

Good Environmental Governance and the Tamar Valley Pulp Mill: A Comparative Analysis of the RPDC and PMAA Processes

Public Lecture
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Disclaimer: The analysis presented here is my own and does not represent the views of either the School of Government or the University of Tasmania

Lecture Objectives

- Set out a framework for good environmental governance;
- Present a (very brief) history of the pulp mill assessment processes;
- Compare the RPDC and PMAA processes across eight criteria of good environmental governance;
- Reflect on the relationship between liberal democracy and good environmental governance.

Good Environmental Governance

- *Government Versus Governance*
- Governance and the Environment
- Normative Conceptions of “Good”
- Eight Criteria of Good Environmental Governance

Government Versus Governance

- Traditional notions of government derive from the Westminster model and stress hierarchical relationships from parliament, prime minister, cabinet, ministers and bureaucracies;
- Model identifies the almost complete power a minister has to make policy;
- Recent literature on how governing actually occurs in liberal democracies focuses on 'governance' (Rhodes 2007; Kjaer 2004; Kooiman 2002; Pierre 2000; Tollefson, Gale & Haley 2008);
- The concept captures the fact that modern governing involves many more actors and institutions than just government—and may not involve government at all;
- Governance can be defined as “steering and coordinating the affairs of interdependent social actors based on institutionalised rule systems”;
- While governments remain important, business and civil society actors play an increasingly important role via public-private partnerships, professional regulation, certification, voluntary codes of conduct, citizens forums, planning bodies, etc.

Governance and the Environment

- Environmental issues are a particular focus of the governance literature;
- Environmental problems are viewed by public administrators, environmentalists, ecologists, and others as “wicked” problems;
- Environmental problems are wicked because
 - There is an absence of good quality causal models of how ecosystems respond to natural and human-induced perturbations;
 - Data collection requirements are extensive, expensive and time-consuming;
 - Interventions that perturb ecosystems potentially affect large numbers of human and non-human actors today and into the future;
 - Interventions can be path-dependent—change can be irreversible;
 - Interventions and non-interventions can have significant distributional consequences for governments, businesses, Indigenous peoples, communities and society at large.

Positive Versus Normative Political Analysis

- Political analysis has a long tradition of normative theorising going back to Plato and Aristotle's concern with the personal and institutional requirements of the "good life";
- Key modernist thinkers—Locke on liberalism, Smith on the market and Marx on capitalism—criticised the social arrangements of their time, making compelling arguments for alternative, better arrangements;
- Today, many theorists have identified serious deficiencies in liberal democracy operating within a globalising market system with respect to social and environmental policy;
- Powerful political and economic forces operating at the global level encounter far less countervailing pressure to be accountable to social, environmental and Indigenous peoples' interests;
- David Held has called for 'cosmopolitan democracy'; Habermas and Drysek have argued for 'deliberative democracy'; Ward and Fox have examined corporate social responsibility; Cashore, Auld and Newsom have analysed "non-state, market-driven" institutions like forest certification institutions;
- In short, there is a large body of literature that is focused on trying to reconcile our desire for political and economic freedom with the equally powerful desire for ecosystem, social and community sustainability.

Criteria of Good (Environmental) Governance

- *Good* Environmental Governance builds on concepts of “good governance” and “environmental governance”;
- The World Bank and IMF popularised the “good governance” concept in a developing country context; however, given how many of those countries are ruled, their focus is mostly on “good government”;
- It is a requirement of the World Bank that good governance include “the respect of the citizens and the state for the institutions that govern economic and social interactions among them” (World Bank 2007);
- The Institute on Governance (IOG) based in Ottawa, Canada, has developed a detailed conception of good governance that stresses the importance of the process by which public decisions are made: they include participation, transparency, responsiveness, consensus orientation, effectiveness and efficiency, accountability and strategic vision (IOG 2007);
- Similar lists appear in the literature on governance; they vary though in the number of criteria included and in synonyms chosen (i.e. participation versus openness);
- Later, I identify **eight** criteria of good environmental governance and use them to analyse the RPDC and PMAA processes;
- But first, a very brief history of the RPDC and PMAA processes.

