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- promoting conservation of Australia's native forests;
- contributing to the development of business and government forest management policies;
- stimulating public interest in the protection of native forests and related environmental issues; and
- providing pro bono legal advice and undertaking law reform and policy development activities on environmental matters.

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Lawyers for Forests is seeking funds to assist its work and to challenge the approval of the Tamar Valley pulp mill.

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CASE SUMMARY

On 4 October 2007, the then Minister, Malcolm Turnbull, approved the construction and operation of Gunns' pulp mill in the Tamar Valley, Tasmania, under the *Environment Protection and Biodiversity Conservation Act 1999* ("the Act"). The approval decision imposed 48 conditions on the mill.

LFF is concerned about the significant impact that the mill will have on the environment, including on the marine environment, native forests and the species that rely on those habitats.

LFF is also concerned to ensure that the decision to approve the mill complies with the law. LFF is challenging the legal basis of the decision by seeking judicial review of it, on the following grounds:

1. The Act does not allow the Minister to impose the conditions that he did, as the conditions create a scheme that is outside that allowed by the Act.
2. The Minister used lack of scientific certainty as a reason for postponing a measure to prevent degradation of the environment when there are threats of serious or irreversible environmental damage, which is inconsistent with the Act.
3. The Minister did not have enough information to make an informed decision as to whether to approve the mill, when the Act requires that he have enough information.
4. The Minister did not seek further information before making his decision, when the Act requires that he seek further information before making the decision.
5. The Minister made the decision before assessing all of the relevant impacts in circumstances where information about those impacts was available, which is inconsistent with the Act.
6. The Minister improperly exercised his powers under the Act because no reasonable person could have made the decision that was made by the Minister in the circumstances in which he made it.

The grounds all relate to the fact that the Minister approved the mill but attached conditions which require further scientific testing to determine the impact of the mill's toxic effluent (dioxins and furans), which are the most toxic known to science.

The conditions allow the mill to produce a volume of toxic effluent that is simply that set by Gunns, which is absent any proper scientific measurement.

There have been previous proceedings brought by The Wilderness Society and The Investors for the Future of Tasmania on related decisions made by the Minister before the approval decision. This is the only proceeding challenging the approval decision.

4 December 2007

This summary is intended as general information for the public. It does not constitute legal opinion or a view as to the merits of the case. For further information, go to

www.lawyersforforest.asn.au