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TRANSCRIPT OF PROCEEDINGS

O/N 3410

**RESOURCE PLANNING AND
DEVELOPMENT COMMISSION**

DIRECTIONS HEARING

PULP MILL ASSESSMENT

MR JULIAN GREEN, Executive Commissioner and Chairman

DR WARWICK RAVERTY, Panel Member

MR JOHN ASHE, Panel Member

MR GEOFF DAVIS, Panel Member

MR LEIGH SEALY, Counsel-Assisting

LAUNCESTON

WEDNESDAY, 25 OCTOBER 2006

MR J. GREEN: First I'll introduce myself, my name is Julian Green I'm the Executive Commissioner and Chairman of the Resource Planning and Development Commission. On my left I have Dr Warwick Raverty and on my right Mr John Ashe and Mr Geoff Davis. I'll introduce also Mr Leigh Sealy
5 who has been appointed as counsel assisting the Commission and the delegated panel for the purpose of this assessment process. These proceedings will be recorded and a transcript will be provided in due course.

I will be pleased if the parties would introduce themselves starting with the
10 AMA, your name and the organisation you represent and perhaps when you do so indicate briefly what your organisation does and does it have a board, is it incorporated or whatever. So Dr Aizen?

DR AIZEN: Dr Aizen, thank you.
15

MR GREEN: No need to stand you can sit and present. This is just introduction at this first stage.

DR M. AIZEN: Okay, yes. I'm Dr Michael Aizen, I'm President of AMA
20 Tasmania. The Australian Medical Association is an organisation of doctors. We're a nationwide organisation. I'm the President of the Australian Medical Association Tasmania and our organisation exists to improve the practice of medicine for doctors, but also to ensure the health of our patients.

MR GREEN: Thank you.
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MR M. WRIGHT QC: If the table pleases. My name is Michael Wright and I appear as senior counsel for Investors of the Future of Tasmania Incorporated and I appear with my learned juniors, Ms Susan Brennan and Ms Julianne
30 Forsythe and we're instructed by Mr Darryl Gray of Zeeman, Kable and Page. Mr Chairman, our client is an incorporated organisation and hence a legal entity in its own right. It is a community-based organisation concerned with the protection of the natural assets and environment of Tasmania and the economic development of the State in a manner which is consistent with that
35 objective. I have present this morning the chairperson and the spokesman for the organisation, Ms Christina Homedale.

MR GREEN: Just one question: are you incorporated under the Association
40 Incorporation Act?

MR WRIGHT: I understand so, I haven't checked that.

MR GREEN: So you have a public officer?

MR WRIGHT: Yes, indeed.
45

MR GREEN: Okay, thank you.

MR WRIGHT: Those details are available on the public record.

MR GREEN: This is Tasmanian incorporation?

5 MR WRIGHT: Yes.

MR GREEN: Okay.

10 MR J. GOBBO QC: Thank you, Mr Chairman. My name is Jeremy Gobbo. I'm a barrister and I appear with my learned friend Mr Adrian Finanzio on behalf of Gunns Limited and we're instructed by Mr Tim Power of Freehills Lawyers. As I'm sure you're aware Gunns is the proponent of the project under consideration.

15 MR GREEN: Thank you.

MR M. BRETT: Mr Chairman, my name is Michael Brett. I'm a barrister. I'm here to represent Peg Putt MHA and Senator Christine Milne who are representative in these proceedings of the Australian and Tasmanian Greens which is, as I'm sure you know is a political party and concerned very much with the protection of the environment.

20 MR A. COWARD: I'm Adrian Coward, the Northern Co-ordinator for Timber Communities Australia. Timber Communities is a grass roots organisation representing families and individuals who rely on forestry and forest industries for a living.

MR GREEN: Thank you.

30 MS J. HUTCHINSON: Mr Chairman, I'm Ms Hutchinson, I appear on behalf of the Wilderness Society Tasmania. My instructors are Vica Bailey and Paul Oosting who are in the rear of this room. The Wilderness Society is an incorporated association under the Associations Incorporations Act in Tasmania. It's a community-based environmental advocacy organisation. The mission is protecting, promoting and restoring wilderness and natural processes across Australia for the survival and ongoing evolution of life on earth.

40 MR T. EDWARDS: My name is Terry Edwards. I'm the Chief Executive of the Forest Industries Association of Tasmania. FIAT is a private company that exists to represent the interests of its membership which are largely the processors, growers, etcetera of forest products in Tasmania.

MR GREEN: Thank you.

45 MR J. HAYWARD: My name is John Hayward representing Tasmanians Against Pulp Mills. It's an incorporated community group whose main purpose is obviously preventing the establishment of this pulp mill.

MR GREEN: Thank you. Just by way of identification there was another organisation in the Tamar Valley, TRACS, has that been subsumed by your organisation or what's happened?

5 MR HAYWARD: Well, to some extent, yes. It's defunct and I believe we absorbed their numbers, the former followers of that group.

MR GREEN: All right. Thank you. The representative from the AMA is under some time constraints today and Dr Aizen kindly approached the
10 Commission yesterday and it has been suggested that he will be called to make a presentation before noon, if not at noon, so he can move on to his other business later in the day. So with the indulgence of parties on the panel I will call Dr Aizen before noon so he can present the views of the AMA.

15 Now, what I propose to do is to put this directions hearing in a legal and constitutional context by saying a few words and then to go and address the matters that the Commission has put to Gunns in our letter of 2 October. The matters raised in that letter aren't necessarily exhaustive, but you will see that
20 from that letter we will be looking for advice from Gunns as to their initial response to those matters and of course the response of parties here at the table following to what I'm about to say, but also to in particular what Gunns will respond. Once I have made this presentation I will call upon Gunns to respond.

25 Now, first up this is a directions hearing convened by the Resource Planning Development Commission pursuant to the powers of the Resource Planning and Development Act 1997. Can you hear me at the back there? Okay. Can you? No, well I will speak up again. It is a hearing for the purposes of taking forward the assessment process of the proposed pulp mill. The proposal
30 submitted to the Government by Gunns Limited and declared a Project of State Significance, POSS, under the State Policies and Project Act 1993.

By way of background information there have been six POSS orders under the Act. The first related to the redevelopment and re-opening of the copper mines
35 at Queenstown on the west coast of Tasmania. The proposal was assessed and it was recommended it proceed subject to certain environmental conditions. The Government agreed with the recommendation of the Commission. The second POSS was Taiwan Pulp and Paper Corporation proposal to develop a pulp mill in Tasmania. The proposal lapsed for want of action by the
40 proponent. The third was a proposed Oceanport Development at Princes Wharf Number 1 Hobart. The proposal did not proceed for want of action by the proponent - I beg your pardon, did not proceed on the recommendation of the Commission following a show cause process.

45 The fourth was the electricity inter-connector, Basslink, between the Tasmanian and Victorian electricity grids. Following a lengthy assessment the Commission recommended that the project proceed subject to certain conditions. The Commission's recommendations were accepted by the

Commonwealth, Victorian and Tasmanian Governments. There is currently before the Commission a proposed development in the nature of POSS concerning a marina at Lauderdale in southern Tasmania. That now brings us to the sixth POSS which is the subject of this hearing, that is the proposed pulp mill, Longreach, Bell Bay industrial zone.

The assessment of the proponent's proposed pulp mill is to be undertaken by the Commission following the declaration of the proposal as a Project of State Significance. The administrator's order, an administrator is a person who was acting at the time in place of the Governor, the administrator's order so declaring the project was approved by State Parliament. The Commission received a direction from the Premier to undertake the assessment having regard to the matters raised in the Minister's direction.

All these steps are statutory and the necessary instruments giving effect to these steps are public documents and have been published. As the proposed mill will have likely impacts on matters covered by the Australian Government's Environment Protection and Biodiversity Conservation Act 1999, the EPBC Act, the Commonwealth Minister determined the project would be a controlled action for the purposes of that Act. The controlling provisions of the EPBC Act are those provisions concerning Commonwealth listed threatened species and communities, listed migratory species and the marine environment: that is, that part of the marine environment extending beyond State territorial limits. The Commonwealth Minister's determination and reasons are public documents and have been published.

To facilitate the assessment process and to avoid unnecessary duplication of processes under the State and Commonwealth laws, both the Tasmanian and Commonwealth Governments agreed to adopt one statutory assessment process. The Federal Minister has accredited the Tasmanian Project of State Significance assessment process for the purposes of the EPBC Act. The accredited process is to quote the Minister, "An integrated impact assessment which includes production of an integrated impact statement under the State Policies and Projects Act." The Minister's decision to accredit the process is a public document and has been published.

The accreditation under the EPBC Act was necessary because of the issue of likely impacts on Commonwealth waters beyond State limits. The bilateral agreement between the Commonwealth and the State which aims to minimise duplication of environmental impact assessment processes strengthens inter-governmental co-operation to promote a partnership approach to environmental protection and biodiversity conservation does not extend to an assessment of impacts beyond State limits.

Nevertheless the accreditation of the POSS process is on the understanding of the administrative arrangements usually applied to proposals assessed under the bilateral agreement will be applied in this case. The bilateral agreement referred to is the agreement of 15 December 2000 between Tasmania and the

Commonwealth and is a public document and has been published.

5 In order to undertake the assessment certain powers of the RPDC have been delegated to a panel. The panel is here. The instrument of delegation is a public document. The members of the panel are here today and have been introduced. As mentioned the panel membership includes a nominee of the Australian Government, Mr John Ashe, given the interests of the Australian Government has arising under the EPBC Act.

10 Essential to any integrated impact assessment and environmental impact study is a production by the proponent of a draft integrated impact statement which covers the requirements of both Commonwealth and State law. The proponent has prepared a draft integrated impact statement, DIIS, covering
15 environmental, economic, social and community impacts. For the purposes of Commonwealth law there are identified impacts with respect to listed threatened species and communities, listed migratory species and the marine environment.

20 Now, the process the Commission employs under the Resource Planning and Development Commission Act is inquisitorial which generally means the Commission investigates the proposal; has the capacity itself to call and examine witnesses, in addition and apart from witnesses called by other parties, to make its own inquiries and to do all things necessary to further the assessment process and to be informed. The Commission exercises quasi
25 judicial and judicial powers, but is not a Court in the traditional sense of the word.

The process employed by the Commission is non-adversarial and the Commission at the end of the process makes a recommendation to
30 governments and does not make binding determinations. Under this process the Commission will produce a Final Recommendations Report to both the State and Commonwealth Governments, but the report I stress is a recommendation. Governments will make their own respective decisions in respect of the Commission's report.

35 The first step in this assessment process is of course the preparation of scoping guidelines and the preparation of a draft IIS by the proponent. Scoping guidelines were produced and provided to the proponent following consultation with the proponent, the Commonwealth Government, State
40 agencies and public comment was also sought on the draft set of scoping guidelines. After that process of consultation involving the receipt of submissions from the public, the scoping guidelines were finalised by the Commission and formally issued to the proponent.

45 That is the statutory and administrative background to the production of a draft IIS by the proponent. The draft IIS was placed on public exhibition for some 73 days. The draft IIS and its supporting studies is a document of the proponent. It is not the Commission's document, nor was it approved by the

Commission before being placed on public exhibition. The Commission gave public notice of the availability of the document. Its distribution was and is the responsibility of the proponent and not the Commission.

5 Corrections and supplementary reports provided by the proponent during the public exhibition period was at all times the responsibility of the proponent and not the Commission. I refer for example to the Bell Bay Pulp Mill Draft Integrated Impact Statement erratum dated 3 August 2006 and the Toxikos erratum dated 28 August 2006. The release of these documents during the
10 public exhibition period was a matter for the proponent. The release of these documents was not by the Commission, nor was it the responsibility of the Commission. The Commission does not handle the proponent's documentation and is not responsible for its publication or distribution.

15 Towards the end of the public exhibition period a number of requests were made by publicly and in writing to the Commission for an extension of time for public comment on the draft IIS, particularly following the publication by the proponent of the Toxikos erratum. The facts of the notification of the Toxikos erratum is as follows:

- 20
- (1) the proponent advised the Commission staff of the Toxikos erratum on 5 September 2006;
 - (2) the proponent advised the Commission staff on 5 September 2006 that
25 it would make the erratum public;
 - (3) this course of action was supported by Commission staff on the assumption that it would be implemented immediately by the proponent;
 - (4) the timing of the publication of the Toxikos erratum was a matter for
30 the proponent.

