

M O R G A N S A W M I L L

INCORPORATING SAWMILL DIRECT CASE & PALLET AND RIVERLAND TREATED PINE

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21/10/2020

Australian Competition and Consumer Commission (ACCC)
Adelaide Office
Level 11, 1 King William St
Adelaide SA 5000

By email; adjudication@accc.gov.au

To whom it may concern;

Application for authorisation and interim authorisation

We, at Morgan Sawmill Jamestown wish to apply for authorisation in pursuant to Part VII of the *Competition and Consumer Act 2010* (Cth) (the Act) in relation to our proposal to collectively negotiate the terms of supply contracts with the South Australian Forestry Corporation (ABN 57 969 474 679) (ForestrySA) for the supply of our Logs. To this end, we enclose for your consideration an application for authorisation.

Fee Waiver

Please find attached a partial fee waiver and the bank receipt for payment.

Interim Authorisation

In addition, we also wish to apply for an interim authorisation, commencing on the 1st February 2021 and continuing until such time as the ACCC makes a decision in respect of our substantive application for authorisation. We seek authorisation in respect of;

- a) Engaging in collective bargaining activities to negotiate the terms of log supply with ForestrySA.
- b) Entering into supply agreements with ForestrySA in pursuant to the collective bargaining negotiations; and
- c) Giving effect to, or being knowingly involved in the negotiation of log supply agreements (specifically in respect of the timber processors listed)

The following matters are relevant to the ACCC's decision in respect of whether to grant interim authorisation:

- We seek interim authorisation in order to commence negotiations with target timber processors regarding the terms and conditions of possible log supply agreements. In particular we are mindful that the group is unable to partake in discussions in the absence of an authorisation or interim authorisation due to the potential uncertainty which is associated with the risk of exposure to liability under the Act. It is common for industry practice for timber processors to negotiate the commercial terms of log supply with up to a year in advance of the expiry of current contracts. In circumstances where many of the Group members individual log supply contracts are presently nearing expiration (as stated by ForestrySA), with our particular log supply agreement due to expire in June 2021, we are eager to secure new contractual agreements as soon as possible to avoid exposure to economic loss.
- Therefore it is important to gain authorisation in order to put the wheels in motion and get the process of secure log supply in place before June 30 2021.
- As noted in sections 8 (competitive constraints), 10 and 11 (public benefit/detriment) of the enclosed application, the proposed conduct of the Group and the Representatives is likely to have a positive impact on the current state of competition in markets in which are relevant to conduct of the Group's businesses, being the supply of timber products in South Australia.
- For this reason, the state of any competition in any relevant market is unlikely to be affected in any negative manner if interim authorisation is granted.
- In addition, we note that the matters outlined in section 3.3 (rationale for the proposed conduct) and section 10 (public benefits) of the enclosed application are presently relevant to our circumstances. Specifically, we consider that a net public benefit is likely to flow from the granting of an interim authorisation.
- Ordinarily, our proposed conduct would be a candidate for notification rather than authorisation. However, we have estimated that one member of the Group has an existing supply contract with ForestrySA that could be just over the \$5 million threshold over any 12 month period.
- If we did not gain interim authorisation, then this would slow down the negotiation phase and may cause detriment to our log supply and hence the business.

- All of the proposed conduct needs to be engaged in as soon as possible in order to gain a group strategy and then meet with ForestrySA.
- I would also like to note that this application has been a very onerous task for myself at Morgan Sawmill, I am fitting this in my schedule with my ordinary daily tasks. I work part time and also have a young family at home. It has taken time to research, reference and type up this application. We have acted as quickly as we could as soon as we understood that this is what we would have to do in order to secure our log supply.

Please contact us if you have any questions or would like to discuss the application further.

We otherwise look forward to hearing from you in relation to the application for interim authorisation.

Yours faithfully

A grey rectangular box used to redact the signature of Candice Kalisch.

Candice Kalisch

Application for authorisation

Information

Parties to the proposed conduct

1. Provide details of the applicants for authorisation

Edward John Morgan as Trustee for the Ed Morgan Family Trust and Luke Laurence Morgan as Trustee for the Luke Morgan Family Trust, Trading as “Morgan Sawmill Jamestown”

ABN 95 597 417 453

4487 Wilkins Highway, Jamestown SA 5491

Contact Person: Candice Kalisch

Tel: [REDACTED]

Email: [REDACTED]

Business activities

Morgan Sawmill Jamestown is a family business, owned and operated throughout 3 generations by the Morgan Families. We are timber processors and pride ourselves in quality and proficiency. Our product range is extensive and includes posts, structural timber, pallets, bins/boxes, woodchips, sawdust and decking to name a few. We also provide Treatment facilities for CCA, LOSP and Tan-E. Morgan Sawmill has evolved over time, growing significantly in size and developing new product lines for the ever-changing market.

