

**Port Stephens Council  
Holiday Van Occupancy Agreement  
Terms & Conditions - Edition 3/11**

*Port Stephens*

C·O·U·N·C·I·L

*... a community partnership*



Fingal Bay  
Holiday Park



Halifax  
Holiday Park



Shoal Bay  
Holiday Park

This is the agreement covering your use of the site and park set out on your Details page [Section D]. Please read all sections of the agreement carefully and make sure that you understand it before you sign the corresponding Execution Page [Section E]. Some words and expressions have special meanings. They are explained in clause 51 and when you are reading the agreement you should refer to clause 51.

**Port Stephens Council  
Holiday Van Occupancy Agreement  
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This occupancy agreement consists of the following sections:

**SECTION A – Standard Terms & Conditions**

**SECTION B – Special Conditions**

**SECTION C – Park Rules and Fee Schedule**

**SECTION D – Details Page**

**SECTION E – Execution Page**

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# **Port Stephens Council Holiday Van Occupancy Agreement Terms & Conditions - Edition 3/11**

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# Port Stephens Council Holiday Van Occupancy Agreement Terms & Conditions – Edition 3/11 **SECTION A**

## STANDARD TERMS & CONDITIONS

### Part 1: Introduction

1. **Date of this agreement? – refer to details page** [Section D, Item 7]
  
2. **Who is making this agreement? – refer to details page**  
The agreement is made between:
  - (a) the park owner [Section D, Item 1]; and
  - (b) the occupant [Section D, Item 2] or each of the occupants.
  
3. **Where is the site? – refer to details page** [Section D, Item 3]
  - (a) This park owner gives the occupant the right to occupy site number [Section D, Item 4] at [Section D, Item 3] and permit parking for the following number of vehicles / accessories [Section D, Item 6].
  - (b) The size of the site is [Section D, Item 4]
  
4. **Who can occupy the site?**  
No more than 6 persons may ordinarily occupy the site at any one time. Occupants other than those listed in the occupancy agreement must contact the Holiday Park reception before occupying the site.
  
5. **How long does this agreement last?**  
The fixed term of this agreement is for 12 months as specified in Section D – Details Page. Commencement date - [Section D, Item 8] & Termination Date:[Section D, Item 9]. Consecutive agreements should not be assumed.
  
6. **What happens when this agreement ends?**  
When the time for this agreement ends:
  - (a) the occupant may be offered a new agreement and can stay on the site at the same occupation fee (or at an increased fee if the fee is increased in accordance with this agreement) and otherwise under the same terms unless or until this agreement is ended in accordance with this agreement.

**7. Agreement to comply with the terms of this agreement**

The park owner and occupant agree to comply with the terms of this agreement.

- (a) No relationship of landlord and tenant is or is intended to be created between the parties by this agreement or in any way whatsoever.
- (b) Any breach of the terms of this agreement may result in the termination of the Occupancy Agreement and the removal of the Holiday Van and additions.

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## **Part 2: Site fees, visitor fees & charges**

### **8. Amount of occupation fees**

The occupation fees payable are [Section D, Item 10] payable every month starting on the first day of the agreement. The fee covers the first 150 nights of occupancy.

### **9. Amount of Additional Fees if applicable.**

- (a) Annual Holiday Van Occupancy Agreement preparation fee [Section D, Item 11] payable upon receipt of Holiday Van Occupancy Agreement.
- (b) Postage Fee [Section D, Item 12] – If required for postal delivery of Holiday Van Occupancy Agreement. Payable upon receipt of Holiday Van Occupancy Agreement.
- (c) Application Fee [Section D, Item 13] - If required for sale or transfer of Holiday Van, payable upon application. Transfer would include the addition or change of occupant details on the Annual Occupancy Agreement.

### **10. Amount of other charges (such as water or electricity charges)**

Nil.

### **11. Payment of council rates and other charges by park owner**

The park owner agrees to pay, in connection with the holiday park on which the site is situated, for:

- (a) Council rates, and
- (b) land taxes, and
- (c) Electricity and Water

### **12. Occupation fees are payable in advance and on time**

- (a) The occupant agrees to pay the occupation fees in advance prior to the first day of every month unless previous arrangements are made with Park Owner.
- (b) The occupant agrees to pay the occupation fees on time. (Failure to do so will be considered a breach of this agreement)

### **13. How to pay occupation fees**

The occupation fees may be paid in the following ways – Direct Debit, cash, cheque, credit card deduction or by Eftpos.

These methods of paying may be changed during the term of this agreement if both the park owner and the occupant agree.

#### **14. Manner of paying occupation fees**

Occupation fees must be paid:

- (a) to the park owner, or the park manager, at [Section D, Item 3] or
- (b) at any other reasonable place the park owner names to the occupant in writing.

