

Owners Corporation Rules

Owners Corporation No. 1 on Plan of Subdivision PS819031Y

Quay 2 Estate

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NOTES

These Rules may not provide for a matter which is provided for in the Model Rules (Model Rules for an Owners Corporation – Regulation 8 – Schedule 2) prescribed from time to time pursuant to Section 139 of the *Owners Corporations Act 2006* (Vic). If this is the case then these Rules will be deemed to include the provisions of the Model Rules relating to that matter.

A. Definitions

In these rules:

Act means the *Owners Corporations Act 2006* (Vic).

Buildings means the dwellings and improvements constructed on the Lots in the Plan.

Committee of Management means the committee appointed from time to time by the Owners Corporation in accordance with the Act.

Common Property means the land designated as common property on the Plan and any improvements erected on the land designated as common property on the Plan.

Council means the Surf Coast Shire Council and its successors.

Design Assessment Panel means a committee comprising the Developer's architect and other persons appointed from time to time by the Developer to review and determine matters relating to approvals for works and matters from time to time relating to the Design Guidelines.

Design Guidelines means the Quay 2 Design Guidelines as issued from time to time by the Developer.

Developer means Hume Torquay Pty Ltd or a Related Owners Corporation responsible for the Development and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, contractors, subcontractors and invitees.

Development means the development of the land in the Plan.

Lot means a lot shown on the Plan.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Occupier means the person or entity authorised by an Owner to occupy their designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees. **Occupiers** has a corresponding meaning.

Owner means the owner of a Lot on the Plan for the time being and where the context requires includes the Owner's invitees. **Owners** has a corresponding meaning.

Owners Corporation means the Owners Corporation created on registration of the Plan.

Plan means plan of subdivision no.PS819031Y.

Regulations means the *Owners Corporations Regulations 2007* (Vic).

Related Body Corporate has the meaning given to that term in the *Corporations Act 2001* (Cwth).

1. Health, Safety and Security

1.1 General

- 1.1.1 An Owner or Occupier must not use a Lot or the Common Property, or permit a Lot or the Common Property to be used, or do anything, so as to cause a hazard to the health,

safety and/or security of any other Owner, Occupier, or user of another Lot or any person who enters upon the Common Property.

- 1.1.2 The Owners Corporation may take whatever reasonable measures are necessary to ensure the health, safety and/or security of Owners and Occupiers and all persons who are entitled to use the Common Property is not compromised.
- 1.1.3 An Owner or Occupier must abide by decisions and/or directions made by the Owners Corporation to ensure that the health, safety and/or security of all persons entitled to use the Common Property is not compromised.
- 1.1.4 An Owner or Occupier must ensure compliance with all statutory requirements with respect to their Lot, including any rules and directions and decisions of the Owners Corporation relating to fire safety with respect to the Lot and the Common Property.
- 1.1.5 If an Owner or Occupier fails to comply with Rule 1.1.3 and/or 1.1.4 the Owners Corporation is entitled to take such actions as is required to remedy the breach and shall be entitled to recover the costs of doing so from the Owner or Occupier.
- 1.1.6 An Owner or Occupier must not use or interfere or tamper with any fire safety equipment except in the case of emergency.
- 1.1.7 An Owner or Occupier must ensure that all smoke detectors installed are regularly maintained and tested and batteries are replaced regularly.
- 1.1.8 An Owner or Occupier must not permit oil leakages from any motor vehicle, trailer or motor cycle which is owned by them or under their control, onto the Common Property or to allow such leakages within a Lot to be seen from the Common Property and/or to spread to another Lot or the Common Property or street (e.g by pedestrian or vehicular traffic).
- 1.1.9 In the event Rule 1.1.8 is breached causing damage to or the dirtying of Common Property the Owners Corporation may clean the leaked substance from the Common Property and from the Lot from which the substance leaked and recover the costs of doing so from Owner or Occupier that caused the leakage onto Common Property but after giving 7 days notice only to be rectified.

