

FAR NORTH HOLDINGS LIMITED

GENERAL RULES FOR THE USE OF WHARVES, BERTHS, JETTIES, RAMPS AND LAND UNDER THE CONTROL OF FNHL

- 1 These Rules shall apply to all wharves, berths, jetties, ramps and land leased, owned managed or operated by FNHL at Opua, Paihia, Russell, Waitangi, Totara North, Mangonui, Unahi, Pukenui and any other wharves, berths, jetties, ramps and land which FNHL may own, manage, lease or operate from time to time (collectively referred to as the “*property of FNHL*”).

Definitions

- 2 In the Rules, unless the context otherwise requires:

“*Annual Licence Sticker*” means the sticker provided by FNHL in consideration for payment of the fee permitting a vessel to tie up at the wharves, berths, jetties and/or ramps, subject to these Rules;

“*commercial operator*” means a person who operates a vessel for hire or reward of any kind whatsoever;

“*fee*” means any due, fee, levy or charge payable for use of the property of FNHL;

“*FNHL*” means Far North Holdings Limited;

“*Maritime Manager*” means the Maritime Manager of FNHL and includes any authorised employee or agent acting for the Maritime Manager;

“*goods*” means wares and merchandise of every description and all chattels, livestock and other articles;

“*property of FNHL*” has the meaning referred to in paragraph 1 of the Rules;

“*recreational user*” means a person other than a commercial operator;

“*Rules*” means these rules;

“*vessel*” means any ship, boat, hovercraft or any other description of vessel used or designed to be used in navigation or which floats (including a barge or floating platform).

- 3 In the construction of the Rules unless the context otherwise requires:

“*Gender*” a gender includes each other gender;

“*Headings*” the headings and sub-headings appear as a matter of convenience and shall not affect the construction of the Rules;

“Person” a reference to a person includes a reference to an individual, firm, body corporate, an association of persons (whether corporate or not), and a trust (in each case, whether or not having separate legal personality);

“Singular and plural” the singular includes the plural and vice versa;

Purpose of the Rules

- 4 The purpose of the Rules is to set out the terms and conditions which apply to the use of the property of FNHL.

A person using the property of FNHL does so on the terms of the Rules

- 5 Every person who uses the property of FNHL does so subject to the terms of the Rules which constitute a contract with the person on the terms of the Rules. The use of the property of FNHL constitutes acceptance of the Rules.
- 6 Every Annual Licence Sticker is issued subject to and on the terms of the Rules.

Fees

- 7 Every person shall pay the appropriate fee to FNHL for the use of any of the property of FNHL. Full details of the fees payable for use of the property of FNHL are available from [the offices of FNHL ,Opuā Marina Building,Opuā].

Commercial operators

- 8 Every commercial operator who intends to tie up a vessel to a wharf, berth, jetty or to use a ramp or barge dock, shall first:
 - 8.1 Pay all applicable fees to FNHL;
 - 8.2 affix the Annual Licence Sticker to the vessel in such a position that it is clearly visible from the wharf, berth, jetty or ramp.
- 9 Every such vessel tied up at a wharf, berth, jetty or ramp shall have affixed an Annual Licence Sticker for that vessel which shall be displayed in a position which is clearly visible from the wharf, berth, jetty or ramp.
- 10 The Annual Licence Sticker applies to the particular vessel and is non-transferrable.

Recreational Users

- 10.1 A recreational user is permitted to tie up a vessel to a public wharf, berth or jetty for a total of 30 minutes in any four hour period free of charge. If a vessel is tied up for longer than a total of 30 minutes in any four hour period then a fee is payable and the appropriate fee shall be paid to FNHL on demand.

- 11 A recreational user shall pay the fee for use of a boat ramp prior to use of the boat ramp.

