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FACSIMILE COVER SHEET

URGENT

date: 14th February, 2006

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Pages including this cover sheet: 11

Message: Attached please find letter dated 14th February, 2006.

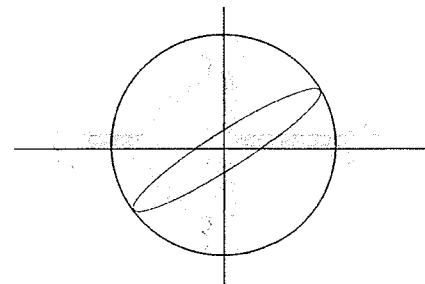
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GLENN THOMPSON

14th February 2005

Mr. John E Middleton. QC.
Level 28
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By facsimile 03 9870 7086
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Careless and damaging Submissions **Thompson V Macedon Ranges Shire Council & Colliban Regional Water Authority.**

You were retained to represent me in this proceeding. The proceeding was the defence of applications to strike out pursuant to Limitations, Anshun, Res Judicata and whether or not the claim was precluded by previous terms of settlement.

Plainly the defence relied utterly upon:-

- (a) Identifying the cause of action to the Court;
- (b) Succinctly, accurately and clearly setting out the cause of action so as to be understood by the Court;
- (c) Making submissions to show:-
 - (1) that the cause of action was not known at the time of earlier proceedings;
 - (2) that the cause of action could not have been discovered with reasonable diligence;
 - (3) that the cause of action was concealed by the defendants;

I recently had occasion to read the transcript. You failed completely in all respects.

Your submissions fly in the face of:-

- 1) the Statement of Claim;
- 2) the material in my affidavits;
- 3) my written and oral advice to you;
- 4) the facts;
- 5) the law;
- 6) the previous pleadings;
- 7) simple logic.

Your submissions were a nonsense which have damaged me and placed my proceeding at serious risk.

Had the correct submissions been made then success was essentially assured because:-

- 1) **The things discovered by me in August 2000 were that the s569E Notices had been fabricated and were unlawful and that the Woodleigh Heights subdivision had not been completed in accord with the planning permit and as a consequence, in both cases, the allotments were unusable and the sealing of the plans unlawful. [My affidavit at paragraphs 53)f)iii), 53)h), 53)i), 54)a)]**

- 2) the concealment of the true cause of action was overt and specific and was done by perjury, falsified and incomplete discovery and false admissions in previous pleadings and by the sealing of the plans of subdivision. [My affidavit at paragraphs 56 & 57]**

I specifically emphasised to you by email of 11/11/05 that the unlawful s569E Notices were the basis of the cause of action in respect to Tylden Rd.

You failed to say these things and you failed to even imply these things. You specifically represented other things to be the cause of action. You absolutely misrepresented me and the cause of action, and you failed to heed or follow specific written and oral instructions from me.

On your submissions failure is essentially assured. What you said to be the cause of action simply can not even begin to form the basis for a cause of action and could not possibly be said to be concealed or even concealable as you attempted to represent.

On your submission I must and should fail. My only hope it seems to me is if the Master recognises the conflict between your submissions and my affidavit and the facts and perhaps is cognisant of the enormity of the fraud which has occurred and finds a way to find for me despite your submissions. In any event, if the matter comes down for me the other side is almost certain, relying on your submission, to appeal and if the matter comes down against me I must appeal

I now require you to immediately refund all monies paid to you and I also require you to immediately undertake to assist to the extent necessary to rectify the damage done by you.

Details:-

In relation to Tylden Rd, on a number of occasions the Council represented in Court that the Plan/Subdivision which it had considered on 20th February 1980 was processed in several parts these parts being the several plans/subdivisions which were in fact processed. On those representations the Council represented and I believed:-

- a) That each plan set out a separate subdivision where each subdivision was part of the subdivision of 20th February 1980;
- b) That the several plans/subdivisions were legitimately permitted by the planning permit which permitted the subject land to be subdivided into 18 allotments;
- c) That the Council had legitimately issued a Notice of Requirement in respect to the plan of 20th February and from about 1991 I additionally believed the Council had additionally issued Notices of Requirement in relation to each of the further plans/subdivisions.

