Corporate and state economic interests chipping at environmental concerns: the case of a pulp mill

Ahmad Ibney Saeed Khan Sujan
University of Wollongong

UNIVERSITY OF WOLLONGONG
COPYRIGHT WARNING
You may print or download one copy of this document for the purpose of your own research or study. The University does not authorise you to copy, communicate or otherwise make available electronically to any other person any copyright material contained on this site. You are reminded of the following:

This work is copyright. Apart from any use permitted under the Copyright Act 1968, no part of this work may be reproduced by any process, nor may any other exclusive right be exercised, without the permission of the author.

Copyright owners are entitled to take legal action against persons who infringe their copyright. A reproduction of material that is protected by copyright may be a copyright infringement. A court may impose penalties and award damages in relation to offences and infringements relating to copyright material. Higher penalties may apply, and higher damages may be awarded, for offences and infringements involving the conversion of material into digital or electronic form.

Unless otherwise indicated, the views expressed in this thesis are those of the author and do not necessarily represent the views of the University of Wollongong.

Recommended Citation

Research Online is the open access institutional repository for the University of Wollongong. For further information contact the UOW Library: research-pubs@uow.edu.au
Corporate and State economic interests chipping at environmental concerns: the case of a pulp mill

A thesis submitted in fulfilment of the requirements for the award of the degree

DOCTOR OF PHILOSOPHY

from

UNIVERSITY OF WOLLONGONG

by

Ahmad Ibney Saeed Khan Sujan, BBA, B.Com (Hons), MPA

School of Accounting, Economics and Finance

2016
CERTIFICATION

I, Ahmad Ibney Saeed Khan Sujan, declare that this thesis, submitted in fulfilment of the requirements for the award of Doctor of Philosophy, in the School of Accounting, Economics and Finance, University of Wollongong, is wholly my own work unless otherwise referenced or acknowledged. The document has not been submitted for qualifications at any other academic institution.

______________________
Ahmad Ibney saeed Khan Sujan
31 August 2016
ABSTRACT

This is a case study of the company, Gunns Ltd, which proposed a pulp mill in the state of Tasmania, Australia, and had economic, environmental, social and political significance. The proposal was considered by various government processes and it is these processes and interactions (predominantly between the state and corporation) which the thesis analyses using critical discourse analysis. The thesis is theoretically informed by the theory of legitimation (Habermas, Turkel).

The development versus conservation debate is not a new phenomenon for Tasmania and Gunns Ltd reignited this debate in 2003 when it proposed the building of a pulp mill and continued until 2007. The Gunns’ pulp mill project was not only significant because of its potential to add value to the single biggest forestry export, woodchips, for Australia (ABARE, 2007), but also for its potential contribution to the Tasmanian economy (ABS, 2012; CommSec, 2013). The mill also had probable adverse impact on the environment. The purpose of this research is to explore the role of such financial discourse in the assessment of this project and understand how such a discourse interacts with, influences and/or is influenced by other discourses in decisions that require consideration of both development and conservation.

The Gunns’ pulp mill assessment process (a discursive event) was investigated in the context of a number of competing and complimentary public discourses. Critical discourse analysis (CDA) (Fairclough, 1992) has been chosen as a methodological vehicle for this study because of its capacity to analyse a complex discursive event and its key constituents/dimensions. Three dimensions/layers are analysed separately and then together. The outermost layer, social practice, involved consideration of socio-economic, political, historical, and legislative contexts. The innermost layer, the text, was drawn from publically available documentation from Gunns Ltd, the assessment authority, parliamentary Hansards and public submissions. The social practice and text layers were reconsidered in terms of discourse practice which exposed how discourse is produced, reproduced and influenced each layer (Fairclough, 1992).

The CDA analysis was informed by the theory of legitimation using the combined insights of Turkel (1980a, 1980b, 1982) and Habermas (1975, 1986, 1987). The analysis revealed that a pro-development bias was legitimated by privileging financial/economic discourse. This privileging was evident in the government assessment processes, assessment entities/statutory bodies and the legislation which supported these. It is argued that a legitimation crisis was imminent whether the project was approved or not. This crisis involved the dissolution of the assessment entity, resignation of leaders (including the premier of the state), drafting of new legislation and eventually the withdrawal of the pulp mill proposal.

It was concluded that despite past experiences of the state, Gunns became complicit in the legitimation crisis. The findings in the Gunns’ pulp mill case confirmed that there were still lessons to be learned; development vs. conservation was still a contested terrain.
ACKNOWLEDGEMENT

All praise is due to the Almighty God, who sustained me and enabled me to complete this thesis.

I am grateful to the following people, without whom this thesis could not have been completed.

I am indebted to my wife Amreen for the love and support she has provided throughout this journey and my parents for their continuous encouragement and prayer.

I am extremely grateful to my supervisors, Associate Professor Mary Kaidonis and Dr. Ciorstan Smark for their patience and dedication in guiding me throughout the PhD program. Without their directions, encouragement and support, completion of this thesis would not be possible. Their thoughtful guidance and critical comments on every draft continuously improved the standard of this thesis. My special gratitude to Mary for opening my mind to the world of critical social thinking. I could not get a better mentor.

I would also like to express my sincere gratitude to my colleagues at work, at the Department of Accounting at Monash University for being very supportive while I was doing my PhD.
Table of contents

Certification................................................................................................................... i
Abstract ........................................................................................................................ ii
Acknowledgement....................................................................................................... iii
CHAPTER ONE: INTRODUCTION........................................................................ 11
  1.1 Introduction................................................................................................ 11
    1.1.1 The case study ................................................................................ 13
    1.1.2 The company, Gunns Ltd................................................................. 13
    1.1.3 The place- Tasmania ...................................................................... 13
  1.2 Theoretical and methodological positions ................................................. 14
  1.3 Overview of subsequent chapters............................................................... 15
  1.4 Chapter summary ....................................................................................... 16
CHAPTER TWO: BACKGROUND TO THE PULP MILL CASE- SETTING THE SCENE ....................................................................................................................... 17
  2.1 Introduction................................................................................................ 17
  2.2 Tasmanian demographic and economic trends .......................................... 17
  2.3 Development controversies ........................................................................ 19
    2.3.1 Lake Pedder debate- rise of environmentalism as an alternative........ 19
    2.3.2 Franklin Dam debate- enviro vs. politics ......................................... 21
    2.3.3 Wesley Vale pulp mill debate .......................................................... 27
  2.4 Political environment ................................................................................. 30
    2.4.1 Domination of the economic vulnerability- legitimating development. 30
    2.4.2 Governance structure- too many players ......................................... 31
  2.5 The case study ............................................................................................ 32
    2.5.1 Gunns Limited- the company .......................................................... 32
    2.5.2 Gunns’ Bell Bay pulp mill project .................................................... 34
  2.6 Chapter summary ....................................................................................... 44
CHAPTER THREE: SUSTAINABILITY ACCOUNTING LITERATURE REVIEW .................................................................................................................................... 45
  3.1 Introduction................................................................................................ 45
  3.2 Early attempts of SEA............................................................................... 47
  3.3 Shifting focus of SEA ............................................................................... 47
6.3.2 Evolution of the assessment regime, maintaining the status quo........ 110
6.3.3 The power of discourse in RMPS and the process of legitimation: an example of theory and method complementing each other ...................... 128
6.4 Identifying the key players........................................................................ 136
6.4.1 Gunns board, its composition and governance .................................. 136
6.4.2 Companies, associations and lobby groups involved in the Gunns case 142
6.4.3 Pulp mill task force (PMTF) - an additional government structure..... 145
6.5 Chapter Summary..................................................................................... 151

CHAPTER SEVEN: ‘TEXT’ AND GUNNS’ PULP MILL CASE .................. 152
7.1 Introduction.............................................................................................. 152
7.2 General description of the sources and some sample text.................... 154
7.2.1 Parliamentary Hansards ...................................................................... 155
7.2.2 Ministerial direction............................................................................ 155
7.2.3 Tasmanian Legislation......................................................................... 157
7.2.4 Documentation from Gunns................................................................. 161
7.2.5 Pulp mill newsletter by PMTF ............................................................. 166
7.2.6 Public submissions in response to Gunns’ DIIS .................................. 170
7.2.7 Documentation from the RPDC............................................................ 178
7.3 Chapter Summary..................................................................................... 181

CHAPTER EIGHT: ‘DISCOURSE PRACTICE’ AND GUNNS’ PULP MILL CASE ........................................................................................................................................................................... 182
8.1 Introduction.............................................................................................. 182
8.2 Amendments to SPPA 1993 and the declaration of the pulp mill as a POSS 183
8.2.1 Widening the scope of the POSS provisions (s. 27A inserted)............ 183
8.2.2 Shifting focus on the project rather than the proponent [s. 16(2) amended and s. 18B inserted].............................................................................................................................. 184
8.2.3 Further amendments/ changes (s. 18A inserted)................................. 185
8.2.4 Other issues.......................................................................................... 186
8.2.5 Amendments to SPPA 1993 and the declaration of the pulp mill as POSS: Social Practice and Discourse Practice layers dialectically influencing each other 186
8.3 Actual assessment process at the RPDC ........................................ 189
8.3.1 Public submissions on Gunns’ DIIS, directions hearing and further delays 190
8.3.2 The top issues in the public submissions .................................. 191
8.3.3 Submissions from the key players ............................................. 193
8.3.4 A closer look at the key issues/ submissions ............................ 195
8.3.5 Summary of the public submissions and some critical insights... 198
8.4 Political interference in the RPDC process and the consequences .... 200
8.4.1 Political interference, the RPDC resignations and reconstitution ... 201
8.4.2 Political interference and Gunns’ withdrawal from the RPDC process 203
8.4.3 Political interference and Gunns’ withdrawal through the theoretical lens 210
8.4.4 Gunns’ withdrawal through the combined lens of CDA and the theory 216
8.5 A brief assessment of the new pulp mill legislation, PMAA 2007 ...... 219
8.5.1 Guidelines used for assessment ............................................... 220
8.5.2 Selection of and the constraints placed upon the consultant to assess the mill 221
8.6 Habermas’ (1986) test of legitimation for PMAA 2007 .................. 222
8.7 Gunns’ entire pulp mill assessment process- a condensed view through the lens of CDA ................................................................. 224
8.8 Chapter Summary ...................................................................... 224
CHAPTER NINE: CONCLUSION .............................................................. 227
9.1 Introduction .................................................................................. 227
9.2 Gunns’ pulp mill case: utilising the methodological and theoretical lens 227
9.2.1 Legitimated pro-development bias ........................................... 228
9.2.2 Legitimated pro-development bias reinforced through acts of parliament 228
9.2.3 Weakness of the RPDC despite being a legitimate entity .......... 229
9.2.4 The RPDC’s impartiality not disputed and pro-development bias not inevitable ............................................................................. 230
9.2.5 Legitimation crisis for the project, state government .............. 230
<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>9.3</td>
<td>Contributions to theory</td>
<td>231</td>
</tr>
<tr>
<td>9.4</td>
<td>Contributions to Methodology</td>
<td>233</td>
</tr>
<tr>
<td>9.5</td>
<td>Contributions to literature</td>
<td>234</td>
</tr>
<tr>
<td>9.6</td>
<td>Policy implications</td>
<td>234</td>
</tr>
<tr>
<td>9.7</td>
<td>Research limitations</td>
<td>237</td>
</tr>
<tr>
<td>9.8</td>
<td>Future research directions</td>
<td>238</td>
</tr>
<tr>
<td>9.9</td>
<td>Chapter summary</td>
<td>240</td>
</tr>
<tr>
<td>REFERENCES</td>
<td></td>
<td>241</td>
</tr>
<tr>
<td>Appendix 1</td>
<td></td>
<td>268</td>
</tr>
<tr>
<td>Appendix 2</td>
<td></td>
<td>272</td>
</tr>
<tr>
<td>Appendix 3</td>
<td></td>
<td>273</td>
</tr>
<tr>
<td>Appendix 4</td>
<td></td>
<td>278</td>
</tr>
<tr>
<td>Appendix 5</td>
<td></td>
<td>279</td>
</tr>
</tbody>
</table>
List of Tables

Table 1: The subjective-objective dimension ............................................................ 69
Table 2: The regulation-radical change dimension .................................................... 71
Table 3: Gunns’ pulp mill: possible contexts ............................................................. 92
Table 4: Key sources of data ...................................................................................... 94
Table 5: Key players in the Gunns pulp mill case and key discursive events ........ 102
Table 6: Summary of Resource Management Planning System (RMPS) .............. 113
Table 7: Criteria to be eligible as a Project of State Significance (POSS) .............. 114
Table 8: Composition of Gunns’ Board ................................................................. 137
Table 9: Key players in the pulp mill case ............................................................... 143
Table 10: Key sources of ‘Text’ ............................................................................... 154
Table 11: Selected Hansards .................................................................................... 156
Table 12: Amendments made to SPPA 1993 in relation to a POSS ...................... 159
Table 13: Assessment under PMAA 2007 compared to the RPDC process .......... 160
Table 14: Gunns’ DIIS structure ............................................................................ 163
Table 15: Summary of sample newsletters by PMTF ............................................. 168
Table 16: Public submissions on Gunns’ DIIS- some descriptive statistics ........ 170
Table 17: Top issues canvassed by the supporters ................................................... 171
Table 18: Top issues canvassed by the opponents ................................................... 172
Table 19: Submission highlights- key players ......................................................... 174
List of Figures

Figure 1: Timeline in Gunns’ pulp mill assessment process ........................................ 37
Figure 2: Philosophical assumptions in social science research ................................. 68
Figure 3: Burrell and Morgan’s four paradigm model .............................................. 72
Figure 4: Burrel and Morgan’s model of sociological paradigms and its Accounting derivatives .............................................................. 73
Figure 5: Fairclough’s three dimensional framework for CDA ............................... 87
Figure 6: POSS assessment process ................................................................. 124
Figure 7: SPPA 1993 through the lens of CDA and the theory of legitimation ...... 131
Figure 8: Amendments to SPAA 1993 through the CDA layers ......................... 188
Figure 9: Transition of SPAA 1993 through the CDA layers .............................. 188
Figure 10: A simplified and condensed CDA view of the pulp mill assessment processes .............................................................. 226
CHAPTER ONE: INTRODUCTION

So bleak is the picture... that the bulldozer and not the atomic bomb may turn out to be the most destructive invention of the 20th century.


1.1 Introduction

More than 25 years since the adoption of the Brundtland Commission report in the United Nations General Assembly, and now well into the 21st century, the above quote is still applicable; development versus conservation remains a contested terrain. Australia has been in this terrain for a while. High profile development controversies such as the Lake Pedder and the Franklin Dam debates in its island state, Tasmania, not only made national headlines, but also attracted significant international attention for a period of time. For example, considering its wilderness value, UNESCO termed the plan to flood Lake Pedder, as part of a hydro-electric scheme (Tyler et al, 1996), as “the greatest ecological tragedy since European settlement in Tasmania” (UNESCO, 1970). The campaign to save Lake Pedder led to the formation of the United Tasmania Group (predecessor of Tasmanian Greens), the first green political party in the world in 1972 (ABC, 1997; Tasmanian Greens, n.d) and contributed significantly to all later industrial development versus environmental conservation debates including that of Gunns’ pulp mill proposal, the focus of this study. McCall (2011, p. 24) recalls, “Lake Pedder signalled the arrival of the environmental challenge”; a challenge that mobilised national and international support to save the wild Franklin River from the second phase of the same hydro-electric scheme in the early 1980s. Franklin Dam divided the nation and contributed to changes both in the state and federal governments.

Despite being a small state, Tasmania is therefore significant for big environmental issues, impacting on both levels of governments with occasional international stir-ups. It is in this setting that this thesis looks into the Gunns’ pulp mill project in Tasmania—another high profile case in the contested terrain being played out in the national media on a regular basis between 2003 and 2012. The focus of this research was however
from 2003 to 2007. During these years the pulp mill proposal evolved and assessments on the viability of the project were undertaken for potential approvals. It is these years that defined what the final outcome would be for this proposal or indeed for the company\(^1\). The 2003-2007 time frame was also important because of this research’s primary focus on ‘process’ and ‘relationships’ within this process. The process here refers to the assessment process, while the relationships allude to the relationships amongst the key players in the assessment process, namely, the state\(^2\), the corporation (Gunns Ltd.), the assessment authority, pro-pulp mill lobby groups, and the conservation movement (i.e., the environmental groups). The thesis considered the tri-themed sustainability—financial, social and environmental aspects in the development vs. conservation debate and investigated the role of financial/economic discourse in shifting the balance of sustainability in the assessment of a major development project in a sensitive environment. The shift does not happen in a vacuum, rather it happens and is better understood through the interaction, reciprocal influence and veracity of the relationships. In other words, the influence of financial discourse or its mutual interactions with other discourses in shifting the balance is reflected in the ‘process’. However, changes or modifications in the process for a particular reason are best understood through the ‘relationships’ of the key players involved in the process. Thus the research question considered in this thesis is as follows:

| What role does financial discourse play in the assessment of projects with environmental impact? How does it interact with, influence and/or be influenced by other discourses in decisions that require consideration of both development and conservation in a capitalistic context? |

The following subsections briefly introduce the case, the proponent, Gunns Ltd. (hereafter Gunns), and the place, Tasmania. Each of these items will be discussed more broadly in Chapter 2.

---

\(^1\) Research beyond 2007 is a promising future research avenue in this case and noted in the conclusion chapter.
\(^2\) Social science uses State to mean government, while in Australia it means the level of government.
1.1.1 The case study

Gunns proposed to build a pulp mill to add value to its woodchips export on the Tamar River at Long Reach, Bell Bay in Northern Tasmania in October 2004. The proposed mill, at an investment of $2.3$ billion, was the largest ever by the private sector in Tasmania, and the largest ever within the forestry sector in Australia (Gunns, 2005; 2006; 2011). The Tasmanian government soon designated the mill with a special economic and legal status because of its size and significance for the state and directed the Resource Planning and Development Commission (RPDC), a statutory body, to do an assessment of the project (RPDC, 2009c). Gunns continued to provide necessary documentation to the RPDC in 2006 and 2007 for the assessment (Gunns, 2006; RPDC, 2007a). However, before the assessment was complete, Gunns withdrew its project from the RPDC assessment process (Denholm, 2007c). The state government then approved the project by setting up a separate assessment process through an act of parliament (Stokes, 2011).

1.1.2 The company, Gunns Ltd.

Founded in 1875 and based in Tasmania, Gunns, in 2003, was Australia’s largest fully integrated hardwood products company, exporting to over 25 different countries worldwide. It was the largest company in Tasmania with an annual turnover of approximately $700 million, and also the largest private employer in the state with 1700 employees and 1300 contractors (Beresford, 2015, p. 137; Gunns, 2003a). Gunns' main business divisions were timber, plantation, forest, veneer, construction and retail (Gunns, 2003a; Huntley's Investment Information Pty Limited (HII), 2007) with woodchips being its major export item (Gunns, 2003a) predominantly to Japan, Korea, China and Indonesia (Gunns, 2003b).

1.1.3 The place- Tasmania

Tasmania is the smallest of six states in Australia and the only island state, separated from the mainland by Bass Strait\(^4\). The fact that Tasmania is a state has implications for certain taken-for-granted beliefs (Turkel, 1980a), such as- a state ought to be

---

\(^3\) All dollar signs refer to Australian Dollar in this thesis unless otherwise stated.

\(^4\) Bass Strait is a sea strait separating Tasmania and Australian mainland.
comparable to other states in a range of indicators, especially the economic ones. Tasmania has, for the most part of its history, been far behind the rest of the Australian States in most of these indicators (ABS, 2012; CommSec, 2013). Such comparisons through ‘hard’ numbers create a notion of equivalence and lead to the assumption and expectation that each state must be able to ‘pull itself through’ and contribute to the advancement of the federation. Between the desires for higher economic growth and preservation of its clean, green image (Curran and Hollander, 2011), Tasmania, therefore, provides a unique context to study the Gunns’ pulp mill case and seek an answer to the research question.

1.2 Theoretical and methodological positions

To answer the research question, a case-study research approach was adopted for this thesis for its many strengths. Case-study research facilitates focusing on an organisation and/or event from various angles within its context and helps examine and makes visible the intricate details of the associated social processes that shape it (Neuman, 2011). The case under investigation in this thesis relates Gunns and its pulp mill proposal and includes a series of events leading to the approval of Gunns’ pulp mill project at the state level. A critical perspective has been adopted for this thesis to have a deeper understanding of the various discourses and contextual relationships that led to the said approval. A Habermasian critical theory, the theory of legitimation by Turkel (Habermas, 1975; Turkel, 1980a, 1980b, 1982) has been utilised to inform the methodology and interpret the results.

Critical Discourse Analysis (CDA) has been chosen for this research as the most appropriate methodology given the complex nature of the discursive events under investigation. CDA, being a branch of critical scholarship with its emphasis on discourse and society, is also a good fit for the theoretical framework adopted in this thesis (see, Wodak, 2001; Laughlin, 1987). Fairclough’s (1992) three dimensional CDA framework has been utilised in this research to disaggregate a discursive event into its three interrelated constituents- social practice, text and discourse practice. Fairclough summarises, “if being an instance of social (political, ideological, etc.) practice is one dimension of a discursive event, being a text is another” (Fairclough, 1992, p. 71). The text is described as the linguistic manifestation of discourse practice,
a layer/dimension where the production and interpretation of the ‘texts’ is undertaken in contexts, linking them back to the social practice dimension (Fairclough, 2010; Leitch and Palmer, 2010). The three CDA layers are not separate; rather they are dialectical in nature, meaning they influence each other without being subsumed in each other (Fairclough, 2010).

Throughout the application of CDA, predominantly in Chapters 6 through to 8, where the empirical analysis takes place, the methodology is aided by the theory of legitimation to shed more light on the findings and gather evidence to help draw a conclusion on the research question.

1.3 Overview of subsequent chapters

The remainder of the thesis is organised as follows. Chapter 2 provides more details about the historical Tasmanian context and its development controversies before bringing the focus back to the current case, Gunns and its pulp mill project. A summarised sequence of events in the Gunns’ pulp mill assessment process is presented towards the end of Chapter 2.

Chapter 3 locates accounting, its role and influence within the broader area of sustainability. The chapter explores accounting research in the area of sustainability from its inception to its current state and delineates how it shifted in terms of focus, methodological rigour and coverage. The importance of critical accounting insights into sustainability research is also highlighted. Finally, the position of this thesis within the sustainability accounting literature in the critical accounting tradition is envisaged.

The theoretical framework through which the findings in the Gunns’ pulp mill case will be studied is introduced in Chapter 4. A critical understanding of the concept of legitimation from Habermas (1975, 1986, 1987) and Turkel (1980) is reflected upon and made distinct from the widely used legitimacy theory. Additionally, the compatibility of CDA as a methodology with the theoretical framework adopted in this thesis is also highlighted.
Chapter 5 evaluates various theoretical and methodological positions in social science research and their accounting derivatives. It then attempts to position the thesis within the wider social science research and accounting in particular. This positioning then calls for an appropriate methodology to systematically analyse the issues at hand. CDA is chosen for this research as the most appropriate methodology.

Chapter 6, 7, and 8 provide the three layers of empirical analysis based on Fairclough’s (1992) three dimensional CDA framework. The broader context (social context or the ‘macro’) is provided in Chapter 6, while the evidence/’text’ (the ‘micro’) is presented in Chapter 7. The thesis will use public documents from the State and Gunns as text/evidence and these will be further explained in that chapter. Finally, interaction between the ‘macro’ and the ‘micro’ aspects are explained through discourse practice in Chapter 8 and answers to the research question are sought.

Chapter 9 will conclude the thesis by summarising the key findings and drawing a conclusion to the research question. Contributions of this research are then presented in terms of theory, methodology, literature, and policy implications. Later, limitations of the study are discussed in this chapter, so are the opportunities for future research.

1.4  Chapter summary

This chapter has provided a brief introduction and motivation for this thesis. The research question has been articulated and the rationale for a case-study approach explained. CDA as a methodology was introduced. The theory of legitimation was briefly presented and its compatibility with CDA emphasised. The remainder of the chapter provided a brief description of all the subsequent chapters in the thesis. As indicated before, the next chapter (Chapter 2) will provide a broad socio-economic, politico-historical context for the pulp mill case and set the scene for this research.
CHAPTER TWO: BACKGROUND TO THE PULP MILL CASE- SETTING THE SCENE

2.1 Introduction

Tasmania’s vast array of natural resources and their industrial exploitation since the British settlement continued without any significant opposition until the Lake Pedder incident. The Lake Pedder and later the Franklin dam debates contributed significantly to the understanding and public awareness of environmental cost of development, a relatively unknown and unrecognised concept until the 1970s both nationally and internationally. This chapter will elaborate on this historical shift. It will expound on one of the most important aspects introduced in Chapter 1- the broader socio-historical, economic and political context within which the pulp mill project was undertaken. It is particularly important to be well aware of the above from a historical perspective to draw on the persistent tendencies in major development projects in Tasmania in analysing new proposals. The following section will initiate the discussion by first providing an overview of the Tasmanian economy and demography.

2.2 Tasmanian demographic and economic trends

Tasmania is the smallest of all Australian states in terms of both land area and population. With regards to the economy, Tasmania has been the weakest of all states on most economic indicators (See, ABS, 2012: Australian National Accounts: State Accounts, 2011-12, Cat No. 5220.0). CommSec (Commonwealth Bank’s security and research arm), which conducts regular assessment of the economies of the states and territories of Australia on eight key indicators reported in their April 2013 issue that Tasmania ranked last in all but one indicator (CommSec, 2013). This, along with a disconsolate reference to the ageing population, features heavily in any industrial

---

5 Tasmania’s population was 512,000 as of June 2012 (see, ABS, 2012). Along with South Australia, it has the highest ratio of ageing population (65 years and over) and is projected to be the ‘oldest’ state by 2051 (32% of the population to become 65 years and over compared to 24% nationally) (ABS, 1999; 2004). At 30 June 2012, Tasmania had the oldest median age of all the states and territories at 40.9 years (increasing by 8.1 years over the last 20 years) and had a modal age of 51 years (ABS, 2012). At the same time, children under 15 years of age and the working age population (15-64 years) recorded a decrease, while other states recorded increases (ABS, 2012). What the above statistics reflect, according to ABS (2004), is an internal migration of younger adults from Tasmania to mainland states for education and employment. Also, many Australians, including returning Tasmanians, choose Tasmania for retirement. However, an analysis of Australian ‘National regional profile 2006-2010’ shows that the Tasmanian trend is no different to many regional parts of mainland states of Australia (see, ABS, 2011).
development proposal and debate in Tasmania. Gunns’ pulp mill proposal was no exception. The significance of such debates and their implications will be reconsidered later in Chapters 6 through to 8.

Experts argue that geographic isolation, a low population base and an economy (dominated by resource extraction and primary production and hence) exposed to fluctuations in world commodity prices are the main factors behind Tasmania’s fragile economy (McCall, 2011). However, occasionally, Tasmania’s economy showed signs of recovery and came level with the mainland states in key economic indicators. From the 1970s until the early 1980s, Tasmania enjoyed economic prosperity, owing to the post WWII reconstruction strategy of replicating the ‘engineering success’ of New South Wales and Victoria in hydro-industrialisation. The target was to attract large scale industrial investment in Tasmania taking advantage of its cheap renewable energy. However, with the fast changing global economy, fundamentals of such industrialisation strategies were challenged. Especially, the hydro-scheme created unsustainable amount of public debt and led to huge State budget deficits (McCall, 2011). Another decade of Tasmanian economic prosperity (being at par or even above the mainland states in some indicators) came in the late 1990s and lasted until the impact of the global financial crisis in 2008 (McCall, 2011; ABS, 2008). In addition to traditional industries, innovative, niche market products contributed to the economic growth (McCall, 2011). The housing price boom in the mainland states which made the Tasmanian house prices relatively attractive also led to positive net interstate migration and increased spending/ economic activities (TCCI, 2006).

What is evident from above (i.e., the production and use of comparative statistics in discussions and debates) is a clear tendency to compare Tasmania with the mainland states with an expectation that it will remain economically at par with them. Many question such a taken-for-granted approach (McCall, 2011). Should Tasmania be

---

6 While discussing the pulp mill proposal, reference to a weak economy and ageing (and sometimes dwindling) population featured routinely in discussions both in and outside the parliament. Pro-pulp mill public submissions also highlighted these issues in relation to jobs, increased spending, etc. These issues will be discussed in chapters six through to eight.

7 It will be evident later in this chapter and also in the later chapters that these statistics have been conveniently used by pro-development blocks in support of economic growth through industrial developments.
compared\(^8\) with the rest of the mainland states and territories given its territorial size and demographics rather than any similar sized region of Australia? Such direct comparisons with mainland states (simply because history has ordained it as a state) to gauge Tasmania’s economic performance creates an illusion of equivalence and lends support to misguided development propositions in the island state as has been evident repeatedly in the history of Tasmania (and will be discussed below). The vulnerable position of the state rendered by fraught statistics creates opportunity for the corporations to ‘dwarf’\(^9\) the government and its statutory bodies.

2.3 Development controversies

Historically and culturally, Tasmanians are very patriotic people and their patriotism and identity have been related to place (Reynolds, 2006). Their concern for wilderness, conservation and biodiversity dominates public discussion concerning industrial development proposals that could potentially affect the natural environment in the State. Gunns’ pulp mill proposal, therefore, could not avoid the widespread public scrutiny and debate in Tasmania.

What can be construed from Tasmanian economical and historical trends is the existence of two streams of thoughts in the Tasmanian society- a supposedly strong case for industrial development, often at odds with a deep passion for environmental conservation. These two streams became manifest and were brought into conflict through a number of resource development proposals over the last four and a half decades in Tasmania. The major ones are briefly discussed below.

2.3.1 Lake Pedder debate- rise of environmentalism as an alternative

Originally a small, shallow natural lake with a unique fauna and created by an outwash of Precambrian quartzite in the South-West of Tasmania, Lake Pedder was flooded in 1972 following the construction of a series of dams on Huon, Serpentine and Gordon Rivers as part of a hydro-electric scheme (Tyler et al., 1996). Ironically, the original

---

\(^8\) while its economy being less than 2% of Australian GDP.

\(^9\) Because of the government’s position of dependence for investments by corporations in an ‘economically weak’ state. Related to this is a government’s political and economic agenda for job creation, increasing tax revenue, etc.
name of the lake was retained, although the newly created reservoir, the Huon-Serpentine impoundment, did not resemble the original lake in any shape or form. The new Lake Pedder (opponents of the scheme often call it ‘fake Pedder’) covers an area of 240 km² (the original one was 9 km²) with a maximum depth of 43 metres (original lake had a maximum depth of 3 metres). The two connected reservoirs created under the scheme, Lake Pedder and Lake Gordon (Lake Gordon created by damming the Gordon River upstream), are considered to be the largest constructed reservoirs/ fresh water lakes in Australia (Geoscience Australia, 2010).

Despite years of public protest and criticism, Lake Pedder could not be saved and was eventually submerged to generate 288 MW of electricity (current capacity, 432 MW) as part of the Gordon River Power Development, Stage-I (ABS, 1976; Bandler, 1987; Hydro Tasmania, 2013). However, the significance of the campaign to save Lake Pedder lies elsewhere, as McCall (2011, p. 24) notes, “Lake Pedder signalled the arrival of the environmental challenge”. The environmental campaign to save Lake Pedder led to the formation of the United Tasmania Group (predecessor of Tasmanian Greens), the first green political party in the world, in 1972 (ABC, 1997; Tasmanian Greens, n.d) and contributed significantly to all later industrial development versus environmental conservation debates including that of Gunns’ pulp mill proposal, as already mentioned in Chapter 1. It also provided the impetus for the first time to publicly question the accountability and responsibility of the ‘mighty’ government body, a state icon, Hydro-electric Commission (HEC) in their infrastructure cost and projected demand for power (McCall, 2011). It is important to note here that since its establishment through the Hydro-Electric Commission Act (1929), that gave it almost absolute rights to exploit the state's waterways, take over municipal schemes, generate, distribute and retail electricity state-wide, regulate electrical trades, and raise government-backed loans to fund capital development, HEC became the largest employer in Tasmania and the most powerful government business in the country (ABS, 1976; Lupton, 2006). Not surprisingly therefore, it wielded enormous power over Tasmanian environment, society and politics (McCall, 2011).

However, this did not stop the protests by the environmental campaigners. Such was the pressure that the Commonwealth Government was forced to form a committee of
enquiry in February, 1973 to study the ecology of Lake Pedder and the affected region in addition to examining the power generation options, projections and the Gordon River power development scheme itself. A moratorium on further flooding was proposed during the enquiry, but was ignored by the HEC with the patronage of the Tasmanian state government. By the time the report was published in April, 1974, Lake Pedder was already submerged (Bandler, 1987). The committee found that the Gordon scheme was undertaken without examining any other alternatives. There was no study of the environmental/ecological impact on the existing flora and fauna, let alone seriously considering the original lake’s aesthetic and recreational values. The committee also found that the projected energy demand in Tasmania, one of the ‘panic generating’ arguments put forth by HEC in developing the scheme, was significantly overestimated (Bandler, 1987). The committee made a series of recommendations pertaining to the future development approval processes that included independent, inter-disciplinary studies (especially one covering the environmental impact) and widespread public consultation to avoid such future conflicts (ABS, 2000; Bandler, 1987). Well into the 21st century, these concerns remained central to Gunns’ pulp mill case.

2.3.2 Franklin Dam debate- enviro vs. politics

The Gordon-below-Franklin Dam, widely known as the Franklin Dam (as the dam would have flooded the Franklin river), was proposed in 1978 as part of the Gordon River Power Development, Stage-II. A formal proposal was placed before the State Parliament for approval in October, 1979 (Bandler, 1987). Before being forced to be abandoned in 1983, the Franklin Dam project became one of the major national issues in the early 1980s and also attracted significant international attention (Thompson, 1984). This single issue contributed to changes of governments in both the State and the Commonwealth. It also led to a High Court case, popularly known as the Tasmanian Dam Case (formally, The Commonwealth of Australia v State of Tasmania, 1983), which is considered a landmark in Australian constitutional law (ABS, 2000; McCall, 2011).

The HEC’s proposal to dam the Gordon River below its confluence with the ‘wild’ Franklin River, raised serious concerns amongst the conservationists. The affected
region this time would be 35% of the remaining (after stage I) wilderness area in the South-West including, significantly, the world’s only natural Huon Pine habitat that was already widely impacted in stage I (ABS, 2000; Bandler, 1987). Additionally, the flooding of the river Franklin would also mean inundation of aboriginal heritage sites/caves of archaeological importance along its bank dating back to the last ice age (Bandler, 1987). The same campaigners to save Lake Pedder reorganised themselves under the banner ‘Tasmanian Wilderness Society (TWS)’ and along with other conservation groups (such as Australian Conservation Foundation, ACF), started campaigning to build public awareness against the new dam plan. Dr. Robert (Bob) Brown, a young medical general practitioner (GP) was at the forefront of the campaign. He later became the leader of the Greens and served both the State and Commonwealth parliaments until his retirement from politics in 2012. TWS was a major player in the Gunns’ pulp mill case as well. Its role in the Gunns’ case will be explored in the later chapters.

Unlike Lake Pedder, the campaign to save the Franklin River was much more sophisticated and featured public meetings, slide shows, pamphlets, colour publications, letters of support from the public, letters and articles for the press, television appearances, arrangement of river trips in the Franklin, including trips for influential politicians. They also produced films featuring the wild beauty of the Franklin River for commercial TV stations to sway public opinion and were successful in organising the biggest rally in Tasmania’s history, in which between eight and ten thousand people marched through the streets of Hobart in June, 1980 demanding that the Franklin be saved (Thompson, 1984; Stephen, 1992; Lines, 2008). The campaign created enough pressure on the state government (headed by Australian Labor Party) to retract from the original Gordon below Franklin Dam proposal. Instead, as a compromise, Premier Doug Lowe proposed a different siting of the dam in upper Gordon, which would save the Franklin and have less environmental impact. He also declared that the lower Gordon and the Franklin would be placed in a wild rivers national park. However, the new dam proposal would neither please the pro-dam block (because the newly proposed dam would mean a smaller hydro-electric scheme) nor the anti-dam campaigners (because it would still affect quality wilderness area). The pro-dam block, which included the HEC and its lobby/interest groups, big businesses,
the chambers of commerce and industry, and the unions, started a vigorous advertising campaign, where it was claimed that as many as 10,000 potential jobs would be lost if the construction of the dam did not go ahead as planned (Thompson, 1984). The conservationists maintained that the job numbers were unsubstantiated and greatly exaggerated and other alternatives would provide a better outcome (Thompson, 1984; Stephen, 1992). Job numbers was also a central issue in the Gunns’ pulp mill case with claims and counter claims.

More importantly, the Legislative Council, the Upper House of the parliament, which is traditionally very conservative and controlled by independents, rejected the compromise bill and instead approved the original HEC scheme (Thompson, 1984). This contributed to a deadlock (since December, 1980) between the two Houses of parliament. Even within the government, there were elements that supported the HEC scheme, creating deep divisions inside the government. It was a trying time for the Government and the people of Tasmania since the level of unemployment was rising and the state was entering into financial difficulty (Stephen, 1992; Lines, 2008). HEC being the largest employer in the state always had the support of both the major parties, unions and other industry lobby groups in their capital projects because such projects would also potentially lead to other forms of industrial investments in the state (Thompson, 1984), a link to the background of this thesis and the case. So, it was a new experience for everyone involved- an HEC development proposal being questioned/ rejected for the first time by a Tasmanian government and consideration of the environmental value of the affected region against the potential economic benefits (Thompson, 1984). It was largely possible because of the stance taken by the Premier Lowe, who became the Premier of Tasmania at the age of 35 in 1977 and was the youngest Premier in Australia’s history (Brown, 2012; Rimon, 2006). He took a personal risk in changing his mind (he initially supported the Franklin dam) and paid a high price by losing his Premiership in an internal leadership challenge over this issue in November, 1981 (he survived the first challenge in June). However, before he was removed, he finalised nomination of the South-West wilderness, including the Franklin-Gordon Wild Rivers National Park, a World Heritage area. Equally remarkable was the quick support of Malcolm Fraser’s Liberal Government.
(Commonwealth) in sponsoring and forwarding the nomination to the World Heritage Committee in Paris, France (Brown, 2012; Thompson, 1984)\(^{10}\).

The parliamentary deadlock continued throughout 1981 and a State referendum scheduled for December 1981 was proposed to break the deadlock (Thompson, 1984). Three preferences were to be given in the ballot, as publicly acknowledged by the Premier Lowe: Franklin dam, Olga dam and a ‘No Dams’ option. But the parliamentary labour party did not approve the ‘no dams’ option thus making it the first time an Australian referendum did not have a ‘no’ option (Thompson, 1984). People were given a choice between the two dams that both Houses of the parliament approved. This antagonised the conservationists; the TWS and the ACF started campaigning Tasmanians to vote informally and write ‘No Dams’ on their ballot papers (Thomson, 1984; Stephen, 1992). Lowe lost his premiership a month before the referendum. The referendum result was extraordinary. Forty five percent of the votes cast were informal including 33% of voters, who wrote ‘No Dams’ on the ballots papers. Forty seven percent favoured the original scheme (Franklin) while only 8% favoured the government’s Olga compromise (ABS, 2000; Thomson, 1984, Stephen, 1992; Lines, 2008). The above shows the political significance of major industrial projects in Tasmania and the difficulty in pursuing a project strictly on its merits.

Before the referendum, there was another streak of advertisements (TV, radio, newspapers) from both camps (Thompson, 1984). The pro-dam advocates placed high emphasis on jobs. Interestingly, the claimed loss of 10,000 jobs if the dam did not go ahead, was twice the total number of people employed by the HEC at that time (Stephen, 1992) and HEC itself admitted that after the construction phase of the scheme, only 29 people would be needed for the regular maintenance of the infrastructure (Thomson, 1984). This does demonstrate a very short-term and narrow view of development and job creation in an area of universal environmental, cultural and aesthetic significance. Of course, the question is significance to whom? HEC calculated the potential monetary value of the environmental damage to be half a million dollars only if the scheme went ahead. Ironically, after the referendum and a

\(^{10}\) Lowe was replaced by the pro-dam Labour leader Harry Holgate. Lowe resigned from the Labor Party immediately and sat in the parliament as an independent (Thompson, 1984).
subsequent shift in the state Government’s position, they revised the damage figure downward to only a few thousand dollars and blamed the ‘mainlanders’ opposed to the dam, and TWS, who ‘hyped-up’ the figures, for HEC’s initial ‘over-estimation’ (Thompson, 1984). This gives an example of economic arguments and figures being used to influence decisions and this kind of argument will be evident again in the Gunns/state debates.

Meanwhile, the referendum result created a massive dilemma for the new Holgate Labor government. They prorogued the parliament for almost four months; changed their position and started supporting the original HEC proposal (Thompson, 1984). However, they lost a ‘no confidence’ motion when the parliament resumed on 26 March 1982. As a result, a state election was called that held on 15 May 1982. Liberals under the leadership of Robin Gray (later director of Gunns after retiring from politics) won the election. Gray was a vigorous supporter of the Franklin dam and took no time in passing the legislation to build the dam (Thompson, 1984; ABS, 2000).

After the dam bill had passed the Tasmanian parliament, TWS started lobbying federal Labor and Liberal parties to stop the dam. In the nationwide Australian Labor Party (ALP) biannual conference held in July 1982, decision was taken to stop the dam if elected (ALP was in opposition at that time in the federal parliament). Late in the same month, work started on the dam as the Gray government revoked the national park status of the South-West including the wild rivers to facilitate dam construction (Thompson, 1984). This signalled a renewed emphasis on the role of investment for economic growth and further marginalisation of environmental concern. But at the same time, as the events unfolded, Tasmanian issue was becoming a federal issue - shows the importance of environmental activism.

The ideological conflict between the State and the environmental groups turned physical as a result of green groups’ non-violent blockades of the work site of the dam from 14 December 1982 (Bandler, 1987; Thompson, 1984). Although virtually ineffective in stopping the progress of the construction work, the blockades drew significant media attention worldwide because of the resulting mass arrests (1272 in total) including some high profile individuals. By Christmas of 1982, The Franklin
became national headline news every day for weeks (Thompson, 1984; Bandler, 1987). The World Heritage Committee expressed serious concern at the building of the dam and on the likely effect of the natural and cultural characteristics of the place, a property of universal value.

Meanwhile federal election was approaching; TWS started campaigning heavily in favour of the ALP in the marginal seats across Australia on the understanding that a federal ALP government would stop the dam. An election was held on 5 March, 1983 and ALP won the election. There was widespread agreement in the political circle, including the defeated Liberal candidates that the ‘dam issue’ triggered the swing away from the Liberals led Coalition (Bandler, 1987), which otherwise would have won another term in office (Thompson, 1984).

Bob Hawke, the leader of ALP, became the new Prime Minister of Australia. On 31 March 1983, the Hawke (Labor) federal government passed a regulation under the Parks and Wildlife Conservation Act (1975) to stop any further construction of the dam, which the Gray (Liberal) state government ignored. The Commonwealth Government followed up the regulation with a new legislation in May 1983 that would provide full protection to the world heritage sites in Australia. The World Heritage Properties Conservation Act (1983) was to bind Australia under its obligation to uphold an international agreement (in this case, with UNESCO). The Gray government challenged the new legislation in the High Court of Australia. After a full hearing, the High Court in its verdict (split in 4:3) on 1 July 1983 ruled that the Commonwealth had power under section 51(xxix) of the Australian Constitution to stop the dam based on Australia's international obligations under the World Heritage Convention (Thomson, 1984; Bandler, 1987; Lines, 2008; Brown, 2012). The construction work stopped and the Franklin River was saved, although at a significant political, social, and economic cost. The process led to deep divisions in Tasmanian community (i.e., environment vs. jobs; state vs federal). It is this background that the issues such as Gunns Ltd/ State situation about woodchip, plantations, further processing of woodchips into pulp, etc. came about.
2.3.3 Wesley Vale pulp mill debate

A large scale pulp mill had always been envisaged in Tasmania to take advantage of its vast area of natural, old-growth forests. The commonwealth government also took keen interest on the establishment of a large pulp mill for further processing (i.e., domestic value creation) of woodchips, the single biggest forestry product exported from Australia (accounting for over 41% of $2.3 b forest product exports) (Australian Bureau of Agricultural and Resource Economics (ABARE), 2007, pp. 1-3). An examination of the Commonwealth government’s woodchip export licensing policy and conditions demonstrate the government’s longstanding desire to have a world-scale pulp mill built in Australia. The conditions require the woodchip exporters to explore from time to time the viability of further processing of woodchips in Australia and bar them from exporting if there is a domestic demand of woodchips for pulp production (See, s. 16 in Attachment D: Standard Hardwood Woodchip Licence Conditions in Department of Agriculture, 2015).

Smaller pulp and paper mills were in operation in Tasmania since the late 1930s. Associated Pulp and Paper Mills Ltd. (APPM), which pioneered pulp and paper production in Tasmania in 1938, went into production at their Wesley Vale pulp mill in 1971 with an outlay of $27 million (Smith, 1999). By late 1980s, AAPM’s parent company North Broken Hill (NBH) decided to expand their production facility at Wesley Vale and proposed a new, larger mill at an investment of over $1 billion. NBH successfully negotiated a joint venture with the Canadian company Noranda and formed a consortium, NNBH to build a chlorine-based kraft pulp mill that would be one of the largest in the world producing 440,000 tonnes of pulp per year, 80% of which were earmarked for export. The proposed pulp mill took the central political stage in Tasmania and Australia between March 1988 and March 1989 (ABS, 2000; Curran and Hollander, 2011).

The anticipated economic return through domestic value addition, employment generation, export revenue and contribution towards Australia’s balance of payment resulted in widespread support for the proposed pulp mill- both at the state and federal levels (ABS, 2000). The proposed pulp mill enjoyed endorsement from the Tasmanian business community in general and the unions; both the Gray Liberal government and
the Labor opposition in the state; and also the Hawke Labor federal government (Curran and Hollander, 2011). The arguments in the Gunns pulp mill case were similar. However, the process and the long term outcome (Gunns’ demise) makes it different and worth studying.

Against all the backing, however, there were growing concerns about the impact of the pulp mill on the natural environment. Issues of concerns ranged from sustainability of Tasmania’s native forests given the wood supply requirement of a mill of this size to its emissions in the atmosphere and the marine environment. A particular environmental concern was the chlorine-based mill’s discharge of organochlorines including dioxins (ABS, 2000; Curran and Hollander, 2011). According to World Health Organisation (WHO), dioxins are highly toxic and persistent environmental pollutant that accumulate in the food chain and can affect human reproduction, development, immune and hormone systems and are linked with a form of cancer (WHO, 2010). The proposed pulp mill was near a population base and hence would affect a wide range of people and businesses negatively because of its environmental impacts. This is why, in addition to the environmentalists, there were a number of communities and businesses that were united against the mill due to its potential impact on their livelihood and wellbeing. This included the farming/ grazing and the fishing sectors that would be impacted by the air and water pollution, especially, the growing abalone industry that thrived on Tasmania’s clean, green image (Curran and Hollander, 2011). The surrounding communities were also concerned about the health impacts of the mill’s atmospheric discharges in addition to the odour and noise pollution (Curran and Hollander, 2011).

One would expect a democratic government to take them seriously in assessing the project and the proponent to take every possible steps in assuring the public that its proposed pulp mill was safe. Both the Government of Tasmania and the project proponent NNBH did exactly the opposite although both repeatedly claimed that Wesley Vale pulp mill would be the cleanest in the world and would not proceed unless it went through a rigorous assessment process (Curran and Hollander, 2011). Tasmanian government was so keen to see the project through that it legislated to fast-track the assessment process by cutting time for public comments and removing the
appeals process that would normally be available to public under the environment and planning legislation (Curran and Hollander, 2011).

NNBH, on the other hand, produced an Environmental Impact Statement (EIS) based on the existing State guidelines that were deemed to be too weak by environmental groups. Even then, the EIS that they produced seriously lacked credibility. The government’s own departments and agencies in confidential reports, some of which was leaked to the media, criticised the EIS as superficial and unsubstantiated (Curran and Hollander, 2011). Some government officials went further in labelling the mill as a chemical plant rather than a pulp mill (ABS, 2000).

Under increasing political pressure, the Gray Government in consultation with the Commonwealth, released stringent environmental guidelines and requested the consortium, NNBH to provide further information on a range of matters (Curran and Hollander, 2011). The consortium provided an addendum to the original EIS as a response in which they mostly rejected all concerns raised by various government agencies and other mill opponents. They also signalled their willingness to terminate the project if the guidelines were not reconsidered. The withdrawal threat seemed to work. The State Parliament was quickly recalled for a special sitting where a new, another fast-track legislation was passed that ‘watered down’ the new State guidelines and virtually approved the project pending Commonwealth consent as a foreign venture project (Curran and Hollander, 2011). What is seen here is a repeat of the earlier development controversies, where the government’s economic agenda were prioritised.

In summarising the three mega-events discussed above, one could argue that the conservation-development debate is nothing new. However, with a deeper look, it can be concluded that in each of these events, the conservation-development divide was powerful enough to politicise the decisions in the assessment process. Each of the events transcended the State boundary to make the conservation vs. development debate mainstream in the national/international level. All the three mega-events discussed above have a common and recurring theme: inadequate assessment of the social and environmental impacts of the economic development, limiting opportunity
for public scrutiny of the assessment process and connivance of the government with the developers leading to serious conflict of interest for the government to act as a facilitator and an assessor at the same time. Some of the above issues will be revisited in Chapter 6 in connection with the current case.

2.4 Political environment

2.4.1 Domination of the economic vulnerability- legitimating development

It was shown in Chapter 1 how comparison between Tasmania and other Australian states on the same economic indicators created an expectation for Tasmania to perform at par with other states. This expectation, at the root of which is the taken-for-granted belief that financial/ economic indicators create objective reality, has put enormous pressure on successive Tasmanian governments and has led to the legitimation (Turkel, 1980a) of their pro-development stance.

Tasmanian politicians have always had the ‘think big’ approach when it came to any industrial development project (McCall, 2011). It is evident from their pursuit of similar large scale hydroelectricity generation projects of mainland states such as New South Wales and Victoria as part of the reconstruction strategy post WWII (McCall, 2011). The same approach is apparent in the more recent events discussed in the previous section. Gunns’ pulp mill case is the most recent manifestation of that approach and undoubtedly, like the previous ‘think big’ projects, driven by the ‘myth’ of equivalence (and pursuit thereof) created by the fraught inter-state statistics. The laden statistics create vulnerability and dependence in the government, leaving it easy for the big corporate players to make informal ‘in-roads’ into government policy and decision making infrastructure. Tasmanian political history, as a result, is rife with examples of propinquity between politicians and corporate actors11 (McCall, 2011). Gunns pulp mill case was no exception.

11 McCall (2011) cites example of Tasmania’s long serving and widely revered Labor Premier Eric Reece and the powerful Hydro Electric chief for three decades (1946- 1977), Sir Alan Knight and how they set the tone of Tasmania’s political culture of myopia, parochialism and bias. McCall then goes on to demonstrate how the next Liberal Premier Robin Gray and subsequent Labor Premier Paul Lennon followed suit the tone and their proximity with corporate actors.
2.4.2 Governance structure- too many players

The other dimension in the Tasmanian political environment is its governance structure. Although the structure is the same with the rest of the Australian states, the size and demographics of Tasmania makes it over-governed with often less than optimal outcome for the critical issues confronting the state (Nixon, 1997\textsuperscript{12}). For a population of approximately half-a-million, Tasmania has a 40-seat bicameral State Parliament, 25 in the lower House and 15 in the upper. Like other states, Tasmania is also represented in the federal parliament. Tasmania has five members in the House of Representatives (the lower House) and 12 members in the Senate (the upper House)\textsuperscript{13}. Finally, Tasmania for its size and population has 29 local councils (local government authorities) as part of the three layers of governance structure in Australia (DPAC, 2013). The governance structure, among other issues, was reviewed by the Nixon inquiry committee, concluded that with so many politicians and political parties in a small political landscape, issues impacting the state get easily polarised as a result of ‘parochialism’ leading to sub-optimal outcomes for the state as a whole (see, Nixon, 1997; McCall, 2011). For example, the Tasmanian forestry industry, as of August 2011, employed 3410 people\textsuperscript{14}, which was approximately 1.6% of the total Tasmanian

---

\textsuperscript{12} Peter Nixon, a member of Federal Parliament from 1961 to 1983, including a period as a federal government minister in the Fraser government, was jointly commissioned as the head of an inquiry committee by the State and Commonwealth Governments in October 1996 to inquire into the state of Tasmanian economy and the legislative and executive environment that govern its operation (ABS, 2002; Nixon, 1997). The Nixon Report published in 1997 led to a number of reforms in Tasmania in various sectors (McCall, 2011; HoA Hansard, 3 December 1997; Nixon, 1997).

\textsuperscript{13} The lower House (called the House of Representatives) seats in the federal parliament are based on population in each state. However, the Australian Constitution also guarantees at least five seats for each of the states, regardless of the size and as a result Tasmania has the guaranteed minimum five members in the House of Representatives in the federal parliament representing its population. All other states have more than five members in the House of Representatives that currently has 150 seats (Parliament of Australia, 2013a). Under the Australian Constitution, on the other hand, each state of the Australian federation, regardless of its population, has an equal number of seats in the Senate, the upper House in the federal parliament. The Senate currently consists of 76 senators. Twelve senators represent each of the six states while the two territories have two senators each (Parliament of Australia, 2013b).

\textsuperscript{14} Breakdown of the total

<table>
<thead>
<tr>
<th>Category</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forestry and Logging (core forestry jobs)</td>
<td>1040</td>
</tr>
<tr>
<td>Forestry Support Services</td>
<td>123</td>
</tr>
<tr>
<td>Wood Product Manufacturing</td>
<td>1771</td>
</tr>
<tr>
<td>Pulp, Paper and Converted Paper Product</td>
<td>476</td>
</tr>
<tr>
<td>Manufacturing</td>
<td></td>
</tr>
</tbody>
</table>
labour force at the time (Schirmer, 2012). Gale (2011)\textsuperscript{15} observes that despite the small number of employment and a modest contribution towards the state economy\textsuperscript{16}, the forestry industry wields considerable political ‘muscle’ because of its regionally concentrated labour force in specific electorates, giving it more political importance than what simple numbers would warrant. This political significance of the forestry sector and resulting media attention also explain the magnified perception of the general Tasmanian public regarding the size and economic impact of this sector\textsuperscript{17}.

2.5 The case study

2.5.1 Gunns Limited- the company

As mentioned in the introduction, Gunns was Australia’s largest fully integrated hardwood products company; the largest company in Tasmania and also the largest private employer of the state. Gunns’ principal activities were forest management and development; milling, processing, merchandising and export of wood products; merchandising of hardware and building supplies; management of forestry and vineyard based managed investment schemes; construction; and wine production and sale (Gunns Ltd., 2007, p. 20). The company’s wood products included solid wood for building materials (flooring, framing, mouldings, etc.), laminates, cupboard doors, kiln dried sawn timber, etc. (for the furniture industry); veneers; and woodchips (woodfibre) for pulp and paper industries (Gunns Ltd., 2003a). It was the woodchipping operations for which the company had been widely criticised by environmentalists for many years.

\textsuperscript{15} Associate Professor Fred Gale is an international specialist in environmental and sustainability governance and works in the fields of governance theory, ecological economics, critical political economy, international development and sustainable consumption and production. Forestry is one of his key areas of expertise in terms of applied research. He is employed at the University of Tasmania.

\textsuperscript{16} The industry accounts for approximately 2\% (and rapidly declining) of Tasmanian GSP (Government of Tasmania, 2011; Macintosh, 2013) and 4.2\% Tasmanian international export, of which approximately a third relate to woodchip exports (Government of Tasmania, 2013)

\textsuperscript{17} A 2012 online survey of Tasmanians by The Australia Institute (TAI) revealed that approximately 80\% of the respondents believed that Forestry industry employed, on average, 23.5\% of the Tasmanian workforce (the other 20\% of the respondents were not sure). The survey also showed that 75\% of the respondents thought, on average, 28\% of the State’s economic activity (that is GSP) was accounted for by the forestry industry (the other 25\% of the respondents were unsure). A quick comparison with footnote 3 above shows a stark difference between perception and reality.
Gunns operated four woodchip mills in Tasmania, generating sales (mostly exports) of approximately 3.5 million tonnes of woodchip each year (Gunns Ltd., 2007, p. 7). Woodchip is the principal raw material in the pulp and paper industry. Woodchip is used to produce pulp, which in turn, is used to produce paper. Environmental groups claimed that native and old growth forests both in public and Gunns’ private land were harvested for the majority of the woodchip exports (The Wilderness Society, 2007a), while Gunns’ maintained that these were mainly sourced from residues in sawmilling and integrated harvesting operations, together with plantations and wood sourced from natural forest operations (Gunns Ltd., 2003b). It was further mentioned in Gunn’s corporate website that as plantations matured, the percentage of wood supplied from this source would increase.

Historically, Tasmania has been the biggest woodchip exporting state in Australia, accounting for almost 38% of all woodchip exports in the year 2006-07. On the other hand, woodchip has been the single biggest forestry product exported from Australia over the years, accounting for over 41% of $2.3 billion forest product exports during the same period (Australian Bureau of Agricultural and Resource Economics (ABARE), 2007, pp. 1-3). Gunns controlled almost the entire woodchip production and export market in Tasmania; only a nominal fraction of supplies, 0.5 million tonnes, came from companies like Forestry Enterprises Australia, FEA (Forest Enterprises Australia, n.d.; The Infrastructure and Resource Information Service (IRIS), 2007; The Wilderness Society, 2007a). Gunns was a leading supplier of woodchip to the pulp and paper industry in Japan, Korea, China, and Indonesia (Gunns Ltd., 2003b); the major destination being Japan (IRIS, 2007). In fact, Japan at that time was the most significant buyer of Australian woodchip accounting for 91% of the total Australian woodchip export volume (ABARE, 2007, p. 1).

---

18 FY 2006-07 is significant because this is when the pulp mill project went through assessment and the argument was that most of the woodchips for export would be diverted into the pulp mill as raw materials for further value addition within the State of Tasmania.


2.5.2 Gunns’ Bell Bay pulp mill project

Woodchip is used in the production of pulp. Hence, in order to add value to this forest resource, downstream processing of woodchip into pulp had been entertained by successive state and the federal Australian governments. Gunns also publicly indicated such an intention in 2004 to process woodchips into pulp. The executive chairman John Gay proposed to build a pulp mill in Tasmania at the company’s annual general meeting (AGM) in 2004. He revealed at the AGM that initial results from the feasibility study undertaken by Finnish consultant Jaakko Poyry pointed towards the commercial viability of the mill (Hopkins, 2004). The proposed mill, at an investment of $2.3 billion, was the largest ever by the private sector in Tasmania, and the largest ever within the forestry sector in Australia (Gunns Ltd., 2005; 2006; 2011).

