

IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE

No. 8547 of 2009

COMMON LAW DIVISION

BETWEEN

ENVIRONMENT EAST GIPPSLAND INC

Plaintiff

and

VICFORESTS

Defendant

AFFIDAVIT OF LACHLAN RAYMOND SPENCER

Date Sworn: 27 November 2009

Filed on behalf of the Defendant

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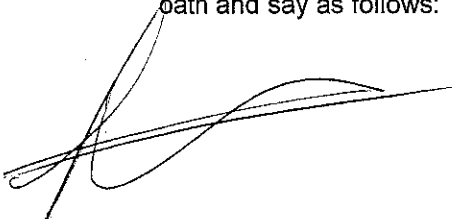
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I	My Background.....	2
II	Current Position and Role	3
III	An Overview of the Allocation Order and TRPs	4
	A. Allocation Order	4
	B. TRPs.....	5
IV	Coupe Inventory	6
	A. Spatial datasets	8
	B. "Couping up"	10
	C. Desktop assessment	13
	(1) Coupe overlay analysis	14
	D. Field assessment.....	17
	E. Completion.....	19
	F. Peer review.....	20
V	TRP Preparation and Approval.....	20
	A. Overview.....	20
	B. Land and Fire review	22
	C. Stakeholder engagement	25
	D. Finalisation and approval of TRP submission	26

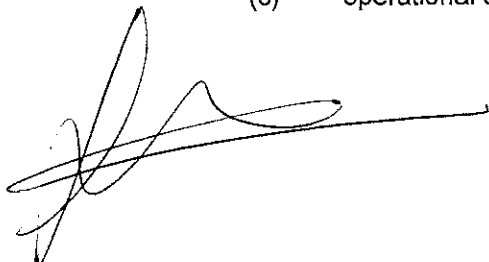
I, **LACHLAN RAYMOND SPENCER** of Level 7, 473 Bourke Street, Melbourne in the State of Victoria, make oath and say as follows:



1. I am the Tactical Planning Manager of VicForests, the Defendant in this proceeding and am duly authorised to swear this affidavit on its behalf. I make this affidavit from my own knowledge unless otherwise indicated.

I My Background

2. I have a Bachelor of Forest Science degree from the University of Melbourne which I was awarded in 1996.
3. Since completing my degree, I have been employed in the forestry industry for approximately 12 years.
4. In 1997 I commenced employment as a Forest Officer in Cann River, Victoria, at the Department of Natural Resources and Environment (**the DRNE**). In that role I was involved in the development, planning and approval of aspects of Wood Utilisation Plans (**WUPs**). This included performing all aspects of a coupe inventory, which is described in more detail in section IV below. WUPs were the DNRE's equivalent of the Timber Release Plans (**TRPs**) which are prepared by VicForests. I deal with the concept of TRPs in more detail in section III below.
5. I was not involved in forestry planning in the period September 1999 to late 2000.
6. In 2001 I commenced employment as a Harvest Planning Forester at State Forests New South Wales. In that role I was responsible for the development of native forest harvest plans. This involved:
 - (a) engaging with stakeholders and regulators;
 - (b) conducting desktop and field assessments of potential harvest areas;
 - (c) conducting timber quality assessments;
 - (d) conducting biodiversity surveys; and
 - (e) conducting hydrological and road assessments.
7. In 2002 the DNRE was restructured and renamed the Department of Primary Industries and the Department of Sustainability and Environment (**the DSE**). When I returned to Victoria in 2002, I commenced employment at the DSE as a Forests Officer. In this position, I was based in Marysville and was responsible for:
 - (a) conducting coupe inventories, as described in more detail in section IV below;
 - (b) developing harvesting plans for inclusion in WUPs; and
 - (c) operational supervision of native forest harvesting operations.



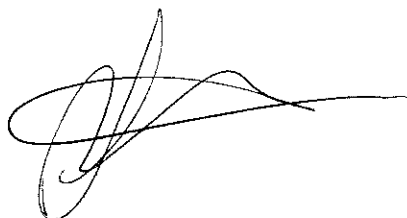
8. Since commencing employment with VicForests in 2004, I have occupied various positions within the organisation:

- (a) Between 2004 and 2005 I occupied the position of Senior Forest Officer. This position was based in Alexandra and I reported to the Forests Operations Manager, Bruce McTavish. My responsibilities in this position included planning and managing harvesting and regeneration operations in the Alexandra district. I was also involved in planning and preparing TRPs.
- (b) Between 2006 and 2007 I occupied the position of Senior Utilisation Officer and I reported to the Utilisation Manager, Bill Paul. After six months in the position, I was promoted to Utilisation Manager and I reported to the Chief of Operations Officer, Peter Ford. In both these positions I was responsible for planning, developing and implementing internal training and management policies. Whilst employed as the Utilisation Manger, I made a major contribution to the development of VicForests' Forests Operations Manual (**FO Manual**). The FO Manual is critical to the VicForests Sustainable Forest Management System which is certified under the Australian Forestry Standard. The FO Manual includes detailed instructions regarding all operational activities undertaken by VicForests.
- (c) For a 3 month period in 2007, I was the acting West Gippsland Regional Manager. This position was based in Traralgon. In this position I was responsible for the management of all VicForests activities undertaken in the West Gippsland region, for example:
 - (i) undertaking coupe inventories, as described in more detail in section IV below;
 - (ii) preparing for and developing TRPs for approval by the Secretary to the DSE;
 - (iii) harvesting; and
 - (iv) sales.

II Current Position and Role

9. In January 2008 I was promoted to my current role as Tactical Planning Manager.

10. Structurally, the Tactical Planning Group operates within the broader Sales and Planning Group within VicForests. Since March 2009 I have reported to Robert Green, who is the Director – Sales and Planning. Between January 2008 and March 2009, I reported to Matthew Crapp, the former Director – Sales and Planning. The current structure of VicForests are contained in slides I have extracted from a PowerPoint presentation titled *VicForests Overview July 2009*. Now produced and shown to me and marked "LRS-1" is a true copy of the extract from the PowerPoint presentation titled *VicForests Overview July 2009*.

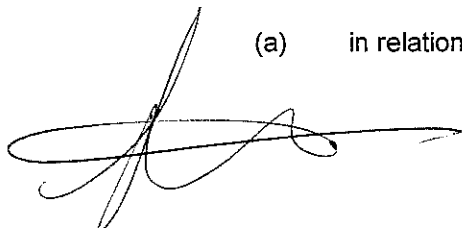


11. The Tactical Planning Group is primarily responsible for the planning and development of TRPs for submission to the Secretary to the DSE for approval. As Tactical Planning Manager, my primary responsibilities are:
- (a) planning and developing TRPs;
 - (b) overseeing the identification of coupes for inclusion in TRPs;
 - (c) ensuring TRPs:
 - (i) meet regulatory requirements;
 - (ii) meet customer and contractor commitments; and
 - (iii) are produced effectively and efficiently;
 - (d) negotiating with the DSE in relation to any exceptional or contentious issues related to TRPs; and
 - (e) overseeing the development and maintenance of systems, standards, policies and procedures for the consistent and efficient collection of data to assist in the planning and development of TRPs.

