

**THE PARLIAMENTARY JOINT STANDING COMMITTEE ON ENVIRONMENT,
RESOURCES AND DEVELOPMENT MET IN THE RECEPTION ROOM, TOWN
HALL, LAUNCESTON ON MONDAY, 2 APRIL 2007**

Mr SCOTT McLEAN, Ms EVA DOWN, Mr DEAN SMITH AND Mr DANIEL MURPHY, OF THE CFMEU WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

Mr McLEAN - The Construction, Forestry, Mining and Energy Union's Forestry and Furnishing Products Division and its members determined, after the decision of 29 January 2007 by Taswood Growers to award 290 000 tonnes of pine resource to Forest Enterprises Australia rather than to Auspine, that we could only act on what we knew. Therefore the content of this submission could probably be appropriately known as 'What we Know'.

What we know is that the decision of 29 January 2007 destroys 310 jobs and decimates the north-east community. What we know is that the decision by Taswood Growers, a joint venture between GMO Renewable Resources and Forestry Tasmania, could not have properly taken into consideration the social and economic impact that is evident in section 12 of the Forestry Act, and the Government Business Enterprises Act's consequential contracts arrangement.

What we know is that the decision was made prior to the release of the social and economic impact statement undertaken by Dr Tony McCall, which was released on 19 February - and the decision was made on 29 January. We know that Grantham Mayo van Otterloo, which is GMO, clearly states on its web site that social and economic outcomes are considered but do not form part of the overall decisions of GMO.

We know that the Forestry Tasmania board members of Taswood Growers, in sworn evidence to this committee, apparently represent themselves as individuals on the board of Taswood Growers. They did not take into consideration the interests of Forestry Tasmania or their shareholder, the Tasmanian State Government, when they made this decision on 29 January.

What we know is that Forestry Tasmania and GMO, in sworn evidence to this committee, would not admit that they actually made the decision to award the 290 000 tonnes of softwood resource to FEA. What we know is that Forestry Tasmania and GMO, in sworn evidence to this committee, say that Rayonier made the decision to award the 290 000 of resource to FEA. What we know is that Rayonier, in sworn evidence to this committee, says that Taswood Growers made the decision to award the 290 000 tonnes of resource to FEA. What we know is that neither Taswood Growers nor Rayonier will admit to making the decision. Therefore, the questions from our point of view are: who made the decision and how could Taswood Growers and Rayonier swear that clause 12 of the Forestry Act, and the GBE act, have been taken into consideration when making the decision when they both deny making the decision?

What we know is that Rayonier, in sworn evidence to this committee, said that they changed the guidelines to accommodate the bid by FEA for the 290 000 tonnes. What

we know is that FEA is not able to process logs over 30 centimetres in diameter. What we know is that FEA's plan, and they have admitted it, was to pickpocket one of Auspine's sawmills, pickpocket their work force and pickpocket Auspine's Tasmanian customers. What we know is that FEA has sold logs that were awarded to them in the 290 000 tonne softwood contract back to Taswood Growers who, through their agent Rayonier, has now entered into a contract to have Auspine process those logs

What we know is that the wider implications of the 29 January decision were never taken into consideration. They could not possibly have been taken into consideration. For example, the impact of not processing larger logs would decimate the construction industry in Tasmania. What we know is that the 29 January decision is wrong. It does not and could not take into consideration the social and economic impact as described by the Forestry Act. We have a couple of examples to justify this statement. Auspine has two fully functional and operational sawmills in north-east Tasmania. It has a highly skilled work force consisting of 310 workers that is more than capable of processing 290 000 tonnes, and in fact has a capability of processing approximately 400 000 tonnes as it stands today, without taking into consideration the capital upgrades that are currently being examined by the company, and there are a number of those.

FEA, on the other hand, has one sawmill in northern Tasmania with a 30-centimetre restriction on it, approximately 40 workers, and does not have and never has had the ability to process the resource. At its peak, the FEA operation will employ a maximum of 100 workers. Auspine currently employs 310 workers. Therefore, after the decision, we have had a net loss of more than 200 direct jobs.

We know that FEA does not have the work force, either in numbers or with sufficient skills, to process the resource or to operate the machinery. We also know that north-east workers and their communities refuse to accept this unjust decision. In conclusion, we know that neither the provisions of the Forestry Act nor those of the GBE Act have been properly considered and that this decision is blatantly wrong. We believe it should be overturned. That is all I have by way of an opening submission, Chair, but certainly we are more than happy to answer any questions that might come from the committee.

Mr BOOTH - Scott, you mentioned there that FEA sold logs back to Rayonier, I think you said, who then onsold them back to Auspine.

Mr McLEAN - Back to Taswood.

Mr BOOTH - Back to Taswood, rather, and they onsold them back to Auspine. What do you base that on?

Mr McLEAN - They told us last week that they did.

Mr BOOTH - Who told you that?

Mr McLEAN - FEA - sorry, the week before.

Mr BOOTH - That FEA had sold it. I am asking this because we are trying to drill down to this point and find out whether the contracts were like and like and whether or not FEA were contracted to take those big butt logs.

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Mr McLEAN - Yes, they are.

Mr BOOTH - It is your understanding, then, that the contract requires FEA to take or pay for those logs, or that Taswood Growers would simply take the responsibility for disposing of them. If they couldn't, FEA would have to pay for it?

Mr McLEAN - We were told on a number of occasions that exactly was the case - that it was take or pay. Therefore the sale back to Taswood Growers actually alleviates the pressure on FEA, whilst assisting Auspine as well.

Mr BOOTH - So is it your understanding, then, that Taswood Growers would only take them if they were able to resell them, and if in fact they couldn't be resold then FEA would be left having to pay for them whether they took them or not?

Mr McLEAN - I don't know about whether they had to take them or not, although I understand that was the case. If the big logs were unable to be processed, then they had to pay for them. We have been told that on a number of occasions, but we're yet to see any evidence of that.

Mr BOOTH - By FEA.

Mr McLEAN - They told us two weeks ago that they would be selling logs back to Taswood Growers. That is the ludicrousness of the contract: we send 290 000 tonnes to a mill that is not able to process them, then they sell them back. It helps Auspine out by Taswood or Rayonier selling them on to Auspine, but it doesn't make any sense to us. The whole thing is just crazy.

Mr BOOTH - I'm just interested in that you are now saying publicly that that's the case.

Mr McLEAN - Well, that's what we were told two weeks ago on Friday.

Ms DOWN - On Friday 23 March we had meeting with Andrew White and Ross Farlow, and we actually asked them what would happen with the over-supply logs in the interim. He said that Rayonier would be the sole agents for those logs over 30 cm in diameter, and that Auspine should negotiate with Rayonier for the purchase of those logs.

Mr BOOTH - That they said they'd actually sold them back then to Taswood Growers.

Ms DOWN - At our meeting I asked them whether, as they had won the tender for those logs, they were actually their logs. They said no, that in the interim the over supply logs were not their logs, that they were selling that volume back to Taswood Growers, Rayonier, and that Auspine were to conduct negotiations with Rayonier.

Mr BOOTH - Thank you.

Mrs RATTRAY-WAGNER - Scott, do any of your CFMEU members belong to the FEA organisation?

Mr McLEAN - Yes, they do.

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Mrs RATTRAY-WAGNER - How do you deal with that particular situation, as we speak?

Mr McLEAN - The story at the moment is that a number of people have gone to FEA, not just from sawmills but from all over the place. The jobs - or the union members - that you are talking about are not affected by this decision as such because they were employed anyway. We have about 12 members at FEA at the moment but there has been a bit of an increase over the last few months. But the point is that if the whole thing were reversed, it wouldn't make any difference to anybody. People are not going to lose their jobs as a result of the decision being reversed as such so that is how we deal with it. I have spoken to some of our members at FEA and they are not at all concerned about it because it wouldn't make any difference to them quite frankly.

Mrs RATTRAY-WAGNER - They could still work in the timber industry.

