



ENVIRONMENT TASMANIA INC

31 July 2008

The Secretary
Joint Select Committee on Ethical Conduct
Parliament House
Hobart
TAS 7000

Submission: Inadequate Existing Mechanisms for Ethical and Accountable Government in Tasmania. Recommendations for Independent Investigate Body.

Dear Members of the Joint Select Committee,

Thank you for the opportunity to make a submission to the Committee regarding this issue.

This submission is being written on behalf of Environment Tasmania Inc (ET). I am the secretary and office manager of the organisation. Environment Tasmania's position is that the existing mechanisms for ethical and accountable government in Tasmania are inadequate. It is our recommendation that the Tasmanian government must establish an independent body with investigative powers to address questions of ethical misconduct and corruption in Tasmania.

ET is Tasmania's conservation council. ET was formally launched in December 2006 and we represent over 25 conservation and community groups from right across Tasmania – collectively representing more than 6000 Tasmanians. The organisation is not-for-profit and is structured to ensure its clear independence and apolitical nature, its fair decision-making processes, its accountability to its member conservation groups, and its adherence to the goals of the protection, conservation and rehabilitation of Tasmania's natural environment.

Due to the short timeframe for public comment this submission will not be able to do justice to the many complex matters regarding this issue.

Background Information:

There have been a number of incidences in Tasmania's recent history which have highlighted serious shortcomings in the existing mechanisms for ethical and accountable government.

These incidences include:

- Allegations of serious political interference in the appointment of members to the judiciary have yet to be reported to the public;

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- Deputy Premier Steve Kons being found to have lied to Parliament and consequently still retaining his seat;
- The lack of investigation into allegations of serious ethical misconduct and corruption at the state government level;
- Serious lack of transparency in what have been perceived to be ‘backroom deals’ between government and corporate interests – for example the state government’s dealings with Gunns’ Ltd. regarding the proposed pulp mill; and
- Section 11 of the *Pulp Mill Assessment Act 2007*, which attempts to exclude any avenue for Judicial review or legal challenge to the Tasmanian pulp mill assessment or permit (see *appendix A*).

It is matters such as these that have seriously eroded the Tasmanian public’s faith in the good governance of our state. Tim Ellis SC, the Director of Public Prosecutions has stated that Tasmania lacks any independent body with investigative powers capable of addressing such issues. Such a body must be created immediately so Tasmanian’s can have faith that questions of conduct in governance will be dealt with ethically, effectively, efficiently and confidentially.

Recommendations:

It is Environment Tasmania’s recommendation that the Joint Select Committee on Ethical Conduct immediately establish an independent anti-corruption body with:

- Significant investigative capacity;
- An ethics education component;
- At least one mainland component;
- A guaranteed and independent budget;
- Adequate mechanisms to maintain the confidentiality of investigations and to protect both the individuals raising the allegations and subject to the allegations – including whistle blower protection; and
- The ability to engage in retrospective investigation where there is a continued impact on public policy (subject to its statute of limitations).

The anti-corruption body must report to the Parliament, not to government.

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Conclusion:

Existing mechanisms for ethical and accountable government in Tasmania are inadequate. Tasmania needs an independent anti-corruption body with both investigative and educational powers to address questions of ethical conduct and corruption in the Tasmanian government. A body encompassing the above recommendations is essential for ensuring ethical, accountable government and to restore the public's faith in the good governance of our state.

Environment Tasmania would like to again thank the committee for the opportunity to provide comment regarding this important issue and we look forward to hearing your response.

Sincerely,

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Secretary / Office Manager

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Appendix A – Section 11 of the Pulp Mill Assessment Act 2007:-

- (1) Subject to subsection (3) and notwithstanding the provisions of any other Act –
 - (a) a person is not entitled to appeal to a body or other person, court or tribunal; or
 - (b) no order or review may be made under the Judicial Review Act 2000; or
 - (c) no declaratory judgment may be given; or
 - (d) no other action or proceeding may be brought –in respect of any action, decision, process, matter or thing arising out of or relating to any assessment or approval of the project under this Act.
- (2) For the purposes of subsection (1), “any action, decision, process, matter or thing arising out of or relating to any assessment or approval of the project under this Act” includes any action, decision, process, matter or thing arising out of or relating to a condition of the Pulp Mill Permit requiring that the person proposing the project apply for such other permits, licences or other approvals as may be necessary for the project.
- (3) Subsection (1) does not apply to any action, decision, process, matter or thing which has involved or has been affected by criminal conduct.
- (4) No review under subsection (3) operates to delay the issue of the Pulp Mill Permit or any action authorised by that permit.

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