



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL
TERRITORY**

STANDING COMMITTEE ON PUBLIC ACCOUNTS

**(Reference: Auditor-General's report No 5 of 2007:
The FireLink project)**

Members:

**DR D FOSKEY (The Chair)
MS K MacDONALD (The Deputy Chair)
MR R MULCAHY**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 12 SEPTEMBER 2007

**Secretary to the committee:
Mr H Finlay (Ph: 6205 0136)**

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

McPHERSON, MS KIM, Auditor, Public Authorities and Territory Owned
Corporations Unit, ACT Auditor-General’s Office **1**

NICHOLAS, MR ROD, Director, Performance Audits and Corporate Services,
ACT Auditor-General’s Office **1**

PHAM, MS TU, Auditor-General **1**

The committee met at 4.22 pm.

McPHERSON, MS KIM, Auditor, Public Authorities and Territory Owned Corporations Unit, ACT Auditor-General's Office

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

PHAM, MS TU, Auditor-General

THE CHAIR: The committee has authorised the recording, broadcasting and re-broadcasting of these proceedings in accordance with the rules contained in the resolution agreed by the Assembly on 7 March 2002 concerning the broadcasting of Assembly committee proceedings.

Before the committee commences taking evidence, let me place on record that all witnesses are protected by parliamentary privilege with respect to submissions made to the committee in evidence that is given before it. Parliamentary privilege means special rights and immunities attach to parliament, its members and others necessary to the discharge of functions of the Assembly without obstruction and without fear of prosecution.

While the committee prefers to hear all evidence in public, if the committee accedes to such a request the committee will take evidence in camera and record that evidence. Should the committee take evidence in this manner—as we are at the moment—I remind the committee and those present that it is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly. I should add that any decision regarding publication of in-camera evidence or confidential submissions will not be taken by the committee without prior reference to the person whose evidence the committee may consider publishing.

Thank you very much. I repeat that this is an in-camera hearing of the public accounts committee. We have invited Mr Zed Seselja as the chair of the legal affairs committee, given that the other two members of that committee are members of this committee. It just seemed appropriate that since the legal affairs committee is having an inquiry into the emergency services. It is a much broader inquiry, but one to which this is of some interest. Is that okay?

Ms Pham: Yes, and I welcome that and Mr Seselja. I would like first to ask the committee for a very short time to respond to comments made in the media or in interview by ATI. We will go on to the briefing and explain our findings in detail. I really would like to take the opportunity to make some comment regarding the comments made by other parties about the audit report because it could cause some concern about our audit process. I believe some of the comments made in the media are quite misleading and incorrect in some part too.

I think the first comment by the company was that the audit has not taken into account all the documentation that was offered to us in relation to the contract and also audit declined any additional information offered to us by the company. I think this is not correct. I think in our report we stated that during the earliest stage of the audit there was a lack of documentation available to us from the department. We had a meeting with Mr Brian Mansell and also the Commissioner of the Emergency Services

Agency and the former commissioner as well—three separate meetings.

At the meeting with ATI, we did mention that we did not have certain information. The company offered to us certain documents. The documents were monthly reports of the ATI and also a certificate of acceptance. Within days of that meeting with the company I followed up with the head of the JACS, and also we followed up with the agency. They located the missing documents and provided these documents to us.

So the documents offered by the company—namely, the monthly reports and also the certificate of acceptance—we received directly from the agency. So within a few days we advised the company that it was not necessary to take up their kind offer because we already had this documentation. We believe that we got all the necessary documents and information and we looked at them very, very carefully.

There was a concern that we may not have had time to look at all the additional information because it came at the later stage of the audit. That was not correct either. We got the additional information. We put enormous effort into looking at this information very carefully and we would not finalise a report unless we believed we considered all relevant information. The impression given in the media was that somehow the company offered us a lot of information and we declined; that was not correct. The information offered to us we had received from the department subsequently. Later, in late August—around 28 August—the company sent us two documents, but that was after the report.

Mr Nicholas: It was 27 August.

Ms Pham: On 27 August the company sent us two documents after the report went to the printer. These are the two documents they are talking about. I think one referred to a letter that the company sent to the ACT Commissioner for the Emergency Service Agency asking the commissioner to ensure that the FireLink system is maintained by installing new updates. Of course, the audit office was already aware of that issue and the relevant information already was included in the final report at paragraphs 3.24 to 3.27.

The second document that the company gave to us is a letter from the commissioner to ATI lawyers regarding the termination of the FireLink contract. We were aware of the issue during the audit. There was some dispute about whether or not the termination of the contract was done properly, whether or not there were still outstanding—

MR MULCAHY: Who raised those issues with you?

Ms Pham: The company sent us a document. This document is a letter from the current commissioner of the agency to ATI lawyers about the dispute of the termination of the contract.

THE CHAIR: This is about the retrospectivity of the cancellation.

Ms Pham: That is correct, yes. Yes, that's right. We did not believe that it is relevant to our report, hence we did not take this issue—

MR MULCAHY: Relevant? Doesn't it impact on process?

