

- (b) Two 50,000 gallon concrete high level water tanks had been constructed in lieu of the single 100,000 gallon high level tank referred to in the Submission.
- (c) The rising main had been laid between and connecting the lake and the high level tanks as referred to in the submission.
- (d) Primary reticulation pipes had been laid in the common property and connected to the concrete high level tanks to convey non domestic water from the tanks to the allotments as referred to in the Submission.
- (e) The high level tanks contained water."

72 Reference to the submission adopted by the permit condition, shows that what was required in respect of water mains was the provision of 2160 lineal metres of mains of varying dimensions, laid out in accordance with an attached plan. The mains were proposed to run from a header tank at the north eastern corner of the block, and would decrease in size from 100 millimetres diameter to 50 millimetres diameter as they spread away from it. The mains would not extend to the public roadway abutting the western side of the subdivision but would run towards it. PVC piping would be used for the smaller mains. It would of course be necessary for each allotment to ultimately be connected to these mains (as paragraph 7 of the further amended statement of claim set out above indicates) but such connections to individual lots were not intended to be installed as part of the works described in the submission. It is also relevant to note the planning permit did not allow residential use of the cluster allotments without further secondary permission.¹⁰

73 Thereafter the subdividers made application for a cluster redevelopment dividing each allotment created by the initial cluster subdivision into three smaller allotments. This was evidently approved by the Council subject to the augmentation of water supply.¹¹

74 The plaintiffs then purchased part of the Woodleigh land. By April 1984 they were in dispute with a company, Woodleigh Heights Resort Developments Pty Ltd

¹⁰ The terms of the relevant permit conditions are analysed further below.
¹¹ Plaintiffs' oral submissions to this Court.