In August 2000, as stated at paragraph 53)f) of my affidavit I discovered/concluded that the plan of 20th February had in fact been abandoned and that the several plans/subdivisions had been processed in substitution. This conclusion meant that each of the plans/subdivisions were, in fact, separate from and discrete from the plan/subdivision of 20th February 1980 and were each therefore separate and distinct plans/subdivisions.

As the plan of 20th February had in fact been abandoned the planning permit and resolutions relating to it did not apply to any one of the series of plans/subdivisions and as a consequence:-

- 1) Each of the plans/subdivisions were unlawful because there was no planning permit permitting any one of them;
- 2) The Council had in fact not issued a Notice of Requirement in relation to the plan of 20th February and there was no resolution to issue a Notice of Requirement in relation to any one of the series of plans/subdivisions and that the Notices of Requirement were therefore fabricated and of no effect.

The cause of action, as set out in my affidavit and as set out below became known.

Insofar as Tylden Rd is concerned I note that I advised you in conference on 10/10/2005 and by email of 11/10/05 that my sole relevant discovery in August 2000 was that the s569E Notices were unlawful.

To the extent that I can make sense of the alphabet soup which is your submission you say, in summary:-

- 1) That the Council represented that 7 plans equals 1 subdivision;
- 2) That as a consequence of Councils representation I believed that 7 plans equals one subdivision;
- 3) In 2000 I became aware that 7 plans equals 7 subdivisions;
- 4) The subdivision was unlawful because the plans did not show all allotments;
- 5) That the present cause of action is or includes that the plans were unlawful;
- 6) That the previous proceedings were predicated on lawful plans/subdivisions;
- 7) That you must have both a lawful subdivision and a lawful Notice of Requirement;
- 8) That the Woodleigh Heights cause of action is the same, an attack on the original subdivision.

It is pointless saying more, your submission is rubbish, unsustainable in either fact, logic and/or law.

On your submissions we must fail either immediately or at appeal unless we are able to correct your misrepresentations at appeal. I now require you to immediately consent to co-operate and advise to whatever extent may become necessary to remedy the damage done by you.

Set out at the end of this letter are relevant and representative extracts from your submission.

The facts which you had a duty to submit and explain include:-

[The numbers in square parenthesis are the relevant paragraphs of my first affidavit]

- 1) This proceeding involved two subdivisions, Tylden Rd. and Woodleigh Heights. The cause of action in both cases is that the plans of subdivision were unlawfully sealed in full knowledge that no services existed and that there was no lawful means of compelling provisions of those service and as a result the allotments were unusable. [45, 47, 55)b)]
- 2) **In the case of Tylden Rd the root cause of action is that the s569E Notices of Requirement were fabricated and had no authority of law. [53)f)iii)]**
- 3) **In the case of Woodleigh Heights the root cause of action is that the subdivision had not been completed in accord with the planning permit which required a private water supply and reticulation system to be present. [54)a)]**
- 4) As a consequence the sealing of the plans was unlawful and gave effect to the root cause of action.
- 5) The reason that the sealing was unlawful is that the allotments were unusable and therefore s569B(7)(a)(iii) of the Local Government Act operated to compel the Council to refuse to seal the plans.
- 6) To draw an analogy, the root cause of action in each case was a forged cheque. The sealing of the plans was the uttering of those forged cheques. In each instance it was the root cause of action which was the cause of the loss and damage and the sealing was the thing which gave effect to the root cause of action.

