

TASMANIA

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Agency restructuring of environmental deck

In the wake of the March 2006 Tasmanian election, departmental restructuring has shifted responsibility for environmental matters within Tasmanian Government agencies. On 5 April 2006, the Environment Division of the Department of Primary Industries and Water and Environment (DPIWE) became part of the new Department of Tourism, Arts and the Environment. DPIWE's planning functions were transferred to the Department of Justice. The Resource Planning and Development Commission, the Resource Management and Planning Appeal Tribunal and the Planning Branch (previously in the Strategic Policy and Planning Division) all moved to the Department of Justice. The remainder of DPIWE's operational divisions are largely unchanged and form the renamed Department of Primary Industries and Water. All work on information, land and natural resources remains with this agency.

Source: <<http://www.dpiw.tas.gov.au/inter.nsf/WebPages/SSKA-57P5YN?open>>

Chair changes at Resource Management and Planning Appeal Tribunal

On 22 May 2006, Mr Simon Cooper commenced as the new chairperson of the Resource Management and Planning Appeal Tribunal, following the decision of Mr Cas Pitt QC to return to the Bar. The Government's appointment of Mr Cooper without calling for expressions of interest sparked some controversy.

Source: <<http://tasmaniantimes.com/index.php/weblog/comments/more-labor-mates>>

'Gunns 20' litigation prompts Gunning for Change report and lawyers' statement

In the light of Gunns legal case against The Wilderness Society and 19 other environmentalists in relation to the campaign to protect Tasmania's forests, momentum is building for law reform to protect free speech and the community's right to participate in public debate. In April 2006 The Wilderness Society launched a major report, *Gunning for Change*, examining the Gunns case and a range of other cases where community activists have been sued.

The report argues that such cases represent a major threat to the right and ability of the community to participate in public debate and political action. This is because fear of litigation can silence people and 'chill' public debate, and also because, as the report argues, the pleadings in the Gunns case are so broad that they could render ordinary political activity unlawful. The report then goes on to examine various law reform options and concludes that what is required is purpose-built legislation to firmly establish and protect the community's right to public participation.

Released at the same time as *Gunning for Change*, 145 Australian lawyers signed a statement in support of public participation law reform. Forty British lawyers also added their voice to the call for law reform, publishing a letter in the *Australian Financial Review* highlighting their concerns about the Gunns case and the implications for free speech. The fact that so many lawyers put their name to this statement highlights the seriousness of the problem of writs 'chilling' free speech and stifling public debate.

The release of the report and the lawyers' statement was greeted with interest in the legal community and received good publicity, the most comprehensive being Adele Horin's column in the Sydney Morning Herald <<http://www.smh.com.au/news/opinion/fearless-cries-from-the-wilderness/2006/04/07/1143916715745.html>>.

Source: Edited extract from <www.wilderness.org.au/campaigns/corporate/gunns/g4c_report> which includes the *Gunning for Change* report and the Australian lawyers' statement

SPRING DEVELOPMENTS

Establishing an EPA for Tasmania

In the lead up to the March 2006 Tasmanian election the State Labor Party committed to the establishment of an Environment Protection Authority (EPA) in Tasmania.

The re-elected Government has now released a Position Paper, *Establishing an Environment Protection Authority for Tasmania*, to facilitate community input to the establishment of an EPA. The Position Paper describes:

- key attributes the Government considers necessary for a Tasmanian EPA;
- current arrangements under the *Environmental Management and Pollution Control Act 1994* (Tas) (EMPCA); and
- the Government's preferred EPA model.

The Government urged the public to consider the Position Paper carefully and contribute to improving Tasmania's environmental management system by making submissions, either in writing or online via <<http://www.environment.tas.gov.au/epa/>>, by **22 December 2006**.

Relevant documents available via <<http://www.environment.tas.gov.au/epa/>> are:

- the above EPA Position Paper;
- two reviews of the EMPCA; and
- a consolidated report on these two reviews which was tabled in Parliament in October 2005.

The reviews of the EMPCA resulted in a raft of recommendations for change to the Act and subordinate legislation, primarily to improve administrative procedures and links to the planning system. The reviews provide detail on the functions and administration of EMPCA and provide a useful background to the EPA Position Paper. Implementation of the consolidated report recommendations will complement the establishment of an EPA under the framework proposed in the Position Paper.

Source: <<http://www.environment.tas.gov.au/epa/>>

New Tasmanian Aboriginal Heritage Legislation

The creation of new Tasmanian Aboriginal Heritage Legislation will affect many people throughout the Tasmanian community. For the Aboriginal community, this will be an opportunity for Aboriginal culture to be recognised and protected by contemporary legislation. For those who use, own or have an interest in land, it is an opportunity to ensure certainty for long term planning, whether it is for private, commercial or recreational purposes.

A Consultation Package has now been developed and released. Written responses to the Consultation Package were requested by **22 December 2006**.

For further information, a copy of the Consultation Package or details of how to comment, please contact the Aboriginal Heritage Office on 03 6216 4471 or go to the project resources section of <<http://www.tahl.tas.gov.au/consultations.html>>.

In 2007, there will be a further opportunity to comment on a draft Bill, prior to legislation being finalised.

Source: <<http://www.tahl.tas.gov.au/consultations.html>>

National Emissions Trading Scheme

Members of the public are invited to provide feedback on a Discussion Paper on a proposed National Emissions Trading Scheme.

The Tasmanian Government joined all other Australian States and Territories in contributing to the Discussion Paper, which was developed by the National Emissions Trading Taskforce.

The Discussion Paper contains options for a market-based National Emissions Trading Scheme that is designed to reduce greenhouse gas emissions over a period of several decades.