In recent times our log supply has been supplemented by a supply of logs from the Adelaide Hills (Mount Lofty Reserve) to account for the shortfall caused by the Bundaleer and Bangor fires in 2013 & 2014 in South Australia's Mid North. This supplementation is likely to continue until new growth can be harvested from the replanted Mid North forests. Bundaleer Forest was the state's first plantation forest, planted in 1876, while the Wirrabara forest followed not long after in 1877.

ForestrySA are the Forest Managers for the State Government of the Mount Lofty Reserve. Our log supply agreement (Logs from the Mount Lofty Reserve) with ForestrySA is due to expire in June 2021.

Hence, our aim, at this time, is to secure a long term (10 year) log supply agreement with ForestrySA for logs from the Mount Lofty Reserve.

Email address for service of documents in Australia.

[REDACTED]

- 2. If applicable, provide details of the other persons and/or classes of persons who also propose to engage, or become engaged, in the proposed conduct and on whose behalf authorisation is sought.**

Other businesses that will be involved in this application are other timber processors and / or harvesters, which are existing now or into the future. Members of this 'group' that we are proposing to 'involve' are listed below. The list is not exhaustive and we would also like to include any new or other processors/operators that are (or become) involved in supply of timber from ForestrySA.

- **SA Pine Pty Ltd**
ABN 48 160 064 880
Lot 808
Wickhams Hill road
KUITPO SA 5201

Contact Person: Ian Robinson
General Manager
Tel: [REDACTED]
Email: [REDACTED]

- **KSI Sawmill**
ABN 11 657 678 273
52 Falkenberg Road
NURIOOTPA SA 5355

Contact Person: Victor Kyriakou
Director
Tel: [REDACTED]
Email: [REDACTED]

- **PalletCo**
ABN 67 007 795 128
62-64 Millers Road
WINGFIELD SA 5013

Contact Person: John Piro
Tel: 1300 725 538
Email: sales@palletcosa.com.au

Each of the entities listed operates timber processing businesses, principally involved in the sawmilling of raw logs from the Mount Lofty Reserve in South Australia. Collectively, the “Group” produces quality timber goods such as, posts (round and square), structural timber, pallets, bins/boxes/crates, woodchips, sawdust, shavings, decking, framing, sleepers, case grade boards, pine bark. Treatment facilities for timber, including CCA, LOSP and Tan E is also provided.

To give the ACCC an appreciation of the size of the processors, the following table has been compiled using log sales statistics from ForestrySA in the 2018-2019 financial year (ForestrySA Annual Report 2018-19 p.18). The Mount Lofty Reserve is approx. 10,000ha and produces around 150 – 160,000 m3 of logs each year.

[REDACTED]

Plantation area, by state/territory, selected years State/Territory	2016–17 ('000 ha)	2017–18 ('000 ha)
New South Wales	394.4	393.2
Victoria	421.7	420.6
Queensland	230.4	230.5
South Australia	175.9	172.2
Western Australia	367.9	361.7
Tasmania	309.9	309.8
Northern Territory	47.5	47.4
Australian Capital Territory	7.4	7.4
Total		1,942.7

Table 2 Source – Australian plantation statistics 2019 update p. 2

https://www.forestrysa.com.au/app/uploads/2018/04/DFAMAP_MLR_-revised-26-April-2018_Web.pdf - Map of Mount Loft Ranges plantations.



The next geographically closest pine plantation is the Green Triangle – and as can be seen on Map 1, this is a long way away (620km) and therefore the transport costs would make this option economically unviable.

It is also important to note: that as processors, we have set limits on what we can process. Raw logs are sawn to make timber products. At Morgan Sawmill, we process a certain volume of logs each year and, unless we put on additional shift workers (with the associated costs) or upgrade to more efficient machinery (which both take time and money to set up)– we are “set” to process around 24-26,000 tonnes of logs per year. It is also important to note that the logs need to be cut fresh and supplied at a regular and constant rate, we cannot have a huge amount delivered and sitting in the yard (for years/months) as the log dries out and it cannot be sawn.