- 7) Each of the root causes of action was overtly concealed by the Council and Water Authority. [56, 57]
- 8) In the case of Tylden Rd. and the s569E Notices the concealment included perjury in the Magistrates Court and false admissions in the pleadings in the County Court together with fabrication of documents discovered and partial discovery and the remaining things set out in the present Statement of Claim. [56, 57]
- 9) In the case of Woodleigh Heights the very act of sealing in 1979 overtly concealed the root cause of action and the conduct of the Council and Water Authority as set out in the present Statement of Claim and the conduct of the 1995 proceeding continued to conceal. [page 21]
- 10) The things discovered by me in August 2000 were that the s569E Notices had been fabricated and that the Woodleigh Heights subdivision had not been completed in accord with the planning permit and as a consequence, in both cases, the allotments were unusable and the sealing of the plans unlawful. [53)f)iii), 53)h), 53)i), 54)a)]
- 11) That the unlawful sealing of plans of subdivision, per se, cannot cause loss and damage or constitute part of a cause of action in that it is the matter or thing by virtue of which the sealing is unlawful which must be the root of the loss and damage and cause of action. [simple logic]
- 12) In this matter, as is now known, there are three reasons why the sealing of the Tylden Rd was unlawful however only two of these were discovered in August 2000. The other reason was known at all relevant times but is irrelevant for all purposes except to demonstrate male fides. In relation to Woodleigh Heights there are two reasons why the sealing was unlawful and both were discovered in August 2000. These reasons are:-
 - a) Tylden Rd.
 - i) That the plans of subdivision did not show all allotments and/or roads. 569B(7)(a)(ii)
 - ii) That there were no planning permits. – 569B(7)(d)
 - iii) That there was no services and the s569E Notices were fabricated and as a result the allotments were unusable. --- 569B(7)(a)(iii)
 - (1) Plainly each of these three reasons are distinct and separate and not interchangeable.
 - (2) Plainly the first two cannot of themselves cause loss and damage.
 - (3) Plainly the third reason is the only reason which is capable of causing loss and damage and in this instance did cause the loss and damage.
 - b) Woodleigh Heights.
 - i) That the subdivision was not completed in accord with the planning permit
 - ii) That the services required by the planning permit were not present and there was no lawful means of compelling provision of those services and as a result the allotments were unusable.
 - (1) Plainly the first reason cannot of itself cause loss and damage unless the failure to accord is a loss causing failure.
 - (2) Plainly the second reason is capable of causing loss and damage and in this instance did cause the loss and damage.
- 13) That the sealing of the two lot plans of subdivision in breach of the provisions of s569A(1)(a) and (c) is an obvious fact which was known at all relevant times and cannot and does not form any part of the cause of action but does graphically demonstrate an intention to avoid s9 of the Sale of Land Act and is therefore evidence of male fides. [simple logic]

- 14) In respect to Tylden Rd the Council represented that the plan/subdivision which had been considered on 20th February 1980 had been processed in several parts and that the processing in this manner resulted in the series of plans/subdivisions being the 2 lot plans/subdivisions. The Council and Water Authority also represented that the s569E Notice of Requirement had issued as a result of the Council's resolution of 20th February 1980. These representations were made in the Magistrates Court, the Supreme Court and in the defences filed by the defendants in the 1988 County Court proceeding. I believed these representations and as a consequence I believed that the series of plans/subdivisions were in accord with the planning permit for the plan considered on 20th February and in addition, I believed that the Notice(s) of Requirement had lawfully issued pursuant to the resolution of 20th February 1980. [53)c)ii), 57)3), 57)8), 57)9)]
- 15) In August 2000 I discovered/concluded that the plan which the Council had considered on 20th February 1980 had in fact been abandoned and the series of plans/subdivisions had been processed in substitution. Upon reaching this conclusion that it became obvious that the existing planning permit was of no effect and did not relate to any one of the series of plans/subdivisions. It also became obvious that there was no resolution enabling the issue of the several Notices of Requirement and that the Notices of Requirement had in fact been fabricated and were unlawful. [53)f)ii), 53)f)iii)]
- 16) Insofar as Tylden Rd is concerned, my sole relevant discovery of August 2000 was that the s569E Notices were fabricated and were therefore unlawful. I advised you of this fact in conference on 10/10/2005 and in a document entitled "Attention John Middleton.doc" which was emailed to you and Neil Adams on 11/10/2005 and it is this single discovery and fact which constitutes the root of the cause of action insofar as Tylden Rd is concerned.
- 17) The previous Tylden Rd proceeding was predicated on the lawfulness of the s569E Notices, albeit that they did not provide for the giving and acceptance or calling up of guarantees and that I was not "the owner" to whom they applied.
- 18) The previous Woodleigh Heights proceeding was predicated on the assertion that the Planning Permit had been complied with.

