

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

Court Number: **6321 of 2005**

BETWEEN:

**GLENN ALEXANDER THOMPSON
& CHERYL MAREE THOMPSON**

Plaintiffs

- and -

MACEDON RANGES SHIRE COUNCIL

First Defendant

- and -

THE COLIBAN REGION WATER AUTHORITY

Second Defendant

PLAINTIFFS' COSTS SUBMISSION

Date of Document: - ~~30th October 2006~~
Filed on behalf of: The Plaintiffs
Prepared by: The Plaintiffs.

8/12/06

Tel - 02 63 69 1940
Fax - 02 63 62 0015

- 1) On 29th November 2006 your Honour delivered Judgement in the appeal in this matter. Judgement was against the Plaintiffs.
- 2) As a matter of demonstrable fact your substantive reasons for Judgement are manifestly wrong and without any basis in fact or reason.
- 3) For the reasons set out below, including having made contradictory written submissions to a different Court of Record, the Defendants are also aware that your reasons for Judgment are manifestly wrong and based upon their specific misrepresentations made before your Honour. As will be seen from ~~the~~ ^{THEIR} written submission the submission of Major General Garde as to potable water was simply wrong and with no possible basis in fact or reason at all.
- 4) I will be appealing this Judgement.
- 5) The question at the present time is as to whether or not your Honour will award costs and in particular punishing costs in knowledge of the matters and facts set out below and the further question is as to whether or not the Defendants will seek costs and in particular punishing costs in

full knowledge that the Judgement is flawed and flawed at least in part due to their specific misrepresentations to your Honour.

- 6) Since Judgement last Wednesday I have been to Melbourne twice and to each of Canberra, Sydney and Adelaide. In addition I have substantial duties as Chairman of a Public Company. I have also had to begin preparation of the appeal. As a consequence I have had to prepare this submission in haste and without ordinary regard to nicety and turn of phrase. It is 'as is' but accurate.
- 7) In relation to Woodleigh Heights, from the material which I set out below it is demonstrable and beyond dispute that the Defendants have previously made and relied on joint written submissions to a Court of Record on the subject of the private water supply being a precondition to the subdivision and which joint submissions specifically contradicts a substantive basis of the reasons wrongly and without reasonable basis concluded by your Honour.
- 8) In relation to Tylden Rd it is clear and beyond dispute that Mr. Justice Kay proceeded and made Judgement on the basis that a s569E Notice requiring construction of roads was lawfully issued and served but there was no or no proper or sufficient requirement providing for the giving and receiving of my bank guarantees. It is also clear that the previous Tylden Rd proceeding at paragraphs 7 and 20 pleads exactly the same thing as was understood by Mr. Justice Kay. Notably paragraph 7 is admitted to on four separate occasions by the Defendants. Notably your honour completed omitted paragraph 7 from what purports to be a reasonable factual conclusion by your Honour as to the previous pleadings. This conclusion by your Honour is set out at paragraphs 56 and 57 of your reasons.
- 9) In relation to paragraph 57 of your reasons it is clear that the previous proceeding simply does not plead that the plans were unlawfully sealed. To do so would have been pointless and to fly in the face of s569B(10) of the Local Government Act and which section was well known to me and my Counsel of the day and described in my submissions, this section is also transcribed by you at paragraph 32 of your reasons. Despite and in the face of your assertions my affidavit is completely correct, it is your Honour who is manifestly incorrect. The County Court pleading merely makes note of the fact that the plans were in breach of 569A(1)(a). There is simply no allegation at all of unlawful sealing and no point to such an allegation. In addition Paragraph 7 plainly alleges that a s569E Notice requiring construction of roads was served. Notably your Honour failed to transcribe paragraph 7 of that pleading. You did however transcribe paragraph 20.
- 10) In relation to paragraph 7 the Defendants fully understood that it specifically said and alleged that a s.569E Notice requiring construction of roads was served, they had given this evidence in the Magistrates Court and the Supreme Court and admitted to it 4 times in the County Court. The

assertion of your Honour in your paragraph 57 is plainly wrong and known by the Defendants to be wrong. Your Honours failure to consider or transcribe paragraph 7 is deeply concerning to me.

