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PROCUREMENT PROCESS: LESSONS THAT HAVE NOT BEEN LEARNT

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Exercise Solo Flight

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PROCUREMENT PROCESS: LESSONS THAT HAVE NOT BEEN LEARNT

Any review of Australian Defence News over the past three decades would uncover no shortage of media stories about wasted tax payers money and failed procurement projects that have not managed to meet the fundamental requirement of providing a 'fit for purpose' capability. These continued failings and their high profile media coverage have led to numerous inquiries and reviews. Whilst the reviews mainly focus on identifying shortcomings of procurement organisational structure and the approval process itself, little consideration has been given to Government's role in failed projects and the negative influence politics plays particularly where local industry considerations have been mandated. Despite the significant lessons identified by subsequent reviews it seems that the process is

locked into a vicious cycle where political influence in particular and an emphasis on local content and new job creation, continues to ensure that future projects are destined for failure. These lessons are simply not being adequately identified or learnt.

The policy processes used within the Australian government for procurement are comprehensive and should result in timely and cost effective procurement of equipments needed to meet military capability requirements. The recent announcement of Australia's shipbuilding project arrangements for submarines, offshore patrol vessels and frigates are the latest in a series of incidents which are demonstrative of the endemic susceptibility of the procurement system to direct state level political interference seeking local economic benefit. Unless the procurement system is delinked from the requirement for regional economic development military capability acquisition will continue to lag operational requirements.

This essay will examine the procurement process of the Australian Defence Force and demonstrate that in spite of recent failings, reviews, restructures and recommendations, the issues surrounding local industry support and political influence continue to be overlooked and therefore the

same mistakes continue to be made.

The purpose of defence procurement is, in principle, to provide the Australian Defence Force (ADF) with the weapons systems it needs, when required and at best value for the money.

- Markowski and Hall¹

The Department of Defence aims to "promote the Security of Australia, protect its people and its national interests".² To achieve this aim Defence serves the Government of the day and is answerable to the Commonwealth Parliament to "efficiently and effectively carry out the Government's defence policy"³. "Australia is a federation and the national government under the Constitution has the power to legislate on defence matters (sections 51 (vi) and 119)." ⁴ Legislative scrutiny is provided by parliament through committees. In the case of Defence oversight is provided by ten Parliamentary committees.⁵

Australia has a history of using defence procurement and capability acquisition to create and support local industry development to a level that is "arguably, unparalleled in any other small industrial economy." ⁶ An emphasis on Australian Industry has been a feature of procurement policy since the Australian Industry Participation Program (AIPP) was established in 1970. It has taken various forms throughout the years such as the Australian Industry Involvement (AII) program of the 70s and the Australian Defence Offsets Program (ADOP) of the 80s.

In 1989-90 AII accounted for 70% of defence contracts.⁷ In the 90s the Price, Review of Defence Policy for Industry introduced more prescriptive policy around specified local content

¹ Markowsk, Stefan, and Peter Hall. "Defence Procurement and Industry Development - Some lessons from Australia" School of Business, UNSW at ADFA, 2003, 1

² Australian Government, Department of Defence Website. About Defence Page. www.defence.gov.au

³ Australian Government, Department of Defence Website. About Defence Page. www.defence.gov.au

⁴ Australia Country Defense Index 2014-2015. Defence CPI Assessment. Indaba Reports. 2015.

⁵ Australia Country Defense Index 2014-2015. Defence CPI Assessment. Indaba Reports. 2015.

⁶ Markowsk, Stefan, and Peter Hall. "Defence Procurement and Industry Development - Some lessons from Australia" School of Business, UNSW at ADFA, 2003. 31

⁷ Ugurhuan, Berkok. "Defence Procurement Lessons form Canada, Australia, United Kingdom and Spain" School of Policy Studies, Queen's University, Ontario, 2006, 3.