RPDC Assessment Process: I

- **June 2003:** Premier reported to have dined with Gunns' Executive Chairman and to have discussed draft pulp mill proposal;
- **November 2003:** Minister for Primary Industries, Water & Environment requests RPDC to review Australia's 1995 *Environmental Guidelines for New Bleached Eucalypt Kraft Pulp Mills*;
- **October 2004:** Premier accepts the RPDC Guidelines; Gunns announces that Pöyry recommend in favour of a pulp mill; Government establishes a Pulp Mill Task Force within the Department of Economic Development;
- **November 2004:** Pulp mill project declared a "Project of State Significance" or POSS; Gunns submits its draft project scope guidelines to the RPDC;
- **December 2004:** Gunns issues a writ suing 20 environmentalists for damages;
- **February 2005:** Gunns releases IndustryEdge report and announces Bell Bay as the preferred site over Hampshire; Bell Bay (Long Reach) reported to offer "better wood supply and supporting infrastructure including road, rail, power, gas and port access";
- **January 2005:** Federal Ministry for the Environment and Heritage approves RPDC process as an "accredited process" under the Environment Protection and Biodiversity Conservation Act, 1999.

RPDC Assessment Process: II

- **February 2005:** Julian Green alleges he issued first of several requests to Bob Gordon, Head of the Government's Pulp Mill Task Force, to curb its activities to prevent it having "negative effects on the Commission";
- **April 2005:** RPDC releases its Draft Scope Guidelines based on Gunns' November proposal and calls for public submissions;
- **May 2005:** Gunns' submits revised project scope on final day of public submissions period for an elemental chlorine-free mill with a larger footprint that utilises some softwood;
- **August 2005:** Gunns submits its revised project scope to RPDC;
- **November 2005:** RPDC releases the Report on Gunns' Revised Project Scope and issues call for public submissions;
- **December 2005:** RPDC releases its Final Scope Guidelines enabling Gunns to proceed to draft its Integrated Impact Statement;
- **May 2006:** CommSec, the Commonwealth Bank's securities arm, releases report arguing Gunns is losing market share to mainland Australian producers as a result of a Japanese preference for plantation feedstock; Gunns' shares trends downward;
- **June 2006:** Gunns submits its 7,500 page Integrated Impact Statement to RPDC; IIS prepared by various consultants including Jaakko Pöyry, Ecotox Services Australasia, Pacific Air & Environment Ltd, Toxikos Pty Ltd, and GHD Pty Ltd.

RPDC Assessment Process: III

- **July 2006:** RPDC issues call for public submissions on Gunns IIS, which close in September;
- **July-October 2006:** RPDC commissions several reviews of Gunns IIS by Beca AMEC, CSIRO Marine and Atmospheric Research, Farley Consulting Group, URS Forestry and UniQuest Pty Ltd;
- **October 2006:** RPDC holds its first Directions Hearing in Launceston; Tasmanian Greens lodge claim of apprehended bias against Dr Warwick Raverty;
- **December 2006:** Dr Raverty resigns from the RPDC Pulp Mill Assessment Panel on the advice of Bill Bale, Solicitor General; Julian Green resigns from the RPDC and its Pulp Mill Assessment Panel; Both allege action required as a consequence of interference from the Pulp Mill Task Force;
- **February 5, 2007:** Former Tasmanian Supreme Court judge Christopher Wright takes over as chair of the RPDC Pulp Mill Assessment Panel; Andre Hamman is appointed to replace Warwick Raverty;
- **February 16, 2007:** Gunns lodges Supplementary Information with RPDC;
February 22, 2007: Wright chairs second RPDC Directions Hearing in Launceston, and blames Gunns for past delays;
- **February 25, 2007:** Premier meets with Gunns' Executive Chairman but few details released as to what was discussed.

