

Hon Malcolm Turnbull, MHR  
Minister for Environment & Water Resources  
Parliament House  
Canberra  
ACT 2600

12 April 2007

Dear Minister,

**Ref. No. 2007/3385**

**GUNNS REVISED PULPMILL PROPOSAL**

- 1. IS A CONTROLLED ACTION; WITH**
- 2. CONTROLLING PROVISIONS INCLUDING IMPACTS OF RESOURCE SUPPLY ON MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE; AND SHOULD**
- 2. BE ASSESSED BY ENVIRONMENTAL IMPACT STATEMENT; WITH**
- 3. GUIDELINES BROAD ENOUGH TO INCLUDE IMPACTS OF LOGGING AND CLEARING ON MATTERS OF NATIONAL ENVIRONMENTAL SIGNIFICANCE**

**1. Summary and Recommendations**

**The revised and expanded pulpmill proposal recently referred to you by Gunns Ltd. is a Controlled Action and should be designated as such** by yourself as the responsible Minister. The proposal is a very large and complex multi-faceted industrial project with the potential to impact upon a wide range of matters of National Environmental Significance, including:

- **The marine environment**, especially the receiving waters of Bass Strait (including a range of living marine resources such as protected mammals, cetaceans and fish subject to commercial exploitation managed by the Australian Government and other species listed under the Act as threatened or migratory species) should marine discharge of effluent from a Kraft pulpmill sited at Bell Bay occur (**the TCT will be making a separate submission outlining our main concerns with respect to this matter of National Environmental Significance**);
- **Listed threatened species**, including not only those likely to be impacted by construction and operation of the mill complex itself but also those likely to be impacted by extraction, manufacture and transport to the site of materials, including **increased wood resource supply** for both the pulpmill and the power station, especially those impacted by ongoing conversion of oldgrowth native forests in State Forests and the widespread use of **1080 poison** on private land;
- **World Heritage values**, including not only those values within the existing Area likely to be adversely affected by imprudently destructive activities outside the Area but also those World Heritage values likely to extend beyond the boundaries of the existing Area (or values likely to occur elsewhere in Tasmania), most notably in the **Tarkine** area of north-west Tasmania, and likely to be similarly adversely affected;

- **Ramsar wetlands**, notably those with substantial areas of native forests within their catchments that are available for logging and/or clearing under current State laws and policies and those subject to potentially significant reductions in fresh water inflows associated with **plantation establishment** to supply the proposed pulpmill within their catchments; and
- **Migratory species**, especially seabirds and shorebirds reliant on the health of potentially adversely impacted wetlands and coastal waters for reproductive and migratory success and listed in schedules to JAMBA and CAMBA.

**The incremental impact of Gunn's proposed pulpmill and co-located wood-fired power station** on the native forests, woodlands and grasslands of Tasmania, and the consequential impacts on these matters of National Environmental Significance likely to be significantly affected, is sufficient justification to warrant citing such matters of NES in determining the controlling provisions to be cited in declaring the proposal to be a Controlled Action.

While the proponent is perfectly entitled to assert that the mere existence of the Tasmanian RFA is sufficient to allay any concerns the Australian Government might have as to the effectiveness of Tasmanian regulatory provisions to avoid significant impact on any matters of National Environmental Significance, this is an assertion which you, as the responsible Minister, are statutorily obliged to test - by adopting sufficiently broad **guidelines to allow assessment of the efficacy of the RFA** in meeting your statutory obligations, especially for listed threatened species.

Any assessment of the proposed Gunns revised pulpmill project, that involves investigating potential impacts on controlling provisions associated with listed threatened species or World Heritage values, will need to include impacts on native forests and associated landscapes and habitats of **oldgrowth wood supply to the co-located wood-fired power station** included as part of the project, including potential eligibility for RECs as an exacerbating factor (independent of the impacts of regrowth wood supply to the proposed pulpmill).