and industry development requirements and 55% of defence contracts were sourced locally.⁸ In the 2000s policy was conflicting. After media coverage of significant project delays and price premiums being paid as a result of favouring local industry, a greater use of off-the-shelf technologies was encouraged. However a strong competitive domestic industrial base was still emphasised.⁹ The 2000 white paper stated that "We will not limit ourselves to purchases from Australian industry, nor pay an unduly high premium for them."¹⁰ The 2000 White Paper regarded competitive markets as the path to delivering value for money for the ADF. The 2016 white paper however returned to a strong emphasis on local content effectively mandating the consideration of Australian defence industry in the formal capability development process.¹¹

The Australian Defence Force's lead procurement agency is the Capability Acquisition and Sustainment Group (CASG) whose role it is to "purchase and maintain military equipment and supplies in the quantities and to the service levels that are required by Defence and approved by Government."¹² This stated role heavily emphasises the need for decisions to be 'approved by Government' who are charged with representing the best interests of the Australian people.

Australia's procurement structure has been refined and clarified over time through numerous reviews. Defence Material Organisation (DMO) was established in 2000 incorporating Support Command Australia, thereby combining Department of Defence's acquisition and sustainment organisations into one entity. Significant issues with underperforming and delayed projects led to the 2003 Kinnaird Review and the 2008 Mortimer Review. By 2010 and 2011 the growing number of 'Projects of Concern' led to the First Principles Review which recommended the disbanding of DMO leading to the establishment of

⁸ Markowsk, Stefan, and Peter Hall. "Defence Procurement and Industry Development - Some lessons from Australia" School of Business, UNSW at ADFA, 2003.

⁹ Australian Government. Defence 2000: Our Future Defence Force. Canberra, 2000, 98.

¹⁰ Australian Government. Defence 2000: Our Future Defence Force. Canberra, 2000, 101

¹¹ 2016 white paper p 109

¹² <http://www.defence.gov.au/casg/AboutCASG/> CASG Website

CASG in 2015.¹³

Stated expectations for the procurement and sustainment from the reviews included: "better results for the Australian Defence Force; greater transparency and accountability; improved efficiency and effectiveness; and better value for money."¹⁴ It is the argument of this paper that those expectations should remain primary and that any consideration of local industry should only be in the cases where there is no significant impact on the primary considerations.

The Defence Industry is unique in comparison to other parts of the economy as it services a single large and powerful client. Government's play politics and self interest and political survival can influence sound governance. All too often Defence's high budget acquisitions are seen as a political opportunity to score points with voters through industry development or new job creation. There is a social and economic benefit to the Nation when industry and jobs are created. However the support of broader economic goals at the expense of good fiscal practice can lead to a failure to achieve the stated objectives of the procurement process.¹⁵ This political interference introduces inherent risk to the business of conducting procurement and capability acquisition. The ADF Procurement Process will continue to be influenced by politics and as long as this conflict of interest is allowed to remain, the process will never be truly capability based.

What have been the issues? And Examples

Procurement issues have continuously beleaguered the Australian Defence Force in recent memory. Many issues have been identified through inquiries and reviews surrounding the evaluation process such as: failure to properly identify risk, a propensity to 'Australianise' designs and unrealistic gold plated solutions. Best value and lowest risk were not properly assessed or presented. Contracts were

¹³ Peever, David (April 2015). "First Principles Review: Creating One Defence" (PDF). Department of Defence, Australian Government. Retrieved 30 June 2015.

¹⁴ Mortimer Review - opening pages.

¹⁵ Markowski and Hall - Canadian Urugoz paper

poorly crafted with insufficient built in safety nets around performance guarantees and commercial losses or agreed escalations.¹⁶ These are issues that recent reforms and reviews have largely addressed. However the reviews failed to adequately identify the negative impact of political influence and resultant prioritising of economic benefits above the pursuit of a low risk, cost effective solution.