35 The Commission upon receipt of the Toxikos erratum forwarded it to its consultants for consideration. A report on the implications for the assessment arising from the error was received by the Commission just before this hearing today commenced and that report will now be made public. The secretariat has copies available. Also it will be published on our website, I should say.

40 This report from the Commission consultants has been forwarded to the National Research Centre for Environmental Toxicology to be considered in their review at the request of the Commission of appendices: 21 Air Emissions Report, 22 Human Health Risk Assessment Bell Bay Pulp Mill Effluent; appendices 58 Toxicity Assessment of Pulp Mill Effluent Pine Pulping
45 Campaign; 59 Toxicity Assessment of a Pulp Mill Effluent for Proposed Tasmanian Pulp Mills; and 60 Chlorate Report Brown Macro Algae as referred to in my letter to Gunns of 2 October 2006.

In respect of appendix 23 Comment on the Bell Bay Effluent and Potential Impact on Nearby Seal Colonies Report, that matter has been dealt with by Dr Matt Edmonds of Melbourne, a subconsultant to Beca AMEC Limited and that review by Dr Edmonds is in the Beca Peer Review Report which is a public document and has been published on our website. The report from the National Research Centre should be in the hands of the Commission within a few days and will be forwarded to the proponent and made public on the Commission's website.

Now, that the public exhibition period has closed, the Commission is in the position to give directions in relation to progressing this assessment. Specific requests were made for an extension of time to comment on the IIS, particularly having regard to the Toxikos erratum. Now, the Commission was of the view and remains of the view that there is little point for extending time for comment on a document that contains fundamental omissions and errors including that of Toxikos. It's the Commission's view that the public exhibition period on the draft IIS should not be extended and the Commission should take stock and review where the process has reached and consider the quality of information provided to date and plan the next steps.

That now brings me to this directions hearing. This hearing is of narrow focus concentrating on procedural steps and timings that need to be set having regard to the additional information the proponent needs to provide for the assessment to proceed. The directions hearing process is not a process for arguing the merits or otherwise of the proponent's proposal, hence the Commission is only hearing from a select number of persons who lodged written expressions of interests to be heard at this particular hearing and having regard to representations consider that they can make a contribution to the process.

The Commission wrote to the proponent on 2 October 2006 setting out the matters that in the opinion of the Commission at that time needed to be addressed at this directions hearing. The letter was made public and the matters listed in that letter are of course not exhaustive. Since writing that letter to the proponent the Commission has published on the Commission's website submissions received by the Commission from the public and the Tasmanian Government, save in respect of some public submissions were not published because of inappropriate language.

Those reports were referred to in the letter to the proponent of 2 October 2006. During this hearing I will call upon the proponent's representatives to present their client's response to the issues raised in the letter of 2 October 2006 and other relevant matters including reports of the Commission's consultants. I will then call upon other parties here to respond and give the Commission the benefit of their views. Essentially the proponent will need to address the issues raised in the submissions. How the proponent ranks and grades the issues raised and responds accordingly is a matter for the proponent.

It is unlikely that the Commission will make its determinations today. The

5 decisions and directions of the Commission will be given in writing to the parties presenting here today and posted on the Commission's website. Most likely the Commission will prepare a draft determination arising out of these hearings today and present to the parties attending for further comment before the Commission formalises its determination and publishes.

10 A considerable amount of work needs to be done by the proponent to satisfy the requirements of the scoping guidelines and address deficiencies, omissions and obvious corrections in the draft IIS. Ultimately the proponent will be required to produce a final IIS. How that is presented will be a matter for the proponent and not the Commission, but the document will need to have regard to requirements of State and Commonwealth legislation and the bilateral agreement. But before the process gets to the stage of a final IIS, the proponent needs to consider how it is going to present further documentation
15 addressing matters listed in my letter of 2 October, the major issues raised from the State Government and public submissions and matters raised in the Commission's consultants' reports.

20 There is most likely a number of options with varying degrees for attention and practicability. For example, one would be for the proponent to present a corrected version of the draft IIS having regard to the issues that need to be addressed. A further option is to proceed by way of supplementary reports from experts. How these reports are to be handled for the purposes of satisfying the statutory requirements and the requirements of the bilateral
25 agreement for public input, and the requirements of the State Policies and Projects Act, and for - let us not forget - the position of the Commission in having to deal with these documents, needs to be seriously considered.

30 One way of dealing with this would be for all further expert proofs, corrections and supplementary studies to be brought together under a document which integrates these studies and which clearly indicates whether or not these fresh studies, corrections and documentation supersedes or substitutes for the IIS in whole or in part. And in particular the appendices and references made in the draft IIS. There may be other options and we will be interested to hear from
35 parties about that.

40 The problem the Commission, agencies and the public will face and which the proponent needs to address is: what at the end of the day is the document the Commission is going to assess; and what is the documentation that is to go forward for further public comment? The draft IIS that has been received by the Commission is the formal response by the proponent at this stage. In any assessment process supplementary studies and reports arising during and from the hearing process may be required at the direction of the Commission.

45 In this instance the substantive documentation required will in part be made up of documentation that should properly have been included in the draft IIS. The corrections and new information that should have been included in the draft IIS or supplementary documents and proofs may need to be accompanied by a

stand-alone document that integrates these documents and indicates how and where they replace or substitute, or otherwise affect the draft IIS and supporting studies.

5 As indicated I will be inviting proponent's representatives to indicate what additional work the client considers needs to be done, when that work can be done and what they think is a fair period for public exhibition of this additional information, and what is a fair period for the Commission to consider this additional information and the submissions received from the public. The
10 proponent will also be required to address how the additional information is to be presented. I will then ask other parties represented here today to indicate their views on these matters.

15 I will ask all parties to bear in mind that at the end of the day the Commission has to assess the additional information and submissions received before the Commission can proceed to formal hearings on the proposal. I should add in there, the Commission would need to receive comments from its own consultants in respect of these additional matters. It is important that the additional information be supplied by the proponent and is presented in an
20 orderly and readable and accessible way. How the proponent chooses to present is their decision having regard to the Commonwealth and State statutory requirements and the bilateral agreement.

25 The Commission will publicly advise when the documentation is available from the proponent and where the public can access this documentation. The Commission will strongly advise the proponent to remove any security on PDF files on the additional documentation and also on the draft IIS as published. The Commission will not accept from the proponent a process of drip feed of additional studies and proofs addressing the additional work that is to be done.
30 I think it is implicit from what I have said previously that the Commission would prefer that the documentation be ready in one block accompanied by a document summarising the additional information, integrating and assimilating this additional information to ensure internal consistencies and clearly indicating how the new information relates to what was presented originally in
35 the draft IIS.

40 Alternatively, the present preparation and submission of a fresh draft IIS may be a clearer and simpler way to proceed. Once these matters have been addressed and the documentation has been prepared and is ready it must go on public exhibition for comment by the public, agencies and the Commission's consultants. Now, for the general provisions for the State Policies and Projects Act is for public exhibition periods of a minimum of 28 days. The 28 day period is also referred to in the bilateral agreement, paragraph 4, part A,
45 schedule 1 which says:

The environmental impact statement is prepared in accordance with the guidelines mentioned in clause (3) and released for public comment for a period of at least 28 days.

5 It must be understood that anything less than 28 days will not be acceptable to the Commission. The extent of the public exhibition period will be a matter for later judgment, but I would indicate now that given the number of matters to be addressed by the proponent, including those which should have been included in the draft IIS plus the additional information required, that a period in excess of 28 days may well be necessary. It may be 50 days. It may be 60 days. Who knows at this stage.

10 The Commission will therefore not be stating at this hearing or in its determination how long the additional information needs to go on public exhibition, nor how long the Commission will be required to get across it and the submissions received. That decision is best left until later when the Commission can see the volume of material that is to go on public exhibition for comment. It may in the opinion of the parties be inappropriate for the Commission to see this documentation prior to any public release because it may give rise to the perception that the documentation released has some degree of quasi approval and endorsement by the Commission. But without knowing the volume of the additional information and complexity how is the Commission to properly form an opinion.

20 Ultimately the period for public exhibition is a matter for determination by the Commission. If the parties are content that the Commission see the documentation on the clear understanding that by so doing the Commission does not endorse, expressed or impliedly or approve the documentation or its contents, then the Commission is prepared to proceed on that basis in order to settle a reasonable period of public exhibition and public comment.

30 I think now it is appropriate that I invite Mr Gobbo to respond on behalf of the proponent.

35 MR GOBBO: Thank you, Mr Chairman. On 13 October we had access to the 700-odd submissions that were made in relation to the draft IIS somewhere between 4000 and 5000 pages of information. We have also recently been provided with copies of the reports prepared by the Commission's consultant and we have been feverishly working on that material with a view to distilling the issues that are raised and the responses that are necessary.

40 We have also, of course, jumped on the Commission's letter of 2 October and given instructions to appropriate consultants to address the matters that are raised in that correspondence. We assess that we will need another six or seven weeks to provide responses to the submissions that have been raised. Much of that time is needed to sift that material and distil the issues, allocate them to the appropriate experts within our team and produce written responses.

45 We see that there are a number of errors and mistakes in the draft IIS that also need to be corrected and there are a number of matters of substance that need to be addressed afresh. Our expectation is that we will provide one block of

material; probably our best and fairest estimate of when that material will be available in a complete block is the middle of December. We could drip feed the material. We do not want to do that and we are happy to hear that the panel would not be assisted by such a process.

5

We would expect that that material would take the form of a number of witness statements and not submissions. Those witness statements will be partly a synopsis of the material in the draft IIS, corrections to any mistakes in the draft IIS and responses to submissions and we would expect that those sorts of witness statements would be capable of reasonably ready digestion by the panel and any other interested parties.

10

There will be other witness statements that introduce new material that respond directly to the requests for information in the panel's letter and issues raised by opposing submitters that are in the nature of criticisms for omission rather than pointing out errors. Now, our wish is that people be given a reasonable opportunity to consider that block of material and be directed to respond to it within a certain period of time.

15

We would say in relation to the witness statements that are in the nature of a synopsis and comment on opposing submissions that a response to those sorts of witness statements will be straight forward because they do not introduce any new material and really, in fact, they are response statements that do not call for a further response but we do accept that in relation to the new material that is sought, a reasonable opportunity must be provided to respond.

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We had in mind a similar process with respect to that foreshadowed by the panel and that is that there be a public exhibition period, whether it is identified as just simply being a block of time where the material is placed on the web site and served on the parties present today and others who have expressed interest or whether it is described as an exhibition period in the formal sense, we say is really semantics. The outcome that must be achieved is that people get a reasonable opportunity to have access to the material and to respond to it.

30

We would respectfully submit that the nature of this project and the importance of dealing with it expeditiously requires that the process not be undertaken at leisure but where people are obliged to work solidly on the matter and not say, "Well, we want to have six weeks off for Christmas," so we are hoping that the additional material which is to be provided in middle of December can be responded to not too far into the New Year and we will obviously hear from others as to when - - -

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MR GREEN: Order please.

45 MR GOBBO: And I do not mean 3 January obviously, Mr Chair.

MR GREEN: No.

MR GOBBO: If you are talking about a 28 day exhibition period that might take it to the middle of January, then another month to reply, we say would be only fair given that not all of the reports, in fact only a few of the reports that we put forward in December will be new material. We would then hope that
5 whoever wished to put forward material in response to our statements would be in a position to indicate to the panel how long - can I go back one step.

We anticipate that the parties that are here to day will have a good idea already as to whether they propose to engage an expert consultant to deal with certain
10 topics that are of concern to them. We would expect that if a consultant is engaged for one of the opposing submitters now, that consultant can be instructed as to what the issues are, what material has already been put forward and therefore has an opportunity to do whatever background, investigation and research is thought to be appropriate prior to receiving our material in
15 mid-December and so we would expect that providing a response in February would be a fair and reasonable time frame.