The possibility of this pulp mill in Tasmania, however, was first rumoured in June 2003, when John Gay was allegedly overheard and seen discussing a document titled “Gunns Ltd. Pulp Mill Proposal” at a ‘now-infamous’ dinner with then-deputy Premier Paul Lennon (later the Premier of Tasmania) in a Hobart restaurant (Neales, 2008). The dinner drew considerable media and political speculation because of the way the Tasmanian governments had dealt with industrial development projects with environmental consequence in the past. Lennon denied that a proposal was being considered by the government but admitted discussing a pulp mill as one of several downstream processing options. It would be apparent afterwards that the discussion was quite a serious one, as later in November 2003, the Tasmanian government directed the Resource Planning and Development Commission (RPDC) to develop

[notes]

19 This has been discussed in the introduction chapter. Also see, s. 16 in Attachment D: Standard Hardwood Woodchip Licence Conditions in Department of Agriculture, 2015 for the policy position of the federal government.
20 Resource Planning and Development Commission (RPDC) is an independent statutory body established under the RPDC Act 1997 (Tas). The Commission is at the helm of the Tasmanian planning system. It oversees the State’s planning system, is responsible for state of the environment reporting, assesses public land use issues and projects of State significance, and reviews water management plans, etc. under the purview of various other acts [RPDC, 2007] [RPDC website: http://www.rpdctas.gov.au/]. RPDC will be discussed as one of the most important players in the Gunns’ pulp mill case in the social practice chapter (ch. 6).

It should be noted here that RPDC was renamed as Tasmanian Planning Commission (TPC) in 2009 under the Tasmanian Planning Commission Act 1997 (it is, in fact the RPDC Act with a changed title for legal compliance). For the purpose of this thesis the Commission will continue to be referred to as RPDC since it is the RPDC through which the Gunns pulp mill project was being assessed. Referring the commission as RPDC will also help avoid any confusion as to the historical events involving the
‘Recommended Environmental Guidelines for a Bleached Eucalypt Kraft Pulp Mill in Tasmania (Tasmanian guidelines)’ based on a review of the Commonwealth Environmental Guidelines for New Bleached Eucalypt Kraft Pulp Mills 1995 and other current international guidelines/standards (RPDC, 2009k)\(^{21}\). In August 2004, RPDC submitted its report to the government with environmental emission limit guidelines for such a pulp mill and on 26 October, 2004, the government approved them (RPDC, 2007l), in time for Gunns’ public announcement to build a pulp mill in its AGM on 28 October. These generic guidelines were crucial in preparing project specific guidelines (called scoping guidelines) by RPDC once any proponent formally proposed to build a pulp mill in Tasmania. By having the guidelines updated\(^{22}\) even before Gunns formally announced its intention to build a pulp mill, the government clearly exhibited its pro-development disposition. This position of the-then Tasmanian government, which was not dissimilar to its preceding ones and driven by conventional economic data, will be reconsidered in the social practice context in chapter six.

Once formally proposed, the Gunns’ pulp mill required approval at both state and federal levels because of its potential impacts on the environment under both jurisdictions. On 22 November 2004, the pulp mill project was declared a project of State significance (POSS) by the Tasmanian government under the State Policies and Projects Act 1993 (SPPA 1993) and was directed to the RPDC to undertake an integrated assessment of the project. The declaration of a project as a POSS entitles the proponent for any use or development of any facility or infrastructure necessary or convenient to the implementation of the project [see, section 18(2) of the SPPA 1993, and section 4 of the State Policies and Projects (Project of State Significance) Order 2004, which was promulgated to declare Gunns’ pulp mill project as a POSS]. This assessment. TPC was never involved in the Gunns case, which was withdrawn from RPDC in March 2007.

\(^{21}\) The Greens (party) claimed in the parliament that the terms of reference of the review were too narrow. It was only looking at a specific technology (bleached Kraft) to fit a specific proposal that was about to be made in the near future. The government responded by saying that the guidelines were being reviewed and updated through an independent process. ‘Kraft’ was the accepted technology worldwide and most marketable (Hoa Hansard, 8 June 2004).

\(^{22}\) The previous footnote indicates that the review could be broader than updating a particular guideline only involving a particular pulping technology.
crucial status along with the act itself and its implication for Gunns as the proponent for the pulp mill project will be discussed in Chapters 6 and 8.

On 26 November 2004, RPDC received ministerial direction under the *SPPA 1993* to undertake an integrated assessment of the project, based on the recently published Tasmanian guidelines for any new bleached craft pulp mill (RPDC, 2009c). Under the Act (see s. 26) RPDC was responsible for making recommendations on whether a project of State significance (in this case the Gunns’ pulp mill) should proceed, and if so, on what conditions. The commonwealth government accepted RPDC’s ‘integrated impact assessment’ conducted under section 20 of the *SPPA 1993 (Tas)* as an ‘accredited assessment process’ defined under section 87 of the commonwealth’s *Environmental Protection and Biodiversity Conservation (EPBC) Act 1999* for its own assessment purposes (RPDC, 2009b). The following process flow chart, based on the generic assessment process involved in any project of State significance (see, Figure 6 for the generic one), was laid out (with timelines) to be the stages in the assessment process for the proposed pulp mill by RPDC. The assessment timelines had to be updated several times by RPDC because of accumulated delays, discussed more elaborately in the later chapters. In Figure 1 below timelines for stages 1 and 2 are actuals (post fact), as stage two was completed in 2005. For stage 3, the timeline was a planned one. However, it would be revealed in the descriptions of events that targeted timeline for stage 3 was gradually becoming very unlikely to be achieved as untoward events unfolded and eventually Gunns pulled out of the assessment process before stage 3 was completed.
Figure 1: Timeline in Gunns’ pulp mill assessment process

(Source: RPDC, 2009b)
2.5.2.1 **Key dates and events (in brief) in the assessment process**

**2004, November 26:** RPDC received direction to assess the pulp mill project

**2005, April 9:** RPDC released draft scope guidelines for integrated impact statements (IIS) - to be prepared by the project proponent Gunns Ltd. for public comments. Submissions in writing only were to be accepted until May 9 (RPDC, 2009d).

**2005, August 26:** RPDC received a revised project scope from Gunns (RPDC, 2009e).

**2005, November 5:** RPDC advertised for public comments on a report it prepared on Gunns’ revised project scope, leading to relevant changes in the draft scope guidelines for IIS. Submissions were received until November 29 (RPDC, 2009e).

**2005, December 28:** Final IIS guidelines released by RPDC (RPDC, 2005). An updated timeline prepared in December indicated that the assessment process could be completed by 28 May, 2007 (RPDC, 2009g).

**2006, July 14:** Gunns submitted its draft IIS to RPDC. The draft IIS was put on public display for comments until September 25 (RPDC, 2009h). A total of 780 submissions were lodged with RPDC. However, Gunns continued to provide corrections and supplementary reports, including draft IIS erratum dated 3 August, supplementary air quality assessment of the proposed mill dated 8 August, and Toxikos\(^{23}\) erratum dated 28 August 2006 during the public exhibition period. This prompted specific requests to RPDC to extend the public comments period, specifically because of the release of the erratum to the original Toxikos report (RPDC, 2009j).

\(^{23}\) Toxikos are Gunns’ toxicology consultants who prepared the ‘Human Health Risk Assessment’ report for its draft IIS
2006, October 2: RPDC wrote to Gunns inviting it in a Directions Hearing\textsuperscript{24} on 25 October. The letter included an outstanding list of additional information on various issues (from the draft IIS) sought as of 5 September from Gunns and asked it to provide the commission, through its legal representative at the directions hearing, a time by when those information would be made available. The commission also sought to know in the hearing how Gunns intended to deal with the issues raised in the commission’s consultants’ reports (on various aspects of its draft IIS) and public submissions (RPDC, 2009i).

2006, October 4: RPDC advertised for interested parties to register by October 13 to attend the directions hearing in the local newspapers (RPDC, 2006).

2006, October 25: At the directions hearing, the commission explained why the public exhibition period for the draft IIS was not extended despite Gunns providing some supplementary information and errata to original reports during the public comments period. The commission was of the view that there was little merit in extending the exhibition period for a document that had fundamental omissions and errors (RPDC, 2009j). It was agreed at the hearing that Gunns would submit all additional information including those sought through the commission’s letter on the 2\textsuperscript{nd} of October and any other information it intended the commission to consider by 15 December. The commission would then decide the appropriate time period for the public exhibition of the supplementary information (RPDC, 2009j).

The other crucial issue that was raised at the hearing by the legal representative of the Tasmanian and Australian Greens was the appropriateness of Dr. Warwick Raverty’s membership in the RPDC pulp mill assessment panel because of an apprehended bias. It was decided that the Greens would make an application to the commission within seven days explaining the circumstances and evidence based on which the claim was made. The application was made on October 31 (see, Brett, 2006). Greens implicated

\textsuperscript{24} According to the letter, the purpose of the directions hearing was to give directions to the proponent and other parties to ensure that all preliminary matters (including how to proceed with Gunns’ additional information- supplements and errata, released during the public exhibition period) had been dealt with prior to the commencement of the actual hearing in stage 3.
Dr. Raverty because of his association as a research manager and senior research scientist with his immediate past employer Ensis (a joint venture of CSIRO, formerly CSIRO Forestry and Forest products), which along with CSIRO held positive views about various aspects of the generic technology proposed to be used in the pulp mill. Hence, the Greens’ apprehension was that- Ensis and because of Dr. Raverty’s position in Ensis, he had considered and prejudged various technical issues related to the proposed pulp mill (see, Brett, 2006).

Based on all of the above and other issues discussed in the directions hearing and written submissions arising from them, the commission over the next several weeks finalised its directions and determinations (on submissions) and made those public on its website on December 1, 2006. Regarding Dr. Raverty’s disqualification from the assessment panel on the basis of apprehended bias, the commission determined that it was a decision for Dr. Raverty not the commission (RPDC, 2009l).

2006, December 15: Gunns failed to submit supplementary information as agreed in the directions hearing and requested RPDC for an extension of the deadline until 31 January 2007 (RPDC, 2009g).

2007, January 4: Dr. Warwick Raverty resigned from the RPDC’s pulp mill assessment panel after being advised by the solicitor general regarding the ‘perception of bias’ in his continuing appointment (Neales, 2007a).

In an apparently unrelated but surprising move, executive commissioner of RPDC Julian Green, who was also the chairman of the pulp mill assessment panel, informed the government of his intention to resign from both positions effective January 12 (Neales, 2007a). Media speculations were high as to why Mr. Green resigned from RPDC. Circumstances surrounding his resignation became apparently clear as his formal letter of resignation got leaked to the media within two days of his resignation. The resignation letter complained about the political interferences, especially those from the government’s Pulp Mill Taskforce25, in the independent assessment process.

25 The establishment and functions of the government taskforce is detailed in chapter six (Gunns’ social practice).
of the RPDC pulp mill assessment panel. The letter mentioned that despite numerous complaints made by the RPDC chief to the taskforce and the relevant government departments, including that of Premier and cabinet, since February 2005, the activities of the task force, which were ‘undermining’ the ‘integrity’ of the assessment process, were not reined in (Neales, 2007b; Denholm, 2007b).

2007, January 12: Premier Paul Lennon, under pressure from Gunns to have the mill approved within six months, indicated that the RPDC process could be scrapped and the project could be assessed within the government (ABC, 2007d; Denholm, 2007a), although committing from the beginning to the independent process and abide by the recommendations that would come out of it (see, Lennon, 2005 in HoA Hansard, March 24, 2005). Mr. Lennon justified his change of stance as he thought the assessment process could have been ‘contaminated’ because of former panel member Warwick Raverty’s public criticism of the pulp mill proposal ever since he had resigned from RPDC (ABC, 2007d; Denholm, 2007a). Like Green, Raverty also accused the government of political interference into the assessment process through its use of the pulp mill task force (Denholm, 2007b; Neales, 2007b; Fisher, 2007). The shift in the Premier’s position was as a result of Gunns’ threat to move the project elsewhere if there were further delays in the approval process (ABC, 2007c; Denholm, 2007a).

2007, January 31: Gunns failed once again to submit the supplementary information it pledged to provide. Media speculations were high at the time that the proponent had been withholding information deliberately (RPDC, 2009g).

2007, February 5: New appointments were made in the commission and the assessment panel was reconstituted. Former Supreme Court judge Christopher Wright and New Zealand scientist Andre Hamman were appointed to replace Julian Green and Warwick Raverty respectively (RPDC, 2007b).
2007, February 13: Amid intense media speculation about Gunns’ non-cooperation with RPDC, its CEO John Gay, in a personal letter, intended to meet the newly appointed pulp mill panel chairman Christopher Wright to clarify certain aspects of the commission’s management of the assessment process before providing the relevant material. Gunns was clearly unhappy about the delay in the assessment process (RPDC, 2009g).


2007, February 16: Gunns ultimately provided the supplementary information the commission had been asking for since the first week of September 2006. Gay never managed to meet Wright (RPDC, 2009g).

February 22, 2007: In the directions hearing, regarding Gunns’ dissatisfaction over the delay in the assessment process, the panel chairman Christopher Wright blamed Gunns almost entirely for the same because of its failure or inability to comply with its own commitments or the panel’s requirements. Wright also revealed a new time line prepared by the commission in late January for the possible conclusion of the assessment process. The timeline that was drawn assuming Gunns supplied all materials by 31 January, indicated late November 2007 as a possible time for conclusion of the process if the commission had to follow all statutory requirements (RPDC, 2009g). Gunns’ legal representative on the hearing did not oppose the new time line and thanked the panel for clearly explaining its position and the intended procedures from that point on (see, RPDC, 2009g).

February 25, 2007: Gunns changed its position within a day of the directions hearing and a letter was sent to the Premier describing the timeline as unacceptable and sought his intervention in the matter. Premier Lennon along with his senior ministers met with Gay and the Gunns board on a Sunday (25 February). Lennon agreed to discuss a shorter timeframe with RPDC (Integrity Commission (IC), 2012; Gale, 2008; Denholm, 2007c).
February 26 and 27, 2007: Lennon met with the RPDC commissioners. The meetings were not made public (IC, 2012).

Gunns expressed confidence in the half-year report to the Australian Stock Exchange (ASX) that necessary government approvals would be obtained within a timeframe that maintained commercial value of the project (Denholm, 2007c).

March 9, 2007: Gunns executive chairman John Gay provided the same reassuring advice in a letter to the shareholders written on March 7 and presented to the ASX on March 9 (Denholm, 2007c).

March 13, 2007: Lennon voluntarily revealed his meeting with Wright, where he (Lennon) had asked Wright to shorten the assessment process but failed to secure a guaranteed completion date to that effect from him (Wright). According to Denholm, “this would soften up the public for what was to happen the next day, when Gunns dramatically withdrew from the RPDC process” (Denholm, 2007c) citing ‘commercially unacceptable’ timeline.

March 14, 2007: Gunns pulled out of the RPDC assessment process.

The premier called an emergency meeting of his cabinet, followed by a meeting of the parliamentary Labor party, to decide the best course of action now that the pulp mill was in government hands (Neales, 2007c) and proposed to introduce special legislation for a separate approval process from the RPDC. It was also decided that the House of Assembly would be recalled in the following week to debate the legislation (HoA Hansard, 15 March 2007).

April 17, 2007: The Pulp Mill Assessment Bill 2007 passed through both houses of Parliament with bilateral support from both the government and the opposition (except for the Greens in the lower House and a few independents including a Labor member who crossed the floor in the upper House) and got the Royal assent on 30 April (see, Pulp Mill Assessment Act (PMAA) 2007; HoA Hansard, 22 March, 2007; Stokes, 2011).
Finnish consulting firm Sweco Pic was appointed on 17 April 2007 and was expected to complete its assessment and submit its final report by the end of June (HoA Hansard, 17 April, 2007).

**June 25, 2007:** SWECO PIC submitted its final report and recommended approval of the pulp mill with some conditions (Sweco Pic, 2007).

**August 30, 2007:** Parliament approved the mill and approved pulp mill permit (HoA Hansard, 30 August, 2007)

### 2.6 Chapter summary

This chapter helped set the scene. It provided the contextual background within which the current case is situated. Without a clear understanding of Tasmania’s social, economic, demographic and political characteristics from a historical perspective, any analysis of the current case would be incomplete. Thus the above discussion in the current chapter relates heavily and builds the foundation of the social practice chapter (Chapter 6) that is specific to Gunns’ pulp mill case. This chapter also briefly presented the key dates and events in the current case. Significance of some of these events are explored further through the lens of CDA and the theoretical framework in the discourse practice chapter (Chapter 8).
CHAPTER THREE: SUSTAINABILITY ACCOUNTING LITERATURE REVIEW

3.1 Introduction

’Sustainability’ has been a part of the lexicon for the last three to four decades. Kaidonis et al. (2010) ably demonstrate how the concept ‘sustainability’ gained momentum through international non-government organisations (NGOs) including the United Nations and how its meaning has shifted time and again over the decades through various organisations’ general acceptance of the term and favourable moulding of its meaning. These organisations include professional accounting bodies with substantial global reach, International Organisation for Standardisation (ISO), Global Reporting Initiative (GRI), and even the indices in the securities markets, such as the Dow Jones. These organisations have enormous influence on the corporations, individuals and other institutions that subscribe to their knowledge base, ideas and guidance in deciding the course of business. The shifting and often contested meanings of sustainability as a result have opened up opportunities for case studies (see, Buhr, 1998; Boyce, 2000; Bebbington and Gray, 2001 to name a few).

The Sustainable Development Commission (SDC), UK sees two overarching priorities of sustainable development- “living within environmental limits, and ensuring a strong, healthy and just society” (Poritt, 2007, p. xvii). The “objective of maximising economic growth” (Unerman et al., 2007, p. 2) and “our collective desire” (Poritt, 2007, p. xvii) to consume more goods and services have led the world to a state of desolation in terms of both ecological and social sustainability (Poritt, 2007; Unerman et al., 2007). This trend seems to be continuing as evidenced by consequences such as growing social injustice and unusual climatic/environmental conditions experienced by an increasing number of people both in the developed and more so in the developing world (Unerman et al., 2007), more than 25 years after the UNGA’s resolution 42/187, calling for attaining a balance between the social, environmental and economic (SDC, 2011; United Nations, 1987b). According to Bebbington (2001), these three elements might be complimentary but conflicting.

But, how do all these relate to accounting? Accounting comes in as a subset of the ‘economic’ element and becomes complicit in its (i.e., economic’s) push for priority.
The use of accounting numbers as a form of social power, constructing and transforming organisational and social truth, related economic truth and ultimately political truth is now established in the SEA literature (see, Hopwood, 1992; Hoskin and Macve, 1994; Boyce, 2000). However, this is rooted in the distinguished position accorded to quantification and measurement in general and their association with science. The idea that quantification affords “precision”, “rigour”, “objectivity”, etc. provides legitimation to accounting numbers, establishing accounting as a legitimating institution itself (Richardson, 1987; Robson, 1992). Accounting provides a range of powerful tools to plan, control and manage economic aspects of organisations and help organisations maximise their economic performance, i.e., profit (Unerman et al., 2007). Jonathan Poritt, the founding Chair of SDC, UK, recognised the role of accounting in achieving a sustainable economy and noted that

(a)accounting and reporting can only move us some way to a sustainable economy- there are many other layers of activity that also need to be undertaken in terms of legal, market and fiscal frameworks. But without a focus on accounting and reporting that crucial task will be much harder (Poritt, 2007, p. xvii).

It is not entirely clear what Poritt (2007) means by “focus” (p. xvii) on accounting. He also recognises “other layers” (Poritt, 2007, p. xvii). This thesis plays out how those “other layers of activity” such as “legal” and “fiscal” (Poritt, 2007, p. xvii) are not quite separate, but are greatly influenced by accounting numbers, such as corporate profits, government tax revenues, etc. Therefore, to view accounting as a mere technical, organisation independent activity can be described as a “gross oversimplification” (Laughlin, 1987, p. 480; Burchell et al., 1980, 1985; Hopwood, 1978, 1983; Dillard, 1991; Maunders and Burritt, 1991).

Research into the social and environmental consequences of accounting and ‘other layers’ of corporate activities has therefore gained significant momentum since its emergence in the 1970s, simultaneously “with an apparent growth in anxiety about corporate ethics, corporate power, social responsibility and ecological degradation” (Gray, 2002, p. 690; Mathews, 1997; Parker, 2005; Thomson, 2007; Owen, 2008). By the late 1990s, such research, generally referred to as social and environmental
accounting (SEA), became consolidated as an area of accounting scholarship (Bebbington et al., 1999).

3.2 Early attempts of SEA

The beginning of SEA literature was quite modest. The literature was still in its infancy and majority of the papers throughout the 1970s was based on reporting of social issues through “fairly unsophisticated” (by later standard) empirical research with “no sound theoretical base” (Mathews, 1997, pp. 484-5; Gray, 2002; Thomson, 2007). With an exception of a few studies such as Dierkes and Preston (1977) and Ullman (1976), environmental issues hardly got any attention apart from a minor and “undifferentiated” extension to what is currently known as “social accounting” (Mathews, 1997, pp. 484, 490; Gray, 2002). There were also some normative attempts to develop models to improve disclosure practices; however, the interest in this area like many other individual topics (such as labour issues in the late 1980s) within SEA research tended to “wax and wane” over time (Owen, 2008, p. 244; Mathews, 1997; Gray, 2002). Many of these models lost relevance, in hindsight, with the introduction of standards, regulations, permits, etc. over time (Mathews, 1997). Not surprisingly, in the absence of much ‘in-roads’ of critical theory in accounting literature as we know it today, this small band of researchers, including those who wrote about or argued for more non-traditional forms of disclosure, would often be labelled as “both radical and critical” (Mathews, 1997, p. 488) because of their distinct departure from the positivist studies. Motivation of those organisations making non-traditional disclosures was not a focus of research at that time; rather researchers (predominantly empiricists) were content in identifying, measuring and reporting what was being disclosed with some attempting to find out causal relationships between volumes of data disclosed and firm profitability, share price movement and other similar characteristics (Mathews, 1997; Gray, 2002).

3.3 Shifting focus of SEA

The focus of research on social issues continued until mid-1980s before the shifting of interest into environmental issues in the second half of the decade (Mathews, 1997; Bebbington et al., 1999; Thomson, 2007) coinciding with the release of the Brundtland Commission report (Bebbington, 2001). Interest grew in social issues again in the late
1990s (Bebbington et al., 1999) with an added focus on ethical aspects (Thomson, 2007). The latest SEA literature does not indicate any particular trend; rather a mix of diverse interest into various areas of sustainability, social justice, governance, accountability, etc. is evident (Thomson, 2007). This thesis contributes to that diversity by demonstrating through a case study how accounting is implicated in subsiding environmental concerns thus creating an imbalance among the three elements of sustainability and related notions of governance and accountability. Nonetheless, the diversity is a major source of this discipline’s “continued vibrancy” and possibly also one of the “root causes” of its lack of coherence (Gray, 2002, p. 688; Gray et al, 1995). The degree of diversity, according to Gray (1992),

vary between complete rejection of current structures of business, economic and social organisation- whether, for example, Marxian, deep ecology or feminist- through to the (typically) implicit acceptance of current orthodoxy that is the common position in most mainstream accounting discussions and research (p. 692).

3.4 Methodological issues in SEA

Going back to the review of early SEA literature, many of the limitations of the initial SEA research were being gradually addressed in the 1980s but not without newer problems. Empirical studies went beyond simple “yes or no” to the existence of a particular disclosure, and greater attention was given to methodology to enhance ‘objectivity’ of the studies (Mathews, 1997, p. 484). However, in their quest for enhanced methodological rigour in extracting information from annual reports and other organisational data, researchers engaged in a new, ‘obtuse’ cycle of analysis, where qualitative information were codified to make usable for quantitative, predominantly statistical examination (the technique is generally known as content analysis; (see, Neuman, 2011 for a discussion and application of content analysis as a research method, and Ullmann, 1985; Unerman, 2000 for a bibliographic list of studies that employed content analysis as a research method in SEA research). With the growing improvement and precision of the field of statistics as “science of data” (Moore and McCabe, 2003, p. xxii), the studies employing content analysis over the years have become more and more prevalent (and perhaps scientific), without much serious connection to theory (Ullmann, 1985; Mathews, 1997; Bebbington et al., 1999;
Gray, 2002; Thomson, 2007). These studies have definitely become ‘sophisticated’ in terms of the technical manipulation of data; however, the essential question about the loss of context when such qualitative information is codified (no matter how ‘precise’ the codification process is) and aggregated into statistical variables, observations, frequencies, etc., has not been addressed. Rather, an “apparent obsession” to fit the emerging environmental and social concerns into the “straitjacket of a conventional accounting framework and view of the world” is evident (Bebbington et al., 1999, p. 48), while the fragility of the key assumption underlying these studies, “volume of disclosure signifies the relative importance of the disclosure”, remains ignored (Unerman, 2000, p. 667). According to Bebbington et al. (1999, p. 49), such descriptive studies hardly provide any ‘real’ insight into organisations’ social and environmental practices, thus failing to “deconstruct the implicit in current practice” and thereby indirectly supporting the status quo (Mathews, 1997). Furthermore, in agreement with Mathews (1997), Bebbington et al. (1999, p. 49) argue, they almost never lead to avenues for intelligible future research “that requires a deeper questioning, analysis and theorisation” in order to “open up new agendas for social change”. For the purpose of investigation into the Gunns’ pulp mill case in this thesis, it was recognised very early on that a deeper, more engaging methodological tool than content analysis was required. The complexity of the various discourses involving the pulp mill case required a methodology that would recognise the power of language, discourse and legitimation in exploring how accounting is implicated in the positions adopted and decisions made by the two key stakeholders in the pulp mill case- the government and the corporation.

3.5 SEA research into organisational motivation for disclosure

Another ‘neglected’ area in early SEA research that received attention later was the organisational motivation behind disclosure of non-traditional, voluntary information pertaining to social and environmental issues. In fact, in doing so, the call for empirical research to be grounded in theory (see for example, Ullmann, 1985) began to be answered and was well underway by the 1990s. Gray et al. (1995) categorise the vast array of research theorising SEA and related reporting (commonly known as corporate social reporting- CSR) into two relatively distinct groups: research that treats CSR as an extension to conventional accounting practices and hence fall within the bounds of
mainstream accounting research, as opposed to those treating such disclosures as residing at the centre of the role of information in the “organisation-society dialogue” (Gray et al., 1995, p. 48). Bebbington (2001) also makes roughly the same distinction, labelling the former group of research as “social and environmental accounting and reporting” and the latter as “accounting for sustainable development” (hereafter, accounting for SD) (Bebbington, 2001, p. 143; Bebbington and Larrinaga, 2014). She identifies two major differences between the two groups of research— the loci of their theorisation and the extent to which each challenges the current economic setting (discussed later). In the former group, studies are informed by theoretical frameworks such as decision usefulness, economics based agency theory, stakeholder theory (managerial branch—see, Deegan, 2002; 2006 for the dichotomous classification and discussion and Ullmann, 1985 for one of the earliest applications of the managerialist/‘bourgeois’ perspective of this theory in CSR research), political economy of accounting theory (the ‘bourgeois’ perspective; see Gray et al., 1995 for the dichotomous classification, discussion and application of this theory), legitimacy theory, and accountability theory (Gray et al., 1995; Deegan, 2002; Parker, 2005). In the latter group, studies are informed by a variety of theoretical frameworks such as ‘classical’ political economy of accounting (following Marx), stakeholder theory (normative/ethical branch), institutional theory, deep green and social ecology theories (see for example, Archel et al., 2011, Contrafatto, 2014; Bouten and Everaert, 2015; Maunders and Burritt, 1991; Gray, 1992), feminist (see for example, Cooper, 1992), communitarian based (see for example, Lehman, 1995, 1999, 2001) and other social/political theories (see for example, Solomon, et al., 2013; Spence and Rinaldi, 2014; Thomson et al., 2014; Tregidga et al., 2014; Cho et al., 2015), etc. (Gray et al., 1995; Parker, 2005).

Certainly within the earlier group (the managerialist end of the spectrum) and in fact out of all the theoretical perspectives just mentioned, studies utilising “some variant” of legitimacy theory (and the concept of ‘social contract’ central to the theory) to explain organisational motivation, has by far been the most frequent in CSR literature (Thomson, 2007, p. 32; Mathews, 1997; Parker, 2005). A ‘popular’ practice has been utilising content analysis of annual reports for a detailed statistical examination of corporate disclosures of social and environmental information and explaining the
results through legitimacy theory (see for example, Patten, 1992; Deegan and Gordon, 1996; Deegan and Rankin, 1996; Brown and Deegan, 1998; Deegan et al., 2000, 2002; Cho and Patten, 2007; Cho et al., 2012; Clarkson et al., 2008; Aerts and Cormier, 2009; Hrasky, 2011; Cannizzaro and Weiner, 2015; Michelon et al., 2015. But also see, Gray et al., 1995; Buhr, 1998; O’Donovan, 2002). Mathews (1997, p. 491) argues that this area needs more attention and research to go beyond the “limited foray” into organisational legitimacy and Gray (2002, p. 696) quoting Ullmann (1985) questions if most of these studies are “data in search of a theory” (for a discussion of the limitations of this theoretical perspective in its applications, see for example, Gray, 1992; Deegan, 2002; Parker, 2005; Owen, 2008; Lodhia and Jacobs, 2013). A key criticism of the mainstream way (Chua, 1986) of research into CSR, in general, is that they mostly fail to raise any fundamental question about the prevailing “organisation of economic life” (Bebbington, 2001, p. 143), i.e., its underlying structures (based on capitalist system of production); assumptions and concepts (such as ‘efficient market hypothesis’, ‘shareholder value creation/wealth maximisation’, ‘restructuring’, ‘deregulation’, etc.); and relationships (between society, the State, corporations, etc.); thereby passively supporting the status quo and providing legitimation to current national, corporate and accounting practices that are often central to the environmental degradation and social injustices that we see today in the world (Bebbington, 2001; Cooper and Sherer, 1984; Maunders and Burritt, 1991; Cooper, 1992; Gray, 1992, 2002; Dillard, 1991; Puxty, 1991; Lehman, 1995, 1999, 2002; Bebbington et al., 1999; Parker, 2005; Ezzamel et al., 2008; Lohmann, 2009; Habermas, 1975). The failure can be partly attributed to current CSR research being entity or business centred in terms of its focus (see, Lehman, 1999) compared to a ‘liberated’ state where the entity of interest is considered to be the society or the environment with an account focusing on how a business impacts upon the society or environment (Bebbington, 2001; Gray, 2002). In such a setting, constraints on accounting’s recognition of events (economic), descriptions (financial), users (powerful) and uses are relaxed in the first place (Gray, 2002, p. 692). This also opens up opportunity to consider the constraints accounting may place or complications it may create when development projects that (negatively) affects the environment are undertaken.
3.6 SEA research beyond corporate disclosures

The studies that largely fall within the other group (accounting for SD) go much beyond fundamental reporting practices; in fact, they hardly get into post-fact analysis of what has been reported (but see, Laine, 2005, 2009; Milne et al., 2009; Tregidga et al., 2014); rather they delve into much deeper issues that are interwoven with and often influenced by accounting, such as, organisational ethics, accountability and relationships (see, Munro and Hatherly, 1993; Lehman, 1995, 1999; Owen et al., 2001; Broadbent and Laughlin, 2003; Boyce, 2008; Awio et al., 2011; Gallhofer et al., 2011; Archel et al., 2011; Cho et al., 2015; Killian and O’Regan, 2016); environmental ethics, social and ecological equity, morality and justice (see, Maunders and Burritt, 1991; Gray, 1992; Lehman, 1995, 2002; Andrew, 2000); and democracy and public interest (see, Broadbent et al., 1991; Chwastiak, 1996; Boyce, 2000; Brown, 2009; Graham, 2010; Malsch, 2013), being closely relevant to this research.

Research into accounting for SD where this thesis can contribute to includes critique of the capitalist system based on traditional economic thinking and its pervasive ideologies (see, Dillard, 1991; Gray, 1992; Tinker and Gray, 2003; Lohmann, 2009) and the role of accounting and economic thinking and the immanent ‘technicist’ (see, Puxty, 1986) language in influencing regulatory processes (see, Laughlin and Broadbent, 1993) and legitimating and sustaining dominant systems, ideologies and hegemonies (see, Chua, 1986; Laughlin, 1987; Maunders and Burritt, 1991; Cooper, 1992; Killian, 2010; Archel et al., 2011; Killian and O’Regan, 2016).

The above studies in accounting for SD call for a “fundamental rethink” (Bebbington, 2001, p. 144) of how society organises and conducts itself and what is taken-for-granted (Gray, 1992; Cooper, 1992). Related to this is the locus of theorisation, which differs from the CSR research. Studies into CSR are theorised on notions of accountability, which can be too limiting for ‘accounting for SD’ (the latter group) because future generations and the disadvantaged in the current generation, in addition to the flora and fauna and the natural habitat are unable to be actively involved in an accountability relationship and process. Furthermore, enforcing accountability relationships between society and broader groups are often problematic. Hence, the focus of ‘accounting for SD’ is not limited to an organisation and its impacts; rather it
seeks to understand the society wide requirements and mechanisms to create a just society not only for human beings, but also for all co-existing species and the natural environment (Maunders and Burritt, 1991; Gray, 1992; Bebbington, 2001). The broader aim and justification of SEA research, according to this group of studies, must lie in its “emancipatory and radical possibilities” (Gray, 2002, p. 689) and founded upon a concern for the injustices in the society and the degradation of the natural environment, and should be directed towards exposing how accounting is complicit in or even aides in such social and ecological ‘excesses’ (Bebbington et al., 1999; Bebbington, 2001). Therefore, consideration of corporate social reporting (CSR) “may be a necessary but not sufficient step” towards advancing ‘accounting for SD’ (Bebbington, 2001, p.145; Gray, 2002).

3.7 SEA research and critical accounting

SEA studies in ‘accounting for SD’ can often be located under the broad umbrella of ‘critical accounting’ research (Mathews, 1997), where the language and meaning implicit in the very terms ‘sustainability’ and ‘sustainable development’ are argued to be “highly contestable”, frequently misunderstood, misrepresented, and through “uncritical” repetitions, they are thought to be “entering common discourse emasculated and largely trivialised” (Gray, 2010, p. 49; Aras and Crowther, 2009; see Kaidonis et al., 2010 and, Aras and Crowther, 2009 for some interesting discussion of how the meaning of sustainability has evolved over the decades ). Gray offers a number of examples of such trivialising ‘account’ of corporations, other bodies, individuals and institutions and reasserts what is increasingly being established in the critical accounting literature that “most business reporting on sustainability and much business representative activity around sustainability actually have little, if anything to do with sustainability” (Gray, 2010, p. 48; Aras and Crowther, 2009; Milne et al., 2006; Beder, 1997). Environmental sustainability, for example, according to this line of thinking, can only make ‘sense’ at the level of eco-systems, and preferably not below the planetary and species level, and hence, sustainability as a concept (both ecological and societal) can “rarely, if at all, coincide with corporate or organisational boundaries” (Gray, 2010, p. 57; Milne and Gray, 2007). Therefore, any claim to organisational ‘sustainability’ or ‘sustainable operation’ is without any consideration of the term in “explicit sense” and is “entirely rhetorical”, and the ‘real’ danger here is
that through repeated use of the term, it becomes “synonymous with other notions such as “social responsibility” or “environmental management” and, most especially, becomes a term that offers no threat to corporate attitudes and activity”, rather facilitating the state of “business as usual” (Gray, 2010, p. 49; Milne et al., 2006).

This thesis can be located within the SEA research area that is informed by critical accounting scholarship. Laughlin (1999) offers a cautious (acknowledging it is debatable) but helpful definition of critical accounting. According to him critical accounting involves,

(a) critical understanding of the role of accounting processes and practices and the accounting profession in the functioning of society and organisations with an intention to use that understanding to engage (where appropriate) in changing these processes, practices and the profession (Laughlin, 1999, p. 73).

Explicit within the definition is the recognition that critical accounting is always contextual and concerned with both the ‘macro’ (such as societal, governmental, regulatory, professional, etc.) and the ‘micro’ (such as within institutions and organisations) that shape, and more importantly, are shaped by accounting as “a phenomena [sic]” (Laughlin, 1999, p. 73). What is implicit in the definition though, is critical accounting’s necessity and acceptance of “intellectual borrowings” from other more ‘mature’ disciplines to employ theoretical and methodological ‘vehicles’ to extricate and explain such complex social relations and functioning of accounting (Laughlin, 1987, 1999, p. 74; Hopwood, 1978, 1983; Burchell et al., 1980, 1985; Puxty, 1986; Dillard, 1991; Maunders and Burritt, 1991). Theorists that are commonly cited and borrowed from in the ‘critical accounting project’ include both French and German critical theorists. Laughlin (1999) attempts to isolate critical accounting papers broadly into the above two critical camps: ones that are influenced by French critical theorists such as Foucault, Derrida, and Latour (see for example, Burchell et al., 1985; Loft, 1986; Hopwood, 1987; Arrington and Francis, 1989; Cooper, 1992; McKinlay and Pezet, 2010; Kosmala and McKernan, 2011; Ezzamel and Hoskin, 2002; Robson, 1992; Lowe, 2004; Malsch, 2013; Archel et al., 2011; Spence and
Rinaldi, 2014; Killian and O'Regan, 2016; Boiral, 2013); and others that are influenced by German critical theorists such as Marx, Adorno, and Habermas (see, Tinker et al., 1991; Tinker and Gray, 2003; Gallhofer and Haslam, 1991; Chwastiak, 1996; Laughlin, 1987, 1988; Broadbent et al., 1991, 2010; Arrington and Puxty, 1991; Laughlin and Broadbent, 1993; Power and Laughlin, 1996; Lehman, 2001; Oakes and Berry, 2009) . Although these delineations are contestable they are also helpful in managing the massive content of literature.

3.8 Positioning this thesis in the SEA literature

In the tradition of critical accounting, the complex and often ‘dialectical’ relations (see, Fairclough, 2010) between ‘accounting phenomena’ and ‘others’ (such as the ‘legal’, ‘corporate’, ‘political’, ‘social’, etc.) are explored in this thesis through the case of a pulp mill project in Tasmania. The case study approach enabled the researcher to go beyond the superficial understanding of Gunns’ disclosure practices in annual reports through content analysis (Thomson, 2007). Rather, a methodology was put in place to see those disclosures and assertions made by Gunns and its allies in the forestry network through a web of complex social relations and interactions (Fairclough, 2010) in the pulp mill case. Accounting was located at the centre of those social relations and interactions as more than a mere organisational and reporting tool; rather as a discourse, as a phenomenon that dialectically interacted with and influenced broader social elements such as government policies and programs, legal instruments, actions/opinions of industry associations/lobby groups. Critical discourse analysis (CDA), as a methodology, explicitly recognises such dialectical relationships in its analysis and is informed by theoretical insights from both linguistics and social sciences. Notable among the social theorists that had influence on CDA is Habermas (see, Fairclough, 2010). Conveniently, the theoretical framework utilised in this thesis also comes from Habermasian critical ‘insights’, making the two complementary, as will be evident in the substantive chapters.

3.9 Chapter summary

This chapter attempted to locate accounting, its role and influence within the broader area of sustainability and the balancing of its three components- economic, social and
environmental. The chapter explored into accounting research in the area of sustainability from its inception to its current state and deliberated how it shifted in terms of focus, methodological rigour and coverage. The importance of critical accounting insights into sustainability research has also been highlighted to better understand the role accounting plays in organisational and social life and the potential impact on the environment. Finally, the position of this thesis within the sustainability accounting literature in the critical accounting tradition has been envisaged. Needless to mention, this positioning (and finding room for contribution) has only been possible because of the guidance from prior research, which were studied as part of the literature review.
CHAPTER FOUR: THEORETICAL FRAMEWORK- LEGITIMATION, LEGITIMATION CRISIS, AND THE LAW

4.1 Introduction

As foreshadowed in previous chapters, a critical perspective has been adopted for this research for a deeper understanding of the various discourses leading to the state level approval in the Gunns pulp mill project in 2007. The use of critical theory in accounting, in particular social and environmental accounting (SEA) research, is now well established. As identified in the literature review chapter, within the expansive area of critical theory, the influence of the Frankfurt School and more so of its “second generation inheritor” (Power and Laughlin, 1996, p. 441), sociologist and philosopher Jürgen Habermas, has been increasingly felt in a range of social science disciplines, including accounting in the recent decades. In that tradition, Habermasian critical insights into legitimation have been employed in this thesis through the theory of legitimation (see, Habermas, 1975, 1986, 1987; Turkel, 1980a, 1980b, 1982), in tandem with CDA, to explore into the complicated discourses surrounding Gunns’ pulp mill approval case. Through this theoretical framework some of the taken-for-granted beliefs will be challenged, key players and their legitimising strategies will be exposed and how the failure of the “legitimising system” (Habermas, 1975, p. 46) led to legitimation crisis and paved the path to particularistic legislation (Turkel, 1980b, 1982; Laughlin and Broadbent, 1993) as a last and desperate resort will be elucidated.

However, before delving into the theory of legitimation applied in this thesis, it is important to make it distinguished from ‘legitimacy theory’ that has been very popular and frequently used in SEA research over the past two decades (as indicated in the literature review chapter).

4.1.1 Making a distinction: Legitimacy theory versus the theory of legitimation

Legitimacy theory is used to explain why corporations engage in voluntary disclosures of their social and environmental performance. Application of this theory (mostly managerial) has been mainly around corporations and their various stakeholders supplying ‘legitimacy’ and how corporations endeavour to keep that ‘supply’ ongoing
Jacobs and Lodhia (2011) summarise the essence of legitimacy theory well. They posit that the central argument in legitimacy theory is that “companies seek to legitimise their existence to society by voluntarily disclosing social and environmental information in a range of media” (Jacobs and Lodhia, 2011, p. 5). The theory is predicated upon the idea/ concept of ‘social contract’ (see Mathews, 1993; Deegan, 2002 for a discussion) through which the society provides the sense of legitimacy to a corporation. But the terms in the contract or how the contract is administered/ enforced or how corporations react if the contract is threatened is not clear. Despite this a managerial application of the theory is prevalent, often accompanied and reinforced by sophisticated calculations of voluntary corporate disclosures (as indicated in the literature review section). While admitting the imprecision of the terms of ‘social contract’, Deegan (2002) resorts to Gray et al. (1996) in suggesting that legal requirements provide specific terms in the social contract, while the implicit terms come from societal expectations about which managers’ perceptions vary greatly. Not surprisingly, therefore, Parker (2005, p. 846) strongly criticises this theory’s “lack of specificity” and failure in predicting and explaining managerial behaviour as would be expected in a managerialist theory. Moreover, it would be evident later in this chapter that even the legal requirements (i.e., specific law relating to certain corporations or industry- that is ‘specific terms’ in the social contract) may lack legitimisation themselves. It will also be clear that the critical insights through the theory of legitimisation utilised in this thesis could be applied far beyond the confines of corporate disclosures and other strategies in managing ‘legitimacy’ and could go much deeper in questioning the taken-for-granted belief (Turkel, 1980a).

The following sections discuss various aspects of the theory of legitimisation and signal how it will be employed in explaining the findings at the Gunns pulp mill case.

4.2 Legitimation: concept and application

The concept of legitimisation has played a significant role in challenging what is taken for granted (Turkel, 1980a). The complexity surrounding legitimisation both as a social
science concept and a fundamental condition of social life dictates that it is analysed from both a systematic and an interpretative perspective (Turkel, 1980a). By systematic perspective, Turkel (1980a) means exploring how a society is organised before attributing meaning to the actions of the social members, which he calls the interpretative perspective. A similar approach is taken in this thesis and this is aided by the three-dimensional CDA framework espoused by Fairclough (1992). Turkel has demonstrated the utility of this concept in case studies similar to this research (see, Turkel 1980b, 1982).

It is possible for example, to analyse legitimation “as an element that serves to maintain authority in authority systems” and “as a communicative process among members within an authority system” (Turkel, 1980a, p. 22). In other words, legitimation has both a discursive and an institutional dimension and they are not separate; rather they are closely inter-related and reinforce each other (Turkel, 1982). In CDA (Fairclough, 2010) terminology, the discursive and institutional dimensions can be considered as ‘dialectical’ and in the Gunns’ pulp mill case, both institutional and discursive aspects of legitimation will be explored. In addition to the critical roots, this is also another reason why CDA as a methodology resonates so well with the theoretical framework utilised in this thesis. A ‘compatible’ methodological ‘vehicle’ is important to fully exploit the explanatory power of the theory in a complicated case such as the Gunns’ pulp mill case.

Turkel (1980a) defines legitimation as “that constellation of reasons and beliefs which social members willingly affirm in their support of the social order” (p. 19). ‘Willing’ affirmations are important for creating consensus that the “legitimising system” (Habermas, 1975, p. 46) strives to achieve, since consensus is essential for cooperative action in an authority system (Turkel, 1980a). Communicative aspects of legitimation, therefore, are crucial in maintaining authority (Turkel, 1980a). Legitimacy is maintained when the superordinate/ ruler/ government is able to execute a command for which reasonable arguments can be provided; a command or initiative that does not contravene “collectively held beliefs and values” (Turkel, 1980a, p. 23). Turkel (1980a) aptly summarises this and notes further that legitimacy is
a communicative process which stabilizes authority relations by generating reciprocal understandings that serve as a basis of consensus [but it] does not mean that consensus is perfect. Indeed, the contrary would seem to be the case (Turkel, 1980a, p. 31).

He explains further why a perfect consensus is unlikely. He argues that the process of consensus formation is conditioned by the inequality inherent in the authority relations (Turkel, 1980a). What this indicates is that ‘reciprocal understanding’ may not always be found in the communicative aspects of legitimation. Rather the legitimising system of the government can use various devices and mechanisms to shape public opinion so that people are ‘willing’ to affirm their support (and a consensus can be built around) in this case, a certain government action. These ‘devices’ include forming a “propaganda” (Turkel, 1980a, p. 22) unit to disseminate swaying information, using specialised vocabulary, timing and setting of the release of information. However the goal remains ensuring that social members continue to affirm unequal statuses (i.e., power differentials) as being justifiable on the basis of shared values and action orientations by avoiding or minimising direct coercion (Turkel, 1982). How some of these instruments were used in Gunns’ pulp mill case will be explored in this thesis.

When the legitimising system fails to generate consensus even after utilising all the instruments under its disposal (i.e., discourse becomes inadequate), or the “institutionalised processes do not fulfil legitimate expectations” (Turkel, 1982, p. 166), a legitimation crisis emerges. Habermas (1975) identifies factors in advanced capitalist societies that generate tendencies towards legitimation crises. In so doing, he has “reinvigorated” (Turkel, 1980a, p. 20) the significance of legitimation as a concept for social analysis. Habermas’ concept of legitimation crisis is discussed in subsection 4.2.2.

### 4.2.1 Brief summary of insights from Turkel’s (1980b, 1982) case studies

Turkel (1980b, 1982) in his two case studies demonstrated how economic rationality was used as legitimating themes to draw up particularistic legislations to ‘bail out’ two massive US corporations from impending bankruptcies. The first case related to Lockheed Aircraft Corporation, the first corporation in the history of the United States to receive a direct loan guarantee from the federal government (for an amount of $250
million) (Turkel, 1980b). The second one related to Chrysler Corporation in 1980 (Turkel, 1982). By analysing various provisions of the legislations and the congressional debates, Turkel identified the main discourses surrounding the federal loan guarantee and the players involved. He showed how some discourses were privileged over others and had more legitimating impact over the public. He demonstrated that although the bill in the Lockheed case was written in general terms, the provisions technically limited the application to Lockheed only in the shorter term and to major corporations only in the future.

Lockheed created a precedence that encouraged other ailing corporate giants to come forward for government’s direct financial backing. In Chrysler’s case the loan guarantee was made into an act specifically for the Chrysler Corporation. Through the Chrysler Corporation Loan Guarantee Act of 1980 the government provided Chrysler with a $1.5 billion in loan guarantee.

Through these case studies, Turkel exposed the contradictory arguments of the government which were to ‘stabilise’ the economy by preventing a major corporation from being bankrupt while propagating free market enterprise at the same time. Turkel argued, by putting ‘lifelines’ into these corporations, the government essentially inhibited competition by keeping the dominance of the major corporate powers. In both the cases, Turkel showed how financial and economic arguments (through sales and earnings figures; employee, contractor, and supplier numbers) were mounted in the loan guarantee discourse in addition to infusing it with the discourse of nationalism (since both corporations were major defence contractors) to facilitate public support of the ‘bailouts’ while “providing boundaries that maintain[ed] private accumulation of capital and its prerogatives” (Turkel, 1980a, p. 75).

This thesis builds on what Turkel (1980b, 1982) has done albeit in a different context. Insights from these case studies can be used to analyse corporate/ government projects with significant potential social/ environmental impacts, and question the legitimating influence of accounting/ economic/ financial information in the decision making process. Such questioning can expose the taken-for-granted beliefs behind the dominant discourse and lay them for broader public scrutiny in development projects.
Turkel, because of his application of the concept of legitimation, is closer to this research as Habermas does not provide case studies.

4.2.2 Habermas’ conception of legitimation crisis

According to Habermas (1975), in liberal capitalist societies the economic system is uncoupled from the political system. As a result, the economic system does not really depend on the supply of legitimation from the socio-cultural system. Rather, it makes a contribution towards social integration, which is unseen in the pre-capitalist societies. Consequently, any threat to the economic system is also a threat to social integration, justifying discussion of the economic crisis. This could then mean not dealing with the underlying problem (Habermas, 1975). However, the focus on economic crisis and potential destabilisation of capitalism assuages recoupling of the economic system to the political. In this situation (an economic crisis), the state apparatus is used not just to secure or facilitate the market for capitalistic reproduction, but also to condition and engage in it. It should be noted that engagement does not necessarily mean an end to the continued private accumulation of wealth following maxims of corporate profit. Such state of capitalism can be referred to as organised, state-regulated or advanced capitalism and marks the advanced stage of accumulation process - the rise of national and multi-national corporations, complex markets for goods, capital, and labour as examples (Habermas, 1975). Recoupling the economic system to the political system, in a way, “repoliticizes the relations of production” (Habermas, 1975, p. 36), that is assigned altered power differentials, which requires further legitimation.

However, the legitimation process in advanced capitalism is different from the pre-capitalist era, as civil rights and people’s right to elect political leaders become established. In such a setting, Habermas (1975) argues, ideally, political will would be formed through genuine participation of the citizens. But the problem in that approach (that is “substantive democracy”) is that, it would “bring to consciousness the contradiction between administratively socialised production and the continued private appropriation and use of surplus value” (Habermas, 1975, p. 36). This awareness of such a paradox gives rise to a legitimation crisis. To avoid such a contradiction from becoming manifest, political governments put in place
administrative systems and procedures that are sufficiently independent (this also provides a perception of decoupling of the economic and political – a distance of the politics) of “legitimating will-formation” (Habermas, 1975, p. 36). That is, the process of legitimation in advanced capitalism is shaped in such a way that it does not require active participation by the public to form political will, but is done through the arrangement of formal democratic institutions and procedures that “elicits” (Habermas, 1975, p. 36) generalised motives and affirmations of the citizens (see, Broadbent and Laughlin, 2003 for a demonstration of this Habermasian idea). This process of legitimation and how well it was executed in the case of Gunns Ltd. will be explored in later chapters.

As implied before, advanced capitalism is structured around the economic system, the political system (that complement and engage in the economic system through various state apparatus), and the socio-cultural system (providing legitimation to government actions while imperatives from the economic system are carried through by the state apparatus) (Habermas, 1975). Each of these systems requires some input and provides some output. Crises can arise within these systems at different points and in various forms. For example, the economic system takes as its input labour and capital and provides as its output consumable values, the distribution of which can create disturbances and lead to social crisis and political struggles. The political system, on the other hand, requires as its input, mass loyalty that is “as diffuse as possible” (Habermas, 1975, p. 46) and the output consists in “sovereignly executed” (Habermas, 1975, p. 46) legal and administrative acts, and ultimately social security. As can be deduced from above, the socio-cultural system receives its input from the output of the other two systems and in return provides legitimation to the political system and maintains social integration. In fact, tendencies for crisis in the other two systems (economic and political) only become visible through the socio-cultural system (Habermas, 1975). Therefore, any disturbance in the output of the other two systems creates disturbance in the socio-cultural system and can eventuate, in extreme cases, in the withdrawal of legitimation.

This research of a case study provides evidence and explicates the potential for crisis apparent in the input and output of the political system, in particular. Output crises
take the form of a “rationality crisis” (Habermas, 1975, p. 46), where there is an apparent contradiction between economic imperatives and generalizable interests and the administrative system is unable to reconcile the two. This can lead to a potential for crisis in the input of a political system. Input crises take the form of a “legitimation crisis”, where “the legitimizing system does not succeed in maintaining the requisite level of mass loyalty” while carrying out economic imperatives (Habermas, 1975, p. 46). It results from questionable government actions that jeopardise the “structure of the depoliticized public realm” (Habermas, 1975, p. 46), i.e., the formal democratic and independent institutions and procedures. These aspects will be explored in the Gunns’ pulp mill case in this thesis.

4.2.3 Legitimation and law

Utilising Habermas’ understanding of law as institution and medium (see, Habermas, 1986), law, from a sociological perspective, can be categorised in two broad groups: classical formal law and material/regulatory law (See, Turkel, 1980b; Teubner, 1987; Laughlin and Broadbent, 1993). In order to understand the legitimacy and impact of these two groups of law on society and the society’s impact on them, it is useful first to explicate how modern society is organised. Habermas (1987) sees society as consisting of three elements: the lifeworld, steering media and systems. Lifeworld refers to a society’s deep rooted values, beliefs and cultural tradition that tend to define and guide members’ behaviour and actions (Habermas, 1987). Lifeworld, which evolves over time, is reflected through tangible societal organisations and related organisational systems (such as economic and administrative systems). Steering media (such as money and power) are the connectors between the lifeworld and the systems and ideally should keep the systems functional as per the lifeworld’s demands. However, the opposite is also possible where the steering media attempt to ‘colonise’ the lifeworld (Habermas, 1987).

Law as institution, according to Habermas (1986), takes an enabling role in configuring the organisational systems so that they sufficiently articulate the current lifeworld. Emanating from the lifeworld, which according to Habermas (1986, p. 206) is “the only source of legitimation”, and such laws are said to “emancipate the citizen” (Habermas, 1986, p. 205). All formal classical law can be placed under this category
(Laughlin and Broadbent, 1993). Regulatory/ material laws that are “freedom-guaranteeing” (Habermas, 1986, p. 208, emphasis in original), i.e., that try to “regulate social behaviour in organisational systems driven by societal lifeworld demands” (Laughlin and Broadbent, 1993, p. 341), albeit “regulative” in nature, are amenable to “substantive justification” (Habermas, 1987, p. 365), and can be legitimized. Examples include “shortening of working hours, freedom to organise unions, bargain for wages, protection from layoffs, social security, etc.” (Habermas, 1986, p. 208). This is contrasted with regulatory law that “moves from being an enabler to being the ‘medium’ of other forms of steering media (invariably money and power) expressed through a particular political configuration” (Laughlin and Broadbent, 1993, p. 341). Law in such case is constitutive and particularistic and combined with the media of power and money it constitutes itself as a steering media (Habermas, 1986, 1987). Driven by political process, such laws do not adequately express the lifeworld, cause new forms of behaviour and concern a particular person, profession, trade, etc. (Laughlin and Broadbent, 1993; Habermas, 1986, 1987). Habermas calls this “legal positivism”, where the law neither reflects the lifeworld sufficiently nor is capable of substantive justification for legitimation purposes. Rather it is “legitimized only through procedure”, that is, if brought to question, it would be sufficient to check if the legal norm followed correct “genesis of the law, judicial decision or administrative act” (Habermas, 1986, p. 212). This mode of legitimation, according to Habermas, “is insufficient in itself, but merely points to legitimising state authorities’ need of justification” (Habermas, 1986, p. 212). However, with the increasing volume of “positive law” in modern capitalistic societies in economic, commercial, company and administrative spheres, people simply pay attention to see if the passing of law followed ‘correct’ protocols and “content themselves in actual practice with legitimation through procedure” (Habermas, 1986, p. 212). The formal legal discourse surrounding such laws constrain the “public appearance and recognition of conflicts and contradictions in codified, formal, logically cohesive rules”, legalising economic inequality in the process (Turkel, 1980b, p. 43).

Utilising the above discussion (Habermas’ legitimation test), the legitimacy of the laws created or modified for Gunns pulp mill will be examined in this thesis. Of particular interest, is to elucidate the rationalisation process through which these particularistic
legislations came in to being and ultimately led to a ‘rationality’ and ‘legitimation’ crises in the political system of the state.

4.3 Chapter summary

This chapter introduced the theoretical framework through which the findings in the Gunns’ pulp mill case would be studied. A critical understanding of the concept of legitimation from Habermas (1975, 1986, 1987) and Turkel (1980) as aptly applied in case studies by Turkel (1980b, 1982), Laughlin and Broadbent (1993), Broadbent, Jacobs and Laughlin (2001), Broadbent and Laughlin (2003), Rahaman, Lawrence and Roper (2004) was deliberated and made distinct from the widely used legitimacy theory. Additionally, the compatibility of CDA as a methodology with the theoretical framework adopted in this thesis was also highlighted.
CHAPTER FIVE: METHODOLOGY

5.1 Introduction
The purpose of this chapter is to introduce the reader to the philosophical assumptions underlying any social science research, particularly in the field of accounting before alluding to the philosophical position of the current study. The positioning then calls for an appropriate methodology to systematically analyse the issues at hand. Critical Discourse Analysis (CDA) has been chosen for this research as the most appropriate methodology given the complex nature of the discursive event under investigation. The remainder of the chapter delineates CDA and provides an overview of its application in this thesis.

5.2 Theoretical and methodological positions in social sciences
Any research approach in social sciences is guided by certain philosophical assumptions, which in different combinations form the basis of different schools of thought/ research frameworks/ paradigms. While there is agreement in general about the set of philosophical assumptions (see, Figure 2), there are wide differences with regards to resulting paradigms or frameworks (see for example, Burrell and Morgan, 1979; Cooper, 1983; Hopper and Powel, 1985; Chua, 1986; Laughlin, 1995, to name a few). This variety in research frameworks can easily leave a novice researcher “perplexed and confused” (Laughlin, 1995, p. 64), as to how to locate his/ her work within them.
One of the most influential and cited work in classifying approaches to social science research was done by Burrell and Morgan (1979). Although their framework drew criticism (see for example, Chua, 1986; Willmott, 1990, 1993), it paved the way for a number of accounting related classifications/ frameworks (see for instance, Hopper and Powell, 1985; Chua, 1986; Laughlin and Lowe, 1990; and most notably, Laughlin, 1995). This thesis uses the Laughlin (1995) framework to position itself within the critical accounting research tradition. It is, therefore, useful to briefly review Burrell and Morgan’s sociological paradigms first before exploring Laughlin’s (1995) framework.

