



FORM 5G

Rule 5.02(2), 56.01(2)

**IN THE SUPREME COURT OF VICTORIA
AT MELBOURNE
COMMON LAW DIVISION
JUDICIAL REVIEW AND APPEALS LIST**

Case: S ECI 2020 03666

Filed on: 18/09/2020 03:59 PM

S ECI 2020

BETWEEN

KEVIN MAXWELL LINDORFF

First Plaintiff

and

GLENN TEMPEST

Second Plaintiff

and

PARKS VICTORIA

Defendant

ORIGINATING MOTION FOR JUDICIAL REVIEW

Date of document:	21 September 2020	
Filed on behalf of:	Plaintiffs	
Bleyer Lawyers Pty Ltd		
Level 10, 250 Queen Street		Ph: 9600 4224
Melbourne 3000		Code: 101385
Em: vanessa@bleyerlawyers.com.au		Ref: 12020

TO THE DEFENDANT

TAKE NOTICE that this proceeding by originating motion has been commenced by the plaintiffs for the relief or remedy set out below.

IF YOU INTEND TO DEFEND the proceeding, **YOU MUST GIVE NOTICE** of your intention by filing an appearance within the proper time for appearance stated below.

YOU OR YOUR SOLICITOR may file the appearance. An appearance is filed by:

- (a) filing a "Notice of Appearance" in the Prothonotary's office, 436 Lonsdale Street, Melbourne, or, where the originating motion has been filed in the office of a Deputy Prothonotary, in the office of that Deputy Prothonotary; and
- (b) on the day you file the Notice, serving a copy, sealed by the Court, at the plaintiff's address for service, which is set out at the end of this originating motion.

IF YOU FAIL to file an appearance within the proper time, the plaintiffs **MAY OBTAIN JUDGMENT AGAINST YOU** without further notice.

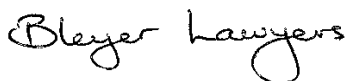
IF YOU FILE an appearance within the proper time, the plaintiffs cannot obtain judgment against you except by application to the Court after further notice to you. There will first be a directions hearing of which you will receive notice by summons or otherwise.

THE PROPER TIME TO FILE AN APPEARANCE is as follows:

- (a) where you are served with the originating motion in Victoria, within 10 days after service;
- (b) where you are served with the originating motion out of Victoria and in another part of Australia, within 21 days after service;
- (c) where you are served with the originating motion in Papua New Guinea, within 28 days after service;
- (d) where you are served with the originating motion in New Zealand under Part 2 of the Trans-Tasman Proceedings Act 2010 of the Commonwealth, within 30 working days (within the meaning of that Act) after service or, if a shorter or longer period has been fixed by the Court under section 13(1)(b) of that Act, the period so fixed;
- (e) in any other case, within 42 days after service of the originating motion.

FILED 18 September 2020

Prothonotary



.....
Bleyer Lawyers Pty Ltd
Lawyers for the Plaintiffs

THE PLAINTIFFS CLAIM:

1. An order to quash the decisions made on 20 July 2020 and 17 August 2020 to refuse permits under regulation 67 of the National Parks Regulations 2013 (Vic).
2. An order to require the defendant to reconsider the permit applications.
3. Costs.
4. Such other orders as are appropriate to do justice.

THE GROUNDS RELIED UPON IN RELATION TO THE FIRST PLAINTIFF ARE:

1. A delegate for the defendant made the decision in reliance upon "evidence" (in the "evidence based assessment").
2. The first plaintiff was not given any notice about the nature of that evidence.
3. In circumstances where there is no indication in the applicable legislation that the requirements of procedural fairness are to be excluded, the defendant was required to comply with those requirements in making the decision.
4. In failing to give the first plaintiff an opportunity to comment on that adverse material (the "evidence"), the defendant failed to comply with the rules of procedural fairness.

THE GROUNDS RELIED UPON IN RELATION TO THE SECOND PLAINTIFF ARE:

1. A delegate for the Defendant made the decision in reliance upon "evidence" (in the "evidence based assessment").
2. The second plaintiff was not given any notice about the nature of that evidence.
3. In circumstances where there is no indication in the applicable legislation that the requirements of procedural fairness are to be excluded, the defendant was required to comply with those requirements in making the decision.
4. In failing to give the second plaintiff an opportunity to comment on that adverse material (the "evidence"), the defendant failed to comply with the rules of procedural fairness.

EXTENSION OF TIME:**

FURTHER PARTICULARS of the claim appear in the affidavits made in support of the claim. A copy of the affidavits and of any exhibits to the affidavits are served with this originating motion.

1. Place of trial—
Melbourne
2. This originating motion was filed—
for the plaintiffs by Bleyer Lawyers Pty Ltd of Level 10/250 Queen Street, Melbourne VIC 3000
3. The address of the first plaintiff is—
50 Lake Road, Natimuk VIC 3409

The address of the second plaintiff is—
77 Lake Road, Natimuk VIC 3409
4. The address for service of the plaintiffs is—
Level 10/250 Queen Street, Melbourne VIC 3000
5. The email address for service of the plaintiffs is—
vanessa@bleyerlawyers.com.au
6. The address of the defendant is—
Level 10, 535 Bourke Street, Melbourne VIC 3000