The next issue is the time for the panel to consider those responses before a hearing is set down. It is necessary for any new material to be referred to the
20 panel's consultants and an opportunity given for those consultants to report back to the panel. We anticipate that those expert consultants will be able to deal with the issues that arise from our new material and any responding material in a reasonably short space of time. They are professionals. They are not having to depend upon instructions from lay clients and we would hope
25 that they could report back to you expeditiously.

All of that we hope suggests that we could commence a hearing in March next year. As far as the suggestion that we put together a new IIS that supersedes the draft, we must say to you that we could not produce such a document by
30 the middle of December. It would simply not be possible for us to achieve that task in that time frame. We know that the draft IIS is a substantial document.

We anticipate that our witness statements will identify specifically any part of the IIS that is to be superseded or substituted by the new work and then we say
35 it will be our task, as part of the hearing process, to produce for you that rewritten document and we will do that and we would respectfully submit that it is not a necessary part of the consideration of the issues raised by opposing submitters to have that rewritten document in the public domain and on exhibition, provided that our expert witness statements deal with the issues and
40 identify where there is to be change. We say that is a fair and reasonable process.

I am reminded by my learned junior that the rewriting of that document must necessarily be a work in progress and we would expect to be able to provide a
45 draft of the final document for the purposes of the hearing and be constantly working on that document through the hearing process, cutting and pasting, and dealing with issues as they arise. We need to make it clear that we take no issue with the requests for information that have come from the Commission

and we intend to respond to all of them so we do not propose to address you about particular aspects of the request because we simply say we will do it all.

5 As to the quantum of material that will be produced in relation to particular aspects, we cannot say, as we sit here now, whether it will be a one page answer or a 100 page report. Certainly some aspects will need to be dealt with in depth. The work required is substantial. I do again, with respect, remind the Commission that to run a case like this before an inquisitorial panel it would always have been necessary to prepare supplementary witness statements that
10 responded to opposing submissions and really what we need to focus on here is the additional information.

15 We accept the proposition that if a massive amount of new information came forward that was the tail wagging the dog then you may have concerns about whether people have in fact got an adequate opportunity to consider the material. We would ask that rather than deferring the issue of how long the public exhibition period be and when the hearing dates be, that you tentatively direct those matters today but, of course, reserve to yourself, as you can, the right to extend those dates if it ultimately transpires that the material that is
20 delivered is, in your view, too voluminous or complex to be dealt with in the time that has been provided for.

25 If we can assist you in any other way at this stage, Mr Chairman, of course we will but that is essentially how we respond to your requests.

MR GREEN: Thank you. Any matters the table would like to put to Mr Gobbo?

30 DR RAVERTY: Mr Gobbo, I think, as always, sometimes the devil is in the detail. From my perspective, and I have been asked to comment specifically on a lot of the environmental issues. It would be most helpful to me, I think, if the response - I am addressing specifically the need for additional information raised by both Beca AMEC, consultants to the Commission, and by CSIRO Marine and Atmospheric Research, if that information could be put in the form
35 in which those consultants' reports were issued.

40 In other words we had a section from the draft IIS followed by the comment from the consultant and then if you could take that document and add your additional information to that we would have everything in one document which I think I would find easiest to deal with.

45 MR GOBBO: Certainly. To be able to format that we just need the Beca AMEC document in probably Word format but yes, we can certainly do that. We may end up doing two tasks. One, the report itself and two, the annotation of the Beca AMEC report rather than attempt to put the whole report into the appropriate pigeon holes of the Beca AMEC report.

DR RAVERTY: Thank you.

MR GREEN: Thank you for that.

MR GOBBO: Thank you, Mr Chairman.

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MR GREEN: Perhaps the AMA would like to address the panel now, so you can get an early start.

10 DR AIZEN: Thank you very much, Mr Chairman, and thank you for inviting the Australian Medical Association to this directions hearing. By way of background I would like to point out that the AMA is neither a proponent or an opponent of the pulp mill. Our position is that the development of a large industrial complex such as this does raise the risk of damage to public health and it is in the interests of our community that we prepared our submission.

15

By way of background, AMA Tasmania has a strong recent history in public health. Since 1991 we have had an ongoing working party looking at air quality in the Tamar Valley air shed and that is going back to 1991. In the mid 90s, Dr Jim Marcos, a respected respiratory physician who is on our committee, galvanised community support about air quality in Launceston and, as a consequence, certain legislative changes have been introduced.

20

In 2004, AMA Tasmania were very active in expressing community concern about chemical pollution on the east coast and as a consequence we have been successful in influencing government policy. We have also displayed leadership in smoking cessation and most recently, early this year, we held a press conference to express concerns about the potential for ill health to our public as a consequence of the development of this policy.

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30 Our concerns are largely in the studies. We feel that if our concerns are met we would not oppose the development of a pulp mill but we would support it only if certain health criteria were met and it is on the basis of those criteria that we prepared our submission and you already have a copy of that. Since we have reviewed the Integrated Impact Statement we have noted a number of defects in both the methodology and the presentation of some of the scientific papers and it is on this basis that the AMA wishes to present evidence to this particular hearing.

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40 Our first concern relates to air pollution. By way of background to members of the panel here, we talk in terms of pollution in terms of microgram per cubic metre and we know that for every increase of 10 micrograms per cubic metre, we see a one per cent increase of daily deaths, we see a 3 per cent of daily deaths from lung disease, we see a 3 per cent increase of daily admissions to hospital for asthma and we see a 3 per cent increase of daily asthma symptoms.

45

We know in the long term that average PM10, that is the 10 micron sized particle levels, for every 10 microgram per cubic metre increase at an annual average level, we see an approximately 6 to 8 per cent increase of deaths from

all causes, namely lung cancer and heart disease and we also need to take into account the long term background effect of premature death rate after allowing for factors such as smoking.

5 What is of concern to us is that the measurements of PM10 include PM2.5. These are what we call ultra fine particles and when we look at PM10 measurements in a large city we see that around 50 per cent of the measurements are in fact due to PM2.5 but here in Launceston in the Tamar Valley air shed, that increases to 88 per cent reflecting the rurality of our particular geography and it is because of the more potent ill effects of these very ultra fine particles that the potential for ill health is going to be greatly increased and magnified.

15 We know that these ultra fine particles come largely from combustion processes and we know the wood burning could increase considerably the level of 2.5 micron pollution. Now, the studies presented in the impact studies are very, very scant on both levels and the potential impact of these very fine particles so we would urge this hearing to ensure that before we can either support or oppose this proposition that we have more detail and scientific data on the level and potential for impact of these ultra fine particles.

25 As a result we would like the Integrated Impact Statement to incorporate measurements of PM2.5 and also of total reduce sulphur over an additional 12 month period and have this incorporated into the risk assessment process. We would also like any requirement of any pulp mill to meet the United States environment protection agency levels of class 1 pollutants including PM2.5 and total reduce sulphurs and in order to ensure scientific validity of these data we would request 10 validation monitoring stations in key positions and across the entire valley with data for a 12 month period.

30 I would like to continue on. Our next concern relates to odour. Now, odour, and we are talking about primarily sulphur based odours, we know are well controlled through the smoke stack. What we do know is that in any pulp mill rogue sulphur emissions actually come from processes leading up to the combustion and we accept that the smoke stack, with its triple-burning process will eliminate sulphurs quite readily. What we are not confident about is the smell emanating from processes leading up to that combustion.

40 In the Integrated Impact Statement a comment was made that with the state-of-the-art technology and looking at comparable mills that there would be no significant odour problem. Our advice tends to be a little different. We have communicated directly with mills in Germany and in Brazil and the responses lead us to believe that the statement made by the proponents in the Integrated Impact Statement can be challenged and we are pleased to be able to provide you with copies of correspondence to that effect so we would like greater clarification on this matter.

Now, we accept that no process, no system is perfect and that problems can

occur so we would like to have demonstrated to our satisfaction - and that has not been done in the Integrated Impact Statement - that there be odour problems for no greater than one kilometre from the smoke stack on no more than five days in any one year and we know that there can be problems, we
5 know that a mill using slightly older technology in Chile released sulphur gases that were detected 70 kilometres away so to us that is a major concern.

Our other concern relates to motor vehicle traffic. Our concern is that currently with problems relating to log truck accidents in Tasmania that this
10 problem will be magnified and in the Integrated Impact Statement we see no evidence that gives us reliable data which shows us the number of log trucks on the road at any one time and the number of log truck accidents and mortality and morbidity including social and financial costs relating to these accidents.

15 We also draw the Commission's attention to the report released by the RACT and the impact of that is quite significant. They looked, as you know, at mills in Finland and Germany and looked at the road infrastructure a round those mills and concluded that our road infrastructure, given our topography is inferior to that available and is likely to lead to a significant increase in log
20 truck related accidents so as doctors, we are very concerned about this potential.

We also fail to see in the Integrated Impact Statement how rail is to interact with transport of logs and we are particularly concerned that the north-east of
25 the State is going to be under-served by rail compared with the south and the north-west so certainly from a road, traffic, morbidity and mortality point of view, we would like to see greater emphasis on rail transport.

We would also like to conclude that in terms of our submission that if the three
30 main criteria that we have addressed today - particles, odour and traffic - are met and if this Commission approves the construction of a pulp mill, then the AMA further requests that the proponents fund a base-line epidemiological study prior to the pulp mill being built. That is so - that as scientists, if health concerns are raised, we have a base-line for comparison.

35 We then urge the proponents to repeat a study every five years after the mill is built and then to continue the study for 20 years after the mill closes. In particular, studies should look at morbidity and mortality from particulate pollution as well as road traffic accidents, particularly looking at the subject
40 relating to log trucks.

Now, we believe that the community shouldn't pay for this, but the funding should come from proponents and conducted by an independent scientific
45 organisation. Finally, we would like the impact statement to be upgraded as a result of this directions hearing and for this to be made possible for review and with that, Mr Chairman, I close my submission.

MR GREEN: Thank you, Doctor.

DR RAVERTY: Yes. Thank you, Doctor, I endorse much of what you say. I am particularly pleased that you have contacted these mills overseas. Odour is a particular concern of mine, having been involved with the two other kraft
5 mills in Australia and a number overseas, I am well familiar with that particular problem, which does in many mills result in considerable loss of amenity to local communities. And if I -in response perhaps advise Gunns', I think the one thing that would be particularly helpful would be for Gunns' to ask their consultants, Jaakko Poyry, to select from their portfolio of mills with
10 which they have been involved, a specific design which they feel will be closest to the mill that is proposed and to use that as an example to provide the additional information, particularly on things like likely maximum loadings particulates and other pollutants. I was interested in your comment about contacting the mills - there are only two kraft mills in Germany, could I ask
15 which one you - - -

MR AIZEN: That was the Stendal Mill.

DR RAVERTY: The Stendal Mill, and you did in fact find residents having
20 problems with the odour at Stendal?

MR AIZEN: This was actually from the manager of the mill itself. We actually put to the mill, and we can show you the emails, a statement by the proponents that odour was not a problem and we got a very non-committal
25 response, far from the unequivocal statement that was made in the debated impact statement.

MR RAVERTY: Okay.

MR GREEN: Was this from Eberhardt Schmidt, was it?
30

DR ERNST: We wanted to clarify that, we have actually - - -

DR AIZEN: I would like to introduce Dr Andreas Ernst.
35

MR GREEN: Yes, let the record name - - -

DR AIZEN: Thank you.

DR ERNST: It raises on actually environmental position and I am a member
40 of the AMA and I have been involved with the AMA Pulp Mill Committee over the last 12 months. And I might just clarify some of that if you were to question it in more detail. It was - we received a letter from the proponent on 8 July 2005 where there is no doubt that there has been odour issues with pulp
45 mills built 40 to 50 years ago and many of these are now being shut down, but if there is an internal - some of the mills that our team have recently visited that did not have any issues with odour, the following may assist: Veracel in Brazil, Hainan Island in China and Stendal in Germany.

