



Parliament of Tasmania

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

JOINT VENTURE LOG SUPPLY DEAL

Members of the Committee

**Mr Brenton Best MHA
Mr Bryan Green MHA
Mr Greg Hall MLC (Chair)
Mrs Tania Rattray-Wagner MLC**

**Mr Kim Booth MHA
Mr Peter Gutwein MHA
Mr Paul Harriss MLC
Ms Lin Thorp MLC (Deputy Chair)**

Secretary: Mrs Sue McLeod

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Introduction

1.1 APPOINTMENT AND TERMS OF REFERENCE

The Joint Standing Committee on Environment, Resources and Development was re-established following a trial period from 7 April 2004 and again on 30 May 2006 following the State Election on 18 March.

The Committee has general jurisdiction over the following areas : Government Business Enterprises; regulation of business, commercial and industrial relations; economic and finance development; environment and land use planning; natural resources – forestry, mining and fisheries; energy; tourism; transport; and primary industry.

The Committee adopted the following terms of reference at its meeting on 26 February 2007. To inquire into and report upon Forestry Tasmania/GMO Renewable Resources (Taswood Growers) joint venture log supply deal, with particular reference to :-

- (1) Whether the *Forestry Act 1920* and the *Government Business Enterprises Act 1995* functions and powers have been adhered to in the contractual arrangements entered into by Forestry Tasmania for the purpose of making wood supply agreements; and
- (2) The process that led to the log supply decision with reference to any relevant laws of the State, Commonwealth or any other agreement.

The membership of the Committee for this term of reference consisted of four members of the Legislative Council – Mr Hall (Chairman), Mr Harriss, Mrs Rattray-Wagner and Ms Thorp; and four members of the House of Assembly – Mr Best, Mr Green, Mr Gutwein and Mr Booth.

This is the final report in relation to the Joint Venture Log Supply Deal and will address both terms of reference. Although the Committee received some evidence relating to future market analysis, that area was considered to be outside the terms of reference of this Inquiry.

1.2 PROCEEDINGS

The Committee sent invitations to the major stakeholders to provide verbal evidence. No advertisements were placed inviting submissions as the need for an urgent process and report to Parliament did not allow time for general public input.

Eight witnesses gave verbal evidence to the Committee in Launceston and are listed in Appendix 1. Two written submissions were received and are listed in Appendix 2. Documents received into evidence are listed in Appendix 3 and the Minutes of Proceedings are attached as Appendix 4.

The Committee held fifteen meetings in relation to this term of reference and commenced public hearings in Launceston on Monday, 19 March 2007. Further hearings were held in Launceston on Monday, 2 April 2007.

The Committee was also briefed by Mr Bill Bale QC, Solicitor-General and Mr Stephen Estcourt QC, in relation to the Joint Venture Log Supply Deal.

5 July 2007

**Greg Hall MLC
Chairman**

Background

In 1999 a joint venture, known as Taswood Growers, was formed between Forestry Tasmania and GMO Renewable Resources. GMO, for this purpose is actually comprised of two separate entities: Southern Hemisphere Softwood Strategy and Tasmanian Softwood Fund Pty Ltd. Forestry Tasmania and the GMO entities combined have a 50% interest each, and Taswood owns pine resources in the State's north of over 40 000 hectares. Rayonier Tasmania has been the manager of this plantation since October 1999 and is part of an international forestry management and resource company.

Auspine, a South Australian based company, held a deal with Rayonier for the supply of its softwood harvest to their two Scottsdale plants (having merged with Tasmanian company Frenchpine in late 2005) and has had other such commitments for over 30 years. The company employs in excess of 300 staff in Scottsdale.

The wood held by Taswood was put for tender in July 2005. None of the tenders received were accepted, and negotiations began to decide who would control the resource. Relations between Rayonier and Auspine became difficult during new contract deliberations. The contract was to end on 31 December 2006 and concerned stakeholders started expressing alarm about the social and economic implications for the region if the sawmill works were jeopardised. The Government, when asked about their lack of involvement, claimed to have no power to intervene due to the parties involved being separate companies operating arm's-length business negotiations.

During 2006 Rayonier rejected multiple offers from Auspine for the purchase of the wood, however, their contract was extended for three months until 31 March 2007 in the hope of brokering a mutually suitable arrangement.

In late 2006 Forest Enterprises Australia (FEA) entered the market for the wood. On 29 January this year they were granted a 10 year deal which will see them supplied with 290 000 tonnes of sawlogs per annum. FEA is a publicly listed company that is based at George Town. Currently, it is not possessed with the capacity to process some of the wood it will be receiving due to its mill's size restrictions. This has raised fears that further wood may be exported from the State, wood that could arguably have been adequately processed by Auspine. FEA is, however, looking to create a plant in George Town, which it is thought will create 200 construction jobs and 100 full time positions once completed.

It is argued that the decision to grant the deal to FEA was based on purely commercial reasoning.

On advice from the Solicitor-General, the Premier and others have expressed the view that section 12A of the *Forestry Act 1920* does not apply to the deal between Taswood Growers and FEA. If applicable, this section would have required an examination of the impact of the contract on employment in the

area. This Committee is seeking to investigate the validity of the deal with reference to State and Commonwealth laws.

The immediate future for Auspine's two Scottsdale mills became more certain at the end of March with supply derived from the west coast resource, in conjunction with additional quantities from Norske Skog, Gunns and Rayonier, sufficient to keep them in operation for twelve months. According to Auspine, the majority of the wood made available will be accessible for at least the next three to four year period.¹

Auspine is further researching the capacity to convert one of its mills to be capable of processing hardwood. It is thought that even with the new Government deal the long-term future of the plants at Scottsdale remains uncertain.

Additional Evidence

Subsequent to the hearings, Auspine claimed that the Committee had received inaccurate information from some witnesses and therefore the Committee requested additional information from Auspine to justify these claims. Auspine provided this evidence to the Committee 'in camera' before commencing its legal action.

The Committee believes that much of the information provided relates to matters which form part of Auspine's current legal case, and as such, should rightly remain with that jurisdiction to determine.

¹ Auspine letter to the ASX, 2 April 2007.

Recommendations

The Committee recommends that :

1. Section 12A of the Forestry Act 1920 be amended to clarify the definition of 'consideration' and how it should be demonstrated.
2. In future, communities be kept fully informed regarding the consideration given to employment and other impacts, when similar projects are being undertaken.

Forestry Act 1920 and the Government Business Enterprises Act 1995 – Functions and Powers

Chapter 1

Whether the *Forestry Act 1920* and the *Government Business Enterprises Act 1995* functions and powers have been adhered to in the contractual arrangements entered into by Forestry Tasmania for the purpose of making wood supply agreements.

Legislation

As pointed out in the 'Background' section of this Report, section 12A of the *Forestry Act 1920* is relevant to the concerns of Auspine, its employees and the general community. It provides as follows –

"12A. Other Limitations on functions and powers

- (1) The corporation must treat the level of employment deriving from the use of public forest resources as an important consideration when examining options for competing claims for Crown wood including the provision of wood supply agreements.
- (2) For the purposes of subsection (1), the corporation may require a prospective holder of a wood supply agreement or any other prospective recipient of Crown wood to nominate the employment numbers expected to eventuate from the receipt of the Crown wood".²

Section 7(1)(a) of the *Government Business Enterprises Act 1995* is also relevant to this inquiry, and provides as follows –

"7. Principal objectives of Government Business Enterprise –

- (1) The principal objectives of a Government Business Enterprise are –
 - (a) to perform its functions and exercise its powers so as to be a successful business by –
 - (i) operating in accordance with sound commercial practice and as efficiently as possible; and
 - (ii) achieving a sustainable commercial rate of return that maximises value for the State in accordance with its corporate plan and having regard to the economic and social objectives of the State"³

² *Forestry Act 1920*, Section 12A

³ *Government Business Enterprises Act 1995*, Section 7

Evidence

Auspine's argument in relation to Forestry Tasmania's obligation to consider employment issues when participating in the Joint Venture was provided in evidence to the Committee. Mr Andrew Jakab, Chief Operations Officer, Auspine, stated -

"Firstly, under section 8C(2), Forestry Tasmania is charged by Parliament with the exclusive management and control of all forest products on State forests, including the selling of those products. Secondly, as the wood is obtained from State forest, it is Crown wood as defined by section 4 of the Act. It being Crown wood, section 12A of the *Forestry Act* requires that Forestry Tasmania treat the employment derived from the sale of Crown wood as an important consideration when Forestry Tasmania is examining options for competing claims for the wood".⁴

Mr John Martin, General Manager of the Dorset Council put forward the Council's view in relation to this issue. He argued that the legislative requirements of the *Forestry Act 1920* and the *Government Business Enterprises Act 1995* have not been adhered to and that "...Forestry Tasmania has not complied with these Acts and consequently with the joint venture agreement which ultimately forms the basis of the whole wood supply agreement".⁵

The Dorset Council supported the view of Michael Stokes, Senior Law Lecturer at the University of Tasmania, as reported in *Tasmanian Times*. Mr Stokes argues that -

"...Forestry Tasmania has an obligation under section 12A of the *Forestry Act* to consider the employment implications of any decision with respect to the supply of wood as long as that wood is sourced from Crown land. It makes no difference that the wood may have been grown and harvested as part of a joint venture; the crucial issue is not who owned the wood but where the wood came from, Crown or private land.

...Clause v [of the *Forestry Act*] allowing a joint venture arrangement to deal with the disposal of forest produce, does not in my opinion, allow Forestry to disregard employment implications in determining how to dispose of joint venture produce, because the power to enter into a joint venture is one of its powers of management and is subject to the limits of those powers of management.

⁴ Jakab, Mr Andrew, Chief Operations Officer, Auspine, Transcript of Evidence, 19 March 2007, p. 4.

⁵ Martin, Mr John, General Manager, Dorset Council, Transcript of Evidence, 2 April 2007, p. 2.

... So the obligation under s12A to consider employment implications, applies where the timber came from Crown land, regardless of any joint venture. It does not apply to timber from private land.