#### **15. Receipts for occupation fees or other charges**

- (a) The park owner agrees to provide a receipt for any occupation fees or other charges under this agreement paid to the park owner or to make sure that the park manager provides a receipt for the occupation fees or charges paid to the park manager. If the occupation fees or charges are not paid in person, the park owner agrees to make the receipt available for collection by the occupant or to post it to the occupant.
- (b) The park owner agrees that any receipt for occupation fees or charges must include the following particulars:
  - (i) the name and address and ABN (16 744 377 876) of the holiday park, and the number of the site,
  - (ii) the period for which the fees or charges are paid,
  - (iii) the date on which the fees or charges are received,
  - (iv) the amount of fees or charges paid.
- (c) The park owner is not required to provide or make available a receipt if occupation fees or other charges are paid, in accordance with an agreement between the park owner and the occupant, into an account at an authorised deposit-taking institution (such as a bank, building society or credit union) nominated by the park owner.

#### **16. Fee increases**

- (a) The park owner cannot increase the occupation fees during the fixed term of this agreement unless the park owner determines that an increase in occupation fees is warranted. Factors which will determine fee increases include relevant financial indicators such as the Consumer Price Index (Sydney All Groups) or increases in any statutory charge, such as rates or land tax.
- (b) The occupant must be given 30 days' notice in writing if the park owner wants to increase the occupation fees, if an increase is permitted by sub clause (a). This applies even when this agreement provides for, or permits, an occupation fee increase. Where a notice of an increase has been given and the park owner and occupant subsequently agree to a lesser increase than that set out in the notice, the park owner does not need to give a further 30 days' notice.

#### **17. Refund of occupation fees**

The park owner agrees to refund any fees paid in advance if the occupancy is ended by the park owner before the end of the fixed term agreement.

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## **Part 3: Rights and obligations**

### **DIVISION 1 - OBLIGATIONS OF THE OCCUPANT**

#### **18. Offensive behavior**

The occupant agrees not to interfere with or cause or permit interference with, or allow any person that the occupant invites into the holiday park to interfere with:

- (a) the reasonable peace, comfort or privacy of any neighbour of the occupant or any other person lawfully in the holiday park, or
- (b) the proper use and enjoyment of the holiday park by the other occupants or residents of the holiday park.

#### **19. Use of the site**

The occupant agrees:

- (a) not to use the site, or cause or permit the site to be used, for any illegal purpose, and
- (b) not to cause or permit a nuisance; and
- (c) not to on sell, or offer for sale any credit nights or vacant nights

#### **20. Cleanliness of and damage to the site**

The occupant agrees:

- (a) to keep the site clean and tidy to the park owners satisfaction;
- (b) to notify the park owner as soon as practicable of any damage to the site;
- (c) not to intentionally or negligently cause or permit any damage to the site or any other part of the holiday park; and
- (d) when this agreement ends, to leave the site as nearly as possible in the same condition (fair wear and tear excepted) as when this agreement started.

#### **21. Alterations and additions to the site**

The occupant agrees not to attach any fixture or renovate, alter or add to the moveable dwelling or the site without the park owner's prior written permission. All additions and alterations are to be of a re-locatable nature.

*Note: Applicable forms for Site Addition/Alteration can be obtained from Reception at the Holiday Park.*

#### **22. Occupant's responsibility for the actions of others**

The occupant agrees to be responsible to the park owner for any act or omission by any person the occupant allows on the site, or elsewhere in the holiday park, who breaks any of the terms of this agreement (including any park rules for casual occupants that are terms of this agreement).

**23. Boomgate access, keys and opening devices**

- (a) The occupant or guests of the occupant agree to provide car registration details when obtaining boomgate access codes.
- (b) The occupant agrees to return any key or other opening device provided to the occupant, when this agreement is terminated.

**24. Selling the moveable dwelling**

The occupant agrees not to sell the occupant's moveable dwelling while it is on the site without the prior written permission of the park owner or a Consumer, Trader and Tenancy Tribunal order. \*Note: A Sale Period applies and may vary at the discretion of the park owner.

**25. Agreement not to transfer without consent**

- (a) The occupant agrees not to transfer the whole or part of the occupant's interest under this agreement without the park owner's prior written permission.
- (b) The occupant agrees that the park owner may require a new occupation agreement to be entered into as part of the transfer.

**26. Moveable dwellings must comply with law**

- (a) The occupant agrees to and will ensure that the moveable dwelling complies with the regulations under the Local Government Act 1993 (Manufactured Home Estates, Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005.
- (b) All 15 amp power leads connected to the parks power source must be tested and tagged annually by a licenced electrician.

**27. Condition of moveable dwelling and other structures**

The occupant agrees to make sure that the moveable dwelling and any other structure that the occupant is permitted to erect is kept in a condition allowing it to be moved.

- (a) Any fixtures or improvements erected by the occupant and not forming an integral part of the moveable dwelling are to be removed by the occupant upon termination of the agreement unless the park owner agrees in writing that the fixtures and improvements may remain in place.

**28. Signing an Occupancy Agreement**

The occupant agrees to sign & only enter into one Occupancy Agreement during the term of occupation.

