

## E-mail Message

11/138285

**From:** Tony Ferrall [NOTES:CN=Tony Ferrall/OU=FSq/O=TreasFin]  
**To:** greg.johannes [NOTES:greg.johannes@dpac.tas.gov.au]  
**Cc:**  
**Sent:** 12/9/2011 at 12:34 PM  
**Received:**  
**Subject:** Fw: Probity Audit - Offer to Gunns Limited - Part 1

FYI - I wont send you the documents referred s I believe you already have them all

Tony Ferrall  
 Deputy Secretary  
 Department of Treasury and Finance

Telephone (03) 6233 2132  
 Facsimile (03) 6233 5699  
 Mobile 0419 329 862

----- Forwarded by Tony Ferrall/FSq/TreasFin on 12/09/2011 12:34 PM -----

Tony Ferrall/FSq/TreasFin  
 12/09/2011 12:14 PM

To  
 Danny McCarthy  
 cc

Subject  
 Probity Audit - Offer to Gunns Limited - Part 1

Danny

As discussed on Friday, I would be grateful if you would conduct a further review (and report) of the most recent events in relation to the Government's offer to Gunns Limited. The following events/documents will be relevant to your review:

The State's offer of \$11.5 m + GST was made to each of Gunns Limited and Forestry Tasmania on 26 August 2011 (attached PDF documents details Gunns Limited and FT offers - OFFER DOCUMENTS);  
 Forestry Tasmania accepted the offer and returned the signed Deeds to the State on 31 August 2011 (attached PDF - FORESTRY TAS ACCEPTANCE);  
 Several comments were made by FT in relation to the Deeds and the Crown Solicitor reviewed these comments and provided advice to the State in relation to those comments (attached PDF - CROWN SOLICITOR ADVICE RE FT ACCEPTANCE);  
 Representatives of the State met with representatives of Gunns Limited on 30 August 2011 to discuss the State's offer (refer PDF notes of meeting prepared by Gunns Limited - MEETING NOTES 30 AUGUST 2011 );  
 Gunns Limited rejected the offer and provided formal advice to this effect on 2 September 2011 (Attached PDF - GUNNS LIMITED REJECTION OF OFFER);  
 Following Gunns Limited rejection of the offer, the State held further without prejudice discussions (Attached PDF - FILE NOTE GARY SWAIN) with Gunns Limited. these discussions were predicated on the Commonwealth either providing additional funding under the IGA or through some other mechanism. (PDF letter from Minister Burke - LETTER FROM MINISTER BURKE);  
 Following the without prejudice discussions, Gunns Limited indicated that it would be willing to accept an offer of \$23 million (plus GST) on the same terms

and conditions as the previous offer (attached PDF- GUNNS INDICATES IT WOULD ACCEPT \$23 MILLION);

Gunns Limited acceptance was also predicated on the Crown accepting a number of variations and clarifications to the proposed Deeds. The Crown sought advice from the Crown Solicitor on these matters (attached PDF - CROWN SOLICITOR ADVICE ON DEED);

The State engaged with the Commonwealth to seek greater flexibility within the IGA in order to fund the higher offer from within the available funding envelope of the IGA (PDF Letter - PREMIER TO TONY BURKE RE FLEXIBILITY UNDER IGA);

The Commonwealth indicated it was supportive of providing additional flexibility (PDF letter - BURKE TO PREMIER RE PROPOSED OFFER TO GUNNS & FT); Following receipt of response from the Commonwealth, the State made a further offer to Gunns Limited and FT (attached documents - REVISED OFFER TO GUNNS LIMITED AND FT);

Gunns Limited and FT have not responded to the offer to date.

Following this further review we will still require you to undertake a final review assuming this offer is accepted and the Deeds signed.

(Documents to follow)

Regards

Tony

Tony Ferrall  
Deputy Secretary  
Department of Treasury and Finance

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Doc 28

11/13/898

Page 1 of 1

2

E-mail Message

**From:** Tony Ferrall [NOTES:CN=Tony Ferrall/OU=FSq/O=TreasFin]  
**To:** mark.sayer [NOTES:mark.sayer@dpac.tas.gov.au]  
**Cc:** greg.johannes [NOTES:greg.johannes@dpac.tas.gov.au]  
**Sent:** 9/9/2011 at 10:00 AM  
**Received:**  
**Subject:** Probity Audit

Mark

I spoke to Danny McCarthy (WLF) regarding the revised offer which is potentially going to be made to Gunns. I outlined to him that: Gunns had rejected the original offer; that the Commonwealth had encouraged the State to further negotiate with the parties; a without prejudice discussion had been held with Gunns Limited ; Gunns had indicated that it would accept a higher offer (\$23 m); the State had engaged with the Commonwealth to seek greater flexibility within the IGA in order to fund the higher offer from within the available funding envelope of the IGA; the Commonwealth had indicated that it was supportive of providing flexibility within the IGA; point 5 & 6 would be supported by an exchange of letters (most likely today);

I indicated that we would most likely request him to update his earlier Probity Review and provide further advice on the matter.

