

37) As a consequence paragraph 156 of the reasons for Judgement is correct however paragraphs 72, 157, 160, 162 and 163(c) of the reasons for Judgement are manifestly wrong.

39) In relation to this aspect it is to be noted that the Defendants did not dispute the terms of the Planning Permit as alleged by the Plaintiffs. This was an aspect raised by your Honour despite having said **that's not the sort of question that would be resolved at this stage.**" And without having heard any argument from myself on the subject.

41) Your Honour made engineering determinations which were both wrong and which you were not qualified to make and which were out of context and irrelevant. At paragraph 168 you state that the water supply pursuant to the agreement could not simply be connected to the private reticulation system envisaged by the original permit and you then state 2 reasons. These reasons are plainly fallacious as a mere extension of the system to the roadway could facilitate such a connection and in addition the simple fact is that, the reticulation system to the extent that it existed was so connected and this fact is attested to by the fact that clause 6 of the Water Supply Agreement required the intermittent filling of a storage tank within the subdivision and the fact is that the water tanks forming part of the private system were and remain the only such tanks on the