Mr McLEAN - They would still be working for FEA because FEA have achieved contracts other than the 290 000 tonnes.

Mrs RATTRAY-WAGNER - Specific to what they are able to process?

Mr McLEAN - That is correct.

Mrs RATTRAY-WAGNER - In your understanding, will the announcement, of FEA purchasing the fibre plant over recent days, mean that there will be an opportunity to process the timber in less than 14 months, the time frame that has been mooted at the very early stages of this?

Mr McLEAN - It would be supposition on my part but I have intimate knowledge of the fibreboard plant. Nearly the entire work force was in union since 1996 right up until its closure. What they have purchased is a big power plant - the boiler is a big one - and two large sheds. One of them has a 30-metre hole in the middle of it but, that aside, it is a very nice administration block. There is some outside stuff but I don't think even refiners and the hoppers and things that they have there would be suitable for sawmilling as such. It is all right for woodchips if you want to make board but what they have purchased is a lot of land with some big sheds on it ostensibly because nothing I can think of that was in there would be suitable for sawmilling as such. It is all right for panel boards but not for sawmill.

Mrs RATTRAY-WAGNER - That 14 month time frame would still be the time frame you would expect before FEA are up in full production?

Mr McLEAN - I would have thought so. That may be a bit optimistic but I am no builder of sawmills. It will take a lot of work to get the operations up and running.

Mrs RATTRAY-WAGNER - With the recent announcement that Auspine will be able to secure some of the resource from FEA that they don't require, how long is that option open? Are they able to renegotiate again in the future, in the next 12 months say, to achieve more than that?

Mr McLEAN - We understand that to be the case - that there is extra resource for up to 12 months and then some time in the future.

Mrs RATTRAY-WAGNER - Because my understanding of the contract was that the 290 000 tonnes that has been allocated to FEA was the total package. They already received an allocation prior to Rayonier - I think it was for 40 000 from memory - so there is already a spare 40 000 tonnes floating around there as well. Has Auspine been able to secure any of that original 40 000 tonnes that was swinging because the 290 000 tonnes was the total amount of their contract?

Mr McLEAN - I think the 40 000 is included in the 290 000 tonnes.

Mrs RATTRAY-WAGNER - Hence there would be 40 000 tonnes extra because they already had 40 000 allocated. Would you assume there would 40 000 extra -

Mr McLEAN - Somewhere.

Mrs RATTRAY-WAGNER - Has that question been asked of Rayonier?

Mr SMITH - The question we asked them was about the original being 316 000 and the announcement being 290 000. We asked them what happened to the other 26 000 and the answer was that they were left to grow on and wouldn't be available for us to buy. There was no other explanation.

Mrs RATTRAY-WAGNER - So there has not been an explanation for the 40 that FEA took prior to the deal and now should be available somewhere?

Ms DOWN - I think from the union's point of view they have been encouraging Auspine to extensively lobby Rayonier for that resource and for any additional resource that they may have. One of the union's concerns in regard to Rayonier was the potential for that resource to be exported out of the State when we were looking to process that obviously in the Scottsdale mills. I think that has been a fairly nationwide campaign now from the CFMEU to end exporting of sawmill-quality logs.

Mrs RATTRAY-WAGNER - Have you made any inroads into that commitment from anybody - government, Rayonier?

Ms DOWN - I was going to say the only commitment that we had was in the meeting that we had with Paul Lennon on the day of the pulp mill announcement. He assured us that he would do whatever he could to assist in the stopping of any export of that volume and so we have been taking other avenues. There was a tender that was put out by Rayonier for 44 tonnes of log, and 20.2 tonnes of that was category one and then it went down in various volumes to the pulpwood allocation. Auspine did make a bid on that and that bid was unsuccessful.

Mrs RATTRAY-WAGNER - Unsuccessful?

Mr McLEAN - They advised me that it was tendered but no-one was successful. There were no successful tenders.

Ms DOWN - They were bidding against the export market. They were told in the constraints of the tender document that they would be bidding against the export market because those logs were destined for export and in fact a part of the tender package was specifications on the lengths of those logs were for the export market and that is where we come back into it; if these were trees still standing we would hope that Auspine had an opportunity to negotiate appropriate domestic lengths that we needed the timber to be cut into.

Mr SMITH - Which is where with the export I sent those photos off to Alison Standen. Who is else did we send them to?

Ms DOWN - Michelle O'Byrne, the Dorset Council.

Mr SMITH - Just to see if anyone has any avenues they can use to try to stop it and to see the quality of the logs down there. We took Rod Martin with us who has represented the company for years. Not currently - Garry Harper is now in the role - but he fully understands the whole process, what the specs are and everything and what is required for sawlogs, as I do anyway just being a loader operator and working in the log yard and having done training in that area in log quality. But he has a more comprehensive knowledge so I thought he was a good person to take with us. We had another fellow from the green mill, a coordinator from the green mill, who actually cut the logs. All the right people went down and had a look and even right up alongside the fence. If they knew we were coming they probably would have stacked them somewhere in the middle where you could not see them from the fence. But they were stacked alongside the fence and it was unbelievable to see the stuff that was there. It frustrates us no end.

Mrs RATTRAY-WAGNER - So, in your opinion, you see nothing tangible on behalf of anybody, any stakeholder, that has given you any comfort that they are serious about stopping the export of logs until at least we resolve this situation?

Mr SMITH - I was not at the meeting when Mike Claridge said it but the other members were. They asked about export and he said, 'No, we have no intention of stopping export', and that was before the decision was made. They told us just recently that 17 per cent of the total logs that they control is exported and they considered that only 4 per cent of that 17 per cent would be millable. I could not put a percentage on it, but more of what I saw down there was millable than was not.

Ms DOWN - One of the most important things that has become very evident to us as we have got further and further involved in the export debate is that it seems that Rayonier is driven solely by the profit margin and not in any way, shape or form by retaining Tasmanian jobs. That is of great concern to the union, that we are actually in the process of exporting raw materials out of our State without any value-adding when we have the infrastructure to value-add that product in our State.

Mrs RATTRAY-WAGNER - It appears to be contrary to policy, both the public policy and also government policy, in trying to have that downstream processing.

Mr GUTWEIN - Mr McLean, I want to ask you about the situation we find ourselves in and if it is not able to be reversed, what the impact is going to be on the broader pine market in 12 months' time. If I could just provide a context to that. It appears to me that we

effectively almost double the cut of pine in Tasmania. The simple supply and demand pressures are going to come into play at some stage. I would have thought that either we are going to see a massive decrease in the price that consumers pay for goods as both FEA and Auspine attempt to retain markets, or conversely that's going to be passed back up the supply chain and we are going to see an impact on both Auspine and FEA and their operations as they stand now. You are close to the timber industry. What is your view on what the possible outcomes might be?

Mr McLEAN - We've had a number of discussions nationally about this. Part of the reason that we are amazed that anybody would particularly want to enter into the pine market at the moment, or the softwood market at the moment, is that there's a huge over supply right down the east coast of Australia. The New South Wales market is ever decreasing and a really depressed market at the moment. In Tumberumba we've got a sawmill that processes over a million tonnes or just on a million tonnes of softwood resource per year and they have actually stacked most of that, after it's been processed, in the car park. Workers can't park in the car park, there's that much timber up there.

Auspine at the moment has the customers, FEA does not have customers for the volumes that they're talking about, so what we will end up with, I suspect - and it has been evident in the hardwood industry over a number of years a number of times - is either a price war or with both operations downscaling and job losses. That's what we will end up with because what you say is right; effectively what we have done is double it. We are looking at probably the destruction of the softwood market in Tasmania because there will be a huge oversupply of it if FEA goes after Auspine's customers.

In the submission that we made in opening, we believe that the key to it was to get one of those north-eastern mills, to get the work force, and as important was to get the customers. So we are either going to have a price war or we will see a downsizing of both; either that or the logs will be exported or woodchipped and exported.

Mr GUTWEIN - Are there any winners at all out of where we have ended up?

