

Following is the set of rules as amended by the 2016 Annual General Meeting:

## **RULES of the WYBALENA GROVE OWNERS CORPORATION**

(The Proprietors : Units Plan No. 116):

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### **1. Definitions**

(1) In these rules:

**executive committee representative** means a person authorised in writing by the executive committee under rule 10 (4).

**owner, occupier or user**, of a unit, includes an invitee or licensee of an owner, occupier or user of a unit.

(2) A word or expression in the Act has the same meaning in these rules.

### **2. Payment of rates and taxes by unit owners**

A unit owner must pay all rates, taxes and any other amount payable for the unit.

### **3. Repairs and maintenance**

(1) A unit owner must ensure that the unit is in a state of good repair, including any part that affects the outward appearance of the unit or the use or enjoyment of other units or the common property.

(2) A unit owner must not, without the prior written approval of the Owners Corporation, maintain within the unit anything visible from outside the unit that, viewed from outside the unit, is substantially to the detriment of the appearance of the Units Plan.

(3) A unit owner must carry out any work in relation to the unit, and do anything else in relation to the unit, that is required by an ACT law.

(4) A unit owner must ensure that any repair and maintenance that affects the outward appearance of the unit is in keeping with the original exterior of the units and is in a construction, materials and colour scheme that matches the overall appearance of the Units Plan.

*Note: 'The unit' comprises the whole unit area including the main dwelling, courtyard, carport or garden, and the attached unit subsidiaries for a carport in the cases of units 15-22, 33, 48 and 85-95. One of the conditions of the grants of special privileges for parking spaces on common property is: 'Rules of Owners Corporation that apply within the Member's unit shall also apply within special privilege areas associated with that unit.'*

### **4. Erections and Alterations**

A unit owner must not EXCEPT in accordance with the express permission of the Corporation and in accordance with the provision of any law in force in the Territory applicable in the circumstances, erect or alter any structure in or on the unit PROVIDED THAT the Corporation shall not refuse to grant its permission except for aesthetic or safety reasons.

### **5. Use of common property**

(1) A unit owner must not use the common property, or permit it to be used, to interfere unreasonably with the use and enjoyment of the common property by an owner, occupier or user of another unit.

(2) A unit owner must not obstruct lawful use of common property by any person except on a temporary and non-recurring basis.

### **6. Hazardous use of unit**

(1) A unit owner must not use the unit, or permit it to be used, so as to cause a hazard to an owner, occupier or user of another unit.

(2) A unit owner must not do any thing or permit any invitees of the unit owner to do any thing on the unit or common property that is likely to affect the operation of fire safety devices in the Units Plan or to reduce the level of fire safety in units or common property.

*For example, access to fire hydrants, passage-ways between units, and the Community Fire Unit trailers should not be obstructed and unit owners should clear away excessive flammable material such as leaves and twigs from the vicinity of the units.*

**7. Use of unit—nuisance or annoyance**

- (1) A unit owner must not use the unit, or permit it to be used, in a way that causes, or will cause, or may grow to cause, a nuisance or substantial annoyance to an owner, occupier or user of another unit.
- (2) This rule does not apply to a use of a unit if the executive committee has given an owner, occupier or user of the unit written permission for that use.
- (3) Permission may be given subject to stated conditions.
- (4) Permission may be withdrawn by ordinary resolution of the owners corporation.

**8. Noise**

- (1) A unit owner must not make, or permit to be made, such a noise within the unit as might (in the circumstances) be reasonably likely to cause substantial annoyance to an owner, occupier or user of another unit.
- (2) This rule does not apply to the making of a noise if the executive committee has given the person responsible for making the noise written permission to do so.
- (3) Permission may be given subject to stated conditions.
- (4) Permission may be withdrawn by ordinary resolution of the owners corporation.

**9. Illegal use**

A unit owner must not use the unit or the common property, or permit them to be used, to contravene a law in force in the ACT.