- 11) The assertion by the Defendants and the finding by your Honour that discovery and particularly the Black Book discloses the fact of the perjury before the Magistrate and Mr. Justice Key and discloses the fact of the false admissions to paragraph 7 is an abject nonsense and this assertion by the Defendants and your Honour relies upon a patent distortion and misconstruction of my affidavit. This assertion by the Defendant and your Honour ignores the more abundant evidence that both I and Mr. Justice Kay were deceived by the perjury and false admissions. The assertion by the Defendants and your Honour is an assertion that I was aware of the perjury and false admissions at the time of the Book of Pleadings yet in plain continued reliance on that perjury paragraph 7 of the Amended Statement of Claim which was drafted subsequent to the Book of Pleadings continues to assert that a s569E Notice requiring construction of roads was served and the Defendants continued to admit to that allegation.
- 12) The assertion that the Black Book contains the evidence that the reticulation system for Woodleigh Heights was not complete is beyond abject nonsense. It is palpably false and any assertion or judicial acceptance of that nonsense is beyond outrageous. Notably at the last hearing I placed the Black book on the Bar Table and challenged the Defendants to demonstrate their assertions. They did not do so. They cannot do so.
- 13) Your substantive reasons for Judgement are demonstrably completely in error with essentially every substantive paragraph wrong in fact and or law.
- 14) In addition your Honour made engineering findings of fact which you were not qualified to make and which are also wrong in fact. I refer in particular to paragraph 168 and also to the fact that the water supply provided by the Second Defendant did as a matter of fact, pursuant to clause 6 of the purported water supply agreement, connect to the private water supply system. In addition as a matter of fact that supply provided by the Second Defendant was of such low pressure that it was necessary to have that supply flow to the private water tanks at a continuous trickle and then from the tanks to provide the demand supply. Your Honour's conclusion was simply wrong and you demonstrably had neither the qualification or knowledge to make the conclusions made by you. In addition this conclusion was irrelevant. The only relevancy was as to my belief and as is amply and irrefutably set out my reasonable belief at the relevant time was that the supply of the Second Defendant was contained in the pipes of the private system.
- 15) In relation to the Knowledge of the Defendants at the time of sealing the plans it clear that in relation to Tylden Rd the defendants did have the knowledge of the status of the s569E Notices at all times and in relation to Woodleigh Heights I advised your Honour that I had that evidence and

in any event it was a triable issue which was not raised by the Defendants at this time. The assertions made by your Honour in relation to this aspect at paragraph 155 and footnote 46 are demonstrably wrong and deficient and demonstrably does not address my substantive submissions at paragraph 70 of part 1 of my submission. Your Honours assertion that there is no evidence of knowledge of the Defendants at the time of sealing the Woodleigh Heights Plans is simply wrong and this issue cannot be summarily determined as it was by you. In addition at page 156 of the transcript of the hearing before your Honour I advised you that I had not come prepared to address this triable issue and that I had ample evidence including typewritten notes by the then Shire Engineer. Again your Honour's finding is simply wrong and in the absence of substantive argument on the issue at trial and reference to the evidence including the typewritten notes referred to by me was made without any possible reasonable basis of belief by your Honour.

- 16) I say that as a consequence your judgement is also manifestly wrong, the Plaintiffs will therefore be appealing your Honours Judgement.
- 17) The Plaintiffs place on record that they are seriously concerned and disturbed by your Honours reasons for judgment and the facts and circumstances surrounding that Judgement and the circumstances of the conduct of the hearing of the appeal by your Honour.
- 18) The Plaintiffs submit that the reasons for Judgment are so manifestly wrong that it would be wrong for your Honour to make any costs orders at all.
- 19) The Plaintiffs therefore request that your Honour make no costs orders at this time pending the appeal.
- 20) In the event that your Honour refuses this request and makes costs orders then the Plaintiffs request that those orders be stayed pending the appeal.
- 21) In the event that your Honour makes orders against the Plaintiffs and does not stay those orders then the Plaintiffs say that the reasons for Judgement are so manifestly wrong and that manifest wrongness is well known to the Defendants and it would be wrong of the Defendants to seek to enforce any order made on the basis of those reasons. This is particularly true because your Honour's Judgement was based at least in part on the misrepresentations and obfuscation of the Defendant's Counsel and in particular Major General Garde in relation to the potable water supply.
- 22) I note that in an appeal against your Honours Judgement I am able to adduce new evidence upon questions of fact and in this instance I shall do so. For the present purpose I include and attach hereto some of that evidence. Rule 64.22(3).
- 23) In relation to determinations of fact made by your Honour in this Judgment your Honour made several determinations which were simply not raised by either party at the time of the hearing but

instead have been raised by your Honour and I further note that each such determination by your Honour was determined against my position and in each instance done so in error.