This highlights the recent shortcomings in the latest tender process from ForestrySA, as they offered up a parcel of 75,000 tonnes of logs that had to be taken over a short time period of 4 ½ months. With the proposal being issued on the 21st January 2020 and the contract to be started on 14th February 2020, in 3 weeks we were unable to make any changes within the business to cater for this. We believe that ForestrySA wrote this recent tender in such a way as to exclude small local processors.

Authorisation is sought on behalf of each of the proposed members (as above), as well as all future members of the Group. It is envisaged that the group will consist of a maximum number of four to five members (businesses), with the fifth member being the possibility of the Harvesting contractor Harvestco <http://www.harvestcogroup.com.au/about-company/> .

The proposed conduct

3. Provide details of the proposed conduct, including:

3.1 Description of the proposed conduct and any documents that detail the terms of the proposed conduct

We propose that each Group member comes together to form a collective bargaining group, for the purpose of negotiating, with ForestrySA, the terms and conditions (including aspects of pricing components) associated with log supply for each group member in its individual capacity. At the time of writing this, the Group as not met and has not yet discussed the details on if and how this will proceed.

We have identified that ForestrySA are seeking to only have one or two log supply agreements. As stated below by the current CEO Mr Speed.

“One of the real problems is that, as I said to you before, we have five log supply agreements. If we had one or two, with a more consolidated processing base—one or two larger players instead of five smaller ones—it would certainly be much more sustainable than it is today.” (J Speed CEO ForestrySA, Transcript to the Legislative Council, Select Committee on Matters Relating to the Timber Industry in the Limestone Coast 17.03.2020 p.31).

Therefore we see this as an opportunity to explore “collective bargaining” and consolidate our Log supply agreements, otherwise we are concerned that as a smaller processor, if we stand individually we may run the risk of being starved out of log supply and forced to close our doors.

As noted above, there are currently five log supply agreements – as noted, we have only included four processors in the “group” we do not know of any other processors in the local vicinity, thus we believe the fifth supply agreement to be the tender signed in February 2020. Whom we believe the successful applicant to be Malec –“a leader in the timber exporting industry” <https://www.malec.com.au/our-services/exporting>. We have not included Malec in this proposal as we believe that they are not timber processors (sawmillers).

The proposed topics for discussion would be aimed at how we could work together to secure a 10 year log supply agreement for all of us. This would include (but not limited to) items such as

- Contract terms
 - Period of supply
 - Volumes
 - Price per grade of log
 - Delivery / pick up locations
 - Log specifications
 - Commencement date / expiry date
 - Rate of supply (m3 per week etc)
 - Reject log / Fire affected log
 - Security
 - Payment terms
 - Insurance
 - Measurement method

- Any other relevant topics in relation to the contract

The Group does not propose to engage in collective boycotts as it would be contradictory to our business to cease the supply of logs.

As the “group” has not met yet – we do not know what terms would be common and what terms would be unique. We do envisage having one supply agreement with reference to volume/grade(s) that match each processors requirements.

3.2 The relevant provisions of the Competition and Consumer Act 2010 (Cth) (the Act) which might apply to the proposed conduct

The proposed conduct attracts the provisions of s. 45 of the Competition and Consumer Act 2010 (Cth) that relates to contracts, arrangements or understandings that restrict dealings or affect competition.

3.3. The rationale for the proposed conduct

Morgan Sawmill Jamestown has a current log supply agreement for three years with ForestrySA for logs sourced from the Mount Lofty Reserve. This agreement expires at end of June 2021. Three years is a very short time frame for an industry to operate its business within, historically, Log Supply Agreements have always been 10 years minimum. We have had meetings with ForestrySA to secure a long term 10 year log supply agreement, however the negotiations have come to a standstill.

Understandably, this has placed our business in grave danger of being “starved out” and having our log supply ceased as of June next year. We believe ForestrySA have already started this process by offering tenders for parcels of quality log that include large volumes (75,000 tonnes) to be supplied over very short periods of time (4 ½ months). Morgan Sawmill alone processes 25,000 tonnes of log in a year, making this tender “out-of-reach” for our business.

ForestrySA have also voiced that they find long term agreements to be inconvenient for them as they “may” miss out on other opportunities to sell the log to “export markets” and others alike. We consider this to be a very short sighted approach and certainly unsustainable for our sawmill.

