



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL  
TERRITORY**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS**

**(Reference: Auditor-General's report No 7 of 2008:  
*Proposal for a gas-fired power station and data centre—site selection*)**

**Members:**

**MS C LE COUTEUR (The Chair)  
MR B SMYTH (The Deputy Chair)  
MS J BURCH**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**THURSDAY, 13 AUGUST 2009**

**Secretary to the committee:  
Ms A Cullen (Ph: 6205 0142)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Committee Office of the Legislative Assembly (Ph: 6205 0127).

**WITNESSES**

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*Amended 21 January 2009*

**The committee met at 2.03 pm.**

**PHAM, MS TU**, ACT Auditor-General

**NICHOLAS, MR ROD**, Director, Performance Audit and Corporate Services, ACT Auditor-General's Office

**SMITH, MR GRAHAM**, Senior Audit Manager, ACT Auditor-General's Office

**THE CHAIR:** Good afternoon, everybody. I now formally declare open this public hearing of the Standing Committee on Public Accounts in its inquiry into Auditor-General's report No 7 of 2008. Whilst the terms of reference for the inquiry are the information contained within the Auditor-General's report, the committee's inquiry is focusing specifically on the administrative processes used for the consideration and facilitation of strategic projects.

On behalf of the committee, I would like to welcome the Auditor-General and her colleagues to this hearing. I suspect you have all read the privilege card, so we are all right with that. Do you have any opening remarks that you would like to make?

**Ms Pham:** No, thank you, Madam Chair. My colleagues and I will be happy to take questions.

**THE CHAIR:** Thank you. You made five recommendations, and the government subsequently responded to the issues in your report. Do you have any thoughts on the progress or usefulness of the responses from the government to your recommendations?

**Ms Pham:** I think that the government's response in terms of our recommendations has been generally very positive. We are actually very encouraged that some of our findings regarding the administrative process to facilitate projects in the project facilitation unit have been modified and implemented. Other recommendations are also agreed to by the government. So we are generally happy about the government's response to the report.

**MR SMYTH:** You gave us a PowerPoint presentation, for which I am very grateful. In the reviewing of sites, paragraphs 3.44 to 3.47, is there something specific? You make the suggestion that there was no specific process to assess and rank sites to ensure the benefits for the territory. What benefits should we be looking for? Clearly, LDA, in selling land, is looking for a financial return. What sorts of benefits should we be looking for, beyond the financial return?

**Ms Pham:** The government, as we found in our audit, did not have any process whatsoever in terms of listing the criteria which helped the government to rank the merit of different sites. So in that process, the government reacted to what was required by the commercial proponent rather than looking at the broader interest of the community. We think that, as a basic set of criteria, the government should have the financial implication, health outcome, social outcome, job creation and other impacts on agencies. For example, in this particular case there would be some impact on the use of land for other opportunities, like a cemetery. So those are the types of thing that we thought the government should take into account when they agreed to this site for this particular project.

**Mr Smith:** Yes, I think the fundamental issue is in effect the opportunity cost. So what is the other use that the government could have put a site to? And to specifically go through that and to see that there are no impediments in practical terms to releasing it for the purpose for which the proponent wants it.

**MR SMYTH:** What should we be judging the sales against in terms of things other than financial return? How do you specify a community return, a social return and an environmental return? What suggestions would we give the government on what that should involve?

**Ms Pham:** I think the process that the government set out previously, under the direct sale of land, which required the proponent to meet a set of criteria under the disallowable instrument, is actually the type of process that we are looking for, and the type of criteria that we look at for the government to assess the merit of the site. So it is quite broad in terms of not only, as you say, financial criteria, rate of return in terms of the value of the land, but other opportunities for use of the land, and any social and environmental impact. I think the process has been set out quite nicely under the disallowable instrument for direct land sale. But in this particular case, the government departed from that and provided an option and had these conditions to follow, rather than requiring all of the conditions to be met before they agreed to the site.

**MS BURCH:** With respect to the rationale behind that, was there anything missing in the option criteria as opposed to the earlier set of criteria that you mentioned?

**Ms Pham:** The missing part of the consideration was that the government did not have any information, or very limited information, to know about the proposal, to know about the very basic impact of the proposal, before the government committed to setting aside the land. We acknowledge that the government put conditions on the option, to minimise the risk of transferring land to a non-viable project, but that should not substitute for the very basic due diligence that the government need to do before they make any decision whatsoever. Hence that is what we believe is the missing part of the process.

