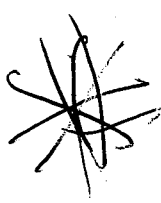


instead have been raised by your Honour and I further note that each such determination by your Honour was determined against my position and in each instance done so in error.

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- 24) Interestingly because I will be an appellant in person it is the Defendants which are required by practice note number 2 of 1995 to compile for the Court a summary of proceedings and a summary of facts. The summary of fact will necessarily be at odds with the facts set out in your Honour's reasons for Judgement.

Partial Analysis of your Honour's reasons for Judgement. Woodleigh Heights.

- 25) In relation to Woodleigh Heights essentially every paragraph of your Honours reasons for Judgement is wrong and has no possible basis in fact or reasonable reason.
- 26) At pages 108 and 109 of the transcript of proceedings the following exchange took place between your Honour and I.

- (a) "HIS HONOUR: Yes, that's not what I was putting to you
Mr Thompson. You say it was in breach of the planning permit because - as I
understand it, because there was no articulated water supply.
- (b) MR THOMPSON: Yes. Yes, that's correct.
- (c) HIS HONOUR: Yes.
- (d) MR THOMPSON: It was in breach of the planning permit.
- (e) HIS HONOUR: That's what you say.
- (f) MR THOMPSON: Yes.
- (g) HIS HONOUR: Yes, and it depends on construction of the planning permit as to
whether that's right, **but that's not the sort of question that would be resolved at
this stage.**"

- 27) Your honour then went on to determine the question of the construction of the Planning Permit and not only wrongly determined the question but also determined it in error of both law and fact and without any possible basis for the determinations arrived at.

- 28) Attached hereto and marked "Appendix A" is a copy of page six of a document entitled "Written Submission on behalf of the Council of the Shire of Kyneton and the Kyneton Water Board" and which document is dated 7th March 1988 and which is signed by Maddock Lonie and Chilsholm the predecessor to Maddocks and which was submitted by Mr. Ian Lonie and personally read by