His initial view was that it did not surprise him that there had been further negotiation regarding the settlement quantum and he did not see that as an issue from a probity perspective.

He is available to update his review early next week (but would be unavailable Tuesday).

Tony

Tony Ferrall  
Deputy Secretary  
Department of Treasury and Finance

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(2)

## E-mail Message

**From:** Tony Ferrall [NOTES:CN=Tony Ferrall/OU=FSq/O=TreasFin]  
**To:** linda.voumard [NOTES:linda.voumard@treasury.tas.gov.au]  
**Cc:**  
**Sent:** 2/9/2011 at 10:14 AM  
**Received:**  
**Subject:** Fw: preparing to release probity auditor advice

Linda

See below. I will send you a copy of the report which refers to the listed documents. Would you be able to start getting them together with a view to likely RTI being submitted.

Thanks

Tony

Tony Ferrall  
Deputy Secretary  
Department of Treasury and Finance

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Mobile 0419 329 862

----- Forwarded by Tony Ferrall/FSq/TreasFin on 02/09/2011 10:08 AM -----

"Sayer, Mark (DPaC)"  
02/09/2011 10:03 AM

To  
"Tony.Ferrall@treasury.tas.gov.au"  
cc

Subject  
preparing to release probity auditor advice

Hi Tony.

It has just been drawn to my attention that the probity auditor advice provides a list of documents reviewed, all of which will be of interest to the media and others. Would you please bring this to Kim Hudson's attention. I'm aiming to be

on the front foot with the release of the report, so it would be good to review those listed documents with a view about RTI requests.

Regards

Mark

Mark Sayer  
Chief of Staff  
Level 11, Executive Building, 15 Murray Street, HOBART TAS  
Ph +61 3 62333655 Mobile 0419574002

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2

E-mail Message

**From:** Martin Wallace [NOTES:CN=Martin Wallace/OU=FSq/O=TreasFin]  
**To:** mark.sayer [NOTES:mark.sayer@dpac.tas.gov.au], gary.swain [NOTES:gary.swain@dpipwe.tas.gov.au], Rhys.Edwards [NOTES:Rhys.Edwards@dpac.tas.gov.au]  
**Cc:**  
**Sent:** 24/8/2011 at 6:20 PM  
**Received:**  
**Subject:** Final copy of probity report  
**Attachments:** IGA Report 24 August 2011.pdf refer to 11/139405.

FYI

----- Forwarded by Martin Wallace/FSq/TreasFin on 24/08/2011 06:20 PM -----

Tony Ferrall/FSq/TreasFin  
 24/08/2011 03:45 PM

To  
 martin.wallace@treasury.tas.gov.au  
 cc  
 pearl.low@treasury.tas.gov.au  
 Subject  
 Fw: IGA

Pearl

Pls TRIM - pls note a hard copy will arrive later today.

Thanks

Tony

Tony Ferrall  
 Deputy Secretary  
 Department of Treasury and Finance

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 Facsimile (03) 6233 5699  
 Mobile 0419 329 862

----- Forwarded by Tony Ferrall/FSq/TreasFin on 24/08/2011 03:44 PM -----

danny.mccarthy@wlf.com.au  
 24/08/2011 03:38 PM

To  
 Tony.Ferrall@Treasury.tas.gov.au  
 cc

Subject  
 IGA

Tony

Please find the PDF copy of the report.

(See attached file: IGA Report 24 August 2011.pdf)

Regards

Danny

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*Doc 21*  
~~11/118499~~  
11/130103

E-mail Message

**From:** Martin Wallace [NOTES:CN=Martin Wallace/OU=FSq/O=TreasFin]  
**To:** mark.sayer [NOTES:mark.sayer@dpac.tas.gov.au], gary.swain [NOTES:gary.swain@dpipwe.tas.gov.au]  
**Cc:** Rhys.Edwards [NOTES:Rhys.Edwards@dpac.tas.gov.au]  
**Sent:** 24/8/2011 at 2:37 PM  
**Received:**  
**Subject:** Probity Audit

(2)

The Probity Auditor has ticked off on the process and the basis for the recommended payments to Gunns and FT.

I will send through a copy of his report when we receive it later today.

