



NUKUHAU BOAT PEN PERMIT

SCHEDULE ONE – PERMIT HOLDER AND BOAT TRAILER REGISTRATION DETAILS	
Full name(s) of Permit Holder:	
Residential Address:	
Postal Address (if different):	
Email Address and phone number:	Email: Phone:
Name of Boat:	
Type/description of Masted Boat:	
Trailer Registration Number:	
SCHEDULE TWO – KEY TERMS	
Term:	
Commencement Date:	
Termination Date:	30 June 2026
Boat Storage Pen number:	
Permit Fee (including GST):	\$1,410.00 (for 11m pen) or \$1,240.00 (for 9m pen) inclusive GST per annum
Permit Fee Payment Date(s):	(licence fee payment dates) (circle appropriate): Monthly: the first of each month during the Term, the first payment being due on 1 December 2024. Quarterly: 1 December 2024, 1 January 2025, and 1 April 2025, 1 July 2025, 1 October 2025, 1 January 2026, and 1 April 2026 Six monthly: 1 January 2025, 1 July 2025, 1 January 2026



	Annually: 1 July 2025
Permitted Use:	Use of the Boat Storage Pen (identified by number in Schedule Two) for the purpose of storing, on or with a mobile trailer, the Boat (described in Schedule One) to facilitate convenient launching of the Boat.
Default Interest Rate:	10% above the New Zealand Official Cash Rate (OCR) from time to time.



BY THIS AGREEMENT made

2024

BETWEEN

TAUPO DISTRICT COUNCIL (the “**Council**”)

AND

THE PERMIT HOLDER NAMED IN SCHEDULE ONE (the “**Permit holder**”)

WHEREAS

- A. Council controls, administers, and manages the recreation reserve land known as the Nukuhau Boat Ramp Area Reserve (“the Reserve”).
- B. Council has constructed Boat Storage Pens (“Pens”) for parking boat trailers with masted boats (yachts) in accordance with the Reserve Management Plan for the Reserve.
- C. Council agrees to permit the use of the Pen identified by number in Schedule Two under Section 53(1)(f) of the Reserves Act 1977 and the Permit holder agrees the terms and conditions of that use as described in this permit.

OPERATIVE PART

1. Term

Council grants the use of the Pen to the Permit Holder for the Term beginning on the Commencement Date and ending on the Termination Date at the Permit Fee and subject to the terms of this permit.

2. Payment of Annual Fee and other monies

2.1 The Permit holder must pay:

- (a) the Permit Fee including all GST payable in advance on the Fee Payment Dates;
- (b) The first payment of the Permit Fee on the Commencement Date;
- (c) All payments of the Permit Fee and other money payable by the Permit holder under this permit to the Council without any deduction or set-off; and
- (d) All Fee payments by direct bank payment or as the Council may direct.

3. Default Interest

3.1 The Permit holder must on demand pay interest at the Default Interest Rate (calculated on a daily basis) on money unpaid from the due date or the date of the Licensor’s demand (as the case may be) down to the date of payment if the Permit holder fails to pay the Permit Fee or any other money payable under this Permit for ten (10) working days after the Fee Payment Date(s).

4. Rights in contract only

4.1 The Permit holder acknowledges that the Permit holder's rights under this Permit are in personam rights only and the granting of this Permit does not create a lease or an interest in land.

5. Use of Pen

- 5.1 The Permit holder may use the Pen only for the Permitted Use and for no other purpose without the prior written consent of the Council.
- 5.2 The Pens are intended to provide convenient storage for yachts close to a ramp to reduce inconvenience caused by the need to erect and remove masts. Pens are not suitable for long term storage of boats that are not being used. Council may monitor the use of Pens and may require the Permit holder to provide evidence that the Boat is being reasonably regularly used.

6. General obligations of Permit holder

- 6.1 The Permit holder shall:
- (a) during the term keep the Pen (including its fences and gates) in good, clean, serviceable, substantial and tenable repair, order and condition (depreciation from fair, wear and tear and damage by fire and inevitable accident without neglect of the Permit holder always and alone excepted) and will at the expiration or sooner determination of the Term quietly yield up to Council the Pen in the same like good, clean, serviceable, substantial and tenable repair, order and condition except as aforesaid;
 - (b) not make any improvements, erect any structures, or make any alterations or extensions to the Pen;
 - (c) take all practicable steps to ensure the safety of all persons at or around the Pen;
 - (d) not carry out any work on the Boat or its trailer other than of a minor repair or maintenance nature;
 - (e) not wash any Boat or its trailer except for in the designated boat wash area;
 - (f) ensure that the boat trailer is maintained in a safe condition and has current registration and Warrant of Fitness.
 - (g) only store Boat(s) in the ownership of the Permit holder at the Pen and shall notify Council in writing of the details of any change of the Permit holder's Boat (name and/or type and description) as stored in the Pen; and
 - (h) not use the Pen or allow it to be used for any noisome, noxious, illegal or offensive activity or allow any act or thing to be done which may be or grow to be a nuisance, disturbance or annoyance to the Council or any other person, and generally the Permit holder shall conduct the Permitted Use in a clean, quiet and orderly manner free from damage, nuisance, disturbance or annoyance to any such persons.
 - (i) comply with the Ministry for Primary Industry (MPI)'s "Check, Clean, Dry" cleaning methods to prevent the spread of didymo (*Didymosphenia geminata*) and other freshwater pests when moving between waterways. "Check, Clean, Dry" cleaning methods can be found at - <http://www.biosecurity.govt.nz/cleaning>. The Permit holder must regularly check this website and update their precautions accordingly.

