

14 This proceeding settled in 1991 and the plaintiffs gave the Council and the Water Board a release in consideration of \$40,000 plus costs paid to them.

15 The plaintiffs now contend that the Council failed to make valid requirements for the provision of roads and the supply of water prior to sealing and certifying the sequential plans of subdivision relating to the Tylden land thereby enabling them ultimately to be registered pursuant to the *Transfer of Land Act 1958* (the "TLA"), without the benefit of valid requirements for such services.

16 It is further said such failure was deliberate and fraudulent and constituted misfeasance in public office.

Woodleigh Land Factual Background

17 In the course of purchasing the Tylden land the plaintiffs had also been persuaded by Buchanan to buy a number of cluster allotments within the Woodleigh land.

18 Following such purchase a dispute arose as to the withholding of reticulated water supply from the plaintiffs' land, by the subdivider. Such water was supplied by the Water Board to this subdivision in 1982.

19 Ultimately the plaintiffs sued the Council and the Water Board in 1995 alleging that each had made fraudulent misrepresentations as to the plaintiffs' lack of entitlement to access to such water. As a result it was alleged the plaintiffs had suffered loss upon a mortgagee sale at which the land achieved values reflecting a lack of water supply when (it was alleged) the plaintiffs were in truth entitled to access to such water supply.

20 These proceedings were settled in the Supreme Court in 1999. Once again the plaintiffs gave a release to both the Council and the Water Board in consideration of moneys paid to them.

21 The plaintiffs now contend that the Council should not have sealed the relevant plans of cluster subdivision in the first place, because at the time the lots were