5.3 Sociological paradigms, criticisms and derivatives

Burrell and Morgan (1979) offered a two-dimensional, four paradigm model to classify and analyse social theory. On the horizontal axis, they placed what they called the assumptions about the nature of social science (ontology, epistemology, human nature and methodology) on a “subjective”-“objective” dimension, and on the vertical axis they included “assumptions about the nature of society” on a “sociology of regulation”-“sociology of radical change” dimension (see, Figure 3). The subjective-objective dimension, which actually incorporates four continuums for the four sets of
assumptions (see, Table 1: The subjective-objective dimension), according to Burrell and Morgan (1979, p. 7), provide “an extremely powerful tool for the analysis of social theory”. They argue that although there are strong relationships between positions adopted on each of them in practice, they are best analysed independently (see Burrell and Morgan, 1979, pp. 4-7 for a detailed discussion).

Table 1: The subjective-objective dimension

<table>
<thead>
<tr>
<th>The subjectivist approach to social science</th>
<th>The objectivist approach to social science</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nominalism</td>
<td>Ontology</td>
</tr>
<tr>
<td>Anti-positivism</td>
<td>Epistemology</td>
</tr>
<tr>
<td>Voluntarism</td>
<td>Human nature</td>
</tr>
<tr>
<td>Ideographic</td>
<td>Methodology</td>
</tr>
</tbody>
</table>

(Source: Burrell and Morgan, 1979, p. 3)

The first assumption, ontology relates to the “very essence” of the phenomenon being investigated; whether that phenomenon or “reality” has an objective existence “out there” in the world external to the investigator (realism) or if it is simply a projection of one’s mind (nominalism) (Burrell and Morgan, 1979, p. 1; Chua, 1986; Dillard, 1991; Laughlin, 1995). Epistemology pertains to the means or way of obtaining knowledge and understanding of the world. Within positivist epistemology, knowledge about the social and physical world is gained through a search for consistencies and causal relationships. The epistemology of anti-positivism (the subjective end of the continuum), on the other hand, rejects claims of objectivity and the notion of a world with underlying regularities and causal relationships; rather it views the social world relativistically. Knowledge or understanding of the social world, for an anti-positivist, rejects the notion that the researcher can or should be a distant “observer” in search of an objective reality. Rather, for an anti-positivist, understanding should occur “from the inside, rather than outside” (Burrell and Morgan, 1979, p. 5; Chua, 1986; Dillard, 1991; Laughlin, 1995). The third assumption is about human nature and is concerned with the role of the investigator and the effects of the environment on him or her and the degree to which he or she can be free-willed. From a positivist view point, human actions are completely determined and they can
be studied like physical objects. The subjectivist approach (non-positivist), on the contrary, postulates that human beings are autonomous and can exercise free will. According to this view, treating and studying people like physical, social-scientific objects is denying “the role of human agency”- the fact that humans are “self-interpretive beings who create the structures around them” (Chua, 1986, p. 604; Burrell and Morgan, 1979; Dillard, 1991; Laughlin, 1995). The final assumption on the subjective-objective dimension is methodology, which relates to the way the social world is investigated. Central to this assumption is the selection of a research method that is considered appropriate for gathering of “valid evidence”, where the “validity” is very much dependent on how truth is defined (Chua, 1986, p. 604). Hence, it can be argued that a position on methodology comes only after a position on other philosophical assumptions discussed above has been taken (Hopper and Powel, 1985). Dillard (1991, p. 12) therefore concludes, “the realist, positivist, deterministic perspective call for nomothetic methodology”, which follows systematic protocol and technique (such as using content analysis, sophisticated quantitative techniques for data analysis gathered through surveys, laboratory experiments). If the other extreme is adopted, the emphasis is on getting the inside experience of individual accounts to understand the social world; in other words, obtaining “first-hand knowledge” about the subject being investigated rather than observing it from a distance “objectively” from an ahistorical perspective to achieve some degree of generalisation (Burrell and Morgan, 1979, p. 6; Dillard, 1991).

The two extreme intellectual traditions on the subjective-objective dimension are German idealism (subjective on all four continuums) and Sociological positivism (objective on all four continuums). However, over the last hundred years or so, intermediate points of view have emerged and they have their own distinctive combination of positions on the four continuums that has led to an evolving body of theory, ideas and approaches. Burrell and Morgan (1979) argue that it is through a clear understanding of the underlying assumptions about the nature of social sciences that these differing points of view can be fully appreciated.

---

26 These are the two extreme positions rather the position taken by this research. However, understanding various philosophical positions or being aware of them is vital for conducting new research and arguing for its strengths and limitations.
Within Burrell and Morgan’s (1979) two dimensional model, the vertical axis encapsulates assumptions about the nature of society—whether the society has inherent inequalities and fundamental divisions of interest that lead to conflicts and a desire to change the social order (sociology of radical change) or whether conflicts are just temporary aberrations of the social equilibrium (sociology of regulation) (see, Table 2: The regulation-radical change dimension). Similar to and along with the “subjective-objective” dimension, Burrell and Morgan (1979) argue that the “regulation-radical change” dimension provides a powerful analytical tool in understanding social theories.

Table 2: The regulation-radical change dimension

<table>
<thead>
<tr>
<th>The sociology of Regulation is concerned with</th>
<th>The sociology of Radical Change is concerned with</th>
</tr>
</thead>
<tbody>
<tr>
<td>The status quo</td>
<td>Radical change</td>
</tr>
<tr>
<td>Social order</td>
<td>Structural conflict</td>
</tr>
<tr>
<td>Consensus</td>
<td>Modes of domination</td>
</tr>
<tr>
<td>Social integration and cohesion</td>
<td>Contradiction</td>
</tr>
<tr>
<td>Solidarity</td>
<td>Emancipation</td>
</tr>
<tr>
<td>Need satisfaction</td>
<td>Deprivation</td>
</tr>
<tr>
<td>Actuality</td>
<td>Potentiality</td>
</tr>
</tbody>
</table>

(Source: Burrell and Morgan, 1979, p. 18)

The two intersecting axes (“subjective-objective” and “regulation-radical change”) with their underlying assumptions, create four “mutually exclusive” (Burrell and Morgan, 1979, p. 25) cells in the model, where each cell represents a specific “paradigm” or frame of reference and offers a unique view of the social world. Burrell and Morgan (p. 22) label their four paradigms as “functionalist”, “interpretive”, “radical humanist” and “radical structuralist” (see, Figure 3) and argue that all social theories can be located within the purview these four paradigms. Further, these paradigms also provide a “personal frame of reference” and help explain “why certain theories and perspectives may have more personal appeal than others” (Burrell and Morgan, 1979, p. 24).
Despite being widely acknowledged as a seminal piece of work for understanding research into the social sciences, Burrell and Morgan’s framework has been criticised for being too rigid, especially for using strict dichotomies (although initially alluding to continuums) and resulting claims of mutually exclusive paradigms, which are assumed to be all inclusive (see Chua, 1986; Willmott, 1993; Hopper and Powell, 1985 for a detailed discussion). It should be noted that despite insisting on mutual exclusivity, Burrell and Morgan (1979) acknowledge varying degrees of influence from one paradigm to another and creating many different schools of thought within a particular paradigm. However, in spite of such variations within, they group together the diverse schools of thought based on their broad allegiance to a particular set of meta-theoretical assumptions pertinent to that paradigm and, more so, in their opposition to those assumptions underlying a different paradigm, thereby keeping the paradigms distinct.

5.3.1 Accounting derivatives of Burrell and Morgan (1979)

Burrell and Morgan’s sociological paradigm model has inspired several accounting specific frameworks or classification schemata as well; most notable among those are the work done by Hopper and Powell (1985) and Chua (1986). Hopper and Powell’s
framework avoids the use of dichotomies and has three perspectives: functionalist, interpretive, and radical, with its interpretive perspective overlapping Burrell and Morgan’s functionalist and interpretive paradigms and its radical perspective overlapping (and combining) Burrell and Morgan’s radical humanist and radical structuralist paradigms respectively. Chua (1986), on the other hand, uses slightly different nomenclature in her framework and claims to be different from Burrell and Morgan (1979) on some key aspects. Her framework avoids mutually exclusive dichotomies, does not claim to be all-inclusive and averts what she describes as the “non-evaluative stance” of Burrell and Morgan (Chua, 1986, p. 605). The three perspectives in her framework are: mainstream, interpretive, and critical (see, Figure 4 for a diagrammatic summary of the frameworks described above).

Figure 4: Burrell and Morgan’s model of sociological paradigms and its Accounting derivatives

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>(No dichotomies, not all inclusive, avoids the “non-evaluative” stance)</td>
<td>(strict dichotomies leading to mutually exclusive paradigms that are said to be all inclusive)</td>
<td>(No dichotomies; but builds directly on Burrell and Morgan model)</td>
</tr>
</tbody>
</table>

Mainstream  
Interpretive  
Critical  

* overlaps Burrell and Morgan’s functionalist and interpretive paradigms

5.3.1.1 **Functionalist paradigm**

Functionalist paradigm is the dominant perspective in accounting (hence dubbed as “mainstream” by Chua) as well as other social science disciplines (Dillard, 1991; Burrell and Morgan, 1979; Hopper and Powell, 1985; Chua, 1986). It has its roots in
the intellectual tradition of sociological positivism that views the social world and human affairs as comprising of “relatively concrete empirical artefacts and relationships” that can be “objectively” studied following the natural science model (Burrell and Morgan, 1979, p. 26). According to this view, there is a clear distinction between the investigator (subject) and the investigated (object). People as objects of study can be analysed and described “objectively” like any other social artefact or entity. Humans whether as objects of study or as the subject (“knower”) are not considered to be constructing the social reality around them simultaneously while investigating or being investigated (Chua, 1986, p. 606). This perspective is committed to maintaining the social order, stability and equilibrium (status quo) and seeks to explain any aberration thereof. Here, the “problem of change” is addressed from a managerial view point, while taking “the wider environment and nature of society as natural and given” (Hopper and Powell, 1985, p. 449).

5.3.1.2 Interpretive paradigm

The interpretive paradigm has its roots in the Frankfurt school of philosophy, “which emphasises the role of language, interpretation, and understanding in social science” (Chua, 1986, p. 613; Burrell and Morgan, 1979). It is concerned with understanding the social world “as it is” through individual, subjective experiences—the focus being “on individual meaning and people’s perceptions of ‘reality’ rather than any independent ‘reality’ that might exist external to them” (Burrell and Morgan, 1979, p. 28; Hopper and Powell, 1985, p. 446). Hence, meanings are drawn from within the context of the object of study from other meanings and interpretations rather than using “a priori” definitions (Chua, 1986, p. 615). Research within this perspective seeks to “enrich” people’s understanding of their actions and that of others through interpretation, and “careful attention to detail”, not by direct observation, “thus increasing the possibility of mutual communication and influence” (Chua, 1986, pp. 614-615; Hopper and Powell, 1985). The aim is not to control or change the empirical phenomena; it is rather to “inter-subjectively” explicate “the very basis and source of social reality” (Burrell and Morgan, 1979, p. 31; Chua, 1986). This paradigm has had an important influence on this thesis. However, it is also the desire of this researcher to have policy implications emerge from this work.
5.3.1.3 *Radical paradigms*

Burrell and Morgan (1979) in their sociological paradigm model, suggest two mutually exclusive radical paradigms: radical humanist and radical structuralist (see, Figure 3). The former aims for radical change from a subjectivist viewpoint. Central to this paradigm is the argument that “ideological superstructures” in the society dominate human cognitive processes and create “false consciousness” in them, inhibiting realisation of their true potential (Burrell and Morgan, 1979, p.32). It challenges the status quo and claims that the existing social arrangements are “anti-human” and must be transcended if human developments are to be made (Burrell and Morgan, 1979, p.32). The latter, on the other hand, aims for radical change from an objectivist standpoint. Rather than looking at individual ‘consciousness’, it focuses on social structures and relationships, including that of power, amongst its various elements in a “realist social world” (Burrell and Morgan, 1979, p. 34). It believes that modern society has “deep-seated internal contradictions” that lead to conflicts and crises, both political and economic, to produce radical change (p. 34), and concludes that human emancipation is only possible through such a change.

Hopper and Powell (1985) in their classification schema (see, Figure 4) reject the use of strict dichotomy to create two radical paradigms in Burrell and Morgan (1979) and argue that the key focuses of these two paradigms- “consciousness” (radical humanism) and “structural analysis” (radical structuralism) are simply the “dialectical aspects of the same reality” (Hopper and Powell, p. 451). Consequently, they regard the subjective-objective dimension underlying Burrell and Morgan’s two radical paradigms as continuous rather than dichotomous.

Chua (1986) supports Hopper and Powell (1985) and argues against having two distinct radical paradigms as well. She classifies (and combines) the two into one and names it as the ‘critical perspective’. In introducing the critical perspective, she exposes several weaknesses of the interpretive paradigm (thereby avoiding the “non-evaluative stance” of Burrell and Morgan, 1979), citing a number of authorities in philosophy and sociology. The key among those weaknesses is the paradigm’s unquestioning stance on the fundamentals of the social environment and the resulting implicit support for the status quo. She illustrates how the critical alternative addresses
such weaknesses by critiquing the ideological constructs of the society that conceal the fundamental conflicts of interest and facilitates domination by seemingly objective social laws- the desire is to bring consciousness of such inconsistencies and injustices and initiate change. Like the interpretive paradigm, critical paradigm is also interested in the role of language and the socio-historical context of the object of study, but rejects the argument that only interpretation *per se* is sufficient. It posits that language itself may become a vehicle for social repression, domination and power, relates to the use of “propaganda” (Turkel, 1980a, p. 22) mentioned in the theoretical framework chapter of this thesis. This concept would be drawn out in later chapters. For a critical researcher, therefore, unmasking various forms and means of domination and their sources, whether ideological or material and their inter-relationships become important in order to bring about change to correct social injustices and inequities (Chua, 1986).

This thesis adopts a critical perspective given its emphasis on the role of language and relationships within a specific socio-economic, environmental, political and historical context and a desire for change. However, where it stands in particular within the critical research tradition can be explained through the framework proposed in Laughlin (1995).

### 5.3.2 Laughlin’s (1995) Middle-Range thinking

Laughlin (1995) takes a different approach to Burrell and Morgan (1979) and other researchers discussed above with regards to the basic philosophical assumptions underlying social science research. Instead of suggesting a paradigm or a direct classification schema using those assumptions, he expresses them in terms of three key choices (see, Figure 2) that have to be made before undertaking any empirical investigation: the choice dimensions being “theory”, “methodology” and “change” at a particular level from three individual continuums (Laughlin, 1995, p. 66). For the sake of simplicity in the discussion, Laughlin identifies three loose levels within each continuum: “high”, “medium” and “low” (Laughlin, 1995, p. 68) and advocates for a “medium” position for all three continuums.
A researcher choosing the “high” level in the “theory” dimension, for example, assumes a generalisable, material world with consistent and causal relationships, where the present study simply fortifies a well-developed theory that has been tested and strengthened through numerous other previous studies (examples in positivist accounting research would include the likes of Ball and Brown, 1968; Jensen and Meckling, 1976 and work thereafter). Hence the focus of the current investigation becomes one of finding support for the “great” theory, rather than delving into the contextual details and diversity (Laughlin, 1995). Choosing a “low” position on “theory”, on the other extreme, denies the existence of a material world and rejects any claims to absolute truth. A researcher adopting this approach on the theory dimension, therefore, does not look for generality or consistent relationships amongst various social elements and events under investigation. In other words, she/ he is not “out there” to find support for or falsify a pre-set theoretical position, an exercise which could potentially distort the current investigation that is essentially unique in its own right. Rather, the current investigation itself renders a theory uniquely relevant for the study, which again may not be transferrable to other empirical investigations for the same reason (Laughlin, 1995). Laughlin (1995) identifies problems in both extremes when applied in the context of a social science study, such as accounting research. By reducing all contextual differences into definable theoretical categories, the “high” position, for example, would ignore the social and contextual nature of accounting (see, Laughlin, 1987, 1995; Burchell et al., 1980, 1985; Dillard, 1991; Hopwood, 1978, 1979, 1983 for discussion) and potentially liken it to a branch of physical science. However, the strength in this approach is the “attempt to learn from across a range of diverse specific instances in a rigorous manner” in its search for generalisation (Laughlin, 1995, p. 83). On the other hand, treating every investigation as completely unique and generating no transferable insight from any is a great weakness of the “low” prior theorisation approach. However, the strength in this approach is in its recognition of the actual details and contextual diversity (Laughlin, 1995). Laughlin (1995) in his argument for the medium position posits that

(t)his respect for detail but also the possibility of learning from other situations through theoretical insights, which is the strength of the “high” position, are preserved in the “medium” perspective on theory. Its design and use of “skeletal” theories, which cannot stand on their own but need empirical “flesh” to make them meaningful and
complete, is a way to preserve both the strengths of the “high” and “low” perspectives while avoiding their respective weaknesses (p. 83).

The “methodology” dimension is closely linked to and preceded by a choice in the “theory” dimension. A researcher choosing a “high” position in the “methodology” dimension will have a “high theoretical definition” for the underlying method of investigation, resulting in limited or no freedom on the part of the researcher to ensure “objectivity” of the investigation process (Laughlin, 1995, p. 67). At the other extreme of the continuum (the “low” position), the researcher is intricately related to and enjoys complete freedom in the investigation process without being constrained by a theoretical stranglehold and is recognized as a perceptive being. The individual difference in the perceptive process is believed to add richness to the study rather than creating a problem, since the goal is not to achieve generality (Laughlin, 1995). The medium position on “methodology” again takes the best aspects of “high” and “low”, while distancing itself from the shortcomings of both. The problem with the “high” position on “methodology” is its rigid design of the investigation process, allowing a few “perceptual categories” in understanding a social phenomenon (Laughlin, 1995, p. 83). However, the strength is in its clarity of design, which the “low” position lacks despite allowing “greater openness in the discovery process” (Laughlin, 1995, p. 84). Laughlin (1995) therefore concludes

(i)n the “medium” position, however, the perceptual rules are made public and clear, but their nature is “skeletal”, encouraging and allowing flexibility and diversity in the discovery process. In this way it is part-constrained and part-free which again is a combination of the strengths of both the approaches while avoiding the weaknesses of both (p.84).

The final choice dimension in Laughlin’s model is “change”. This, according to Laughlin (1995), generally refers to the “attitudes” of the researcher with regards to the condition of the phenomenon being investigated—whether the condition requires a change and if a change can, in fact, be effected or if it should be left as it is (Laughlin, 1995, p. 67). Those adopting a “high” position on “change”, see every situation under investigation in need of improvement and hence requiring a change. However, it is recognized that the researcher may not be in a position to initiate or effect the change.
Those adopting a “low” position on change, on the other hand, find everything satisfactory and “have little problem in maintaining the status quo” (Laughlin, 1995, p. 68). Laughlin (1995) argues that both positions are “untenable and very extreme” (Laughlin, 1995, p. 84) and supports those taking a more strategic approach to “change” in the “medium” position—“open to maintaining certain aspects of current functioning but also open to challenging the status quo” (Laughlin, 1995, p. 68).

5.3.2.1 Positioning this thesis within critical accounting research

As indicated before, this research adopts a critical perspective given its interest in the role of language and contextual relationships in understanding a phenomenon or event. However, within the rich tradition of critical research, which has a number of alternative strands (Hopper et al., 1995), Laughlin’s (1995) three dimensional framework and its primary emphasis on taking a position at the meta-theoretical level commensurate with a researcher’s personal world-view, helps explain how fundamental choices are made prior to undertaking a research project (for example choices with regards to the use of a prior theory, a “tested” methodology). The Laughlin (1995) framework has been used in this thesis to put the current research into perspective- to help position it within broader social science research in general and within critical accounting research in particular. The position of this researcher towards all three key choice dimensions identified by Laughlin (1995) is “medium”. However, the researcher also recognises that regardless of the position chosen in these choice dimensions, it will only provide a partial understanding of the empirical world-a point underscored by Laughlin (1995, 2004).

A “medium” position on the “theory” dimension has been chosen for this thesis because the study does not seek to find support for, or to falsify a theory in a bid to establish some objective or absolute truth nor does it plan to offer a theory from within the case under investigation. Rather it seeks to understand and explain the phenomenon being investigated with a theoretical framework that is essentially “skeletal” (Laughlin, 1995, p. 83) in nature given the character of the phenomenon. The thesis uses Habermasian critical theory (discussed in the theoretical framework chapter) providing the skeleton but being fleshed out (Laughlin, 1995) by addressing environmental issues not originally discussed in Habermas.
This research also takes a “medium” position with regards to “methodology” and the adoption of critical discourse analysis (CDA) as a methodology is commensurate with this position. CDA as a methodology does not provide strict rules, guidelines or protocols for an investigation; rather it sets out some broad philosophical boundaries and intentionally leaves those boundaries as “porous” (Chouliaraki and Fairclough, 2010, p. 1218) for infiltration from and adoption in other disciplines. The researcher adopting CDA is not constricted in her/ his investigations, analysis and interpretations, nor is she/ he completely free to do just any type of discourse or linguistic analysis and call it CDA. The version of CDA this thesis deploys as its methodology is advanced by Norman Fairclough (1992, 2003, 2010) (discussed in detail in the following section). It is argued that Fairclough clearly shows a preference for the “medium” position in the way he delineates reality, social constructivism, context, choice of theory, and choice of methods or methodological protocols within CDA (see, Fairclough, 2010 for a detailed discussion). Therefore CDA, being a branch of critical scholarship and with its emphasis on language and society, is not only a good fit for a “medium” position in the “methodology” choice dimension, it is also a good fit for the theoretical framework adopted in this thesis (see, Wodak, 2001 for a detailed discussion on the influence of the Frankfurt school/ Jürgen Habermas on critical linguistics and critical discourse analysis; also, Laughlin, 1987).

Finally, with regards to “change”, the position of this thesis is “medium”, which the theoretical and methodological framework adopted here would support. This thesis, through the application of its theoretical and methodological frameworks, seeks to explicate the inadequacy of the modified approval process through which the Gunns pulp mill project was approved. In doing so, this research draws attention to the contested nature/ power of financial and economic argument used in dislodging due process. Awareness of how this occurred could influence future policies between public- private arrangements. Overall, the aim is to enhance our understanding and awareness of what goes on behind the scene in the practice of ‘urgent’ decisions in the name of ‘greater’ financial and economic interest so that it becomes difficult to ‘rob’ relevant stakeholders of the due and democratic processes in future.
5.4 Critical discourse analysis (CDA) as a methodology

Critical discourse analysis (CDA) as a critical study of language has established itself as a distinct and burgeoning discipline within the broader critical social scholarship over the last two to three decades (Wodak and Meyer, 2009; Billig, 2003; Chouliaraki and Fairclough, 1999; Fairclough, 2010; Leitch and Palmer, 2010). With the remarkable growth of the field and it being “more institutionalised” over the years, CDA has spread to a “great many” new disciplines and areas of study (Fairclough, 2010, p. 10). This has been possible because of one of the central tenets of CDA is to be a form of interdisciplinary, or as Fairclough (2010, p. 4) prefers to call it, “transdisciplinary” analysis by being “purposefully porous and integrationist” in its theoretical and methodological orientation (Chouliaraki and Fairclough, 2010, p. 1218; Wodak and Meyer, 2009). The reason for taking such a transdisciplinary approach has been to better understand and analyse the complex and “multifaceted” relationships between language and society from various angles and “points of entry” (Wodak, 2001, p. 8; Fairclough, 2010, p. 5; Wodak and Meyer, 2009).

While various forms of discourse analysis have been introduced and used by critical accounting researchers in the recent decades, CDA has been relatively less common in the critical accounting literature (notable exceptions include, Gallhofer et al. 2001; Craig and Amernic, 2004; Llewellyn and Northcott, 2005; Laine, 2005; Cortese et al., 2010; Merkl-Davies and Koller, 2012) and promises interesting insights into the role of accounting and related discourse in shaping outcomes (in a decision context).

Before investigating CDA, it is important to understand what discourse is, what is meant by an analysis of discourse, how the critical analysis of discourse or CDA is different from other forms of discourse analysis and traditional linguistic analysis. Unfortunately, yet unsurprisingly, there is no single definition of the term discourse and it is used differently in different research disciplines, academic cultures, and by different researchers even within the same discipline or culture (Fairclough, 1992; Weiss and Wodak, 2003; Wodak and Meyer, 2009). Discourse in linguistics can be defined from the narrow end of “extended samples of spoken dialogue” to include both written and spoken forms of language with an emphasis on the interaction amongst its users at various levels to produce and interpret the instances of language use in a given
context or social situation (Fairclough, 1992, p. 3). *Discourse* in social theory, on the other hand (following Foucauldian tradition, for example), refers to “different ways of structuring areas of knowledge and social practice” (Fairclough, 1992, p. 3). Knowledge here includes all contents (current and historical) that make up one’s consciousness to “interpret and shape the surrounding reality” (Jager, 2001, p. 32). *Discourse* in this case is not just representational (of social entities and relationships), it is also constitutive (Fairclough, 1992; Jager, 2001). It is this aspect of discourse that will be valuable in this thesis, particularly in the explication of discourse between the corporation and the government.

Within CDA, *discourse* is conceived in light of both of the above views and language use as *discourse* is investigated in a “social-theoretically informed way, as a form of social practice” (Fairclough, 2010, p. 92; Fairclough, 1992), where the “context of language use” is considered critical (Wodak and Meyer, 2009, p. 5; Leitch and Palmer, 2010; Meyer, 2001). It is the inclusion of the context in the analysis that differentiates between any form of discourse analysis and traditional linguistics (Leitch and Palmer, 2010). Fairclough and Wodak (1997, p. 258) clarifies CDA’s view of *discourse* further and hints at the foci of analysis in CDA as follows.

CDA sees discourse- language use in speech and writing- as a form of ‘social practice’. Describing discourse as social practice implies a dialectical relationship between a particular discursive event and the situation(s), institutions(s) and social structures(s), which frame it: The discursive event is shaped by them, but it also shapes them. That is, discourse is socially constitutive as well as socially conditioned- it constitutes situations, objects of knowledge, and the social identities of relationships between people and groups of people. It is constitutive both in the sense that it helps to sustain and reproduce the social status quo, and in the sense that it contributes to transforming it. Since discourse is so socially consequential, it gives rise to important issues of power.

In summary, the objective of any discourse analysis is not just the analysis of discourse *per se* but an examination of discourse as part of the related social and cultural practice. The way CDA is different to other forms of discourse analysis is through its critical ‘lens’, its emphasis on *transdisciplinarity* (see Fairclough, 2010, p. 418) and its focus of analysis being the dialectical relations between discourse (i.e., “discursive practices, events and texts”, Fairclough, 2010, p. 93) and power, domination, inequality and
ideology in the social processes and social change (Fairclough, 2010; Meyer, 2001; Van Dijk, 1993). Such dialectical relationships are often opaque and beyond conscious awareness and such opacity can itself be a “factor securing power and hegemony” (Fairclough, 2010, p. 93). A project of CDA starts with a “real” social problem and explores the role of discourse in the production, reproduction and sustenance of dominance, power abuse and inequality (Van Dijk, 1993, p. 252; Van Dijk, 2001a, 2001b; Fairclough, 2010). It is these potentialities that makes CDA so relevant to this thesis and will be explored in the subsequent chapters. In doing so, CDA hopes for change and emancipation in human life (Fairclough, 2010; Van Dijk, 1993) and this hope is reflected in the potential for change arising from this thesis on future policies by government about the role of corporations and the environment. It needs to be noted however, that despite having broader agreements on the constituents, mechanisms and goals of CDA, there is no singular approach in doing critical discourse analysis. Existing approaches within CDA include the discourse-historical approach, the corpus linguistics approach, the social actors approach, dispositive analysis, the socio-cognitive approach and the dialectal-relational approach (see Wodak and Meyer, 2009 for a detailed discussion). In brief, the discourse-historical approach has a low emphasis on understanding through the use of social theories; rather a historical analysis of context is preferred. The corpus linguistics approach provides a supporting method rather than much conceptualisation of core CDA tenets. It can be argued to be a quantitative-linguistic extension to CDA. The social actors approach focuses heavily on the role of individual action to establish social structure (practice, in essence, underlies any representation). Dispositive analysis denies the existence of any social reality outside of the discursive (Wodak and Meyer, 2009). The Socio-cognitive approach introduces a cognitive dimension to the analysis of context: how individual interpretations rely upon the “collective frames of perceptions” (Meyer, 2001, p. 21) of a social group.

For the purpose of this research within the domain of the critical perspective, a socio-theoretical understanding of the problem being studied within multiple contexts (not only understood in historical sense, since the multiple contexts- the corporation, government and lobby groups are adjudicated/ understood using theory) is really important. Indeed “the explanatory power of a theory and an analysis informed by it
contributes to its capacity to transform aspects of social life” (Fairclough, 2010, p. 9; Weiss and Wodak, 2003). It is essential to clarify that the position of the researcher in this thesis is a “critical realist” one (Fairclough, 2010, p. 4; Laughlin, 1995, 2004); i.e., there is an existence of an empirical/natural world independent of the social construction of it through various discursive processes. There is no denial that the world is socially construed and constructed (Fairclough, 2010; Burrell and Morgan, 1979) but an extreme position on constructivism is avoided, where one could completely deny the existence of a reality outside the discursive processes and claim that ‘reality’ is nothing more than a projection of one’s mind (thus, this thesis alludes to a middle-range position in terms of social constructivism). This thesis also avoids any quantitative research method like *content analysis* or even the corpus linguistics approach within CDA. It is the belief of the researcher that adopting such approaches will not be appropriate for the complex events and issues involving many different players within multiple contexts and discourses being investigated in this research. CDA, unlike *content analysis* (see Neuman, 2011 for a discussion), is able to recognise the significance of the contents: it can recognise texts and symbols with complex and multi-layered meanings including the iterative process that takes place between the layers and wider social practices (Fairclough, 2010).

This thesis adopts the dialectical-relational approach advanced by Fairclough, one of the most influential and commonly cited discourse theorists in the CDA literature (Leitch and Palmer, 2010; Billig, 2003). According to Fairclough (2010), CDA has three basic properties: “it is relational, it is dialectical, and it is transdisciplinary” (p. 3). By *relational* he means that the primary focus of research should be on social relations rather than individuals or entities. However, he also warns that social relations are very complex and multi-layered and include “relations between relations” (Fairclough, 2010, p. 3). This aspect of CDA will be drawn on to understand the complex relations between and within the corporation and the government. To explicate this further, he explains why, for example, *discourse* cannot be defined individually as some kind of an “object” or “entity” except “in terms of both its internal relations”, which in itself is intricately built on relations of communication—the numerous ways people communicate with each other, the way they use “more abstract and enduring” discursive elements like languages and genres and “external relations”
with other complex “objects” including those “in the physical world, persons, power relations and institutions, which are interconnected elements in social activity or praxis” (Fairclough, 2010, p. 3). Discourse, in essence, brings meaning and helps make meanings to these complex social relations that constitute social life (Fairclough, 1992, 2010). Fairclough goes further to justify why discourse cannot be defined as a distinct object. In his view, the relations between discourse and other ‘objects’ are dialectical, where they are different from each other but not “fully separate” or “discrete” (Fairclough, 1992, 2010, p. 4). Fairclough (2010) gives the example of power and discourse: the power relations between people in the government of a modern state and the rest of the population are “partly discursive” in nature since that helps to sustain the legitimacy of the state and the government. However, state power also includes use of force. Hence, power is not all about discourse and discourse is not all about power: "they are different but not discrete, they flow into each other” (Fairclough 2010, p. 4). Fairclough (1992, 2010) therefore concludes that all such ‘objects’ that constitute social reality can only be analysed in terms of their dialectical relations with others rather than on their own, and, because such relations would often cut across traditional boundaries amongst disciplines, CDA must be an interdisciplinary form of analysis, or as he prefers to call it, a “transdisciplinary” form of analysis (2010, p. 4).

The analysis of discourse in CDA is critical in nature, highlighting the gap between what a society and/ or any of its institutions claim to be and what they really are and how the situation could be changed (Fairclough, 2010, p. 7). It seeks to expose in “non-obvious ways” the potency of language as discourse, “conceived as one element of the social process dialectically connected with others” such as power/ domination and ideology in social structure and praxis (Fairclough, 2010, pp. 418, 304). The goal is to explore through such often opaque dialectical relations and show how domination, ideology, exploitation, and dehumanisation of people are firmly rooted in socio-economic systems and how contradictions within such systems can create opportunities for an emancipatory change (Fairclough, 1992, 2010). In this light CDA shares the tradition and concerns of critical accounting research in particular and

---

27 For example, the process of approval and derailment thereof- the problem handled in the thesis and discussed in the subsequent or later chapters
critical social science research in general, and makes it an appropriate methodology to study social problems.

CDA has been chosen in this research for its strength as a methodology to ‘shed light’ on a very complex set of discourses at different levels and contexts involving a ‘real life’ issue that has divided the Tasmanian community for a number of decades now (whether Tasmania can have a pulp mill that is also environmentally sound since the experiences in the late 1980s discussed in the introduction of this thesis). It is important to clarify here that CDA is conceived, for the purpose of this thesis, as a methodology rather than a method, since analysis in CDA is not just about applying some “pre-established” methods, rather it is a “theory driven process” to construct objects of research, with underlying “researchable research questions” (Fairclough, 2010, p. 5, Bourdieu and Wacquant, 1992). It is also urgent to recognise the philosophical nature of this methodology and not expect a universally accepted, “mechanical” or “strict methodological procedure” in research projects applying CDA (Fairclough, 2010, p. 234; Laine, 2005, p. 400). In fact, such an approach is highly discouraged (see Chouliaraki and Fairclough, 2010).

5.4.1 The three dimensional framework in CDA

This thesis uses Fairclough’s (1992, 2010) three dimensional framework of analysis for analysing and interpreting the discursive events that signify the problem being studied. It brings together three “analytical traditions”- textual and linguistic analysis, macrosociological analysis, and microsociological or interpretivist analysis under one umbrella (Fairclough, 1992, p. 72). The aim is to deconstruct related discourse across its three dimensions: “it is a spoken or written language text, it is an instance of discourse practice involving the production and interpretation of text, and it is a piece of social practice (Fairclough, 2010, p. 94) (emphasis in original). These three dimensions of discourse are closely interlinked (see, Figure 5). One does not talk about formal features of a text without some reference to its production and/or interpretation (i.e., the discourse/ discursive practice). Similarly, how one produces, consumes, distributes and interprets a text is influenced by how he or she conceives it on the basis of shared socio-economic, politico-historical and other contextual structures and conventions (i.e., social practice). Therefore, Fairclough (1992, p. 71)
concludes, “(i)f being an instance of social (political, ideological, etc.) practice is one dimension of a discursive event, being a text is another”- the text being the linguistic manifestation of discourse practice. However, it needs to be noted that discourse/discursive practice and social practice are dialectically inter-related; meaning one influences or flows into the other without being reducible to each other (Fairclough, 1992, 2010). While discourse practice contributes to “reproducing society” (i.e., social relationships, norms), it also contributes to “transforming” it (Fairclough, 1992, p. 65) by creating new “situations, objects of knowledge, and the social identities of relationships between people and groups of people” (Fairclough and Wodak, 1997, p. 258). Recognition of this dialectical relationship between discourse practice and social practice forms the core of the analyses of various discursive events and texts featuring the Gunns pulp mill case in this thesis. It is also one of the key features of Fairclough’s version of CDA.

Figure 5: Fairclough’s three dimensional framework for CDA

(Based on Fairclough, 1992, p. 73)

To further guide the process of analysis, some methodological protocols suggested by Leitch and Palmer (2010) are utilised, whereby for the purpose of this research, some
conceptual definitions are clarified, decisions with regards to selection and analysis of texts or data, contexts and discourses are discussed.

5.4.2 Defining discourse, text and context

For the purpose of this thesis, discourse is defined in two ways following Fairclough (2010). As an abstract noun, discourse is defined as “language use conceived as social practice” (Fairclough, 2010, p. 95), that is, “language as discourse” is “understood as an element of the social process which is dialectically related to others” (Chouliaraki and Fairclough 2010, pp. 1214). The discussion in the preceding sections elucidates this dialectical process. As a count noun, discourse is defined as a “way of signifying experience from a particular perspective” (Fairclough, 2010, p. 96). Relevant examples for this research include legal and political discourse, financial discourse, economic discourse etc. Discourses were identified in Gunns’ case from the statements made and positions taken by various key players with regards to the establishment of the mill. There were continued or recurrent emphasis on certain themes in the public sphere that helped identify the discourses at play. Publicly available documents such as Parliamentary Hansards; Pulp mill newsletters; RPDC’s annual reports, media statements and directions hearing transcripts; Gunns’ draft integrated impact statement (DIIS), annual reports and special publications; public submissions, newspaper ads and media statements from the pro-pulp mill lobby groups and the anti-pulp mill conservation movement; and public submissions from the general public were all important sources of data and represented the public sphere in the pulp mill case in a Westminster system. Discourses were drawn from this public sphere. Chouliaraki and Fairclough’s (2010, pp. 1215-16) observation regarding how such discourses emerge is interesting and relevant for this research.

Discourses emerge as particular ways of construing (representing, interpreting) particular aspects of the social process that become relatively recurrent and enduring and which necessarily simplify and condense complex realities, include certain aspects of them but not others, and focalize certain aspects whilst marginalizing others. Many aspects of the social process are construed in different ways in different discourses; certain discourses endure longer than others, are taken up and accepted by more people, and thus achieve varying measures of dominance over others, and may become hegemonic (Chouliaraki and Fairclough, 2010, pp. 1215-16)
In defining and analysing the discourses, this researcher was guided by the above definition of discourse and also looked at both their “internal relations” and “external relations” following Fairclough (see, Fairclough, 2010, p. 3). To define, understand and analyse financial discourse, for example, one needs to delve into its “internal relations” that are intricately built on ‘enduring’ relations of human communication (Fairclough, 2010, p. 3) that often allude financial discourse to being ‘important’, ‘necessary’, ‘objective’, ‘real’, ‘tangible’, and ‘concrete’ (see, Richardson, 1987; Robson, 1992; Boyce, 2000) as well as its “external relations” with complex “objects” including those “in the physical world, persons, power relations and institutions” (Fairclough, 2010, p. 3) such as corporations, their shareholders, corporate profitability/ shareholder gains, related government institutions, and tax revenues generated. The current research into the Gunns’ pulp mill case will reveal that the financial and economic discourses have been focalised, while marginalising other interests and arguments. As an example, and to pre-empt the discussion to be taken place in later chapters, when Gunns complained about assessment delays and connected this with negative financial impacts on its business, internally the discourse related to the firm’s financial continuity, while externally it related to mounting pressure on the government to fast-track the assessment process, since clearly the government did not want to risk losing the project. This would make the government more accommodating of Gunns’ needs. So, the financial discourse surrounding delays could mean cost blowouts from the perspective of the proponent, but it could also mean overriding environmental regulations and ignore other lobby groups by the government. Therefore the financial discourse was used by both Gunns and the government. The financial discourse was couched by Gunns and the government and ended up being hegemonic; but the government also seemed to accept the hegemony which is why the issue was contested by the public (through media and protests).

28 Each month’s delay was equated to an increase in project’s cost by $10 million
29 The pro-pulp mill lobby’s and government’s economic discourse played a significant part here since, like financial discourse, the economic discourse can also be understood through ‘internal relations’ and ‘external relations’ with other objects and activities such as ‘economic growth’, ‘low unemployment/job creation’, ‘more economic activities/ spending’, ‘wealth creation’, ‘government tax revenue’, ‘government spending/ building infrastructure’ etc.
Text, on the other hand, is defined as an “actual instance of language in use” (Fairclough, 2003, p. 3), such as, “the written or spoken language produced in a discursive event” (Fairclough, 2010, p. 95).

Finally, context can be defined in many different ways and argued to be an under-theorised area within CDA (Leitch and Palmer, 2010). In terms of emphasis on the broader dimensions of context, CDA theorists can broadly be divided into two groups—one placing more emphasis on the human psychological or cognitive dimension of context- the “inner world” from which discourse emanates, while the other one places more emphasis on the “outer world” such as context as time, space, practice, change, etc. (Leitch and Palmer, 2010, p. 1197; Meyer, 2001; Marshak et al, 2000). The former is argued to lack enough empirical research within CDA; however, a growing body of related literature in other fields such as cognitive neuroscience, artificial intelligence can be identified (see, Leitch and Palmer, 2010 for a discussion). The former is not within the ambit of this research, as no interviews were conducted as part of this research. The latter, outer world, on the other hand, has been the most common focus of CDA research, being greatly influenced by Norman Fairclough (Leitch and Palmer, 2010). Fairclough’s (1992) three-dimensional model (adopted in this thesis and discussed in the preceding subsection) shows the crucial role of context in its three layers of analysis (Leitch and Palmer, 2010). It is important to note though, that both groups recognise the importance of the other. Theorists who argue for more research into the cognitive dimension of context acknowledge that context cannot simply be reduced to this dimension, while theorists in the other tradition (context as ‘external’) recognise the individual differences in the cognitive process of interpreting a text and underlying social reality and that there could be more than one interpretation of the same text as a result (Leitch and Palmer, 2010; Fairclough, 1992; Van Dijk, 1997). However, in recognising the individual differences in creating differentiated “mental maps” of the social order, Fairclough (1992) argues that these mental maps are “shaped in ways” by “social structures, relations of power, and the nature of the social practice they are engaged in”, of which social members “are usually unaware” (pp. 82, 72). Chouliaraki and Fairclough (2010, p. 1215) conclude,

context should be best conceptualized as itself an epistemic object, dialectically arising out of the multiple ways by which CDA
problematizes language as an instrument of power, rather than as a constitutive dimension of CDA epistemology that can, in itself, become the focus of methodological reflexivity (Chouliaraki and Fairclough, 2010, p. 1215).

There is another interesting dimension of the theoretical discussions of context: text-context differentiation, recognising that there are general texts and texts that signify contexts (see, Leitch and Palmer, 2010 for a detailed discussion); contexts are in danger of being obfuscated when everything is defined as text. At the other extreme, there is concern for reification of context and not making it subject to analysis. Context is essentially an abstraction which may not be reified nor reduced to text (Fairclough, 2005). Chouliaraki and Fairclough (2010), therefore, strongly warn against “tight definitions” (p. 1214) of context and thereby treating context as a separable, discrete element (rather than a dialectical element) of CDA as ‘manifestly’ done (according Chouliaraki and Fairclough, 2010) in Leitch and Palmer (2010), although the intention of Leitch and Palmer (2010), as understood by this researcher, has been to bring methodological clarity within CDA studies.

To reiterate, this research recognises the concern of Chouliaraki and Fairclough (2010) as to how context has been identified and treated in Leitch and Palmer (2010), but it also acknowledges the contribution made by the latter in bringing some of the methodological shortcomings of current CDA studies (including context) to light. Through the application of the three layers advanced by Fairclough (1992) and the explicatory power of the theory of legitimation, it will be demonstrated in this thesis how the same action/inaction was interpreted and acted upon by different players in different ways in the Gunns case. This thesis uses Leitch and Palmer’s (2010) classification framework for context, but does that only to bring attention to possible contexts in the Gunns pulp mill case (see, Table 3: Gunns pulp mill: possible contexts, a populated version of which can be found in the Appendix 1). The goal here was not to anticipate the analysis using this classification framework and treat context as a “discreet” element, but to bring awareness of various contextual elements (that are dialectically related to other aspects of CDA) that might be of significance. Of course, as a dialectical element of CDA, context will have to be “established” and seen as emerging through and out of an analysis within a specific research question, investigating into specific discursive events (Chouliaraki and Fairclough, 2010, p. 91).
1215), which is done in this thesis through the Introduction, Background and Social Practice chapters.

### Table 3: Gunns’ pulp mill: possible contexts

<table>
<thead>
<tr>
<th>Context as</th>
<th>Sub-category</th>
<th>Definition and possible examples from Gunns pulp mill case</th>
<th>Examples of data source to create context</th>
<th>Discussed in (chapter number)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Space</td>
<td>Organisational</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Situational</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Institutional</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>National</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Multi-spatial</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time</td>
<td>Past events</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Practice</td>
<td>Professional</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Socio-cultural-economic-political</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Ideological</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Change</td>
<td>Process</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(Classification schema adapted from Leitch and Palmer, 2010)

#### 5.4.3 Data choice and selection for analysis

As discussed before, the major domain of CDA research is social problems resulting from unequal power relations, social discrimination, alienation, injustices, with a particular emphasis on bringing about emancipatory change (Fairclough, 1992, 2010; Meyer, 2001; Van Dijk, 2001a, Wodak, 2001). Therefore, a CDA research project would generally start with a “real” social problem (Van Dijk, 1993, p. 252). Leitch and Palmer (2010) suggest that CDA researchers must establish that their data choices are clearly influenced by the significance of the social problem being studied.

The broader social problem being studied by this research is the dominance of economic and financial discourse over the ecological; and the creation of seemingly objective legal and institutional structures to facilitate/ rationalise that dominance. The
specific instance studied to enhance our understanding of the dominance of the economic and financial perspective is the Gunns’ pulp mill assessment process in the State of Tasmania in Australia.

The sources of empirics, therefore, in this case include publicly available documents, such as, documents produced by the corporation, Gunns Ltd., for the assessment process and for public information (i.e., the integrated impact statement, other pulp mill related special publications); documents produced by the Resource Planning and Development Commission (RPDC)- the assessment authority in guiding the assessment process at various stages; public submissions to RPDC’s draft guidelines and the pulp mill’s draft integrated impact statement (DIIS); relevant legislations; Ministerial direction to RPDC; and Parliamentary Hansards to capture the essence of the enormous political debate the project generated on the floor of parliament and to identify the rationale put forward for the changes made in the existing legislations and introduction of a new one to facilitate the approval of the project. Some reports and direct quotes in major newspapers were also considered to capture some of the debates and discussions off the floor. All the empirics/ data were publicly available online for a number of years after the pulp mill approval through the websites of the RPDC, local councils, the corporation Gunns Ltd., and major newspapers/ news channels (TV/ online). Additionally, all the Hansard data remain available through the archive of the Parliament of Tasmania; statistical data through the archive of Australian Bureau of Statistics (ABS); and relevant Acts in original and modified forms through Tasmanian Legislation online (Official Tasmanian government website for all Tasmanian legislation in as made and consolidated forms). All relevant data (i.e., data used in this thesis) were downloaded onto the hard and network drives of the researcher’s work computer. Table 4 summarises the main data sources.

---

30 In addition to public submissions and directions hearing transcripts. It needs to be noted here that the newspapers were not a major source of empirics in this research, because news media study is a different kind of discourse analysis altogether and is beyond the purview of this research.
This research involved sifting through more than 1000 pages of Hansard data (see Table 11 for a breakdown); more than 2000 pages of public submissions to RPDC (see, Table 16 for details); more than 1500 pages of various publications from Gunns that included parts of its DIIS, Chairman and Chief Executive’s reviews in annual reports, Gunns’ advices to Australian Securities Exchange (ASX), special summary reports for the public describing the pulp mill proposal and the mill’s potential benefits; all relevant State and Commonwealth (i.e. Federal) legislations, agreements and frameworks exceeding 100 pages; more than 400 pages of RPDC’s own publications such as guidelines for the preparation of integrated impact statement (IIS), its Directions Hearing transcripts, annual reports for Executive Commissioner’s overviews, its media statements and advertisements, and parts of its consultants’ reports on Gunns’ DIIS; other miscellaneous documents spanning over 500 pages from various sources including pulp mill newsletters from the pulp mill task force (PMTF); news clippings from major local and national newspapers and electronic media (Australian Broadcasting Corporation’s ABC News Online), transcripts of ABC television’s news and current affair programs Lateline, Four corners, Landline and

<table>
<thead>
<tr>
<th>Who</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State</strong></td>
<td></td>
</tr>
<tr>
<td>Government</td>
<td>Parliamentary Hansards</td>
</tr>
<tr>
<td></td>
<td>Ministerial direction</td>
</tr>
<tr>
<td></td>
<td>Tasmanian Legislation</td>
</tr>
<tr>
<td>RPDC</td>
<td>Final scope guidelines for IIS</td>
</tr>
<tr>
<td></td>
<td>letters to Gunns</td>
</tr>
<tr>
<td></td>
<td>Directions Hearing transcripts</td>
</tr>
<tr>
<td></td>
<td>Annual reports, media statements</td>
</tr>
<tr>
<td>PMTF</td>
<td>Pulp mill newsletters</td>
</tr>
<tr>
<td>ABS</td>
<td>Demographic, economic and historical accounts</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Gunns</strong></th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>DIIS</td>
</tr>
<tr>
<td></td>
<td>Annual reports</td>
</tr>
<tr>
<td></td>
<td>Pulp mill special publications (fact sheets)</td>
</tr>
<tr>
<td></td>
<td>Advices to ASX</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Other stakeholders</th>
<th>Sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lobby groups</td>
<td>Public submissions, newspapers ads</td>
</tr>
<tr>
<td>Green groups</td>
<td>Public submissions, media releases</td>
</tr>
<tr>
<td>General public</td>
<td>Public submissions</td>
</tr>
</tbody>
</table>
7:30 Report; reports from the ABS; publications/ reports from relevant government departments (both state and federal).

Of the data sources listed above, the two most difficult ones to get through were Tasmanian parliamentary Hansards and the ABS, as both were repositories of vast amount of data and searching through them was extremely time consuming. Within Hansards for example, key words such as ‘resource management’, ‘planning system’, ‘Gunns’, ‘pulp mill’, ‘pulp mill guideline’, ‘pulp mill panel resignation’, ‘pulp mill withdrawal’ and ‘pulp mill assessment bill’ were used amongst others. Time parameters were used by ticking off years 2003 to 2007 in search condition boxes. The results were then carefully sorted as per sessions and dates so that the full debate (of a bill) or a complete question-answer session was captured. After this arrangement, finding Hansard of any missing session was easier.

It is to be noted here that some data helped create the context within which others were analysed. For example, from the wide ranging debates and discussions with regards to a particular bill, a context can be recognised within which particular sections of the bill can be analysed in light of the discussion/ context created. The same analysis is enriched when connections are made with wider contexts, such as Tasmanian history of economic development, political processes, demographics, and interactions are recognised amongst various players/ agents. It also needs to be noted that no interviews were conducted for this research because of the potential difficulty of access and availability of time. However, and more importantly, interviews were not regarded as vital as a source of data since this thesis is about public discourse where transparency issues were looked at in a Westminster system not parleys behind closed doors. Interviews would make a different kind of study which was not within the ambit of this study even though the public sphere (Lehman, 2001; 2010) was important here. This case had been such a highly pursued public affair in Tasmania and nationally that ample primary data implicating and representing the key players already existed in the public sphere.
5.5 Overview of the application of CDA

Not everything in this massive case can be traced and explained. Events for analysis in this thesis were identified by their direct relevance to the pulp mill assessment process. For example, changes in the assessment process after the Gunns’ proposal had been in discussion were highlighted. Also included for analysis were issues raised by the corporation and how the government responded to them or vice-versa. Recurrent events or events being referred to over and over were noted and considered to be key events. To summarise, the key events and related incidents (public or made public later) in each of the steps of the pulp mill assessment process were captured (see, section 2.5.2.1 Key dates and events in the assessment process in chapter 2 and Table 5 at the end of this chapter). Events that were not directly relevant to the assessment process, albeit related to the building of the pulp mill, were not included in the analysis. For example, government activities as early as June 2005 (see, PMTF, 2005b) to prepare the local businesses to take advantage of the pulp mill during the construction and operational phases were not included for analysis even though they potentially showed the government’s proactive position in advancing and promoting industrial development projects before their approval.

The three dimensional framework in CDA has been used to extract and organise relevant data from the vast array of data available in the public domain on this case. A discourse in a discursive event needs to be disaggregated into its components (that essentially constitute the three layers of analysis under this framework) thereby suspending inter-related aspects for the time being since the three components in effect take place simultaneously. For the purpose of three tiered discourse analysis, it is “(the) written language text, it is an instance of discourse practice involving the production and interpretation of text, and it is a piece of social practice” (Fairclough, 2010, p. 94) (emphasis in original), offering a framework which is effect imposed, but creates different levels of perspectives through which it is possible to understand an instance of language use (in this thesis, written) given its source (who used it), circumstances within which it is used (in which social setting/contexts and how that influenced it) and its effect back on the contexts (i.e., how it affected/changed the social setting/contexts). To explicate further, text is the remains of a discursive event. A discourse analysis involves working backwards to investigate the production and interpretation
of this text (called discourse practice) by interacting social players/agents. The process leads to recognition of other texts including those texts that signify contexts, through which a text can be fully understood. However, a context in CDA is not taken-for-granted, rather subjected to analysis by looking at its evolution and relationships with other related contexts from a historical perspective. This means there could be a context to a context.

As indicated earlier, in Fairclough’s (1992, 2010) version of CDA, the text is first analysed from a linguistic perspective (i.e., a textual and linguistic analysis is undertaken). However, in this thesis there was some departure from this step for a number of reasons. Firstly, this researcher is not formally trained in linguistics. The researcher’s formal training and experience as an accountant in the industry and in the academia along with the knowledge of the extant social and environmental accounting literature guided the researcher in the linguistic analysis of the texts to the extent possible given the theoretical lens adopted in this thesis. Secondly, the vast amount of texts that were handled as part of this research over a period of time rather than just a particular event, were not suitable for detailed textual analysis of every text. More importantly doing this would add little value to the overall analysis as the focus of the analysis was to examine the legitimation of the government activities and those of the corporation on a broader, societal level. However, key pieces of texts such as the instrument through which modification was made in the existing assessment regime (after Gunns’ pulp mill had been proposed) and the new legislation introduced to set up a separate pulp mill assessment process altogether (after Gunns had abandoned the established RPDC assessment) were scrutinised in detail to look for words/expressions/clauses that potentially left ambiguity in the assessment process or systematically created contradiction with the stated objectives of Tasmania’s Resource Management Planning System (RMPS) to perpetuate pro-development bias in general and benefit the corporation Gunns Ltd. in particular in the pulp mill assessment case. A conclusion to the textual analysis such as the one above cannot be drawn without an analysis and clear understanding of the relationships amongst interacting social players in a discursive event given their background and the social practice that influenced them. The process is explicated below.
In CDA, the textual/linguistic analysis is supplemented by a further analysis into the production process of the text. This triggers identification of the social agents/players involved in the production process and how the production of the text was influenced by their socio-economic, political and ideological background along with their affiliation, connection and relationships with other social players and structures—thus reflecting the norms, customs and formal legal milieu of the existing social setting (i.e., social practice). Social practice (the broadest level/layer in the framework) refers to the shared socio-economic, politico-historical and other contextual structures and conventions within which the discursive event takes place. Fairclough (2003) summarises social practice as “articulations of different types of social element [sic] which are associated with particular areas of social life” (p. 25). These social elements are dialectical in their inter-relationships, include “action and interaction, social relations, persons (with beliefs, attitudes, histories etc.), the material world and discourse” (Fairclough, 2003, p. 25). Discursive events that led to the state level approval of the Gunns’ pulp mill were shaped by networks of social practices that also included causal powers of social agents (Fairclough, 2003), briefly identified in Table 5 in this chapter and discussed in more detail in the social practice (next) chapter31. However, the way the social agents exercise themselves is partly shaped by various dialectically related social elements that constitute their social life and shape their experiences via “collective frames of perceptions” (Meyer, 2001, p. 21) of a social group. Consequently, it can be seen that the social practice layer is not taken-for-granted in CDA. Rather, a critical analysis of this layer helps reveal how it influences the social players in “reproducing society” (Fairclough, 1992, p. 65). For perceivable reasons, therefore, the analyses of the social setting are not based on a snapshot of the relevant event and the time of the event. Rather, they are built on a historical perspective to better understand the accumulated social knowledge and conventions that influence a particular discourse.

In line with the above, to bring clarity into the analysis, social practice elements in the Gunns’ pulp mill approval case are analysed and discussed in two steps—ones that provide the broader social setting within which others that provide more immediate

31 Table 5 can also be used as a point of reference (providing timeline of the key discursive events and the players involved) while perusing through chapters 6, 7 and 8.
structures guiding the pulp mill assessment process. The first step involved a detailed analysis of ‘indirect’ social practice elements such as the state of Tasmania’s politics, socio-economic history and culture, as well as the past development events, which were presented in the introduction and background chapters. They will be reconsidered in the later chapters to inform the social context of the approval process and make connections with ‘direct’ social practice elements and other CDA layers. The ‘direct’ social practice elements in the second step include the critical examination of the legislative context for assessments of development projects in the State of Tasmania, which includes the process of assessment in a project of state significance (POSS), the formation and function of the body (i.e., RPDC) assessing a POSS, and the identification and assessment of key players involved. The analysis of the broader social setting, providing a context to the context, helps explain how the existing pulp mill assessment regime came about through a discursive process.

The two paragraphs above explain the production process of the text and how it is influenced by the social practice. But at the same time, how this text (or many earlier versions/iterations of it) is interpreted by other social agents involved in the discursive event is influenced by the concerned social agents’ background and accumulated social experience. The production and interpretation of text (i.e., discourse practice) is an iterative process in a discursive event that finally lead to an outcome, situation or new social identities and relationships between various social structures (Fairclough and Wodak, 1997) thereby affecting/transforming existing social practice (Fairclough, 1992). Hence, discourse practice and social practice are not just related, they are dialectical in their relations, affecting and informing each other, in an ongoing discursive process (Fairclough, 1992, 2010). This transformative process is evident in the enactment and modification of the POSS assessment regime, and also in the establishment of a separate assessment process for the Gunns’ pulp mill, discussed in Chapters 6 and 8. While years of assessment failures, activism and awareness building led to the gradual transformation (effect of the discourse practice process) of the legal context (a social practice element), it can also be appreciated how often these legal structures were bypassed by the key government players as part of their long held

32 This direct-indirect dichotomy is not from Fairclough. Rather, it has been devised in this thesis to organise the contexts in the Gunns pulp mill case across multiple chapters.
belief and view that economic development must be prioritised - an instance of reproducing the society (effect of social practice), thus demonstrating the dialectical nature of discourse practice and social practice.

