

SEAVIEW MARINA TRAILER PARK LICENCE

LICENCE TERMS

1.1 Definitions and Interpretation

Definitions: The following words and phrases have these meanings in this Licence unless a contrary intention appears:

Expiry date includes the expiry date of all Renewal terms (if this Licence is renewed);

Licence means this trailer park licence;

Licensor means Seaview Marina Limited;

Licence Year means the period of the Initial Term and the period of each subsequent Renewal term;

Licensee means the person or persons named as Licensee in the Particulars, and includes any person in the Trailer Park at the Licensee's request or invitation and any person for whom the Licensee is responsible or who is under the Licensee's control or direction;

licensee means any other licensee who has been granted a trailer park licence by the Licensor to use the Trailer Park;

Marina means Seaview Marina (and includes any part of Seaview Marina and any land within Seaview Marina (being Lots 1 and 2 DP 303938 and Section 1 SO 38286);

Term means the Initial Term and includes all Renewal Terms (if this Licence is renewed);

Notice means any notice given in accordance with this Licence;

Review Date means 1 July of each Licence Year;

SML means Seaview Marina Limited;

Trailer Park means the designated fenced boat trailer parking areas within the Marina as established by SML;

1.2 Interpretation:

In this Licence, unless inconsistent with the context:

Calendar month: references to "month" or "monthly" mean calendar month or calendar monthly;

Defined terms and phrases: terms and phrases used in the Licence have the meanings defined in this clause 1 or as specified in the Particulars;

Negative obligations: an obligation not to do anything includes an obligation not to allow, consent, permit or cause that thing to be done;

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Notices: all notices to be given under this Licence must be in writing and delivered or posted in accordance with clause 16;

Party: a reference to a Party or Parties means a party or the parties to this licence;

Person: references to a person or persons include references to individuals, companies, partnerships, associations, trusts, government departments and local authorities;

Vesting authority or powers: any authority or powers of the Licensor under this Licence can also be exercised by Hutt City Council, Wellington Regional Council or any company, body or individual to whom authority and powers may be delegated or assigned by the Licensor, Hutt City Council or Wellington Regional Council;

Written consent: all consents, confirmations and approvals required under this Licence are only valid if given in writing.

- 1. GRANT OF LICENCE** – SML grants to the Licensee a licence to park the boat trailer in the allocated park no. in the Trailer Park from the commencement date, and free use of the trailer boat ramp. A ‘swipe card’ for the ramp access gate is included in the licence fee.
- 2. LICENCE FEE** – The Licensee must pay the Licence Fee in full without deduction or set-off on the Licence Fee Payment Dates in accordance with invoices supplied by the Licensor. The Licensee may pay the Licence Fee at more frequent intervals by arrangement with the Licensor.

The Licensor may annually review the Licence Fee and may amend the fee payable under this agreement following that review. An amendment to the Licence Fee must be notified to Licensees no later than two months prior to the date on which the change of the Licence Fee will come into effect.

- 3. REVIEW AND VARIATION OF LICENCE** - SML may review the Licence, including the licence fee, annually and may vary the the Licence.

The process for varying the Licence is as follows:

- (a) Where the Licensor proposes to vary one or more of the Licence terms, the Licensor will notify all Licensees in writing, setting out the proposed variation(s);
- (b) Following notification of a proposed variation to the Licence, Licensees will have a period of 20 working days to submit written comments to the Licensor on the proposed variation to the Licence;
- (c) The Licensor will consider all comments made in relation to the proposed variation and will make a final decision with regard to the proposed variation and will notify all Licensees of this decision.
- (d) A variation to the Licence notified in accordance with this clause will take effect two months from the date of notice.

