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**Title of Paper:** Who really matters in the end?: Gunns of Tasmania and the Green shareholder revolt

**Abstract:**

Stakeholder theory has obvious implications for governance research. Within stakeholder theory there has, however, been much argument about the complexity of 'stakeholder recognition' and 'strategic management', just as within governance theory there has been discussion of the significance of shareholders. In this paper we consider the issue of who really matters when a system of 'stakeholder recognition' and 'management' is tested within a controversial, yet important industry in a regional economy. This issue is investigated through the case of Gunns Ltd, the largest forestry company in the 'greenest' region of Australia.

**Six Key Words:** Stakeholders, Governance, Environmental Ethics; Investment Ethics.

**Introduction.**

Stakeholder theory has obvious significance for governance research; after all, shareholders are important stakeholders of a corporation. Since Freeman's 1984 work, it has been commonplace that stakeholders include all groups affected by the actions of an organization, not just owners, managers and customers. Within stakeholder theory there has, however, been much argument about the complexity of stakeholder recognition and management (see Mitchell, Agle and Wood 1997; Frooman 1999), just as within governance theory there has been discussion of the significance of shareholders (for example Hanson and White, 2004). In this paper we consider Beauchamp and Bowie's (1997) stakeholder perspective - the notion that although corporations are not necessarily obliged to serve the best interests of their stakeholder groups, they must do all in their power to prevent or remove harm done to them by

their actions or omissions. Do theories of salience of stakeholders need complex thinking, or is it simply the strong mainstream of shareholders, and in particular, institutional shareholders who matter? Similarly, at what point, and by which stakeholder groups in particular, must the activities of a corporation become perceived as 'harmful' before they require removal? These issues are investigated through the case of Gunns Ltd, the largest forestry company in the 'greenest' region of Australia. In, in 2003, Gunns Ltd were attacked by a well organized and supported green pressure group who had the assistance of federal legislation that enabled them to call an Extraordinary General Meeting to protest against old-growth logging (i.e. never logged) by Gunns Ltd. As such, we consider the issue of who really matters when a system of stakeholder recognition and management is tested in a controversial industry in a regional economic setting.

### **Method.**

This study was based on an extensive review of secondary data sources pertinent to the old-growth logging controversy in Tasmania. These sources included annual corporate reports, government press releases, quotations from various Australian newspaper articles, television and radio interviews with figures central to the old-growth logging issue, and a 250-page commissioned history of Gunns Ltd. Given the importance of the subject matter to the regional Tasmanian economy (a subject dealt with in the case description), the quantity of data made a detailed and comprehensive case analysis relatively straightforward.

### **Discussion.**

To make sense of the issue requires that some background be explained, and the first sections of the case provide a brief description of Tasmania and the ongoing forestry debate there before a history of Gunns. The EGM is then described and the issues discussed.

### **Tasmania the Island State, and the forestry debate.**

Tasmania is the smallest Australian state at 315 KM across its greatest width. The middle of the island is mountainous and features scattered lakes and alpine vegetation, the West faces the Indian ocean and is rain swept with much of it is covered in impenetrable 'vertical scrub', the East coast is much dryer and has golden beaches, the North West Coast has deep soils and a climate suited to vegetable growing and dairying, the South and a plain next to the mountains (the midlands) is dry and a wool growing area that achieves some of the highest prices for fine wool in the world (Pritchett, 2001). The government branch of parks and Wildlife manage 354 reserves covering over 33 percent of the state and the Forestry Commission, a state government authority, controls more. Almost 1.4 million hectares is the Tasmanian Wilderness World heritage listed. In this small place the world traveller can find the equivalents of the burnished hills of southern California, the hills of the grape districts of southern France, Wordsworthian English country sides (both his Lake District feel and the mannered and pretty country-side of the green south of England), and the golden beaches that are stereotypically Australian (Gee, 2001).

This is a pleasant land with a temperate climate first settled by Europeans in 1802. The new settlers set about clearing the land for agriculture, displacing indigenous inhabitants while setting up a wool/wheat/cattle system modeled on England, complete with hawthorn, oaks, rabbits and much other exotic material. There was a thriving timber industry harvesting an apparently inexhaustible resources and successive Tasmania governments sought to attract foreign investment into it (Perrin, 1898).