**29. Relocation of Moveable Dwellings**

The occupant may be required to relocate the moveable dwelling to another site as part of redevelopment works (dependant on site availability, determined by the park owner). The cost of this relocation is at the expense on the Occupant. In this case Park Management will attempt to offer a site of similar size, however if the site has restrictions the Occupant must ensure all structures are modified to comply with Law (see item 26 above).

## **DIVISION 2 - OBLIGATIONS OF THE PARK OWNER**

### **30. Possession of the site**

The park owner agrees:

- (a) To make sure the site is vacant so the occupant can move in on the date agreed, and
- (b) that there is no legal reason that the park owner knows about, or should know about when signing this agreement, why the site cannot be used as the site of a holiday van for the term of this agreement.

### **31. Occupant's right to no interruption**

The park owner agrees that the occupant will have use of the site without undue interruption by the park owner.

### **32. Cleanliness**

The park owner agrees to make sure the site, everything provided with the site for use by the occupant, and the common areas of the holiday park, are reasonably clean and fit to occupy or use.

### **33. Tradespeople allowed to come in**

The park owner and occupant agree that any trades people that the occupant requires to undertake work should be allowed into the holiday park without unreasonable interference, subject to Section B Special Condition 15.

*(Please note that all Service Providers, Tradesmen and Contractors wishing to enter park premises for business purposes must report to Reception to sign in and obtain an access number. Under no circumstances are Holiday Van Owners permitted to give their access number to these individuals to enter the Park.)*

### **34. Permitting family members of occupant and others to temporarily occupy a site**

- (a) The park owner agrees to allow any family member of the occupant or any other person to temporarily occupy the site if he or she has the prior permission of the occupant and the park owner.
- (b) The park owner and occupant agree that the park owner may demand proof that the family member of the occupant or any other person has the permission of the occupant to occupy the site. That proof may be given in person, in writing or over the telephone.
- (c) Family members or other persons not listed on the Occupancy Agreement must contact the Holiday Park reception prior to entering the Holiday Park.

### **35. Investigation of breaches and disputes.**

The park owner agrees to follow the process included in the Port Stephens Beachside Holiday Parks Standard Operating Procedures when investigating disputes or suspected breaches of the occupation agreement.

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## **Part 4: Agreement to minimise loss**

### **36. Parties to minimise loss from breach of agreement**

The park owner and the occupant agree that the rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of this agreement. (For example, if the occupant breaches this agreement the park owner will not be able to claim damages for loss that could have been avoided by reasonable effort by the park owner.)

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## Part 5: When can we come onto the site?

### 37. Park owner's access to the site

The occupant agrees that the park owner, the park manager or any person authorised in writing by the park owner, during the currency of this agreement, may enter the site only in the following circumstances:

- (a) in an emergency (including entry for the purpose of carrying out urgent repairs),
- (b) if the Consumer, Trader and Tenancy Tribunal so orders,
- (c) if there is good reason for the park owner to believe the site is abandoned,
- (d) if electricity, water or gas is supplied to the occupant by the park owner, to inspect and read an electricity, water or gas meter situated on the site,
- (e) to carry out regular maintenance and care taking of the site, such as by mowing the lawn,
- (f) to carry out functions required under any legislation,
- (g) if the occupant agrees,
- (h) if the park owner determines that access to the site is warranted,
- (i) if the park owner believes any activity on the site contravenes this agreement.
- (j) to carry out site safety and compliance audits including an annual inspection of fire safety equipment (smoke alarm, dry chemical extinguisher and fire blanket)

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## **Part 6: Obligations of the park owner relating to park rules**

### **38. Park rules for casual occupants**

The park owner agrees to give the occupant a copy of any park rules for casual occupants that are in force for the holiday park, before or at the time they enter into this agreement.

### **39. Obligation to promote compliance with park rules for casual occupants**

The park owner agrees to take all reasonable steps to make sure that the park owner's other occupants do not contravene any park rules for casual occupants for the holiday park.

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## **Part 7: Ending this agreement**

### **DIVISION 1 - WHEN CAN THIS AGREEMENT BE ENDED?**

#### **40. Ending this agreement**

The park owner and the occupant agree that this agreement can be terminated in one or more of the following circumstances:

- (a) if the park owner or the occupant gives notice of termination under this Part,
- (b) if the Consumer, Trader and Tenancy Tribunal makes an order terminating this agreement,
- (c) if a person having superior title to that of the park owner becomes entitled to possession of the site,
- (d) if a person succeeding to the title of the park owner (for example, a purchaser) becomes entitled to possession of the site to the exclusion of the occupant,
- (e) if a mortgagee in respect of the site becomes entitled to possession of the site to the exclusion of the occupant,
- (f) if the occupant abandons the site,
- (g) if the occupant delivers up vacant possession of the site with the prior permission of the park owner, whether or not that permission is subsequently withdrawn,
- (h) by merger (that is, where the interests of the park owner and the occupant become vested in the one person),
- (i) by disclaimer (for example, on repudiation by the occupant accepted by the park owner),
- (j) if the fixed term ends, there is no provision for a continuing agreement and the park owner or the occupant has terminated the agreement after the expiry of the next period for which the occupation fee was payable.