1.2 *Safety of children, including their exclusion from areas that may be unsafe for them or restricting activities that may be unsafe.*

- 1.2.1 An Owner or Occupier must not permit any child under the age of 14 years, and over whom the Owner or Occupier has control, to remain unaccompanied (by a responsible adult) on Common Property where there is a hazard or possible danger.

1.3 *Storage and use of flammable liquids and dangerous substances and materials*

- 1.3.1 Except with the approval in writing of the Owners Corporation, an Owner or Occupier of a Lot must not use or store on the Lot or on the Common Property any inflammable chemical, liquid or gas or other inflammable material.
- 1.3.2 This rule does not apply to-
 - (a) chemicals, liquids, gases or other material used or intended to be used for domestic purposes; or
 - (b) any chemical, liquid, gas or other material in a fuel tank of a motor vehicle or internal combustion engine.

2. Management and Administration

2.1 Metering of services and apportionment of costs of services

- 2.1.1 The Owners Corporation must not seek payment or reimbursement for a cost or charge from an Owner or Occupier that is more than the amount that the supplier would have charged that Owner or Occupier for the same goods and services.
- 2.1.2 If a supplier has issued an account to the Owners Corporation, the Owners Corporation cannot recover from the Owner or Occupier an amount that includes any amount that is able to be claimed as a concession or rebate by or on behalf of the Owner or Occupier from the relevant supplier.
- 2.1.3 Sub-rule 2.1.2 does not apply if the concession or rebate –
 - (a) must be claimed by the Owner or Occupier and the Owners Corporation has given the Owner or Occupier an opportunity to claim it and the Owner or Occupier has not done so by the payment date set by the relevant supplier; or
 - (b) is paid directly to the lot Owner or Occupier as a refund.

2.2 Management and administration of Common Property and Services

- 2.2.1 An Owner or Occupier must not do anything or permit anything to be done on or in relation to that Lot so that:
 - (a) the structural integrity of any part of the Common Property is impaired;
 - (b) the provision of services through the Lot is interfered with in any way (except temporarily as consented to by the Owners Corporation and the Owner and Occupier of any Lot affected); or
 - (c) any support or shelter provided by that Lot for any other Lot is interfered with.
- 2.2.2 Any consent given by the Owners Corporation may be qualified or conditional.
- 2.2.3 An Owner or Occupier must take all reasonable steps to ensure that their invitees comply with these rules at all times.
- 2.2.4 These rules must be given to a resident of a Lot, not being the Owner, prior to taking up occupancy.
- 2.2.5 The Owners Corporation and/or the Committee of Management may from time to time issue a document entitled 'Housekeeping Rules'. These housekeeping rules will assist Owners and Occupiers in interpreting these rules and how these rules should be applied on a daily basis. Accordingly the housekeeping rules will be binding on all residents within the Owners Corporation.

2.3 Rights of Developer

- 2.3.1 Nothing in these rules shall prevent or hinder the Developer or the Developer's contractors from completing construction of improvements and development of the Lots owned by the Developer, or from otherwise complying with the Developer's obligations under section 68(2) of the Owners Corporations Act. Without limitation, the Developer may:

- (a) erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development;
- (b) take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development;
- (c) exclude all and any Owners and Occupiers of any Lot from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development;
- (d) grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fits which are necessary for the purpose of the Development;
- (e) use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works and comply with Occupational Health and Safety laws;
- (f) use any Lot as a display Lot to assist in the marketing and sale of other Lots;
- (g) place anywhere on the Common Property signs and other materials relating to the sale of Lots;
- (h) conduct in a Lot or on Common Property an auction sale of a Lot;
- (i) use in any way it considers necessary any part of the Common Property for the purpose of selling Lots;
- (j) use in any way it considers necessary any part of the Common Property to facilitate completion of the Development;

subject to the Developer's obligations pursuant to the Act.