Ms Pham: I think it is important to stress that the audit scope is about the management of the project—the planning, the recruitment process, tendering process, and managing the contract. We finished the report at the stage where the government already had made the decision to withdraw FireLink from service. It is important to note that the government made that decision not based on our audit but based on two consultants' reports on the technology side of FireLink.

Our report was finalised after the government made the decision; so the part about the contract termination and the dispute—the ongoing dispute—not only is not relevant within the scope but we don't believe it's appropriate to include in our report issues which may impact potential legal proceedings. If there is any legal proceeding—

MR MULCAHY: But management of the process is part of the scope of your work, and surely termination of the arrangement, if it is ultra vires, is part of the management of the process. Therefore, it is within the scope of the audit. I would hate to see us getting scared off because people—one side or the other—threaten litigation.

Ms Pham: No.

Mr Nicholas: I don't think there was an aspect of that, Mr Mulcahy. I think we basically determined that we would review the management of the project—the project administration. The decision being made by the government to terminate the contract, we decided not to pursue that particular aspect. As Ms Pham is saying, whilst there was some potential that there could be some litigation, that wasn't really an issue that we were pursuing per se. It's just a matter of whether it was in the public interest for us to make a report or response to it.

Ms Pham: And the issue also was known in public because I believe that there was some media comment from the company at the time the government decided to terminate that contract that they believed there was some obligation still outstanding. But it's not important in the main scope of the audit and depending perhaps on further legal proceeding, we do not think that's something that we like to include in the report when we had received that letter after the report went to the printer.

My point is we did have all the information we believed was important for our audit. We believe that we looked at all the relevant information and considered it carefully. So we do not share the views that somehow our report is limited or somehow our report is not accurate because we did not consider certain issues are relevant to be included in the report. We also do not agree that the company offered us a lot of information and we declined. As we explained, the company offered us certain documents but we later received them directly from the department and—

MS MacDONALD: Can I ask—

Mr Nicholas: I just want to make a further point. Further to that, we certainly advised ATI that we had received the documents that they had offered to us and they were well aware of that. We wrote to them and emailed them, essentially, on that point. So

I guess our disappointment is that they continue to make that assertion in the media.

MS MacDONALD: I was away at the end of last week and I haven't focused on this as much. Everything that you have just said doesn't seem to be something that would be problematic saying publicly.

Ms Pham: No, I didn't think so. No.

MS MacDONALD: So have you said this publicly?

Ms Pham: Yes, I think the *Canberra Times* made some inquiry after the interview with the company about our declining their information without offering any reason whatsoever; that was the term that was used. We said no, that that was not correct and we explained the audit process. They offered certain documents but we did not need them because later we were provided with that type of information directly from the department.

MS MacDONALD: And was that reported in the *Canberra Times*? I didn't read the article so—

Mr Nicholas: No.

MS MacDONALD: It wasn't?

Ms Pham: But that's the only time that we thought we would clarify that issue. We didn't think that we would continue to provide information to the media. Even later on the company issued some more media releases which I thought were also not justified. The comments said that our report compared FireLink with CAD everywhere in the report. It's totally unjustified. There's nowhere in our report that we compare FireLink with the CAD system. Indeed, we explain the FireLink system very clearly in the report from, if I refer to certain part of the report—

Mr Nicholas: Just after section 1.4.

Ms Pham: Yes, 1.4.

MR MULCAHY: Which page are you talking about?

Ms Pham: I am referring to section 2.2. If you look at the paragraph headed "Background", we explain what FireLink is about. This is exactly how FireLink is described in official documents in the procurement plan and in the contract. So there is nowhere in our report where we actually compare FireLink with CAD.

MR MULCAHY: Can I raise a couple of issues with you? And let me declare this up front that, like the chair, who made it public. I am putting on the record that I've had a comprehensive briefing with Mr Mansell from ATI. He is not really a friend but I have been acquainted with him since he showed me FireLink before my election to the Assembly in 2004. The chief of staff in my office is the son of a former Deputy Head of ESA, Stephen Ayling.

One of the things that has got me a little intrigued is that ATI has informed me that audit—yourselves—told them this report had to be tabled on 27 August. I am just wondering whether there was any direction given from the government in relation to a timeframe for this audit. If there was no direction in terms of dictating a deadline, why was it deemed appropriate not to allocate more time because they are suggesting that you gave inadequate time to consider all the documentary evidence that was being offered?

Ms Pham: First, I think that comment clearly shows a misunderstanding of the audit process. Certainly there is no deadline given to us by anyone. The target date that was set is an internal target date we normally try to meet when—

MR MULCAHY: What was the start date for this? What was the commencement date for the audit?

Mr Nicholas: I don't have that immediately at hand. We started some initial investigations—some initial inquiries in January or thereabouts. We got the task underway fairly firmly in around March; so we have been going—

MR MULCAHY: So it's a bit fast.

Mr Nicholas: for about six months.

MR MULCAHY: Yes.