The Tasmanian Government, in originally designating Gunn's 2005 proposal for a Kraft pulpmill and wood-fired power station as a 'project of states significance' under Tasmania's *State Policies and Projects Act*, committed the RPDC to assessment by 'integrated impact assessment'. It therefore seems reasonable to expect that you should be **insisting on an equivalent level of assessment - of at least environmental impact statement** (pursuant to s87(1)(d) of the Act).

You are now being asked, with respect to this albeit modified project:

- to decide whether it should be designated a Controlled Action;
- to decide what controlling provisions are applicable;
- to decide what level of assessment is appropriate; and
- to decide what scope should be set for the assessment guidelines.

It therefore seems axiomatic that you should **expect to rely upon the broad definition of the modified project for assessment and approval purposes as defined in legislation** currently before the Tasmanian Parliament as the bare minimum when determining all four of the above questions before you. A copy of that legislation is enclosed.

It has long been obvious to any reasonable person that **Bell Bay, at the mouth of the Tamar River is an inappropriate location for a Kraft chemical pulpmill** with the attendant and inevitable problems of water and air pollution, exacerbated by the sheer scale of the project. Hampshire, with an existing woodchip mill on site and rail infrastructure to hand in a relatively remote part of the north-west coast south of Burnie, surrounded by Gunns plantations, is clearly the most appropriate site for such a chemical pulpmill in Tasmania. **In order to get the two sites, Hampshire and Bell Bay, fairly assessed together, however, you will have to explicitly insist on this** when finalizing the scoping guidelines for the project assessment.

**It remains the view of the TCT that Hampshire is the only reasonable site for a Kraft chemical pulpmill to be located in Tasmania:**

- it is ideally located to be based entirely on plantation wood supply by the time it becomes operational (thus allowing for a transition out of native forests unlike the current Bell Bay proposal intended to entrench native forest logging and clearing);

- it is well located to minimize social impacts of air pollution (there are no settlements nearby and local conditions provide for much better dispersal away from major centres than can be expected at Bell Bay);
- it is well located to allow for land-based effluent disposal thus obviating the need for marine discharge; and
- if TCF (totally chlorine free) pulping and bleaching sequences are insisted upon, there is sufficient water available to support a 'closed loop' mill and effluent disposal and air pollution problems much reduced.

## **2. Need to Include Impacts of Resource Supply in Scope of Assessment**

The critical issue for the TCT is that there is now clear justification to include impacts of resource supply from logging and clearing native forest to supply oldgrowth and regrowth wood to the proposed pulpmill and co-located power station. We failed to persuade your predecessor to do so when designating Gunns' original and modified proposals as a Controlled Actions back in 2005 and we subsequently failed to persuade both the Tasmanian Resource Planning and Development Commission (RPDC) and your own Department to include such matters in the scope of the Guidelines for the assessment of Gunns' original mill complex proposal eventually agreed between both governments pursuant to the Bilateral Agreement.

The principal assertions used by the proponent and officials against the TCT's submission that Gunns' proposed project did include resource supply for environmental impact assessment purposes were:

- a) that no additional logging and/or clearing would take place as a result of the proposal being approved such that there would be no incremental impacts should the project proceed; and
- b) that the existence of the Tasmanian RFA effectively met the relevant concerns of the Australian Government such that no project-specific assessment was warranted.

Events subsequent to your predecessor's acceptance of these assertions and the RPDC's subsequent decision to adopt guidelines of limited scope for assessing Gunns' original proposal have shown these two assertions to be both false and misleading.

### **More logging and Clearing as a Result of Gunn's Proposal**

With respect to the first assertion, it is now clear from the RPDC's incomplete assessment of Gunns' original and subsequently modified proposal that operation of both the proposed regrowth-using pulpmill and proposed oldgrowth-using wood-burning power station will involve a very substantial increase in the annual rate of native forest harvesting and a modest increase in the rate of landclearing and plantation establishment.

Rather than take the TCT's word for this, we urge you to instruct your officials to assess the information provided by Gunns, and to seek additional information if necessary, and provide you with clear and quantitative advice on the anticipated overall resource supply situation in Tasmania should the Gunns proposal proceed. Should you have difficulty getting hold of the requisite information, please do not hesitate to let us know and we will do what we can to identify and, where possible, supply relevant documentation.