RPDC Assessment Process: IV

- **February 27, 2007:** Premier meets with Christopher Wright to discuss options; accounts vary but aim appears to be see if RPDC process can meet Gunns preferred deadline of June 30th 2007;
- **March 2, 2007:** Wright alleges he was “heavied” by the Premier and tenders his verbal resignation to Linda Hornsey, Department of Premier & Cabinet; Wright claims resignation letter not sent because Hornsey assures him that Premier does not intend to terminate RPDC process;
- **March 2, 2007:** It is reported that Simon Cooper, Acting RPDC Executive Commissioner, drafts a letter outlining ‘deficiencies’ in Gunns’ supplementary information, which is forwarded to the Head of DP&C, Linda Hornsey; it is further reported that Hornsey requests the letter not be sent and that Gunns was informed of its contents;
- **March 9, 2007:** Gunns’ share price falls on the ASX; trading at around \$3.10 in late February, it is at a low of \$2.62 in early March;
- **March 14, 2007:** Gunns announces its withdrawal from RPDC process to the Australian Stock Exchange, resulting in a sudden upward spike in its share price, Gunns shares trade above \$3.45 over next couple of months (current share value as of August 2007 is about \$3.60).

Pulp Mill Assessment Act (PMAA) 2007 Process

- **March 14, 2007:** Premier reported to have called an emergency Cabinet meeting;
- **March 15, 2007:** Premier announces intention to legislate to ensure an assessment that meets Gunns' deadline of June 30; Premier's decision backed by TCCI, CFMEU and TCA;
- **March 17, 2007:** Premier Lennon publishes *Open Letter to All Tasmanians* explaining reasons why fast-track assessment process is necessary;
- **March 19, 2007:** Premier reportedly stated that a team from DP&C is meeting with Gunns with a focus "on the recommended legislation to go to Parliament";
- **March 23, 2007:** Pulp Mill Assessment Bill passes Tasmania's Lower House of Assembly (vote is 21 in favour (14 ALP, 7 Liberal) and 4 against (Greens));
- **March 29, 2007:** Tasmania's Upper House votes in favour of the PMAA (9 in favour, 5 against); against are Terry Martin (Elwick), Norma Jamieson (Mersey), Sue Smith (Montgomery), Jim Wilkinson (Nelson) and Kerry Finch (Rosevears);
- **April 18, 2007:** Lower House of Assembly agrees to minor changes and Pulp Mill Assessment Bill is passed; Sweco Pic is announced as the Government's preferred consultant;
- **July 5, 2007:** Sweco Pic releases report recommending the pulp mill "proceed to further consideration by the Tasmanian Parliament", but indicating 8 of 100 guidelines not met; ITS Global releases its economic and social assessment concluding that "the numbers demonstrate the gains to Tasmania of the Pulp Mill".

Good Governance Criteria to Assess the RPDC and PMAA Processes

- Transparency of Information
- Accountability of Process
- Openness of Policy Network
- Interest Balancing
- Deliberative Decision Making
- Efficiency of Process
- Science-Based Process
- Risk-Assessment Process

Transparency

- Concept refers to the quality and timeliness of information as an input into decision making;
- All things equal, the better and more timely the information, the better the decision;
- But relevant information may not be available because we do not understand the causal relationship involved;
- This was the case when CFCs were invented in the 1930—it was only in the 1970s that Rowland and Molina demonstrated a causal connection between CFCs and ozone layer depletion;
- But even if we understand the causal relationships, information is a strategic resource; those who have it may not wish to share it because it may not support the position they are adopting;
- This is a problem because planning decisions invariably require a great deal of information and much of that information is tainted by omission and spin.

Transparency and the RPDC/PMAA

- **RPDC**

- Process rendered difficult by establishment and operation of the Pulp Mill Task Force (PMTF), which produced only positive accounts of pulp mills;
- However, RPDC collected, collated and reviewed large quantities of information from the proponent, Government, interest groups and general public;
- Also generated its own information from internal deliberation and from use of consultants that report to it;
- Made an effort to separate spin from fact; to rectify omissions.

- **PMAA**

- Sweco Pic and ITS Global based analysis on already existing information;
- That information is recognised now as deficient following Cooper's unsent draft letter of March 2;
- Both reports appear to be written with an eye to convince as well as analyse.