Therefore we see this as an opportunity for the sawmills to come together to create greater bargaining power. The Mount Lofty Reserve can supply 150-160,000 tonnes of logs each year, and we believe this is enough for all of the smaller processors to each have a parcel that reflects their current demand. Also if other “parcels” of log become available – we can use our bargaining power to secure the log for Australia and each process sections of the “parcel” (split it up between us) this will create opportunities also for expansion of the Timber industry in Australia. Rather than what we believe has happened recently - with the recent parcel (75,000 Tonnes) being exported to China.

Our rationale for this approval is summarised below;

- Our current log supply agreement is due to expire at end of June 2021 and all negotiations with ForestrySA to renew the contract have come to a standstill.
- The current CEO of ForestrySA has said that it is preferable to only have one or two larger Log Supply Agreements – rather than five smaller ones.
- Having one consolidated 10 year log supply agreement will largely reduce the costs associated with negotiating contracts.
 - With the authorisation – this would be two or three meetings with the CEO of ForestrySA over the 10-year period.
 - Without the authorisation – this would mean that EACH processor would need to have two or three meeting with ForestrySA – that could equate to twelve meetings and also, if ForestrySA want to continue to only supply 3-year contracts that could equate to thirty-six meetings in a 10-year period VS two or three meetings.
- To gain confidence and security for the Timber industry and greater bargaining power to secure long-term (10 years) log supply agreements for all members of the Group.
- If we cannot gain consistent long term log supply, then we would not be able to operate as the successful business we are today. We have no other option, than to obtain the log supply from the State owned, ForestrySA managed - Mount Lofty Reserve.
- Provide greater certainty and opportunities for continuity, confidence for investing, upgrading and expansion in the Timber Industry in Australia and South Australia. For example, at Morgan

Sawmill, our bank has requested the guarantee of a 10-year log supply agreement from ForestrySA to underpin loans and finance.

- To pull together our resources to investigate the true nett value from log supply agreements and customers “in the export space”.
- Join our capability together and obtain professionals (if required) to build and sustain working relationships and long-term contracts with ForestrySA.
- Maintain this great Australian resource – timber, trees that have been nurtured by our State Government over the past 20-30 years and prevent unnecessary and unprofitable exports.

The goal for this authorisation is to gain a long term log supply agreement.

- To do this, we believe that we must consult with the other processors within our local area.
- To do this, we must have Authorisation from ACCC to avoid the risk of exposure to liability under the Act.
- We cannot do anything further until we have this authorisation approved.

The collective bargaining will provide logistical advantages and efficiencies in negotiating the terms and conditions of the log supply through shared resources.

3.4. The term of authorisation sought and reasons for seeking this period.

The Group is seeking authorisation for a period of 20 years.

The authorisation for 20 years will enable a 10 year log supply agreement, plus another 10 year renewal and cover this whole time that the contract(s) are in use, without requiring another authorisation to be granted (or paid for).

4. Provide documents submitted to the applicant’s board or prepared by or for the applicant’s senior management for purposes of assessing or making a decision in relation to the proposed conduct and any minutes or record of the decision made.

N/A

5. Provide the names of persons, or classes of persons, who may be directly impacted by the proposed conduct (e.g. targets of a proposed collective bargaining arrangement; suppliers or acquirers of the relevant products or services) and detail how or why they might be impacted.

ForestrySA

- ForestrySA has the monopoly for timber supply in our region.
- They will positively benefit as they will only be required to negotiate one or two log supply contracts rather than five – as per the CEO Mr Julian Speed’s future outlook as noted under section 3.
- ForestrySA will spend less time with each customer negotiating contracts and as mentioned above would result in a reduction of approximately thirty-three meetings over a 10-year period.
- ForestrySA will have the advantage of securing long-term log sales.
- ForestrySA could possibly miss out on opportunities to sell logs to other customers/markets as they arise. We argue that;
 1. To our knowledge, are no other local processors that require supply as we have included all “known” processors in this application.
 2. ForestrySA may be looking to export the logs. We feel that timber is such an important resource that the local processors should have first opportunity to buy the resource. This approach will also “value add” to the State.
 3. The processors simply cannot have the “tap turned off” in relation to logs coming in. We cannot simply stop/start the processing of logs when ForestrySA do or don’t have any better offers elsewhere for the logs.

The Fifth Business with the log supply agreement

- We understand that this contract expired on 30th June 2020 as per the Request for Proposal FD 2020/67 (included in the supporting documents).

Customers of the processors/sawmillers in the group

- If we cannot gain authorisation and thus, secure long term log supplies, then consequently, our customers would have to purchase the timber products elsewhere.

