

STIFLING ENVIRONMENTAL DISSENT

On SLAPPS and GUNNS

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On 13 December 2004, Gunns Limited issued a writ in the Victorian Supreme Court against 20 environmental activists.¹ Gunns Limited is Australia's largest fully integrated hardwood forest products company. It owns 175,000 hectares of freehold land and manages in excess of 90,000 hectares of plantations. The company employs over 1200 people and has a turnover in excess of A\$600 million. The timber company is suing a group of environmentalists, protesters and Green MPs for \$6.3 million.

The company is claiming damages for financial loss allegedly suffered as a result of protest actions related mainly to the activities of the company in Tasmania. Examples cited in the writ include:

- the Styx Valley tree-sit campaign the previous year
- a protest and 'lock-on' at the Triabunna woodchip mill
- a letter-writing campaign which saw more than 7000 people write to Japanese woodchip customers urging them not to buy Gunns woodchips
- a media campaign urging four major banks to end their association with Gunns
- a lobbying campaign to have Gunns removed as a finalist from the Banksia Environmental Awards
- a claim by the group Doctors for Forests that the Burnie woodchip pile could harbour legionella.

The writ claimed that the overall campaign against Gunns constitutes a conspiracy to injure Gunns by unlawful means, and to damage the company through interference with Gunns' trade and business by unlawful means. Versions 1 and 2 of the statement of claims were struck out by Justice Bongiorno on 18 July 2005, and Gunns was ordered to pay costs to the defendants; however, a third version of the writ was lodged in August 2005, this time with a claim for compensation of \$6.9 million.

This article explores the struggle between the corporation and environmentalists through the lens of the original 'Gunns20' writ. It demonstrates how such legal action simultaneously defines the 'successful' corporate enemy in the same moment that it constitutes an attack on democratic debate. Read in a certain way, for instance, such writs provide interesting indicators of 'good practice' in activist movements. This is so insofar as they publicly identify those parties and those actions that are most threatening to (and thus successful in challenging) corporate interests. The discussion thus provides insight into what could be seen

as effective types of social movement work, as well as reinforcing the need for anti-SLAPP legislation.

Attempts to stifle dissent

The term SLAPP refers to 'Strategic Lawsuits Against Public Participation'. The precise character of a SLAPP may vary from situation to situation, depending on the players and the issues involved. Generally speaking, however, a SLAPP refers to:

- a civil lawsuit filed against private individuals or organisations that have spoken out on issues of public interest or social significance
- a strategy aimed at intimidating an individual from engaging in particular behaviour believed to be detrimental to the SLAPP filer
- the main intent not to win the legal case, but to silence the critic by dissuading citizens from speaking out on matters of public interest.²

SLAPPS can involve actual law suits. They can involve the threat of law suits. SLAPPS tend to be directed at individuals, usually prominent spokespersons and leaders of community groups. In the Tasmanian context, SLAPPS have also been used (or threatened) by the Tasmanian government in attempts to stifle publication of material critical of its actions in relation to forestry issues. The Gunns writ certainly constitutes the most sustained private attack on environmental activism of its kind in Australia.

Given the relatively small community in Tasmania (the overall population of the island is under half a million people), it is not surprising that strategic action against public participation takes more than one form. Specifically, attempts to quell dissent or silence critics can occur *informally* (and often privately) via phone conversations, 'gossip' networks, chance street meetings, advice from 'those in the know' and so on. 'Friendly' words of advice or veiled threats are not uncommon in and out of the corridors of power. Such warnings also occur *formally* (and both publicly and privately) via legal action, public condemnations, involvement of statutory bodies, input of professional associations, and so on.

In recent years SLAPPS have been an important part of the corporate offensive against environmental activism, along with several other types of measures. In a manner analogous to the denial of human rights violations, environmental issues call forth a range of techniques of neutralisation on the part of nation-states and corporations which, ultimately, legitimate and justify

REFERENCES

1. For full details of who the 'Gunns20' are, see the Victorian Supreme Court writ lodged by Gunns Limited on 13 December 2004. Unless otherwise indicated, all page references in the text refer to the 'Gunns20' writ.

2. See Sharon Beder, *Global Spin: The Corporate Assault on Environmentalism* (1997); Brian Walters, *Slapping on the Wrists: Defamation, Developers and Community Activism* (2003).