5 We then - we were actually quite pleased with that because always there is technology which can deal with that problem, but we were quite diligent in our approach now having the responsibility for the community, we did write a letter to the Stendal Pulp Mill and that was actually addressed to Eberhardt Schmidt with the Manager for Environment and mill process and I have translated that correctly from the German response we got and the - we came together - five questions we asked.

10 The first question was, "Have you had a smell problem, has it occurred during the commissioning period?" The second question was, "Have you got currently smell problems?" The third question was, "What are your controls of smell?" The fourth one was, "How do you actually objectively measure smell?" And the fifth question was, "Are there any community groups in your region concerned with smell?"
15

20 We then received an answer back basically advising us that none of these questions could be answered in any sense of the way because pulp mill technologies differ from site to site and he wasn't prepared to actually give us an answer. We then researched that further and found an article from Stendal itself, which was a report on the results, the Government and other organisations on the performance of the Stendal pulp mill.

25 Now, they were pleased to say that they have performed above expectation in a number of parameters. They have improved things like out-fall into the Elbe, which is the large river in this area, it included also issues in terms of some of the air quality parameters but it was acknowledged that they are not on top of the issue with odour control and that there are serious concerns in the community with regards to odour. And that is actually from Stendal itself and
30 so we were concerned then that with - on the one hand the proponent tells us there is no problem and I quote that "not any issue" and we have been told something else.

35 Now, I personally can't tell you what the truth is but I would suggest that a pulp mill organisation wouldn't want to hide the fact that there is no smell, so at this stage I mean we believe that there is smell, we haven't got the funding and the resources to go there, we do that as best as we can by phone calls and other ways of communication so that's - I hope that answers your question.

40 DR W. RAVERTY: Could I ask, what is the date of that report from Stendal to the - - -

45 DR ERNST: The Stendal - is from 2005, that was the conference, but the information was obtained - I didn't actually check - I couldn't answer that right now, I would have to go back to my records, but I am quite happy to provide you with that.

DR W. RAVERTY: Okay. Perhaps just in response and for people in the

room I would mention that the panel has visited the Stendal Mill. I am - the panel made one formal visit and I made a surreptitious visit two days earlier before they knew we were coming just to look at the outside of the mill. I have to say I was very impressed with the level of odour control and I could smell no odour.

And we also visited the EPA of the Province of Saxon-Anhalt, which is responsible for environmental monitoring and regulation of Stendal Mill and they said they had received only one single odour complaint concerning Stendal Mill since it had started up and that was during the commissioning period.

So on the basis of that I think, what I was going to say before I'd heard the AMAs report was, that one of the key things I would be looking for in the additional information from the proponent is some cast iron undertaking that the design of the Long Reach Pulp Mill, if it is approved, would include at very least all of the odour control measures that are present at Stendal. But I think perhaps again that is a minimum, whether the panel needs to make further investigations through its consultants on the actual performance because two days out of 365 is obviously a very small sample. And I thank you very much for your submission.

DR ERNST: Well, if I can just make one other suggestion and that is - asking for 10 years an audit on organic environmental audit. And I have done these audits under different systems, you know, there is a five star national safety council system, another system and different environmental systems and other systems that I can consult with and one of the key messages I always had taken home with audits - it didn't actually come from the books but from the various astute auditor, he told me, " Andreas, unless you actually verify things properly you may hallucinate."

And so what I have experienced in my audit time is that unless you actually did a health and safety audit - unless you actually go and talk to the people on the shop floor in their language and ask them in pretty clear terms what is going on, you will never know. And so - so I think what is absolutely essential is not so much as to talk to the agencies and that is necessary by the way - I am not a - put that work down but what I think is equally more important to find out things like smell - this is from the community issue, is to literally do the same as I do in health and safety, that's knock on the door and obviously one needs to be able - somebody needs to be able to speak German - - -

DR RAVERTY: Yes.

DR ERNEST: - - - and ask people in the region, "Tell me, what is real, you know, you can tell me, does it smell?" And if people can tell you it smells, there is a problem.

DR RAVERTY: Sure.

DR ERNEST: So that's my - my suggestion in terms of finding out the truth.

5 DR RAVERTY: Well, I think it is notable in response, to say that the two
existing kraft mills in Australia have community odour monitoring panels and
the mill operators seek feedback from those panels on a regular basis, but we
ascertained that there was no such panel at Stendal, possibly indicating that it
wasn't a problem but also possibly indicating that the local community had
10 lived under a fairly repressive political regime for the last 50 years and were
not given to voicing complaints so as I say we will take that on board as
something that needs to be followed up.

DR ERNST: While I agree, there's a comment that the unemployment rate in
15 West Germany is comparable to the - in comparison to East Germany, the old
communist regime - - -

DR RAVERTY: Yes.

20 DR ERNEST: - - - there's huge discrepancies and they are struggling with
jobs there. I mean, the unemployment rate is up to 50 per cent in some regions
so there has to be - I totally agree that that is a fact. I would like to also briefly
clarify that we were also working under the assumption, based on the
information from the proponent, that Veracel, that is the Brazil smelter, has no
odour problems.

25 Now, I got it from the actual Veracel newsletter on the internet that it has held
its first odour perception network meeting at - in other words they had to put
together a team - a team or teams to deal with the issue of smell which is
present - the reason why they have done it is in fact that there is smell in the
30 community. I think that, to us, was - this is about all we can say, we haven't
got the resources to go there, we're very limited there and would be very, very
reassured that if you can follow it up on our behalf.

35 DR RAVERTY: Okay. And again although it is culturally different - Hainan
Island is obviously one of the more modern mills and I think we have heard
that that's another possible model for what is proposed locally. If - and again it
is a different cultural situation but if the proponent can provide some
information on what measures are used at Hainan Island to monitor odour,
whether there are in fact complaints. The problem I guess is that Hainan Island
40 has been a - more or less a prison island for much of South China for a long
time, so - - -

45 DR ERNST: I would also like to comment that the AMA has gone through
the information and we've made a conscious decision to explore the situation a
little bit more in detail with the German pulp mill and the Brazilian pulp mill
which were mentioned in the letter from the proponent. When it comes to the
Chinese type pulp mill, we have decided that effectively whatever we do the
input - the validity of the information which would come out of an

investigation on odour would be so low compared with the other sites, there is no point to waste the resources on that issue.

5 DR RAVERTY: All right. Nevertheless, I understand the proponent has some access to Hainan so it should be relatively easy for them to provide that information.

10 DR ERNST: Our concerns were in a regime which - and I know that this is probably taking it a bit far, but a regime which has currently still a very poor human rights record, if we expect them to give honest answers I think we are fooling ourselves, that's why I say whatever comes out of it we certainly wouldn't have a lot of faith in it.

15 DR RAVERTY: Nevertheless - I mean the reason I think that it might be valuable in additional information is that a CSIRO officer who has a long experience with pulp mills visited Hainan Island without saying - and was given a tour of the mill and he was again amazed. He said there was no odour whatsoever, so I wouldn't sort of dismiss it as being necessarily, you know, old technology.

20 I think we need to learn from as many of the most recent mills as possible and not, you know, cross out particular countries on cultural grounds. My overarching, I guess, desire is to make sure that if the proposal is approved that we don't end up with the same problems in the Tamar Valley as occurred in the
25 Tumut Valley in New South Wales.

DR ERNST: At some later stage - perhaps not now, but the AMA had applied disease epidemiological risk assessment processes to arrive at our conclusions with regards to odour and some of the other issues. And if necessary we can
30 explain how we got this thing about risk assessment and which ultimately has led to the substantial increase of life, in particular dying nowadays at the age of 80 plus and that comes all back to some methodologies which we have developed a long time ago and we have applied those methodologies to all those risk issues with a pulp mill.

35 MR GREEN: Okay. Does that conclude his statement? Thank you very much.

40 DR RAVERTY: Perhaps, just one point of clarification for people who may be concerned about the odour. It is my impression after 30 years in the industry that there is no real - outside the mill I'd say there is no health risk associated with the odour, it is really a loss of amenity for people not being able to have a barbecue because, you know, the backyard smells terrible. There is, however, as the AMA pointed out, significant health risks associated
45 with particulate matter and - but those two issues need to be separated because the sources are quite different and the effects are quite different.

DR AIZEN: That's right, that's why we are presenting them - those separate

issues.

DR ERNST: There is - although there are - - -

5 MR GREEN: This draws to a conclusion, surely, because we've got - - -

DR ERNST: Yes, that's why from an environment - - -

10 MR GREEN: If you want a final statement you had better come to the tape because I am told they're having trouble picking up your audio. Do you want to make a concluding statement to the panel?

DR ERNST: Only one last comment and then, yeah - - -

15 MR GREEN: Well, do that now and then we'll call Mr Wright.

DR ERNST: The issue of odour and it's nuisance - you would be aware of that - - -

20 MR GREEN: Yes.

DR ERNST: - - - but it has been looked at as a nuisance factor for a point in time but all we can say is actually that the interest is also between odour and adverse health effects, particular respiratory health. And so I think we were a bit alerted that - or cautioned to put odour under nuisance for that - for the reasons I have been taking you to and the most recent paper actually has linked odour and sulphur emissions to an increase risk of suicide. So I think where people - I appreciate and I am sure we all do that these issues are not easy to move on, we are dealing with rare occurrences in a large population so it isn't an easy object to find but the AMA certainly at this stage doesn't want to see odour just as a nuisance.

DR RAVERTY: Thank you. Can you provide documentary evidence as to those published papers?

35 DR ERNST: I can do that, yes.

DR RAVERTY: All right.

40 MR GREEN: Thank you, gentleman. Okay. Yes, you can stand there or retire, whatever you like.

DR AIZEN: Okay. Thank you.

45 MR GREEN: Thank you for coming.

DR AIZEN: Thank you very much for the invitation.

MR GREEN: Okay, Mr Wright.

MR WRIGHT: If the panel pleases, our position can be stated one just simply
- we are not really in a position to clearly identify the issues that we want to
5 ventilate at a hearing until we have received, and indeed have an opportunity to
evaluate the totality of the proposed material and indeed the form in which that
additional material is presented is quite critical and if I could simply endorse
the comments made by yourself, Mr Chairman, as to - it would be of great
assistance if the additional material could clearly identify by reference back to
10 the IIS, that we have all seen, which portions of that IIS are, I suppose to use
the Nixon jargon, "No longer operative," which portions are revised and which
portions are - were in error and are corrected as follows.

Now, it will also assist if the additional material, that is both corrections to the
15 IIS as it now stands, and further material could be served upon us directly; that
is on my instructing solicitor, rather than - we have had some considerable
difficulty obtaining access to the IIS and the various appendices and it is really
on through the good graces of our learned friends active at Gunns' that we have
managed to acquire the complete IIS in the last two or three weeks but service
20 upon us directly would overcome that difficulty.

Mr Chairman, what constitutes a reasonable opportunity to look at and respond
to this material of course depends upon all the circumstances and one of the
25 circumstances which looms large, given the mid December date estimated for
the delivery of this material, is of course the Christmas period. And I think we
are all pretty much men of the world and appreciative of the fact that basically
mid December to mid January can be ruled out in terms of obtaining any useful
expert assistance.

30 So we would respectfully suggest - perhaps before I make that suggestion, we
would agree that it is not inappropriate for the Commission to look at the
additional material prior to its dissemination in order to make an appropriate
assessment of the duration of the exhibition period. But having said that we
would say that it ought to be no sooner than the end of February.

35 Now Mr Chairman, we accept that this process should proceed without any
undue delay but it would appear to be unduly optimistic to expect a final
hearing to commence in March. And the suggestion that we put forward is that
40 once the exhibition period, if I can use it in that loose sense, has expired at say
the end of February there then be a further directions hearing at which all
parties can come with some considered assessment of what case they wish to
put, what witnesses they will be calling and how long they estimate their case
will take to present to the Commission that would enable the panel to then set a
45 timetable on a more informed basis than simply groping in the dark.

One of our concerns is this question of particulate emission and to simply
underscore what Dr Aizen said to you in relation to the provision of further
material covering that aspect. That I think, Mr Chairman, is all we wish to say

at this stage.

MR GREEN: Thank you. Well, I can make an immediate response to say there will be a further directions hearing and when that will be called is a bit unclear at this stage - - -

MR WRIGHT: Yes.