This would incur a hefty transport cost as the other processors are much further away and would also make the products more difficult to obtain as, one would assume, the processors further away would already have their own customers so “new” ones would have to wait longer for the timber products to become available – and could possibly pay a premium for these products as well.

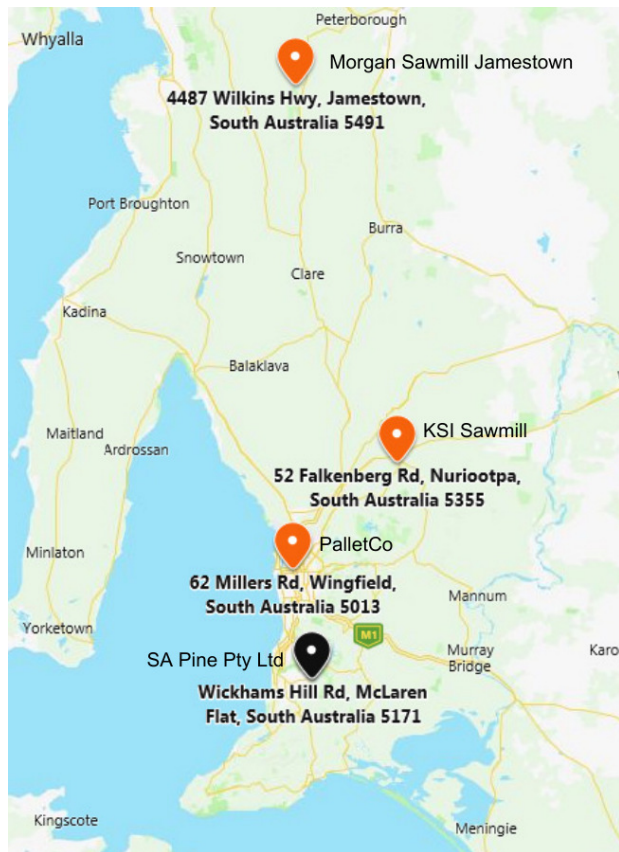
Market information and concentration

- 6. Describe the products and/or services, and the geographic areas, supplied by the applicants. Identify all products and services in which two or more parties to the proposed conduct overlap (compete with each other) or have a vertical relationship (e.g. supplier-customer).***

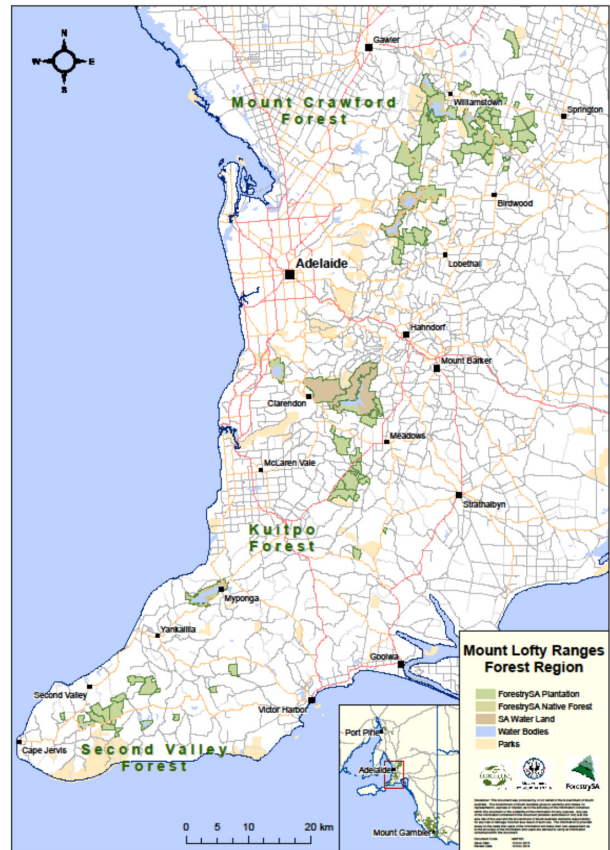
Morgan Sawmill is Located in Jamestown – we also have 4 enterprises grouped together making an inter-dependant processing and manufacturing facility. Each entity is reliant on the sawmill for supply, management and direction. We have a total of 60 Full Time employees. We have mixed processing platforms that have been designed and moulded throughout three generations of sawmilling to match what the forest can provide.

Each individual processor operates and specialises out of what the Forest can supply. There is minimal overlap and some have a vertical relationship in where we buy/sell timber products off of one another.

Please see below maps of where the processors are situated and a map of the Mount Lofty Ranges.



