

# OWNERS CORPORATION NOS 1, 2 & 3 PLAN OF SUBDIVISION PS NO 805104B

## 228-230 DORCAS STREET, SOUTH MELBOURNE ,VICTORIA

### RULES

#### 1. Health, safety and security

##### 1.1 Health, safety and security of Owners, Occupiers and Guests

- (a) An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not:
- (1) use or permit any Lot, the Common Property or Services to be used for any purpose which is or may be illegal or harm the reputation of the Development or which does or may cause a nuisance or hazard to any other Owner or Occupier or Guest of any Owner or Occupier;
  - (2) move any article likely to cause damage or obstruction through the Common Property without first notifying the Owners Corporation or the Manager in sufficient time to enable a representative of the Owners Corporation or the Manager to be present;
  - (3) do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation without the prior written consent of the Owners Corporation;
  - (4) obstruct any fire appliance or fire appliance cupboard, stairway, landing or lift lobby or permit them to be obstructed;
  - (5) use or interfere with any fire safety equipment, except in the case of an emergency, or obstruct any fire stairs or fire escape;
  - (6) install deadlocks or peep holes that breach the fire regulations set out in Part 7 Division 2 of the Building Regulations 2006 or may void the Owners Corporation's insurance policy;
  - (7) throw objects or allow objects to fall from a lot or the Common Property; or
  - (8) exceed the floor loadings for the Lot.
- (b) An Owner or Occupier must:
- (1) ensure the Lot complies with the fire regulations set out in Part 7 Division 2 of the Building Regulations 2006, and
  - (2) lock the windows and external doors of the Lot when the Lot is unoccupied and keep the Owner's Storage Space secured except when storing or removing goods.
- (3) permit all reasonable access to the Lot to such authorised window cleaners as are appointed by the Owners Corporation to clean the windows of the building (excluding the Retail Lot) and / or clean the facade of the building.
- (c) The Owners Corporation may arrange and operate a security system to monitor the Common Property, and if it does so:
- (1) the Owners Corporation is responsible for control of the security system and may engage employees, agents or contractors to operate the system;
  - (2) the security system may, at the discretion of the Owners Corporation, include:
    - (A) the issue of security access cards, devices, codes or systems upon conditions, including payment of a deposit;
    - (B) the right (upon complaint) to remove any person from the Common Property or to refuse admission to any person it considers likely to be a nuisance or a security risk;
    - (C) the right to enter upon any part of the Development to maintain its security;
    - (D) the right of admission to any person subject to limits on the time of use and the parts of the Common Property that may be used or the manner of use and the right to revoke that right of admission at any time on reasonable grounds;
    - (E) that parts of the Common Property are secured against entry; and
    - (F) security patrols, locks and other security devices or procedures to implement or operate it; and
- (3) the Owners Corporation is not liable for and the Owner releases and indemnifies the Owners Corporation from and against any injury to or death of a person or loss of or damage to property (whether in or on Common Property or in or on a lot) arising because:
- (A) the security system is not operating; or

- (B) the security system fails to operate as intended.

### 1.2 Infectious diseases

- (a) An Owner or Occupier must, if any infectious disease, which may require notification because of any law, affects any person in a Lot, give or cause to be given, notice of that fact and any other information which may be required about the disease, to the Owners Corporation.
- (b) The Owner must pay to the Owners Corporation the expense of disinfecting the affected lots (if that is necessary) and replacing any article or thing the destruction of which may be rendered necessary by that disease.

### 1.3 Storage of flammable liquids and other dangerous substances and materials

An Owner or Occupier must not and must take all reasonable steps to ensure that a Guest does not:

- (a) store flammable substances in or on a Lot or the Common Property without the written consent of the Owners Corporation;
  - (b) store or accumulate in or on any Lot or the Common Property any matter or substance that is likely to cause fire, danger to life or property; or
  - (c) store or accumulate in or on a Lot or the Common Property wood, metal, plastics, vehicles, appliances, bric-a-brac, vegetation, glass, bottles or any other flammable items,
- but this rule does not apply to:
- (d) chemicals, liquids, gases or other material used or intended to be used for domestic purposes, or
  - (e) 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 Management and administration of Common Property and Services

The Owners Corporation will manage and administer the Common Property and the Services except to the extent delegated to the Manager.

### 2.2 Functions of Manager

The Manager may carry out all functions delegated to him by the Owners Corporation.