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certain types of environmentally unfriendly activities.³ For governments, denial of harm is usually associated with economic objectives and the appeal to forms of 'sustainable development' which fundamentally involve further environmental degradation.⁴ Government action can also take the form of denying access to legal representation by restricting the provision of free legal services on environmental matters.⁵

The Gunns SLAPP

One of the hallmarks of the 216-page Gunns writ is the breadth and depth of the claims being made, and the extent of the detail that is provided in substantiating the claims. Twenty targets are identified for the claim. These range from leaders of organisations such as the Wilderness Society, to individual activists, to several Green MPs (state and federal).

In essence, the Gunns writ presents a sustained attack on the 20 environmentalist activists and groups listed in the writ on two bases. First, the complaint is against the actions of the environmental activists and organisations. This relates to activities involving varying forms of civil disobedience. Some of these actions are already 'legalised' in the sense of involving breaches of civil and criminal law. As such, the need for separate legal action, beyond ordinary police intervention, is questionable.

Second, the complaint is against the ideas of the activists and their organisations. Here what is at stake are notions of 'interests' (as measured in potential and actual economic damage) and 'reputation' (as manifest in concerns about the messages being conveyed about the operations and ethics of the company). This is about the ideology and politics of environmental debate and the terms under which the debate is carried out.

Networks

One of the initial issues that emerges from reading the Gunns writ is the problem the company has with the extensive networking apparent within and across the broad environmental movements. In addition to the Gunns20 named in the writ, the complaint is that organisers have encouraged, supported and auspiced a number of 'sub-campaigns' directed against the operations and interests of Gunns Limited. These sub-campaigns encompass mainland as well as Tasmanian groups, and include actions by specific groups identified by Gunns, such as the Student Environmental Activist Network through to Lawyers for Forests.

Of course little is said about Gunns' own networks, and especially its particular and peculiarly cosy relationship with successive Tasmanian governments over a number of years. The present Gunns Board of Directors includes a former State (Liberal) Premier, Robin Gray. The present State (Labor) Premier, Paul Lennon, is a Member of the Forest Protection Society (funded by industry). The Managing Director of Gunns, John Gay, is simultaneously also a Director of the Department of State Development. The interconnecting nature of state-private sector interests is particularly relevant when it comes to regulation of industry practices (see below).

Campaigns

The crux of the writ is that various direct action and ideological campaigns act to the detriment of the company. Ideologically, environmental activists have raised issues relating to 'grievances about the environment' and engaged in 'publicly denigrating, vilifying and criticising the operations and activities' of Gunns. The audience for such campaigns has been both general (via media coverage of protest actions) and specific (as in the case of letter campaigns to Gunns' customers, consumers, shareholders, investors and banks). Practically, actions have included protest rallies, interference with and disruption of forest operations, boycotts, and the setting up of pickets and blockades.

For its part, Gunns has supported pro-forestry rallies through giving workers time-off to engage in protest demonstrations. It has received ongoing support from, and been supportive of, lobby groups such as the Forest Protection Society and Timber Communities Australia. These 'community' groups have been persistent public performers in defence of conventional forestry practices and the industry generally. Professional lobby and advocacy groups and manufactured 'grassroots' organisations have been influential in shaping the environment debate on forestry issues in Tasmania and elsewhere. It is notable, as well, that in recent years there has been proliferation of public relations campaigns around environmental matters.⁶ As part of this general trend, Gunns has continuously and publicly stressed its 'green' credentials and the fact that it complies with international standards of 'best practice' vis-à-vis environmental impact. The use of a SLAPP is a new weapon in Gunns' already well developed corporate arsenal.

3. Sharon Beder, 'Moulding and Manipulating the News', in Rob White (ed), *Controversies in Environmental Sociology* (2004); Tom Athanasiou, *Divided Planet: The Ecology of Rich and Poor* (1996).

4. See, eg, Nicholas Brunton, 'Environmental Regulation: The Challenge Ahead' (1999) 24 *Alternative Law Journal* 137-43.

5. Robert Kuehn, 'Denying Access to Legal Representation: The Attack on the Tulane Environmental Law Clinic' (2000) 4 *Journal of Law & Policy* 33-147.

6. Beder, above, n 2; Athanasiou above, n 3; N Hager and B Burton, *Secrets and Lies: The Anatomy of an Anti-Environmental PR Campaign* (1999).

Laws and regulations

The Gunns writ makes much of the idea that environmental campaigners '*wrongfully and maliciously conspired and combined amongst themselves and other protesters to injure [Gunns] by unlawful means*' (20).