Ms Pham: Yes, and we aim actually to have the report finished. Internally, we always set targets for our audit timetable to make sure that we can finish and move on to another audit. We never feel that we have to meet a target date and then sacrifice the quality of the report. I can assure you of that.

MR MULCAHY: Could you tell me what you say in relation to what ATI asserts, and that is that as late as 19 July they claim that your office was unaware of the existence, for example, of some 36 monthly reports—

Mr Nicholas: No, that's nonsense.

MR MULCAHY: and a considerable volume of other documentary evidence and that in fact you delivered your draft report only a couple of weeks later on 10 August. Do you reject that claim on their part?

Mr Nicholas: I reject that entirely. We certainly had available to us a quantity of documentation including most of the ATI reports, most of which were in electronic format. We have made a point in this report that there is a considerable difference in our view between the documentation in an electronic format and documentation that we considered to be sound audit evidence.

What we found was that the documentation in electronic format cannot necessarily be guaranteed as to its authenticity, the time of its completion or its status in terms of whether it's a complete document, a formal document, or finalised. We had an expectation that there would be more documentation available to us on formal files

and so on and so forth. We had in our possession a great many of those ATI reports. We didn't have all of them, and that was part of the documentation that was subsequently provided to us and for us by the ESA.

MR MULCAHY: Did you ask them why? I mean, given that the construct of the contract between ATI and ESA had a requirement that there had to be direction from the ESA as a vital part of the process for modification and integration of the FireLink system, why was that not forthcoming until a very late stage, and did you ask the ESA people why this documentation was not immediately provided?

Mr Nicholas: We, as a natural matter of our audits, ask the agencies to provide us with the relevant documentation, and we have every expectation that it will be done. We got, as I said, a great quantity of information on a couple of DVDs; so it was electronic format and we pursued and perused a great deal of that.

We were looking for documentation in hard copy that would indicate how that material was dealt with, what the status of that material was, and so on and so forth. That material was not available to us. We made inquiries of the department—of the ESA—and the ESA informed us at various stages that we had all that there was. They later, I guess, did a more complete and thorough search of their own premises and found additional material for us.

MR MULCAHY: Did that raise concerns in your mind?

Ms Pham: It certainly—

Mr Nicholas: It is always a concern, yes.

Ms Pham: It was a concern to us from the beginning that the documentation process was pretty poor—was very, very poor. There was missing documentation for a large period of the life of the project. Certainly, as I mentioned before, I wrote directly to the head of the department expressing my strong concern about the missing—

MR MULCAHY: Can you make that letter available for this committee? Are you able to make that correspondence available for the committee?

Ms Pham: Yes, definitely—the letter that I sent to the Chief Executive of JACS. Yes, I could. I would like to address your question more specifically about do we have enough time and why we did not obtain the data, around 19 July or so, when we met them. At that time we did not have all the information that we wanted to have, but within days after they told us that there was certain information that we were not aware of we came back to the department. I believe that the department got the instruction to turn things upside down and find every available document on the project. As a result they found a lot of information in someone's cabinet or in some room; we don't know, but hopefully—

MR MULCAHY: But you wouldn't have known about it if ATI hadn't given you the heads up.

Ms Pham: True. There were one or two documents that they referred to that we were

not aware at the time, and that's why we came back to the department and were very concerned that these documents were not made available to us.

MR MULCAHY: Did you query them about the modifications to FireLink that ATI put forward as to why they hadn't implemented those?

Ms Pham: I'm sorry; say that again.

MR MULCAHY: Did you query ESA as to whether they had implemented the proposed changes put forward to FireLink by ATI and detailed in the documentation?

Ms Pham: Yes. We talked to the current commissioner and asked him whether or not there were follow-up actions to implement what the company says is their upgrade version of their systems. The commissioner advised us that in December 2006, they gave instruction that no more money was to be spent on the project, pending two consultants' reports.

MS MacDONALD: Can I just—keep going, and I'll then ask you a question.

Ms Pham: So there was no more action from the staff to request a task which will involve additional funding.

MR MULCAHY: Just to follow up on that, up until that point, according to your belief, all of the modifications were made and then in December 2006, somebody—we are told the commissioner—made the decision; not the minister, not the government; to stop making the recommended modifications to FireLink. Is that what you're suggesting?

Ms Pham: What became evident by information and records kept in the authority was that it wasn't clear to us the action taken throughout the project, not just from December onwards, but throughout the project.

MR MULCAHY: So you couldn't find evidence to make it clear?

Ms Pham: Yes.

MR MULCAHY: What was the quantum of extra documentation that was turned up after ATI tipped you off that you hadn't been given the full picture? How much more material was there?

Ms Pham: Three boxes.

Mr Nicholas: We got three boxes or thereabouts.

MR MULCAHY: And were you able to produce a draft report by 10 August; so they must have given you an incredibly short time—

Mr Nicholas: The additional material didn't substantially alter the findings of the audit, though. It wasn't necessarily—I don't know whether probative is the right word—but they didn't necessarily lead to different views.