**10. What may an executive committee representative do?**

- (1) An executive committee representative may do any of the following in relation to a unit at all reasonable times:
  - (a) if the committee has reasonable grounds for suspecting that there is a breach of the Act or these rules in relation to a unit—inspect the unit to investigate the breach;
  - (b) carry out any maintenance required under the Act or these rules;
  - (c) do anything else the owners corporation is required to do under the Act or these rules.
- (2) An executive committee representative may enter a unit and remain in the unit for as long as is necessary to do something mentioned in subrule (1).
- (3) An executive committee representative is not authorised to do anything in relation to a unit mentioned in subrule (1) unless—
  - (a) the executive committee or the representative has given the owner, occupier or user of the unit reasonable notice of his or her intention to do the thing; or
  - (b) in an emergency, it is essential that it be done without notice.
- (4) The executive committee may give a written authority to a person to represent the corporation under this rule.

**11. Seal of owners corporation**

For the attaching of the seal of the owners corporation to a document to be effective—

- (a) the seal must be attached by decision of the executive committee; and

*Note - the executive committee decision must be made by majority vote, or by unanimous vote if there are only 2 members of the committee (see sch 2, s 2.10).*
- (b) the seal must be attached in the presence of 2 executive members; and
- (c) the executive members witnessing the attaching of the seal must sign the document as witnesses.

## 12. Keeping of Animals

- (1) A unit owner, occupier or user of a unit may keep an animal subject to the conditions set out in these Rules.

*Note: S.32 of the Unit Titles (Management) Act 2011 states that "a unit owner may keep an animal, or allow an animal to be kept ... only with the consent of the owners corporation" which may be given "with or without conditions" but "must not be unreasonably withheld".*

- (2) Any animal that is deemed by the Executive Committee (EC) to be potentially harmful to the health or safety of others will not be allowed, including any type of dog or other species that is deemed dangerous under any relevant legislation in force in the ACT.
- (3) A unit owner, occupier or user of a unit who keeps an animal, or allows an animal to be kept, is deemed to have consented to the conditions imposed under these Rules.

### Conditions

#### Approval Process

- (4) The consent of the Owners Corporation (OC) is granted automatically by this rule for any unit owner, occupier or user of a unit to keep:
  - (a) up to two common household pets (dogs and cats) in the unit as a companion animal(s).
  - (b) a sufficiently small number of small animals (such as mice, cage birds, guinea pigs, fish, amphibians or reptiles) in the unit that can reasonably be expected to not cause a nuisance to other residents.
  - (c) an assistance animal, such as a guide or hearing dog, used by a unit owner or occupier of a unit or visitor.
- (5) For any animal not covered by sub-rule (4), including poultry, a unit owner, occupier or user of a unit is required to submit a written request for approval through the managing agent before bringing an animal into the Units Plan.
- (6) The EC may grant approval, with or without conditions, for an animal not covered by sub-rule (4) to be kept in the unit after consideration of the merits of the proposal but may refuse to grant approval if the applicant fails to provide on request any information that the EC considers relevant, which may include:
  - (a) Information about the animal including the breed, weight and standing height, and common characteristics of the species.
  - (b) A photograph of the animal.
  - (c) Documentation from a veterinarian attesting to whether the animal has been:
    - i. Desexed
    - ii. Micro chipped
    - iii. Vaccinated and inoculated for worms and any other parasites as recommended by the RSPCA.
  - (d) Details of how the animal is proposed to be housed or controlled.

#### Dealing with animal

- (7) The keeping of animals at Wybalena Grove must comply with the requirements of ACT Government legislation.

*Note: At the time this rule was adopted, ACT Government requirements were set out at [www.tams.act.gov.au/city-services/pets](http://www.tams.act.gov.au/city-services/pets). These requirements include that all dogs and cats must be desexed and micro chipped and that all dogs also must be registered.*

The OC also encourages owners, occupiers and users to have animals vaccinated and inoculated for worms and other parasites as recommended by the RSPCA.

- (8) The animal must stay within the confines of the unit area except when under the control and supervision of a responsible person.

