

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE  
COMMON LAW DIVISION

S CI 2014 05002

IN THE MATTER of an Application pursuant to section 84 of the *Property Law Act 1958*  
for the modification of a restrictive covenant

**APPLICATION OF:**

DAVID JOSEPH CHEONG

Plaintiff

**GENERAL FORM OF ORDER**

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ASSOCIATE JUDGE: The Honourable Associate Justice Zammit

DATE MADE: 24 October 2014

ORIGINATING PROCESS: Originating Motion

HOW OBTAINED: Originating Motion filed 18 September 2014

ATTENDANCE: Mr M. Townsend of Counsel for the Plaintiff.  
No appearance by or on behalf of the Defendant.

OTHER MATTERS:

A. The Court notes that the benefit of the covenant attached to 52 original lots on plan of subdivision No. LP 16996, some of which have been the subject of further subdivision.

B. The Court is satisfied that notice as provided by the order below will give adequate notification of the Application to beneficiaries of the Covenant.

**THE COURT ORDERS THAT:**

1. By 3 November 2014 the Plaintiff shall display two copies of the notice in the form of Schedule B to this order enlarged to size A3 and encased in a waterproof cover by affixing them in a conspicuous position on the property at 32-38 Mt Dandenong Road, Croydon with one at or near the north west corner of the property and the other at or near the north east corner of the property and those notices shall remain displayed until 1 December 2014.
2. The further hearing of the proceeding is adjourned to 5 February 2015 at 10.30 am in Associate Judges' Court 2, Ground Floor, 436 Lonsdale Street, Melbourne.

3. There be liberty to apply.

DATE AUTHENTICATED: **28 October 2014**

ML: 28/10/14



**NOTICE OF APPLICATION TO MODIFY  
A RESTRICTIVE COVENANT**

**LAND AT 32-38 MT DANDENONG ROAD CROYDON**

**CERTIFICATE OF TITLE VOLUME 8313 FOLIO 067**

**THIS NOTICE** is given by order of the Supreme Court of Victoria.

**TAKE NOTICE** that David Joseph Cheong has applied to the Court as Plaintiff in proceeding no. S CI 2014 05002 for an order to modify a covenant registered on the title to the land (**Application**). The covenant is stated in transfer no. 2199664 dated 8 February 1949 (**Covenant**). The Covenant prohibits the landowner from, amongst other things, subdividing the land into lots of less than three quarters of an acre. The Plaintiff seeks to modify the covenant so as to be able to subdivide the land into three lots and to build no more than three dwelling houses. The Application is made under s84 of the *Property Law Act 1958 (Vic)*.

**TAKE FURTHER NOTICE** that any person who is entitled to the benefit of the covenant and who intends to oppose the application should:

1. by 28 November 2014 give written notice to the Plaintiff's solicitors, Aughtersons Lawyers Pty Ltd of 267 Maroondah Highway, Ringwood VIC 3134; and
2. appear on 5 February 2015 in Associate Judges' Court No. 2, Ground Floor, Supreme Court, 436 Lonsdale Street, Melbourne, at 10:30am on which occasion the Court usually makes procedural orders for the conduct of the application if it is opposed.

If no person appears the Court may make the order sought.

Copies of all documents relating to this Application and any further information (including the names and address of any other objector or person entitled to the benefit of the Covenant) may be obtained on request from Aughtersons Lawyers Pty Ltd of 267 Maroondah Highway, RINGWOOD 3134.

The Court has authorised us to inform you that the costs of any persons opposing the application are in the discretion of the court, and that it may be that no more than one set of legal costs of separately represented persons with the same or similar interests opposing the application will be allowed.

Dated: 24 October 2014

  
**Aughtersons Lawyers Pty Ltd**