In other words, it is the unlawful nature of some of the activities of protesters that is subject to criticism. The unlawful acts and commission of crimes puts the environmental protesters outside the 'rule of law' and thus ordinary mechanisms of social regulation. Of course, when police intervene, and protesters are charged and convicted, there are penalties to pay. These usually take the form of fines, and in some instances short periods in jail.

But it is not only the environmental campaigners who resist attempts at regulation. Gunns has a relationship with the State that translates into a light regulatory rein indeed. The forestry industry in Tasmania is ostensibly regulated by the Forest Practices Board, a body that is comprised of senior state bureaucrats, and includes a private forestry director and industry experts. By law, all of the Forest Practices Board members, other than the chair, are associated with forestry. In recent times, a former Forest Practices Board enforcement officer, Bill Manning, was moved out of his position because of his concerns about alleged breaches of Tasmania's Forest Practices Code. Basically, Manning was sacked from his job by the Chief Forest Practices Officer, Graham Wilkinson, for being 'heavy-handed' in dealing with a 'perceived problem'.⁷ Certainly there is widespread belief within environmental circles that investigation and prosecution of forestry practice breaches is actively discouraged within the very agency meant to uphold appropriate codes of conduct. Wilkinson is also a Director of the Institute of Foresters of Australia and chair of its Tasmanian division. The Secretary of the IFA Tasmanian division is Melissa Syme, an area forester for Gunns.⁸

The ways in which breaches of the law (whether it be trespass or failure to comply with regulations) are dealt with seem to vary according to the identity of the law-breaker. When protesters were fined \$1000 for trespassing during an anti-woodchip demonstration, the disparity in treatment was not lost on Tasmanian Greens leader, Peg Putt:

Loggers in Tasmania get away with a slap on the wrist for breaching the Forest Practices Code, and we are lucky to see more than one prosecution a year, despite numerous reported breaches, yet forest protesters get very heavy-handed penalties ... The big fines should be applied to those who do the wrong thing and fail on environmental protection in logging operations, but instead it is those who have protested to highlight the plight of our forests who are hit hard.⁹

Meanwhile, if industry regulators are perceived to be not doing their job, and companies such as Gunns continue to enjoy considerable State government support, then conventional methods of political dissent will simply not be adequate.

What works in environmental activism

Direct action

Gunns was most concerned about four main areas of campaign activity. These included:

- campaigns and actions that disrupt logging operations
- corporate vilification campaigns relating to their 'clean' and 'green' image
- campaigns against overseas customers of their products
- corporate campaigns targeting shareholders, investors and banks.

The Gunns writ characterises direct action to stop or impede logging as 'guerrilla activities'. Not only is the loss of production lamented, but so too are the images of such protests: 'Publicity obtained from these activities is used in other campaigns both within Australia and overseas' (6). Such actions are related to breaches of the *Criminal Code Act 1924* (Tas), the *Police Offences Act 1935* (Tas), and the *Roads and Jetties Act 1935* (Tas), insofar as they include trespass, unlawful entry onto land, public nuisance, wilfully obstructing the use or enjoyment of a road, making a fire on a constructed portion of a road, injury to property, assault, and resisting arrest.

The bigger threat posed by such actions, however, is that they provide tangible means by which ordinary people can take power into their own hands in an attempt to change existing practices, or even the law itself. The huge protest action against the damming of the Franklin river in the early 1980s, in which people from all over Australia came to Tasmania, demonstrated the signal importance of giving people something concrete to do. It also showed that remote locations can be effectively used in a way that favours protest movements, given the beauty and adventure associated with such sites. Direct action is one way in which to overcome the inertia of doing nothing because nothing is being done.

Challenging their green credentials

Gunns has strived to present itself as a 'clean, green' company. This is illustrated, for example, in its website description of itself and in recent publicity about its high standards of environmental sensitivity: 'In 1998 Gunns' forest operations were certified to ISO 14001. Gunns was the first forest company in Australia to achieve this international recognition'.¹⁰ Gunns says that it is committed to Sustainable Forest Management that is environmentally sound, economically viable and socially desirable.

