



IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
JUDICIAL REVIEW AND APPEALS LIST

S ECI 2020 04058

BETWEEN:

KINGLAKE FRIENDS OF THE FOREST INC
(ABN 35 186 868 481)

Plaintiff

v

VICFORESTS

Defendant

ORDER

JUDGE: The Honourable Justice Ginnane.

DATE MADE: 21 December 2020

ORIGINATING PROCESS: Writ and Statement of Claim dated 26 October 2020.

METHOD OBTAINED: At hearing.

ATTENDANCE: Mr J Korman for the Plaintiff.
Mr E Nekvopil with Ms T Meyrick for the Defendant.

OTHER MATTERS:

- A. This order is signed by the Judge pursuant to Rule 60.02(1)(b) of the *Supreme Court (General Civil Procedure) Rules 2015*.
- B. These orders give effect to judgment of the Honourable Justice Ginnane in *Kinglake Friends of the Forest v VicForests* [2020] VSC 865.
- C. The defendant has not been released from and remains bound by the undertaking it provided to the Court, by its counsel, on 10 November 2020 in the form it appears in paragraph B of the 'Other Matters' section of the order of the Honourable Justice Ginnane dated 10 November 2020.
- D. The plaintiff, by its counsel, undertakes to comply with any order the Court may make as to damages should the Court hereafter be of the opinion that that the defendant has or shall have sustained any damage by reason of this order that the plaintiff ought to pay.
- E. The defendant informed the Court that it would take all available steps forthwith to contact the contractor carrying out harvesting work at the "Boys Camp" coupe and instruct them to immediately cease performing that work.



THE COURT ORDERS THAT:

1. From 4:00pm on Monday, 21 December 2020 until the determination of the trial of this proceeding or further order, the defendant must not, whether by itself, its servants, agents, contractors or howsoever otherwise, fell or cut trees or parts of trees:
 - a. in Coupe 284-502-0019 (“Anchovy”);
 - b. in Coupe 284-504-0004 (“Glendale East”);
 - c. in Coupe 301-520-0002 (“Neils Flower”);
 - d. in Coupe 347-513-0003 (“Boys Camp”).

For the avoidance of doubt, nothing in this order prevents the defendant from removing felled timber as at 21 December 2020 in any of the above coupes, or prevents the defendant from felling trees or parts of trees for the creation or maintenance of any road or in order to address a risk to human safety.

For the avoidance of doubt, nothing in this order prevents the defendant from regeneration activities in any of the above coupes.

THE COURT FURTHER ORDERS THAT:

2. By 4:00pm on Monday 21 December 2020, the defendant is to file and serve a Defence to the Amended Statement of Claim.
3. By 4:00pm on Tuesday 22 December 2020, the plaintiff is to file any Reply.
4. By 4:00pm on Wednesday 23 December 2020, either party is to serve any request for further particulars of the pleadings which relate to the:
 - a. construction or interpretation of the clause of cl 5.1.8.5(a) Management Standards; or
 - b. location of any alleged Bushfire Moderation Zones referred to in the pleadings of the party from whom particulars are sought.
5. By 4:00pm on Wednesday 20 January 2021, any party served with any request for further particulars is to file and serve a response to such request.
6. On or before 4:00pm on 20 January 2021, the defendant must provide to the plaintiff all documents, including those that need to be produced from a computer database, on which it relies for the pleadings contained in the following paragraphs of its amended defence:
 - c. paragraph 28A(a)(i);
 - d. paragraph 37A(a)(i);
 - e. paragraph 46A(a)(i);
 - f. paragraph 64A(a)(i);
 - g. paragraph 73A(a)(i);
 - h. paragraph 81A(a)(i);
 - i. paragraph 108A(a)(i);
 - j. paragraph 118A(a)(i);
 - k. paragraph 126A(a)(i).
7. By 4.00pm on 28 January 2021, the parties are to file and serve any further evidence and documents, including expert evidence, upon which they wish to rely at trial.
8. By 4.00pm on 1 February 2021, each party must:
 - a. file written outlines of submissions; and
 - b. advise the other party in writing of the affidavits upon which it seeks to rely at trial.

9. By 4.00pm on 3 February 2021, the defendant, after conferral and agreement with the plaintiff, will provide to the Associate to the trial judge:
 - a. an electronic copy of the court book;
 - b. a combined list of authorities; and
 - c. an electronic copy of the authorities upon which the parties intend to rely.

10. By 4.00pm on 3 February 2021, each party is to advise the other party in writing of:
 - a. the deponents of any affidavits advised in accordance with Order 8(b) that the party seeks to cross examine at trial, if any; and
 - b. any objections to evidence.

11. By 4.00pm on 5 February 2021, the parties file and serve:
 - a. the written outlines of submissions filed in accordance with Order 8, updated with page references to the electronic copies of the court book and electronic copy of the authorities;
 - b. any written submissions in reply; and
 - c. responses to the objections to evidence referred to in order 10(b).

DATE AUTHENTICATED: 21 December 2020


THE HONOURABLE JUSTICE GINNANE