3. Use of Common Property

3.1 General

- 3.1.1 An Owner or Occupier of a Lot must not obstruct the lawful use or enjoyment of the Common Property by any other person entitled to use the Common Property, or use the Common Property, or allow the Common Property to be used by any other person in such a manner as to unreasonably interfere with the quiet enjoyment of any person entitled to use the Common Property.
- 3.1.2 An Owner or Occupier must not, without the written approval of the Owners Corporation, use for his or her own purpose as a garden any portion of the Common Property.
- 3.1.3 An approval under sub-rule 3.1.2 may state a period for which the approval is granted.
- 3.1.4 An Owner or Occupier must not use the Common Property, car park or courtyards to roller skate, roller blade or skate board.
- 3.1.5 An Owner and Occupier must not use the Common Property for the making of any public announcement.

- 3.1.6 An Owner or Occupier must not use the Common Property, car park or driveway as a play area for children.
- 3.1.7 An Owner or Occupier must always follow the direction of the Owners Corporation when using any Common Property. This includes all directions which are sign posted in or around the Common Property.

3.2 *Animals*

- 3.2.1 An Owner or Occupier of a Lot must not permit any animal:
 - (a) to enter upon the Common Property unless that animal is on a leash; or
 - (b) to defecate or urinate on Common Property at any time; or
 - (c) cause damage to Common Property.
- 3.2.2 If the Owners Corporation has resolved that an animal is a nuisance or is a danger to persons who have a right to use the Common Property, or is causing damage to the Common Property, it must give reasonable notice of the resolution to the Owner or Occupier who is keeping the animal.
- 3.2.3 An Owner or Occupier of a lot who is keeping an animal that is the subject of a notice under sub-rule 3.2.2 must remove the animal immediately from the Common Property after having been given written notice of such resolution.
- 3.2.4 Rule 3.2.3 does not apply to an animal which assists a person with an impairment or disability in relation to nuisance and damage, however the Owners Corporation may require the owner of such animal to take reasonable steps to prevent the reoccurrence of the nuisance and/or damage.

3.3 *Damage to common property*

- 3.3.1 An Owner or Occupier of a Lot must not damage, mark, paint or alter the Common Property without the prior written approval of the Owners Corporation.
- 3.3.2 An Owner or Occupier must not damage or alter a structure that forms part of the Common Property without the prior written approval of the Owners Corporation.
- 3.3.3 An approval under sub-rule 3.3.1 and 3.3.2 may state a period for which the approval is granted, and may specify the works and conditions for the approval is subject.
- 3.3.4 An Owner or Occupier must notify the Owners Corporation as soon as possible after becoming aware of any damage to the Common Property.

3.4 *Deposit of rubbish and other material on Common Property*

- 3.4.1 An Owner or Occupier of a Lot must ensure that their bin/s is placed out for collection within 24 hours of the Council advised collection time and ensure that the bin/s are retrieved on the same day the bin/s are emptied.
- 3.4.2 An Owner or Occupier of a Lot must ensure that their bin/s and specific items of waste are placed out for collection in one of the points of collection as identified by the Owners Corporation.

- 3.4.3 Apart from the purposes of complying with sub-rules 3.4.1 and 3.4.2 no rubbish or waste shall be placed on Common Property without the written approval of the Owners Corporation.
- 3.4.4 No hard rubbish is to be left on the Common Property and any Owner or Occupier found to be dumping hard rubbish will be directed to remove it or the Owners Corporation will cause it to be removed and charge the Owner or Occupier responsible for the dumping of the rubbish.
- 3.4.5 No rubbish or waste shall be placed on Common Property without the written approval of the Owners Corporation.
- 3.4.6 An Owner or Occupier must not throw or allow to fall or permit or suffer to be thrown or to fall any paper, rubbish, refuse, cigarette butts or other substance whatsoever out of the windows or doors or down the staircase or from the balconies. Any damage or cost for cleaning or repair caused by breach of this rule shall be borne by the Owner or Occupier concerned.
- 3.4.7 An Owner or Occupier who is found responsible dumping general waste and/or recycling items on Common Property will be charged for the cost of cleaning undertaken.
- 3.4.8 An Owner or Occupier of a Lot must ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of the occupiers or users of other Lots.
- 3.4.9 An Owner or Occupier must store their rubbish bins on their respective Lot out of sight from another Lot.