The phenomenon of 'greenwashing' is well known to environmental activists and commentators. It refers to companies putting a green 'spin' on their activities in ways that make the company look as if it is a protector of the environment and concerned about environmental issues. It is big business for all concerned, as seen by the fact that most of the top public relations firms today include environmental PR as one of their specialties.¹¹

7. E Whinnett, 'Complaint on Forestry in a Tangle', *The Mercury* (Hobart), 11 February 2003, 3.

8. C Altmann, 'When Bad News Comes in Trees', *The Australian* (Sydney), 30 April (2003) Business Extra, 26.

9. Quoted in C Anderson, 'Chipping Protest Trio Fined', *The Mercury* (Hobart), 14 February 2003, 9.

10. Gunns Ltd (2005) <<http://www.gunns.com.au/corporate/profile.html>> at 22 November 2005.

11. Beder, above, n 2, n 3.

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For Gunns, 'corporate vilification' also meant an attack on its green credentials. Especially problematic and concerning for the company were events surrounding the Banksia Environment Foundation and its competition for an award for a business or government enterprise that has demonstrated leadership, commitment and excellence in protecting Australia's environment and contributing to a sustainable future. In March 2004, Gunns submitted an entry in the Banksia Award, provided material to support that entry, and paid the entry fee to the Banksia Environment Foundation.

In April, the Banksia Foundation published a list of finalists on its website. Gunns was one of seven finalists listed for Category 2 — Business Environmental Responsibility and Leadership. On that website, the Banksia Environment Foundation stated (160) that Gunns Limited is a World Leader in Sustainable Forest Management and that:

The Company incorporates sustainability principles and worlds best practice in all its operational processes and has specifically written into its code of conduct a commitment to sustainable forest management that is environmentally sound, economically viable and socially acceptable for all communities.

What really annoyed the company was that the Wilderness Society and other defendants responded to this news by contacting the Banksia Environmental Foundation and providing a different view of Gunns. Moreover, the environmental activists threatened to target the Banksia Awards ceremony with protest action if Gunns were to receive an award. As a consequence of these communications, on 5 May 2004 the Banksia Environmental Foundation determined and announced that Gunns was no longer a finalist for the Banksia Award.

What is most interesting about this particular event is the way in which Gunns attempted to 'earn' its green credentials by, in effect, buying its way into the awards process (via the entry fee) and then expecting something in return. For example, it was 'understood' that only what the company says about itself is relevant to the award process. As expressed in the writ (158):

It was a term of the Banksia Award Agreement that the judges of the Banksia Award would determine whether or not to grant that Award to [Gunns] only on the material submitted by [Gunns] to support its application for the Banksia Award.

By exposing Gunns' record to external scrutiny, environmental activists not only provided a critique of a

specific company but, in effect, called into question the process of environmental award giving itself.

Hitting them where it hurts

According to environmental activist material reproduced in the writ:

the main part of [Gunns] \$606 million business is the export of hardwood pulp chips to Japan. Exports to Japan represent more than 60 per cent of its volume, and Gunns operations account for approximately 80 per cent of Australia's hardwood chip exports. [186-7]

The Wilderness Society, in conjunction with the Japan Tropical Forest Action Network (Tokyo) and Greenpeace Japan, was active in 2000 in targeting the Japanese corporate customers of Gunns. The campaign involved disseminating information about Gunns in the major cities in Japan, and writing letters directly to the relevant Japanese companies about Gunns' environmental track record. The key demand was to force Gunns to immediately cease woodchipping of old growth forests. In presenting this case, the environmental campaigners pointed out that:

Last financial year a record of 17 million tonnes of woodchips, mostly from old growth forests, went to Japanese paper manufacturers to be made into short-lived paper products. [170]

The main message was that present types of timber production were environmentally disastrous and that Japanese corporate consumers and individual citizen consumers could play a role in preventing the destruction of such forests.

The internationalisation of the struggle over the forests was threatening to Gunns, and to Gunns' customers, on several different levels. Links were forged between different activist organisations in Australia and Japan, and between separate organisations with different mandates and approaches vis-à-vis environmental activism (ie Wilderness Society, Greenpeace). Japanese corporate consumers wished to protect their public claims that they believed in pursuing corporate activity that is in harmony with nature. However, local organisations in Japan associated with the Tasmanian activist groups ensured that Japanese citizens would most definitely hear about the issues. Meanwhile, the reputations of the Wilderness Society and of Greenpeace in relation to creating adverse publicity, engendering consumer boycotts and engaging in direct actions, and the international profile and consequences of such activities, were causing considerable angst among the Japanese corporate consumers. This is

indicated in the following letter to Gunns from Nippon Paper Industries (180).