### 2.3 Repair and maintenance of Common Property and Services

- (a) Except for the purposes of repair and maintenance where written consent of the Owners Corporation has been obtained, an Owner or Occupier must not do anything or allow anything to be done on or for the Lot or the Common Property so that:

- (1) any support or shelter provided by the Lot or the Common Property for any other lot or the Common Property is interfered with;
  - (2) the structural and functional integrity of any part of the Common Property or any other Lot is impaired; or
  - (3) the passage or provision of Services through the Lot or the Common Property or any other Lot is interfered with.
- (b) An Owner or Occupier must compensate the Owners Corporation for any damage to the Common Property or property owned by the Owners Corporation caused by the Owner or Occupier or a Guest.
  - (c) An Owner or Occupier must:
    - (1) not instruct any employee, agent or contractor or workman engaged by the Owners Corporation unless specifically authorised so to do by it;
    - (2) direct to the Manager all requests for the Owners Corporation to consider giving directions on a particular matter to an employee, agent, contractor or workman.

### 2.4 Apportioning of cost of Services

- (a) 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 the Owner or Occupier for the same goods or services.
- (b) If a supplier has issued an account to the Owners Corporation, the Owners Corporation cannot recover from the Owner or Occupier an amount which 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.
- (c) Sub-rule 2.4(b) does not apply if the concession or rebate:
  - (1) 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
  - (2) is paid directly to the Owner or Occupier as a refund.

### 2.5 Breach of the Rules or Rules of Use

A breach of the Rules of Use is a breach of these Rules and the Owner or Occupier must pay to the Owners Corporation any costs incurred by the Owners Corporation to enforce or make good a breach of the Rules or Rules of Use.

### **3. Use of Common Property**

#### **3.1 Use of Common Property**

- (a) An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not:
  - (1) obstruct the lawful use and enjoyment of the Common Property by any other person entitled to use the Common Property;
  - (2) use the Common Property or the Services or permit the Common Property or the Services to be used in a way which unreasonably interferes with or prevents their use by other Owners or Occupiers or their Guests;
  - (3) without the written approval (which may state a period for which the approval is granted) of the Owners Corporation, use any portion of the Common Property for his or her own purposes as a garden;
  - (4) do or permit to be done in or upon the Common Property or the Services anything that may make any insurance for the Development void or voidable or by which the rate or premium of any insurance may increase;
  - (5) keep any animal on the Common Property or in or on Services after the Owners Corporation has resolved that the animal is a danger or is causing a nuisance and given reasonable notice of the resolution to the Owner or Occupier to remove the animal (but this sub-rule does not apply to an animal that assists a person with an impairment or disability);
  - (6) fail to remove an animal that is the subject of a notice under sub-rule (5);
  - (7) hold or permit to be held any auction sale in a lot or on the Common Property;
  - (8) allow a bicycle to be stored anywhere (including in a lot) other than in the areas of the Common Property fitted with bicycle racks and designated by the Owners Corporation or the Manager for that purpose;
  - (9) bring or move a bicycle into a lot or the foyer, stairwells, lifts, hallways, garden areas, walkways, balconies or other parts of the Common Property designated by the Owners Corporation or its Manager from time to time or
  - (10) use of the Common Property outside the hours prescribed by the Owners Corporation or the Manager.

- (b) An Owner or Occupier must and must take all reasonable steps to ensure that Guests use the Services strictly under the Rules of Use.

#### **3.2 Vehicles and parking on Common Property**

An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not:

- (a) use or permit to be used any part of a Car Space other than to park a vehicle and must not sub-let or grant any licence to any person to use a Car Space without the consent in writing of the Owners Corporation other than an Occupier;
- (b) use or permit to be used any part of the Common Property or a Car Space or any parking space to wash, clean or repair any vehicle;
- (c) park or leave a vehicle or permit a vehicle:
  - (1) to be parked in a parking space which is a part of a Lot other than a Car Space or in a parking space situated on Common Property which is allocated to another Lot; or
  - (2) on the Common Property so as to obstruct a driveway, pathway, entrance or exit to a Lot or part of a lot or a parking space; or
  - (3) to be parked or left in any place other than in a Car Space,
- (d) fail to comply with any directions of the Manager or the Owners Corporation about Guest car parking; or
- (e) load and unload vehicles other than entirely within the Development at the locations and at times which cause minimum interference with other vehicles and other than strictly within any Rules of Use.