3.5 *Fencing facing Common Property, Street or Reserve*

- 3.5.1 If there is a restriction on the Plan or the certificate of title of a Lot or planning permit which regulates the fencing on a boundary between Common Property and a Lot, and a Lot owner or occupier erects fence which does not comply with that restriction, then the Owners Corporation may:
 - (a) remove the fence and replace it with a fence which does comply with the restrictions, or;
 - (b) take any other action to enable the fence to comply with the restriction, and the cost of doing so shall be recoverable from the Owner. This rule will apply even if the Owners Corporation does not have the benefit of the restriction under the Plan.

3.6 *Vehicles and parking on common property*

- 3.6.1 An Owner or Occupier must not, unless in the case of an emergency, park or leave a motor vehicle or other vehicle or permit a motor vehicle or other vehicle :
 - (a) on the Common Property so as to obstruct a driveway, entrance or exit to a Lot; or
 - (b) on the driveway of any Lot if the vehicle overhangs the Lot.
- 3.6.2 An Owner or Occupier must not use the Common Property for storage of any goods, materials or equipment.
- 3.6.3 An Owner or Occupier of a Lot must not park or store any vehicle with a carrying capacity of one tonne or more or any boat, caravan or trailer on Common Property.

- 3.6.4 An Owner or Occupier must not store unregistered or damaged vehicles on Common Property, any parking space and/or driveway.
- 3.6.5 An Owner or Occupier must not drive any motor vehicle, and must not allow any vehicle to be driven in any direction other than as specified by signage or at any speed higher than indicated on any signage or as otherwise directed by the Owners Corporation.
- 3.6.6 The Owners Corporation and/or Committee of Management may change the speed limits from time to time to meet the changing need of Owners and Occupiers.
- 3.6.7 An Owner or Occupier must not work on any machinery whilst visible from another Lot.

4. Lots

4.1 Change of use of Lots

- 4.1.1 An Owner or Occupier must give written notification to the Owners Corporation if the Owner or Occupier changes the existing use of the Lot in a way that will affect the insurance premiums for the Owners Corporation or which would constitute a breach of any permit or planning instrument.

Example

If the change of use results in a hazardous activity being carried out on a Lot or results in the Lot being used for commercial or industrial purposes rather than residential purposes.

- 4.1.2 An Owner and Occupier must not use or permit a Lot to be used for any purpose which may be illegal, or may cause a nuisance or hazard to any other Owner or Occupier of a Lot, or guests of such Owner or Occupier, or interfere with the lawful use and enjoyment of the Common Property by any other person entitled to use the Common Property.

4.2 External Appearance of Lots

4.2.1 General

- (a) An Owner or Occupier must not in any way alter the external appearance of a Lot or any structure on a Lot including by any addition of any nature, change of colour, finish or decoration of any external wall or woodwork, without first obtaining the written approval and direction of the Owners Corporation and the Design Assessment Panel.
- (b) An Owner or Occupier must only install an antenna, satellite or similar on the roof of the dwelling and in a central position to prevent it being visible at street level from in front of the dwelling on a Lot.
- (c) An Owner or Occupier must not store, place or retain any personal contents, furniture or similar on a Lot that are visible from any street, the Common Property or abutting the Lot in a car space forming part of the Lot or any terrace, patio or balcony.
- (d) An Owner and Occupier must not construct, erect or keep any shed, tree houses, kennels, bird cages or structures of any nature or description on any terrace, patio or balcony or any tanks, hot tubs, tree houses or other items on any Lot so as to be visible from any street, Common Property or abutting the Lot without first having

obtained the written consent of the Owners Corporation and the relevant authorities.

- (e) An Owner or Occupier must not hang or place or permit to be hung or place any garment or article of clothing sheet blanket or towel or other article on any Lot so as to be visible from any street, Common Property or abutting the Lot without first having obtained the written consent of the Owners Corporation other than areas provided by the Developer for the hanging of laundry.