III An Overview of the Allocation Order and TRPs

A. Allocation Order

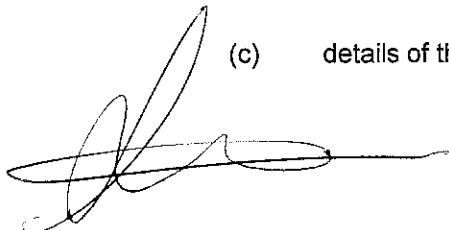
12. In Victoria, timber is allocated to VicForests by way of an Allocation Order. In accordance with Part 3 of the *Sustainable Forests (Timber) Act 2004* (**Sustainable Forests Act**), the Minister for Environment and Climate Change, by order published in the Government Gazette, may:
- (a) allocate timber in State forests to VicForests for the purpose of harvesting and selling, or harvesting or selling, timber resources (**Harvesting Activities**); and
 - (b) permit VicForests to undertake associated management activities in relation to the allocated timber resources. Management activities include the preparation of sites for timber harvesting, construction of road access to coupes, site rehabilitation and forest regeneration (**Management Activities**).
13. An Allocation Order describes the Allocated Timber Resources made available to VicForests for 15 years, with a review every five years.
14. An Allocation Order contains the following:
- (a) in relation to the Allocated Timber Resources;



- (i) a description of the forest stands to which VicForests has access;
 - (ii) references to, or details of, the extent and location of forest stands to which VicForests has access;
 - (iii) a table which is divided into three five-year periods listing:
 - (A) the total available area for each forest stand; and
 - (B) the area available for timber harvesting in the period of operation of the allocation order.
15. For convenience, I note that a forest stand is a term used to refer to a defined forest type that is relatively uniform in species, age, structure, quality and composition. For ease of reference and for the purpose of preparing this affidavit I have prepared a map of the forest stands in the Brown Mountain area. Now produced and shown to me and marked "LRS-2" is a true copy of a map of the forest stands in the Brown Mountain area.
16. On 24 July 2004, the Minister for Environment made an Allocation Order to VicForests. Now produced and shown to me and marked "LRS-3" is a true copy of the Allocation Order to VicForests dated 29 July 2004. For convenience I note that page 7 of the Allocation Order contains a map that shows the East Gippsland Forest Management Area (**East Gippsland FMA**). The Brown Mountain area is in the East Gippsland FMA. Coupes 840-502-0015 (**Coupe 15**), 840-502-0019 (**Coupe 19**), 840-502-0026 (**Coupe 26**) and 840-502-0027 (**Coupe 27**) are located in the Bendoc District of the East Gippsland FMA.
17. On 21 March 2007, the then Minister for Water, Environment and Climate Change made an amendment the Allocation Order (**Amended Allocation Order**). Now produced and shown to me and marked "LRS-4" is a true copy of the Amended Allocation order to VicForests dated 21 March 2007.

B. TRPs

18. In accordance with Part 5 of the *Sustainable Forests Act*, once an Allocation Order is gazetted, VicForests must prepare a TRP in respect of an area to which the Allocation Order applies. The TRP sets out details of all Harvesting Activities and Management Activities VicForests proposes to undertake for up to five years.
19. For convenience I note that section 38 of the *Sustainable Forests Act* provides that a TRP must include:
- (a) a schedule of coupes selected for timber harvesting and associated access road requirements;
 - (b) details of the location and approximate timing of timber harvesting in the proposed coupes; and
 - (c) details of the location of any associated access roads.

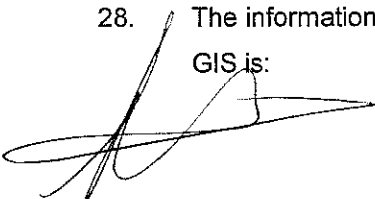


20. A TRP may include any other matters as are necessary or convenient.
21. Once a TRP has been prepared by VicForests, it is submitted to the Secretary to the DSE. The Secretary may approve the TRP in accordance with the *Sustainable Forests Act*. If the Secretary approves the TRP (whether in whole or in part), the Secretary to the DSE will publish a notice of approval in the Government Gazette.
22. The Secretary to the DSE approved the East Gippsland FMA TRP on 30 July 2004 (**2004 TRP**). The 2004 TRP has been periodically amended.
23. Relevantly, by letter dated 5 July 2007 the Secretary to the DSE approved amendments to the 2004 TRP that, amongst other things, had the effect of approving new coupes for harvesting by VicForests within the East Gippsland FMA (**2007 Amendment to the 2004 TRP**). The new coupes included Coupe 15 and Coupe 19. Now produced and shown to me and marked "LRS-5" is a true copy of the letter dated 5 July 2007 from the Secretary to the DSE to VicForests.
24. By letter dated 5 June 2009, from the Delegate of the Secretary to the DSE to VicForests, the Delegate of the Secretary to the DSE approved the allocation of new coupes to VicForests within the East Gippsland FMA (**2009 TRP**). The new coupes included Coupe 26 and Coupe 27. Now produced and shown to me and marked "LRS-6" is a true copy of the letter dated 5 June 2009 from the Delegate of the Secretary to the DSE to VicForests.
25. At its simplest, the planning and development of TRPs by the Tactical Planning Group for approval by the Secretary to the DSE involves a two-stage process:
 - (a) the first stage involves identifying and assessing coupes to be included in a TRP. This is referred to as the "Coupe Inventory". Now produced and shown to me and marked "LRS-7" is a true copy of a diagram entitled "Inventory Process Diagram" which broadly sets out the Coupe Inventory process; and
 - (b) the second stage involves planning, preparing and submitting the TRP to the Secretary to the DSE for approval.

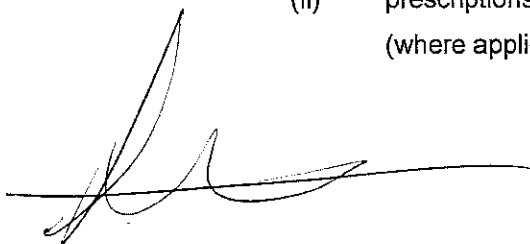
IV Coupe Inventory

26. As set out in section I above, I have been involved in conducting coupe inventories since 1997. I am familiar with the information gathered during Coupe Inventories.
27. Since 1997, I have used Geographic Information System (GIS) spatial software programs, which are described in more detail in paragraphs 34 to 41 below and I recognise the information and data extracted from GIS that I refer to in this affidavit.
28. The information and data gathered during Coupe Inventories and the information and data produced by

GIS is:



- (a) kept in hard copy coupe files maintained by VicForests for each coupe (**Coupe Files**); and
 - (b) entered into an on-line database called the Coupe Information System (**CIS**) which is used by the DSE and VicForests for planning and recording specific coupe information. I deal with the CIS in more detail in paragraph 70 below. I am familiar with the information entered into CIS and recognise the information and data produced by CIS.
29. Coupe Files and CIS form part of the records kept by VicForests in the course of, and for the purpose of, conducting its business.
30. The Coupe Inventory process is conducted by the Tactical Planning Group and consists of five stages:
- (a) "couping up", where proposed coupe areas are defined using electronic desktop data;
 - (b) "desktop assessment", which involves a thorough analysis of a potential individual coupe area using all available electronic desktop data and any other relevant information;
 - (c) "field assessment", where actual visits to a proposed coupe area are used to verify the information and data assessed during the desktop analysis and to assess the area for new information which was not identified during the desktop assessment;
 - (d) "completion", where the information and data collected in the previous three stages is confirmed and entered into CIS; and
 - (e) "quality assurance", where a peer-review is conducted to ensure that all the information and data collected is of the best quality prior to that information and data being included on the TRP.
31. At all five stages of the Coupe Inventory process, the Tactical Planning Group must consider:
- (a) the potential timber yield within a coupe;
 - (b) operational limitations, such as access routes, slope and the presence of hydrological features; and
 - (c) management issues such as:
 - (i) prescriptions, exclusions, requirements or actions stipulated in the East Gippsland Forest Management Plan (**East Gippsland FMP**) dated December 1995 and/or the East Gippsland Forest Management Plan Amendment (**Amended East Gippsland FMP**) dated August 1997;
 - (ii) prescriptions, exclusions, requirements or actions stipulated in an Action Statement (where applicable);



Robert He. 7

- (iii) prescriptions, exclusions, requirements or actions stipulated in the Management Procedures for Timber Harvesting Operations and Associated Activities in Victoria's State Forests 2007 (**Management Procedures 2007**) which were replaced in October 2009 by the Management Procedures for Timber Harvesting Operations and Associated Activities in Victoria's State Forests 2009 (**Management Procedures 2009**) and/or;
- (iv) any other directions given by the DSE.

Now produced and shown to me and marked "LRS-8" is a true copy of the East Gippsland FMP dated December 1995.