Mr John Gay
President
Gunns Limited

You have already been informed that The Wilderness Society and The Green Peace Japan sent the plea to our president, requesting us to stop purchasing wood chips from your company, because they say your company devastates Tasmanian old growth virgin forests.

Judging from what we have so far heard or been told, including the presentation given by the both groups on July 14th, we believe that their dissatisfaction or discontent with the RFA [Regional Forest Agreement] underlies this issue.

We understand that the argument in your letter dated on July 3rd to our president is just and rational. *However, to be honest with you, we are very much embarrassed with the activities of such environment groups, because we are focusing on how to develop our business in a way that emphasizes sustainability (a harmonious balance with nature and business).* [emphasis added]

We know that you cannot accept their criticism against the law-abiding logging. What we would like to call on you to do is to mediate between the Australian government and the Tasmanian government for a discussion with the Wilderness Society. Our objective is to ensure we purchase your wood chips in accordance with our stated corporate principles.

F. Manoshiro, Forestry Department,
Nippon Paper Industries

Events in both Japan and in Tasmania — involving protests, website messages critical of Gunns, the construction of a 65 metre high tree platform, and newspaper articles — ensured great interest not only within these countries but elsewhere as well. A comparison was drawn with the successful Greenpeace campaign some three years earlier that involved getting companies to boycott timber from the British Columbia rainforest.

Internationalisation of the struggle, with a specific focus on both corporate and citizen consumer markets, was proving to be a particularly effective activist strategy. This was borne out, for example, in correspondence from Nippon Paper Industries to the Premier of Tasmania, in which the General Manager pleaded with the Premier to meet with the Wilderness Society and seek out a 'middle ground'. They wanted to have 'the focus moved back to Tasmania' and they wanted to move the 'argument back to Australia instead of Japan' (191). The political heat was being felt in Japan, and the companies wanted Australian political and economic leaders to deal with it since it was blowing up as a problem for everyone concerned.

The other prong in the attack on Gunns was to target shareholders and investors, and especially banks, as a means to pressure Gunns to change its forestry practices. According to the writ, the 'banks action' aimed to force the banks to:

- cease investing in Gunns
- withdraw investment in Gunns
- cease providing financial services to Gunns

- withdraw or remove financial services, including loans and other financial facilities from Gunns.

In essence, environmental activism in this case was directed at stressing corporate responsibility and the importance of keeping investment and shareholdings within the framework of 'ethical' business.

The perils of litigation

The use of SLAPPs has been heavily criticised because of the way in which they allow large corporations to stifle public discussion, including criticism, about their business activities. Commentators in Australia such as Beder and Walters have signalled the fundamentally undemocratic nature of such suits.¹² Moreover, they have called for vigilance, community agitation and new legislative safeguards to prevent their use now and into the future.

However, even given the negative consequences of such writs vis-à-vis the financial and social costs to environmental activists, there are other aspects to the use of the legal system in this way that warrant further attention as well. For instance, one outcome of the Gunns' action has been heightened publicity about all of Gunns' activities, accompanied by greater public scepticism about the veracity of its claims across a range of issues.

Consider, for example, the following. In June 2005, submissions relating to the draft scope guidelines for an integrated environmental impact statement were being accepted on a proposed \$1.3 billion Tamar Valley (northern Tasmania) pulp-mill project to be built and operated by Gunns. However, on the day that submissions closed for comment, Gunns revealed that it wanted to expand the original project site area from 100 hectares to 650 hectares — a sixfold increase in the size of its proposed mill site. Not surprisingly, this generated considerable flak from green groups and environmental activists. The story received front page headlines, and was the subject of a cynical editorial cartoon in the Mercury newspaper.¹³ With tactics such as this, combined with the Gunns20 law suit, the reputation of Gunns for 'fair play' was certainly put into question.

Another consequence of the law suit was outrage amongst many members of the public at large at the use of this kind of strategy. Shortly after the writ made the headlines, car stickers in the shape of the Green Party's green triangle began to appear all over Hobart (and beyond) with the slogan 'So Sue Me'. Basically the reaction was to make fun of Gunns for taking the action — but, as well, there was a strong undercurrent of consternation and anger against the company. Vigorous public debate over the writ also translated into financial penalties for Gunns Limited. For example, since the lodging of the writ, Gunns' share price has plummeted by some 30% and the company has lost orders for woodchips from two Japanese customers.¹⁴

The high profile of the Gunns20 case has also generated greater interest in and urgency about anti-SLAPPs legislation. While a number of jurisdictions

12. Beder above, n 2; Brian Walters, 'Let the People Speak' (2005) 16 *Current Issues in Criminal Justice* 340-350.

13. See front page and editorial page, *The Mercury* (Hobart), 21 June 2005.

14. See G Hickey, *Forest Fights: Legal Writs, Public Discourses and the Contest over Legitimacy* (Sociology Honours Thesis, School of Sociology & Social Work, University of Tasmania 2005).