### **DIVISION 2 - WHEN CAN THE OCCUPANT END THIS AGREEMENT?**

#### **41. Termination by occupant on breach of agreement**

- (a) The park owner and the occupant agree that the occupant may give the park owner a notice of termination of this agreement if the park owner has breached a term of this agreement.
- (b) The park owner and the occupant agree that a notice of termination given under this clause must give at least 7 days' notice as to the day on which vacant possession of the site will be delivered up to the park owner.
- (c) If this agreement creates an occupancy for a fixed term, the park owner and the occupant agree that a notice of termination given under this clause is not ineffective merely because the day specified as the day on which vacant

possession of the site will be delivered up to the park owner is earlier than the day the term ends.

**42. Notice of termination by occupant without any reason (but not for a fixed term agreement that has not finished)**

- (a) The park owner and the occupant agree that the occupant may give notice of termination of this agreement without having to give any reason.
- (b) The park owner and the occupant agree that a notice of termination given under this clause must give at least 30 days' notice as to the day on which vacant possession of the site will be delivered up to the park owner.
- (c) This clause does not apply if the agreement creates an occupancy for a fixed term and that term has not finished.

**DIVISION 3 - WHEN CAN THE PARK OWNER END THIS AGREEMENT?**

**43. Termination on breach of agreement**

- (a) The park owner and the occupant agree that the park owner may give notice of termination of this agreement to the occupant if the occupant has breached a term of this agreement.
- (b) The park owner and the occupant agree that a notice of termination given under this clause must not specify a day earlier than 7 days after the day on which the notice is given as the day on which vacant possession of the site is to be or will be delivered up to the park owner.
- (c) The park owner and the occupant agree that a notice of termination given by a park owner on the ground of a breach of the agreement to pay occupation fees has no effect unless the fees have remained unpaid in breach of this agreement for not less than 14 days before the notice is given.
- (d) The park owner and the occupant agree that a notice of termination given by a park owner on the ground of a breach of the agreement to pay occupation fees is not ineffective merely because of any failure of the park owner or the park manager to make a prior formal demand for payment of the fees.
- (e) If this agreement creates an occupancy for a fixed term, the park owner and the occupant agree that a notice of termination given under this clause is not ineffective because the day specified as the day on which vacant possession of the site is to be or will be delivered up to the park owner is earlier than the day the term ends.

**44. Notice of termination by park owner without any reason (but not for a fixed term agreement that has not finished)**

- (a) The park owner and the occupant agree that the park owner may give notice of termination of this agreement without having to give any reason.

- (b) The park owner and the occupant agree that a notice of termination given under this clause must give at least 3 months' notice as to the day on which vacant possession of the site will be delivered up to the park owner.
- (c) This clause does not apply if the agreement creates an occupancy for a fixed term and the notice of termination specifies that it takes effect before that term finishes.

## **DIVISION 4 - NOTICES OF TERMINATION**

### **45. Notices of termination**

The park owner and the occupant agree that a notice of termination must:

- (a) be in writing, and
- (b) state the address and site number of the site, and
- (c) be signed by the person giving it, and
- (d) be dated, and
- (e) allow the required period of time, and
- (f) give the date the occupant intends to, or is required to, give vacant possession, and
- (g) give the reasons for ending this agreement (if any), and
- (h) be properly given.

### **46. How notices are properly given**

- (a) The park owner and the occupant agree that all notices required to be given or served on the occupant, and including a notice of termination given to the occupant, may be:
  - (i) posted to the occupant's site and to the occupant's principal place of residence, or
  - (ii) given to the occupant personally, or
  - (iii) given to a person aged over 16 who normally pays the occupation fees, or
  - (iv) given to a person aged over 16 who occupies the site to pass on to the occupant.
- (b) The park owner and the occupant agree that all notices required to be given or served on the park owner, and including a notice of termination given to a park owner, may be:
  - (i) posted to the park owner's residence, or
  - (ii) given to the park owner or to the park manager personally, or
  - (iii) posted or faxed to the park owner's, or park manager's, place of business, or
  - (iv) given to a person aged over 16 who normally collects the occupation fees.

## **DIVISION 5 – MISCELLANEOUS**

### **47. Apportionment and recovery of occupation fees on termination**

The park owner and the occupant agree that the occupation fees payable under this agreement accrue from day to day and on termination any outstanding occupation fee is payable.

### **48. Breach or notice of termination not waived by acceptance of occupation fees**

The park owner and the occupant agree that a demand for, any proceedings for the recovery of, or acceptance of, occupation fees payable under this agreement by the park owner:

- (a) does not operate as a waiver of:
  - (i) any breach of this agreement, or
  - (ii) any notice of termination on the ground of breach of this agreement given by the park owner, and
- (b) is not evidence of the creation of a new occupancy.

### **49. Revocation of Reserve**

If the reservation or dedication of the park is revoked by the Minister administering the Crown Lands Act 1989 the occupation agreement terminates unless the notification of the revocation in the Government Gazette otherwise provides. No compensation is payable in respect of the termination of the occupation agreement in this circumstance.