Now produced and shown to me and marked "LRS-9" is a true copy of the Amended East Gippsland FMP dated August 1997.

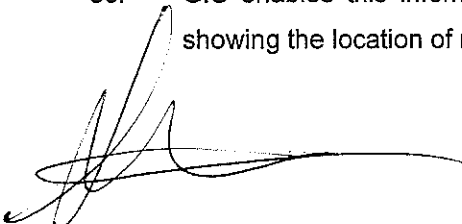
Now produced and shown to me and marked "LRS-10" is a true copy of the Management Procedures 2007.

Now produced and shown to me and marked "LRS-11" is a true copy of the Management Procedures 2009.

- 32. Throughout this affidavit I refer to the Management Procedures 2007 as it is the document which applied at the time Coupe 15, Coupe 19, Coupe 26 and Coupe 27 were considered as part of the Coupe Inventory process.
- 33. In accordance with the FO Manual referred to in paragraph 8(b) above, VicForests has produced internal instructions to assist the Tactical Planning Group when conducting a Coupe Inventory. In the present case, the relevant instructions are entitled "VicForests Instructions Coupe Inventory September 2008 v3.0" (**Coupe Inventory Instructions 2008**). Now produced and shown to me and marked "LRS-12" is a true copy of the Coupe Inventory Instructions 2008.

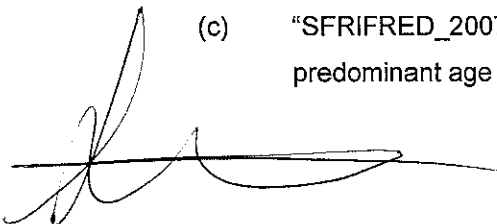
A. Spatial datasets

- 34. Spatial datasets are electronic files of mapped information that can be displayed by using a GIS software program. For example, there are spatial datasets containing:
 - (a) road locations within a specific area;
 - (b) stream locations within a specific area; and
 - (c) contour information relating to a specific area.
- 35. GIS enables this information to be brought together, for example, GIS can produce a contour map showing the location of roads and streams in a selected area.

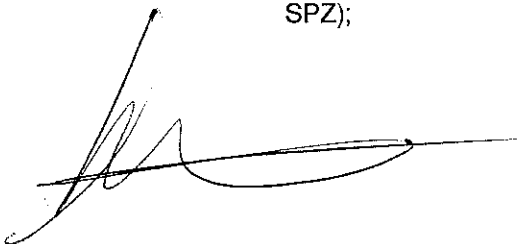


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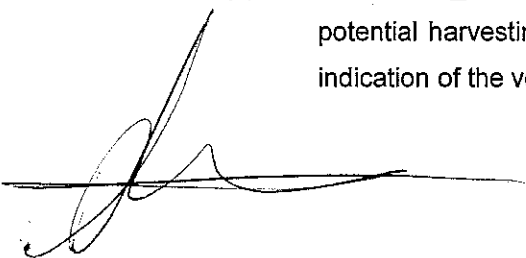
36. GIS enables a user to:
- (a) create maps;
 - (b) view spatial maps; and
 - (c) analyse spatial data.
37. VicForests uses a variety of GIS software programs, including ArcView, ArcGIS, ArcInfo and ArcIMF, in its coupe planning process. The programs enable the remote identification of the particular features and characteristics of the forest estate. The spatial datasets used by VicForests are catalogued in the VicForests' Corporate Data Catalogue (**Corporate Data Catalogue**). Now produced and shown to me and marked "LRS-13" is a true copy of the Corporate Data Catalogue.
38. The DSE provides VicForests with the majority of spatial data contained in the Corporate Data Catalogue. The provision of the spatial data to VicForests by the DSE is governed by an agreement dated 23 January 2008 and entitled "Subject Agreement – Access and Management of Data relating to Forest Management Planning and Regulation" (**Data Agreement**). Now produced and shown to me and marked "LRS-14" is a true copy of the Data Agreement dated 23 January 2008.
39. The spatial datasets provided by DSE to VicForests pursuant to the Data Agreement include those spatial datasets related to:
- (a) forest management zoning, which refers to the location of General Management Zones (**GMZ**), Special Management Zones (**SMZ**) and Special Protection Zones (**SPZ**) (together, **Forest Management Zones**);
 - (b) biodiversity, including endangered and threatened species records;
 - (c) forest stand types;
 - (d) logging history; and
 - (e) fire history.
40. In relation to the East Gippsland FMA, the primary datasets used by VicForests in its TRP planning process are:
- (a) "FMZ100" which shows the presence and type of Forest Management Zones within State forest;
 - (b) "FE_EG_2007" (**the East Gippsland Full Extent Dataset**) shows where forest stands described in the allocation order are located in the East Gippsland FMA;
 - (c) "SFRIFRED_2007" which shows the species of tree located in the East Gippsland FMA, the predominant age of those trees, the crown form of the trees and an estimate of timber volume;



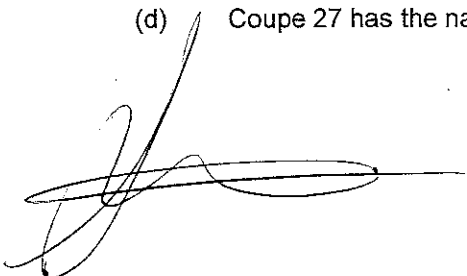
- (d) "LOG_SEASON" which shows the area of forest harvested, including the year of harvest and the method of harvesting;
 - (e) "THFAU100" which contains records and information, collected by the DSE, relating to threatened fauna. This dataset indicates the location where threatened flora has been identified and subsequently recorded in the threatened flora database maintained by the DSE;
 - (f) "VM_HYDROLOGY" which shows the presence of hydrological features, such as streams, water catchments, rivers and dams;
 - (g) "VM_ROADS" which shows the presence of roads, tracks and highways; and
 - (h) "VM_CONTOUR" which shows contour information.
41. Using GIS, the Tactical Planning Group is able to analyse each of the datasets referred to in paragraph 40 above.
- B. "Couping up"
42. In Victoria, State forest is divided into areas called "Forest Blocks". Forest Blocks vary from 1,000 to 20,000 hectares in size. Each Forest Block has a unique identification number that is recognised by VicForests and the DSE. Now produced and shown to me and marked "LRS-15" is a true copy of a map dated 20 November 2009 showing Forest Blocks in the East Gippsland FMA.
43. Each Forest Block contains a number of compartments. Compartments are geographic planning areas within State forest. Each compartment has a unique identification. Now produced and shown to me and marked "LRS-16" is a true copy of a map dated 20 November 2009 showing compartments in the Brown Mountain area.
44. The unique identification numbers forms the basis of the coupe number. For example, in respect of coupe number 840-502-0015, "840" represents the block number, "502" represents the compartment number and "0015" represents the individual coupe number.
45. The "couping up" process begins by analysing data at the Forest Block level. The couping up process is conducted to enable the Tactical Planning Group to identify areas potentially available for harvesting.
46. At the outset, availability for harvest is determined by using GIS to assess a number of datasets referred to in paragraph 40 above:
- (a) FMZ100 is reviewed to determine what areas are located in available Forest Management Zones, i.e. GMZ or SMZ (harvesting is not permitted in an area declared by the DSE to be an SPZ);