MR MULCAHY: Right, but it was assessed within an—the whole report was finished within—

Mr Nicholas: It was assessed—

Ms Pham: Definitely.

Mr Nicholas: Mr Mulcahy, we put in a lot of time to look at that, yes, I can assure you.

Ms Pham: Can I assure you that in those two weeks, the whole performance team—not just two people working in the team but the whole performance team including myself and other senior managers pulled from other places—were looking at the additional information. We worked on the weekend, we worked until 8 o'clock at night and we worked really long hours to make sure that we looked at all the additional information. So to say that we took two or three weeks, or whatever the time available to us, and we did not look at the documents is unfounded. We looked at everything that we believed was necessary to support our finding or to change our finding.

There is a lot of information or additional information. Some of it was technical and some of it was minutes of meetings. So there were a few variations to the report, but there's nothing in the additional information that required, you know, totally a rewrite of the report.

MS MacDONALD: I have just a couple of questions. You said you had written to the department, to JACS, with concerns about the fact that this information had turned up—

THE CHAIR: Or hadn't turned up.

MS MacDONALD: Or hadn't tuned up, but you found out about it through a third party. Have they responded to that letter and, if so, what was their response?

Ms Pham: First, the response was by action—meaning that they found things and let us know that they found this additional information and that we could go and look at it or pick it up. We picked up a few boxes and brought them back to the office so that the whole team could sit around the conference room and look through them.

Normally, if evidence was available during field work it normally involves members of the team going through documents. In this case, we actually picked the boxes, took them back to the conference room, and all of us, basically, sat around and tried to go through the information. So first the response was that the commissioner undertook at the meeting that he would get back and try to find out why the information had gone missing.

MR MULCAHY: In a meeting or in a letter?

Mr Nicholas: We had a meeting with the commissioner—

MR MULCAHY: After you wrote your letter?

Mr Nicholas: No. We had a meeting with the commissioner before. So Commissioner Manson also alerted us, or probably indicated, that there was some documentation that he had available, and we indicated to him we would like to see that. So that sparked it. We had a meeting with ATI very shortly after and we had a meeting with former Commissioner Dunn shortly after—all around about the same time. They all alluded to additional material. That additional material was forthcoming.

Ms Pham: And then at the later stage, perhaps late in August, we got the official response from the Chief Executive of JACS—

MS MacDONALD: Ms Leon?

THE CHAIR: Yes.

Ms Pham: About the missing information—

MR MULCAHY: Can we get that tabled too?

MS MacDONALD: And what did that response say? What was her—

Ms Pham: Basically, she believed that the issues arose because of poor documentation practice implemented by the bureau—by the agency.

THE CHAIR: Is that the letter that's in here?

Ms Pham: No. The essence of that letter was also in the report, because the response officially was that they could not find the information at an earlier stage due to the poor record keeping process.

MS MacDONALD: There is another question that I want to ask. You said there were about three additional boxes?

Mr Nicholas: Yes.

MS MacDONALD: When you added up all of the material, how many boxes in total would there have been?

Mr Nicholas: Ms MacDonald, we have got on DVD about eight gigabytes of data.

MS MACDONALD: That is a lot.

Mr Nicholas: That is a lot of documentation. We didn't see a lot of that—I personally didn't see a lot of that—in its physical form. But much of that is ATI reports, correspondence, some correspondence from ATI et cetera. So we have examined a substantial amount of information.

As we have tried to point out in the report though, we will continue to maintain there

is a difference between getting information, such as that in an electronic format, and stuff that we feel we can totally rely on as audit evidence. The stuff that we were getting from the agency, whilst it was in electronic format and whilst we couldn't identify the status of it, remains as information.

It is cumulative and we add it up and it sort of points in the right direction; it gives us an indication of what has happened. But it is not necessarily probative. Auditors like to see stuff that we can rely on. We love to see papers; we love to see signatures. I could add, for example, that the ATI monthly reports that were coming in from ATI were collected in an office, and they had no indication on them as to how they were dealt with.

There were no signatures upon them, there was no referral to other committees and so on and so forth. So for all we know, they were paperweights. I mean, it is difficult to try to determine exactly the process that went on with this. The paucity of documentation is a concern to us. It has been expressed to the department as a significant concern. I suspect that through reporting here we will have alerted many, many agencies. Coupled with this is the fact that we intend to do a report and an audit on records management. I think agencies are starting to get a bit of a heads up on how to deal with this process.

MS MacDONALD: I suppose this is what I am saying: there has been this concern expressed by ATI that you did not address the additional three boxes of material, they believe. But you have addressed that here and now and have said that that is certainly not the case and that you did. I have no reason not to believe what you are saying about that, but what I am saying is that in terms of the overall scope of things, how significant were the three additional boxes in terms of the amount of material.

Ms Pham: It was not crucial information, as the company would make everyone believe. In some six months of audit work we went through thousands and thousands of documents. The audit process requires us to sort out which one is relevant and which one is not relevant to the audit.