There were occasional outbursts from conservation minded people but the pattern of cutting burning/clearing continued relatively quietly until 1972 when the post-war transition to hydro-electrification of industry via damming of major rivers collided with the nascent green movement. Damming policy was led by the Hydro Electric Corporation (HEC), at the time a virtual government within the government (one long time post-war premier was popularly known as 'Electric Eric'). The focus of debate was the damming of the South West's Gordon River and flooding of Lake Pedder, a remote lake with an unusual large sandy beach (Tasmania Together, 2002). This led to the formation of the United Tasmania Group, the world's first formal green party (Gee, 2001). In 1976 the debate heated up with another major dam proposal and the formation of the Tasmanian Wilderness Society. A major campaign resulted. This was a world event – NO DAMS was the cry in big street marches all over Australia, and all levels of government and the High Court of Australia were involved before the HEC was blocked and the Franklin saved. Green debate was by then a staple of café conversation.

Meanwhile export wood chipping has begun, mainly sourced from charismatic old-growth eucalypts. Yehudi Menuhin, the great violinist and humanist amongst other international figures, commented bitterly on this (see Gee, 2001). Their sentiments have been shared by a generation of Tasmanians who continue to contribute to an ongoing forestry debate on radio, in newspapers and on the streets. In 2002, a government-sponsored survey found that a significant majority of Tasmanians (72 percent) wanted an end to old-growth logging: the opinion crosses conventional political lines (see Tasmania Together 2002). The green side of the debate is led by green parliamentarians, (there are four in the 20 seat lower house), the Wilderness Society, the Tasmanian Conservation Trust and the Australian Conservation Foundation. On the other side, the government is solidly pro-forestry (it is a

conservative union influenced Labor government), and the pro-forestry Forest protection Society (no evident intention of irony in the name) is a vocal pressure group.

### **Gunns – A company with Connections.**

The two brothers Gunn started a building business in Northern Tasmania in 1877 and soon turned to milling their own timber. They prospered and quickly became leading saw millers. The industry was reliant on 'crown-logs', those cut off government land under license, and Gunns had good access to this resource. The industry grew as did Gunns, who, in the 1950s initiated policy of buying smaller saw millers, private forests and rights to crown-logs. This process gathered pace after 1970 when it became evident that the supply of crown-logs was limited. From 1982, led by John Gay, they also sought to consolidate exiting markets and expand into the growing export market for hardwood (Lyons, 1998).

In 1986, the company was floated on the Australian stock exchange with Gay as the CEO. The board at that time included as chairman Peter Wade (CEO of mining and pulp and paper giant, North Broken Hill), Edmund Rouse (the chair of the biggest Northern Tasmanian media firm and a local power-broker), Mr Clement of Tasmanian firm Clements and Marshall, and two from HMA, major investors in Gunns. In later moves Wade was replaced by David McQuestin, (a Rouse connection) and still later ex-Premier, Robin Gray was appointed - but we are ahead of ourselves, more on the board follows (Lyons, 1998).

This was an era in which the external environment of Gunns was also undergoing crucial changes, especially politically. Development oriented Liberal Premier Robin Gray called a state election in 1989 only to lose his majority. Labor and the

Independents (as the Greens had been called) combined to become the Labor Green Accord (LGA) to prevent the Liberals remaining as a minority government (Graeme-Evans, 1995). This upset the forest industry which campaigned for a second election before the LGA could take power - a campaign which collapsed when Edmund Rouse was imprisoned for attempting to bribe Labor MP Jim Cox to cross the floor to prevent the LGA from taking power. Pritchett (2001) records that a Royal Commission also implicated David McQuestin then Managing Director of Rouse's firm Examiner National Television (ENT). McQuestin was cleared of being unlawfully involved as a principal offender in Rouse's bribery charges though the investigation acknowledged that his acquiescence with Rouse's direction was highly improper. Pritchett also notes that during the investigation into these bribery charges, it was revealed that the campaign for a second election actually stemmed from Gray's office, although it was funded by the forest industry (2001).

