

32. In April 1984 the Plaintiffs made enquiries of the KSC and the KWB to ascertain whether the matters communicated to the Plaintiffs by WHRD (refer Paragraph 31B) were correct.

PARTICULARS

The enquiries were oral and contained in a telephone conversation in or about April 1984 between the Firstnamed Plaintiff and Mr. Stan Porter who was known to the Plaintiffs and known by the Plaintiffs to be the Secretary of both KWB and KSC.

33. In response to the Plaintiffs' enquiries the KSC and KWB represented to the Plaintiffs that:

- a) CS1134 was outside the Kyneton Water Trust area and in an area where under the provisions of the Water Act 1958 water was supplied under private agreements at the discretion of the Trust;
- b) There was under the provisions of the Water Act 1958 a legally valid water agreement in existence between the KWB and WHRD Pty. Ltd.;
- c) that under the water agreement WHRD Pty. Ltd. owned and operated the water supply and reticulation system within CS1134;
- d) the Plaintiffs' land;
 - (i) was not entitled to the water supply or reticulation system within CS1134;
 - (ii) could not obtain access to the water supply and reticulation system without the agreement and consent of WHRD Pty. Ltd.