

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

S ECI 2020 00373

BETWEEN:

**WILDLIFE OF THE CENTRAL HIGHLANDS INC**

Plaintiff

-v-

**VICFORESTS**

Defendant



JUDGE OF THE COURT:

The Honourable Justice McMillan

DATE MADE:

29 January 2020

ORIGINATING PROCESS:

Writ filed 28 January 2020

HOW OBTAINED:

On return of the plaintiff's summons filed  
28 January 2020

ATTENDANCE:

Ms K Foley and Ms J Watson, both of counsel,  
for the plaintiff  
Mr HL Redd, of counsel, for the defendant

OTHER MATTERS:

- A. Upon the plaintiff (by its counsel) undertaking to abide by any order the Court may make as to damages in case the Court should hereafter be of the opinion that the second defendant shall have sustained any by reason of this order which the plaintiff ought to pay.
- B. The defendant has informed the Court that:
- (a) no timber harvesting operations are presently being conducted in Pony, Brumby, and Propeller coupes (as defined in paragraph 1 of the plaintiff's summons dated 28 January 2020) due to contractors in those coupes having been deployed to assist with fire suppression activities in East Gippsland. Timber harvesting operations may commence within an estimated time frame of 2–4 weeks;
  - (b) no timber harvesting operations are underway in Castella Hills, Castella East and Apu (as defined in paragraph 1 of the plaintiff's summons dated 28 January 2020);
  - (c) roading works are currently underway in LaTrobe coupe but felling of timber other than for the purposes of roading works in LaTrobe coupe has not commenced.

- C. In the event the defendant intends to commence or recommence timber harvesting operations in any of the coupes in paragraph 2 prior to the hearing and determination of the interlocutory application, the defendant will give not less than 48 hours' notice to the plaintiff.
- D. The defendant is permitted to complete the roading works in LaTrobe coupe that are necessary for the purposes of erosion control of the existing road length only, in accordance with the *Code of Practice for Timber Production 2014*, but is not permitted to fell or damage trees (whether understorey, mid-storey or over-storey) or otherwise extend the existing road in LaTrobe Coupe without giving notice under paragraph 3.
- E. These orders follow the reasons for ruling delivered by the Court in *Wildlife of the Central Highlands Inc v VicForests* [2020] VSC 10.
- F. This order is signed by the Judge pursuant to r 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.

**THE COURT ORDERS THAT:**

1. Until 4.15pm on 18 February 2020 or until further order, the defendant, by itself, its employees, servants, agents or howsoever otherwise, be restrained from conducting timber harvesting operations within the meaning of section 3 of the *Sustainable Forests (Timber) Act 2004* within the coupe numbers 312-510-0012 ('Kumba'), 458-501-0010 ('Rock a Rhyme'), and 347-518-0005 ('Dowse') (collectively, 'the coupes').
2. Nothing in paragraph 1 of this order shall prevent the defendant from removing felled timber from the coupe landings within the coupes. In relation to Kumba, the defendant is also permitted to undertake remedial works on tracks and/or landings within the coupe that are necessary to minimise erosion, but is not permitted to fell or damage trees (whether understorey, mid-storey or over-storey) or otherwise extend existing tracks or landings in the coupe.
3. The plaintiff file and serve a statement of claim by 4pm on 5 February 2020.
4. The plaintiff file and serve affidavit evidence directed to ensuring hearsay evidence in Part E of the affidavit of Danya Jacobs filed 28 January 2020 is addressed by direct evidence, by 4pm on 7 February 2020.
5. The defendant file and serve any evidence in opposition to the application by 4pm on 12 February 2020.
6. The plaintiff file and serve any evidence in reply by 4pm on 14 February 2020.
7. Any application for further or varied injunctive relief be adjourned to 10.00am on 18 February 2020.
8. Pursuant to rr 36.01(1)–(4) of the *Supreme Court (General Civil Procedure) Rules 2015*, the name of the plaintiff in the originating motion be amended to 'WOJCH INC' and the title of the proceeding be amended accordingly.



9. Costs reserved.

10. Liberty to apply.

DATE AUTHENTICATED:

30 JANUARY 2020

  
The Honourable Justice McMillan

