

**UNITED FIREFIGHTERS UNION  
OF AUSTRALIA**



**Analysis of  
Emergency Services Agency  
Roundtable Process**

**March 2018**

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## Executive Summary

This document, by the United Firefighters' Union (UFU), presents a critical analysis of the establishment, conduct and the reporting of the outcomes of the Emergency Services Agency's (ESA) Roundtable process.

A series of "Roundtable" meetings were convened by the ESA from January to March 2017. The origin of the roundtables was the Parliamentary Agreement for the 9th Legislative Assembly which committed the ACT Government to:

*"...establish a rigorous ongoing consultation process, including through a roundtable meeting, to discuss wider **resourcing, structural and organisational reform, and increasing diversity in the firefighting service.**" (our emphasis).*

The analysis reveals that while there may be much useful information contained in the reports and documents prepared by the ESA, the roundtable consultation process was fundamentally flawed in both design and implementation, from its inception through to completion.

This is a great pity and represents a time consuming and expensive lost opportunity to hear from key stakeholders, discuss issues on a focused and thematic basis, and use the Roundtable process to build a consensus around the future of emergency services.

The UFU is concerned that the entire process was compromised at the outset by not being conducted independently of the ESA and has become a case study example of self-justification.

Analysis of the ESA's conduct of the roundtables, and its preparation of reports on the outcomes and on its response to those outcomes, demonstrates it has manipulated the process and outcomes to suit its own pre-determined agenda, as contained within the pre-existing Strategic Reform Agenda (SRA).

The consultation process has been disingenuous and does not meet the very purpose intended for it by the Parliamentary Agreement. Rather than allow the process to run of its own accord, and potentially question, challenge and contest some of the 'reform' objectives and rationales of the SRA, the ESA Executive Management has doggedly pursued its own preferred and pre-existing agenda for change.

The ESA appears to have deliberately interpreted and used the roundtable process as a means to prosecute and implement its "business as usual" approach to the SRA, rather than consider that changes and improvements to the reform agenda may be desirable. The views of participants seem to have had little or no bearing on the outcomes documented by the ESA in its "Summary Report" and its "Response to Summary Report".

The notion that the call in the Parliamentary Agreement for discussion of "wider resourcing, structural and organisational reform, and increasing diversity in the fire-fighting service" should be construed in this narrow way by the ESA seems little more than self-serving.

The abuse of process exposed by this analysis is not novel. The Addendum concerning the genesis of the ESA's Strategic Reform Agenda describes a propensity of the ESA to treat staff and volunteers as passive subjects of consultation processes, rather than active participants in those processes. Put simply, for the ESA consultation is something done to people, instead of something that is done with people.

Ultimately, cynical manipulation of process leads to disengagement of stakeholders. In this instance such disengagement is evidenced by concerning results obtained from the “Justice and Community Safety Directorate Staff Survey”, which was administered at around the time that the ESA Roundtable process was conducted.

The UFU seeks a consultation process that genuinely and rigorously addresses the intent of the Parliamentary Agreement. The UFU recommends that a renewed, properly constituted, roundtable process be instigated, overseen by a body independent of the ESA, with terms of reference and a modus operandi to be developed in consultation with key stakeholders.

## Key Excerpts

### Context

1. In the period from January to March 2017, a series of “Roundtable” meetings were convened at the Emergency Services Agency (ESA) Training Centre at Hume. These meetings were launched by the Minister for Emergency Services, Mick Gentleman, and each was attended by representatives of ESA Executive Management. Staff, volunteer and union representatives participated, and a series of documents were produced as follows:
  - a. Details of suggestion box submissions (“the Submissions”) (**Attachment 2**);
  - b. Consolidated ESA Roundtable Feedback; (“the Consolidated Feedback”) (**Attachment 3**);
  - c. Summary Report - ESA Roundtable Meetings Conducted during January – March 2017 (the “Summary Report”) (**Attachment 4**); and
  - d. Response to Summary Report - ESA Roundtable Meetings Conducted during January – March 2017, 31 July 2017 (“the ESA Response to Summary Report”) (**Attachment 5**).
2. The origin of the Roundtables was the Parliamentary Agreement for the 9th Legislative Assembly insofar as it committed to:

“...establish a rigorous ongoing consultation process, including through a roundtable meeting, to discuss wider **resourcing, structural and organisational reform, and increasing diversity in the firefighting service.**” (our emphasis).
3. It is reasonable to expect therefore that the roundtable process would have been structured around the three themes contemplated by the Parliamentary Agreement, specifically:
  - a. Resourcing;
  - b. Structural and organisational reform; and
  - c. Increasing diversity in the firefighting service.
4. Further, in relation to the third theme of ‘diversity’, it is reasonable to expect that it might have been expanded to encompass diversity across the whole of the ESA, including but not limited to:
  - Gender;
  - Aboriginal and Torres Strait Islander cultures;
  - Ethnicity;
  - Age; and
  - Career and volunteer personnel.
5. To the extent such expectations were held, they were not met.

### Governance concerns

6. The Roundtable process commenced in the absence of any Terms of Reference, and none were issued until after concerns were raised with the Minister for Emergency Services on 9 January 2018: only 9 days before the first scheduled meeting.

7. The very first item listed in the Consolidated Feedback notes the expressed views of both the CPSU and the ACT Parks and Conservation Service that they had not been consulted about the Terms of Reference. The UFU was not consulted either. It is reasonable to infer that very few people, if any, outside of the ESA Commissioner's office were consulted about the Terms of Reference.
8. The UFU raised concerns with Government about the governance framework for the Roundtables. As a consequence, the ESA Director of the Strategic Reform Program Mark Jones alleged that "Such behaviour violated the very principles of free speech and was arguably disingenuous in intent." Clearly the ESA Executive resented being held to account.

### **Conduct of the Roundtable Sessions**

9. Unfortunately, the consultation regime established after the signing of the Parliamentary Agreement cannot be said to be rigorous. While a series of Roundtable meetings allowed for discussion of a wide variety of items, there were clear limitations on the process stemming from the inadequacy of the governance framework described above.
10. Some subjects were pushed aside or deferred by the facilitator on the basis that those subjects had been discussed at a previous roundtable session. The strongly held views in relation to COMCEN were the prime example. This was an issue because participants:
  - were given no notice of what was to be discussed at particular sessions;
  - unless they attended previous sessions, had no way of knowing what was discussed at those sessions; and
  - may have wasted time preparing to articulate their views only to be told that they couldn't do so.

These factors, combined with the revolving door approach to participants in which people came and went from sessions, while others attended only one session, created a difficulty in striking the right balance in topics discussed.

11. Issues beyond resourcing, structure and diversity were raised, despite them not being mandated by the Parliamentary Agreement.

### **Limitations on the Recording of Discussion**

12. The manner in which views were recorded arising from broad ranging discussion resulted in severe limitations to the utility of the roundtable sessions as discussion forums insofar as:
  - a. Attribution of an initiative in the summary document as having come from any particular session doesn't indicate support or otherwise of a majority of persons at that session for that initiative: it merely showed that it was mentioned;
  - b. Suggestions made anonymously via a suggestion box were ascribed the same status as, for example, suggestions developed by representative bodies and identifiable individuals who attended meetings and stated their views; and
  - c. Where suggestions were provided by email, all names were redacted in the submissions even where this was against the expressed wishes of the author.

13. There was no opportunity to progress a particular suggestion in a rigorous manner by, for example, arguing the costs and benefits of any particular approach, or testing incorrect assumptions against facts.
14. Some statements were completely ignored in the process.

