

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

S ECI 2021 04204

BETWEEN:

KINGLAKE FRIENDS OF THE FOREST INC
(ABN 35 186 838 481)

Plaintiff

- and -

VICFORESTS

Defendant

ORDER

JUDGE: The Honourable Justice Richards

DATE MADE: 11 November 2022

ORIGINATING PROCESS: Writ filed 9 November 2021

HOW OBTAINED: At trial

ATTENDANCE: Mr J Korman with Dr K Weston-Scheuber for the plaintiff

Mr P Solomon KC with Mr O Ciolek and Ms H Douglas for the defendant

OTHER MATTERS:

A. These Orders are made to give effect to the Court's **judgment** in *Environment East Gippsland Inc v VicForests (No 4)* [2022] VSC 668.

B. 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. **timber harvesting operations**;
- c. **waterway**;



Central Highlands FMAs means the area covered by the Central Highlands Regional Forest Agreement between Victoria and the Commonwealth, shown in Figure 2 at [48] of the judgment.

THE COURT ORDERS THAT:

1. VicForests must not, whether by itself, its servants, agents, contractors or otherwise, conduct timber harvesting operations in any coupe in the Central Highlands 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 Central Highlands 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 Central Highlands 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 Environment, Land, Water and Planning or Parks Victoria;
 - (b) removing and/or selling timber already felled as at 11 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; 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.
5. VicForests has liberty to apply:
- (a) by 25 November 2022, to vary Order 4 of these Orders including, to the extent necessary, to reopen its case in relation to that Order; and
 - (b) otherwise, in the event of a material change to the law.
6. The following Orders made in this proceeding are vacated:
- (a) Orders 1, 2 and 3 of the Orders dated 22 December 2021; and
 - (b) Order 1 of the Orders dated 10 August 2022.



7. VicForests is to pay the plaintiff's costs of the proceeding, including any reserved costs, on the standard basis, to be assessed by the Costs Court if not agreed.

DATE AUTHENTICATED: 11 November 2022



THE HONOURABLE JUSTICE RICHARDS