

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE

No 7966 of 1995

BETWEEN

GLENN ALEXANDER THOMPSON and CHERYL MAREE THOMPSON

Plaintiffs

- and -

THE MACEDON RANGES SHIRE COUNCIL and OTHERS

Defendants

DEFENCE OF THE THIRD DEFENDANT

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Filed on behalf of the third defendant

Prepared by:

Phillips Fox
Lawyers
120 Collins Street
MELBOURNE
VICTORIA 3000

Solicitors Code: 274

DX 147 Melbourne

Telephone: 9274 5000

Fax: 9274 5111

Reference: JMH:SKS:CIVI4890-076

Mr. Mark Huntington

By way of defence to the Statement of Claim dated 20 September 1996, the third defendant says:

1. He does not admit paragraph 1.
2. He does not admit paragraph 2.
3. Save that he admits:
 - (a) that he was employed as shire secretary of KSC from 1 December 1984 to June 1995; and
 - (b) that he was employed as manager of KWB from 1 December 1984 to 30 June 1992;he denies each and every allegation in paragraph 3.
4. He denies each and every allegation in paragraph 4.
5. He does not admit paragraph 5.
6. He does not admit paragraph 6.
7. He does not admit paragraph 7.

8. Save that he admits that in respect of the Woodleigh Heights Estate there was a proposed privately owned and operated water supply and reticulation system, which proposal included provision for dams, tanks, pumps and pipes, he does not admit paragraph 8.
9. He does not admit paragraph 9.
10. He does not admit paragraph 10.
11. He does not admit paragraph 11.
12. He does not admit paragraph 12.
13. He does not admit paragraph 13.
14. He does not admit paragraph 14.
15. He does not admit paragraph 15.
16. He does not admit paragraph 16.
17. He does not admit paragraph 17.
18. He does not admit paragraph 18.
19. He does not admit paragraph 19.
20. He does not admit paragraph 20.
21. He does not admit paragraph 21.
22. He does not admit paragraph 22.
23. He does not admit paragraph 23.
24. He does not admit paragraph 24.
25. He does not admit paragraph 25.
26. He does not admit paragraph 26.
27. He does not admit paragraph 27.
28. He does not admit paragraph 28.
29. He does not admit paragraph 29.
30. He does not admit paragraph 30.

31. He does not admit paragraph 31.
32. He does not admit paragraph 32.
33. He does not admit paragraph 33.
34. He does not admit paragraph 34.
35. He does not admit paragraph 35.
36. He does not admit paragraph 36.
37. He does not admit paragraph 37.
38. He does not admit paragraph 38.
39. He denies each and every allegation in paragraph 39.
40. He does not admit paragraph 40.
41. He does not admit paragraph 41.
42. He does not admit paragraph 42.
43. He does not admit paragraph 43.
44. He does not admit paragraph 44.
45. He does not admit paragraph 45.
46. He does not admit paragraph 46.
47. He does not admit paragraph 47.
48. He does not admit paragraph 48.
49. He does not admit paragraph 49.
50. Save that he admits that LJ Hooker was apparently involved in the plaintiffs' attempts to sell their land, he does not admit paragraph 50.
51. He does not admit paragraph 51.
52. He does not admit paragraph 52.
53. He does not admit paragraph 53.
54. Save that he admits:

(a) that he had telephone conversations with the first plaintiff around November 1985 in relation to an auction sign which referred to the plaintiffs' land and which also indicated that town water was available to the plaintiffs' land; and

(b) that he stated to the first plaintiff around November 1985 that town water was not available to the plaintiffs' land;

he does not admit paragraph 54.

55. He does not admit paragraph 55.

56. Save that he admits that during the period 1985 to 1988 the plaintiffs made numerous telephone calls to the third defendant; he does not admit paragraph 56.

57. He does not admit paragraph 57.

58. He denies each and every allegation in paragraph 58.

58A. Further, any representations made by the third defendant to the plaintiffs or one of them or to any other person in relation to the subject matter of this proceeding, were made in the genuine belief that they were true.

59. He denies each and every allegation in paragraph 59.

60. He denies each and every allegation in paragraph 60.

61. He denies each and every allegation in paragraph 61.

62. He denies each and every allegation in paragraph 62.

63. He denies each and every allegation in paragraph 63.

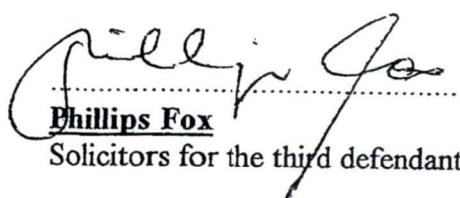
64. He does not admit paragraph 64.

65. He does not admit paragraph 65.

66. He does not admit paragraph 66.

67. He denies each and every allegation in paragraph 67.

68. The causes of action upon which the plaintiffs rely arose more than six years prior to the date on which this proceeding was instituted, and accordingly by reason of the provisions of section 5(1) of the *Limitation of Actions Act* 1958, the plaintiffs' claim is statute barred.


Phillips Fox
Solicitors for the third defendant

JOHN LANGMEAD