Accountability

- Conventional definition is “the obligation to answer for a responsibility conferred”—focus is on ‘vertical accountability’;
- That is, an entity is accountable to those that appointed it as in the idea of ‘ministerial responsibility’;
- There is also an emerging “all affected persons” conception of accountability;
- Entities are accountable not only to those that appointed them but to the broader groups that will be affected by their decisions and actions;
- The more powerful you are, the more you affect others; hence, the greater is your accountability to those who appointed you and to the externally affected audience;
- Accountability is a power relation; nobody likes to be accountable for their actions; everyone tries to limit the degree to which they can be held to account.

Accountability and the RPDC/PMAA

- **RPDC**

- Vertically accountable to the Government;
- Horizontally accountable to those affected by the decision;
- General objective of planning institutions like the RPDC is to depoliticise the planning process;
- Able to hold Gunns accountable for its IIS.

- **PMAA**

- Vertically accountable to the Government;
- No formal requirement for horizontal accountability to those most affected;
- Professional ethics of individuals may involve some horizontal accountability;
- Unknown whether Sweco Pic held Gunns accountable as information on their meetings is not in public domain.

Openness

- Conventional understanding of policy making tends to view it as exclusive purvey of ministers and governments; this view is derived from the Westminster model of government;
- More recently, however, political analysts and public policy specialists have emphasised the key role of policy networks;
- Policy networks encompass governments, business, NGOs, academics, and scientists—all are involved in the elaboration of a policy over time;
- Policy networks can vary in the degree to which they are open or closed to actors with different values and interests;
- When making decisions with respect to the environment, open processes are required given the “wicked” nature of the issues raised.

Openness and the RPDC/PMAA

- **RPDC**

- Worked within the context of a closed policy network that constantly challenged its authority, especially through the PMTF;
- RPDC process was open to a wide variety of different groups with different interests and values; 780 submissions were made in 2006;
- Environmental, forestry, business, community and Indigenous peoples had at least the opportunity to express their views.

- **PMAA**

- Process closed to all but key proponents—Gunns and the Government;
- Little opportunity for non-members of the forest policy network to get involved;
- Consultants engaged with Government and Gunns, but not with community at large.

Balance

- Decisions can be taken by processes that are more or less balanced;
- Unbalanced decisions reflect the input of only a few interests or values;
- This occurs in forest sector corporatism, for example when governments, the forest industry and forest workers bind together to form an 'iron triangle' that is closed to external interests representing the environment, community and Indigenous peoples;
- Environmental sustainability requires interest balancing so that decisions are not dominated by economic logic alone.

Balance and the RPDC/PMAA

- **RPDC**

- The RPDC PMAP consisted of four members with expertise in different areas: environmental assessment, pulp mill technology, urban and regional planning and law;
- However, these individuals did not represent specific interest sectors;
- There were also several important omissions—from Indigenous peoples, social constituencies, unions and non-forestry business;
- Much more could be done to ensure balance on the RPDC.

- **PMAA**

- PMAA process consists of two government-appointed consultants reviewing existing documentation;
- Little effort made to ensure balanced input into making the decision;
- Sweco Pic had narrow expertise in pulp mill technology;
- ITS Global focused on the project's forestry-derived economic benefits;
- Much more could have done to ensure balance on the PMAA.

Deliberation

- Deliberation is a key component of good environmental governance;
- All things being equal, the more deliberative the decision making process, the better the outcome;
- Deliberation is especially important on environmental issues where the complexities of the effects are compounded by incomplete causal models, inadequate data, the risks attending action (and inaction) and the potential for irreversibility;
- Ideally, deliberation results in social learning—individuals engaged in a good deliberative process modify their ideas, values and interests as they come to see the issue from the perspective of others;
- Good deliberation requires respect for the opinions of others—for civil engagement and a willingness to listen;
- Such civic mindedness has been notably absent in the current debate—and on all sides;
- Gunns is not Darth Vader; the Greens are not Daleks.