**Mr Smith:** Yes, that is correct. We are happy with the elements that were in the option or the draft option, but the point was the elements in order to reach the decision to grant the option in the first place.

**THE CHAIR:** This might not be a question I should be asking you; I should have asked it yesterday. You said that until 2008 there was the direct sale disallowable instrument. Is what has replaced it going to solve any of these problems? I do not know enough about it. I think that we do not have a disallowable instrument anymore, do we?

**Mr Smith:** No.

**THE CHAIR:** They come around each quarter with a list of direct sales, I think.

**Mr Smith:** It is not my field but I understand that the new legislation has broadly

equivalent conditions.

**THE CHAIR:** Okay.

**MS BURCH:** To notify a direct sale?

**Ms Pham:** Can I refer to the report, because we do mention the change in—

**THE CHAIR:** 3.50, and then 3.54.

**Ms Pham:** I understand that the process no longer requires a disallowable instrument. It still needs to go through the cabinet process for approval, following the normal process of going through the LRCC committee and the LDA board. But I understand that, in the past, there was a disallowable instrument; hence there is an opportunity for the Assembly to disallow a particular direct land sale. That may not be required anymore under the new process. I may double-check that and confirm it for the committee, but that is how I understand it.

**THE CHAIR:** We should probably ask that question of ACTPLA rather than yourselves. It is not really your area of expertise.

**MR SMYTH:** But your advice to the committee would be that the process set out in disallowable instrument 2003 No 220 would be the process that we should follow, that that is a good, solid process where everything is tracked; whereas the process that was followed had a number of problems?

**Ms Pham:** That is right. We thought that process was well established. It is quite robust.

**MR SMYTH:** In recommendation 3 you say that the government should not depart unless there are compelling reasons. You have set up the process; you keep the process for each direct grant as it comes forward. If there is a compelling reason, document it; make it very clear why you are departing from it. You could not find a documented reason for the departure this time?

**Ms Pham:** That is right.

**MR SMYTH:** When the peaking station was pulled from the process, should the process have restarted?

**Ms Pham:** I believe so. The decision to grant a direct land sale, even with conditions attached to it, conferred a benefit to a commercial entity which is not normally given to other sales, such as at auction. When you give a commercial entity some unusual benefits then you have got to justify it on the basis of whether there had been additional benefits such as environmental benefit to the community.

I believe, in this case, at the beginning, the security of power supply was used as one of the positive benefits to the ACT together with a data centre. It might be that big benefit that was considered, but that very significant, positive impact that the government used for a direct land sale was no longer there. For example, do we still

need 21 hectares of land? Do we still have all the benefits that attached to a peaking power station?

When the proposal had changed so significantly and the government did not come back and reconsider the merit of the proposal, I thought that was certainly not a good process.

**MS BURCH:** Direct land sales are not traditionally made to commercial entities?

**Mr Smith:** The most common use of them is not for commercial sales, although they have been used for commercial purposes.

**MS BURCH:** That was not clear. In the government's response to recommendation 3, they made comment about new processes instituted during 2008 to improve the processes. Do those new processes alleviate some of the concerns you have outlined?

**Ms Pham:** Yes. Our concerns are with many parts of this project. The first one is the operation of the strategic project facilitation unit. At the time there was not any procedure and policy in place to define what actually is a strategic project, what the role of the government will be, what will be the procedure, how the government will ensure that, in supporting and facilitating the project, the government will help engage the community in the process. There was not much available at the time.

Because of that, we believed that the whole project seemed to be driven by the urgency communicated by the proponent about the need for security of land, the need to act very quickly. In the absence of its own process, the department reacts to the need of a commercial entity. I believe that the issues are now looked at and should be addressed by the new processes by the project facilitation unit. I think we are quite happy with that part.

**MS BURCH:** You made mention of communicating with the community. That certainly was one of the concerns. People did not know what was coming. Then we go into the discussion on the amount of community awareness before there was approval. The government has made some response about ACTPLA's independence. I am interested in your comments on that now.

**Ms Pham:** I do not believe that the government fully appreciates what we recommended in that process. We never recommended that the government go out and act on behalf of the private sector, to give the impression to the community that the government actually acts on behalf of the proponent. We did not say that.