#### **The “Summary Report”: A Manipulation of Outcomes**

15. The Summary Report (**Attachment 4**) could more appropriately be retitled “Emergency Services Agency Executive Management Narrative on ESA Roundtable Meetings.” We say this because the document contains many statements which self-evidently are management observations about what was recorded or said by some participants in the Roundtable Meetings.
16. After significant discussion had occurred at most Roundtable sessions on the contentious issue of “COMCEN Reform”, and 3 of the 12 pages of the Consolidated Feedback recorded statements about COMCEN, the “Summary Report” brushed the issue aside.
17. The three themes of the roundtables, given a cursory mention in the Terms of Reference, absent from the conduct of the Roundtable meetings, never applied by the facilitator, and absent from the Consolidated Feedback, re-emerge in the “Summary Document” recast as a framework for discussions which was never given effect.
18. The “jointly committed investment in fire-fighting equipment, personnel and facilities” (referred to in the Parliamentary Agreement) was never intended to be the focus of the Roundtable, and, appropriately it never was. The “Summary Report” states that this matter was discussed, and to this extent the “Summary Report” is a work of fiction.
19. Of even greater concern is the apparent insistence of the ESA Executive Management to doggedly pursue its own preferred and pre-existing agenda for change, even where the manner of doing so is at odds with the stated intent of a majority of the Parliament made manifest in the Parliamentary Agreement.
20. To seek to imply that the Parliamentary Agreement, and the parties to it, intended that the Roundtable process was devised as a mechanism to assist the ESA in the prosecution of the Strategic Reform Agenda (SRA) is at best errant and at worst devious.
21. There are further instances where the Summary Report either incorrectly states what was said during the Roundtable process, overstates the extent to which an opinion was expressed, or completely overlooks what was said.

#### **The ESA “Response to Summary” Report: Re-writing the Record**

22. The “Response to Summary Report ESA Roundtable Meetings Conducted during January – March 2017” was provided to the UFU on 5 September 2017. The covering email provided by Virginia Hayward, Acting ESA Commissioner makes clear:

“The Response outlines the considerations of the ESA Executive and provides information on the ideas and suggestions that will be adopted, and the action taken to implement them.”

23. Given what we have already said about the character of the Summary Document, the character of the “response” is that it is ESA Executive Management responding to itself. The views of the Roundtable participants are a long way from the “Response”.

24. This is a great pity and represents a time consuming and expensive lost opportunity to hear from key stakeholders, discuss issues on a thematic basis, and use the Roundtable process to build a consensus around the future of emergency services.
25. The “Response to Summary report” contained a total of 12 issues.
- a. In respect of 4 of the issues, the “Response” did no more than re-state what was already in place before the Roundtable meetings. (Comcen, Equipment and procurement, Welfare, and Diversity);
  - b. In respect of 6 of the issues (Equipment Investments, Volunteer recruitment, Middle Management Coordination, Bushfire Abatement Zone, Opportunities for Joint Working and Training, Personal Appraisal and Development), the “Response made statements that bore little or no relationship to what was said by participants in the Roundtable Meetings;
  - c. In relation to the 2 remaining items (Communication within ESA, Consultation), the “Response” summarised discussion which was highly critical of ESA as ill informed (e.g. “unaware of ESA Strategies and Plans”), oppositional (“opposed” to ESA Strategies and Plans), plain wrong (e.g. “not supported by data and other evidence”), or uncooperative (views will not be taken into account).
26. It is highly concerning that for a third of the issues listed, ESA felt a need to justify their own record; for a half of the issues, they felt it necessary to distort the record; and for the remaining 1/6th of the issues, they felt the need to deny any culpability. It is even more concerning that this is in the context of a document that responds to an earlier document that they wrote themselves.
27. While the ESA has clearly reduced the resourcing of agreed consultative mechanisms, it sees no impediment to unilaterally creating additional consultative meetings in circumstances where parties such as the UFU do not agree to use those channels instead of the agreed channels. An example of this is the “Strategic Reform Agenda Joint Consultative Committee”, which was established outside any enterprise agreement, irrespective of the views expressed by the UFU about existing consultative arrangements.

### **The ESA Senior Management Held in Poor Regard**

28. The Roundtables were conducted in close chronological proximity to another significant initiative: the Justice and Community Services Directorate Staff Survey. (“The Staff Survey”).
29. From the “2017 Staff Survey Fire Brigade (ESA)” document:

The graphic from the “At A Glance” is enlarged on page 22. It shows that ESA’s engagement culture is one of “Blame +”. This is defined on page 19 as:

“Type 1: Culture of Blame+

Less than 20% of employees are Engaged with the organisation. The organisation may experience a history of ‘leadership churn’ where senior leaders come and go quickly. Employees perceive that the ‘ship’ is rudderless and lacks direction. The organisation tends to serve a difficult (and sometimes demanding) client base. Employees experience a sense of hopelessness which verges on despair.”

This is consistent with the previously reported high turnover in heads of ACT Fire and Rescue, ACT Ambulance Service, ACT Rural Fire Service and ACT State Emergency Service. It is also



consistent with the publicly expressed views of firefighters who, at an unprecedented rally outside the Legislative Assembly in September 2016, passed a vote of no confidence in the ESA Commissioner.

30. The low response rate of 27% was also concerning. Of the 27%, most respondents provided answers that showed their disengagement, while those who didn't respond at all (73%) seem only to have demonstrated their disengagement. These dismal staff survey results should not come as a surprise in the context of the manipulation of process that was evident throughout the roundtable process.
31. The above calls into question the appropriateness of the ESA managing and controlling a consultative process about itself. A reasonable person would likely conclude that anything critical of the ESA would fail to make its way into a final report.

### **Genuine Consultation: A Way Forward**

32. From consideration of well-established authorities on what constitutes effective consultation, the following features of good practice emerge:

*A party being consulted:*

- *Must know what is proposed;*
- *Must be provided with sufficient information about the proposal to understand:*
  - *The reason for the proposed changes;*
  - *The likely impact of the changes;*
- *So that they are able to meaningfully contribute to the decision-making process.*
- *Must be given a reasonably ample and sufficient opportunity to express their views or to point to problems or difficulties.*

When one applies this framework to the Roundtable process, it is difficult to see how it could be characterised as a consultation process at all.

### **Recommendations**

33. In order to salvage something by way of outcomes from this expensive and time-consuming charade, it is recommended that:
  - a. The Minister for Emergency Services and the Justice Minister jointly identify a body external to the ESA to oversee a properly constituted roundtable process. This would include:

Terms of reference agreed to by the UFU, and the Bushfire Council, representatives of RFS and CFU volunteers, and the ACT Indigenous Representative Body, and limited to the scope set by the Parliamentary Agreement, specifically:

“to discuss wider resourcing, structural and organisational reform, and increasing diversity in the fire-fighting service.”
  - b. A project methodology and brief for the conduct of the Roundtables be developed in conjunction with the stakeholders identified above, which is based upon a series of structured discussions around the three themes contemplated by the Parliamentary Agreement, specifically:

- i. Resourcing;
  - ii. Structural and organisational reform;
  - iii. Increasing diversity in the firefighting service.
- c. In respect of each theme, a discussion paper be developed which provides a series of key questions for discussion, and options in relation to each question.
  - d. The structured discussion be aimed at developing consensus between the participants and, where this is not possible, areas of disagreement be carefully and clearly documented.
  - e. A report of this Roundtable process be provided to participants, and reasonable and ample opportunity be provided for them to comment, before it is finalised and submitted to the Ministers for final approval.
  - f. The findings contained in the report be ultimately matters for consideration by Executive Government.