24) Interestingly because I will be an appellant in person it is the Defendants which are required by practice note number 2 of 1995 to compile for the Court a summary of proceedings and a summary of facts. The summary of fact will necessarily be at odds with the facts set out in your Honour's reasons for Judgement.

Partial Analysis of your Honour's reasons for Judgement. Woodleigh Heights.

25) In relation to Woodleigh Heights essentially every paragraph of your Honour's reasons for Judgement is wrong and has no possible basis in fact or reasonable reason.

26) At pages 108 and 109 of the transcript of proceedings the following exchange took place between your Honour and I.

(a) "HIS HONOUR: Yes, that's not what I was putting to you

Mr Thompson. You say it was in breach of the planning permit because - as I understand it, because there was no articulated water supply.

(b) MR THOMPSON: Yes. Yes, that's correct.

(c) HIS HONOUR: Yes.

(d) MR THOMPSON: It was in breach of the planning permit.

(e) HIS HONOUR: That's what you say.

(f) MR THOMPSON: Yes.

(g) HIS HONOUR: Yes, and it depends on construction of the planning permit as to whether that's right, **but that's not the sort of question that would be resolved at this stage.**"

27) Your honour then went on to determine the question of the construction of the Planning Permit and not only wrongly determined the question but also determined it in error of both law and fact and without any possible basis for the determinations arrived at.

28) Attached hereto and marked "Appendix A" is a copy of page six of a document entitled "Written Submission on behalf of the Council of the Shire of Kyneton and the Kyneton Water Board" and which document is dated 7th March 1988 and which is signed by Maddock Lonie and Chilsholm the predecessor to Maddocks and which was submitted by Mr. Ian Lonie and personally read by

him to the Planning Appeals Tribunal in appeal no P87/2206 which was heard in Melbourne on 7th March 1988.

- 29) Attached hereto and marked "Appendix B" is a copy of the Application for Permit dated 10th November 1978 in relation to the Woodleigh Heights land. This application is an application to (a) subdivide, (b) carry out the works in accordance with the accompanying plans and which plans include the private water supply and reticulation system set out in the submission, (c) to use the land for the purpose of a detached house on each allotment. The existing use of the land was "Rural Residential" and it remained rural residential after the planning permit was granted.
- 30) Attached hereto and marked "Appendix C" is a copy of the First Defendants working papers in relation to consideration of the application. The working paper is clearly marked "Approval in accord with submission subject to" the words "refusal on grounds" are crossed out and there are no grounds for refusal.
- 31) It is clear that the application was approved in full.
- 32) Attached hereto and marked "Appendix D" is a copy of Planning Permit 2191 which was issued as a consequence of the application dated 10th November 1978. This by its express terms is a permit to subdivide and use the land in accord with the condition set out in the permit. No further permit was required for the subdivision and use of the land as applied for.
- 33) The documents marked appendix B, C & D, were all exhibit to your Honour at "GAT-5"
- 34) From the submission of the First and Second Defendants to the Planning Appeals Tribunal it is clear that the initial subdivision of the land was conditional upon a reticulated water supply being present and from the Application for Permit it is clear that the application was an application for a planning permit to permit the subdivision of the land and the use of the allotments for residential purposes.
- 35) From Planning Permit no 2191 it is clear that the Permit is a Permit to subdivide land and condition 8 of that permit is a condition of the development of that land according to that Permit which is by its specific terms a permit to "Subdivide part crown Allotments 38 and 41".
- 36) From the express written submission of the Defendants as set out in Appendix A and from the Application for Permit and from Planning Permit 2191 it is clear and beyond dispute and in the words of both Defendants that the subdivision of the land was conditional upon the existence of a reticulated water supply whether potable or not. It is also clear that the subdivision was specifically permitted on the condition that the reticulated water supply described in the submission to the Planning Appeals Tribunal and further described in the submission dated 3rd November 1978 as

referred to in condition 8 of Planning Permit 2191 was the reticulated water supply which enabled compliance with the then Planning Policy of the first Defendant.

37) As a consequence paragraph 156 of the reasons for Judgement is correct however paragraphs 72, 157, 160, 162 and 163(c) of the reasons for Judgement are manifestly wrong.