#### **3.3 Damage to common property**

An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not:

- (a) damage or alter the Common Property or a structure that forms part of the Common Property without the prior written approval (which may state a period for which the approval is granted and may specify the works and conditions to which the approval is subject) of the Owners Corporation;
- (b) damage a lawn, garden, tree, shrub, plant or flower on the Common Property or
- (c) without obtaining the prior written approval of the Owners Corporation, mark, paint, drive a nail through or into, screw into or otherwise deface, penetrate or damage a structure that forms part of the Common Property.

**3.4 Use of equipment, Services and amenities on Common Property**

An Owner or Occupier must not and must take all reasonable steps to ensure that a Guest does not:

- (a) use or permit the Common Property or the Services to be used for any purpose other than that for which they were designed;
- (b) without the prior written consent of the Owners Corporation, damage or remove any article from the Common Property placed there by direction or authority of the Owners Corporation or use the article for other than its intended use;
- (c) without the prior written authority of the Owners Corporation or the Manager, interfere with the operation of any Services or equipment installed on the Common Property;
- (d) modify any air conditioning, heating or ventilation system or associated ducts servicing a Lot without the prior written consent of the Owners Corporation;
- (e) install covering to any Storage Area without the prior written consent of the Owners Corporation; or
- (f) install a covering to any Storage Area which does not comply with the fire regulations set out in Part 7 Division 2 of the Building Regulations 2006.

**3.5 Drying of laundry on common property or external or visible areas of lots**

An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not, hang any clothes or articles from or on the outside of a Lot or the Common Property or on or from any balcony, entrance or landing of a Lot or the Common Property.

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

- (a) An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not:
  - (1) store or keep waste or garbage other than in the waste management bins or recycling bins located in the waste and refuse room of the Development as specified by the Owners Corporation; or
  - (2) leave any rubbish or other materials on the Common Property.
- (b) An Owner or Occupier must and must take all reasonable steps to ensure Guests:
  - (1) keep all garbage and refuse within the Lot in tidy and secure containers and place the Owner's or Occupier's garbage or refuse for collection under the hygiene local laws or regulations

of the Port Phillip City Council that apply from time to time;

- (2) remove the garbage and refuse from the Lot only as under the Rules of Use and at the times designated by the Owners Corporation;
- (3) appropriately contain and wrap all wet garbage to prevent spillage;
- (4) ensure that the disposal of garbage or waste does not adversely affect the health, hygiene or comfort of an Owner, Occupier, Guest or any other person lawfully using the Common Property;
- (5) ensure any ashes, dust, cleaning refuse, scourings, broken glass, metal pieces and similar materials are appropriately wrapped; and
- (6) dispose of rubbish properly and recycle it where appropriate.

**4. Lots**

**4.1 Use of Lots**

An Owner or Occupier must, and must take all reasonable steps to ensure that their Guests do:

- (a) comply with all laws about the Lot including, any requirements, notices or orders of any governmental authority and the terms (so far as they are applicable to an Owner or Occupier) of any agreement under section 173 of the Planning and Environment Act 1987 (Vic) affecting the Lot or the Common Properties;
- (b) use the Lot only for residential purposes as permitted under the Port Phillip City Council (save and except the Retail Lot);
- (c) not use a Storage Space other than for storage of goods;
- (d) not depart from a Storage Space or Storage unit standard as set by Manager;
- (e) not change door locks to the Lot or depart from any Owners Corporation mandated registered key system;
- (f) not misuse plumbing and electrical apparatus;
- (g) keep the Lot clean, free of vermin and in good repair;
- (h) keep all balconies clean, tidy and well maintained;
- (i) keep the Car Space free of oil, coolant, brake fluid and water and pay the cost incurred by the Owners Corporation if the Owners Corporation exercises its right to clean the Car Space;
- (j) clear each day the contents of the Lot's mail receiving box;

- (k) promptly replace any broken or cracked glass in a Lot;
- (l) not install a safe in the Lot without submitting to the Owners Corporation a structural engineering report about the proposed installation and obtaining the prior written consent of the Owners Corporation to that installation;
- (m) not dispose or permit disposal of cigarette butts, cigarette ash or any other materials on or over any balconies or terraces forming part of the Lot;
- (n) not install any external wireless, television aerial, sky dish receiver, satellite dish or receiver or any other apparatus to any part of the Lot;
- (o) not damage, pierce, drive a nail through or into, screw into or otherwise deface, penetrate or damage any water proofing membrane that is part of any balcony or terrace which is part of the Lot;
- (p) not damage, pierce, drive a nail through or into, screw into or otherwise deface, penetrate or damage any party wall which is part of the lot;
- (q) keep any plants, planter boxed or pots on any balcony, terrace or patio that are not maintained in good health and condition or that are offensive in appearance to other Owners or Occupiers. Any plant must not extend beyond the boundary of any Lot or obstruct views from another lot or interfere with the use and enjoyment of other Lots and must ensure that the plants are properly maintained and securely fixed or tethered and refrain from watering the plants and the soil in such pots in such a way that water may escape onto the Lot, Common Property or other Lots;
- (r) maintain inside the Lot anything visible from outside the Lot that when viewed from outside, the Lot is not in keeping with the rest of the building; and
- (s) install or permit to be installed bars, screens, grills or other safety devices to the exterior of any windows or doors of a Lot.

