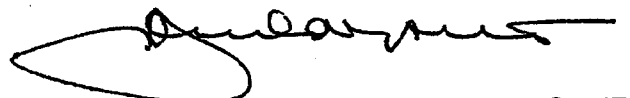


- (2) that the large plan and the series of plans were all filed with the Council on 12th February 1980.
- (3) That the Council considered the large plan on 20th February 1980 and resolved to issue and serve on the developer a notice of requirement in relation to the roads shown on the plan and for the provision of water.
- (4) That pursuant to the resolution of Council the Council did serve on the developer the Notice of Requirement dated 20th February 1980
- (5) That the large plan was processed in seven parts, those parts being sealed by Council on 21st May 1980 with a road-making endorsement placed thereon.
- d) Upon further examination and close reading of the documents it became apparent that the Notice of Requirement which had been admitted into evidence in the Magistrates Court and in the Supreme Court Appeal and which was discovered in the County Court proceeding contained the reference number 79305/G which was sequentially similar to the numbers disclosed on the non clipped versions of the Industrial Plans.
- e) From this I was able to deduce that the Notice of Requirement tendered in evidence in fact related to one of the residential series of plans and not to the large Plan referred to in paragraph 53,c),i),(1) of this affidavit and which large plan showed the whole of the residential allotments and the whole of the road to be constructed.
- f) As a result of perusing the documents in the black folder referred to in paragraph 26 of this affidavit and reviewing the documents tendered in the Magistrates Court and the evidence given by Wilson in that Court I came to a number of conclusions. Those conclusions were:-
- i) As the residential series of plans were filed with the Council on or after the 4th March 1980 the Notice of Requirement given in evidence had been falsely dated 20th February 1980. Now produced and shown to me and marked with the letters "GAT-14" is a copy of the Notice to the effect of the Thirtieth Schedule of the Local Government Act dated 4th March 1980.
- ii) The plan of subdivision considered by the Council on 20th February 1980 had been abandoned by both the Council and Buchanan and not further processed. The seven plans comprising the residential series of plans were processed in substitution.
- iii) That the Notice of Requirement had in fact been fabricated and that Wilson's evidence in the Magistrates Court could not be correct.
- g) At the time of Wilson giving his evidence the Council was fully aware of or recklessly indifferent to the existence of the following facts:-
- i) That the large plan in evidence was not a plan of subdivision and was not the plan considered by the Council on 20th February 1980.
- ii) That the plans considered by the Council on 20th February 1980 had been abandoned by both the Council and Buchanan and not processed any further since 20th February 1980. The three



plans comprising the Industrial series of plans and the seven plans comprising the residential series of plans were unlawfully processed in substitution for the plans considered by the Council on 20th February 1980.

- iii) That the Notice of requirement dated 20th February 1980 and given in evidence relates to the plan bearing the identifying number 79305/G and not to the plan considered by the Council on 20th February 1980.
- iv) That the plan of subdivision bearing the number 79305/G is in fact only a two lot plan of subdivision, that plan being one of the series of residential and which contains Lot G. and Lot 8.
- v) That the Industrial series of plans and the Residential series of plans bear the identifying number sequence 79305/B to 79305/K inclusive.
- vi) That the plan bearing the identifying number 79305/G showed only a very small portion of the road.
- vii) That the plans comprising the Industrial series of plans and the Residential series of plans were lodged with the Council on or after 4th March 1980 and not on 12th February 1980
- viii) That the copies of the plans given in evidence and comprising the Industrial series of plans and the Residential series of plans had all been clipped in copying so as to omit the abovementioned identifying numbers as described above.
- ix) That the clipped copies of the Residential series of plans prevented the Court and myself from becoming aware of the true fact that the Notice of Requirement did not relate to a plan showing creating 18 residential lots and 6 industrial lots and showing the complete road.
- x) That each of the plans comprising the Industrial series of plans and the Residential series of plans each constitute a separate and distinct subdivision each requiring a separate Planning Permit before being lawfully approved.
- xi) That there never was any application for a planning permit nor was any planning permit issued permitting any one of the subdivisions created by each of the plans comprising the Industrial series of plans and the Residential series of plans.
- h) Upon reaching the above conclusions it became apparent to me 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.
- i) I further concluded that at the time of sealing the series of residential plans the Council was not only fully aware that no services existed but it was also fully aware that there was no lawful means of providing or compelling the provisions of those services.

54) My state of knowledge in relation to Woodleigh Heights in August 2000.

