

Our Ref: C2005/1107  
Contact Officer: Cameron Martin / Susan Philp  
Contact Phone: 02 6243 1107 / 02 6243 1354

18 November 2005

Dear

**Tasmanian Forest Contractors Association Ltd – application for authorisations  
A90973 and A90974**

**Consultation in respect of the ACCC's Draft Determination**

I refer to the Australian Competition and Consumer Commission's (ACCC) letter of 9 November 2005 enclosing the draft determination in respect of the application for authorisations A90973 and A90974 lodged by the Tasmanian Forest Contractors Association Ltd (the TFCA).

*Consultation with interested parties -- pre-determination conference*

As noted by the ACCC's previous correspondence, an interested party may request the ACCC to convene a pre-determination conference in relation its draft determination. The purpose of this letter is to advise you that the ACCC has received a request for a conference.

By way of background, the *Trade Practices Act 1974* provides that, once requested, a pre-determination conference must be convened no later than 30 days following the expiration of the initial 14 day period in which a conference may be requested.

In accordance with the statutory timeframes, the ACCC will be holding a conference in relation to its draft determination on **19 December 2005**. The conference will be held at

**The Goulburn Room  
Mercure Hotel Hobart  
156 Bathurst Street  
HOBART TAS 7000**

Conference registration will be from 9:45am and the conference will commence at 10:00am. Commissioner John Martin will chair the conference.

Under the *Trade Practices Act 1974*, the conference may be attended by the applicant and other interested parties. If you wish to attend, you must notify the ACCC of your intention by **cob Thursday, 8 December 2005** and briefly indicate why you or your company or organisation has an interest in the matter. Notifications must be in writing and addressed to:

The General Manager  
Adjudication Branch  
Australian Competition and Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

You can also notify the ACCC by e-mail to: [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au) or by facsimile on 02 6243 1211.

You should provide details of a contact name, telephone number, mailing address and, if possible, a facsimile number or e-mail address so that you can be notified of any late changes to conference arrangements.

If you represent a company or organisation you should also provide a list of attendees and their position titles, and indicate who will be the chief spokesperson.

I would also note that, while conference participants may bring outside legal or other professional advisers to assist them, the *Trade Practices Act* prohibits these advisers from participating in conference discussions.

Attached for your information are procedures usually followed at pre-determination conferences.

This letter has been placed on the ACCC's public register. If you wish to discuss any aspect of this matter please do not hesitate to contact Cameron Martin on 02 6243 1107 or Susan Philp on 02 6243 1354.

Yours sincerely

Scott Gregson  
General Manager  
Adjudication Branch

**AN OUTLINE OF THE PROCEDURES**  
**USUALLY FOLLOWED AT PRE-DETERMINATION CONFERENCES**

The Australian Competition and Consumer Commission (the ACCC) tries to conduct such conferences as informally, flexibly and speedily as possible. Where necessary a conference may be adjourned and reconvened at a later time.

An interested party attending a conference may have the assistance of outside legal or other professional advisers. Although such persons may attend the conference to assist; they are not entitled to participate in the discussion.

The conference will serve a useful purpose in that it gives the ACCC and all interested parties the opportunity to meet face-to-face to discuss the operation and effect of the applicant's conduct and the ACCC's draft determination. The applicant and/or interested persons has/have the opportunity to persuade the ACCC to accept their view. The ACCC benefits from direct contact with the parties, and its perceptions of public benefit and competition are tested in a forum of interested parties where points are often quickly and forcefully made.

**1. Preliminary procedures**

- (a) When you arrive at the conference you will find that a seating plan may be available. You should identify yourself to the ACCC staff before the conference begins and indicate clearly if you expect messages to be left for you during the conference. Further, please complete the attendance book when arriving at the conference. This assists ACCC staff to identify attendees for the purpose of recording the discussion.
- (b) The Chair (a Commissioner) will open the conference by welcoming those present and outlining the requirements of the Trade Practices Act and the manner in which the conference will be conducted. An agenda may be circulated.
- (c) If you intend to present a written comment (and you are encouraged to do so), it is helpful if the ACCC receives it before the conference date. It can then be copied and distributed at the conference. In this way, both the ACCC and other parties present are assisted, and your submission also forms part of the conference record. If you cannot complete the written submission earlier, it is helpful if you come to the conference with extra copies which can be distributed.
- (d) If you intend to present a submission at the conference and you wish it (or certain details in it) to remain confidential, you should make your confidentiality request to the Chair at the time of presenting the document, and you should state in general terms the reason for your request. The Chair may request other parties present to leave the conference for a short period, so that you may be given the opportunity, if necessary to expand on your reasons.

If your request for the document (or parts of it) to remain confidential is denied you may ask for the document (or parts of it) to be returned to you. Any material returned to you will ordinarily not be taken into consideration by the ACCC in making its final decision (unless, of course, it was supplied from another source).