It is important to note here that the whole research went through an iterative process itself- reading and re-reading the data multiple times and not in any sequential order. By the time this research was initiated, the pulp mill was already approved at the state level through a special Act of parliament. The initial readings about the key events were in news (print media) and interest in these events led to seeking background reading into the Tasmanian economy, society or political system. However, those readings led to other readings elaborating socio-economic and political history of Tasmania, giving new meanings to the initial readings. Such reading and re-reading (retrospectively bringing new meanings to earlier readings) continued as the research interest grew into the topic and it progressed. The exposure to Habermas and his legitimation literature (along with Turkel’s) gave fresh insight into the whole thing, bringing in another iteration of understandings into Gunns’ pulp mill case. The research shaped up further and deeper insight brought in with the understanding of discourse and its potency through CDA and using it (the three-tier analysis) to ‘write up’ the analysis which required further organising and explicating pulp mill data/discursive events. The complementary nature of the methodology and the theoretical framework adopted in this thesis enabled broadening the insights into the Gunn’s case and helped this researcher hone in on the corporation-government relationships and the role of the government as the policy maker.

As indicated earlier in the above paragraph a particular sequence was followed in the final production of this thesis and this is not how this case was read and understood. There is no set rule as to the sequence of analysis and presentation of the three CDA layers either. The sequence adopted in this thesis is: social practice, text, discourse practice respectively in the next three chapters. To further explain, social practice component in the Gunns case is discussed first to shed light on the complex context (socio-economic, politico-historical and legislative) within which the approval process took place. The explication of this context helps situate the instances of language use (written) such as ministerial directions, public and the proponent’s submissions to
RPDC, series of parliamentary debates, pulp mill legislation (the ‘text’ layer). The discourse practice layer then helps make the connections between the outermost (social practice) and the innermost (text) layers. It explains why something has been said the way it has been said (reproduction of social practice) and what influence it had on the discursive event and the social practice in general (transformation of social practice).
Table 5: Key players in the Gunns pulp mill case and key discursive events

<table>
<thead>
<tr>
<th>Timeline</th>
<th>STATE</th>
<th>CORPORATION</th>
<th>OTHERS^</th>
</tr>
</thead>
<tbody>
<tr>
<td>Month/year</td>
<td>Government</td>
<td>RPDC</td>
<td>PMTF</td>
</tr>
<tr>
<td>Nov/2003</td>
<td>Directs RPDC to develop a generic pulp mill guideline</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Aug/2004</td>
<td>Prepares the guidelines</td>
<td>PMTF set up by the government*</td>
<td></td>
</tr>
<tr>
<td>Oct/2004</td>
<td>Approves the guidelines (a)</td>
<td></td>
<td>Public announcement to build a pulp mill (b)</td>
</tr>
<tr>
<td>Nov/2004</td>
<td>Declares pulp mill as a POSS (b)</td>
<td>Receives ministerial direction to assess the pulp mill as a POSS (c)</td>
<td>Makes formal proposal to build a pulp mill (a)</td>
</tr>
<tr>
<td>Dec/2004</td>
<td></td>
<td></td>
<td>Sues 20 environmental protesters and Green MPs (‘the Gunns 20’)</td>
</tr>
<tr>
<td>Jan/2005</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Feb/2005</td>
<td></td>
<td>Starts pulp mill info bus</td>
<td></td>
</tr>
<tr>
<td>Timeline</td>
<td>STATE</td>
<td>CORPORATION</td>
<td>OTHERS^</td>
</tr>
<tr>
<td>-------------</td>
<td>-------------------------------------------------</td>
<td>---------------</td>
<td>-----------------------</td>
</tr>
<tr>
<td>Month/year</td>
<td>Government</td>
<td>RPDC</td>
<td>PMTF</td>
</tr>
<tr>
<td>Apr/2005</td>
<td>Amends SPPA 1993 and POSS provisions</td>
<td>Releases draft scope guidelines for IIS</td>
<td></td>
</tr>
<tr>
<td>Aug/2005</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nov/2005</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Dec/2005</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jul/2006</td>
<td>Draft IIS placed for public display and comment</td>
<td>Organises ‘IIS’ briefing session</td>
<td></td>
</tr>
<tr>
<td>Sep/2006</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oct/2006**</td>
<td>Expresses displeasure at the incompleteness and inaccuracies in the DIIS</td>
<td></td>
<td>Agrees to provide supplementary information by 15 Dec</td>
</tr>
<tr>
<td>Dec/2006</td>
<td>Extends the deadline to 31 Jan 2007 on application (b)</td>
<td></td>
<td>Fails the 15 December deadline (a)</td>
</tr>
<tr>
<td>Jan/2007</td>
<td>Resignation of two panel members including RPDC Executive commissioner (a)</td>
<td></td>
<td>Fails the 31 January deadline (b)</td>
</tr>
<tr>
<td>Timeline</td>
<td>STATE</td>
<td>CORPORATION</td>
<td>OTHERS^</td>
</tr>
<tr>
<td>-------------------</td>
<td>----------------------------</td>
<td>-------------</td>
<td>----------------------------------</td>
</tr>
<tr>
<td>Month/year</td>
<td>Government</td>
<td>RPDC</td>
<td>PMTF</td>
</tr>
<tr>
<td>Feb/2007</td>
<td>Makes new appoints to RPDC (a)</td>
<td>Blames Gunns almost entirely for the delay** (c)</td>
<td>Makes submission on 16 Feb; expresses dissatisfaction at assessment delays (b)</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Mar/2007</td>
<td>Introduces the ‘Pulp Mill Assessment Bill’ (b)</td>
<td></td>
<td>Withdraws from RPDC assessment process (a)</td>
</tr>
<tr>
<td>Apr/2007</td>
<td>Bill passed to create a separate assessment process for the pulp mill</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

^Pro-pulp mill lobby groups, Green groups and parties, general public (a), (b), (c): shows sequence of events starting with event (a)
* Until Gunns’ withdrawal from the RPDC assessment, PMTF continued to promote the pulp mill through weekly/fortnightly newsletters, Bus campaigns, Newspapers ads, public seminars, media interviews, etc.
** At a Directions Hearing
† This is one of numerous protest rallies and public meetings organised by Wilderness Society and other environmental and community groups throughout the assessment period and especially after the mill’s approval through an act of parliament away from the independent RPDC process.
5.6 Chapter summary

This chapter deliberated on various theoretical and methodological positions in social science research and recognised the contribution of Burrell and Morgan (1979) for their contributions in analysing and classifying social theory through a two-dimensional, four paradigm model. The chapter then examined accounting derivatives of the Burrell and Morgan (1979) model and identifies Laughlin’s (1995) Middle-Range thinking to provide the continuums that could fit various philosophical-methodological positions of researchers as well their outlook on status quo versus change. This research then positioned itself within the wider social science research (and accounting in particular) having the Middle-Range thinking approach as its philosophical ‘navigator’. The positioning then called for an appropriate methodology to systematically analyse the issues at hand, for which CDA was chosen for this research as the most appropriate methodology because of its critical lens and potential for transdisciplinary, multifaceted analysis given the complex nature of the discursive event under investigation and the dialectical relationships within and beyond. Finally, an overview of the application of CDA in this research was provided.
CHAPTER SIX: ‘SOCIAL PRACTICE’ AND GUNNS’ PULP MILL CASE

6.1 Introduction

This is the first of three consecutive chapters where the empirical analyses will take place. Each of these three chapters will deal with a layer in Fairclough’s three dimensional model of critical discourse analysis (CDA) in the sequence: social practice, text, discourse practice.

This chapter deals with the outermost layer called the social practice. It examines the context within which the Gunns’ pulp mill project was approved. Context, in simple terms, is the circumstances that form the setting of an event and in terms of which the event can be fully understood (“Context”, 2016). If social practice is one dimension of a discursive event, the text is another (Fairclough, 1992); the text is the remains of a discursive event. Discourse practice involves the production and interpretation of the text given the dialectical influence of social practice. Dialectically interrelated means one influences the other. Because of the influence of social practice, discourse practice contributes to “reproducing society” (i.e., reproducing social norms, expectations, relationships in a discursive event). At the same time, on the other hand, discourse practice dialectically transforms existing social practice by creating new situations, expectations, objects of knowledge, social identities and relations (Fairclough, 1992, p. 65).

The Gunns’ pulp mill was approved in a complex ‘development versus conservation’ context. As introduced briefly in Chapter 1, Tasmania has, for the most part of its history, been far behind the rest of the Australian States in most economic indicators and has the highest ratio of ageing population. As a result, there has always been substantial pressure on the State of Tasmania for economic growth, reduction in unemployment and internal migration of younger adults to mainland states for jobs.

---

33 The result of such laden statistical comparison was identified and discussed in chapter two.
34 Tasmania’s ‘poor economic performance’ results in the State being subsidised by other states (i.e., through the Commonwealth). As a result, unfortunately, Tasmania has been historically referred to as a ‘mendicant state’. Reference to Tasmania as a ‘mendicant state’ is probably as old as the State itself. With Internet searches on digitised newspapers, it can be traced back to at least 1944 (see, The Examiner, 11/10/1944). With this untoward referral always came the call for Tasmania to be economically self-sufficient.
A large scale commercial project, such as a major pulp mill, had the potential to address and to some extent remedy each of the economic concerns.

On the other hand, there were competing imperatives for Tasmania to preserve its natural abundance as much as possible in their pure form for the future generations. It was also important for a number of industries in Tasmania that thrived on Tasmania’s clean, green image in the world market (Curran and Hollander, 2011). Given such a context of development and economic growth versus conservation in Tasmania as more broadly discussed from a historical perspective in Chapters 1 and 2; in the following sections, the more immediate social practice elements within which Gunns’ pulp mill project was proposed and approved will be discussed. These include the project’s:

- Political context
- Legislative context
- Key players.

6.2 Political context

A broader discussion of the political environment of Tasmania from a historical perspective was undertaken in Chapter 2. It was apparent from the discussion there that Tasmanian politicians, with a few exceptions, have preferred development over conservation because of the push for economic growth. Consequently, it was expected that any major development project, which required approval through the political process, such as through an act of parliament, would be approved. Therefore, the approval of the Gunns pulp mill project was consistent with previous industrial development projects. Both the government (of the Australian Labor Party) and the opposition (Liberal Party) provided full support for the project. An analysis of the 2004 parliamentary Hansards, the year when the Tasmanian parliament started discussing the possibility of having a pulp mill, demonstrates that the government and the opposition members were merely locked in debates on which party could best deliver the project, not on whether the project should be approved. Most of these

---

35 and connections will be made with the broader context and within themselves.
36 Labor had remained in power since late 1998 to early 2014. In the opposition during this time was the Liberal Party (the second largest party in the parliament). The Tasmanian Greens was the third and the only other party in the parliament and had been there as a minority party.
debates took place while RPDC was developing Tasmanian guidelines for a pulp mill and before Gunns even publicly announced its intention to build a pulp mill in October 2004. The Greens was the only political party to put forward a different viewpoint in the parliamentary debates; but they were too few in numbers to effect any change. The above scenario of bilateral support in the parliament and the support in the broader political spectrum will help contextualise the legislative environment (that is undeniably an outcome of the political process) in which the Gunns’ pulp mill was proposed and assessed.

6.3 Legislative context

The legal environment involving any major industrial development project (particularly the ones with deep environmental impact) in Tasmania has never been a straightforward one. Rather, it has evolved over time and can be situated within Tasmania’s socio-economic, politico-historical context. The following sub-section discusses the legislative arrangement in assessing operations in the forestry industry in Australia. The environmental assessment regime in the forestry industry is discussed first since it provides the main raw material for any pulp mill. The sub-sections that follow will discuss the assessment regime involving major industrial development projects such as a pulp mill.

6.3.1 National forest policy, agreements and forest based developments

The status and significance of the forestry industry in Tasmanian political and economic landscape has already been discussed. In this sub-section, forestry’s legal status is briefly discussed in relation to environmental assessments of forest based development projects.

The collective desire of both the Commonwealth and state governments to facilitate downstream processing of forestry products, such as building pulp and paper mills in

37 These guidelines were generic in nature for any new pulp mill to be built in Tasmania. RPDC engagement in the Gunns’ pulp mill case will be discussed in detail later in this chapter.
38 See Appendix 4 that summarises the debates in the parliament (arguments for and against a pulp mill in Tasmania) while the pulp mill guidelines were being updated.
Tasmania (and in Australia generally), led to the governments developing a National Forest Policy Statement (NFPS) in 1992 (Department of Agriculture, 2013a; Stokes, 2011). All states and territories, except for Tasmania, signed the NFPS in 1992; while Tasmania signed the NFPS in 1995 (Department of Agriculture, 2013a). As signatories to the NFPS, all parties are committed to sustainable management of Australian forests for both conservation and production (Department of Agriculture, 2013a). Based on the principles of NFPS and after much scientific research, as well as consultation and negotiation across a range of issues, including how much forest to set aside for conservation and how much to keep open for production, the Commonwealth government progressively signed Regional Forest Agreements (RFAs) between 1997 and 2001 with four state governments39 (Department of Agriculture, 2010, 2012, 2013b).

Although RFAs got legislative backing through the Regional Forest Agreements Act 2002 (Commonwealth), implementing and enforcing the agreements remains with the states (Stokes, 2011). Forestry conducted in, or any development arising out of forestry, under an RFA covered area is exempt from the Commonwealth’s Environmental Protection and Biodiversity Conservation Act 1999 (EPBCA 1999) notwithstanding the activity’s or development’s impact on biodiversity and other matters that would normally require approval under the EPBCA 1999 (Stokes, 2011; see EPBCA 1999, s. 38). This means the impact of forestry activities required to feed a pulp mill in Tasmania would be beyond the scope of EPBCA 1999 as the forest operations would be covered by the Tasmanian RFA, the enforcement of which remains with the Government of Tasmania. However, given Tasmania’s history of economic and political vulnerability and resulting legitimation of its governments’ pro-development stance, it is difficult to predict to what extent the RFA would be enforced in such a sought-after development project in the Tasmanian context. Indeed, it has been reported in the media that political connections have yielded logging companies such as Gunns ‘convenient’ access to Tasmanian state forests despite having an RFA in place (Lawrence, 2013).

39 They are New South Wales, Victoria, Western Australia and Tasmania. The duration of each RFA is 20 years. Tasmanian RFA covers the whole state (Department of Agriculture, 2010, 2012, 2013b).
6.3.2 Evolution of the assessment regime, maintaining the status quo

By the time Gunns’ pulp mill was proposed in November, 2004, Tasmania had come a long way in establishing planning and assessment related legislations and institutions. A perusal of the major Tasmanian development projects as delineated in the background chapter indicates that each of them contributed significantly to the public awareness of environmental and social issues and forced the political parties in the parliament to enhance rigour, transparency and accountability in the assessment process through government policy and/or legislative reforms. For example, the Hydro-electric Commission (HEC) did not have to produce an environmental impact statement when it flooded Lake Pedder in the early 1970s. There was no study of the environmental/ecological impact on the existing flora and fauna (Bandler, 1987). Compared to that Gunns in 2006 had to produce an integrated impact statement which, according to Gunns, cost them $11 million to produce over an 18 month period involving 43 consulting firms (see, Pulp Mill Newsletter, Issue 50). However, it is also true that every time the new assessment process (after a legislative reform) was tested with a real, major project of environmental significance, it failed because of political interference, predominantly driven by an economic imperative. What the above demonstrates is that there are legislations in Tasmania which have evolved or have been developed over the years in Tasmania to protect the environment, but the government also had them overturned when they did not suit their objective. It is as though all these sophisticated assessment mechanisms had been a facade to appease the voting public under pressure, while in effect, maintaining the traditional/historical dominance of the economic agenda over environmental concerns. This demonstrates the endurance and power of economic discourse embedded in the social practice of giving preference to development over conservation and how it is being reproduced over and over again.

The Gunns pulp mill proposal came about when the state had already gone through substantial legislative and policy reforms as a result of the controversies generated by

---

40 Evidence includes Wesley Vale pulp mill discussed in the background chapter, Meander Dam and Copper Mines of Tasmania projects discussed in the Appendix 2.
earlier failed or flawed assessment processes (Curran and Hollander, 2011). Within the above legislative context and the political process that shaped it, the following subsection will highlight and critique the key piece of legislation and the legislative framework that shaped the pulp mill assessment environment. These are:

- State Policies and Project Act 1993 (SPPA 1993)
- Resource Management Planning System (RMPS)- the framework
- Resource Planning and Development Commission (RPDC)- assessment authority under the framework.

6.3.2.1 State Policies and Project Act 1993 and the RMPS

State Policies and Projects Act 1993 (SPPA 1993) was one of a suite of legislations introduced in Tasmania in the early 1990s to establish an integrated state wide planning framework called the Resource Management Planning System (RMPS) that brought together all local and state wide resource specific measures under a ‘common rule book’ to promote ‘sustainable development’ (Curran and Hollander, 2011; see, schedule 1 of each Act regarding the common objectives, reproduced at the end of section 6.3). Other key legislations introduced as part of this ‘sustainable development’ package were the Land Use Planning and Approvals Act 1993 (LUPAA 1993), the Resource Management and Planning Appeal Tribunal Act 1993 (RMPATA 1993), the Environmental Management and Pollution Control Act 1994 (EMPCA 1994) and the Resource Planning and Development Commission Act 1997 (RPDCA 1997). Two entities were also established: the Resource Planning and Development Commission (RPDC) under RPDCA 1997 and the Resource Management and Planning Appeal Tribunal (RMPAT) under RMPATA 1993.

SPPA 1993 deals with the state-level assessment process of major projects that are of state level importance, labelled as the Projects of State Significance (POSS). LUPAA 1993, on the other hand, relates to planning and development at the local government

---

41 The literature review chapter discusses the shifting meanings and definitions of sustainability and sustainable development. The definition of sustainable development in this Act (in Schedule 1, Clause 2) resembles that of the United Nations Brundtland Commission (1987) definition. However, various sections of SPPA 1993 as well as the intended use of the Act understood from the debates in the parliament demonstrate a clear preference for economic development over other components of sustainability.
level. The RMPAT was established as a consolidated appeal body for various planning and development schemes approved under LUPAA 1993, EMPCA 1994 and 21 other local and state government related development, essential services and resource management acts. The RPDC, on the contrary, was established as the peak planning body in Tasmania, encompassing all aspects of statutory planning, expert advice on public land use planning and the assessment of major projects (such as POSS). Table 6 summarises the legislative instruments and entities in the Tasmanian planning framework, RMPS.
Table 6: Summary of Resource Management Planning System (RMPS)

<table>
<thead>
<tr>
<th>Goals:</th>
<th>Appeal rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>Establish an integrated state wide planning framework</td>
<td></td>
</tr>
<tr>
<td>Promote ‘sustainable development’</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Key RMPS legislations</th>
<th>Appeal rights</th>
</tr>
</thead>
<tbody>
<tr>
<td>LUPAA 1993- for planning and development at the local level</td>
<td>Yes</td>
</tr>
<tr>
<td>EMPCA 1994- for environmental management and pollution control</td>
<td>Yes</td>
</tr>
<tr>
<td>RMPAT Act 1993- established the planning appeal tribunal, RMPAT</td>
<td></td>
</tr>
<tr>
<td>o RMPAT is a consolidated appeal body for LUPAA 1993, EMPCA 1994 and 21 other local and state government acts (development/ resource management related) but not SPPA 1993</td>
<td></td>
</tr>
<tr>
<td>SPPA 1993- for planning and development at the state level</td>
<td>No</td>
</tr>
<tr>
<td>o Includes the Project of State Significance (POSS) provisions</td>
<td></td>
</tr>
<tr>
<td>RPDC Act 1997- established the peak planning body, RPDC</td>
<td>No</td>
</tr>
<tr>
<td>o RPDC oversees the state's planning system, reviews land and water use</td>
<td></td>
</tr>
<tr>
<td>o Responsible for the integrated assessment of a Project of State Significance (POSS)</td>
<td></td>
</tr>
</tbody>
</table>

Project of State Significance (POSS)

SPPA 1993 includes POSS provisions that dictate how a project is granted a POSS status and assessed by RPDC. It is important to note here, as signalled in the table above, that unlike other projects, major or minor, a decision in a POSS project is not appealable because its governing act SPPA 1993 is beyond the purview of the planning appeal act RMPATA 1993. This means if a project, such as Gunns’ proposed pulp mill, is declared a POSS under SPPA 1993 by the relevant minister and approved by both Houses of parliament, the outcome of the assessment cannot be appealed against at the Resource Management and Planning Appeal Tribunal (RMPAT) or at any other
tribunal or court (SPPA 1993: s. 28). Such a non-appealable status requires safeguards to protect the public from errors in choosing the right project and then assessing it fairly by an appropriately qualified authority. The three safeguards that can be deduced from SPPA 1993 are:

- Satisfy POSS selection criteria (see, SPPA 1993: s. 16, reproduced below in Table 7) to be proposed as a POSS by the relevant minister
- To be granted a POSS status, the project must be approved by both Houses of the parliament after being nominated by the minister
- Once approved as a POSS, it has to be assessed by a statutory body (i.e., RPDC) to recommend whether or not the project should proceed and if so, on what conditions.

Table 7: Criteria to be eligible as a Project of State Significance (POSS)

<table>
<thead>
<tr>
<th>State Policies and Projects Act 1993: s. 16: “a project is eligible to be a project of State significance if it possesses at least 2 of the following attributes:</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) Significant capital investment;</td>
</tr>
<tr>
<td>(b) Significant contribution to the State's economic development;</td>
</tr>
<tr>
<td>(c) Significant consequential economic impacts;</td>
</tr>
<tr>
<td>(d) Significant potential contribution to Australia's balance of payments;</td>
</tr>
<tr>
<td>(e) Significant impact on the environment;</td>
</tr>
<tr>
<td>(f) Complex technical processes and engineering designs;</td>
</tr>
<tr>
<td>(g) Significant infrastructure requirements.”</td>
</tr>
</tbody>
</table>

Source: SPPA 1993, Tasmanian Legislation

The three safeguards are discussed below to understand how such a project is initiated and then moves on to the assessment stage within the legislative context.

An analysis of the relevant Hansard shows that (HoA Hansard, 4 May 1993), despite the government's assertion in the parliament that only genuine projects of ‘state significance’ were to be given the POSS status and the intention was not to override

42 Liberal Party was in the government while Labor was in opposition
the local government authority (as POSS is assessed at the state level), a careful reading of the POSS criteria in the legislation (reproduced in the above table) reveals that the criteria are too broad and are at the discretion of the relevant minister to interpret and apply them in awarding a POSS status upon a project [SPPA 1993: s. 18(1)]. This assigns much power to the minister. Additionally, only two of the seven criteria need to be met to be labelled as a POSS. Some members of the parliament and many outside voiced the concern that such loose criteria would leave much room for politicisation (HoA Hansard, 4 May 1993; Stokes, 2011). For example, Labor MP and deputy leader of the opposition Peter Patmore had the following view on the POSS criteria:

So when we look more closely at these provisions we find that the bill would be better without them because they are so broad as to be absolutely useless.

He continued elsewhere, “clause 16 is so wide it has to be meaningless”. He also said,

If we allow legislation that is framed this way to come into Parliament we are allowing a process of corruption (Patmore, 1993, HoA Hansard, 4 May 1993).

Tasmanian Greens MP Gerry Bates said,

There is no doubt that the criteria that the minister can use to determine whether a project is of sufficient State significance or not are so widely cast the Government might as well not have bothered to put them in the legislation at all. Absolutely anything can be brought in under those criteria (Bates, 1993, HoA Hansard, 4 May 1993).

The second safeguard is that the minister’s designation of a project as a POSS will need to be approved by both Houses of the parliament to be effective. But given Tasmania’s history as a so called ‘mendicant’ state, big projects offering jobs, economic prosperity and growth (that is often achievable in a relatively short term) are not easy to resist simply based on environmental grounds (impact of which is rather long term and often invisible). In fact, the legitimation of the pro-development stance in the Tasmanian mainstream political landscape has such strong roots that, Stokes

---

43 This issue is further discussed in the next sub-section.
44 Although Labor was generally supportive of the suit of legislations being introduced at that time to form RMPS of Tasmania. Tasmanian Greens was also supportive of the reform package.
(2011) concludes, neither House is expected to hinder a potential POSS in Tasmania and take the ‘blame’ for it.

The third safeguard is that a POSS will need to go through an assessment process by RPDC, a statutory body. The law stipulates RPDC to prepare a guideline on which the proponent prepares and submits a draft integrated impact statement (DIIS) that describes the proposal and addresses all potential environmental, social, community and economic impacts of the construction and operation of the proposal (SPPA 1993: s. 20). RPDC then places the DIIS for public exhibition and comments in addition to assessing the DIIS itself. The commission then prepares a draft assessment report, places it for public exhibition, while the proponent finalises its DIIS. RPDC then releases its final assessment and makes recommendation to the Tasmanian Premier and Federal Environment Minister as to whether the project should proceed or not (SPPA 1993: ss. 25- 26). The formation, function and limitations of RPDC is further illustrated in the following subsections that will provide a broader understanding of the third safeguard, also an important social practice element/ key player (i.e., RPDC) in the Gunns’ pulp mill case.

A final observation that is worth noting with regards to the non-appealable status of a POSS assessment is that the unavailability of appeals applied to all relevant parties- proponents and opponents of a development project. However, what is interesting is that no companies, businesses or lobby groups (such as the chamber of commerce) protested against this provision, when the legislation was introduced as a bill in the parliament. The Greens claimed that it had demonstrated the developers’ clear conviction that assessment outcomes would either always be favourable or made favourable through some kind of political process (HoA Hansard, 4 May 1993).
Ministerial power and other POSS advantages

Unlike other projects, the POSS status means that all assessments for a POSS are brought into one place, to be managed by a single statutory body\(^45\) (i.e., RPDC) that supersedes any other provisions in any other legislation implicating the development project (see, SPPA 1993: s. 19 as reproduced below). Such provisions add to the superior status of the project and enables the proponent to by-pass other ‘governance’ processes.

SPPA 1993, s. 19 (1):

**Where an order under section 18(2) declaring a project to be a project of State significance is made, the provisions of any Act, planning scheme or interim order—**

a) requiring the approval, consent or permission of any person in connection with any use or development to which the order relates; or

b) empowering any body to grant or refuse its consent to any such use or development; or

c) prohibiting any such use or development; or

d) permitting any such use or development only upon specified terms or conditions; or

e) regulating or permitting the regulation of any such use or development—

do not apply unless the order has been revoked.

The other incentive to the developer of a POSS is that the relevant minister can set a time limit for the completion of the assessment, adding assurance and certainty in the process from the perspective of the proponent [see, SPPA 1993: s. 20(3) as reproduced below].

SPPA 1993, s. 20 (3):

**A direction under subsection (1) may require the Commission to comply with any requirement regarding—**

a) the matters to be addressed in the integrated assessment; or

b) the process to be followed in undertaking the integrated assessment; or

c) the time within which the integrated assessment must be completed.

\(^45\) It also serves to streamline the process so that proponents/business cases are handled within one legislative site.
Further instances of excessive ministerial power given in the Act include the minister directing the RPDC as to the matters to be taken into account in the assessment process and the assessment process to be followed [see, SPPA 1993: s. 20 (3) as reproduced above]. The terms of reference, given the above subsections of SPPA 1993, can themselves be worded in such a way that they could seriously limit the assessment process by RPDC, as evidenced in the Gunns pulp mill case. For example, a wood supply arrangement (hence forest operations to feed the pulp mill) was made out of bounds for the assessment of the pulp mill by RPDC by the order of the Premier (the ‘relevant minister’ under SPPA 1993). In his ministerial direction letter under s. 20 (1) of the SPPA 1993, on the 26th of November 2004 the Premier stated:

In considering issues relating to the supply of timber resources for the Project, the Commission must give effect to the Regional Forest Agreement made between Tasmania and the Commonwealth of Australia on 8 November 1997 (RPDC, 2009c).

The above issue (i.e., not assessing forest operations and their impact) was widely identified in the public submissions as a ‘flaw’ in the pulp mill assessment process and will be discussed further in the discourse practice chapter. One such submission is as follows:

We have raised the critical wood supply issue in the past, and will continue to question how this assessment can possibly proceed without a comprehensive understanding of the impacts of this proposal on Tasmania’s native forests. The Draft IIS is limited to descriptions of sources and quantities of wood, rather than examining the impact of logging that resource. This remains a glaring flaw in the assessment process (The Greens, 2006; public submission #301).

What is most remarkable in the act (i.e., SPPA 1993) is that the relevant minister may accept, modify or reject the recommendations and/ or conditions put forward by RPDC after the assessment of a POSS and may approve a POSS in his own terms and conditions [see, SPPA 1993: s. 26 (7) as reproduced below46].

46 Some of the sections have been omitted as they relate to the Commission or the Governor.
SPPA 1993, s. 26\(^{47}\):

**Recommendation to Minister on project of State significance**

(1) As soon as practicable after undertaking an integrated assessment of a project of State significance, the Commission must submit a report to the Minister on whether or not the project should proceed, and if so on what conditions.

(2) Where the report of the Commission recommends that a project of State significance should proceed on conditions, it must specify—

a) those conditions; and
b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
c) the agency responsible for the enforcement of each condition.

(5) The Minister may recommend to the Governor the making of an order in accordance with the report of the Commission.

(7) Where the Minister does not recommend to the Governor the making of an order in accordance with a report of the Commission, the Minister may recommend to the Governor the making of an order enabling the project of State significance to proceed on conditions, and specifying—

a) those conditions; and
b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
c) the agency responsible for the enforcement of each condition.

This means that the RPDC as the Tasmanian peak planning body, a statutory and independent one, has only the right to recommend on the fate of a POSS after an integrated assessment. The final decision is with the minister and the decision is non-appealable as per section 28 of the SPPA 1993. The way the minister for environment defended this decision making power under section 26 in the parliament was interesting. He concluded that “the minister and the Government are accountable to the community for the final decision” (Cleary, 1993, *HoA Hansard*, 4 May 1993) – invoking both their role and the electoral process. However, he skipped a very serious question of design flaw (i.e., concentration of power) in a POSS assessment process. Members of the opposition (Labor party) at the time (1993) and the Greens, as well as

\(^{47}\) Only the key subsections are listed here as evidence of the relevant discussion. The full act (i.e., SPPA 1993) is reproduced in the *Appendix 5*. 
the city councils (i.e., local government authorities) voiced concerns about the excessive ministerial power through their submissions on the bill (of SPPA 1993). Glenorchy City Council, for example, mentions in its submission that there are concerns regarding the extent of ministerial control and the risk of abuse of this power.

These concerns relate in particular to the Minister's role at many stages in the process for Projects of State Significance, and to the Minister's role throughout the process of developing and adopting State Policies.'

It is Council's view that the Minister should have reduced influence, with the Sustainable Development Advisory Council and the Land Use Planning Review Panel playing a greater role.

In relation to the risk of abuse of power by the Minister, while not suggesting this is likely, it is nevertheless a risk, and has occurred elsewhere in recent times in Australia. It may increase "ad-hoc" decision making based more on political expediency rather than sound planning principles.  

Legal and environmental researchers from the University of Tasmania, Michael Stokes, Ronlyn Duncan, Peter Hay et al. who specialise in the Tasmanian POSS process, while articulating confidence in the independence of RPDC, also express concerns about excessive ministerial powers vested in SPPA 1993 (Duncan and Hay, 2007; Stokes, 2011).

**Other weaknesses of SPPA 1993**

In addition to the above, forestry operations and developments such as building access roads are exempt from Tasmania’s normal planning legislation, LUPAA 1993 [see, LUPAA 1993: ss. 3, 20(7)] and therefore from SPPA 1993, which simply upgrades a local development to the POSS status and avails it special treatment in terms of assessment, permits and appeals. SPPA 1993 does not have regulatory capacity of its

---

48 The submission was read out verbatim by the deputy leader of the opposition Peter Patmore in the House of Assembly on 4 May 1993. The Sustainable Development Advisory Council (SDAC) and the Land Use Planning Review Panel are the predecessors of RPDC. The RPDC Act 1997 consolidated three bodies- SDAC, Land Use Planning Review Panel, and the Public Land Use Commission into one powerful statutory body, the Resource Planning and Development Commission- RPDC on 1 January 1998.
Conditions and permits for a POSS project to proceed are imposed via other legislations (see, SPPA 1993: ss. 26-27), but are done through a single authority (i.e., RPDC). As mentioned before, much of forestry is regulated by RFA and Forest Practices Act 1985. Therefore, regulating the forestry activities required for any pulp mill for example, would be difficult to achieve through permit conditions under LUPAA 1993 or SPPA 1993 (when the mill is declared a POSS), since forestry itself is beyond the jurisdiction of LUPAA 1993 or SPPA 1993 and hence the RPDC (Stokes, 2011). This limitation is in addition to the ability of the minister to set the terms and reference of the integrated assessment of a POSS as discussed in some of the previous paragraphs with reference to s. 26 of SPPA 1993. So, an integrated assessment of a pulp mill as a POSS, although may consider the mill’s impact on forests and forestry practices, cannot be made conditional on achieving certain changes in the proponent’s proposed or actual forest operations related to the development.

The discussion relating to POSS in the preceding paragraphs shows the elevated status of POSS in the Tasmanian planning system. The title ‘project of state significance’ itself has the potential of skewing the development-conservation discourse in favour of development. The title signifies the embedded development discourse and given the taken-for-granted belief discussed in the introduction and background chapters, it does facilitate legitimation of the ‘new rule book’ for assessment for such a project. This will be discussed further in subsection 6.3.3.

6.3.2.2 Resource Planning and Development Commission (RPDC)

Formation of RPDC
As mentioned earlier, the RMPS established two statutory bodies in Tasmania: one for statutory planning and assessment of major projects and the other for appeals. The

---

49 Forest Practices Act 1985 is administered by Forest Practices Authority (FPA), a statutory body. Its board is made up of people who are predominantly connected with the forestry network. The Forest Practices Advisory Council, which is a representative body of stakeholders, and has the task of advising FPA on various matters is directly from this forestry lobby network (see, Forest Practices Authority, 2012 for the list and description of the current Board and Council members). White (2011) describes how the forestry industry is mostly self-regulated through the FPA, resulting in light ‘regulatory burden’ for companies such as Gunns.

50 The Acts that RPDC administers or even has minor roles in does not include Forest Practices Act 1985.
RPDC replaced the Sustainable Development Advisory Council (SDAC), a body initially created with RMPAT in 1993 to look after some of the functions of the current RPDC (which included the assessment of a POSS). The RPDC Act 1997 consolidated three bodies- SDAC, Land Use Planning Review Panel, and the Public Land Use Commission into one statutory body, the Resource Planning and Development Commission (RPDC) on 1 January 1988\(^\text{51}\) (RPDC Act 1997: schedule 5; RPDC, 2007a). The RPDC consists of one full-time Executive Commissioner and five part-time Commissioners (RPDC, 2007a). Nominated by the relevant minister (usually the Minister for Planning) and appointed by the Governor, the membership in the commission consists of individuals with expertise in planning, public administration, project management, industry and commerce, resource conservation, and community interest (RPDC Act 1997: s. 5).

**Functions of RPDC**

Apart from being Tasmania’s peak land use planning body, one of the other key tasks of the RPDC is to conduct assessments of POSS that are taken out of the normal assessment process under LUPAA 1993, as discussed earlier. The Premier of the state is the minister responsible for administering the act, SPPA 1993 in respect of projects of state significance (RPDC, 2007a). When the Gunns’ pulp mill project was declared a POSS by the Tasmanian government on 22 November 2004 under SPPA 1993, RPDC was required by law and on the direction of the Premier (on 26 November 2004) to undertake an integrated assessment of the project. The proposed pulp mill required approval both at the state and federal levels because of its potential impacts on the environment under both jurisdictions.

---
\(^{51}\) The consolidation was a recommendation of Peter Nixon, a former Liberal federal government minister, who was jointly commissioned by the State and Commonwealth Governments to inquire into the state of Tasmanian economy in 1996 (McCall, 2011; *HoA Hansard*, 3 December 1997; Nixon, 1997).
However, the federal Government accepted the RPDC’s integrated impact assessment as an ‘accredited assessment process’ for its own assessment purposes under section 87 of the Commonwealth’s EPBCA 1999 (RPDC, 2009b). This bilateral arrangement meant that the RPDC would undertake one integrated impact assessment of the pulp mill project in order to meet the statutory requirements of both the Australian Government (federal) and the Government of Tasmania (state). Figure 6 in the following page shows the RPDC process of a POSS assessment.

---

52 This understanding between the state and the federal governments to minimise duplication of the environmental impact assessment process under separate state and Commonwealth Acts through a single accredited assessment process was later formalised with a bilateral agreement (made under section 45 of the EPBC Act 1999) on 12 December 2005 (DoE, 2008). This was one of several bilateral agreements entered into by the federal government with its state counterparts under the EPBC Act 1999.
Figure 6: POSS assessment process

Stage 1
Order and direction to RPDC

Stage 2
Draft Integrated Impact Statement Guideline
Public Exhibition
Final Integrated Impact Statement Guideline

Stage 3
Draft Integrated Impact Statement (IIS)
Public Exhibition
Public Hearing (optional)
Draft Assessment Report
Public Exhibition
Public Hearing (optional)

Stage 4
Final Integrated Impact Statement (IIS)
Australian Government Minister for Environment and Heritage (if necessary)
RPDC Assessment Report
Tasmanian Government Premier

Source: RPDC, 2009b
POSS assessment process in brief

An integrated assessment of a POSS involves the consideration of all environmental, social, economic and community issues relevant to that project to further the objectives of RMPS of Tasmania (SPPA 1993: s. 20(5)(a); SPPA 1993: s. 16, schedule 1). As mentioned before, it is the RPDC that undertakes the integrated assessment and while doing so, as per s. 13B(2) of SPPA 1993, is responsible for upholding the objectives of RMPS in schedule 1 as reproduced below:

1. The objectives of the resource management and planning system (RMPS) of Tasmania are –

   a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and
   b) to provide for the fair, orderly and sustainable use and development of air, land and water; and
   c) to encourage public involvement in resource management and planning; and
   d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b), and (c); and
   e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

2. In clause 1(a), sustainable development means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

   a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and
   b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and
   c) avoiding, remedying or mitigating any adverse effects of activities on the environment.

53 Practical difficulties in achieving such a wide-ranging assessment and enforcement of certain conditions on the proponent were discussed in relation to the ‘ministerial power’ and ‘other weaknesses of SPPA 1993’ in the previous subsection. This will be revisited in the next section and further in the discourse practice chapter.
Within the bounds set by the minister to assess a POSS (discussed with regards to ministerial powers in POSS before), these objectives require the RPDC to assess a POSS in an open and transparent manner, designed to encourage public participation and input throughout the assessment. The RPDC reaffirmed its statutory role in furthering these objectives in its 2006-07 annual report by acknowledging how public consultation was “vital in allowing community, conservation, industry, local government and state government agencies the opportunity to contribute to the overall assessment process” (RPDC, 2007a, p. 10). A critical assessment of various subsections of the act, SPPA 1993 against the above RMPS objectives will be undertaken in the next section.

The process of a POSS assessment at RPDC starts with a written direction from the Premier of the state [SPPA 1993, s. 20(1)]. After receiving the direction, RPDC starts preparing a draft set of guidelines for the proponent to prepare an ‘Integrated impact statement (IIS)’ for the scope of the assessment. The draft guidelines may be published for public exhibition, comment and a hearing may be held at the Commission’s discretion before finalising them (SPPA 1993: s. 20).

Based on these guidelines, the proponent then prepares and submits a draft IIS (DIIS) that describes the proposal and addresses all potential environmental, social, community and economic impacts of the construction and operation of the proposal (SPPA 1993: s. 20). The RPDC then places the DIIS for public exhibition and comments, and a hearing may be held. At the same time, the RPDC starts assessing the DIIS itself or through expert, paid consultants, especially when it is a major project with complex processes and impacts, such as the proposed pulp mill (RPDC, 2009b).

The Commission then prepares a draft integrated assessment report that considers all the public comments and contains input from relevant agencies and the local government council, where the project would be located. The draft integrated assessment report has to be placed on public exhibition for at least 28 days and representations are invited and considered by the Commission before determining whether a further hearing will be held (SPPA 1993: s. 21-22). The proponent then prepares its final IIS followed by the Panel finalising its draft assessment report (SPPA
1993: s. 25) and present it to the Tasmanian Premier (SPPA 1993: s. 26) and the federal Minister for Environment and Heritage (if necessary).

**Inherent weakness in the POSS assessment process**

As indicated above, the POSS process requires the proponent to assess the project’s impact and document them in its IIS. Many of the public submissions as well as some researchers identified this (i.e., letting the proponent assess the project’s impact) to be a major flaw in the design of the POSS assessment process. They believe that the reliance of the RPDC on the information provided by the proponent can make the POSS process fundamentally weak (Bevilacqua, 2006). The RPDC may not have access to sufficient resources to investigate/verify every claim/omission made by the proponent in its IIS. This is especially true with regards to highly technical, complex or novel projects that use a significant amount of sophisticated computer modelling outputs as part of supporting various claims in the DIIS. The assumptions and inputs used in the modelling as well as the inherent strength of the highly complex modelling software themselves (which are often highly expensive, exclusive to the proponent or its consultants by proprietary rights and beyond public purview) may often be left out of an RPDC investigation. This shortcoming of the law and its implications were identified by a number of submissions on the Gunns’ DIIS. One such submission argued:

> It seems to me the concept that the proponent of a major industrial project that has the potential to negatively impact on the community, is also the responsible entity for assessing the impacts on the community, is a fundamentally flawed concept. Apart from the fact that the proponent is clearly not in an unbiased position to do the assessment, additionally the proponent does not have the necessary skills to make many of the assessments (Morris, 2006; public submission #131).

Another submission identified the same issue and put forward a possible solution:

> As an alternative, the government should require the proponent to present a complete business plan, then authorise a competent and independent group to evaluate the impacts on the various communities and on Australia’s strategic capacities (McMahon, 2006; public submission #280).
Researchers cited Basslink, a POSS that was approved by RPDC prior to that of Gunns, as an example where RPDC had relied on critical data from the proponent/beneficiary leading to the approval of the project; but later the beneficiary was found to be in questionable financial position not commensurate with what was projected during the two and half years of POSS assessment (see, Bevilacqua, 2006; Duncan and Hay, 2007 for details). This along with the wood supply issue (discussed in the previous subsection under ‘ministerial power’) will be further deliberated in the discourse practice chapter.

6.3.3 The power of discourse in RMPS and the process of legitimation: an example of theory and method complementing each other

As discussed in the earlier subsection, a synchronised set of legislation was introduced in Tasmania in the early 1990s to establish an integrated state wide planning framework, called the RMPS. The aim was to bring together all local and state wide resource specific measures under a ‘common rule book’ to promote ‘sustainable development’ (Curran and Hollander, 2011; see, schedule 1 of any of the acts regarding the common objectives). One of the key legislations introduced as part of the RMPS was the State Policies and Projects Act 1993 (SPPA 1993) to deal with major projects of State significance (POSS) to be assessed by the Resource Planning and Development Commission (RPDC). In this subsection, SPPA 1993 is further discussed as an important element in pulp mill’s social practice and seen through the theoretical and methodological lens.

SPPA 1993 as a Bill in the House of Assembly- Premier’s speech

The State Policies and Projects Bill 1993 was read the first time (i.e., introduced in the parliament) on 8 April 1993 and was read the second time (i.e., debate began on the bill) on 4 May 1993. While Minister for Environment and Land Management initiated the second reading of the bill with an introductory speech that explained various clauses of the bill, the Premier’s speech was one of support for the bill (and the overall

54 Schedule 1 of SPPA 1993 was reproduced in the previous subsection.
reform package under the RMPS), while the opposition and the Greens strongly argued against the bill soon after the Minister for Environment had finished his speech\textsuperscript{55}. The Premier’s speech (hence his view) is important here because customarily it is the Premier who directs RPDC for a POSS assessment and the RPDC submits its final report to him (see, Figure 6). An examination of the Premier’s speech\textsuperscript{56} during the debate on the State Policies and Projects Bill 1993 demonstrates a clear preference by his government for development. He opened his speech by saying:

This first bill is part of a package of bills which I believe are of very real significance for the State and which will help development to occur in Tasmania. It is one of the measures in a series of reforms we have brought into this House which will assist us to create the right economic climate for development in Tasmania…(Groom, 1993, \textit{HoA Hansard}, 4 May 1993)

He further mentioned about the reform package and government initiatives:

In the years to come this reform package will enable us to consolidate our advantage and will be one of the central pillars for sustained economic development.

These measures are examples of the Government's fundamental commitment to the creation of the best possible climate for development investment for the long-term prosperity of Tasmania.

We are a government that is steadily going along the path of improving the climate for jobs, for economic development, for investment in Tasmania (Groom, 1993, \textit{HoA Hansard}, 4 May 1993).

On the other hand, his view on the conservation movement was one of impediment to growth and development. The following is how he thought the proposed legislation (State Policies and Projects Bill 1993) dealt with that ‘problem’.

Removed, too, will be the lengthy appeal process which was drawn out for far too long in many cases. Whilst these have been costly and equally frustrating to developers they have been subject to excessive

\textsuperscript{55} Some of the arguments against various provisions of the bill as raised in the parliament were discussed in the previous subsection.

\textsuperscript{56} That is the only speech the Premier made on this bill in the House of Assembly.
rules and regulations. It is in this area that the conservation movement in recent years has applied its particular bias and used the system to stop development (Groom, 1993, *HoA Hansard*, 4 May 1993).\footnote{From his position as the Premier, he blamed the conservation movement for the lack of economic development in Tasmania, as well as commented on the lack of an organised process to assess a major proposal at the state level (for example, a ‘project of state significance’), thus exacerbating the tension between the conservation and development ‘camps’. The need for an organised process (rather than ad-hoc, project specific processes) had been stressed by the Greens and other community bodies since the mid-1970s and more so after the collapse of the Wesley Vale pulp mill proposal in the late 1980s (see, Bates, 2006 for a discussion on this in *HoA Hansard* 4 May 1993. The background chapter into Tasmania’s development controversies also indicates the need for an organised process).}

His speech had no mention of reconciliation or balance between the three facets of sustainability although ‘sustainable development’ was one of the aims of the bill (see, footnote 39 on the shifting meaning of sustainability). His speech was all about development- facilitating the right climate for jobs, highlighting the certainty of timeframe for investors by curbing appeal rights and providing assessment deadlines, creating wealth and maintaining “sustained economic development” (Groom, 1993, *HoA Hansard*, 4 May 1993).

The mention of environment came only once in his speech towards the end in a global statement implicating environment and planning reform in Australia:

\begin{quote}
this package is at the leading edge of environment and planning reform in Australia. It will certainly give us a competitive advantage compared with other States (Groom, 1993, *HoA Hansard*, 4 May 1993).
\end{quote}

However, he did not elaborate how the bill or the reform package was beneficial to the environment or how it would create a competitive advantage for the state, although he did emphasise how they would create a ‘climate’ conducive to development. Ironically, his mention of the environment matched the letter of the law in the POSS provisions. Out of the seven criteria, of which two needed to be met for a POSS, six relate to various macro/micro economic factors and only one relates to the environment (see SPPA 1993: s. 16 as reproduced in Table 7; Curran and Hollander, 2011). The Premier’s view, therefore, could be argued to be a depiction of his government’s position on the suite of bills introduced, contradicting claims of ‘sustainable
development’ as the principle objective for those bills and the Tasmanian RMPS in general.

**Enactment of SPPA 1993 through the lens of CDA and the theory of legitimation**

The SPPA 1993 can be seen through the three layers of discourse (see, Figure 7). It is a piece of legislation with the objective of ‘sustainable development’ while giving preference to economic development as is evident from the debates and speeches in the parliament. The prevalent social practice of giving development preference over conservation has been reproduced in this piece of legislation (i.e. text) through a discourse practice process which not only reproduced the existing bias faithfully but took it to a new height by creating ostensibly objective criteria for POSS selection and assessment through a ‘democratic’ process in the parliament.

**Figure 7: SPPA 1993 through the lens of CDA and the theory of legitimation**

In so doing, the SPPA 1993 and the POSS provisions within it, has given the legitimation of the pro-development bias (discussed in the introduction and background chapters) an institutional basis by codifying it into legislation (Turkel,
Simultaneously and dialectically, however, through the same discourse practice process, rising public concern and disquiet on ad-hoc assessments/project specific legislations (which were also part of social practice) had been addressed. The seemingly rigorous, detailed, non-project specific ‘umbrella’ legislations had the potential to address the aforementioned legal void\textsuperscript{58} in standard assessment procedures of major projects. The discursive process is further explored below.

A critical look into the above changes in the project assessment regime reveals the power of existing social practice and the utility of CDA in complementing the theory (elsewhere in this thesis, it was shown how the theory helped better explain the layers of discourse in CDA). Unquestionably, an active public consultation process encodes democratic norms and practices, such as transparency and accountability, within an otherwise bureaucratic and technical assessment regime, increasing its legitimation and the legitimation of the assessment authority and that of the government in general. Corporations and governments desperate for economic development may not like public participation, especially when there is a chance of public opposition to the development in question which can delay it or even make it unrealisable. This phenomenon was evident in the first draft of the SPP Bill 1993 (later SPPA 1993), as pointed out by Dr. Gerry Bates\textsuperscript{59} of the Greens. He pointed out that the original bill had provisions such as ‘material interest’, or ‘persons aggrieved’, to curtail open public participation. Upon insistence from the Greens and on advice from its own lawyers that legal challenges of such restrictive provisions on public representations could actually delay the development projects even further, the government removed them in the second draft (\textit{HoA Hansard}, 4 May 1993). However, the government’s philosophy on the matter remained unchanged as could be seen from the Premier’s speech (on 4 May 1993) which was examined earlier in this subsection. Ironically, more than 10 years later, despite a change in the ‘driver’\textsuperscript{60}, the government’s

---

\textsuperscript{58} That is, the need for an organised process, which is part of the social practice of the discursive event, ‘establishment of RMPS’.

\textsuperscript{59} Dr. Gerry Bates is a consultant and professor of law, specialising in environmental law. He is one of the founding members of the Tasmanian Greens along with Bob Brown. He retired from politics in 1995 (Gerry Bates, n.d.; Parliament of Tasmania, 2005).

\textsuperscript{60} That is the ruling party. In 1993, the Liberal Party was in power, while in 2004 it was the Labor Party.
philosophy remained the same. The Labor Party, which along with the Greens, took a strong stance against many of the provisions of the SPPA 1993, especially with regards to the excessive ministerial powers within its POSS provisions, took advantage of the same while declaring the Gunns’ pulp mill project a POSS and excluded its forestry operations for the proposed mill from the RPDC assessment.

A multi-layered reading of the SPPA 1993 exposes internal inconsistencies. On the one hand, a reading of ‘schedule 1- objectives’ (reproduced in the previous subsection under the heading ‘POSS assessment process in brief’) of the act is likely to give the impression that the act comes with the best of intentions. On the other, when various sub-sections are critically examined, it is evident how methodically the objectives in schedule 1 have been muted by the very sections of the act that were to promote these objectives. For example, the POSS criteria; the ministerial powers to set the terms, processes and time-limit to follow in a POSS assessment; and his/her power to do away with RPDC recommendations after an integrated assessment- reveal how restricted the so called independent RPDC actuality is, and how the objectives of the act (and the RMPS in general) have been suppressed. The reflection of the objectives is clearly missing in the seven POSS criteria discussed previously (see, Table 7 for the list). While the objectives place sustainable development as the main thrust of the recommendations with economic development only as an aid in satisfying sustainable development; the POSS selection criteria, on the contrary, are almost all about economic development. Interestingly, the sections of the act that deal with the ministerial powers are not explicitly subjected to schedule 1, while the ones related to the assessment procedure at RPDC are. For example, s. 20 of SPPA 1993 is about ‘Integrated assessment of projects of State Significance’. Subsection (3) under s. 20 (also reproduced earlier in this section) gives the minister the following powers without being subjected to schedule 1:
SPPA 1993, s. 20 (3):

A direction under subsection (1) may require the Commission to comply with any requirement regarding—

a) the matters to be addressed in the integrated assessment; or
b) the process to be followed in undertaking the integrated assessment; or
c) the time within which the integrated assessment must be completed.

However, within the same section (s. 20), subsection (5)(a), when the RPDC is tasked with the assessment of a POSS, it has been subjected to schedule 1.

SPPA 1993, s. 20 (5):

The integrated assessment by the Commission under subsection (1)—

a) must seek to further the objectives set out in Schedule 1

Similar examples include s. 13B(2) where the statutory authority (RPDC) has been subjected to schedule 1, while in s. 16 (POSS criteria) where the minister chooses a project to be a POSS or s. 26 (recommendation to minister on project of state significance, reproduced and discussed earlier), where the minister can do away with the recommendation of RPDC and make recommendations of his/her own, are not subjected to schedule 1.

The above (subjecting RPDC to schedule 1) has the potential of venerating the statutory responsibility of the RPDC (in harnessing sustainable development) in the public eye, enhancing the Commission’s legitimation and that of the government61, while in effect the minister, virtually unrestricted by schedule 1, has the power to shape the input in the RPDC procedures restricting its scope of assessment, and then has the right to reject or modify its final recommendations. Gale (2011) therefore, rightly questions if Tasmania’s “existing political arrangements are delivering anything more than democratic formalism: the illusion of rule by the people and the practice of rule by the elite” (p.74). The whole episode (enactment of SPPA 1993 and then it becoming an important social practice element in the Gunns’ pulp mill case more than 10 years later) demonstrates the power of discourse, and discourse practice in particular, where

61 Indeed, RPDC mentions in its annual report how seriously it takes its statutory duties of upholding the objectives of RMPS (listed in schedule 1), while also acknowledging its limitation that it has to work “within the parameters set by an Act of parliament and any direction given to it by the appropriate Minister” (RPDC, 2007a, p.8) – this acknowledges its limits
‘sustainable development’ has (again) been given a new meaning in Tasmania, making it furtively interchangeable with ‘sustained development’.

**CDA dialectics at play in the enactment of SPPA 1993**

At this stage of analysis, it could be said that, through the lens of CDA and with the help of the theory of legitimation, the dialectical nature of the three layers of discourse and the legitimation process that have taken place in the above discursive event (enactment of SPPA 1993) can be understood. While the social practice element—public disquiet and concerns about the degradation of environment and a lack of a consolidated and integrated planning and assessment regime have been addressed through the establishment of the RMPS with a compelling set of objectives/ ‘texts’ (hence the partial modification of social practice and gaining of legitimation), within the sections of the act (the ‘text’), one can see a subtle but faithful reproduction of the pro-development bias— a more substantial social practice element (see, Figure 7 for a diagrammatic representation of this).

A snapshot of the above can also be seen by having a closer look at the full title of the State Policies and Projects Act:

**State Policies and Projects Act 1993**

An Act to provide for Tasmanian Sustainable Development Policies, to provide for the integrated assessment of projects of State significance, to provide for State of the Environment Reporting and for related purposes

The title starts with the promotion of sustainable development, gaining ready acceptance by the public; while the sections of the act where precise by-laws are laid out (as demonstrated in the above paragraphs), lack the spirit of sustainable development and promote ‘sustained’ development instead. It would later be evident in the Gunns’ pulp mill assessment case that such contradiction in the system was not tenable and would lead to a lack of public confidence, leading to legitimation crisis.
6.4 Identifying the key players

On the surface the two key parties directly involved in the assessment process were Gunns and the RPDC- Gunns being the proponent of the project and the RPDC being the assessing authority. The formation, function and limitation of RPDC have been discussed in the previous section. Gunns as a corporation was also introduced in the first chapter. In this section, some other aspects of Gunns (such as its board members, policies, etc.) will be discussed. In addition to Gunns and the RPDC, other key players, who were involved with varying degrees of interest and influence, will also be identified and discussed.

6.4.1 Gunns board, its composition and governance

Most of the directors on Gunns’ board had been long serving in their positions leading up to the proposal of the pulp mill project in 2004. The composition of Gunns board from the proposal through to the assessment process between 2004-2007 has been summarised in Table 8.

John Gay had been Gunns’ managing director and the most influential board member since 1986 and led a small privately owned company to becoming one of Australia’s largest corporations (Robin, 2012). Gay and his related parties held substantial shares in the company (Gunns, 2007).

Corporate governance structure

Contrary to the best practice recommendations of the ASX Corporate Governance Council, Gay was elected as the Chairman of the board by the board of directors in July 2002, while still remaining as the managing director/ chief executive of the company (Gunns, 2007). Gunns’ own annual reports stipulated that the roles of the board and those of the management were clearly distinct. While the board held the control of the company and was to provide strategic direction to the management, set goals for it and review its performance including that of the managing director in addition to his/ her appointment; the management was responsible for the day to day operation and administration of the company. The board was also responsible for the
overall corporate governance of the company and to protect and enhance long term shareholder value (Gunns, 2007).

Table 8: Composition of Gunns’ Board

<table>
<thead>
<tr>
<th>Name</th>
<th>Director since</th>
<th>Brief background</th>
</tr>
</thead>
<tbody>
<tr>
<td>John E. Gay</td>
<td>1986</td>
<td>Joined Gunns in 1973 as a timber manager and promoted to the position of general manager in 1982, then becoming the managing director in 1986, when the company became publicly listed. He also became the chairman of the board in 2002. (Gunns, 2007; Robin, 2012).</td>
</tr>
<tr>
<td>David M. McQuestin</td>
<td>1988</td>
<td>Substantial experience in the media industry (Gunns, 2007).</td>
</tr>
<tr>
<td>Robin T. Gray</td>
<td>1996</td>
<td>Had been a Liberal Party member of Tasmanian parliament for 19 years (1976-1995) including seven years as the State Premier (1982-1989). Mr. Gray joined Gunns as a director after retiring from the parliament (Gunns, 2007).</td>
</tr>
<tr>
<td>Cornelis A. van der Kley</td>
<td>1996</td>
<td>Ex-finance manager and company secretary of Gunns (Gunns, 2007)</td>
</tr>
<tr>
<td>Christopher J. Newman</td>
<td>2001</td>
<td>Extensive experience in the banking and finance industry (Gunns, 2007)</td>
</tr>
<tr>
<td>Richard V. Millar</td>
<td>2007</td>
<td>Chartered Accountant- FCA, ICAA (Gunns, 2007)</td>
</tr>
</tbody>
</table>

Source: Gunns, 2007

Given the separate roles of the board and the management, and the board being in the supervisory role of the executive, managing and reviewing its performance and ensuring its accountability, it is difficult to see how the same person could be at the helm of both the board and the executive. However, this was probably possible in the case of John Gay because of a number of potential factors such as: his strong leadership...
and track record in advancing the company from a locally known small private company to an internationally known large corporation\textsuperscript{62}; his holding of substantial shares\textsuperscript{63}; and the continuance of a small and long serving board (Robin, 2012).

Interestingly, Gunns’ annual reports assert the rights of access by any director to all relevant company information and company executives and, “subject to prior consultation with the Chairman”; a director may seek independent professional advice at the consolidated entity’s expense (Gunns, 2007, p. 13; 2008, p. 16). The visible contradiction in the above assertion, when the position of the managing director (a company executive) and the chairman (of the Board) is occupied by the same person, is one of many examples of impediments to good governance in such a company\textsuperscript{64}.