... Forestry must take into account impacts on employment but having taken them into account it is entitled to decide that they are outweighed by commercial considerations as long as there is a reasonable justification for that decision".⁶

Dr Tony McCall, on behalf of the Dorset Economic Development Group, and Mr Scott McLean from the Construction, Forestry, Mining and Energy Union, also supported this view. Dr McCall stated that –

"...section 12A of the *Forestry Act* requires consideration of employment implications as long as the wood is sourced from Crown land. The joint venture should not affect this obligation and duty.

Regretfully, no section of the Act sets out how or if this consideration has to be demonstrated, nor, if it is required under the Act, to directly influence decision making once consideration is undertaken. In other words, consideration could be ignored. In this instance, without evidence to the contrary from Forestry Tasmania, it would appear that consideration was ignored".⁷

Dr McCall believes that –

"Even if there has been a demonstration – for example, a document that purports to consider the employment implications – did it inform consequent decision-making? ...It could be entirely ignored because of the ambiguity attached to the word 'consideration'. If that was to be clarified as a consequence of the outcomes of this committee and recommendations that would flow, then a lot of our discussions about what might have happened and what did happen would be clarified".⁸

Dr McCall also argued that –

"... There needs to be some clarity around what this term 'consideration' means and the best way to clarify that is to ask the stakeholders to demonstrate compliance around consideration; what have they done that demonstrates consideration?"⁹

⁶ Stokes, Mr Michael, "Employment implications of Forestry Timber sales", *Tasmanian Times*, 7 March 2007.

⁷ McCall, Dr Tony, Dorset Economic Development Group, Transcript of Evidence, 2 April 2007, p. 1.

⁸ McCall, p. 7.

⁹ McCall, p. 11.

Mr Bob Gordon, Managing Director of Forestry Tasmania disputed these arguments and advised the Committee that "... on several occasions, Forestry Tasmania had [legal] advice that section 12 of the *Forestry Act* did not apply to this transaction".¹⁰

However, Mr Gordon, on behalf of Taswood Growers, informed the Committee that section 12A of the *Forestry Act 1920* was taken into account as required, when the joint venture was entered into in 1999.

"We were in a position where we did not have and would not have, unless there was a change, a sustainable forestry sector in the softwood sector in Tassie, either in growing trees, managing trees, or processing trees because the estate was not able to support efficient processing.

...there was legal advice and some debate on that issue at the time the joint venture was entered into and we consciously looked at the long-term employment implications of either doing nothing or entering into this agreement.

...We actually addressed that issue when we made the decision. You cannot have a commercial situation where two parties are going to have completely different ideas about how you deal with competing offers. They have to act as a commercial entity, which is the softwood joint venture".¹¹

In correspondence to the Committee, Mr Gordon and Mr Jolly advised that "... whether or not section 12A of the *Forestry Act* applied, Taswood Growers considered employment as an important issue when awarding a log supply agreement to Forest Enterprises Australia".¹²

Mr Paul Nicholls, Managing Director of Rayonier, the managers of the joint venture, gave evidence to the Committee that –

"...once the joint venture was established, the obligations that Forestry Tasmania have under section 12A of the *Forestry Act* did not apply [and] ... we have no reason to believe that the process that led to the log supply decision did not conform to all State and Commonwealth laws.

... As manager, we operate under an agreement with the owners of the joint venture and under that agreement there is no reference and there has been no statement to the effect that the *Government Business Enterprises Act* applies in any way to this joint venture".¹³

¹⁰ Gordon, Mr Bob, Managing Director, Forestry Tasmania, Transcript of Evidence, 19 March 2007, p. 1.

¹¹ Gordon, p. 13.

¹² Jolly, Mr Ian and Gordon, Mr Bob, Taswood Growers, Letter to the Parliamentary Joint Standing Committee on Environment, Resources and Development, dated 26 April 2007.

¹³ Nichols, Mr Paul, Managing Director, Rayonier, Transcript of Evidence, 19 March 2007, p. 1.

Several witnesses also raised the question of whether the Forestry Tasmania representatives on the Board of Taswood Growers had a responsibility, either under section 12A of the *Forestry Act* or morally, to consider employment issues.

Mr Gordon believes that –

“... once those people are on the softwood joint venture board they are no longer Forestry Tasmania, they are directors of a company. ...Once you are a director of that entity your responsibility is to the entity not to the shareholder that nominates you”.¹⁴

Legal Advice

The Committee sought advice from the Solicitor-General in relation to this term of reference and was advised as follows :

- “1 The ‘deal’ between Forestry Tasmania and GMO Renewable Resources was entered into in 1999 and involved the sale by Forestry Tasmania for a very substantial financial sum of ‘Crown wood’ as defined in s.4 of the *Forestry Act 1920* (in that it was wood obtained either from State forest or from Crown land other than State forest).
- ... 3 As a result of that dealing, Forestry Tasmania took ownership as a participant in the joint venture and subject to the terms of the Joint Venture Agreement of 50% of the wood resource. Those terms included, inter alia, provision denying participants (including Forestry Tasmania) the right to sell their beneficial interest in the wood resource otherwise than in accordance with the associated Sales Agency Agreement, which effectively passed the right to determine terms and conditions of sale to Rayonier Australia Pty Limited.
- 4 Thus a consequence of the Joint Venture Agreement is that, in terms of s.12A of the *Forestry Act*, Forestry Tasmania since 1999 has not enjoyed the function of examining options for competing claims for Crown wood the subject of the Joint Venture Agreement, and accordingly has not carried out a function to which the obligations imposed by s.12A attach. ...”¹⁵

In relation to 3 above, Mr Claridge from Rayonier, differed from the Solicitor-General. He stated that –

“Rayonier undertakes the analysis and provides that to the owners ... [and] ... in this case we did not provide a recommendation”.¹⁶

¹⁴ Gordon, p. 1.

¹⁵ Bale, Mr WCR, Solicitor-General, Letters to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 28 February 2007 and 2 March 2007.

¹⁶ Claridge, Mr Mike, Regional Manager, Rayonier, Transcript of Evidence, 19 March 2007, p. 5.

Further advice was then sought from the Solicitor-General to confirm details of his briefing to the Committee regarding "... whether the Joint Venture Agreement signed in 1999 complied with the *Forestry Act 1920* and the *Government Business Enterprises Act 1995*". The Solicitor-General advised as follows –

- "1 I have no doubt that Forestry Tasmania has a continuing obligation to meet all the requirements imposed upon it by statute, irrespective of the Joint Venture Agreement. This is because it is not possible to contract out of statutory obligations unless to do so is allowed by statute and, at least for presently relevant purposes, I am not aware of any provision which would allow Forestry Tasmania to contract out of its statutory obligations.

... Forestry Tasmania did not, through the Joint Venture Agreement, contract out of any obligation which it has under s.12A. The obligation under that section arises only when Forestry Tasmania is involved in "examining options for competing claims for Crown wood". The effect of FT's 1999 sale of its softwood resource to the Joint Venture was that FT no longer had the function, in relation to that wood, of examining options for competing claims for it. Since the function to which s.12A attaches an obligation has not since then been a function of Forestry Tasmania, FT has not had, and does not now have, that obligation.

- 2 Forestry Tasmania could raise anything it wanted to with its Joint Venture partners, but it had no obligation under the *Forestry Act* or the *GBE Act* to raise with them any issue with regard to competing claims for the softwood resource, responsibility for the sale of which had been transferred to Rayonier pursuant to the Sales Agency Agreement to which I referred. What is more, if it did raise with its Joint Venture partners any issue with regard to a proposed sale by Rayonier of the softwood resource, Rayonier's sales plan could only be challenged by the unanimous agreement of the Joint Venturers and, if Rayonier did not agree with their view, the final decision with regard to Rayonier's proposal is vested in an independent arbitrator.
- 3 I was not consulted with regard to the preparation of the 1999 Agreement (or more accurately the 1999 suite of agreements) and I am therefore not able to say whether or not the obligations and processes required by both the *Forestry* and *GBE Acts* ... were complied with. I have subsequently been led to believe that they were, but I do not have that knowledge personally".¹⁷

¹⁷ Bale, Mr WCR, QC, Solicitor-General, Letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 19 March 2007.

Second Legal Opinion

To assist the Committee and the general Tasmanian community to accept or otherwise, the legalities of the Joint Venture Log Supply Deal, the Committee sought a second legal opinion from Mr Stephen Estcourt QC. As part of Mr Estcourt's advice, he raised the following issues :

- “...(a) if Forestry Tasmania retained any power under the Joint Venture Agreement to decide how the Crown wood sold to the Joint Venture was to be further supplied, allocated or disposed of, then it was required to have adhered to all of its statutory obligations with respect thereto; or
- (b) if Forestry Tasmania retained no such power of decision, then it would not have adhered to its obligations in entering into a Joint Venture Agreement which stripped it of its functions, if it did not in fact, at the time of entering into that agreement, give proper consideration to any potential impact on levels of employment, principles of sound commercial practice and the need for the maximisation of value for the State having regard to the economic and social objectives of the State, (i.e. the obligations implicit in s.12A of the Forestry Act 1920 and s.7 of the Government Business Enterprises Act 1995)”.¹⁸

In answer to (a) above, the Solicitor-General's opinion makes it clear that “... as a consequence of the Joint Venture Agreement ..., in terms of s.12A of the *Forestry Act*, Forestry Tasmania since 1999 has not enjoyed the function of examining options for competing claims for Crown wood the subject of the Joint Venture Agreement, and accordingly has not carried out a function to which the obligations imposed by s.12A attach. ...”¹⁹

Following this opinion, the Committee believed that there were still questions which remained unanswered. That is, as the Solicitor-General advised that the terms of the JVA denied “participants (including Forestry Tasmania) the right to sell their beneficial interest in the wood resource otherwise than in accordance with the associated Sales Agency Agreement, which effectively passed the right to determine terms and conditions of sale to Rayonier Australia Pty Ltd”²⁰, do Forestry Tasmania Board Members still have a responsibility/obligation in relation to section 12A of the *Forestry Act* and whether in 1999 Forestry Tasmania should have entered into such an agreement without retaining the power to determine terms and conditions of sale of Crown wood?