### **50. Indemnity of Reserve**

The occupant agrees that the occupant will indemnify the Crown, the Minister administering the Crown Lands Act 1989, and the Minister's agents, servants, employees and contractors (the Minister) from and against all actions, suits, claims, demands, proceedings, losses, damages, compensation sums of money, costs, legal costs, charges and expenses whatsoever to which the Minister shall or may be or become liable in respect of the occupation and use of the park for or in respect of all losses, damages, accidents or injuries of whatsoever nature or kind and howsoever sustained or occasioned (and whether to any property or to any person or resulting in the destruction of any property or the death or injury of any person or not) at or upon the park except to the extent that any such claims and demands arise from the negligence or wilful act or omission on the part of the park owner or the Minister.

## Part 8: Definitions

### 51. Meaning of words

In this agreement:

**"occupant"** means a person or persons who has the right to occupy a site under an occupation agreement as described in Section D, item 2, and where relevant, includes your invitees;

**"park owner"** means Port Stephens Council acting as trustee for the Crown where applicable.

**"park property"** means any items owned or operated by the park including but not limited to vehicles, machines, buildings, structures, fixtures, fittings, vegetation, signs or other improvements.

The following definitions apply unless the context requires otherwise:

**"occupation fee"** means an amount payable under an occupancy agreement by an occupant in respect of a period of the occupancy.

**"park manager"**, in relation to a holiday park, means the person employed or appointed by the owner of the property to act as park manager.

**"accessories"** means towing attachments to vehicles such as trailers and does not exclude items that utilise any allocated parking area of the Site.

**"agreement"** means Section A: Standard Terms & Conditions; Section B: Special Conditions; Section C: Park rules and fee schedule, Section D: Details Page and Section E: Execution page;

**"credit nights"** means use of the site by up to 4 persons for one night or a stay exceeding 8hrs whereby no additional occupation fee is payable.

**"credit night user"** means the persons the park owner approves to be credit night users; this may incorporate up to four(4) immediate family members or approved persons in reference to clause 34.

**"GST"** means the tax payable on taxable supplies under the GST legislation;

**"GST legislation"** means the *A New Tax System (Goods and Services Tax) Act 1999* and any Act imposing GST or any other act, or regulations made under such act, enacted to validate, recapture or recoup such tax;

**"holiday van"** means a holiday van or caravan as defined in the *Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 2005* and any annex or other structure listed in Section D, item 5;

**"input tax credit"** has the meaning given to it in the GST legislation;

“**invitees**” means any persons on the site or the park with your express or implied consent or invitation;

“**item**” means an item in this agreement;

“**park**” means the holiday park in Section D, item 3;

“**month**” means a calendar month;

“**site**” means the site described in Section D, item 4 and includes our property within the site;

“**fee schedule**” means a published schedule of fees for the park, as amended by us from time to time;

“**tax invoice**” has the meaning given in the GST legislation;

“**taxable supply**” has the meaning given to it in the GST legislation;

“**Tribunal**” means the Consumer, Trader and Tenancy Tribunal constituted by the *Consumer, Trader and Tenancy Tribunal Act 2001*.

**Port Stephens Council Holiday Van Occupancy Agreement  
Terms & Conditions – Edition 3/11  
SECTION B**

**SPECIAL CONDITIONS**

By signing the Execution I agree to the following Special Conditions.

**1. Utility Connections**

You must ensure that water and power supply to the site are disconnected at the conclusion of each stay. If for any reason we suspect that water or power supplies have not been disconnected at the conclusion of a stay, we may enter the site to undertake the disconnection, but we are not obliged to do so.

**2. Obligations under park rules**

You must comply with the park rules and agree that the park rules for the park are terms of this agreement and that if those park rules change, the terms as changed are terms of this agreement.

**3. Giving out consent or approval**

(a) Unless otherwise stated in this agreement, we may withhold any consent or approval under this agreement in our absolute discretion or impose any requirements as a condition of giving our consent or approval. We may vary or revoke any consent or approval by notice to you at any time.

(b) You must obtain our consent or approval in writing in order for it to be binding upon us.

**4. Entire agreement**

This agreement represents the entire agreement between the parties concerning the subject matter.

**5. Governing law**

This agreement is governed by the laws of New South Wales.

**6. Individual and joint liability**

If two or more persons are described in Section D, item 2 (you), each person described in the item is liable for the obligations individually and together for each other person in that item.

## **7. Interpretation**

- (a) When this agreement requires anything not to be done, this includes not allowing or permitting the thing to be done.
- (b) A word or expression in the singular includes the plural, and the plural includes the singular.
- (c) Examples are descriptive only, and not exhaustive.

## **8. GST**

- (a) Where we make a taxable supply under or in connection with this agreement, we will be entitled, in addition to any other consideration recoverable in respect of the taxable supply, to recover from you the amount of any GST on the taxable supply. You must pay us the full amount of GST at the same time as making the payment to which the GST relates. In respect of each such payment, we will provide you with a tax invoice.
- (b) Where we are entitled under or in connection with this agreement to recover all or a proportion of our costs or are entitled to be compensated for all or a proportion of our costs, the amount of recovery or compensation shall be reduced by the amount of any input tax credits available in respect of those costs.