We are not about assessing the technology of FireLink, for example. We are not about seeking to offer solutions for the technical requirement of the Emergency Services Agency and we want to make it clear because the audit is about the management of the project and we look at all documents relevant to that.

Additional information provided to us confirmed our findings in some cases and helped to clarify some other issues. But in no way were they crucial in the sense that the company would lead us to believe.

MR MULCAHY: When did you become aware of the 36 monthly reports? Was that when you got these three boxes?

Mr Nicholas: We were aware that ATI was providing reports to ESA. I cannot say whether we expected there to be 36 or some other number, but we were aware that there were reports. We did have those reports in that electronic format. I think we have indicated that we got an extra nine out of the ESA. So it wasn't that dramatic a quantum of material or a change of process. We have seen, for example, the latter

reports that have come out—the last couple of month’s worth of reports. We already had those in our hands and had seen those through ESA. They were certainly pointing to continuing unresolved issues between ATI and ESA in terms of implementation of upgrades of FireLink and so on; so we were aware of those issues.

MR MULCAHY: I would have thought that would be a pretty critical issue to the performance of the system. Did you inquire as to why those upgrades were not being made—apart from the fact that you were told they had stopped doing it?

Mr Nicholas: I guess that was the main thing from the responses that we are getting from the ESA. We have identified in the latter stages of the report—sorry, in the last couple of reports, particularly the last report from ATI to ESA—that vehicles were not being made available or ATI says that vehicles were not being made available to permit the upgrade—

THE CHAIR: Can I just ask—

Mr Nicholas: I was just going to say—

THE CHAIR: Sorry; you finish your sentence.

Mr Nicholas: Well, I was just going to say that there are a couple of hundred vehicles, or thereabouts I think. Something like 136 have got the FireLink system installed in them.

ATI have provided a series of upgrades. We can see from the ATI reports to ESA that not every one of those assets had exactly the same version of FireLink installed on it. The ideal system is that you get the same version of everything on every product if it is going to work well. Some of those products and some of those assets were not being made available for whatever reason; I do not know.

MR MULCAHY: You didn’t ask?

Mr Nicholas: We didn’t ask for that reason, no.

Ms Pham: Can I add that in the report at paragraphs 3.26 and 3.27, that is the response from the department about the request to upgrade the system. As you can see, that is the department’s response as to what they did in the last 12 months with all the upgrades. It is dealt with in paragraphs 3.25 to 3.27.

THE CHAIR: There is a thing that I want to address because to me this is the key to the issues that have arisen. I think there is an unfortunate confusion. There is the Auditor-General’s report and there was the government’s decision to cease the contract, or the department’s decision. What you just said, Tu Pham, was that your investigation, your audit, was into the process. I do not see anywhere a terms of reference, but possibly it is there.

Ms Pham: It is at the end of the report.

THE CHAIR: Okay, but what concerns me is that there are a number of

paragraphs—on page 53, for instance, there is a heading “The Viability of FireLink”—where there is comment on the technology itself. To me that is outside what you have said the report was about, which is an investigation into process.

I think that what you say about the process is entirely valid and I am quite sure that ATI would probably agree with a lot of that. But perhaps what the reaction is to is about these aspersions that are cast upon the technology itself. I want to know why you did address those issues, because a lot of it when you look at it is, sort of, so and so said this. It is not actually that you did investigate the technology which would have required a lot more work—different work from what you did. So that is where I think we might have a problem.

Ms Pham: Yes.

THE CHAIR: I am just wondering if you could tell me why you did include those paragraphs in relation to your brief.

Ms Pham: Certainly. During the audit and prior to the audit being finalised, the government made the decision to withdraw the system from operation based on the two consultants’ reports. I felt that it was appropriate for us to mention the basis of the government decision and what the two consultants’ reports said, which provided advice to the government to make that decision. We are very clear in saying that we do not form an opinion about the reports themselves, but these are the things that the reports said.

THE CHAIR: So that is the section on page 53?

Ms Pham: Yes, and it is also important to note that while we were doing the audit factual information indicated that a number of unresolved issues remained. There were documents about the issues which are yet to be resolved to meet all the user requirements. These are the facts that we need to report for completeness.

THE CHAIR: But the company would dispute that they were facts. In fact, they do dispute that they are facts and—

Ms Pham: May I ask what they dispute as fact?

THE CHAIR: In terms of things related to—

Ms Pham: About the consultants’ reports?

THE CHAIR: the way their technology works. If they had been given an opportunity—and perhaps they were—to respond to those criticisms of FireLink, and I, of course, am not an expert and cannot say, but I am interested in whether they would have been—

Mr Nicholas: ATI saw a draft of this report and provided us with a paragraph by paragraph response.

THE CHAIR: Yes.

Mr Nicholas: And my recollection is that they did not comment on these particular paragraphs. I think one of the other reasons that we have included that section is that we see that as a rounding out of the process. What we started off with is a procurement activity. We have got a procurement plan that says we want to buy this product—we want to buy a technology that will meet these needs. This section on the viability of FireLink tends to go to whether it has actually met those needs. Has it delivered what was expected under the procurement plan?