#### 4.2 Change of use of lots

An Owner or Occupier of a Lot 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.

#### 4.3 Leasing of a lot

- (a) An Owner may lease a Lot but only:
  - (1) by a written lease or tenancy agreement and, if it is a tenancy agreement, if it complies with the provisions of the *Residential Tenancies Act 1997* (Vic); and

- (2) if that lease or tenancy agreement obliges the tenant to comply with the Rules and the Rules of Use; and
  - (3) if the Owners Corporation so requires, if the tenant signs an agreement confirming acceptance of the Rules and Rules of Use.
- (b) An Owner who leases the Lot must take all reasonable steps, including any action available under a lease or tenancy agreement, to ensure that any tenant of the Lot and any Guest of that tenant complies with the Rules and the Rules of Use.
  - (c) An Owner or Occupier of a Lot must not lease, sub-lease, license, rent, hire or otherwise deal with a lot or permit a Lot to be leased, sub-leased, licensed, rented, hired or otherwise dealt with, for any period less than sixty calendar days.

#### 4.4 External appearance of Lots

An Owner or Occupier must not, and must take all reasonable steps to ensure that a Guest does not:

- (a) allow any balcony or terrace area which forms part of any Lot to be unkempt or unsightly and, when cleaning, cause other than minimal disturbance to other Owners and Occupiers;
- (b) make structural alterations to a Lot without the written consent of the Owners Corporation;
- (c) display any placard, advertisement or sign in or upon the Lot or upon the Common Property (this rule includes home offices but excludes the Retail Lot whereas any such installation is to be subject to any town planning or any other requirement of the Port Phillip City Council);
- (d) display any advertising material, logo or signwriting to any external window or glazing or external solid face of a Lot (this rule includes home offices but excludes the Retail Lot whereas any such installation is to be subject to any town planning or any other requirement of the Port Phillip City Council);
- (e) permit any signage advertising a Lot for sale or lease on a Lot or Common Property (this rule excludes the Retail Lot though the signage position is at the sole discretion of the Manager);
- (f) install basketball hoops or similar devices on a Lot or the Common Property;
- (g) install any fixtures, fittings, blinds or antennae which affect the appearance of the Lot;
- (h) build in or affix any BBQ to a balcony or terrace area (free standing BBQ's are permitted);

- (i) allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or treated; or
- (j) paint, finish or fail to maintain the exterior of the Lot in a clean state or otherwise alter the external facade of any Lot or the Common Property.

#### 4.5 Window furnishings

An Owner or Occupier must not install, or permit the installation of any blinds, curtains or other window coverings on the interior of any windows or doors which directly face the outside of a Lot other than roller blind and s-fold curtain as specified by the Owners Corporation from time to time.

#### 4.6 Act

An Owner must comply with the Act and the Regulations at all times and must not do anything that would bring the Owners Corporation or its members into disrepute. Any breach of the Act or the Regulations is a breach of these Rules and the Owners Corporation may bring VCAT proceedings under Section 18(2) of the Act in respect of that breach.

#### 4.7 Pets and animals

An Owner and/or an Occupier:

- (a) must not keep or permit to be kept any domestic animal or pet on a Lot unless the Owners Corporation or Manager in its discretion gives permission in writing on such terms as the Owners Corporation or Manager may impose and such permission may be revoked by the Owners Corporation or Manager at any time without providing any reason. All requests are required to be put in writing to the Owners Corporation or Manager; and
- (b) must ensure that any animal belonging to an Owner or Occupier must be kept on a lead or carried in cage whilst on the Common Property for longer than is reasonably necessary.

#### 4.8 Security Keys

An Owner must exercise a high degree of caution and responsibility in making a security key available for use by an Occupier including, without limitation, entering into an appropriate agreement under any lease or licence agreement of the Lot to ensure return of the security key to the Owner, the Owners Corporation or Manager upon expiry of the Occupier's lease or licence.

