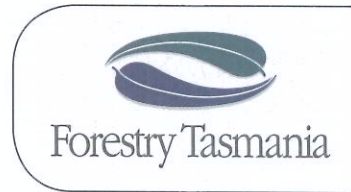


Phone: (03) 6235 8106
Your Ref:
Our File: F60757/30



24 November 2011

Ms Elise Archer MP
c/- Parliament House
HOBART TAS 7000

Dear Ms Archer

Right to Information (RTI) Assessed Disclosure Application – RTI11/21

I refer to your *Right to Information Act 2009* application for assessed disclosure for the following;

- a. *Copy of correspondence from Gunns to FT dated 1 December 2010*
- b. *A copy of a briefing note provided to the Treasurer and the Minister for Resources dated 29 July 2011.*
- c. *A copy of an undated letter to FT advising that the offer of the State to FT was conditional on Gunns Ltd accepting the offer made to them, also provided to Wise, Lord and Ferguson as part of its probity audit.*

Attached are copies of the abovementioned documents.

- d. *A copy of correspondence from FT to Bill Kelty dated 29 July 2011*

This document is publicly available on Forestry Tasmania's website at http://www.forestrytas.com.au/uploads/File/pdf/pdf2011/strategy_to_kelty_supply_capacity.pdf

- e. *A copy of correspondence from Lipman Karam to Gunns regarding Contracts 917 and 918 dated 28 June 2011.*

Forestry Tasmania has no record of any correspondence from Lipman Karam to Gunns.

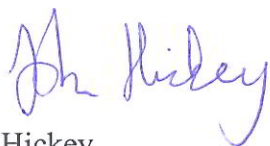
- f. *A file note from FT dated 12 August 2011 and subsequently provided to Wise, Lord and Ferguson as part of its probity audit.*
- g. *Any other documents provided by FT to Wise, Lord and Ferguson as part of its probity audit.*



In relation to the remaining documents, all documentation provided to Wise Lord and Ferguson as part of its probity audit was forwarded from the office of the Minister for Energy and Resources. Forestry Tasmania has no record of the documents submitted and therefore cannot provide the remainder of your request.

You may apply to the principal officer for an internal review of this decision within 20 working days of receipt of this notice.

Yours sincerely



John Hickey
General Manager, Forest Management
Designated RTI Officer

H011/152

(F)



1 December 2010

Mr Bob Gordon
Managing Director
Forestry Tasmania
79 Melville Street
HOBART Tas 7000

Dear Bob

Re - Contract of Sale No.917 and No. 918 ("Contracts")

I refer to recent discussions between Mr Frame of Gunns Limited and Dr Drielsma of Forestry Tasmania.

We confirm, in the interest of promoting mutual goodwill and further advancement of the Tasmanian Forests Statement of Principles to Lead to an Agreement, the parties agree not to exercise or purport to exercise their respective rights under clause 3.3(b) of the Contracts identified above for a period of 120 days from the date of this letter, whilst otherwise reserving all their rights under the Contracts.

Please confirm your agreement by signing a copy of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read "G L'Estrange", with a long horizontal flourish underneath.

Greg L'Estrange
Managing Director

Forestry Tasmania confirm and accept the agreement referred to herein:

Bob Gordon
Managing Director

Dated: ____ / ____ /2010

BRIEFING NOTE

Lara Giddings MP
Treasurer

Bryan Green MP
Minister for Energy and Resources

NOTED
..... (Minister)
Date: / / 11

SUBJECT: GUNNS' DEBT AND RECOVERY STRATEGIES

Purpose

To inform Forestry Tasmania's Shareholder Ministers of the current status of Gunns' debts with Forestry Tasmania and, in particular, of the strategies to deal with the recovery of those amounts that were endorsed by Forestry Tasmania's Board on 27 July 2011.

Background

- + Gunns current account with Forestry Tasmania can be summarised as follows.