## Introduction

1. In the period from January to March 2017, a series of “Roundtable” meetings were convened at the Emergency Services Agency (ESA) Training Centre at Hume. These meetings were launched by the Minister for Emergency Services, Mick Gentleman, and each was attended by representatives of ESA Executive Management. Staff, volunteer and union representatives participated, and a series of documents were produced.
2. A set of Terms of Reference was developed after the Roundtable process was initiated. These appear as **Attachment 1**.
3. Four documents were produced by the ESA as the Roundtable process progressed. These are:
  - a. Details of suggestion box submissions (“the Submissions”) (**Attachment 2**)
  - b. Consolidated ESA Roundtable Feedback; (“the Consolidated Feedback”) (**Attachment 3**)
  - c. Summary Report ESA Roundtable Meetings Conducted during January – March 2017 (the “Summary Report”) (**Attachment 4**) and
  - d. Response to Summary Report ESA Roundtable Meetings Conducted during January – March 2017”, 31 July 2017 (the ESA “Response to Summary” Report) (**Attachment 5**)
4. This document provides a critical analysis of the establishment, conduct and outcomes of the ESA’s Roundtable process. It is a response to the Roundtables and related documents, and is produced by the United Firefighters’ Union (UFU) based on our:
  - involvement in the circumstances which led to the Roundtables;
  - participation in the Roundtables through representatives being present at each session;
  - examination of all of the relevant documents; and
  - experience in the consultation processes applied by the ESA in recent years.

## Context of the Roundtables

5. In the lead up to the 2016 election for the ACT Legislative Assembly, the UFU campaigned in relation to 6 priority areas in which we considered that candidates in the election, and in turn a future government, needed to make commitments. Those areas and further detail of that campaign are discussed at [www.actonfire.com.au](http://www.actonfire.com.au), but for convenience the 6 areas are summarised here:
  - a. More firefighters;
  - b. Proper equipment;
  - c. No part time fire stations;
  - d. A strong organisation;
  - e. A strong plan; and
  - f. Ready for emerging threats.
6. The 6 priority areas attracted strong public support, which was conveyed through thousands of emails to political candidates.
7. A number of candidates pledged to support all of the 6 priorities, while others supported some of the priorities. In the context of the election result it was significant that:
  - a. ACT Liberals made commitments related to 3 of the 6 priority areas;
  - b. ACT Labor made commitments related to 4 of the 6 priority areas; and
  - c. All ACT Greens, ACT Sex Party and Like Canberra Party candidates signed pledges to fully support all of the 6 priority areas.
8. Ultimately ACT Labor and ACT Greens formed Government for the 9<sup>th</sup> Legislative Assembly. In doing so, they signed the Parliamentary Agreement for the 9<sup>th</sup> Legislative Assembly. ([http://www.cmd.act.gov.au/\\_data/assets/pdf\\_file/0005/1013792/Parliamentary-Agreement-for-the-9th-Legislative-Assembly.pdf](http://www.cmd.act.gov.au/_data/assets/pdf_file/0005/1013792/Parliamentary-Agreement-for-the-9th-Legislative-Assembly.pdf)) This addressed the agreed approach of those parties to a range of policy areas including emergency services. In this area, the Parliamentary Agreement committed those parties to:

*“Progress jointly-committed investment in fire-fighting equipment, personnel and facilities, and establish a rigorous ongoing consultation process, including through a roundtable meeting, to discuss wider resourcing, structural and organisational reform, and increasing diversity in the fire-fighting service;”.*
9. A fair summary of the intent of the above is that the Agreement provided for Labor’s commitments to be implemented, and to the extent that there were differences between Labor and the Greens the “rigorous ongoing consultation process” would seek to address those differences moving forward. For clarity, the areas to which the Greens made explicit commitments, and Labor did not, were:
  - a. “A strong organisation, including:
    - i. Keeping firefighters in Comcen;
    - ii. ESA reporting directly to the Minister; and

- iii. Firefighters maintaining direction and control of their training, planning, investigations, community resilience and education, and future fire station location and design.”
- b. “Ready for Emerging Threats” including:
  - i. Increasing our HAZMAT response to deal with Chemical, Biological, Radiological, Nuclear or Explosive (CBRNE) attack;
  - ii. Increasing career and volunteer firefighters to deal with increased workloads stemming from climate change.

## The Framework for the Roundtables

10. The origin of the Roundtables was the Parliamentary Agreement for the 9th Legislative Assembly insofar as it committed to:

“...establish a rigorous ongoing consultation process, including through a roundtable meeting, to discuss wider **resourcing, structural and organisational reform, and increasing diversity in the firefighting service.**” (our emphasis).

11. It is reasonable to expect therefore that the roundtable process would have seen a structured discussion around the three themes contemplated by the Parliamentary Agreement, specifically:

- a. Resourcing;
- b. Structural and organisational reform; and
- c. Increasing diversity in the firefighting service.

12. Further, in relation to the third theme of ‘diversity’, it is reasonable to expect that it might have been expanded to encompass diversity across the whole of the ESA, including but not limited to:

- Gender;
- Aboriginal and Torres Strait Islander cultures;
- Ethnicity;
- Age; and
- Career and volunteer personnel.

13. The approach suggested above could have been settled in the drafting of appropriate terms of reference for the roundtable process. Unfortunately, the absence of any Terms of Reference when the process was initiated, and the subsequent haste with which Terms of Reference were settled, left no room for such considerations. The history of the matter is that:

- 21 December 2016: the UFU received a letter from Minister Gentleman, which was the first information we received about the Roundtables;
- 22 December 2016: an all staff email was sent by the ESA Commissioner seeking input to the Roundtables;
- 9 January 2017: UFU wrote to ESA Commissioner and the Minister raising a series of concerns, including the absence of any Terms of Reference;
- 9 January 2017: ESA Commissioner Lane signs new terms of reference concerning the Roundtables;
- 10 January 2017: a source emailed to us the changed terms of reference, and an email chain distributing the changed terms of reference throughout the RFS; and
- 12 January 2017: The Terms of Reference were emailed to the UFU by the ESA Commissioner.

14. Relevantly, the very first item listed in the Consolidated Feedback notes the expressed views of both the CPSU and the ACT Parks and Conservation Service that they had not been consulted

about the Terms of Reference. It is reasonable to infer that very few people, if any, outside of the ESA Commissioner's office were consulted about the Terms of Reference. (Attachment 3, Page 1).

15. A further issue raised by the UFU with Government was the absence of any effort on the part of the ESA to engage with representatives of Indigenous communities in the ACT, particularly insofar as the Roundtables might have provided an opportunity to discuss:

- the importance of fire management involving traditional owners of public land; and
- diversity in employment initiatives (UFU Secretary, Personal Communication).

16. The Roundtables arose through a political process, yet by March 2017 views were expressed by senior ESA personnel which by implication were critical of the UFU for having raised concerns about the lack of an adequate governance framework. For example:

“Dir SRA Jones expressed some disappointment that views which had been expressed (presumably in good faith) has caused some stakeholders to over-react and start political lobbying before the roundtables had been completed. Such behaviour violated the very principles of free speech and was arguably disingenuous in intent.” (Final Minutes, ESA SRA Joint Consultative Committee meeting, 7 March 2017) (Attachment 6, Page 5).

## The conduct of the Roundtable Sessions

17. Unfortunately, the consultation regime established after the signing of the Parliamentary Agreement cannot be said to be rigorous. While a series of Roundtable meetings allowed for discussion of a wide variety of items, there were clear limitations on the process stemming from the inadequacy of the governance framework described above. In particular, the Terms of Reference at “Item 2. Functions” state:

“Provide another opportunity for staff, volunteers, unions and other interested stakeholders to provide ideas, comments, concerns and feedback, which ***will be used to inform decisions on future reforms***”. (our emphasis added)

To this extent, the Terms of Reference departed from the specific brief of the Parliamentary Agreement’s focus on the three themes of resourcing, structural / organisational reform and diversity.

18. The methodology used by the facilitator was that at the start of each session three broad questions were put to participants:

- What do you want to keep?
- What do you want to improve?
- What do you want to add?

19. These questions could have been discussed under the three themes of resourcing, structural and organisational reform, and increasing diversity, but were instead open ended and resulted in broad ranging and unstructured discussion.

20. Some subjects were pushed aside or deferred by the facilitator on the basis that those subjects had been discussed at a previous roundtable session. The strongly held views in relation to COMCEN were the prime example. This was an issue because participants:

- were given no notice of what was to be discussed at particular sessions;
- unless they attended previous sessions, had no way of knowing what was discussed at those sessions; and
- may have wasted time preparing to articulate their views only to be told that they couldn’t do so.