Mr McLEAN - I guess if you were employed by Auspine at the moment you'd be reasonably happy, if you consider on 29 January we didn't have a stick and we've now got well over 350 000 tonnes for the next 12 months. Anyhow, at least that's how it is at the moment. Again, the question of whether there are any winners, I don't think there are. Certainly the end consumer potentially might be a winner, but I don't think either Auspine or FEA would particularly be winners because they are both trying to service the same market. The advantage at the moment is to Auspine who, quite frankly, are not supposed to be here. As of Saturday night they were supposed to announce huge amounts of job losses, and through the diligence of a whole group of people we have been able to stop that from happening. We will continue with our very best efforts to make sure that there are no job losses.

We are looking at the destruction of the market or downsizing of both operations potentially, or exporting logs and wood chips.

Mr GUTWEIN - Just following on from that, if I can, and you have made your views clear on section 12A, do you believe that court action by somebody is an option that needs to be looked at? Should Auspine be taking this matter to the court, or have the CFMEU

considered, on behalf of your members, taking this matter to court and testing whether or not section 12A has been applied as part of this process?

Mr McLEAN - We have had discussions with Auspine about that. I understand that Auspine is currently considering that. The CFMEU is certainly considering that and we are taking advice and waiting for that advice through our barristers on the mainland. My view about the case is that we wouldn't be throwing members' money at something we didn't think would bring about a result. Obviously the lawyers and the judge, or judges, at some point will determine that. There is no doubt there is a case there, certainly from our point of view.

Mr BOOTH - The CFMEU Forestry division is affected severely in terms of the Auspine workers and Scottsdale, so will the 'C' part of the CFMEU resist the construction of a new mill?

Mr McLEAN - I don't think they will resist the construction of a new mill. I am not sure I understand the question.

Mr BOOTH - You have come here as the CFMEU representing forestry workers but you also have construction workers who will be employed on the Bell Bay site, so I was wondering what mechanisms are available to you.

Mr McLEAN - WorkChoices prevents us from taking a lot of the action that we used to take. Section 45D under the Trade Practices Act also prevents us from taking action to prevent the construction of the mill. Thirty years ago it might have been case, but not these days.

Mr BOOTH - So you don't see any avenues?

Mr McLEAN - Not as far as I am aware, no.

Mr BOOTH - Getting back to section 12A of the Forestry Act and whether or not it has been breached, you said you felt that it had. So did a lot of other people. Did you have any input as a union into this log deal in terms of logging, government, forestry ministers, Taswood Growers or Rayonier? Can you give us a bit of a run down?

Mr McLEAN - With delegates and the community workers action group, I think we met with everybody on a number of occasions.

Mr BOOTH - Was that post the deal or before the deal?

Mr McLEAN - Before the deal, and we have met with them all again post the deal. We met with Rayonier on a number of occasions. They gave us briefings on the resource. We met with the Premier on a number of occasions. Unfortunately we didn't, and this only occurred to me the other day, get an audience with Forestry Tasmania or GMO or the board of Taswood Growers, but we attempted to meet with them. We continually lobbied and we got the Premier to a point where he agreed in November last year to support the idea of a mediator because the deal was obviously locked. Unfortunately, about a week later FEA came into the field and went over the top of it. So, yes, we certainly attempted to meet with everybody that could influence the deal or had a hand in it. The only people we couldn't get to were Forestry Tasmania and GMO.

Mr BOOTH - Were you aware in November, when you had the meeting with the Premier, that FEA were going to make an offer or were looking at the resource?

Mr McLEAN - No, we weren't at that stage.

Mr BOOTH - Okay. In the meetings that you had with the Premier, you didn't meet with the forestry minister at that time?

Mr McLEAN - We met with the previous forestry minister, yes, and then the Premier, who became the forestry minister.

Mr BOOTH - Did you make it clear in those meetings that this would have an effect on jobs in the Scottsdale area? Was that part of your lobbying?

Mr McLEAN - Absolutely.

Mr BOOTH - So you made it very clear it would affect jobs?

Mr McLEAN - Absolutely. We were concerned, prior to FEA making its bid, that 31 December 2006 would come about and we still would not have a log supply agreement for the two mills. That would ultimately affect the jobs of people in the north-east. Then of course events led up to and right through November when FEA came in, and ultimately to the decision on 29 January 2007.

Mr BOOTH - So in regard to both the GBE act and section 12A of the Forestry Act in regard to employment you are quite clear that you put that position to the Government?

Mr McLEAN - Absolutely.

Mr BOOTH - So they were very aware that there would be job losses.

Mr McLEAN - Our only concern in this whole process is the jobs of workers in the north-east and the north-east community. Before FEA, we saw what would happen if they did not get a log supply deal. After the FEA made their bid we knew it would simply decimate the north-east if it went the way that it went. Our primary concern has been the jobs of those 310 people in their community.

Mr BOOTH - Right, thank you. I wanted that clear in case they argue they were not aware or something like that.

Ms THORP - You would be aware from evidence previously received by the committee that Rayonier reckon they have made the best decision. Of the two tenders received they chose the one that they felt was best for the long-term viability of the softwood industry. Efforts are being made to keep up a resource for Auspine and issues have been raised by other members about the possibility of oversupply, which obviously would not have been part of that decision-making in the first place. In terms of making a decision about which company to get the logs from, do you think there was an assumption that one of those companies would cease to exist?

Mr McLEAN - Yes, I do not think there is any doubt about that. I should just clarify that. The assumption was that Auspine would cease to exist. If FEA did not get the logs, ultimately it would not make any difference to them, except they would not necessarily increase their operations in softwood because they market them now as EcoAsh. So it would not have made so much difference to FEA but it was always going to decimate Auspine if the decision of 29 January were to stand. That is why I made the statement earlier that it was about getting one of those mills. There is no doubt about that. That was their plan A and they have said it publicly. It was about getting the workers and the customers. The assumption was that on 31 March 2007 Auspine would cut what they have left and then that would be the end of Auspine. So one of those mills would be there, one way or the other. That was the assumption.

Ms THORP - Where does that leave us now in all these efforts to find a resource for Auspine to keep it going? How does that gel with the overall planning that would have gone into FEA's thinking about their tender?

Mr McLEAN - That is something that we had mulled over for a long time. Auspine's strength is that it has the customers. We make no bones about the fact that people sitting at this table and sitting across in those chairs have been around those customers to assure them that the future will be secured. If Auspine can continue supply the timber under the same arrangements that have been in place for years, and can continue to supply the quality, every single customer has said, 'If you keep doing it under the current arrangements and we can get the supply, then there is no question about it; we will stay with you'.

Ms THORP - So the very rationale that went into choosing FEA as the successful tender has been undermined by the fact that Auspine is still a player?

Mr McLEAN - That is the case.

Ms THORP - You said earlier that, given the job impact, the fact that they were an existing company and had their existing clientele base et cetera, you found the decision nonsensical - and that is my word not yours.

Mr McLEAN - Yes, absolutely.

Ms THORP - You would like to see that decision reversed, but where do you think the head of power can come from to do that?

Mr McLEAN - I suspect there are only probably two places. I am not sure how far this committee's powers go, and I suspect that the only other one is in a court of law.

Ms THORP - Is that based on somebody somewhere having a power to intervene in this?

Mr McLEAN - Yes.

Ms THORP - Who would that be?

Mr McLEAN - Either this committee or a judge.

Ms THORP - Right. So is the nub of it, for want of a better expression, a legal interpretation of the meaning of 12A as it relates to a joint venture?

Mr McLEAN - That is certainly one option, there is no doubt about that, but we believe, rightly or wrongly, that the provisions of 12A have not been taken into consideration. The social and economic impact that this decision potentially caused last Saturday on 31 March to the north-east of Tasmania is catastrophic. You have only got to look at Tony McCall's report and it is fairly clear what it says. He says it is a worst case scenario but it is the scenario. It is not the worst case scenario any more; it is the scenario.

