

MASTER: You say when I read the paragraph - - -

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.

MASTER: You want me to read these paragraphs in their entirety then compare it to this.

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MR MIDDLETON: Yes, thank you. 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.

MASTER: Again I have to do the same.

MR MIDDLETON: Yes, you would.

MASTER: I understand, yes.

MR MIDDLETON: If I can just take you to two exhibits which perhaps graphically illustrate the way in which this misconduct arose, although I think probably having regard to what I've done now it may have indicated anyhow, but it just helps by looking at a diagram maybe. I want to go to Mr Thompson's exhibits 14 and 19.

MASTER: This is the folder GAT1, is it?

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Thompson

MR MIDDLETON: Yes. You'll see you'll have two documents there, you'll have a notice and request, the Thirtieth Schedule, do you see that?

MASTER: Yes, I do.

MR MIDDLETON: Down the bottom there's an important inscription which says, "Note, plans submitted in ... (reads) ... all identical to this". Of course the five is wrong, it should be seven but don't worry about that.

The significance of that to the reader, we would say, certainly as Mr Thompson proposes, is that it looks as though when you look over the page to the diagram, that's all done in one lot, in one basic subdivision because they're all schedules identical to this. You just see that document. That's what Mr Thompson thought was happening.

2 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. I'll come to the way the iron sometimes works. You go to 9 and you see there that what happened was there was a series now of subdivisions. Have a look at the first one and you'll see (e) and down the bottom near Hill Drive. Now, keep going to the next page, you'll see Hill Drive gets bigger, so that's the second subdivision. You'll see NIS down the bottom of that second page, not in subdivision, because that's the earlier one and you've got two lots coming up. He's described the road by a bit bigger.

3 You go to the next diagram and you'll see Hill .VTS:DT 15/11/05

Drive is getting longer and you've got a new two lots of subdivision and the old ones are not in the subdivision.

MASTER: Where are the two new lots?

MR MIDDLETON: You'll see 8 and G and then you've got not in subdivision is the previous ones are taken out.

3 MASTER: Let's go back to the previous one. I see 8 and 7, NIS increase, but doesn't G and F look similar? Have a look at the second one. You have NIS7 and then you've got an F. On the third one you've got NIS and 8, so Hill Road gets bigger. What's the difference between G and F?

MR MIDDLETON: They're different subdivisions. Look as the NIS as bigger. NIS in 8 one is consumed the 7 and the 8 is the next one around the Hill Drive as extends on.

MASTER: I follow.

MR MIDDLETON: In other words what's happening is look at the next one, you'll see there progressing around Hill Drive and the secret is to look at the Hill Drive road. So what's happened to comply with s.9 is a whole series now of subdivisions.

4 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. The other piece to .VTS:DT 15/11/05