¹⁸ Estcourt, Mr Stephen, QC, Letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 11 April 2007, p. 4.

¹⁹ Bale, Mr WCR, Solicitor-General, Letters to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 28 February 2007 and 2 March 2007.

²⁰ Bale, Mr WCR, QC, Solicitor-General, letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 28 February 2007, p. 1.

In relation to (b) of Mr Estcourt's correspondence, the Committee heard evidence from Forestry Tasmania that section 12A of the *Forestry Act 1920*, was taken into account when the joint venture was entered into in 1999 (see pages 10 and 11).

Mr Ian Jolly, also on behalf of Taswood Growers, outlined the tender assessment process for the joint venture log supply deal in dispute.

"We assessed, and we were assisted in that assessment by consultants, as to which was a business plan that looked sustainable into the future and it was our assessment that FEA's business plan was more sustainable. Labour is a component of that, technology is a component of it, location is a component of it; there is a whole raft of factors involved in that but our assessment at the end of the day was that not only was the FEA a better deal for us but it was a better deal for the softwood sector here because we could see it being competitive into the future".²¹

At the time the Committee requested a second opinion from Mr Stephen Estcourt QC, the Attorney-General "... unleashed an unusually unbridled attack on the 'disgraceful forum shopping' of the committee".²²

The Committee believes that this attack was unwarranted and deserves some comment. As suggested by Mr Michael Stokes, Senior Lecturer, University of Tasmania :

"Even if the Solicitor-General does give such advice on request, there are good reasons why committees should be able to obtain other independent legal advice. As both the Commonwealth and State Acts make clear, the core function of the Solicitor-General is to act as counsel, that is barrister and legal adviser, for his or her government".²³

Further Legal Advice

Given the questions that remained unanswered, as indicated on page 13, the Committee sought further advice from the Solicitor-General. In answer to the question "whether the Sales Agency Agreement with Rayonier, is *ultra vires* to the statutory requirements FT must abide by under section 12A of the *Forestry Act*", Mr Bale advised :

"... so far as the subject softwood resource was concerned, options for competing claims for it (including so much of it as was "Crown wood") no longer fell for the consideration of Forestry Tasmania, but were matters for the Joint Venture and its appointed Sales

²¹ Jolly, Mr Ian, GMO Renewable Resources, representing Taswood Growers, Transcript of Evidence, 19 March 2007, p. 10.

²² Stedman, Michael, "Second opinion on softwood", *The Examiner*, 5 April 2007.

²³ Stokes, Mr Michael, Senior Lecturer, Faculty of Law, University of Tasmania, "The Right of a Parliamentary Scrutiny Committee to Seek Independent Legal Advice", *Tasmanian Times*, 17 April 2007.

Agent (Rayonier). In that circumstance it was not a case of the corporation divesting itself of a statutory obligation but rather a case of it entering into an arrangement the nature of which was such that the obligation would not, in the normal course, arise. I still agree with that view, and in my opinion it was within the legal competence of FT to enter into the 1999 agreements relating to its softwood resource. It could not in my opinion be sensibly argued that the corporation could not then have lawfully disposed absolutely of the entirety of its softwood resources (complying then, as it contends it did, with the s.12A obligation). Had that happened, whilst the subject wood would have continued to be "Crown wood" ...plainly the corporation would have had no future obligation under s.12A(1) in relation to it, because any competing claims for the resource would have been matters for the new owner. That is to say, the obligation would have been extinguished by the sale which the corporation was empowered to make. In my opinion, the corporation was no less empowered (with like effect and for what was a very substantial financial consideration) to dispose absolutely of part only of its resource and as part of the consideration for the sale to agree to a diminution of its normal ownership rights in relation to the balance. That is what I understand it to have done, and the diminution of those rights involved, inter alia, that it was no longer responsible for the disposal of its product and, because it was not involved in examining options for competing claims for that product, no longer subject to the requirements of s.12A relating to such an examination".²⁴

The Committee also asked the Solicitor-General :

"...when the recent decision was taken to allocate resource to FEA and not Auspine, would the board members representing Forestry Tasmania on the Taswood Growers Board have been required to meet any statutory obligations required of them in relation to either the *Forestry Act 1920* or the *Government Business Enterprises Act 1995*?

If the answer to the previous question is yes, would section 12A of the *Forestry Act* have been included?"

The Solicitor-General responded :

"My understanding, based on instructions, has always been that Forestry Tasmania was not involved in and gave no prior consideration to and made no decision to effect the softwood resource sale which is the subject of the present controversy. If that was not in fact the case, and Forestry Tasmania was for whatever reason involved in the examination and determination of

²⁴ Bale, Mr WCR, QC, Solicitor-General, Letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 23 April 2007, p. 2.

options for competing claims for the resource the subject of that sale, then in my opinion, it would have been required by s.12A to treat the level of employment deriving for the use of public forest resources as an important consideration in coming to its determination.

... The Joint Venture Board is constituted in part by nominees of Forestry Tasmania. Thus any involvement by the Joint Venture in the sales process would involve those nominees. However, Forestry Tasmania would not thereby be involved in the process. Having been appointed to the Board of the Joint Venture, Board members are obliged as such to act in the interests of the Joint Venture (just as the Board members of any corporation are as such obliged to act in the interests of the corporation, irrespective of the mechanisms by which they were appointed to its Board). What Forestry Tasmania's nominees do on the Board is not done by Forestry Tasmania, but by them as individuals, and their "corporate" decisions are those of the Joint Venture.

Forestry Tasmania itself acts by way of decision of or under delegation by its Board, and action of the Joint Venture or its Board members is not such action.

It follows that, in acting as members of the Joint Venture Board, the Forestry Tasmania nominees were not subject to any statutory requirements imposed upon Forestry Tasmania, and in particular not those of s.12A of the *Forestry Act*".²⁵

Probity Audit

The Committee requested Forestry Tasmania for a copy of the Probity Auditor's report in relation to the 1999 Agreements. However, Forestry Tasmania was unable to locate a copy of the report(s). In an email to Penny Egan at Forestry Tasmania, the Probity Auditor, Mr Stephen Marks, stated –

"To the best of my memory I can report to you that I provided various reports throughout the process and a sign off report at the conclusion of the process. These reports followed a detailed probity audit which included attendance at numerous meetings and examination of a substantial number of documents.

I am able to confirm to you that following my detailed probity audit I reported that I was satisfied as to the probity of the process".²⁶

The Committee requested a copy of the report(s) from Mr Marks, who confirmed that he no longer had the documents on file. Taswood Growers

²⁵ Bale, op.cit., p. 3.

²⁶ Marks, Stephen, Email dated 28 May 2007 to Penny Egan, Chief Financial Officer, Forestry Tasmania.

were also requested to provide a copy, but the Committee was advised that they did not have one.

Conclusion

The Committee concludes that –

1. There were differing opinions as to whether in 1999, when Forestry Tasmania entered into the Joint Venture Agreement, it retained the power to decide how Crown wood sold to the Joint Venture was to be further supplied, allocated or disposed of.

However, the Solicitor-General and Forestry Tasmania advised that at the time of entering into that agreement, Forestry Tasmania –

- Adhered to the obligations implicit in s.12A of the *Forestry Act 1920* and gave consideration to any potential impact on levels of employment; and
 - In accordance with s.7 of the *Government Business Enterprises Act 1995*, took into account principles of sound commercial practice and the need for the maximisation of value for the State having regard to the economic and social objectives of the State.
2. Advice from the Solicitor-General confirms that Forestry Tasmania had no role to play in examining options for competing claims for softwood, the subject of the Joint Venture Log Supply Deal. The Forestry Tasmania board members on the Taswood Growers' Board were required to act in the best interests of the joint venture.
 3. Section 12A of the *Forestry Act 1920* does not provide a clear understanding of what is meant by 'consideration' and how it should be demonstrated.
 4. Background documentation that led to the drawing up of the Joint Venture Agreement and the Probity Audit process were not made available to the Committee for consideration.

The Process that led to the Log Supply Decision

Chapter 2

The process that led to the log supply decision with reference to any relevant laws of the State, Commonwealth or any other agreement.

Mr H M Blake was commissioned by the State Government to undertake an inquiry into issues also relevant to this term of reference. A copy of Mr Blake's report is attached to this report (see Appendix 1).

Mr Blake's inquiry was limited to examining "...the processes for the evaluation of the competing offers by Auspine and FEA following Rayonier's request by letter dated 27 November 2006 and provide a report to the Premier of Tasmania and to Taswood on whether or not the evaluation followed :

- 2) the evaluation protocol that was communicated to the two proponents; and
- 3) any criteria that Rayonier (for Taswood) established for the assessment of offers".²⁷

The Audit Report concludes that "the proposals made by FEA and Auspine following Rayonier's request by letter dated 27 November 2006, were evaluated according to the process and criteria set out in that letter and subsequent Rayonier correspondence".²⁸

The Committee believed that Mr Blake's inquiry was not broad enough to satisfy the requirements of this term of reference and accordingly continued with its own investigation in this regard.

The Committee heard evidence from several witnesses in relation to the process that led to the joint venture log supply decision. A time-line of events leading up to the decision, compiled through the evidence provided, is listed below :

1/7/99	The Joint Venture, Taswood Growers, established between Forestry Tasmania and GMO Renewable Resources.
3/10/99	Rayonier were appointed managers of the Joint Venture operation.
8/6/05	Rayonier advised of a plantation resource review and sales plan. Contracts to be awarded 23/12/05.
1/7/05	Auspine wrote to Rayonier asking for 56 tender related points to be clarified. Brief replies were received.
15/7/05	Rayonier issued formal invitations to tender.

²⁷ Blake, Mr H M, Audit Report – Audit of Process to Award Softwood Supply Contract, 23 March 2007, p. 2.

