



Quiz

Restrictive Covenants in Victoria

1. Which of the following statements is true about restrictive covenants?
 - a. They limit the way in which land can be used
 - b. They are positive in nature
 - c. They give rights to do things
 - d. All of the above

2. Which of the following statements is true about the interpretation of restrictive covenants?
 - a. Contractual principles may assist with their interpretation
 - b. Interpretation by reference to extrinsic materials is more limited than when interpreting contracts
 - c. Wording should be taken at face value for older covenants
 - d. All of the above

3. Which of the following statements is correct about an application for a planning permit to remove or vary a restrictive covenant?
 - a. For covenants created after 1991, the material detriment test is to be met
 - b. The application is made under the *Planning and Environment Act 1987* (NSW)
 - c. If the application is refused, an application seeking review of the decision can be made to the Victorian Civil and Administrative Tribunal

- d. All of the above
4. Which of the following statements is true about the process under section 84 of the *Property Law Act 1958* (VIC) to discharge or modify a restrictive covenant?
- a. At an ex parte directions hearing, objecting beneficiaries can apply to be joined as defendants to the proceeding
 - b. At an ex parte directions hearing, directions will be made for notice to be given to beneficiaries
 - c. Where objective beneficiaries are joined as defendants, the process is extremely quick
 - d. In all cases involving no objecting beneficiaries, the courts have never declined to exercise its discretion to grant the application under section 84
5. What was held in the case of *Healthscope Ltd v Moreland City Council & M Giordano and Ors* [2013] VCAT 99?
- a. There can be references made to extrinsic material to interpret a covenant if the extrinsic material is directly referenced in the covenant
 - b. Notice to beneficiaries must be provided physically on the land
 - c. Although the planning merits were appropriate and a permit should be granted, there was no power to grant the permit because the covenant would be breached
 - d. All of the above

Answers:

1. A 2. D 3. D 4. B 5. C