

# NELSON CITY COUNCIL



BYLAW NO 195

RECREATIONAL MARINA

BYLAWS – 1994



## **WELCOME TO NELSON'S**

## **RECREATIONAL MARINA**

These bylaws are designed to ensure the safety and security of the Marina and the rights and responsibilities of berth holders and the Nelson City Council. You are obliged to comply with the requirements of this bylaw and to accept the terms of your Marina licence as they apply to you and your boat, as long as it is moored within the Marina.

It is hoped that your use of the Marina will foster the enjoyment of your recreational boating, for Nelson is a City that is known for its recreational facilities and opportunities.

- Note:**
- (i) The Liveaboard and Visitor Rules and the Fees and Charges attached as pages 11 & 12 do not form part of the bylaw but arise from the exercise of powers within the bylaw and are attached for information.
  - (ii) These bylaws have been updated to include all amendments adopted by the Council to April 2003.

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THE NELSON CITY COUNCIL in pursuance of the powers vested in it by the Local Government Act 1974 and the Harbours Act 1950 and all other Acts and powers enabling it in that behalf, hereby makes by Special Order the following bylaw:

1. The title of this bylaw is the 'Nelson City Recreational Marina Bylaw 1994'.
2. This bylaw shall come into force on the 29th day of July 1994.

### **3 Interpretation**

In this Bylaw, unless the context otherwise requires

**'Boat'** means every description of vessel used in navigation not being a ship.

**'Boat Storage Park'** means the fenced storage area in Akersten Street identified on the Map.

**'Careening Grid'** means the configuration of piles identified on the Map.

**'Council'** means the Nelson City Council.

**'Map'** means the map attached and forming part of this bylaw.

**'Mooring'** includes anchorage, mooring site, marina berth, pile and any other structure provided or erected in connection with the mooring of a vessel within the Recreational Boat Harbour.

**'Marina'** means the partially enclosed area of water shaded on the Map.

**'Marina Parking Area'** means the portions of land laid out for parking and identified on the Map as 'parking area'.

**'Marina Supervisor'** means the person appointed by the Council as Marina Supervisor for the Marina or any other person who may be appointed by the Council to act for and on behalf of the Marina Supervisor.

**'Ship'** includes every description of vessel, whether used in navigation, or in any way kept or used as a hulk or storeship, or for any other purpose, and not propelled exclusively by oars.

**'Vessel'** means a Ship, Boat, Hovercraft or any other description of vessel used or designed to be used in navigation.

### **4. Control of Marina**

All persons in, on or using the Marina (including the tenants of the boat sheds therein) and every vessel in the Marina shall be under the control of and shall obey the orders and directions of the Marina Supervisor.

### **5. Rights to Occupy**

- a) No person shall use or occupy a mooring in the Marina without first obtaining from the Council a licence permitting that person to use or occupy a mooring.

- b) No person shall use or occupy a mooring except with the vessel specified in the licence.
- c) No person shall transfer, sublet or otherwise dispose of their interest in a licence or any interest they may have in a mooring except to the Council.

#### **6. Application for a Licence**

- a) Applications for a licence to use or occupy a mooring or any part of a mooring shall be made in writing in a form prescribed from time to time by the Council.
- b) Every licence to use and occupy a mooring or any part of a mooring may include such terms and conditions as the Council sees fit.
- c) Every holder of a licence issued pursuant to this bylaw shall notify in writing the Marina Supervisor of any change in his address or telephone number. Every person holding a licence issued pursuant to this bylaw who wishes to substitute a different vessel for that specified in the licence shall first obtain the approval of the Marina so to do. The Marina supervisor may in his discretion accept or refuse such substitution.
- d)
  - i) No licence shall be issued pursuant to this bylaw except to a person or persons who is or are the owner or owners of at least a one-third share of the vessel in respect of which the application for a licence is made.
  - ii) The Council may before issuing any licence require the completion of a statutory declaration or such other evidence to satisfy itself as to the ownership of the vessel in respect of which the application is made.