²⁸ Ibid., p. 3.

28/9/05	Tenders closed. Auspine and Frenchpine submitted separate proposals.
21/10/05	Notification from Rayonier that tenders had concluded and that none of the bids had been successful.
31/10/05	Auspine announced purchase of Frenchpine. Following this, Auspine submitted a number of offers to Rayonier.
2/3/06	Rayonier suspended negotiations until after the election; set to resume on 20/3/06. Auspine advertised across the state expressing concerns regarding the tender process.
9/3/06	Rally held in Scottsdale. Auspine called for assistance through a conciliator.
27/7/06	Auspine met with the Premier.
Mid- Sep 06	Mr White contacted Rayonier and enquired as to the possibility for FEA to make a bid on the resource. He was told that Rayonier were not interested in speculation and to write a letter.
22/9/06	FEA expressed their interest in the resource in writing.
5/10/06	FEA received a reply from Rayonier saying that they would be prepared to accept an offer, but they would not negotiate until an offer had been presented.
Oct/Nov	Stalemate in negotiations between Rayonier and Auspine. Auspine wanted mediation.
27/10/06	FEA submitted a significant non-binding offer.
27/11/06	FEA received advice from Rayonier that the Joint Venture had considered the offer and was prepared to negotiate. Auspine was advised of interest from another party. Auspine tried to comply with the wishes of Rayonier shareholders and said they would accept a seven-year deal and match the price of any other bidder.
28/11/06	FEA made a public statement advising that there was another party involved in bidding.
4 or 5/12/06	Additional meeting between Auspine and the Premier. At this stage Auspine wanted a 20-year deal but was prepared to be flexible.
7/12/06	FEA received a letter from Rayonier offering assistance and outlining the factors being considered in relation to offers.
18/12/06	FEA submitted a more formal memorandum.
29/1/07	Agreement reached between the FEA and Rayonier.

Following this date, the Dorset Economic Development Group's socioeconomic impact study was released and there have been repeated calls for review and even revocation of the FEA contract.

Mr Claridge, Regional Manager of Rayonier, told the Committee that in deciding upon the tender -

“There were three broad areas of criteria. The first was in relation to price and associated factors; the second was in relation to

contractual terms; and the third was in terms of the long-term sustainability of the business.”²⁹

According to Mr Gordon -

“Each of the bidders was given exactly the same selection criteria and each of the bidders had exactly the same opportunity to submit that information.”³⁰

Mr Claridge continued to say that -

“The assessment process is reasonably detailed inasmuch as it requires a clear assessment of not only pure price factors but other associated value issues with relation to the costs of locating and moving wood from one forest to a certain location and a range of other factors that are taken on board.”³¹

Before engaging in the tender process, the first time such a method had been used to allocate the resource, the Taswood Growers board and Rayonier received advice from independent consultants as to the prices received for such logs in the south-east of Australia generally, and also the quality of the available resources. The results of these studies showed that the prices that had been paid in Tasmania were far less than the norm and, in addition, the logs were of superior quality.³²

Some discussion has been engaged in regarding the prospective durations of the respective tenders. Mr Jakab, Auspine’s Chief Operations Manager related that -

“Rayonier had informed us that the preference of their shareholders was for a maximum seven-year deal with a preference for a term shorter than that. It is true that at one particular point we were told the board might contemplate maybe ten years if we could demonstrate a value proposition, but it was very clear to us what the preference was. So when we were on our knees we told Rayonier we would fit in with what they wanted. We offered them seven years”.³³

Mr Claridge said that in October 2006 Auspine were informed that the Board would consider a ten year duration for contract, having taken such an issue to the board.³⁴ The successful FEA submission was for a ten year term. However, this issue remains contentious.

²⁹ Claridge, Mr Mike, Regional Manager, Rayonier, Transcript of Evidence, 19 March 2007, p

16

³⁰ Gordon, p. 5.

³¹ Claridge, p. 3.

³² Ibid., p. 12.

³³ Jakab, p. 15.

³⁴ Claridge, p. 14.

Further, the process engaged in specified that the parties were to put forward the best offer they were prepared to make, and thus, although the catch-all provision outlined by Auspine that they would meet any tender offered was submitted to the board, it was not thought to comply with the outlined process.³⁵

According to Auspine's Mr Jakab -

"We offered prices that were attractive and we said they could have the higher of these prices or they could accept a situation where Auspine was prepared to match the price of any other bona fide bidder. And that is an offer. People say that is not a commercial offer but that is a commercial offer. It is a commercial offer that the sellers were capable of relying upon."³⁶

Mr Paul Nichols, representing Rayonier, refuted such an assertion, saying -

"Is that not an absurd proposition? We defined a process where we asked people to put their best offer forward. One party says, 'By the way, this is my best offer but I am prepared to match anyone else's offer'. If you were to be fair and equitable we would have to go back to the other player and say, 'You have to match it as well'. That is not the process. The process was very clearly laid out: put your best offer forward."³⁷

A further issue raised in evidence was whether mediation should have been provided during the course of contractual negotiations between Auspine and Rayonier.

The Committee was unable to discuss the matter of mediation with the Premier as a suitable time could not be arranged. However, in answer to a question from Mr Gutwein in the House of Assembly on Thursday, 22 June 2006, as to whether he was receptive to the idea of a mediator being appointed, if both negotiating parties agreed, the Premier responded –

"...the Government wanted to assist in facilitating an agreement between the two parties in any way that we could. I and the Deputy Premier both agreed to meet with the work force in about six weeks' time should there still be no resolution to see how it might be that we could continue to assist the matter...in addition, I indicated to the work force, as the Deputy Premier continually has, that the Government cannot force a third party or the two parties to accept the decision of a third party".³⁸

³⁵ Nichols, p. 14.

³⁶ Jakab, p. 14.

³⁷ Nichols, op.cit.

³⁸ Lennon, Hon Paul, MHA, Hansard, House of Assembly, Thursday, 22 June 2006, p. 13.

A further question was asked by Mr Gutwein on 23 November 2006 in the House of Assembly, in response to the Premier's commitment to the CFMEU to fund a mediator. The Premier replied –

“... I hope that the Government is able to use its good offices to assist in the finalisation of successful negotiations. I will continue to work closely with the union, the employees and their families at Auspine. I will continue to meet with them and I am available to meet with Auspine and Rayonier as well. If that can assist in the matter being finalised, so be it”.³⁹

It is clear that Auspine was keen to engage in such a process from February or March 2006. Rayonier did put such a suggestion to the board of Taswood Growers, however, it was decided that -

“... mediation is an appropriate mechanism for an existing contractual arrangement, but we are talking about negotiating a new contractual supply. At that point in time, the owners decided that mediation was not the appropriate step to take.”⁴⁰

Mr Jolly, on behalf of Taswood Growers, confirmed this and added –

“...This was us attempting to go to the market in an open and transparent way and let the market speak, so the inter-mediation with one party did not at all seem appropriate, and it was not entirely clear to me at that stage that we were only ever going to be presented with offers from one party, yet to go into mediation with one party would imply that we were...”⁴¹

Conclusion

The Committee concludes that –

5. The Solicitor-General's advice to the Committee, together with Mr Blake's report, suggests that the process that led to the joint venture log supply deal was performed in a normal commercial manner. However, the Committee believes that the community should have been kept better informed regarding employment issues and any other likely impacts.
6. Taswood Growers did not consider it appropriate to mediate with one party.

³⁹ Lennon, Hon Paul, MHA, Premier of Tasmania, Hansard, 23 November 2006.

⁴⁰ Claridge, p. 22.

⁴¹ Jolly, Mr Ian, Taswood Growers, Transcript of Evidence, 19 March 2007, p. 19.

Attachment 1

Audit Report **AUDIT OF PROCESS TO AWARD SOFTWOOD SUPPLY CONTRACT**

Introduction

Taswood Growers Joint Venture (Taswood) is the operating name for the softwood joint venture between Forestry Tasmania and GMO Renewable Resources. Taswood through its agent, Rayonier Australia Pty Ltd (Rayonier), manages, harvests and markets softwood resources.

In 2005, facing a reduction in harvest volumes, Taswood, via Rayonier, set up a process to determine future supplies of logs. This was done through a tender process, and subsequent negotiations over prices and other matters with mills that responded to the tenders.

One of the bidders was Auspine Limited (Auspine), which has a sawmill in Scottsdale employing approximately 300 people. However, unlike other tenderers, Auspine had not reached agreement with Taswood by June 2006.

Subsequently, Forest Enterprises Australia Limited (FEA) submitted an unsolicited offer for the same softwood resource that had been the subject of unsuccessful negotiations between Taswood and Auspine for the past 13 months.

On 27 November 2006 Rayonier invited Auspine and FEA to make new offers for the resource available. Following separate negotiations with each party by Rayonier, and an evaluation by it of the two offers based on specified criteria, Taswood made the decision to offer the resource to FEA and a contract was agreed which provided for the available resource to be supplied to FEA from 1 April 2007.

Following disquiet from the unsuccessful bidder and the community, I was requested by the Premier of Tasmania to conduct an independent audit of the process followed by Taswood in awarding the softwood supply contract.

Terms of engagement

Under the *Financial Management and Audit Act 1990* (FMAA) the audit was outside my powers as Auditor-General of Tasmania. Instead I was engaged as a private auditor rather than in my statutory role as Auditor-General.

I was initially requested to perform the audit by the Premier of Tasmania. However, no power to perform the audit existed without the permission of

Taswood. That permission was given by Taswood and the Premier jointly agreeing on 6 March 2006 to the terms of reference that I designed for this audit. Agreement by Taswood was essential in order to facilitate the operational aspects of the audit.

Recognising that the contract with FEA is scheduled to commence on 1 April 2007, the audit was to be conducted and completed by 26 March 2007.

The Premier of Tasmania agreed to provide up to \$40 000 for the performance of the audit. However, none of these funds were subsequently needed.