Your Submission:-

Before commenting on your submission I make the following observations:-

- 1) The fact that the series of Tylden Rd plans were in breach of s569A(1) and (c) is so obvious that no reasonable person would not have been aware of the breach and only a fool would now argue that he had, with reasonable diligence, not been aware and only a greater fool would argue that an action relying on that fact or discovery, even in part, could be brought after some 26 years.
- 2) In addition it is so self evident that the fact that these plans did not show all roads and allotments is absolutely irrelevant to the cause of action and the fact that the sealing was in breach of s569B(7)(a)(ii) could not and did not cause any loss or damage and could not and did not contribute to any loss and damage and could not and did not crystallise any loss and damage.
- 3) The various reasons as to why the sealing of the plans was unlawful are not interchangeable.
- 4) A plan of subdivision is plainly just that, a plan which relates to a subdivision. One plan equals one subdivision, two plans equals two subdivisions, etc. I do not know of anyone so moronic as to think seven plans equals one subdivision as you submitted of me at page 44 and 45 of the day 2 transcript. -

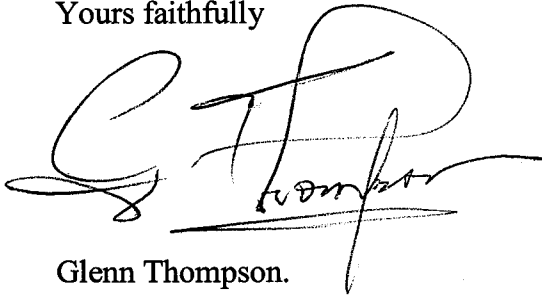
-- Fortunately my understanding is set out in paragraphs 57)(7), 57)(8), 57)(9) and 57)(10) of my affidavit,. and my understanding at all times was as intended by the Council which is that the plan/subdivision which was considered on 20th February 1980 was processed as 7 plans/subdivisions.

- 5) The now infamous "Book of Pleadings" completely supports every single one of the assertions made by me in my affidavit and the submissions which you had a duty to, but failed to make. The damaging evidence was your careless and incompetent submission.
- 6) Whether or not the plans/subdivisions were lawful or unlawful is entirely, completely, utterly irrelevant.

Rather than setting out those things which you did submit and the wrongness of your submission it is far easier and more complete to say what you did not do. **You did not make a single relevant, accurate or necessary submission. You absolutely misinformed the Court, either specifically or by omission, in all respects.**

As you are aware the defendant had a field day debunking your submissions. On your submissions and entirely as a consequence of your submissions we are almost certain to lose and in the unlikely event that judgement is for us we shall almost certainly face an appeal. If we lose I shall appeal and I shall require you to co-operate to explain to the Court the wrongness of your submissions.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Glenn Thompson', with a large, stylized flourish extending from the end of the signature.

Glenn Thompson.

1) **Submissions by John Middleton.**

a) **Summary**

- i) On the submission of John Middleton I say that the Court could be led to believe:-
 - (1) That in 2000 I finally concluded that 7 plans equals 7 subdivisions and prior to that I was so moronic as to believe that 7 plans equals 1 subdivision.
 - (2) that the cause of action in respect to Tylden Rd arises because, or includes that the Council unlawfully sealed a series of two lot plans in breach of s569B(7)(a),(b) & (c).
 - (3) It will also correctly conclude from the "Book of Pleadings" and from paragraph 20 of the 1991 Amended Statement of Claim that I knew of the unlawful sealing, for that reason, at that time and I also knew that 7 plans equals 7 subdivisions at least in 1991.
- ii) The following extract of the submissions of John Middleton were cut and pasted from the transcript. – the numbers at the end of each paragraph are the page numbers of the transcript of the second day.