#### **7. Duration of and Renewal of Licence**

- a) All licences issued pursuant to this bylaw shall expire on the 30th day of June next following the issue of the licence.
- b) Notwithstanding subclause (a) above a licence may be issued on a daily basis.
- c) Every licence issued pursuant to this bylaw may be renewed by the Council on completion of such application for renewal form as shall be prescribed from time to time by the Council. On the renewal of a licence the Council may in its discretion alter or vary the terms and conditions of the licence.

#### **8. Compliance with Bylaw**

Every person to whom a licence is issued shall comply with the provisions of this Bylaw and the terms and conditions of the licence.

#### **9. Failure to Occupy Mooring**

Should the holder of a licence fail to use or occupy the mooring which is the subject of the licence for a period of 6 months or more during the term of the licence without the approval of the Marina Supervisor the Council may revoke the licence.

## **10. Subletting of Mooring**

- a) In the event of a mooring not being required by the holder of a licence and the holder not wishing to surrender the licence the holder shall notify the Marina Supervisor of that fact and the Council shall be at liberty to permit the use or occupation of the mooring by such other person or persons as it shall determine and on such terms and conditions as it shall determine.
- b) Any person who is authorised to use or occupy a mooring pursuant to subclause (a) shall pay the Council such fees as are prescribed from time to time by the Council.
- c) One-half of any fees received by the Council pursuant to subclause (b) hereof shall be paid or credited to the holder of the licence.

## **11. Revocation of Licence**

In the event of a breach by the holder of a licence of any of the provisions of this bylaw or the terms and conditions of a licence issued pursuant to this bylaw the Council may revoke the licence. Before revoking a licence the Council shall give written notice to the holder of the licence of its intention to consider revoking the licence and shall give the holder of the licence an opportunity within 21 days of the issue of the notice to show cause why the licence should not be revoked. The Council shall serve such notice upon the licence holder either personally or by being left at or sent by registered post to the last known place of residence or business of the licence holder. In the event of the Council revoking a licence pursuant to this clause it shall give notice of that fact in similar manner to the licence holder and may within one month of the date of such notice remove any vessel which remains in use or occupation of the mooring which is the subject of the licence. No person shall be entitled to be paid or claim any compensation or damages of any form in respect of the revocation of a licence and any action taken by the Council as a result of such revocation.

## **12. Licence fees**

- a) On the issue of a licence or the renewal of a licence the person to whom the licence is issued or renewed shall pay in advance, to the Council, such licence fees as are prescribed from time to time by the Council.
- b) The Council may prescribe from time to time fees for the issue of licences or renewal of licences and such fees may be prescribed on an annual basis and/or on a daily basis and may be prescribed in respect of the whole or a part of a mooring.
- c) Any person who is issued a licence during the currency of any year from 1 July to 30 June next following and who has not held a licence for the preceding year or any part thereof shall be charged only such proportionate part of the prescribed fees as the portion of the year then unexpired at the date such licence is issued or renewed shall bear to the whole year.

- d) Where any fees fixed on an annual basis are not paid within two months of due date the person responsible for payment of such fees shall be charged and shall pay fees calculated on a daily basis throughout the duration of the licence.
- e) If during the currency of the licensing year the person responsible for payment of licence fees makes application for payment on an annual basis the full rate of the fees on an annual basis shall be paid without any deduction for any fees already made.
- f) A person paying licence fees on a daily basis may apply for payment of fees on an annual basis but any payments made on the daily basis up until the time of such application shall not be credited towards the annual fee which is payable.

### **13 Surrender of Licence**

- i) The holder of a licence may on giving written notice to the Marina Supervisor surrender any licence issued pursuant to this bylaw and where licence fees in respect of that licence have been paid on an annual basis and provided one months notice of surrender is given the holder of the licence shall be entitled to receive from the Council a refund of the unexpired portion of the licence fee.
- ii) Where a licence in respect of a vessel has been issued to more than one person, the persons to whom the licence has been issued may by notice in writing to the Marina Supervisor require that the name of any person to whom the licence has been issued be removed from the licence.

### **14. Damage to Mooring**

All damage, excluding normal wear and tear, to a mooring or any part of a mooring shall be made good by the person causing or responsible for such damage. The cost of making good such damage shall be determined by the Council.