- (9) The unit owner, occupier or user of a unit must ensure that the animal is appropriately and effectively restrained and under the control of a responsible individual while on common property. This sub-rule is sufficiently flexible to permit off-lead walking and play with appropriately trained dogs or other animals.

*Note: The common property does not include the Wybalena Grove public road. The public road terminates at the three turning circles. The road and its verges are a 'public place', to which the Domestic Animals Act 2000 applies. S.44 of the Act requires that dogs in public places be restrained by a leash.*

- (10) The unit owner, occupier or user of a unit must ensure that the animal does not soil any part of the common property and is to immediately remove any soiling which may occur on the common property.
- (11) The unit owner, occupier or user of a unit will be responsible for repairing or making good any harm or damage caused by the animal to any unit or the common property.
- (12) Sub-rules (8) and (9) do not apply to animals that were accustomed to roaming unaccompanied beyond the unit boundaries before this Rule was adopted and have been included on a 'grandfathering' list compiled by the EC.

### **Dealing with bad behaviour**

- (13) The EC may require the removal of any animal from the Units Plan if it determines that the animal's behaviour or condition causes a nuisance or a threat to the health or safety of other occupants or animals in the Units Plan or unreasonably interferes with the use and enjoyment of another unit or of the common property.

*Note: If a unit owner, occupier or user of a unit believes that an animal at another unit is causing nuisance through noise or other means, they should, if possible, try to resolve their concerns directly with the owner of the animal. If this is unsuccessful then they can pursue the matter through provisions of ACT legislation on animal welfare, animal keeping, neighbour disputes, noise and nuisance. If the EC believes it is appropriate to pursue the matter through enforcing the OC Rules, then Rules 7, 8 and 9 may also be relevant.*

- (14) Before removal of any animal, there must be repeated substantiated complaints by neighbours or other unit owners, occupiers or users of units regarding the animal causing a nuisance or threat to other occupants or animals or unreasonably interfering with the use and enjoyment of another unit or of the common property.
- (15) Any decision made by the EC that an animal must be removed from the Units Plan must be presented in writing to the unit owner, occupier or user of the unit.
- (16) If the unit owner, occupier or user of the unit fails to comply with any of the conditions in these Rules, the EC may revoke approval and require removal of the animal.

### **13. Audit**

The financial records of the owners corporation must be audited annually and an audit report presented to the owners corporation annual general meeting.

- 14.** The Corporation may set aside a portion or portions of the common land for gardening purposes and permit in writing unit owners to use that land or parts thereof to grow plants or keep animals or birds thereon SUBJECT TO any conditions which the Corporation may impose.

- 15.** (1) Every unit owner who obtains the use of any garden area under the preceding rule:
- (a) shall not use the same EXCEPT as a garden and for the purpose of growing plants or keeping animals or birds and shall not grow or keep animals or birds or permit to remain on the garden allotment, EXCEPT with the written permission of the Corporation, any plant or animal or bird EXCEPT a plant or animal or bird grown for food or other domestic purposes PROVIDED THAT if the Corporation considers that a plant or animal or bird whether grown or kept for food or other purpose is noxious or causing a nuisance may require the unit owner to remove the same and the unit owner shall forthwith comply; and
- (b) shall at all times keep such garden allotment well cultivated and tended.
- (2) If the unit owner shall be guilty of a breach of any conditions subject to which a unit owner has been granted a garden allotment or of any of the conditions in the preceding subsection the

Corporation shall without prejudice to any other rights or remedies of any kind, be it liberty by its servants, agents or workmen to enter into the garden allotment and to remove and/or destroy the animal or bird or plant planted or remaining in the garden allotment in contravention of such condition and to remove any fertilizer, herbicide or insecticide or other chemical prohibited in such conditions and/or to apply any substance to the allotment on any part thereof to any plant growing thereon to neutralize or counteract the effect of any such fertilizer, insecticide, herbicide or chemical.

- (3) Without limiting the generality of this rule, the Corporation may grant garden allotments subject to conditions relating to access by other unit owners, use of water and drainage and fees chargeable for use of garden allotments.