The Labor Green Accord eventually came to power and, in a (failed) endeavour to settle the forest industry-conservation debate, the Forest and Forest Industry Council (FFIC) was established. However before long, the FFIC shifted ground to become more concerned with preserving the forest industry, and proposed Resource Security legislation that would give the forest industry guaranteed access to the forests. At the same time the publicly owned Forestry Commission became a government enterprise, and was given exemption from freedom of information legislation. Labor's attempt to pass the Resource Security legislation caused the downfall of the LGA coalition and Labor called an election in 1991 - an election that returned the Liberals to power under Ray Groom's Premiership.

Meanwhile, Gunn had positioned itself in the early 1990's to undertake the bulk of the seasoned hardwood milling, molding, and veneers in the North and North-West of the

State, leaving only a handful of significant, independent, locally-owned family businesses remaining in this sector of the forests industry in the North and North-West of the State (Lyons, 1998). In reaching this position the Company defended two High Court appeals against the issue of licenses to cut timber.

This strategic positioning continued through the late 1990s and beyond, illustrated by Gunns buy-out of Boral's Tasmanian wood chipping interests and the acquisition (aided by the ANZ bank) of North Forest Products – owners of major tree holding including a 120,00 hectare tree farm . This saw Gunns become Tasmania's only wood chipping company, exporting 5.5 million tonnes of woodchips from the State each year. A significant proportion of this came from old growth forests including the Styx Valley of the Giants (as it is called by the Wilderness Society) - the location of the world's tallest flowering eucalypts

### **Pressuring the Institutional Shareholders**

The opening years of the 21st Century saw one of Gunns' major shareholders, the Commonwealth Bank, targeted by the Wilderness Society, the Society exhorting the Bank's shareholders to pressure it's Board to use the Bank's shareholding in Gunns (at the time, just over 17 percent) to force the Company to move out of the old-growth forests. Other Australian banks came under pressure from various quarters with the ANZ Banking Group Ltd at this time indicating that it did *not* hold a stake in Gunns but had a banking relationship. Charles Goode, the Chairman of ANZ Banking Group Ltd, said that ANZ takes environmental issues seriously: "We are prepared to enter into dialogue with community groups such as the Wilderness Society," (*The Examiner*, 14 December 2002). In 2003, the Board had a half-day strategy meeting on environmental issues and the Chairman and some executives visited the Gunns forestry sites in Tasmania in February 2003. Gunns Managing Director John Gay

contended that the Company had issued invitations to all the major banking institutions that had been targeted by the Wilderness Society with what he termed "misinformation" (*Sunday Examiner*, 15 December 2002).

### **CORPORATE INTRANSIGENCE**

A group of 100 Gunns Ltd shareholders who opposed the firm's logging practices took the step of requesting an extraordinary general meeting of the Company in February 2003. The group - coordinated by the Wilderness Society, but including shareholders from outside the Society - relied upon new Corporations Law governing corporate regulation in Australia which became effective on 15 July, 2001. This scheme provides that the directors of a company must call and arrange to hold a general meeting on the request of:

- members with at least 5 percent of the votes that may be cast at the general meeting, **or**
- at least 100 members who are entitled to vote at the general meeting.

Gunns Ltd initially refused to hold the special meeting and Executive Chairman John Gay was reported as saying that directors had decided that convening a special meeting to consider the issues raised by the Wilderness Society would be an inappropriate use of Company funds. The Company said the special meeting sought would cost tens of thousands of dollars, and Gay said that directors had decided that the Wilderness Society's demand was not valid under existing regulations (*The Examiner*, 19 March 2003). Directors Institute Tasmanian President Gerald Loughran (a Northern Tasmanian based business-person) said legislation to change the 100-person rule to a 5 percent rule was before the Senate and he hoped it would be resolved soon (*The Advocate*, 25 February 2003), however Loughran seemingly ignored the fact that the "100-Person Rule" *did* apply at the time the request for a meeting was made.

Gunns maintained that the requisition notices were invalid, and that the shareholders who had called for an extraordinary general meeting had "clearly not abided by the articles of association of the company", although the Company did not given the actual reason that the requisition was deemed to be invalid. Executive Chairman John Gay said that because of the *Privacy Act* he could not say exactly what was wrong with the requisition (*The Mercury*, 20 March 2003). He objected strongly and the Wilderness Society rethought tactics.