Numerous projects past and present demonstrate the negative influence of political interference. The following examples are of five projects which demonstrate the impact of this negative influence:

Collins Class Submarines

The Collins class submarines were built locally. The use of an immature newly raised ship building industry contributed to the project being delivered some six years late, massively over budget and not fit for purpose resulting in the vessels being deemed unfit to serve operationally.¹⁷

F/A-18 Hornets

The F/A-18 project were delivered under an arrangement to assemble the aircraft in Australia. The price premium incurred for this activity was 29% and equates to an additional 21 aircraft that could have been delivered in addition to the 75 produced. The additional cost was justified as an enhancement to local industry's ability to provide through-life support however this benefit was never realised as maintenance is conducted by the RAAF.¹⁸ The maintenance of off-the-shelf aircraft imported from overseas was still able to be conducted in Australia proving that assembly in Australia was not essential to gaining the necessary skills base.¹⁹

¹⁶ Andrews, Derek

¹⁷ McIntosh and Prescott, 1999

¹⁸ Industry Commission, Defence Procurement Report No. 41, 30 August 1994

¹⁹ Industry Commission, Defence Procurement Report No. 41, 30 August 1994

Armed Reconnaissance Helicopter (ARH)

The ARH failed to meet contracted milestones and capabilities. Chief of Army declared Final Operational Capability in 2016, seven years late. The fleet is still yet to deliver the original capability expected and continues to low aircraft availability and higher than expected sustainment costs.²⁰ It is unlikely to ever see operational service before being replaced. Local content weighted heavily in the Government decision to select this platform over the Boeing AH-64 Apache. The project has performed so badly that Defence recommended replacing the helicopter mid delivery, cutting its losses, rather than continuing to waste millions of dollars trying to upgrade and sustain the underperforming platform.²¹ With a now well established local industry conducting the build, Government opted to continue to waste money and stick with the project.

Multi-Role Helicopter (MRH)

The MRH Project was audited in 2014.²² The program was running four years behind with the first Operational Capability milestones for both Army and Navy yet to be achieved. Aircraft were underperforming and being delivered with diminished operational capability. Reliability and maintainability has been below acceptable standards and temporary and permanent design waivers abounded. Questions were raised as to whether or not the MRH program would ever be able to provide an acceptable and affordable aircraft capability. Whilst this project suffered from many poor procurement processes also key is that Defence originally recommended to Government that the S-70M Black Hawk be procured. However the Minister for Defence and Government directed Defence to develop alternate submissions that recommended the MRH90 "on the basis that strategic and other government

²⁰ ANAO Tiger - Army's Armed Reconnaissance Helicopter Audit Report, 1 Sep 2016

²¹ <https://www.theaustralian.com.au/national-affairs/defence/defence-chooses-to-repair-rather-than-replace-grounded-helicopters/news-story/3e34e5f7d0a641b78db0806d69c01319>

²² ANAO Multi-Role Helicopter Program Audit Report, 25 June 2014

considerations outweighed the cost advantage of the Sikorsky proposal."²³ The MRH build would occur in facilities purpose built in Australia, alternatively Sikorsky's project contained no local content.

Air Warfare Destroyers

The troubled Air Warfare Destroyer Project, was subject to an independent review in 2014 when it was identified as being significantly over budget and schedule.²⁴ Its ambitious original local industry dominated alliance was found to have been unable to effectively manage the program due to inexperience and the limited base of shipbuilding activity in Australia. An experienced ship management team from Spain was brought in to salvage the project. The local "industry price premium resulted in Australia getting three vessels for the price of four."²⁵

The previous examples provide evidence that points to a "clear lesson that local defence industry development achieved in conflict with comparative advantage will always impose a cost."²⁶ This cost must be identified and acknowledged.

The cycle of Political Influence continues to break the process

The Defence force has a stated purpose to "defend Australia against armed attack."²⁷ It is not Defence's stated aim to be responsible for building local industry and creating new Australian jobs? However many governments have thought so. Particularly during long periods of peace. These ambitions are quickly abandoned against the backdrop of hostile war fighting. Should the media be able to relate Australian deaths to a lack of equipment and a capability gap, the resulting political hot potato soon overrides any desire to be seen to be a champion of Australian local industry. Off-the Shelf purchases and

²³ ANAO Multi-Role Helicopter Program Audit Report, 25 June 2014

²⁴ Winter, Donald and J. White. Report of the Independent Review into the Performance of the Hobart Class Air Warfare Destroyer Program. 2014

²⁵ Mark Thomson wrote (Thomson, 2014)

²⁶ Markowski and Hall, 2003

²⁷ <http://www.defence.gov.au/AboutUs.asp>

rapid acquisitions are soon approved to fill the gaps that have been potentially been created by an overemphasis on local content.