We are talking about the decimation of the north-east, the absolute decimation of it. There would be nothing left. It is not like living in Hobart or Launceston where you might have to drive to a different suburb to get a different job. After what happened up there with the vegetable processing plant and then the shut down of these two mills potentially, there is nowhere else for them to go. There are no hops any more. The vegetables are looked after, the spuds are dug, the hay is bailed in big bails, there is nothing left up there. We are talking about 70 kilometres from anywhere at best on some of the tightest roads in Tasmania. It is not as if we can go from Mowbray to Kings Meadows or from Battery Point to Lindisfarne; this is the decimation of the north-east. It is the end of it because there will be nothing left.

The biggest employer after these is the fish factory or the fish people down on Ten Mile Track near Springfield and I think they employ about 30 people so there would be nothing left in the north-east - no jobs, no schools, no future. . That is the outcome.

Ms THORP - I am finding it interesting that the very rationale, one would assume, that was used by Rayonier to make a choice between FEA and Auspine was long-term viability. That long-term viability seemed, from everything that has been said here, to include there being only one player in the game. Now, as things seem to be panning out, we have two, so that very rationale becomes a little bit suspect. It all comes back to whether or not 12A should have been taken into account when the decision was made.

You mentioned earlier that you had discussions with the Premier and the then forestry minister in relation to the potential impact of Auspine's closure on the north-east coast. Was anything said at any time that gave you the impression there was a power to intervene through Forestry Tasmania's powers under the Forestry Act?

Mr McLEAN - From the Premier's point of view and from the previous minister's, no, there was no question about that. We believed that, again rightly or wrongly, 50 per cent of that resource was still owned by the public of Tasmania. Therefore, from a layman's point of view, two things were able to be done. First and foremost, in our view, the minister of the day ought to have been able to exercise some influence over the Forestry Tasmania board and members of Taswood Growers. We certainly thought that was the case and we thought that the Premier might have been able to put legislation through parliament to stop it from happening. We were advised on all occasions that that wasn't the case.

Ms THORP - So it is very clear in your mind that in the minds of both the Premier and the forestry minister at the time they did not have the capacity to intervene under the legislation as it stood?

Mr McLEAN - That is certainly what they told us, yes.

Mr BEST - In relation to those meetings, was there any discussion about the sales agent agreements?

Mr McLEAN - In respect to?

Mr BEST - That some of these issues relate to the fact that not a lot would happen legislative-wise because there was a joint venture that came back to a sales agent agreement.

Mr McLEAN - I don't know about sales agent agreement but I certainly know that publicly that was what was being stated - the press releases are all there.

Clearly our view was that the Government of the day or certainly the minister could influence those in some way, shape or degree. That is why we were somewhat taken aback at the last hearings of this committee where Forestry Tasmania and the Taswood Growers board said that they didn't make the decision, that Rayonier made the decision; and then Rayonier said that Taswood Growers made the decision and nobody really said who made the decision. Somebody made the decision; we just don't know who did and we have never been able to determine that.

Mr BEST - In relation to Auspine as a company, they have proven to be a fairly good company in terms of relationships with employees and so forth.

Mr McLEAN - Auspine is as hard a company as any other - and I have said this a number of times. But when it comes to their commitment to training and accreditation, the committees that they have set up and the time that they allow people to attend those committees, they would be a model for this industry in this State. There is no question about that.

Mr BEST - Where do FEA sit then in the way they treat their employees? I realise it is on a lesser scale as they have only 40 employees.

Mr McLEAN - We are talking about really what is a fledgling company. They don't have the practices or indeed the structures that a company the size of Auspine has and it is pretty much 'go to work and then go home' stuff.

Mr BEST - And you mentioned they were involved with EcoAsh?

Mr McLEAN - Yes, they market EcoAsh.

Mr BEST - And how successful has that been?

Mr McLEAN - I think from a marketing point of view that the EcoAsh, which is a plantation hardwood, is probably one of the most successful campaigns I have ever seen. But as for the end product, I have never used it. I don't know of anybody who has, but it appeals to a lot of people who embrace that clean, green thing.

Laughter.

Mr BEST - Either fairly or unfairly, do you think that there may have been some consideration that, even though they may not be in the same league as Auspine, FEA had done a pretty good job and perhaps the joint venture partners thought that they showed some promise because of the way they handled EcoAsh?

Mr McLEAN - Regardless of what people think of FEA - whether it is good or it is bad - the point is that we are talking about a company that consistently loses money - and you only have to visit the web to have a look at it. I think last year they lost \$1.2 million.

Mr BEST - FEA?

Mr McLEAN - Yes. And these were things that we don't understand. You have a company that is losing money and yet they get this contract.

CHAIR - There has been a lot of speculation about Auspine and the fact that they were reluctant to get involved in the tender process and when of course the decision was announced they said, 'We will match anything that has been offered.' What is your opinion on that?

Mr McLEAN - I understand - and again we were working quite closely with Auspine at the time - that the bid that they put in was for a price or whatever else was offered. I understand that is how it went. There was price conformity or whatever the best price was offered they would match. I understand that that was how it went. They did put in their own set of figures, as I understand it.

CHAIR - Would you consider that to be normal commercial practice?

Mr McLEAN - Not being a person who particularly deals in contracts, I don't know whether it is or it isn't, but I guess if you put in a tender and said, 'Whatever they offer I'll pay', you'd have to be in the show.

Ms THORP - Could I go back to the joint venture agreement, just briefly, which I understand is something that was worked out some years ago.

Mr McLEAN - In 1996-97, and signed in 1998.

Ms THORP - Yes. It seems apparent that we're still having an argument about it, whether or not the terms of the joint venture agreement actually abrogate responsibilities under those particular sections of the Forestry Act. In your opinion, how difficult would it have been to negotiate a joint venture agreement between the Crown, as represented by FT, and a joint venture partner like GMO, had the section 12A responsibilities had to remain in the contract?

Mr McLEAN - I was never aware that they weren't part of the consideration because I understand that they were.

Ms THORP - So you don't see that a private enterprise group like GMO would have any difficulty signing an agreement that had within it that any economic decision they make has to look at the socioeconomic impact on the area in which they work?

Mr McLEAN - I don't think that would be a problem. Their web site says that that's one of the things that GMO actually consider, though it doesn't necessarily form part of their final decision. That is a double-edged sword, I guess, because on one hand they are saying that they believe they should consider it, but they don't take it into consideration. On the other side we believe that the joint venture agreement quite properly takes into account the provisions of section 12A. So it's two sides of the coin, if you like.

Mr BOOTH - Scott, getting back to section 12A again, you believe they in fact have not followed their obligations under section 12A of the Forestry Act?

Mr McLEAN - That's quite clearly the view.

Mr BOOTH - So that's in terms of the current level that's seen Auspine lose its allocation, but also if in the construction of the original joint venture agreement there was some effect in that they sought to trade out of that obligation by constructing a joint venture to allow Forestry to walk through it, or to put it in a different way, to suddenly lose and shed that responsibility, you would say that breaches section 12A again if that is the case?

Mr McLEAN - Yes. It also breaches the law, we understand, because you can't contract out of your responsibilities. That's as we understand it. Again, I'm no lawyer.

Mr BOOTH - So clearly you are looking at breaches of section 12A and the GBE act, both in the original 1998 burn and what came before that, and the current burn as well.

Mr McLEAN - Yes.

Mr BOOTH - Getting back to the issue of picking up one of the Scottsdale mills, and I think you mentioned, Dean, too that you supported the contention that FEA intended to pick up one of the mills, either French mill or Auspine, that is in conflict with evidence, to my recollection, that this committee has already had. Can you detail further where that's come from or how you've come to that?

Mr McLEAN - They publicly stated it, didn't they. That was plan A.

Mr BOOTH - That was my understanding.

Mr SMITH - They said they always had a plan B, never ever alluding to what plan A was, but it's obvious. We never wanted to make this a thing with FEA; they got the contract. We were more on how the deal ever came about. We met with the customers as part of trying to work out whether we still wanted to keep their support, and one of the customers said to me that they had gone out and said, 'As of the 31st you will be dealing with us'. That is what infuriates me about it all, that that was their plan all along, to just come in and take over the market and not come in to be a competitor; just come in and take it over and obviously buy one of those mills.