b) **Reading of "Plaintiffs' Submission"**

- i) I want to take you through the statutory backdrop and of the statutory obligations we say weren't complied with because in our submission once you understand that then it's readily apparent whenever you go back to the other pleadings, to see that what we're saying now isn't said there. That's the submission I'm making. I'm trying to make that good. P30
 - ii) In this case you have misfeasance of public office, that is, "There was a denial of essential service ... (reads) ... to obtain the land." P30 ---
 - iii) Then you have casual nexus. The simple casual nexus in the Tylden Road proceedings was the calling out of guarantees and in the current proceeding it's the, "First defendant sealing of the ... (reads) ... refuse to do so". Then with the second defendant it's the complicity and those sealing of plans. P31
 - iv) Now here the first defendants willful sealing of the plans of cluster division, contrary to statutory obligation, refused to do so and the second defendant's complicity in that, and in 1982 providing a water supply for the "sole benefit of Woodleigh Heights ... (reads) ... all allotment holders". That's the causal nexus. Nothing to do with what representations were made in 1989. 32-33 --- WH
 - v) what we have set out at pp.6 and 7 of our outline. The submission I make in relation to that is 6 and 7 outline are the core elements that we argue against the first and second defendants. **That's the core and a completely new cause of action.** 33-34
- c) **Legislation and the series of 2 lot plans:-**
- i) Can I take you to the statutory steps in respect of sealing an approval of plan of subdivision, and then I want to take you to the statutory obligations not complied with P34
 - ii) Submissions re s9 of SLA & s97. Pages 34 – 37
 - iii) We go to sub-s.7 and you'll see quite clearly stated, "The council shall refuse to ... (reads) ... are complied with". We say that in May 1980, this is pleaded, the council contravened that provision and s.569A(1)(b) and (c) by sealing seven two lot plan of submissions which weren't in compliance with that. **You won't find that anywhere in the earlier proceedings.** P37
 - iv) Next, none of the subdivisions in clause 4 above ----- P37 – *reference to para T4 SOC*
 - v) MASTER: I won't find anywhere the allegation in para 4 is what you're saying. P38 – [*This is a reference by the Master to paragraph T4 of the SOC and the submissions by Middleton re 2 lot plans as above*]
 - vi) MR MIDDLETON: Yes. To put the bottom line on this, Master, this is the first time that it's been alleged that the initial sealing of the plan of subdivision was unlawful or illegal P38
 - vii) and that's despite the fact that we've had lots of the proceedings and when I take you to Justice Kaye's decision, not for very long, it's apparent that everybody before Justice Kay proceeded on the assumption that a subdivision was lawful. Everybody in the Magistrates' Court proceeded on the assumption that the subdivision was lawful. Same in the County Court.
 - viii) What we are doing is going back a step which was never thought of, never even contemplated that the subdivision itself would be unlawful. P38
 - ix) Then if you go to para 5, none of the subdivisions we're referring to now had planning permits and none had valid notices requirement issued to it pursuant to E of the Act. I'll explain it to you in this sense, that there are clearly no planning permits. Secondly, but the resolution that was made originally as to the requirements was one made in February, 20th. It wasn't proceeded with. What was proceeded with to get around s.9 of the Sale of Land Act, we would say at the instigation of the villain Mr Buchanan, were a series of two lot subdivision but no requirements were made by any authorisation of the council whatsoever. You can't rely

on the earlier one because that's in relation to a different animal, so there's no authorisation at all in relation to the subsequent subdivisions. P38 39

