

ACCC MEETING NOTE			
File number:	C2005/1078	Meeting with:	Tasmanian Forest Contractors Association Ltd
Date:	12 September 2005	Participants:	David Hazell
ACCC Officers:	John Martin Scott Gregson Cameron Martin	Time:	4:30pm
Subject:	Tasmanian Forest Contractors Association – application for authorisation		

On Monday 12 September 2005 John Martin (JM), Scott Gregson (SG) and Cameron Martin (CM) met with David Hazell of the Tasmanian Forest Contractors Association (the TFCA) to discuss issues relating to its 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.

The TFCA's membership

The TFCA noted that its membership is strong in harvesting and haulage (around 130 members) and it provides training and lobby services to its members. The TFCA estimated that it represents 80 per cent of the harvesting and haulage contractors in the Tasmanian forest industry, which in turn produce around 85 per cent of Tasmania's total wood flow. The TFCA noted that the six largest contractors represent around 35 - 40 per cent of wood flows.

The TFCA noted that of the 130 members, around 60 per cent are involved in both harvesting and haulage services while the remaining 40 per cent are harvest and or cartage only.

Negotiations

The TFCA noted that open tenders are not often used and most negotiations take the form of closed negotiations with new parties or simply renewed contracts. The TFCA noted that contracts formed on a year to year basis are generally made by a letter of intent or a verbal contract. The TFCA noted that forest contractors may only receive advice from their accountant before entering into contracts, and that they are likely to be offered low contract rates.

The TFCA noted that continuity of work and skilled employees are important to the forest industry. The TFCA stated that short term contracts are increasingly being offered and many of the coupes being harvested are low-quality or B-grade bushes, which subsequently has an effect on the tonnes that can be produced per day. As the sensitivity of a forest contracting operation is high with regards to the effect volume has on the tendered rate. The TFCA claimed that this observation was critical The

TFCA went onto say that the issue is critical because the rate structures provided to wood companies by forest contractors are typically a single rate that was provided in good faith assuming that the wood company will provide continuity with regards to resource and land attributes.

The Forestry Fair Contracts Code 2003

The TFCA noted that the Forestry Fair Contracts Code 2003 (the FFCC) mandates only generic clauses into forest contracts and also provides for mediation. The TFCA stated that forest contractors are not using the mediation provisions of the FFCC because they cannot afford the time away from work, the cost of mediation is high and there is a fear of retribution from the wood companies.

Barriers to entry and exit

The TFCA noted that there are no real barriers to starting a harvesting business besides obtaining a contract for work. The TFCA noted that the excavators used for harvesting are generally modified and specialised to the work. An unmodified excavator may cost \$300 000 while an excavator modified for harvesting may cost \$550 000. The TFCA noted that, while the prime mover used for transport can be used for purposes other than carting logs, the trailer is specialised and has not other use. The TFCA noted that these represent barriers to exit.

Market exit

The TFCA noted that the export price of Australian wood products has comparatively increased to other currencies due to movements in the exchange rate which has lowered demand. The TFCA stated that there is currently an oversupply of forest contractors in Tasmania. The TFCA noted that 22 contractors have exited the market over the last 12 months. These businesses were either sold to employees or to other forest contracting businesses. The TFCA stated that (among other things) it wants to be able to collectively negotiate to ensure that businesses can exit the industry on fair terms.

Fuel cost

The TFCA noted that the cost of fuel is a major component of a transport and harvesting businesses' (and to a lesser degree silviculture businesses) operating costs. The TFCA noted that the wood companies have systems in place to compensate contractors for movements in the fuel price, but that these do not capture the full movement in fuel prices, nor do these existing models act in a timely manner. According to the TFCA the net result is that, forest contractors, working on fine margins (based off calculations assuming reasonable fuel price inflation, in most cases prior to more recent oil price volatility) are subjected to fuel price erosion of business profitability and equity, with no means available to rectify the erosion.

Safety

The TFCA noted that today, some wood companies build roads either just in time or after an operation has begun. This differs from the way the industry traditionally

managed road construction and the result significantly affects the productivity of forest contractors due to limited and partial access. The TFCA also noted that there are delays in roads being built on private property and more roads are being constructed without gravel on them in order to save the land owner or ultimately the wood company money. Whilst the TFCA accept the reasons for this action, particularly on small private property bushes, they believe the resultant decreased access to the job inflicted on particularly cartage contractors has not been reflected in individual negotiations. The TFCA noted that, as forest contractors depend on infrastructure to cart harvested wood, during bad weather they may be faced with a choice of either stopping work or carrying on at the risk of breaching industry safety codes by towing vehicles or be forced to contemplate driving large vehicles on slippery non gravelled surfaces in-order to meet monthly finance commitments. Another example quoted by the TFCA was where harvesting (and silviculture) contractors are forced to consider working in a potentially dangerous environment i.e. falling trees in adverse weather conditions, due to the same financial pressures.

Gunns

The TFCA advised that, while it sought to improve negotiations with all wood companies, much of its motivations were based on experiences in dealing with Gunns. The TFCA expressed the view that Gunns has not provided for work continuity and is not responsive to claims for fair contract terms. The reasons quoted for this observation were numerous including late contract payments, excessively difficult work conditions, poor forward work projections and notification, contract rate disparity etc.

The aim of the application

The TFCA submitted that the overall aim of the application is to promote fairness between participants in the forest industry. The TFCA noted that it is not interested in price fixing and is concerned that other industry participants have misinterpreted the application.