

# 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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18/02/2021

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

By email; [adjudication@accc.gov.au](mailto:adjudication@accc.gov.au)

To whom it may concern;

## **Response to Submissions – Application for Authorisation**

Please see our response below to the 4 submissions that have been received in regards to the collective bargaining authorisation application. Morgan Sawmill Jamestown, SA Pine Pty Ltd, KSI Sawmill, PalletCo and future members of the group, seek authorisation to collectively negotiate terms and conditions (including price) with the South Australian Forestry Corporation (ForestrySA) for the supply of logs.

### **1. Midway**

14<sup>th</sup> January 2021

We would like to thank you for your time to reply to the ACCC in regards to our proposal. It is good to know that we have your support.

### **2. Small Business Commissioner South Australia**

18<sup>th</sup> January 2021

Thank you for your submission to the ACCC in relation to our proposal for Authorisation. It is very reassuring knowing that we have your support.

### **3. South Australian Forestry Corporation (ForestrySA)**

27<sup>th</sup> January 2021 (Submission on Interim Authorisation)

3<sup>rd</sup> February 2021 (Submission on Substantial Authorisation)

We would like to thank ForestrySA for their submission and would like to submit the following as a response.

## Summary

The four processors involved are SA owned and operated processors who have been successfully dealing with the SA Government owned supplier for many years, firstly as Woods and Forests and more recently as ForestrySA. These processors have recognised the need to form a cooperative approach to log supply, only in very recent times after a shift in direction from ForestrySA away from local processing has been recognised.

It is interesting to note that the ForestrySA submission has placed emphasis on some key points. Notably the competitive bidding process which may be under threat. It is hard to visualise a bidding template that was highly competitive when all bids are shrouded in secrecy. It is also hard to visualise that ForestrySA are looking to retain this ideal whilst at the same time the CEO of ForestrySA is making it clear that he is looking to reduce the number of players to a single customer.

Yes, there are a number of alternate suppliers for the SA processors, but in reality the alternate supply option is completely unrealistic. The reality is that alternate supply is not viable. The first option is the small local Adelaide hills plantations that were encouraged by ForestrySA in the 1980's. These are unmanaged small plantations and if 100% of these plantations were harvested, the log would not supply the needs of the four processors for one year, before being exhausted. The other option is to import log from overseas or interstate. The raw logs are expensive to freight and consequently, this option does not present as a viable alternative.

To summarise. The only viable way forward for the four local processors is to deal with the only viable local resource in the most efficient method available.

## Competition concerns

The processors are very long-term customers of ForestrySA and purchase differing parcels of logs. For instance;

- SA Pine only processes high grade log, predominately 6.0m topped up with 4.8m lengths.
- KSI Sawmill only processes short 2.4m log.
- PalletCo only processes low grade or break log.
- Morgan Sawmill Jamestown process any log that is surplus to the other 3 sawmill requirements – any length up to 6.0m.

As such, there is virtually no competitive process involved. Please see Table 1 for the breakdown of what MSJ received for the 18/19FY.

- Therefore, this demonstrates that, in fact, the local processors are all on-par with each other and reflect what is happening in the Local Market. We are not currently competing against each other, unknowingly we are already “collectively” competing against “what else is happening in the market”. We know that export prices fluctuate (as mentioned above). We can understand this currently by China refusing to take timber from Australia and therefore causing a great upheaval in the export industry. This demonstrates that export prices / trends are unstable and fluctuate – however our price doesn’t, it is a secured, locked in price (plus yearly CPI).
- If ForestrySA were to take a ‘quick buck’ for a short-term goal, (as we believe they have demonstrated to do in the past) when China (or any other exporter or outsider) takes disinterest in the timber industry, who will ForestrySA turn to? Who will they sell their logs to? The processors cannot simply stop/start operations, if we close our doors that will be it! There will be no coming back. How will this outcome be beneficial to the State and the people of Australia?

ForestrySA’s method/model of “price benchmarking” is not transparent and we believe that as a ‘group’ we can explore this option and create more transparency and a better understanding of ForestrySA’s benchmarking obligations and therefore this will create a greater benefit for ForestrySA and the Group. We do not have the resources to do this individually. Therefore, it is imperative that the “group” is approved to be able to discuss pricing.

Furthermore, ForestrySA claim that they are not opposed to a 10-year log supply agreement, however then go on to point out a large number negatives as to why a 10-year log supply agreement does not suit. (*ACCC Submission by ForestrySA AA1000539 03.02.2020*)

What are the benefits of a short-term agreement?

- Put simply - a quick buck for ForestrySA!

What are the detrimental effects of short-term agreements to local processors (less than 10-years)?