Objectives of the audit

The objective of the audit was to determine whether or not the proposals made by FEA and Auspine following Rayonier's request by letter dated 27 November 2006, were evaluated according to the process and criteria set out in that letter and subsequent Rayonier correspondence.

The objectives of the audit did not include testing or assessing the merits of the decisions made by the evaluation panel or by the Taswood Board.

Terms of reference

The terms of reference which formed the basis for the agreement between the Premier, the JV and myself, required me to examine the processes for the evaluation of the competing offers by Auspine and FEA following Rayonier's request by letter dated 27 November 2006 and provide a report to the Premier of Tasmania and to Taswood on whether or not the evaluation followed:

- 1) the evaluation protocol that was communicated to the two proponents; and
- 2) any criteria that Rayonier (for Taswood) established for the assessment of offers.

More specifically, I was to:

- 1) review and examine the processes set in place to evaluate offers and assess whether those processes were followed;
- 2) determine whether pre-determined criteria were used in making the evaluation;
- 3) determine whether there is reasonable evidence that evaluation against the criteria has been properly conducted;
- 4) consider any submissions that Rayonier, Taswood, Auspine or FEA (the "parties") wish to put to me and provide Taswood with the opportunity to comment on a draft report;

- 5) determine whether criteria that had not been previously agreed were used in making the evaluation; and
- 6) determine whether Rayonier held appropriate delegated authority to manage the awarding of the softwood supply contract and that the Joint Venture parties took ultimate responsibility for the decision.

Conduct of the audit

In undertaking the audit and preparing my report I consulted with Forestry Tasmania, GMO Resources Australia, Rayonier, Auspine and FEA. I sought, and received, prior approval from the parties to examine relevant documentation. In this regard, I entered into a deed in terms of which all of these parties and myself agreed to address matters relating to the conduct of the audit and to allow certain confidential information to be considered in the audit subject to the terms of that audit. I am satisfied that entering into this deed did not impinge on my independence or capacity to conduct the audit appropriately.

I reviewed evaluation documents, bids, computer modeling systems, board minutes, independent reports, relevant draft contracts and correspondence and I met formally with Rayonier and members of the Taswood Board.

My opinion

In my opinion, the proposals made by FEA and Auspine following Rayonier's request by letter dated 27 November 2006, were evaluated according to the process and criteria set out in that letter and subsequent Rayonier correspondence.

More specifically:

- 1) The processes set in place to evaluate offers were followed.
- 2) The pre-determined criteria were used in making the evaluation.
- 3) There was reasonable evidence that evaluation against the criteria was properly conducted.
- 4) Discussions were held with Rayonier, Taswood, Auspine and FEA and the opportunity was provided for each of them to provide me with further information. Taswood were given the opportunity to comment on a draft report.
- 5) Only the criteria advised to the bidders in the letter of 27 November 2006 and follow-up correspondence were used in making the evaluation.

- 6) Rayonier did hold appropriate delegated authority to manage the awarding of the softwood supply contract. The Joint Venture parties took ultimate responsibility for the decision.

A handwritten signature in black ink, appearing to read 'H M Blake', with a stylized flourish at the end.

H M Blake
23 March 2007

List of References

Auspine letter to the ASX, 2 April 2007.

Bale, Mr WCR, Solicitor-General, Letters to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 28 February 2007 and 2 March 2007.

Bale, Mr WCR, QC, Solicitor-General, Letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 19 March 2007.

Bale, Mr WCR, QC, Solicitor-General, Letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 23 April 2007.

Blake, Mr H M, Audit Report – Audit of Process to Award Softwood Supply Contract, 23 March 2007.

Claridge, Mr Mike, Regional Manager, Rayonier, Transcript of Evidence, 19 March 2007.

Estcourt, Mr Stephen, QC, Letter to the Chairman, Joint Standing Committee on Environment, Resources and Development, dated 11 April 2007.

Forestry Act 1920, Section 12A.

Gordon, Mr Bob, Managing Director, Forestry Tasmania, Transcript of Evidence, 19 March 2007.

Government Business Enterprises Act 1995, Section 7.

Jakab, Mr Andrew, Chief Operations Officer, Auspine, Transcript of Evidence, 19 March 2007.

Jolly, Mr Ian and Gordon, Mr Bob, Taswood Growers, Letter to the Parliamentary Joint Standing Committee on Environment, Resources and Development, dated 26 April 2007.

Jolly, Mr Ian, GMO Renewable Resources, representing Taswood Growers, Transcript of Evidence, 19 March 2007.

Lennon, Hon Paul, MHA, Hansard, House of Assembly, Thursday, 22 June 2006.

Lennon, Hon Paul, MHA, Premier of Tasmania, Hansard, 23 November 2006.

Marks, Stephen, Email dated 28 May 2007 to Penny Egan, Chief Financial Officer, Forestry Tasmania.

Martin, Mr John, General Manager, Dorset Council, Transcript of Evidence, 2 April 2007.

McCall, Dr Tony, Dorset Economic Development Group, Transcript of Evidence, 2 April 2007.

Nichols, Mr Paul, Managing Director, Rayonier, Transcript of Evidence, 19 March 2007.

Stedman, Michael, "Second opinion on softwood", *The Examiner*, 5 April 2007.

Stokes, Mr Michael, "Employment implications of Forestry Timber sales", *Tasmanian Times*, 7 March 2007.

Stokes, Mr Michael, Senior Lecturer, Faculty of Law, University of Tasmania, "The Right of a Parliamentary Scrutiny Committee to Seek Independent Legal Advice", *Tasmanian Times*, 17 April 2007.

List of Witnesses

Appendix 1

Auspine

Rayonier

Taswood Growers

Forestry Tasmania

Forest Enterprises Australia

Dorset Council

Dorset Economic Development Group

CFMEU

Written submissions taken into evidence Appendix 2

Dorset Council

John Livermore

Documents taken into evidence

Appendix 3

1998 Taswood Availability

2002 Taswood Availability

2003 Taswood Availability

2005 Taswood Availability

Taswood Inferred Harvest Rate

1998 Taswood Sawlog Availability

2002 Taswood Sawlog Availability

2003 Taswood Sawlog Availability

2005 Taswood Sawlog Availability

2007 Taswood Sawlog Availability

Photos – Examples of Logs – Dorset Council

Minutes of Proceedings

Appendix 4

JOINT STANDING COMMITTEE**ENVIRONMENT, RESOURCES AND DEVELOPMENT****MINUTES****MONDAY, 26 FEBRUARY 2007**

At 3.03 o'clock pm in the Conference Room, 4th Floor, Henty House, One Civic Square, Launceston

Members Present :**Mr Best** (*phone link*)**Mr Gutwein****Mr Green** (*phone link*)*Mr Hall***Mr Harriss****Mr McKim** (*phone link*)**Mrs Rattray-Wagner****Ms Thorp** (*phone link*)**Confirmation of Minutes :**

The Minutes of the meeting held on Tuesday, 21 November 2006 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- **Letter dated 8 December 2006 from NRMA acknowledging the invitation to participate in the Alternative Fuels inquiry.**

- Letter dated 8 January 2007 from the Waste Management Association regarding the Committee's report on Waste Management in Tasmania.

Terms of Reference – Joint Venture Log Supply Deal :

Mr McKim asked the Committee to consider whether Mr Green had a conflict of interest in this term of reference as he was the Minister for Forests when the initial negotiations were taking place.

Discussion took place.

Resolved, That *Mr Green* remain on the Committee, but if issues arise relating to *Mr Green's* involvement, then a further judgement be made at that time.

The Committee was advised by Government Members that the Auditor-General had agreed to undertake an inquiry into this issue and that Cabinet had agreed to funding the inquiry.

Discussion took place on the Committee's inquiry.

Mr Green moved that the Committee delay its decision and seek advice regarding the Auditor-General's jurisdiction and terms of reference.

Resolved in the negative.

Further discussion took place.

***Mrs Rattray-Wagner* moved that the Committee inquire into the joint venture log supply deal.**

Resolved in the affirmative.

***Mr Green* questioned whether the wood supply concerned was in fact a Crown resource.**

***Resolved,* That the Committee seek advice from the Solicitor-General whether any part of the wood supply involved in the deal between Forestry Tasmania and GMO Renewable Resources is a Crown resource.**

Discussion took place on the draft terms of reference.

***Resolved,* That the terms of reference be amended to read as follows –**

To inquire into and report upon Forestry Tasmania/GMO Renewable Resources (Taswood Growers) joint venture log supply deal, with particular reference to :

- (1) Whether the *Forestry Act 1920* and the *Government Business Enterprises Act 1995* functions and powers have been adhered to in the contractual arrangements entered into by Forestry Tasmania for the purpose of making wood supply agreements; and
- (2) The process that led to the log supply decision, with reference to any relevant laws of the State, Commonwealth or any other agreement.

Other Business :

Mrs Rattray-Wagner read a list of suggested witnesses.

Resolved, That the list be emailed to all Members.

Mr McKim tabled a letter addressed to the Chair of the Committee nominating *Mr Booth* as his proxy for the duration of the inquiry into the Joint Venture Log Supply Deal.

At 4.47 o'clock pm the Committee adjourned until Monday, 19 March 2007 in Launceston.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

MONDAY, 5 MARCH 2007

At 10.10 o'clock am in Committee Room No. 3, Parliament House, Hobart.

Members Present :

Mr Best (*phone link*)

Mr Booth

Mr Gutwein

Mr Green

Mr Hall (phone link)

Mr Harriss

Mrs Rattray-Wagner (*phone link*)

Ms Thorp (*phone link*)

The Chairman reminded all Members that the meeting was private.

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 26 February 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 28 February 2007 from the Solicitor-General in response to the Chair's letter requesting whether any part of the wood supply involved in the deal between Forestry Tasmania and GMO Renewable Resources is a Crown resource.
- Letter dated 2 March 2007 from the Solicitor-General regarding his previous advice.

Discussion took place.

Mr Booth raised the question of a conflict of interest by **Mr Green**, stating that the functions of the Committee would be jeopardised by **Mr Green** remaining on the Committee. **Mr Gutwein** also raised concerns.