 10

- (b) SFRIFRED_2007 is reviewed to determine what areas of available forest contain the forest stand types of interest; and
 - (c) LOG_SEASON is reviewed to determine which areas of available forest contain a forest stand of interest which has not been harvested.
47. By way of example, in determining what timber resources are available for harvesting, the Tactical Planning Group will use the LAST_LOG dataset to determine harvesting history within a particular area. This information is displayed on the computer screen in the form of a topographical map with appropriate shaded areas. Areas shaded in the colour blue indicate that harvesting may have occurred in the previous 10 years and those areas can be immediately discounted as unavailable. On the other hand, unshaded areas are areas that have not been harvested since records commenced approximately 60 years ago and may be available for harvesting, subject to further investigation. Now produced and shown to me and marked "LRS-17" is a true copy of a map dated 20 November 2009 indicating harvesting history in the Brown Mountain area.
48. Once an area of forest which is potentially available for harvesting is identified, this area is further reviewed to ensure that other factors will not limit the ability to harvest. This review involves using the:
- (a) VM_CONTOUR dataset to determine whether an area is too steep to harvest;
 - (b) VM_ROADS dataset to determine whether the potential area can be accessed; and
 - (c) VM_HYDROLOGY dataset to determine whether hydrological features will impact harvesting.
49. Using GIS, the Tactical Planning Group is then able to draw a boundary around a potential harvesting area and subject that area to further review.
50. At this stage, the potential harvesting area is large area in which a coupe or coupes may eventually be located. From the potential harvesting area, the Tactical Planning Group can design proposed coupe shapes. Each potential harvesting area is then subject to further analysis to determine the boundaries of the coupe or coupes.
51. Using GIS, each potential harvesting area is assessed as follows:
- (a) the East Gippsland Full Extent Dataset is used to compare the potential harvesting area to the forest stand description contained in the Allocation Order. At this stage, the Tactical Planning Group is checking to ensure that the forest stands described in the Allocation Order are in fact present in the potential harvesting area;
 - (b) SFRIFRED_2007 is used to obtain more detailed information about stand type within the potential harvesting area. Using this dataset, the Tactical Planning Group is also able get an indication of the volume of timber that would be yielded from the potential harvesting area;

 11

- (c) VM_ROADS is used to assess road access within the potential harvesting area. At this stage, the Tactical Planning Group has to be satisfied that a harvesting contractor could access the potential harvesting area safely. This dataset is also used to determine whether any roads will have to be constructed to enable access to the potential harvesting area;
 - (d) VM_HYDROLOGY is used to assess the presence of creeks, rivers and other hydrological features within the proposed harvesting area. For example, in most cases, the Tactical Planning Group avoids locating a coupe across a creek bed. This is because harvesting would introduce sediment into the creek. Rather, the Tactical Planning Group uses the creek as a coupe boundary; and
 - (e) FMZ100 gives details and the location of Forest Management Zones in accordance with the relevant Forest Management Plan.
52. In particular areas where other significant issues may exist, other spatial datasets may be used to assess the potential harvesting area. Within the East Gippsland FMA, the Tactical Planning Team analyses a potential harvesting area using the dataset entitled "EG_INT_NEW_PARKS" which indicates the boundaries of the old growth reserve proposed under the 2006 ALP election policy, *Victoria's National Parks and Biodiversity*.
53. Where available an aerial image of the potential harvesting area is analysed to determine whether the image matches the information obtained from the datasets. Any information which is present on the image but not represented in the datasets will be recorded on the Field Inventory Base Map or the Coupe Reference Map and will be verified at the field assessment phase. Now produced and shown to me and marked "LRS-18" is a true copy of an aerial image of the Brown Mountain Area produced by me on 23 November 2009 for the purpose of making this affidavit.
54. Following the more detailed review of the potential harvesting area, the Tactical Planning Group draws a proposed coupe boundary and that area is referred to as a "proposed coupe". This boundary generally follows logical geographic and hydrological features to assist with field identification.
55. Once the boundary is drawn, a proposed coupe is given a coupe number and for quick reference, given a name. In the present case:
- (a) Coupe 15 has the name "Brown Legge";
 - (b) Coupe 19 has the name "Jasmine Road";
 - (c) Coupe 26 has the name "Punter Paradise"; and
 - (d) Coupe 27 has the name "Clarke's Vice".



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C. Desktop assessment

56. The coupling up process identifies a proposed coupe. The desktop assessment subjects the proposed coupe to further analysis which involves:

- (a) desktop analysis;
- (b) field assessment;
- (c) final analysis of all collected data.

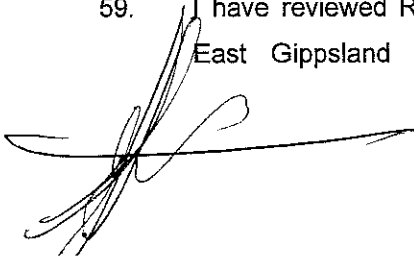
Each of (b) and (c) are dealt with in more detail in paragraphs 73 to 90 below.

57. The desktop assessment is a review of spatial and written information as it relates to a proposed coupe. The purpose of the desktop assessment is to determine, with the highest accuracy possible:

- (a) the potential net harvestable area;
- (b) the potential volume;
- (c) how the proposed coupe will be accessed;
- (d) operational issues, such as whether areas of the proposed coupe are too steep to harvest; and
- (e) management issues, such as :
 - (i) prescriptions, exclusions, requirements or actions stipulated in the East Gippsland FMP and/or the Amended East Gippsland FMP;
 - (ii) prescriptions, exclusions or actions stipulated in an Action Statement (where applicable);
 - (iii) prescriptions, exclusions or actions stipulated in the Management Procedures 2007 (which applied at the time Coupe 15, Coupe 19, Coupe 26 and Coupe 27 were subject to the Coupe Inventory, but which have subsequently been replaced by the Management Procedures 2009); and
 - (iv) any other direction given by the DSE.

58. Coupe 15 and Coupe 19 were subjected to the desktop analysis prior to those coupes being submitted for approval in the 2007 Amendment to the 2004 TRP. All four coupes underwent the same process prior to their inclusion in the 2009 TRP submission to the DSE.

59. I have reviewed Reconnaissance Monitoring Workbook, which is an excel spreadsheet stored in the East Gippsland Tactical Planning folder within the J:drive of VicForests' server, and the



Reconnaissance Activity Summary in CIS, in respect of Coupe 15, Coupe 19, Coupe 26 and Coupe 27 and for convenience I note:

- (a) in respect of Coupe 15, the desktop assessment was first conducted on or about 15 December 2006 and again on or about 19 January 2009;
- (b) in respect of Coupe 19, the desktop assessment was first conducted on or about 12 February 2006 and again in or about February 2009;
- (c) in respect of Coupe 26, the desktop assessment was conducted on or about 1 September 2008; and
- (d) in respect of Coupe 27, the desktop assessment was conducted on or about 1 September 2008.

Now produced and shown to me and marked "LRS-19" is a true copy of the Reconnaissance Monitoring Workbook dated.

Now produced and shown to me and marked "LRS-20" is a true copy of the Reconnaissance Activity Summary in respect of Coupe 15 printed from CIS on 26 November 2009.

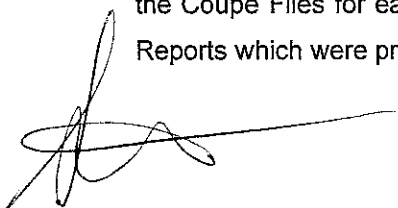
Now produced and shown to me and marked "LRS-21" is a true copy of the Reconnaissance Activity Summary in respect of Coupe 19 printed from CIS on 26 November 2009.

Now produced and shown to me and marked "LRS-22" is a true copy of the Reconnaissance Activity Summary in respect of Coupe 26 printed from CIS on 26 November 2009.

Now produced and shown to me and marked "LRS-23" is a true copy of the Reconnaissance Activity Summary in respect of Coupe 27 printed from CIS on 26 November 2009.

(1) *Coupe overlay analysis*

- 60. As part of the further investigation, a proposed coupe is first subjected to what is called a "coupe overlay analysis".
- 61. Using GIS, the proposed coupe is analysed using region-specific spatial data. The purpose of the coupe overlay analysis is to highlight any potential features or risks within, or within 500 metres of, the proposed coupe and flag those features and risks for further investigation. Examples of potential features or risks are the reported presence of a threatened or rare species, the presence of water catchments and the reported presence of recreational sites, such as walking tracks. The data for these records is supplied by the DSE pursuant to the Data Agreement as referred to in paragraph 38 above.
- 62. A report of the coupe overlay analysis is generated and is called the "Overlay Report". I have inspected the Coupe Files for each of Coupe 15, Coupe 19, Coupe 26 and Coupe 27 and reviewed the Overlay Reports which were prepared between November 2008 and February 2009 for the purpose of:



- (a) conducting the desktop assessment; and
- (b) including Coupe 15, Coupe 19, Coupe 26 and Coupe 27 in the 2009 TRP.