The statement that the risk to the government by making sure that the proponent engaged the community was somehow seen as interfering with the statutory process is not correct. I think that is a very weak argument on the part of the government. Firstly, the government had already indicated that it was a stakeholder in the process by its in-principle support of the project. The government already had an interest to ensure that the project proceed as smoothly as it could. The government had an obligation to ensure that the proponent had a proper engagement policy to get the community aware of it.

The government can rely on the private company to do the consultation. If the government believed that it was not doing the right thing—I believe in this case the private consortium did not do the right thing—the government certainly had the obligation to do something about it.

**MS BURCH:** To ensure the proponents followed those in-principle processes on community engagement?

**Ms Pham:** Exactly. The Minister for Planning and the chief executive for ACTPLA should have made it very clear that they encourage pre DA consultation. It makes great business sense to ensure that the community gets the right information so that there are fewer disputes at the DA process. There is no question about the positive thing that you can do prior to the DA, whether from the proponent's or from the government's point of view. Government policy already encourages government agencies to consult prior to DA when there are projects sponsored by the government and have impact on the community.

I could not see how a more proactive approach from the government could somehow interfere with the ACTPLA process. It should not interfere with the ACTPLA process. It should not duplicate the ACTPLA process either. Anything you can do beforehand can actually reduce the risk of disputes and reduce the delay in the DA process.

It is important also that the government clarify its role during that process. If the government came out and said, "We act as a facilitator in this case, subject to certain conditions," the community would know what role the government is playing in that project and it should not affect the ACTPLA independent process at all.

**MS BURCH:** To me, there is a line between notice and support and active facilitation. All that is required, in many ways, is that the proponent is driven to know what their responsibilities are as well.

**Ms Pham:** If the government had been heavily involved in the project as a facilitator in terms of helping to identify the site, discussing impediments or coordinating other agencies, I cannot see that the government could not also facilitate the process of engaging the community with appropriate information. Remember that it is a really huge project involving a big power station in the middle of Tuggeranong.

**MR SMYTH:** I think Mr Smith had a comment.

**Mr Smith:** No, I think you have said it very well. As Tu Pham has also said, we have never said that the government should support or provide information on a private sector project. To the extent that they are a stakeholder and they have interests in that—they have said they have interests—then it makes sense to protect those interests by giving appropriate information.

**Ms Pham:** The government, in their response and also during the public hearing, mentioned the situation where land is auctioned; hence there is no government involvement. It is a very different process. When land is auctioned, it has gone through the process where the government decided they had no other use for that block of land and that the best way is to sell it and get revenue for the land and let the

private sector decide what to build on that land within the permissible uses of the land. But when a proponent approaches the government for a site, that is where the risk is not totally with the private sector but with the government in terms of other options for the use of the land, such as a cemetery or other things. So you cannot be a stakeholder supporting, even in principle, the project and then say that the risk is totally with the private sector. There is risk with the government there.

**THE CHAIR:** You were just saying that if the government had auctioned the site it would be a totally different process but, to my mind, to some extent it is a similar process. The government has X amount of land; at some stage it decides that it is going to dispose of it. It is not obvious why there is always going to be more involvement with a direct sale rather than an auction. I think that some of the objections in this case would have happened possibly regardless of what was going on the land. If it had been an auction situation, I am not sure that the community angst would have been a lot less. There seems to be a different process for the two.

**Ms Pham:** It had to be a different process. When the land is auctioned and the price is paid by the private sector, the risk is totally with the private sector. If, for example, they put up something that may not get approval from ACTPLA or it has more objections from the community and they cannot build on it or there was a delay on it, there would be no risk to the government. The government has already got the revenue for the land. It is totally a risk for the private sector. But if the government sets aside the land for 12 months and therefore may forgo other opportunities, or it may create other issues for government departments, then the risk is with the government as well.

**THE CHAIR:** When you talked about the direct sale, you talked about lots of other things that the government would look at, apart from just the financial aspects. There was mention of health outcomes and job creation. I basically agree with that. But if you do an auction process, you give it to whoever gives the government the most money; that is what an auction is. So you are basically saying you are only looking at ones that will give a financial return. I am not quite sure why the auction process should be so—and I do not know whether you have any views on this. It is a bigger question.

**Mr Smith:** It is going beyond the scope of this audit. That is the way that almost everything else works—that the territory plan, together with conditions on the areas that people bid for and then seek to construct on, is done by that sort of planning legislation and planning constraints which are debated and negotiated elsewhere.