The Committee agreed to stand by its decision at the previous meeting.

Further discussion took place as to whether the Committee could investigate the commercial operations of private companies and their arrangements with Forestry Tasmania.

Joint Venture Log Supply Deal – Invitation List

Discussion took place.

Resolved, That –

- If Forestry Tasmania does not provide a copy of the Joint Venture Agreement as requested, the Committee formally summons the document.
- The Solicitor-General be requested to brief the Committee as to whether the Joint Venture Agreement signed in 1999 complied with the *Forestry Act 1920* and the *Government Business Enterprises Act 1995*.
- The Auditor-General be requested to brief the Committee in relation to the terms of reference of his inquiry into the Joint Venture Log Supply Deal.
- The draft invitation list be agreed to and that Auspine, Rayonier, Taswood Growers (Chairman and CEO), Forestry Tasmania and the Minister for Forests (together) and FEA be heard on 19 March. The CFMEU representative and Dorset Council (including Dorset EDG and Tony McCall) be heard at a later date.

Other Business :

Mr Gutwein asked what the position was for Members on the Government Businesses Scrutiny Committees questioning Forestry Tasmania in relation to this issue. The Committee agreed that the Secretary should seek advice from the Clerks and advise *Mr Gutwein* accordingly.

At 11.43 o'clock am the Committee adjourned until Friday, 16 March 2007 in Hobart.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

THURSDAY, 8 MARCH 2007

At 1.20 o'clock pm in Committee Room No. 3, Parliament House, Hobart.

Members Present :

Mr Best (*phone link*)

Mr Booth

Mr Gutwein

Mr Green (*phone link*)

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 5 March 2007, as amended, were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 6 March 2007 from the Auditor-General advising his availability to brief the Committee on Friday, 16 March 2007.
- Letter dated 6 March 2007 from the Solicitor-General advising his availability to brief the Committee on Friday, 16 March 2007.
- Email dated 6 March 2007 from Patrick Synge, Secretary, Timber Workers for Forests advising they would like to make a submission.

Ms Thorp questioned the content of the letter to the Solicitor-General requesting the briefing.

Motions

Mr Hall moved that all future deliberations of the Joint Standing Committee on Environment, Resources and Development's inquiry into the Joint Venture Log Supply Deal remain confidential to Committee Members only.

The motion was agreed to.

Mr Hall moved that any future requests for information by the Committee in relation to the inquiry into the Joint Venture Log Supply Deal, be requested to be provided confidentially.

The motion was agreed to.

Other Business :

Mr Booth moved that ***Bryan Green MHA*** remove himself from this Committee inquiry reference and appoint a proxy in his place, due to the

conflict of interest he has with this Inquiry's terms of reference, in that he served as the Forestry Minister during part of the Auspine log supply negotiations which is a matter central to this Inquiry's deliberations, and as such is a material witness who may need to be examined by this Inquiry.

Mr Booth spoke to his motion.

Mr Best raised some issues relating to the direction the Committee was going and the Committee agreed to discuss the issue at a later time.

Mr Gutwein stated that he also believed *Mr Green* had a conflict of interest.

Mr Green advised that he was not able to formally intervene in the log supply negotiations and therefore did not have a conflict of interest.

The Committee divided.

Ayes

Noes

Mr Booth

Mr Best

Mr Gutwein

Mr Green

Mr Hall

Mr Harriss

Ms Rattray-Wagner

Ms Thorp

**At 2.02 o'clock pm the Committee adjourned until Friday, 16 March 2007
in Hobart.**

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

FRIDAY, 16 MARCH 2007

At 10.00 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best

Mr Booth

Mr Gutwein

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Thursday, 8 March 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 2 March 2007 from the Chair of the Northern Territory Sessional Committee on Environment and Sustainable Development regarding the 12th Annual Parliamentary Public Works and Environment Committees Conference, 19-21 September 2007.
- Letter dated 13 March 2007 regarding the hearing process for Monday, 19 March 2007.
- Letter dated 14 March 2007 from the Clerk of the House of Assembly regarding a motion referring terms of reference to the Committee in relation to wildfires.
- Email from Forestry Tasmania regarding the Softwood Joint Venture – Management and Operating Structure

Business :

Mr Best tabled a copy of the House of Assembly Government Businesses Scrutiny Committee transcript relating to Forestry Tasmania.

Mrs Rattray-Wagner raised the question of responding to those people who have asked to give evidence to the Committee.

Resolved, That the Secretary phone those concerned and request them to provide the areas they wish to discuss.

The Committee was advised that the Premier had apologised for Monday's meeting.

Resolved, That the Premier be asked to provide a range of available dates for a hearing.

Resolved, That the scheduled meeting for 1.00 o'clock pm on Tuesday, 20 March 2007 go ahead.

Briefings :

The Solicitor-General briefed the Committee in relation to whether the Joint Venture Agreement signed in 1999 complied with the *Forestry Act 1920* and the *Government Business Enterprises Act 1995*.

Mr Green took his place.

The Committee suspended at 10.58 o'clock am.
The Committee resumed at 11.22 o'clock am.

The Solicitor-General continued his briefing.

The Solicitor-General withdrew.

The Auditor-General briefed the Committee in relation to the terms of reference of his inquiry into the Joint Venture Log Supply Deal.

The Auditor-General withdrew.

Mr Green questioned the relevance of the Committee continuing with its inquiry, given the Auditor-General's inquiry.

Discussion took place.

Mr Booth read a list of questions he would like answered by the Solicitor-General.

Other Business :

The *Chair* made a statement to the Committee regarding evidence provided to the Committee 'in camera' which outlined that any breach of an undertaking to take such evidence would be treated as a gross contempt of Parliament and would require that any offender, or offenders, appear before the Privileges Committee, at which time they

would be judged by their peers. Such a breach could well result in expulsion.

The *Chair* also stated that before putting any motion on evidence being given 'in camera' he would need to ask if any one committee member would be unable to commit to these secrecy provisions.

Discussion took place.

Mr Green raised concerns regarding the Committee discussing areas of the commercial operations of companies.

Mr Best sought consensus regarding the information provided today by the Solicitor-General and the Auditor-General.

Motion :

Mr Best moved that the Committee suspend and seek clarification of facts and points raised by the Solicitor-General and reconvenes at a later hour.

Discussion took place.

The motion was resolved in the negative.

Mr Best withdrew.

Resolved, That -

- The Secretary seek clarification from the Solicitor-General in relation to the points raised by Members, which are to be emailed to the Secretary today.
- The media be advised of the hearings on Monday and that some evidence will be given 'in camera'.

At 1.42 o'clock pm the Committee adjourned until Monday, 19 March 2007 in Hobart.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

MONDAY, 19 MARCH 2007

At 9.00 o'clock am in the Reception Room, Town Hall, Launceston.

Members Present :

Mr Booth

Mr Green

Mr Gutwein

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Public Hearings :

MR ANDREW JAKAB, MR GEOFF CAMPBELL AND MR PHILLIP LLOYD,
on behalf of Auspine, were called, made the Statutory Declaration and
were examined.

***Mr Best* took his place.**

***Ms Thorp* took her place.**

Tabled Documents :

- **1998 Taswood Availability**
- **2002 Taswood Availability**
- **2003 Taswood Availability**
- **2005 Taswood Availability**
- **Taswood Inferred Harvest Rate**
- **1998 Taswood Sawlog Availability**
- **2002 Taswood Sawlog Availability**
- **2003 Taswood Sawlog Availability**
- **2005 Taswood Sawlog Availability**
- **2007 Taswood Sawlog Availability**

Information requested to be provided :

- **Details of the Joint Venture with Dorset Council**

The witnesses withdrew.

The Committee suspended at 10.37 o'clock am.

The Committee resumed at 10.45 o'clock am.

MR PAUL NICHOLS AND MR MIKE CLARIDGE, on behalf of Rayonier, were called, made the Statutory Declaration and were examined.

Information requested to be provided :

- **Dates of Forest Enterprises Australia's involvement in the process**
- **Amount of the Tender Fee (commercial-in-confidence)**

The witnesses withdrew.

The Committee suspended at 12.10 o'clock pm.

The Committee resumed at 12.15 o'clock pm.

MR BOB GORDON AND MR IAN JOLLY, on behalf of Taswood Growers, were called, made the Statutory Declaration and were examined.

Mr Best, Mr Green and Ms Thorp withdrew.

Information requested to be provided :

- **Legal advice relating to probity issues**
- **Contractual details of Auspine and FEA – renewable options (commercial-in-confidence)**
- **Advice from the Consultant regarding the contract, which was used to assist in deliberations (commercial-in-confidence)**
- **Taswood Growers – All Board Minutes relating to the decision to award the contract to FEA (commercial-in-confidence)**

The witnesses withdrew.

The Committee suspended at 1.35 o'clock pm.

The Committee resumed at 2.34 o'clock pm.

MR BOB GORDON, on behalf of Forestry Tasmania, was called, made the Statutory Declaration and was examined.

Information requested to be provided :

- **Solicitor-General's advice provided to Forestry Tasmania in relation to the Joint Venture**
- **Chronological details of meetings, briefings, discussions, etc. between Forestry Tasmania and any Government Members regarding the Joint Venture**

The witness withdrew.

The Committee suspended at 3.28 o'clock pm.

The Committee resumed at 3.31 o'clock pm.

MR ANDREW WHITE, on behalf of Forest Enterprises Australia, was called, made the Statutory Declaration and was examined.

Information requested to be provided :

- **Letter from Taswood Growers to both bidders regarding the three major issues**

The witness withdrew.

Correspondence :

Letter dated 19 March 2007 from the Solicitor-General confirming matters raised in his briefing to the Committee.

Confirmation of Minutes :

The Minutes of the meeting held on Friday, 16 March 2007 were confirmed as a true and accurate record.