Deliberation and the RPDC/PMAA

- **RPDC**

- Established as a body to deliberate on the requirements of a pulp mill, review the proponent's IIS, consider public submissions and comments at public hearings and reach a conclusion;
- Adversarial nature of the process especially in public hearings made social learning difficult;
- Some social learning may have occurred within RPDC but unknown as meetings not public.

- **PMAA**

- Established as a technical process to determine whether emissions from pulp mill met the RPDC's Final Scope Guidelines;
- Deliberation may have occurred internally within Sweco Pic and between Sweco Pic, Gunns and the Government; do not know as discussions confidential;
- Narrowness of actors' interests suggests social learning unlikely.

Efficiency

- Decisions need to be made within a reasonable time frame;
- If the decision making process lasts too long, then commercial opportunities can be forgone and/or parties can become frustrated and exhausted;
- The duration of a process should be determined in part by the size, complexity, consequences and risks of the decision;
- Ideally, the duration of the process should be determined in advance and parties should commit to achieving a timely outcome;
- The larger the project, the more complex it is, the greater the consequences and risk, then the longer the assessment process should be;
- How efficient was the RPDC process?

Efficiency and the RPDC: I

- When does process commence?
 - With Premier's dinner in June 2003?
 - With Gunns referring the project to the RPDC under its Project Scope I in November 2004?
 - With Gunns' submission of its revised Project Scope II statement in May 2005? or
 - With the release of the RPDC's Final Scope Guidelines in December 2005?
- Timeline significant because constitutes Government and Gunns' rationale for abandoning the RPDC process;
 - Of the above dates, it is most sensible to consider project commenced in November 2004, when it was declared a POSS and Gunns submitted its first project scope guidelines;
 - If we assume that the RPDC under Wright completed the assessment at the latest likely date, in March 2008, then the total assessment process would have taken **three years and four months**;
- Is this too long?

Efficiency and the RPDC: II

- Project is extremely large, complicated and risky;
- These factors justify a longer than 'normal' assessment process;
- But what is 'normal'?
- In the UK
 - Heathrow Terminal five took seven years to approve;
 - North Yorkshire electricity grid up-trade, six years, five months;
 - Diben Bay Container Port upgrade, more than three years;
- **But**
 - Coventry Airport took one year to approve;
 - Felixstowe Harbour also took about one year;
- **If**
 - Gunns had met its deadlines and not changed its Project Scope I on the final day of the public assessment period in May 2005;
 - the Government had reined in the Pulp Mill Task Force;
- **Then**
 - the project would have been assessed much sooner, likely within three years;
- Given the magnitude, complexity and riskiness of the project, the level of public interest and concern, and the delays caused by both the Government and Gunns, it is hard to conclude that three and a half years is too long.

Efficiency and the PMAA

- The PMAA is highly efficient;
- This is largely because it
 - Builds on the past work of the RPDC;
 - Considers only emissions from the pulp mill and the socio-economic benefits of the project;
 - Excludes public submissions and public hearings;
 - Focuses on the mill's technical specifications, not on its wider environmental, social and political implications.

Science-Based Decision Making

- Science plays a key role in good environmental governance;
- But scientists can honestly disagree with each other in terms of theory, experiments and data;
- Classically, Einstein rejected the Heisenberg Uncertainty Principle arguing “God does not play dice”—that principle is now a cornerstone of modern physics;
- Hence, scientists need to be given the opportunity to review and interrogate each other’s science so that any errors of theory, modelling and data can be assessed and corrected—or at least debated;
- This model of science forms a stark contrast with the popular model where science is viewed monolithically—there is a single body of knowledge that all scientists share and agree on.

Science and the RPDC/PMAA

- **RPDC**

- Used Beca AMEC as its basic scientific advisor on the technical aspects of the pulp mill;
- Supplemented with other reviews by CSIRO Marine and Atmospheric Research, Farley Consulting Group, URS Forestry and UniQuest Pty Ltd;
- Tested by external scientists through the public submissions and public hearings process;
- Identified considerable deficiencies with Gunns IIS and Supplementary Information.