- Processors that are unable to invest in their business
- Processors that are unable to invest in long term upgrades
- Processors that are unable to invest in training and research programs
- Processors that are unable to retain skilled staff, it takes years to be a skilled;  
  - ✓ Saw bench operator

Grade and Length	Tonnes
Pres	5,194
AAD Grade 6.0m	796
AAD Grade 4.8m	2,516
AAD Grade 3.6m	5,526
ASD Grade 6.0m	0
ASD Grade 4.8m	0
ASD Grade 3.6m	0
KDD Grade 6.0m	0
KDD Grade 4.8m	0
KDD Grade 3.6m	1,030
SPD Grade 4.8m	26
SPD Grade 3.6m	2,428
PLD Grade 4.8m	5,693
PLD Grade 3.6m	2,984
<b>Total</b>	<b>26,193</b>

Table 1

Processing facilities (sawmills) are designed in a way as to take a particular specification of log. We also have different dynamics of customer bases that require a continued supply of particular products. For example – Morgan Sawmill would not be able to just decide one day to only process “all of the SAW grade logs” – 1. We wouldn’t be able to process this volume at our facility and; 2. We are designed in a way that we need a mix of different size logs. So, we are not interested in competing with the other processors on their log allocation.

The table below demonstrates that the forest provides surplus to the overall requirements of the “group”.

[illegible]

It is interesting, to note , that, with the comments – like below, made by the CEO of forestry, we feel as though the domestic processors are already ‘grouped’ together and are already

competing as one VS 'larger' 'outside' players. Hence, the proposed conduct will not change this. Rather it will allow us to come together and give us a chance to compete with "what else is happening in the industry". [REDACTED]

"The long-term supply agreements with **domestic customers**...have been traditionally underpriced, and we know that by doing comparisons with **what else is happening in the industry**" (*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*).

Moreover, when we have asked ForestrySA to give us a price that they would like to sell the logs for, they refuse. A lot of the time we feel as though we are taking a "stab in the dark". For future supply, ForestrySA have said that [REDACTED]

[REDACTED] Public comments from the CEO saying that the Domestic Processors contracts are under-priced are not helpful – however, we can assume from this that all 4 domestic processors in the group have been given the hard line of, pay [REDACTED]. This is why it is important that the 'group' can discuss pricing. We must work with ForestrySA and find a way forward.

This also highlights the fact that the processors are all 'on-par' with each other as it stands, and we feel that we are actually competing against a secretive / possibly impossible benchmark that could be highly weighed against export prices at a particular snap-shot in time. We know that fluctuations in the export market price can be extreme; for example, David Geddes has highlighted the volatility of the export market noting that the export log prices plummeted more than 30-40%, over just a 3-month time frame (Personal Submission by David Geddes to the Legislative Council of South Australia, Select Committee on Matters Relating to the Timber Industry in the Limestone Coast 17 September 2019, p.21

<https://committees.parliament.sa.gov.au/committee/367/Matters%20Relating%20to%20the%20Timber%20Industry%20in%20the%20Limestone%20Coast/54/54th%20Parliament%205%2F3%2F2018%20-%20Current/54> )

It is also important to note, ForestrySA have made it very clear that they are the "gatekeeper" of the sale of the logs from the Mount Lofty Reserve and that they will sell logs that are competitively priced against their "benchmark" pricing, therefore, not only is the claim that the "group" will be offering a lower price (in comparison to what would be offered individually) unfounded, it is also irrelevant to make such a claim if ForestrySA have the sole decision as to "who" the logs will be sold to.



In addition, even though the ForestrySA board has a main goal of “the benefit of the people and the economy of the State”, we feel that, currently ForestrySA are primarily taking the highest bidder for parcels of logs and largely overlooking how the smaller – local processors also benefit the state on a larger, more sustainable and stable scale – as previously said in our Application for Authorisation – keeping all four processors operating will secure thousands of jobs (directly and indirectly), and put an estimated \$58.66 million back into the State each year.

Moreover, traditionally, ForestrySA have refused to disclose benchmark pricing, therefore there has been no such “competitive bidding” and members of the group are unable to “outbid” each other as the prices per grade of log that other parties have offered are all kept confidential. During the tender process – it is very difficult for parties to “outbid each other” as we cannot see how much the other parties are “bidding”. It is not simply like an auction or like traditional bidding where the prices are transparent, it is all very secretive.

#### **The 75,000 tonne parcel sold to Exporters**

It is important to note that MSJ did not put in a request for this parcel as it was simply out of our reach – with the reasons being noted in our Application for Authorisation. However, furthermore on this point;

- Burnt trees **can be cut and processed well beyond 4 ½ months**. We know this because we processed burnt logs ourselves from the Jan 2014 Mid North fires, we cut and processed burnt logs well over 2 years after the fires and finished up in early 2016 (all of these logs were sold to us by ForestrySA).
- One third of the parcel was green logs. ForestrySA’s reasoning of this was for the operation to be continuous over the wet season – therefore Green logs needed to be cut during the wet season. This begs the question, if the “wet season” was built-in to the Request for Proposal (RFP) then why did the following occur?