The so-called Wesley Vale pulpmill proposed by then North Broken Hill Pty. Ltd. in the late '80s was specifically designed to substitute for woodchip exports (and would have involved the consequential cancellation of associated contracts with Japanese buyers) by downstream processing of the resource within Australia. Gunns' current proposal, by contrast, involves continuing to service its existing woodchip customers mainly from its eucalypt plantation base in north-west Tasmania and port facilities at Burnie while focusing supplies of native forest hardwood and plantation softwood to the proposed mill complex at Bell Bay. While Gunns do intend to close their woodchip operation at Bell Bay if a chemical pulpmill and wood-fired power station are built at that location, it does not intend to close its woodchip export facilities at Triabunna on the East Coast of Tasmania in the south of the State and intends to expand its operations at Hampshire and Burnie in the north.

**The incremental impact of Gunn's proposed pulpmill and wood-fired power station on the rate and extent of logging of native forests and of loss of native vegetation in Tasmania, and the consequential impacts on matters of National Environmental Significance likely to be significantly affected, is thus sufficient justification to warrant citing such matters of NES in determining the controlling provisions to be cited in declaring the proposal to be a Controlled Action.** Conversely, failure to identify such matters as controlling provisions can be regarded as an abdication of your statutory responsibilities.

### **The RFA is inadequate protection**

With respect to the second assertion, the recent Federal Court decision in respect of Senator Brown's action against the Commonwealth for failing to ensure adequate protection for listed threatened species impacted by Forestry Tasmania logging and clearing practices in the Wielangta State Forest in southern Tasmania clearly establishes that the Tasmanian RFA cannot be relied upon to protect listed threatened species. The subsequent renegotiation of the RFA to diminish the extent to which the Australian Government should seek to rely upon the RFA to meet its statutory obligations does nothing to diminish those obligations.

**Indeed, the very nature of the recent changes to the RFA make it abundantly clear that neither government party to the Agreement expects compliance with its provisions to deliver protection for nationally listed species.**

Subsequent to the Federal Court's 'Wielangta' decision, the Tasmanian Forest Practices Authority has finally initiated its long-heralded review of the biodiversity protection provisions of the Forest Practices Code. This, in itself, is clear recognition that changes are warranted. It is important to appreciate, however, that initiation of a review of the Code is not the same thing as having an effective Code or actually having an expectation that it will be improved, let alone adequately.

During the development of the original RFA in 1995-97, the then Forest Practices Board carried out a protracted review of the soil and water conservation provisions of the Code. This procedural sleight of hand not only served to openly admit inadequacies in the Code but also to divert attention from its actual provisions by those officials involved in developing the RFA on behalf of the Commonwealth on the grounds that any identified inadequacies would be fixed eventually as a result of that review.

As history shows, however, no such improvements were ever made. In fact, the Code's soil and water conservation provisions were pointedly relaxed to allow far greater exercise of discretion on the part of Forest Practices Officers when it came to allowing logging of forest on erodible soils and/or steep slopes that had previously been protected by prescriptive rules in the original Code. There are no grounds to assume that the renamed Forest Practices Authority is taking a less cynical approach to reviewing the current biodiversity conservation provisions of the Code while the Commonwealth is assessing the Gunns' proposal for a pulpmill and wood-fired power station at Bell Bay.

**While the proponent is perfectly entitled to assert that the mere existence of the Tasmanian RFA is sufficient to allay any concerns the Australian Government might have as to the effectiveness of Tasmanian regulatory provisions to avoid significant impact on any matters of National Environmental Significance, this is an assertion which you, as the responsible Minister, are statutorily obliged to test - by adopting sufficiently broad guidelines to allow assessment of the efficacy of the RFA in meeting your statutory obligations.**

### **3. Electricity Generation from burning old growth forests**

As discussed above, the proposed revised Gunns pulpmill project is a very large and complex project, the breadth of which has been well-defined for assessment and exemption purposes by Tasmania's new fast-track legislation. One of the non-pulpmill components of this project involves the construction and operation of a wood-burning power station to be co-located on the proposed Bell Bay site. **The Gunns' referral mentions "ancillary chemical production and infrastructure .." but misleadingly fails to mention the ancillary wood-burning power station. It is essential that you consider the implications of this omission before deciding on the controlling provisions that form the basis for any Controlled Action decision.**