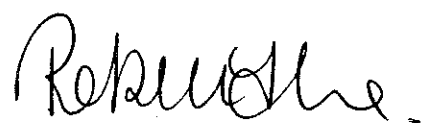
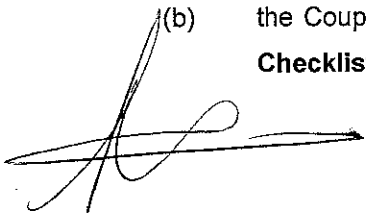
Now produced and shown to me and marked "LRS-24" is a true copy of the Overlay Report for Coupe 15 dated 4 December 2008.

Now produced and shown to me and marked "LRS-25" is a true copy of the Overlay Report for Coupe 19 dated 12 February 2009.

Now produced and shown to me and marked "LRS-26" is a true copy of the Overlay Report for Coupe 26 dated 26 November 2008.

Now produced and shown to me and marked "LRS-27" is a true copy of the Overlay Report for Coupe 27 dated 30 October 2008.

- 63. With respect to Coupe 15, the Overlay Report identifies:
 - (a) a threatened flora record within 500 metres of the proposed coupe boundary, being the recorded presence of Errinundra Shining Gum 337 metres from the proposed coupe boundary.
- 64. With respect to Coupe 19, the Overlay Report identifies:
 - (a) the recorded presence of old growth within the proposed coupe; and
 - (b) a threatened flora record within 500 metres of the proposed coupe boundary.
- 65. With respect to Coupe 26, the Overlay Report identifies:
 - (a) threatened flora records within 500 metres of the proposed coupe boundary; and
 - (b) threatened flora records within 500 metres of the proposed coupe boundary.
- 66. With respect to Coupe 27, the Overlay Report identifies:
 - (a) a threatened flora record within the proposed coupe; and
 - (b) a threatened flora record within 500 metres of the proposed coupe boundary.
- 67. I have reviewed the:
 - (a) coupe planning coversheets and checklists (**Coupe Planning Checklist**) in respect of Coupe 15 and Coupe 19; and
 - (b) the Coupe Planning Checklists and tactical planning quality control checklist (**Quality Control Checklist**) in respect of Coupe 26 and Coupe 27.



These documents are contained in the Coupe File for each respective coupe. I note for the sake of completeness that in respect of Coupe 15, Coupe 26 and Coupe 27, the Coupe Planning Checklist is incomplete because only the tactical planning process has been undertaken by the VicForests. In respect of Coupe 19, the Coupe Planning Checklist is incomplete because only the tactical planning process and the operational planning process have been undertaken by VicForests.

68. As a result of reviewing the Coupe Planning Checklists and Coupe Planning and Quality Control Checklists, I know that the Tactical Planning Team reviewed each of the:

- (a) East Gippsland FMP;
- (b) Amended East Gippsland FMP;
- (c) relevant Action Statement (where applicable); and/or
- (d) Management Procedures 2007,

to determine what actions, if any, were required to be taken in relation to those features or risks.

Now produced and shown to me and marked "LRS-28" is a true copy of the Coupe Planning Checklist in respect of Coupe 15.

Now produced and shown to me and marked "LRS-29" is a true copy of the Coupe Planning Checklist in respect of Coupe 19.

Now produced and shown to me and marked "LRS-30" is a true copy of the Coupe Planning and Quality Control Checklist in respect of Coupe 26.

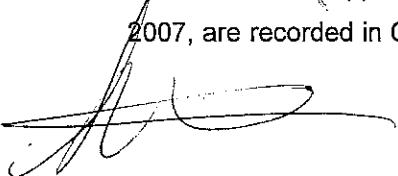
Now produced and shown to me and marked "LRS-31" is a true copy of the Coupe Planning and Quality Control Checklist in respect of Coupe 27.

69. By way of example, with respect to the presence of Errinundra Shining Gum within 500 metres of the proposed coupe area which subsequently became Coupe 15, referred to in paragraph 63 above, neither the:

- (a) East Gippsland FMA; nor
- (b) Amended East Gippsland FMA;

stipulate that an action has to be taken by VicForests with respect to this species. There is no Action Statement for the Errinundra Shining Gum.

70. At this stage, any prescriptions or exclusions identified by reference to the East Gippsland FMP, Amended East Gippsland FMP, the relevant Action Statement, and/or the Management Procedures 2007, are recorded in CIS. As noted in paragraph 28(b) above, CIS is an on-line database that records



all activities undertaken in a specific coupe. This includes information collected by the Tactical Planning Team at both the desktop assessment and field assessment phases. Both VicForests and the DSE have access to the CIS. CIS is the method by which information relating to coupes is provided by VicForests to the DSE so that the DSE may approve or amend TRPs.

71. Once the prescriptions or exclusions are recorded in CIS, the Tactical Planning Group prepares a field assessment package which comprises:
- (a) the relevant Overlay Report (with relevant features and risks highlighted);
 - (b) maps (with relevant features and risks highlighted); and
 - (c) field assessment sheets (which field assessors complete during the field assessment).

72. The Tactical Planning Group is now ready to undertake the field assessment of the proposed coupe.

D. Field assessment

73. Field assessment is used to confirm and assess, in greater detail, all information identified in the desktop assessment. Field assessment is also used to identify the presence of additional features that were not identified during the desktop assessment.

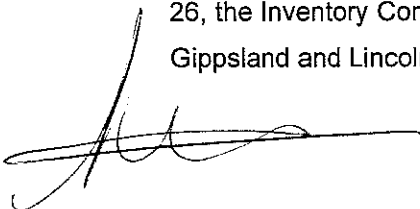
74. I have reviewed the field inventory plot sheets (**Plot Sheets**) contained in the Coupe Files in respect of Coupe 26 and Coupe 27 and note that a field assessment occurred in respect of Coupe 26 on 16 October 2009 and in respect of Coupe 27 on 25 October 2009.

Now produced and shown to me and marked "LRS-32" is a true copy of the field inventory plot sheet in respect of Coupe 26 dated 16 October 2008.

Now produced and shown to me and marked "LRS-33" is a true copy of the field inventory plot sheet in respect of Coupe 27 dated 25 October 2008.

75. In respect of Coupe 15 and Coupe 19, those coupes had already been approved in the 2007 Amendment to the 2004 TRP and had been subject to a field assessment in or around December 2006. The Overlay Reports for Coupe 15 and Coupe 19 did not indicate any new information which warranted a further field assessment being conducted prior to those coupes being submitted for approval in the 2009 TRP.

76. Field assessments are conducted by either members of the Tactical Planning Group or suitably qualified assessment contractors. I have reviewed the Plot Sheets referred to in paragraph 74 above and note that the field assessment for Coupe 26 and Coupe 27 was conducted by Russell McCandlish and Travis Brake of Forest and Woodlot Inventory Australia Pty Ltd (**Inventory Contractor**). In respect of Coupe 26, the Inventory Contractor was accompanied by Deon Kriek, Senior Forester Tactical Planning – East Gippsland and Lincoln Saunders, Tactical Planning Forester – Orbost, both of VicForests.



77. I have reviewed the Plot Sheets referred to in paragraph 74 above as well as the field inventory base maps (**Base Maps**), both undated, in respect of Coupe 26 and Coupe 27, and the Field Inventory – Reconnaissance Sheet (**Reconnaissance Sheet**), also undated, in respect of Coupe 27. These documents are contained in the Coupe Files for each respective coupe.

Now produced and shown to me and marked "LRS-34" is a true copy of the Base Map with respect to Coupe 26.

Now produced and shown to me and marked "LRS-35" is a true copy of the Base Map with respect to Coupe 27.

Now produced and shown to me and marked "LRS-36" is a true copy of the Reconnaissance Sheet with respect to Coupe 27.

