

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
IN THE COURT OF APPEAL
CIVIL DIVISION

No 6321 of 2005

BETWEEN:

GLENN ALEXANDER THOMPSON & CHERYL MAREE THOMPSON Appellants

and

MACEDON RANGES SHIRE COUNCIL & COLIBAN REGION WATER Respondents
AUTHORITY

ORDER OF THE COURT OF APPEAL

MASTER: Master Lansdowne

DATE MADE: 14 February 2008

ORIGINATING PROCESS: Notice of appeal

HOW OBTAINED: Directions hearing

ATTENDANCE: Mr Thompson in person and on behalf of the second appellant
Mr G.J. Ahern of Counsel for the First Respondent
Ms S.A. Burchell of Counsel for the Second Respondent

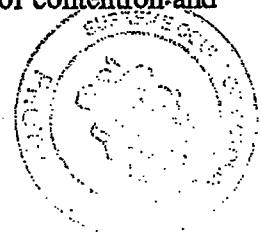
OTHER MATTERS:

1. In relation to order 1, the respondents do not agree the matters asserted by the appellants as being capable of agreement.
- 2(1) In relation to order 2, the court is not persuaded that the appeal book can reliably be limited as proposed by the appellants, having regard to the different approaches to the litigation taken by the parties to date, and the breadth of the notice of appeal.
- 2(2) In particular, the court accepts the submission of the respondents that transcript and submissions before Master Efthim should be included, having regard to the likely reliance of the appellants on events before Master Efthim.

IT IS ORDERED THAT:

1. The renewed application by the appellants that the respondents prepare an agreed summary of facts is declined, and a summary of facts is dispensed with.

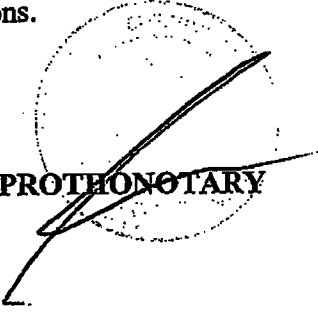
2. The respondents file in electronic form and serve a further marked up revised note of proposed contents of the appeal book complying with the following requirements on or before 4.00pm on 18 February 2008:
 - 2.1. Tab A heading - change to 'Process, Pleadings and Submissions';
 - 2.2. heading 'Proceedings before Justice Osborn' be inserted before Tab G, not after;
 - 2.3. current Tabs G and H be consolidated and headed 'Process and Submissions';
 - 2.4. subsequent Tabs be re-lettered;
 - 2.5. each current portion of transcript before Justice Osborn be numbered and the second to last portion be described as 'Transcript on delivery of judgment by Justice Osborn';
 - 2.6. the heading 'Court of Appeal Proceeding' be inserted before current Tab L;
 - 2.7. current items 1 and 2 of Tab M be deleted; and
 - 2.8. today's orders be included as item 3.
3. Subject to compliance with these directions, the contents of the appeal book are settled in accordance with the revised note.
4. The appellants prepare the appeal book as settled and deliver one copy to the Registrar and one copy to each respondent on or before 17 March 2008.
5. The appellants make any corrections required by the Registrar to the appeal book and deliver to the Registrar 4 copies of the appeal book as so corrected (or a further 3 copies if no corrections are required) and 3 copies to each respondent (or a further 2 copies if no corrections are required) within 28 days of being notified if any corrections are required.
6. The appellants provide written certification that the copies of the corrected appeal book delivered to the Registrar and to each respondent are in accordance with the Registrar's corrections.
7. The appellants pay the setting down fee on filing of the appeal book prior to any necessary corrections.
8. The appellants file in electronic form and serve his and her outline of submissions (not exceeding 20 pages in length) and list of authorities on or before 29 May 2008.
9. The respondents file in electronic form and serve a joint chronology and a summary of issues and procedural history, and each respondent file in electronic form and serve its outline of submissions (not exceeding 20 pages in length), any notice of contention and list of authorities on or before 19 June 2008.



10. In the event that a notice of contention is filed, the appellants file in electronic form and serve any submissions in reply and any additions to the list of authorities on or before 3 July 2008.
11. The parties to comply with Court of Appeal Practice Statement No. 1 of 2006 paragraphs 10.4 and 10.5 in relation to the preparation of a combined folder of authorities, save that the obligation to file the combined folder is cast on the respondents.
12. The respondents jointly file three copies of the combined folder of authorities and serve a copy on the appellants no later than 7 days prior to the date fixed for hearing of the appeal.
13. The agreed estimate for the length of hearing is 1 day.
14. On delivery of the appeal book with any necessary corrections in accordance with these orders and on compliance with any further directions of the Registrar or a Master the appeal is placed in the list of appeals for hearing.
15. The costs of today are costs in the appeal.
16. The parties have liberty to apply to the Registrar for further directions.

DATE AUTHENTICATED 25 February 2008

Rjs 25/2/08


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