

MEDIA RELEASE: Legal Action Launched Against Council Consent for Eden Woodchip Mill Proposal Following Bushfires, South East Forest Rescue

16th February 2021

Conservation group South East Forest Rescue (SEFR) is challenging the lawfulness of a development consent granted by Bega Valley Shire Council for a sawmill and a factory to make wood briquettes from native forest trees. The consent was granted to Allied Natural Wood Exports (ANWE) who owns the woodchip mill, which is managed by Pentarch Forestry.

ANWE is a major exporter of woodchips, and receives logs taken from the native forests of Nowra, out to Tumut, and down to East Gippsland in Victoria and turns these into woodchips for export. The development is to be located at the existing woodchip mill near Eden.

Council granted the development consent in September last year, despite almost total opposition from those who made submissions about the proposal.

SEFR is heading to the Land and Environment Court, seeking orders setting aside the approval decision. SEFR is also seeking orders setting aside a preliminary Council decision that the development was not 'designated development' – which meant that the proposal did not undergo a comprehensive Environmental Impact Assessment.

SEFR argues that when Council approved the development, it failed to consider the environmental impacts of logging native forests in the Eden region – including any increased bushfire risk that may arise from those operations. SEFR's position is that these impacts are all the more critical for consideration in the wake of the 2019/20 fires.

"Just over one year ago, the Eden region was facing a bushfire disaster of unimaginable scale," said Mr Scott Daines, spokesperson for SEFR. "80% of the loggable state forest in the region was burned, and we have a long recovery still underway."

In the 2019/20 Black Summer bushfires over 1.5 million hectares of forest in the Eden and Southern regions were burned. Professor David Lindenmayer from the Australian National University has said the fires should be used as a trigger to transition away from logging and woodchipping.¹

"Logging and woodchipping native forests is one of the greatest threats to the forests of the world, and one of the greatest contributors to climate change," said Mr Daines. "The protection of our native forests is of urgent national and international importance in these times of global climate crisis."

¹ Katie Burgess, 'Fire Hit Timber Towns Should Become Carbon Sinks' Canberra Times (online) 16 January 2020 <<https://www.canberratimes.com.au/story/6581827/fire-hit-timber-towns-should-become-carbon-sinks-expert/>>; see also Lindenmayer et al, 'Recent Australian Wildfires Made Worse by Logging and Associated Forest Management' (2020) 4(7) Nature Ecology and Evolution 898.

“This development consent would facilitate further native forest logging in the Eden region, and possibly beyond, over the next decade or more,” said Mr Daines.

Environmental Defenders’ Office Managing Lawyer, Biodiversity, Andrew Kwan said:

“Our client will argue that the Council’s decision under the Environmental Planning and Assessment Act 1979 was flawed in a number of critical ways and will ask the court to find that the development consent is invalid,” he said. “In particular, SEFR will argue that Council was incorrect to conclude that the likely environment impacts of logging were not relevant to the decision given separate assessment under forestry legislation. Those impacts are even more pertinent for Council to have considered in this new, post-bushfire reality in which the logging will occur.”

“If those arguments are successful, an important consequence may be that the development is subjected to more fulsome environmental assessment and public merits appeal rights,” Mr Kwan said. “In the wake of the fires and other threatening processes, such public participation and increased scrutiny of the impacts of this proposal is entirely appropriate and what our environmental laws provide for.”

The proceedings are listed for a first directions hearing in the NSW Land and Environment Court today (Friday 19 February 2021).

<END>