## **9. Credit nights**

- (a) Payment of site fees on time during the terms of agreement entitles you to 150 credit nights. Credit nights may be used by either you or credit night users approved by the park owner. Unused credit nights can not be sold or offered for sale.
- (b) If you and/or your credit night users elect not to use one of your credit nights for a particular stay, occupation fees must be paid in accordance with our fee schedule.
- (c) To avoid being charged credit nights whilst performing maintenance on the holiday van, please ensure you advise staff at the holiday park reception prior to entering the park. (Maintenance activity should be restricted to the hours of 8:00am and 5:00pm Monday to Friday. Where possible school holidays should be avoided)
- (d) If you do not pay site fees on time, we may give you notice canceling the whole or any part of your taken or untaken credit nights. You must immediately pay us occupation fees in accordance with our fee schedule for any taken credit nights that we have cancelled.
- (e) You must pay occupation fees in accordance with our fee schedule for any person (including yourself) who stays on the site other than on a credit night basis. Our fee schedule sets out different rates of occupation fees, depending on the category and number of occupants.

## **10. Compliance with direction**

You must comply with any reasonable direction we give you regarding use or occupation of the site and the park.

## **11. Risk and insurance**

- (a) You occupy the site and use the park at your own risk.
- (b) You must have current insurance for:
  - (i) public liability insurance for at least the amount set out in Item 14 [refer to Section D, details page], and
  - (ii) property damage insurance for the holiday van for the market value, and
  - (iii) other insurances required by law or reasonably required by us.
- (c) You must ensure that all insurance policies to be taken out in accordance with special condition 11(b) above
  - (i) have no exclusions, endorsements or alterations unless first approved in writing by us, and
  - (ii) are taken out in your name, for your rights and interests.
- (d) You must give us evidence of the above insurance. (A copy will be retained by the park for record purposes)
- (e) You must not do anything that may make our insurance invalid or able to be cancelled, or that may increase our insurance premium.

## **12. Release and indemnity**

- (a) You are liable for and indemnify us against all actions, demands, loss or damage incurred or suffered directly or indirectly in connection with:
  - (i) your acts and omissions or the acts and omissions of your invitees, and
  - (ii) loss or damage to property or person caused by your use, or by your invitee's use, of the site or the park or otherwise relating to the site or the park, and
  - (iii) a breach of this agreement by you, or
  - (iv) your use of the site and the park.
  
- (b) You release us from any action, demand, loss or damage for any damage, loss, injury or death occurring on the site or the park except to the extent that it is caused by our negligence.

## **13. Obligations under park rules**

You must comply with the park rules and agree that the park rules for the park are terms of this agreement and that if those park rules change, the terms as changed are terms of this agreement.

**14. How long can you or any other person occupy the site?**

A holiday van on the site may only be occupied for a maximum of 180 days during any 12 month period and not more than 150 days consecutively. The annual occupation fees cover the first 150 days and additional days up the maximum will be charged at the applicable fee rate shown in section C.

**15. Trades people**

In reference to clause 33, all Tradesmen, Service Provides and Contractors are required to undergo a site induction and provide all appropriate insurances and their OH&S card etc, before access to the park is permitted. A list of these requirements can be obtained form Park Reception.

**16. Boat storage**

Boat storage on unoccupied sites is not permitted.