**Political importance and connection**

As mentioned in chapter two, Gunns Limited was Australia’s largest fully integrated hardwood products company, exporting to over 25 different countries worldwide. It was also the largest company in Tasmania, employing about 1700 people during its peak years in early 2000s (Gunns Ltd., 2003a; Huntley's Investment Information Pty Limited (HII), 2007). Given the history of Tasmania’s ‘poor’ economic performance, it is not surprising that a company and employer of Gunns’ size would have considerable political importance and influence over the state government of the day. For example, in June 2003 Gunns CEO John Gay was seen discussing a pulp mill proposal at a private dinner with Lennon, then Deputy Premier and Resources Minister, at a Hobart restaurant (Neales, 2008). Two months later in August 2003, Lennon accompanied Gay on a trip to Scandinavia (Finland and Sweden) to look at

\textsuperscript{62} When he took over, it was a privately-owned company turning $10 million a year. At its peak in 2003- 2004, it had a market capitalisation of $900 million (Robin, 2012); a turnover close to $700 million with an after tax profit over $100 million (Gunns, 2007).

\textsuperscript{63} He and his related parties held substantial shares (a substantial shareholder is one who holds no less than 5% interest). John Gay himself was one of the 20 largest shareholders of the company (in fact, he was number eight with over 8 million shares). Every other shareholder in the top 20 was an institutional one (Gunns, 2007).

\textsuperscript{64} Robin (2012) claims that such merger of two distinct roles at the top seriously undermines good corporate governance and is a common occurrence in the corporate governance practices of companies that go astray. Gunns went into voluntary administration on 25 September, 2012 (Gunns, 2012; ABC, 2012a) and many ascribe the demise of this once giant company that crept into ASX100 in early 2000s, to John Gay, especially for his unwavering position regarding the pulp mill (Robin, 2012; ABC, 2012a; Lawrence, 2013).
pulp mills and emergent pulping technologies there (McCall, 2011; The Examiner, 2012). As Table 5 listed, RPDC was then directed in November 2003 to update pulp mill guidelines for the state, which RPDC completed in August 2004. The government then approved the guidelines in October 2004. A few days later Gunns publicly announced for the first time its plan to build a pulp mill in Tasmania.

Gunns was also strengthened politically by the inclusion of the former Premier of Tasmania, Robin Gray in its board. Gray was the Premier of Tasmania for seven years between 1982 and 1989 and is regarded as the most successful Liberal Premier Tasmania ever had, winning support across the political spectrum (Tanner, 2008). When Gray joined Gay on the Gunns board in 1996, they became a ‘formidable team’ with impeccable political connections (Lawrence, 2013). A staunch supporter of industrial development in Tasmania exploiting its vast natural resources, Robin Gray was at the centre of major environmental conflicts in Tasmania, such as the Franklin Dam debate in the early 1980s and the Wesley Vale pulp mill debate in the late 1980s that ultimately contributed to his government’s downfall (Tanner, 2008). Under his government, land was purchased and cleared to build an irrigation dam, another controversial project, in Meander Valley (see Appendix 2 for further discussion).

**Gunns board’s growth strategy**

Established in 1875 as a building and construction company, Gunns remained as a large, diversified family-owned hardware, timber and building supplies business for over 100 years with both retail operations and construction arms (The Examiner, 2012). The company entered the forestry industry in the 1940s (with pine plantations in the north-west of the state) in a backward integration to secure steady supply for its building projects (The Examiner, 2012; Buckman, 2008). In the early 1980s a group of entrepreneurs took over the company before selling its shares in 1986 and raising significant amount of capital from the stock market (Gale, 2011). Since then, Gunns had expanded through acquisitions. In addition to Gunns, there were two major wood-chipping companies in Tasmania, exporting predominantly to the Japanese market.  

---

65 Australia also has woodchip market in Korea, China, and Indonesia. However, Japan is the most significant buyer of Australian woodchip accounting for 91% of the total Australian woodchip export volume (ABARE, 2007, p. 1)
However, by the year 2001, Gunns bought out both of them in addition to building a new one of its own, turning it to be the world’s biggest woodchip exporter (Buckman, 2008; Fisher, 2010; Gale, 2011) and running a virtual monopoly in woodchip exports from Tasmania\(^66\). While in 1998, Gunns was a fairly small sized publicly listed company with a turnover of $97 million and an after-tax profit of $3 million; by 2004 it became an ASX100 company turning over $674 million with an after-tax profit of $105 million (Lawrence, 2013; Gunns, 2007). The rapid growth of Gunns in becoming the largest Tasmanian company through a series of acquisitions of its competitors, changed the private sector landscape in Tasmania and removed much industry diversity. As a result, Gunns could wield considerable corporate ‘muscle’ to get its actions endorsed by the government, other businesses that benefitted from its operations and the public in general (Gale, 2011). This is further discussed in the next section.

**Gunns board’s strategy against environmental activism**

Wood-chipping emerged as a new environmental concern between the Lake Pedder and Franklin Dam debates in the mid-1970s. What started as a subsidiary activity to timber logging, utilising forest residue from timber logging operations (to make chips for paper production in Japan), soon became a major forestry activity by itself. By the mid-1980s, forestry, in particular the wood-chipping sector became the major ‘battle ground’ for environmental activists, as forests were clear-felled to supply the logs for the chipping mills\(^67\) (Fisher, 2010). Indeed, woodchip became the single biggest forestry product exported from Australia over the years, accounting for over 41% of $2.3 billion forest product exports during 2006-07 period (ABARE, 2007). As Gunns increased its dominance in the wood-chipping sector (and the whole forestry industry

\(^{66}\) Historically, Tasmania has been the biggest woodchip exporting state in Australia, accounting for almost 38% of all woodchip exports in the year 2006-07 (ABARE, 2007, pp. 1-3) and Gunns controlled almost all of this export. Only a nominal fraction of supplies, 0.5 million tonnes, came from few other companies (Forestry Enterprises Australia, n.d.; The Infrastructure and Resource Information Service (IRIS), 2007; The Wilderness Society, 2007a). However, in doing so, Gunns not only acquired the biggest stake in the Japanese market, it was also exposed to the Japanese market (Buckman, 2008).

\(^{67}\) For example, between 2000 and 2006, working with Forestry Tasmania, Gunns clear-felled 110,966 hectares of native forest, 90 per cent of the timber being used for wood-chipping and 58 per cent of the land making way for timber plantations (Manning, 2011). Gunns gained such convenient access to state forests, managed by state owned Forestry Tasmania, because of its political connection (Lawrence, 2013).
in general, as discussed in the previous paragraph), so increased its acrimony with the conservationists. A politically and commercially powerful Gunns board, especially its Chairman and Managing Director John Gay appeared to prefer confrontation rather than consultation (Robin, 2012; White 2011). This position is evident from Gunns’ suing 20 environmental activists individually for a total of $6.3 million in damages in 2004 (The Wilderness Society, 2009, 2013; Manning, 2011; Robin, 2012; Giles and Murphy, 2013). As mentioned in the previous paragraphs, Gunns was at the peak of its business in 2004 when the litigation took place. The high-priced legal action by a billion dollar company against 20 relatively small community and environmental groups and private citizens posed a huge risk for the defendants, who had insufficient financial resources and legal expertise (Giles and Murphy, 2013). Civil society and environmental activists and media commentators quickly labelled the litigation as a Strategic Lawsuits Against Public Participation (SLAPP) (Manning, 2011; White, 2011; Giles and Murphy, 2013). What is intriguing is the timing of the Gunns law suit. The writ was lodged in the Victorian Supreme Court just a few days ahead of Gunns announcement to build its $2.3 billion pulp mill, arguably with the intention of silencing potential mill opponents (White, 2011; Manning, 2011). White (2011) points out that while there is no direct evidence linking the timing of the case and the pulp mill announcement, the “messy nature of the original suit” indicates that Gunns’ lawyers probably did not have sufficient time to put the case together (p. 81).

68 Defendants included environmental NGOs and their staff, and individual activists including members of parliament from the Australian and Tasmanian Greens. Allegations included defamation and interferences with the company’s trade and business and contractual relations in an organised conspiracy to injure/ harm the company.
69 SLAPPs are civil lawsuits filed against private individuals and organisations that have spoken out on issues of public interest or social significance. It is a strategy to intimidate dissenting public and prevent them from participating in actions that are thought to be detrimental to the plaintiff. The intent of the plaintiff is not necessarily winning the case, rather entangling the defendants in costly legal battles in a bid to silence them as well as others contemplating participation against the plaintiff (Beder, 1995; White, 2011). Beder (1995) further explains, “of course people using SLAPPs in this way cannot directly sue people for exercising their democratic right to participate in the political process so they have to find technical legal grounds on which to bring their cases. Such grounds usually include defamation, conspiracy, nuisance, invasion of privacy or interference with business/economic expectancy”. Gunns law suit is considered the biggest SLAPP in Australia (Manning, 2011)
6.4.2 Companies, associations and lobby groups involved in the Gunns case

The prominence of the forestry industry has already been discussed in Tasmania along with the size, importance and the influence of Gunns as a private corporation on Tasmanian society, its politics, its economy and the environment. As a result of the prominence of this industry and the controversy surrounding it and its major player, Gunns, it was not unexpected that the proposed pulp mill’s social practice layer would include a number of players actively propagating the virtues of the proposed pulp mill, while others vehemently opposed it. There were also others, who offered only qualified support and those, who did not oppose the pulp mill right away but expressed their concerns and asked for more information and assurance. Key players who took part in the ‘Gunns battle’ other than the proponent Gunns, the government, the opposition political parties and the RPDC are introduced in Table 9.

Most of the players listed in the Table 9 below belonged to a forestry network in which they supported each other in promoting the Gunns’ pulp mill. The two most dominant players (one public and one private) in the forestry sector in Tasmania were Forestry Tasmania and Gunns. The other players mostly revolved around them in supporting each other. Some of these players, such as Construction, Forestry, Mining and Energy union (CFMEU), had historical (through the union movement) and direct current connection with the Labor (ALP) government. CFMEU represented its worker members in different forestry related companies and was joined by the broader community based organisation, Timber Communities Australia (TCA) in pushing for the pulp mill with the hope of creating jobs and more economic opportunity for their members and the community at large that were dependent on forestry. While CFMEU and TCA acted for their worker members, individuals and resource dependent communities; Forest Industry Association of Tasmania (FIAT) and Tasmanian Chamber of Commerce and Industries (TCCI) represented employers in the forestry sector and were part of the forestry network actively supporting and promoting the pulp mill with a shared goal. Forest and Forest Industry Council (FFIC), as the peak body for anything connected to forestry, combined all of the above forces and reinforced the pulp mill support network.
<table>
<thead>
<tr>
<th>Name of the organisation</th>
<th>Acronym</th>
<th>Type</th>
<th>Membership</th>
<th>Brief description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Forestry Tasmania</td>
<td>FT</td>
<td>GBE</td>
<td></td>
<td>FT has a dual role: it is the statutory manager of Tasmanian state forests while also a government business enterprise (GBE) to generate profit from the forests it manages (FT, 2013a). FT was to be a key supplier of wood to the pulp mill (<em>HoA Hansard, 18 November 2004</em>)</td>
</tr>
<tr>
<td>Construction, Forestry, Mining and Energy union</td>
<td>CFMEU</td>
<td>Union</td>
<td>Workers in the industry</td>
<td>A powerful and established voice for forest industry workers in Tasmania as well as in other states.</td>
</tr>
<tr>
<td>Timber Communities Australia</td>
<td>TCA</td>
<td>Community organisation</td>
<td>Rural, forest dependent communities</td>
<td>Another voice for workers in the forestry industry and communities dependent upon it. It has 76 regional branches and over 13,000 members nationwide (TCA, 2013)</td>
</tr>
<tr>
<td>Forest Industry Association of Tasmania</td>
<td>FIAT</td>
<td>Employer body</td>
<td>Prominent companies in the forestry industry</td>
<td>Formed in 1983, it presents a strong, collective voice for its corporate members and the forestry industry in general. It currently has 10 members(^{71}) (FIAT, n.d.)</td>
</tr>
<tr>
<td>Tasmanian Chamber of Commerce and Industries</td>
<td>TCCI</td>
<td>Peak business body</td>
<td>Tasmanian businesses in general</td>
<td>TCCI has 1000 direct members and reaches up to 20000 businesses through regional chambers with the TCCI chamber alliance (TCCI, 2014)</td>
</tr>
<tr>
<td>Forest and Forest Industry Council</td>
<td>FFIC</td>
<td>Peak industry body</td>
<td>Association with interest in forestry</td>
<td>FFIC (now defunct) was formed in 1989 to provide advice to the government</td>
</tr>
</tbody>
</table>

\(^{70}\) Excluding the proponent Gunns, the government, the opposition political parties and the RPDC.

\(^{71}\) Gunns Ltd. was a FIAT member until September 2010 (Gale, 2011)
<table>
<thead>
<tr>
<th>Name of the organisation</th>
<th>Acronym</th>
<th>Type</th>
<th>Membership</th>
<th>Brief description</th>
</tr>
</thead>
<tbody>
<tr>
<td>FFIC</td>
<td></td>
<td></td>
<td>and related land use</td>
<td>on forestry related matters. Membership included FT, CFMEU, TCA, FIAT, TCCI, Tasmanian Forest contractors Association (TFCA) and other major forestry related associations in Tasmania (FFIC, n.d.)</td>
</tr>
<tr>
<td>The Wilderness Society Australia Inc.</td>
<td>TWS</td>
<td>Environmental not-for-profit NGO</td>
<td>Community based</td>
<td>Founded in 1976 as Tasmanian Wilderness Society (TWS) following the flooding of Lake Pedder, it is an Australian environmental advocacy organisation to protect, promote and restore wilderness and natural processes across Australia (The Wilderness Society, n.d.)</td>
</tr>
<tr>
<td>Tasmanian Greens</td>
<td>TG</td>
<td>Political party</td>
<td>General public</td>
<td>Founded in 1992 with roots in the Lake Pedder campaign. The Greens were very active in this case both inside and outside the parliament (Tasmanian Greens, n.d.; Gale, 2008).</td>
</tr>
<tr>
<td>Pulp Mill Task Force</td>
<td>PMTF</td>
<td>A special unit created under the Department of Economic Development</td>
<td></td>
<td>Established by the government to disseminate pulp mill related news and facts to the general public and maximise the economic and employment benefits of the pulp mill by coordinating the work of various agencies (PMTF, 2005).</td>
</tr>
</tbody>
</table>
In addition to this strong network of private lobby groups, the government also established a task force, called the pulp mill task force (PMTF), under the Department of Economic Development. The role of the PMTF is discussed in the next subsection.

Against this tightly knit network of supporters for the proposed pulp mill, were the anti-pulp mill coalition led by The Wilderness Society (TWS) and the Tasmanian Greens (see, The Wilderness Society, 2007a; 2007b). They were supported by other groups of different denominations; prominent among those were TRAC - Tamar Residents Action Committee (HoA Hansard, 13 April 2005) later reformed and renamed as TAP - Tasmanians Against the Pulp mill and IFT - Investors for the future of Tasmania, consisting of business people from the “new economy” model of development through tourism, food, wine, etc. (Gale, 2008, p. 265). Involvement of IFT later in the campaign made it difficult for the pro-pulp mill bloc to label the whole of anti-pulp mill campaign as the traditional opposition of ‘greenies’ against any industrial development (Gale, 2008).

6.4.3 Pulp mill task force (PMTF) - an additional government structure

The Tasmanian government also established a task force under the Department of Economic Development at a cost of $2.3 million (Department of Treasury and Finance, 2005). The pulp mill task force (PMTF) was headed by Bob Gordon as Executive Director, seconded from Forestry Tasmania (FT), where Gordon was the General Manager (GM) - Marketing (Forestry Tasmania, 2013b). The government charged PMTF with the responsibility of disseminating reliable information regarding the benefits and opportunities the pulp mill would bring to the State of Tasmania and various government initiatives in this regard (PMTF, 2005; Giddings, 2005).

---

Another $2 million was earmarked for PMTF for a ‘pulp mill supplier development program’ to provide assistance to those firms capable of competing for pulp mill contracts during the construction and operational phases. A portion of a further $3.2 million was budgeted for PMTF to assist those firms and individuals with skill shortages seeking work opportunity at the pulp mill (Department of Treasury and Finance, 2005; PMTF, 2005).
PMTF’s independence questioned

Soon after it had started operating, it was alleged by the anti-pulp mill campaigners that the taskforce was simply promoting the pulp mill on behalf of Gunns (HoA Hansard, 13 April 2005; TWS, 2007b). Such claims cannot be discarded as unfounded either as the appointment of Gordon highlighted potential bias. Gordon’s primary role as the marketing GM of Forestry Tasmania - a potential supplier of wood (hence a beneficiary) to a potential new customer (the pulp mill), created a potential conflict of interest. Forestry Tasmania was already a major external supplier of forestry resources to Gunns73 (Gunns Ltd., 2007). Even the RPDC complained several times to the head of PMTF, heads of departments, the relevant minister and even to the department of Premier and Cabinet to stop PMTF from promoting the pulp mill in a way as if it were approved and thereby creating doubts in the public mind with regards to the independence of the Commission (Denholm, 2007b; Ward, 2007; Gutwein, 2007; The Wilderness Society, 2007b; Stokes, 2011). In one such letter, RPDC Executive Commissioner Julian Green wrote to the Department of Premier and Cabinet that:

The integrity of the Commission and its assessment process must not be compromised by the activities of the Task Force. If there is a perception that the Task Force is an arm of the Commission or vice versa then the credibility of the assessment process will be in question.

If the Task Force activities are not reined in two outcomes are likely. Firstly the Commission will be compromised in the eyes of the public and interest groups and therefore the assessment process seen to be contaminated. Secondly, the accreditation of the process may be in question (J. Green, letter to Secretary of Department of Premier and Cabinet, 24 April 2005)

The role of PMTF through the lens of the theory of legitimation is explored below.

The role of PMTF through the theoretical lens

As introduced in chapter 4, theoretical framework, Turkel (1980a) defines legitimation as “that constellation of reasons and beliefs which social members willingly affirm in their support of the social order” (p. 19). ‘Willing’ affirmations are important for

73 Gunns also had supplies from its own forests.
creating consensus that the “legitimising system” (Habermas, 1975, p. 46) strives to achieve, since consensus is essential for cooperative action in an authority system (Turkel, 1980a). However, because of the lack of reciprocal acquiescing, ‘willing’ affirmations (leading to legitimation) may not always be easy to achieve. Consequently, the legitimising system of the government can use various devices and mechanisms to shape public opinion so that people are ‘willing’ to affirm their support (and a consensus can be built around) certain government actions. These ‘devices’ include forming a “propaganda” (Turkel, 1980a, p. 22) unit to disseminate swaying information, using specialised vocabulary; timing and setting of the release of information; directed communication, and other means. However the goal remains ensuring that social members continue to affirm unequal statuses as justifiable (Turkel, 1982).

An analysis of the pulp mill task force’s activities demonstrates that it was working as if it were a ‘propaganda’ unit (Turkel, 1980a) or at least as a rhetorical device. The preceding paragraphs introduced the formation of the task force and its formal role, while also indicating what it was actually engaged in as a member of the collaborative, pro pulp mill forestry network (further discussion about the network and their activities will be undertaken in the discourse practice chapter). Officially the PMTF was meant to help coordinate and disseminate reliable information about various government initiatives (such as skill building, supplier development and so on) targeted at the smooth operation of the pulp mill and maximising its benefits to the state. According to Stokes (2011), this publicly funded body was rather promoting a proposed private mill in an effort to create consensus (Habermas, 1975) amongst the Tasmanians regarding its benefits to the community and the state in general thereby seeking legitimation of the mill. From Gunns’ perspective, it can be deduced that, the government task force promoting its mill had two definite advantages. It provided cost savings to Gunns on promotions of the pulp mill (more on cost and other financial arguments in the discourse practice chapter), and it had the potential of creating a more favourable public perception of the pulp mill since the communication was coming from a government task force rather than the proponent itself74.

74 i.e., the information could be presumed more authentic and neutral by the public compared to that provided by the proponent, Gunns.
The PMTF being headed by Gordon of Forestry Tasmania, rather than a neutral public servant, was fulfilling the agenda of Forestry Tasmania, the government and the forestry network in general. The taskforce could be argued to be the ‘win-win’ device of the government in legitimising its pro-development stance, while also supporting the agenda of the forestry network, in general and the commercial interest of Gunns, in particular. Gunns’ commercial success as the state’s largest corporation was important for the state government as implied earlier and this will be discussed further in the discourse practice chapter. Some of the taskforce’s activities are analysed below in light of the above theoretical position, and also discussed in the subsequent chapters.

PMTF was innovative in its delivery of information. In addition to the electronic and print media, it operated a promotion bus, called the ‘Pulp Mill Info Bus’, which toured throughout Tasmania, including the regional areas for disseminating pulp mill related information to the general public. The bus service was significant because of its legitimisation as a government initiative (Turkel, 1980a) and its funding approved by both sides of the parliament (Hidding, 2005, HoA Hansard, 13 April 2005). However, within a few months into the service, even the leader of the Liberal opposition, Rene Hidding, who supported funding the ‘bus campaign’ by PMTF in the parliament indicated discomfort at the bus’ preaching only pro-pulp mill information and having no mention or information about the existence of the other side of the debate (Hidding, 2005, HoA Hansard, 13 April 2005). According to PMTF, the bus attracted more than 11,000 visitors seeking information in less than six months into its operation from February 2005 (PMTF, 2005). The physical presence of the bus in every part of the state with PMTF’s favourable information campaign had the potential of nullifying the messages from the other side of the debate and mould acquiescing public view of the pulp mill, thus seeking legitimation of the proposed development (Turkel, 1980a).

While the anti-pulp mill campaigners and even the neutral organisations and individuals raised some issues of concern, the PMTF’s ‘reliable’ information databank was dismissive of the idea of any negative impact of the pulp mill and contained

75 However, Hidding resisted The Greens’ call to support their motion of defunding the bus.
nothing but praise as evident in its fortnightly pulp mill newsletters. An examination of 30 random pulp mill newsletters by this author revealed only glowing praise for the pulp mill and its projected, yet to be verified (through an assessment process), impacts on the Tasmanian economy, society and even the environment76. Some of the newsletters could be confused as coming from the proponent, Gunns, rather than the government task force. For example, Gunns held an invitation-only (ABC, 2006) briefing session with representatives from the state government, local governments, industry bodies, community and lobby groups soon after it had submitted its Draft Integrated Impact Statement (DIIS) to the RPDC in mid-July 2006 (PMTF, 2006a). The briefing was about showcasing the DIIS, particularly in the areas of public concern (PMTF, 2006a, 2006b). Issues 50 and 51 of PMTF newsletters (published in August 2006) were fully dedicated to the briefing. Key speeches/presentations were simply summarised in the newsletters by PMTF without any scrutiny or questioning of the information of the information whatsoever (see, PMTF, 2006a, 2006b). Issue 50 introduced the briefing and the current newsletter’s coverage of the same as follows:

In Launceston, last week, Gunns assembled key personnel and consulting scientists involved in the preparation of the IIS expert reports to brief more than 140 representatives of government, local government, peak industry organisations and lobby groups.

As a service to those who were unable to attend, we will attempt in this newsletter to provide the key points raised by the first three speakers at last week’s briefing and in the next newsletter deal with the scientific evidence presented at the forum (PMTF, 2006a).

The summaries presented in the newsletters used distinct headings and bullet points to highlight operational excellence of the mill in every respect, especially in the most controversial areas, such as the mills’ potential impact on forests and fresh water on the input side; and on land, water and air on the output side (through effluents and emissions). After presenting the key assertions made in the DIIS about each of the above areas, the following conclusions were drawn in the newsletter (Issue 50):

76 Gunns withdrew from the pulp mill assessment process before it was complete. The examined newsletters are available at George Town Council’s website: http://georgetown.tas.gov.au/pulp-mill. The council website does not have all of the newsletters, however. Soon after Gunns had withdrawn from the RPDC process, PMTF website was taken down, blocking access to all of its resources including the newsletters.

149
Conclusion:

- Mill incorporate most sophisticated technology to deliver best outcomes
- No adverse effects on the environment
- No changes to forest practices
- Will meet the State’s stringent emission guidelines (PMTF, 2006a)

The impact of such recreation, repetition and propagation of proponent’s views is further explored in the discourse practice chapter.

**PMTF’s potential impact on the RPDC**

As indicated in an earlier paragraph in this subsection, the RPDC could feel the pressure of the task force’s pro pulp mill activities and hence complained several times that its activities should be reined in. Arguably, putting indirect pressure on the RPDC was vital from the government’s perspective and its only option because, despite the legal discretion available to the Premier not to abide by the RPDC’s recommendations (SPPA 1993, s. 26), the political risk of doing so was substantial and could severely impact the legitimacy of the pulp mill. The above argument is based on two premises: the legitimation of the RPDC as an independent planning and assessment authority in Tasmania and the government’s commitment on several occasions that it would not interfere with the established planning process and would abide by the Commission’s recommendation in full. On one such occasion, Premier Lennon declared the following in the parliament in a question-answer session:

> I can assure the member that I do not intend to bring a recommendation to Parliament that would override any recommendation that the RPDC might make in respect of this matter.

> I do not intend, in any way, shape or form, to have the Government interfere with the planning process for this major development.

He further stated in the same session,

> I can assure the member that I have no such intention, as Premier of Tasmania, of overriding the recommendations of the RPDC. To do so, in my opinion, would lead to a significant lessening of public confidence in the project and do irreparable damage to the RPDC.
The RPDC has demonstrated itself able to sift out good projects from bad as it looks for these projects of major significance (Lennon, 2005, *HoA Hansard*, 24 March 2005).

The above public position of the Premier arguably explains why despite numerous calls from the anti-pulp mill campaigners (Stokes, 2011) to shut down PMTF or RPDC’s complaints to control the activities of PMTF, the task force continued to operate with his explicit support for its supposedly important contribution to the public awareness of the mill (ABC, 2007b, 2007c, 2007d). The impact of PMTF’s activities is further assessed in the discourse practice chapter.

### 6.5 Chapter Summary

In this chapter context in which the Gunns’ pulp mill proposal took place was discussed in terms of CDA’s social practice. The social practice is considered in terms of the government entities and processes it enacted and the corporation Gunns Ltd.

Of particular interest was the heightened status that a POSS project enjoyed. It was demonstrated that the special status of a POSS did not come about in a vacuum; rather it was the culmination of legitimation of pro-development bias in the State of Tasmania, at the root of which was the prioritisation of economic development narrative. The legal instruments, processes and structures served as important legitimating device- that due process was taking place.

Gunns Ltd was also instrumental in blurring the boundaries between the corporation and the government independence, often as a blatant promotion of the corporation and development interests. Gunns’ pulp mill as a POSS was given special and due consideration.

However, the social practice cannot be seen in isolation. A closer look at how the social practice level was used to disseminate and reproduce ideas will be discussed in the discourse practice chapter.
CHAPTER SEVEN: ‘TEXT’ AND GUNNS’ PULP MILL CASE

7.1 Introduction
In the previous chapter, Gunns’ social practice (the outer most layer in Fairclough’s three dimensional CDA model) layer was analysed and discussed. If social practice is one dimension of a discursive event, the text is another (Fairclough, 1992); the text is the remains of a discursive event. Discourse practice involves the production and interpretation of the text given the dialectical influence of social practice. Dialectically interrelated means one influences the other. Because of the influence of social practice, discourse practice contributes to “reproducing society” (i.e., reproducing social norms, expectations, relationships in a discursive event). At the same time, on the other hand, discourse practice dialectically transforms existing social practice by creating new situations, expectations, objects of knowledge, social identities and relations (Fairclough, 1992, p. 65).

In this chapter, ‘text’ is discussed being one of three elements in Fairclough’s (1992) three dimensional framework. ‘Text’ in the pulp mill approval case include both texts that provide context such as the statistical and other literature on Tasmanian political, socio-economic and environmental landscape; parliamentary Hansards; various state and federal legislations and agreements related to projects of State significance (POSS) within the resource management and planning system (RMPS) of Tasmania; and also texts that are analysed in context such as the ministerial direction that initiated the pulp mill assessment process; amendments to existing legislations/ introduction of new legislations specific to Gunns (and related parliamentary debates in the Hansards); Gunns’ draft integrated impact statement (DIIS); public submissions in response to Gunns’ DIIS; pulp mill newsletters from the pulp mill task force (PMTF). The analysis of these texts forms the core of Chapter 8, Discourse Practice in Gunns’ pulp mill case.

As can be deduced from above, both groups of texts can come from the same source. For example, parliamentary Hansards provide a legislative and historical context to a legislation that is currently being debated in addition to providing the text itself (i.e., the bill/ proposed legislation). Table 10, a modified reproduction of Table 4 lists the major sources of ‘text’ in the Gunns’ pulp mill case and whether the source was used to help create context as well. Texts that were relevant for creating contexts, were
identified, used and discussed in the previous chapter. They include the SPPA 1993 (also as a bill) with the POSS provisions; legislations on the RMPS and the RPDC; texts on Gunns’ board, its governance and strategies; and texts describing the companies, associations and lobby groups including the pulp mill task force (PMTF). They may be referred to here but not elaborated. This chapter identifies the texts that are outcomes of the discursive events in the Gunns’ pulp mill case and are subject to analysis in the discourse practice chapter given Gunns’ social practice (discussed in Chapter 6). This chapter is organised as follows:

- General description of the sources of the texts and some sample texts/summaries
Table 10: Key sources of ‘Text’

<table>
<thead>
<tr>
<th>Who</th>
<th>Sources</th>
<th>Also used to create context?</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>State</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Government</td>
<td>Parliamentary Hansards</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Ministerial direction</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Tasmanian Legislation</td>
<td>Yes</td>
</tr>
<tr>
<td>RPDC</td>
<td>Final scope guidelines for IIS</td>
<td>Context only</td>
</tr>
<tr>
<td></td>
<td>Letters to Gunns</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Directions Hearing transcripts</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Annual reports, media statements</td>
<td>Yes</td>
</tr>
<tr>
<td>PMTF</td>
<td>Pulp mill newsletters</td>
<td>Yes</td>
</tr>
<tr>
<td>ABS</td>
<td>Demographic, economic and historical accounts</td>
<td>Context only</td>
</tr>
<tr>
<td><strong>Gunns</strong></td>
<td>DIIS</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Annual reports</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Pulp mill special publications (fact sheets)</td>
<td>No</td>
</tr>
<tr>
<td></td>
<td>Advices to ASX</td>
<td>Yes</td>
</tr>
<tr>
<td><strong>Other stakeholders</strong></td>
<td>Pro-pulp mill lobby groups</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Public submissions, newspapers advertisements</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>Public submissions, media releases</td>
<td>Yes</td>
</tr>
<tr>
<td></td>
<td>General public</td>
<td>Yes</td>
</tr>
</tbody>
</table>

### 7.2 General description of the sources and some sample text

This chapter will provide some basic descriptions/ descriptive statistics of the sources and the texts. No analysis of these texts are undertaken in this chapter, rather they will be analysed in context in the following chapter. The following sub-sections will briefly introduce them.

---

77 Due to the dynamic nature of discourse, a text that was initially analysed within a given context, later contributed to creating a context of its own along with other such contributions. For example, Gunns’ ASX (Australian Stock Exchange) advices were initially analysed within the context of the RPDC assessment process; later the same advices along with other circumstantial evidences/text contributed to the creation of a context through which Gunns’ withdrawal from the RPDC process could be partially explained. Other examples in this category would include, RPDC’s letter to Gunns, directions hearing transcripts, public submissions (see Chapter 8).
7.2.1 *Parliamentary Hansards*

The official record of the debates in the parliament is known as Hansard\(^78\). Hansards in this research provided important situational contexts for various events of significance through question-answer sessions and debates both in the House and in the committee stage. At the same time, Hansards are transcripts that are provided verbatim what individual politicians said in those sessions with full knowledge that every word was being recorded. A large volume of Hansard data was used for this research across different time periods of significance. For example, to understand the context of the RMPS introduction in Tasmania and to see the positions of the individual players and political parties, weeks of Hansard data in 1992 and 1993 were tracked and sifted through. The Web search engine provided by the Parliament of Tasmania’s Hansard archive helped choose the year and allowed the search for multiple key words in various combinations to narrow down the results. Table 11 below provides a description of Hansard usage from different time periods of political and legislative significance with regards to the pulp mill case.

7.2.2 *Ministerial direction*

This was the letter through which the RPDC was formally directed to assess Gunns’ proposed pulp mill as per s. 20 (1) of the SPPA 1993. The significance of this letter is in its restrictive effect on the RPDC’s assessment of the pulp mill and this will be discussed in the next chapter. The letter directed the RPDC as follows:

(i)n considering issues relating to the supply of timber resources for the Project, the Commission must give effect to the Regional Forest Agreement made between Tasmania and the Commonwealth of Australia on 8 November 1997 (RPDC, 2009c).

---

\(^78\) This definition of Hansard is taken from the Oxford Dictionary, where it defines Hansard as the official record of debates in the British, Canadian, Australian, New Zealand, or South African parliament. It originated in the late 19th century and was named after Thomas C. Hansard (1776–1833), an English printer whose company originally printed it (see, Oxford Dictionary Online, available at: http://www.oxforddictionaries.com/definition/english/Hansard).
Table 11: Selected Hansards

<table>
<thead>
<tr>
<th>Time period of Hansard search for examination</th>
<th>Events of significance</th>
<th>Relevant legislative instrument of interest for this research</th>
<th>Text used as</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dec 1992; Mar-Apr-May 1993</td>
<td>Introduction of integrated resource management and planning system (RMPS) for Tasmania</td>
<td><em>State Policies and Projects Act 1993 (SPPA 1993)</em> that includes the POSS provisions. Also relevant, <em>LUPAA 1993, RMPATA 1993</em> and <em>EMPCA 1994</em></td>
<td>Context only</td>
</tr>
<tr>
<td>Dec 1997</td>
<td>Establishment of the RPDC</td>
<td><em>RPDC Act 1997</em></td>
<td>Context only</td>
</tr>
<tr>
<td>Nov 2004; Mar 2005</td>
<td>Amendment to SPPA 1993 and the POSS provisions within; declaration of the Gunns’ pulp mill as a POSS</td>
<td><em>Amended SPPA 1993, POSS Order 2004</em></td>
<td>Text only</td>
</tr>
<tr>
<td>Mar 2007</td>
<td>Resignation of two panel members of the pulp mill assessment panel</td>
<td>Not Applicable [data gathered from the question-answer (Q/A) sessions]</td>
<td>Both text and context</td>
</tr>
<tr>
<td>Mar 2007</td>
<td>Withdrawal of Gunns’ pulp mill project from the RPDC assessment process</td>
<td>Not Applicable (data gathered from the ministerial statement and Q/A sessions)</td>
<td>Both text and context</td>
</tr>
</tbody>
</table>

79 Information from the Hansards sometimes led to tracking of other important sources of data. For example, the 1997 Nixon Report was tracked and identified from the debates surrounding the establishment of RPDC. In fact, as indicated earlier, RPDC was established on the recommendation of Peter Nixon (1997).
<table>
<thead>
<tr>
<th>Time period of Hansard search for examination</th>
<th>Events of significance</th>
<th>Relevant legislative instrument of interest for this research</th>
<th>Text used as</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apr 2007</td>
<td>Appointment of consultant for pulp mill assessment</td>
<td>Not Applicable (data gathered from the Q/A sessions)</td>
<td>Both text and context</td>
</tr>
<tr>
<td>Aug 2007</td>
<td>Pulp mill approval</td>
<td>Pulp mill permit</td>
<td>Text only</td>
</tr>
</tbody>
</table>

7.2.3 **Tasmanian Legislation**

For the purpose of this chapter only two pieces of legislations are relevant as ‘texts’:

- SPPA 1993 as amended in April 2005
- PMAA 2007 enacted in April 2007

The Tasmanian Legislation was a key source of text for this research providing access to acts, amendments and provisions that were drawn up specifically for Gunns and those that helped to create the legal context within which the Gunns’ pulp mill application was going to be assessed. For example, the SPPA 1993 was one of the most important social practice elements (creating context) in the Gunns’ pulp mill case (discussed in the previous chapter). However, the focus of this chapter is not on the original SPPA 1993 that helped create the context for the pulp mill assessment, it is on the modified SPPA 1993, where the modification was made after declaring Gunns’ pulp mill a POSS (and then giving retrospective effect of the change on the POSS order). **Table 12** in the following page identifies/ lists the changes. The discursive process that led to these changes will be analysed in the discourse practice chapter.\(^80\)

---

\(^80\) This is another example of mobilising Fairclough’s three dimensional framework of CDA to facilitate an analysis. Here the discursive event of modification in the original SPPA 1993 has been broken down into ‘text’ (i.e., the listing of the changes as specified in Table 12) as part of this chapter, whereas the production and interpretation of this ‘text’ (i.e., why and how this changes came about given Gunns’ social practice) is discussed in the discourse practice chapter (chapter 8).
The other text (act) of focus in this chapter is the PMAA 2007 enacted to assess Gunns’ pulp mill proposal after Gunns had withdrawn its proposal from the statutory assessment process (i.e., the RPDC assessment process). The key differences and similarities between the processes set out by the POSS provisions in SPPA 1993 and those set out by PMAA 2007 are highlighted in Table 13. These will be revisited and analysed in the discourse practice chapter.
Table 12: Amendments made to SPPA 1993 in relation to a POSS

<table>
<thead>
<tr>
<th>Prior to change</th>
<th>After change/ inclusion of new</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>SPPA 1993, s. 16 (2)</strong>&lt;br&gt;For the purposes of this Part, <em>integrated assessment</em>, in relation to a project of State significance, means a consideration of environmental, social, economic and community issues relevant to that project and such other issues as may be prescribed.</td>
<td><strong>SPPA 1993, s. 16 (2)</strong>&lt;br&gt;For the purposes of this Part – <em>integrated assessment</em>, in relation to a project of State significance, means a consideration of environmental, social, economic and community issues relevant to that project and such other issues as may be prescribed; <em>person proposing the project of State significance</em> includes any person for the time being proposing to undertake the project of State significance or any use or development included in that project.</td>
</tr>
</tbody>
</table>

There was no 18A or 18B

**SPPA 1993, s. 18A**

An order under section 18(2) declaring a project to be a project of State significance may include in the project any use or development which is necessary or convenient for the implementation of the project, whether or not the use or development is to be undertaken by or on behalf of any person named in the order.

**SPPA 1993, s. 18B**

Where an order under section 18(2) declaring a project to be a project of State significance is made, this Part continues to apply to the project despite any change in the identity or number of the persons proposing the project or any use or development included in the project.

There was no s. 27A

**SPPA 1993, s. 27A**

(1) As soon as practicable after an order under section 26(6) or (8), 26A or 26B takes effect, the Commission must, in consultation with the relevant planning authority, amend any relevant planning scheme or special planning order to remove any inconsistency between it and the order.

*To allow the above change in s. 27A of SPPA 1993, s. 34(5)(c) of the Water Management Act 1999 was also amended*
### Table 13: Assessment under PMAA 2007 compared to the RPDC process

<table>
<thead>
<tr>
<th><strong>Assessment authority:</strong></th>
<th>No independent body, rather a government appointed consultant under s. 4(1):</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The Minister is to appoint a consultant to undertake an assessment of the project, subject to subsection (2), against the guidelines.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Assessment Guideline:</strong></th>
<th>Under the generic guideline, not the final scope guidelines customised by the RPDC for the Gunns’ proposal. S. 3 specifies the guidelines:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><em>guidelines</em> means the Recommended Environmental Emission Limit Guidelines for any new Bleached Eucalypt Kraft Pulp Mill in Tasmania prepared by the Resource Planning and Development Commission on behalf of the Government dated August 2004, a copy of which is set out in Schedule 1</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Assessment procedure:</strong></th>
<th>Based on existing documentation only held by the RPDC. No public hearing. s. 4(2) (c) stated:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In undertaking an assessment under subsection (1), the consultant must take into account –</td>
</tr>
<tr>
<td></td>
<td>the documents received by or prepared for the Resource Planning and Development Commission for the purposes of its assessment of the project under the <em>State Policies and Projects Act 1993</em> including, but not limited to, the information provided by Gunns Limited (ACN 009 478 148) to the Resource Planning and Development Commission in response to the <em>Final Scope Guidelines for the Integrated Impact Statement – Proposed Bleached Kraft Pulp Mill in Northern Tasmania as proposed by Gunns Limited.</em></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Deadline:</strong></th>
<th>s. 6(9) stipulated a timeframe for the completion of the assessment:</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>The Minister must cause the report of the consultant and the Pulp Mill Permit to be laid before each House of Parliament by no later than 31 August 2007</td>
</tr>
</tbody>
</table>

Against the above differences, all the advantages that a POSS would be entitled to including the non-appealable status were retained through ss. 8, 10, and 11. The full content of the PMAA 2007 has been reproduced in the *Appendix 3.*
7.2.4 Documentation from Gunns

The following documents from Gunns were used in this research:

- Annual reports
- DIIS
- DIIS highlights in special publications
- Advices to ASX

**Annual reports**

Gunns’ annual reports between 2002 and 2008 were analysed and used for both text and creating context. For example, often the Chairman’s review, overview of the operations, corporate governance statement (that included the board process and the composition of the board), directors’ report and the historical financial data helped create some context, within which ‘texts’ such as current and proposed sources of revenue, relevant figures and their growth; profitability and operations (e.g., woodchipping, pulping, exports) could be situated and analysed. A few examples of the above follow:

The Company proposes to develop a bleached kraft pulp mill located at Bell Bay in Northern Tasmania. The project provides an ability for the Company to obtain an increase in the value of pulpwood through accessing the pulp market in addition to its current woodchip markets. With an increasing volume of pulpwood becoming available from eucalypt plantations in Tasmania the mill development provides an important growth opportunity for the business (Gunns, 2005, p. 6).

Development of the Bell Bay pulp mill project has been a key focus for the Board and management through the year. The project has the potential to substantially improve long term shareholder value. The project has to date required an investment of over $17m with further investment of $15m expected prior to finalisation of approval (Gunns, 2006a, p. 3).

Importantly for the Company, entry into the pulp market will provide an opportunity for market diversification, as it will maintain a significant presence in the export woodchip markets (Gunns, 2006a, p. 3).
The Directors’ report in the 2006 Annual Report (released after Gunns’ submission of the DIIS to the RPDC on 14 July 2006) indicates an expected date for the completion of the RPDC assessment:

The Draft Integrated Impact Statement (IIS) for the project provides a comprehensive project description addressing social, economic and environmental issues. The Resource Planning and Development Commission (RPDC) ultimately makes a recommendation to state parliament as to whether the project should proceed and what permit conditions should apply to an operating licence. It is not expected that the RPDC review process will be completed until the end of the 2007 financial year (Gunns, 2006a, p. 20).

The following is from the Chairman’s Review in the 2007 Annual Report. By the time this annual report was released (financial year ended 30 June, audited report released 28 September 2007), Gunns had already withdrawn from the RPDC in March and was approved by a separate process set up by the PMAA 2007.

The pulp mill project has received the overwhelming approval of the Tasmanian Parliament, with the project supported by both the Labor and Liberal parties and the majority of independent members in the Legislative Council. This is a strong vote of confidence in the project. Parliament’s decision was underpinned by independent assessments by Sweco Pic and ITS Global that confirmed the world’s best practice approach to the development of the project (Gunns, 2007a, p. 6).

The review concluded that:

(t)he independent assessment by the two consultants confirmed that Gunns will be using world’s best technology and practice in developing the mill and that the project will bring unprecedented benefits to Tasmania. The findings and the support of the Tasmanian Parliament clearly dispel the predictions of dire consequences made by the project’s opponents. The project has been subject to misinformation and false claims since its inception. I believe the origins for this opposition flow from the continuing campaign against forestry and the forest industry (Gunns, 2007a, p. 6).

The project has to date required an investment of over $50m and a dedicated personal commitment from our staff and consultants (Gunns, 2007a, p. 6).
There was no mention of the RPDC in the 2007 annual report.

**Special reports/publications**

Along with the annual reports, Gunns produced some short, colourful, special reports\(^8\) to promote the pulp mill. These reports simply reproduced key assertions and conclusion from the DIIS with regards to the mill meeting environmental conditions; its major impact on local, regional, state and national economy; no impact as a result of the mill on the Tasmanian forests.

**Gunns’ DIIS**

Gunns submitted its DIIS in mid-July 2006. The DIIS had 18 volumes in addition to the Executive Summary. The DIIS spanned over approximately 7500 pages and was organised as follows:

**Table 14: Gunns’ DIIS structure**

<table>
<thead>
<tr>
<th>Parts of DIIS</th>
<th>No. of pages</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Executive Summary</td>
<td></td>
</tr>
<tr>
<td>o Volume 1</td>
<td>610</td>
</tr>
<tr>
<td>▪ Introduction, legislative framework, justification of the project and consequence of not proceeding, regional environment, public consultation</td>
<td></td>
</tr>
<tr>
<td>o Volume 2</td>
<td>818</td>
</tr>
<tr>
<td>▪ Project description, new infrastructure, major constructions, impact assessment, mitigation</td>
<td></td>
</tr>
<tr>
<td>o Volume 3</td>
<td>639</td>
</tr>
<tr>
<td>▪ Water supply and effluent pipelines, workers’ accommodation, impact assessment, mitigation</td>
<td></td>
</tr>
<tr>
<td>o Volume 4</td>
<td>420</td>
</tr>
<tr>
<td>▪ OH&amp;S plan, monitoring plan, mitigation plans, conclusions, commitments, bibliography</td>
<td></td>
</tr>
<tr>
<td>o Volume 5-18</td>
<td>The rest</td>
</tr>
<tr>
<td>▪ Appendices</td>
<td></td>
</tr>
</tbody>
</table>

The DIIS submission was followed by several errata and other brief reports. Further 2500 pages of supplementary information was provided to RPDC in mid-February 2007 to cover for a number of inadequacies identified (by RPDC’s initial assessment) in the original DIIS.

Key claims in the DIIS in the controversial areas of wood supply, forestry operations, impacts on other industries were examined within the context of its strategic position and growth propositions. Claims in the DIIS that are of highly technical/ scientific in nature had to be skipped for this researcher’s lack of expertise. However, they were not the main thrust of this research either. Examples of a few claims in Gunns’ DIIS are reproduced below.

**No impact on Tasmanian forests:**

The pulp mill project is a downstream processing initiative and will not involve any changes to forest access or additional intensification of forestry operations. It is based on diverting woodchips that would otherwise have been exported to the pulp mill for value-added processing (Gunns, 2006, p. 19, Executive Summary).

As there will not be any significant change in the extent or nature of current levels of forestry operations in Tasmania, there are no relevant environmental, social, economic or community impacts to be assessed and/or mitigated (Gunns, 2006, p. 224, vol. 1)

The relative contribution of plantation wood to the pulp mill under the anticipated strategy is predicted to increase significantly over the life of the project, from an initial 20 % contribution to an 80 % contribution (Gunns, 2006, p. 221, vol. 1).

**Creation of jobs:**

Approximately 3,400 more jobs will be expected in Tasmania than would otherwise have been the case if the mill were not constructed. On average during the operational phase of the mill, employment in Tasmania would be expected to increase by 1,617 jobs than would have otherwise been the case. Employment in Tasmania is expected to grow throughout the operating phase of the mill, and by 2030 there
would be around 2,000 additional jobs in Tasmania as a result of the pulp mill (Gunns, 2006, p. 524, vol. 2).

More revenue for the governments:

In total, taxation revenues to all Australian Governments are expected to increase by $91 million above base case expectations by 2030. In NPV 5% terms, this will amount to an additional $965 million in taxation revenue from 2007-2030 relative to the base case (Gunns, 2006, p. 528, vol. 2).

Industry impacts:

The proposed mill will also result in material growth in several other Tasmanian industries, including:

- Tasmanian construction sector;
- Tasmanian basic chemicals sector;
- Tasmanian biomass sector;
- Tasmanian trade and accommodation sector;
- Tasmanian road freight and private sectors; and
- Tasmanian home ownership sector.

The construction of the mill does not have a material effect on any other industry (Gunns, 2006, p. 532, vol. 2).

ASX advices

Gunns’ letters to the Australian Stock Exchange (ASX) are important texts in understanding the circumstances of its withdrawal and will be discussed in the discourse practice chapter. It advised the ASX and its shareholders on two occasions around the time of its withdrawal from the RPDC process. In each of these advices, Gunns’ expressed confidence of getting necessary approval for the pulp mill within a commercially acceptable timeframe:

---

82 Of the job numbers, Gunns expects to employ 2500 people during its construction phase. It will employ 292 people when fully operational and this number is to remain consistent throughout the life of the project (Gunns, 2006, p. 523, vol. 2).
The company is confident the necessary government approvals will be obtained within a timeframe which maintains the commercial value of the project (Gunns, 2007b, p. 5; Advice to ASX, 27 February 2007).

The company is confident the necessary government approvals will be obtained within a timeframe which maintains the commercial value of the project (Gunns, 2007c, p. 3; letter to the shareholders through ASX, 9 March 2007)

7.2.5 *Pulp mill newsletter by PMTF*

The Pulp Mill Task Force (PMTF) prepared and circulated fortnightly newsletters on pulp mill related issues throughout 2005 and 2006. Before this research was initiated, Gunns had already withdrawn from the RPDC process in March 2007. Soon after Gunns had withdrawn from the RPDC process, the PMTF website was taken down, blocking access to all of its resources including the newsletters. Only 27 newsletters could be recovered from a pulp mill supporting city council’s archive and were analysed. However, those 27 provided enough information to establish the ‘tone’ in which the PMTF disseminated pulp mill related information.

The newsletters only portrayed the positives about the pulp mill. On several occasions, the newsletters simply reproduced Gunns’ media statements or announcements to ASX. A number of later newsletters covered stories from the ‘fact finding missions’ organised by PMTF for Tasmanian Chamber of Commerce (TCCI) and a few other organisations (including PMTF itself) in the Scandinavian and other countries and none of them reported anything but positive impact of the pulp mills in their respective regions. A summary of a sample of newsletters have been produced in Table 15: Summary of sample newsletters by PMTF, with some preliminary comments from this researcher. Some of those points will be expounded in the discourse practice chapter. Examples of extracts from those newsletters follow.

After Gunns’ submission of its DIIS, PMTF strongly promoted at every occasion:

> Last Friday, I conducted a lengthy interview on northern radio to clarify a number of misconceptions circulating in the community about the proposed pulp mill.
Following the interview, we received a number of requests for transcript. In the interests of informed public discussion, we are happy to oblige (PMTF Chief Gordon in Issue 53 of the pulp mill newsletter; PMTF 2006d, p. 1).

Issues 50 and 51 introduced Gunns’ invitation only briefing (ABC, 2006) after its DIIS submission and summarised it:

In Launceston, last week, Gunns assembled key personnel and consulting scientists involved in the preparation of the IIS expert reports to brief more than 140 representatives of government, local government, peak industry organisations and lobby groups.

As a service to those who were unable to attend, we will attempt in this newsletter to provide the key points raised by the first three speakers at last week’s briefing and in the next newsletter deal with the scientific evidence presented at the forum (PMTF, 2006a).

The following conclusions were drawn in the newsletter (Issue 50):

*Conclusion:*

- Mill incorporate most sophisticated technology to deliver best outcomes
- No adverse effects on the environment
- No changes to forest practices
- Will meet the State’s stringent emission guidelines (PMTF, 2006a).

The disclaimer at the end of Issue 51 portrays PMTF’s faithful representation of Gunns’ briefing:

Every effort has been made to accurately reflect the key points made during the presentations. However, we acknowledge there are difficulties and risks associated with summarising complex scientific material and readers are advised that more detail of the scientific studies can be found in the Integrated Impact Statement (IIS) prepared by Gunns Limited (PMTF, 2006b).
<table>
<thead>
<tr>
<th>Newsletter issue; date</th>
<th>Key points discussed</th>
<th>Researcher’s comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue 23; 17 June 2005</td>
<td>Story on Commonwealth Government’s declaration of the Gunns’ pulp mill project as a ‘project of national significance’ that would ensure priority processing of this project related tasks by various government agencies.</td>
<td>The ‘importance’ of the project re-emphasised in the Tasmanian community.</td>
</tr>
<tr>
<td>Issue 24; 30 June 2005</td>
<td>$2m pulp mill supplier development program discussed.</td>
<td>Shows the seriousness of the state government in making Tasmania ‘pulp mill ready’ by providing local entities interested in pulp mill tenders with information and skills.</td>
</tr>
<tr>
<td>Issue 26; 28 July 2005</td>
<td>Talks about the change in the pulp mill water supply arrangement from the Piper River to Trevallyn Dam and the benefits.</td>
<td>Shows Gunns’ commitments to a more environmentally friendly option and respect for public concern.</td>
</tr>
<tr>
<td>Issue 27, 12 Aug. 2005</td>
<td>Stories on government delegation visiting pulp mills in Scandinavia, China, Europe and Canada. Mostly Scandinavian pulp mills’ photos and stories provided in the newsletter.</td>
<td>The benchmarking of Scandinavian pulp mills can have the potential of assuring the Tasmanian public of a safe, environmentally friendly mill in Tasmania.</td>
</tr>
<tr>
<td>Issue 28; 29 Aug. 2005</td>
<td>Highlights the public participation opportunities at the RPDC process.</td>
<td>Demonstrates the government’s commitment for due process.</td>
</tr>
<tr>
<td>Issue 29; 8 Sep. 2005</td>
<td>Lists some pulp mill related scientific conclusions from an Ensis[^83] report in a</td>
<td>Assurance for the public since the research came</td>
</tr>
</tbody>
</table>

[^83]: Ensis is a joint venture between Australia’s CSIRO and New Zealand’s Scion (both are national research institutes). This newsletter led to the resignation of a member of the RPDC assessment panel, who used to be an Ensis employee. The Greens implicated Dr. Warwick Raverty with his immediate past employer Ensis, which held positive views about various aspects of the generic technology proposed to be used in the Gunns’ pulp mill. Hence, the Greens’ apprehension was with Ensis and because of Raverty’s position in Ensis, he had considered and prejudged various technical
<table>
<thead>
<tr>
<th>Newsletter issue; date</th>
<th>Key points discussed</th>
<th>Researcher’s comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Issue 33; 7 Nov. 2005</td>
<td>bid to expose certain “urban myths” about pulp mills.</td>
<td>from a respected scientific body.</td>
</tr>
<tr>
<td>Issue 38; 25 Jan. 2006</td>
<td>Introduces a new pro-pulp mill lobby group called ALLIANCE. Reproduces the Mayoral communique- a joint declaration of the five Mayors supporting the pulp mill.</td>
<td>Indicates ‘growing’ support for the pulp mill</td>
</tr>
<tr>
<td>Issue 39; 10 Feb 2006</td>
<td>Highlights Australian Medical Association’s (AMA) qualified support if five conditions were met.</td>
<td>Alleviation of public’s respiratory health concern as a result of the pulp mill emissions</td>
</tr>
<tr>
<td>Issue 50 &amp; 51; 3 &amp; 21 Aug 2006</td>
<td>PMTF floats the idea of roundtable discussions with community groups.</td>
<td>New communication device from PMTF with more personal interaction after its ‘Pulp Mill Info Bus’ and ‘Pulp Mill Newsletter’ initiatives</td>
</tr>
<tr>
<td>Issues 52 &amp; 53; 8 &amp; 19 Sep 2006</td>
<td>PMTF covers/summarises Gunns’ invitation only briefing (ABC, 2006) from its DIIS after its submission to the RPDC</td>
<td>Simple reproduction of Gunns’ summary of its DIIS; reinforcement of Gunns’ DIIS</td>
</tr>
</tbody>
</table>

issues related to the proposed pulp mill. This matter will be further discussed in the discourse practice chapter.

84 However, later during the public submission phase on Gunns’ DIIS of the pulp mill, AMA expressed significant concerns about the potential for adverse health effects resulting from the proposed pulp mill.

85 A number of later newsletters are dedicated to the coverage of such meetings, Q&A sessions, etc. where PMTF Chief along with representatives from Gunns ‘dispelled’ doubts/ concerns about the effluents and emissions of the proposed pulp mill. Issue 53 (19 Sep. 2006) for example, produced full transcript of PMTF Chief’s interview with ABC Northern Tasmania Radio, where he answered questions related to the DIIS. The interview sounded as though someone from Gunns was talking to the ABC.
7.2.6 Public submissions in response to Gunns’ DIIS

A total of 780 submissions were lodged with the RPDC as a response to the Gunns’ DIIS, of which 748 were available on the RPDC website. They were downloaded, read, sorted and summarised for this research. Some descriptive statistics on them follow in Table 16.