Other Business :

Resolved, **That –**

- **The Solicitor-General be requested to quote the clause in the Sales Agency Agreement which provides for Rayonier's sales plan to "... only be challenged by the unanimous agreement of the Joint Venturers and, if Rayonier did not agree with their view, the final decision with regard to Rayonier's proposal is vested in an independent arbitrator".**
- **Further advice be sought from the Solicitor-General when the transcripts of hearings become available and that the draft correspondence be provided to all Members before being sent.**

At 4.50 o'clock pm the Committee adjourned until Tuesday, 20 March 2007 in Hobart.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

TUESDAY, 20 MARCH 2007

At 1.12 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best

Mr Booth

Mr Green

Mr Gutwein

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 19 March 2007, as amended, were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- **Email dated 19 March 2007 from Mr John Livermore attaching a submission to the Joint Standing Committee on Environment, Resources and Development.**
- **Letter dated 20 March 2007 from the Solicitor-General advising that he cannot provide the requested section of the Sales Agency Agreement.**

Resolved, That the following correspondence be received '*in confidence*'–

- Letter dated 20 March 2007 from Mr Andrew Jakab, Chief Operations Officer, Auspine suggesting documents to be requested.

Discussion took place in relation to the correspondence.

Resolved, That –

- The transcript of a news item on ABC Radio on 19 March 2007 interviewing Andrew Jakab be requested and, if required, contact Mr Jakab and advise the Committee's process.
- The Chairman write to Mr Jakab, Chief Operations Manager, Auspine advising that, as witnesses provided their evidence under oath, the Committee is taking his allegations seriously, and request him to provide written evidence to support the misrepresentations.
- The Committee meet to discuss the suggested requests for further information (Auspine correspondence) at the next meeting.

Future Program :

Mr Green suggested that the Committee table an Interim Report in relation to term of reference 1.

Discussion took place.

Ms Thorp moved that an Interim Report be produced.

Further discussion took place. *Mr Harriss, Mr Booth, Mr Gutwein and Mr Hall* spoke against the motion.

Ms Thorp withdrew the motion.

Resolved, **That –**

- **The Secretary consult with the Premier's Office and determine a date for the remaining hearings.**

Other Business :

Mr Booth suggested the Committee seek further legal advice to test the Solicitor-General's.

Resolved, **That a second legal opinion be sought as to whether an employee of Forestry Tasmania, who becomes a Board Member of Taswood Growers, is still required in that role, to adhere to Section 12A of the *Forestry Act 1999* and any relevant provision of the *Government Business Enterprises Act 1995*.**

At 2.12 o'clock pm the Committee adjourned until Wednesday, 28 March 2007.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

WEDNESDAY, 28 MARCH 2007

At 1.08 o'clock pm in Committee Room No. 3, Parliament House, Hobart.

Members Present :

Mr Best (*phone link*)

Mr Booth (*phone link*)

Mr Green (phone link)

Mr Gutwein (*phone link*)

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Confirmation of Minutes :

The Minutes of the meeting held on Tuesday, 20 March 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

Letter dated 23 March 2007 from Mr Andrew Jakab, Chief Operations Officer, Auspine requesting a copy of the transcript of hearings.

Resolved, That the transcripts be provided to Mr Jakab (in confidence)

and

with the appropriate cover sheet.

Ms Thorp took her place.

Business :

Second Legal Opinion

Further discussion took place in relation to the Committee's Resolution to request a second legal opinion.

Mr Best advised the Committee that he accepts the Solicitor-General's opinion and does not see the need for a second opinion. He also believes it to be a waste of money.

Mr Green agreed with ***Mr Best***.

Resolved, **That –**

- The Law Society be requested to provide the name of the most appropriate person to provide the legal opinion.
- A reminder be sent to Mr Bob Gordon requesting a summary of the Joint Venture Agreement.

Requests for Further Information (Auspine correspondence)

Discussion took place in relation to any requests for further information as listed in the letter from Auspine.

***Mr Booth* agreed to provide a list of any suggested documents to be requested, at the next meeting.**

Other Business :

***Resolved,* That the Secretary follow-up the Committee's requests for additional information from the witnesses.**

At 1.42 o'clock pm the Committee adjourned until Monday, 2 April 2007.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

MONDAY, 2 APRIL 2007

At 9.00 o'clock am in the Reception Room, Town Hall, Launceston.

Members Present :

Mr Best
Mr Green

Mr Gutwein

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 28 March 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 30 March 2007 from Mr Mike Claridge, Rayonier Australia Pty Ltd providing additional information requested by the Committee (in camera).
- Letter dated 30 March 2007 from Mr Bob Gordon and Mr Ian Jolly, Taswood Growers responding to the Committee's request for additional information.

The Committee suspended at 10.40 o'clock am.

The Committee resumed at 11.30 o'clock am.

Mr Booth took his place.

Public Hearings :

MR PETER PARTRIDGE AND MR JOHN MARTIN, on behalf of Dorset Council, were called, made the Statutory Declaration and were examined.

The witnesses withdrew.

MR JOHN MARTIN AND DR TONY McCALL, on behalf of Dorset EDG, were called, made the Statutory Declaration and were examined.

The witnesses withdrew.

The Committee suspended at 1.23 o'clock pm.

The Committee resumed at 2.00 o'clock pm.

MR SCOTT McLEAN, MS EVA DOWN, MR DEAN SMITH AND MR DANIEL MURPHY, on behalf of the CFMEU were called, made the Statutory Declaration and were examined.

The witnesses withdrew.

Tabled Documents :

- **Submission to the Joint Standing Committee on Environment Resources and Development – Joint Venture Log Supply Deal – 2 April 2007 – Dorset Council**
- **Photos – Examples of Logs – Dorset Council**

Additional Information Requested :

- **Media Transcript – CFMEU**
- **Correspondence from Premier/Minister to CFMEU regarding s.12A - CFMEU**

The Committee suspended at 3.42 o'clock pm.

The Committee resumed at 3.50 o'clock pm.

Other Business :

Discussion took place regarding the request for a second legal opinion.

The Committee agreed that the Solicitor-General's advice be provided to the relevant legal officer.

Resolved, **That the Committee take no further action until the second legal opinion is received.**

At 4.02 o'clock pm the Committee adjourned until Tuesday, 17 April 2007.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

TUESDAY, 17 APRIL 2007

At 1.07 o'clock pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best
Mr Booth
Mr Green

Mr Gutwein

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 2 April 2007 were confirmed as a true and accurate record.

Briefing :

Mr Stephen Escourt QC briefed the Committee in relation to his correspondence dated 11 April 2007.

Correspondence :

Resolved, That the following correspondence be received –

- Letter dated 2 April 2007 from Mr Bob Gordon, Managing Director, Forestry Tasmania concerning the Softwood Joint Venture.
- Letter dated 2 April 2007 from Mr Andrew White, CEO-Forest Enterprises Australia Ltd attaching the letter from Taswood Growers to both bidders regarding the three major issues, as requested.
- Letter dated 2 April 2007 from Mr Bob Gordon, Managing Director, Forestry Tasmania concerning the additional information requested.
- Letter dated 4 April 2007 from Mr Andrew Jakab, Chief Operations Officer, Auspine advising that their detailed response is likely to be relevant to the deliberations of external counsel.
- Letter dated 11 April 2007 from S P Estcourt QC in response to Committee's request for a second legal opinion.

Business :

The Committee discussed the possibility of requesting the Solicitor-General to provide further advice regarding the Sales Agency Agreement.

Resolved, **That the Secretary draft some possible questions to be asked of the Solicitor-General for consideration at the next meeting.**

The Committee also discussed its requests for additional information from Forestry Tasmania and Taswood Growers that had not been provided.

Resolved, **That the Chairman write to Forestry Tasmania demanding the 1999 suite of agreements (as described by the Solicitor-General) relevant to the Joint Venture (including the Sales Agency Agreement).**

Further discussion took place and the motion was expanded.

Resolved, **That –**

(1) The *Chairman* write to Forestry Tasmania demanding the following documents :

- The 1999 suite of agreements (as described by the Solicitor-General) relevant to the Joint Venture (including the Sales Agency Agreement).
- Solicitor-General's advice provided to Forestry Tasmania in relation to the Joint Venture.
- Chronological details of meetings, briefings, discussions, etc between Forestry Tasmania and any Government Members regarding the Joint Venture; and

(2) The *Chairman* write to Taswood Growers demanding the following documents :

- Legal advice relating to probity issues
- Contractual details of Auspine and FEA – renewable options (commercial-in-confidence)
- Advice from the Consultant regarding the contract, which was used to assist in deliberations (commercial-in-confidence)
- Taswood Growers – All Board Minutes relating to the decision to award the contract to FEA (commercial-in-confidence).

***Mr Best* abstained from voting on this motion.**

Other Business :

***Mr Best* requested written advice from the Clerk regarding Parliamentary privilege issues surrounding his role as a Committee Member when documents are received by the Committee 'in camera'. Mr Best was concerned about his legal position if such documents became public.**

The Secretary was requested to obtain the relevant written advice from the Clerk.

At 2.22 o'clock pm the Committee adjourned until Thursday, 19 April 2007.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

THURSDAY, 19 APRIL 2007

At 1.01 pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best
Mr Booth
Mr Green

Mr Gutwein

Mr Hall

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Tuesday, 17 April 2007 were confirmed as a true and accurate record.

Request for Solicitor-General's Advice :

Discussion took place regarding the draft questions provided by the Secretary. *Mr Gutwein* tabled further draft questions.

***Mr Harriss* took his place.**

***Mr Green* raised issues relating to the process of the Committee and the legal direction being taken.**

***Resolved,* That the questions tabled by *Mr Gutwein* be asked of the Solicitor-General (*Mr Gutwein*)**

***Mr Green* voted against the motion.**

***Ms Thorp* withdrew.**

Draft Report :

To be considered at next meeting.

12th Annual Parliamentary Public Works and Environment Committees
Conference – 19-21 September 2007

Members were requested to advise the Secretary if they wish to attend.