I suppose if you've got no resource, if we hadn't got the resource we got and we had lost our customers to them, then you're going to pick up a mill a lot cheaper than Auspine paid for it. But it was all just a big deal; as far as I am concerned it was all interlinked. It was just a plan right from the start that that is what was going to happen. I think what they are putting out as their plan A was actually their plan B.

Ms DOWN - I think it is fairly evident and, as most people will know, Auspine and French Enterprises traded independently of each other and managed to supply the Tasmanian market plus they also supplied small volumes to the mainland market. Then obviously when Auspine purchased French Enterprises that was not to the detriment of anyone in our community or to the detriment of any of our customers on either side. We still managed to maintain that volume to all the customers in Tasmania and also some of our mainland base. Putting it quite simply, if I was to open a coffee shop in Scottsdale and I wanted to go to the bank, I would have to do a business plan to borrow some money and as part of that business plan I would have to establish that there was a need for me to be in that business. What we are proposing now is that FEA who have a small business, rather than expanding their business are actually acting as a predator and looking to wipe out Auspine because what they have done is, rather than seeing that there is a need for their product, the need for their volume to go into our Tasmanian market and the depressed mainland market, look at eliminating our opportunity to exist and to service our current customers. So I do not see that that is a sustainable business plan when it is a predatory manoeuvre to secure that resource.

I do believe, like Dean does and the union firmly does, that they were looking for Auspine to close the doors. I have also been around to customers and they were told as of 1 April Auspine would be unable to supply the customers and that they would have to deal through FEA.

Mr BOOTH - They were told that by FEA?

Ms DOWN - By an FEA sales representative. In fact they actually gave the customers detailed lists of what did they buy currently off Auspine, what sort of prices did they pay for that? They did not even know their customers' worth, they did not even know the product that their customers needed, so they had not done their research as part of formulating a business. I could not get a loan if I had not done my research so I am a little bit amazed that they can win a tender contract for the volume and potentially destroy a community, without doing their research.

Mr BOOTH - Just getting back to that plan A which you understand was to take over French's old mill or Auspine or the whole lot - both mills?

Ms DOWN - I would assume that they would be obviously buying the French's site. We are the more diverse site - actually Auspine and French Enterprises in the past have complemented each other with their range of product that they put into the market. Auspine mainly looks at structural and treated product whereas Frenchpine has diversified into the niche market of inch boards and dress boards which you have a higher return for. You do not need to have that large volume because it is actually a higher returning product. In the past the two companies actually complemented each other so I would assume that the pick of the mills would be the Frenchpine site. We

process structural and treated timber product as well so it would be pretty reasonable that French's was the site that they would want.

Mr BOOTH - I just want to make it clear that this is in conflict with my recollection of what has been given to this committee previously in regard to there being a plan to gut one of those mills. What you have indicated is that there was -

Ms DOWN - I think one of the differences probably, Kim, is the fact that you are looking at a group of people here and also that are seating out in those seats that have actually been involved in the timber industry for an extensive period of time, French Enterprises was a 75-year-old company before it sold out to Auspine so there goes a lot of experience in the timber industry. One of the things that we know about FEA is while they promote themselves as a Tasmanian company, they are in fact a group of investors from the mainland. They do not have an actual history in the timber industry. They are looking to make some money. As we have stated before, they have made a \$1.2 million loss in the past two trading years. What they do make their money on is plantation timber. They have investors from the mainland, like lawyers and doctors, and that is how they make their money - by putting the timber in. What they are processing at the moment is a raw timber product and I know that when French Enterprises were operating that we used to purchase some of their raw timber green racks that they used to make. They do not have a kiln process. They have a limited planing mill in operation at the moment.

Mr BOOTH - I do appreciate that and I understand everything you are saying, that the synergies are right and that it would make sense to do that. However, I am more interested about the evidence of what they said they were going to do. Did they said it publicly or is it hearsay or speculation? Do you believe they actually stated that that is what they would do?

Ms DOWN - We have transcripts. They actually put out the ASX announcement on the day they won their contract. They said that they were going to build a \$50 million plant at Bell Bay. On an interview on the Tim Cox show, Andrew White said that plan A was to possibly purchase one of the mills and that plan B was to build a mill. In another discussion on 23 March he actually referred to his 'own' mill at Bell Bay as being the proposed mill. He did not actually say it was the mill that they were definitely going to build, and that may have been a slip.

Mr BOOTH - Could we get a transcript of the show for the committee, and any other evidence that FEA were going to do that because that appears to conflict with some things that have already been said.

Mrs RATTRAY-WAGNER - You said, Scott, that Auspine were a hard company. Can you define what 'hard company' means in the corporate world? We have heard a lot about Auspine's ethics and whether they have done the right or wrong thing in people's perception.

Mr GUTWEIN - Using the CFMEU as the benchmark.

Laughter.

Mr McLEAN - Since 1993 I have negotiated seven EBAs - enterprise agreements - plus a number of other negotiations in relation to a whole raft of issues with Auspine. Auspine are not hard to deal with but they are a hard nut to crack. However, at the end of all those negotiations we have always arrived at an outcome. Sometimes the outcome is a compromise. They are hard but they are fair, and you would not expect anything else from a company of that size. There are a whole series of companies in the timber industry that I would call hard, but you always get an outcome. 'Unreasonable' is when you do not get an outcome and that is crazy. There are not too many of them, though there are some. Auspine are always hard in negotiations but not hard to deal with, so we always get an outcome.

Mr SMITH - We got to a stage with their EBAs where the union was just a contact point, a sounding board. We are now actually negotiating them ourselves with the company. We have got to the stage where we can negotiate an outcome that we are all happy with on our own. That is why we cannot work out why they could not come to an agreement. If Auspine were the issue, why then was Auspine asking for mediation all the time, and why did they say they would abide by whatever the independent mediator decided?

Mrs RATTRAY-WAGNER - I particularly wanted to ask that question because there have been some not so kind comments about Auspine's position in the corporate world. From what I have seen, they certainly seem to have supported their work force since 29 January. I just thought it was a good opportunity to put it on the record

Mr McLEAN - By way of a supplementary answer, we can be hard too in all sorts of negotiations about all sorts of things, but at the end of the day everybody is reasonable and we get an outcome. Hard and reasonable, as opposed to unreasonable.

Mr GREEN - All of you have a fantastic knowledge of the softwood industry. I'd much prefer not to be here because, as I have said publicly, it would have been nice to get an outcome that would have suited everybody. That's not the case, so we'd better deal with it. I am interested in the export logs and the angle the union is taking in banning the export of saw-quality logs. Can you give an indication to the committee as to where those logs on the wharf are coming from? Are they all under the allocation from Taswood Growers to Rayonier as a result of the joint venture, or do they come from private land or other sources?

Mr McLEAN - Some of them certainly come from private resource, there's no doubt about that. The logs that we are talking about are logs that come from crown land.

Mr GREEN - So from FT's other forestry resource?

Mr McLEAN - Yes. What we've been looking for is the opportunity to at least look those logs over when they're standing as opposed to when they are cut into short lengths. Again, those lengths haven't got anything to do with whether the mills can handle them or not, because they can. The problem is that nobody wants to buy timber of that length. What we are after is that, with logs from crown land, Auspine should at least have the opportunity to look over those trees while they're still standing, in the interests of securing those jobs, and to determine whether they are right or wrong for their particular operation and for their market. Then they should have the opportunity to have them cut to the lengths needed. The longer lengths are better for contractors.

Mr GREEN - In talking to Frenchpine and Auspine over a period, can you give an indication to the committee as to the reason why apparently those logs had never been processed here?

Ms DOWN - Up until this point in time, Frenchpine and Auspine separately have been able to process through Rayonier the volumes of timber that they both wanted to process, or that they were capable of processing. Rayonier were, in an addition to that -

Mr GREEN - Export?