MR GREEN: - - - until we get the documentation from Gunns' but I take your point and will make sure you get the documentation direct to you and all parties who are appearing here today will deal directly with them also - as well.

MONITOR: Excuse me, Mr Chairman, can you speak up, please?

MR GREEN: Oh, I am sorry, I beg your pardon, yes, I beg your pardon. I am just saying we will have a further directions hearing later on and documentation will be served on the parties who are here today and rather having to get it off the website or get a copy from Gunns'. Do you have anything - a comment to make?

DR RAVERTY: No. No thanks.

MR GREEN: Thanks Mr Wright.

MR WRIGHT: If the panel pleases.

MR GREEN: Somewhere here - - -

MR BRETT: Brett.

MR GREEN: Thank you, I forgot your name, I beg your pardon. Lost my log sheet.

MR BRETT: Mr Chairman and members of the panel, you have just alleviated two of my concerns because I also was intending to submit that really it is inevitable, given the process in this case, that a further directions hearing is called before the matter is listed for hearing. Secondly, my clients are also concerned that any further material served directly on the parties - so that's fine.

With respect to the form of the further material to be provided by the proponent, my firm submission is that the option stated by you as an option ought be adopted, and that is that the proponent ought prepare a completely new draft IIS incorporating the supplementary material, corrections to errors, perhaps depleting the material included in error. The basis of that submission is simply that requirements for public participation in this process, which arise from the legislation from Commonwealth/State agreements and from the

Ministerial direction require a real opportunity for the public to be involved in the process.

5 And it is all very well for the proponent to say, "Well, look, you know,
professional consultants can look at the matter over their Christmas holidays
and come up with a fairly easy answer quickly," but it is not just professional
consultants who will be looking at this. These documents are complex, they
will be made more complex - they should not have been as complex, there
10 should not have been the need for the third - there to be supplementary material
if the draft IIS was done properly in the first place, and quite frankly the
proponent should bear the onus of presenting the material in an intelligible and
easily understood way.

15 So my firm submission is that there should be a new document prepared. With
respect to the response to that document, my submission would be that firstly it
is impossible for anybody to say today and I think this reflects of a similar that
you've expressed, sir, it is impossible for anyone to say today how long it will
be necessary to gaze this material because some of it may require scientific
analysis and response until we've seen it.

20 So my submission is that the appropriate direction today would be to require
the compilation of a new consolidated draft IIS within a period, that that be
served directly on the parties and I have no difficulty with that being provided
to the Commission and then the parties be invited to make perhaps written
25 submissions on how long they'll need to look at it. And obviously not just the
people, we want X amount of period, they would need to provide some rational
reasoning for that and that you fix a period equal to those submissions.

30 I agree with Mr Wright's comments that the period from mid-December to mid-
January is really a non-equity in terms of the ability to take this process
forward. The public - it is a traditional time for holiday for the public, and it is
just unrealistic to expect that people will be able to do some serious work on
these documents until mid-January. It is certainly not the public's fault that the
document will be available mid-December, so I would be asking that the clock
35 stop over that Christmas period.

In other words, if there is to be public exhibition period that it actually
commence from some time in January, mid-January. Now, that is what I want
to say about the further material, or the supplementary material to be provided
40 by Gunns, but I also want to raise a number of other procedural issues. Firstly,
my clients have requested further information to enable their consultants to
produce proper scientific analysis, both of air quality assessment, and
economic issues.

45 That further material has been requested directly of the proponent by emails,
and those emails were back in September. The proponent's response was to
refer the request to this directions hearing. In other words those responses
were refused, and we were told to bring the matter up at the directions hearing.

We sent the Commission details of what we were after. Now, certainly in relation in particular to the economic data, a substantial amount of that data was simply material that had been foot noted in the proponent's documents as being available upon request.

5

Well, a request was made, and we were effectively refused, or at least deferred to this directions hearing. So part of my application is to seek an order, I suppose, from the Commission, pursuant to its powers under section 14 of the Commission Act, to require the proponent to provide us with that material.

10

Now, that is also going to then affect the timetable, because once we get that we will then need time, and I am instructed no less than two months, in which to feed that material into our models, and our scientific analysis, and come up with an appropriate response.

15

I mean, that introduces complications, I understand that, but I suppose the first step is my application for those orders. Now, I am happy to provide that - or make that application in writing within a certain time, and serve it on the proponent, and provide it in writing to the Commission. Now, I also must foreshadow an application that Dr Raverty disqualify himself from the panel, on the basis - the basis for that application will be apprehended bias.

20

The basis of the claim of apprehended bias is effectively the apprehension that a member of the public would have that Dr Raverty has pre-judged what we say are certain critical issues in relation to this matter, including the applicability and appropriateness of using the TAPM guidelines in relation to the assessment of air quality issues, and also arising from his involvement with the CSIRO. Again, I did take the opportunity to mention that to my learned friend, Mr Sealy.

25

30

He indicated that he believed it would be appropriate that any such application be made in writing on notice, and supported by material, and I agree with that, I simply seek a direction for some timetable to do that. Can I also raise an issue that - and I suppose I am raising this now, because we are seeking some guidance from the Commission about this, in order to be able to under-pin our approach to the assessment process, and that is that we understand through correspondence between the Commission and the Government, that this assessment process will also involve a review of the Tasmanian Environmental Emission Limit Guidelines.

35

40

Now, there is - if that is the case then our concern is that the public be afforded an appropriate opportunity to participate in that. If it has to be part of this process, it does raise an issue as to whether or not that conflicts with the ministerial direction, but, in any event, if it is to be the case then we believe that that should be stated clearly, the public should be given an opportunity to make submissions which pertain particularly to that issue, and well, yes, basically that is it. But public participation.

45

Finally, we believe that there is an issue concerning the appropriateness,

perhaps even the legal validity of the final scope guidelines to the integrated impact statement, I will state my client's position quite clearly. We believe those guidelines are flawed, because they do not adequately address the impact of the pulp mill on forests in Tasmania. We believe that both the legislation in the State Policies and Projects Act, and the ministerial direction requires that this assessment fully examine that impact, or the impact in that respect, and we believe the guidelines do not permit such an examination.

Now, it may be that that will be a matter more appropriately dealt with at the final hearing, but I put it on the table now as an issue, in case there is preliminary submissions that you think may assist you in relation to that. But we will certainly be arguing about, and of course if we are right then it means that the whole assessment process is heading on a - effectively on a wrong path. So that is probably enough for me for the moment.

MR GREEN: Yes, I understand the points you have made, and I don't think they require a response now, but they will be dealt with in our draft decision in just a few days.

MR BRETT: Thank you for that, sir.

MR GREEN: I would say that the point you make about the review of the emission guidelines is well taken. It had been the - the process we had in mind was that during the assessment process of the Gunns proposed mill information would come to light about - this information about emission levels and standards, that that would be taken on board, but that would not supersede a separate exercise in respect of emission guidelines which would involve the public.

And I would imagine that once the pulp mill assessment is out of the way information arising out of that assessment relevant to the review of the emission guidelines will be brought forward into a further process, which would involve the public, and would most likely have a draft proposal put forward for public exhibition and comment. So I accept your point about public participation in that exercise of review.

MR BRETT: Yes. Could I just say this about that, sir, if I may?

MR GREEN: Yes.

MR BRETT: Just to assist your thinking about this. The problem we see with that is that the ministerial direction refers to the 2004 guidelines, and says that this assessment has to proceed in accordance with those, but if the evidence identifies that those guidelines are not adequate, or need to be modified, then, well, I suppose there is two ways the thing can go, and, I mean, probably most desirable would be for the process to amend the guidelines ought take place before the assessment is complete.

MR GREEN: Your point makes interesting. They are guidelines, and if on the light of evidence that emerges they are too strict, or not strict enough, then the Commission would have authority in setting any permit conditions to modify those limits on the basis of evidence tendered and tested before the hearing process. And I would have in mind that if cogent evidence is put forward and tested to show that those guidelines, as regard particular standards, were in error, or new technology had moved on, then we would look to adopt that. Okay? Any questions of Mr Brett?

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10 DR RAVERTY: Can I - - -

MR GREEN: Yes.

15 DR RAVERTY: I just ask to - sort of further elaboration on why you believe that an association with CSIRO would disqualify me?

MR BRETT: Well, I am happy to provide a submission now, but Mr Sealy had requested that that be done on notice and done properly, and supported by material.

20 DR RAVERTY: Very well.

25 MR BRETT: I can indicate very clearly that we are not asserting any actual bias, we assert apprehended bias, and I say that apprehended bias in law is a sufficient ground for disqualification. But I will need to submit a case about that, sir.

MR GREEN: All right. Now, perhaps we will go down the table, and go to Jane Hutchinson. Your views, please, on behalf of the - - -

30 MS HUTCHINSON: Thank you, Mr Chairman. In some respects my friend, Mr Brett, stole the thunder from a number of the submissions that I was going to make to you, and in saying that I support the majority - in fact, all of his submissions. If I can address them one at a time. In relation to the process, the ongoing process of this assessment, I support Mr Brett's submission to you that there should be a new draft IIS for the Commission. I support the submissions that Mr Brett has made to you that it is a very complicated document.

40 This is not a document that ought be drip fed or given in witness statement forms that are difficult to comprehend where they fit, or which parts ought be taken out and removed from original submissions. This is a process where the public ought be given a proper opportunity to comment, and, in my submission, that cannot be done, and must not be done, in my respectful submission, unless it is by way of a fully consolidated document in the form of a draft IIS revised.

45 In relation to the issue of timing I also support Mr Brett in submitting to you that, if I can put it in my own language, it is, in my view, mischievous of the

proponent to expect the representors in this case to be put under extreme pressure to respond to extraordinarily complicated documents over a Christmas period, where they have their own consultants which might be engaged to undertake an assessment of that additional information. And those consultants may not be available over the Christmas period.

I would expect that the Commission would itself like to have some time to enjoy the Christmas period, as would the representors and their solicitors. In relation to the questions, or the issue of the emission guidelines foreshadowed, I have an inquiry of the Commission, and that is whether a response to the Commission's letter to the Premier of 9 September 2006 has been received, and I can foreshadow that that letter was as to whether or not the revision of the emission guidelines was going to occur within this process, or whether it would occur at some later time.

In my submission, it is a bit like putting the cart before the horse. If you have a set of guidelines by which standards are to be assessed, then those guidelines ought be in place before the assessment occurs, rather than after, or during. In relation to the foreshadowed application in relation to the final scope guidelines, the issue that I join in is that the final scope guidelines are entirely inadequate to require the proponent to assess impacts of this proposal on native forests.

There was mention of impacts on native forests in the report on the final scope guidelines prepared by the Commission. However, that was not picked up by the proponent, and that can be clearly seen by the proponent's response to section 4 of the guidelines, which relate to pulp wood supply. This is perhaps not a matter for you to decide today, but I seek a direction from the Commission that the guidelines are inadequate in that respect, and that - - -

MR GREEN: This is the final scope guidelines?

MS HUTCHINSON: Yes.

MR GREEN: Yes. Okay.

MS HUTCHINSON: That is correct, yes. And it can be clearly illustrated that that point has been not taken up by the proponent, even if the final scope guidelines did contemplate it, which, on my primary submission, they did not, then the proponent has failed to address that issue of those impacts.

MR GREEN: Yes. Okay.

MS HUTCHINSON: Might I also seek a direction that if the Commission is of the view that impacts on native forests ought form part of this assessment process, and the draft IIS, I seek a direction that the impacts of the proposal, including pulp and power supply sources, on native forests be completed, and that that assessment include impacts on ecological processes, impacts on bio-

diversity, impacts on water catchments for the whole of the State, impacts on threatened species, and particularly the wedge-tailed eagle.

5 You will note that in my client's submission to the Commission that the issue of impact on the wedge-tailed eagle is significant, because of the envisaged use of native forest in the pulp supply in the north east of the State, and there has been an expert report provided to - well, I should say, completed at the request of Forestry Tasmania, among others, that shows that native forest logging in the north east of the State will have a catastrophic impact, particularly on the
10 wedge-tailed eagle, meaning local extinction in that region. The assessment that the proponent ought be required to undertake in relation to native forests ought also include an assessment of impacts on tourist, indigenous values, and heritage, and other social impacts.