Map 2 Source, Google Maps



Map 3 Source, ForestrySA

The majority of our products are sold in South Australia with a portion going interstate.

We don't know of any other processors in this particular area of South Australia – the closest processors to the West are in Western Australia and the closest to the South-East is the Green Triangle – over 600Km away from Morgan Sawmill. Please map 1.

7. Describe the relevant industry or industries. Where relevant, describe the sales process, the supply chains of any products or services involved, and the manufacturing process.

The main industry's affected are;

- The Forest and Timber Industry's

Secondary industries also affected include;

- The building and construction industry
- Furniture industry
- Freight and packaging industry (Pallets / Bins / Crates made from timber)
- Vegetable growers industry (Potato and Onion Bins)
- Gardening and Landscaping (Softfall (woodchips), sawdust)
- Livestock industry (shavings for animal bedding etc)

The forest plantation estate is State owned, but is managed by ForestrySA. The ForestrySA Board is responsible to the Minister of Primary Industries and Regional Development for overseeing the operations of the corporation with the goal of;

“Encouraging and facilitating regionally based economic activities based on forestry and other industries to protect the long-term viability of the Corporation and the Crown’s financial interest in the Corporation for the benefit of the people and economy of the State” (2.1.2 Charter of the South Australian Forestry Corporation)

ForestrySA manage 10,500ha of plantation pine in the Mount Lofty Ranges.

Each member of the Group has a Log Sales Agreement with ForestrySA. Historically, these agreements were offered on a 10 + 10-year period. More recently, however, ForestrySA have only offered a very short-term agreement (3 years).

The timber supply chain

1. Supply contract is formed with ForestrySA and the customer (i.e. Sawmill) (no permits are required on our behalf)
2. The logs are harvested and delivered to an agreed location
3. The logs are milled at the processing facility (sawmill)
4. The products are cut, dried, treated, packed, made into pallets/bins etc and delivered to the customer

8. In respect of the overlapping products and/or services identified, provide estimated market shares for each of the parties where readily available.

The approval will not be detrimental to the competition or supply of timber products. The approval will secure the supply and competition of these products. If not approved then the competition between processors will be lessened and consequently timber products could become more costly.

Moreover, if ForestrySA continue to bypass the local processors and export the logs then timber will be very difficult to obtain and maintain supply for the five plus industries mentioned above who rely on products produced by the Timber Industry.

The amount of logs processed within the group is very small compared to the whole of the South Australian and Australian as a whole.

Total Softwood Log Harvest 2018-19 for South Australia = 3,052,000 m3.

Total Softwood Log Harvest 2018-19 for Australia = 17,142,000 m3

Source - https://daff.ent.sirsidynix.net.au/client/en_AU/search/asset/1031021/2

Log Harvest 2018-19

Processor	Estimated annual intake (m3)	Percentage of total harvested in <u>South Australia</u>	Percentage of total harvested in <u>Australia</u>
Morgan Sawmill	25,000	0.82 %	0.15 %
SAS	75,000	2.46%	0.44 %
PalletCo	15,000	0.49 %	0.09 %
KSI	25,000	0.82 %	0.15 %
Total	140,000	4.59 %	0.83 %

Table 3

9. ***In assessing an application for authorisation, the ACCC takes into account competition faced by the parties to the proposed conduct. Describe the factors that would limit or prevent any ability for the parties involved to raise prices, reduce quality or choice, reduce innovation, or coordinate rather than compete vigorously. For example, describe:***

9.1. existing competitors

9.2. likely entry by new competitors

9.3. any countervailing power of customers and/or suppliers

9.4. any other relevant factors.

As mentioned above in dot point 8. the successful authorisation will mean that there will continue to be more competition and variety in the timber market. Rather than the outlook of having just one processor, the 'group' will be able to continue on with their allocated log supply and thus creating products, maintaining variety and therefore competition will still exist between the processors. This will also ensure the jobs are sustained.

The proposed conduct will enable better buying power, more security and greater investment opportunities for the future Timber industry. This will ensure greater supply and increased competition for timber products within Australia.

Price adjustments for the Logs would be controlled by a mechanism tied to movements in the Consumer Price Index or similar (as has been the case in the past and current log supply agreements).

We are finding it difficult at the moment to gain a secure log supply agreement from ForestrySA and we have been existing in business for over 57 years –three (going on four) generations. ACCC has asked if it would be easy or difficult for a new sawmill to establish themselves – I think ForestrySA would have to answer that question. We are finding it very difficult now to gain a log supply agreement so it would be no more difficult than it already is now!

