

v) **The Woodleigh Heights submission.**

(1) In relation to Woodleigh Heights there are only three questions, these are:-

- (a) When did the Plaintiffs first become aware that the principle mains comprising a component part of the private reticulation system were laid in 1982 and not 1979 as required by law?; and;
- (b) When did the Plaintiffs first become aware that the laying of these mains in 1982 and not 1979 gave rise to a right of action?
- (c) Did the Defendants conceal the facts related to the first two questions?

(2) **As to the first question.**

- (a) In the present Amended Statement of Claim, in relation to Woodleigh Heights I make one single predicated allegation. This allegation is found at paragraph W10 of the present Amended Statement of Claim. And is that at the time of sealing the plans of cluster subdivision the First Defendant was well aware that no reticulated water supply had been installed in accordance with condition 8 of Planning Permit 2191.
- (b) The water supply referred to is the private water supply and reticulation system referred to in paragraph W2 of the present Amended Statement of Claim.
- (c) It is also clear from my first Affidavit that the sole reason as to why it is said that the said water supply was not present is that the component being the principle water mains were not laid in 1979 but were instead laid in 1982 and that I first became aware of this in 1999 at the Practice Court.
- (d) That this sole reason is clear and known to the Defendants is contained in the aforementioned theatrical performance of the Major General where he said of me in relation to the Practice Court, “*and he realised that the water main, would you believe, the water main was not constructed in 1979 as he had formerly believed, but in 1982.*” A submission as to this fact is also found at paragraph 85(b) of the Outline of Submissions on behalf of the First Defendant.
- (e) In relation to this issue Counsel for the First Defendant wished to and needed to convince the Court that I had prior knowledge that the principal water mains were laid in 1982 and not 1979 and that I could have therefore brought the present action earlier.

(3) **As to the second and third question.**

- (a) I refer to and repeat the things said by me in relation to concealment in relation to Woodleigh Heights and reiterate that even if I knew of the laying of the water mains at an earlier date including 1987 then all knowledge of right of action remained concealed