

Bronte J Somerset

4 November 2021

The Hon. (Matt) Matthew John Kean, MP  
Minister for Energy and Environment  
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SYDNEY NSW 2001

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Cc Premier Dominic Perrottet

*We acknowledge the traditional custodians of the lands on which we work and live, and pay our respect to Elders, past, present and emerging.*

Dear Minister Kean,

Re: Bega Valley Shire Council (BVSC) voting on a Development Application (10-2020-81-1) for a Timber Optimisation Hub from the Eden chipmill owners, Allied Natural Wood Enterprises (ANWE)

The purpose of this letter is to advise you of a situation which is being played out in the Southern and Eden Regions of the State Forests of NSW involving ANWE and of procedurally unethical action by the BVSC

- 1) The DA's triple submission to, and approval by, the BVSC.
- 2) The Land and Environment Court's determination that two approvals were null and void (third pending?).
- 3) The lack of epistocracy in the Council's voting process and improper issues relating to the events I observed at the BVSC's Public Meeting prior to the Council voting, again, for the DA.

### **Development Application Trail**

Forestry Corp. estimates that, in the Southern and Eden Regions, around 85% and 80% respectively of the area available for logging was impacted by the 2019-2020 fires <sup>1</sup>. Native forests are already under threat from a warming climate and the continuing logging, of burnt and unburnt forests, has been proven to exacerbate wildfire <sup>2</sup>.

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<sup>1</sup> Forestry Corp., 2019-20 Wildfires, NSW Coastal Hardwood Forests Sustainable Yield Review. Dec. 2020, p.6. Table 3: Mapped fire extent on native forest areas available for timber production by RFA region and sub-region.

<sup>2</sup> *Recent Australian wildfires made worse by logging*, May 5, 2020, University of Queensland

<https://www.sciencedaily.com/releases/2020/05/200505121655.htm>

*Logging increases risk of severe fire* College of Science, ANU.

<https://science.anu.edu.au/news-events/news/logging-increases-risk-severe-fire>

1. In April 2020, the Bega Valley Shire Council (BVSC) received a Development Application (10-2020-81-1) for the building of a Timber Optimisation Hub from Allied Natural Wood Enterprises (ANWE, chipmill owners).

BVSC's approval of the DA meant that production of low-quality wood products such as palettes and briquettes would place additional pressure on our region's already stressed native forests.

2. South East Forest Rescue (SEFR) worked with the Environmental Defenders' Office (EDO) to challenge the lawfulness of the Council's approval. The case went to the Land and Environment Court, and the Judge deemed the approval was invalid. This event was significant because it was the first time in eleven years that the public had been able to bring an action in a NSW court against the woodchipping industry.
3. In September 2021, ANWE applied to the BVSC for another almost identical DA. There were 126 submissions presented which opposed the DA and one which supported it.

Council approved the DA by 4 votes to 3.

4. SEFR and the EDO again took this decision to the Land and Environment Court and again the Judge deemed that the consent was invalid, void and of no force and effect, and ordered the DA consent to be set aside. (See the SERCA website for 2020 and 2021 submissions by local people. <https://serca.org.au/submissions/>)
5. In quick succession, ANWE again applied for the DA. On 20th October, SEFR and Chipstop again presented depositions to Council as to why it should reject the application to expand the capacity of the Eden chipmill. Councillors were urged to consider its impact on native forests and climate. Ms Swift stated: "We cannot pretend that this DA is just about couple of Colourbond sheds. It's about the future of the native forests in the Bega Valley and beyond. It's that serious," she said.

The DA was again approved, 4 votes to 3. Councillors Seckhold, Dodds and Griff considered the needs; the health and integrity of 432,575 ha of the Southern and Eden Regions' native forests, by voting against ANWE's DA.

Action in the Land and Environment Court is ongoing. Our campaigners maintain their momentum against the tide of those whose opinions (as shown below) are formed from a place beyond either knowledge, common sense or science. Native forests need the influence of honest political will to protect, not to destroy, thus ensuring compliance with the principles of environmental justice.

The pythonesque nature of this triple iteration of application, calls for submissions, public meetings with presentations, voting, SEFR and EDO vs BVSC and ANWE in the Land and Environment Court, then the court deeming approval by the Council had been invalid, beggars belief. It is unethical that, when the L&EC deem a Council's approval to have been invalid, that

an organisation can try different ways to get what amounts to basically the same DA, approved again and again.

### **Issues at the Public Meeting leading to the Councillors' voting.**

If you think this sounds stranger than fiction, and bureaucracy at its worst, playing roulette with what is precious and should be conserved at any cost, consider this.

During the meeting's question time, I witnessed that some of the Councillors had poor knowledge about the extent, quality and tenure of forests, and the amount of timber felled for woodchips. My assumption that their prior awareness of the fragile state of our native forests would outweigh a perceived need for an 'optimisation hub', was incorrect; for some, that awareness was not evident.

One Councillor asked where the logging was taking place. He had no idea of State Forests' boundaries. He stated that he lived opposite a forest and that not one tree had been logged. Embarrassingly, he was told that he lived opposite a National Park, not a State Forest. There were other points of knowledge which one would think the Councillors would possess such as extent of woodchipping, the volume of timber logged, that burnt forests were being logged, function of ANWE, but the opposing speakers were asked to supply the answers to these questions.

While not advocating a total epistocratic community, at the very least, the elements of an epistocracy should be evident in those government organisations which hold the power to dictate how the environment is treated. It presents as procedurally unjust and unethical for people with no or limited knowledge about something as significant as over 432,575 ha of our native forests in south east NSW to be making decisions about their management.

All Council meetings are live streamed and so was this one. However, when I reviewed the streaming online, it was clear that the questions asked by the Councillor who didn't know even about the tenure of the forest which his property looked out onto, had been removed. I have three witnesses at least who can testify that this is true plus three more BVSC Councillors.

These events are evidence of the scatty nature by which decisions about the forests are made in this part of the world and have been done so for decades.

Please end this destructive and mismanaged practice.

Yours sincerely,

Dr Bronte Somerset (Educ.)  
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