An overemphasis that has resulted in failed projects and the delivery of inadequate weapons platforms, ultimately putting Australian lives at risk. Once the threat of combat operations passes though, the Government quickly falls back into its self serving, vote buying and political point scoring ways.

There is nothing wrong with local members and companies trying to push their own barrow, though they may be ignoring the best interests of the ADF. However if the acquisition process responds to (or is forced to respond to) political pressure then the capability of the ADF may be compromised.²⁸

Have we learnt the lessons?

“The recurring nature of the shortcomings is particularly concerning and suggests that lessons from previous troubled projects are yet to be learnt and that inadequate risk management may be at the heart of the problem”.²⁹

Despite the historical examples pointing to the risks of in house industry building projects in terms of capability, cost and delay, the recent 2016 White Paper seems to be attempting to return to the days of AII. It has introduced Australian Defence industry as a 'Fundamental Input to Capability' and therefore an essential component of the process.³⁰

The 2016 White Paper went on to state that "The Government has already committed to maximising Australian industry involvement in the submarine program, without compromising cost, capability, schedule or risk. The Government will announce the results of a Competitive Evaluation

²⁸ Andrews, Derek Grahame. Submission to the 2015 Defence White Paper. Based on the Response to the Preliminary Report of the Senate Inquiry into Procurement Procedures for Defence Capital Projects

²⁹https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Foreign_Affairs_Defence_and_Trade/Completed_inquiries/2010-13/procurement/report/c04

³⁰ 2016 White paper page 102

Process in 2016 "³¹ How can you preemptively state that maximising Australian industry will not compromise cost, capability, schedule or risk before completing the Competitive Evaluation Process.

The propensity for party political interests to influence procurement continues to make the news. Currently there is focus on Australia's decision to once again embark upon establishing a local ship building industry. \$89 Billion of contracts for offshore patrol vessels, submarines and frigates have been reported as the Government hijacking the procurement process by announcing the contract to build the submarines in Adelaide, arguably to make a play for votes in key South Australian seats. Meanwhile the Auditor-General is warning of extreme cost blowouts and reported that between February and December 2017, the cost for the first phase of the project alone has blown out from \$25 million to \$62 million.³² The lessons simply have not been learnt.

It is looking even worse for the delivery of offshore patrol vessels with sources in the industry revealing a band-aid political solution to include all three shipbuilding partners to "diffuse any risk of political backlash from South Australia and Western Australia."³³ This most recent development is deeply concerning. The established procurement process has not been followed and political influence has indeed trumped all logic. The government has thrown out the joint venture solutions proposed by all three bidders and instead dictated its own redesigned arrangement that the companies have been told to work through. There is no doubt that this complete divergence from proper process is highly likely to result in increased risk, cost and reduced efficiency. These actions have shone a spotlight on the propensity for procurement to suffer from political interference and the extent to which the lessons of the past are simply being ignored.

³¹ 2016 White paper page 92

³² <http://www.afr.com/opinion/editorials/defence-procurements-purpose-cant-be-to-protect-political-jobs-20180515-h1032a>

³³ MARITIME AND UNDERSEA WARFARE Politically driven OPV decision sets a dangerous precedent 20 FEBRUARY 2018 By Amelia McMahon

Way Forward

There are several ways forward that could be adopted by the Australian government to reduce the risk that favouring local industry has on capability. One method could be to emulate what occurred recently in Canada with the CAF shipbuilding project where the government chose to divorce itself completely from the process in order to prevent any possible accusations of political interference.³⁴

This could be an ideal path for future procurement decisions to follow. This is likely to be the only way to ensure that local industry is awarded contracts based on merit rather than political agendas. Unfortunately whilst it would be a refreshing approach to procurement, it is clear that this path is not likely to be chosen.