21. These factors, combined with the revolving door approach to participants in which people came and went from sessions, while others attended only one session, created a difficulty in striking the right balance in topics discussed.

22. The above adds weight to our earlier suggestion that a thematic approach might have been more effective, and in this respect fairer to participants.



## Limitations on the recording of discussion

23. While an unstructured and broad ranging discussion in itself is not harmful, the difficulty is that at the conclusion of the Roundtable meetings the Consolidated Feedback was produced, containing an attempt to list every issue that was raised, under three columns as follows:

Session	Initiated by	Issues and Discussion
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24. The Consolidated Feedback (**Attachment 3**) grouped discussion under a series of headings as follows:

- |   |  |
|---|--|
| a. ESA Roundtable Terms of Reference;     | b. Cooperation between ESA Services;           |
| c. Culture and Identity of Services;      | d. Internal Communications;                    |
| e. Management;                            | f. Interaction with ACT PS and other agencies; |
| g. Union Involvement;                     | h. Volunteer Management and Utilisation        |
| i. Sharing ESA Resources;                 | j. Welfare;                                    |
| k. Strategic Reform Agenda;               | l. Station Upgrade and Relocation Program;     |
| m. CAD Upgrade;                           | n. COMCEN;                                     |
| o. Work Health and Safety;                | p. Community Education;                        |
| q. Training and Skills Retention;         | r. Diversity and Equity;                       |
| s. Managing Growing Demand;               | t. Facilities and Equipment;                   |
| u. Information Communications Technology; | v. Enterprise Agreement;                       |
| w. Other.                                 |  |

25. The headings above were either determined before the roundtables were conducted (and not notified to participants), or were identified subsequent to the conduct of the roundtables.

26. The breadth of the list of headings illustrates that issues beyond resourcing, structure and diversity were raised, despite them not being mandated by the Parliamentary Agreement. For example, it is difficult to conceive that “Union Involvement” was intended by the authors of the Parliamentary Agreement to be a specific discussion. Similarly, Work Health Safety arises from legislated rights, and to the extent it should be subject to a Roundtable it should be within the context of ensuring that resourcing and organisational change impact on it positively rather than negatively.

27. Further, it is difficult to see how some issues came to be listed under a specific heading. For example, the UFU advocated greater levels of engagement and communication between ACTF&R and RFS personnel at ground level, particularly on stand-up days. We elaborated our suggestion to emphasise discussions about the types of equipment used and the procedures used in fighting fires, the intention being to build understanding of similarities and differences. Our suggestion was listed under “Union Involvement” as being initiated by (a) “Union” wishing to see “greater levels of engagement and communication between UFU members and volunteers at ground level with a view to mutual understanding and respect.” The issue here is that this has little to do with “Union Involvement” and much to do with resourcing, structural reform and diversity.

28. The manner in which views were recorded arising from broad ranging discussion, resulted in severe limitations to the utility of the roundtable sessions as discussion forums insofar as:
- a. Attribution of an initiative in the summary document as having come from any particular session doesn't indicate support or otherwise of a majority of persons at that session for that initiative: it merely showed that it was mentioned;
  - b. Suggestions made anonymously via a suggestion box were ascribed the same status as, for example, suggestions developed by representative bodies and identifiable individuals who attended meetings and stated their views; and
  - c. Where suggestions were provided by email, all names were redacted in the submissions even where this was against the expressed wishes of the author. For example an email dated 10 March from an RFS volunteer to the facilitator contained the request:

*"please include my name as the person raising this I don't hide behind anonymous questions"*

To which the facilitator replied on 17 March:

*"Thanks for putting your name to it. That is much appreciated." (Attachment 2 page 51)*

29. Not only was this express request ignored, but the subject matter of that particular email was not captured by the Consolidated Feedback. That email stated:

*"at Session 2 you asked a question "do we need COMCEN/" as a follow up perhaps a more relevant question is "Do we need ESA/" noting before self government in 1998 the rural fire service and the Urban fire Service operated quite effectively, and I would suggest / argue that since self government all we in the fire service have seen is a growing bureaucracy that is increasingly out of touch with people on the ground." (Attachment 2 page 51)*

30. The use of the generic term "Union" as the originator of some comments is misleading, insofar as three unions were involved in the roundtables, each representing different sections of the ESA workforce. Uncoupling comments from their originators is unhelpful as it added to a substantial problem that the roundtables were saddled with: the de-linking of context from suggestions.

A clear example of the above is that a Union is identified as the originator of a comment that criticises the UFU for not participating in the SRA Joint Consultative Committee. This is problematic because:

- a. It is self-evident that we would not criticise our own conduct in this context without reasons; and
  - b. Our reasons for not participating in that committee have been explained on many occasions, in writing, and should have been restated by ESA management who are well aware of our position. This is further addressed in paragraph 54 below.
31. There was no opportunity to progress a particular suggestion in a rigorous manner by, for example, arguing the costs and benefits of any particular approach, or testing incorrect assumptions against facts:
- a. An example of the above is the unchallenged assertion apparent in some submissions and the Consolidated Feedback that ACTF&R Comcen operators are preferencing ACTF&R over

other ACTRFS in allocating appliances to incidents. This is a serious allegation which impugns the integrity and professionalism of those personnel. Such unfounded allegations should be rigorously challenged by senior ESA managers, particularly because of the requirements of the Public Sector Management Act, but no such challenge was made.

- b. A further example is the statement contained in an email from an RFS volunteer which asks:

*“Why are RFS volunteers treated to a lesser standard than other services, e.g. Having to clean our own facilities, toilets, vacuum, wash floors etc.” (Attachment 2, page 25, item 12,)*

The factual position is that ACT F&R personnel have done this type of work for years. Leaving a contributor to continue to hold such a misconception (by not responding to it) will add to their discontent because they will likely feel that they have not been listened to.

32. Some statements were completely ignored in the process. For example, in relation to volunteer resourcing, at the roundtable held on 7 February, a Community Fire Unit representative stated that ACTF&R is trying to run training and support for Community Fire Units with 1.3 effective full time staff, and that additional resources would assist those staff in doing an outstanding job. The Consolidated Feedback made no mention of this, and to the extent that it did include any comments from CFU members they were grouped along with SES and RFS as “initiators” of the comments. This is again misleading as no differentiation is drawn between the initiator of the comment, and others who might have agreed with it.
33. The above list of concerns is by no means comprehensive, but it is illustrative of the methodological inadequacies of the roundtable process.

## The “Summary Report”: A Manipulation of Outcomes

34. The Summary Report (**Attachment 4**), which intends to provide a summary of the outcomes of the Roundtable meetings, could more appropriately be retitled “Emergency Services Agency Executive Management Narrative on ESA Roundtable Meetings.” We say this because the document contains many statements which self-evidently are management observations about what was recorded or said by some participants in the Roundtable Meetings. For example:
- a. “A perceived gap emerged around opportunities for joint procurement of equipment and supplies.” (Attachment 4 p.4)
  - b. “Stakeholders are unaware of opportunities to combine their business cases or to approach management jointly to facilitate joint forward planning, and to purchase minor and major equipment in more coordinated ways.” (Attachment 4 p.4)
  - c. “Many stakeholders stressed that delivery of new equipment creates opportunities for joint approaches at operational, management and executive levels that should not be wasted, including joint training initiatives and knowledge transfer.” (Attachment 4 p.5)
  - d. “For ACTF&R ...If a member is injured on the job or wishes to initiate time out there are relatively few choices of employment slots to do so, as a result of both some self-limiting and management-embedded constraints. This is manifest as a perceived career fragility, with the strong affiliation members feel towards their Service potentially inhibiting the exploration of developmental opportunities outside strictly operational roles.” (Attachment 4 p.5)
35. The above examples are not exhaustive, but are consistent with the overall flavour of the “Summary Report” as a narrative from a particular perspective rather than an actual summary.
36. Also of concern is the approach taken by the “Summary Report” to discussion about COMCEN. After significant discussion had occurred at most Roundtable sessions on this issue, and 3 of the 12 pages of the Consolidated Feedback recorded statements about COMCEN, the “Summary Report” brushed the issue aside with the following statement on page 3:
- “The main issue raised in the Roundtable consultations, outside the scope of the Parliamentary Agreement points, was the Communications Centre (ComCen) reforms announced by the Government in June 2016. Comments focused on the way in which the ComCen currently operates, and how it could operate into the future. ACTF&R staff discussed the need for professional firefighters to continue in the ComCen, with minimal changes to the current structure. Other stakeholders indicated the need, and their support, for ComCen reform.”* (Attachment 4 p.3).
37. The above could not be more illustrative of the fact that the “Summary Report” is not a summary at all, but rather an executive management narrative about a process where the opinions expressed by participants will largely be ignored. The paragraph requires dissection to illustrate the extent of its inherent hubris and the cavalier attitude of its authors:
- a. How can COMCEN “reforms” be said to be “outside the scope of the Parliamentary Agreement points” when the Parliamentary Agreement specifically charged the Roundtable process with discussion of “structural and organisational reform”? To put it another way, “is a reform not a reform if ESA Executive Management says so?”

