

ACCC MEETING NOTE			
File number:	C2005/1078	Meeting with:	Tasmanian Department of Infrastructure, Energy and Resources (DIER)
Date:	12 September 2005	Participants:	Michael Leonard Aidan Flanagan
ACCC Officers:	John Martin Scott Gregson Cameron Martin	Time:	9am
Subject:	Tasmanian Forest Contractors Association – application for authorisation		

On Monday 12 September 2005 John Martin (JM), Scott Gregson (SG) and Cameron Martin (CM) attended DIER's offices to discuss issues relating to the Tasmanian Forest Contractors Association's (the TFCA) application for authorisation in respect of proposed collective bargaining and collective boycott arrangements.

The issues discussed at the meeting are presented below.

Role of the ACCC

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

The Application

DIER staff commented that the application for authorisation relates to a commercial arrangement and that they have no comment to make on it as such.

Forest contractors

DIER staff noted that a number of the contracting businesses are large operations with the remainder being small. DIER staff noted that harvesting contractors either subcontract transport services or handle their own haulage. DIER staff noted that Gunns is the largest wood company, but that its competitors are growing.

Forestry Fair Contracts Code 2003

DIER staff noted the history of the legislation and how it was developed. The *Forestry Fair Contracts Act 2001* (the FFCA) allows the Minister for Infrastructure, Energy and Resources to enact codes in respect of forest contracts.

The Forestry Fair Contracts Code 2003 (the FFCC) was developed by a working group comprising a broad range of industry participants including FIAT, Forestry Tasmania, the TLA (now the TFCA), union representatives and others.

The FFCC mandates the inclusion of certain terms and conditions into all forestry contracts and provides for periodic performance and rate reviews. These reviews are held separately (i.e. a rate review will not be conducted at the same time as a performance review). The FFCC provides for a 30 day period for the parties to talk, and allows them to attend mediation. Forest Contractors can also take the matter

through the court system. DIER staff indicated that the mediation process is currently being used for the first time.

DIER staff noted that the TFCA has sought changes to the FFCC to mandate the inclusion of adjustment clauses similar to those proposed in the application for authorisation.

DIER staff also indicated that they are aware that some of the wood companies have already implemented adjustment models for fuel in their contracts. DIER staff noted that there is no current proposal to issue any new codes under the FFCA.

DIER staff noted that the majority of forest contractors are working well under the FFCC but accepted that some contractors on the margins may not be finding the FFCC helpful.

Victorian legislation

DIER staff comment on the legislation recently enacted in Victoria, noting that it is more prescriptive than Tasmania's legislation.

Areas of operation of forest contractors

ACCC staff inquired as to whether any barriers (such as geographic barriers) exist that would delineate forest contractors in different areas of the state. DIER staff noted that wood is sourced from three regions in Tasmania, but that most forest contractors can work in all regions with some larger contractors currently having operations across the regions.

Negotiations

ACCC staff asked what the DIER's understanding of the process of negotiation for forest contracts is. DIER staff noted that much of what appears in contracts is standardised by the FFCC, that negotiation takes place on clauses such as rates, and that the level of negotiation will vary depending on the size of the contractors. DIER staff noted that negotiation is a part of business and it is incumbent upon the contractor to ensure that they give negotiations proper consideration.

Substitutability of forest contracting into other services

DIER staff noted that a prime mover used for the transport of wood, which is the major cost component of a transport business, can be used for many other transport purposes, including mining. As such there is scope for transport contractors to supply their services into industries other than the forest industry. DIER staff noted that major harvesting equipment essentially comprises a modified excavator that can also be converted for use in other tasks such as road building.

Safety

DIER staff noted that the forest industry is subject to workplace safety legislation that mandates industry standard practices.