The Discussion Paper aims to stimulate discussion among community groups, industry and the research and development sector, and to help governments better understand the costs and benefits associated with a National Emissions Trading Scheme.

The Discussion Paper and other supporting documents can be downloaded from the National Taskforce's website at <<http://www.emissionstrading.net.au/>>.

Feedback and submissions were to be received by 22 December 2006.

For more information, contact the Tasmanian Department of Premier and Cabinet's Policy Division on (03) 6233 3283.

Source: <<http://www.dpac.tas.gov.au/divisions/policy/emissions/>>

Draft Climate Change Strategy for Tasmania – comment invited by 31 January 2007

The Tasmanian Government invited comments on the directions and actions proposed in the *Draft Climate Change Strategy for Tasmania*, October 2006. The Draft Strategy sets out a coordinated response to climate change involving all levels of government, industry, research bodies and the community, and focuses on early planning and management actions.

The vision is for Tasmania to be a model of environmental sustainability, maintaining and further reducing the State's levels of greenhouse gas emissions, well prepared to maximise the opportunities that climate change and a carbon constrained future may present, and adapting to the negative impacts of climate change.

The Draft Strategy document includes a supporting Action Plan which provides further details of the activities planned by Government to implement the Strategy.

Public consultation on the Draft Strategy closed on 31 January 2007.

Public information seminars will also be held. Details of the events will be listed at <<http://www.dpiw.tas.gov.au/inter.nsf/WebPages/PMAS-6UF323?open>> once the times and locations are confirmed.

The Draft Strategy and details of how to comment are at <<http://www.dpiw.tas.gov.au/inter.nsf/WebPages/PMAS-6UF323?open>>.

For further information contact:

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Source: <<http://www.dpiw.tas.gov.au/inter.nsf/WebPages/PMAS-6UF323?open>>

Gunns changes representation – again

In July 2006 the Supreme Court of Victoria and lawyers for the defendants were advised that Gunns Ltd had changed solicitors in the Gunns 20 litigation, with Hunt & Hunt replacing EMA Legal. Hunt & Hunt have now been replaced by Clayton Utz. It also appears that barristers Stephen Howells and Mark Irving have been replaced. On 5 October 2006, *The Australian* reported as follows:

“Gunns switches lawyers in court battle

Tasmanian timber giant Gunns Limited has switched lawyers in its fight to sue a group of environmentalists.

The Wilderness Society legal coordinator Greg Ogle said today Gunns had hired law firm Clayton Utz, which represented tobacco company British American Tobacco in 2002, to pursue its fourth claim against the group, known as the Gunns 20.

Gunns' third statement of claim against the group was rejected by the Victorian Supreme Court in August. The company now has until October 19 to lodge another claim.

Chief executive John Gay said today a decision on legal representation had not yet been made, but defendants have received letters from Clayton Utz, saying the firm now acts for Gunns.

The Gunns 20 include some of Australia's most prominent conservationists, including Greens senator Bob Brown, Tasmanian Greens leader Peg Putt and groups including The Wilderness Society."

Source: <<http://www.theaustralian.news.com.au/story/0,20867,20529882-1702,00.html>>

Three strikes but not out: Gunns serves fourth statement of claim

As reported in the previous edition, in *Gunns Ltd v Marr (No. 2)* [2006] VSC 329 (28 August 2006), Bongiorno J of the Supreme Court of Victoria rejected the Tasmanian timber company's third statement of claim against the Gunns 20 defendants.

On 17 November 2006, AAP/Kate Lahe reported in *The Mercury* as follows.

"Gunns mounts claim against protesters

Timber giant Gunns Ltd has made a fourth attempt to sue anti-logging protesters by serving them with a statement of claim late this afternoon.

Details of the latest Gunns claim were not immediately available as defendants said it had been filed in hard copy only with their lawyers.

It is the fourth statement of claim filed by the company since December 2004.

The previous three have all been thrown out of the Victorian Supreme Court.

In the past, the company has claimed that 20 environmentalists conspired against the company.

Gunns tried to sue the defendants, who included Greens Senator Bob Brown and Tasmanian Greens leader Peg Putt, for almost \$7 million.

Wilderness Society spokeswoman Virginia Young said the persistence of Gunns was "debilitating and exhausting" for defendants, including her organisation.

She said she would wait to see whether this version of the writ was radically different to the previous statements before commenting further.

A spokeswoman for Senator Brown said the Melbourne office of his lawyers had also receive a hard-copy version of the statement, "despite a request for it to be emailed to his Hobart solicitors".

Last month, Justice Bernard Bongiorno ordered the company to pay costs to the defendants.

The latest claim is not expected to appear before the court until next year.

Attempts to gain comment or further details from Gunns were unsuccessful."

Source: <<http://www.news.com.au/mercury/story/0,22884,20774506-5005940,00.html>>

More information in relation to the Gunns 20 litigation is available via <<http://www.gunns.com.au>>, <<http://www.gunns20.org>>, <<http://www.mcgunns.com>> and <http://www.sourcewatch.org/index.php?title=Gunns_20>

Bob Brown v Forestry Tasmania – trial of Wielangta forest injunction application

On 30 August 2006 the trial concluded in Bob Brown's application to the Federal Court for an injunction against the government business enterprise Forestry Tasmania. Senator Brown is seeking a halt to logging and other forestry operations in two coupes in the Wielangta forest on Tasmania's east coast. The Commonwealth and the state of Tasmania joined as interveners. Justice Marshall reserved his decision.

Source: <<http://www.bobbrown.org.au>> and <<http://www.on-trial.info>>