General obligations of all persons using property of FNHL

- 12 In addition to the obligations set out in other provisions of the Rules, every person using the property of FNHL shall:
- 12.1 comply with the Rules or any other rules adopted by FNHL which may be in force from time to time;
 - 12.2 comply with the directions of the Maritime Manager;
 - 12.3 comply with any sign setting out specific rules;
 - 12.4 tie up a vessel only for the purpose of loading and/or unloading the vessel and remove the vessel from the wharf, berth, jetty or ramp immediately following the completion of loading and/or unloading of the vessel;
 - 12.5 in the event that the loading and/or unloading of the vessel is not completed within a total period of 30 minutes, or such other period as approved by the Maritime Manager, remove the vessel from the wharf, berth, jetty or ramp and wait for another turn to tie up the vessel to complete the loading/unloading;
 - 12.6 have sole responsibility to determine the suitability of the wharf, berth, jetty or ramp to accommodate the vessel;
 - 12.7 display clearly on the vessel, the name of the vessel.
 - 12.8 in relation to any vessel seal all waste water discharge seacocks with the exception of bilge, refrigeration and engine cooling system discharge points and shall permit officers of Northland Regional Council, FNHL and their agents to board the vessel at any time to inspect the vessel and/or to check any discharges.
- 13 No person shall:
- 13.1 leave a vessel unattended at any time whilst the vessel is tied up;
 - 13.2 act, or operate a vessel, so as to create a danger, obstruction or inconvenience to others;
 - 13.3 bathe in the waters surrounding the wharf, berth, jetty, ramp or landing step or place for landing passengers;
 - 13.4 without the written approval of the Maritime Manager, swim, or dive with underwater breathing apparatus or snorkel equipment, within a distance of 60 metres from the property of FNHL;
 - 13.5 fish from any part of the property of FNHL which has been designated as a no fishing area;

- 13.6 cause a nuisance on the property of FNHL;
- 13.7 enter into any building on the property of FNHL unless he or she has legitimate business there;
- 13.8 climb on or about, or in any way interfere with the property of FNHL;
- 13.9 solicit for business from any part of the property of FNHL with out the written permission of the Maritime Manager;
- 13.10 display any sign on the property of FNHL without prior written approval of FNHL;
- 13.11 cause an obstruction of, on, or to the property of FNHL;
 - 13.11.1 allow any effluent, rubbish or other pollutant to be placed on or near the property of FNHL or allow any such pollutants to enter the waters surrounding the property of FNHL, and shall take immediate steps to rectify the situation and notify the relevant Local Authority should this occur;
 - 13.11.2 damage any part of the property of FNHL or property of any other person, and any person doing so shall be responsible for the damage caused;
 - 13.11.3 carry out any repair work to any vessel at or on the property of FNHL ,unless granted permission to do so by the Maritime Manager;
 - 13.11.4 leave any goods on the property of FNHL. FNHL does not accept any responsibility for any loss or damage to such goods.
- 14 FNHL shall be entitled, without prejudice to any other remedies available to it:
 - 14.1 to remove any sign placed on the property of FNHL without its written approval, and the owner or person in charge of the sign will be liable to pay all costs associated with the removal;
 - 14.2 to determine in its sole discretion whether there is, or is likely to be, an obstruction of, on, or to the property of FNHL, and to remove that obstruction. The person who caused the obstruction will be liable to pay all costs associated with the removal.
- 15 Every person using the property of FNHL:
 - 15.1 does so at that person's own risk. FNHL does not accept any responsibility or liability for loss or damage to property or person whatsoever the circumstances of such loss or damage and howsoever caused and any person on or using the property of FNHL agrees to indemnify FNHL against any liability which FNHL may incur by reason of any action or inaction of that person or that person's use of property;
 - 15.2 shall comply with all statutory obligations as may apply to that person and the property of FNHL and any vessel being used by, or for which that person is responsible;

- 15.3 comply with all bye-laws applicable to the property of FNHL.
- 15.4 shall satisfy that person that the property being used is fit for the purpose for which it is to be used.
- 15.5 Shall take all practical steps to ensure there is no danger either to himself or any other person through use of the property.