38) Paragraph 73 of your Honours reasons is simply wrong with no possible basis of a belief by you as to its accuracy. Planning Permit PP278 permitting the Cluster Re-subdivision was issued on 5/11/1980 and at this time a water supply from the Second Defendant was not even a consideration and the Planning Permit as a matter of fact has no condition relating to water at all. The very first approach to the Second Defendant seeking a water supply provided by the Second Defendant was by letter dated 5th March 1981. The purported Water Supply Agreement which followed was not entered into until 1st January 1982 and the supply provided by that agreement was not available until many months after that. Your paragraph 73 is, as with most of your reasons is completely wrong and misleading and your Honour has no possible basis at all for the matters set out in that paragraph. ~~Y~~

39) In relation to this aspect it is to be noted that the Defendants did not dispute the terms of the Planning Permit as alleged by the Plaintiffs. This was an aspect raised by your Honour despite having said **that's not the sort of question that would be resolved at this stage.** And without having heard any argument from myself on the subject.

40) From these documents it is clear, as stated by me at the hearing, potable water is simply irrelevant. There is no possible basis for a belief by your Honour or Major General Garde that anything other than a reticulated water supply, potable or not, was a prerequisite to subdivision. Potable water is simply not relevant. As a consequence each of paragraphs 69, 147, 152, 153, 155, 163(a), 163(c), 163(d), 163(e), 167, 168, 168(a), 169, 170, 174, 178, 181(b), 181(c), 181(d) of your Honours Judgement and each and every footnote which relies upon or refers to "potable" is either or all of wrong, misleading, and irrelevant.

41) Your Honour made engineering determinations which were both wrong and which you were not qualified to make and which were out of context and irrelevant. At paragraph 168 you state that the water supply pursuant to the agreement could not simply be connected to the private reticulation system envisaged by the original permit and you then state 2 reasons. These reasons are plainly fallacious as a mere extension of the system to the roadway could facilitate such a connection and in addition the simple fact is that, the reticulation system to the extent that it existed was so connected and this fact is attested to by the fact that clause 6 of the Water Supply Agreement required the intermittent filling of a storage tank within the subdivision and the fact is that the water tanks forming part of the private system were and remain the only such tanks on the

subdivision and the fact is that the pipes which exist in the subdivision are as a matter of fact connected to that tank. In addition the pressure of the water supply provided by the Second Defendant is inadequate to meet peak demands and the sole means of providing water to the subdivision was by low pressure essentially constant flow, particularly at night, into the tanks and for the water to then flow from those tanks to meet the anticipated requirements of the subdivision.

- 42) Your Honour plainly has no knowledge of the pressure and flow of the supply provided by the Second Defendant and as a consequence you have no way of knowing and do not know as to whether or the pipes set out in the submission of 3/11/78 could take the reverse flow required.
- 43) The majority of the remainder of your Honours reasons for Judgement in relation to Woodleigh Heights are similarly fallacious. On the applications of the Defendants I was not required to address the issues raised by you without notice and which in the circumstances are and were triable issues and were raised by you without notice and determined by you without argument and in many instances despite and in the face of my assertions to the contrary and my assertion that I had evidence to prove these things at the trial which you have now sought to deny me.
- 44) Paragraph 102(a), nothing of the Woodleigh Heights claims is predicated on matters relating to the Tylden Rd Land and nowhere do I say or imply any such thing, the circumstances of each merely corroborate the other.
- 45) Paragraph 102(b) is wrong and fallacious because of the matters contained in the documents appended hereto.
- 46) Paragraph 102(c). The Plaintiffs regularly say that they were shown new material at the time of the hearing in the Practice Court. The Document concerned was in the possession of the Defendants and was retained by the Defendants. The Defendants do not deny that I was shown this reticulation plan. There is no evidence that I was not shown this plan and the Defendants have had ample opportunity to deny it. They instead admit it. If this paragraph relies upon the matters set out in paragraph 169 then it fails for the same reasons as paragraph 169 and 170.
- 47) Paragraph 102(d). The facts of the concealment of the fact that the water supply was not completed is amply explained by me.
- 48) In this proceeding, despite and in the face of the reasons of your Honour the facts are that the First Defendant represented that the Woodleigh Heights subdivision had been completed according to law and that representation included a representation that the private reticulated water supply had been completed according to law in 1979. The 1995 Supreme Court proceeding was based upon this representation. I have since discovered that this representation was false and that the Defendants ran sham defences which concealed the fact that the said water supply had not been