- **PMAA**

- Government adopted competitive tender process to hire Sweco Pic and ITS Global to carry out its scientific analysis;
- Both Sweco Pic and ITS Global had access to full RPDC data;
- Unclear extent to which public submissions and RPDC consultancies were considered in preparing final reports;
- Process found relatively few deficiencies in Gunns' IIS and Supplementary Information.

Risk

- Projects vary in terms of how risky they are;
- Risk arises from flawed models of causality, poor data, pushing boundaries, and implementation inexperience;
- Assessing risk is a critical aspect of any project evaluation exercise;
- The pulp mill proposal evinces many risks: these include
 - Economic risks associated with non-forestry business;
 - Health risks associated with particulate emissions and fugitive odours;
 - Environmental risks associated with air, water and land pollution;
 - Social risks in terms of its impact on Indigenous and local communities;
- Of these, I will focus here on the economic risks.

Risk Analysis and the RPDC

- **RPDC**

- Relied on its consultants and public consultations to assess risk in relation to various project elements;
- Allen Consulting, using Monash's Centre of Policy Studies MMRF-Green model, projected benefits of \$6.7 billion to Tasmania over 23 years to 2030;
- However, the Allen Report does not canvass the risks that the assumptions on which it is based might not be correct;
- When producing such projections it is normal to provide three different scenarios—low, moderate and high;
- Naomi Edwards, formerly an actuary with Deloitte Touche Tohmatsu, made this point in her submission to the RPDC; she argues that Allen Consulting should have conducted a sensitivity analysis of the MMRF-Green model to illustrate how the different assumptions interact to generate different outcomes;
- Generally, the RPDC appears to have been willing to accept the Allen Consulting model at face value.

Risk Analysis and the PMAA

- ITS Global was responsible for the socio-economic evaluation of the proposal;
- It did not undertake a sensitivity analysis of the Allen Consulting report;
- It did not perform a cost-benefit analysis of the project;
- To the extent that the report recognises the negative impact on the Tamar Valley, it trades off the risks there with the wider benefits to Tasmania as a whole.

RPDC and PMAA Compared

Good Environmental Governance: RPDC and PMAA Compared

Process	Transparency	Accountability		Openness	Balance	Deliberative	Efficient	Science	Risk
		(Vertical)	(Horizontal)						
Ideal	High	High	High	High	High	High	High	High	High
RPDC	Moderate	High	Moderate	Moderate	Moderate	Moderate	Low	Moderate	Moderate
PMAA	Low	High	Low	Low	Low	Low	High	Moderate	Low

Subjective Analysis

- There is, of course, an element of subjectivity in this analysis;
- There is room for analysts to rank the RPDC and PMAA processes somewhat differently across each criteria;
- However, I believe most analyses would rank the RPDC process higher than the PMAA process across most criteria;
- The analysis also validates the reaction of most Tasmanians to the RPDC and PMAA processes;
- When asked in the recent EMRS Poll: “Do you agree with the newly legislated ‘fast track approval process’ for the proposed Tamar Valley Pulp Mill?”, 64% disagreed; only 26% agreed;
- This analysis validates Tasmanian’s concern; there is simply a great deal wrong with the PMAA process.

Concluding Thoughts: Liberal Democracy and Good Environmental Governance

- In a recent book, *Why Politics Matters*, political scientist Gerry Stoker reflects on why so many people loathe politics;
- He argues that we need to engage in “making the democratic form of governance that now dominates the world work better” as it is “the only way we can avoid something worse taking its place”;
- Politics, he says, involves “the hardest of human skills: listening carefully to the opinions of others and their expressions of their interests”;
- Stoker argues in favour of “expanding the opportunities for citizens to have a say about the issues that they care about” and that “representative politics needs to be understood as a more active exchange between citizen and representative and restructured to give more scope for local and global decision making”;
- I agree wholeheartedly;
- Sadly, instead of expanding our opportunities to provide more scope for local input into the pulp mill debate, our politicians appear to want to eliminate them;
- In Tasmania, at least, it appears there is currently little scope for good environmental governance;