

**Instrument setting out terms of Easement or Profits à Prendre intended to be created or released and of Restrictions on the Use of Land or Positive Covenants intended to be created or released pursuant to section 88B Conveyancing Act 1919.**

(Sheet 1 of 5 sheets)

Plan: Plan of Subdivision of Lot 171 DP 1245186 covered by  
Subdivision Certificate No. Dated

**Full name and address  
of the owner of the land: KPD Perricoota Pty Ltd ACN 102 668 388  
of 47 Queen Street, Bendigo Victoria 3550**

**PART 1 (Creation)**

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s):	Benefited lot(s), road(s), bodies or Prescribed Authorities:
1	Restriction on use of land	Lots 172-191 inclusive	Murray River Council
2	Easement to drain water 2 metres wide	Lot 174	Murray River Council
3	Easement to drain sewage 3 metres wide	Lots 190 and 191	Murray River Council
4	Restriction on use of land	Each and every lot excluding Lot 192	Each and every other lot excluding Lot 12

**Part 2 (Terms)**

**1. TERMS OF RESTRICTION FIRSTLY REFERRED TO IN ABOVEMENTIONED PLAN**

Terms of restriction on the use of land numbered 1 in the plan.

Not to erect or cause or allow to be erected on the lots hereby burdened any dwelling house which has a height of the floor level of all habitable rooms less than 95.84 Australian Height Datum.

**2. TERMS OF RESTRICTION FOURTHLY REFERRED TO IN ABOVEMENTIONED PLAN**

Terms of restriction on the use of land numbered 3 in the plan.

The Owner of a burdened lot shall not:

1. erect or re-erect or allow to be erected or re-erected on the lot any building or part of a building which has previously been erected in another location nor use any

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- second hand building materials (except in accordance with clause 2) in the construction of any building on the lot;
2. erect or cause or allow to be erected on the lot any building other than one private dwelling house (such expression to include any flat, unit or apartment) with outbuilding or garage in accordance with clauses 3, 4 and 5 respectively and such dwelling house shall:
    - 2.1 not be constructed without a garage being constructed at the same time and in accordance with clause 5;
    - 2.2 not have a floor area of less than 130 square metres within the outer walls thereof, calculated by excluding the area of all eaves, pergolas, verandahs and garages;
    - 2.3 not be constructed using second hand external wall cladding unless such material is recycled timber and does not comprise more than ten per cent of the total external wall area;
    - 2.4 not be roofed with any material other than non-reflective colorbond steel sheeting, concrete tiles, slate tiles or terracotta tiles;
    - 2.5 not be used as other than a private residence, unless it is a display home;
    - 2.6 not include a carport; and
    - 2.7 not have the height of the floor level of all habitable rooms of the dwelling house less than 95.84 Australian Height Datum.
  3. if the burdened lot has a total area of less than 1,000 square metres, erect or cause or allow to be erected on the lot any outbuilding (other than a garage) which:
    - 3.1 has a floor area of more than 70 square metres or a height of more than 4.00 metres from the natural ground level;
    - 3.2 is constructed of materials which are in conformity with those authorised in clause 2 (unless that outbuilding has a floor area of 10 square metres or less); and
    - 3.3 is not fully enclosed;
  4. if the burdened lot has a total area of 1,000 square metres or more, erect or cause or allow to be erected on the lot any outbuilding (other than a garage) which:
    - 4.1 has a floor area of more than 80 square metres or a height of more than 4.00 metres from the natural ground level;
    - 4.2 is constructed of materials which are in conformity with those authorised in clause 2 (unless that outbuilding has a floor area of 10 square metres or less); and

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- 4.3 is not fully enclosed;
- 5. erect or cause or allow to be erected on the lot any garage which:
  - 5.1 if not attached to the dwelling, has a floor area of more than 60 square metres and a height of more than 4.00 metres from the natural ground level;
  - 5.2 is not fully enclosed;
  - 5.3 is not constructed of the same materials used in the construction of a private dwelling house erected or to be erected on the lot; and
  - 5.4 is additional to any garage already erected on the lot;
- 6 use or cause or allow to be used any reflective material as external wall cladding or roofing on any building erected on the lot;
- 7 erect or cause or allow to be erected on the lot any fence (which expression shall include a wall or screen) forward of the front facade of the dwelling house which has been constructed on it unless:
  - 7.1 such fence is constructed perpendicular to the street and of timber using three kiln dried hardwood horizontal rails and treated pine palings and is set back from the title boundary abutting the street by 400 millimetres;
  - 7.2 such fence does not exceed 1.2 metres in height from the natural ground level tapering up to not more than 1.8 metres in height from the natural ground level at a distance which is more than 5 metres from the title boundary abutting the street;
  - 7.3 if no dwelling house has been erected on the lot and the lot has frontage to a single street then such a fence may only be erected within 5 metres of the title boundary abutting the street;
  - 7.4 if no dwelling house has been erected on the lot and the lot has frontage to more than one street ("corner lot") then such a fence may only be erected within 5 metres of one of the title boundaries (excluding a splay corner) abutting a street; and
  - 7.5 if a dwelling house has been erected on the lot and the lot is a corner lot then such a fence may only be erected forward of the front facade of the dwelling house;
- 8 erect or cause or allow to be erected on the lot any fence (other than a fence referred to in clause 7 above) on a side or rear title boundary which is greater in height than 1.8 metres from the natural ground level and which is constructed of any material other than timber using three kiln dried hardwood horizontal rails and treated pine palings;
- 9 erect or cause or allow to be erected on the lot any fence which is not on a title boundary which is constructed of or incorporates as a material colorbond, steel

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- sheeting, aluminium sheeting or reflective sheeting or which is at a height exceeding 1.8 metres from the natural ground level;
- 10 use or cause or allow to be used on the lot any outbuilding, mobile home, caravan, tent or other moveable accommodation for living or residential accommodation;
- 11 keep or cause or allow to be kept on the lot any animals or birds other than those permitted by local government authority or authorities for the time being;
- 12 use or cause or suffer the lot to be used for any of the following purposes:
- 12.1 road transport terminal or depot;
  - 12.2 bus terminal or depot;
  - 12.3 displaying goods for hire or sale;
  - 12.4 panel beating or motor repair workshop;
  - 12.5 wood yard, boat yard, marina or marine depot;
  - 12.6 commercial storage;
  - 12.7 recreational motor cycling;
- 13 subdivide or allow to be subdivided the lot or any building erected or to be erected on the lot;
- 14 pending erection of a dwelling house on the lot, allow that lot to become a fire hazard or to be in a condition which has a detrimental affect on the amenity of the neighbourhood;



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**Murray River Council** by its authorised delegate pursuant to  
S377 Local Government Act 1993 Simon Arkinstall Director  
of Environmental Services .....

I certify that I am an eligible witness and that the delegate  
Signed in my presence:

Signature of witness: .....

Name of witness: .....

Address of witness: .....