An Owner in the possession of a security key:

- (a) must not duplicate or permit the security key to be duplicated; and
- (b) must take all reasonable steps to ensure that the security key is not lost or handed to any person other than another Owner and is not disposed of otherwise than by returning it to

the Owner, the Owners Corporation or Manager.

An Owner must promptly notify the Owners Corporation or Manager if a security key is lost or destroyed.

If a security key or similar security device used for access to the building is lost by an Owner or Occupier, the Owner or Occupier forfeits any security deposit paid to the Owners Corporation or Manager and must also reimburse the Owners Corporation or Manager any necessary cost of maintaining security including the cost of changing locks and providing new security devices for all Lots (if applicable).

An Owner or Occupier of a Lot must not install a safe in a Lot without written consent of the Owners Corporation and before installing must submit the Owners Corporation a structural engineering report in respect of the proposed installation.

### 5. Works

#### 5.1 Works Requirements

An Owner must not and must ensure the Occupier does not undertake any Works within or about or for a Lot except under the following requirements:

- (a) the Works may only be undertaken after all requisite permits, approvals and consents under all relevant laws have been obtained and copies given to the Manager and then strictly under those permits, approvals and consents, and
- (b) the Works must at all times be undertaken in a reasonable manner which minimises any nuisance, annoyance, disturbance and inconvenience from the Works to other Owners or Occupiers;

#### 5.2 Requirements before proceeding with Works

An Owner must not proceed with any Works until the Owner:

- (a) submits to the Owners Corporation plans and specifications of any Works proposed by the Owner which affect the external appearance of the Development or any of the Lots or Common Property or which affect the Development's structure or Services or the fire or acoustic ratings of any component of the Development;
- (b) supplies to the Owners Corporation any further particulars of those proposed Works the Owners Corporation requests to enable the Owners Corporation to be reasonably satisfied that those proposed Works accord with the aesthetic and orderly development of the Development and do not endanger the Development or any part of it;
- (c) receives written approval for those Works from the Owners Corporation which may be given subject to the condition that the reasonable costs of the Owners Corporation (which may include the costs of a building

practitioner engaged by the Owners Corporation to consider the plans and specifications) are met by the Owner; and

- (d) pays the reasonable costs referred to in (c) to the Owners Corporation.

### 5.3 Directions and Supervision

An Owner must ensure that the Owner and the Owner's employees, agents and contractors undertaking Works comply with the proper and reasonable directions of the Owners Corporation and Manager about the method of building operation, means of access, use of the Common Property, on site management and building protection and hours of work (and the main Development entrances and lobbies as determined by the Manager must not be used for the purposes of taking building materials or building workmen to and from the relevant lot unless the Owners Corporation gives written consent to do so) and that the employees, agents and contractors are supervised in carrying out the Works to minimise any damage to or dirtying of the Common Property and Services.

### 5.4 Contractors or tradespersons only to use designated areas

An Owner must ensure that any contractor or tradesperson may only use the lift lobbies or other areas specifically designated by the Owners Corporation for entry and exit by the Manager.

### 5.5 Residents moving in or vacating

- (a) An Owner or Occupier moving furniture and other articles likely to cause damage or obstructions through the Common Property must not:
  - (1) do so without notifying the Manager or the Owners Corporation at least 48 hours prior to the proposed move and without receiving approval from the Owners Corporation or Manager for the day and time of the proposed move;
  - (2) do so on a Sunday or public holiday;
  - (3) do so on a Saturday without paying the fee set by the Owners Corporation for the overtime attendance for the Manager or other security personnel;
  - (4) permit any carriers or tradespeople to commence operations prior to their making contact upon arrival with the Manager;
  - (5) permit any vehicles to restrict access to the car park;
  - (6) conduct operations so as to unduly restrict access of other Owners or Occupiers of a lot to the lifts or lobbies or restrict access to fire escapes;

- (7) place any furniture or items into a lift other than specified by the Manager and, in any event, not until protective covers have been placed in the lift by the Manager;

- (8) permit any furniture or other items to come into contact in any way with the lift doors, including static contact or leaning or stacking against the door; or

- (9) damage the Common Property.

- (b) Owners or Occupiers moving in or out of the Building will be liable to the Owners Corporation for any damage caused to the Building in doing so. If any amount to be paid by a Owner or Occupier of the Lot moving in or out is not paid within 14 days of the date of moving (and that person of the Lot is not the Owner of the Lot), then the Owners Corporation may recover the amount owed from the Owner of the Lot.

- (c) Residents intending to move in or out must not do so without notifying the Manager at least 48 hours prior to the proposed move.

