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Australian Government
Defence

Ministerial Meeting Brief

MB24-000470

FOR: Deputy Prime Minister

INFO: Minister for Defence Industry

CC: SEC, CDF, VCDF, ASSOCSEC, DEPSEC GOV, FASMECC, DEPSEC NSSG, CA, CN, DEPSEC CASG

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Key Issues:

4. There are current proceedings between Austal and the United States Department of Justice. The Australian Embassy has been working with Austal on this matter, which is yet to be resolved. Potential outcomes should not be discussed as this is an ongoing matter.

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Cleared by: Rear Admiral Wendy Malcolm AM CSM RAN
Head Patrol Boat and Specialist Ships Division
Naval Shipbuilding and Sustainment Group
§22
08 August 2024

Primary Contact Officer:
Rear Admiral Wendy Malcolm AM CSM RAN
Head Patrol Boat and Specialist Ships Division
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Secondary Contact Officer:
Ms Helen Loundes
Assistant Secretary Ship Acquisition Specialist Ships
Naval Shipbuilding and Sustainment Group
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Sensitivity: Yes.

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Attachments:

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Attachment E Austal company profile.

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INVESTIGATIONS, CLAIMS AND LITIGATION

- On 10 June 2021, the Australian Securities and Investment Commission (ASIC) [commenced](#)¹³⁰ civil proceedings in the Federal Court of Australia against Austal and its former Chief Executive Officer, Mr David Singleton, for alleged breaches of the *Corporations Act* and *ASIC Act*. ASIC's proceedings involve an alleged failure by Austal to immediately disclose to the market a material change in its prior earnings guidance. Austal had represented that it expected its United States shipbuilding business would be profitable in FY2016, but subsequently became aware that it would likely generate a significant loss. On 09 September 2022, Austal [announced](#)¹³¹ it had reached a settlement with ASIC. Under the settlement, Austal agreed to the civil contravention and agreed to a penalty of A\$650,000. On 10 October 2022, Austal [announced](#)¹³² that the ASIC settlement had been endorsed by the Federal Court.
- In January 2019, the Australian Securities and Investments Commission [advised](#)¹³³ Austal that it had opened a preliminary investigation into certain market disclosures in late CY2015 and mid CY2016. United States regulatory authorities, including the Securities and Exchange Commission (SEC), had also [commenced](#)¹³⁴ separate but related investigations. In February 2021, Austal [announced](#)¹³⁵ that it, along with its American subsidiary Austal USA, had engaged external lawyers in the United States to conduct its own detailed investigation in relation to what they understand to be the focus of the United States regulatory investigations. Following the completion of that external investigation, Austal was satisfied that the quantum of the write back of work in progress (WIP) that was announced to the Australian Securities Exchange on 04 July 2016 appropriately adjusted Austal's revenue and profit following the revision that was made to the estimated cost to complete the remaining vessels in the LCS program. Austal did note that the LCS vessels cost more to construct than originally anticipated, they identified isolated instances of miscalculation of labour hours and certain valves did not meet all the required military specifications at the

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Australian Government
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time of the procurement. Following the completion of the investigation, the Austal USA Board had accepted the resignation of the Company's United States President, Mr Craig Perciavalle. On 31 March 2023, the SEC [announced](#)¹³⁶ it had charged three executives of Austal USA for violating the antifraud provisions of the Securities Act of 1934 and sought disgorgement plus prejudgement interest, civil money penalties, and officer and director bars. On the same day, the United States Department of Justice [announced](#)¹³⁷ that a federal grand jury had returned an indictment charging three members of Austal USA with orchestrating an accounting fraud scheme at Austal USA.

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Australian Government
Defence

Ministerial Event Brief

MB24-000487

FOR: Minister for Defence Industry and Capability Delivery
INFO: Deputy Prime Minister
CC: SEC, CDF, VCDF, ASSOCSEC, DEPSEC GOV, FASMECC, DEPSEC NSSG

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Key Issues:

5. There are current proceedings between Austal and the United States Department of Justice. The Australian Embassy has been working with Austal on this matter, which is yet to be resolved. Potential outcomes should not be discussed as this is an ongoing matter.

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Naval Shipbuilding and Sustainment Group (NSSG)
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9 August 2024

Primary Contact Officer: Rear Admiral Wendy Malcolm AM CSM RAN Head Patrol Boat and Specialist Ships Division NSSG s22	Secondary Contact Officer: Ms Helen Loundes Assistant Secretary Ship Acquisition Specialist Ships NSSG s22
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Sensitivity: Yes
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Attachments:

s22 [Redacted]

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s22 [Redacted]

s22 [Redacted]

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Background

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US Securities and Exchange Commission investigation of Austal USA

Defence is aware that the US Department of Justice has indicted three former Austal USA employees, including the former Austal USA CEO, following a US Securities and Exchange Commission investigation.

The investigation, which commenced in 2019, related to allegedly misleading financial statements about the performance of Austal's US subsidiary that occurred in the period 2013 to 2016.

The Australian Securities and Investments Commission also investigated the matter as it related to market disclosures and a large profit write back in 2016 made by Austal in Australia – Austal settled that matter through the payment of a AUD 650,000 penalty.

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