

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

WARBURTON ENVIRONMENT INC. (ABN 28 781 873 830)

Plaintiff

- and -

VICFORESTS

Defendant

ORDER

JUDGE: The Honourable Justice Garde

DATE MADE: 13 August 2021

ORIGINATING PROCESS: Writ filed 5 June 2020

HOW OBTAINED: Defendant's summons filed 2 August 2021

ATTENDANCE: Mr J Korman of counsel for the plaintiff
Mr E Nekvapil with Ms M Narayan of counsel for the defendant

OTHER MATTERS: This order is signed by a Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic).

THE COURT ORDERS THAT:

1. The defendant is to discover all documents in its possession, custody or power in the categories listed in the schedule to this order.
2. Costs reserved.

DATE AUTHENTICATED: 13 August 2021



The Honourable Justice Garde



SCHEDULE

In this schedule:

‘**Code**’ means the Code of Practice for Timber Production 2014.

‘**Department**’ means the Department of Environment, Land, Water and Planning or its predecessors and includes but is not limited to the Office of the Conservation Regulator (including the Chief Conservation Regulator), the office responsible for production of Forest Survey Protection Reports, and the Timber Harvesting Compliance Unit.

‘**Management Standards**’ means the Management Standards and Procedures for timber harvesting operations in Victoria’s State forests 2014.

‘**Precautionary Principle**’ means the Precautionary Principle as defined in the Glossary to the Code.

‘**Secretary**’ means the body corporate established by s 6 of the *Conservation, Forests and Lands Act 1987* (Vic).

‘**SFASOC**’ means the Second Further Amended Statement of Claim filed 21 June 2021.

‘**Tree Geebung Coupes**’ means the coupes particularised in paragraph 40N of the SFASOC.

‘**VicForests**’ means the defendant.

‘**Wet Forest Coupes**’ means coupes located wholly or partly in the Wet Forests of the Central Highlands, as defined in the particulars subjoined to paragraph 40E(a) of the SFASOC.

1. Documents upon which VicForests presently intends or expects to rely at trial (other than documents which have already been exhibited to affidavits filed in this proceeding, or discovered and served on the plaintiff).
2. Documents containing, recording or evidencing correspondence with the Department or the Secretary since the commencement of this proceeding:
 - (a) relating to the presence of Tree Geebung in coupe 345-511-0004 (“Pat’s Corner”) and/or any Wet Forest Coupes; and
 - (b) relating to the conservation and/or protection of Tree Geebung.
3. Documents made containing, recording or evidencing orders, directions, management plans, and other plans relating to the conservation and/or protection of Tree Geebung issued by or in conjunction with the Department or the Secretary since the commencement of this proceeding.
4. Documents containing, recording or evidencing scientific opinion as to the actions required in order to:



- (a) protect mature individual Tree Geebungs from disturbance where possible as outlined in Appendix 3 Table 14 of the Management Standards;
 - (b) retain and protect Tree Geebungs to provide for, among other things, the continuity and replacement of existing vegetation types within each coupe pursuant to clause 2.2.2.10 of the Code; and
 - (c) apply the Precautionary Principle, pursuant to clause 2.2.2.2 of the Code, in respect of the conservation of Tree Geebungs.
5. Documents including internal emails, communications, memos, reports, coupe diaries, text messages and all other documents, recording or evidencing the actions taken by VicForests and its contractors, in relation to the Tree Geebung Coupes, to:
- (a) protect mature individual Tree Geebungs from disturbance where possible as outlined in Appendix 3 Table 14 of the Management Standards;
 - (b) retain and protect Tree Geebungs to provide for, among other things, the continuity and replacement of existing vegetation types within each coupe pursuant to clause 2.2.2.10 of the Code; and
 - (c) apply the Precautionary Principle, pursuant to clause 2.2.2.2 of the Code, in respect of the conservation of Tree Geebungs.
6. Documents including internal emails, communications, memos, reports, coupe diaries, text messages and other documents recording or evidencing disturbance or destruction of mature individual Tree Geebung in the Tree Geebung Coupes.