4.2.2 *Awnings, Flywire Screens, Window Furnishings*

- (a) An Owner or Occupier must not install any awning, flywire screen, security door, or any exterior fixture or fitting that are not a plain colour without first having obtained written approval to do so by the Owners Corporation. No stripes and/or patterns are allowed and the colour must be as near as possible to the external render of the Buildings.
- (b) Subject to rule 4.2.2(a), an Owner or Occupier may install a reasonable locking or safety device to protect the Lot against intruders, or a screen or barrier to prevent the entry of animals or insects, if the device, screen or barrier is soundly built, is consistent with the colour, style and materials of the dwelling on the Lot, and does not interfere with the use by other Owners and Occupiers of their Lots and/or the Common Property. The Owner of any such device, screen or barrier must keep it in good repair.
- (c) An owner or occupier must not install any curtains, blinds or other window furnishings on the interior or exterior of any windows forming part of the Lot without first having obtained written approval to do so by the Owners Corporation and/or other than specified by the Owners Corporation Specification which is as follows:

Owners Corporation Specification

Colour: Q-Block White Coconut 002

Location: Interior Window Furnishings

Type: Holland Block Out Blinds

4.2.3 *Signage*

- (a) An Owner or Occupier must not place on or in a Lot any signage or hoarding which can be seen from outside the Lot without the written approval of the Owners Corporation except where the sign is in respect of an 'Auction' or 'For Sale' and is no greater than 183cm by 120cm or where the sign is in respect to a 'For Lease' and is no greater than 60cm x 60cm.
- (b) An Owner or Occupier must remove an 'Auction' or 'For Sale' sign within 6 weeks of it first being erected and a 'For Lease' sign within 8 weeks of it first being erected.
- (c) This rule does not apply to the Developer whilst it is owner of any Lots in the Plan.

4.3 Renovations

4.3.1 *Requiring notice to Owners Corporation of any renovations to Lots*

An Owner or Occupier must not perform any renovations without having given 28 days written notice of the intended works to the Owners Corporation and the Owner and Occupier of all Lots abutting the Lot to be renovated.

4.3.2 Approvals

The Owner or Occupier must obtain any necessary approvals of the Design Assessment Panel and all necessary permits and approvals before providing the notice to the Owners Corporation and each Lot Owner in accordance with Rule 4.3.1 and must provide a copy of all necessary approvals when providing the notice in accordance with rule 4.3.1.

4.3.3 *Time within work on Lots can be carried out*

- (a) An Owner or Occupier must not allow works to be carried out in a Lot outside the hours of 8.00am to 4.00pm.
- (b) The works as referred to in 4.3.3(a) above are not to be undertaken on weekends and/or public holidays
- (c) Subject to Rules 4.3.1 and 4.3.3, Rule 7 is also applicable.

5. Behaviour of Persons

5.1 *Behaviour of owners, occupiers and invitees on Common Property*

- 5.1.1 An Owner or Occupier must not, and must take all reasonable steps to ensure that guests of the owner or occupier do not, behave in a manner likely to unreasonably interfere with the peaceful enjoyment of any other person entitled to use any other Lot.

5.2 *Noise and other nuisance control*

- 5.2.1 An Owner or Occupier must not make or permit to be made any noise from machinery which may be heard outside the Lot between the hours of 4pm and 8am.
- 5.2.2 An Owner or Occupier must not make or permit to be made any noise from music which may be heard outside the Lot between the hours of 10pm and 8am.
- 5.2.3 An Owner or Occupier or a guest of an Owner or Occupier of a Lot must not unreasonably create any noise likely to interfere with the peaceful enjoyment of any other person entitled to use the Common Property.
- 5.2.4 Sub-rule 5.2.1 and 5.2.2 does not apply to the making of a noise if the Owners Corporation has given prior written permission for the noise to be made.

6. Dispute Resolution

- 6.1.1 The grievance procedure set out in this rule applies to disputes involving any Owner, an Occupier or the Owners Corporation.
- 6.1.2 The party making the complaint must prepare a written statement setting out the complaint in the approved form.
- 6.1.3 If there is a grievance committee of the Owners Corporation, it must be notified of the dispute by the complainant.
- 6.1.4 If there is no grievance committee, the Owners Corporation must be notified of any dispute by the complainant, regardless of whether the Owners Corporation is an immediate party to the dispute.