Ms DOWN - Yes. The export stuff was actually additional income to Rayonier, and then obviously that flows back through to FT. Auspine and Frenchpine at that time were concerned about harvesting of those logs, not because they could process them at the moment but because they wanted the opportunity to process them in the future. They felt Rayonier were taking some short-term money gains by harvesting that product. You also have to realise that in the north-east a large amount of our high quality north-east pine logs actually goes past our two mills down to Burnie to be exported, and formerly to Bell Bay to be exported. That has been a concern ever since Rayonier became the agent for the marketing of the softwood resource in Tasmania.

This has exacerbated the situation. We understood fully that there was going to be a drop in the market. This is what we were crying out about seven or eight years ago. We were saying there was going to be a downfall because unfortunately there had been a problem with management of the resource, in replanting the plantations, so there wasn't going to be enough resource to meet Auspine's and Frenchpine's needs. We were saying back then, 'Rayonier, you need to stop this because in eight years' time we're going to need every single stick simply to maintain the mills'. It was not to put each other out of business; it was simply to maintain the current operational level in both of those mills.

Rayonier chose not to listen. They exported and they have exacerbated the situation, as far as the union is concerned, to the point where now the mills in the north-east are in jeopardy. Also what you have to consider is that our getting the additional resource also puts FEA in some kind of financial trouble as well because we are going to go head to head competing with them.

Mr GREEN - It has been put to the committee by Rayonier that in their negotiations with in the end Auspine but with the two companies prior they have always indicated that those logs would be available to those companies or Auspine in the end if they were prepared to pay the cartage cost, particularly from the north-west. I do not think there is any doubt about the quality of the logs from the north-west. It seems to me that there has always been a stalemate around the export plus 5 per cent figure. Can you give an indication as to what the union has done in the past to try to get to a point where an acceptable arrangement could be worked out with respect to that resource?

Mr McLEAN - Over a number of years we have talked to Frenchpine and Auspine when they were two separate companies and then Auspine once it purchased Frenchpine along with Rayonier. We had some discussions with Forestry Tasmania but, as it stands at the moment, as far as I know, Auspine had never previously received a tender for those logs and there was never an opportunity -

Mr GREEN - That is not what they said here. They said there had been previous opportunities for people to do exactly what Dean was talking about - that is, look at the logs and make an assessment. They argued that when that opportunity was given there was black rot and other things that affected their decision to actually take the resource. Rayonier argued that and of course the cartage costs was an argument that they put forward as well. The point I am making is that it just seems to me that there has always been a stalemate around the technical problems: you get one side of the equation saying, 'Yes, we want them and are prepared to pay you' but the other side of the equation is saying, 'We'll sell them if they are prepared to pay' but you can never get to the point in the middle.

Mr McLEAN - Previously there has never been a -

Ms DOWN - I think that is probably one of the positions the union took when we were part of the delegation to the Premier - we were looking for some kind of potential mediation between the two companies to resolve that issue. As far as the union is concerned, as soon as you start to export raw product - and I know how the Government feels about that - you are exporting Tasmanian jobs and that is obviously something that we want to avoid. So what we are actually trying to engage is someone to step in in the void and once again ask for mediation and to help on that resource.

Mr GREEN - Can you appreciate the difficulty, though, associated with that being a privately-owned resource as opposed to resources under control -

Ms DOWN - Basically I suppose the point of view that we take is that we are asking for help. We recognise that there is an issue. We recognise that we have not been able to come together. Obviously, it seems like such a simple thing: someone wants to sell logs and someone wants to buy logs, so why isn't it happening? If it is not happening -

Mr GREEN - It is a cause of great frustration to me, I can tell you.

Ms DOWN - That is basically the position that we are in now - we are actually asking for that help, how do we get those two parties together for the benefit of Tasmania. Ultimately what we are talking about is the benefit of Tasmania.

Mr SMITH - One of the last offers from Auspine was for no net loss to Rayonier on export. Whether you talk about private owners or whoever Rayonier is acting on behalf of, if they can get the same price and keep them in Tasmania -

Mr GREEN - And that was unacceptable to Rayonier is what you are saying?

Mr SMITH - Yes.

Mr GREEN - What was the reason they gave?

Mr SMITH - It did not meet the guidelines because it was a non-conforming bid.

Mr GREEN - From the point of view of?

Mr SMITH - Because you are saying you will match it or at no worse than you would get anyway. It was not the highest bid -

Mr GREEN - Rayonier wanted a price.

Mr SMITH - They wanted a price so -

Mr GREEN - As opposed to 'we will match'?

Mr SMITH - Yes.

Mr GREEN - I see.

Mr SMITH - So you have to come in and just make up a price - I mean, if Exeter sawmill comes in and says, 'We'll pay such and such' and they get it, but it is the same as FEA, what are they going to do with it? You say yes, you put in a price and if you lose, if the price is not good enough -

Mr GREEN - But if the tender is asking for a price, wouldn't you think you would put in a price?

Mr SMITH - They put in two bids, one conforming and one non-conforming and their price was the highest price but it was not acceptable to them. This is what you are dealing with all the time with these -

Mr MURPHY - You would think that would be a fairly bold move on Auspine's behalf, offering at no net loss to Rayonier on the export price and not knowing what the export price is with the fluctuation of the dollar.

Mr GREEN - It seems perfectly reasonable to me - that has been the frustration.

Mr GUTWEIN - This is in relation to the most recent tender?

Ms DOWN - The 44 000 tonnes.

Mr GUTWEIN - Yes. So Auspine put in two bids - one conforming with the price and one non-conforming that had no net loss to Rayonier - and still didn't get the logs.

Mr SMITH - And they were the highest bidder. You'd think they would say, 'All right, the bid wasn't the highest but we'll take your other offer of no net loss'.

Ms DOWN - Which actually leads you to the very strong belief -

Mr GREEN - For a long time there has been this argument that is very difficult to get your head around because it never seems to pan out. You have both sides arguing that they want the resource, they want to sell the resource -

Mr BOOTH - Point of order, Mr Chair. It is actually Eva Down who is being examined at the moment, not the ex-minister.

Mr GUTWEIN - I was happy to let him go for a moment! You are right; it does seem ridiculous if on one hand you have somebody who is a willing seller and on the other somebody who is a willing purchaser, but over the years we've never been able to get to a mutually agreed position. That is certainly a frustration for many of us on this side of the table.

Three questions I want to ask. Firstly, in relation to the customers: Dean, you have indicated you went around the customers and spoke to them, and they were happy to remain with Auspine. What would be the situation in 12 or 18 months' time if all of a sudden there was a massive price cut in the market with FEA entering the market, looking to win market share? I think blind Freddy could see that is the only way they are going to enter the market - by undercutting Auspine. Do you think your customers would still be loyal?

Ms DOWN - Obviously, without being able to answer on behalf of Auspine and their marketing team, you would assume that Auspine, being the fierce competitor that they are, would cut the prices too. You would have to question how long both of those companies could maintain operating at a loss, because basically that's what you are resulting in. Just as a point on EcoAsh, while they've been marketing that quite heavily, they actually had to cut the price on it back to that of pine to get into the market. So they are actually operating at a loss just by already trying to supply the EcoAsh material.

Mr GUTWEIN - Okay. The second question is in relation to the issue of mediation. In November, the Premier agreed to support the concept of mediation; obviously the union was working at a meeting with the Government through a period of last year. In your opinion, why did it take until November for that decision by government to be made to support mediation? Did you do anything different in the month of November that might have assisted the Government?

Mr GREEN - Can I just have a point of order there, Mr Chairman? I think the question that Mr Gutwein is asking is a reasonable one, except that he's putting it in the context that the Government accepted mediation, whereas my memory of what the Premier was saying was that he would ask whether the joint venturer would agree to mediation as opposed to him making the agreement and therefore organising the parties to have mediation.

Mr GUTWEIN - I think what I said was that it took until November for the Government to support the concept of mediation, which is what I think they did. I certainly wasn't implying that the Government was going to mediate or insert itself at that particular point. So why did it take until November?