**Port Stephens Council Holiday Van Occupancy Agreement  
Terms & Conditions – Edition 3/11**

**SECTION C**

**PARK RULES**

**Holiday Van park rules to be distributed as attachment.**

**FEE SCHEDULE**

**Fee schedule to be distributed as attachment.**

**Port Stephens Council Holiday Van Occupancy Agreement  
Terms & Conditions – Edition 3/11**

**SECTION D**

**DETAILS PAGE**

**Details Page to be distributed as attachment.**

**Port Stephens Council Holiday Van Occupancy Agreement  
Terms & Conditions – Edition 3/11**

**SECTION E**

**EXECUTION DOCUMENT**

**Execution Document to be distributed as attachment.**

# Port Stephens Council Holiday Van Occupancy Agreement

## Terms & Conditions Edition 3/11

### SECTION C

#### Park Rules

1. **Follow reasonable direction** – Guests are required to follow any reasonable direction given by Park Staff during their stay within the Holiday Park.
2. **Speed Limits** - For the safety of all guests, please keep speed limit to **8km/h (walking speed)** at all times. (The park is a shared zone which requires vehicles to give way to pedestrians, motorists are requested to remain alert to the movement of pedestrians and cyclists within the Park)
3. **Offensive Behaviour** – Drunkenness, offensive, aggressive or threatening behaviour or wilful damage to park or guest property will not be tolerated under any circumstances. **Persons displaying this type of conduct will be removed from the Park.**
- 4.. **Excessive noise** – In the interest of Park amenity guests are required to keep noise to reasonable levels, please ensure your televisions and radios are kept at a volume that will not disturb your neighbours. Excessive noise will not be tolerated under any circumstances. **All noise of a disruptive nature is to cease by 10.00pm.**
5. **Security Gates** are in operation. Guests arriving outside reception hours (usually 8.15am till 6.00pm) must arrange prior entry. Use of your access number for another vehicle will prevent your own access.
6. **Pets** are welcome during **non holiday times only** and must be kept on a lead at all times. **Pet acceptance is at the discretion of Park Management.**
7. **Day Visitors** - Guests are responsible for the conduct of their visitors and a fee is applicable for day visitors or overnight stays. Visitor's cars must be left outside the park unless permission is obtained to bring them in.
8. **Vehicles and Boats** must not be parked on roadways, walkways or other sites within the park. Additional vehicles must be parked outside the Park perimeter unless special arrangements have been made with reception.
9. **Boats & Jet Skis** are only to be washed in designated zone. (Please check with reception). Storage of fuel on site is not permitted.
10. **Ground Covering** - Mats/carpets are not permitted to cover grass on sites. If cover is required only shade cloth is permitted.
11. **Scooters, Bikes, Skateboards and Roller Blades.** Must be used on roadways only and not on the pathways. The management of the park is not responsible for any accident or injury caused whilst riding or skating in the park. All activities of this nature must cease when street lights are activated. **No** riding in or around the boom gate area. Normal road rules apply in park grounds. Helmets must be worn whilst riding on roads. All forms of motorised scooters are prohibited. Please check park for exclusion periods.
12. **Amenities** are not to be used by children under the age of 8 years unless accompanied by an adult. Amenity access codes can be obtained from reception.
13. **Trenches** - Guests are requested not to dig trenches around sites.
14. **Fish Cleaning** is not permitted within the Park.
15. **Stormwater Drains** - Please do not empty sink waste water into the storm water drains.
16. **Fires** are not permitted within the Park.
17. **Playground Rules** – The playground is closed from dusk till dawn. The playground is for use of children under the age of 12. Children must be supervised at all times.
18. **Barbecues** - Only gas or electric are permitted.
19. **Garbage** - All garbage is to be placed in the bins provided. Large domestic waste items are not to be disposed of within the Park premises.
20. **No Responsibility** is taken by the Reserve Trust Manager or it's representatives for personal injury damage or loss of property. Guests are responsible to secure their belongings at all times. **No responsibility** is taken by Council or the Management for personal injury, damage to or loss of property or whilst undertaking in programmed park activities.
21. **Pool Rules** must be observed. Children under the age of 12 **MUST** be accompanied by an adult.

# Fee Schedule

## POWERED SITE FEES

Due to dynamic pricing introduced into our fee structure, site fees will be variable.

Charges will be from \$30 per night to \$65 per night

Applicable tariff rates can be obtained from reception at the time of the stay.

## ADDITIONAL CHARGES

Day Visitor (Adult) = \$6.00 per day

Day Visitor (Children) = Free

Extension Lead Hire = \$5.00 per day

Extension Lead Hire – Security Deposit = \$50.00

Extra Adults = \$10.00 - \$15.00

Extra Children = \$5.00 - \$10.00

Disabled Key – Security Deposit = \$50.00 (Photo ID may be used as security deposit in lieu of fee.)

Holiday Van Annual Agreement Preparation Charge = \$10.00

Holiday Van Annual Agreement Postal Charge = \$5.00

Holiday Van Annual Agreement Sale Application Fee = \$400.00

Holiday Van Annual Agreement – addition of name/s to Occupancy Agreement = \$400.00

Holiday Van Sale Fee (outside annual sale period) = \$500.00

Washing Machines & Dryers = \$4.00 per token

Photocopying: A4 = \$0.60 per copy A3 = \$0.90 per copy

Facsimile Services =

Outgoing International = \$7.20 for first page, \$2.20 per additional page.

Outgoing Australia = \$4.10 for first page, \$1.45 per additional page.

Incoming = \$5.35 for first 5 pages, \$1.45 per additional page

# Port Stephens Council Holiday Van Occupancy Agreement Terms & Conditions Edition 3/11 SECTION D

## DETAILS PAGE

**Note:** For the purpose of this document and in consideration of the Act, Port Stephens Council is defined as the Park Owner.

1. **PARK OWNER:** **PORT STEPHENS COUNCIL**  
*116 Adelaide Street  
Raymond Terrace NSW 2324*

2. **OCCUPANT:**

*Occupants can consist of single , couples , up to four (4) immediate family members or two (2) seperate principals. Occupant must be sixteen(16) years or older.*

**ADDRESS:** \_\_\_\_\_

**TELEPHONE:** \_\_\_\_\_

**EMAIL:** \_\_\_\_\_

3. **PARK:** \_\_\_\_\_

4. **SITE:** \_\_\_\_\_ **SITE SIZE/AREA:** \_\_\_\_\_

5. **HOLIDAY VAN:** \_\_\_\_\_

6. **PERMITTED NUMBER OF  
VEHICLES/ACCESSORIES:**

*Vehicles:      Accessories:* \_\_\_\_\_

7. **DATE OF AGREEMENT:**

\_\_\_\_\_  
*Fill in date on which both the park owner and the occupant signed the agreement,  
or, if one signed on one date and the other on a later date, fill in the later date*

8. **COMMENCEMENT DATE:** 1 July 2011

9. **TERMINATION DATE:** 30 June 2012

10. **OCCUPATION FEE:** \$395.00 (A Sites \$405.00) Payable monthly.