**MS BURCH:** I am a little intrigued by that too. If that block was sold to the highest bidder, or whatever is the equivalent to what was held in the deed of option, the deed of option had conditions. There were certain conditions and, if they did not meet those conditions, the transfer, the direct sale, would not proceed. With an auction, the only thing that got them over the line was the tabling of the money and then the private sector would have put the sign up, gone out to the community and said, “We’re going to build this.” Process issues aside, the anxiety around it from the community, in that they were saying there was going to be a peaking power station 600 or 800 metres from residents, would have remained the same. Those concerns—the health impact, the environmental impact—would have had to have been looked at for the project to

proceed. You could argue that, with a direct sale, with good processes, the health impact, the environmental impact and all of those things must be done first and foremost before the land is even released to a proponent. In a way, that covers the risk for the territory more than just flogging it off to the highest bidder and letting them do what they like and seeing if they get over the line.

**Ms Pham:** The way I see it is that when the government wants to sell a block of land, that block of land has gone through the process of determining that there is no other, better use for that land for the government. It goes through the process of perhaps consultation with the community about the use of that land. So it went through a number of processes—

**MS BURCH:** Through an auction sale?

**Ms Pham:** No, before the government decided to sell it, to put it in the land release program. In this case, this land is still part of a study. It is part of the Hume industrial planning study. It has not gone through the process to check with the community whether that particular block, for example, should be rezoned into industrial land to allow for things like a power station or a data centre. Because that information has not yet gone to the community so that the community had an opportunity to agree with the government either on the territory plan or—

**MS BURCH:** Maybe this was a question for ACTPLA yesterday. You are saying that before a piece of land is released for auction, all those processes are gone through for the community?

**Ms Pham:** Yes. The government have a land release program, and with the land release program the government have reviewed through their own internal system and have gone through quite a lot of processes, whether or not they do a planning study or some other early community consultation before they sell the land. And they have not gone through that process for this particular block of land. That is why we are saying that it is not the same as the land auction. This land which is set aside when someone approaches you and identifies the land—even before the community had an opportunity to comment on the Hume planning study, about that particular area.

**MS BURCH:** At auction, some of those assessments can be done. What is the time line between those assessments and when the land could be auctioned or sold?

**Mr Nicholas:** It could be any time. It could be a long time before the land was made available for release. If we consider what is happening in other areas of Canberra, we have got studies going out on potential uses of blocks of land. They are out for community consultation in one form or another. They are being considered within government in one form or another and a decision will eventually be made as to whether to use it for industrial land, residential land or whatever; whether to keep it for ourselves or whether to put it up for land release.

In this case, we had not gone through that full process. We do know that there were alternative uses for this block of land that were being considered, including the cemetery, or a potential cemetery. We do not know whether the government went through a process that said, “Well, is it better for us to keep it for the cemetery or to

release it for the data centre?” We do not believe that that sort of analysis had occurred, and this is the comment that we have made in the report about no other consideration.

It is that process. I guess once we have decided that the land can be made available for public release, we are saying that we have considered all the potential uses and the way we might deal with this block of land and felt that the best way to use it is to release it commercially. The risk then goes to the buyer of that land. So the risk is borne by the consortium in this case. They then go through all of that analysis through the DA process that will require them to do the EIS, the health studies et cetera. They will pass or fail on those particular processes. So the risk goes back over there to the developer, whereas in the case at the moment we are stuck with not being quite sure whether this is the best use or whether there is some alternative use. We have not made that decision in a totally logical sense. We have not weighed up the benefits one way or the other.

**Ms Pham:** Indeed, from all the basic information available to us during audit, I would think that that land will not be auctioned at all, because it has already been set aside for the cemetery, after a significant community consultation process. So that land was not available for auction, or may not be, and I would think will not be available for auction. It might be available to a private company because the government believe there are other positive benefits that justify the government forgoing the use for the cemetery. But that work has not been done. There is no information shown to us that the government have done any study to make that decision; hence we think that the consultation is important on this one compared to the straight auction of the block of land.

**MR SMYTH:** TAMS were told to put their cabinet submission for the cemetery on hold until the government had considered this. They actually had the ability to compare alternative uses for the site but chose not to. They actually made a decision not to go to a comparison; they went along with one purpose only.