The authorisation and the proposed conduct is aimed at securing a long-term log supply. Each sawmill processes different types and mixes of logs, therefore we all have different costs involved

in the processing of logs. Securing a log agreement and long term supply will only positively affect this as the timber processors would be able to secure bank loans and finance required for upgrades that would/could improve efficiency in the production of our products therefore reducing the cost in the long term. Supply agreements also need to have sufficient terms to underpin bank loans and other financial commitments.

Public benefit

10. Describe the benefits to the public that are likely to result from the proposed conduct.

Provide information, data, documents or other evidence relevant to the ACCC's assessment of the public benefits.

The public benefits likely to be derived from the Proposed Conduct will include;

- Increased competition due to the four timber processors continuing to operate as opposed to just one or two. (A sawmill cannot operate without log supply).
- A secure timber supply chain for SA and keeping the timber resource within Australia.
- Currently our bank requires us to have a 10 year log supply agreement as a guarantee before they will approve long term business loans, therefore we are unable to invest in upgrades/improvements etc. Thus the proposed conduct, (through the long term log supply agreement) will enable increased efficiency of supply of timber products, the timber processors will be able to have certainty into the future and thus creating more opportunities for growth and investment, improved technologies and research for the Timber industry. Examples of research opportunities could include (but not limited to) developing new timber products and processing systems that are newer and safer for our employees. Examples of upgrades include safer working environments that reduce manual handling and place distance between operators and machinery. We are not able to achieve long term investments with a short term (3-year) log supply agreement.
- Each sawmill will be able to continue to operate individually, securing hundreds of direct, and thousands of indirect jobs for Australia, therefore decreasing unemployment. It is estimated that each additional 10,000 tonnes of softwood processed locally would generate 11 jobs and \$1.9 million in Gross Regional Product (*South Australian Timber Processors Association Inc*,

Submission to the select committee on matters relating to the timber industry in the limestone coast, p. 6).

- Morgan Sawmill alone is estimated to contribute \$9.4million back into the local economy each year (see supporting document - Regional Economic Impact of the Morgan Sawmill p.vi), this will be maintained. If we apply this to the “group” (each 25,000 tonnes of logs processed = \$9.4million) this could potentially equate to \$58.66 million back in to the local economy each year.
- The building, construction and furniture industry(s) will be able to continue to source their timber needs locally.
- Local fruit and vegetable growers can source their bins/boxes for their produce.
- Freight carriers etc will be able to continue to source their pallets locally.
- Local timber supply will be sustained.
- Local schools and playgrounds will be able to easily access woodchips for their playgrounds.
- Morgan Sawmill alone contributes to 14 plus community organisations, sporting clubs and charitable events each year, if the authorisation is approved this community support will be guaranteed to continue.
- ForestrySA will have a more consolidated approach to its Log Sales Agreements.
- There will be an approximate cost saving over 10 years of \$32,372.55 from a reduction in meetings to negotiate new contracts, (using the most conservative approach) see below;
 - Each individual meeting would cost approx. \$1,108.65 (or 15x hours). With approx. thirty-six over a 10 year period (3 x meetings each processor (x4) x every 3 years) would equate to \$39,911.40 (or 540 hrs).
 - Compared to if we had one contract for 10 years and 3 meetings with ForestrySA = \$468 x 4 processors = \$1,872+ ForestrySA \$640.95 = \$2,512.95 per meeting. A total of \$7,538.85 for 3 meetings over a 10 year period. That's a saving of \$32,372.55.
 - ForestrySA alone would save \$21,141.45 (\$640.65 x 33 meetings).

Title	Hourly Rate	Hours at each meeting **	Total
CEO ForestrySA	\$127.02 /hr*	3	\$381.06
Commercial Forestry Operations Manager ForestrySA	\$86.53 /hr*	3	\$259.59
<u>Total per meeting ForestrySA</u>			<u>\$640.65</u>
Partner MSJ	\$65.00 /hr	3	\$195.00
Log Supply Logistics Manager MSJ	\$42.00 /hr	3	\$126.00
Business Administration MSJ	\$49.00 /hr	3	\$147.00
<u>Total per meeting Morgan Sawmill</u>			<u>\$468.00</u>

Table 4

*please note that the hourly rates above for ForestrySA have been obtained from the ForestrySA Annual Report 2018-19, p.43 with the assumption that the CEO is the employee in the \$231-\$251,000 band and the Commercial Forestry Operations Manager being in the \$151,000 - \$171,000 band (\$band/52 weeks / 38hrs/week) and works 52 weeks per year at 38hrs per week.

