

**IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMON LAW DIVISION**

No 6321/05

**B E T W E E N**

**GLENN ALEXANDER THOMPSON  
& CHERYL MAREE THOMPSON**

**Plaintiffs**

and

**MACEDON RANGES SHIRE COUNCIL**

**First Defendant**

-and-

**THE COLIBAN REGION WATER AUTHORITY**

**Second Defendant**

**FURTHER AFFIDAVIT OF STEVEN MARK EDWARD**

Date of document:

3 November 2005

Filed on behalf of:

the Second Defendant

Prepared by:

**Arnold Dallas McPherson  
Lawyers  
337 Hargreaves Street  
BENDIGO VIC 3550**

Solicitor code:

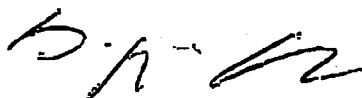
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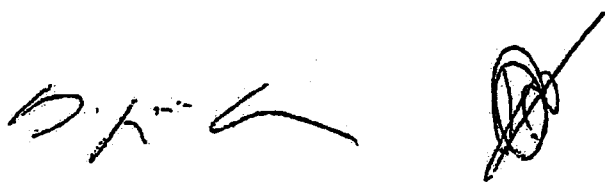
**Tel 5445 9200 Fax 5441 4424**

**Ref: Steven Edward**

I, **STEVEN MARK EDWARD**, of 337 Hargreaves Street, Bendigo, 3550, in the State of Victoria, Barrister and Solicitor, MAKE OATH AND SAY AS FOLLOWS:

1. I am responsible for the defence of these proceedings on the instructions of the second defendant, and I have, on 12 September 2005, previously sworn an affidavit in these proceedings.
2. I make this affidavit in response to the affidavit of Glenn Alexander Thompson sworn on 18 October 2005 (the 21 page affidavit headed "Affidavit of Glenn Thompson") ("the plaintiffs' affidavit").



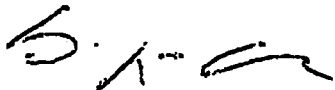
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3. In my affidavit sworn on 12 September 2005 ("my previous affidavit") I referred to proceedings in this Court numbered 7966 of 1995 ("the previous Woodleigh Heights action") and to my involvement in those proceedings.
4. In the previous Woodleigh Heights proceedings the first named plaintiff, for the purpose of discovery, swore a "Further Affidavit of Documents" (a copy of which is item 66 listed in exhibit **SME 2 Volume 3**). The Further Affidavit of Documents was sworn by the first named plaintiff on 22 December 1998. The Third Schedule of that Further Affidavit of Documents lists at item 93 "Plans of Subdivision Tylden Road Property".
5. I attended at the plaintiffs' solicitor's premises in Orange New South Wales on 4 and 5 February 1999 to inspect documents discovered by the plaintiffs. I did not have enough time on those two days to inspect all of the documents produced by the plaintiffs, but the documents I then inspected included a surveyor's plan of subdivision of Tylden Road. I do not recall that plan of subdivision being contained in a folder. According to notes that I made at the time that I inspected the documents, the surveyor's plan of subdivision for Tylden Road (my notes read "15 pg-orig-surveyors-Plan of S/D Tylden Road") was one of 25 items in a pile of documents, and on the top of that pile there was a piece of paper with the words "Kyneton Court D32/88" written in black.
6. On 23, 24, 25 and 26 March 1999 I again attended at the plaintiffs' solicitor's premises at Orange and I photocopied all of the documents then produced by the plaintiffs for the purpose of discovery (save for a bundle of about eight old cheque book stubbs and about four folders of bank statements which I did not then photocopy). Amongst the documents that I then photocopied were several pages being plans of subdivision of the Tylden Road property. Now produced and shown to me and marked with the letters **SME 3** is a folder containing a true copy of the said plans of subdivision that I photocopied in Orange in March 1999, the pages in the folder **SME 3** being numbered 1 to 28.
7. I have carefully examined the documents in folder **SME 3** and I have compared them to the documents in the exhibits GAT-7, GAT-8 and GAT-9 to the plaintiffs' affidavit.
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8. The documents being exhibit GAT-7 referred to in the plaintiff's affidavit appear to identical to the items numbered 2, 3 and 4 in exhibit SME 3.
9. The documents being exhibit GAT-8 referred to in the plaintiff's affidavit appear to be identical to the items numbered 7, 8 and 9 in exhibit SME 3, save that the said items 7, 8 and 9 each have the numbers 2, 3 and 4 respectively written at the top centre of the page, whereas the documents in exhibit GAT-8 have the numbers 2, 3 and 4 written on the top right hand side of the page, and the documents in exhibit GAT-8 each also have "13-13" written on the top right hand side of the page.
10. The documents being exhibit GAT-9 referred to in the plaintiff's affidavit appear to be identical to the items numbered 10, 12, 14, 16, 18, 20 and 22 in exhibit SME 3, save that the said items 10, 12, 14, 16, 18, 20 and 22 each have the numbers 5, 6, 7, 8, 9, 10 and 11 respectively written at the top centre of the page, whereas the documents in exhibit GAT-9 have the numbers 5, 6, 7, 8, 9, 10 and 11 respectively written on the top right hand side of the page, and the documents in exhibit GAT-9 each also have "13-13" written on the top right hand side of the page.
11. In paragraph 31 of the plaintiff's affidavit, the first named plaintiff, in referring to the mediation that took place during the previous Woodleigh Heights action, states that