Martin



## E-mail Message

**From:** Martin Wallace [NOTES:CN=Martin Wallace/OU=FSq/O=TreasFin]  
**To:** solicitor.general [NOTES:solicitor.general@justice.tas.gov.au], Grant.Kench [NOTES:Grant.Kench@justice.tas.gov.au]  
**Cc:** Rhys.Edwards [NOTES:Rhys.Edwards@dpac.tas.gov.au]  
**Sent:** 18/8/2011 at 9:40 AM  
**Received:**  
**Subject:** Probity Advice Terms of Reference

**Attachments:** Probity Advice Terms of Reference.DOC

Hi Leith, Grant and Rhys

Treasury has engaged Wise Lord and Ferguson (Danny McCarthy) as the probity auditor for the Forestry IGA payments and process under clauses 22 and 34.

Attached for your information is the terms of reference for the engagement. Danny will commence this when he returns to Hobart later today. He is meeting with Tony Ferrall and myself at 5pm this evening.

I expect he will seek to contact you soon.

regards Martin

----- Forwarded by Martin Wallace/FSq/TreasFin on 18/08/2011 09:33 AM -----

Pearl Low/FSq/TreasFin  
18/08/2011 09:17 AM

To  
Martin Wallace/FSq/TreasFin@DTF  
cc

Subject  
Probity Advice Terms of Reference

As requested from Jason O'Neill.

- Probity Advice Terms of Reference.DOC

**REVIEW OF THE PROCESS FOR DETERMINING THE RECOMMENDED POSITION OF  
THE STATE AND SETTLEMENTS TO BE PUT TO GUNNS LIMITED AND FORESTRY  
TASMANIA UNDER THE TASMANIAN FORESTS INTERGOVERNMENTAL  
AGREEMENT**

**TERMS OF REFERENCE**

**BACKGROUND**

The Commonwealth and Tasmanian Governments signed the Tasmanian Forests Intergovernmental Agreement on 7 August 2011. The Agreement is designed to support the State's forest industry to transition to a more sustainable and diversified setting and to build regional economic diversification.

Clauses 22 and 34 of the Intergovernmental Agreement refer to the actions necessary and compensation payable in order to achieve key objectives as set out in clauses 19, 20 and 29 of the Agreement. These clauses make clear the requirement to extinguish wood supply contracts to the extent required to create reserved areas as referred to in clause 29.

Clause 22 of the Agreement states that:

*"... the State will enter a process with Gunns Ltd to ensure that a sufficient volume of native forest sawlog supply is retired to achieve the objects of clauses 17 and 29."*

Clause 34 states that:

*The Commonwealth will provide \$43 million to the Tasmanian Government to assist the State to facilitate the implementation of this Agreement. At least \$15 million of this funding will be used by the State to support voluntary compensable exits by saw-millers wishing to exit the industry (as set out in clause 23), and \$5 million is to be used in accordance with purposes and conditions to be agreed with the Commonwealth to support provision of information and consultation with affected parties".*

Given these prescribed allocations, there is a maximum of \$23 million available from the \$43 million to facilitate the Agreement through the extinguishment of specific wood supply contracts. The Government has agreed to give effect to the Intergovernmental Agreement by resolving the uncertainty surrounding the contract issues relating to wood supply contracts WS917 and WS918 between Gunns Limited and Forestry Tasmania.

To support this process, the Government has agreed to appoint a suitably qualified and registered Probity Auditor to provide advice on the process undertaken in determining a preferred State position and the appropriateness of that position in relation to resolving the complex commercial settlement of outstanding matters between Gunns Limited and Forestry Tasmania.

## **SCOPE**

The following issues will need to be addressed in the review:

1. The requirement to give effect to the Intergovernmental Agreement, particularly clauses 22, 29 and 34.
2. The advice provided by the Department of Treasury and Finance on options for resolving these issues.
3. The legal advice provided by the Crown Solicitor and the Solicitor-General in relation to these matters.
4. The appropriateness of the Government's proposed offer to both Gunns Limited and Forestry Tasmania.
5. In the event that an offer is subsequently made to both parties and following any negotiation, accepted by Gunns Limited and Forestry Tasmania, the appropriateness of the final executed agreement(s). Any agreement between the State and either party must resolve the settlement of all outstanding claims and demands by each party against the other, in relation to the relevant wood supply contracts.

## **TIMEFRAME EXPECTATIONS**

The Government has an expectation that the probity adviser will be able to provide a report on the findings of the review, addressing points 1 to 4 above, by close of business on Wednesday, 24 August 2011.

## **CONSULTATION**

The following parties should be interviewed as part of the review:

- Mr Martin Wallace, Secretary of the Department of Treasury and Finance;
- Mr Leigh Sealy, Solicitor-General;
- Mr Grant Kench, Acting Crown Solicitor; and
- either, Mr Rhys Edwards, Secretary of the Department of Premier and Cabinet, or Mr Greg Johannes, Deputy Secretary of the Department of Premier and Cabinet, regarding the requirements of the Intergovernmental Agreement.