- b. If the COMCEN “reforms” were indeed “outside the scope of the Parliamentary Agreement points”, then why did ESA Executive management allow participants to operate under the illusion that the discussion was valid, and that their views would be taken into account? What utility was to be served other than to subsequently be able to say “we consulted you, we will ignore you, now get on with it”?
  - c. What regard does ESA Executive Management have towards the expenditure of public funds if it is prepared to oversee a process in which 40 to 60 participants are in attendance at a total of eight sessions held over four days, and 25% of the “consolidated feedback” concerns the single most discussed issue, only to discard that issue with a passing reference?
  - d. The final half of the quote, “ACTF&R staff discussed the need for professional firefighters to continue in the ComCen, with minimal changes to the current structure. Other stakeholders indicated the need, and their support, for ComCen reform”, suggests that ACTF&R staff are opposed to change, and that “minimal changes” and “reform” are mutually exclusive: this speaks to the apparent view of the ESA Executive Management that it is up to them to define what reform is and isn’t, and calls into question their commitment to genuine consultation via the COMCEN Workplace Consultative Committee. In any case, various options for “reform” were advanced, including by firefighters.
38. The “Summary Report” reintroduces the three themes of the Parliamentary Agreement, but broken up into 6 “points” as follows:
- Point 1: Jointly committed investment in firefighting equipment, personnel and facilities - Equipment;
  - Point 2: Personnel;
  - Point 3 Facilities;
  - Wider Resourcing, structural and organisational reform;
  - Point 4 Wider resourcing
  - Point 5: Structural and organisational reform
  - Point 6: Increasing diversity in the firefighting service
39. Leaving aside the issue of whether the above accurately reflects the wording of the Parliamentary Agreement, it is not surprising that the “Summary Report” reverts to a management narrative. The three themes of the roundtables, given a cursory mention in the Terms of Reference, absent from the conduct of the Roundtable meetings, never applied by the facilitator, and absent from the Consolidated Feedback, re-emerge in the “Summary Report” recast as a framework for discussions which was never given effect. The authors had to say something about them we suppose!
40. It is helpful here to restate the relevant excerpt of the Parliamentary Agreement:
- “...establish a rigorous ongoing consultation process, including through a roundtable meeting, to discuss wider **resourcing, structural and organisational reform, and increasing diversity in the firefighting service.**” (our emphasis).
41. For completeness, it must be stated that the “jointly committed investment in fire-fighting equipment, personnel and facilities” was never intended to be the focus of the Roundtable, and,

appropriately it never was. To this extent the “Summary Report” is a work of fiction. This is particularly so in relation to the statement:

*“The Roundtable consultations sought ideas, comments, concerns and feedback on a range of issues that included:*

- *jointly-committed investment in firefighting equipment, personnel and facilities;*
- *wider resourcing, structural and organisational reform; and*
- *increasing diversity in the firefighting services.”* (Attachment 4 page 3)

42. Of even greater concern is the apparent insistence of the ESA Executive Management to doggedly pursue its own preferred and pre-existing agenda for change, even where the manner of doing so is at odds with the stated intent of a majority of the Parliament made manifest in the Parliamentary Agreement. We make this serious allegation based on our construction of the Terms of the Parliamentary Agreement as follows:

- a. To the extent that the Parliamentary Agreement established a Roundtable process to discuss wider resourcing, structural and organisational reform, and increasing diversity, it must be read plainly and in its own terms.
- b. To seek to imply that the Parliamentary Agreement, and the parties to it, intended that the Roundtable process was devised as a mechanism to assist the ESA in the prosecution of the Strategic Reform Agenda (SRA) is at best errant and at worst devious. Had the parties to the Parliamentary Agreement intended a “business as usual” approach to the SRA, they could have stated as much in the Parliamentary Agreement had they chosen to do so. That they didn’t suggests that to the extent that the Parliamentary Agreement addressed “reform”, it suggests that the SRA was to at least some extent contestable.

43. To put it another way, if ESA’s pursuit of the SRA is in the ordinary nature of the business of government, why would the Parliamentary Agreement establish a Roundtable process at all?

44. Yet the Summary Report reverts to type. The dogged insistence referred to earlier is evident in:

- a. The inclusion of the second paragraph in Item “1 – Purpose” of the “ESA Roundtable Meetings Terms of Reference” as follows:

*“In March 2015, the Strategic Reform Agenda (SRA) was launched with a series of founding principles. One of these was to respect the identity of individual services but operate as a cohesive whole.”*

- b. The incorporation of the SRA principles into item “2 – Functions” of the Terms of Reference by virtue of the inclusion of the statement:

*“Based on these principles, the Roundtable Meetings will: ...”.*

- c. The reporting in the Consolidated Feedback that at “Most” roundtable sessions “All” participants initiated the following comment:

*“Work is duplicated through the different arms of the agency. There could be savings by pooling resources, tools, techniques, etc, to determine what is necessary, what is desirable. A forum would provide an arena to identify key issues and to get them resolved, e.g. aggregate expertise throughout ESA instead of each service having its*

own small resource bucket. Forum could also play a role in balancing strategic direction vs business as usual in ESA.” (Attachment 3 p.4)

While “duplication” was briefly mentioned at some sessions, it is completely implausible that this statement was made by “all” participants at “most” sessions. It is little wonder that the Consolidated Feedback contains the caveat in the footer of each page:

*“Items listed in this report are the views expressed by participants.*

*They have not been checked for accuracy, nor do they necessarily represent the views of all stakeholders.” (Attachment 3, footer)*

45. There are further instances where the Summary Report either incorrectly states what was said during the Roundtable process, overstates the extent to which an opinion was expressed, or completely overlooks what was said. For example:

- a. *“Joint facilities were regarded as more efficient in the main, however they needed to be located in an area close to service delivery to be effective.” (Attachment 4 p.7).*

The factual position is more correctly reflected in the “Consolidated Feedback” which notes that one staff member sent an email which stated:

*“In areas where possible it would be great to save on funding by providing investment in joint facilities - including integration of facilities for paid and volunteer staff.” (p.7 of Attachment 3)*

There is simply no basis to report the above as a general or widely held opinion. Further, it omits an important area concerning facilities which was raised at Roundtable 4, and widely supported, specifically:

*“When are we going to upgrade the HUME Training facility? Note was made of its high use, not only by ESA but also Correctional Services, PCS, NSW Emergency Services, AFP and ADF. Suggestions for consideration for future upgrades were:- more rooms- more outdoor training facilities, including some covered areas for inclement weather- more storage- a training simulation of a suburban environment.” (p.11 Attachment 3, Consolidated Feedback)*

- b. *“The firefighting services share the same challenges in increasing diversity as the other Services. ACTF&R recruitment initiatives have historically been less successful though, partly because of barriers posed by the public service formula for written applications, and also the need to obtain feedback from applicants who withdrew to understand why, and refine future recruitment campaigns. ACTF&R intends to do so.” (p.9 of “Summary Report”)*

Leaving aside the grammatical issues and lack of clarity of the statement, it is simply not true to say that “ACTF&R recruitment initiatives have historically been less successful”. Less successful than what? To the extent that gender diversity has been pursued, it has only been through targeted promotion of ACTF&R as a career option for women in the last two recruitment intakes. The first of those intakes resulted in 4 women being recruited: 25% of that intake, almost a doubling of the number of women employed. In any area of public policy a near doubling of an underrepresented group in a single intake would be hailed as a success. The current recruitment process has achieved an increase of a further 4 women.