Mr McLEAN - I guess it all started in March 2006. The very first rally that we had in Scottsdale called for mediation, and that was just prior to the State election. The State election came and went and we unashamedly have been working the State Government as hard as we possibly could because that rally called for the parties to agree to mediation. So we went to the Premier. I think Bryan might have been the minister there for a while, too.

Mr GREEN - I was minister at the time.

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Mr McLEAN - Yes. Then we went to the Premier, and it seemed that our efforts actually came to some fruition. We worked the State Government very hard; we certainly worked the Premier very hard to ask him to come to the party. I am not talking about the State Government appointing a mediator; we did however ask the State Government to fund the mediator and that was the mediator that could be agreed between the parties, between Rayonier and Auspine. Auspine, of course, had said categorically that they would agree with whatever a mediator might come up with and they would open their books to the whole thing. But I guess it was somewhat complicated by Rayonier; whether that was Rayonier Asia Pacific, talking to the joint venture or not, I do not know. But all the responses we got were from Rayonier saying that they wouldn't agree. But we had been working with the State Government very hard. The Premier finally agreed and then called publicly for the appointment of a mediator and said, 'We need some mediation on this. December 31 is coming ever so fast'. Then I think it was the following week that FEA put their bid in, which made it purely an academic exercise at the end.

Mr GUTWEIN - So why, in your opinion, didn't the Government, say in June or July, support the concept of mediation and try to get these contractual negotiations back on the table immediately?

Mr McLEAN - I honestly do not know and it is something that we have contemplated for a long time.

Mr GUTWEIN - You said earlier that it would have been FEA's view that they would have killed Auspine when their offer was accepted, and I think you said that in your view Taswood Growers would have been of that view as well. How on earth did we get to the situation that we did in January where –auspine, a company that had been here for a long period of time, was going to be killed off?

Mr McLEAN - We really do not know. If you look at the structure of Taswood Growers, there are three Forestry Tasmania representatives on the board of Taswood Growers and that question has never been answered. The three people who were part of making the decision say that they enter the boardroom of Taswood Growers as individuals, they do not represent Forestry Tasmania - Forestry Tasmania is only a stakeholder in the State Government - but they actually go there as individuals. They made a decision and it is still beyond belief that they could make a decision that would destroy a whole community and then try to tell the people of the north-east and the people of Tasmania that that was the best social and economic outcome and sustainable outcome for the softwood forest industry in this State. Any reasonable, thinking person knows that that is simply not the case. How is taking away 310 jobs and creating 100 potential jobs with a net loss of at least 200 jobs - and then use the multiplying effect of the whole thing – benefit the community? It just doesn't make any sense.

Mr GREEN - Just say the other section 12A doesn't apply, then there are commercial negotiations that take place. What you are effectively saying is that Rayonier should not have bothered with the tender process, they should have just gone and seen Auspine and seen what they were prepared to pay for the pine.

Mr McLEAN - They tried the tender process and it fell over. There was not one single compliant bid. I am talking about back in May, I think it was.

Mr GREEN - But that was because of the specifications, wasn't it -

Mr McLEAN - No.

Mr GREEN - and then they went back to the original contract.

Mr GUTWEIN - Can I come back to my original question?

CHAIR - One at a time.

Mr GUTWEIN - I think, Dean, you attended the superannuation conference on the mainland representing the CFMEU. We have heard that representatives from Forestry Tasmania take no regard for their responsibilities to FT or to FT shareholders when they sit on the board of Taswood Growers. As a result of that then can we presume that the directors of GMO when they sit on the board of Taswood Growers have to sit there as individuals as well? I am just wondering whether or not when you were at that superannuation conference there was any indication given to you through any of the lobbying that you did or questions that you asked that the three directors from GMO that take their GMO hats off and put on their Taswood Growers hats have to have any regard whatsoever for GMO shareholders or the superannuants that they represent. The way that it was explained that FT's directors who sit on the board of Taswood Growers would operate, one could only presume that the GMO directors are similarly bound by whatever the FT directors are bound to and therefore could make any decision without taking into account the superannuation or investment clients that GMO have.

Mr SMITH - That is one of the major things we raised with them. We did raise also with Rayonier when we met with them, with Mike Burrige and others, at their office, the fact that they sat here the other week and said that nobody had raised with them even considering that as an option. We said, 'Do you realise what's going to happen? There are 10 of us here or eight of us here and there are another 300-odd back out there that are all going to be impacted on by this decision as well as the impact having an onflow to the community'. They said, 'We fully understand that and of course we'll take that into consideration', and that was it. It was just water off a duck's back. There is a daily newsletter type of thing that goes out up there and the fellow that runs that did a bit of a story with us on the first day. Then GMO responded and part of their response was that they are governed by a code of ethics which, among other things, commits the firm to honest and ethical conduct which they have adhered to during all of their dealings in the process. That was their response as to how they handled the decision.

We were extremely frustrated to sit here last week. There was the mediation for starters. One of the things is that if we fail the company does as well but if the company have just dodged at something they could have sealed a deal with and we found out there was something that they could have done that they did not do, they know we would vent our frustrations towards them. But what they said about the mediation was one big thing that got us as well. Obviously, as we say, you are employed by a company and you stick behind that company but you are also looking for some support and something to say that you are on the right track. Mediation was a major one and they said, 'We don't care who

it is. Whatever their outcomes or whatever they say, we'll follow it'. The only guidelines they wanted for the mediator were things that would speed the process up so they did not want someone to have to go out of the room or a mediator that comes in and says, 'Hang on, I really don't know that much about forestry, I'll have to go and find out'. You wanted someone who knew it all there and then so it could be done as speedily as we could.

It was the same thing all the way through. We were looking for things to know that we were on the right track and with this stuff here, the stuff with Rayonier, the things that they have done all the way through, it is just beyond belief that it has gone the way it has. Somebody surely has to be accountable or can make them accountable and every avenue we go down we just do not seem to be able to nail down who is actually going to help us out and say that that decision was wrong.

Ms DOWN - On that point that Mr Green raised about the tender process, I think that the committee need to also be aware that one of the reasons Frenchpine sold to Auspine is that originally the tender process was put out by both Rayonier and French Enterprises at the time, and Auspine put in an independent bid for that resource. French Enterprises was also unsuccessful at that time, and this is previous to October 2005. At that stage they made a business decision that they were not in the position to continue the tender process because they could not pay. Rayonier had given them an indication on what they thought was the correct amount for that resource, and they were not in a position to pay that and sustain the mill operation that they currently had. At that stage they approached Auspine and offered to sell to them at that time.

I suppose the point that I am making is that while it is very easy to focus on the fact that Auspine and Rayonier, for whatever reasons, have been unable to get along, it also happened with French Enterprises - they weren't able to successfully negotiate at that tender process. What you also have to realise is that up until then there had been an allocation; never before had there been a tender process for that resource. Until then it had been allocated on a volume basis to both of those mills.

What Rayonier then asked was for both of those mills to compete against each other. Some would say that is a bad thing because you are trying to get the best possible price for your own business, and this is what Rayonier were employed as an agent to do, but it had already forced one of the companies out. The difference was that French Enterprises was a family-owned company and they couldn't draw on the resources from their family-owned business to increase their offer. That is why, painfully, Kevin French sold - he could no longer negotiate with Rayonier.

I would put it to the committee that it is quite evident through past history that Rayonier are purely, wholly and solely looking at the bottom dollar value for the resource, they are not considering what is best for Tasmania. They are not considering what's best for the north-east of the State, and I think that is something we feel very strongly about in relation to section 12A.

FEA is a new company and they are an investment company. They say they have the resources to get into the market; they were able to pay more. We don't know what that is, that's why we were asking the question. , Even though their charter says through GMO that they are supposed to be responsible corporate citizens, I don't believe that

Rayonier at any time have acted in that way. Obviously I wouldn't assume that Auspine would ask for the resource dirt cheap.

