

On the 23 October 1979 the Council issued planning permit number P.P.2441 in respect of the original plan.

On or about the 12 February 1980 Buchanan lodged a two Lot plan of sub division with the Council for approval ("the parent plan"). Lot 1 of the parent plan ("the parent industrial allotment") set out the land which was the subject of the 6 industrial allotments on the original plan and Lot Two of the parent plan ("the parent residential allotment") set out the land which was the subject of the 18 residential allotments on the original plan.

T2. Between the 18th September 1979 and 20th February 1980 Buchanan lodged with the Council for approval:

- (a) a plan of subdivision setting out 6 industrial allotments ("the first industrial plan") and
- (b) a plan of subdivision setting out 18 residential allotments ("the first residential plan").



T3. On the 20 February 1980 the Council:

- (a) sealed the parent plan;
- (b) resolved to serve a notice of requirement pursuant to s. 569E of the Local Government Act ("s.569E notice") upon the then owner of the land described in:
 - (i) The first industrial plan;
 - (ii) The first residential plan.

T4. Between the 4 March 1980 and 2 April 1980 Buchanan lodged with the Council and the Council accepted:

- (a) 3 plans of subdivision ("the series of industrial plans");
- (b) 7 plans of subdivision ("the series of residential plans").

The series of industrial plans and the series of residential plans referred to in (a) and (b) above were lodged in respect of the same land described in T2, namely the first industrial plan and the first residential plan.

The 3 plans of subdivision referred to in paragraph (a) above consisted of two 2-lot plans of subdivision which created a single allotment plus a residue and one 4-lot plan of subdivision which created 4 allotments.

The 7 plans of subdivision referred to in paragraph (b) above consisted of six 2-lot subdivisions each of which created a single allotment and a residue and one 12-lot subdivision which created 12 allotments.



T5. Between 20 February 1980 and 2 April 1980, the Council, directly contrary to its own resolution of 20 February 1980 referred to in paragraph T3(b), contrary to its statutory duty under s569E and in furtherance of its malicious or reckless conduct pleaded in paragraphs T7-T10 below, omitted to issue 569E Notices in respect of the first industrial plan and in respect of the first residential plan.



T6. In wilful or reckless disregard of its statutory duty under s 569B(4)(b) and/or in furtherance of the tortious acts pleaded in paragraphs T7-T10 below, the council did not further process the First Industrial Plan nor the First Residential Plan in any way whatsoever after the 20 February 1980.

T7. Maliciously, intending to cause harm to the Plaintiffs' or to a class of persons which included the Plaintiffs', the Council, on the 21 May 1980 exercised power under s. 569B (4) of the Local Government Act for an ulterior purpose, namely, to avoid the effect of s 9 of the Sale of Land Act 1958 and to avoid the effect of s 97 of the Transfer of Land Act by causing each of the three plans comprising the series of industrial plans and each of seven plans comprising the series of residential plans to be sealed with the seal of the municipality, thereby approving each of the subdivisions set out in the said plans.

T8. Further and in the alternative to paragraph T7 above, the Council, acting maliciously and with the same intention pleaded in that paragraph, purported to comply with the provisions of s.569B(4)(b) to approve the series of industrial plans and the series of residential plans by sealing the said plans.

T9. Whether exercising a power for an ulterior purpose as described in paragraph T7, or purporting to comply with its statutory obligations as described in paragraph T8, the council in any event well knew:

- (a) that Buchanan had not complied with the provisions of ss.569(1) and 569A;
- (b) that no planning permit was ever issued in respect of the proposed subdivision described in the said plans, nor was such a planning permit ever applied for;