- x) You will find references to the registrar being deceived, you will find the references to s.9 of the Sale of Land Act, but all not in the context of the earlier point which **we are now starting at which is the unlawful sealing of the plan of subdivision P40**
- xi) MASTER: I do this exercise which is going to take me a couple of weeks, obviously, and you'll say I won't find these elements.
- xii) MR MIDDLETON: You won't find as the gist of the cause of action **the attack upon the original plan of subdivision**. But you will find, and this is the difficulty of it, you will find a reference, for instance, to the registrar being told X, Y and Z. But **it doesn't relate to the original unlawfulness of the subdivision**. P40.

d) **Specific reference to previous proceeding.**

- i) You see, for instance, on p.9(a)(2), (a) and (b) do not show all the allotments in which the plan was subdivided, do not show all the streets and lanes, so that's the same allegation my learned friend Mr Delany is being made in this proceeding but we say it's not because it's relating to the guarantees not as a separate attack upon the - - - P42 – reference to para 20 amended SOC 1988 - attached. – shows knowledge of breach 569A(1)(a) but not of separate subdivisions.
- ii) MASTER: You say when I read the paragraph - - -
- iii) MR MIDDLETON: You've got to look at para 20 entirely. If you do that every time you won't, we would say - you'd find the answer as we have submitted. P43

e) **Woodleigh Heights:-**

- i) Now with the Woodleigh Heights land, it arises because there's a cluster of subdivision or subdivision planning permit, which required a reticulated water supply to be installed and simply we say in relation to that in contravention of the Local Government Act and plus the Titles Act which is similar provisions to the Local Government Act and the interim development, "The council's seal of ... (reads) ... was present." It's going back to the same issue that at a root and branch attack upon the subdivision as sealed. Same point but with a different statutory content. That's the cause of action. P43

f) **Submissions re 2 lot plans and my knowledge according to Middleton:-**

- i) At page 43 of the Transcript Middleton takes the Master to my exhibits, firstly to exhibit 14 which is the discovered 30th Schedule Notice with the handwritten note to the effect "all the same" on it. The reference to 9 below is exhibit 9 which is the series of 2 lot plans.
- ii) Go to 9 and we'll see what did happen, not to Mr Thompson's knowledge, however. It took a little while for this to sort of sink in. – *Followed by extensive submissions on series as distinct from separate. 44-45*
- iii) Go to 9 and we'll see what did happen, not to Mr Thompson's knowledge, however What Mr Thompson thought we say perfectly legitimately, is there was document which he saw at 14 and **always thought that was the plans submitted in the sections, not separate subdivisions**, that's the notation down the bottom. Remember that notation I took you to, plans submitted in five sections? He thought it's just all one five different sections when in fact when you look at what happened you have the whole new series of subdivisions. – P45 --

g) **Submissions re my affidavit & discoveries & black folder. Pages 50-54.**

- i) Nonsense submissions re black book, Magistrates Court & my affidavit were made with particular reference to my paragraph 53 ---

- (1) you've got the change in circumstance so the 20 February resolution doesn't have any bite upon the later what in fact happened. Then Mr Wilson gave evidence and his evidence was, "The council approved ... (reads) ... place the wrong". **Those things were wrong. It wasn't done in seven parts, it was done in seven subdivisions.** P53
- (2) Then it comes to an important para (f), "As a result of ... (reads) ... falsely dated 20 February". He shows that notice of the Thirtieth Schedule dated 4 March, "The plan of subdivision considered ... (reads) ... was in fact considered the true conduct", and that's in August 2000. P53, 54 [Note:- the "para (f) is a reference to paragraph 53(f) of my affidavit wherein I state that I in fact learned/concluded that the plan/subdivision of 20th February 1980 had been abandoned and the series of plans/subdivisions was processed in substitution and I learned/concluded that the s569E Notices had in fact been fabricated]
- ii) MASTER: He did all this in August of 2000.
- iii) MR MIDDLETON: That's his realisation in 2000
- iv) MASTER: Then an event happens in 2000, and then he looks at it, then he works all this out.
- v) MR MIDDLETON: That's it. **When we say works it all out, works out that the original subdivision was unlawful.** It's important for us to identify and we say once you do identify it we succeed, identify what it is that is the cause of action being brought here and what it is that he discovers. **What it is is that the original subdivision was always flawed.** The foundation, if you like, was always dodgy. The foundation didn't exist for everything else that was litigated. It simply wasn't there. **It was all based upon the premise that the subdivision was lawful.** 55.
- vi) If you go to para 54 it deals with Woodleigh Heights and there similarly but in a different statutory context, he puts together the pieces particularly having regard to experience in the Tylden Road and the Woodleigh Heights, they both feed off each other because he comes to the conclusion what's happened with one has probably happened to the other.
- vii) Yes, and start with the facts, once you identify what the cause of action is, which is the important beginning point, identify the cause of action which is the substance **of the cause of action which I've set out in that brief note,** 56

