



## HIGH COURT OF AUSTRALIA

9 April 2025

FORESTRY CORPORATION OF NEW SOUTH WALES v SOUTH EAST FOREST  
RESCUE INCORPORATED INC9894030  
[2025] HCA 15

Today, the High Court unanimously dismissed an appeal from a decision of the Court of Appeal of the Supreme Court of New South Wales. The appeal concerned whether proceedings in the Land and Environment Court of New South Wales ("the LEC") to enforce duties and obligations imposed by an integrated forestry operations approval ("IFOA") and Pt 5B of the *Forestry Act 2012* (NSW) can be commenced and maintained by persons with a "special interest" in the subject matter of the proceedings, or can only be commenced and maintained by the government entities identified in s 69ZA(3) of the *Forestry Act*.

The appellant conducts forestry operations in certain State forests in New South Wales pursuant to an IFOA granted under Pt 5B of the *Forestry Act*. The respondent commenced proceedings in the LEC seeking declaratory and injunctive relief to enforce what it contended were obligations imposed on the appellant's conduct of forestry operations under an IFOA and Pt 5B of the *Forestry Act*. In dismissing the respondent's application for an interlocutory injunction to restrain the appellant from conducting certain forestry operations unless the appellant complied with the conditions of the IFOA, the primary judge rejected the appellant's contention that s 69ZA of the *Forestry Act* precludes a party that meets the "common law test for standing" from commencing proceedings to enforce compliance with the duties and obligations imposed by the IFOA and Pt 5B. However, the primary judge found that the respondent did not establish that it had a "sufficient special interest" in the subject matter of the proceedings to give it standing at common law to enforce the conditions of the IFOA. Consistent with those findings, the primary judge dismissed the entirety of the proceedings.

The respondent appealed the primary judge's dismissal to the Court of Appeal. By a notice of contention, the appellant repeated its submission that s 69ZA of the *Forestry Act* excluded common law standing. The Court of Appeal agreed with the primary judge that persons who satisfied the common law test for standing, including those with a special interest in the subject matter of the proceedings, could enforce the duties and obligations imposed by an IFOA and Pt 5B. However, the Court of Appeal upheld the respondent's contention that it had such a special interest and set aside the primary judge's order dismissing the proceedings.

The sole ground of appeal in the High Court was whether the Court of Appeal erred in concluding that private persons or entities can bring proceedings to enforce the duties and obligations imposed by an IFOA. In dismissing the appeal, the High Court held that the Court of Appeal was correct to find that such proceedings can be commenced and maintained by persons with a special interest in the subject matter of the proceedings. As the LEC is vested with an equitable jurisdiction in relation to the enforcement of any right, obligation or duty imposed by Pt 5B of the *Forestry Act*, the High Court held that, absent a clear and unmistakable statutory intention to the contrary, proceedings can be commenced and maintained by a person whose private rights are affected or who has a special interest in the subject matter of the proceeding. The appeal failed because a clear and unmistakable intention to the effect that the LEC's jurisdiction, or the liberty of access to the LEC, was withdrawn or limited by Pt 5B of the *Forestry Act* and the cognate provisions of the *Biodiversity Conservation Act 2016* (NSW) was not demonstrated.

*This statement is not intended to be a substitute for the reasons of the High Court or to be used in any later consideration of the Court's reasons.*