

ACCC MEETING NOTE			
File number:	C2005/1078	Meeting with:	Gunns Ltd
Date:	13 September 2005	Participants:	Bryan Hayes Darren Davis Ian Blanden Peter McDonald
ACCC Officers:	John Martin Scott Gregson Cameron Martin	Time:	1pm
Subject:	Tasmanian Forest Contractors Association – application for authorisation		

On Tuesday 13 September 2005 John Martin (JM), Scott Gregson (SG) and Cameron Martin (CM) met with Bryan Hayes, Darren Davis and Ian Blanden of Gunns Limited (Gunns) and Peter McDonald of Freehills to discuss issues relating to the Tasmanian Forest Contractors Association's (the TFCA) application for authorisation in relation to proposed collective bargaining and collective boycott arrangements.

The issues discussed at the meeting are presented below.

The role of the ACCC

ACCC staff outlined the reason for the meeting, discussed the role of the ACCC in assessing applications for authorisation and outlined the public register system.

Gunns

Gunns provided an overview of its business and its various divisions and interests. Gunns outlined the parts of its business that would be directly affected by the proposed arrangements as well as those that would be indirectly affected. Gunns noted that Tasmania is split into three operating areas and described the various types of wood harvesting and milling that takes place within these zones.

Harvesting and transport contractors

Gunns noted that wood fibre selling prices are sensitive to the exchange rate and the price of Australian wood fibre has recently increased, making it less competitive against cheaper exporting nations. Gunns noted that the real price of wood fibre has decreased over the past 15 years while the price paid for forest contractor services has increased above the rate of CPI. Gunns noted that there has been a downturn in the wood products industry over the past year due in part to the high cost of Australian products in export markets.

Gunns noted that, up until 15 years ago, forest contractor rates were set by a central pricing mechanism that included the Tasmanian Logging Association (the former name of the TFCA). Gunns noted that international pricing pressures forced them to review this structure and introduce a more competitive system. Gunns noted that a competitive tendering process was introduced to lower the cost of wood, as it was determined, and agreed to by the Tasmanian Logging Association, that the cost of forest contracting services was around 20 to 40 per cent higher than that calculated by an agreed cost/production model.

Gunns noted that all of its wood is provided by forest contracting businesses. For the period from 1990 until 2001 contracts were determined by a competitive tendering process. Gunns noted that it currently primarily uses evergreen and rolling contracts, and has brought in new contractors under negotiated arrangements during periods of high demand. Gunns noted that, when negotiating a new contract, it assesses a potential contractor for its ability to comply with safety standards, its environmental compliance systems, the skills and equipment of the contractor and how suitable they are for working on the particular coupe. Gunns noted its policy and usual practice of conducting a documented annual performance review for its forestry contractors.

Gunns noted that the equipment used by each harvesting business are likely to differ based on the type of land that is being harvested (i.e. sloping land may be harvested using a specialised cable system while conventional harvesters may be used where the slope is less severe). Gunns noted that a one size fits all approach is unlikely to be suitable for the particular individual needs of each of its contractors, as each contract currently varies depending on a wide variety of factors, including the particular task involved, the machinery configuration used and on the individual characteristics of the coupe.

Silviculture contractors

Gunns noted that silviculture contractors are engaged for a variety of purposes, and different silviculture businesses will provide different services with different mixes of labour and capital. Gunns noted that silviculture encompasses a diverse range of activities, and silviculture businesses will generally offer some of these services, but not be equipped to carry out every aspect of silviculture work. Gunns noted that a "super contractor", a silviculture contracting business that provides all silviculture services, does not exist and that this is unlikely to change under the proposed arrangements.

Gunns noted that its plantations are largely funded by Managed Investment Schemes (MIS) that are governed by ASIC and ATO legislation, which places time constraints on when certain tasks can be carried out. Gunns noted that funding and activity levels will differ from year to year, making it commercially impractical to use long term contracts.

Fuel price adjustments

Gunns noted that it uses a fuel price adjustment system that compensates contractors if the fuel price moves over a 10 cent threshold for more than two months. Gunns noted that, prior to 1999, fuel price adjustments took place as part of the annual rate review but, after contractors expressed their concern that they needed the adjustment sooner to manage their cash flows, Gunns brought in a process that could capture a price movement over a shorter period. Gunns also noted that its contractors also have the option of purchasing fuel on Gunns account which may allow them to purchase fuel at a lower price.

Safety

Gunns noted that its safety systems and procedures are compliant with legislation and the Forest Safety Code. The safety management system of each contractor is open to an independent audit to ensure compliance with these standards.

Gunns noted that it is spending more money on roads than it has at any other stage. Gunns noted that rapid growth can place burdens on infrastructure construction and that some road construction has been delayed by planning constraints, weather conditions and a shortage of suitably experienced roading contractors during periods of high pulpwood demand.

Closing statements

Gunns reiterated its opposition to the application with reference to its written submission of 15 August 2005. Gunns noted that the proposed conduct raises concerns under the most serious per se sections of the *Trade Practices Act 1974*. Gunns noted the potential for collective boycotts to harm a wide variety of businesses in the supply chain and to affect Australia's reputation for reliable overseas supply. Gunns also noted its continuing objection to a grant of interim authorisation.