- (d) Residents intending to move in or out must abide by the Manager's moving procedures.

### 5.6 Owner to make good damage

An Owner must immediately make good all damage to, and dirtying of, the Development, the Common Property, the Services or any fixtures fittings and finishes caused by the Works and if the Owner fails to do so within a reasonable period of time the Owners Corporation may in its absolute discretion make good the damage and dirtying and if so the Owner must 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.

### 5.7 Design consultant

Piccolo Developments Pty Ltd shall be retained as design consultants for all proposed external and common area works. The expenses of such external and common area works shall be the responsibility of and be paid by the Owner of the Lot requiring the proposed external works and/or the Owners Corporation.

### 5.8 Times for work on or in lots

An Owner or Occupier must not and must take all reasonable steps to ensure that a Guest does not:

- (a) permit any tradesman, contractor or other person carrying out any Works to be on or in the Lot or the Common Property:

- (1) on any public holiday or a Sunday; or

- (2) before 7.00 am or after 6.00 pm Monday to Friday; or

- (3) before 9.00 am or after 6.00 pm on a Saturday;

except in the case of an emergency which includes:

- (A) an interruption to gas, water, electricity, telephone, drainage, sewerage or a similar service;
- (B) a leak or similar problem requiring prompt attention; or
- (C) cracking or a similar problem likely to affect the immediate safety of the building in which the Lot is situated.

Occupier, Guest or to any person lawfully using Common Property;

- (2) observe the terms of any notice displayed in any part of the Common Property by authority of the Owners Corporation or by the Manager at his discretion of any statutory authority; and
- (3) comply with the Rules and the Rules of Use.

## **6. Behaviour of persons**

### **6.1 Behaviour of Owners, Occupiers and Guests on Common Property**

(a) An Owner or Occupier must not and must take all reasonable steps to ensure that a Guest does not:

- (1) unreasonably create any noise or behave in a manner likely to interfere with the peaceful enjoyment of any person entitled to use the Common Property but this rule does not apply to the making of noise if the Owners Corporation has given written permission for the noise to be made;
- (2) encourage birds by feeding them;
- (3) consume alcohol on, allow consumption of alcohol on, or the taking of glassware onto, the Common Property;
- (4) use or allow to be used in or on the Common Property, skateboards, roller skates or roller blades;
- (5) smoke in the stairwells, lifts, foyers or vehicle parking spaces or the parts of the Common Property the Owners Corporation or the Manager designates from time to time;
- (6) dispose of cigarette butts, ash or any other rubbish over a balcony; or
- (7) use the Lot for any purpose that may be illegal or injurious to the reputation of the Development or which may cause a nuisance or hazard to any other Owner or Occupier or their Guests.

(b) An Owner or Occupier must and must take all reasonable steps to ensure that a Guest must:

- (1) when on Common Property or in or on any part of a lot visible from another lot or from Common Property be adequately clothed and not use language or behave in a manner likely to or which does cause offence or embarrassment to an Owner,

### **6.2 Noise and other nuisance control**

An Owner or Occupier must not and must take all reasonable steps to ensure that a Guest does not:

- (a) use hammer drills or jack hammers in a lot between the hours of 2.00 pm and 10.00 am on weekdays or on weekends at all; or
- (b) make or allow to be made noise from music or machinery which may be heard outside the Lot between the hours of 11.00 pm and 8.00 am.

## **7. Dispute resolution**

### **7.1 Dispute resolution, including internal grievance procedures, hearing procedures and communication procedures**

- (a) The grievance procedure set out in this rule applies to disputes involving an Owner, Manager, Occupier or the Owners Corporation.
- (b) The party making the complaint must prepare a written statement in the Approved Form.
- (c) If there is a grievance committee of the Owners Corporation, it must be notified of the dispute by the complainant.
- (d) 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.
- (e) The parties to the dispute must meet and discuss the matter in dispute, along with either the grievance committee or the Owners Corporation, within 14 working days after the dispute comes to the attention of all the parties.
- (f) A party to the dispute may appoint a person to act or appear on his or her behalf at the meeting.
- (g) 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.
- (h) This process is separate from and does not limit any further action under Part 10 of the Act.