- Sawlog and pulpwood supply (Contracts 917 & 918)	\$6.512M
- 2009/10 take or pay (Contract 917)	\$9.881M
- 2010/11 take or pay (Contract 917)	\$7.614M
- Plantation services and other sundry services	\$1.974M
- Southwood sawmill - sawlog supply (Contract 704)	\$0.768M
- Southwood sawmill - electricity and site services	<u>\$0.081M</u>
- TOTAL	\$26.830M
- + Other than the 2010/11 take or pay amount (payable on 31 July 2011), almost all of the above is now overdue for payment.
- + The 2009/10 take or pay amount is subject to formal dispute resolution between the parties.
- + Gunns is withholding an amount of \$5.736M (included in the above) in relation to its claim that Forestry Tasmania underperformed in relation to the China sale agreement that applied from beginning May 2010 to end April 2011. Forestry Tasmania does not accept Gunns' analysis of this matter.
- + Gunns has advised by (by email, on 14 July 2011) that "*regarding outstanding invoices with FT ... all account amounts between Gunns and FT are considered in dispute*". In the same email, with respect to the amount withheld by Gunns over the China sale, Gunns advised that "*this and other disputed matters need to be resolved in total before we can determine what is owed one way or another*".

- + Notwithstanding the advice from Gunns on 14 July, the 2009/10 take or pay amount is the only amount that is currently subject to formal dispute resolution.
- + Forestry Tasmania has unequivocal legal advice in support of its rights with respect to the two take or pay claims and to each of the other significant outstanding amounts.

Discussion

- + Forestry Tasmania considers that it is unlikely to recover any more than a small proportion of the amounts owed by Gunns, unless specific measures are taken to recover the outstanding amounts. This conclusion is drawn from:
 - Gunns' behaviour with respect to payments to Forestry Tasmania over the past twelve months;
 - Gunns' advice on 14 July (see above); and
 - anecdotal reports of Gunns' behaviour towards many others of its creditors over the same period.
- + Forestry Tasmania has formed a view that Gunns' financial problems are overwhelming and may soon lead to the appointment of a receiver by its secured creditors.
- + Forestry Tasmania's Board has authorised the pursuit of all available remedies to seek to recover the amounts owed to Forestry Tasmania by Gunns.
- + The legal remedies available to Forestry Tasmania differ from agreement to agreement, but are basically initiated by the issuing of breach notices. If not rectified within a cure period, Forestry Tasmania is then able to pursue other remedies that include the seeking of Court orders for payment, the suspension of supply (hardly relevant, in the current circumstances), the termination of contracts (also of limited relevance, given Gunns' termination of Contracts 917 and 918 by notice in writing on 18 April 2011) and the seizure of assets.
- + In one case, Forestry Tasmania holds a \$500,000 bank guarantee, and intends to call this guarantee in against the relevant overdue amount.
- + It is also possible (or likely) that further attempts by Gunns to avoid payments due to Forestry Tasmania will lead to further formal disputes and to arbitration, or to Court proceedings.

Conclusion / Summary

To note.



R. Gorda
29 July 2011

Office of the Premier

Level 11, Executive Building, 15 Murray Street, Hobart TAS
GPO Box 123, Hobart, TAS 7001 Australia
Ph +61 3 6233 1464 Fax +61 3 6234 1572
Email Premier@dpac.tas.gov.au Web www.premier.tas.gov.au

WITHOUT PREJUDICE



Mr A J Kloeden
Chairman
Forestry Tasmania
GPO Box 207
HOBART TAS 7001

Dear Mr Kloeden

I refer to my letter of 26 August 2011 regarding the Forestry Statement of Principles process.

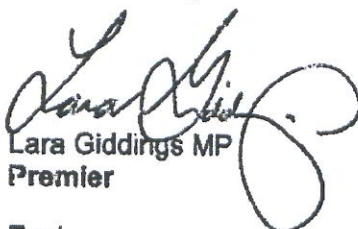
As you would be aware, a pre-condition of the offer made to Forestry Tasmania was the agreement, by Gunns Limited, to an offer by the State in settlement of all rights and obligations under Contracts 917 and 918.

This offer was rejected by Gunns Limited and the State has subsequently revised its previous offer to Gunns Limited. Notwithstanding the revised offer to Gunns Limited, the State maintains its original offer to Forestry Tasmania on the same terms and conditions outlined in my letter of 26 August 2011.

A revised copy of the Deed of Release between the Crown and Gunns Limited has been attached for your information.

I would be grateful if you would indicate your acceptance of this offer by signing the attached Deeds of Release by 13 September 2011.

Yours sincerely



Lara Giddings MP
Premier

Encl

