

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
VALUATION, COMPENSATION AND PLANNING LIST

S ECI 2022 01719

BETWEEN:

GIPPSLAND ENVIRONMENT GROUP INC.

Plaintiff

- and -

VICFORESTS

Defendant

ORDER

JUDGE: The Honourable Justice Richards
DATE MADE: 5 February 2024
ORIGINATING PROCESS: Writ filed 13 May 2022
HOW OBTAINED: Upon receipt of a signed minute of proposed consent orders dated 1 February 2024
ATTENDANCE: No attendance
OTHER MATTERS:



In these orders:

Code means the *Code of Practice for Timber Production 2014 (as amended 2022)*;

Standards means Schedule 1 to the Code, titled *Management Standards and Procedures for timber harvesting operations in Victoria's State forests*;

The following terms have the meaning set out in the Glossary to the Code:

- a. **coupe**;
- b. **coupe access roads**;
- c. **coupe driveways**;
- d. **coupe infrastructure**;
- e. **existing road**;
- f. **permanent stream**;

- g. **road maintenance;**
- h. **snig track;**
- i. **temporary stream;**
- j. **timber harvesting operations;**
- k. **waterway;**

stream means a permanent stream or a temporary stream.

Gippsland FMAs means the area covered by the Gippsland Regional Forest Agreement between Victoria and the Commonwealth, shown in Figure 4 on page 28 of the Code.

riparian strips means the areas that must be excluded from timber harvesting, namely riparian strips at least 100 metres wide located along all waterways in the coupe, with an exclusion area at least 50 metres wide on each side of those waterways.

THE COURT ORDERS BY CONSENT THAT:

1. VicForests must not, whether by itself, its servants, agents, contractors or otherwise, conduct timber harvesting operations in any coupe in the Gippsland FMAs unless the coupe has been surveyed using a reasonably practicable survey method that is likely to:
 - (a) detect any greater gliders that may be present in the coupe and, so far as is reasonably practicable, locate their home ranges; and
 - (b) detect any yellow-bellied gliders that may be present in the coupe and identify their feed trees and hollow-bearing trees in the coupe.

This Order does not apply to a coupe that has been clear-felled since 1939.

2. VicForests must not, whether by itself, its servants, agents, contractors or otherwise, conduct timber harvesting operations in any coupe in the Gippsland FMAs in which greater gliders have been detected unless:
 - (a) it excludes the greater gliders' located home ranges from timber harvesting operations; and
 - (b) it excludes from timber harvesting riparian strips at least 100 metres wide located along all waterways in the coupe, with an exclusion area at least 50 metres wide on each side of those waterways; and
 - (c) it retains at least 60% of the basal area of eucalypts in the harvested area of the coupe.



3. VicForests must not, whether by itself, its servants, agents, contractors or otherwise, conduct timber harvesting operations in any coupe in the Gippsland FMAs in which yellow-bellied gliders have been detected unless:
 - (a) it excludes from timber harvesting riparian strips at least 100 metres wide located along all waterways in the coupe, with an exclusion area at least 50 metres wide on each side of those waterways; and
 - (b) it retains at least 60% of the basal area of eucalypts in the harvested area of the coupe, including all identified feed trees and hollow-bearing trees within the coupe.

4. Orders 1, 2 and 3 of these Orders do not restrain VicForests from:
 - (a) felling or cutting trees or parts of trees in order to address a serious risk to human safety or as otherwise advised, ordered or directed by a responsible authority, including the Department of Energy, Environment and Climate Action or Parks Victoria;
 - (b) removing and/or selling timber already felled as at 30 November 2022;
 - (c) felling trees or parts of trees for the maintenance of any road;
 - (d) cutting limbs of trees for the purposes of seed collection;
 - (e) regeneration activities after permitted logging;
 - (f) undertaking any work within a coupe to manage or prevent environmental degradation, whether on the instruction, recommendation or direction of the Department of Energy, Environment and Climate Action or as otherwise required to comply with the Code;
 - (g) undertaking road maintenance of any existing road; or
 - (h) using and maintaining existing coupe infrastructure, coupe driveways and coupe access roads which does not (except as otherwise permitted) involve felling or cutting trees.

5. Orders 2(b) and 3(a) do not restrain VicForests from:
 - (a) using, maintaining and rehabilitating any existing road, snig track, or stream crossing in or across a riparian strip; or
 - (b) constructing a road, snig track, or stream crossing across a riparian strip for the purposes of coupe access.



6. The Orders made in this proceeding on 30 November 2022 and 20 February 2023 are vacated.
7. There is no order as to the costs of the plaintiff's summons filed on 23 May 2022, which was heard and determined on 27 May 2022.
8. Pursuant to r 63.34.2 of the *Supreme Court (General Civil Procedure) Rules* 2015, the defendant is pay the plaintiff's costs of the proceeding, agreed in the sum of \$37,500.

DATE AUTHENTICATED: 5 February 2024



Mr. Richards

THE HONOURABLE JUST ICE RICHARDS