**Ms Pham:** The cemetery board had gone through the community consultation process about that land. The minister had agreed to keep that land for at least five years for the cemetery purpose. The cemetery board raised the concern that, should that land be given to the power station and data centre, they would be very worried about their ability to meet the future burial needs of the community of that particular south-side area.

It seemed to us that this was not a normal conventional auction of the land. That is why we think the government should do more in terms of public consultation.

**Mr Smith:** To put it most bluntly, if it had gone through a conventional auction sale after planning processes, those planning processes would almost certainly have involved a rezoning from broadacre, presumably, to industrial. That process, in itself, would have been open to community consultation. If it is going to become industrial, we do not know what factories are going to be there. But that process would, in itself, be open to community consultation.

**MS BURCH:** Recommendation 2 says that you have got to provide a certainty for the

business sector to clarify the purposes of broadacre. We have had commentary about interpretation of definitions of communications facilities. I am not quite sure that it would automatically be rezoned as industry because it seems to fit within the definition of broadacre.

**Ms Pham:** ACTPLA's recommendation on that particular Hume study was that the land should be rezoned industrial land, subject of course to consultation. I think Mr Neil Savery made it clear that he intended to go to cabinet and seek community consultation on the planning study. In that study there was a recommendation to consider rezoning the area.

**Mr Smith:** I was just going to say that that was another mechanism. The first mechanism that was broadly followed did have that additional process of review. There would have been another process of review; not just as we were saying before about having a limited review on an ordinary auction, there would have been an extra step. The first step of going via broadacre is also feasible.

**MR SMYTH:** On the issue of the deposit or the payment of holding fees, I note in paragraph 3.76 you said that the reasons provided were not persuasive. The consortium actually paid 1/25th of what they offered. They offered \$1 million, and the fee was reduced to \$40,000. What was the process in that and what reasons were given that were not persuasive?

**Ms Pham:** There was a lot of correspondence between the LDA and the Chief Minister's Department and from ActewAGL regarding a deposit for any land set aside by the government for the project. LDA and ACTPLA, mainly LDA, said that the normal commercial arrangement would be a 10 per cent non-refundable deposit of around \$1 million. ActewAGL suggested that, when they first approached the government for the first site, not this particular site, in principle they understood the need to put down a deposit. They were talking about a refundable deposit of around 10 per cent of the value of the land. LDA was talking about a non-refundable deposit. There were two different ideas there.

There was very little documentation to show why the government did not take LDA's advice for about a \$1 million deposit, whether it was refundable or non-refundable. One of the arguments put to us during the audit was: "If we charge \$1 million it may look as if we are committed to a value of the land." I thought that argument was not very convincing at all. You can request a deposit without any commitment to any land valuation at all. It is still subject to some valuation being done. You can make it very clear that the deposit is not at all influencing your decision later about valuation. We were not convinced that that was a very good argument for not requiring a bigger deposit from ActewAGL.

It was a significant block of land. If you set it aside for 12 months, you forgo other opportunities to consider its use. You may create costs for other departments to move facilities or to look for alternative cemetery land; yet you did not want a commercial company to put a decent deposit, even though ActewAGL was willing to do so.

**THE CHAIR:** I have a totally different question. There were obviously a lot of agencies working on this little project. How did you find they worked together? Did

they identify as ACTPLA or LDA or whatever, or did they work as part of the ACT government?

**Ms Pham:** The project was coordinated by CMD; so CMD, particularly the project facilitation unit, led the project and was very much in consultation with agencies to provide advice to the government about the site option decision. At the early stages of the project, the consultation was directly with LDA quite a bit to identify possible sites. After the LDA consultation, most of the work was done through CMD. I think the consultation process was good in terms of having everyone involved.

There were some shortcomings in the process. One time they overlooked the Department of Disability, Housing and Community Services and did not even know that the department had a lease on that site. They forgot about that department in the first round of consultation and came back later and said: “We overlooked you. Can you give us some comment now?” At that time the department said, “We do not have sufficient information to be able to provide comment. Maybe we have to consider the removal of the health facility there.” In the process, we believed that some good advice was given by Treasury and LDA but the advice was not always taken on board.

**MS BURCH:** I think this goes to recommendation 5, which talks about the agencies being different from others, and taking an arm’s length approach. Essentially, the government have agreed with what you have outlined here. Do you get a sense of what they have put in place and what they have enhanced within their internal processes?