- 6.1.5 The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee of the Owners Corporation, within 10 working days after the dispute comes to the attention of all the parties.
- 6.1.6 A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- 6.1.7 If the dispute is not resolved, the grievance committee or Owners Corporation must notify each party of his or her right to take further action under Part 10 of the Act.
- 6.1.8 This process is separate from and does not limit any further action under any further action under Part 10 of the Act.

7. Design Construction and Landscaping

7.1 Building Works

An Owner or Occupier must not undertake any building works within or about or relating to the Lot which shall affect Common Property, services within Common Property and/or other Lots unless the Owner or Occupier:

- 7.1.1 submits to the Owners Corporation plans and specifications of any works proposed by the Owner or Occupier which affect the external appearance of the dwellings and improvements, or any of the Common Property or which affects the structure of the Buildings or services or the fire or acoustic ratings of any component of the Buildings; and
- 7.1.2 supplies to the Owners Corporation such further particulars of those proposed works as the Owners Corporation request and as shall be reasonable to enable the Owners Corporation to be reasonably satisfied that those proposed works accord with the reasonable aesthetic of the Buildings and do not endanger the Common Property and are compatible with the overall services to the Buildings, the Common Property and the other Lots; and
- 7.1.3 receives written approval for those works from the Owners Corporation, such approval not to be unreasonably or capriciously withheld but which may be given subject to the condition that the reasonable costs of the Owners Corporation (which cost may include the costs of building consultants engaged by the Owners Corporation to consider such plans and specifications) are met by the Owner or Occupier and such approval shall not be effective until such costs have been paid;
- 7.1.4 pays such reasonable costs to the Owners Corporation; and
- 7.1.5 has obtained all requisite permits, approvals and consents under all relevant laws and from the Design Assessment Panel (refer Rule 7.3) and copies have been given to the Owners Corporation.

7.2 Obligations in relation to carrying out works

- 7.2.1 Works must be completed strictly in accordance with those permits, approvals and consents and any conditions contained within them.
- 7.2.2 An Owner or Occupier must at all times ensure that such works are undertaken in a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Lot Owners and Occupiers.

- 7.2.3 An Owner or Occupier must ensure that the Owner or Occupier and their servants, agents and contractors undertaking such works comply with the proper and reasonable directions of the Owners Corporation concerning the use of Common Property, and hours of work, the minimisation of damage to the Common Property and the services contained within the Common Property.
- 7.2.4 Before any of the Owner or Occupier's works commence the Owner or Occupier must:
- (a) cause to be effected and maintained during the period of the building works a contractor's all risk insurance (including public liability) policy to the satisfaction of the Owners Corporation; and
 - (b) deliver a copy of the policy and certificate of currency in respect of the policy to the Owners Corporation.
- 7.2.5 Access shall not be available to other Lots or Common Property for the installation and maintenance of services and associated building works without the prior written consent or licence of the Owner of the relevant Lot or of the Owners Corporation in the case of Common Property.
- 7.2.6 An Owner or Occupier of a Lot must ensure that the Owner or Occupier and their servants, agents and contractors undertaking such works must provide protection to Common Property at all times.
- 7.2.7 An Owner or Occupier of a Lot shall immediately make good all damage to the Common Property, the services, or any fixtures fittings or finishes of or in the Common Property which are caused by such works and if the Owner or Occupier fails to immediately do so the Owners Corporation may in its absolute discretion make good the damage and dirtying and in that event the Owner or Occupier shall indemnify and keep indemnified the Owners Corporation against any costs or liabilities incurred by the Owners Corporation in so making good the damage or dirtying.

7.3 Design Assessment Panel and Design Guidelines

Subject to Rules 4.3 and 7, an Owner or Occupier of a Lot must for the period stipulated in the Plan of Subdivision comply with the Design Guidelines with respect to any works regarding any proposed changes to the Property and comply with the restrictions set out in the Plan of Subdivision.