■ [REDACTED]

■ [REDACTED]

■ [REDACTED]

[REDACTED]

■ [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- In addition, given that the green logs and wet season was built-in to the RFP, this reiterates our belief that the RFP was written to attract one customer and accomodate a seamless continual harvesting program.
- This also beg the question that, if there were 8 respondents, “including some of the Nominated Applicants”, then why weren’t any of these respondents successful? Why didn’t ForestrySA split the parcel of logs up to accommodate this?

### **The CEO’s Personal View VS ForestrySA’s View**

It was interesting to read in ForestrySA’s submission that the comment from the CEO “seeking to have only one or two log supply agreements” does not accurately reflect the view of ForestrySA, rather only represents the “personal view” of Mr Speed. However, Mr Speed was called to give evidence in his position as the CEO of ForestrySA, to a Parliamentary Committee. He was not called up to express his personal views. We believe the evidence provided to be the true view of the CEO and hence the Organisation (ForestrySA).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This comment alone confirms to us that there will be more offers like the 75,000 tonne RFP won by Malec and in turn more logs exported. This will mean less timber for our locals and less supplies for the downstream building and construction industry and the like.

### **94% of Sales are Local Processors**

ForestrySA have said that 94% of the sustainable annual cut from Mount Lofty Ranges is contracted to the processors in the “group”.

History shows, ForestrySA sell well above the annual cut of 155,000 tonnes per year;

- In the last financial year alone (2019/20) Forestry SA sold 218,191 tonnes of logs domestically (this does not include logs exported).
- <https://www.forestrysa.com.au/publications/> (ForestrySA annual report 2019/20 p.20)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

- In light of this, we can also argue that the RFP of 75,000 tonnes is not that unusual given ForestrySA's recent export sales.

Table 3

\*Malec Figures are included as this is what ForestrySA were planning to sell for the 2019-20 financial year.

## 10-year log supply and Price Benchmarking

The CEO of ForestrySA has said that

- “current benchmark prices for some log grades in ForestrySA’s view are in excess of 20% higher than the current contracted prices, with those prices having being locked in less than three years ago.” (*ACCC Submission by Forestry SA AA1000539 03.02.2020 p.8*)
- “The long-term supply agreements with domestic customers...have been traditionally underpriced, and we know that by doing comparisons with **what else is happening in the industry**” (*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*).
- “ForestrySA uses price benchmarking which it has developed using pricing data derived from existing contracts ... and exporters from time to time” (*ACCC Submission, by ForestrySA AA1000539 03.02.2020 p.7*)

From the above comments we can made the following conclusions;

- We believe that ForestrySA are using “price benchmarking” as another term to simply compare;
  - **Domestic Processor Market Price VS Export Market Price**



- ✓ Saw Doctor
- ✓ Sawmill Office Manager
- ✓ Sawmill Operations Manager
- ✓ Skilled truck driver or loader

All of these effects make a business run at higher costs, therefore making them less able to pay premium prices for the supply of logs. If we have a long-term agreement then we are in a much better position to build more efficient sawmills, and this flow-on effect will put the domestic processors in a better position to pay premium prices for the logs.

### **What would happen if we do get Authorisation?**

If the “group” is successful in gaining authorisation, then we envision that the steps below will be followed;

1. Meet together in a neutral place and discuss how the group will work and raise any concerns.
2. Formulate a common goal(s) and how the contract will take shape.
3. Negotiate prices for each log length and grade.
4. Negotiate other aspects of how the contract will look – delivery locations, security, payment terms etc.
5. Investigate “ForestrySA’s benchmark pricing” and obtain current and past export and domestic prices.
6. Meet with ForestrySA and determine a price that will work for all parties involved.
7. Secure a 10-year log supply agreement.

The “group” will be able to negotiate with each other on the parcels of logs that they require and therefore, we will be in a better position to ‘fill the gaps’ and fully utilise what the Forest can produce.

Each processor will be able to run business as normal and operate freely for the next 10-years without the looming ‘doom day’ of the log supply being cut off if ForestrySA have a better offer elsewhere.

### **What would happen if we did not get Authorisation?**

If the long-term processors do not form a collective (as desired by the CEO of ForestrySA), then all four could be denied log supply by ForestrySA, continuing its announcement of dealing only with

larger players. This would mean that we are unable to process logs and therefore would not be able to operate.

We believe that the most likely scenario would be that ForestrySA will export (directly or indirectly) the entire resource overseas, leaving around 1,000 South Australians out of work (and their families). We believe that ForestrySA have been heavily biased toward export since 2013. They have also announced several times that they will not cease exporting raw log at any cost. How does that benefit the people of South Australia? What would the cost be to the government if that occurred? A lot more than a quick buck!

As is said in the application, we have no other viable options of purchasing raw logs from elsewhere to fill our demand of the current volumes that ForestrySA are providing. If we do not gain a secure log supply from ForestrySA we cannot simply get our logs from elsewhere. There is no other sustainable viable supplier, or forest that we can get this volume of logs from.

Please do not hesitate to contact me if you require any further information.

Yours faithfully



**Candice Kalisch**

**Morgan Sawmill Jamestown**