It is indicating that there were some aspects of the particular technology and the particular system that was going to be employed and provided by FireLink, by ATI, that have not been met under that procurement plan. One of the comments that is in there is that FireLink was to operate without the fixed units, the fixed infrastructure—

MR MULCAHY: Fixed mobile towers.

Mr Nicholas: Yes, the towers. We have seen that ESA has felt the need to install towers as part of the process to ensure that FireLink delivers what they wanted it to do. Those towers, on our understanding, were installed so that they could maintain the speed of data transfer that the ESA expected out of the system. So we're indicating that we've got a procurement plan that tells us we ought to be able to procure, or we expect to procure X, and we have got a solution at the end that's provided something less than X. So that's the motive, or part at least of the motive, behind that particular section.

MR MULCAHY: How much weight did you give to the Evans and Peck report? According to ATI—

Mr Nicholas: I'm sorry, of what?

THE CHAIR: The Evans and Peck report—the consultants who gave ESA a review of FireLink. According to ATI, their visit was about one hour to talk about FireLink.

Mr Nicholas: We have not particularly given any weight, if you like, to either of those two reports. We have indicated how—

MR MULCAHY: Whose was the other report?

Mr Nicholas: The Radik report was the first of the consultancies. Mr Radik's report suggested that there was a need for further investigation. The Evans and Peck was the result of that, I guess. All we indicated in here was that the government decision essentially has been made on the basis of those reports not ours. We have made some comments. In particular what we have included in here, I think under "Review of ICT projects", paragraphs 3.41 to 3.48, are some general views about ICT projects and the way in which they have been managed within ESA that are very consistent with the findings that we had.

Ms Pham: In 3.41 we make it very clear that we did not form any opinion about the reliability or independence of these consultant reports. What we did is we listed what the consultant report said because they provide a basis for government decisions.

Given the government's decision, we believe it appropriate to include what we consider a basis for the government's decision. To criticise us about the technology or not make comments about the technical solution is not to understand the scope of the report.

We make it clear that we do not give any opinion about the independence or the competency of the consultancy, but we note that the government makes decisions on them. I think the department would be in a better position to review the finding of the technical report. The Radik report is quite comprehensive. It very comprehensively looks at some of these projects within the agency. FireLink is in the report. I understood that the committee has requested the government to table these consultants' reports, and that's where the technical issues are assessed. The government assessed the technical issue of FireLink separately to this audit, and the government made their decision based on a separate report on the technical suitability of FireLink. Our report is about the management of the project from the beginning to the time that the government made the decision, or just before that.

MR MULCAHY: You went to great lengths at the beginning to say you didn't deal with the part where they made that decision, where there is this backdated cancellation. The only problem is that I think you bought into the technology debate here in your report. Had you not, then I think people would possibly have fewer concerns on that. But, as Dr Foskey has pointed out, you have bought into the technology arguments here, and that obviously makes it an issue.

Ms Pham: The other comments we make about the problem of the project are based on the evidence during the audit. For example, the register of problems and issues are evidence. So that is factual information that we report.

MR MULCAHY: Yes, I hear that, but I can give you an analogy. When people buy an aircraft, the manufacturer continually makes modifications. They write to the airline and say, "This is a new thing we've identified," and you upgrade them. Qantas make 99 per cent of all those changes. The only thing they might not change is something of no consequence. Some airlines do the minimum and some are very careless, and you hear about that when planes crash.

What I'm struggling with is that what you are saying to me is that you really haven't got valid explanations why these recommended changes were not done. The best they can say to you is, "Oh, we decided in December not to spend any more money." No-one can really explain it other than they didn't want to do it, and we don't have any clarification as to why these constant pleas for change weren't provided. I mean, I think that's —

Ms Pham: That's what our report says—we believe that the whole process was not managed properly. That's exactly what we had concern with, because there are technical reports which needed to be followed up but there is no record whatsoever about who followed up with all the problems identified. What you say is not inconsistent with what the report said, because that is the concern that we had with the project and also coming back to the contract and why the issue arose because of the detail in the contract.

Mr Nicholas: The table that we've got on page 47 lists major unresolved problems as at February 2007. As Tu is saying, that comes from the department—from ESA's own register of issues or register of problems. They've got two. The point that we are making there is that they are unresolved. We have got one that starts in September 06. We have not found within ESA the indication that these things have been managed in an effective manner to the stage where they are and can be resolved and taken off the list. This is only an extract of those issues that are in that register.

MR MULCAHY: But in your key findings—

Mr Nicholas: Sorry, Mr Mulcahy, but our point is not about the technology per se, but that ESA does not appear to have had the process set up within their own organisation to manage and resolve issues as they were being identified with this system.

MR MULCAHY: That's a little detached, with great respect. I don't see in the key finding where you say that what should have happened is that the recommendations from ATI to upgrade FireLink should have been addressed and you haven't been able to get an answer as to why they weren't.