completed according to law. The Defendants obtained a patently unconscionable settlement in full knowledge that the Plaintiffs remained unaware of the truth. This raises an important issue of justice and law as to whether or not the Defendants can now avoid a proceeding on the facts by relying upon an assertion, accepted by you, that the previous proceedings precludes a hearing on the facts and issued which were concealed by them at the time of the previous hearing. Your Honours determination in this respect relies upon your finding that there was no concealment. It is patently clear that your Honour cannot hold that belief on the facts which were before you.

- 49) There is also an important issue as to justice and law as to whether or not Terms of Settlement obtained in fraud can now be relied upon.

Analysis of your Honour's reasons for Judgement. Tylden Rd.

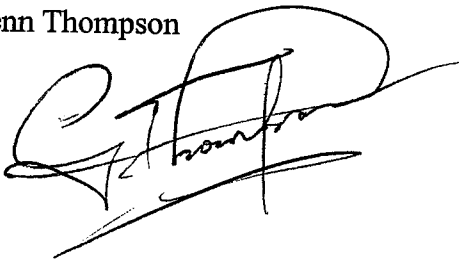
- 50) I have run out of time to make further substantive submission however it is only necessary to show that paragraph 7 of the previous Tylden Rd proceeding discloses that I was in fact of the belief that a s569E Notice requiring construction of the road had been issued and that there is simply no evidence whatsoever to the contrary. In addition the simple fact is that both Defendants by their false admissions continued to conceal the fact that this notice was never either issued or served and the plan to which it related was in fact abandoned and was not processed in parts as stated by the Defendants in evidence and discovery. The Book of Pleadings does not contain what is wrongly attributed to it and this is plainly demonstrable and set out in my submission. To say that my then Counsel drafted paragraph 7 in full knowledge that paragraph 7 was false is an offence to Mr. Tiernan.
- 51) The Defendants concealed the fact that the s569E Notice referred to in paragraph 7 of the previous Amended Statement of Claim had never been either issued or served and the assertion by the Defendants and your Honour that the Black Book contains the evidence to the contrary is an assertion that discovery and in particular the Black Book contains evidence disclosing the perjury of the First Defendant and the false admissions of the both Defendants. Such assertions by the Defendants and the finding of your Honour to this effect is abject nonsense and my affidavit simply does not say what is attributed to it by the Defendants and your Honour.
- 52) Notably at paragraph 54 of your Honour's reasons you say of the County Court proceeding, "... .. It was pleaded On or about 20 February 1980 the Council had served a requirement pursuant to s569E(1) and (1A) in respect of the construction of road works and the obtaining of a statement from the Water Board " This part is in fact an extract from paragraph 7 of that Amended Statement of Claim and it plainly alleges that a requirement was made, issued and served, Then at paragraphs 56 and 57 you say that the self same Amended Statement of Claim does not say this. Your reasons for Judgement are self contradictory on this most important and central aspect. Your reasons for Judgement are self defeating.
- 53) **Your reasons for Judgement.**
- a) On a quick run through the following paragraphs of your reasons for Judgement are demonstrably either or all of wrong, inaccurate, baseless, misleading and fly in the face of either the facts and or the law.
- i) 2, 3, 5, 6, 8, 10, 15, 18, 19, 24, 52, 55, 57, 58, 59, 60, 61, 72, 73, 81, 82, 96(c), 97, 101, 102, 104, 115, 116, 117, 118, 119, 120, 122, 126, 127, 128, 129, 130, 138, 139, 140,

141,143, 144, 147, 148, 151, 152, 153, 154 155, 156. 157, 160, 161, 163, 164, 165, 167.
168, 172, 173, 174, 178, 179, 180, 181.

- b) The reminder of the paragraphs are opinions and simple facts of law. Those paragraphs which express opinions and conclusions are entirely based upon the said misleading and wrong matters and things contained in the remaining paragraphs and are therefore wrong opinions and conclusions.
- c) It is difficult to imagine a more completely wrong and deficient Judgement.
- d) Those paragraphs relating to the purported releases are also based upon the erroneous paragraphs and are therefore also wrong.

I submit that no costs orders should be made and I submit that any costs orders made should be stayed pending appeal.

