



## tasmanian conservation trust inc

The Coordinator  
Water Licence and Dam Administration  
Water Management Branch  
Department of Primary Industries, Parks, Water and Environment  
GPO Box 44  
Hobart 7001

26 September 2011

### **Submission in regard to applications by Gunns Ltd for three permits to undertake dam works**

The Tasmanian Conservation Trust makes this submission in response to the notice published in the *Examiner* newspaper on 10 September 2011 (copy attached), in which submissions were invited from 'Persons who may be affected' in regard to applications by Gunns Ltd for three permits to undertake dam works at Bell Bay for the purpose of stormwater drainage.

The TCT believes it meets the definition of an 'affected person' due to its long standing interest and involvement in water management issues in Tasmania and in particular dam construction.

The TCT has received legal advice that the Pulp Mill Assessment Act (PMAA) permitted Gunns to apply for an extension to its original permits to undertake dam works (it failed to do so by in the required time period – see below for an elaboration) but section 9(1) of the PMAA excludes the application of any other legislation and therefore Gunns Ltd cannot apply for, and the Assessment Committee for Dam Construction (ACDC) cannot grant, new permits for dam works (relevant to the construction of the pulp mill) pursuant to the Water Management Act 1999.

**We recommend that the ACDC refuse all three applications by Gunns Ltd for permits to undertake dam works on the basis that, pursuant to the PMAA, the ACDC does not have the power to issue such a permit.**

The PMAA was structured so that all permits or licences and other approvals for the project (including permits to undertake dam works pursuant to the WMA) are contained within the pulp mill permit as conditions.

Floor 2, 191 Liverpool Street, Hobart TAS 7000 Australia

p (03) 6234 3552 f (03) 6231 2491 e tct6@bigpond.com ABN 63091237520

The TCT has received legal advice that Section 9(1) of the PMAA has the effect that the dam works approvals process under the WMA does not apply, and cannot apply, to the pulp mill project. Section 9 (1) of the PMAA excludes the application of any other legislation in relation to the pulp mill project where that legislation requires a permit, consent, permission for use or development in relation to the project. There can be no doubt that the construction of a dam does constitute use and/or development and that the purpose for the dams is in relation to the project i.e. the pulp mill. Therefore Gunns Ltd cannot apply for, and the ACDC cannot grant, new permits for dam works pursuant to the Water Management Act 1999.

The PMAA permitted Gunns to apply for an extension for its original permits to undertake dam works (pursuant to provisions of the WMA) but it failed to do so in the required time period.

There is provision under the WMA to grant an extension to Gunns for its original dam permits but an application must have been made to the ACDC no later than one month prior to the permits lapsing. Clearly Gunns' permits had lapsed – as no works had occurred by 30 August 2011 and Gunns confirmed this conclusion by applying for new permits to undertake dam works – and Gunns failed to apply for an extension in the required time period and therefore can not be granted an extension.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Peter McGlone', written in a cursive style.

Peter McGlone  
Director