**16.** The Corporation may construct and maintain community facilities on the common property and may make rules regulating the use of such facilities.

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**18. Easements**

Neither the Owners Corporation nor any unit owner thereof shall, except as permitted by the entity holding title to the easement, do or cause to be done any thing which shall in any way encroach on any easement over any part of the land comprised in the Units Plan.

**19. Storage of Combustible or Inflammable Materials**

- (1) A unit owner must not, except with the prior written permission of the owners Corporation, use or store on the unit or on the common property any explosive, combustible or inflammable chemical, liquid or gas or other inflammable material.
- (2) This Rule does not apply to any chemicals, liquids, gases or other material used or intended to be used for domestic purposes (not exceeding 20 litres).

**20. Noxious and Invasive Plants**

A unit owner must not grow or suffer to be grown any noxious plant, or any other plant which may cause substantial nuisance to other unit owners, or any plant recognised as an invasive weed or a pest plant by relevant authorities in the ACT.

**21. Chemical Plant Sprays**

A unit owner must not chemically spray or otherwise treat any plants in the unit or his or her garden plot or the common property in a way that may cause substantial risk to the health of other persons.

**22. Damage and Removal of Trees**

- (1) A unit owner must not, without the written permission of the Executive Committee, cut down or destroy or cut off any part of any tree located on the common property.
- (2) A unit owner must ensure that any tree or part of any tree cut down, destroyed or cut off in the unit area or the common property is done so in accordance with the requirements of any applicable ACT law (for example, in accordance with the requirements as set out in the *Tree Protection Act 2005* and any other relevant superseding legislation).

**23. House Rules**

- (1) The Owners Corporation (OC) may adopt by special resolution House Rules that shall be interpreted and adopted by the OC with the same force as the Rules of the OC.
- (2) The House Rules are not OC Rules and shall only explain how the OC Rules shall operate.
- (3) The Executive Committee shall have the power to enforce the policies in the House Rules adopted by the OC.

**24. Breach of Special Privileges and Permission for Minor Use of Common Property**

- (1) A unit owner must comply with all conditions attached to any grant of special privilege by the Owners Corporation (OC).
- (2) A unit owner must comply with all conditions attached to any permission for minor use of common property by the Executive Committee (EC) or the OC.

- (3) The EC or OC may take action against any unit owner to enforce any condition attached to any grant of special privilege and permission for minor use of common property, if a unit owner fails to comply with such conditions on the reasonable written request of the EC or OC.

#### **25. Damage to Common Property**

- (1) A unit owner must minimise the movement of motor vehicles off the sealed roads and shared carparks in the Units Plan.
- (2) A unit owner must not, except in emergencies or when reasonably and infrequently required, access corridors parallel to the rows of units and other off-road areas with motor vehicles.
- (3) Parking of motor vehicles, other than on unit driveways, shared carparks and on sealed roads is not permitted.
- (4) A unit owner is responsible for repairing or making good any damage caused to the common property by themselves or their licensees or service providers whilst transporting any furniture, equipment, other large objects or deliveries through or on common property within the Units Plan.
- (5) Any loss and damage suffered by the Owners Corporation (OC) as a result of the unit owner or occupier transporting any furniture, equipment, other objects or deliveries through or on common property may be recovered from the unit owner or occupier as a debt due to the OC.