As you will note from the enclosed Gunns advertisement (Launceston Examiner, 7 April 2007. p.9), Gunns plan to generate 180MW of electrical power within the site. While sufficient power can be generated from recovered heat from the exothermic nature of the chemical pulping process and the combustion of spent liquor to produce a surplus beyond the requirements of the mill, most of the power surplus intended to be fed into the electricity grid is to be derived from a stand-alone wood-burning power station that has nothing to do with the pulpmill, apart from being co-located on the same site (although minor volumes of waste could be expected to come from the pulpmill's log yard).

This co-located power station is designed to burn oldgrowth wood derived from clearing and logging of oldgrowth and mixed native forests being converted to tree farms (plantations or seeded regeneration). While throughout the '70s and '80s such oldgrowth wood could be exported as woodchips to old pulpmills in East Asia, there has been a widening woodchip price differential favouring young regrowth and plantation wood such that oldgrowth wood is essentially unsaleable for papermaking purposes nowadays. Even massive subsidization through royalty discounting by Forestry Tasmania can no longer close this price differential.

### **Ineligibility for RECs**

For some years, Forestry Tasmania has been seeking to promote burning oldgrowth wood in power stations for electricity generation as an alternative to providing fibre for pulp and paper manufacture. Burning wood for electricity generation has never been competitive with coal as the thermodynamics associated with the large volumes of water present in green wood renders the process very inefficient at converting biomass energy into electricity.

Forestry Tasmania had been hoping to improve the commercial viability of using wood from native forests as power station feedstock by attempting to get the resultant electricity classed as renewable energy and thus eligible for Renewable Energy Certificates under the Australian Government's MRET legislation.

Unfortunately for Forestry Tasmania, the market feedback has been very discouraging – no-one, and especially Tasmania's own energy retailer, Aurora, is so irrational as to pay a premium for electricity derived from burning Tasmania's oldgrowth forests by buying RECs and then attempt to recover it from their customers by selling it for a premium as 'green' power. The TCT estimated the commercial benefit to Forestry Tasmania's oldgrowth conversion operations if an electricity market was available and if such electricity was eligible for RECs in a supplementary submission solicited by the team chaired by Senator Tamblin that conducted the statutory review of the MRET legislation. A copy of that submission is enclosed.

While other Australian states have banned the burning of native vegetation in power stations and market resistance has rendered it ineligible for the Green Power scheme managed by NSW's SEDA, the Tasmanian forest industry continues to try and develop this market for the large volumes of oldgrowth wood arising from ongoing logging and clearing on both private land and State Forests. Most of the oldgrowth wood arising from forestry activities, however, comes from Forestry Tasmania's logging and clearing activities – simply because the majority of available oldgrowth forest is to be found on public land, it having been largely cleared from private land.

Forestry Tasmania's latest attempt to find something to do with these large volumes of unsaleable oldgrowth wood arising from its conversion activities involves including them in the negotiations with Gunns for wood supply to their proposed Kraft pulpmill. In return for receiving large volumes of regrowth and seeded regeneration wood from State Forests, Gunns are also obliged to take these oldgrowth arisings – and burn them in a power station. Obviously, if the price is right, this is a viable commercial arrangement - for Gunns, even if the resultant regrowth price negotiated is likely to be ruinous for Forestry Tasmania and its long-suffering Tasmanian taxpaying owners.

**Any assessment of the Gunns pulpmill investigating potential impacts on controlling provisions associated with listed threatened species or World Heritage values will thus need to include impacts on native forests and associated landscapes and habitats of oldgrowth wood supply to the wood-fired power station, including eligibility for RECs as an exacerbating factor (independent of the impacts of regrowth wood supply to the proposed pulpmill).**

In this context, it is important to note that the oldgrowth wood comes not from the sustainable management of areas already subject to active and intensive management but from the conversion of new areas of native forest that have not previously been subject to such management.