MR NICHOLAS: I'm not entirely certain that that's the appropriate response. I guess what I would say is that the recommendations from ATI ought to have been examined and considered in an appropriate manner. It doesn't mean that the recommendations will be taken up, because it may be that there are changes that are proposed by ATI that are outside what ESA wanted or what ESA expected. We've got a developmental contract here where there are continuing changes. We accepted that and we noticed that—

MR MULCAHY: They just shut down in December 06, though.

Mr Nicholas: Sorry?

MR MULCAHY: Your own report acknowledges that they just shut down in December 06 and said, "No more upgrades if they're going to cost money."

Mr Nicholas: I guess that's not an issue for us to determine.

THE CHAIR: Because of processes that were going on outside—you know, the fact that the decisions were made, for instance, to stop spending on FireLink in December and the decision was made to terminate the contract in July and to make that retrospective—you were actually performing this audit under extremely difficult political circumstances anyway. That's yet another thing. For instance, Mr Dunn might feel that this audit report reflects very poorly on his decision making—it clearly does—and so on, and yet Mr Manson's decision to retrospectively close down the contract doesn't get in there. Do you know what I mean? So they can appear to be not a balanced thing in relation to those two commissioners, in any case.

Ms Pham: The Audit Office, I may say personally, never is concerned about the political pressure, or never is concerned about issues which are not part of our audit report. We are here to provide an independent audit report. This objective, we believe,

can be delivered. I do not think that our audit process did not give sufficient time for affected parties to respond. Both the former commissioner and the company have had discussions with us during a meeting, had a draft report on 10 August, and they provided comment to us by 20 August. We looked at that comment and we incorporated that comment, as appropriate, into the report.

So whether or not they like the finding of the audit is another matter. But I can tell you that I am satisfied that the process has given opportunities for all parties to make comments, and we gave due concern to all of their comments. It is a matter of opinion whether we should or shouldn't include the comment about the two consultants' reports. We make the judgement that we should include them for completeness of information so that it gives the reader further information about the basis upon which the government makes the decision. It is not about the audit report; it is about a separate study and review commissioned by the government.

Mr Nicholas: It would seem to me that we have got to call a halt to the audit at some stage. Any audit can continue. We can continue to pursue a task until we get further and further in. The question of whether the decision to terminate the contract was a reasonable one might well be the subject of another audit. It is an interesting issue. We haven't pursued it in this stage. If FireLink were still going, we would still have stopped where we stopped, basically. If the decision had been made to continue the system, we would have still stopped where we stopped. I do not think there was much more to be gained from it. Our process was to review the performance of their project management and we have done that and found it significantly wanting.

Mr Seselja: I preface my questions by saying that, as I am not part of this committee, I am not as familiar with this report as other committee members are. But I note that in the key findings it says that there was no detailed business case for initial funding of \$26.7 million presented to cabinet, and there are a few things like that. But there seem to be no findings about government and ministerial oversight of this process. Is there a reason for that? That would seem to be obviously part of this. The government provided the money and would expect that it is spent in a reasonable way. How was that considered as part of this audit?

Ms Pham: I think we made a comment regarding the funding process and we—

Mr Seselja: So that's in the key findings or later on?

Ms Pham: Yes. We express our concern that funding was provided without the requirement for the authority to come back with a business case to support each project within a large fund of money, so we did look at it.

Mr Seselja: Is there a reason why that's not in the recommendations?

Ms Pham: We make the recommendation for Treasury to examine all the business case and for cabinet—

Mr Seselja: Is this for JACS? Is the recommendation for JACS?

Ms Pham: and also for Treasury. Recommendation 2 on page 28. We believe that the

recommendation will be implemented, and Treasury's response has been positive. Since that time, Treasury has requested business cases for all major projects, and they are robust business cases. So, yes, we did make a recommendation on that one.

Mr Seselja: Another question if I could, chair?

MS MACDONALD: It's the deputy chair at the moment.

Mr Seselja: Ms Deputy Chair, sorry. Page 31, paragraph 2.66—the discussion about the sole sourcing—says that in “discussions with current agency staff, Audit was advised that there were numerous mobile data system solutions available in the market place during 2001-2004”. I believe ATI disputes this. Are you able tell us whether you dug deeper and found out what some of those were and when they were appropriate, or whether in this case you took the word of agency staff?

Ms Pham: I think the point we try to make is that there are different views regarding what are suitable in terms of meeting the need at the time. We do not know which view is correct. However, the lack of a business case does not provide people with the opportunity to judge an alternative system compared to FireLink, and that is essentially one of the problems.

MR MULCAHY: Who is the source of that information there? You say that during 2003 the industry offered various solutions. Basically, it goes on to say other options—

Mr Nicholas: There is reference in their procurement plan, for the trial period, to other companies that they've approached or other organisations that they've approached. We are not trying to make the point that somebody else could have delivered FireLink. What we are trying to say is that there is not a lot of information available within the documentation that we have seen that the market has been fully tested. In fact, we see a set of user specifications that would be almost impossible for any organisation other than ATI to meet. So it is very much a single select, and I don't believe, and the documentation that we've seen does not suggest, that they looked very far beyond ATI as the provider.