- c. *“The Roundtable discussions did not venture to link these diversity challenges with the potential developmental opportunities envisaged as part of a more flexible workforce, or with the potential created by the suggested coordination roles and activities.”* (p.9 of “Summary Report”).

If it is a “Summary Report”, why mention this at all? A “more flexible workforce” or “suggested (by whom?) coordination roles were not issues raised by the participants”: end of story. That they bear mention here only confirms that they are agenda items pursued by ESA Executive Management, and that the Roundtable process was being manipulated to seek to give that agenda a broader mandate.

46. The summary report identifies the “next steps” as being:

- Sending the summary report to the Minister for Police and Emergency Services; and
- Distributing it to stakeholders.

A commitment is given in the following terms:

*“The ESA Executive will take the time to ensure that all of the feedback is analysed and understood. This feedback will be used to inform decisions on future operational matters within the ESA.”* (p.9, Summary Report)

This statement will be revisited in the next section of this document. It is however worth noting that the roundtable process was never tasked with any review of operational matters. The Parliamentary Agreement and the Terms of Reference make no mention of this.



## **The ESA “Response to Summary Report”: Re-writing the Record**

47. The above document is dated 31 July 2017, and on page 1 contains a ‘Minister’s Foreword’ signed on 25 August 2017. The document does not identify an author, nor explicitly indicate whose response it is to the “Summary Report”.
48. The Response was provided to the UFU on 5 September 2017. The covering email provided by Virginia Hayward, Acting ESA Commissioner, makes clear:

“The Response outlines the considerations of the ESA Executive and provides information on the ideas and suggestions that will be adopted, and the action taken to implement them.”
49. Given what we have already said about the character of the Summary Document, the character of the “Response to Summary Report” is that it is ESA Executive Management responding to itself. The views of the Roundtable participants are a long way from the “Response”.
50. This is a great pity, and represents a time consuming and expensive lost opportunity to hear from key stakeholders, discuss issues on a thematic basis, and use the Roundtable process to build a consensus around the future of emergency services.
51. The following table sets out each of the key statements of the ESA response to the Roundtable consultations, along with our comments on that statement.

<b>Statement in ESA Response Document</b>	<b>Page</b>	<b>UFU Comment</b>
The Meetings were conducted according to the Terms of Reference	3	No, they were not. See our earlier comments at paragraphs 17 to 22 and 38 above
The ESA executive members have deliberated on the report on the ESA Roundtable consultations and identified in detail which issues and suggestions will require further action.	3	Really? The “Summary Report” says otherwise: “The ESA Executive will take the time to ensure that all of the feedback is analysed and understood. This feedback will be used to inform decisions on future operational matters within the ESA.”
The ESA executive members were pleased to hear the strong desire from staff and volunteers for more information, and will consider ways to ensure everyone is kept informed of ESA plans and activities.	3	With respect, the amount of communication was not the issue: honest communication about the ESA Executive Management’s proposals, plans and decisions is what is sought.
While the ESA may not implement all the suggestions made, based on other input and evidence...	4	This is opaque. Genuine consultation leaves the participants under no illusion as to whether their view has been agreed with or not; and if not, why not.
<b>Heading: What the ESA is doing and how the roundtable discussion will affect future services</b>	4	
<b>Issue 1 Comcen</b> A Workplace Consultative Committee (WCC) with the United Firefighters Union has already been established and the Terms of Reference agreed in-principle.	4	This development is irrelevant to the Roundtable process. The UFU had been seeking a consultative committee since April 2016. Meanwhile various positions have been advertised and funds expended.
<b>Issue 2 Equipment and procurement</b> All purchased equipment needs to be ratified by the Procurement Committee, which contains representatives from each of the services.	4	The procurement committee existed long before the Roundtable process.
<b>Issue 3: Equipment investments create opportunities to invest in personnel and service delivery</b> This issue was noted and the linkage between equipment and staff costs will inform planning for future major equipment investments.	5	It is difficult to see how this can be expressed as a Roundtable outcome. For example, there is no material at all in the “Consolidated Feedback” that could be said to even remotely have led to this statement.

Statement in Response Document	Page	UFU Comment
<p><b>Issue 4: Welfare</b> A number of welfare measures are already in place, or are under development that address issues raised at the roundtable meetings. The main issues raised were on return to work, support programs and flexible work arrangements.</p>	5	<p>The “Consolidated Feedback” contains almost 2 pages of material, the bulk of it highly critical of current approaches to injury management. Despite this, the ESA response merely states initiatives that are already in place and add the item “flexible work arrangements”. A word search of the Consolidated Feedback does not find the word “flexible”. Not even once.</p>
<p><b>Issue 5: Volunteer recruitment, administration and training</b> The views expressed showed that many of the issues facing ESA volunteers were not service-specific. This creates the possibility of a generic approach to supporting volunteer services for common issues.</p>	5	<p>This cannot be said to have arisen from views expressed by participants. It was a view expressed by the manager ESA training at the Session 1, in response to an issue raised by a CFU representative (see paragraph 32 above)</p>
<p><b>Issue 6: Middle management co-ordination within the ESA</b> Proposals were received for the establishment of cross-service committees for matters such as training and equipment to allow cohesion across the whole agency.</p>	5	<p>No, there were no such proposals. If there were any such proposals, they are not evident from examining the submissions, or the Consolidated Feedback.</p>

Statement in Response Document	Page	UFU Comment
<p><b>Issue 7: Increasing diversity in the ESA</b>  There were many views offered on diversifying the ESA’s workforce profile and volunteer base.  The WIES project has made a good start and the Station Upgrade and Relocation project has already delivered improved privacy and dignity arrangements of facilities. Both projects will continue to make the improvements upon which the ESA and its services will become an employer of choice for a broad range of employees from all parts of society.</p>	6	<p>Many views? The Consolidated Feedback shows that there were 5 items stated about Diversity and Equity as follows:</p> <ol style="list-style-type: none"> <li>1. No solutions in place for women firefighters who become pregnant;</li> <li>2. A Statement made by an SES participant that the % of women in ACTFR was lower than in other services;</li> <li>3. A request from an ACTAS staff member to more closely examine why the workforce is not more diverse;</li> <li>4. An email from a firefighter suggesting outreach programs; and</li> <li>5. A statement from a firefighter that there were no programs in place to recruit Aboriginal and Torres Strait Islanders.</li> </ol> <p>The ESA response can only be described as a platitude lacking any rigour or due consideration.</p>
<p><b>Issue 8 Communications within ESA</b>  The effectiveness of communications as an issue was noted. More will be done in future to create better understanding of ESA’s plans and activities among staff, volunteers, stakeholders and the public. This will include performance data and briefings.</p> <p>It is of concern that so many of stakeholders seemed to be unaware of ESA strategies and plans, or entirely opposed to their content.</p>	6	<p>This statement is welcome, and overdue. However it is an indictment on the conduct of the Strategic Reform Agenda.</p> <p>While the volunteer feedback in the Consolidated Feedback was in part positive in relation to consultation, the same cannot be said of staff views.</p> <p>Staff were highly critical of the SRA, and the quality of communication from senior management.</p> <p>It is equally of concern that considered criticism from staff is characterised as opposition. This suggests that there is a flaw in the capacity of Executive Management to listen to staff views.</p>