A second approach could be to declare up front an intention to adopt local content criteria and to rightly identify that it is for the purposes of creating industry, new jobs and achieving economic benefit, rather than try to disguise it as being best value and lowest risk or in the best interests of national security. With this approach the impacts of mandating local industry content become transparent and the Government of the day openly declares that the economic benefits outweigh any considerations of comparative advantage. Costs associated with this approach are not hidden but openly declared.³⁵ The potential to suffer schedule delays and pay a price premium can be budgeted for and tabled. The risks to capability will be accepted in order to achieve additional economic benefits.

The third preferred approach is to not allow mandated local content policy and instead allow the principles of comparative advantage to be applied. This approach would mandate that the creation of new jobs or industry should not influence acquisition decisions. Local companies would need to compete on their own merits and whilst they could offer a strategic advantage, this should not be considered at the expense of capability outcomes.³⁶

³⁴ (Stone, 15)

³⁵ Markowski and Hall UNSW @ ADFA 2003

³⁶ Andrews, Derekc

This third approach is not new and reflects the logic that was stated in the 2010 Defence and Industry Policy Statement “that capability acquisitions and sustainment decisions are not made on the basis of industry assistance” and “that protectionist measures such as offsets and local content quotas are costly and counterproductive and have no place in the Governments procurement process”.³⁷

Additional benefits of this approach is that local industry will become more resilient and self-reliant in order to prosper and grow in the future. The pitfalls of creating defence dependant firms that would otherwise not be able to stand on their own two feet will be avoided. Instead market forces will determine the success of companies based on their ability to drive innovation, efficiencies and survive.³⁸

Competitive proposals should be sought from both local and overseas suppliers. Australian companies do not own the right to supply to the ADF, but will be given the opportunity to openly and fairly compete. This will serve to reduce risk and assure value for money be assured.

This essay does not seek to diminish the economic value of a successful Defence Industry. There is no doubt that by building three Frigates in Australia, there is the potential that the equivalent value of the fourth will be generated through economic gains.³⁹ However it must be recognised that if we need 4 Frigates and end up with only 3, then there is a capability gap that must be accepted or funded.

The current failures in procurement have seriously harmed Australia's defence capability.

- Derek Andrews⁴⁰

³⁷ Murfett, David. Raubiszko j. Salerno, J. Scuteri, Larry. Sadlip 2015 Concept Paper. South Australian Defence Industry Leadership Program. [http:// www.dtc.org.au/files/5515/0752/7530/SADILP15_CP_OptimisingDefenceProcurement.pdf](http://www.dtc.org.au/files/5515/0752/7530/SADILP15_CP_OptimisingDefenceProcurement.pdf) p 2

³⁸ Department of Defence (2010)), Building Defence Capability:: A Policy for a Smarter and More Agile Defence Industry Base.. 9 Ibid.,, page 9 .10 Ibid.,, page 39

³⁹ Murfett, David. Raubiszko j. Salerno, J. Scuteri, Larry. Sadlip 2015 Concept Paper. South Australian Defence Industry Leadership Program. [http:// www.dtc.org.au/files/5515/0752/7530/SADILP15_CP_OptimisingDefenceProcurement.pdf](http://www.dtc.org.au/files/5515/0752/7530/SADILP15_CP_OptimisingDefenceProcurement.pdf) p 5

⁴⁰ Andrews, Derek Grahame. Submission to the 2015 Defence White Paper. Based on the Response to the Preliminary Report of the Senate Inquiry into Procurement Procedures for Defence Capital Projects

We must ensure that the issues that have arisen as a direct result of mandated local content are properly evaluated and identified so that the lessons can be learned. The recent return in the 2016 White Paper to a local industry focus by including it as a 'fundamental input to capability' embedded within the procurement process is unfortunate. More alarming is the recent political interference evidenced in the recent announcement of Australia's shipbuilding arrangements that has demonstrated an even greater departure from the agreed comprehensive procurement policy and process. Significant evidence demonstrates that unless the procurement system is delinked from the requirement for regional economic development military capability acquisition will remain at risk and lag operational requirements.

An appropriate level of capability must be maintained in order to achieve this aim. The Government of the day and their interference in the procurement process has become the new adversary to Defence. Appropriate and adequate capability that offers a sufficient counter to potential adversaries and protection to ADF personnel is all that is needed.

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