15 These are not things that the - my client has concocted ought be included in the assessment process, but they are in line with the cumulative impact assessment section in the final scope guidelines, at item 7, which has been completely ignored as it relates to this issue. It is also in line with the objectives of the schedule 1 of the State Policies and Projects Act. They are significant issues
20 that, in my submission, ought be assessed. If it please the Commission.

MR GREEN: Thank you. Okay. Yes, points well taken. I thought that after the public exhibition period on the draft scope guidelines we significantly tightened up the wood supply issue, compared with what had gone out, and
25 whether Gunns has adequately addressed those there is no question, but your principal tack is upon the inadequacy of the IIS Scope Guidelines, and do you wish to make a further written submission to the Commission about that suggesting specifically what should be put in, or are you going to rely upon what you said today on the tape?

30 But it would be useful to have a written submission, because what I did was to take legal advice when those draft scope guidelines were on public exhibition, and took serious note of what your client's said, and others, and I thought we had tightened it up considerably, but if not, I would be interested to see what
35 you say.

MS HUTCHINSON: Yes. Thank you, Mr Chairman.

40 MR GREEN: Okay.

MS HUTCHINSON: I would like to take that opportunity.

MR GREEN: Yes. Good. Mr John Hayward?

45 MR HAYWARD: Yes. I would like to again support the emphasis of Mr Brett and Ms Hutchinson on the el Grande that is missing from the issue, which is the wood supply. By that I mean those native forest logging and the displacement of agriculture that is involved with establishing plantations, and

that sort of land. This will be the greatest impact by far of the mill in our view. They have it, you know, totally admitted, sort of, make something of a travesty of the whole situation. There doesn't seem to be any excuse at all for the omission of the impact of wood supply on water catchments, as that is an issue that is not dealt with in the RFA in any case.

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But the RFA notwithstanding, it still should be addressed at the outset here, as of course the approval of a mill would preclude any sort of meaningful review of the mill in 2017, when it comes up again, so it would have effectively a renewal of the RFA at levels that were never envisaged. A mill this size, I don't think, was ever foreseen by the people drawing it up, or if it was it should have been looked at a lot harder. So that is the primary concern of TAP, all those issues which will extend all over Tasmania, but particularly in the north east and north.

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There is also concern with the marine emissions, the dioxins, and the Toxikos report, we were concerned that it appears that more information is being sought from Gunns, when it is open to suggestion that the information received already was inaccurate enough that completely independent advice should be sought by the panel. I don't know if you are aware there was a leak of a DPIWE document that was reported in the Mercury of 25 September with a scathingly critical report on - Toxikos dioxin report, which, although it is not a submission it is something to which you are free to advert yourself, and to, you know, then to seek independent advice on it.

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Another issue that concerns us is that the participants in the hearing, you have already announced that there will be consolidation of witnesses, according to presumably issues, and we were wondering how the topics will be arranged. Is it going to be advertised according to topics, and to which submissions are seen to be subsumed by the invited representative. I notice in the proposed invitation list that there are things like community groups, and individuals, and so forth.

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Whether that is just a description of the overall composition, or they are going to be selected on that basis, that they community groups, or individuals, or so forth, because there is, you know, some groups that probably aren't what they seem, and to have them represented, you know, on an equal basis with, you know, far more demographically important groups, would seem to be a possible problem. And I did say I wouldn't comment to Dr Raverty in regard to OTIS. There was a - and it gives another problem that we have with the admission of new evidence from representatives.

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Gunns is being asked for more and more information, but it is not clear what new information will be accepted from the representatives, because we have had a much shorter time frame in which to collect evidence. And, you know, a lot of it is still coming in. I just received a report of a kraft mill in Chile, which was making people ill with its odours from 11 kilometres away, and these sort of things certainly should be on the table, regardless of when that was received.

And that is pretty much a summary of things.

MR GREEN: All right, Mr Hayward. Thank you very much. Mr Adrian Coward, would you like to present, please?

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MR COWARD: Thank you very much for that. Just a couple of things. Most of what has been spoken about here this morning is what we were going to ask anyway. TCA would certainly like to be involved in the process. We are certainly happy with the way the RPDC has been conducting themselves to date. One thing that does concern me a bit is listening to some of the comment about the organisations being represented. Should we actually be represented by lawyers?

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I mean, like, TCA is here to represent their members, but maybe we are not doing the right thing. We should have a pile of lawyers here to argue our case. A couple of things with the process, as far as moving forward. Our members certainly don't have all of January off. We feel this is a fairly important thing for the State, and should be moving forward, even if it is only slowly, but just to pull the pin on it for Christmas holidays is a bit ridiculous to our way of thinking.

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Members have still got to go to work and make payments, so the sooner we can see some results the better for everyone. As far as our members coming to some of these hearings, it would certainly be appreciated if we could come along and state our case at any time we need to. I think the rest of it has been covered off pretty well.

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MR GREEN: Thank you, Mr Coward, thank you very much. Any questions from Mr Coward from the panel? Mr Terry Edwards, Forest Industries.

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MR EDWARDS: The last.

MR GREEN: Yes. Last but not least.

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MR EDWARDS: Thank you, sir. I too will be very brief. From the fairness perspective our future interest in these proceedings will be predominantly be limited to issues such as wood supply and socio-economic issues. We don't have an expertise in the area of the health effects and the like, and we wouldn't seek to continue a significant interest in that area.

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From that point of view, our future involvement would be somewhat truncated, I guess, and we would be looking at something like about half a day to present our case, subject to what comes through the additional material and some of the applications that have been foreshadowed for further directions by some of the presenters today.

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We also perhaps flag at this stage that we reserve our right to call expert evidence, particularly in the area of wood supply in light of the foreshadowed

applications for detailed additional material to be considered if the Commission is minded to consider those applications seriously. From our point of view we believe the IIS does adequately, in combination with other existing public documents, deal with those issues that were raised by those seeking to put directions, to request directions, but I haven't yet seen the written submissions they put in respect to those so I would reserve my position to comment on those and request that a copy of those submissions be served at least on perhaps all of the parties at the table, so that we can make further representations on that.

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In respect to the future timetabling of the hearing in respect to the IIS approvals process, I guess, being a family man I have some sympathy to some of the views in respect of the Christmas break and having not had a holiday for three years, I am almost tempted to say I don't agree with Mr Coward's submission. However, I think we need to ensure that the wheels of industry and commerce are kept moving and I think a sensible approach to the issue of timelines is required.

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I think the approach adopted by Gunn's, subject to, of course, whatever volume there is to the material they present in mid-December is not probably not unreasonable but I would support, I think, some suggestions, or options that fell from yourself, sir, about the potential of the Commission viewing some of that material and making some further directions at a later time. That will assess the reasonableness of the timelines that have been suggested. But I would, I think, adopt the view that Gunn's put that there ought to be some preliminary timelines established so that we get some idea in our own minds where this thing is intending to head, but they could be subject to amendment by further direction, and I think that would be the approach that we would support.

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In respect to the proposition as to whether or not there ought to be a complete new IIS presented, I think in the interests of the forests of Tasmania and the world that shouldn't be supported, seven-and-a-half thousand pages a time, I think that is a little over the top. I think providing the material presented by Gunn's by way of additional material, clarification, or amendment of corrections is sufficiently targeted to those areas in the draft IIS that seeks to correct, amend, or supplement then there would be no need for a complete new IIS and I think it would be - it is over the top to request a complete new draft IIS.

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I think with enough careful crafting and draughtsmanship it can be made clear enough to everyone to follow the intent of the changes that are made, so we would not support a new IIS, rather we would support the use of witness statements that are properly part of amendment process to the existing draft document. They would be our submissions at this time.

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MR GREEN: Thanks, Mr Edwards. Mr Gobbo, do you want to have a - - -

MR WRIGHT: Perhaps before Mr Gobbo - - -

MR GREEN: Yes, Mr Wright?

5 MR WRIGHT: There is one point I would like to make.

MR GREEN: Yes. If there is to be a hearing in this matter it will obviously be a lengthy hearing. It will be an expensive hearing and it will involve the consumption - - -

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MR GREEN: This is the hearing proper?

MR WRIGHT: The hearing proper.

15 MR GREEN: Yes. Yes.

MR WRIGHT: And a lot of time will be taken up by a lot of people. Mr Brett has raised two matters which are essentially threshold matters in the sense that if either of them is correct then if the hearing proceeded it would be abortive. Firstly, the question of Dr Raverty's participation on the panel.

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MR GREEN: Yes.

MR WRIGHT: And, secondly, the question of the validity of the scoping guidelines. My submissions is simply, I suppose, to state the obvious, I guess, that both those issues should be finally resolved - - -

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MR GREEN: Yes.

30 MR WRIGHT: - - - before there is any final hearing on the merits.

MR GREEN: Yes, take that as read. That will be sorted, yes.

DR ERNST: I would just like to - - -

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MR GREEN: Introduce yourself for the tape, please.

DR ERNST: Okay. Dr Andreas Ernst, Occupational and Environmentalist Physician, a member of the AMA.

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MR GREEN: Could you make your comments brief, because we are getting have some problems - - -

DR ERNST: The AMA hasn't commented on the issue of the broader quality of the IIS and we would also prefer if it was rewritten, not only for the reasons said but there are other scientific reasons. One of them I quickly give an example because I have had that - we had that feedback from a number of people, scientists who read it, and that is that in the IIS they often use units

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which you want to compare as a scientist from different results.

Now, if you get that expressed, for instance in one instance in let us say kilometres, and then get right next to it another unit, the same sort of issue in millimetres and then in inches and then in feet, it makes it very difficult to compare, and a scientist has to go to the report, write it down, translate those units into one and the same unit, that takes a lot of time. If that could be addressed in the IIS well apart from the mistakes, it would be appreciated.

10 MR GREEN: Mr Gobbo?

MR GOBBO: Thank you, Mr Chairman. There are a number of matters I do wish to reply to. One of them I am going to need to refer to my client for some instructions. I just wondered whether it would meet the convenience of the panel to have a short break.

MR GREEN: Yes.

MR GOBBO: I am not sure whether you are intending to bring us back after lunch, or try and wrap up this morning, but a few minutes and a short submission in reply from us and it gets back to you.

MR GREEN: Yes, thank you. Well, let us say we adjourn now for, say, half an hour?

MR GOBBO: It won't take us that long, that is - - -

MR GREEN: Okay. We will reconvene at 12.30.

30 MR GOBBO: Thank you, sir.

MR GREEN: We stand adjourned until 12.30.

35 **SHORT ADJOURNMENT**

RESUMED

[12.30pm]

40 MR GREEN: Mr Gobbo, thank you.

MR GOBBO: Thanks, Mr Chairman. Can we suggest a way through the maze here, we are obviously very anxious to move the project along and we are concerned that a process of leaving these matters for further consideration into the indefinite future is a formula for this case going further and further into next year and not being resolved until the second half of the year and for all sorts of reasons an earlier resolution of any community issue is a sensible

resolution, we would say.

We would like to ask the panel to contemplate receiving our material on, say, 15 December and then in the next week convening a directions hearing. We
5 would ask that you decide at that time whether you regard a hearing in March as appropriate, or too close, and for that purpose we would ask that you tentatively earmark hearing dates in March and April, and however much further into the calendar year you think will be necessary to accommodate all the submissions, and if it transpires in December that we do need to push the
10 hearing back for a period of time then at least we have a group of panellists who are available for whatever the hearing dates are.

If we decide to go forward then, again, the panel members are available and the parties are on notice that is a potential start day. We see that December
15 hearing date as being an excellent opportunity to also deal with some of the other issues that the parties have raised, whether it be the apprehended bias allegation, or the submissions in relation to the emission guidelines or the scope guidelines, we say in relation to those issues they may be better dealt with in other places, however, if people wish to make submissions to the panel
20 about those matters then it is appropriate that they be heard and determined well in advance of the scheduled hearing commencement so that arrangements can be made, if necessary, to accommodate any changes.