Table 16: Public submissions on Gunns’ DIIS- some descriptive statistics

<table>
<thead>
<tr>
<th>Description</th>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of submissions</td>
<td>780</td>
</tr>
<tr>
<td>Total number of submission reported in this research</td>
<td>748</td>
</tr>
<tr>
<td>Number of corporations <strong>supporting</strong> the pulp mill (average length of each submission: approximately 5 pages)</td>
<td>55</td>
</tr>
<tr>
<td>Number of body corporates <strong>opposing</strong> the pulp mill (average length of each submission: approximately 24 pages)</td>
<td>38</td>
</tr>
<tr>
<td>Number of neutral body corporates (average length of each submission: approximately 10 pages)</td>
<td>15</td>
</tr>
<tr>
<td>Number individuals <strong>supporting</strong> the pulp mill</td>
<td>29</td>
</tr>
<tr>
<td>Number of individuals <strong>opposing</strong> the pulp mill</td>
<td>588</td>
</tr>
<tr>
<td>Number of neutral individuals</td>
<td>23</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>748</strong></td>
</tr>
</tbody>
</table>

A few trends were observed in the corporate submissions. Most supporting submissions were shorter- simply reiterating certain facts from the DIIS in a positive vein and then placing their support, except for a few which were qualified and cautious support. The opposing submissions, on the other hand, were longer and provided detailed scientific, economic and social risk-benefit analyses. The neutral corporate submissions provided an interesting balance. They were in between in terms of length, but carefully pointed out the shortcomings in Gunns DIIS and asked for more evidence. Unlike the opposing submissions, they did not reject the pulp mill proposal right away, nor did they accept the DIIS on its face value like the supporting ones. Table 17 and Table 18 below summarises the top issues for and against the pulp mill as identified from the public submissions.
Table 17: Top issues canvassed by the supporters

<table>
<thead>
<tr>
<th>Top issues canvassed by the supporters</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economic argument</td>
</tr>
<tr>
<td>Skills enhancement</td>
</tr>
<tr>
<td>Government revenue</td>
</tr>
<tr>
<td>Social impact</td>
</tr>
<tr>
<td>Wood supply</td>
</tr>
<tr>
<td>Triple bottom line approach</td>
</tr>
</tbody>
</table>

\(^{86}\) on the basis of assurance on sustainable management of Tasmanian forests by the forestry industry.
### Table 18: Top issues canvassed by the opponents

<table>
<thead>
<tr>
<th>Top issues pointed at by the opponents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Flaws in law and process</td>
</tr>
<tr>
<td>The two fundamental flaws in the law and in the process: allowing the proponent to assess the impacts on the public (law) and excluding the most serious impacts (i.e., the supply side impacts) from considerations (process). The ‘approval’ process appears compromised with every level of government endorsing the proposal before strategic, community and environmental risks were even known, let alone quantified.</td>
</tr>
<tr>
<td>Accuracy of the DIIS</td>
</tr>
<tr>
<td>The DIIS, though apparently comprehensive, remains a collection of documents and reports of great complexity. It is unmanageably large (7500 pages) and fragmented. The structure makes it very difficult to analyse a particular area, as topics are not organised. The way the draft IIS was prepared serves to conceal or omit critical items from consideration.</td>
</tr>
<tr>
<td>Inadequate assessment</td>
</tr>
<tr>
<td>Inadequate assessment of the risks to human health, marine ecosystems, water supply and quality, high conservation value forests, threatened species, rural communities, and the longer term economic outlook.</td>
</tr>
<tr>
<td>SIA highlights benefits only</td>
</tr>
<tr>
<td>SIA (social impact assessment) report amplifies the benefits of having the pulp mill, while either marginalising the concerns or ignoring them altogether.</td>
</tr>
<tr>
<td>Wood supply</td>
</tr>
<tr>
<td>Wood supplies issues must be assessed as the pulp mill would intensify forestry operations (including increased forest and farm land clearance for plantations). There are various social and environmental impacts of plantations that need to be taken into account.</td>
</tr>
<tr>
<td>More assessment</td>
</tr>
<tr>
<td>More assessment required on Bass Strait’s limited flushing ability (takes a minimum of 160 days) that becomes acute in certain weather conditions given Gunns’ anticipated release of 73 million litres of pulp mill effluent daily. Also, the impact on the marine environment in the mixing zone on a long term basis needs to be assessed.</td>
</tr>
</tbody>
</table>

---

87 In one such submission, Dorset Council showed concerns about the conversion of farmland into plantations and its socio-economic impact on the rural agricultural community.
<table>
<thead>
<tr>
<th>Top issues pointed at by the opponents</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Effluents test quality</strong></td>
</tr>
<tr>
<td><strong>Air pollution</strong></td>
</tr>
<tr>
<td><strong>Environmental monitoring</strong></td>
</tr>
</tbody>
</table>

The submissions were also sorted along the line of key players as identified in the social practice chapter. **Table 19** summarises the submissions from the key players. The Discourse Practice chapter will discuss the submission summaries in Tables 17, 18, and 19.
<table>
<thead>
<tr>
<th>Name of the organisation</th>
<th>Submission highlights</th>
</tr>
</thead>
</table>
| Forestry Tasmania (FT)                                        | • Endorses the factual accuracy of Gunns’ DIIS.  
• Strongly opposes, through the submission of Australian plantation products and paper industry council (of which FT is an important member), the assessment of Gunns’ sourcing of wood for the proposed pulp mill project\(^\text{88}\). |
| Construction, Forestry, Mining and Energy union (CFMEU)       | • Elaborates on the employment opportunity, positive community and social impact of the proposed pulp mill using assumptions and figures from Gunns’ DIIS.  
• Accuses the pulp mill opponent groups of ‘sensationalism’, preaching ‘misinformation’ as fact and attempted ‘manipulation’ of concerns of the local population\(^\text{89}\). |
| Timber Communities Australia (TCA)                           | • Made at least 15 submissions through its various divisions, branches, local offices and managers in addition to the national office itself.  
• Attempts to alleviate concerns pertaining to increased logging to feed the mill. The assurance is provided on the basis of Gunns’ declaration in the DIIS and the existence of NFPS and RFA.  
• Attempts to demonstrate how budget funding deficits in various sectors (such as in public hospitals and social services) could be eased with new tax revenues from Gunns’ proposed pulp mill accruing to the state government (figures quoted directly from the Gunns’ DIIS).  
• Quoting some search results from the Internet, attempts to disprove TWS on totally chlorine free (TCF) technology against Gunns’ proposed elementary chlorine free (ECF) technology\(^\text{90}\). |
| Forest Industry Association                                  | • One of the most aggressive submissions in favour of the pulp mill.                                                                                                                                                     |

\(^{88}\) On the ground that Gunns’ declared in the DIIS that its forestry practices would remain unaltered despite the pulp mill project and the fact that the forestry practices were already regulated under RFA.  
\(^{89}\) However, the submission does not attempt to substantiate its claims against those groups.  
\(^{90}\) The comparison was between the actual data of a TCF mill with figures from Gunns’ own collection of samples from some overseas ECF mills tested by its own consultants.
<table>
<thead>
<tr>
<th>Name of the organisation</th>
<th>Submission highlights</th>
</tr>
</thead>
</table>
| of Tasmania (FIAT)       | - Expresses full support for and firm confidence in the independence of the RPDC and its POSS assessment process.  
- Strongly opposes any extension to the public consultation time of Gunns’ DIIS despite omissions and errors in the document. It claims that any request for an increase in public consultation time was a tactic to delay and frustrate the assessment process.  
- Advises the RPDC to use a ‘triple bottom line’ approach on a ‘balanced’ basis where any adverse impact of the mill does not automatically disqualify the project, rather it is offset against the ‘very positive findings’ in other aspects of the mill.  
- Claims that their analysis shows that IIS meets all the RPDC criteria and there appears to be no reason for the RPDC to recommend otherwise.  
- Asserts that the issues that are addressed by FIAT are the most important ones to be considered in the context of reviewing the draft IIS- namely economic issues.  
- By quoting projected economic and job creation indicators from Gunns’ DIIS, FIAT claims that those numbers alone should be enough for RPDC to justify approval of the project.  
- Highlights the sustainable management of Tasmanian forests by giving a detailed background of forest management protocol in Tasmania (almost copy-pasted from FFIC submission) to assure wood availability for the mill in a sustainable way.  
- Discusses socio-economic issues- mentions almost exclusively only positive outcomes in this area by just quoting from the DIIS. Concludes by providing its ‘wholehearted’ support for the mill after a ‘detailed’ analysis of the mill’s projected economic, social and environmental performance.  

| Tasmanian Chamber of Commerce and Industries | - Drawing on the grim statistics (both past data and future predictions) related to Tasmania’s economy and demography in comparison to other states and Australia as a whole, TCCI emphasises the critical importance of accomplishing the pulp mill project and how it could have a positive impact upon those economic indicators. |

---

91 The balancing alludes to potential negative environmental impact against very positive economic outcome for Tasmania.  
92 and warns with a direct quote from the DIIS the grave consequences of not going ahead with this project.  
93 although there was no environmental analysis in their submission  
94 Legitimation through statistics was discussed in the introduction chapter.
<table>
<thead>
<tr>
<th>Name of the organisation</th>
<th>Submission highlights</th>
</tr>
</thead>
</table>
| Forest and Forest Industry Council | • TCCI accepts all the studies and findings reported in the DIIS as neutral, comprehensive and conclusive on the basis of ‘independence’ of the consultants who prepared the DIIS for Gunns.  
• In supporting the pulp mill, FFIC claims limited localised increases in heavy vehicle movements on the roads networks contradicting all the relevant local councils’ submissions.  
• The submission seeks to establish and assure that Tasmanian forests are now sustainably managed by the forestry industry with world class forest practices. |
| The Wilderness Society Australia Inc. | • The DIIS is unmanageably large (7500 pages) and fragmented. The structure makes it very difficult to analyse a particular area, as topics are all over the place.  
• Much of the document rests on assertions by Gunns.  
• Gunns’ claim that there will not be any significant change in its forest practices because of the pulp mill and therefore its impact on forests need not be assessed is unsubstantiated and contradictory. The basis of the claim that woodchips used for the mill would otherwise be exported is problematic because of Gunns’ declining woodchip sale for a host of reasons.  
• Related to the above point, TWS contradicts the claim that logging will not increase. TWS shows from the DIIS that logging/woodchipping could actually double as Gunns wished to maintain current export and also produce pulp to expand its business.  
• Due to its sensitive airshed, air pollution in Tamar Valley (proposed location of the pulp mill) is already a problem. TWS, therefore, asks RPDC to check how much more the thermal energy plant to run the pulp mill would add to that problem by burning approximately 300,000 tons of wood from native forests.  
• Raises the issue of removal of 26 billion litres of water from the river system each year, despite Gunns claiming that it is only 1% of the flow. |

---

95 One of the reasons is the transition of international pulp producers from native forest to plantation-based supplies. Gunns not having the Forest Stewardship Council (FSC) certification is also a key reason.
Name of the organisation

<table>
<thead>
<tr>
<th>Submission highlights</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Rejects the toxicity report on the basis of dissimilarity of sample effluent with that of the proposed mill and the age of that sample. Also contradicts most of the findings related to the chemical effluents quoting public research (sometimes quoting the same paper Gunns quoted).96</td>
</tr>
<tr>
<td>• SIA (social impact assessment) report amplifies the benefits of having the pulp mill, while either marginalising the concerns or ignoring them altogether.</td>
</tr>
<tr>
<td>• Insufficient consultation and information from Gunns.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The Greens</th>
</tr>
</thead>
<tbody>
<tr>
<td>• The Draft IIS in its current form is a scientifically flawed document that does not address the RPDC Final Scope Guidelines for the IIS in full, and contains serious errors and omissions.</td>
</tr>
<tr>
<td>• Gunns’ proposed elementary chlorine free (ECF) technology for bleaching of wood pulp is outdated; totally chlorine free (TCF) technology is recommended instead.</td>
</tr>
<tr>
<td>• The social, economic and environmental impact of monoculture plantations on rural farmland, cleared up native forests and water catchment areas are not assessed properly.</td>
</tr>
<tr>
<td>• The exemption of the proponent from the assessment of its proposed pulp mill’s impact on native forests is unacceptable.</td>
</tr>
<tr>
<td>• The 20-year secret wood supply deal between the proponent and Forestry Tasmania (GBE, manager of Tasmania’s public forests) should be made public for a proper economic assessment of the impact of the mill on Tasmanian community who own the public forest resource.</td>
</tr>
<tr>
<td>• The extraction of an estimated 26 billion litres of fresh water annually from the South Esk catchment represents a massive exploitation of a public resource at a level which can only be regarded as unsustainable.</td>
</tr>
<tr>
<td>• The predicted substantial increase in log truck and heavy machinery traffic should be of concern to the Commission.</td>
</tr>
<tr>
<td>• In line with the Draft IIS’ short term outlook, the future impacts of climate change on the proposed mill’s operation are</td>
</tr>
</tbody>
</table>

---

96 In addition to the TWS, Tasmanian fishing industry council (TFIC), Australian Underwater Federation and a number of other commenters identified a series of inadequacies in the scientific tests conducted by Gunns’ consultants on the Gunns’ provided sample effluents from two overseas mills. Bass Strait’s limited flushing ability and the chance of effluents being pushed back to the Tamar River were also raised.
7.2.7 Documentation from the RPDC

Documentations from the RPDC included:

- Final scope guidelines for the IIS
- Annual report
- Media statements
- Letters to Gunns
- Directions Hearing transcripts

**Final Scope Guidelines**

The Final Scope Guidelines for the IIS were released by the RPDC in December 2005 (RPDC, 2005). This is the document against which Gunns DIIS was produced. The opening paragraph of this 92 page document sets out the purpose of this guidelines as follows:

The proposal by Gunns Limited (the proponent) for the development of a bleached kraft pulp mill in northern Tasmania has been declared a project of State significance. These guidelines have been prepared in accordance with the State Policies and Projects Act 1993 to assist the proponent, government and non-government agencies and the public to understand what information is required to enable the resource Planning and Development Commission (Commission) to undertake an integrated assessment of the project (RPDC, 2005, P. 1).

**Annual report**

The Commission’s 2006-2007 financial year’s annual report was relevant for this thesis because during this time actual assessment of Gunns’ DIIS took place and also within this timeframe the withdrawal of its proposal took place. The following quotes
from the annual report puts the activities of the RPDC in perspective and are subject to discussion in the discourse practice chapter.

The Commission is a creature of statute. Its functions and powers are to be found in Acts of the Parliament (RPDC, 2007a, p. 8).

Assessments are not conducted for the benefit of individual proponents, nor for any other entity. They can only, and must, be conducted in accordance with the law, due regard being had to the need to afford procedural fairness to all parties involved. Some criticism has been made of the process by which the Commission undertook the assessment of the Long Reach proposal. Such criticism, which when informed is always welcome, generally fails to recognise that the Commission acts within the parameters set by an Act of Parliament and any direction given to it by the appropriate Minister, subject to review by the Supreme Court of Tasmania (RPDC, 2007a, p. 8).

The Commission is also heavily dependent upon the cooperation of those parties involved in the process, in particular the proponent, to ensure that any assessment can take place expeditiously. It is, of course, a matter of public record that the Commission considers that it did not receive a consistently high level of cooperation from the proponent of the Long Reach proposal (RPDC, 2007a, p. 9).

**Media statements**

The RPDC media statements, published in Tasmanian newspapers as well as on its website, were used to invite comments on its publications or on documentations provide by the proponent, Gunns (i.e., the DIIS), and to give notice for directions hearing (see, RPDC, 2006).

**Letters to Gunns**

Of the few letters sent by the RPDC to Gunns, the letters sent on 5 September and 2 October 2006 were the most significant. Through the 5 September letter, deficiencies in the DIIS was identified and supplementary materials in bullet points were sought (see, RPDC, 2009i). The 2 October letter was used to invite Gunns for the 25 October hearing.

---

97 Long Reach is the exact location on the Tamar River where Gunns’ pulp mill was to be located.
2006 directions hearing and was also used as a reminder for the materials sought through the 5 September letter (RPDC, 2009i).

Directions hearing transcript
There were two directions hearings during the RPDC pulp mill assessment process. A directions hearing is not one of the actual public hearings\(^9\) envisioned in the act (SPPA 1993). A directions hearing is used to give directions to the proponent and other parties to ensure that assessment process runs efficiently, as planned (RPDC, 2009i). Through the 25 October directions hearing transcript, RPDC’s initial impression of the DIIS was also revealed. While explaining why the public exhibition period of the DIIS was not extended despite a number of requests from the public after Gunns had provided critical errata to its DIIS, the RPDC explained their position as follows:

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 (RPDC, 2009j, p. 8).

The Commission further expressed the following:

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 (RPDC, 2009j, p. 9).

The counsel for Gunns also accepted that there were problems in the DIIS:

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 (RPDC, 2009j, p. 11).

\(^9\) where merits of the DIIS or RPDC’s draft assessment reports are discussed
A similar direction hearing took place on the 22 February 2007. Both the directions hearing will be discussed in the discourse practice chapter.

RPDC’s consultants’ report on the DIIS (text only). Discussions related to these sources can be found in the social practice and discourse practice chapters.

7.3 Chapter Summary
In this chapter, the sources of text, being one of three dimensions in Fairclough’s (1992) three dimensional framework were identified, samples/ direct quotes provided and discussed. Fairclough summarises, “If being an instance of social (political, ideological, etc.) practice is one dimension of a discursive event, being a text is another” (Fairclough, 1992, p. 71), hence, the text being the linguistic manifestation of discourse practice. Text in the Gunns’ pulp mill case included, among others, parliamentary Hansards, acts, public submissions, directions hearing transcripts, documentations from Gunns. It was also emphasised in the chapter that ‘text’ in this case included both texts that provided context and texts that were analysed in context and the fact that both groups of texts could come from the same source. The next chapter, discourse practice, will involve discussion about the production and interpretation of text (Fairclough, 2010), highlighted in the current chapter.
CHAPTER EIGHT: ‘DISCOURSE PRACTICE’ AND GUNNS’ PULP MILL CASE

8.1 Introduction

Analysis and discussion of the discourse practice layer in the Gunns’ pulp mill case is undertaken in this chapter. Discourse practice involves the production and interpretation of the text given the dialectical influence of social practice. Dialectically interrelated means one influences the other. Because of the influence of social practice, discourse practice contributes to “reproducing society” (i.e., reproducing social norms, expectations, relationships in a discursive event). At the same time, on the other hand, discourse practice dialectically transforms existing social practice by creating new situations, expectations, objects of knowledge, social identities and relations (Fairclough, 1992, p. 65). While the opening chapters provided the broader settings to this case, Chapter 6 elaborated on the more immediate contextual elements within which the pulp mill case evolved. Chapter 7 provided the ‘text’ of discourses and discursive events that took place and listed their sources. However, the analyses in those chapters was only partial or undertaken in isolation when essentially discourse takes place involving the three layers occurring simultaneously. The disaggregation of discourse was important to appreciate the layers of discourse- the complex context (socio-economic, politico-historical, legislative) and the key players involving the approval process; and the instances of language use (spoken or written) such as ministerial directions, proponent’s and the public’s communication with the Resource Planning and Development Commission (RPDC) and a series of parliamentary debates. This chapter will analyse the production and interpretation of the ‘texts’ in contexts, linking them back to the social practice dimension (Fairclough, 2010; Leitch and Palmer, 2010). Discourse practice will be used in this chapter to reintegrate the separate analysis of layers and explicate the three layers’ dialectical interactions and iterations.

The analysis in this chapter will take place in the following order- in the sequence of the events that took place in the Gunns’ pulp mill assessment case:

- Amendments to the State Policies and Projects Act 1993 (SPPA 1993) and the projects of State significance (POSS) provisions
  - Declaration of Gunns’ pulp mill as a POSS
• Actual assessment process at the RPDC
  o Public submissions
• The allegation of political interference
  o Pulp mill assessment panel resignations
  o Gunns’ withdrawal from the RPDC assessment process
• Reengagement of Gunns’ in an alternate assessment process established by
  the Pulp Mill Assessment Act 2007 (PMAA 2007)
  o Critical assessment of the alternate assessment process
  o Legitimation of the alternate assessment process

8.2 Amendments to SPPA 1993 and the declaration of the pulp mill as a POSS

Gunns declared its proposal to build a pulp mill in Tasmania on 28 October 2004 in its
annual general meeting and was awarded a POSS status on 22 November 2004. From
2003, the government was very proactive in supporting Gunns in all possible ways. It
even took the risk of amending the act, SPPA 1993 that oversaw a POSS assessment
after declaring Gunns pulp mill as a POSS. Heated debates followed in the parliament
between the government and the Greens (HoA Hansard, 17 March 2005). Table 12
identifies the changes proposed in the act.

The key amendments which were proposed were shifting the focus of the assessment
entirely on the project rather than the proponent (making it project based rather than
proponent based) and widening the scope of the POSS provisions. The arguments in
favour of the amendments relied on economic rationale and pragmatism. The opposing
arguments were more universalistic, political and philosophical, and hinged on
morality and social justice.

8.2.1 Widening the scope of the POSS provisions (s. 27A inserted)

With regards to widening the scope of the POSS provisions in SPPA 1993, for
example, supporting arguments tended to focus on the economic realities and practical
complexities of a massive modern day project like a pulp mill, whereas opposing
arguments considered the amendment in the act as undermining the integrity of the
overall planning system in Tasmania and removal of ‘checks and balances’ from the
system in advocating the interest of a particular proposal from a particular proponent.
By bolstering the POSS provision, supporters argued in favour of making the RPDC a
one-stop shop, issuing all necessary permits and approvals for a POSS to proceed
regardless of any contradiction or inconsistency with any other state act or planning scheme as intended in the original legislation. Opponents, who were against declaring the proposed pulp mill a POSS because a POSS status denied the right to appeal decisions made by RPDC (and argued for inclusion of appeal rights in the POSS provision for years). Opponents were perturbed to see the POSS provisions widened even further to include issuance of permits in areas like water management (normally administered under the Water Management Act 1999 that allowed appeals100). Supporters tried to mitigate the concerns of the opponents by highlighting the independence of the RPDC, the transparency, public consultation and due process it followed in administering the POSS provisions of SPPA 1993 (HoA Hansard, March 17, 2005).

Supporting arguments through the lens of CDA and the theory

It is interesting to see how the supporters of the pulp mill based their arguments on the perceived status of the RPDC as a legitimate entity. While accepting the Commission’s authority as a statutory entity, it was also demonstrated that a number of constraints were placed upon this institution. The legislative instruments couched in terms of convenience seemed like a compelling argument. This will be explored further in the section dealing with the pulp mill’s actual assessment process.

8.2.2 Shifting focus on the project rather than the proponent [s. 16(2) amended and s. 18B inserted]

There were expanded provisions to allow changes in the identity of the proponent (Gunns Ltd. in this case). The supporting arguments were based on the consideration of substantial capital investment and complex financial and corporate arrangements that underlie a project of state significance at the time. Because of this, supporters argued for allowance in the act for a change of ownership due to possible corporate/financial restructuring through mergers and joint ventures or even a substitution of the original proponent during the approval process, without affecting the process itself.

99 To allow that s. 34(5)(c) of the Water Management Act 1999 was amended
100 Under PART 14- Review of Decisions and Appeals, Water Management Act 1999
The amendments would reinforce that the project was the subject of the approval process, not the proponent.

**Critical accounting insight from this change**

It can be argued from a critical accounting view point that, the above change has the potential to emphasise the economic benefits of the project and the economy while de-emphasising the revenues accruing to the owner. Capital is portrayed to be serving the public through the economic development and plays to Tasmania’s economic vulnerability.

### 8.2.3 Further amendments/ changes (s. 18A inserted)

The amendments would also allow third parties to be issued with permits and approvals by RPDC to undertake work on behalf of the proponent, rather than the proponent being responsible for all permits, licenses and other approvals for undertaking all aspects of the development in person or by sub-contracting. Opposing arguments feared that the amendments could allow the government to take over certain parts of the project towards the implementation of the whole project or the government could become a proponent itself in partnership with the developer.

**A critical look into this change**

A potential government takeover of the project or part of it would lead to a substantial cost-shift from private funding to public funding. This would also shift risk to the government but it was not clear how revenues would be distributed or controlled. The government setting up of a publicly funded Pulp Mill Taskforce (PMTF), which was disseminating information regarding the benefits and opportunities of a pulp mill would create in Tasmania, provided evidence of this already occurring.\[^{101}\] This was a signal that the government would have economic benefits.

---

\[^{101}\] Other evidence that did not eventually materialise included Lennon government’s intention to fund two key infrastructures in the pulp mill project- a 35 kilometre long pipeline to bring in freshwater from the Trevallyn Dam for the mill and another 19 kilometre long pipeline to dump effluents to the sea at an estimated cost of $60 million (Nettlefold, 2008; Neales, 2008a, 2008b). However, the plan never materialised as a result of Lennon’s resignation as the Premier after
8.2.4 Other issues

The other point of contention was the inclusion of the ‘Project of State Significance Order 2004’ (that declared the proposed pulp mill as a POSS on November 22, 2004, the last sitting day of the parliament in 2004) within the current amendment bill (to amend SPPA 1993) for approval by the parliament. The original order, which was yet to be debated for approval, was amended in line with the proposed amendments in the POSS provisions (of SPPA 1993) and presented as part of the amendment bill to allow the parliament to consider the bill and the order concurrently. The opponents were opposed to this move. They argued that there should have been two separate debates; one debating the justification of the amendments to the act, spanning over the principles and policy positions in general in relation to a POSS, whether there was a current project under consideration or not; and the other one debating the suitability of a specific project to be declared as a POSS under the act. They claimed that by ‘burying’ the order in the bill, the government wanted to avoid the full scale of parliamentary, public and media scrutiny with regards to the order and demonstrated its proximity to the proposal and its proponent, and essentially ‘fast-tracking’ the parliamentary approval for the mill (*HoA Hansard*, March 17, 2005).

Members from both the ruling Labor party and the Liberal opposition were in support of the amendments, while the Tasmanian Greens were not. The amendments were approved by the parliament and received Royal assent on 12 April, 2005.

8.2.5 Amendments to SPPA 1993 and the declaration of the pulp mill as POSS: Social Practice and Discourse Practice layers dialectically influencing each other

The 2004 (November) declaration of the Gunns pulp mill as a POSS and the subsequent amendment to SPPA 1993 in April 2005 (along with the POSS declaration) to better accommodate the project, when considered through the lens of CDA, provide evidence of the dynamic nature of discourse.

______________

continued, poor approval ratings (in opinion polls). His deputy, David Bartlett, succeeding him as the Premier, distanced himself from this plan (Neales, 2008d).
The original SPPA 1993 along with its POSS provisions have already been discussed in Chapter 6 as the discursive reproduction of a particular kind of domination in the society (Van Dijk, 2001). It was also demonstrated that this domination was legitimated because of Tasmania’s ‘vulnerable’ economic status (Turkel, 1980a), before getting institutionalised by law through the SPPA 1993 (Turkel, 1980b, 1982; Habermas, 1986). What is important to note here is that despite the legalisation of the pro-development bias through the SPPA 1993 and the POSS provisions within it, the laws were not project specific and instead provided an ‘umbrella’ system of identifying and assessing any major projects of ‘State significance’ within the State of Tasmania.

As a result, SPPA 1993 was meant to be one of the most important elements in the proposed pulp mill’s approval, and hence an important component of the social practice context. The law entailed the project to be in a high legal and economic status leading to a number of strategic benefits to the proponent\textsuperscript{102}. The other social practice elements (in addition to SPPA 1993), such as the state and federal governments’ commitment and explicit policy\textsuperscript{103} of supporting a pulp mill in Australia, the power of the proponent as one of Australia’s largest corporations and the largest in Tasmania, its influence over and proximity to the Tasmanian government, and the government’s own ‘economic’ vulnerability- all culminated in not only reproducing and reinforcing the impact of SPPA 1993 but also amending it further to better accommodate and facilitate the project. This again showed the power of discourse and its dialectical nature, as indicated through the layers of CDA, in reproducing the existing social practice (SPPA 1993) in new situations (Gunns’ project), while at the same time it (i.e., SPPA 1993) being impacted/Altered because of the action and interaction and social relations of other social practice elements (Fairclough, 2003; Meyer, 2001) (see, Figure 8).

\textsuperscript{102} Additionally, the federal government also brought the pulp mill under the Major Project Facilitation (MPF) service (PMTF, 2005a). MPF service symbolises that the concerned project is one of Australian government’s priority projects (PMTF, 2005a).

\textsuperscript{103} See, s. 16 in Attachment D: Standard Hardwood Woodchip Licence Conditions in Department of Agriculture, 2015.
Looking side by side (Figure 7 and Figure 8) and by following the red arrows and colour codes, one can see the transition of SPPA 1993 and the POSS provisions through the layers of CDA (see, Figure 9).
8.3 Actual assessment process at the RPDC

This section will examine the actual process of assessment of the Gunns’ pulp mill case. The generic assessment process of a POSS was discussed in Chapter 6. The chain of events related to the RPDC assessment of the Gunns’ pulp mill project was narrated in chapter two (and summarised in Table 5). In this chapter, particularly in this and the following sections, the chain of events in the Gunns case will be revisited and re-examined through the three-dimensional CDA framework and further explicated through the lens of the theory of legitimation.

The Gunns pulp mill assessment process formally started at the RPDC on 26 November 2004 at the direction of the Premier (RPDC, 2009b, 2009c). Gunns withdrew from the RPDC process on 14 March 2007 before the assessment was complete. During these 2.25 years, Gunns reached stage 3 of the RPDC assessment process (see, Figure 1 in Chapter 2), where public submissions had been received and preliminary assessments by the RPDC of the Gunns’ draft integrated impact statement (DIIS) had been conducted.

The first instance of assessment delay at stage 2

Of the 2.25 years at the RPDC, stage 2 took the first year- the whole of 2005. As discussed in Chapter 6, stage 2 involved drafting and then finalising the guidelines based on which the proponent was to prepare its DIIS. In Gunns’ case also, the draft guidelines were prepared by the RPDC based on Gunns’ detailed project proposal. The draft was then put on public display and public comments were received. However, before RPDC could release the final guidelines, Gunns had changed the project scope in the middle of 2005 (RPDC, 2009d) thereby triggering redrafting certain parts of the guidelines by the RPDC and possibly delaying the process by up to six months. After updating the draft guidelines, the Commission then put them back on public display again for comments on the changes made before finalising them as final guidelines for preparation of IIS on 28 December 2005 (RPDC, 2005).

---

104 Stage 1 is simply the formal order and direction to RPDC by the Premier (RPDC, 2009b, 2009c).
8.3.1 Public submissions on Gunns’ DIIS, directions hearing and further delays

As indicated above, the assessment process reached stage 3 when Gunns submitted the DIIS for the pulp mill project in mid-July 2006. The DIIS was a 7500 page document consisting of several volumes (Gunns, 2006). Despite its length, the DIIS was incomplete and Gunns continued to provide corrections and supplementary reports well into the public exhibition period. This prompted specific requests to the RPDC to extend the public exhibition period, which had a deadline of 25 September, 2006. The Commission also sent a letter to Gunns on 5 September 2006 asking for additional information and further clarification/analysis/impact assessment on a number of issues arising out of Gunns’ DIIS. On 2 October 2006, the Commission sent another letter to Gunns reminding it of the 5 September letter and inviting it to a ‘directions hearing’ to be held on 25 October 2006 (RPDC, 2009i). According to the letter, the purpose of the directions hearing was to give directions to the proponent and other parties to ensure that all preliminary matters had been dealt with prior to the commencement of the actual hearing at stage 3. At the directions hearing, which was open to the commenters (on the DIIS) on application (RPDC, 2006), the Commission explained why the public exhibition and comment period was not extended:

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 (RPDC, 2009j, p. 8).

The Commission further expressed the following:

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 (RPDC, 2009j, p. 9).

---

105 Including how to proceed with some supplements and errata, released by Gunns during the public exhibition period.
The above position of the RPDC reveals a very early view of the Commission regarding the quality of the DIIS produced by Gunns. This will be further explored in Gunns’ withdrawal from the RPDC assessment process later in the chapter. The counsel for Gunns also accepted that there were problems in the DIIS:

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 (RPDC, 2009j, p. 11).

It was agreed at the hearing that Gunns would submit all additional information including those sought through the commission’s letter on 2 October and any other information it intended the commission to consider by 15 December 2006. The commission would then decide the appropriate time for the public exhibition of the supplementary information (RPDC, 2009j). This initiated a new phase of delay in the assessment process at stage 3.

8.3.2 The top issues in the public submissions

A total of 780 submissions were made by the deadline, 25 September 2006. Table 16 of Chapter 7 provided some descriptive statistics of the submissions while Table 17 and Table 18 summarised the top issues for and against the pulp mill identified across all the submissions.

The supporters of the pulp mill emphasised the importance of the mill in creating jobs and employment opportunity for the local people. They also highlighted the positive impact on a range of demographic and economic indicators that would uplift Tasmania’s ‘feeble’ economic and demographic status compared to other states.

Opponents of the mill, on the other hand, identified two fundamental ‘flaws’ in the assessment- law and process that they believed weakened and made the whole process questionable. The two ‘flaws’ were, allowing the proponent to assess the impacts on the public; and excluding the most serious impacts (i.e., the supply side impacts) from considerations. Both of these issues were introduced as part of a discussion on the POSS assessment process in Chapter 6.
For the first flaw (allowing the proponent to assess the impacts on the public), opponents claimed that Gunns either did not report or under-reported in many areas of their impacts in the DIIS. Also, potential impacts on other industries were not well discussed in the DIIS. For example, the Tourism industry in general and wine tourism in particular, voiced serious concern at the proposed location of the mill. The establishment of the mill at Tamar Valley, known for wine tourism and home to a number of vineyards, would lead to an increase in the log truck movement in the wine route by up to 80% (Gunns, 2006, p. 340, vol. 2).

The second alleged ‘flaw’ identified by the opponents related to the process of not assessing the supply side impacts on the following grounds (as already identified and discussed in various subsections in Chapter 6) thereby potentially failing the RPDC in its obligation to meet objective 1 of the SPAA 1993.

- Regional Forest Agreements (RFA) arrangements exclude execution of Commonwealth’s Environmental Protection and Biodiversity Conservation Act 1999 (EPBCA 1999) in forestry activities.
- RFA and also the Forest Practices Act 1985 exclude the operation of the Land Use Planning and Approvals Act 1993 (LUPAA 1993) for local government projects and hence its State counterpart (i.e., POSS), the SPPA 1993 in regulating forest developments.
- Ministerial power under SPPA 1993 s. 20 (3) can shape the input of the assessment process\textsuperscript{106}.

However, supporters were against any further assessment or reviews on the wood supplies on the basis of assurance from the forestry industry of ‘sustainable management’ of Tasmanian forests and asked the RPDC to treat such requests from the opponents as one of assessment delaying techniques.

\textsuperscript{106} Discussed in Chapter 6.
Overall, the summary of submissions (see Table 17 and Table 18) shows that concerns were wide ranging from the sourcing of the main raw material to the processing of it and the discharges to the natural environment, in addition to identifying negative impacts on other industries. Questions were raised with regards to the legislation and the assessment process itself. Related to the above was also the mention of the size and unstructured nature of the DIIS. Supporting arguments, on the other hand, were almost completely based on the potential economic and financial outcome. Supporters were also against any assessment of native forest logging, clear-felling (for plantations) and their potential impacts on Tasmanian forests and farmland for reasons explained previously. Their idea of ‘triple bottom line’ approach or the ‘balancing’ of it was also clear from their submissions- any negatives on the environment could be/ should be counterbalanced by the ‘very positive’ economic/ financial results emanating from the pulp mill. The above issues will be critically examined towards the end of this subsection in connection to the positions taken by the key players.

8.3.3 Submissions from the key players

While Table 17 and Table 18 identified the general themes of the submissions, Table 19 outlined the highlights of the submissions by the key players identified in Chapter 6. The following paragraphs will provide a condensed view of the positions taken by the key players on various issues before a critical examination of the same.

Forestry Tasmania (FT) endorsed the factual accuracy of Gunn’s DIIS. It strongly opposed, through the submission of Australian plantation products and paper industry council (of which FT is an important member), the assessment of Gunns’ sourcing of wood for the proposed pulp mill based on the assurance provided by Gunns in the DIIS and the existence of the National Forest Policy Statement (NFPS) and the RFA (Forestry Tasmania, 2006, public submission #40; Australian plantation products and paper industry council, 2006, public submission #544).

The Construction, Forestry, Mining and Energy union (CFMEU) elaborated on the employment opportunity, positive community and social impact of the proposed pulp mill using assumptions and figures directly from Gunns’ DIIS and accused the pulp mill opponent groups of ‘sensationalism’, preaching ‘misinformation’ as fact and
attempted ‘manipulation’ of concerns of the local population (CFMEU, 2006, public submission #470).

Timber Communities Australia (TCA) made at least 15 submissions through its various divisions, branches, local offices and managers in addition to the national office itself in an attempt to alleviate concerns pertaining to increased logging to feed the mill based on the same arguments as FT provided (mentioned above).

One of the most aggressive submissions in favour of the pulp mill came from the Forest Industry Association of Tasmania (FIAT). They strongly opposed any extension to the public exhibition period of the DIIS. They claimed that their analysis showed the DIIS met all the RPDC criteria and there appeared to be no reason for the RPDC to recommend otherwise. By quoting projected economic and job creation indicators from Gunns’ DIIS, FIAT maintained that those numbers alone should be enough for the RPDC to justify approval of the project and advised the RPDC that any adverse impact of the mill should be offset against the ‘very positive findings’ on other aspects of the mill alluding to a ‘triple bottom line’ approach (FIAT, 2006, public submission #582).

Tasmanian Chamber of Commerce and Industries (TCCI) endorsed all the studies and findings reported in the DIIS as neutral, comprehensive and conclusive on the basis of ‘independence’ of the consultants who prepared the DIIS for Gunns. They emphasised the critical importance of accomplishing the pulp mill project to have a positive impact on those economic indicators on the basis of which performance of the Australian states were measured and compared (TCCI, 2006, public submission #266).

Against the above key players who strongly supported the pulp mill, were the submissions of the Wilderness Society (TWS) and the Greens. The key points raised by TWS and the Greens were very similar. Both questioned the size, structure and organisation of topics in Gunn’s DIIS and identified major inadequacies in it in addressing the RPDC’s Final Scope Guidelines. They rejected Gunns’ claim that there would not be any significant change in Gunns’ forestry practices as a result of the pulp mill. They also questioned the sustainability of extracting 26 billion litres of fresh
water from Tasmania’s river system each year for the pulp mill and rejected the toxicity report on the chemical quality of the effluents (TWS, 2006, public submission #234; The Green, 2006, public submission #301).

8.3.4 A closer look at the key issues/submissions

8.3.4.1 Accuracy and organisation of the DIIS

Understandably, none of the pro-pulp mill key players questioned the accuracy of the DIIS. In fact, it was rather endorsed as ‘factual’, ‘neutral’, ‘comprehensive’ and ‘conclusive’ on the basis of the independence of the consultants who prepared Gunns’ DIIS. However, the consultants were chosen, appointed and paid by Gunns. The RPDC’s Final Scope Guideline did not force Gunns to choose a particular consultant, nor was the independence of the consultants audited. The RPDC’s early view of the DIIS containing “fundamental omissions and errors” (RPDC, 2009j, p. 8) also did not support the claim of accuracy by the pro-pulp mill key players.

A common objection to the DIIS was its huge size (7500 pages) and being fragmented/disorganised. Even one of the most vocal supporters of the pulp mill project, FIAT, in its submission recognised this as a problem:

The socio economic impacts of the mill are dealt with in a number of diverse reports within the IIS which make them difficult to correlate in the context of a meaningful analysis of these issues (FIAT, 2006, p. 30, public submission #582).

Many opposing the mill claimed that the way the draft IIS was prepared served to conceal or omit critical items from consideration.

8.3.4.2 The economic argument

Pro-pulp mill key players provided overwhelming support for the pulp mill on economic grounds. Their submissions often included financial and economic analyses of the pulp mill project to demonstrate Tasmania’s potential prosperity as a result of the mill. None of them, however, did any research of their own. Rather they simply framed their arguments around numbers and figures taken directly from the DIIS.
Their support as members of the forestry network was warranted given their business and financial interest was dependent on Gunns’ business. Some of the pro-pulp mill commenters did not shy away from mentioning this in their submissions. This is further evident from the submission of the Tasmanian Forest Contractors Association (TFCA). Unlike other members of the forestry network, TFCA only offered conditional support for the pulp mill. The reason being the omission of the forestry contractors as a group in Gunns’ economic analysis in the DIIS that enumerated the projected gains various interested parties stood to make from the proposed pulp mill (See, pp. 546-548 of DIIS, vol. 2). TFCA submitted that they would fully support the pulp mill provided it benefitted the contractors (TFCA, 2006, public submission #95).

Volume 2 of Gunns’ DIIS dealt with the pulp mill’s potential environmental, social and community, and economic impacts. The financial/ economic impacts/ benefits of the pulp mill for the region, state and Australia were calculated along with the impact on various industry sectors. Except for a temporary negative impact on housing and accommodation during the construction phase, the pulp mill’s predicted impact on all other industry sectors were either neutral\textsuperscript{107} or positive to highly positive (for a summary, see pp. 546-548 of DIIS, vol. 2). An example of a potential negative impact on the tourism industry, particularly on wine tourism, was identified in an earlier paragraph. The DIIS did recognise the existence of wine tourism and the wine route in the study area, however, it would not recognise any negative impact of the pulp mill on that industry. Rather it predicted increase in what it called “industrial tourism” (Gunns, 2006, p. 541, vol. 2) in the region because of the construction of the pulp mill and its strengthening effect on wine tourism and tourist accommodation.

8.3.4.3 **Assessment of wood supply/ forestry operation**

Similar to highlighting the positive economic impact of the mill, the members of the forestry network were united in vigorously opposing the submissions that urged RPDC to assess/ review Gunns’ forestry operations and sourcing of wood for the pulp mill on legal grounds and Gunns’ assertion in the DIIS. Some of the pro-pulp mill submissions

\textsuperscript{107} Marine and freshwater fishing industry falls in this category (see, p. 540, DIIS, vol. 2)
such as the one from the FIAT reminded the RPDC that it was beyond its scope (FIAT, 2006, pp. 18-29).

Review of wood supply/forestry operations, ministerial power and other weaknesses of the POSS assessment process were discussed in chapter 6. The following paragraphs will deal with Gunns’ claim that there would not be any change in the forestry operations as a result of the pulp mill. Gunns stated the following in its DIIS:

As there will not be any significant change in the extent or nature of current levels of forestry operations in Tasmania, there are no relevant environmental, social, economic or community impacts to be assessed and/or mitigated (Gunns, 2006, p. 224, vol. 1).

Gunns argument was that woodchips that were currently being exported would simply be diverted to pulp production with no intensification of its forest operations:

The pulp mill project is a downstream processing initiative and will not involve any changes to forest access or additional intensification of forestry operations. It is based on diverting woodchips that would otherwise have been exported to the pulp mill for value-added processing (Gunns, 2006, p. 19, Executive Summary).

However, it was clear from a number of communications, including the 2005 and 2006 annual reports that Gunns wished to maintain its current export markets in addition to tapping onto the international pulp market:

The Company proposes to develop a bleached kraft pulp mill located at Bell Bay in Northern Tasmania. The project provides an ability for the Company to obtain an increase in the value of pulpwood through accessing the pulp market in addition to its current woodchip markets (Gunns, 2005, p.6).

Importantly for the Company, entry into the pulp market will provide an opportunity for market diversification, as it will maintain a significant presence in the export woodchip markets (Gunns, 2006a, p. 3)
Moreover, by their own estimation, plantation feedstock for the pulp mill was targeted to increase to 80% of the contribution over the life of the project\textsuperscript{108} as a result of the increase in plantation estate by around 150,000 hectares (Gunns, 2006, pp. 221-222, vol. 1). The impact of the increase in the plantation estate should be assessed, whether the plantation estate were to be created by clear-felling the native forests and impacting on its flora and fauna and the nearby catchment (as a result of pesticide use for plantations and subsequent water run-off) or by converting the farmland and impacting on the fertile farmland and agricultural jobs in the rural community and their source of water. Although Gunns claimed in the DIIS that the plantations expansion remained within the NFPS, RFA and the Plantation 2020 Vision (Gunns, 2006, p. 223, vol. 1), it is not clear how closely they were monitored. For example, with regards to the clear-felling of the native forests, the RFA arrangement is to retain 95% of the area of native forests mapped in the RFA in 1996 (Department of Agriculture, 2013b). However, in one of the submissions, Dorset Council of Tasmania reported clear-felling of the native forests (for making plantations) beyond the agreed 95% retention level. The council reported that the Ben Lomond Bioregion, much of which is in Dorset, had already fallen to 93.7% due to clearance (Dorset Council, 2006, p. 5, public submission #538). It also expressed concern at the pace at which rural properties (i.e., farmlands) were being purchased by timer investment companies for conversion to plantations\textsuperscript{109} (Dorset Council, 2006, p. 4, public submission #538).

\subsection*{8.3.5 Summary of the public submissions and some critical insights}

To summarise, the arguments in favour of support mainly have been economic (growth of the local and state economy); commercial (growth of related business especially in the supply side); job creation (by Gunns directly and indirectly in the supply chain); value addition through downstream processing; increase in government revenue; workforce skills; and technological advancement; easing Australia’s balance of trade and payment. Most of those supporting the project stood to gain financially from Gunns’ business.

\textsuperscript{108} The initial mix was planned to be 20% from plantation sources and 80% from the natural forests (Gunns, 2006, p. 221, vol. 1)

\textsuperscript{109} Predominantly to take advantage of the tax relief the federal government provided for non-forestry managed investment schemes (MIS).
Those opposing the project included the businesses and local councils that potentially stood to lose because of the potential externalities produced by the pulp mill. However, the vast majority of the submissions were from community groups, environmental NGOs, Green parties and even the Church\textsuperscript{110} who opposed the project simply to give voice to the silent stakeholders, namely the environment and the society at large. Opposing submissions were also much lengthier than the supporting ones and in general, more analytical. They were often backed by detailed scientific, economic and social risk-benefit analyses that would challenge figures presented and statements made in the DIIS in a particular area. They also protested against government bias for the proponent at every stage of the process.

An analysis of the submissions of the forestry network members shows that their submissions were lengthier than general supporters (see Table 16). While regular supporters showed blind support without much reasoning, network members brought in apparent sophistication in their argument by incorporating projected financial and economic data of prosperity as a result of the mill (although the data came directly from Gunns’ DIIS). The pulp mill task force (PMTF), which did not make a submission to the RPDC on the other hand, dedicated a series of their fortnightly newsletters (see, PMTF 2006a, 2006b, 2006c, 2006d) to Gunns’ DIIS, mobilising support for the pulp mill during the public consultation period\textsuperscript{111}. All of these newsletters simply reproduced facts and figures presented in the DIIS without any scrutiny of or by the PMTF. The PMTF chief also took part in radio interviews, public meetings/ information sessions organised in various communities by the respective city councils or other organisations. In all of them, he endeavoured to dispel what he called ‘doubts’ and ‘misinformation’ about the pulp mill with ‘facts’, ‘figures’ and ‘assertions’ made in the DIIS by Gunns (PMTF, 2006c, 2006d). In a way, PMTF attempted to promote an uncritical, unexamined summary of DIIS for the general public from the fulsome summaries of it presented by the proponent’s management and its consultants to an acquiescing, invited audience (ABC, 2006). The handy

\textsuperscript{110} Through Anglicare Tasmania which is part of the Anglican Church

\textsuperscript{111} The DIIS was released in July 2006 and put on public display. The four special fortnightly newsletters (Issues 50- 53) were published between 3 August and 19 September. Public submission deadline was 25 September, 2006.
200

page, well-structured summary of the DIIS, conveniently divided into two separate but consecutive pulp mill newsletters (PMTF, 2006a, 2006b), published less than three weeks apart, had the potential of influencing people to take the easy route of informing themselves through the newsletters rather than examining the massive DIIS. All of the network members including Gunns itself, through various media, made a special mention of the effort Gunns made in preparing the gargantuan DIIS. The PMTF quantified the effort (using Gunns provided figures) as follows:

The 7,500 page report has taken 18 months, 350,000 hours to complete and has involved 43 consulting firms compiling 40 expert reports and has costed $11 million to produce (PMTF, 2006a, p. 2).

The quantification of the effort in numbers and dollars attempted to signal the document as ‘elaborate’, ‘exhaustive’, of ‘high quality’, leading to ‘assurance’ in the scientific and economic justification of the mill and conditioning of the public perception of the mill (Boyce, 2000).

In essence, the above also shows the support network simply reinforcing what Gunns had said repeatedly, thereby reifying Gunns’ discourse, within and after submitting their DIIS. The use and reuse of facts, figures and assertions from the DIIS by the network members and the PMTF in justifying and stimulating support for the pulp mill had the potential of making those facts, figures and assertions appear as ‘hard truth’ (i.e., incontestable) in the public eye, thereby exerting pressure on the RPDC for a favourable assessment. Additionally, the pro-development stance of the Tasmanian government, in particular, its unequivocal, public support of the pulp mill project, was sure to bring additional pressure on the Commission in its deliberation.

8.4 Political interference in the RPDC process and the consequences

This section will elaborate on the following discursive events and analyse them through the theoretical and methodological lens:

- The allegation of political interference in the RPDC assessment process
- Resignations from the RPDC and the Pulp Mill Assessment Panel
- Gunns’ withdrawal from the RPDC assessment process.
As mentioned in the previous section, Gunns agreed at the RPDC directions hearing held on 25 October 2006 that it would submit all additional information, including that sought by the RPDC, by 15 December 2006 (RPDC, 2009j). However, Gunns failed to meet the deadline and asked for it to be extended until 31 January 2007 (RPDC, 2009g). This delayed the assessment process for the third time.

8.4.1 Political interference, the RPDC resignations and reconstitution

As the Commission was waiting for the supplementary information after the deadline was extended from 15 December 2006 to 31 January of the following year, two important events took place. Two members of the Pulp Mill Assessment Panel resigned and the panel had to be reconstituted. The two resigning members of the Panel were pulp and paper expert Dr. Warwick Raverty and the Panel Chairman and RPDC Executive Commissioner (i.e., the RPDC chief) Julian Green\textsuperscript{112}. Both of them accused the state government of political interference in the independent assessment process, particularly through the activities of the government funded pulp mill task force (PMTF); and stated it to be the main reason for their resignation (Nealse, 2007a, 2007b; Fisher, 2007; Denholm, 2007b). Raverty spoke out after his resignation\textsuperscript{113}, while the Green’s letter of resignation was leaked to the media a few days after he had announced his resignation (Bevilacqua, 2007). The letter pointed out that despite numerous complaints made by the RPDC since February 2005, to the task force and to the relevant government departments, including that of the Premier and Cabinet, the activities of the task force, which were undermining the integrity of the assessment

\textsuperscript{112} The Executive Commissioner is not by default the Chair of different assessment panels.

\textsuperscript{113} Raverty stepped down as a result of the Australian and Tasmanian Greens’ submission to the RPDC of perceived bias. It arose from PMTF’s publication in its website and in two of its newsletters (see, Issues 15 and 29) where it was highlighted that scientists from Ensis (a joint venture research collaboration into forestry between CSIRO of Australia and Scion of New Zealand) had favourable views about some critical aspects of the Tasmanian pulp mill guidelines and the pulping technology that Gunns planned to employ but were being disputed by the Greens and other conservationists. According to the Greens the perception of bias arose as a result of Dr. Raverty’s holding the position of a senior research manager and senior principal research scientist for five years at the pulp and paper research group of Ensis prior to joining the RPDC. However, in his media interviews following the resignation, it was clear that the perception of bias was unfounded (rather he was critical of Gunns’ continued non-compliance), which led the Greens to realise that “the way the task force proceeded, they managed to set up a situation which undermined Dr Raverty” that ultimately led to his resignation (ABC, 2007a).
process, were not reined in\textsuperscript{114}. The resignations prompted calls for the shutdown of the PMTF (ABC, 2007b) but the Premier defended the actions of the taskforce and refused to disband it (ABC, 2007c). Despite the chaos, Lennon continued his unwavering support for the pulp mill and refused not to rule out scrapping, what he called, the “compromised RPDC process” for a parliamentary approval\textsuperscript{115} (ABC, 2007d; Denholm, 2007a). The shift in his position regarding the RPDC assessment process was in sharp contrast to his earlier public commitment to it, as discussed with direct quotes ascribed to him from parliamentary Hansards in Chapter 6 (subsection 6.4.3, under PMTF’s potential impact on the RPDC). The shift in the Premier’s position was as a result of Gunns’ threat to move the project elsewhere if there were further delays in the approval process (ABC, 2007c; Denholm, 2007a). However, this research has identified in the previous section and in the above paragraph that all the three incidents of delays (once at stages 2 and twice at stage 3) had occurred due to Gunns.

Nevertheless, Gunns failed to meet the deadline of 31 January 2007 and failed to submit the supplementary information it had pledged to provide. The RPDC and the Pulp Mill Assessment Panel were reconstituted in the meantime. Simon Cooper was appointed as the Executive Commissioner of the RPDC on 9 January 2007 with the appointment to be effective from the following week (Cooper, 2007). The Commission then appointed, on 5 February 2007, former Tasmanian Supreme Court judge Christopher Wright and New Zealand scientist Andre Hamman to replace Julian Green and Warwick Raverty respectively in the pulp mill panel (RPDC, 2007b).

\textit{Another directions hearing}

In the backdrop of Gunns’ non-submission, media speculation about its non-cooperation (RPDC, 2009g) and Gunns’ Chairman Gay’s unsuccessful bid for a

\textsuperscript{114} Complaints from one such letter was reproduced in the section introducing PMTF as an additional government structure in Chapter 6. Since the leakage of the resignation letter, the conservationists obtained previous correspondences of Green with the government under Freedom of Information (FOI), which confirmed Commissioner Green’s and the RPDC’s position with regards to the activities of the PMTF. RPDC had sought assurance that once the formal assessment started, PMTF would not act so as to compromise RPDC’s role in the assessment. It was concerned about the potential public perception that government’s promotion of the pulp mill through PMTF and RPDC’s statutory obligations in assessing the mill did overlap (Stokes, 2011).

\textsuperscript{115} According to Lennon the independent RPDC process might have been compromised by the public comments of a former member of the panel (i.e., Raverty) so as to justify his above position.
private meeting with the new panel chairman, RPDC on 14 February 2007 advertised for a second directions hearing to be held on 22 February. After the announcement of the directions hearing, however, Gunns provided the supplementary information to the commission on 16 February 2007- information that the RPDC had been asking for since the first week of September 2006 (RPDC, 2009g).

At the directions hearing on 22 February 2007, the new Panel Chairman contradicted Gunns’ public account of procrastination in the assessment process. Rather, he blamed Gunns almost entirely for the delay because of its failure or inability to comply with its own commitments or the panel’s requirements:

However, it has become quite apparent that due to accumulated delays, all or most of which appear to have resulted from Gunns failure or inability to comply with their own prognostications or the panel's requirements, that time line can no longer apply. This was obvious well before the October directions hearing last year and I think should come as no surprise to interested parties, least of all the proponent (RPDC, 2009g, p. 3).

The Commission revealed a new timeline for an end of November 2007 completion of the assessment process to allow it to follow all statutory requirements116. Gunns’ legal representative on the hearing did not oppose the new time line and thanked the panel for clearly explaining its position and the intended procedures from that point onwards (RPDC, 2009g).

8.4.2 **Political interference and Gunns’ withdrawal from the RPDC process**

A day after the directions hearing, however, Gunns’ Chairman Gay wrote to the Premier seeking intervention citing the timeline as unacceptable. Premier Lennon, his senior ministers and the Solicitor-General met with Gay and other Gunns representatives on a Sunday (25 February 2007) at the Premier’s office (Gale, 2008; Denholm, 2007c). Lennon agreed to discuss a shorter timeframe with the RPDC (Integrity Commission (IC), 2012; Gale, 2008; Denholm, 2007c). On Monday, 26

---

116 The timeline was prepared assuming a 31 January 2007 submission by Gunns and did not take into account a further fortnight’s delay (RPDC, 2009g, p. 3).
February, Lennon and the Secretary of the Department of Premier and Cabinet, Linda Hornsey, met with the new RPDC chief, Cooper and expressed the government’s intention to have the assessment completed by July 2007. On 27 February, Lennon and Hornsey met Wright, the Pulp Mill Assessment Panel Chairman; Cooper was also at the meeting (IC, 2012). These meetings were never disclosed until 13 March 2007, when Lennon voluntarily revealed his meeting with Wright, where he (Lennon) had asked Wright to shorten the assessment process but failed to secure a guaranteed completion date from him (Wright). Lennon’s voluntary disclosure two weeks after the failed meeting had the potential to, “soften up the public for what was to happen the next day, when Gunns dramatically withdrew from the RPDC process” (Denholm, 2007c) citing ‘commercially unacceptable’ assessment timeline. The letter of withdrawal highlighted how each additional month’s delay in the approval process past June 2007 would increase Gunns’ project cost by $10 million, accumulating to a $60 million cost ‘blowout’ for a six month delay by the RPDC (HoA Hansard, 15 March 2007).

Interestingly, between 22 February 2007 directions hearing and 14 March 2007 withdrawal, there was no formal communication between the RPDC and Gunns. Despite that, and given its dissatisfaction with the timeline suggested in the directions hearing, Gunns advised the Australian Securities Exchange (ASX) on 27 February in its half-yearly report that it was

(c)onfident the necessary government approvals will be obtained within a timeframe which maintains the commercial value of the project (Gunns, 2007b, p. 5).

It is probable that Gunns’ assurance to ASX came as a result of its meeting with the Premier, who agreed to discuss a shorter timeframe with the RPDC. However, as already indicated, the meeting between Lennon and Wright on the same day (27 February) ended without any favourable outcome for Gunns117 (Denholm, 2007d). Nonetheless, Gunns provided the same reassuring advice of obtaining pulp mill

---

117 The discussion that took place in the meeting will be examined shortly.
approval to the ASX on 9 March 2007 in exactly the same phrase as to the one given on 27 February\textsuperscript{118} (Gunns, 2007c), just five days before its withdrawal from RPDC.

As stated before, there was no formal communication between the RPDC Panel and Gunns after the directions hearing. However, it was revealed much later under FOI\textsuperscript{119} that the panel did not have any good news for Gunns as early as the beginning of March. In a 2 March 2007 letter to Gunns (that was never sent) the Panel indicated that the supplementary information provided on 16 February to cover the deficiency of the original DIIS was inadequate and still non-compliant\textsuperscript{120} in several important matters and resolved that until Gunns had addressed them, the RPDC was not going to place them on public exhibition, the next phase in the assessment process (see, Cooper, 2007). The letter concluded as follows:

\begin{quote}
The Panel must have a document that clearly sets out the proponent’s case for the proposed bleached kraft pulp mill. As it currently stands, the Panel is unable to place the Supplementary Information on public exhibition until such time as the matters referred to above have been addressed by Gunns (Cooper, 2007, p. 4).
\end{quote}

This was the ‘preliminary view’\textsuperscript{121} of the RPDC on Gunns’ pulp mill project proposal after 7500 pages of DIIS and 2500 pages of supplementary information to address deficiencies in the DIIS. However, the 2 March letter to Gunns was never sent at the request of Secretary Hornsey, who was in contact with the RPDC concerning another matter and came to know by chance that Gunns’ supplementary information was “critically non-compliant” (Gale, 2011, p.73; Denholm, 2008a; Denholm, 2008b; Cooper, 2007; IC, 2012). She then requested the RPDC to hold the letter and undertook the responsibility of talking the matter over with Gunns herself (Lennon, 2007 in HoA

\textsuperscript{118} The advice was given as part of a separate announcement for the shareholders relating to a dividend reinvestment plan.
\textsuperscript{119} The letter was released to Tasmanian Greens MP Nick McKim (later leader of the Tasmanian Greens) pursuant to a Freedom of Information (FOI) application and since been tabled in the parliament (IC, 2012).
\textsuperscript{120} Inadequacy and non-compliance related to the final scoping guidelines and the directions hearing held in October 2006. As mentioned before, Gunns was informed of the deficiencies as early as the first week of September in 2006 and again through another letter on 2 October that year before finally giving formal directions to comply in the 25 October 2006 directions hearing.
\textsuperscript{121} This is the term the Integrity Commission used in its findings on complaints of irregularities in the Gunns pulp mill approval process (see, IC, 2012). The Integrity Commission was established on 1 October 2010 by the Integrity Commission Act (2009).
Hansard, 13 June 2007; Gale, 2011; Denholm, 2008a; Denholm, 2008b), expressing fear that Gunns might withdraw from the RPDC process if it were advised that RPDC considered its integrated statement to be critically deficient (ABC, 2008a; IC, 2012).