## **4. Need for Assessment by Environmental Impact Statement (pursuant to s.87(1)(d) of the Act).**

**The Tasmanian Government, in designating Gunn's proposal for a Kraft pulpmill and wood-fired power station a 'project of states significance' under Tasmania's *State Policies and Projects Act*, committed the RPDC to assessment by 'integrated impact assessment'. This is a level of assessment somewhat more exhaustive than environmental impact assessment (it includes assessment of economic and social impacts) but somewhat less exhaustive than assessment by inquiry under the EPBC Act, depending on how guidelines and terms of reference might be finalised.**

**It therefore seems reasonable to expect that you should be insisting on an equivalent level of assessment - of at least environmental impact statement.**

The Gunns' proposal is a very large and complex project and has been redefined twice since originally being designated as a project of state significance – specifically to ensure that the appropriate range of off-site activities needed to secure the viability of the project were included within the definitional scope of the project.

The original and first modification of Gunns' proposal were the subject of separate Controlled Action designations by your predecessor in 2005. This first modification also required prior amendment of Tasmania's *State Policies and Proposals Act* specifically to allow designation of a project of state significance to include activities other than those for which the proponent was responsible (in this instance, relating to transport infrastructure development and water resource supply).

The second, and far more substantial, redefinition of Gunns' proposal is set out in the definition of the project in the Pulp Mill Assessment Bill currently before the Tasmanian Parliament. A copy of the legislation is attached (while it is not yet law, it is reasonable to expect that the minor amendments recently proposed by the Legislative Council will be accepted by the Government-controlled Lower House and that the subsequent Act will receive the Royal Assent before the end of this month.

**This is the project which you are now being asked:**

- **to decide whether it should be designated a Controlled Action;**
- **to decide what controlling provisions are applicable;**
- **to decide what level of assessment is appropriate; and**
- **to decide what scope should be set for the assessment guidelines.**

**It therefore seems axiomatic that you should expect to rely upon the broad definition of the project for assessment and approval purposes as defined in the Tasmanian legislation as the bare minimum when determining all four of the above questions before you.**

### **Hampshire is the Preferred Site**

Should you decide that assessment by environmental impact assessment is warranted, the TCT would like to urge you to give special attention to the question of site selection when developing the guidelines for that assessment. It has long been obvious to all that Bell Bay, at the mouth of the Tamar River, is an inappropriate location for a Kraft chemical pulpmill with the attendant and inevitable problems of water and air pollution, exacerbated by sheer scale of the project.

Hampshire, with an existing woodchip mill on site and rail infrastructure to hand in a relatively remote part of the north-west coast south of Burnie, surrounded by Gunns plantations, is clearly the most appropriate site for a chemical pulpmill in Tasmania. Public statements made by members of the RPDC assessment Panel following their resignation in the face of improper pressure from Premier Lennon indicate that the Panel was coming to this view.

Gunns and the Tasmanian Government, however, are pursuing a strategy that does not just involve one chemical pulpmill at Bell Bay but involves three such pulp mills in Tasmania – one at Bell Bay, one at Hampshire and one on the Huon River in the Southern Forests.

Bell Bay is by far the most problematic site and, as such, needs to be developed first if the three-pulpmill strategy is to remain viable (to get approval to develop that site after approvals had been given

for Hampshire and the Huon River would be much harder insofar as it would be impossible to deliver equivalent environmental impact mitigation outcomes).

This explains why Gunns has been so stubborn in refusing to give serious attention to locating its proposal at Hampshire instead of Bell Bay. While the assessment guidelines adopted by the RPDC, with the explicit endorsement of your Department, did provide for consideration of siting alternatives as is customary for such assessments, the RPDC felt unable to insist on Gunns assessing Hampshire with the same rigour as it applied to Bell Bay.

