

1A. Affidavit (r. 23A)

District Court of Western Australia		Appeal No / Action No: 1 of 2017
Held at Bunbury ^{1A}		AFFIDAVIT ¹
Parties	Andrew Laughton *Appellant/Plaintiff Sharyl Marsh and James Marsh *Respondent/Defendant *delete inapplicable and/or add full party details	
Person making affidavit	Andrew Laughton	
Date of filing		
Date made		
Purpose ²	Affidavit to supply additional evidence to appeal against decision on BUN/GCLM/316/2015 for reasons of Fact, Law and Fairness.	
Filed by	Andrew Laughton. Claimant.	
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FILED
25 MAY 2017
REGISTRY OFFICE
DISTRICT COURT
BUNBURY

I, Andrew Laughton, of 11b Keble Heights, Bunbury, electrician, [affirm in accordance with the Oaths, Affidavits and Statutory Declarations Act 2005] as follows —

A. Seddor

ATM *A.L.*

Notes to Form 1A —

- 1A. If not held at Perth, state the location of the relevant registry.
1. The affidavit must comply with the RSC Order 37.
2. Example: To support summons by plaintiff dated 1 May 2010 for summary judgment.
3. The index must comply with the RSC Order 37 rule 2(7). Form 1A contains in italics an example of an index.
4. Page 1 must be on a separate sheet of paper from the above.
5. The *Oaths, Affidavits and Statutory Declarations Act 2005* Part 3 sets out the requirements for affidavits and who are authorised witnesses for affidavits.

AL

1 MAGISTRATES COURT ACT 2004 - Sect 30

1.1 No additional evidence.

2 My statement of fact and law that was submitted on 8th August 2016

2.1 No additional evidence

3 Plan showing contours of 14 Trinity rise.

3.1 Additional evidence includes copies of emails requesting a copy of this document sent on;

3.1.1 ~~27 June 2015~~

3.1.2 ~~1 July 2015~~

3.1.3 4 August 2015

3.1.4 3 August 2016

ANNEX 3-103
ANNEX 3-104

3.2 Requests for copies of this document were also submitted on court forms on 25 Jan 2016 and within 2 months of the hearing.

4 Folder of 48 documents from the city of Bunbury.

4.1 I still have no access to these documents and I am unable to present them as evidence.

5 Folder of documents thought to be from the water board.

5.1 I still have no access to these documents and I am unable to present them as evidence.

6 Plans, Diagrams, correspondence and emails held by Structerre Consulting Engineers.

6.1 I still have no access to these documents and I am unable to present them as evidence.

7 Various Plans and Pictures of the property situated at 14 Trinity Rise College Grove.

7.1 I still have no access to these documents and I am unable to present them as evidence.

8 Deleted original point after reading transcript.

9 Incorrect statements made under oath by Sharyl Marsh.

9.1 Day 2, page 52. The statement was that the boundary retaining wall did not extend to the North between 12 Trinity Rise and 14 Trinity rise, and instead 12 Trinity Rise had a raised garden bed.

9.1.1 I requested the building permit for the above retaining wall, but as of the date of this affidavit I have been denied access to it. I am hoping to use this building permit as evidence once I receive it.

9.1.2 Additional evidence includes a photo showing the height of the raised garden bed relative to the height of the new ground level at 14 Trinity Rise.

A. J. Sedda

[Signature]

A.L.



9.2 Day 2, pages 53 & 58 Exhibit 27. The statement that the Marshes dug a hole behind the retaining wall, all the way to the base of the retaining wall and implied that they found no evidence of backing blocks.

9.2.1 I have been denied access to verify this claim and have no additional evidence.

10 Sewerage manhole.

10.1 For whatever reason the Judge was unable to comprehend that the top of the sewerage infrastructure does not always correspond with the height of the ground level.

10.1.1 This assumption was disputed on day 2, page 74.

10.2 Additional evidence includes photos of sewerage infrastructure that is not at the same height as the ground level.

A. Sedda

Al-L.

10.2.1



10.2.2

10.2.3



A. Seddor Page 4 of 10

DM

AL
A-L.

10.2.4



10.2.5



N. of Seddoh Page 5 of 10

St. Mary

A-L.

10.2.6



10.2.7



[Handwritten signature]
Page 6 of 10

[Handwritten signature]

[Handwritten signature]
A-L.

10.2.8



10.2.9



A. of Seddor

After.

*A
A-L.*

10.2.10



10.2.11



N. J. Seddor

Page 8 of 10

APW

*A
A-L*

10.2.12



10.2.13



N. J. Aeddoor Page 9 of 10

[Handwritten signature]

[Handwritten signature]
A.L.

10.2.14



[Handwritten signature] 25/5/2017

[Signature of person making the affidavit]

[Signature of authorised witness]

Authorised witness

[Name of authorised witness]

[Qualification of authorised witness] ⁵

Signed *A. J. Seddon*
Anthony John Seddon
Justice of the Peace West. Aust
No 29565

ANNEX §-1.4

This is the annexure marked " " referred to in the affidavit of

ANDREW LAUGHTON

Sworn/affirmed

At Bunbury

On 25/5/2017

Before me

~~Registrar~~/Justice of the Peace

Signed

A. J. Seddon

Anthony John Seddon
Justice of the Peace West. Aust
No 29565

[Signature]



Andrew Laughton <laughton.andrew@gmail.com>

Retaining wall at 14 Trinity heights.

1 message

Andrew Laughton <laughton.andrew@gmail.com>

4 August 2015 at 14:47

To: Ian Morison <ian@morisonlegal.com.au>

Hi Ian

I received the "Form 25 - General Order" from the Bunbury Magistrates court, but it does not spell out where I should submit the documents I have.
As at any time to date, I am happy to provide any documents you would like a copy of.