### **15. Right of Removal of Vessel**

The Marina Supervisor or any other person authorised by the Council may remove or cause to be removed any vessel occupying any mooring other than a mooring in respect of which there is a subsisting licence issued pursuant to this bylaw authorising that vessel to occupy the mooring. Removal may be to any other part of the Marina or the Nelson Harbour and the Marina Supervisor or such other person may place and maintain on such vessel a custodian. The costs and expenses of removing a vessel and placing and maintaining a custodian shall be payable to the Council by any person who in contravention of this bylaw has caused or permitted the vessel to occupy the mooring and shall be recoverable by the Council as a debt due to the Council in any Court of competent jurisdiction.

### **16. Vacation of Mooring**

- i) The Council may at any time require the holder of a licence to vacate a mooring either on a temporary basis or for the remainder of the term or a

licence and to take up another mooring within the Marina. Any person who is so required shall comply with such requirement.

- ii) In the case of a relocation for the remainder of a term the Council shall ensure that the new mooring is of a size suitable for the vessel.
- iii) The Marina Supervisor may, in the event of an emergency, require any person to remove a vessel from a mooring or himself remove or cause to be removed any vessel from a mooring.
- iv) The Council shall not be liable to pay any compensation in respect of any requirement or removal issued or effected pursuant to this clause.

#### **17. Nuisance**

- i) No person shall on or about a mooring or on or about any vessel occupying a mooring use abusive or improper language or commit any act calculated to or likely to provoke or result in a breach of the peace or do or omit to do anything constituting or likely to constitute a public nuisance.
- ii) The holder of a licence issued pursuant to this bylaw shall ensure that all halyards, lines, ropes, rigging and sheets on the licensee's vessel whilst berthed in the Marina are secured so that they shall not create any excessive noise.

#### **18. Living on Board**

No person shall

- (a) without the permission of the Marina Supervisor live or reside on any vessel when moored in the Marina or sleep in or use as living quarters any sheds or buildings erected in or around the Marina.
- (b) sleep in or use as living quarters any sheds or buildings erected in or around the Marina.

The Council may from time to time, by resolution publicly notify, amend, add to or delete any of the "Live Aboard" or "Visitor" Rules.

The Chief Executive of the Council may waive compliance with any of the rules in those instances where he is satisfied that strict application of the requirement would be unreasonable or cause unnecessary hardship to any person.

#### **19. Swimming**

No person shall bathe or swim in the waters of the Marina except for the purpose of cleaning or maintaining the underwater parts of a vessel.

#### **20. Fishing**

No person shall fish in any part of the Marina in contravention of any direction given by the Marina Supervisor from time to time either generally or as to any particular part or parts of the Marina or as to any particular time or times.

**21. Dogs**

No person shall permit or suffer any dog belonging to him or in his charge to enter or remain in the Marina or land adjacent thereto under the control of the Council unless such dog be led by a chain, strap or other efficient restraint.

**22. Discharge of Pollutants, Litter and Rubbish**

- i) No person shall discharge, cast or dispose of or cause to be discharged, cast or disposed of (directly or indirectly) into the Marina any rubbish or other substance or liquid of an objectionable or offensive nature or which is likely to pollute, detract from or cause deterioration of the waters of the Marina or the waters adjacent thereto.
- ii) No person shall in any part of the Marina:
  - i) break or cause to be broken or throw or abandon, cast or leave, whether broken or not any glass or pottery object, tins, bottles, paper, paper wrappings, plastic bottles, bags or containers, plastic sheet, litter, rubbish, oil or other articles or thing likely to be unsightly or to cause any nuisance or danger to public health or safety;
  - ii) scale, clean or gut any fish or throw cast or leave or deposit any fish, or any portion of a fish or a carcass of any dead animal, or fowl or any vegetable matter likely to cause a nuisance, injury or danger to public health or safety, nor shall any person leave offensive matter in any vessel in the Marina.

**23. Sharing of Mooring**

No person shall tie or raft a vessel to any other vessel moored in the Marina except in such area or areas of the Marina set aside by the Council for that purpose.

**24. Use of Landing Stages**

- a) No person shall use the Marina landing stages for any purpose other than for embarking or disembarking passengers or stores except with the prior approval of the Marina Supervisor and then on such conditions as the Marina Supervisor may impose.
- b) No person shall use any water supply in or around the Marina landing stages other than for domestic or culinary purposes.

