

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:** 27 May 2022
- ORIGINATING PROCESS:** Writ filed 13 May 2022
- HOW OBTAINED:** Plaintiff's summons filed 23 May 2022
- ATTENDANCE:** Dr K Weston-Scheuber for the plaintiff
Mr P Solomon QC with Mr O Ciolek and Ms H Douglas for the defendant
- OTHER MATTERS:**
- A. The plaintiff by its counsel undertook to abide by any order that the Court may make as to damages, in case the Court should hereafter be of opinion that the defendant shall have suffered any loss by reason of this order which the plaintiff ought to pay.
 - B. In these orders:

Gippsland Forest Management Areas means the area set out in the map exhibited at page 19 of Exhibit LC-1 to the affidavit of Louise Crisp affirmed 20 May 2022;

Exhibit MD-1 is the bundle of documents referred to in the affidavit of Monique Dawson affirmed 26 May 2022.
 - C. The Court was satisfied that the technical requirements in s 42G of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic)



were met and that it was appropriate for the hearing to take place by audio-visual link.

THE COURT ORDERS THAT:

1. From 28 May 2022 until further order the defendant must not, whether by itself, its servants, agents, contractors or howsoever otherwise, conduct timber harvesting operations within the meaning of section 3 of the *Sustainable Forests (Timber) Act 2004* (**Timber Harvesting Operations**), in any coupe in the Gippsland Forest Management Areas, where there has been a sighting of a greater glider in, or within 240 metres of, that coupe, known to the defendant.
2. Order 1 does not restrain the defendant from conducting Timber Harvesting Operations in the following coupes:
 - (a) Deluded (770-507-0014), generally in accordance with the Operations Map, Operations Plan and HCV Summary & Retention Plan reproduced at pages 177 to 211 of Exhibit MD-1;
 - (b) Clarks (775-506-0001), provided that an area with a radius of at least 240 metres from the greater glider detections recorded on the map reproduced at page 214 of Exhibit MD-1 is excluded from harvesting;
 - (c) the northern portion of Doors (490-510-0003), generally in accordance with the Operations Map, Operations Plan and HCV Summary & Retention Plan reproduced at pages 216 to 255 of Exhibit MD-1;
 - (d) Zappo (490-501-0004), provided that an area with a radius of at least 240 metres from the greater glider detections recorded on the Operations Map reproduced at page 257 of Exhibit MD-1 is excluded from harvesting;
 - (e) Prime (490-502-0015); and
 - (f) Bang (490-510-0002), provided that an area with a radius of at least 240 metres from the greater glider detections recorded on the Operations Map reproduced at page 293 of Exhibit MD-1 is excluded from harvesting.
3. Order 1 does not restrain the defendant 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 Environment, Land, Water and Planning or Parks Victoria; or
 - (b) removing and/or selling timber already felled as at 27 May 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; or
 - (f) undertaking any work within a coupe to manage or prevent environmental degradation, whether on the instruction, recommendation or direction of the Department of Environment, Land, Water and Planning or as otherwise required to comply with the Code of Practice for Timber Production 2014 (2021 version).
4. The requirement in r 14.04 of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic) for the defendant to file and serve a defence is suspended until further order.
 5. Pursuant to s 42E(1) of the *Evidence (Miscellaneous Provisions) Act 1958* (Vic), the parties are to appear and make submissions at the hearing on 27 May 2022 by audio-visual link.
 6. The summons is listed for further hearing at 10.30 am on **1 August 2022**. Any application to vary the injunction in Order 1 is to be made by 25 July 2022.
 7. There is liberty to apply.
 8. Costs are reserved.

DATE AUTHENTICATED: 27 May 2022



MR. RICHARDS

THE HONOURABLE JUSTICE RICHARDS