

**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 45 DP 1192680 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 141 View 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	Easement to Drain Water 2 metres wide	65 to 69 inclusive	Murray Shire Council
2	Easement to Drain Sewage 2.50 metres wide and variable	64	Murray Shire Council
3	Restriction on use of land	58 to 71 inclusive	58 to 71 inclusive

**Part 2 (Terms)**

- 1. TERMS OF EASEMENT FIRSTLY REFERRED TO IN ABOVEMENTIONED PLAN**  
Easement to Drain Water (statutory meaning).
- 2. TERMS OF EASEMENT SECONDLY REFERRED TO IN ABOVEMENTIONED PLAN**  
Easement to Drain Sewage (statutory meaning).
- 3. TERMS OF RESTRICTION THIRDLY REFERRED TO IN ABOVEMENTIONED PLAN**  
Terms of restriction on the use of land numbered 4 in the plan.

The Owner of a Lot Burdened shall not:

- 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 second hand building materials (except in accordance with clause 2 in the construction of any building on the lot;
- 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 4.4 respectively and such dwelling house shall:
  - 2.1 not be constructed without a garage being constructed at the same time and in accordance with clauses 4 or 4.4 respectively; and

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- 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; and
  - 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; and
  - 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; and
  - 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. 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 60 square metres or a height of more than 3.75 metres from the natural ground level;
    - 3.2 is constructed of materials which are in conformity with those authorised in clause 2 hereof (unless that outbuilding has a floor area of 10 square metres or less); and
    - 3.3 is not fully enclosed;
  4. erect or cause or allow to be erected on the lot any garage which:
    - 4.1 has a floor area of more than 60 square metres or a height of more than 3.75 metres from the natural ground level;
    - 4.2 is not fully enclosed;
    - 4.3 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
    - 4.4 is additional to any garage already erected on the lot;
  5. use or cause or allow to be used any reflective material as external wall cladding or roofing on any building erected on the lot;
  6. 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:

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- 6.1 such fence is constructed perpendicular to the street and of timber using three kiln dried hardwood horizontal rails and treated pine palings;
- 6.2 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; and
- 6.3 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; and
- 6.4 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
- 6.5 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;
7. erect or cause or allow to be erected on the lot any fence (other than a fence referred to in clauses 6 to 6.5 **Error! Reference source not found.** 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;
8. in respect of lots 58 and 71 on the south west boundaries of those lots erect or cause or allow to be erected any fence constructed of material other than a ventilated paling fence with 10mm kiln dried hardwood palings, peaked capping, exposed 75x125mm peaked posts, 150mm plinth, 3x45x70mm kiln dried rails finished with a Dexpress Merbau oiled finish;
9. in respect to lots 58, 59, 70 and 71 erect or cause or allow to be erected any fence along Lakeview Drive in excess of 1.2 m, such fence must be transparent and have the prior approval of the developer;
10. in respect to lots 58, 59, 70 and 71 erect or cause or allow to be erected any side boundary fence without the prior approval of the developer;
11. erect or cause or allow to be erected on the lot any fence which is not on a title boundary or referred to in clauses 6, 7 or 9 above, which is constructed of or incorporates as a material colorbond, steel sheeting, aluminium sheeting or reflective sheeting or which is at a height exceeding 1.8 metres from the natural ground level;
12. 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;

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13. 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;
14. use or cause or suffer the lot to be used for any of the following purposes:
  - 14.1 road transport terminal or depot;
  - 14.2 bus terminal or depot;
  - 14.3 displaying goods for hire or sale;
  - 14.4 panel beating or motor repair workshop;
  - 14.5 wood yard, boat yard, marina or marine depot;
  - 14.6 commercial storage;
  - 14.7 recreational motor cycling;
15. subdivide or allow to be subdivided the lot or any building erected or to be erected on the lot;
16. 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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**Executed by KPD Perricoota Pty Ltd** )  
**ACN 102 668 388** by being signed by those )  
persons who are authorised to sign for the company: )

.....  
Director  
Full Name .....  
Usual address .....  
.....

.....  
Secretary  
Full Name .....  
Usual address .....  
.....

**Executed by Bendigo and Adelaide Bank Ltd** )  
ABN 11 068 049 178 by being signed by its )  
Attorneys )  
).....  
who certify that they are the ) Attorney  
)  
respectively for the time being of the )  
Company under the Power of Attorney )  
dated 9 April 2008 registered in ) .....  
Book 4542 Number 334 in the presence of - ) Attorney

I certify that the attorney(s) signing opposite,  
with whom I am personally acquainted or as  
to whose identity I am otherwise satisfied,  
signed this instrument in my presence.

Signature of witness.....

Name of witness.....

Address of witness.....

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Approved by **Murray Shire Council** .....  
General Manager