#### **26. Rubbish on Common Property**

- (1) A unit owner must not, except with the written approval of the Owners Corporation (OC), leave or maintain anything on the common property outside the unit that is substantially to the detriment of the appearance of the Units Plan.
- (2) A unit owner must only store bins for rubbish and recycling within the unit area, unit subsidiary or such other areas as may be approved from time to time by the Owners Corporation (OC). Such areas may include purpose-built bin enclosures, the carports or shared carparks on common property and other places where bins can be stored unobtrusively without affecting the use and enjoyment of another unit owner.
- (3) A unit owner must not, except with the written approval of the OC, keep, deposit or throw any rubbish, dirt, dust or other materials or discard items on common property.
- (4) A unit owner may deposit plant material from gardening in and around the unit area only into designated green waste collection areas.
- (5) A unit owner may store firewood that is intended to be used for domestic purposes, if stored unobtrusively without significantly affecting the use and enjoyment of the common property by another unit owner.
- (6) The OC may cause any item kept, deposited or thrown on the common property by a unit owner to be removed and disposed of.
- (7) Where the OC is aware that any item kept, deposited or thrown on the common property belongs to a unit owner, the OC must provide the unit owner with written notice of the intention to remove and dispose of any item.
- (8) Where the unit owner does not remove the item within 21 days of receiving the written notice, the OC may remove and dispose of any item on common property.
- (9) The unit owner must pay the costs of and incidental to the OC and its employees and agents for having any item removed and disposed which is recoverable by the OC as a debt due by the unit owner.

#### **27. Community Road Rules**

- (1) The Owners Corporation (OC) may put up signage on the common property, imposing speed limits for driving within the Units Plan.
- (2) The ACT road rules apply on the private roads and shared carparks within Wybalena Grove. A unit owner, occupier and their visitors must drive all vehicles, including trucks, cars, motor bikes and bicycles, within the OC's posted speed limit, within the alcohol and drug rules that apply on the

public roads and car parks, with due care for the safety of all people and animals around them and with due care for all structures on common or individual unit land.

- (3) A unit owner must not, without the OC's written approval, drive or allow to be driven on Units Plan any vehicle in excess of three (3) tonnes weight.

**28. Repair and Maintenance of Utility, Access and Other Structures that Service Unit Only**

- (1) A unit owner must at the owner's cost repair and maintain the individual utility services (for example, sewer, electricity, phone, water, stormwater and gas services) that run underground from the edge of a unit owner's unit entitlement, through common property, that connect to the utility mains, unless damage to those individual utility services is shown to be caused by the Owners Corporation (OC) or a defect of the common property.
- (2) Individual access structures (paths and driveways that run over common property connecting the unit to the nearby shared path, road or shared carpark) exhibit a great diversity of styles and materials, depending on the individual unit owner's preference. Individual unit owners are required to maintain their individual access structures.
- (3) The unit owner must ensure that their individual access structures take a reasonably direct route to connect the unit to the nearest shared path, road or shared carpark, occupying no more area of common property than is reasonably necessary to provide access to the unit.
- (4) The unit owner must ensure that their individual access structures do not unreasonably interfere with the reasonable use and enjoyment of the common property by other unit owners or have any significant adverse effect on the appearance of the common property or the safety of occupiers of the units or of the public.
- (5) The unit owner must, at the unit owner's cost, properly maintain and keep their individual access structures in a state of good and serviceable repair and must repair and replace them (or any part of them) as required from time to time. If damage to them is shown to be caused by the Owners Corporation (OC) or a defect of the common property, the OC reserves the right to provide a serviceable repair or replacement as it sees fit, not necessarily like for like.
- (6) Owner-installed driveways are permitted only for units 15 to 23, unit 48, and units 85 to 95.
- (7) The unit owner must at the owner's cost repair and maintain any other item installed on common property and used only for the benefit of the unit. The unit owner must ensure that the item does not unreasonably interfere with the reasonable use and enjoyment of the common property by other unit owners or cause any significant adverse effect on the appearance of the common property or the safety of occupiers of the units or of the public, regardless of whether that installation has or has not been authorised by the OC. Examples of such items include, but are not limited to, air-conditioning systems, hot-water systems and awnings.
- (8) The OC reserves the right to repair, replace or remove any of the items mentioned in sub-rules (1) through (7), and to remediate any loss or damage to the common property of the OC caused by the owner's breach of those sub-rules, if that breach is not rectified within a reasonable time after a written request is made by the OC to rectify the breach. The unit owner must pay the costs of and incidental to the OC and its employees and agents to rectify the breach, which is recoverable by the OC as a debt due by the unit owner.