Indeed, the announcement that the position would not be established was supported by analysts such as Dr Andrew Davies and the Australian Defence Association whose executive director, Mr Neil James, said that the creation of another level of bureaucracy defied commonsense and the diarchic principle that underpins the running of Defence.²⁶

9.25 The committee's concern, however, is that the status quo will now prevail without addressing the issues raised by the Black Review and its recommendations regarding mechanisms to strengthen the decision-making process by way of contestability and embedding a culture of accountability.

23 Department of Defence, *Review of the Defence Accountability Framework*, January 2011, p. 51.

24 Stephen Smith MP, Minister for Defence, 'Improving personal and institutional accountability in Defence', 9 August 2011, <http://www.minister.defence.gov.au/2011/08/09/improving-personal-and-institutional-accountability-in-defence/> (accessed 1 February 2012).

25 Stephen Smith MP, Minister for Defence, 'Improving personnel and institutional accountability in Defence', 9 August 2011, <http://www.minister.defence.gov.au/2011/08/09/improving-personal-and-institutional-accountability-in-defence/> (accessed 1 February 2012).

26 David Ellery, 'Position retreat a win for Defence leadership group', *Canberra Times*, 11 May 2012, <http://www.canberratimes.com.au/national/position-retreat-a-win-for-defence-leadership-group-20120510-1yfsk.html> (accessed 15 May 2012).

9.26 In its supplementary submission, Defence highlighted the important role of the CIR Division in providing contestability in the capability development process including during the early phases which concludes when a project enters the DCP. The committee discusses the Division in the following chapter.

Committee view

9.27 The committee acknowledges the views of several submitters supporting the reinstatement of the FDA, and singing its praises. The committee also notes, however, the record of failures during that period and therefore questions its efficacy in current times. The committee also accepts CDF's assessment of his preference for the current model, though the committee's qualifications about its effectiveness remain, as expressed throughout this report.

