



Federal Court of Australia
District Registry: Victoria
Division: General

No: VID1228/2017

FRIENDS OF LEADBEATER'S POSSUM INC
Applicant

VICFORESTS
Respondent

ORDER

JUDGE: JUSTICE MORTIMER

DATE OF ORDER: 17 November 2017

WHERE MADE: Melbourne

THE COURT NOTES THAT:

A. In these orders:

“**Logged Coupes**” means all coupes identified at paragraph 9 of the statement of claim dated 13 November 2017 (the **statement of claim**).

“**Scheduled Coupes**” means all coupes identified at paragraph 10 of the statement of claim.

B. The applicant by its counsel undertakes to abide by such order (if any) as the Court may consider to be just for the payment of compensation, to be assessed by the Court or as it may direct, to the respondent if the respondent is adversely affected by the operation of the undertaking given by the respondent below.

C. The respondent by its counsel undertakes that it will not, whether by itself, its servants, agents, contractors or howsoever otherwise, conduct timber harvesting operations within the meaning of s 3 of the *Sustainable Forests (Timber) Act 2004* (Vic), save for the removal of any harvested timber from the Coupe landings, within the Scheduled Coupes pending the hearing and determination of the separate question.

THE COURT ORDERS THAT:


1. Pursuant to r 30.01 of the *Federal Court Rules 2011* (Cth) the following question be heard separately from any other questions in the proceeding:



Was the logging of the Logged Coupes, and will the proposed logging of the Scheduled Coupes be, RFA forestry operations undertaken in accordance with the Central Highlands Regional Forest Agreement such that those forestry operations are exempt from the application of Part 3 of the *Environment Protection Biodiversity Conservation Act 1999* (Cth) (the **EPBC Act**), pursuant to either s 38(1) of the EPBC Act or s 6(4) of the *Regional Forest Agreements Act 2002* (Cth)? (the **separate question**).

2. The hearing of the separate question will be fixed for 10.15 am on 14 December 2017 for a period of two days.
3. The parties are to confer on the appropriate method for establishing the necessary facts for the determination of the separate question and are to file a joint proposal on or before 4 pm on 22 November 2017.
4. Costs of the interlocutory hearing and the case management hearing be reserved.

Date that entry is stamped: 17 November 2017


Registrar