Failure to comply with the Rules

- 16 Where any person fails to comply with the Rules he/she shall:
 - 16.1 leave the property of FNHL immediately he or she is requested to do so by the Maritime Manager. If that person does not do so then he/she commits a trespass under the Trespass Act 1980;
 - 16.2 remove any vessel for which that person is responsible from the property of FNHL immediately he/she is requested to do so by the Maritime Manager.
- 17 If any person or vessel fails to comply with the Rules, or the Maritime Manager deems it necessary for safety reasons, FNHL shall have the power and entitlement to:
 - 17.1 remove any vessel from the property of FNHL and to tow and moor the vessel at any other wharf, berth, anchorage or mooring, or place the vessel on hardstand, as the Maritime Manager may decide in his sole discretion, at the sole risk of the vessel and its owner/operator. The owner/operator of the vessel will be responsible for all costs including, but not limited to, towage, mooring and upkeep of the vessel;
 - 17.2 enter on or into the vessel by breaking-in if necessary for the purposes of moving the vessel as referred to in paragraph 17.1 above or if it becomes necessary to do so, to secure the vessel to prevent loss or damage to any other vessel or property;
 - 17.3 in its sole discretion, place and maintain on any vessel moved by it, a custodian or custodians, as necessary and to recover the costs thereof from the owner/operator of the vessel;
 - 17.4 exercise a right to a lien on the vessel in respect of any outstanding financial obligations owed to it by the owner/operator of the vessel including the fee, costs associated with the removal of the vessel, towage, storage, upkeep and placing a custodian or custodians on the vessel. The right to a lien applies whether the vessel remains at the wharf, berth or jetty or whether it is moved to an alternative wharf, berth, jetty, mooring, anchorage or

placed on hardstand and the vessel shall be deemed to be and to remain in the possession of FNHL for the purpose of exercising the lien;

- 17.5 should the owner/operator fail or neglect to pay any outstanding fee, or charges and/or costs incurred, FNHL may at any time offer the vessel for sale and take sufficient of the proceeds of any sale in payment of any outstanding fee, charges and/or costs including the costs of the sale and deliver the balance of the proceeds to the owner/operator if that person can be found.

Recovery against person or vessel

- 18 In addition to other remedies available to it, FNHL shall be entitled to recover the fee and/or any charges or costs incurred in relation to the vessel as referred to in clauses 17 to 17.5 of the Rules by:

18.1 proceedings against the appropriate person in the District Court or Disputes Tribunal;

18.2 a claim against the vessel under the Admiralty Act 1973 in the District Court or High Court.

General

- 19 FNHL, Far North Regional Council and/or their agents have the power and entitlement:
- 19.1 to board and inspect a vessel at any time for any reason and if necessary to break in to a vessel for this purpose;
- 19.2 to board a vessel and to seal all waste water discharge sea cocks on a vessel;
- 19.3 to board a vessel and to place a dye marker capsule in any toilet or onboard containment system on a vessel and have access to all parts of a vessel to check that the dye marker is in place.
- 20 FNHL shall have the power and entitlement to:
- 20.1 deny access to and use of the property of FNHL to a person who or vessel which has breached these Rules;
- 20.2 change the level of a fee and/or the basis for charging a fee as and when it considers appropriate;
- 20.3 amend these Rules as and when it considers appropriate.
- 21 The use of a wharf, berth, jetty or ramp is subject to availability and FNHL does not guarantee the availability of any particular wharf, berth, jetty or ramp.
- 22 Subject to these Rules members of the public are permitted access to the property of FNHL providing they comply with the Rules. Whilst such access is being exercised the property of

FNHL will be deemed to be a public place and the provisions of the Summary Offences Act 1981 shall apply.

The Maritime Manager shall have:

- 22.1 control of all activities on and use of the property of FNHL and the administration and enforcement of the Rules;
 - 22.2 power at any time or times to close the property of FNHL or any part thereof for any purpose as the Maritime Manager may decide at his sole discretion;
 - 22.3 power to allocate areas upon wharves which are available for specific berthage. Areas so allocated are not available either to the general public or to persons who have been allocated other space on the particular wharf.
- 23 When a closure has been made pursuant to Rule 22.2 no person, without the consent of the Maritime Manager, shall enter upon the property which has been closed.