MR MULCAHY: Did you review the evidence of Mr Dunn before estimates or annual reports on that very issue? He went into some depth on that.

Mr Nicholas: I don't whether I've specifically seen—it was recently?

MR MULCAHY: About two years ago that very issue was addressed.

Mr Nicholas: We've seen all that documentation, but again we are looking for material on files. We have got some reasonable files on the procurement process. That was stuff that was reasonably documented to the extent that it was. It just doesn't evidence a thorough analysis of the marketplace.

MR SESELJA: Just going back to your comment about the user specifications that would have been difficult for anyone other than ATI, are you suggesting that it was tailored for ATI? The other way of looking at it would be that there would be no point

in going wider if it was only ever going to be ATI.

Mr Nicholas: We've said in the report that the approved procurement unit in fact commented that the agency had gone about things by first selecting a product and then developing and testing the market. Now that implies that they've got a particular product in mind. I guess the way we've seen it—and we have made a comment in here—is that it would be difficult for any other provider to deliver a system to the specifications that ESA put forward in their procurement plans—very difficult.

THE CHAIR: I just want to check because we're due to end at 5.30. I just want to look at whether we do end at 5.30, whether we reconvene or—

MR MULCAHY: I'd be keen on that, Chair, if we could reschedule.

THE CHAIR: Yes. We cannot stay later than 5.30, because of everyone's agendas. But if we did reconvene when would that be?

Mr Finlay: It would not be for some time; there's no meeting of PAC, public or private, for another six weeks or so.

MR MULCAHY: It won't go away.

Mr Finlay: No. There are blocks for public hearings in late October until November, so there's space to pick it up then if the committee wishes.

Ms MACDONALD: That might be an idea.

THE CHAIR: What do we think about that? I'm just wondering—

MR MULCAHY: I would favour adjourning and then reconvening when the time can be worked out between the witnesses and committee members, if that suits. Mr Seselja has to go and I have to go too. We have plenty more—

THE CHAIR: We all do. Thank you. I don't know if it is appropriate, but just given the proceedings before we make a decision, which we may make very quickly after you've gone in a very brief private meeting, in terms of the proceedings here what is your opinion of it being made public or not? Have you got any thoughts just to feed our deliberations on this question?

Ms Pham: All information we provide to the committee would be based on evidence during the audit, based on our observations and our discussions with various parties. I do not have any issue whatsoever about the information provided to the committee. I do welcome the opportunity to come back because I believe there are a number of issues that I would like to have time to explain a bit better in terms of the key findings of the report and what actually is significant.

I feel that the aim of the report somehow was a bit distorted because of various interested parties trying to interpret the report from a different angle. There are a lot of lessons to be learnt from the management process of a project. There are a lot of lessons to be learnt and to be applied for other projects, and I don't want the report to

be derailed in a sense by talking about things which I don't believe that it is—it should be covered in the report for good reason.

I also like the opportunity to talk about accountability and the issues that that raised. We will explain a bit more about that too because there are issues for us and I think for the PAC to consider. So yes, I do welcome the opportunity to come back and explain more.

THE CHAIR: And if the committee decides to make the proceedings on the public record also you would not demur with that either.

Mr Nicholas: The only thing I would have said is that we offer a briefing on all of our reports to you.

THE CHAIR: Yes.

Mr Nicholas: This is in some ways just part of that process now. Obviously, it is your choice as to whether this becomes a public document or not.

THE CHAIR: It became a hybrid process because of the cancellation of the more—

Ms Pham: And again we would like to offer the same briefing to other members of the Assembly should they feel they need it so that we can have an alternative—

MR MULCAHY: I thought that was an issue because there was no privilege protection.

Ms Pham: We always offer an information briefing to all members of Assembly. We trust that Assembly members treat the information provided as appropriate.

MR MULCAHY: I thought there was an issue and that was why we cancelled the meeting with members of the Assembly.

THE CHAIR: We didn't.

MR MULCAHY: No, no, but I thought that was why it was cancelled, but in fact there was a motion to have a non-protected briefing with members.

Ms Pham: I asked about the issue of parliamentary privilege so that we know whether or not we are in a position to provide information we received during the audit, because some of the information obtained during an audit is either commercial-in-confidence or protected information under the audit act.

If we believe that we are not in a position to offer information outside what is already in the audit report then the value of the briefing can be reduced, but again the challenge that we had to manage was in the sense that certain information can be produced and tabled to the committee if they are protected under parliamentary privilege.

MR MULCAHY: So you are willing to provide individual members of the Assembly

with a briefing, but it may be more limited in terms of what you are able to furnish. Okay, that's clear.

THE CHAIR: Thank you very much. Hamish will be contacting you in regard to a time.

Mr Nicholas: We look forward to that.

THE CHAIR: Thank you very much for coming. That concludes this hearing about the FireLink project. You will be given a copy of the transcript for correction purposes.

The committee adjourned at 5.31 pm.