### Business performance

At the time of this dispute Gunns was known as a successful company with an increasing share price and consistently growing profits. The share price, a key indicator of performance for almost all shareholders, is presented in Figure 1 below.

FIGURE 1 Gunns Share Performance and Sales



(Source: Comsec, 2004).

This information on performance was well known to investors who, as Figure 1 indicates, continued to buy and drive up prices from 1999 onwards.

### **EXTRAORDINARY GENERAL MEETING 29 AUGUST 2003**

In the lead-up to the August Extraordinary General Meeting at Gunns, helpful corporate professionals entered the fray on the green side:

- fund managers showed the Wilderness Society how to draft better resolutions;
- lawyers gave *pro bono* advice on procedural matters, secondary boycotts and defamation issues;
- Naomi Edwards (retired partner of Deloitte Touche Tohmatsu and former director of Trowbridge Consulting), crunched numbers for the Wilderness Society to back its claim that the company can refrain from logging old-growth forests without losing money;
- An international business strategist used by some of Australia's biggest companies provided advice on the anti logging campaign in Japan (most of the Gunns woodchips are exported to Japan and China, where they are used in paper production);
- a 1980s corporate raider gave tips on tactics for dealing with corporations and hosted private lunches in Sydney to put activists in touch with senior executives.

Wilderness Society campaigner Leanne Minshull did not "name names", but she confirmed meetings with AMP, BT Financial Group, Commonwealth Bank, local and Federal Government superannuation schemes, National Australia Bank, and Perpetual Trustees. Perpetual's John Sevier says it is the first time he has experienced a campaign of this kind, and it could be the first of many: "The world is getting more determined in a lot of ways" (*The Age*, 23 August 2003).

The campaign seemed at this stage to have had some effect. Westpac-owned BT Financial Group, which has a small-undisclosed stake in Gunns, indicated its intention to abstain from voting, citing insufficient information on which to make a decision. The financial house said it recognises the sensitive nature of environmental issues,

and it that it believed there was a lack of adequate data or information on the possible effects of adopting the resolution (*The Age*, 23 August). There was an international dimension to this campaign: as reported in *The Age* on 23 August 2003, Minshull indicated that a loose coalition of activist organisations around the world including Friends of the Earth International, Britain's WWF (World Wide Fund for Nature), Greenpeace, and the Rainforest Action Network helped on the Gunns campaign by lobbying institutional shareholders in Britain.

No one, however, really expected the Wilderness Society to get its way at the EGM. Gunns said the shareholder activists control fewer than 250,000 shares, or about 0.3 percent of the stock, and Minshull, conceded that the resolution was unlikely to get anywhere near the 75 percent needed. Gay accused the environmentalists of wasting shareholders' money on what amounted to a protest meeting. "That is disgusting," he said. "They conceded they haven't got a hope in hell but they are taking this company through the pain." Gay indicated that there is no prospect of Gunns working with the activists because the Company operates within State laws and Tasmania is a signatory to the 1997 Regional Forest Agreement between State and Federal governments. "If I rejected (the opportunity) to take some logs, they would just issue them to someone else. They can keep coming but we don't make the decisions. They are just damaging the shareholders of Gunns and the superannuation funds of Australia by harassing Gunns for a decision that Gunns doesn't make. That's how stupid it is." (*The Age*, 23 August 2003).

AMP Henderson indicated that the company would vote against the Wilderness Society resolution at the Extraordinary General Meeting... AMP Henderson's chief investment officer, Merv Peacock, told Walsh (2003) on 27 August 2003 that AMP had long discussions with a range of parties including Gunns' and Forestry Tasmania.

He concluded that the resolution would have a material negative impact on the company's profits.