Statement in Response Document	Page	UFU Comment
<p><b>Issue 9 Bushfire Abatement Zone</b></p> <p>Concerns were expressed around the designation of certain land areas and how that process would be affected by the urban growth within the ACT. The ESA has considered these concerns and will ensure that the boundary of the Built-Up Area and the rural area are refreshed to ensure that the most optimal resources are always responsible for managing incidents across the ACT.</p>	6	<p>The Consolidated Feedback contains one item in relation to the Bushfire Abatement Zone as follows:</p> <p><i>“Why was Bushfire Abatement Zone abolished, yet it is still used for planning approvals. Need some clarity about its role in future planning.”</i> (Attachment 3, p.11)</p> <p>It is difficult to see how this statement resulted in the observation made in the ESA response.</p>
<p><b>Issue 10: Opportunities for joint working and training between ESA Services</b></p> <p>Views were offered that more could be done to work across services when planning and delivering exercises and training. The ESA executive agree with those views and, in future, will expect that all services involve their counterparts at the earliest stages when planning training and exercises. The proposal to establish a cross-service committee to look at opportunities for joint working and training exercises will be considered.</p>	6	<p>The UFU questions the utility of delivering training to all sections of the ESA, irrespective of their key activities. For example, it is difficult to see how expensive training in, for example, compartment fires, could be said to be a benefit for ACTAS, SES or RFS personnel.</p> <p>In addition, we are mystified as to the origin of a supposed “proposal to establish a cross service committee” to look at opportunities for joint training. There is no record of it in any of the material preceding the “Response” document.</p>
<p><b>Issue 11: Personal appraisal and development</b></p> <p>The need to better utilise PADPs and, if necessary, to adjust the process to “fit” our staff at all levels and circumstances is recognised.</p>	7	<p>This issue was never raised in the roundtable process. It is not recorded at all in the Consolidated Feedback. It is another example of ESA Executive Management seeking to manipulate the process to create a wider mandate for their own proposals.</p>

Statement in Response Document	Page	UFU Comment
<p><b>Issue 12: Consultation with staff, volunteers and stakeholders</b></p> <p>Some stated that consultation may only be conducted in accordance with the arrangements prescribed by the relevant enterprise agreement.</p> <p>The ESA executive recognises the terms agreed within the Enterprise Agreements but also undertakes less formal, best practice consultations such as those conducted for the SRA in 2016.</p> <p>As the ESA develops new policies, stakeholder views will be considered and compared with other evidence such as counter views, data sets and experience from other jurisdictions.</p> <p>If staff or representatives do not offer views when consulted, a risk exists that their views will not be taken into account.</p>	7	<p>See above. This has no factual basis.</p> <p>This suggests that the ESA Executive has completely ignored the heavy weight of criticism levelled at it through the SRA and the roundtables, and will continue to apply “consultation” as a mechanism to dismiss opposition.</p> <p>The analysis undertaken in this document shows that it is just as likely that if staff and representatives do offer a view, it will similarly not be taken into account.</p>

52. Concerningly, the material from the above table can be summarised as follows:

- The “Response to Summary report” contained a total of 12 issues.
- In respect of 4 of the issues (Comcen, Equipment and procurement, Welfare, and Diversity), the “Response” did no more than re-state what was already in place before the Roundtable meetings;
- In respect of 6 of the issues (Equipment Investments, Volunteer recruitment, Middle Management Coordination, Bushfire Abatement Zone, Opportunities for Joint Working and Training, Personal Appraisal and Development), the “Response” made statements that bore little or no relationship to what was said by participants in the Roundtable Meetings; and
- In relation to the 2 remaining items (Communication within ESA, Consultation), the “Response” summarised discussion which was highly critical of ESA as ill informed (e.g. “unaware of ESA Strategies and Plans”), oppositional (“opposed” to ESA Strategies and Plans), plain wrong (e.g. “not supported by data and other evidence”), or uncooperative (views will not be taken into account).

It is highly concerning that for a third of the issues listed, ESA felt a need to justify their own record; for a half of the issues, that they felt it necessary to distort the record; and for the remaining 1/6<sup>th</sup> of the issues, they felt the need to deny any culpability. It is even more concerning that this is in the context of a document that responds to an earlier document that they wrote themselves.

## Roundtables Not a Substitute for Existing Consultative Mechanisms.

53. There were many significant inadequacies of the Roundtable process. Those issues are compounded when one examines the record of the ESA in relation to consultative processes that were in place before the ACT Legislative Assembly election, and which have since atrophied.

Bearing in mind the stated objective of the Parliamentary Agreement to:

“...establish a rigorous ongoing consultation process, including through a roundtable meeting,”

It is clear that the intent was to improve consultation. Unfortunately, the opposite has occurred.

54. There are several consultative forms in which the UFU participates. These were established before the 2015 Election, and in some cases they had been in existence for many years. Without any explanation or notice, consultation on important issues affecting firefighter and community safety has been reduced as follows:

- The ACT Fire and Rescue Local Consultative Committee is established under the Enterprise Agreement, and is supposed to meet at least quarterly. It did not meet for a period of 6 months during 2017. This was in circumstances where the parties had agreed to meet on a monthly basis to address the volume of work between them.
- The ACT Fire and Rescue Uniform Committee did not meet between March and December 2017. It is supposed to meet quarterly.
- The ACT Fire and Rescue Facilities Committee did not meet during 2017. It is supposed to meet quarterly.
- The ACT Fire and Rescue Vehicles Committee met twice during 2017. It is supposed to meet quarterly.

It is difficult to imagine that anyone could suggest that the Roundtable process was intended to be a substitute for any of the processes set out above.

55. While the ESA has clearly reduced the resourcing of agreed consultative mechanisms, it sees no impediment to unilaterally creating additional consultative meetings in circumstances where parties such as the UFU do not agree to use those channels instead of the agreed channels. An example of this is the “Strategic Reform Agenda Joint Consultative Committee”, which was established outside any enterprise agreement, irrespective of the views expressed by the UFU about existing consultative arrangements.

## The ESA Senior Management Held in Poor Regard

56. The Roundtables were conducted in close chronological proximity to another significant initiative: the Justice and Community Services Directorate Staff Survey. (“The Staff Survey”).
57. The staff survey is a type of organisational climate survey, similar to those undertaken within public sector bodies across Australia. It has been administered in a substantially similar form in the years 2008, 2010, 2012, 2015 and 2017. The 2017 survey was administered during late April and May 2017, in the months following the Roundtable meetings.
58. Attached are two documents concerning responses in ACTF&R to the Justice and Community Safety Directorate staff survey:
- a. “At A glance: Fire Brigade (ESA)” This is a single page which sets out a snapshot of responses in ACTF&R to the Justice and Community Safety Directorate staff survey. (**Attachment 7**)
  - b. Excerpts from “2017 Staff Survey Fire Brigade (ESA)” a 19 page document discussing the data. (**Attachment 8**)
59. The following are highlights of the data:
- a. There were 93 responses from ACTF&R personnel of 341 surveys sent. Response rate of 27%.
  - b. From the “At A Glance” document:
    - i. 86 of the 93 respondents disagreed that there was high trust in senior management;
    - ii. 66 of the 93 respondents disagreed that people were optimistic about the organisation’s future;
    - iii. 62 of the 93 respondents disagreed that there was a strong sense of purpose and direction;
    - iv. There were 22 questions where the results rated worse than the last survey in 2015;
    - v. There were no questions where the results rated better than the last survey in 2015;
    - vi. The plot in the top left corner shows that while staff engagement improved from 2008 to 2010 to 2012, it declined from 2012 to 2015 and declined further since. (Dominic Lane commenced as ESA Commissioner in January 2013).
    - vii. Results pertaining to ACT Fire and Rescue internal dynamics (i.e. below the level of ESA Commissioner) were highly positive compared to the norm: e.g. 88% agreed that “My manager clearly communicates to me what they expect of me (vs 66% for the norm). This points to a strong disconnect between the ESA Commissioner and JACSD on the one hand, and ACTF&R on the other hand. Other measures are reported in the lower left corner.
60. From the “2017 Staff Survey Fire Brigade (ESA)” document:
- a. The graphic from the “At A Glance” is enlarged on page 22. It shows that ESA’s engagement culture is one of “Blame +”. This is defined on page 19 as:

“Type 1: Culture of Blame+”



Less than 20% of employees are Engaged with the organisation. The organisation may experience a history of 'leadership churn' where senior leaders come and go quickly. Employees perceive that the 'ship' is rudderless and lacks direction. The organisation tends to serve a difficult (and sometimes demanding) client base. Employees experience a sense of hopelessness which verges on despair."