78. In respect of Coupe 26 and Coupe 27, I note that the Inventory Contractor has recorded the following information as is present in the coupes on the Plot Sheets and Base Maps:

- (a) the potential net harvestable area;
- (b) the potential volume;
- (c) how the proposed coupe will be accessed;
- (d) operational issues, such as whether areas of the proposed coupe are too steep to harvest; and
- (e) management issues, such as prescriptions, exclusions, requirements or actions stipulated in the East Gippsland FMP and/or the Amended East Gippsland FMP.

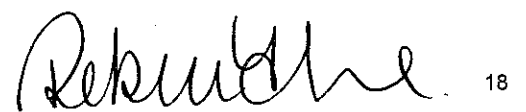
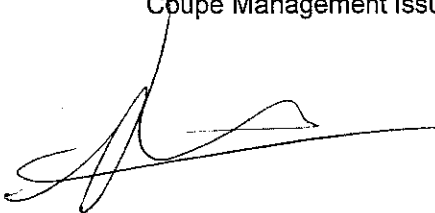
79. The relevant Plot Sheets and Base Maps do not exist with respect to Coupe 15 and Coupe 19. However, the information from the Plot Sheets and Field Maps was entered in CIS. The information can be looked up by the Tactical Planning Group in that form.

Now produced and shown to me and marked "LRS-37" is a true copy of the print out from CIS of the Merchantability and Viability Reconnaissance Activity in respect of Coupe 15 dated 19 January 2009.

Now produced and shown to me and marked "LRS-38" is a true copy of the print out from CIS of the Coupe Management Issues Reconnaissance Activity in respect of Coupe 15 dated 19 January 2009.

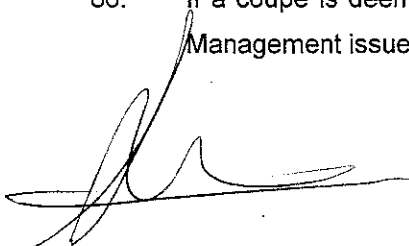
Now produced and shown to me and marked "LRS-39" is a true copy of the print out from CIS of the Merchantability and Viability Reconnaissance Activity in respect of Coupe 19 dated 12 February 2009.

Now produced and shown to me and marked "LRS-40" is a true copy of the print out from CIS of the Coupe Management Issues Reconnaissance Activity in respect of Coupe 19 dated 12 February 2009.



E. Completion

80. The completion stage involves the collation and review of the information collected or produced during the desktop assessment and field assessment and entering that information into CIS.
81. Firstly, the Tactical Planning Group determines the net harvest area of the coupe. The net harvest area is determined by excluding all areas within the proposed coupe which have been assessed as not harvestable due to:
- (a) operational factors, such as slope or access; and
 - (b) management factors, such as the presence of streams or habitat prescriptions.
82. In compliance with clause 2.1.3 of the Code of Practice for Timber Production 2007 (**Code of Practice**), the Tactical Planning Group must ensure that for all clearfell and seedtree coupes, the estimated net area must not exceed 40 hectares. If the estimated net area exceeds 40 hectares, the proposed coupe boundary must be reassessed by the Tactical Planning Group to ensure compliance with this prescription. For sake of clarity I note that a proposed coupe boundary may exceed 40 hectares if the proposed coupe contains areas that will not be harvested. In the case of Coupe 15, the gross area of the coupe is 43.4 hectares while the estimated net area to be harvested is 35 hectares.
83. Information and data collected in the coupling up, desktop assessment and field assessment stages is then entered into CIS. CIS divides this information into two categories:
- (a) merchantability and viability information and data; and
 - (b) management issues.
84. A map of the proposed coupe is also entered into CIS.
85. Merchantability and viability information and data comprises information related to the site characteristics of the coupe, its operational constraints (such as road access) and estimates of volume. This information and data is entered for every coupe existing in CIS, whether that coupe is viable or not. Viability will depend on:
- (a) access, for example stream crossings;
 - (b) net area;
 - (c) slope.
86. If a coupe is deemed viable, the Tactical Planning Group will enter the management issues into CIS. Management issues include:



- (a) apiary zones in the coupe;
 - (b) Forest Management Zones in the coupe and within 500 metres of the coupe;
 - (c) Fire Management Zones in the coupe;
 - (d) Allocation Order stand types in the coupe;
 - (e) threatened flora and fauna sites, presence of threatened Ecological Vegetation Classes and the occurrence of habitat potentially suitable for threatened flora in the coupe, and within 500 metres of the coupe; and
 - (f) the presence and extent of noxious plants, pests or diseases within the vicinity of the coupe.
87. Information regarding how the management issues will be addressed is then entered into CIS by the Tactical Planning Group. For example, if an identified management issue is that an SPZ exists within 500 metres of the coupe, the Tactical Planning Group will make a note in CIS that access to the coupe will not be via the SPZ, but otherwise no further action is required by VicForests.
88. This stage also involves the confirmation of the information and data collected in the coupling up, desktop assessment and field assessment stages before it is entered into CIS. In this sense, all information and data entered into CIS must align with the information collected in the previous stages.

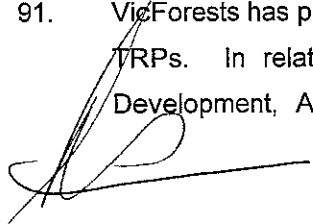
F. Peer review

89. Once information and data is entered into CIS, another member of the Tactical Planning Group reviews and assesses the information to ensure the information and data entered into CIS is complete, appropriate and is consistent with:
- (a) Forest Management Plans;
 - (b) Management Procedures;
 - (c) Action Statements (where relevant); and
 - (d) any other directions given by the DSE.
90. Where appropriate, amendments to information and data entered into CIS are made at this stage.

V TRP Preparation and Approval

A. Overview

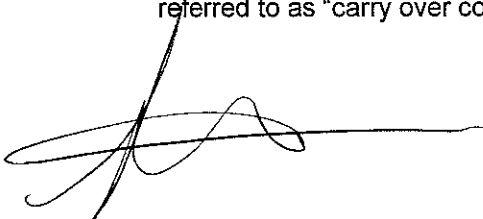
91. VicForests has prepared an instruction to guide the development, approval, changes and modifications of TRPs. In relation to the 2009 TRP, the relevant instruction was titled "Timber Release Plan Development, Approval, Changes and Modifications November 2008 v4.1" (TRP Guide). Now



Rebecca 20

produced and shown to me and marked "LRS-41" is a true copy of the TRP Guide dated November 2008.

92. Proposed coupes are selected for inclusion in the TRP based on the following factors:
- (a) volume, characteristic and location of coupe to ensure VicForests is able to meet:
 - (i) existing and future sales commitments; and
 - (ii) existing and future harvest and haulage commitments;
 - (b) allocation of forest stands in the Allocation Order.
93. When determining which proposed coupes are to be included in a TRP, the Tactical Planning Group must also consider:
- (a) whether the coupe is located in a Fire Management Zone;
 - (b) whether the coupe is located in an Apiary Management Zone;
 - (c) prescriptions or requirements contained in the Management Procedures 2007, for example in the East Gippsland FMA, there are limits on harvesting within specific Special Water Supply Catchments;
 - (d) prescriptions or requirements contained in the *Aboriginal Heritage Act 2006* (Vic) and/or the *Aboriginal Heritage Regulations 2009*, for example where there are sites of cultural significance located in the coupe;
 - (e) compliance with SMZ prescriptions; and
 - (f) Code of Practice compliance, for example the Code of Practice contains a prescription that limits contiguous harvesting within any five year period.
94. To ensure that contingencies such as natural disaster and change of policy and market conditions are adequately provided for, a TRP generally contains at least three years worth of coupes in excess of those required to meet annual contractual commitments. For this reason, the 2004 TRP (as periodically amended) contained approximately 950 coupes for which there were no plan to harvest prior to the expiration of the 2004 TRP on 1 August 2009 (**Excess Coupes**).
95. The Excess Coupes were subjected to the desktop assessment to determine whether they should be included in the 2009 TRP. Of the 950 Excess Coupes, 211 were modified and were treated as new coupes in the 2009 TRP and 294 coupes were included in the 2009 TRP without modification and were referred to as "carry over coupes".