Other Business :

Resolved, **That the Committee visit Rob Henry's plant in relation to the Alternative Fuels inquiry and King Island regarding wildfires. (Mr Green)**

At 2.06 pm the Committee adjourned until a date to be determined.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

MONDAY, 7 MAY 2007

At 1.10 pm in the Conference Room, Henty House, One Civic Square, Launceston.

Members Present :

Mr Best
Mr Booth

Mr Gutwein

Mr Hall
Mr Harriss

Mrs Rattray-Wagner

Confirmation of Minutes :

The Minutes of the meeting held on Thursday, 19 April 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, **That the following correspondence be received -**

- Letter dated 23 April 2007 from Bob Gordon, Managing Director, Forestry Tasmania attaching the additional information requested (in camera).
- Letter dated 23 April 2007 from Taswood Growers providing the additional information requested (in camera).
- Letter dated 23 April 2007 from the Solicitor-General replying to the Chairman's correspondence.
- Letter dated 26 April 2007 from Taswood Growers regarding the Committee's inquiry into the Joint Venture Log Supply Deal.

Business :

Discussion took place in relation to the Solicitor-General's correspondence.

Mr Green took his place.

Further discussion took place in relation to the Solicitor-General's correspondence and the suggested conclusion in the draft report.

Ms Thorp took her place (phone link).

Resolved, That –

- the Committee request a copy of the Probity Auditor's Report from Forestry Tasmania. (*Booth/Rattray-Wagner*)
- the suggested conclusion as amended be agreed to, in principle, subject to the Committee being satisfied with the Probity Auditor's Report. (*Green/Gutwein*)

Resolved, That the above resolution be amended to split the draft conclusion into two dot points, as follows –

"The evidence before the Committee reflects, that in 1999 when Forestry Tasmania entered into the Joint Venture Agreement, it did not retain the power to decide how Crown wood sold to the Joint Venture was to be further supplied, allocated or disposed of. At the time of entering into that agreement, Forestry Tasmania –

- Adhered to the obligations implicit in s.12A of the *Forestry Act 1920* and gave proper consideration to any potential impact on levels of employment; and
- In accordance with s.7 of the *Government Business Enterprises Act 1995*, took into account principles of sound commercial practice and the need for the maximisation of value for the State having regard to the economic and social objectives of the State". (Best)

The Committee suspended at 2.48 pm.

The Committee resumed at 3.00 pm.

***Mr Booth* tabled two suggested conclusions. Discussion took place.**

The Committee discussed the 'in camera' correspondence from the Solicitor-General to Forestry Tasmania.

Resolved, **That Members provide any further suggested conclusions or recommendations to the Secretary prior to the next meeting.**

At 4.24 pm the Committee adjourned until Monday, 4 June 2007.

JOINT STANDING COMMITTEE
ENVIRONMENT, RESOURCES AND DEVELOPMENT
MINUTES
MONDAY, 4 JUNE 2007

At 2.05 pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Booth
Mr Green

Mr Gutwein

Mr Hall
Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 7 May 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, **That the following correspondence be received -**

- Letter dated 18 May 2007 from Bob Gordon, Managing Director, Forestry Tasmania enclosing documentation related to the probity auditor (in camera).
- Email dated 28 May 2007 forwarded to Sue McLeod by Penny Egan, Chief Financial Officer, Forestry Tasmania – message from Stephen Marks, Probity Auditor regarding the probity audit of the Tasmanian Softwood Joint Venture.
- Letter dated 25 May 2007 from Mr Andrew Jakab, Chief Operations Officer, Auspine providing details of Auspine's plantation joint ventures, as requested (in camera).
- Letter dated 25 May 2007 from Mr Andrew Jakab, Chief Operations Officer, Auspine attaching a supplementary submission to support its allegations (in camera).

Mr *Best* took his place.

Business :

Discussion took place in relation to the joint venture agreement documentation.

Discussion also took place in relation to the probity audit documents provided by Forestry Tasmania.

Resolved, **That Taswood Growers be requested to provide a copy of the Probity Auditor's Report.**

The Committee requested the Secretary contact –

- **Stephen Marks, the Probity Auditor and request the Report again.**
- **Penny Egan at Forestry Tasmania and suggest the Report may be a Cabinet document.**
- **Andrew Jakab at Auspine and request if any of the documentation provided can be given publicly.**

At 3.22 pm the Committee adjourned until Wednesday, 13 June 2007.

JOINT STANDING COMMITTEE
ENVIRONMENT, RESOURCES AND DEVELOPMENT
MINUTES

WEDNESDAY, 13 JUNE 2007

At 1.10 pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best
Mr Booth
Mr Green

Mr Gutwein

Mr Hall

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Monday, 4 June 2007 were confirmed as a true and accurate record.

Correspondence :

Resolved, **That the following correspondence be received -**

- **Letter dated 6 June 2007 from Andrew Jakab, Chief Operations Officer, Auspine advising that Auspine's Supplementary Submission could be released publicly when the Committee publishes its final report.**
- **Letter dated 8 June 2007 from Mike Claridge, Secretary, Taswood Growers advising that they do not have a copy of the Probity Auditor's Report.**
- **Letter dated 12 June 2007 from the Solicitor-General responding to the Chair's request for advice regarding the Committee's future deliberations.**

Auspine's Legal Action :

Ms *Rattray-Wagner* moved, seconded Ms *Thorp* – “That the Joint Standing Committee on Environment, Resources and Development –

- (1) Continue its report deliberations with a view to reporting to both Houses on the evidence received prior to 25 May 2007, as soon as possible; and
- (2) Return Auspine's Supplementary Submission and advise that in light of Auspine's pending legal action, the Committee wishes to report as soon as possible, and that time constraints do not allow the Committee to provide natural justice to other participants, and further that the information provided in the Supplementary Submission may form part of the legal proceedings”.

Mr *Harriss* took his place.

Discussion took place.

Mr *Gutwein* and Mr *Booth* argued to keep Auspine's evidence and continue with the Inquiry.

Mr *Harriss* moved that (2) of the motion be amended as follows –

- (2) Advise Auspine that its supplementary submission raised issues with respect to alleged breaches of Commonwealth and State laws which

rightly should be determined by legal process and not the province of this Committee”.

Discussion took place.

Mr *Harriss*’motion was agreed to.

Further discussion took place on the amended motion.

Resolved, **That the amended motion be agreed to.**

Mr *Booth* and Mr *Gutwein* voted against the motion.

Mr *Green* withdrew.

Mr *Gutwein* withdrew.

Mr *Booth* suggested waiting to deliberate further until all Members were present and had time to consider the report.

Report Deliberations :

The Committee considered Draft Report No. 3 page by page, as follows –

Page 2	Agreed to
Page 3	Agreed to
Page 4	Agreed to, with amendment
Page 5	Held Over
Page 6	Held Over
Pages 7-15	Agreed to
Page 16-21	Held Over

At 2.21 pm the Committee adjourned until a date to be advised.

JOINT STANDING COMMITTEE
ENVIRONMENT, RESOURCES AND DEVELOPMENT
MINUTES

WEDNESDAY, 27 JUNE 2007

At 1.08 pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best
Mr Booth

Mr Gutwein

Mr Hall
Mr Harriss

Mrs Rattray-Wagner

Ms *Thorp*

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 13 June 2007 were confirmed as a true and accurate record.

Report Deliberations :

The Committee further considered Draft Report No. 3 page by page, as follows –

New Page 5 **Agreed to, with amendment**

Page 6 Held Over

Page 16 **Agreed to, with amendment**

Mr *Green* took his place.

Page 17 **Agreed to, with amendment and the inclusion of**
Conclusion No. 4

Page 18 Agreed to, with amendment

Page 19 **Agreed to, with amendment**

Page 20 **Agreed to, with amendment**

Mrs Rattray-Wagner suggested the inclusion of a paragraph regarding Rayonier's involvement in the decision-making process. The Secretary is to draft a paragraph for consideration at the next meeting.

Page 21 **Held Over – for inclusion of a further paragraph and conclusion regarding mediation**

Mr Booth moved that the following Conclusion be included as no. 5 on page 17 of the draft report :

“Differences of opinion in evidence between parties and a lack of supporting documentation regarding how or if obligations imposed under the Forestry Act or the Government Business Enterprises Act were complied with, made it difficult for the Committee to reach a definitive conclusion on the terms of reference”.

The Committee voted –

Ayes

Mr Booth

Mr Gutwein

Mrs Rattray-Wagner

Noes

Mr Best

Mr Green

Mr Hall

Mr Harriss

Ms Thorp

At 2.18 pm the Committee adjourned until Tuesday, 3 July 2007.

JOINT STANDING COMMITTEE

ENVIRONMENT, RESOURCES AND DEVELOPMENT

MINUTES

TUESDAY, 3 JULY 2007

At 1.09 pm in Committee Room No. 2, Parliament House, Hobart.

Members Present :

Mr Best

Mr Booth

Mr Green

Mr Gutwein

Mr Hall

Mr Harriss

Mrs Rattray-Wagner

Ms Thorp

Confirmation of Minutes :

The Minutes of the meeting held on Wednesday, 27 June 2007 were confirmed as a true and accurate record.

Report Deliberations :

The Committee considered the Final Draft Report, as follows –

Page 11	Agreed to
Page 17	Agreed to
Page 21	Agreed to, with amendment and the addition of the November question
Page 22	Agreed to
Page 6	Agreed to
Page 4	Amended and Agreed to

Mr Booth moved that –

- **the Committee hand down an interim report but reserves the matters advised to it by Auspine alleging breaches of both Commonwealth and State laws; and that**
- **those matters be referred to competent legal authority for an opinion and pursuant to that advice the Committee then consider its options before making a final report.**

The Committee voted –

Ayes

Mr Booth

Noes

Mr Best
Mr Green
Mr Gutwein
Mr Hall
Mr Harriss
Mrs Rattray-Wagner
Ms Thorp

Mr Green withdrew

Resolved, **That the Report be agreed to with amendments and that it
be Tabled in both Houses on Thursday, 5 July 2007.**

Other Business :

The Committee agreed to the draft Media Release.

At 1.55 pm the Committee adjourned until a date to be advised.