

NOTICE OF FILING

Details of Filing

Document Lodged:	Particulars (including Further and Better Particulars)
Court of Filing	FEDERAL COURT OF AUSTRALIA (FCA)
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File Number:	VID809/2024
File Title:	JONNINE JAYE DIVILLI v HOUSING AUTHORITY & ANOR
Registry:	VICTORIA REGISTRY - FEDERAL COURT OF AUSTRALIA



Sia Lagos

Registrar

Important Information

This Notice has been inserted as the first page of the document which has been accepted for electronic filing. It is now taken to be part of that document for the purposes of the proceeding in the Court and contains important information for all parties to that proceeding. It must be included in the document served on each of those parties.

The date of the filing of the document is determined pursuant to the Court's Rules.



Request for Further and Better Particulars of the Defence

No. VID809 of 2024

Federal Court of Australia

District Registry: VIC

Division: General

JONNINE JAYE DIVILLI

Applicant

HOUSING AUTHORITY

First Respondent

And

STATE OF WESTERN AUSTRALIA

Second Respondent

To the Respondents:

- (a) Take notice that the Respondents are required to file and serve further and better particulars of their defence dated 14 March 2025 (**Defence**) as requested below.
- (b) Wherever words have been defined in the pleadings in this proceeding as having a particular meaning, the same meaning is attributed to such words in this document, unless the context indicates otherwise.
- (c) In this request wherever the “usual particulars” are sought of any agreement, transaction, matter or thing say whether the same was wholly or partly in writing, oral, in any computer readable form or to be implied, and:
 - i. In so far as it was in writing, identify sufficiently the document, object or documents or objects (if more than one) constituting any part of it and say where and in whose possession each document or object now is and where it may be inspected and if lost or destroyed say where a copy thereof may be inspected and if there be no copy give the material substance of it.

Filed on behalf of

Jonnine Jaye Divilli, Applicant

Prepared by

Benedict Tobin Hardwick

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- ii. In so far as the same was oral say when, where and between what actual persons the conversation or conversations (if more than one) constituting any part of it took place and give the material substance of each conversation, not merely the conclusion reached, by stating the substance of what was said by each of the participants in the conversation.
 - iii. In so far as it was contained in any computer readable form (for example, disc, tape, random access memory or the like) identify that form, say where and in whose possession it now is, when and where it may be inspected and, if it has been lost or destroyed, say where a copy of it may be inspected and if there is no copy give the material substance of it.
 - iv. In so far as the same was to be implied set forth (with all material dates and places) each and every act, fact, matter, thing and circumstance giving rise to such implication or implications (if more than one) and give the material substance of it.
 - v. In so far as such agreement, transaction, matter or thing was constituted wholly or partly by document, conversation or act of a person acting or purporting to act on behalf of another, give the like particulars as are sought above of the authority (express, implied or ostensible) of that person to make such document, engage in such conversation or do such act.
 - vi. If the matter or thing was made, entered into, carried out, or done by a person acting or purporting to act, on behalf of or with the authority of another, give the like particulars as are sought above of the authority (express, implied or ostensible) of that person to act on behalf of that other.
- (d) In this request wherever the “usual details” are sought, specify each act, omission, fact, matter, thing, error, neglect, default or circumstance (with all material dates and places) in support of that allegation, giving rise to that allegation or by reason of which that allegation is made.
1. To paragraph 12.3 of the Defence, provide the usual details of the ‘social good’ on which the Authority relies.
 2. To paragraph 20A.3 of the Defence, provide the particulars as to which defects to the Divilli Premises have been caused by wear and tear, normal use or by the occupants.
 3. To paragraph 20A.4 of the Defence, provide the usual details:
 - a. relied on to allege that the Authority acted reasonably; and
 - b. of the relevant defect(s).
 4. To paragraph 20A.5 of the Defence, provide particulars as to why the water supplied by the mains water pipeline to Pandanus Park Aboriginal Community is not presently fit for drinking.
 5. To paragraph 20A.6 of the Defence, provide particulars of:

- a. the 'location within the community' to which it refers; and
 - b. who provides the bottled potable water; and
 - c. the amount of bottled potable water supplied per person per day.
6. To paragraph 20A.7 of the Defence, provide the particulars as to:
 - a. when and to which houses the Water Corporation of Western Australia introduced filters within the Yurmulun Community; and
 - b. what type of filters have been introduced.
7. To paragraph 20A.8 of the Defence, provide the usual particulars of the terms and form of the engagements referred to with ENAC and Lake Maintenance.
8. To paragraph 20A.35 of the Defence, provide the particulars of:
 - a. the recommendations from the inspectors to the Authority concerning the Divilli Premises; and
 - b. the software platform maintained by Lake Maintenance, including its name and nature.
9. To paragraph 32A.1 of the Defence, provide the usual particulars and the usual details of the 'system for inspection' including whether that system is set out in one or more written document(s) and the relevant titles and dates of those documents.
10. To paragraph 32A.2(d) of the Defence, provide the usual details of:
 - a. particulars of the regional service provider(s); and
 - b. the usual particulars of the terms and form of engagement of the regional service provider(s).
11. To paragraph 32A.2(f) of the Defence, provide the particulars of the type of information technology used.
12. To paragraph 32A.2(h) of the Defence, provide the particulars of the property management software platform 'Habitat System'.
13. To paragraph 32A.3(a) of the Defence, provide the particulars of the contracts entered into with regional service providers to undertake tenancy management functions.
14. To paragraph 32A.3(b) of the Defence, provide the particulars of the software platforms maintained by the maintenance contractors.
15. To paragraph 32A.5 of the Defence, provide particulars:
 - a. of the decisions as to the classification of maintenance items, including who made it and when and where it is recorded; and

- b. as to how it is asserted that the Authority's decisions as to the classification of maintenance items, its inspection program and its maintenance program are 'policy decisions'.
16. To paragraph 32B.1 of the Defence, provide the particulars of:
- a. the 'decisions' the Authority has made; and
 - b. the 'limited resources' referred to.
17. To paragraph 32B.2 of the Defence, provide the particulars of the Authority's scope of responsibilities and 'policy decisions' it has made.
18. To paragraph 46.1(e) of the Defence, provide the particulars of how ENAC liaises with prospective tenants.
19. To paragraph 46.1(f) of the Defence, provide the particulars of the nature and form of the opportunity given to a prospective tenant to consider a tenancy agreement.
20. To paragraph 53.8 of the Defence:
- a. provide the particulars of the rent charged for the Divilli Premises during the Relevant Period;
 - b. identify what policy or provision was applied to the that rent; and
 - c. to the extent that the rent was calculated as the "lesser of" two amounts, the usual calculations of those amounts.
21. To paragraph 81.1 of the Defence, provide particulars as to why it is alleged that a claim for restitution is inconsistent with and precluded by s 62E of the Housing Act.
22. To paragraph 81.2 of the Defence, provide particulars of what 'counter-restitution of received benefits' is claimed, if any, on what basis it is claimed and to what extent.

Date: 11 April 2025



Signed by Benedict Tobin Hardwick
Slater and Gordon Lawyers
Solicitors for the Applicant