This is consistent with the previously reported high turnover in heads of ACT Fire and Rescue, ACT Ambulance Service, ACT Rural Fire Service and ACT State Emergency Service. It is also consistent with the publicly expressed views of firefighters who, at an unprecedented rally outside the Legislative Assembly in September 2016, passed a vote of no confidence in the ESA Commissioner.

- b. Page 20 shows a strong disengagement cycle, which has increased during Dominic Lane's tenure as ESA Commissioner: 24.3% (2012), 38.1% (2015), 57.4% (2017).
  - c. Page 25 expands on some specific questions as follows. Of the 93 respondents:
    - i. 0% agreed that there was high trust in senior management, down from 1% in previous survey in 2012;
    - ii. 2% agreed that there was a strong sense of success and achievement, down from 7% in 2012;
    - iii. 8% agreed that there was a strong sense of purpose and direction, down from 13% in 2012;
    - iv. 9% agreed that there was a climate of trust and respect throughout the organisation, down from 27% in 2012.
    - v. On every single measure, results were worse than in 2012
  - d. In areas where the data reflected solely on internal ACT F&R dynamics, the scores were strongly positive, for example:
    - i. On page 41, data reports the reasons why employees think fire and rescue is a truly great place to work: 33% the staff, 22% effective teamwork, 20% community minded.
    - ii. On page 50, 86% agreed that their supervisor puts the value of Respect into practice, compared to only 31% agreeing the same of the leadership team. Similarly 79% agreed that their manager put into practice the value of Integrity, compared to only 28% agreeing the same of the leadership team.
61. The low response rate of 27% was also concerning. Of the 27%, most respondents provided answers that showed their disengagement, while those who didn't respond at all (73%) seem only to have demonstrated their disengagement by not responding. The results reported above show a strong disconnect between the attitudes held by firefighters towards ACT Fire and Rescue on the one hand, and towards the ESA on the other. In the context of the Strategic Reform Agenda mantra of "Cohesive Operations, Collaborative Management Team, Unified Executive" the results suggest that to the extent that the ESA Executive is unified it is that they are not trusted by firefighters. These dismal staff survey results should not come as a surprise in the context of the manipulation of process that was evident throughout the roundtable process. It is unlikely that the roundtable process will lead to any improvement in the survey results relating to the ESA when the survey is re-administered in future years.

## Genuine Consultation: A Way Forward

62. There is a well-established body of jurisprudence that provides guidance on effective consultation. Over 40 years ago in the case of *Port Louis Corporation v Attorney-General of Mauritius* [1965] AC 1111 at 1124, the Judicial Committee observed of a consultation obligation in an ordinance in respect of measures to alter local government boundaries that:

*“[t]he nature and object of consultation must be related to the circumstances which call for it” and “The requirement of consultation is never to be treated perfunctorily or as a mere formality. The local authority must know what is proposed; they must be given a reasonably ample and sufficient opportunity to express their views or to point to problems or difficulties; they must be free to say what they think.”*

63. The observation that the “nature and object of consultation must be related to the circumstances which call for it” is worthy of close consideration here. The context in this case was a Parliamentary Agreement, arising from a heightened focus on the resourcing of Fire and Rescue, and of the conduct of the ESA itself, and more specifically the Strategic Reform Agenda. This calls into question whether the ESA was the appropriate body to direct and control the consultation process in its entirety, specifically:

- a. engage the facilitator;
- b. determine the terms of reference;
- c. decide upon who was invited to participate;
- d. employ and direct those charged with the task of recording proceedings;
- e. compile the feedback;
- f. edit the consolidated feedback; and
- g. produce, publish and distribute the reports arising from the consultations.

64. Given such a consultation process, a reasonable person would likely conclude that anything critical of the ESA would fail to make its way into a final report.

65. Further guidance about effective consultation is close at hand. The definition provided in the ACT Public Sector ACT Fire and Rescue Enterprise Agreement 2013 - 2017 states:

*“Consultation means the full, meaningful and frank discussion of issues/proposals and the consideration of both parties view, prior to any decisions. Consultation means providing relevant information to employees and their representatives. It means more than a mere exchange of information. For consultation to be effective the participants must be contributing to the decision making process not only in appearance but in fact.”*

66. From consideration of the two sources of guidance on consultation set out above, the following features of effective consultation emerge:

*A party being consulted:*

- *Must know what is proposed;*
- *Must be provided with sufficient information about the proposal to understand:*

- *The reason for the proposed changes;*
- *The likely impact of the changes;*
- *So that they are able to meaningfully contribute to the decision-making process.*
- *Must be given a reasonably ample and sufficient opportunity to express their views or to point to problems or difficulties.*

When one applies this framework to the Roundtable process, it is difficult to see how it could be characterised as a consultation process at all.

67. As set out in paragraph 18 above, at the start of each session participants were asked three questions:

- What do you want to keep?
- What do you want to improve?
- What do you want to add?

The above was asked in the absence of any indication at all by ESA Executive Management about what was in their minds. It follows that parties to the Roundtable had no idea what was proposed, except where it had been part of a dialogue which preceded the Roundtable itself, such as COMCEN.

68. A further test which could be applied is to firstly identify what material difference there was between any change as initially proposed by the ESA, and the proposal as it stood after the Roundtable. The second element of this test is to identify whether the proposal could be said to have been changed by the expression of views by parties other than the proposer.

69. Sadly, the Roundtable process cannot be said to comply with the principles set out above, primarily because to the extent that proposals changed during the Roundtable process, including through the reporting, those changes came from the injection of additional material from the ESA Executive Management itself. The views of participants seem to have had little or no bearing on the “Summary Report” and the ESA’s “Response to Summary Report.” A fundamental flaw in this regard was that the ESA demonstrated that it was not capable of conducting what ultimately morphed into a review of its own conduct, for whatever reason.

## Recommendations

70. In order to salvage something by way of outcomes from this expensive and time-consuming charade, it is recommended that:

- a. The Minister for Emergency Services and the Justice Minister jointly identify a body external to the ESA to oversee a properly constituted roundtable process. This would include:

Terms of reference agreed to by the UFU, and the Bushfire Council, representatives of RFS and CFU volunteers, and the ACT Indigenous Representative Body, and limited to the scope set by the Parliamentary Agreement, specifically:

“to discuss wider resourcing, structural and organisational reform, and increasing diversity in the fire-fighting service.”

- b. A project methodology and brief for the conduct of the Roundtables be developed in conjunction with the stakeholders identified above, which is based upon a series of structured discussions around the three themes contemplated by the Parliamentary Agreement, specifically:
  - i. Resourcing;
  - ii. Structural and organisational reform;
  - iii. Increasing diversity in the firefighting service.
- c. In respect of each theme, a discussion paper be developed which provides a series of key questions for discussion, and options in relation to each question.
- d. The structured discussion be aimed at developing consensus between the participants and, where this is not possible, areas of disagreement be carefully and clearly documented.
- e. A report of this Roundtable process be provided to participants, and reasonable and ample opportunity be provided for them to comment, before it is finalised and submitted to the Ministers for final approval.
- f. The findings contained in the report be ultimately matters for consideration by Executive Government.