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4. **TERM** – The initial term of this Licence is set out in the particulars. The Licensor will renew the Licence annually on the same terms and conditions at the end of the initial term if –
 - (a) the Licensee is not in breach of the Licence terms and conditions; and
 - (b) the Licensee has not exercised its rights to terminate the Licence.
6. **MOVEMENT OF BOAT TRAILERS AND MOTOR VEHICLES** - Notwithstanding any demand or request to the contrary, where this is necessary for the safe and efficient operation of the Trailer Park and the Marina and its surrounding area, SML, its employees and agents may move and drive the boat trailer and any motor vehicle while it is in the Trailer Park, even if locked.
7. **RULES** - The Licensee agrees to act in accordance to the Marina Rules and any changes to these rules that are made from time to time by SML for the control, safe use, and operation of the Marina and the Trailer Park. Such rules or directions will take effect as terms and conditions of this Licence on notification to trailer park licensees and users, by posting to the licensees address. The Marina Rules are annexed to this document
8. **NOISE** - The Licensee must secure the boat trailer including all halyards, lines, ropes, rigging and sheets on the boat trailer while in the Trailer Park to SML's satisfaction so that they do not make any noise.
9. **NO ASSIGNMENT** - This Licence is personal to the Licensee only and may not be assigned sublicensed or transferred in any other manner by the Licensee without approval of SML. Such agreement will not be unreasonably or arbitrarily withheld.
10. **DAMAGE** - The Licensee shall not cause, or permit to be caused, any damage to the Trailer Park, and shall not spill or permit any fuel, oil, or other pollutant on the surface of the Trailer Park or in the Seaview Marina waters. If such damage or spill occurs, the Licensee will immediately take appropriate steps to fix, reduce or mitigate the effects of the damage or spill and notify SML and will immediately if asked by SML pay or reimburse SML for the cost of making good any damage or spill caused by the Licensee.
11. **LIABILITY** - SML, its employees and agents will not be responsible in contract, tort or otherwise for any direct, indirect, consequential or special loss or damage of any kind incurred by the Licensee or any other person using or, being unable to use, or being in or in the area of the Trailer Park (including, without limitation, any damage to any boat trailer, motor car or article or thing in or on or connected to any of the boat trailers or motor cars or on any person) regardless of how the loss or damage may occur and whether by negligence, willful default or misconduct to SML, its employees or agents or otherwise. If any liability of SML for any loss or damage incurred by the Licensee or such other person referred to above is not effectively excluded by the above provisions of this Licence, SML's liability for such loss will not exceed the sum of \$1000.00.
12. **INDEMNITY** - The Licensee will indemnify and keep indemnified SML, its employees and agents in respect of any costs or expenses of any direct, indirect, consequential or special loss or damage of any kind that is sustained or incurred by SML, its employees and agents (including, without limitation any damage to its or their own property) arising in relation to the use of the Trailer Park by the Licensee or any person using the Trailer Park with the Licensee's authority regardless of how such loss or damage may arise and in respect of all actions, proceedings, claims and demands made by third parties against

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SML, its employees or agents arising in relation to any use of the Trailer Park by the Licensee or any person using the Trailer Park with the Licensee's authority regardless of how such actions, proceedings, claims or demands may arise.

- 13. DEFAULT** - If the Licence fee or any part of the Licence fee is in arrears for 21 days, whether the fee has been legally demanded or not, or if the Licensee is in breach of any of the terms and conditions of this Licence that apply to the Licensee, SML may immediately terminate this Licence.
- 14. TERMINATION BY NOTICE** - Either party may terminate this Licence in respect of all or any of the boat trailer parks by giving no less than 30 day's written notice to the other party. The termination will take effect from the date specified in such notice. All financial and other obligations of the Licensee until the date of termination will continue until met and the Licensor will refund to the Licensee any unexpired portion of the Licence fee that has been paid (after deducting any amounts owing by the Licensee at the date of termination).
- 15. EFFECT OF TERMINATION** - If this Licence is terminated under clause 13 or 14-
- (a) All financial and other obligations of the Licensee before or as a result of termination continue until they are met;
 - (b) The Licensee must immediately remove the boat trailer from the allocated park and the Trailer Park;
 - (c) The Licensee must pay the Licensor's casual trailer park rate until the trailer is removed from the Trailer Park;
 - (d) If the Licensee does not remove the boat trailer from the Trailer Park, the Licensor may, without further notice and without incurring any liability, remove the boat trailer from the Trailer Park and recover from the Licensee the cost of removal plus 10%;
- 16. NOTICES** – Notices given under this Licence must be given to the notice recipient's last known address. All notices under this Licence will be treated as delivered and received on personal delivery (if given by personal delivery) and 2 days after being posted (if sent by post). The Licensor may also give notice to the Licensee of any matter affecting the Licensee and other licensees and users of the trailer park by fixing notices on or around the Marina. The Licensee will be considered to have been properly notified of these matters when notice is given in this manner.

17. LICENSORS OBLIGATIONS

17.1 Licensor's Obligations

The Licensor has the following obligations:

- (a) To keep the Marina in good repair and maintained to the best applicable standards;
- (b) To provide a trailer park and launching ramp operation and associated services that are as safe and efficient as possible;

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- (c) To ensure that staff of the Marina are trained and appropriately qualified to carry out all their activities
- (d) To ensure that staff of the Marina carry out all their activities in relation to the maintenance and upkeep of the Marina with due care and skill;
- (e) To ensure that Marina facilities are available to Licensees during the standard hours of operation of the Marina;
- (f) To comply with all legislative and regulatory provisions relating to its operation and performance;
- (g) To contact the boat owner as soon as possible in an emergency situation or where the boat is at risk, or where the boat may need to be moved to allow trailer park maintenance or repair to be carried out.