Glenn Thompson

A handwritten signature in black ink, appearing to read 'Glenn Thompson', with a large, stylized flourish above the name.

The Council has adopted a policy or guidelines regulating the size of subdivisional allotments in different areas under its planning control. That policy as applied to the subject land provides for a minimum allotment size of 3 acres (with reticulated water) and 6 acres (without reticulated water).

The allotments the subject of the application vary in size, but on average have an area of approximately 2/3rds of an acre.

Details of the planning permits issued in respect of the subject land are set out in the Schedule hereto.

In summary, however, the position is that in 1976 the land was subdivided into 17 allotments ranging in size from 2.43 ha. to 3.81 ha. (i.e. average of 7 acre lots).

Subsequently, there was an application for the cluster subdivision of the land into 45 allotments (of 2 acres each) having an overall lot density of 1 allotment per 3 acres.

One of the conditions of that development required water to be provided by a large on-site dam and internal reticulation.

The next stage was an application for a cluster re-development dividing the existing cluster lots into 3, making a total of 134 lots with an average lot size of 2/3rds of an acre. That application was in the context of the land being developed for holiday/recreational homes plus common recreational facilities. The Council treated it as an overall development of a tourist/holiday development, and on that basis did not apply its policy which prescribed minimum allotment sizes.

GATE 5
APPENDIX

B

65

Application No. 2190 2191
Date Received 2175

TOWN AND COUNTRY PLANNING ACT 1961

MELBOURNE METROPOLITAN PLANNING SCHEME

MELBOURNE METROPOLITAN INTERIM DEVELOPMENT ORDER

(Whichever applicable to the land described in the Application)

MELBOURNE AND METROPOLITAN BOARD OF WORKS

or SHIRE OF KYNETON

(Whichever applicable having regard to delegation to Council)

APPLICATION FOR PERMIT

To the Secretary,

Melbourne and Metropolitan Board of Works,

625 Little Collins Street, Melbourne, 3001.

or the Town Clerk/Shire Secretary of the Municipality in which the land is situated.

I/We K.R. & Y.R. BUCHANAN c/- JAMES A. HARRIS & ASSOC. PTY. LTD.

(Full Name in Block Letters, being an applicant as described in the notes on the back hereof) of (actual address)

of 882 WHITEHORSE RD. BOX HILL Post Code 3128

hereby apply for a permit to

* (i) sub-divide the land described hereunder in accordance with accompanying plan (six copies)

* (ii) erect construct or carry out on land described hereunder the buildings or works in accordance with accompanying plan (three copies)

* (iii) use the land described hereunder for the purpose of A

DETACHED HOUSE ON EACH ALLOTMENT

Existing use of land

RURAL RESIDENTIAL

Interest of Applicant in land: *owner/occupier/prospective purchaser/other interest

OWNER

DESCRIPTION OF LAND	LOCALITY PLAN
Municipal District KYNETON	N Indicate distance from nearest joining or intersecting street and dimensions of the land
Township or Locality KYNETON	
Street EDGECOMBE ROAD No.	
Crown Allotment No. 38, 41 Section	
*Township/Parish CARLSRUHE	
Lot No. 1-13 Lodged Plan No. 127962	
Dimensions: 645.8	
Frontage 804.2	
Situated on EAST side of street	
commencing 500 metres† NTH of	
DETTMANS LANE Street	
(being nearest joining or intersecting street).	
Title Particulars:	
Volume 6472 Folio 251	

Dated the 10th day of November 1978

Signature of applicant * R. Buchanan

Telephone No. 898599

891089

OWNER'S CERTIFICATION

Where the applicant is not the owner the concurrence of the owner shall be evidenced (A) by his executing the following:

I/We

of the owner(s) of the above described land hereby concur in the above application.

Dated the day of 19

Signature of owner(s)

Witness

of

or (B) shall be accompanied by evidence to the satisfaction of the responsible authority that the application is made with the knowledge of the owner.

* Delete where inapplicable.

† Insert direction: northern, southern &c., northerly, southerly &c., as appropriate.

SHIRE OF KYNETON

PLANNING APPLICATION NO. 2190 2191

DATE RECEIVED:

DATE MEETING:

APPLICANT: K.R. & Y.R. BUCHANAN

OWNER:

SURVEYOR: J. A. HARRIS

DESCRIPTION/LOCATION OF SITE:

PART. CA 38 & 41
PARISH CARLSRUHE
Abattoir Rd.