Overall, a trend towards an "abstain" or "against" vote at the EGM emerged, as institutional shareholders balanced the risk of a consumer backlash with their fiduciary obligation to investors. UniSuper, the university employees' superannuation fund announced it would abstain, saying that a vote was "premature" (Investor Daily, 2003) and the large Commonwealth Government employee fund PSS/CSS decided to vote against the resolution. Perpetual Trustees and Colonial First State would not disclose their voting intentions, and the SIRIS Proxy Voting Service also declined to say how it advised its clients to vote at the meeting. No institutional shareholder went on record as supporting the Wilderness Society led resolution. Dean Paatsch, Director of SIRIS Governance Services Unit, said his considerations varied - depending on whether the client had an environmental policy as part of its investment process. Paatsch said he believed most institutions would abstain because of their concern for "reputation risk".

### **THE MEETING – Green Fizzer or Fountain of Rationality?**

The EGM was held at 10 am on 29 August at 110 Lindsay Street in the Northern Tasmanian city of Launceston, which has a population of about 60,000 people. More than 200 pro- and anti-logging demonstrators gathered outside Gunns offices, and log trucks lined the street in a show of strength for the industry. The resolution called on Gunns not to source any timber from the 'Tasmania Together' forests, which include the Styx, Tarkine, Great Western Tiers, Southern Forests, Tasman Peninsula, North-East Highlands, Eastern Tiers and proposed extensions to the Ben Lomond National Park. (*The Age*, 30 August 2003 "Business"). The Wilderness Society had encouraged shareholders to attend the EGM and vote for the resolution, had sought

proxy voting rights, and had run stalls outside many Commonwealth Banks leading up to the EGM providing information and *pro forma* letters for people to send to the Commonwealth Bank.

Some 20 speakers addressed the 90-minute meeting, and as expected, shareholders voted overwhelmingly against the resolution calling for Gunns to withdraw from 240,000 hectares of old-growth forest, the resolution being lost by 54.8 million to 248,000 votes. Institutions representing some 1.5 million votes abstained. (*The Age*, 30 August 2003). Gay said the vote demonstrated clear support for the board. "This whole action was nothing more than a publicity stunt by the Wilderness Society, staged for political purposes in a futile attempt to attack a well-performing and legitimate Tasmanian business." (*The Saturday Mercury*, 30 August 2003). The resolution was easily defeated with 98 per cent of votes against. But most disappointing for green groups and activists was that only 2.6 per cent of voters abstained - the usual form of protest for institutional investors. So, Perpetual with 10.17 percent, the Commonwealth Bank with 8.6 per cent, and AMP with 7.21 percent, were effectively saying they were in favour of logging old growth forests - a stance which could cause them some grief at their coming annual meetings given the high level of activism on the issue.

### **The Argument.**

In an environmentally aware state in which forestry practices are an everyday issue, Gunns is a disliked company but is also a profitable operation. It has supporters in the timber community and the state government as well as the vast majority of shareholders. The opposition comes from green pressure groups and a broad Tasmanian community that dislikes logging. Gunns has decided to be tough and disregard the critics. The Wilderness Society's decision to aim at the Institutional

investors was based on reputation theory with the basic idea that Institutional investors would vote with the Greens to protect their own reputation. The EGM seemed to be the ideal vehicle to test the situation but failed comprehensively. The lesson from this case is that when it is tested stakeholder theory loses complexity; the only stakeholders who matter are those who can vote, and of these the dominant coalition is the significant one. If governance involves appreciation of stakeholder points of view the task is not a complex one. In addition, this case indicates that secondary lobbying, even with significant legislative and social assistance (the legal system was a great help to the Wilderness Society in this case as were sections of the business community) is unlikely to be successful if it contradicts the bottom line of profit. Gunns is here to stay for the foreseeable future; it is a major player in an important industry in a regional economy, and will continue on in the clear understanding that its backers are in line and opposition lacks real bite.

Campaigners nevertheless beset the company. It does not seem to be able to appear as a 'good corporate citizen' despite its financial success and despite the failure of the greens at the EGM. Perhaps it must face the reality that a forestry firm, despite being law abiding and popular with the institutional shareholders, cannot please the majority of the people. And, will the Institutional investors continue to support them? The next phase of activism will not be targeted at Gunns but at their investors and their international contacts. How much heat will a bank take for the sake of what is, for them, a minor investment? Is a concession to green thinking required? But, is that enough – the green agenda is not about compromise but full achievement of goals, compromise is for politicians and corporations.

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