

**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: 15 July 2021

ORIGINATING PROCESS: Writ filed 5 June 2020

HOW OBTAINED: Directions hearing

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)* ('Rules').

THE COURT ORDERS THAT:

Discovery

1. By 4pm on Friday 23 July 2021, each party is to serve a list of proposed categories of discovery.
2. By 4pm on Friday 30 July 2021, each party is to file any application in respect of those proposed categories of discovery that are in dispute.
3. Any application filed in accordance with paragraph 2 is to be made returnable on Thursday 12 August 2021.
4. By 4pm Friday 24 September 2021, each party is to file and serve lists of documents within the categories sought, as modified by any order on any application under paragraph 3, and provide inspection of those documents.



Subpoenas

5. By 4pm on Friday 30 July 2021, each party is to file and serve any application in respect of subpoenas that are in dispute.
6. The date for any response to the subpoenas issued by the plaintiff dated 2 June 2021 is extended to Friday 26 August 2021.

Plaintiff's evidence

7. Evidence in chief is to be given by way of affidavit.
8. By 4pm on Friday 8 October 2021, the plaintiff is to file and serve:
 - (a) all affidavits to be relied upon at trial;
 - (b) a list of all affidavits filed in these proceedings upon which it intends to rely at trial; and
 - (c) the reports of the experts from whom it intends to adduce evidence at trial, in accordance with Order 44 of the Rules.

Defendant's evidence

9. By 4pm on Friday 19 November 2021, the defendant is to file and serve:
 - (a) all affidavits to be relied upon at trial;
 - (b) a list of all affidavits filed in these proceedings upon which it intends to rely at trial; and
 - (c) the reports of the experts from whom it intends to adduce evidence at trial, in accordance with Order 44 of the Rules.

Plaintiff's reply evidence

10. By 4pm on 3 December 2021, the plaintiff is to file and serve any report of an expert from whom it intends to adduce evidence at trial by way of reply to one or more reports filed in accordance with paragraph 9.

Experts' conference and joint report

11. By 4pm on Friday 24 December 2021, the experts from whom the parties intend to adduce evidence at trial are to confer and provide to the Court and the parties a joint report setting out:
 - (a) the matters upon which they agree; and
 - (b) the matters upon which they do not agree and in each instance briefly stating the reasons why they do not agree and identifying where such matters are addressed in their respective expert reports.
12. The experts' conference is intended to be a consultation of experts without any influence from a party to the proceeding. To that end, subject to paragraph 13:



- (a) the conference of experts and all further communications between them in relation to the preparation of the joint report must be conducted in the absence of the parties, their employees or agents, or any practitioner for or associated with any party;
 - (b) none of the experts may in the preparation of the joint report consult with any party, their employees or agents, or any practitioner for or associated with any party; and
 - (c) notwithstanding (a) and (b), the experts may jointly request further information or direction by letter signed by them directed to the practitioner for each of the parties and may receive such further information.
13. Save as contained in the joint report, unless the parties agree in writing, no evidence may be admitted of anything said or done by any person at the conference between the experts.

Notice of cross-examination and objections to evidence

14. By 4pm on Friday 21 January 2022, each party is to advise the other party in writing of:
- (a) the deponents of any affidavits that the party seeks to cross-examine at trial; and
 - (b) any objections to evidence.
15. Paragraph 21 of the order made by the Honourable Justice Garde on 31 March 2021 is varied to read “By 4pm on Tuesday 1 February 2022, the parties are to file and serve responses to the objections to evidence referred to in sub-paragraph 14(b) of the order made by the Honourable Justice Garde on 15 July 2021.”

Other matters

16. Liberty to apply.
17. Costs reserved.

DATE AUTHENTICATED: 15 July 2021



The Honourable Justice Garde

