

From: Schaap, Alex (Environment)
Sent: Monday, 22 August 2011 5:47 PM
To: Brown, Gary (Environment); Willcox, Simon (DPIPWE); Arkell, Brad (DPaC)
Cc: McLeod, Barbara J (Environment)
Subject: File note - Gunns permit

Just had a brief phone conversation with Calton Frame.
He rang to advise what they were planning – in line with his promise to keep us better informed.

Says they have let the contract for site works (Hazel and John Holland joint venture but that's confidential for the mo) and will make quiet announcement in next few days with work starting by end of the week. Reckons works will take 6 wks and \$25 Mil.

They are trying to ensure they are up to speed with all permit requirements and he said they had now made progress with community consultation group with Police, RACT and Council nominees in hand who they will then get to select appropriate community reps (so Gunns don't actually pick the bodies).

He noted that I was being pointed to in terms of substantial commencement and said they were getting their facts together in expectation that they might need to make a submission to someone arguing why they had substantially commenced. Said that would be useful because it would probably be me asking for it as the regulator with most regular need to approve stuff under the permit.

Gave him the same explanation of how I thought things might play out as I had given Alistair Graham (on behalf of TCT who I expect will be writing to me and others on the matter) in phone call a few minutes earlier. Said I thought there were at least two ways in which the question of substantial commencement would be tested.

One was if planning authority (ie George town Council) chose to question if the earth works being done at the mill site were authorised by a permit. [REDACTED]

More likely a regulator, most likely me, needed to determine if the thing he was considering approving or issuing (eg a site plan, permit variation or EPN) related to a valid permit, can't purport to approve an instrument in relation to a permit if that permit has actually lapsed. Said that would happen if and when I had an instrument to consider and that to some extent the timing of that was in Gunns' hands. Calton said they'd probably prefer to have the matter resolved sooner rather than later (to ease investor concerns) so reckon they'll probably ensure I have something to consider in early Sept (a few things on the go now which they could manage to fit that bill). I said if they did that I'd probably seek their advice as to why they thought they had substantially commenced and then take legal advice on the matter.

Said to him as I did to Alistair that whatever I then decided was quite likely to be challenged in one court or another and Calton agreed (as Alistair had earlier). He said that Gunns had taken some advice on how all that was likely to play out and we briefly discussed likelihood of injunction on further works while question was resolved. He said he thought that was unlikely. He also mentioned to me they had done planning with tas Pol re managing safety issues of possible onsite protests.

I wished him luck for next few weeks which we agreed were going to be interesting times for us all.

Alex Schaap

Director, Environment Protection Authority



General Manager - EPA Division
Department of Primary Industries, Parks, Water and Environment
134 Macquarie St (Lands Building)
GPO Box 1550, Hobart, Tas, 7001
Ph: (03) 6233 6279 Fax: (03) 6233 3800
email: alex.schaap@environment.tas.gov.au