**Ms Pham:** We are aware of the government’s response but we have not followed up to see whether there is any change in the way the information is communicated to agencies regarding the protocol in dealing with private companies. I think that all agencies seem to act in good faith, and there is no misconduct at all. I just want to make that clear. On the other hand, because ActewAGL is familiar with government agencies, hence there are occasions when I think agencies are not as cautious as they would be with another private company. Information somehow got to the consortium that should not be available to the consortium.

**MS BURCH:** Do you think the improvements they have made in the strategic facilitation processes and arrangements will address or enhance those arm’s length concerns? Part of the response to recommendation 1 goes to some of recommendation 5, just by setting out clarity regarding roles and responsibilities.

**Ms Pham:** In the end, it is very much up to the individual senior officers in the department to take good care of communicating the information to other departments and to outside companies. Often, some of the emails would be cc’ed to ActewAGL, which would not normally be the case. I think extra work may be needed to remind individual officers that communication between agencies should not be cc’ed to other—

**MS BURCH:** I think this is around learning the lessons, and where we go from here.

**Ms Pham:** I have to say that everyone tried very hard to respond to the urgency communicated by the proponent; hence everyone tried to do their best to make the

process go more quickly. So a lot of emails exchanged between government departments were cc'ed to outside—

**Mr Smith:** Some at odd hours of the evening and at the weekend.

**MS BURCH:** Hardworking folk.

**THE CHAIR:** Auditor-General, one of the comments you made, in relation to site approval and selection, was:

A better process of site selection was carried out in 2002 as part of ActewAGL's first attempt to construct an ACT power station. This involved consideration of various sites and a cost-benefit analysis.

Could you provide an overview of why that process was better, in your opinion, than what we just went through?

**Mr Smith:** It is almost exactly as it was written. It is what one would have expected. There is a significant project. They want to build a gas power station. It is a matter of looking at a number of sites. They look at the major industrial areas; they have the pros and cons of where they are and the proximity to utilities and estimated cost of the land; you do some sort of scaling and they come up with that site in Hume which was the first point of discussion. I don't think it is rocket science but it is the sensible sort of thing that you do. You go through options. What happened this time, as again we are alluding to in the report, was that they started with the one that they wound up with in 2002 and then, as the report says, that block in Hume was set aside—it was not encouraged, shall we say. Then they just moved sequentially from one site to another, as opposed to looking at several at one time and saying, "Of these three, four or five blocks, which is the better?" It just seemed to move.

**THE CHAIR:** Do you think the fact that this time there was a commercial proponent whereas previously Actew was basically part of the government was one of the reasons for the more rational process the first time? It was all in house and they did not have the pressure of the proponent saying, "We need it now, we need it yesterday or it won't happen"?

**Mr Smith:** There seemed to be a perceived urgency; hence it went in this manner. I do not know exactly why it was seen to be that urgent.

**Ms Pham:** The first proposal was only for the power station, as additional security for electricity for the ACT. So it did not have that data centre attached to it; hence it looked as if ActewAGL at the time went through a proper process, because it was only about the power station. The second time around, it had that data centre attached to it, and all the urgency is about the data centre and not about the power station. It is about the data centre because the proponent believed they needed to have an urgent security of the land before they would go out and get their client interested in using their data centre. So the data centre, on the information we got, is the reason that the urgency was there.

As I said before, there was the lack of a formal process for the facilitation unit to

proceed with that project, and they react to the time line, and they would react on a more ad hoc basis rather than having a more consistent and robust process. It may be the first major project that that particular unit had to facilitate, and they wanted to do it as quickly as they could, and that is where the mistake was made or shortcomings can be found.

**Mr Smith:** In fact, the very initial approach of this project predated the formation of the unit.

**MS BURCH:** Of the facilitation unit?

**Mr Smith:** Yes.

**THE CHAIR:** By way of correction, I was actually thinking that the first project was Actew, but it was actually ActewAGL, so in both cases my possible conclusion was wrong because it was both times.

**Ms Pham:** It had to be ActewAGL—

**THE CHAIR:** Yes, it was ActewAGL, not Actew, so both times it was a commercial entity. Thank you, Ms Pham, Mr Smith and Mr Nicholas, for attending. I now formally close this public hearing.

**The committee adjourned at 2.55 pm.**