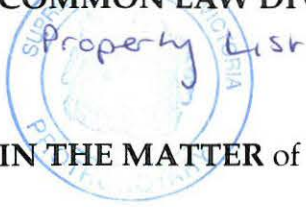


IN THE SUPREME COURT OF VICTORIA  
AT MELBOURNE  
COMMON LAW DIVISION



SCI 2017 05290

IN THE MATTER of an application under section 84(1)(c) of the *Property Law Act 1958* (Vic)  
and

IN THE MATTER of a restrictive covenant contained in Instrument of Transfer No. 0603348 registered in the Register Book at the Office of Titles and imposed upon the land known as 24 Rockley Road, South Yarra more specifically described in Certificate of Title Volume 03364 Folio 737 kept by the Register of Titles under the *Transfer of Land Act 1958* (Vic)

WHEREIN

MARQ SPV PTY LTD (ACN 623 172 494)

is Plaintiff

ORIGINATING MOTION

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Date of document:	22 December 2017
Filed on behalf of:	The Plaintiff
Filed by:	Solicitor code: CR103127
	Tel: 8626 9010
<b>Planning &amp; Property Partners Pty Ltd</b>	Fax: 8626 9001
Duckboard House,	Attn: Tyrone Rath
Level 2, 91-93 Flinders Lane	Email: rath@pppartners.com.au
MELBOURNE VIC 3000	

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TAKE NOTICE that the Plaintiff will apply to the Associate Judge, Court 2, Ground Floor, 436 Lonsdale Street on 19 January 2018 at 10:30am for the following Orders pursuant to section 84 of the *Property Law Act 1958* (Vic):

1. That the Plaintiff, as nominated purchaser of the land situate at and known as 24 Rockley Road, South Yarra and more particularly described as Certificate of Title Volume 03364 Folio 737 and known as Lot 44 on Plan of Subdivision No. 004946, has an interest in the land for the purpose of section 84(1) of the *Property Law Act 1958* (Vic).

2. That the restrictive covenant contained in Instrument of Transfer No. 0603348 in the Register kept by the Registrar of Titles under the *Transfer of Land Act 1958* (Vic.) be modified insofar as it affects the land situate at 24 Rockley Road, South Yarra more particularly described as Certificate of Title Volume 03364 Folio 737 and also known as Lot 44 on Plan of Subdivision No. 004946 by inserting (indicated by underlining) and deleting (indicated by strike through) words as follows:

...erect more than one residence or a terrace of townhouses on the said lot Forty four such terrace of townhouses not to be less than two storeys in height and such residence or terrace shall be built of stone or brick and stone and shall cost not less than Five hundred pounds and shall not be used for any trade or business, ~~and further that the said Allotment shall not be divided into smaller Allotments or the frontage thereof to Rockley Road reduced to a smaller frontage than appears on the said Plan of Subdivision~~

3. That, pursuant to section 84(2)(b) of the *Property Law Act 1958* (Vic.), the restrictive covenant contained in Instrument of Transfer No. 0603348 in the Register kept by the Registrar of Titles under the *Transfer of Land Act 1958* (Vic.), so modified as detailed above, is not breached by a development generally in accordance with the plans prepared by Conrad Architects and marked Project 24 Rockley Road, South Yarra, as filed with this Honourable Court.
4. Such directions pursuant to section 84(3) of the *Property Law Act 1958* (Vic.) as to any inquiry to be made by the Plaintiffs and what notices ought to be given by the advertisements.
5. Such further or other orders this Honourable Court deems fit.

FILED: 22 December 2017



1. Place of Hearing – Melbourne.
2. This originating motion was filed by Planning & Property Partners Pty Ltd.
3. The address of the Plaintiff is Level 5, 525 Collins Street, Melbourne, Victoria 3000.
4. The address for service of the Plaintiff is c/- Planning & Property Partners Pty Ltd, Duckboard House, Level 2, 91-93 Flinders Lane, Melbourne, Victoria 3000.