**8. Recovery of Money**

- (a) The Owners Corporation may commence debt recovery proceedings for recovery of outstanding fees, levies, charges and other money due, against any members of the Owners Corporation in any court of competent jurisdiction including for the purpose of bankruptcy or winding up of a company. The resolution does not detract in any way from the power of the Owners Corporation to make an application to VCAT under Part 11 of the *Owners Corporation Act 2006* to recover fees and charges and other money or to enforce the Rules. The Manager and/or the committee for the Owners Corporation shall have the power pursuant to this resolution to determine the appropriate jurisdiction on a case by case basis in the sole discretion of the Manager and/or the committee for the Owners Corporation.
- (b) All costs and expenses arising out of any breach by an Owner, or an Occupier, of an obligation imposed on that person under the Act, the Regulations or these Rules, incurred by the Owners Corporation, including any costs and charges payable by the Owners Corporation to the Manager or otherwise (but excluding the personal time cost of any person acting on an honorary capacity including the chairperson, secretary or committee member of the Owners Corporation) shall be payable by any member in default or breach. The costs, charges and expenses shall be due and payable as a debt due by the person in default or breach to the Owners Corporation on an indemnity basis.

**9. Notices**

**9.1 Notice of damage to Common Property**

An Owner or Occupier must promptly notify the Owners Corporation or its Manager of any damage to or defect in the Common Property or any personal property of the Owners Corporation.

**9.2 Notice of accidents or faults**

An Owner or Occupier must promptly notify the Owners Corporation of any accident to or fault in:

- (a) the water pipes, gas pipes, electrical fixtures or installations; and
- (b) any equipment or construction (including exit lights) required to ensure the safety of persons using the Common Property.

**10. Retail Lot**

**10.1 Duties**

- (a) Without limiting any other Rule, the Owner or Occupier of a Commercial Lot must:

- (1) not dispose of rubbish or waste in the facilities located in the Common Property designated for residential use;
- (2) comply with any waste management plan endorsed by Port Philip City Council from time to time pursuant to planning permit for the Building (as amended from time to time);
- (3) take out its own bins on each garbage collection day to the bin collection area nominated by the Owners Corporation, and bring the bins in before 9.00am on each collection day Monday to Saturday and before 10.00am on Sundays;
- (4) avoid any unnecessary noise when filling bins and ensure contractors pick up between 8.00am and 9.00am Monday to Saturday between 9.00am and 10.00am on Sundays;
- (5) ensure lids on bins are securely closed at all times and ensure that bins are kept clean;
- (6) ensure all cardboard and paper waste is cut up or folded and neatly contained in bins;
- (7) store all bins, bottles, cardboard/paper and any other refuse within the relevant Lot (but not any car park forming part of that Lot) and must not store bins, bottles, cardboard/paper or any other refused on Common Property except when this is the 'bin collection area' nominated by the Owners Corporation;
- (8) keep any perishable rubbish refrigerated and hidden from view;
- (9) wash down any bins only within the Lot, excluding car spaces;
- (10) comply with all health, noise and other regulations in carrying on the business from the Lot;
- (11) ensure any mechanical fluing is charcoal filtered or equivalent;
- (12) ensure small utility deliveries are only made between 5.30am-6.00pm Monday to Friday and 6.30am-6.00pm Saturdays and Sundays;
- (13) ensure large deliveries are only made between 8.00am-6.00pm Monday to Sunday;

- (14) make all reasonable attempts to address/treat any odours that emanate from the Lot; and
  - (15) ensure that all wall, floor and ceiling linings and treatments are acoustically treated to ensure that an acoustic performance level of STC30 is achieved.
- (b) Subject to the these Rules, any Owner or Occupier of a Commercial Lot may carry on its reasonable business operations within a Commercial Lot and apply for, and obtain, any planning permit, liquor licence, or any other legislative consent or permit which the Owner or Occupier requires for that purpose, provided that all times the Owner or Occupier:
- (1) Operates lawfully;
  - (2) Obtains each and every permit, liquor licence or other consent required; and
  - (3) Operates within the terms of any such liquor licence, permit or consent.
- (c) The Owner or Occupier of any Commercial Lot will be responsible for all costs associated with the cleaning, repairs and maintenance of the areas licensed to them. The licensees will be responsible for ensuring that these areas are kept in a pristine condition at all times.
- (d) Any Owner or Occupier of a Commercial Lot will be entitled to reasonable access at all times for invitees and customers through those parts of the Common Property necessary for usual business practice.
- (e) Nothing listed in this Rule 10 prohibits any Owner or Occupier of a Commercial Lot from affixing a sign to the Common Property provided the sign is:
- (1) for the purposes of identifying the business carried on from the Commercial Lot and the hours of operation of the business;
  - (2) complies with the requirements of all relevant authorities;
  - (3) is in the immediate vicinity of the lot; and
  - (4) is approved in writing by the Owners Corporation or the holder of a lease or licence from the Owners Corporation or relating to

the particular area of the Common Property.

