



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID432/2023

**SAVE OUR STRATHBOGIE FOREST INC**

Applicant

**SECRETARY TO THE DEPARTMENT OF ENERGY, ENVIRONMENT AND  
CLIMATE ACTION**

Respondent

### **ORDER**

**JUDGE:** JUSTICE HORAN

**DATE OF ORDER:** 19 October 2023

**WHERE MADE:** Melbourne

### **THE COURT ORDERS THAT:**

#### **Pleadings**

1. The applicant has leave to amend its Statement of Claim dated 11 August 2023 by 20 October 2023 to correct the name of the respondent in the title of proceedings by substituting “Climate Action” for “Climate Change”.
2. The respondent has leave to amend its Defence dated 8 September 2023 by 20 October 2023 to make the corresponding correction.

#### **Hearing**

3. The matter be listed for final hearing at 10.15 am commencing on 29 January 2024 (on an estimate of 7 days).

#### **Discovery**

4. The respondent give discovery of the following documents:
  - a. Cripps et al (2021), “Double observer distance sampling improves the accuracy of density estimates for a threatened arboreal mammal” 48(8) Wildlife Research 756;



- b. Nelson et al (May 2018), “Estimating the density of the Greater Glider in the Strathbogie Ranges, North East Victoria” Arthur Rylah Institute for Environmental Research, Technical Report Series No 293;
  - c. the current draft of a scientific paper by Scroggie et al, “Using an integrated model of distance sampling and count data to infer the abundance of a threatened arboreal mammal”;
  - d. a copy of the dataset maintained by the Department of Energy, Environment and Climate Action representing the spatial extent and timing of planned burns, including those undertaken in the Strathbogie State Forest; and
  - e. copies of all reports, briefs to officials, and other documents, recording information that identifies or evidences the effect of planned burns carried out in the Strathbogie State Forest since 1960 on:
    - i. individual Southern Greater Gliders;
    - ii. Southern Greater Gliders as a species;
    - iii. hollow-bearing trees within the Strathbogie State Forest; and
    - iv. food resource availability to individual Southern Greater Gliders and the Southern Greater Glider as a species.
5. The respondent give discovery of documents responsive to the categories (a)-(d) by 20 October 2023.
6. The respondent give discovery of documents responsive to category (e) as follows:
- a. the first tranche to be provided by 20 October 2023
  - b. the second tranche to be provided by 30 October 2023; and
  - c. the third tranche to be provided by 3 November 2023.

### **Evidence**

7. By 13 November 2023, the applicant file and serve any affidavits and any expert reports on which it relies, together with further and better particulars of paragraph 10 of the Statement of Claim.
8. By 11 December 2023, the respondent file and serve any affidavits and any expert reports on which it relies.



9. By 22 December 2023, the applicant file and serve any affidavits and expert reports on which it relies by way of reply.
10. By 19 January 2024 the parties exchange any objections to evidence.
11. By 19 January 2024 the parties give notice of any witnesses that are required for cross-examination.
12. Counsel are to confer on objections to evidence and produce a table of unresolved objections, identifying the objection and stating the basis of opposition to the objection by 24 January 2024.

#### **Court Book and book of authorities**

13. By 19 January 2024, the applicant file and serve an agreed Court Book in conformity with the Court's eBooks Practice Note (GPN-eBOOKS).
14. By 25 January 2024, the applicant file and serve an electronic joint bundle of authorities.

#### **Submissions and lists of authorities**

15. By 15 January 2024 the applicant file and serve an outline of opening submissions, limited to 15 pages, and a list of authorities.
16. By 22 January 2024 the respondent file and serve an outline of opening submissions, limited to 15 pages, and a list of authorities.
17. By 25 January 2024 any intervener file and serve an outline of written submissions, limited to 15 pages, and a list of authorities.

#### **Other matters**

18. Liberty to apply.
19. Costs reserved.

Date that entry is stamped: 19 October 2023

  
Registrar