Through Hornsey, Gunns became aware of its predicament with the RPDC on 8 March 2007 (Lennon, 2007 in HoA Hansard, 13 June 2007), the day before its blithe ASX advice of getting the approval in time. The obvious question then is, on what basis had Gunns advised the ASX of its confidence in getting a positive approval in an ‘acceptable’ timeframe when it already knew that Lennon had failed to convince the RPDC Commissioners to curtail the assessment process in his 26 and 27 February 2007 meetings and through Hornsey that RPDC’s ‘preliminary view’ on its proposal had been less than promising. If Gunns’ ASX advice is taken to be an accurate representation of the company position at that time, given the difference of only five days between the latest advice on 9 March and the withdrawal on 14 March 2007, and given there was no further communication from the RPDC, whether formal or informal during these five days, a plausible explanation, would that Gunns was sure that an alternate fast-track assessment process with an ‘acceptable’ timeframe would be put in place by the acquiescing state government if it were to withdraw from the ‘arduous’ RPDC process. Given Gunns’ corporate power in a ‘mendicant state’122 and the consequential legitimation of development almost at any cost, as previously discussed, this might have led Gunns to believe that even if it had left the formal, independent approval process, it would still get approval to build a pulp mill. Gunns, had already invested millions of dollars into its preparation of its DIIS.

The presentation of this detailed interactions, exchanges and changes which was accessible through public documents, is to demonstrate the complex iterative practice, which falls under the heading of discourse practice. Immersing oneself and the reader in this detail of discourse practice comes with the risk of losing the “big picture” or failing to ask other questions. This next section addresses this.

---

122 Reference to Tasmania as a ‘mendicant state’ is probably as old as the State itself. With Internet searches on digitised newspapers, it can be traced back to at least 1944 (see, The Examiner, 11/10/1944)
Why did Gunns withdraw from the RPDC process?

The answer to this significant question is not straightforward and given the complexity of the processes, players, exchanges and changes, this is not surprising. Of course, Gunns gave its reasons which implicate the process, the timelines and the government.

One of the key reasons for Gunns’ withdrawal, as canvassed by Gunns, can be attributed to Lennon’s failure to secure a shortened timeframe from the RPDC. So, what happened at Lennon’s RPDC meetings? As mentioned before, Lennon and Hornsey met with the RPDC Chief Cooper on 26 February 2007 and along with him met the Pulp Mill Assessment Panel Chairman Wright on the following day (IC, 2012).

The purpose was to make Wright agreeable to a government proposed shorter timeframe. Lennon asked Wright to complete the assessment process by 31 July 2007 and he handed him a document detailing a draft timeline to that end. Lennon emphasised that any further delay would risk the project being abandoned because of financial and other constraints (IC, 2012). Wright pointed out that he did not think it was possible to complete the process within that timeframe\textsuperscript{123}, to which the Premier’s reply was that in that case he wished to introduce amending legislation and issue new direction to the RPDC under s. 20 of SPPA 1993, obliging RPDC to complete the assessment process and furnish its final report no later than 31 July 2007 (IC, 2012). To achieve that target completion date, the new direction would also contain instruction for the RPDC not to include any public hearings in the assessment process either before or after the preparation of its draft assessment report\textsuperscript{124}.

The process and independence were called to question again. Wright was not prepared to abandon the public hearings already mooted for this assessment process. He sought a few days from the Premier to ponder the proposal (and also discuss this with other panel members). The Panel members were unanimous in opposition to this proposal and the timeline (IC, 2012; see, \textit{HoA Hansard}, 22 March 2007). The Panel’s view was

\textsuperscript{123} Wright already suggested an end of November completion target without taking into account the delay in Gunns’ submission of the supplementary information. Of course, this estimation of the finish date did not envisage that even the supplementary information would be ‘critically non-compliant’.

\textsuperscript{124} As per the generic POSS assessment process (see Figure 6), a public exhibition and a public hearing are allowed between RPDC’s draft integrated assessment report and its final report. The first public hearing is scheduled to take place after the submission of the proponent’s DIIS.
that dropping the public hearings would make the assessment process unfair and fundamentally flawed and would also compromise its independence and effectiveness. Wright then decided to resign as the Panel Chairman and drafted a letter of resignation\(^{125}\) in which he described the Panel’s position as follows in various parts of the letter:

To place a total embargo on public hearings will emasculate the effectiveness, transparency and fairness of public participation in the assessment process.

I entertain no doubt whatsoever that an assessment process without provision for public hearings would be fundamentally flawed.

I am unable to participate in an assessment process which is severely curtailed both in content and duration in the way you have proposed. To do so would compromise the independence and effectiveness of the assessment process and would adversely affect the quality of the panel’s report. It would severely and irreparably damage my own personal integrity. This is a step which I am not prepared to take (Morris, 2007 in HoA Hansard, 22 March 2007).

He then called Secretary Hornsey to inform his intention to resign given the circumstances. His draft letter of resignation, quoted above, concluded with the following:

I was under the impression that my role of Panel Chairman was intended to demonstrate that the assessment would proceed fairly, impartially & free of governmental pressures or influence. To accept the severe limitations which you now intend to place on the Panel's activities would make it plain that such is not the case. I have therefore concluded, with considerable regret, that I can no longer continue as Panel Chairman. Accordingly, I am tendering my

---

\(^{125}\) Wright’s account of the events at the 27 February meeting and thereafter came to light on 22 March 2007, just a week after Gunns’ withdrawal, when he called a news conference, an extraordinary move while still being the Chairman of the RPDC Pulp Mill Assessment Panel, and released a sworn statement (statutory declaration) to counter the claims made by Lennon in the parliament. Lennon shifted the blame on Wright for Gunns’ withdrawal accusing him to be inflexible with the assessment timeline. Wright described what happened at the meeting in his statement and also attached his draft letter of resignation with it. He believed Lennon’s attempt to “pressure” him to fast-track the assessment process was “completely inappropriate”. Wright’s draft letter of resignation was read out verbatim in the parliament by the Greens MP Tim Morris.
resignation to the RPDC with immediate effect (Morris, 2007 in HoA Hansard, 22 March 2007).

Hornsey asked him to delay his resignation until the Premier, who was in New Zealand then, had the chance to consider the matter. Hornsey subsequently informed Wright that the Premier would not insist upon his proposed timeline and the RPDC could proceed as planned. Following this, Wright decided not to submit the resignation letter (IC, 2012)\(^{126}\).

It was interesting to note that Wright’s assessment of the Tasmanian government’s approach (and that of Lennon in particular) to Gunns’ pulp mill assessment process was similar to that of the two RPDC commissioners who resigned early in January citing government interference through PMTF. According to Wright, it was no secret that the government was supportive of the pulp mill. He said:

> I have no problem at all with Lennon being enthusiastic about it. Absolutely no problem at all. I just think he went about it completely the wrong way… He didn’t acknowledge the fact that it was in the hands of the RPDC, a statutory body, and it ought to be getting on with the job of doing it (Wright in IC, 2012, p. 10).

On a separate note, the apparent importance of PMTF ceased to exist and it was shut down soon after Gunns had withdrawn from the RPDC assessment process. The PMTF website ceased to provide any information from 21 March 2007, a week after Gunns’ RPDC withdrawal. This adds to the earlier speculation that, indeed the PMTF was being used as a propaganda unit arousing ‘willing’ public affirmations to create consensus (Turkel, 1980a) for the government’s support and facilitation of the pulp mill project, allegedly with the added task of creating pressure on the RPDC. Now that the RPDC process had been scuttled and the assessment was effectively in the

---

\(^{126}\) Wright recollected the events of the 27 February 2007 meeting and its aftermath in a conversation with the Integrity Commission officers, who were investing complaints of legal misconduct by the former Premier Lennon.
government’s hand through a ‘rubber stamp’ parliament\textsuperscript{127}, PMTF was no longer needed\textsuperscript{128}.

Members of the forestry network, who expressed full support for and firm confidence in the independence of the RPDC and its POSS assessment process in their submissions earlier, were now united in vilifying the RPDC for the fall out and defending Gunns’ action. FIAT, in association with other network members, ran full page advertisements in the local newspapers criticising the RPDC, justifying Gunns’ ‘commercially vindicated’ position and expressing complete support for a new, ‘fast-track’ legislation (FIAT, 2007a; 2007b). The network members unreservedly endorsed each other’s shifting position (Gale, 2011).

8.4.3 Political interference and Gunns’ withdrawal through the theoretical lens

\textit{Impact of RPDC’s legitimation before and after Gunns’ withdrawal}

The above shows something remarkable if seen through the lens of legitimation. At a time when the very basic question was being debated, that is, if Tasmania could have a pulp mill through a fair process independent of the government (given successive Tasmanian governments’ history of ‘bungled’ assessments in previous projects of environmental significance), the RPDC provided the forestry network including its key member, the Tasmanian government, the much needed ‘shield’ of legitimation.

The RPDC is an example of Habermas’ formal democratic institutions and procedures that “elicits” (Habermas, 1975, p. 36) generalised motives and affirmations of the citizens, providing legitimation to a government in advanced capitalism. Therefore, supporting the RPDC suited the cause of the government and, by extension, its allies when the idea of a pulp mill was first mooted and the assessment process debated. Hence, it is not surprising that both the government and its allies in the forestry

\textsuperscript{127} As a reference to the bilateral support for the pulp mill in the parliament by the Labor government and the Liberal opposition.

\textsuperscript{128} PMTF chief Gordon was sent back by the government to his primary employer, Forestry Tasmania with a promotion to the top job, the Managing Director (The Wilderness Society, 2006; Edwards, 2013; Forestry Tasmania, 2013b)
network were in chorus in praising the RPDC for its competence and independence in the beginning\(^{129}\). However, it was unknown at that time that this support from the network (including the Tasmanian government) was conditional upon the RPDC providing a positive assessment of the pulp mill. As soon as the RPDC started asserting itself more with the unfolding of the advanced stages of assessment and became critical of the quality of the DIIS and also the supplementary information, uncertainty loomed as to the likelihood of a positive assessment. Gunns to contemplate a withdrawal rather than not gaining approval for the pulp mill.

The series of incidents in the previous subsection demonstrate how a formal democratic and independent institution such as the RPDC that was indeed a source of government legitimation, had to withstand persistent direct and indirect political pressure and interference of an overly committed government in support of a wayward private proponent\(^{130}\). The incidents described above show that the RPDC was supported by the government and the forestry network to gain legitimation for the pulp mill as long as it was not overly critical of the proponent’s non-compliance. It was expected then that a positive RPDC recommendation, that is approval for the Gunns pulp mill was imminent.

A legitimation crisis was also imminent. If the RPDC did not approve the pulp mill proposal, it would signal its power, but at the expense of the government’s and the Gunns corporation. The related legislation would mute in enabling economic development which was essential for the State of Tasmania. However, another legitimation crisis was imminent if the RPDC approved the pulp mill proposal, but at the expense of its independence of government and the proponent. The paradox is that in seeking to secure legitimation, a legitimation crisis could not be averted. Logically,

\(^{129}\) For example, after the declaration of the Gunns’ pulp mill as a POSS, a 40-page supplement was published in The Examiner (a Tasmanian daily) by members of the forestry network that had messages from the Premier Lennon, PMTF chief Gordon and heads of network members, highlighting the independent and expert role of RPDC and the opportunity for repeated public participation in the pulp mill assessment process (see, Gale, 2011).

\(^{130}\) According to Gale (2011), Gunns was a reluctant participant in the RPDC assessment process and only entered the process upon insistence from the government ministers. Gunns being unconvinced that it needed an RPDC approval explained its blithe and at times supercilious behaviour towards the assessment. Having produced the DIIS, it thought its job to be complete and expected RPDC to endorse it rather than question it.
it would be politically less damaging for the government and the proponent to weaken the RPDC process for a favourable/positive outcome or withdraw from it altogether with a seemingly valid excuse if a positive outcome was unlikely compared to a scenario where a robust RPDC process delivered a negative assessment of the proposed pulp mill and the government reversed it with its power vested in SPPA 1993. The Lennon government chose the former—political manoeuvring rather than risking a direct reversal of a negative RPDC decision. However, environmental activism and the growing public awareness of environmental issues showed how government initiatives post RPDC withdrawal lacked legitimation and rendered those manoeuvres eventually fruitless.\footnote{131}

**Legitimation crisis of the Tasmanian government**

A further look at the events leading to Gunns’ withdrawal from the RPDC and the government’s subsequent actions through the theoretical lens used in this thesis provides fascinating insight. As discussed in the theoretical framework chapter, advanced capitalism like that in Tasmania is structured around the economic system, the political system (that complements and engage with the economic system through various state apparatus such as RPDC, various government departments and legal structures), and the socio-cultural system (providing legitimation to government actions while imperatives from the economic system are carried through by the state apparatus) (Habermas, 1975). Each of these systems requires some input and provides some output. Crises can arise within these systems at different points and in various forms. For example, the economic system takes as its input labour and capital and provides as its output consumable values, distribution of which can create disturbances and lead to social crisis and political struggles.

\footnote{131} i.e., the demise of Gunns. Even after having the government approvals in place, Gunns could not proceed with the mill as its principal financier ANZ Bank (Gunns’ banker for 22 years) withdrew from the funding negotiations in May 2008 (ANZ Bank, 2008; ABC, 2008b; Miller, 2011) in the face of concerted protests (inspired by the green groups, especially The Wilderness Society) from its clients, other stakeholders, aboriginal rights groups and the general public (ABC, 2008b; Miller, 2011). Gunns never managed to have any solid financing proposal on the table since then and continued a downward journey to a position where on 25 September 2012, it went into voluntary administration (ABC, 2012b). Gunns’ financing failures or its ultimate demise is beyond the scope of this thesis.
Tasmania’s economic system

Within the economic system of Tasmania, Gunns’ proposed pulp mill was projected to be a significant addition- Tasmania’s ‘missing link’ in value addition to an important and financially significant forestry resource (woodchips), with numerous direct and indirect benefits of the mill. But a closer look reveals that Gunns’ pulp mill being part of the economic system actually resembled the broader economic system in terms of its input and output. Facilitated by the state government, the convenient consumption/usage of factors of production such as natural resources from public forests and lakes and exploitation of the natural environment (river, sea and air) through effluents and emissions as the pulp mill’s input (in addition to government subsidies in various forms) could be contrasted with its ‘consumable’ output (i.e., profit) that was likely to remain mostly private and only distributable to its shareholders. This provided impetus for the social unease with this project given the growing environmental awareness of the Tasmanian public. In addition to people and businesses that stood to lose directly from the pulp mill, social and environmental awareness led other people to question Gunns’ easy access to state resources. On the face of such questioning and opposition, Gunns’ and the state government’s best defence was the RPDC assessment of the pulp mill proposal with the commission’s legitimation rooted in its independence and impartial discharging of its responsibilities until it was undermined by the state government.

Political system

The Political system, on the other hand, requires as its input, mass loyalty that is “as diffuse as possible” (Habermas, 1975, p. 46) and the output consists in “sovereignly executed” (Habermas, 1975, p. 46) legal and administrative acts, social security, etc. Crises in the output take the form of “rationality crisis” (Habermas, p. 46), where there is an apparent contradiction between economic imperatives and generalizable interests and the administrative system is unable to reconcile the two. Gunns’ pulp mill project, which was meant to be the epitome of the Tasmanian government’s economic credentials, stumbled because of the government’s failure to mobilise enough support despite some confinements imposed by the RFA and the ministerial direction, limiting its scope, as discussed earlier.
for it (i.e., failure to reconcile with ‘generalizable interest’). The Lennon government’s disposal of the more robust ‘administrative systems’ (i.e., SPPA 1993, its POSS provisions, and the involvement of a statutory authority such as the RPDC for assessment) for the less respected PMAA 2007 (and the government appointed consultant to so the assessment) was unhelpful in winning public support for the pulp mill. Indeed, PMAA 2007 possibly lacked legitimation when tested against the definition of legitimation suggested by Turkel (1980a): “that constellation of reasons and beliefs which social members willingly affirm in their support of the social order” (p. 19)\textsuperscript{133}. According to Turkel, legitimacy is maintained when the government is able to execute a command for which reasonable arguments can be provided; a command or initiative that does not contravene “collectively held beliefs and values” (Turkel, 1980a, p. 23). The enacting of PMAA 2007 replacing the independent RPDC assessment to assess the pulp mill proposal can be argued to have gone against the ‘collectively held’ value of fairness (i.e., the opportunity to have a ‘fair go’ that common Australians hold dear) leading to a crisis tendency in the input of the political system. According to Habermas, input crises take the form of “legitimation crisis”, where “the legitimizing system does not succeed in maintaining the requisite level of mass loyalty” while carrying out economic imperatives (Habermas, 1975, p. 46). It results from questionable government actions that jeopardises the “structure of the depoliticized public realm” (Habermas, 1975, p. 46). The Habermasian insight directly fits the situation in Tasmania and sheds light on how political interference in Tasmania’s “depoliticized public realm” (Habermas, 1975, p. 46), i.e., into its formal democratic and independent institutions and procedures (in this case, the RPDC and its POSS assessment procedures) from an overly committed government from the very beginning, making a legitimation crisis imminent. Indirect government interferences through PMTF leading to high-profile resignations at the RPDC and later, more direct, interference from the Premier leading to the collapse of the RPDC assessment altogether vindicates Habermas’ observation. What followed the RPDC assessment collapse, while maybe procedurally defensible (Habermas, 1986), most likely lacked legitimation as per Turkel (1980a)\textsuperscript{134}. Lennon’s handling of the pulp mill assessment

\textsuperscript{133} Legitimation of PMAA 2007 will be tested further in a later subsection.

\textsuperscript{134} The legitimation of PMAA 2007 will also be tested using Habermas’ test of legitimation in a later section.

214
as the responsible minister for administering the legal processes relating to a POSS, his ties with Gunns and other big businesses and the allegation that he misled the parliament into enacting PMAA 2007 brought down his personal poll rating to an abysmal 17 per cent of the popular vote, forcing him to resign as the Premier and Labor Party leader in May 2008 (Denholm, 2008c; Gale, 2011).

**Socio-cultural system**

Finally, according to Habermas (1975), the crises tendencies (in legitimation) discussed above are only visible through the socio-cultural system, which takes as its input, the output of the other two systems (consumable values from the economic system; legal and administrative acts, social security, etc. from the political system). Therefore if the output from the other two systems fails to comply with the legitimate expectations of the social members, they automatically create disturbance as an input into the socio-cultural system that results in the suspension of legitimation to government actions as its output. This has been played out through the Gunns case in Tasmania as illustrated above.

*Further insight into the legitimation crisis of the Tasmanian government*

Habermasian insight into legitimation goes even further. According to Habermas (1975), the formal democratic institutions and procedures (such as the RMPS and its enabling institutions and legislations in Tasmania) help the government in an advanced capitalism prevent the “contradiction between administratively socialised production and the continued private appropriation and use of surplus value” (Habermas, 1975, p. 36) from becoming manifest. The awareness of such a paradox can give rise to legitimation crisis (Habermas, 1975). To avoid this from manifesting, political governments put in place administrative systems and procedures that are sufficiently independent of “legitimating will-formation” (Habermas, 1975, p. 36). That is, the process of legitimation in advanced capitalism does not require active or genuine participation by the public to form political will, but is done through the arrangement of formal democratic institutions and procedures that “elicits” (Habermas, 1975, p. 36) generalised motives and affirmations of the citizens. The RMPS and its enabling legislations and institutions such as the RPDC and the RMPAT were serving that
purpose for the Tasmanian government. The formal legal discourse surrounding these laws and legal institutions limited the “public appearance and recognition of conflicts and contradictions in codified, formal, logically cohesive rules”, legalising economic inequality in the process (Turkel, 1980b, p. 43). Therefore, by scuttling the RPDC assessment process the Tasmanian government actually took a step backward that did not benefit its own cause in terms of legitimation. The government became susceptible to the idea that a private company, because of its size and political stature in an ‘economically vulnerable’ State, gained easy access to the State resources without proper scrutiny by the independent State apparatus, the RPDC. The acts of the RPDC could actually shield the government from a legitimation crisis. However, the interesting point to note here is that, as per Habermas, even with the RPDC assessment, the practice of “administratively socialised production” and the “continued private appropriation and use of surplus value” would not cease to exist- something that is deeply ingrained in advanced capitalism, marking the advanced stage of the accumulation process through the rise of national and multi-national corporations, complex markets for goods, capital, and labour, etc. (Habermas, 1975). However, with the RPDC assessment, the trigger for the crisis could have been avoided and the notion of ‘fairness’ sustained for the Tasmanian citizens.

8.4.4 Gunns’ withdrawal through the combined lens of CDA and the theory

Using CDA along with the theoretical lens, additional insights can be made into Gunns’ withdrawal. Given the analysis in the previous subsections, it is not difficult to understand why Gunns actually withdrew from the RPDC assessment process. However, the question remains of how Gunns got away with the reasons it provided for the withdrawal and how it also implicated the state government.

Both the theory of legitimation and CDA recognise the dialectical relationships between players and in this thesis between the project and the government. Both players invoked economic imperatives which served to reinforce and legitimate each other. Of course, both had had their historical source of legitimation, that is both the theory of legitimation and CDA recognise pre-existing contexts shaping discursive events. The use of accounting numbers as a form of social power, constructing and transforming organisational and social perspectives, related economic perspectives
and ultimately political perspectives is well established in the SEA literature (see, Hopwood, 1992; Hoskin and Macve, 1994; Boyce, 2000). However, this is rooted in the distinguished position accorded to quantification and measurement in general and their association with science. The idea that quantification affords “precision”, “rigour”, “objectivity”, etc. provides legitimation to accounting numbers, establishing accounting as a legitimating institution itself (Richardson, 1987; Robson, 1992). The state government’s economic imperatives had a clear pro-development bias which was legitimated by the state’s poor economic performance vis-à-vis that of the mainland states. A state ought to be comparable to other states in a range of indicators, especially the economic ones. Such comparisons through ‘hard’ numbers create a notion of equivalence and lead to the assumption and expectation that each state must be able to ‘pull itself through’ and contribute to the advancement of the Federation. This expectation, at the root of which is the taken-for-granted belief that quantified economic/ fiscal indicators create objective reality, has put enormous pressure on successive Tasmanian governments and has led to the legitimation of their pro-development stance. As a result, the state government’s economic imperatives facilitated and legitimated the privileging of development over environmental concerns. This is the reason why, when Gunns quantified through accounting numbers the cost of assessment delays in justification of their withdrawal in the context of economic development, few in the position of power\textsuperscript{135} could argue otherwise. The Government’s economic aspirations relied on the realisation of such industrial projects. The pulp mill project’s expected financial and economic contributions placed the State of Tasmania in a lesser bargaining position because of the state’s ‘vulnerable’ economic status.

The power of the pulp mill’s accounting phenomena is evident from the Premier’s Ministerial Statement (see, Lennon, 2007 in HoA Hansard, 15 March 2007) in the parliament following Gunns’ withdrawal from the RPDC process. The mill was projected by the forestry network, including the government, as an economic saviour for Tasmania from the very beginning, as was identified and discussed in earlier chapters. So, it was not surprising that the government led by Lennon sought

\textsuperscript{135} i.e., the lawmakers in the parliament who were to decide whether to afford Gunns a separate assessment process outside of the RPDC.
parliament’s approval to legislate a separate approval process for Gunns given the ‘enormity’ of its financial impact on the state. His speech was replete with accounting numbers and resulting potential economic outcome relating to the proposed pulp mill. Figures highlighted included an increase in government tax revenue by $900 million over the 25-year life of the project, $100 million in accommodation and hospitality spending during the construction phase; creation of 3400 direct and indirect jobs during the construction phase and 1600 jobs throughout Tasmania when the mill would be fully operational- reaching up to 2000 jobs over the life of the project. Lennon also highlighted a $6.7 billion increase in Tasmania’s economic output in 25 years due to the project and an increase in household income by $870 per year. However, there was no mention of how many jobs would be lost or businesses shut down in other sectors because of the mill’s externalities to demonstrate the mill’s net employment advantage. Likewise, he highlighted additional government revenues from taxes but remained quiet on government subsidies to Gunns in various forms. He conveniently used the ‘law of averages’ to declare that every household/family in Tasmania would be ‘better off’ by $870 a year, whereas averages can also disguise winners and losers. Interestingly, Lennon put no blame on Gunns for the withdrawal, rather highlighted again, through accounting figures, the cost that was being imposed upon Gunns due to the ‘delay’ in the RPDC assessment process and he also commiserated with Gunns for the costs it had already incurred, vindicating the retraction. Lennon tabled in the parliament Gunns’ letter of withdrawal that claimed an imposition of $60 million in additional costs to the project for a six-month delay in assessment that equated to a ‘startling’136 $10 million per month. Lennon also mentioned that since proposing the mill Gunns had already spent in excess of $30 million on the $2 billion project. One interesting observation can be made from Lennon’s Ministerial Statement, part of which is discussed above. Lennon used his accounting/economic indicators carefully not to allude to any profit Gunns was expected to make, rather emphasising only the community and regional benefits and benefits to the state at large that were at stake because of the withdrawal. At the same time, there was no mention of costs to the society, the environment or even the government because of this major industrial

136 A modifier used by Lennon to add emphasis.
development project. However, costs to the proponent were highlighted with added emphasis.

The dialectical interplay between the legitimating impact of accounting and the context of the Tasmanian economy contributed to the solidification of the above numbers as ‘facts’, while, in essence, they were mere estimates (Boyce, 2000). Simultaneously, in the context of Tasmania, the legislative environment was also part of that dialectical interplay, where accounting projections drove the enactment of amenable (enabling) legislations (such as PMAA 2007) and legislative instruments facilitated profit accumulation (such as through POSS provisions).

8.5 A brief assessment of the new pulp mill legislation, PMAA 2007

Gunns formally withdrew its pulp mill proposal from the RPDC on Wednesday, 14 March 2007 and referred it to the state government. Following the announcement, Premier Lennon called an emergency meeting of his cabinet and later the parliamentary Labor party to decide the best course of action now that the pulp mill was in government hands (Neales, 2007c). In a Ministerial Statement in the parliament on the following day, Lennon proposed to introduce new legislation to set up a one-off special assessment process for the pulp mill outside the established RPDC process. The new legislation was being drafted to be tabled and debated in the parliament in the following week (HoA Hansard, 15 March, 2007; Stokes, 2011).

The legislation titled Pulp Mill Assessment Bill 2007 (later the act, PMAA 2007) was introduced, debated and passed within the following week in the Lower House of the parliament (the House of Assembly) with both the Government and the Opposition supporting the legislation, while the Greens opposed it. The bill was declared an ‘urgent bill’ requiring a limitation of debate as per the provisions of the HoA standing order 138A\(^{137}\) (see, HoA Hansard, 22 March 2007). It passed in the early morning (1.52 am) of 23 March at the House of Assembly and later in the morning it was passed.

\(^{137}\) In the latest version (as of May 2014) of the parliamentary standing and sessional orders, this provision is located in part 21, as S.O. 149. Upon declaration of a bill as ‘urgent’ by the relevant minister (Lennon in this case), which can be done at any stage of the debate, the provision limits the length of the debate and stipulates a timeframe (as per the stipulation of the said minister) as to when a particular stage or all stages of the bill must be completed.
received and read for the first time in the Upper House of the Parliament, the Legislative Council (see, Legislative Council Hansard, 23 March, 2007). Except for four independent members and a Labor member who crossed the floor to vote against the bill, others supported the bill in the Legislative Council with minor amendments that were accepted by the House of Assembly to finally pass the bill into an act (the *Pulp Mill Assessment Act 2007* on 17 April 2007 and getting the Royal Assent on the 30th April (see, PMAA 2007; Stokes, 2011). As a result of the PMAA 2007 coming into being, it automatically stripped the pulp mill of its POSS status, thereby formally releasing it from the RPDC process (see, PMAA 2007). The key question that was debated in the parliament and in the public arena, was how similar or different were the two assessment processes. **Table 13** summarises the differences, which are discussed below.

### 8.5.1 Guidelines used for assessment

Despite the government’s repeated assurance during the debate that the pulp mill would be assessed by an internationally reputed consultant using the same tough guidelines that would have been used by the RPDC, the wording of the bill stated something else. PMAA 2007 required the pulp mill to be assessed by the *Recommended Environmental Emission Limit Guidelines for any new Bleached Eucalypt Kraft Pulp Mill in Tasmania* prepared by the RPDC on behalf of the Government dated August 2004 (PMAA 2007: s. 3). While these guidelines were prepared by the RPDC based on a past set of Commonwealth guidelines and on other international guidelines/standards in pulp and pulping technology, they were still generic in nature for any new pulp mill in Tasmania. On the basis of these updated guidelines of 2004 and miscellaneous others (since the RPDC was going to conduct an integrated assessment rather than just the assessment of emissions), the RPDC prepared project-specific scoping guidelines, titled *Final Scope Guidelines for the Integrated Impact Statement (IIS): Proposed bleached kraft pulp mill in Northern* 138 The long title of the Act was: “Pulp Mill Assessment Act 2007: An Act to provide for the assessment of the proposal by Gunns Limited for the development and operation of a pulp mill in Northern Tasmania and to revoke the State Policies and Projects (Project of State Significance) Order 2004”.

139 The integrated assessment would include a wide range of matters in the areas of social, environmental, economic and community issues.
Tasmania by Gunns Limited (RPDC, 2005) to assess Gunns’ proposed pulp mill. Gunns’ pulp mill specific Final Scope Guidelines were important because they took into account the key parameters and peculiarities of the proposed mill such as its location, size, breadth of operation, sourcing and transportation of raw materials including fresh water; site and means of effluent disposal, air quality and the nature of the air shed in the mill air emission zone, etc. This customisation of the generic guidelines, while also incorporating others given the mill’s unique particulars, is also the reason why stage 2 of the pulp mill assessment process took the whole year in 2005, as indicated earlier in the thesis. The RPDC had to update the first set of draft guidelines it prepared for Gunns (based on its initial, detailed project proposal) after the proponent had sought alteration to its project scope. Final Scope Guidelines for IIS, exclusively for the proposed pulp mill at Bell Bay, Northern Tasmania, came after the two drafts and consideration of public comments in both. The above demonstrates the need for, and the seriousness of, project-specific guidelines compared to the baseline ones for a comprehensive assessment. Leaving out the Final Scope Guidelines also meant leaving out public input into the guidelines- input, some of which, were site-specific from potentially affected residents and businesses. Yet the Premier and his colleagues boasted about how the public input that had already taken place during the RPDC process established the argument for non-inclusion of any further public participation in the new PMAA 2007 process (see, Lennon, 2007, in HoA Hansard, 15 March 2007; Green, 2007 in HoA Hansard, 22 March, 2007).

8.5.2 Selection of and the constraints placed upon the consultant to assess the mill

PMAA 2007 also required that the government appointed a consultant for the purpose of the assessment [see, PMAA 2007: s. 4(1)] but remained quiet about the selection process, leaving it open for the Government to determine the process that served its purpose best. The consultant had no authority under PMAA 2007 to ask for new information from the proponent, commission a new study or cross-examine contrasting evidence (provided in the Gunns’ DIIS and RPDC appointed consultants’ reports or the public submissions) through a public hearing. The law only required the consultant to do a “desktop study” (Stokes, 2011, p. 122) based on whatever information was already available from the RPDC, from Gunns, from RPDC’s own consultants and
from the public\textsuperscript{140} [see, PMAA 2007, ss. 4(2) and 5]. It should be noted here that the available information was already recognised as deficient/ non-compliant as per RPDC Chief Cooper’s unsent letter dated 2 March 2007. The time provided to the consultant to even do that ‘desktop’ assessment was limited. The Finnish consulting firm Sweco Pic was appointed on 17 April 2007 and was expected to complete its assessment and submit its final report by the end of June (HoA Hansard, 17 April, 2007)\textsuperscript{141}. Ironically, Lennon’s suggested timeline of 31 July completion of assessment (proposed at the 26 February 2007 Lennon-Wright meeting) that the RPDC rejected, now looked generous compared to the timeline handed down to Sweco Pic (being appointed close to two months after that meeting, and having very little background on the whole matter) to finish its ‘assessment’. Sweco Pic’s assessment was a closed loop- with no community/ stakeholder (other than the Government and Gunns) engagement, or public hearing. Yet the outcome of the so called ‘assessment’ retained ‘non-appealable’ status in the new law as was the case under the POSS provisions (see, PMAA 2007, s. 11). PMAA 2007 also maintained the flexibility with the issuance, transfer and sale of the pulp mill permit to third parties (PMAA 2007, ss. 10A, 10B and 10C).

8.6 Habermas’ (1986) test of legitimation for PMAA 2007

Habermas’ (1986) extension and application of the concept of legitimation into the formation of laws can help to explain why and how PMAA 2007 lacked legitimation (see, Laughlin and Broadbent, 1993 and Broadbent et al. 2001 for similar application). As discussed in the theoretical framework chapter, Habermas (1987) sees society as consisting of three elements: lifeworld, steering media and systems. Lifeworld refers to a society’s deep rooted values, beliefs, cultural traditions that tend to define/ guide members’ behaviour and actions. Lifeworld, which evolves over time, is reflected

\textsuperscript{140} At least two former pulp mill assessment panel members pointed to the inadequacy of the PMAA 2007 assessment process compared to that of the RPDC. According to Christopher Wright, the new legislation left out entire areas from assessment (Denholm, 2007e), while Warwick Raverty was concerned that Gunns could fail the Final Scope Guidelines, which it consistently failed to abide by, and still get the mill approved under the new legislation (Bevilacqua, 2007).

\textsuperscript{141} As per the new law, the deadline for the completion of the assessment and submission of the report along with the permit to the parliament by the relevant minister was set to be the 31st of August 2007 [PMAA 2007, s. 6(9)]. An end of June submission by the consultant meant that the minister had enough time to order relevant government departments/ agencies to prepare various pulp mill permits (along with relevant conditions) and table them in the parliament for approval by 31 August, 2007.
through tangible societal organisations/organisational systems (such as economic and administrative systems) and is “the only source of legitimation” (Habermas, 1986, p. 206). Steering media (such as money and power) is the connector between the lifeworld and the systems and ideally should keep the systems functional as per the lifeworld’s demands. However, the opposite is also possible where the steering media attempts to ‘colonise’ the lifeworld (Habermas, 1987). PMAA 2007 can be argued to be doing the latter—attempting to colonise the lifeworld: suppressing society’s expectation of a ‘fair go’ for all. The argument is expounded below.

Utilising Habermas’ understanding of law as institution and medium (see, Habermas, 1986), law, from a sociological perspective, can be categorised in two broad groups: classical formal law and material/regulatory law (See, Turkel, 1980b; Teubner, 1987; Laughlin and Broadbent, 1993). Law as institution, according to Habermas (1986), takes an enabling role in configuring the organisational systems so that they sufficiently articulate the current lifeworld and “emancipate the citizen” (Habermas, 1986, p. 205). All formal classical law can be placed under this category (Laughlin and Broadbent, 1993). Regulatory/material law that are “freedom-guaranteeing” (Habermas, 1986, p. 208, emphasis in original), i.e., that try to “regulate social behaviour in organisational systems driven by societal lifeworld demands” (Laughlin and Broadbent, 1993, p. 341), albeit “regulative” in nature, are amenable to “substantive justification” (Habermas, 1987, p. 365), and can be legitimized. This is contrasted with regulatory law that “moves from being an enabler to being the ‘medium’ of other forms of steering media (invariably money and power) expressed through a particular political configuration” (Laughlin and Broadbent, 1993, p. 341). Law, in such case, is constitutive and particularistic and combined with the media of power and money it constitutes itself as a steering media (Habermas, 1986, 1987). PMAA 2007 can be classified under this second category of regulatory law, where it was an outcome of several dialectical relationships involving both money and power. The dialectical relationships involved were, as discussed earlier, the pulp mill project’s accounting phenomena, the government’s economic imperatives and the State’s legislative environment, among others. Gunns’ corporate power, being the largest

---

142 Examples include “shortening of working hours, freedom to organise unions, bargain for wages, protection from layoffs, social security, etc.” (Habermas, 1986, p. 208).
Tasmanian company and the largest forestry products company in Australia, was closely connected with its financial prowess and political propinquity with the State Government of Tasmania. The above relationships made it easy for Gunns to get the POSS status for its pulp mill project in the first instance and later a project specific (i.e., ‘particularistic’) legislation when the POSS legislation did not serve its purpose.

The State Government of Tasmania, on the other hand, being unable to reconcile the contradiction between its ‘economic imperatives’ and ‘generalizable interests’, took the path of a new regulatory law (Teubner, 1987; Turkel, 1980b) to force what Habermas called “socialized production for non-generalizable interests” (Habermas, 1975, p. 46). According to Habermas and other researchers in this genre, regulatory laws such as PMAA 2007 are driven by political process, as clearly seen in Tasmania and do not adequately express the lifeworld (as do the formal classical laws), nor are they capable of substantive justification for legitimation purposes (as are the ‘freedom-guaranteeing’ regulatory laws); rather they are “legitimized only through procedure” that is, if brought in to question, it would be sufficient to check if the legal norm followed the correct “genesis of the law, judicial decision or administrative act” (Habermas, 1986, p. 212; Laughlin and Broadbent, 1993).

8.7 Gunns’ entire pulp mill assessment process- a condensed view through the lens of CDA

The episodes in the Gunns’ pulp mill assessment process can be summarised and viewed through the lens of CDA, where the dialectical and dynamic nature of the whole discourse is evident. It is further expounded by the theoretical framework. Figure 10 in the following page elucidates this.

8.8 Chapter Summary

This chapter went over and explained the complex discourse practice process in the Gunns’ pulp mill case linking the text and social practice of the previous chapters. At the same time it was also demonstrated how the discourse practice process led to new situations affecting the established social practice. The actions and impacts of the two processes were not distinct or chronological, rather they were dialectical, dynamic and simultaneous occurrences. To explicate the above (i.e., various discursive events), the theoretical and methodological vehicles were used in this chapter to expose the
government decision making process for a project of environmental significance. It was demonstrated how a legitimated pro-development bias was unleashed, fortified by the power of the ‘accounting phenomena’, suppressed other discourses surrounding due process, ministerial accountability and environmental concerns.
Figure 10: A simplified and condensed CDA view of the pulp mill assessment processes

Gunns' Social Practice:
- Political environment
- Legislative environment and due process of assessment
- National forest policy issues
- SPAA 1993 and POSS provisions
- RPDC
- PMTF

Discourse Practice:
- Amendments to SPAA 1993 & POSS: dialectical process
- RPDC assessment process:
  - Presence and influence of lobby groups
  - DIIS and public comments
  - Political interference, resignations and Gunns' withdrawal

Text (Outcome only)
PMAA 2007

New Text
(Outcome Only)
Approval of pulp mill through permits

New Discourse Practice:
- Closed loop assessment with no public input
- Debates in the parliament
- Government chosen consultants on a tight deadline to complete assessment

New Social Practice:
- No RPDC
- Network support continues
- No PMTF
- PMAA 2007 used for assessment

226
CHAPTER NINE: CONCLUSION

We do not inherit the earth from our ancestors, we borrow it from our children.
- Moses Henry Cass, Australian Minister for the Environment and Conservation at the OECD on 13 November 1974

9.1 Introduction

This chapter will conclude the thesis by drawing on the key points identified and explicated in this research, thereby helping to draw conclusions to the research question. The chapter will also reflect on this research’s contributions to theory and methodology as well as its policy implications. Following the above, limitations of the current research will be discussed along with future research directions.

9.2 Gunns’ pulp mill case: utilising the methodological and theoretical lens

The Gunns’ pulp mill case had a significant public/media attention nationally during the years of its assessment/approval process. During this period, the assessment process went through a number of important discursive events that were analysed in the previous chapters. The analyses were undertaken from a critical perspective because of this study’s interest in understanding the dialectical role of various discourses within multiple contexts that were interrelated in a discursive event. Critical discourse analysis (CDA) being a branch of critical scholarship with its emphasis on language and society was a good fit for the critical theoretical position adopted in this thesis, the theory of legitimation. The key findings from the Gunns’ pulp mill can be summarised as follows:

---

143 2003-2007 for the state level approval, which the focus of this research. Final federal approval was received in 2011 (Gunns, 2011a). A separate federal approval was required because of Gunns’ withdrawal from the jointly accredited RPDC assessment process in 2007.
9.2.1 *Legitimated pro-development bias*

The fact that Tasmania is a state has implications for certain taken-for-granted beliefs (Turkel, 1980a), such as- a state ought to be comparable to other states on a range of indicators, especially the economic ones. Such comparisons on so called ‘objective’ financial/ economic indicators have made Tasmania look ‘mendicant’ compared to other states, thus placing enormous pressure on successive Tasmanian governments for economic development. The significance of this ‘mendicant’ reference became evident when the broader context of the economic history of Tasmania was considered, revealing Tasmania’s reliance on other states. The Tasmanian government’s desire for higher economic growth to get parity with other states and shed the untoward reference became part of a common sense and taken-for-granted notion (Turkel, 1980a), therefore, making prioritisation of development projects look necessary and inevitable. The ‘poor’ economic performance of Tasmania was the key argument in garnering support for the pulp mill project by the members of the forestry network, while in essence, in each case of support, as evident in their submissions, gaining individual financial benefit (as associations/ lobby groups for their members) was the key motivation. The usefulness of the concept of legitimation is evident above in questioning the foundations of the extant social setting.

9.2.2 *Legitimated pro-development bias reinforced through acts of parliament*

Key pieces of legislations were analysed both as text, and context. It was demonstrated that financial/ economic discourse was prioritised in ways that were not always visible. A multi-layered investigation through CDA helped expose the ‘stacks’ of seemingly objective legal procedures through which the prioritisation was obfuscated and accountability obscured (e.g., POSS selection criteria, ministerial power in SPPA 1993 not being subject to Schedule 1, etc.). By digging deeper into the legislations and their executing institutions with CDA and questioning the established, taken-for-granted legal procedures as ‘neutral’ and ‘objective’ (Turkel, 1980a), this research has revealed the deep-seated role that financial/ economic discourse plays in development projects despite their environmental significance and potential detrimental consequences. It was demonstrated that the special status of a POSS did not occur in isolation; rather it was the culmination of legitimation of pro-development bias in the State of Tasmania,
at the root of which was the prioritisation of the financial/economic narrative. The theory helped explain how the prioritisation was perpetuated, legitimated and institutionalised through legislative instruments.

9.2.3 Weakness of the RPDC despite being a legitimate entity

In the case of the Gunns’ pulp mill project, it was revealed that the government decision-making machinery—the democratic institutions and procedures (such as the RPDC and its POSS assessment procedures) that ‘elicited generalised motives’ of the public (Habermas, 1975) with apparent independence and legitimation, were in fact limited in scope in some core areas and ended up preserving the financial interest of the corporations. This is expected of any POSS assessment by the status conferred on the project and has been made possible through the specific powers given to the minister under SPPA 1993, making it possible for the minister to influence the assessment process. Although procedurally, under the act (SPPA 1993), the minister is accountable to the parliament and needs its approval to execute the above (bringing in ‘checks and balance’ to his/her power), the Tasmanian parliament, in essence, has historically been found to be a ‘rubber stamp’ with bilateral support for big industrial development projects in Tasmania. This stance of the parliament can be attributed to the legitimation of the state’s economic interest (and hence the financial interests of the corporations as a vehicle to achieving this) over environmental (and other interests) in an economically ‘starved’ Tasmania. Whether this stance is deemed appropriate depends on the perspectives of stakeholders which were varied and gave rise to Gunns’ media attention.

The thesis exposed how the financial perspective was prioritised (for example, through the POSS procedure) using democratic institutions such as the RPDC that was deemed by the public to be independent and legitimate. This is consistent with Habermas’ (1975) arguments of advanced capitalist countries. These findings are also consistent with Turkel’s (1980b) argument that formal legal discourse surrounding these legal institutions constrain the “public appearance and recognition of conflicts and contradictions in codified, formal, logically cohesive rules”, (p 43) which in this case enabled legalising economic inequality in the process. The above findings demonstrate the potency of the theoretical framework used in this thesis in assessing
the constitution of legitimate entities and the extent to which they can exercise independence in their activities.

9.2.4 The RPDC’s impartiality not disputed and pro-development bias not inevitable

Despite the limitations imposed upon the RPDC to facilitate the government’s pro-development stance (through ministerial powers), the RPDC still had negative findings against the pulp mill (discussed in chapter 8). The Commission discharged its responsibility impartially, i.e., it was independent and impartial within its legal constraints. The government and the forestry network’s advertisement of the Commission’s independence to the public to gain legitimacy for the pulp mill project was evident from the very beginning while also indirectly keeping pressure on the assessment body through the pulp mill task force to have an amenable outcome. Therefore it can be seen that the RPDC’s approval of Gunns proposal was not inevitable. Gunns withdrew its application for approval of its project when approval for the proposal appeared unlikely. The RPDC then became the target of collective vilification from the forestry network and the government alike. Therefore, the public’s confidence in an independent institution was indeed upheld, expected in advanced capitalism (Habermas, 1975). This signalled that pro-development discourse did not necessarily prevail and not everything went as taken-for-granted.

9.2.5 Legitimation crisis for the project, state government

The pro-development bias and the Gunns proposal were presented as consistent; that is, support of Gunns’ pulp mill would support the Tasmanian economy and therefore was ‘common sense’. However, the mutually supporting aspect of the state and the corporation masked power differentials which on becoming evident resulted in a legitimation crisis. The potential of the RPDC to withhold its support/ approval of Gunns, resulted in Gunns’ withdrawal from the process. In this way, Gunns asserted power over the process which was best recognised with the government’s response to its withdrawal. The State was willing to forfeit previously enacted processes for assessing projects by enacting new process which excluded public input, that is, it
excluded other stakeholder voices. The theory of legitimation helped explain how the Lennon government’s decision making apparatus gave way in the face of the pulp mill’s financial potency. The imminence of a legitimation crisis assuaged the new legislation/processes. The objectivity implicitly expected by the public, typical of an advanced capitalism, was forfeited in order to privilege the economic imperative and marginalise environmental and social imperatives. This thesis thus provides another example of how CDA can be used.

9.3 Contributions to theory

A key contribution of this thesis has been the re-engagement of the concept of legitimation/legitimacy in accounting research. Firstly, the potency of the concept has been extended to and demonstrated in critical social analysis from its “limited foray” (Mathews (1997, p. 491) in corporate social reporting. Although Turkel gives credit to Habermas for reinvigorating legitimation as a concept for social analysis (see, Turkel, 1980a), his own reading into it and its application (see, Turkel, 1980b, 1982) has been influential in informing this thesis. In turn this thesis is contributing to a relatively untapped theoretical application to accounting research in general, and social and environmental accounting research, in particular. Turkel’s use of legitimation in challenging the taken-for-granted notions and beliefs, “which make ongoing social life possible” (Turkel, 1980a, p. 19), has been the key to understanding the legitimated pro-development bias in the State Government of Tasmania in this research. For Turkel, “to accept the notions and beliefs upon which ongoing social action is predicated is, ironically, to begin at the end” (Turkel, 1980a, p. 19). Thus to him, “(i)t is one of the paradoxes of social inquiry that what is to be explained often appears as common sense and that it is only possible to begin with a critical comprehension of the common sense, taken for granted world” (Turkel, 1980a, p. 19). For Tasmania, industrial/economic development and prosperity to be ‘self-reliant’ from being a ‘mendicant’ state (and possibly be at par with the rest of the Australian states) has been just ‘common sense’ and fuelled pro-development action by government. The media attention to Gunns Ltd did reflect that there was a range of stakeholders challenging what was ‘common sense’. Turkel (1980) argues that new directions for social action is not possible without criticism of such foundations of social life (Turkel, 1980a).
Secondly, within the critical concept of legitimation, this research has consolidated its multiple strands into one cohesive theoretical framework. As mentioned earlier the framework also brings in Habermasian insights of legitimation into the sociology of law. It has combined both Turkel (1980a, 1980b, 1982) and Habermas’ (1975, 1986, 1987) approaches to social analysis in locating legitimation/ legitimation crisis for a particular social action, institution or practice. There has been a number of papers in the literature that drew on Habermasian views on legitimation. However, most of them were theoretical/ conceptual research essays except for a handful that utilised the Habermasian concept of legitimation in case studies. For example, Rahaman, Lawrence and Roper (2004) and Broadbent and Laughlin (2003) demonstrated how legitimation was achieved using democratic/statutory institutions, while Laughlin and Broadbent (1993) and Broadbent, Jacobs and Laughlin (2001) investigated the legitimation of newly incorporated law using Habermasian insights of legitimation into the sociology of law. The current research on the pulp mill project has demonstrated close connections amongst discourses in accounting, development, environment and law by rendering a broader application of Habermas, capturing both areas of the aforementioned papers in addition to employing insights from Turkel. The combined framework therefore can help analyse, from a critical perspective, cases involving large, complex development projects in an advanced capitalist society. The framework is capable of exploring the sources of legitimation or lack of it for big development projects by directing the analysis to the socio-economic, politico-historical and legal discourses and questioning among others, society’s taken-for-granted beliefs.

Finally, For example, at a micro level, the framework can be used in organisational analysis into its institutional elements/processes and power relations, whether coercive or legitimate, with their implications on administration cost, employee morale, decision making, etc. The discursive/communicative aspect of legitimation (i.e., legitimation as a consensual process) plays a mutually reinforcing role with its institutional elements in actualising power differentials, thus enabling explication of such authority/power relations in an organisation (Turkel, 1980a, 1982).
9.4 Contributions to Methodology

It was mentioned in the methodology chapter that CDA was less common in the critical accounting literature. Only a handful of papers can be found in the accounting literature that utilised CDA as a methodological vehicle for their research (see, for example, Gallhofer et al. 2001; Craig and Amernic, 2004; Llewellyn and Northcott, 2005; Laine, 2005; Cortese et al., 2010; Merkl-Davies and Koller, 2012). Within this small list of papers, only a few papers can be found to be explicitly utilising Fairclough’s (1992) three-dimensional framework of social analysis (see, Cortese et al., 2010; Merkl-Davies and Koller, 2012). This thesis adds to that short list by utilising Fairclough’s three-dimensional CDA framework in the Gunns’ pulp mill case. The thesis showed that despite its complexity, CDA can be illuminating, particularly for public discourse data.

The research revealed a dialectical relationship between the pulp mill project’s financial/accounting phenomena and the government’s economic agenda/imperatives with both elements reinforcing and legitimating each other (with historical sources of legitimation of their own). This was clear from the Premier’s speech in the parliament following Gunns’ withdrawal from the POSS process. His Ministerial Statement was replete with potential financial figures and resulting economic benefits to be lost if the proposed pulp mill did not go ahead.

The choice of the theoretical framework has also refined CDA as a methodology in this thesis. CDA, being a branch of critical scholarship, and with its emphasis on language and society, is a good fit for the theoretical framework adopted in this thesis (see, Wodak, 2001 for a detailed discussion on the influence of the Frankfurt school/Jürgen Habermas on critical linguistics and critical discourse analysis; also, Laughlin, 1987). The combination (Habermasian critical theory with Fairclough’s CDA) has actually ‘dialectically’ reinforced each other in a deep analysis of the Gunns’ pulp mill case.
9.5 Contributions to literature

In analysing the events throughout the thesis utilising CDA, the power of discourse with its dynamic and dialectical nature was evident. The research showed how the pervasive influence of the social practice elements led to the reproduction of pro-development bias in a new situation (i.e., declaration of the pulp mill project as a POSS), while through the discourse practice process involving Gunns’ pulp mill as a POSS, a key social practice element (i.e., the SPPA 1993) in the pulp mill case was amended to accommodate the pulp mill project even further. In other words, the simultaneous and dialectical process showed that the project proponent not only took full advantage of the development-friendly yet non-project specific, ‘umbrella’ system of assessment (bias being reproduced in a new situation) but also influenced the government/parliament with the help of its allies within and outside the government in a discourse practice process to modify the existing, key social practice element itself (the non-project specific ‘umbrella’ system to better suit its requirements).

This research demonstrated how accounting logic (Laughlin and Broadbent, 1993) and related economic argument were used as legitimating themes (Turkel, 1980b) in the Gunns’ pulp mill case. In addition, this thesis has demonstrated how big corporations utilise the power of discourse to pursue governments to make amenable regulations or make amendments to standard legal procedures—a phenomenon that Habermas (1986) called the colonisation of law (Habermas, 1986) by ‘politicised’ accounting thinking (Laughlin and Broadbent, 1993).144

9.6 Policy implications

Prior to the case involving this research (i.e., the Gunns’ pulp mill), there were three such high profile cases in Tasmanian history, as identified in Chapter 2, that shaped the state in different ways. They were the Lake Pedder, the Franklin Dam and the Wesley vale pulp mill debates. Each of those cases and that of Gunns involved industrial development proposals that stirred the development vs. conservation debate and created deep divisions in Tasmanian society. Historical accounts of the three prior

144 While Laughlin and Broadbent (1993) applied the concept at the national level, this thesis used it at the case level demonstrating interaction between the corporation and the state.
cases and this research into the Gunns’ case show that, in all of them, the state
government of the day chose to champion industrial development on financial/
economic grounds. The significance of these events can be understood by their impact
on the state and occasionally on the federal politics. Except for the Lake Pedder debate,
all three high profile cases are linked with either a change in the state government or a
change in leadership within the governing party or a shift in the balance of power
(because of a ‘hung’ parliament and formation of a coalition). The Franklin Dam
dispute even contributed to the change in federal government in 1983. The Lake
Pedder debate led to the formation of the United Tasmania Group (predecessor of
Tasmanian Greens), the first green political party in the world, in 1972 (ABC, 1997;
Tasmanian Greens, n.d.) and contributed significantly to all later industrial
development vs. environmental conservation debates including that of Gunns’ pulp
mill proposal, the focus of the current research. The Gunns’ pulp mill case contributed
to the demise of Lennon’s premiership. Interestingly, this research has demonstrated
in the case of Gunns’ pulp mill (while lessons from the other three prior cases also
signify) that in the industrial development projects highlighted above, rather than
playing the role of an ‘umpire’ or a ‘facilitator’, the state government of the day
became a ‘player’ itself, invariably becoming an aide to the corporations seeking
government approval for their projects. In the first two incidents, the corporation was
the Hydro-Electric Corporation (HEC), owned by the Tasmanian Government and, in
the two latter cases, the proponents were private corporations within the forestry
industry. The Gunns’ pulp mill case is significant because by the time Gunns’ proposal
came, the state already had an established assessment process in place (away from the
direct control of the government) headed by the Resource Planning and Development
Commission (RPDC), a legitimate statutory body (Habermas, 1975). This provided a
good opportunity to observe the public-private relationship (i.e., state-corporation
relationship), mediated by the presence of an independent authority in a development
context.

The Gunns’ pulp mill case is the fourth of four mega events that changed not only the
course of assessment procedures in large scale industrial development projects in
Tasmania but also changed the political landscapes and the nature of development-
conservation debate in that state. But is Gunns’ case a mere repetition of the previous

235
assessment failures? Why is the Gunns case important? Are there still lessons to be learned? The simple answer is, yes.

Corporations vs. State vs. environment is still a contested terrain as evidenced in the Gunns’ pulp mill case. The integrated RMPS (see, Table 6) framework developed in the early to mid-1990s at the backdrop of sensational assessment failures in the previous decade ended up being just as vulnerable to political interference as the older, ad-hoc ones. One of the key lessons from this case as seen from the viewpoint of this research, is that the solutions lie in collaborative governance, where the government of the day need to support the independent assessment process rather than becoming an adversary to it. Adhering to a legitimate process by a legitimate institution increases the government’s own legitimation by fulfilling society’s expectation of a ‘fair go’ for all.

One of the contributions of the research framework adopted in this thesis is that it enabled the researcher to look beyond what others who wrote about this case could see. While others saw Gunns’ withdrawal from the POSS approval process as corporate recalcitrance, incompetence or a potential collusion with the government, this researcher saw this as an issue pertaining to legitimation. The taken-for-granted belief in the financial/ economic indicators as ‘objective’ (including the assumed superiority of quantification) and the extant financially/ economically driven performance measurement system to measure and compare the performance of the states, led to the legitimation of prioritising development over environmental concerns in Tasmania. Large scale industrial development in Tasmania was seen as the vehicle to gain parity with other states and shed the title of a ‘mendicant’ state. This was probably one of the key reasons that could explain the rise of corporate powers in that state, making the government, in effect, subservient to them. The whole scenario can be seen as a cycle of prioritisation of development, which will render the same result every time unless broken by recognising Tasmania’s unique environmental strengths uniquely, not through the so called ‘objective’ financial/ economic indicators. Social and environmental issues peculiar to Tasmania, when taken into account, will lead to

145 For example, the popular press, green groups, other researchers and independent agencies (e.g., Tasmanian Integrity Commission)
a different outcome. Comparisons of Tasmania with the rest of the Australian states on the same economic indicators, without considering context, should be stopped or at least considered fraught or misleading.

The lesson from Tasmania’s development history is that Tasmania’s push for economic growth has often come at the expense of transparency, accountability, and good governance. Although formal democratic institutions have been built following the ‘soul searching’ process of the previous failures, society’s (or its leadership’s) taken-for-granted beliefs have not changed substantially to shift sustainability into a ‘business priority’. If policy makers want a different balance between development and conservation or want environment to be given more attention, some societal changes need to occur. This can include a reconsideration of the power of large corporations and their role in democratic institutions. Another important consideration of democratic processes is a re-consideration of excessive ministerial power in the key Acts (such as SPPA 1993) that govern assessment procedures of major industrial development projects (such as POSS). These relationships have much to inform other environment vs. development debates in other states in Australia, particularly involving mining.

Finally, and to summarise, this thesis sought to explicate the inadequacy of the modified approval process through which the Gunns pulp mill project was approved. In doing so, as indicated above, this research drew attention to the contested nature/power of financial/economic argument used in dislodging a due process. Awareness of how this occurred could influence future policies between public-private arrangements. Overall, the aim was to enhance the understanding and awareness of what goes on behind the scenes in the practice of ‘urgent’ decisions so that it becomes more difficult to marginalise relevant stakeholders in the due and democratic processes in future.

9.7 Research limitations

The study recognises that despite the wide ranging analysis of the Gunns’ pulp mill case, it still only provides a partial understanding of the empirical world given the researcher’s ontological and epistemological positions and subsequent choice of the
methodology. The above then explains why the study may not have much replication value (in addition to being a case study) and this was not an intent of the study either as case studies informed by critical theories inform in their own rights and the findings differ in different contexts.