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in countries such as Canada and the USA have such legislation, it is early days for both the use of SLAPPs and responding to SLAPPs in the Australian context.¹⁵ What is increasingly being recognised is the need for legal affirmation and protection of the right of people to participate in public debate and public action without the threat of malicious and gratuitous law suits being used against them. Public meetings and forums organised around the Gunns20 case have stirred greater interest in these kinds of legal measures, as well as the importance of 'right to know' legislation that provides access to information concerning the activities of both private companies and state agencies.

The perils of litigation, however, do not only pertain to the actions of big companies such as Gunns. Environmental activists who use legal suits to challenge 'the other side' have to acknowledge the problems that can follow by using the law as a strategic mechanism. For example, the Environmental Defenders Office (EDO) in Tasmania instigated legal action against Timber Communities Australia. The EDO began proceedings in response to a letter sent by Timber Communities Australia to both the State and federal governments that contained allegations about the activities of the EDO. As a government-funded community legal service, the EDO is hardly well funded, nor is it particularly well regarded in government circles given its often critical stance on environmental issues that are intertwined with economic matters. (It is also worth noting that Commonwealth funding guidelines prevent EDOs using Commonwealth funds on litigation-related work.) In this particular case, not only was a lot of time and energy spent in taking on Timber Communities Australia, but the Supreme Court effectively ensured that the case was stopped in its tracks by ruling in favour of a Security for Costs Order. This is where a party bringing an action which has limited funds, is forced to put upfront the costs a defendant might be entitled to if the action fails. It was \$120,000 to \$130,000 that the EDO simply did not have.¹⁶

Litigation also can entrench bad feeling amongst potential allies in the struggle against corporate power and private interests. For example, McCulloch describes how civil action was taken by environmentalists in the state of Victoria against a number of loggers, the Construction Forestry Mining and Energy Union (Forestry Division) and the Secretary of the Victorian Branch of the Forestry & Forest Building Products Manufacturing Division of the union.¹⁷ The

environmentalists alleged that during a protest action in the Otway Ranges State Forest in 1999, they were prevented from leaving the forest by the defendants. The trial took over 64 days to be heard and involved considerable time and financial costs to all concerned. The point that McCulloch wishes to stress in analysis of this particular case is that such action undermines the process and possibility of labour and environmental movements working constructively together to challenge corporate power and exploitation. Valuable resources are 'wasted' as the workers and activists engage in mutually antagonistic activities of this nature; a split that is fostered by corporate interests that reinforce the jobs/environment dichotomy. Most problematic, however, is the loss of dialogue between workers and environmentalists, and thus the demise of a closer alliance that could challenge, locally and globally, the corporate exploitation of workers and of the natural environment.

Conclusion

There is a burgeoning literature that outlines the kinds of options that could be used as a means to counter SLAPPs and similar types of debilitating strategies.¹⁸ Another way in which to respond to SLAPPs, especially those which are as extensive and detailed as Gunns, however, is to use the material contained therein as a 'blueprint' of sorts for environmental activism. That is, to invert the meanings, in order to subvert the contents. What the Gunns writ demonstrates, as much as anything, are the kinds of strategies that are used by corporations and environmental activists alike. There is much to learn from analysis of such documents, and by considering potential pitfalls encountered along the way.

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15. Walters, above, n 2.

16. ABC Radio National, 'The Gunns 20 Litigation', *The Law Report*, 25 January 2005.

17. Jude McCulloch, 'Loggerheads over Old Growth Forests: Growing Civil Society Against State Crime and the Timber Wedge' (2005) 16 *Current Issues in Criminal Justice* 351-67.

18. See for examples, Walters, above, n 2; M. Bunker and P Gates, 'Newer Laws Give Media Means To 'SLAPP' Back in Libel Suits' (2002) 23(2/3) *Newspaper Research Journal* 18-31; A Kenyon, 'Review Essay: Defamation and Critique: Political Speech and New York Times v Sullivan In Australia and England' (2001) *Melbourne University Law Review* 18.