In order to get the two sites, Hampshire and Bell Bay, fairly assessed together, you will have to explicitly insist on this when finalizing the scoping guidelines for the project assessment. It is worth recalling, in this regard, that when the proposal to locate a woodchip mill at Hampshire was developed by North Broken Hill following the collapse of their proposal for a pulpmill at Wesley Vale, the Hampshire proposal involved providing for land-based waste disposal from a chemical pulpmill. Copies of the Development Proposal & Environmental Management Plan that was the subject of approval following assessment will be on file with your Department.

**It remains the view of the TCT that Hampshire is the only reasonable site for a Kraft chemical pulpmill to be located in Tasmania:**

- it is ideally located to be based entirely on plantation wood supply by the time it becomes operational (thus allowing for a transition out of native forests unlike the current Bell Bay proposal intended to entrench native forest logging and clearing);
- it is well located to minimize social impacts of air pollution (there are no settlements nearby and local conditions provide for much better dispersal away from major centres than can be expected at Bell Bay);
- it is well located to allow for land-based effluent disposal thus obviating the need for marine discharge; and
- if TCF (totally chlorine free) pulping and bleaching sequences are insisted upon, there is sufficient water available to support a 'closed loop' mill and effluent and air pollution problems would be much reduced.

**Rail Infrastructure Must be Used Wherever Technically Possible**

The additional cartage required to service the pulpmill and power station as proposed by Gunns for the Bell Bay site would significantly exacerbate problems for Tasmania's road network. There are substantial economic, social and environmental benefits to be had by insisting that as much haulage of logs as is technically feasible is done by dedicated forestry roads and by rail.

Particular attention needs to be given in setting the guidelines for assessment of the proposal to identify what improvements in minimizing haulage by log trucks on public roads could be achieved if:

- a) the existing rail network were used wherever practicable and upgraded (including development of dedicated branch lines and loading sidings where appropriate);
- b) the Plenty link road between the Huon and Derwent Valleys is used to obviate the need to bring logs through small communities in the Huon and through the main streets of Hobart (a considerable amount of Commonwealth money was spent on creating this link road and the Australian Government should insist on its being used for the very purpose for which it was intended);
- c) regulations were adopted that prohibited parallel cartage by road when rail was available (as used to be the case in Tasmania).

**An Inquiry is Warranted**

While assessment by environmental impact assessment might be sufficient to provide a framework within which you could discharge your statutory responsibilities under the EPBC Act, the TCT is of the view that an inquiry is warranted. It is stunningly obvious that a corrupt relationship exists between Gunns and the Tasmanian Government and its instrumentalities. For those of us who work on natural resource issues in Tasmania, we are continually reminded that Tasmania does not have an independent institution dedicated to exposing and fighting corruption as can be found in other states.

Of particular concern to the TCT is the nature of the undertakings and contractual arrangements between Forestry Tasmania and Gunns for the supply of wood from State Forests to Gunns' mills around the State, including the proposed pulpmill and power station. It seems to us that only an Australian Government inquiry with sufficiently broad terms of reference to allow investigation of the full range of social, economic and environmental impacts likely to arise should the Gunn's project proceed as currently envisaged can deliver a fair and transparent assessment of their proposal.

The TCT has long complained that chronic and substantial underpricing of wood from State Forests to Gunns (and other customers of which there are not too many nowadays) not only represents an unwarranted transfer of wealth from the Crown to its customers but also provides an incentive to log and clear areas of native forest that would otherwise not warrant commercial attention. This situation is further exacerbated by Forestry Tasmania's habit of setting stumpage through administrative pricing according to a non-market royalty formula that subsidises logging of forests in remote and difficult places – a policy pointedly aimed at destroying wilderness values and maximizing forest destruction by bringing much larger areas of forest into working circles than can be justified commercially.

Yours sincerely,

Alistair Graham

**Attachments**

- Tasmanian Pulp Mill Assessment Bill 2007, incl. Legislative Council amendments, March 2007
- Gunns advertisement, '..Water and Power Generation', Launceston Examiner 7/4/7
- TCT submission to Tamblin Review of Renewable Energy (Electricity) Act, May 2005
- TCT Controlled Action submission to Minister Campbell, January 2005
- TCT Letter to Minister Campbell, re: revised proposal, August 2005.