h) Book of pleadings.

- i) Mr Thompson knew everything way back in whatever year it was written, it actually shows, in our submission, that Mr Thompson was still under the wrong impression that there was still this one plan of subdivision. They weren't done in different parts. 57
- ii) in this document, which are notations made by Mr Thompson, you readily see that he is still under the impression that the subdivision was to proceed as one in accordance with the resolution of 20 February. 57
- iii) "has complied with" so that assumes there are requirements that are valid and are properly complied with. Now, we know that's not correct. --- P58
- iv) That shows Mr Thompson still working under the idea that there are requirements and they've been lifted. To lift something means it's in place. It's not saying the requirements were never there. P59
- v) lifted the requirement", so it's all based on the premise that the requirement was validly adhered to. That's the point. P59
- vi) certainly the Magistrates' Court and the County Court it's implicit in everyone's thinking the requirements were there and that's implicit in what Justice Kaye was talking about P59

vii) "In any event the ... (reads) ... did apply to me" and Buchanan was released from his obligation, and again there's part of the judgment set out there all going to the releasing of something that we now say never, never existed. P60

i) My after lunch instruction.

i) What I had endeavoured to indicate in relation to the cause of action was that you have the unlawful sealing, you have that in the full knowledge that there were no services at the time that sealing was occurring and moreover you know or the council knows and the water board knows there's no way of compelling services because unless you have a lawful subdivision and a lawful requirement, the requirement is as if it's void and worth nothing. P63.

j) Summing up?

i) we say that the fact that we're relying upon, namely the unlawful sealing initially, is a new fact which gives rise to its own cause of action 70

ii) Applied here. We did not know that the subdivision was originally flawed and unlawful and we found that out in August 2000. 71

k) Further reference to previous proceedings.

i) The next point which I have made is all the litigation, and this is evidenced by the judgment and the pleadings, was premised on the basis that the subdivision was lawful at its initial stages. 77

l) Re damages:-

i) "It's the buying of something has the requirements of water to be enforced or water, and we don't have that. It's a very simple thing under the Torrens system of course we have the Registrar of Titles having sealed – having approved so any Assumes that the regulatory requirements have been complied with." P47 – 48

2) My specific request of Middleton.

a) I was in Court for a substantial part of Middleton's submissions prior to lunch. It was difficult to hear in the body of the Court, I was also drugged due to severe tooth abscess and I found the submission difficult to follow however I was concerned that the correct cause of action had not been succinctly explained to the Court. As a result I specifically requested Middleton to make a submission containing the essential parts of what I had set out in my email to him. At the time I was confident that he would and in fact did as asked. What he said is found at page 63 of the transcript;

b) Middleton said "What I have endeavoured to indicate in relation to the cause of action was that you have the unlawful sealing, you have that in full knowledge that there were no services at the time sealing was occurring and moreover you know or the Council knows and the Water Board knows there's no way of compelling services because unless you have a lawful subdivision and a lawful requirement, the requirement is as if it's void and worth nothing. So all these factors come together as constituting the misfeasance in relation to the Council."

c) This portion of Middleton's submission merely compounded the problem because his reference to unlawful sealing was merely a reference to the unlawful sealing which he had previously submitted and was as detailed above the wrong one. Middleton absolutely failed.