The other thing that also needs to be taken into consideration is that from the period of October 2005 - and that was when Auspine took over Frenchpine - they were actually negotiating with Rayonier as a sole bidder. Commonsense says to me very simply that if I have something that you want, I'm going to try to make you pay the most for it, but if I want it, I don't want to pay an exorbitant price. The commitment that we had through Auspine - and they were quite vocal - was that they wanted to offer a fair price to Rayonier, but in doing so they wanted to maintain the 310 people who worked in the north-east community. Whether or not the cost of carrying 310 people constrained their ability to bid higher is something that Auspine probably has not spoken to us about, but it would be fairly evident that that's where their position was.

At the end, in November it changed from being a tender, because, let's face it, after October 2005 it was no longer a tender process because there was only one current bidder for that resource. It wasn't until November that it came back to a two-bidder race, so one would wonder whether or not the terms and conditions of that tender that was put out at that time was actually valid.

Mr SMITH - It gets frustrating with what we've had to deal with. In relation to Auspine and the mediation, the other fact that really hit home with us was when we were coming here - and this was the last time - Auspine's submission was very thorough and when the questions were asked, every question was answered. No questions were baulked at or answered with, 'We don't have the information'. I think they were the only ones that day that did that. Everybody else who came before you didn't have that information to hand, or -

Mrs RATTRAY-WAGNER - Some actually asked why they were here, Dean.

Mr SMITH - Yes. It just frustrates us, and surely everybody can see that. This is what you're dealing with.

CHAIR - Okay. I think we had better finish at this point. Are there any more questions?

Mr HARRISS - Scott, I want to go back to this matter that Peter has raised with you on the mediation. You suggested that the minister could have influenced the decision. I understand that you mean that in the context of some sort of mediation and negotiation in getting a decent outcome here, but would you not accept, though, that Taswood Growers is a corporate entity and ought not be subject to ministerial intervention, and neither should it be as a corporate entity, and for that matter neither should a government business enterprise be subject to such intervention?

Mr McLEAN - We never at any time asked the State Government to appoint a mediator or to be involved in the mediation itself. That was one of the things that we were very clear about because we knew that they could not do that. What we did ask the minister to do was to speak to the FT representatives or speak to Taswood Growers as a body to support the process publicly. The reality was that we needed somebody to try to break the deadlock. We are not suggesting for one minute that either the minister of the day or the Premier could actually be involved in that. We did however ask the State Government to

consider funding a mediator to get through the process, but to actually be involved in the process - no. To support the process publicly or to talk to the board of Taswood Growers - yes. The aim was to see if we could break the deadlock with 31 December 2006 looming ever closer.

Mr HARRISS - On the matter of section 12A, which is the very vexed issue that is challenging the committee's mind too, given the legal advice and all of the other evidence we have heard, what would be the situation, in your view, if at the end of the deliberations of this committee - and this is clearly hypothetical - it is found that Taswood Growers' board members and through them Rayonier either had no legal obligation to take account of section 12A or in fact took account of section 12A and considered it to be 'an important consideration' but in the mix of things still made their decision as regard FEA or, alternatively, had no obligation to take account of section 12A, as callous as that may sound, and that the process which we now have in front of us or the decision that we now have in front of us cannot be unwound, what then?

Mr McLEAN - I guess since 29 January of this year we have worked on the premise that we will get no joy from either this committee or from the Auditor-General, so that is part of the reason or the driving reason, I guess, as to why we - that is, the Auspine Community Workers Action Group, the CFMEU and anybody else that we could find at the time in the community - went out and secured as much private resource as we could possibly get, basically with the assistance of the State Government through the Premier and his efforts, through Gunns Ltd, through Norske Skog, and through a number of other private people. If the decision cannot be overturned certainly by this committee then I suspect - well, I know - that Auspine will continue to operate. There is no doubt about that. But I think that ultimately we will find ourselves before a judge. That is what I think. That is certainly the preliminary advice that we have.

Mr HARRISS - Thanks.

Mr BOOTH - Is this the last question?

CHAIR - We are getting towards the end.

Mr BOOTH - You said you were working the Premier pretty hard over that period of time, did it appear to you that there was any connection between the minister or the Premier at that stage or then later on the Premier as minister as well, with Taswood Growers, that there was a kind of a loop there, that there was actually information coming back from Rayonier with regard to refusal to appoint a mediator or was it simply a direct to-and-fro with the Premier or with the minister in that regard? Do you feel that they were actually trying to negotiate with those groups on your behalf?

Mr McLEAN - I think the minister and then the Premier had been speaking to Taswood Growers, at least the Forestry Tasmania representatives of Taswood Growers. I do not think there is any doubt about that. I do not know whether they had been speaking directly with Rayonier although I do believe that the minister at the time had a briefing from Rayonier. I don't know whether there was actually a loop there. They were fairly well versed, as you would expect a minister to be, but there did not appear to be - nothing that I could say categorically - some sort of collusion. I am not entirely sure. I do not

know whether anybody else has a different view, but I could see nothing in particular. We were concerned that it appeared to be going round in circles. In May or June 2006 there were negotiations taking place between Auspine and Rayonier, but then obviously that went to hell in a hand cart and just deteriorated from there. We really were working the minister and then subsequently the Premier quite hard. We were meeting with them as often as we could to try to influence them as much as we possibly could in respect to the mediation.

Mr BOOTH - I raised the issue of jobs. Were section 12A of the Forestry Act and the GBE act raised specifically?

Mr McLEAN - 12A certainly.

Mr BOOTH - Right. Can you tell us the advice in response to your raising it?

Mr McLEAN - I do not know whether I have something in writing in relation to that. I can certainly search this file and anything I do have I can provide to the committee.

Mr BOOTH - That would suffice if you do have anything.

Mr McLEAN - There are a number of responses in here. I will have a look and if I do have that response - and I think I probably I do - I am certainly more than happy to share that with you.

Mr BOOTH - As you know, I have spent a lot of my working life in the sawmill industry. When this deal was being constructed with FEA, it appeared to me, from my experience and understanding of the industry, that for a company that had no marketing chain and no mill to process big-end section logs to set up a mill and take it to tender was preposterous from a commercial point of view. My understanding was that it probably could not work. Do you think there was a third scenario, if you like, a plan C, that there was no intention to set up a mill on FEA's part? The big-end section log would always achieve for Rayonier or FEA a higher value as an export commodity rather than to process it here. That simply gave them the ability to get a much larger quantity of micro logs to run through the hew saw. Would you like to comment on that as a scenario?

Mr McLEAN - Over the years right across this country there have been a number of businesses that have achieved resource outcomes, got log supply deals, on the basis that they would build mills - and with all the best intentions. At the time that was exactly what they were going to do. Unfortunately a number of those over the years did not come off. They did not actually build the mills. In some instances the resource was actually taken back by the owners and a number of other people have actually paid penalties for it. They probably had the best intention in the world at the time but whether they were ever actually going to build a mill or whether it is just about micro logs is one of the things we considered and discussed at great length. Our concerns have always been that they do not have the markets.

Mr BOOTH - Yes.

Mr McLEAN - That has always been the issue, and that Auspine do have the markets. A great deal of deliberation has taken place over that particular issue. There are a number of scenarios but not necessarily an answer to it.

Mr BOOTH - So you have no evidence to suggest that part of the contract required them to build a mill in order to take the logs?

Mr McLEAN - We have asked publicly for that part of the contract to be shown to us because we do not even know whether the contract contains that or not. We are only assuming it. One of the questions we have asked publicly is what happens if they don't build the mill. And what happens to the resource if they don't build the mill? We have never really got a satisfactory answer to that question. We always get, 'It's commercial-in-confidence'. All we ever wanted to see is the bit that says, 'If you don't build the mill, then this is what happens'.

Mr BOOTH - It's likely that the reason Auspine now has an allocation is through pressure from the community against exports and the fact that this committee is meeting and so forth.

Mr McLEAN - Absolutely.

Mr CHAIRMAN - Thank you very much.

THE WITNESSES WITHDREW