

1980³⁸. On this basis, the six year limitation period in relation to the Industrial land claim expired in December 1986.

42. As to the Residential land, the particulars of loss and damage³⁹ assert that loss and damage is to be calculated from April 1983 being the date that the plaintiffs were forced to sell the Residential land. On this basis, the six year limitation period in respect of the Residential land expired in April 1989.
43. Leaving to one side the previous proceedings and releases and the insurmountable Anshun problems which infect the case, on no view are the claims made by the plaintiffs relating to the Tylden Road land other than manifestly statute barred. The Limitation of Actions Act – section 5, provides a complete defence and a bar to the plaintiffs' claim to which there is no arguable answer.

The Woodleigh Heights lands – Limitation period

44. The pleading concerning Woodleigh Heights alleges that the cause of action was complete when damage was sustained in 1984⁴⁰.
45. Whilst the Woodleigh Heights land claim alleged loss is calculated as and from November 1984⁴¹, it is to be noted that the very latest date that the plaintiffs could conceivably have suffered loss and damage in respect of such land is 1989. That is, when Esanda Limited allegedly exercised its rights over the plaintiffs' land and sold the land to Deckwood Pty Limited.⁴²
46. Accordingly, taking an extremely generous view of the limitation issue, at the very latest, the six year limitation period concerning the Woodleigh Heights land expired in 1995. The claim had been statute barred by ten years when it was issued in 2005.

³⁸ The earlier version alleged a date in 1984.

³⁹ See amended statement of claim pages 35 and 36.

⁴⁰ Refer to footnote 20 above

⁴¹ See paragraph D5 of the statement of claim on page 39.

⁴² Paragraph W7.1 of the statement of claim.