Robert [unclear] 21

96. Coupe 15 and Coupe 19 were carry-over coupes, whilst Coupe 26 and Coupe 27 were new coupes included in a TRP for the first time in 2009.

B. Land and Fire review

97. With respect to the 2009 TRP, VicForests maintains a hard-copy file in its Orbost office. The hard-copy file contains all correspondence relating to the TRP submission. I have access to this file and have reviewed this file in preparation for making this affidavit. I am familiar with the contents of the hard-copy file. The hard-copy file forms part of the records maintained by VicForests in the course of, or for the purpose of, conducting its business.

98. The first stage of TRP approval is for VicForests to submit all proposed coupes to the regional Land and Fire section at the DSE for review and comment (**Land and Fire Review**).

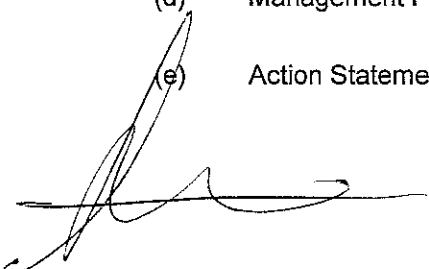
99. At the same time, a letter is also sent by the Senior Forester Tactical Planning at VicForests to the DSE Regional Director informing him or her of VicForests' intent to submit a TRP for Land and Fire Review. I note that at a date unknown to me, the title of DSE Regional Manager was changed to Land and Fire Area Manager. Now produced and shown to me and marked "**LRS-42**" is a true copy of the letter entitled "Proposed New Timber Release Plan (TRP) 2009/2010, Period 2 of the 2004 – 2019 Allocation Order" from Deon Kriek of VicForests to Nevile Penrose, Regional Director of the DSE dated 23 July 2008.

100. Proposed coupes are selected for submission to the DSE by the Senior Forester Tactical Planning and endorsed by me. Using CIS, I have reviewed the Bendoc District TRP status report for the year 2009-2010 (**Status Report**) which shows that on 25 March 2009, Deon Kriek selected proposed coupes for inclusion in the TRP submission to the DSE. Using CIS, I approved the proposed TRP submission on 30 March 2009.

Now produced and shown to me and marked "**LRS-43**" is a true copy of the Status Report.

101. The Land and Fire section assesses each proposed coupe to determine whether VicForests has identified and planned for management issues, such as habitat prescriptions, and has complied with the:

- (a) Allocation Order;
- (b) Code of Practice;
- (c) East Gippsland FMP;
- (d) Management Procedures 2007; and
- (e) Action Statements.



102. The Land and Fire review also provides an opportunity for the Land and Fire section at the DSE to make comments to assist the Secretary of the DSE when approving coupes as described at paragraphs 121 to 127 below.

103. Now produced and shown to me and marked "LRS-44" is a true copy of the relevant excerpt from CIS which contains the comments made by the Land and Fire section at the DSE in relation to Coupe 15, Coupe 19, Coupe 26 and Coupe 27.

104. With respect to Coupe 15, I note that on 9 December 2008 Andrew Hammond of the Land and Fire section at the DSE made the following comment in CIS:

"Portion of coupe lies within ALP Reserve Goongerah North – must not be harvested until these reserves have been finalised".

105. With respect to Coupe 19, I note that no comment was entered into CIS.

106. With respect to Coupe 26 I note that on 28 April 2009, Andrew Hammond of the Land and Fire Section at the DSE made the following comment in CIS:

"Mapping error. No harvesting within icon area."

107. With respect to Coupe 27 I note no comment was made in CIS by the Land and Fire section at the DSE.

108. All comments made by the DSE in the Land and Fire Review are considered and must be responded to by VicForests prior to VicForests submitting the TRP to the Secretary of the DSE for approval.

109. On 5 June 2009, using CIS, I responded to the Land and Fire section's comment in relation to Coupe 15 referred to at paragraph 104 above as follows:

"VicForests will not harvest coupe until icon reserve boundaries modified [sic]. VicForests will not harvest any area within approved reserve."

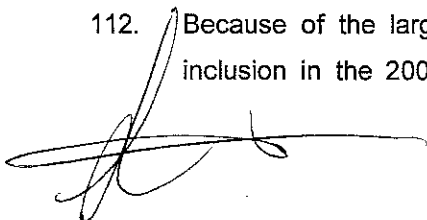
110. On 5 June 2009, using CIS, I responded to the Land and Fire section's comment in relation to Coupe 26 referred to at paragraph 106 above as follows:

"Coupe will not be harvested until Icon Reserve boundaries are approved. VicForests will not harvest in an Icon Reserve."

111. Although no comment was made by the Land and Fire section at the DSE in relation to Coupe 27, on 5 June 2009, I made the following comment in CIS:

"Adjacent to proposed icon reserve – ensure that coupe boundary is marked outside icon reserve."

112. Because of the large number of coupes which were to be submitted for approval to the DSE for inclusion in the 2009 TRP, prior the Land and Fire Review described above, between August and



October 2008, VicForests submitted three batches of coupes to the DSE Land and Fire section for preliminary review (**Preliminary Review**). This afforded the DSE Land and Fire section greater opportunity to provide feedback and make comment prior to the formal Land and Fire Review. Carry-over coupes were not submitted to the DSE Land and Fire section for Preliminary Review as they had been reviewed and approved by the DSE previously.

113. Following Preliminary Review, VicForests amended information and data in CIS where appropriate.
114. At the end of the Land and Fire Review, the DSE Area Manager writes to the Senior Forester Tactical Planning at VicForests informing VicForests that all relevant comments have been entered in CIS and outlining any significant issues which have been identified during the Land and Fire Review.
115. On 13 May 2009, David Tainsh, Land and Fire Area Manager, East Gippsland, at the DSE wrote to Deon Kriek. For convenience I note that the letter provides:

“ ...

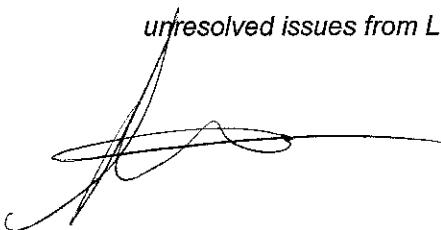
The proposed TRP was reviewed against the Allocation Order to VicForests Order [sic], Code of Practices for Timber Production (2007) [sic], Forest Management Plans, Management Procedures for Timber Harvesting and Associated Activities, relevant legislation and other policies, plans and procedures. Consideration has been given to the implications of each proposed coupe on planned District operations.

...

The outcomes of the Land and Fire Area review have been recorded in the Coupe Information System (CIS) and identify:

- *Deficiencies and inconsistencies between the values and actions planned to protect those values that have been identified by VicForests and the documents listed above;*
- *Additional information relevant to the proposed activities;*
- *Specific coordination requirements where DSE and VicForests operations are planned over the same area in similar time frames; and*
- *Approval requirements additional to the TRP approval process.*

Coupes in attachment two have been approved in accordance with the Management Procedures for Timber Harvesting and Associated Activities in Victoria's State Forests. In attachment two there are 1622 coupes listed. The list contains 483 coupes reviewed on the TRP, plus carryover coupes and regenerating coupes. Of the 483 coupes presented on the new TRP, 469 have been reviewed with no unresolved issues from Land and Fire Management. All of the carryover coupes were briefly reviewed.



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The following 14 coupes however have significant issues and are not approved for harvesting. These coupes listed below have the following issues identified:

..."

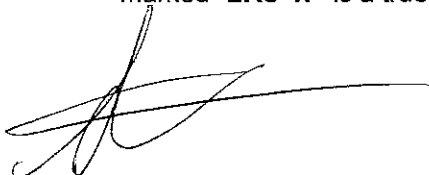
Now produced and shown to me and marked "LRS-45" is a true copy of the letter from David Tainsh to Deon Kriek dated 13 May 2009.