*"I was unrepresented. Mr Neville is a solicitor and a personal friend. He was not retained by me in the mediation and had no knowledge of the case. Mr Neville agreed to accompany me solely to lend moral support and to assist in the negotiation process."*

I understand that Peter Neville, solicitor, is the "Mr Neville" there referred to.

12. During the course of acting for the second defendant in the previous Woodleigh Heights action, I obtained from the second defendant and also from the plaintiffs, various items of correspondence including letters and telexes as between Peter Neville of Neville & Co, solicitors, and the Shire of Kyneton and the Kyneton Water Board, and as between Peter Neville of Neville & Co and Maddock Lonie & Chisholm (the then solicitors for the Shire of Kyneton and the Kyneton Water Board), in relation to the Woodleigh Heights development. That correspondence is over the period from 3 September 1985 to 13 November 1986.



13. In the letters and telexes sent by Peter Neville, he made it clear that he was acting for the plaintiffs , and the matters raised by Peter Neville in his letters and telexes included:
- a. the plaintiffs' claims that they had been denied water and sewerage rights in relation to land they allegedly owned in the development,
  - b. the alleged inability of the plaintiffs to obtain building permits for that land,
  - c. the plaintiffs' plan to sell the land in the development and the Shire of Kyneton's insistence that a "for sale" sign be removed,
  - d. the claim that a water supply agreement in relation to the development was ultra vires, and
  - e. the claim that the plaintiffs had suffered substantial damages as a result of decisions by the Shire of Kyneton and the Kyneton Water Board in relation to the Woodleigh Heights development.

The letters and telexes by Peter Neville include several letters of demand threatening court proceedings against the Shire of Kyneton and the Kyneton Water Board in relation to the matters raised. Now produced and shown to me and marked **SME 4** is a true copy of this correspondence.

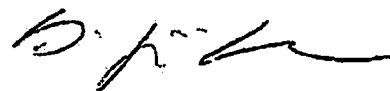
14. The matters raised by Peter Neville in his letters and telexes formed a significant part of the claims by the plaintiffs in the previous Woodleigh Heights action.
15. During the course of acting for the second defendant in the previous Woodleigh Heights action, I obtained from the plaintiffs a copy of a letter by Neville & Co, dated 7 September 1987, to Peter Power, a barrister then retained by Neville & Co. That letter forwarded to Peter Power a copy of a letter, dated 24 August 1987, sent by the first named plaintiff to the Shire of Kyneton and the Kyneton Water Board. Now produced and shown to me and marked **SME 5** and **SME 6** respectively are true copies of the Neville & Co letter to Peter Power dated 7 September 1987 and the letter sent by the first named plaintiff to the Shire of Kyneton and the Kyneton Water Board dated 24 August 1987. In the letter dated 24 August 1987, the first named plaintiff sets out, inter alia, the first named

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plaintiff's very detailed history of the Woodleigh Heights development controversy.

16. On 22 April 1999, in the course of the previous Woodleigh Heights action, I received a letter from Neville & Co. That letter states, inter alia, "We act as agents for Baldock Stacey & Niven who represent the plaintiff Glen Thompson". The mediation in the previous Woodleigh Heights action took place on 29 July 1999. Now produced and shown to me and marked **SME 7** is a true copy of that letter.
17. Given the contents of exhibits **SME 4**, **SME 5**, **SME 6** and **SME 7** I say that the statement in paragraph 31 of the plaintiffs' affidavit that Mr Neville (who I understand to be Peter Neville) "*had no knowledge of the case*" cannot be true.

**SWORN by**  
**STEVEN MARK EDWARD**  
at Bendigo in the State of Victoria  
on 3 November 2005.

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Before me



This affidavit is filed on behalf of the Second Defendant.

**DEBRA ANN LAWN**  
A current practitioner  
within the meaning of  
the Legal Practice Act 1996  
337 Harcourt St. Bendigo