

# VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL

## PLANNING AND ENVIRONMENT LIST

VCAT REFERENCE NOS. P11719/2021 &  
P11797/2021

<b>APPLICANTS</b>	Charles Angelo Santospirito Josephine Rita Santospirito
<b>DECISION MAKER</b>	Southern Rural Water
<b>SUBJECT LAND</b>	1075 Horseshoe Bend Road TORQUAY VIC 3228
<b>HEARING TYPE</b>	Practice Day Hearing
<b>DATE OF HEARING</b>	8 June 2022
<b>DATE OF ORDER</b>	8 June 2022

### ORDER

#### PROCEEDINGS P11719/2021 AND P11797/2021

##### Hearing

- 1 These proceedings are scheduled for a hearing as detailed below.  
All hearings will be at 55 King Street, Melbourne.  
If there is any change to these details, the Tribunal will notify you by a further order.

<b>Hearing:</b>	
Date and time	19 & 20 December 2022 10.00 am – 4.30 pm
Conduct	Online Platform

Further advice about the hearing procedures will be provided to the parties prior to the relevant hearing

##### Administrative mention

- 2 These proceedings are scheduled for an administrative mention on **3 October 2022**, by which time each party must advise the Tribunal in writing:
  - whether the matter is resolved or are proceeding to hearing;
  - whether any other procedural orders are required; and



- whether a further practice day hearing or mention is requested.
- No attendance is necessary.

### Further orders

3 Liberty to apply

### Costs

4 Costs reserved

## PROCEEDING P11719/2021

### Variation of 26 November 2021 orders staying original directions

5 Order 2 of the Tribunal's order in proceeding P1179/2021 dated 26 November 2021 is amended to read:

Pursuant to section 50(5) of the *Victorian Civil and Administrative Tribunal Act 1998*, and subject to further order, the stay order in Order 1 (above) will be lifted:

- Before 30 June 2022, if the water level in Pintail Dam on the land at 1075 Horseshoe Bend Road, Torquay exceeds RL 12 metres AHD as referenced against the datum on the site plan in the report of Australian Geotechnical Testing, numbered AGTE17463, December 2017 ('AGT Report'); and
- After 30 June 2022, if the water level in Pintail Dam on the land at 1075 Horseshoe Bend Road, Torquay exceeds RL 9.5 metres AHD as referenced against the datum on the site plan in the AGT Report.

## PROCEEDING P11797/2021

### Leave to amend application

6 The applicants in proceeding P11797/2021 are granted leave to, by **1 August 2022**, file and serve an amendment of their application, under section 67 of the *Water Act 1989*, for a licence (No ANJW1624119 - amended application) to alter the works (constituted by Pintail Dam) to decrease the holding capacity of Pintail Dam to RL 9.5 metres AHD, as referenced against the datum on the site plan in the AGT Report by the removal of a section of the eastern wall down to RL9.5 metres AHD including provision for:

- a minimum width of 5m for the section of the wall proposed to be removed;
- the slope of the batter on either side of the removed section of the wall such that the safety and stability of the remaining wall is ensured and maintained; and



- (c) drainage works which, in the event of any flow from Pintail Dam (whether by reason of overflowing or failure of pumps or other infrastructure), will direct the flow of water away from the nearby residential and other properties.
- 7 The amended application must be supported by (as appropriate):
- (a) geotechnical, and other engineering, reports;
  - (b) a risk assessment, including an appropriate piping failure risk assessment assessed against the ANCOLD tolerability criteria for existing dams; and
  - (c) detailed demolition and construction plans.

Michelle Blackburn  
**Member**

#### **APPEARANCES**

For applicants

Phil Cadman, barrister, instructed by Roy  
Morris & Co Pty Ltd

For decision maker

Ragunath Appudurai, barrister, instructed by  
Russell Kennedy Pty Ltd

#### **REMARKS**

- 1 These orders are made at the request of and with the consent of the parties, with that consent being given prior to and at the practice day hearing.

Michelle Blackburn  
**Member**

