

and that he "recognised these clipped plans to also be identical to those which had been admitted into evidence in the Magistrates Court and the Supreme Court Appeal" (paragraph 53(c)).

These "clipped" plans are exhibit "GAT-9" to the Thompson Affidavit.

3.6 He came to a number of conclusions in relation to the Tylden Road land as a result of "perusing the documents in the black folder... and reviewing the documents tendered in the Magistrates Court and the evidence given by Wilson in that Court". (paragraph 53(f))

3.7 Upon reaching those conclusions it became apparent to him for the first time:

- "i) that the Council had acted maliciously or recklessly by sealing the residential plans contrary to its lawful obligation to refuse to do so.
- ii) that Wilson's evidence given to the Magistrates Court had the effect of concealing the Council's true conduct from the Court and myself."

(paragraph 53(h))

3.8 It was upon reaching the conclusions in relation to the Tylden Road land that he began to consider the possibility that the Council may have acted unlawfully in relation to the Woodleigh Heights land and prompted him to reconsider the 1995 proceedings (being the prior Woodleigh Heights Proceeding) and the reticulation plan that had been provided to him in the Practice Court in September 1999. (paragraph 54(a))

4. Based on my review of the Thompson Affidavit I understand Thompson to be saying that:

- 4.1 it was his review of the documents in the black folder (provided to him in June 1991) in August 2000 that caused him to issue the current proceeding; and
- 4.2 the first time that the complete version of the plans was made available to him was when they were supplied to him in the black folder.