It has been suggested by a number of submitters that we are asking everybody
25 to work through their Christmas holidays. We were, I think, misrepresented because what we tried to say to the panel was a 28-day exhibition period was generally thought to be the starting point, and because we have the Christmas break, let us push it out into February. Now you, I think, Mr Chairman, mentioned 50 or 60 days, if you take from 15 December into the middle of
30 February, well, there is your 50 or 60, two months allowed, we don't see that as making people work through their Christmas holidays. We say that that is allowing 28 days plus however much extra time people have available over that period. Some will have more, some will have less. Now, it does depend to a certain extent what information is provided on 15 December.

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MR GREEN: Yes.

MR GOBBO: We are confident that when you receive that information you will see that there are two categories. There is the expert reports that are
40 simply a summary of what is in the draft IIS and a response to submissions, and then there will be the new material. Now, as far as the first category is concerned all of that can be dealt with now. In fact, it should have been under consideration by interested parties from the time of the exhibition of the draft IIS.

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And, really, for our learned friend, Mr Wright, to come along and say his client has no idea what issues they want to argue, they should at least be able to say, well, as far as that body of information is concerned we have adopted a

position in relation to that. As far as the new material is concerned, well, we will have to wait and see whether our tentative concerns about the adequacy of that material are addressed by the new material, or whether we want to continue to have a debate about it. And the same goes for the other parties.

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We say if they get that material on 15 December and they can have a - and I agree it will only be a short opportunity to have a look at it just to see what the form and something of the substance of it is, they can come along to you the next week and say, "Well, look, Mr Gobbo has sold us a load of rubbish here. This is a giant amount of material and it's enormously complex and we're going to need another month to deal with it."

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On the other hand you will see it, and you will see, well, it was exactly what was represented to us. There is some new reports, some new information that has to be digested and it is capable of being readily digested by people of appropriate expertise. So if we ask you to schedule a directions hearing before Christmas, and that means that we can press forward all else being equal. It is entirely, therefore, in the panel's hands.

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If you don't think that people are being given a fair opportunity then you will obviously rule accordingly. But if you put off a directions hearing until February then it just means that we really can't start in March if we are ready and other people should fairly and reasonably be ready. We are happy to provide copies of all of this information direct, rather than on the website. We, I think, indicated that in our opening submissions.

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We would wish to run our case, when the hearing comes, in one block. We would expect that it will take some weeks to run through our witnesses, assuming there will be some cross-examination of some of them. I am not sure what the panel's process is, whether as a matter of course everybody is entitled to cross-examine every witness, or whether there is some constraint on that, but we would assume that, especially the main players, would wish to test the evidence.

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We would also assume that the consultants who have been engaged for the Commission will talk to their reports in some way and possibly be questioned through the Chair in relation to their material. So some weeks are going to be needed for the hearing. We would expect that our part would come first, or early on in the process, so that delivery of responses by other interested parties, either in the form of the presentation of their experts, or submissions, will be some weeks thereafter.

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So, yes, they may have an obligation to put an expert witness be brought forward by, say, the middle of February, but if you were a part that didn't wish to call an expert you might have till April before you have to say a word. So it is not necessarily the case is under this enormous pressure over Christmas to get their act together, that is not really a fair representation of the way it is going to work for a lot of interested submitters.

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So that December hearing would allow for review of the material, the exhibition period, the tentative hearing dates, the bias application, the status of the scope guidelines if that is to be advanced and, as far as the emission
5 guidelines are concerned we say that is a matter for you and I adopt your comments as far as that is concerned. So on 15 December we would be providing our expert witness statements and the annotated Beca AMEC report.

10 In relation to this issue of the rewriting of the IIS, we did indicate that we just simply weren't able to do that. That is a massive task, a huge document to be rewritten, of course. The Act doesn't require that it be rewritten, the Act says nothing at all about the proponent having a second crack at the draft IIS. The task of the panel is to report on the draft IIS. We say the document is not so
15 deficient that it has to be sent back to the start and recommence the whole process.

Others obviously disagree, but they have a chance to make submissions about that. They have made submissions. We are going to respond to those
20 submissions and if we are not able to respond adequately, well then, no doubt the panel will not be satisfied on certain issues and we'll suffer accordingly, but we will obviously do our best to reply in a fashion that will satisfy people. The last thing that we will attempt to do by the 15th is produce a schedule.

25 That will not be a rewrite of the draft IIS but it will identify the changes. So we can take from each of our expert witnesses a list of every correction, amendment, or supplementary piece of information and put it in one document so that you could take the draft IIS and take this document and turn the pages of the document and see, well, yes, on page 5 there is this correction on page
30 10, there is this correction. But to actually rewrite, reprint and circulate a whole new draft IIS we say is a massive task and we would, with respect, say to the panel that that is not a fair impost on us.

35 So by the time that directions hearing comes around we say everybody will be well placed and certainly better placed to make submissions to you about how the hearing should proceed, but we do ask that you set down hearing dates that are convenient to the panel, obviously, but starting in March, and if they need to be adjusted then there is a mechanism for doing that.

40 There is one other thing, and that is that we have been asked by our learned friend, Brett, to respond to a request for further information on two matters. First of all, air quality, and we have no difficulty in responding to that and we will, perhaps if - we can perhaps speak after the hearing about a time-frame for that, but we can do that promptly. As far as the economic issues are concerned
45 there is this difficulty: the inputs into the model that has been used, in large part sensitive, commercial in-confidence information.

They are - the inputs are partly Gunn's material and partly from other Government statutory authorities. We do not wish to put that material into the

public arena. We are happy to produce it for the panel. We would ask that the panel exercise its expression as to who it deals with that.

MR GREEN: Yes.

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MR GOBBO: We would be prepared to release it to legal representatives of the parties that are interested and, obviously, Mr Brett has asked, so, to him, upon the usual undertaking, if I can say that about the use of confidential material. The difficulty that we have is that the gentleman that appears to have, through Mr Brett, asked for the material, is not an economist who is going to run that model as an expert economist and so - and we understand that gentleman is a member of Mr Brett's client organisation.

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So we have real concerns about the capacity of that information to be kept confidential in the hands of, effectively, Mr Brett's client. We would, with respect, suggest that if this is an issue that concerns the panel, this is an appropriate case for the panel to appoint its own consultant to run the model, to review the material by way of peer review. In that way there can be, from the panel's point of view, total transparency in the process, whereas if we are locked in a debate with other parties about what is given and one what terms it is given, it is potentially problematic.

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You may never feel that you have been given a full analysis of the material, or full examination of it, whereas the appointment of your own consultant would release that anxiety and we ask that the panel take that on board and consider it. We would expect that that would not be a complex, or expensive appointment and, in the absence of our learned friend, Mr Brett, engaging a consultant who is perhaps - a consultant who is a mainstream economic analyst, who is prepared to give the same professional undertaking, we resist handing that material over at this stage. And I think that has dealt with the issues that have been raised, unless the panel has anything further. Thanks, Mr Chairman.

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MR GREEN: Yes, I have got one question, in observation. The first question goes as a question of the public exhibition of the new material and because the new material we will be referring to, what is in the IIS, are we looking at an exhibition period that will allow for the public to consider the new material and also revisit the IIS?

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MR GOBBO: Well, the answer is - - -

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MR GREEN: What is your view on it?

MR GOBBO: It may.

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MR GREEN: Yes.

MR GOBBO: It may, because there - - -

MR GREEN: It seems it would probably have to.

5 MR GOBBO: Well, there will be new material that is called for because it is absent from the draft and one would expect, therefore, that that doesn't involve a review of the previous version of it.

MR GREEN: No.

10 MR GOBBO: There will be some material that is substituted for the draft IIS and, again, we would say that what was previously there and is now superseded, is irrelevant to the ongoing task. And there will be some material that supplements material that is in the IIS by adding relevant information to it and it would be necessary, obviously, in those circumstances for there to be
15 some reference back to the corresponding piece of information in the draft IIS.

Now, what we are proposing to do is produce reports that are free-standing documents, self-explanatory on their face, so that if somebody wished to go back and cross-check to see that the consultant has done a fair job of dealing
20 with what was originally put forward by way of explanation for change, etcetera, etcetera, then it would be necessary to refer back to the IIS, but we would say that that is not a Herculean task. It is a question of identifying the particular part of the draft and corresponding it to the new subject matter.

25 So when we talk about exhibition, we are providing this new information and we expect that we will serve it on the parties that are here and we will make it available for other members of the public to consider, access and analyse. In doing that they have had access to the draft IIS since the July to September exhibition period. They will need to, in certain situations, cross-reference back
30 to that document. We would see that as being a matter that requires this next block of information to be on public exhibition for a longer period of time.

And Mr Finanzio reminds me, sir, that the 700-odd submitters who have taken the trouble to study the draft IIS, and many of them provided very, very
35 detailed submissions, are not taken by surprise by this process. They are obviously people that have troubled themselves to go through a very long and difficult document and analyse it. And we would say that for them to receive additional information, following on from that initial analysis process, is just another step in the inquisitorial process of the panel and shouldn't be regarded
40 as starting afresh, or re-inventing the wheel.

MR GREEN: Okay.

45 MR WRIGHT: Mr Chairman, can I just point out, with respect, that the course that my learned friend is not proposing pre-empts the procedure that the panel itself suggested initially, namely, that once this additional material has been filed on 15 December, that the panel would then look at it, or the Commission would look at it, and the Commission would then make a decision

as to what period of exhibition was required and things would flow from that.

5 So it seems to be, with the greatest respect, absolutely pointless to schedule a directions hearing prior to the close of that further exhibition period because, until that exhibition period closes you simply won't know what other parties - I mean, there is only seven parties before you this morning, there is another 700 and however many it may be out there who may, or may not wish to take the matter further in the light of the additional material.

10 And even the parties that are represented before you this morning are not going to have any time over the pre-Christmas directions hearing to make an evaluation of this further material and inform the panellists to what they want to do about it. So the directions hearing, in our submission, is best scheduled shortly, or immediately after the close of the exhibition period.

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MR GREEN: Thank you, Mr Wright. Yes, Mr Brett, please?

MR BRETT: Sorry, sir - - -

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MR GREEN: Yes.

MR BRETT: Can I just say something about the - specifically about my request for information, the economic information?

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MR GREEN: Yes.

MR BRETT: Where perhaps the clients perhaps naively relied on the footnotes in the Allen Consulting Group Economic Impact Assessment Report which say that various matters are based on financial modelling by Jaakko Poyry. This may be supplied on request on a commercial-in-confidence basis. My client is prepared to sign any appropriate confidentiality undertaking. In any event, in order to properly respond I need to take some instructions myself, but perhaps this can be done - dealt with by submissions?

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MR GREEN: Yes, I think so. I don't want to cut you off. Are you concluded?

MR BRETT: No, that is all I wanted to say.

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45

MR GREEN: No; the observation I was going to make goes to Mr Brett's point that a request being made of opponent for additional information by the parties, is interesting. At the end of the day the information requested by a party of an opponent must be useful to the Commission in furthering its assessment of the exercise and, therefore, the Commission doesn't get involved itself in these requests to make formal orders to provide a party with additional information unless the Commission is of a view that it is going to assist the Commission in progressing its statutory duty and assessments proposal.

Now, I can't say I am familiar with your request - I know of it but I think it might be useful if your were to give us some detail as to what your request is and suggest a course of action for the Commission. I understand the point of confidentiality. The Commission, in the past, has dealt with, in these sort of assessments, evidence in-camera and has been judicious in how it has reported on that information. I can't give an answer now, but I think - do you need to make any further submission - - -

MR BRETT: I have got - - -

MR GREEN: - - - as to your reasons for this information from Gunn's, and indicate to us how this is going to assist the Commission in pursuing its course, as well as assisting you, or your client.

MR BRETT: Look, I accept that.

MR GREEN: At the end of the day it's the Commission's call, really.

MR BRETT: I accept we need to demonstrate that and I would like the opportunity to do so, but perhaps if we can do so in writing at a specific time.

MR GREEN: Yes.

MR BRETT: The orders I ask for under section 14 of the Commission Act are orders that - the general powers that you have to require the provision of information. Obviously that has to be going towards the end of helping you to make the decision in this case.