DETAIL OF APPLICATION:

To subdivide

CLUSTER TYPE DEVELOPMENT
INCLUDING WATER/OPEN SPACE
Average lot size 2 AC. *

RECOMMENDATION: (APPROVAL SUBJECT TO)

MELVILLE DRIVE from eastern boundary of lot 10
eastward deleted. — Fire Access/Easement.

The corporate body shall be responsible for the
proper maintenance of all private facilities including
water, private roads and open space. to the
satisfaction of the Council.

APPROVALS:

1. Allotments only to be used for pastoral purposes, excluding piggeries, kennels, and poultry farms, without the prior permission of Council.
2. All dwellings to be constructed are to be of 1000 square feet (90 square metres) minimum area.
3. Allotments are not to be cleared or timber felled without the prior permission of Council.
4. Subdivider to contribute an amount of _____ of the site value of the land/lot in accord with the provisions of Section 569 of the Local Government Act 1958.
5. Subdivider/applicant to contribute to Council an amount of \$ _____ for the upgrading of Government Roads serving the subdivision.
6. That private streets and drainage are constructed at the cost of the subdivider to the stage of 18" Sealed Pavement in accord with plans and specifications prepared by the subdivider and approved by Council.
7. Each and every allotment to be served by a water main, and other capital works as required in accordance with the direction of the Water Trust at the full cost of the subdivider.
8. Each and every allotment to be served by a sewer main, and other capital works as required in accordance with the directions of the Kyneton Sewerage Authority at the full cost of the subdivider.

* Justification for lesser lot size than 3 Acs
in the fact that Recreational fee paid together
with 30 Acs of Private open space.
— also pilot scheme of this type.
ACQUISITION FOR ROAD WIDENING.

9. That a topographic plan of the area be submitted setting out all natural features and improvements and that suitable easements be created where directed by the Council.
10. The applicant to comply with all requirements of other Statutory bodies and Government Departments.
11. A building permit being obtained immediately for the shed and dwelling and the dwelling being completed within two years.
12. The prior approval of the Council of all waste disposal systems pertaining to proposed dwellings.
13. The allotment being serviced by a Water Trust approved water main.
14. The proposed use is not to cause any detriment to the amenity of the area/neighbourhood by the emission of noise, dust, odour, or the like.
15. Compliance with all requirements of the Health Act and any applicable regulations.
16. The applicant be advised that Council will not undertake to improve road access to the site.
17. Allotment sizes to be as follows:
 - 80% of site min. area 7000 square ft min. frontage 60ft (18.3m)
(650 sq. metres)
 - 10% of site min. area 6500 square ft min. frontage 55ft (16.8m)
(604 sq. metres)
 - 10% of site min. area 5750 square ft min. frontage 50ft (15.2m)
(534 sq. metres)

REFUSALS:

1. The application does not comply with the adopted policy of minimum allotment area of
2. The land is considered to be a viable farm.
3. This development is considered to be detrimental to the amenity of the area/neighbourhood.
4. Adequate services are not presently available to the site.
5. The proposed use is not appropriate having regard to the planning policy for the area.

APPENDIX D

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TO SUBDIVIDE PART CROWN ALLOTMENTS 38 AND 41
PARISH CARLSRUHE, ABATTOIRS ROAD.
CLUSTER TYPE DEVELOPMENT INCLUDING WATER/OPEN SPACE
AVERAGE LOT SIZE 2 ACRES.

COPY

2191

1. Allotments only to be used for pastoral purposes, excluding piggeries, kennels, and poultry farms, without the prior permission of Council.
2. All dwellings to be constructed are to be of 1000sq.ft.(90sq.metres) minimum area.
3. Allotments are not to be cleared or timber felled without the prior permission of Council.
4. That private streets and drainage are constructed at the cost of the subdivider to the stage of 18' sealed pavement in accord with plans and specifications prepared by the subdivider and approved by Council.
5. The prior approval of the Council of all waste disposal systems pertaining to proposed dwellings.
6. The Corporate Body shall be responsible for the proper maintenance of all private facilities including water, private roads and open space to the satisfaction of the Council.
7. Delete Melville Drive from eastern boundary of Lot 10 eastward and replace with Fire Access Easement.
8. The development to be carried out in accordance with the plans and submission which formed part of this application.

15th November, 1978

XXXXX