Any document you present without making any request for confidentiality will be placed on the ACCC's public register, and the information it contains may be used by the ACCC in making its decision. Where confidentiality is granted, the confidential information may also be taken into account, although such material will not be placed on the public register.

## **2. General procedures**

- (a) The conference has been convened to discuss the draft determination, to canvass points of view and to assist the ACCC's weighing of issues and its interpretation of the information given to it.
- (b) The procedure is discretionary. The Chair controls the order of discussion, and may take particular topics separately, so that all the discussion, on any given topic may be heard at the one time.
- (c) The conference is not a court, and there is no right of cross-examination. You may request the Chair to ask questions of other parties present, but the Chair retains the discretion as to whether your questions will be put. The Chair, of course, may also directly question the parties at the conference, and they have discretion whether or not to answer.
- (d) ACCC staff present will make a record of the discussion. This will be in minute form, not a verbatim record. The conference record is placed on the public register, and all who attend the conference will receive a copy.
- (e) When the Chair believes that all present have been given a reasonable opportunity to express their views, he/she may terminate the conference.
- (f) The Chair (and any other Commissioner at the conference) cannot give a final decision at the close of the conference. Each Commissioner is only a representative of the ACCC and is required to report back to the ACCC, which will make the final decision.

## **3. Other matters**

- (a) Following the pre-determination conference, the ACCC will review its draft determination in the light of discussion and further submissions made at the conference (or within a set period of time after the conference), and will publish its final determination as soon as possible thereafter.
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Name	Title	Address	Sal
Mr David Hazell	Executive Officer	Tasmanian Forest Contractors Association Ltd PO Box 770	Mr Hazell
Mr Chris Jose	Partner	KING MEADOWS TAS 7249 Freehills 101 Collins Street	Mr Jose
Mr Kim Creek	General Manager (Operations and Sales)	MELBOURNE VIC 3000 Forestry Tasmania GPO Box 207	Mr Creek
Mr Andrew White	Chief Executive Officer	HOBART TAS 7001 Forest Enterprises Australia PO Box 733	Mr White
Mr Mike Claridge	Regional Manager	LAUNCESTON TAS 7250 Rayonier PO Box 865	Mr Claridge
Ms Joanna Hewitt	Secretary	LAUNCESTON TAS 7250 Department of Agriculture, Fisheries and Forestry GPO Box 858	Ms Hewitt
Dr David Boxall	Secretary	CANBERRA ACT 2601 Department of Employment and Workplace Relations GPO Box 9879	Dr Boxall
Mr Mark Addis	Secretary	CANBERRA ACT 2601 Department of Infrastructure, Energy and Resources GPO Box 936	Mr Addis
Mr Trevor Bird	Manager	HOBART TAS 7001 Forests and Forest Industry Council of Tasmania Level 5, 2 Kirksway Place	Mr Bird
Mr Arnold Willems	Supply and Logistics Manager	HOBART TAS 7004 Norske Skog Paper Mills (Australia) Ltd Boyer Mill BOYER TAS 7140	Mr Willems
Ms Jill Lewis	National Director	Timber Communities Australia	Ms Lewis

PO Box 289 DEAKIN WEST ACT 2600 CFMEU - Forestry and Furnishing Products Division 125 Port Road Hindmarsh SA 5007 A & B Nominees Pty Ltd	The General Manager	Sir/Madam
AW Harvesting Pty Ltd	The Manager	Sir/Madam
AUS-AM Harvesting Pty Ltd	The Manager	Sir/Madam
Beaumont Pty Ltd	The Manager	Sir/Madam
Bennett, TP & Sons Pty Ltd	The Manager	Sir/Madam
Blackberry Brothers Logging Pty Ltd	The Manager	Sir/Madam
Blue Tier Logging Pty Ltd	The Manager	Sir/Madam
Forest Industries Association of Tasmania GPO Box 1682 HOBART TAS 7001 Tasmanian Fibre PO Box 751 LAUNCESTON TAS 7250 C/O Transport Workers Union 52-56 Rouse Street Port Melbourne VIC 3207 Page Seager GPO Box 1106 Hobart TAS 7001 SMA Finance Pty Ltd	Mr Larry Henderson Manager - Projects	Mr Henderson
	Manager	Mr Wye
	Branch Secretary VIC / TAS	Mr Noonan
	Lawyer	Mr Rapley
	Director	Mr Sealy

Mr Steve Brumby	PO Box 1089 Rosny Park TAS 7017 Capitalcorp Equipment Finance 54 Tamar Street Launceston TAS 7250	Mr Brumby
Mr Wayne Foss	Tafe Tasmania Hollybank PO Box 1308 Launceston TAS 7250	Mr Foss
Mr Dallas Frost	Team Leader Garrotts Accountants and Advisors PO Box 1000 Launceston TAS 7250	Mr Frost
Mr Greame Elphinstone	Principal Elphinstone Engineering PO Box 55 Triabunna TAS 7190	Mr Elphinstone