MR GREEN: Okay.

MR BRETT: So I accept orders.

MR GREEN: Mr Gobbo, have you got - - -

MR GOBBO: That is fine, Mr Chairman, and we will wait and address that, of course. We understand that the easy way to do this in terms of just giving everybody the most amount possible is put it out on exhibition for a long time and at the end of the exhibition have another directions hearing, and then we all scratch our heads and decide how to go forward. We say it's not necessary to have that process because the additional information is capable of being assessed in a short compass. You can then make a decision about how long that body of information ought be ought be out there before people have to respond to it, and it's not to the point to say that it can go over to the end of February. Of course it could, but we say it can equally be dealt with in December and therefore you can, in an informed way, judge how long people get to respond to it. It's a different point, really, Mr Chairman.

MR GREEN: I understand what you're saying, yes. I understand the

submission. Ms Hutchinson?

5 MS HUTCHINSON: Yes, I just had a couple of matters that I wanted to raise as clarification. But in relation to the submission about the timing of the release of that information, I support Mr Wright.

MR GREEN: Could you speak up a bit, please? I'm supposed to be getting a hearing aid, but it hasn't arrived yet.

10 MS HUTCHINSON: That was actually another issue that has been raised that perhaps for the next directions hearings we might have microphones so that people in the rear of the room can hear the chair as well as the other way around.

15 MR GREEN: Yes.

20 MS HUTCHINSON: My submission was just to support Mr Wright in saying that a directions hearing that close to Christmas, on the basis of having such a short timeframe to assess information, however easier it will be supposedly to understand, in my submission, is inappropriate. I just had a couple of points of clarification.

25 The first one: you mentioned, Mr Chairman, that the additional information - I think you made a direction that the additional information that was to be provided by the proponent would not have password protect attached to it as it relates to the electronic documents, and my clients have raised an issue that the draft IIS documents do have password protect still attached to them, and they seek a direction from you that that draft IIS password protect ought be removed.

30 The second point of clarification was just a matter of transcript. In my submissions I indicated that I was in support, or my client was in support of all of the submissions of Mr Brett. That is not strictly correct. There was one submission that I didn't have instructions for - and this is merely for the transcript - and that was in relation to the disqualification of Dr Raverty. I didn't have those instructions. So I just seek to clarify that for the transcript.

40 MR GREEN: Okay. Yes, as regards the security block or whatever it is on the IIS, I mentioned that in the opening remarks, that it should be lifted. I don't know what power the Commission has to compel that, but I would ask the proponent to certainly consider that and not impose a security on this new material that is coming forward. What is the reaction to that?

45 MR GOBBO: There is a distinction that needs to be drawn between the draft IIS - and there is no difficulty about lifting that - and the technical appendices. We understand that a number of consultants are concerned that their reports not be provided in electronic form that can be manipulated, then their intellectual property in those reports is capable of being interfered with. Now,

that is something that I am just told now.

MR GREEN: All right.

5 MR GOBBO: Now, I don't know too much about that, Mr Chairman, and perhaps if I can see just how serious that issue is.

MR GREEN: Yes, right.

10 MR GOBBO: Obviously people do need to be able to print off the documents, but the issue may be whether they can be presented in a form that is more user friendly that doesn't allow quite as much flexibility with their use.

MR GREEN: Well, I would be pleased if you would look at that seriously, Mr
15 Gobbo - - -

MR GOBBO: We will, certainly, Mr Chairman.

MR GREEN: - - - because it is a bone of contention and it doesn't help the
20 process at all.

MR GOBBO: One last thing - - -

MR GREEN: Yes.

25 MR GOBBO: - - - and that is the fixing of this directions hearing. We don't want to find ourselves in a position where the panel is against us and we lose the benefit of tentative hearing dates in March because of the directions hearing issue. If you accept my learned friend Mr Wright's proposition that
30 nobody is going to be able to make a useful submission to you in the last week of December, having only just received the documents the week before, then we would ask that there be a directions hearing in the second half of January, where at least people will have had a month, albeit over Christmas, where they could judge the quantum of the material, and we could still have the time
35 running. They could be working on it, tentatively they will know that there is a hearing date scheduled in, say, March and they still have to be working on it and they can come along to you and say, well, look, it's now the 29th of January, or whatever it is, and we simply are not able to do this, or we need an extra week or two and we ask that the case be pushed back, or whatever it is.
40 But we wouldn't want to find ourselves, Mr Chairman, in a situation where we lose that tentative hearing date in March because the panel is against us on a December directions hearing.

MR GREEN: Yes. I understand that point. I think Mr Wright has made a
45 valuable observation about the December date and obviously you have taken that on board and given it some thought. I would have thought a December directions hearing date was a bit difficult, but that is just my view at this stage. What the panel's view is, we'll consider that later. I would say the suggestion

of something in January is better. Whether we agree to that is to be determined, but at least we are making a slide over December into January as a start, I would have thought. Yes?

5 MR HAYWARD: Yes, in regard to the password protection. The point I would just make: it is not a terribly difficult matter to disencrypt them, but it is extremely inconvenient for somebody who is trying to prepare a response. The main inconvenience is going to be to the general public responding rather than to people attempting to pirate the intellectual property of the author.

10 And in regards to the December hearing, it is not just that it's a holiday, but it's also the fact that a great many people are simply not there during that period, and it has been used repeatedly in exhibition periods in the past to everyone's exhaustion.

15 MR GREEN: All right. Thank you for that.

DR ERNST: I would just like to add, on behalf of the AMA, all the members who have contributed historically to this feedback from the AMA, they are professional people; they work full time; they have got families; they have got lots of other responsibilities. I know that the emails which I receive from Dr Marcos, they were usually sent after 12 o'clock midnight and I think it's a big ask for ordinary people who are not full-time engaged on this matter to actually have such a short period of time to respond.

25 MR GREEN: Yes, I understand that. Well, the Commission has got to get across it as well, so - well, no further - Mr Sealy, do you have any further points to raise?

30 MR SEALY: I wonder if I could just make a brief submission, having listened to what everyone else has said. In terms of timing, the first order issue would appear, in my respectful submission, to be to resolve the challenge to the constitution of the panel, because it's self-evident that issue ought to be resolved before this panel does too much more work in terms of making directions which might themselves be subject to challenge, having been made by a panel that was irregularly constituted.

40 So that in my submission there does need to be some direction given which will result in that issue being resolved by this panel sooner rather than later, so that if, for example, it's intended to take the issue to another place should the need arise, that that can hopefully be resolved without interfering with the progress of these proceedings, because that issue has the potential to interfere with the progress of these proceedings, quite apart from any of the other issues that have been discussed here this morning. So that is a matter that I would urge the Commission to bear in mind.

45 The other matter relates to - there have been some submissions about whether or not the proponent ought to be ordered to, as it were, re-do the draft IIS. My

5 submission to the Commission about that would be that the Commission won't be in a position to make a sensible judgment about that until it sees the additional information. Mr Gobbo has indicated that in broad, as I understand it, it consists of two categories of material: the new material and material that is in the nature of a response and has the capacity or does directly affect existing material.

10 It seems to me it's really on the material in that second category which is critical to the question of what effect it has on the coherence of the draft IIS, and it won't be until the Commission sees that material that it's in a position to make any sensible judgment about whether the proponent ought to be put to the trouble of re-doing a seven-and-a-half-thousand-page document, or whether there is some other convenient option that's available and that is fair to all of the parties.

15 In relation to - I don't hear anyone saying anything about the 15 December date as the date by which Gunns should supply the additional information, and it seems to me that there is broad consensus that there is no opposition to that. The difference that has emerged now is between whether or not there should be a directions hearing in late December or whether or not it should be at some time in January. I make no specific submission as to that, except to say that in terms of scheduling these things the Commission needs to bear in mind that there is this issue, this challenge to the constitution of the panel which ought, as I say, be dealt with sooner rather than later.

20 And can I say that in relation to that issue, the appropriate course would be for my learned friend Mr Brett, on behalf of his client, to file something in the nature of an application setting out the ground, together with a statutory declaration verifying any evidence that's relied on, that that be circulated among the parties. Precisely how we do that may be a matter for discussion; whether it can simply be put on the Commission's website or whether he has to go to the trouble of actually trying to serve everybody. That seems to be impractical.

25 Then parties should indicate whether they wish to be heard on that application. It may be that there would be many parties who didn't wish to be heard. There may be other parties who do, and then some arrangements can be made to deal with the application, as I say, as a matter of some urgency.

30 MR GREEN: On this application, certainly a constitutional panel, how soon would you have your submission ready, do you think?

35 MR BRETT: Within seven, perhaps fourteen days. We could probably have our documents ready within seven days.

40 MR GREEN: Well, we couldn't give a ruling in respect of matters arising out of hearings today, could we, until it's resolved. So everything is put on the back-burner for a fortnight until you get that document to us.

MR GOBBO: We don't think that's right, Mr Chairman, with respect.

MR GREEN: Isn't it?

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MR GOBBO: No.

MR GREEN: Okay. What's the position?

10 MR GOBBO: Well, you can certainly - you three gentleman could make the directions, or even you, Mr Chairman, but without Dr Raverty involved.

MR GREEN: That's correct. We have separate delegations. Yes.

15 MR WRIGHT: But Dr Raverty shouldn't be excluded just because there's a possibility - - -

MR GREEN: No, no, no, no, no.

20 MR BRETT: Well, I will deal with it as quickly as you direct, sir. I believe seven days is an appropriate time.

MR GREEN: Okay. That is seven days. Not seven working days, seven days; a week from now.

25

MR BRETT: Mm hm.

MR GREEN: Okay. Do your best. Now - no, just hold it, please. Mr Sealy has suggested that Mr Brett's submission be circulated to parties. Do you mean
30 the parties here at this table, or wider? Was it 800, potentially?

MR SEALY: Well, I suppose it may be that at a minimum parties who think they may be interested in being heard on the application and who have a place at the table here today might make that fact known to Mr Brett so that he could
35 perhaps - arrangements could be made for those documents to be served. More generally, obviously, there may be other people who are not at the table and who have an interest or would want to express an interest in being heard on that application.

40 It seems, subject to the view of others, that the appropriate way to deal with that is to notify that fact on the Commission's website and anyone who wished to be heard will be on notice as to the date fixed for the hearing and they can attend and be heard. There may, I suppose, be some parties who wish to file material in opposition, or even in support, I suppose, but that will have to be
45 dealt with, I expect, as it arises; if it arises.

MR GREEN: Okay. All right. Mr Brett; all right?

MR BRETT: Yes, well, I certainly don't believe it's necessary for us to personally serve everybody who's a party. This is our application and I have no difficulty with the fact that, when we have made the application, it being notified on the website, and we would be happy to provide a copy to whoever who asks.

MR GREEN: All right. No further submissions?

MR GOBBO: Mr Chairman, perhaps if there are any others who wish to raise preliminary matters, to avoid that emerging on the first day of any scheduled hearing, if the panel was to make a direction that that be done in advance of the directions hearing, whenever you schedule it, that would allow you to clean up any of these loose ends before the hearing started. We don't need to invite anybody to do it, but a direction that it be dealt with at that directions hearing and it to be done on notice.

MR GREEN: Yes.

MR GOBBO: Just for the ordinary commencement of the hearing proper.

MR GREEN: All right. Is that it?

MR GOBBO: Thank you, Mr Chairman.

MR HAYWARD: Just in regard to, you know, financial documents that we seek to protect with commercial-in-confidence, is there any way that the panel could determine the instances in which various information really deserves it, or whether the public interest - - -

MR GREEN: The Act is quite clear on the process as to any claims of confidentiality. A proponent has to make a case for it, which is accepted or rejected by the panel, so the onus is on the proponent.

MR HAYWARD: But it's the same standard as normally applied.

MR GREEN: Oh, yes.

MR HAYWARD: Should there be perhaps a more relaxed standard, given the scope of this project and it's - - -

MR GREEN: Well, I don't know yet. Let's see what's asked. That's the best thing to do. Anything else? Okay. Thank you very much.

HEARING CONCLUDED