116. I note that Coupe 15, Coupe 19, Coupe 26 and Coupe 27 were not identified by the Land and Fire Area Manager at the DSE in the letter dated 13 May 2009 as having any significant issues which would prevent harvesting.

C. Stakeholder engagement

117. When a new TRP is proposed, the Senior Forester Tactical Planning notifies interested individuals and organisations listed in VicForests' stakeholder engagement database. These individuals and organisations include shire councils, catchment management authorities, individuals residing in neighbouring properties, recreational groups, agricultural organisations and historical societies. Environment East Gippsland, Inc (EEG) is listed in VicForests' stakeholder engagement database. The purpose of the notification is to inform interested parties that a TRP is being prepared and to seek feedback from those interested parties.
118. By letter dated 24 March 2009, Deon Kriek sent a letter to Jill Redwood of EEG entitled "Proposed New Timber Release Plan 2009/2010, Period 2 of the 2004-2019 Allocation Order for East Gippsland and Tambo Forest Management Areas (FMA's)" seeking comment on the 2009 TRP. Now produced and shown to me and marked "LRS-46" is a true copy of the letter dated 24 March 2009 entitled "Proposed New Timber Release Plan 2009/2010, Period 2 of the 2004-2019 Allocation Order for East Gippsland and Tambo Forest Management Areas (FMA's)" from Deon Kriek to Jill Redwood.
119. By letter dated 22 April 2009, addressed to:
- (a) Deon Kriek;
 - (b) Janet MacKenzie of VicForests;
 - (c) Stephen Henry of the DSE;
 - (d) John Lenders, Member of Parliament; and
 - (e) Gavin Jennings, Member of Parliament,

Jill Redwood responded to VicForests' letter of 24 March 2009. Now produced and shown to me and marked "LRS-47" is a true copy of the letter from Jill Redwood dated 22 April 2009.



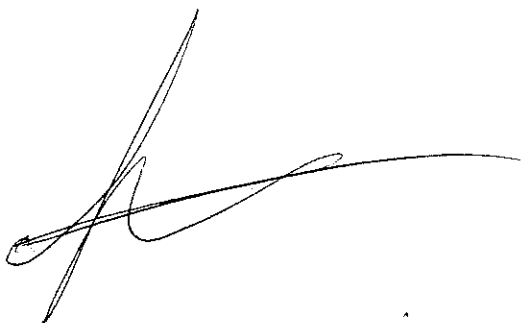
120. By letter dated 15 May 2009, Deon Kriek responded to Jill Redwood's letter dated 22 April 2009. Now produced and shown to me and marked "LRS-48" is a true copy of the unsigned letter from Deon Kriek to Jill Redwood dated 15 May 2009.

D. Finalisation and approval of TRP submission

121. Once the Land and Fire Review is completed, in preparation for submission of the TRP for approval to the Secretary to the DSE, VicForests prepares the following documents:

- (a) a list of all coupes and proposed year of harvest within each Forest Management Area;
- (b) a list of coupes which are mapped to contain forest stands not been allocated to VicForests in the Allocation Order (**Exceptions Report**) and how these coupes will be managed by VicForests;
- (c) a list of coupes that have been harvested but where regeneration activities are on-going;
- (d) a list of VicForests' responses to all DSE comments made during the Land and Fire Review;
- (e) an electronic copy of the proposed coupe boundaries for all coupes in the TRP submission;
- (f) a statement stipulating that VicForests has complied with relevant plans, policies and procedures identified during the Land and Fire Review;
- (g) a statement stipulating that VicForests considers the TRP to comply with the Allocation Order, the Code of Practice and the Code of Practice for Fire Management on Public Land;
- (h) a summary of issues raised by stakeholders; and
- (i) the results of any desktop study for Aboriginal heritage places (together, **Submission Documents**).

122. The Submission Documents are submitted to the Secretary under cover of letter from VicForests CEO, David Pollard. In respect of the 2009 TRP, on 15 May 2009, David Pollard wrote to the Secretary of the DSE, Peter Harris requesting approval of the proposed 2009 Timber Release Plan. Now produced and shown to me and marked "LRS-49" is a true copy of the letter from David Pollard to Peter Harris dated 13 May 2009.



Rebecca Hume²⁶

123. On 26 May 2009, I met with Scott Arnold, Manager Forest Standards and Compliance at the DSE, to discuss any outstanding issues which the DSE had with respect to the coupes. In respect of the coupes located in the Brown Mountain area, Scott Arnold requested that VicForests ensure that:
- (a) all coupes adjacent to the proposed icon area and Old Growth Reserve were not harvested until those reserves were finalised; and
 - (b) upon finalisation of the reserve boundaries, the coupe boundaries be modified to ensure they are excluded from the reserve.

Now produced and shown to me and marked "LRS-50" is a true copy of the notes I made at the meeting with Scott Arnold on 27 May 2009.

124. Following this meeting with Scott Arnold on 27 May 2009, I made amendments to the Submission Documents, which I confirmed by email to Scott Arnold on 27 May 2009 at 4.18 pm. For convenience I note that part of that email reads:

"Where Slither of proposed reserve exists VicForests action has been updated to read:

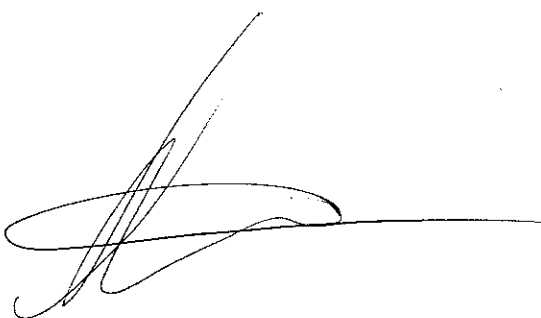
Adjacent to proposed icon reserve – ensure that coupe boundary is marked outside icon reserve.

Where significant areas of the coupe are within proposed coupe boundary I have VicForests actions have [sic] been updated to read:

Coupe not to be harvested until adjacent icon reserve is approved. If reserve includes portion of coupe this area is to be excluded during coupe marking – ensure that coupe boundary is marked outside icon reserve."

Now produced and shown to me and marked "LRS-51" is a true copy of the email I sent Scott Arnold on 27 May 2009 at 4.18 pm.

125. As noted in paragraph 24 above, the 2009 TRP was approved by Dr Peter Appleford – Executive Director, Forests and Parks, a Delegate of the Secretary to the DSE on 5 June 2009.
126. I have reviewed the Status Report referred to in paragraph 100 above which shows that on 9 June 2009, the DSE endorsed the TRP in CIS on 9 June 2009.



Rebecca Lane²⁷

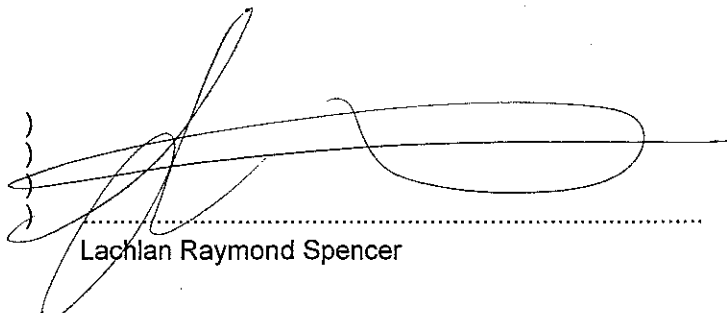
127. The 2009 TRP was gazetted in the Government Gazette on 9 June 2009. Now produced and shown to me and marked "LRS-52" is a true copy of the Notification of Approval of Timber Release Plan published in the Government Gazette dated 9 June 2009.

SWORN at MELBOURNE

on


27 November 2009

Before me:



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Lachlan Raymond Spencer



.....

Rebecca Veronica Howe
Level 21, 570 Bourke Street, Melbourne
An Australian Legal Practitioner
(within the meaning of the
Legal Profession Act 2004)