11. **PREPARATION FEE** \$10.00

12. **POSTAGE** \$5.00

13. **APPLICATION FEE** \$400.00

14. **PUBLIC RISK INSURANCE:**

\$10 million minimum. A copy of the Certificate of Currency or copy of Policy and receipt (proof of payment) must be provided on or before Commencement Date. This copy is required to be kept on file at the Holiday Park.

15. **SECURITY DEPOSIT:** *Nil*

**Port Stephens Council Holiday Van Occupancy Agreement  
Terms & Conditions Edition 3/11  
SECTION E**

**EXECUTION PAGE**

**AS OCCUPANT, I CONSENT THAT BY SIGNING THIS DOCUMENT I HAVE RECEIVED, READ AND AGREE TO THE TERMS AND CONDITIONS SET OUT IN THE HOLIDAY VAN OCCUPANCY AGREEMENT EDITION 3/11**

**EXECUTED AS AN AGREEMENT**

**SIGNED** for and on behalf of **PORT STEPHENS COUNCIL**  
under delegated authority.

by.....*Council officer signature*

.....*Council officer name (please print)*

In the presence of

.....*Witness signature*  
(Witness)

.....*Witness name (please print)*

**SIGNED** by:

.....*Occupant signature*

.....*Occupants name*  
(please print)

in the presence of:

.....*Witness signature*  
(Witness)

.....*Witness name*  
(please print)

**SIGNED** by:

.....*Occupant signature*

.....*Occupants name*  
(please print)

in the presence of:

.....*Witness signature*  
(Witness)

.....*Witness name*  
(please print)

**SIGNED** by:

.....*Occupant signature*

.....*Occupants name*  
(please print)

in the presence of:

.....*Witness signature*  
(Witness)

.....*Witness name*  
(please print)

**SIGNED** by:

.....*Occupant signature*

.....*Occupants name*  
(please print)

in the presence of:

.....*Witness signature*  
(Witness)

.....*Witness name*  
(please print)

**Port Stephens Council Holiday Van Occupancy Agreement  
2011-12  
SUMMARY OF CHANGES & ADDITIONS**

**Section A – Standard Terms & Conditions**

**Part 2**

Item:12	Part (a): Addition to item "prior to" Part (b): Addition to item "(Failure to do so will be considered a breach of this agreement)"
Item: 20	Part (c): Addition to item "or any other part of the holiday park"
Item: 23	Addition to item: "Boomgate access, Keys and opening devices" Addition to item: (a) The occupant or guests of the occupant agree to provide car registration details when obtaining boomgate access codes.
Item: 24	Addition to item: "or a Consumer, Trader and Tenancy Tribunal order."
Item: 26	Addition to item: "(b) All 15 amp power leads connected to the parks power source must be tested and tagged annually by a licenced electrician"
Item: 35	Additional item: <b>"Investigation of breaches and disputes.</b> The park owner agrees to follow the process included in the Port Stephens Beachside Holiday Parks Standard Operating Procedures when investigating disputes or suspected breaches of the occupation agreement"

**Part 4**

Item: 37	Additional part (j) to carry out site safety and compliance audits including an annual inspection of fire safety equipment (smoke alarm, dry chemical extinguisher and fire blanket)
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**Part 7**

Item: 46	How notices are properly given: Age changed from 18yrs to 16yrs.
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**Part 8**

Item: 51	<p>Addition of:</p> <p><b>"park property"</b> means any items owned or operated by the park including but not limited to vehicles, machines, buildings, structures, fixtures, fittings, vegetation, signs or other improvements</p> <p><b>"occupation fee"</b> means an amount payable under an occupancy agreement by an occupant in respect of a period of the occupancy.</p> <p><b>"park manager"</b>, in relation to a holiday park, means the person employed or appointed by the owner of the property to act as park manager.</p> <p><b>"Credit Nights"</b> addition of "or a stay exceeding 8hrs whereby no additional occupation fee is payable"</p> <p><b>"Tribunal"</b> means the Consumer, Trader and Tenancy Tribunal constituted by the <u>Consumer, Trader and Tenancy Tribunal Act 2001</u>.</p>
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**Section B – Special Conditions**

Item: 9	Addition of: (c) To avoid being charged credit nights whilst performing maintenance on the holiday van, please ensure you advise staff at the holiday park reception prior to entering the park. (Maintenance activity should be restricted to the hours of 8:00am and 5:00pm Monday to Friday. Where possible school holidays should be avoided)
Item: 11	Item11, Part (d) addition of: "(A copy will be retained by the park for record purposes)"