**25. Alteration of Mooring**

No person shall alter or modify any structure or thing associated with or forming part of a mooring (excluding fendering and mooring lines) without the permission of the Council.

**25A Use of Boat Ramps**

- a) No person shall use any boat ramp within the Marina Area otherwise than in accordance with any rules which the Council may from time to time, by resolution, establish.
- b) No person shall use any boat ramp for the launching of any trailer boat without having first paid any fees or charges which may be fixed by the Council from time to time in respect of such use, and displaying the appropriate ticket, label, sticker or other proof of such payment in a prominent and easily seen position on the trailer or in or on the towing vehicle”.

**26. Parking of Vehicles and Trailers**

- a) No person shall park any vehicle or boat trailer in the Marina Parking Area without having first paid the charges for so doing as fixed by the Council from time to time.
- b) No person shall park any vehicle or boat trailer in the Marina Parking Area for a period in excess of 72 hours without the permission of the Marina Supervisor and without having first paid the charges for so doing as fixed by the Council from time to time.
- c) “No person shall park any empty boat trailer in the Akersten Street parking area without having first paid the charges for the use of the boat ramp as fixed by the Council pursuant to Clause 25A hereof, and displaying the appropriate ticket or sticker in a prominent and easily seen position on the trailer or in or on the towing vehicle”.
- d) “Any vehicle and/or boat trailer which is parked in any Marina parking area in a manner not in conformity with this bylaw, may be removed by or at the request of any officer duly authorised by the Council to any nearby lawful place for vehicle parking or to any Council vehicle park or to any yard in the city occupied by a company engaged to remove such vehicle, as the said officer shall think fit. Such vehicle and/or trailer may be detained in such place until the reasonable costs of the removal and of any subsequent daily storage are paid”.

**27. Careening Grid**

- a) No person shall use or occupy or moor to, tie to or place a vessel on the Careening Grid without first obtaining the permission of the Marina Supervisor so to do and then on such terms and conditions as the Marina Supervisor may impose.

- b) No person shall use the Careening Grid for any purpose other than for inspection and repair of a vessel.
- c) No person shall use or occupy the Careening Grid for a period in excess of two consecutive tides without the permission of the Marina Supervisor.

**28. Shower Facilities**

No person shall use the shower facilities in the Marina Amenities Building without first having obtained a key to those facilities from the Marina Supervisor and paying to the Marina Supervisor such deposit and other charges for such use as fixed by the Council from time to time.

**29. Visiting Vessels**

No person shall use or occupy a mooring in the Marina which has been set aside by the Council for visiting vessels except with the consent of the Marina Supervisor and then only on such terms and conditions and for such duration as specified by the Marina Supervisor. (See also “living on board”).

**30. Boat Storage Park**

No person shall use the Boat Storage Park without first paying the charges for such use as fixed by the Council from time to time.

**31. Safety**

- a) Any person mooring or tying up a vessel in the Marina shall ensure that:
  - i) the vessel is properly and safely secured to whatever it is moored or tied to;
  - ii) all access ways and waterways are kept clear;
  - iii) the vessel is in a good and safe state of repair;
  - iv) in the event of any accidental spillage into the Marina immediate steps are taken to notify the Marina Supervisor where the spillage poses a threat to any other vessel, property or thing, and with advice remedy any damage caused;
  - v) the name of the vessel is clearly displayed on the vessel;
  - iv) there is on the vessel an adequate fire extinguisher or fire fighting appliance.
- b) No person shall bring into or keep in the Marina any motor spirit, petroleum products, fuel oil, liquified petroleum, gas, compressed natural gas, kerosene or goods of a similarly dangerous or similarly flammable character without the permission of the Nelson City Council **PROVIDED THAT** nothing in this subclause shall prevent the keeping on a vessel of small quantities of fuel in safe containers in quantities reasonably required for the vessel's engines or stoves.