I have made a list of the documents I have so far here, some of which you already have....
Engineers report on damage to the boundary retaining wall.
All Building permits issued to 11b Keble Heights, College Grove since it was subdivided.
Contour maps for above address.
Recites for what has been spent so far.
Quote for doing the concrete work to reinforce the retaining wall.
A guesstimate for work that needs to be done after the wall has been reinforced.
Bank statements showing my mortgage and interest payments.
Guidelines for building near sewers from the Water Corporation.
A map of the sewerage pipes in the area showing heights above sea level.
Any and all relevant emails that I have sent and received.
A photo collection.
A detailed list of what happened and when it happened.

I in turn would like a list of all the building permits issued to 14 Trinity Rise, College Grove, and all contour maps that have been made for 14 Trinity rise, College Grove.
I would also like a copy of any photos you may have of the retaining wall.
I would also like to remind you that I have still not received a copy of the building permit for the new retaining walls that I asked for on 29/6/2015.
Nor have I received the quote to reinforce the retaining wall that was going to be given to me on or before 30th July, 2015.

Regards, Andrew Laughton.

ANNEX 3-1.3

ANNEX 3-104

This is the annexure marked " " referred to in the affidavit of

ANDREW LAUGHTON

Sworn/affirmed

At Bunbury

On 25/5/2017

Before me

Registrar/Justice of the Peace




.....
Anthony John Seddon

Justice of the Peace West. Aust

. 29565



Andrew Laughton <laughton.andrew@gmail.com>

11b Keble Heights Retaining Wall Timeline

3 messages

ian@morisonlegal.com.au <ian@morisonlegal.com.au>
To: Andrew Laughton <laughton.andrew@gmail.com>

2 August 2016 at 18:01

<http://aquasate.com/Wall/>

ANNEX 3-104

Dear Mr Laughton

Refer to your website above and make two observations:

1. I contend that much of the material is commenting adversely upon my clients the defendants, and draws upon information and documents obtained in the course of the court case – and you have made collateral use of these documents without leave my clients or the court.
2. Many of the documents on these webpages have not been discovered.

I ask you to take down these webpages, and provide supplementary discovery. In view of the fact that the trial starts in two weeks today, I ask that you confirm by 4 PM tomorrow that you will be providing the supplementary discovery.

Yours faithfully

Ian Morison

Ian Morison

Barrister & Solicitor

Morison Legal

Email: ian@morisonlegal.com.au

Office 9792 4693 Mob 0418 916 709 Fax: 9791 7493

24 Arthur Street Bunbury

PO Box 2666 Bunbury 6231

Andrew Laughton <laughton.andrew@gmail.com>
To: Ian Morison <ian@morisonlegal.com.au>

3 August 2016 at 00:35

Dear Ian

Regarding <http://aquasate.com/Wall/>

As can be seen by googling "link:aquasate.com/Wall/", there are no links to this web page. Can you please explain how you became aware of or gained access to this confidential web page. You are not authorised, and never have been authorised to view or store any copy's of this web page, nor any of the documents linked to it.

Regarding supplementary discovery.

As you should be aware, you have already been supplied with every document you have asked for. However the same cannot be said for the documents that I have requested copies of. For your convenience they are listed again here;

1. On request for documents dated 25 January, 2016.
 1. Points 9 & 10. An explanation as to why the Mashers new retaining wall, which appears not to meet building regulations, was given building approval. It is possible that no such document exists.
 2. Point 11. The weight of the bobcat used to build the new retaining wall was requested, but never received. This weight was guesstimated based on the most likely model used, and the engineering report may need to be updated once this has been received.
 3. Point 17. A copy of any building permits or drawings showing contour lines on or near the Marshes property.
 4. Point 18. A list of building permits issued to 14 Trinity Rise.
2. Email request for documents on 26 February, 2016, referring to "Listing conference memorandum" dated 17th February, 2016.
 1. Point 8. Email from the city of Bunbury to Sharyl Marsh dated 28th May 2015.
 2. Point 11. Unsigned letter from Agiuras to James Marsh dated 7th May, 2015.
3. Email request on 26 Feb 2016 for a document for the defence.
 1. A hand written letter from Defendant to WA Building commission.

This email...

Can you please explain how you became aware of or gained access to this confidential web page.

Regards Andrew Laughton.

[Quoted text hidden]

ian@morisonlegal.com.au <ian@morisonlegal.com.au>
To: Andrew Laughton <laughton.andrew@gmail.com>

3 August 2016 at 13:16

Dear Andrew

I attach the google search which turned up your webpages. The attachment includes the words which now appear when the link is pressed.

Your webpages contain statements which are arguably defamatory of my clients and they reserve their rights in relation to that and any other claim they may have arising from the webpages.

Could you please provide a list of the persons to whom you provided a link for the webpages.

I take it you decline my request to provide supplementary discovery. I will now prepare an application to the court.

Regards

Ian Morison

Barrister & Solicitor

Morison Legal

Email: ian@morisonlegal.com.au <<mailto:ian@morisonlegal.com.au>>

Office 9792 4693 Mob [0418 916 709](tel:0418916709) Fax: 9791 7493

24 Arthur Street Bunbury

PO Box 2666 Bunbury 6231

Liability limited by a scheme approved under Professional Standards Legislation

From: Andrew Laughton [<mailto:laughton.andrew@gmail.com>]

Sent: Wednesday, August 3, 2016 0:35

To: Ian Morison <ian@morisonlegal.com.au>
Subject: Re: 11b Keble Heights Retaining Wall Timeline

Dear Ian

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Regards Andrew Laughton.

On 2 August 2016 at 18:01, <ian@morisonlegal.com.au> wrote:

<http://aquasate.com/Wall/>

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Yours faithfully

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printscreen of Google search.docx

189K