Not conducting any interviews of any of the key players or stakeholders as part of this research, rather depending entirely on publicly available data, could be identified as another limitation of this thesis. The reason for not conducting interviews is several fold. The Gunns’ pulp mill project was a high profile industrial project marred with controversy from the very beginning. Thus developments in the case were being keenly followed by almost all local and national electronic and print media (freedom of press is ensured in Australia) in addition to the key stakeholders. Interviews were also not necessary as most of the key players made submissions to the RPDC that portrayed their position in the matter (the submissions were publicly available from the RPDC website as discussed in Chapter 7). Relevant ministers or members of the parliament were also deemed to have clearly depicted their position in detail for the purpose of this research in parliamentary Hansards, while they were fully cognisant that they were being recorded. The RPDC itself was a major source of data and it was transparent, with the sharing of information and its views with the public through its website. However, public data that was not made available was beyond any attention. At the same time, it was not possible for the researcher to be at the decisive Gunns’ board meeting as a participant observer to see the process through which they came to the decision of withdrawing the project from the RPDC\footnote{Not only because access to any such board meeting would be hard but also the fact that this research was initiated much later.}.

9.8 Future research directions

Gunns demise

The Gunns pulp mill case has more to offer, especially if one looks into the discursive events that took place after the 2007 state level approval. A separate research project can be initiated to look into the federal approval that took another four years amid frenzied stakeholder activism that forced its long term banking partner ANZ Bank to
pull out of pulp mill financing negotiations, held off its Japanese buyers, led to the resignations of Gunns’ executive chairman Gay and director Gray amid declining profits in the middle of 2010 and the new management’s commitment to work harmoniously with the community (declaring no logging from natural forest for the pulp mill) (Beresford, 2015). Despite a change in management and a reconciliatory approach, Gunns collapsed. Gunns went into administration in 2012 with around $3 billion in debt, becoming one of the biggest corporate collapses in Australia’s history (Beresford, 2015).

**Evaluation of other POSS/ similar projects**

The key advantage of the current theoretical framework has been that it seeks understanding to establish the source of legitimation for a particular practice/policy/philosophy (i.e., how some practice/phenomenon could be taken-for-granted without serious questioning). This probing framework in combination with CDA can unmask weaknesses/institutionalised favouritisms in seemingly independent and legitimate democratic institutions and their procedures, thus recasting their claims to objectivity and independence. CDA in particular can explicate the process of structural weaknesses in democratic institutions through its three layer analysis while the theory of legitimation can expose the underlying causes.

Together, the research framework comprising the theory of legitimation and CDA can be applied in other major development projects (such as mining) in other parts of the world. However, it should be noted that the crisis of legitimation as per Habermas (1975) is a society-wide phenomenon and directly linked to the model of governance in that particular society/country. This framework may need to be re-conceptualised depending on whether the country is an emergent economy and the extent to which corporations contribute to such economies. For the purpose of this research, the full breadth of the legitimation framework developed in this thesis could be applied because of the importance of the impact of the proposed pulp mill project on Tasmania, its government and the community given the peculiar Tasmanian context discussed earlier in the introductory chapters and also in Chapter 6 (Gunns’ social practice). This is why replication is not an objective of this kind of research.
9.9 Chapter summary

This chapter concluded the thesis by reemphasising the role and interactions of financial discourse in certain decision contexts. The chapter also highlighted the research’s contributions to the theory, methodology and literature as well as its policy implications. It was demonstrated that the Gunns’ pulp mill case was an important case to be studied and there were many lessons to be learned, some of which could make significant contributions to policy formulation in future public-private arrangements.
REFERENCES


Cooper, S. (2007). ‘Directions to assess the Gunns pulp mill proposal- a project of State significance’ [letter to the Premier from Simon Cooper post withdrawal, released under FOI], Tasmania, 23 March.


248


*Forest Practices Act 1985 (TAS)*


Gray, R. (2010). ‘Is accounting for sustainability actually accounting for sustainability…and how would we know? An exploration of narratives of


*Meander Dam Project Act 2003 (TAS)*


RPDC (2009d). Invitation to comment: Draft scope guidelines for the integrated impact statement (IIS). Retrieved from:

RPDC (2009e). Invitation to comment: Report on Gunns’ revised project scope and the draft scope guidelines for the integrated impact statement (IIS). Retrieved from:


RPDC (2009h). Invitation to comment on draft integrated impact statement. Retrieved from:

RPDC (2009i). RPDC letter to Gunns for Directions Hearing. Retrieved from:


Schirmer, J. (2012). ‘Still here: why Tasmanian forest industry job figures are misleading’. The Conversation, 20 November. Retrieved from:


Tasmanian Chamber of Commerce and Industry (n.d.). About. Retrieved from:


Tasmanian Greens (n.d.). Our Story. Retrieved from:


Tasmanian Irrigation (2011). Meander Valley Irrigation Scheme. Retrieved from:


266


APPENDIX 1

A populated version of Table 3: Gunns pulp mill: possible contexts

<table>
<thead>
<tr>
<th>Context as</th>
<th>Sub-category</th>
<th>Definition and possible examples from Gunns pulp mill case</th>
<th>Examples of data source to create context</th>
<th>Discussed in</th>
</tr>
</thead>
<tbody>
<tr>
<td>Space</td>
<td>Organisational</td>
<td>Refers to textual analysis in the organisational context in an organisation based case study. Examples from Gunns case would include looking at the composition of Gunns’ board, its strategies, and its annual reports and other publicly available documents produced by it for both context and text.</td>
<td>Gunns’ annual and other pulp mill related special reports, reports to ASX, Website</td>
<td>Chapter 7, Chapter 8</td>
</tr>
<tr>
<td></td>
<td>Situational</td>
<td>Relates to discourse practices when a text is created in a particular situational context. Examples from Gunns case would include ministerial statements/ debates in the parliament while amending existing or drafting new laws for Gunns.</td>
<td>Hansards</td>
<td>Chapter 8</td>
</tr>
<tr>
<td></td>
<td>Institutional</td>
<td>Extends the organisational context to groupings of organisations that the case study organisation is a part of or relates to in analysing texts. Power relations within these organisations are considered. Examples from Gunns case would include forestry and timber industry associations, unions and lobby groups; other professional bodies such as Australian Medical Association (AMA); civil society, environmental groups, and political parties; and their influence on the processes, public opinions, etc.</td>
<td>Public submissions to RPDC, RPDC Directions Hearing transcripts,</td>
<td>Chapter 6, Chapter 8</td>
</tr>
</tbody>
</table>
### Context as Sub-category Definition and possible examples from Gunns pulp mill case

**National**

This category would also include various acts, agreements, independent/statutory institutions and other government structures/mechanisms. Examples include NFPS, RFAs, EPBCA 1999, suite of legislations and bodies established under RMPS Tasmania (such as SPPA 1993 with POSS provisions, RPDC and its due process, LUPAA 1993, EMPCA 1993, RMPAT, etc.); pulp mill task force (PMTF), pulp mill assessment act- PMAA 2007.

Examples of data source to create context:
- Hansards, various acts and agreements,
- Ministerial Directions,
- RPDC publications,
- PMTF newsletters

**National**

Refers to the use of geographical boundaries of a nation (in this case a state) as the context to add meaning to a particular text. Examples from Gunns case would include looking at Tasmanian economic environment (that faces constant pressure from inter-state comparative statistics), governance structure given Tasmanian low populations base, other demographic factors, etc.

Examples of data source to create context:
- ABS economic and demographic reports,
- CommSec State of the States reports

**Discussed in**

Chapter 2
<table>
<thead>
<tr>
<th>Context as</th>
<th>Sub-category</th>
<th>Definition and possible examples from Gunns pulp mill case</th>
<th>Examples of data source to create context</th>
<th>Discussed in</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Multi-spatial</td>
<td>Involves some combination of the other spatial sub-categories. In Gunns case this combination creates a unique context for textual analysis. Given the condition of Tasmanian economy and demographic factors (Space as ‘National’) against those of other States, government and forestry industry networks and lobby groups (Space as ‘Institutional’) act in a particular way, treat corporate powers (Space as ‘Organisational’) and be treated by them in a particular way and respond to situations (Space as ‘Situational’) in a particular way. This unique context help explain Tasmania’s legitimation of pro-development bias.</td>
<td>ABS reports, CommSec reports, public submissions to RPDC, Hansards</td>
<td>Chapter 8</td>
</tr>
<tr>
<td>Time</td>
<td>Past events</td>
<td>Refers to the use of history as context (Woodak, 2001) while analysing texts. Examples from Gunns case would include historical accounts of successive Tasmanian governments’ handling of major industrial development projects of environmental significance.</td>
<td>ABS year books, other books and book chapters, articles</td>
<td>Chapter 2, Chapter 8</td>
</tr>
<tr>
<td>Practice</td>
<td>Professional</td>
<td>The context here relates to discourse practices associated with particular professions, such as accountancy, engineering, medical professions, etc. Examples from Gunns case would include the legitimating impact of the accounting profession through quantified accounting reports indicating the viability of a pulp mill, revenues accrued to the government in the</td>
<td>Gunns’ special reports regarding the pulp mill project, PMTF newsletters, Hansards</td>
<td>Chapter 8</td>
</tr>
<tr>
<td><strong>Context as</strong></td>
<td><strong>Sub-category</strong></td>
<td><strong>Definition and possible examples from Gunns pulp mill case</strong></td>
<td><strong>Examples of data source to create context</strong></td>
<td><strong>Discussed in</strong></td>
</tr>
<tr>
<td>----------------</td>
<td>----------------</td>
<td>---------------------------------------------------------</td>
<td>------------------------------------------</td>
<td>----------------</td>
</tr>
<tr>
<td></td>
<td></td>
<td>form of increased tax and duties, costs incurred to the proponent when there is an assessment delay, etc.</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Socio-cultural-economic-political</td>
<td>Involves locating and analysing text in a domain of related scenarios (that create the context). Context in this case could include the so called socio-economic vulnerability of Tasmania and the resulting acquiescing political environment that Gunns and other proponents of major industrial development projects have taken advantage of.</td>
<td>ABS reports, CommSec reports, ABS year books.</td>
<td>Chapter 2, Chapter 6, Chapter 8</td>
</tr>
<tr>
<td></td>
<td>Ideological</td>
<td>Context here refers to the systems of knowledge and belief (Fairclough, 1992) that lead to the production of a particular text. The whole of Gunns pulp mill case brings forth the tension between two camps of opposite ideological views on industrial development.</td>
<td>Hansards, Press releases of TWC, PMTF newsletters</td>
<td>Throughout the thesis</td>
</tr>
<tr>
<td></td>
<td>Change Process</td>
<td>The focus is on the discourse practices related to a change initiative and how it was enacted in the context of a particular process. Examples from the Gunns case would include changes in the pulp mill approval process and enactment of a new process.</td>
<td>Hansards</td>
<td>Chapter 8</td>
</tr>
</tbody>
</table>

(Classification schema adapted from Leitch and Palmer, 2010)
APPENDIX 2

Evidence of Tasmanian government’s interference in the independent assessment process

An irrigation dam, which was on the drawing board since late 1960s, was built in Meander Valley in northern Tasmania during 2006-07. The 50 metre high and 170 metres long dam on Meander River inundated 159 km² of adjacent land and state forest to hold 43000 mega litres of water mainly for irrigation purposes (Parliamentary Standing Committee on Public Works, 2002; Kempton, 2006; Tasmanian Irrigation, 2011). Resurrection and approval of the Meander Dam project by the Bacon- Lennon Labor government generated much controversy since the project would lead to significant habitat loss for two threatened species. Tasmanian Conservation Trust, the oldest environmental NGO in Tasmania, lodged several appeals on various aspects of the dam approval/ permit with the independent statutory body, Resource Management and Planning Appeal Tribunal of Tasmania (RMPAT), which is considered as the final hurdle, in case an appeal is lodged against any approval/ permit in a development project in Tasmania (Courtney, 2003; The Tasmanian Conservation Trust v Rivers and Water Supply Commission and Assessment Committee for Dam Construction, 2003). Upon hearing all the parties and assessing the relevant documents and submissions, the Tribunal formed the opinion that the project was not viable on economic and environmental grounds and ordered the relevant government agency to cancel the dam permit (The Tasmanian Conservation Trust v Rivers and Water Supply Commission and Assessment Committee for Dam Construction, 2003). The decision angered the government and the potential beneficiaries of the dam project (Courtney, 2003). Within a few months the government brought in project specific legislation in the parliament to override the RMPAT decision. The Meander Dam Project Act 2003 (TAS) cleared way at the state level for the dam to be built.

The Copper Mines of Tasmania Pty Ltd. (Agreement) Bill 1994 is another example of project specific legislation, bypassing the new planning regime under RMPS (Curran and Hollander, 2011).
APPENDIX 3

Pulp Mill Assessment Act 2007

An Act to provide for the assessment of the proposal by Gunns Limited for the development and operation of a pulp mill in Northern Tasmania and to revoke the State Policies and Projects (Project of State Significance) Order 2004

[Royal Assent 30 April 2007]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

1. Short title

This Act may be cited as the *Pulp Mill Assessment Act 2007*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Interpretation

(1) In this Act, unless the contrary intention appears –

- **consultant** means the consultant appointed by the Minister under section 4(1);
- **guidelines** means the Recommended Environmental Emission Limit Guidelines for any new Bleached Eucalypt Kraft Pulp Mill in Tasmania prepared by the Resource Planning and Development Commission on behalf of the Government dated August 2004, a copy of which is set out in Schedule 1;
- **project** means the project declared by the Administrator to be a project of State significance on 22 November 2004 in Statutory Rules 2004, No. 111, being the proposal by Gunns Limited (ACN 009 478 148), as amended, for the development and operation of a bleached kraft pulp mill in northern Tasmania including any use or development which is necessary or convenient for the implementation of the project, including but not limited to the development and operation of any facility or infrastructure for –
  - (a) the supply or distribution of energy to or from the mill; and
  - (b) the collection, treatment or supply of water; and
  - (c) the treatment, disposal or storage of waste or effluent; and
  - (d) access to or from the mill; and
  - (e) transport to or from the mill; and
  - (f) the storage of pulp at, or transport of pulp from, a sea port in the northern region or the north-western region; and
  - (g) the production of materials for use in association with the operation of the mill;

- **Pulp Mill Permit** means the permit prepared by the Minister under section 6(8);
- **relevant person** means a person or body, including a State Service Agency, that, in the opinion of the Minister, would, if this Act had not been enacted, be responsible for issuing or regulating a permit, licence or approval for, or regulating an action relating to, the project.

(2) Unless the contrary intention appears, an expression used in this Act has the same meaning as it has in the *Land Use Planning and Approvals Act 1993*.

4. Assessment against guidelines

(1) The Minister is to appoint a consultant to undertake an assessment of the project, subject to subsection (2), against the guidelines.

(2) In undertaking an assessment under subsection (1), the consultant must take into account –

- (a) developments in pulping technology and techniques that have occurred since August 2004; and
- (b) current best available technology and environmental emission limits for a bleached kraft pulp mill processing both pine and eucalypt; and
(c) the documents received by or prepared for the Resource Planning and Development Commission for the purposes of its assessment of the project under the State Policies and Projects Act 1993 including, but not limited to, the information provided by Gunns Limited (ACN 009 478 148) to the Resource Planning and Development Commission in response to the Final Scope Guidelines for the Integrated Impact Statement – Proposed Bleached Kraft Pulp Mill in Northern Tasmania as proposed by Gunns Limited.

(3) After undertaking an assessment of the project under subsection (1), the consultant is to report to the Minister, based on that assessment, that –
(a) the project should proceed; or
(b) the project should not proceed.

(4) If the consultant reports to the Minister that the project should proceed, the consultant is, in his or her report, to –
(a) state whether or not the project complies with the guidelines; and
(b) provide reasons as to why the project should proceed; and
(c) recommend matters to be considered in the conditions that should apply to the project.

5. Information to be provided
The Resource Planning and Development Commission must, on the request of the consultant or the Minister, make available to the consultant or Minister any documents received by or prepared for the Resource Planning and Development Commission for the purposes of its assessment of the project under the State Policies and Projects Act 1993.

6. Assessment by relevant persons
(1) The Minister must request relevant persons to make a recommendation as to the conditions, if any, that should apply to the project.
(2) On receipt of a request, a relevant person must undertake an assessment of the conditions, if any, that should apply to the project.
(3) In undertaking an assessment, a relevant person must take account of the report of the consultant referred to in section 4(3).
(4) A relevant person must make a recommendation, as to the conditions that should apply to the project, to the Minister by such date as the Minister determines.
(5) A relevant person may only make a recommendation that involves or requires the issuing or regulation of a permit, licence or approval, or the regulation of an action, for which the relevant person would have been responsible if this Act, except for section 13, had not been enacted.
(6) Subject to subsection (5), a relevant person may recommend a condition that requires the person proposing the project to apply for such other permits, licences or other approvals as may be necessary for the project.
(7) If a relevant person recommends conditions that should apply to the project, the relevant person must specify –
(a) those conditions; and
(b) the Act, if any, pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
(c) the person, body or State Service Agency responsible for the enforcement of each condition.
(8) The Minister is to prepare a permit, to be called the "Pulp Mill Permit", containing the substance of the conditions recommended by a relevant person under subsection (4) and other matters specified under subsection (7).
(9) The Minister must cause the report of the consultant and the Pulp Mill Permit to be laid before each House of Parliament by no later than 31 August 2007.
(10) The Minister may table in each House of Parliament any other report that in the Minister's opinion is relevant to the project at the same time as the Minister causes the report and Pulp Mill Permit to be tabled under subsection (9).
7. Approval of project
(1) The project is approved if –
(a) the consultant reports to the Minister under section 4(3) that the project should proceed; and
(b) each House of Parliament, by resolution, accepts the Pulp Mill Permit.
(2) Each House of Parliament, by resolution, is to accept or reject the Pulp Mill Permit within 5 sitting-days from the day on which it is laid before the House.

8. Effect of approval
(1) If the project is approved under section 7 –
(a) the Pulp Mill Permit comes into effect; and
(b) notwithstanding any other Act, the project may proceed on the conditions specified in the Pulp Mill Permit; and
(c) a permit, licence or other approval is taken to have been issued under the Act specified in the Pulp Mill Permit in relation to each condition and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the Pulp Mill Permit in relation to that Act; and
(d) the person, body or State Service Agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.
(2) If the conditions require the person proposing the project to apply for such other permits, licences or other approvals as may be necessary for the project, the person proposing the project must comply with that requirement.
(3) . . . . . . . . . .
(4) The Pulp Mill Permit lapses if the project is not substantially commenced before the end of the period of 10 years commencing on the date on which the Pulp Mill Permit came into force.
(5) If the Pulp Mill Permit would have, but for this subsection, lapsed on and from a day (the relevant day) before this subsection commences, it is to be taken, on and from the relevant day, to have not so lapsed.
(6) The Pulp Mill Permit cannot be taken to have lapsed during the period of 10 years commencing on the date on which the Pulp Mill Permit came into force.
(7) A permit, licence or other approval –
(a) that is taken, in accordance with subsection (1)(c), to have been issued under an Act specified in the Pulp Mill Permit; and
(b) that would have, but for this subsection, lapsed on and from a date (the relevant date) before this subsection commences – is to be taken, on and from the relevant date, to have not so lapsed.
(8) A permit, licence or other approval that is taken, in accordance with subsection (1)(c), to have been issued under an Act specified in the Pulp Mill Permit lapses when the Pulp Mill Permit lapses, if at all, under subsection (4).
(9) For the purposes of this section, lapse, in relation to the Pulp Mill Permit or a permit, licence or other approval that is taken, in accordance with subsection (1)(c), to have been issued under an Act specified in the Pulp Mill Permit, does not include –
(a) the surrender –
(i) of the Pulp Mill Permit by the holder of the Pulp Mill Permit; or
(ii) of the permit, licence or other approval by the holder of the permit, licence or other approval; or
(b) the cancellation, revocation or other termination of the permit, licence or other approval by –
(i) the Minister under section 10D; or
(ii) a person, body or State Service Agency responsible for the enforcement of a condition of the permit, licence or other approval.
9. Provisions of Acts, planning schemes, &c., not to apply to project
(1) The provisions of any Act, planning scheme, special planning order or interim order –
(a) requiring the approval, consent or permission of any person in connection with any use or
development in relation to the project; or
(b) empowering any body to grant or refuse its consent to any such use or development; or
(c) prohibiting any such use or development; or
(d) permitting any such use or development only upon specified terms or conditions; or
(e) regulating or permitting the regulation of any such use or development –
do not apply to the project.
(2) If –
(a) the consultant reports to the Minister under section 4(3) that the project should not proceed; or
(b) a House of Parliament rejects the Pulp Mill Permit –
subsection (1) does not apply.
(3) On the approval of the project under section 7, subsection (1) ceases to apply.

10. Amendment of relevant planning scheme, &c.
(1) If each House of Parliament accepts the Pulp Mill Permit under section 7,
the Minister
must, in consultation with the relevant planning authority, amend any relevant
planning scheme, special planning order or interim order to remove any inconsistency between it and
the Pulp Mill Permit.
(2) The Land Use Planning and Approvals Act 1993
does not apply to an amendment made
under subsection (1).
(3) Where the Minister amends a planning scheme, special planning order or interim order
under subsection (1) –
(a) the amendment is taken to have come into operation on the last day on which a House of
Parliament accepted the Pulp Mill Permit; and
(b) the Minister must give notice, in the Gazette, of the amendment.

10A. Sale, &c., of Pulp Mill Permit
(1) The holder of the Pulp Mill Permit may sell, assign or otherwise transfer the Pulp Mill
Permit to another person.
(2) If the Pulp Mill Permit is sold, assigned or otherwise transferred to another person –
(a) the rights and obligations under the Pulp Mill Permit vest in that other person; and
(b) a permit, licence or other approval referred to in section 8(1)(c) is transferred to that other
person by virtue of this subsection.
(3) If the provisions of an Act under which a permit, licence or other approval is taken, in
accordance with section 8(1)(c), to have been issued would, but for this subsection, apply to
the transfer of the permit, licence or other approval, those provisions do not apply to the
transfer.

10B. Sale, &c., of part of Pulp Mill Permit
(1) The holder of the Pulp Mill Permit may sell, assign or otherwise transfer part of the Pulp
Mill Permit to another person.
(2) If part of the Pulp Mill Permit is sold, assigned or otherwise transferred to another person –
(a) the rights and obligations under that part vest in that other person; and
(b) a permit, licence or other approval referred to in section 8(1)(c) that relates to that part is
transferred to that other person by virtue of this subsection.
(3) If the provisions of an Act under which a permit, licence or other approval is taken, in
accordance with section 8(1)(c), to have been issued would, but for this subsection, apply to
the transfer of the permit, licence or other approval, those provisions do not apply to the
transfer.

10C. Notification of sale, &c., of Pulp Mill Permit
(1) The person to whom the Pulp Mill Permit is sold, assigned or otherwise transferred, in whole or in part, must notify the Minister of the sale, assignment or transfer within 28 days of the sale, assignment or transfer.

(2) Upon receipt of notification under subsection (1), the Minister is to cause the person, body or State Service Agency responsible for the enforcement of a condition of a permit, licence or other approval transferred pursuant to section 10A(2) or 10B(2) to be notified of the sale, assignment or transfer within 28 days of the receipt of the notification.

10D. Cancellation, &c., of permit, licence or other approval

(1) The Minister, on the recommendation of a person, body or State Service Agency responsible for the enforcement of a condition of a permit, licence or other approval referred to in section 8(1)(e), may cancel, revoke or otherwise terminate the permit, licence or other approval.

(2) The Minister is to cause the person, body or State Service Agency referred to in subsection (1) to be notified of the cancellation, revocation or other termination of the permit, licence or other approval referred to in that subsection within 28 days of the cancellation, revocation or other termination.

(3) Subsection (1) does not preclude a person, body or State Service Agency referred to in that subsection from exercising a power to cancel, revoke or otherwise terminate a permit, licence or other approval.

11. Limitation of rights of appeal

(1) Subject to subsection (3) and notwithstanding the provisions of any other Act –
(a) a person is not entitled to appeal to a body or other person, court or tribunal; or
(b) no order or review may be made under the Judicial Review Act 2000; or
(c) no declaratory judgment may be given; or
(d) no other action or proceeding may be brought – in respect of any action, decision, process, matter or thing arising out of or relating to any assessment or approval of the project under this Act.

(2) For the purposes of subsection (1), "any action, decision, process, matter or thing arising out of or relating to any assessment or approval of the project under this Act" includes any action, decision, process, matter or thing arising out of or relating to a condition of the Pulp Mill Permit requiring that the person proposing the project apply for such other permits, licences or other approvals as may be necessary for the project.

(3) Subsection (1) does not apply to any action, decision, process, matter or thing which has involved or has been affected by criminal conduct.

(4) No review under subsection (3) operates to delay the issue of the Pulp Mill Permit or any action authorised by that permit.

12. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the Administrative Arrangements Act 1990 –
(a) the administration of this Act is assigned to the Minister for Planning; and
(b) the department responsible to that Minister in relation to the administration of this Act is the Department of Justice.

13. Legislation revoked

The legislation specified in Schedule 2 is revoked.

SCHEDULE 1 - Recommended Environmental Emission Limit Guidelines for any new Bleached Eucalypt Kraft Pulp Mill in Tasmania
APPENDIX 4

A pulp mill in Tasmania: arguments for and against [early stages (2004)]\(^{147}\): (adapted from *House of Assembly Hansard*, June 2 and 8; September 22 and 23; October 26 and 27; and, November 17 and 18, 2004).

<table>
<thead>
<tr>
<th>Issues</th>
<th>Arguments for</th>
<th>Arguments against</th>
</tr>
</thead>
<tbody>
<tr>
<td>Value addition</td>
<td>Downstream processing of woodchips, which would otherwise be exported. Best use of the eucalypt plantations in the state. <em>(Paul Lennon, ALP, Premier)</em></td>
<td>A pulp mill will lead to the monopoly use of Tasmania’s wood supply by one firm <em>(Peg Putt, TG)</em></td>
</tr>
<tr>
<td>Contribution to the state and national economy</td>
<td>Increase in economic activities in the state; source of government revenue; potential to improve Australian trade deficit in forest products <em>(Paul Lennon, ALP, Premier)</em></td>
<td>Need to have clear cost-benefit analysis if government subsidies in various forms will outweigh the economic benefits from such a project <em>(Kim Booth; Peg Putt, TG)</em></td>
</tr>
<tr>
<td>Creation of new employment opportunities</td>
<td>A pulp mill will create 3000 direct and indirect jobs during the construction phase and another 1500 direct and indirect jobs after opening <em>(Paul Lennon, ALP, Premier)</em></td>
<td>Jobs numbers are exaggerated; a much better outcome can be achieved with other wood processing initiatives with a much smaller investment <em>(Peg Putt, TG)</em></td>
</tr>
<tr>
<td>Updating of existing (1995) guidelines for a bleached kraft pulp mill in Tasmania</td>
<td>Guidelines being reviewed and updated through an independent process. ‘Kraft’ is the accepted technology worldwide and most marketable <em>(Paul Lennon, ALP, Premier)</em></td>
<td>Terms of reference of the review too narrow to fit a specific proposal to be made in the near future for a specific type of pulp mill. <em>(Nick McKim; Peg Putt, TG)</em></td>
</tr>
</tbody>
</table>

\(^{147}\) **ALP**: Australian Labor Party; **LP**: Liberal Party; **TG**: Tasmanian Greens

278
APPENDIX 5

State Policies and Projects Act 1993

An Act to provide for Tasmanian Sustainable Development Policies, to provide for the integrated assessment of projects of State significance, to provide for State of the Environment Reporting and for related purposes

[Royal Assent 9 November 1993]

Be it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - Preliminary

1. Short title
This Act may be cited as the State Policies and Projects Act 1993.

2. Commencement
This Act commences on a day to be proclaimed.

3. Interpretation
(1) In this Act, unless the contrary intention appears –

agency means –

(a) a department or other agency of government of the State or of the Commonwealth; or
(b) an authority of the State or of the Commonwealth established for a public purpose; or
(c) a planning authority; or
(d) the Municipal Association of Tasmania; or
(e) any other person undertaking a function for the public benefit;

Commission means the Resource Planning and Development Commission established under the Resource Planning and Development Commission Act 1997;

State of the Environment Report means a report prepared under section 29;

State Policy means a Tasmanian Sustainable Development Policy.

(2) Words and expressions used both in this Act and in the Land Use Planning and Approvals Act 1993 have in this Act, unless the contrary intention appears, the same respective meanings as they have in that Act.

4. Act to bind Crown
This Act binds the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities.

PART 2 - Tasmanian sustainable development policies

5. Requirements for making of State Policies
(1) A State Policy –

(a) must seek to further the objectives set out in Schedule 1; and
(b) may be made only where there is, in the opinion of the Minister, a matter of State significance to be dealt with in the State Policy; and
(c) must seek to ensure that a consistent and coordinated approach is maintained throughout the State with respect to the matters contained in the State Policy; and
(d) must incorporate the minimum amount of regulation necessary to obtain its objectives.

(2) . . . . . .

5A. Matters to be contained in State Policies
A State Policy may contain matters relating to one or more of the following:

(a) sustainable development of natural and physical resources;
(b) land use planning;
(c) land management;
(d) environmental management;
(e) environment protection;
(f) any other matter that may be prescribed.

6. Preparation of draft State Policies

(1) Where a draft State Policy has been prepared and the Minister is satisfied that the draft State Policy deals with a subject requiring a State Policy, the Minister may give a written direction to the Commission to prepare a report on the draft State Policy and the Commission must prepare a report in accordance with the direction.

(2) Where the Commission is directed to prepare a report on a draft State Policy, it must –

(a) cause a copy of the draft State Policy to be placed on public exhibition at its office for a period of 8 weeks; and

(b) advertise, as prescribed, the exhibition of the draft State Policy.

(3) . . . . . . .

7.

8. Representations in respect of draft State Policies

Where a draft State Policy is placed on public exhibition, representations in relation to the draft State Policy may be submitted to the Commission by any person before the expiration of the exhibition period referred to in section 6(2)(a).

9. Consideration by Commission of representations

(1) As soon as practicable after receipt by it of representations in relation to a draft State Policy, the Commission must consider the representations.

(2) For the purposes of considering representations under subsection (1), the Commission may hold a hearing in relation to each representation.

(3) The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.

10. Modification of draft State Policies

(1) The Commission may, after its consideration under section 9 of the representations in relation to a draft State Policy, modify the draft State Policy.

(2) Where the Commission modifies a draft State Policy and it considers that the provisions of this Part should apply to the modification of the draft State Policy, the provisions of this Part apply to the modification as if it were a draft State Policy.

11. Making of State Policies by Governor

(1) After consideration by the Commission of a draft State Policy (including any modifications made under section 10), the Commission must submit a report on the draft State Policy to the Minister.

(2) The Commission must publish notice of its report to the Minister under subsection (1) in the Gazette and must make the report publicly available.

(3) The Minister may, on receipt of a report on a draft State Policy from the Commission, recommend to the Governor the making of a Tasmanian Sustainable Development Policy.

(4) The Governor may make a Tasmanian Sustainable Development Policy in accordance with a recommendation made under subsection (3), and fix a day on which it will come into operation.

(5) Before it comes into operation, a State Policy must be notified in the Gazette.

(6) The Minister must cause a State Policy to be laid before each House of Parliament within the first 10 sitting days of the House after it is so notified.

(7) A State Policy is of no effect until it has been approved by both Houses of Parliament.

(8) For the purposes of subsection (7), a House of Parliament is to be taken to have approved a State Policy if a copy of it has been laid on the table of that House and –

(a) it is approved by that House; or

(b) at the expiration of 10 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or
(c) if any notice of a motion to disallow it is given during that period of 10 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.

12. Interim State Policies

(1) Where the Governor is satisfied, on the recommendation of the Minister, that it is necessary that a State Policy should come into operation without delay, the Governor may, at the same time as, or at any time after, a draft State Policy is placed on public exhibition at the Commission's office declare, by notice published in the *Gazette*, that the State Policy will come into operation on a temporary basis on a day specified in the notice.

(2) Where a notice has been published under subsection (1), the State Policy comes into operation on the day specified in the notice.

(3) A State Policy that has come into operation under this section ceases to operate –

(a) if the Governor, by notice published in the *Gazette*, terminates its operation; or

(b) if either House of Parliament passes a resolution disallowing it; or

(c) if it is superseded by a State Policy that comes into operation under section 11; or

(d) in the case of a State Policy that has not already ceased to operate by virtue of paragraph (a), (b) or (c), at the expiration of 12 months from the day on which it came into operation.

(4) The *Rules Publication Act 1953* does not apply to a notice referred to in subsection (1).

12A. National environment protection measures taken to be State Policies

(1) A national environment protection measure is taken to be a State Policy and is taken to have been approved by both Houses of Parliament.

(2) *Section 15* does not apply to a national environment protection measure taken to be a State Policy.

(3) In this section, *national environment protection measure* means a national environment protection measure made under section 14 (1) of the *National Environment Protection Council (Tasmania) Act 1995*.

13. Effect of State Policies

(1) Where there is an inconsistency between a provision of a State Policy and a provision of a planning scheme or an interim order in force at the time when the State Policy comes into operation, the provision of the planning scheme or interim order is void to the extent of the inconsistency.

(2) The Minister must advise the Commission and all appropriate agencies of the making of a State Policy within 14 days of its coming into operation.

(3) The Commission must, as soon as practicable after a State Policy comes into operation, other than a State Policy which comes into operation under section 12, amend a planning scheme or special planning order to incorporate all those parts of the State Policy which are relevant to it and to remove any inconsistency between it and the State Policy.

(3A) The Commission may, after a State Policy comes into operation under section 12, amend a planning scheme or special planning order to incorporate those parts of the State Policy which are relevant to it and to remove an inconsistency between it and the State Policy.

(3B) A State Policy may be implemented by any means available to the Crown.

(4) The *Land Use Planning and Approvals Act 1993* does not apply to an amendment made under subsection (3).

(5) Where the Commission amends a planning scheme or an interim order pursuant to subsection (3)–

(a) the amendment is deemed to have come into operation on the date on which the State Policy came into operation; and

(b) the Commission must give notice, as prescribed, of the amendment.

(6) Subsection (1) applies to a planning scheme or an interim order that is made before or after the commencement of this section.

13A. Delegation of implementation of State Policies

281
(1) The Minister may, by instrument in writing, delegate the implementation of a State Policy to another Minister specified in the instrument of delegation.
(2) The Minister may revoke, wholly or in part, or vary a delegation at any time.
(3) A delegation under this section may be made subject to such conditions as are specified in the instrument of delegation.
(4) A State Policy, the implementation of which has been delegated under this section, may be implemented only in accordance with the terms of the delegation and any conditions to which the delegation is subject.
(5) A State Policy, the implementation of which has been delegated under this section, that is implemented by a delegate is taken to have been implemented by the delegator.
(6) If the implementation of a State Policy is delegated to a particular Minister –
(a) the delegation does not cease to have effect merely because the person who was the particular Minister when the implementation of the State Policy was delegated ceases to be that Minister; and
(b) the State Policy may be implemented by the person for the time being occupying or acting in the office of that Minister.
(7) A State Policy, the implementation of which has been delegated under this section, may, notwithstanding the delegation, be implemented by the delegator.
(8) In all courts and before all persons acting judicially, an instrument purporting to be executed by a delegate in the capacity as a delegate is to be received in evidence as if it were an instrument executed by the delegator and is to be taken to be an instrument executed by the delegator.

13B. State Policies may require statutory authorities to undertake certain activities
(1) Subject to subsection (3), a State Policy may require a statutory authority or statutory office holder to undertake activities, perform functions and exercise powers specified in the State Policy.
(2) A statutory authority that, or statutory office holder who, undertakes activities, performs functions or exercises powers specified in a State Policy pursuant to a requirement under subsection (1) must, in doing so, seek to promote the principles contained in the State Policy and to further the objectives set out in Schedule 1.
(3) A statutory authority or statutory office holder is not to be required to undertake activities, perform functions or exercise powers that are inconsistent with the statutory functions or powers of the statutory authority or statutory office holder.
(4) In this section –
statutory authority means an incorporated or unincorporated body which is established, constituted or continued by or under an Act or under the royal prerogative, being a body which, or of which the governing authority, wholly or partly comprises a person or persons appointed by the Governor, a Minister or another statutory authority;
statutory functions or powers, in relation to a statutory authority or statutory office holder, means the functions or powers conferred on the statutory authority or statutory office holder by an enactment;
statutory office holder means the holder of an office which is established by or under an enactment.

13C. State Policies to bind Crown and councils
A State Policy binds –
(a) the Crown in right of Tasmania and, so far as the legislative power of Parliament permits, in all its other capacities; and
(b) a council.

13D. State Policies may adopt standards, codes, &c.
(1) A State Policy may adopt, either wholly or in part and with or without modification and either specifically or by reference, any of the standards, rules, codes, specifications, management plans or similar documents of any body approved by the Minister, whether the standards, rules, codes, specifications, management plans or documents are published, made or amended before or after the commencement of the State Policies and Projects Amendment Act 1997.

(2) A reference in subsection (1) to standards, rules, codes, specifications, management plans or documents includes an amendment of those standards, rules, codes, specifications, management plans or documents whether the amendment is published, made or issued before or after the commencement of the State Policies and Projects Amendment Act 1997.

14. Contraventions, &c., of State Policies

(1) A person who contravenes or fails to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy is guilty of an offence punishable on summary conviction in accordance with subsection (2).

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding 500 penalty units, and a person who is so convicted in respect of a continuing contravention of or failure to comply with a provision of a State Policy or a requirement or obligation imposed under a State Policy –

(a) is liable, in addition to the fine otherwise applicable to that offence, to a fine for each day during which the contravention or failure to comply continued of not more than 50 penalty units; and

(b) if the contravention or failure to comply continues after the person is convicted, is guilty of a further offence against subsection (1) and is liable, in addition to the fine otherwise applicable to that further offence, to a fine for each day during which that contravention or failure to comply continued after that conviction of not more than 50 penalty units.

15. Review of State Policies

(1) The Minister or such other Minister as the first-mentioned Minister may determine must review a State Policy at least once within the period of 5 years from the date on which it came into operation and at least once within each period of 5 years from the date on which the last review was conducted.

(2) If after the completion of a review of a State Policy the Minister considers that an amendment is required to the State Policy, the provisions of section 15A apply to that amendment as if it were a proposed amendment submitted to the Minister under that section.

15A. Amendment of State Policies

(1) In this section,

referred amendment means a proposed amendment to a State Policy, or that part of a proposed amendment to a State Policy, specified in a direction given under subsection (2).

(2) Where a proposed amendment to a State Policy has been submitted to the Minister, the Minister may give a written direction to the Commission to advise whether the Commission considers the proposed amendment, or that part of it specified in the direction, constitutes a significant change to the State Policy.

(3) Where the Commission is directed to provide advice in accordance with subsection (2) it must, within 21 days or such longer period as the Minister may allow, provide the advice to the Minister.

(4) The Commission must –

(a) publish notice of its advice to the Minister under subsection (3) in the Gazette; and

(b) make the advice available to any person who wishes to view it.

(5) Where on receipt of advice from the Commission the Minister determines that a referred amendment does not constitute a significant change to the State Policy, the Minister must –
(a) publish a notice in the Gazette specifying the details of the referred amendment and that the Minister considers that the referred amendment does not constitute a significant change to the State Policy; and
(b) cause the notice and the advice of the Commission provided to the Minister under subsection (3) to be laid before each House of Parliament within the first 10 sitting days of the House after it has been published.
(6) The referred amendment specified in the notice under subsection (5) takes effect on the date of publication of the notice in the Gazette.
(7) If either House of Parliament passes a resolution within the first 5 sitting days after a notice referred to in subsection (5) is laid before it that the notice be disallowed, the amendment specified in the notice is void and, from that date of disallowance, the amendment ceases to have effect.
(8) Where on receipt of advice from the Commission the Minister determines that a referred amendment constitutes a significant change to the State Policy, the Minister must give a written direction to the Commission to prepare a report on the referred amendment and the Commission must prepare a report in accordance with the direction.
(9) Where the Minister determines under subsection (8) that a referred amendment constitutes a significant change to the State Policy, the provisions of sections 6, 8, 9, 10, 11 and 12 apply in relation to the referred amendment as if it were a draft State Policy.
(10) For the purposes of this section, a referred amendment is taken to be a significant change to the State Policy to which it relates if it is a change which substantially alters the content or effect of the State Policy.

**PART 3 - Integrated assessment of projects of State significance**

16. Interpretation: Part 3

(1) For the purposes of this Part, a project is eligible to be a project of State significance if it possesses at least 2 of the following attributes:
(a) significant capital investment;
(b) significant contribution to the State's economic development;
(c) significant consequential economic impacts;
(d) significant potential contribution to Australia's balance of payments;
(e) significant impact on the environment;
(f) complex technical processes and engineering designs;
(g) significant infrastructure requirements.
(2) For the purposes of this Part –
integrated assessment, in relation to a project of State significance, means a consideration of environmental, social, economic and community issues relevant to that project and such other issues as may be prescribed;

person proposing the project of State significance includes any person for the time being proposing to undertake the project of State significance or any use or development included in that project.

17. Guidelines for projects of State significance

(1) The Minister may publish guidelines setting out the development approval process for projects of State significance.
(2) The guidelines must be published in the Gazette and in such other manner as the Minister considers will best bring them to the attention of persons having an interest in undertaking major development projects in the State.
(3) The Minister must cause guidelines published in accordance with subsection (2) to be laid on the table of both Houses of Parliament within 5 sitting days of being first published in the Gazette.

18. Declaration of project of State significance
(1) If the Minister considers that a project is a project of State significance, the Minister may recommend to the Governor the making of an order declaring the project to be a project of State significance.

(2) The Governor may make an order in accordance with a recommendation made under subsection (1).

(3) An order under subsection (2) must be published in the Gazette.

(4) The Minister must cause an order under subsection (2) to be laid before each House of Parliament within the first 10 sitting days of the House after it is so published.

(5) An order under subsection (2) is of no effect until it has been approved by both Houses of Parliament.

(6) For the purposes of subsection (5), a House of Parliament is to be taken to have approved an order under subsection (2) if a copy of it has been laid on the table of that House and –

(a) it is approved by that House; or

(b) at the expiration of 15 sitting days after it was laid on the table of that House, no notice has been given of a motion to disallow it or, if such notice has been given, the notice has been withdrawn or the motion has been negatived; or

(c) if any notice of a motion to disallow it is given during that period of 15 sitting days, the notice is, after the expiration of that period, withdrawn or the motion is negatived.

18A. Content of order declaring project to be a project of State significance
An order under section 18(2) declaring a project to be a project of State significance may include in the project any use or development which is necessary or convenient for the implementation of the project, whether or not the use or development is to be undertaken by or on behalf of any person named in the order.

18B. Part 3 continues to apply despite change in identity or number of proponents
Where an order under section 18(2) declaring a project to be a project of State significance is made, this Part continues to apply to the project despite any change in the identity or number of the persons proposing the project or any use or development included in the project.

19. Effect of order declaring a project of State significance
(1) Where an order under section 18(2) declaring a project to be a project of State significance is made, the provisions of any Act, planning scheme or interim order–

(a) requiring the approval, consent or permission of any person in connection with any use or development to which the order relates; or

(b) empowering any body to grant or refuse its consent to any such use or development; or

(c) prohibiting any such use or development; or

(d) permitting any such use or development only upon specified terms or conditions; or

(e) regulating or permitting the regulation of any such use or development–
do not apply unless the order has been revoked.

(2) Use or development, other than use or development for the purposes of an integrated assessment, may not be undertaken in respect of the project of State significance until an order under section 26(6) or (8) is made.

20. Integrated assessment of projects of State significance
(1) Where an order under section 18(2) has been made, the Minister must give a written direction to the Commission to undertake an integrated assessment of the project of State significance, and the Commission must undertake an integrated assessment in accordance with the direction.

(2) A direction under subsection (1) may not be given to the Commission after either House of Parliament has approved, within the meaning of section 18(6), the order under section 18(2).

(2A) A direction under subsection (1) may be given to the Commission at any time after the making by the Governor of the relevant order under section 18(2) to enable the Commission to
prepare for the integrated assessment before the order is approved or disallowed under section 18.

(2B) Any preparation by the Commission under subsection (2A) may include the preparation and public exhibition of guidelines to be followed in the preparation of reports to be presented to the Commission for the purposes of the integrated assessment.

(3) A direction under subsection (1) may require the Commission to comply with any requirement regarding–

(a) the matters to be addressed in the integrated assessment; or

(b) the process to be followed in undertaking the integrated assessment; or

(c) the time within which the integrated assessment must be completed.

(4) Where under any law a project has been advertised or publicly notified, a direction under subsection (1) may require the Commission to dispense with the public exhibition of a draft integrated assessment report.

(5) The integrated assessment by the Commission under subsection (1)—

(a) must seek to further the objectives set out in Schedule 1; and

(b) must be undertaken in accordance with State Policies; and

(c) must take into consideration the matters set out in the representations referred to in section 23.

21. Referral to relevant agencies

(1) Where the Commission is directed to undertake an integrated assessment of a project of State significance, it must, within 14 days of commencing that assessment, notify the council of a municipality in which the project is located and each agency which in the Commission's opinion has an interest in the project that an integrated assessment is being undertaken by it in respect of the project.

(2) Where the council of a municipality or an agency is notified under subsection (1), it may, within 28 days after receipt of the notification or within such longer period as the Commission may allow, give to the Commission submissions setting out its views in relation to the project of State significance.

22. Preparation and public exhibition of draft integrated assessment report

In consultation with the council of the municipality and the agencies notified under section 21(1), the Commission must, within such period as the Minister may allow, prepare a draft integrated assessment report and—

(a) cause a copy of the draft report, and any submissions received under section 21(2), to be placed on public exhibition at its office for a period of at least 28 days; and

(b) advertise, as prescribed, the exhibition of the draft report.

23. Representations in respect of draft integrated assessment report

Where a draft integrated assessment report is placed on public exhibition, representations in relation to the draft report may be submitted to the Commission by any person before the expiration of the exhibition period referred to in section 22(a).

24. Consideration by Advisory Council of representations

(1) As soon as practicable after receipt by it of representations in relation to a draft integrated assessment report, the Commission must consider the representations.

(2) For the purposes of considering representations under subsection (1), the Commission may hold a hearing in relation to each representation.

(3) The Commission may consolidate any of the representations and hold a hearing in relation to the consolidated representations.

25. Modification of draft integrated assessment report

(1) The Commission may, after its consideration under section 24 of the representations in relation to a draft integrated assessment report, modify the report.
Where the Commission modifies a draft integrated assessment report and it considers the provisions of this Part should apply to the modification of the report, the provisions of this Part apply to the modification as if it were a draft integrated assessment report.

26. Recommendation to Minister on project of State significance

(1) As soon as practicable after undertaking an integrated assessment of a project of State significance, the Commission must submit a report to the Minister on whether or not the project should proceed, and if so on what conditions.

(2) Where the report of the Commission recommends that a project of State significance should proceed on conditions, it must specify—

(a) those conditions; and

(b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and

(c) the agency responsible for the enforcement of each condition.

(2A) If in the opinion of the Commission it may be necessary following the making of an order under subsection (6) or (8) to specify, pursuant to section 26A, additional conditions upon which the project of State significance is to proceed, the report of the Commission must specify—

(a) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and

(b) the reason why the Commission is unable to specify the condition at the time the Commission makes its recommendation under subsection (2).

(3) The Commission must publish notice of its report to the Minister under subsection (1) in the Gazette and must make the report publicly available.

(4) The Minister must make a decision with respect to the report within 28 days of receiving it.

(5) The Minister may recommend to the Governor the making of an order in accordance with the report of the Commission.

(6) The Governor may make an order in accordance with a recommendation made under subsection (5).

(7) Where the Minister does not recommend to the Governor the making of an order in accordance with a report of the Commission, the Minister may recommend to the Governor the making of an order enabling the project of State significance to proceed on conditions, and specifying—

(a) those conditions; and

(b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and

(c) the agency responsible for the enforcement of each condition.

(8) The Governor may make an order in accordance with a recommendation made under subsection (7).

(9) An order under subsection (8) is of no effect until it has been approved by resolution of each House of Parliament.

(10) The Clerk of the House by which a resolution referred to in subsection (9) is passed must publish notice of the resolution in the Gazette as soon as possible after it is passed.

26A. Recommendation to Minister relating to additional conditions

(1) After the making of an order under section 26(6) or (8), the Commission may submit a report to the Minister recommending that an order be made specifying additional conditions subject to which the project of State significance should proceed.

(2) Where the Commission submits a report to the Minister under subsection (1), it must specify—

(a) the additional conditions; and
(b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
(c) the agency responsible for the enforcement of each condition.
(3) The Commission must publish notice of its report under subsection (1) in the Gazette and must make the report publicly available.
(4) The Minister must make a decision with respect to the report within 28 days of receiving it.
(5) The Minister may recommend to the Governor the making of an order in accordance with the report of the Commission.
(6) The Governor may make an order in accordance with a recommendation made under subsection (5).
(7) If the Governor makes an order under subsection (6), the Minister must publish notice in the Gazette specifying details of the order.
(8) Subject to subsection (10), the order takes effect on the date of publication of the notice in the Gazette.
(9) If the order made under subsection (6) relates to an order which was approved by resolution of each House of Parliament under section 26(9), the Minister must cause the notice referred to in subsection (7) and the order made under subsection (6) to be laid before each House of Parliament within the first 10 sitting days of the House after the notice has been published.
(10) If either House of Parliament passes a resolution within the first 3 sitting days after the notice referred to in subsection (9) is laid before it that the order made under subsection (6) be disallowed, the order is void and, from the date of disallowance, the order ceases to have effect.
26B. Amendment of order approving project of State significance
(1) In this section, amending order means an order which amends or revokes an order made under section 26(6) or (8) or section 26A or an order which is made in substitution for an order made under section 26(6) or (8) or section 26A.
(2) The Minister may give a written direction to the Commission requiring it to advise whether or not an amending order should be made.
(3) Where the Commission receives a direction under subsection (2), it must provide the Minister, within the time specified by the Minister in the direction, with a report advising whether or not an amending order should be made.
(4) The Commission may of its own volition provide the Minister with a report recommending that an amending order should be made.
(5) Where a report of the Commission recommends that an amending order should be made which would include conditions subject to which the project of State significance may proceed, the report must specify –
(a) those conditions; and
(b) the Act pursuant to which, and the permit, licence or other approval in which, each condition would normally be imposed; and
(c) the agency responsible for the enforcement of each condition.
(6) The Commission must publish notice of a report to the Minister under subsection (3) or (4) in the Gazette and must make the report publicly available.
(7) The Minister must make a decision with respect to a report under subsection (3) or (4) within 28 days of receiving it.
(8) The Minister may recommend to the Governor the making of an order in accordance with a report of the Commission under subsection (3) or (4).
(9) The Governor may make an order in accordance with the recommendation of the Minister.
(10) If the Governor makes an order under subsection (9), the Minister must publish a notice in the Gazette specifying the details of the order.
(11) Subject to subsection (13), the order takes effect on the date of publication of the notice in the Gazette.

(12) If the order relates to an order which was approved by resolution of each House of Parliament under section 26(9), the Minister must cause the notice referred to in subsection (10) and the order to be laid before each House of Parliament within the first 10 sitting days of the House after the notice has been published.

(13) If either House of Parliament passes a resolution within the first 3 sitting days after the notice referred to in subsection (12) is laid before it that the order be disallowed, the order is void and, from the date of disallowance, the order ceases to have effect.

27. Effect of order approving project of State significance
(1) Where an order is made under section 26(6) or (8) –
(a) subject to subsections (2), (3) and (4), the project of State significance may proceed on the conditions specified in the order; and
(b) a permit, licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
(c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.

(2) Where an order is made under section 26A –
(a) subject to subsections (3) and (4), the project of State significance may proceed on the conditions specified in the order; and
(b) a permit, licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
(c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.

(3) Where an order is made under section 26B –
(a) subject to subsection (4), the project of State significance may proceed on the conditions specified in the order; and
(b) a permit, licence or other approval is deemed to have been issued under the Act specified in the order in relation to each condition, and that Act applies as if such a permit, licence or other approval had been issued on the conditions set out in the order in relation to that Act; and
(c) the agency specified as the agency responsible for the enforcement of each condition must enforce the condition to the extent of its powers.

(4) An order to which this section relates may require the person proposing the project of State significance to apply for such other permits, licences or other approvals as may be necessary for the proposal to proceed and the person proposing the project of State significance must comply with the requirement.

27A. Amendment of planning schemes, &c., to remove inconsistencies
(1) As soon as practicable after an order under section 26(6) or (8), 26A or 26B takes effect, the Commission must, in consultation with the relevant planning authority, amend any relevant planning scheme or special planning order to remove any inconsistency between it and the order.

(2) The Land Use Planning and Approvals Act 1993 does not apply to an amendment made under subsection (1).

(3) Where the Commission amends a planning scheme or special planning order under subsection (1) –
(a) the amendment is taken to have come into operation on the date on which the order under section 26(6) or (8), 26A or 26B to which it relates was made; and
(b) the Commission must give notice, as prescribed, of the amendment.
28. Limitation on rights of appeal and other rights
(1) Subject to section 27 and notwithstanding the provisions of any other Act—
(a) a person is not entitled to appeal to a body or other person, court or tribunal; or
(b) no other action or proceeding may be brought; or
(c) no order of review may be made under the Judicial Review Act 2000; or
(d) no declaratory judgment may be given—
in respect of any matter or thing arising out of or relating to the conditions specified in an order made under section 26(6), 26(8), 26A or 26B.

(2) A person who would, but for subsection (1), have had a right under any other law to require
an agency to enforce a condition specified in an order made under section 26(6), 26(8), 26A or 26B may take action to require the agency to enforce the condition.

28A. Revocation of order declaring project to be a project of State significance made on
recommendation of Commission
(1) If the Commission is satisfied, at any time before the submission of its report to the Minister
under section 26(1), that there is no reasonable prospect that its report will contain a
recommendation that a project of State significance should proceed, the Commission may
submit a report to the Minister recommending that the order made under section 18(2) in
relation to the project be revoked.

(2) Before the Commission submits a report to the Minister in accordance with subsection (1),
it must give to the person proposing the project of State significance a draft of the report.

(3) The person proposing the project of State significance may make a written submission to
the Commission in relation to the draft of the report within 14 days of being given the draft.

(4) If a written submission is made under subsection (3), the Commission must forward the
submission to the Minister at the same time that it submits its report to the Minister.

(5) After considering the Commission's report and any submission made under subsection (3),
the Minister may recommend to the Governor the making of an order revoking the order made
under section 18(2).

(6) The Governor may make an order revoking the order made under section 18(2) in
accordance with a recommendation made under subsection (5).

(7) If an order is made under subsection (6) revoking an order that declared a project to be a
project of State significance, any direction given by the Minister under section 20 in relation
to the project is revoked.

(8) No action may be brought against the Crown or any servant or agent of the Crown for loss
sustained by reason of the making of an order under subsection (6).

PART 4 - State of the environment reporting

29. Preparation of State of the Environment Reports
(1) The Commission must, as soon as reasonably practicable after the commencement of this
Act and after that commencement at intervals of 5 years, produce a consolidated State of the
Environment Report relating to—
(a) the condition of the environment; and
(b) trends and changes in the environment; and
(c) the achievement of resource management objectives; and
(d) recommendations for future action to be taken in relation to the management of the
environment.

(2) The Commission must—
(a) submit a State of the Environment Report produced by it to the Minister; and
(b) cause notice to be given, as prescribed, that the State of the Environment Report will be
available to the public for inspection and purchase.
(3) The Minister must cause a State of the Environment Report to be laid on the table of each House of Parliament within the first 15 sitting days of the House after the Report is received by the Minister.

PART 5 - Functions of Commission under this Act

30. Functions of Commission
The functions of the Commission under this Act are –
(a) to report to the Minister on the preparation of draft State Policies; and
(b) in accordance with directions under section 20(1), to report to the Minister on projects of State significance; and
(c) to prepare State of the Environment Reports; and
(d) perform such other functions as are imposed on it by or under this Act.

PART 6 - Miscellaneous

44. Evidentiary provision
Evidence of a State Policy may be given in any court or tribunal or before any person acting judicially by the production of a document purporting to be a copy of the State Policy and purporting to be certified as a true copy by a person authorized, in writing, by the Commission.

45. State Policies to be judicially noticed
A State Policy is a public document of which a court or tribunal or person acting judicially must take judicial notice without formal proof of its contents.

46. Regulations
(1) The Governor may make regulations for the purposes of this Act.
(2) Without limiting the generality of subsection (1), regulations under this section may –
(a) make provision for or with respect to –
(i) the payment and collection of fees by any person (including a planning authority) in relation to any act, matter or thing done or arising under this Act; and
(ii) the remission of, or exemption from liability for, any such fees; and
(b) be of general or specially limited application; and
(c) authorize any act, matter or thing in relation to which the regulations may be made to be from time to time determined, applied or regulated by such person as is specified in the regulations, being the Minister, the Commission or another person performing duties under this Act.

47. Requirement to pay fees
The Commission is not required to take any action under this Act, and any submission or representation which is lodged under this Act is not valid, unless any requirements imposed by regulations made under section 46 as to the payment of fees in respect of the taking of that action or the lodging of that submission or representation have been complied with.

47A. Validation of actions, &c., of delegates of Advisory Council
Any hearing conducted, meeting held or decision made by the delegates of the Advisory Council considering the draft State Policy on Water Quality Management before the commencement of the *State Policies and Projects Amendment Act 1997* is taken to have been validly conducted, held or made and any action taken by a person acting pursuant to a decision of those delegates before that commencement is deemed to be validly taken.

48. Administration of Act

Until provision is made in relation to this Act by order under section 4 of the *Administrative Arrangements Act 1990* –

(a) the administration of this Act is assigned to the Minister for Environment and Land Management; and

(b) the Department responsible to the Minister for Environment and Land Management in relation to the administration of this Act is the Department of Environment and Land Management.

**SCHEDULE 1 - Objectives of the Resource Management and Planning System of Tasmania**

*Sections 5, 15 and 20*

1. The objectives of the resource management and planning system of Tasmania are –

(a) to promote the sustainable development of natural and physical resources and the maintenance of ecological processes and genetic diversity; and

(b) to provide for the fair, orderly and sustainable use and development of air, land and water; and

(c) to encourage public involvement in resource management and planning; and

(d) to facilitate economic development in accordance with the objectives set out in paragraphs (a), (b) and (c); and

(e) to promote the sharing of responsibility for resource management and planning between the different spheres of Government, the community and industry in the State.

2. In clause 1(a), *sustainable development* means managing the use, development and protection of natural and physical resources in a way, or at a rate, which enables people and communities to provide for their social, economic and cultural well-being and for their health and safety while –

(a) sustaining the potential of natural and physical resources to meet the reasonably foreseeable needs of future generations; and

(b) safeguarding the life-supporting capacity of air, water, soil and ecosystems; and

(c) avoiding, remedying or mitigating any adverse effects of activities on the environment.