- c) No person shall commence or carry out any repairs, alterations or work on or to any vessel in the Marina involving welding or flame cutting operations without complying with the provisions of the General Harbour (Ship, Cargo and Dock Safety) Regulations 1968, or any amendment thereto or any regulation made in substitution therefore.
- d)
  - i) Every person carrying out any repairs, alterations or works on or to any vessel in the Marina shall ensure that such is carried out in a safe and proper manner.
  - ii) If the Marina Supervisor is of the opinion that any repairs, alterations or works are not being carried out in a safe and proper manner he may order that all work cease and every person carrying out such work shall thereupon cease to do so until the Marina Supervisor authorises the continuation of such work.

### **32. Recreational Vessels Only**

No person shall use or permit to be used any mooring to berth a commercial fishing vessel, work vessel or commercial freight carrier.

### **33. Operation of Vessels in Marina**

- i) No person shall operate in the Marina a vessel the engine of which causes excessive noise.
- ii) No person shall cause excessive noise by accelerating or racing the engine of a vessel while the same is stationary.
- iii) No person who is under the age of 15 years shall operate or navigate a vessel within the Marina.
- iv) No person shall operate or navigate a vessel within the Marina at a speed exceeding 5 knots in the main channel or 3 knots elsewhere.
- v) Every person who operates or navigates a vessel within the Marina shall as far as is practicable do so at such a speed that waves caused by the movement of the vessel through the water do not break against the shore or against any structure within the Marina.

### **34. Alcohol**

No person shall consume liquor (as defined in the Sale of Liquor Act 1989 or any Act passed in substitution therefore) within the Marina except on private vessels or premises where the consumption of liquor (as defined) is permitted by law.

### **35. Penalties**

Every person who breaches any of the provisions of this bylaw or who suffers or permits any act or thing to be done in contravention of any of the provisions of this bylaw or who neglects to do so refrains from doing anything required to be done by any of the provisions of this bylaw commits an offence against this bylaw and shall be

liable to a fine not exceeding \$500 and where the offence is a continuing one, then to a further fine not exceeding \$50 for every day or part of the day during which such offence continues.

**36. Repeals**

Clauses 253-281 both inclusive of the Nelson Harbour Board Bylaws are hereby repealed.

**The Recreational Marina Bylaw No. 195 was adopted by the Nelson City Council by Special Order at an Ordinary Meeting of the Nelson City Council held on the 26th day of May 1994, then duly advertised, and confirmed at a full meeting of the Council held on the 28th day of July 1994.**

**THE COMMON SEAL of the            )  
NELSON CITY COUNCIL                )  
was hereto affixed in the            )  
presence of:                            )**

Signed: Len Ardell (Deputy Mayor)  
for Mayor

Signed: I P Barker (Director Corporate Services)  
for Chief Executive

Map

## **LIVING ABOARD RULES**

- i Living on board is by permit only.
- ii The maximum number of 'Live Aboard' berths is three per pontoon.
- iii A list of berth holders waiting to live on board their boats will be maintained in order of application date priority and available for public inspection in the Marina Supervisor's office.

- iv The order of allocation shall be to the highest priority boat on the 'Waiting List' that best fills a berth on the available pier.
- v Only owners and their immediate families are permitted to stay aboard.
- vi Electricity consumption shall be limited to battery chargers and small household appliances such as television and radio. Electric heaters are not permitted.
- vii Piers and finger piers must be kept clear at all times. Laundry, bicycles, and building projects should be kept to a minimum and put away at the end of each day.
- viii Animals (excluding birds) are not permitted on 'Live Aboard' boats.
- ix Shore side toilets and showers are to be used and no material is to be deposited overboard.
- x (a) Any Liveaboard tenant who is away from the marina with their boat for more than 3 months, but who continues to pay a permanent berth fee, shall, on their return to the marina, if they request to go on the Liveaboard waiting list, be placed at the bottom of that list.
- x (b) Any Liveaboard tenant who does not live aboard their boat in the marina for a period longer than 3 months shall lose their Liveaboard status.
- xi Any permanent berth holders staying on board their boat for more than five nights per month will be charged 'Visitor' rates.
- xii 'Live Aboard' tenants shall pay a 'Live Aboard' fee of \$20 plus GST per month over and above their permanent mooring rate. This fee will be subject to regular review.

## **VISITOR RULES**

- i. Visitors to the marina are permitted to stay aboard their boats.
- ii The maximum period of stay for visitors is three months per year.
- ii The "Visitors" rates shall apply. These shall be subject to regular review.