**hours at each meeting includes 1hr of meeting time and 2hrs of preparation time. This does not include travel which can be up to an additional 6hrs per person at each meeting depending on where the meeting is held.

If we do not win contracts with ForestrySA, then the local fruit and vegetable growers, schools and builders would need go gain their timber products from other sources. This could mean that these products will be more expensive when transport/freight is taken into consideration.

Evidence that the logs will be exported to China if we cannot gain a log supply agreement;

1. ForestrySA want only one or two log supply contracts. We know that one or two processors alone will not be enough to take the full 150-160,000 tonnes that the Mount Lofty Ranges provides.

3. ForestrySA are currently selling logs to an 'Australian-based' exporter (J Speed CEO ForestrySA, Transcript to the Legislative Council, Select Committee on Matters Relating to the Timber Industry in the Limestone Coast 17.03.2020 p.33)

4. We do not believe that it would be economically viable to transport the logs to any other processor, with the closest other Sawmill being in the south east (Mount Gambier) 423km away.
5. We also believe that the latest tender (RFP 2020/67) for 75,000 tonnes of logs was logistically impossible for any local processor to apply for. And we believe this log has now been exported.
6. We believe that ForestrySA are seeking the “highest bidder” rather than the “best value” for the people of the state and the nation, as stated below by Mr Speed;

“Further then, it is necessary for some export of log fibre because there are other situations where the product is not merchantable through our existing local network. By extension, I suppose, there will be times in pricing cycles where export parity pricing either cannot or is not matched by the domestic industry, and logic says that what has happened is those logs have gone for export where it has been more profitable for the forest grower for that to happen”. (*J Speed CEO ForestrySA, Transcript to the Legislative Council, Select Committee on Matters Relating to the Timber Industry in the Limestone Coast 17.03.2020 p.26*)

Public detriment (including likely competitive effects)

11. Describe any detriments to the public likely to result from the proposed conduct, including those likely to result from any lessening of competition. Provide information, data, documents, or other evidence relevant to the ACCC’s assessment of the detriments.

The Group’s activities are unlikely to have any substantial effect on competition between the Group and / or other Timber processors. We are not aware of any other sawmillers in the same locality as the ones included in the group.

As mentioned prior – the Group does not intend to engage in collective boycotts.

Members of the Group are free to negotiate with ForestrySA on an individual basis as well as on a collective basis (i.e. through the Group) as required.

The group will be discussing the terms of the contractual log supply, there will be no need to discuss any other matters in relation to our products or the prices we charge for them. We do not

believe that there is a risk of the processors in the group aligning their prices more closely if authorisation is granted.

Contact details of relevant market participants

12. Identify and/or provide names and, where possible, contact details (phone number and email address) for likely interested parties such as actual or potential competitors, key customers and suppliers, trade or industry associations and regulators.

N/A

3 Applicants are encouraged to consult with the ACCC prior to lodgement to discuss the scope and range of documents needed in the context of the proposed conduct for which authorisation is sought.

Additional information

13. Provide any other information or documents you consider relevant to the ACCC's assessment of the application.

The 'group' seeks to address the problem faced by timber processors, namely; the lack of security in the short term log supply agreements.

Without the benefit of the enhanced bargaining power which would be afforded by the Group, each of the individual applicants would remain less able to enter into more balanced commercial terms to enhance the financial viability and sustainability of their timber processing businesses.

Declaration by Applicant(s)

Authorised persons of the applicant(s) must complete the following declaration. Where there are multiple applicants, a separate declaration should be completed by each applicant.

The undersigned declare that, to the best of their knowledge and belief, the information given in response to questions in this form is true, correct and complete, that complete copies of documents required by this form have been supplied, that all estimates are identified as such and are their best estimates of the underlying facts, and that all the opinions expressed are sincere.

The undersigned undertake(s) to advise the ACCC immediately of any material change in circumstances relating to the application.

The undersigned are aware that giving false or misleading information is a serious offence and are aware of the provisions of sections 137.1 and 149.1 of the *Criminal Code* (Cth).



Signature of authorised person

Business Administration Manager

Office held

CANDICE KALISCH

(Print) Name of authorised person

18 / 12 / 2020

This [insert day] day of [insert month] [insert year]

Note: If the Applicant is a corporation, state the position occupied in the corporation by the person signing. If signed by a solicitor on behalf of the Applicant, this fact must be stated.