- (f) Any owner or occupier of a Commercial Lot may apply for and obtain a liquor licence and neither the Owners Corporation or any Lot Owner or Occupier may object to any such application provided the necessary approvals from the responsible authority are obtained

**10.2 Safety Warden**

A Retail Lot owner or Occupier must appoint an employee or agent to act as wardens of the Retail Lot and must accept safety instructions determined by Manager in relation to fire and other emergencies.

**11. Owners Corporation Fees**

The fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations must be paid six months in advance by each Owner according to his or her Lot Liability or otherwise directed by the Owners Corporation.

Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

If any fees remain outstanding after the date specified in the above, the Owners Corporation may charge interest on such fees at a rate of 2% above the *Penalty Interest Rates Act 1983*.

**12. Compliance with Rules by Guests**

An Owner or Occupier must take all reasonable steps to ensure that the Guests of the Owner or Occupier comply with these Rules.

**13. Special Rules for the Developer**

Up until the sale and settlement of the last lot owned by the developer within the development, nothing in these Rules will prevent or hinder the Developer from completing construction for improvements being the Lots and Common Property and nothing in these Rules will prevent or hinder the Developer from selling or leasing any Lot and without limitation the Developer may:

- (a) use any Lot as a display Lot to assist in the marketing sale and/or leasing of other Lots;
- (b) place anywhere on a Lot or on the Common Property signs and other materials relating to the sale or leasing of Lots;

- (c) conduct in a Lot or anywhere on the Common Property an auction sale or leasing of a Lot;
- (d) use in any way it considers necessary any part of the Common Property for the purpose of selling or leasing Lots;
- (e) use in any way it considers necessary any part of the Common Property to facilitate completion of construction works;
- (f) erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the development on the Land;
- (g) take exclusive and sole possession of any part or parts of the Common Property as it may need to have exclusive possession of in order to carry out any works in relation to the development on the Land;
- (h) exclude any Occupier of a Lot and its invitees from any part of the Common Property as may be necessary in order to carry out and works in relation to the completion of the development on the Land;
- (i) grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer thinks fit; use whatever right of way and/or points of egress and ingress to any part of the Land as necessary to carry out and works and to block for whatever period as necessary any rights of way or points of egress and ingress to the Land in order to carry out any works; and
- (j) assign all or part of the benefits of the rights granted to it hereunder to any third party or parties for a fixed term at its discretion.

**"Commercial Lot"** means those lots noted as S2, S3 and S501 on the Plan of Subdivision;

**"Development"** means the development on the land in the Plan of Subdivision including the buildings located at 228-230 Dorcas Street, South Melbourne;

**"Guest"** means a person who is a guest, visitor, invitee, family member or friend of an Owner or Occupier of a lot;

**"Lease"** includes rent, let and license the Lot or any part of it;

**"Lot"** means the lot on the Plan of Subdivision owned or occupied by that Owner or Occupier;

**"Manager"** means the caretaker or the manager appointed by the Owners Corporation;

**"Occupier"** means a person who occupies a lot on the Plan of Subdivision;

**"Owner"** means an owner of a lot on the Plan of Subdivision;

**"Owners Corporation"** means Owners Corporations 1, 2 & 3 of the Plan of Subdivision as applicable;

**"Plan of Subdivision"** means Plan of Subdivision No PS 805104B;

**"Regulations"** means the *Owners Corporations Regulations 2007 (Vic)*;

**"Rules"** means the rules in this document;

**"Rules of Use"** means any directions, notices or rules of use made by the Manager or the Owners Corporation from time to time for the proper management and administration of the Common Properties;

**"Services"** means the services, installations, facilities, plant or equipment provided to the Development;

**"Storage Space"** means that part of a Lot that is designed or intended for use as a storage space or unit; and

**"Works"** means any construction, alteration, repair, refurbishment, addition, renovation, or fitting out of a lot, building, other structure and plant and equipment to be used to provide Services.

#### 14. Definitions

In these Rules unless the context otherwise requires the following definitions apply:

**"Act"** means the *Owners Corporations Act 2006 (Vic)*;

**"Approved Form"** means the form prescribed under the Owners Corporations Regulations 2007;

**"Car Space"** means an Owner's Car Space being part of an Owner's lot as shown in the Plan of Subdivision;

**"Common Property"** means any common property as shown and described on the Plan of Subdivision as Common Property Nos. 1, 2 & 3 as applicable;