7. Compliance with rules

- 7.1 The Permit holder must comply with the Council's reasonable directions and requirements relating to the control, safe use, security and protection of the Pen and the Reserve.



7.2 The Permit holder must at all times comply with any rules (including any statutes, ordinances, regulations, bylaws and policies), imposed by any Authority which apply to the Reserve and the Permit holder's use of the Pen.

8. **Health and Safety**

8.1 The Permit holder acknowledges that health and safety is a priority of the Council.

8.2 Acknowledging the Council's health and safety priority, the Permit holder:

- (a) Shall provide its employees, contractors and visitors with a healthy and safe working environment; and
- (b) Shall ensure that its employees, contractors and visitors are familiar and comply with the Permit holder's health and safety policies, and any modifications to those policies that may be introduced from time to time; and
- (c) Shall ensure that its employees, contractors and visitors are aware of any hazards and risks represented by the boat, trailer and Permit holder's equipment and the work environment both within the Pen and the Reserve generally.

8.3 The Permit holder shall, so far as is reasonably practicable, consult, co-operate and co-ordinate with the Council in respect of health and safety matters.

8.4 The parties agree that it is imperative that any breach of this clause must be immediately remediated. As such, the parties further agree that a reasonable notice period pursuant to section 246(1)(b) of the Property Law Act 2007 is 24 hours.

9. **Defects**

The Permit holder must immediately bring to the Council's attention any damage, breakage or defect in or to any part of the Pen or Reserve or to the services and systems in the Pen or Reserve, and any circumstances likely to cause damage or injury to property or persons.

10. **Council's Rights of Entry**

10.1 The Council may, with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time without notice in the case of an emergency), enter the Pen to:

- (a) Inspect the condition and state of repair of the Pen; or
- (b) Carry out any works to comply with any statutes, regulations, by-laws, ordinances, orders, proclamations, requirements of or notices by any Authority.

10.2 The Council will take reasonable steps to minimise any disturbance to the Permit holder when exercising the entry rights granted under clause 10.1, however, the Council shall not be liable to pay any compensation for any temporary damage caused or inconvenience to the Permit holder.

11. **Assignment**

11.1 The Permit holder may not transfer, assign, lend, sub-let, or otherwise part with the possession of the Pen or any part thereof.

11.2 Council may assign all or part of its interests in this Permit to any other party for purposes of management or administration.

12. Right to reacquire

The Permit holder acknowledges that Council may in the future require the Pen (as part of the reserve) for community purposes. Council has the right, upon giving to the Permit holder at least three (3) month's prior written notice, to determine this Permit and reacquire the Pen at any time, without any recourse by the Permit holder other than a part refund of the annual Permit fee (if applicable).

13. Permit surrender

In the event the Permit holder, during the term of this Permit, wishes to surrender this Permit, such surrender may be accepted by Council upon one month's notice in writing being given and upon such other conditions as Council may consider appropriate, following which the Permit holder shall receive a part refund of the Permit Fee (if applicable).

14. Responsibility for loss or damage

14.1 Except in the case of Council's wilful misconduct or negligence, Council is not responsible for or liable to the Permit holder for:

(a) any loss or damage caused or sustained in any way to the Pen or the Boat, trailer, equipment, fittings and chattels located in the Pen.

(b) the theft or loss of the Permit holder's Boat, trailer, equipment, fittings or chattels.

14.2 It is the Permit holder's responsibility to provide a suitable padlock to secure the Pen which shall be removed by the Permit holder upon the expiry, termination or surrender of this Permit.

15. Suitability of Permitted Area

15.1 Council does not warrant that the Pen is or will remain suitable or adequate for the Permitted Use. All warranties as to suitability and adequacy implied by law are expressly negated to the full extent permitted by law.

15.2 Council is not responsible for providing any safety measures to protect the Boat or trailer, or any fittings, chattels, or equipment from water damage, fire, explosion, storm, hazard or potential hazard whether coming from inside the Pen or from outside.

16. No fettering of Powers

16.1 The Permit holder acknowledges that nothing in this Permit does or will restrain, limit or otherwise fetter the exercise by the Council of the powers, duties and discretions which the Council has at law.

16.2 Except as otherwise expressly provided, the obligations of the Council under this Permit are obligations of the Council in its capacity as a contracting party. The Council has certain regulatory and statutory functions, responsibilities and obligations in its capacity as a local authority outside of this Permit. The Council shall be deemed not to be acting in the capacity of Council under this Permit when exercising these functions, responsibilities and obligations in good faith.

17. Destruction

If the Pen is destroyed or so damaged that it cannot be used for the Permitted Use, then Council may terminate this Permit by one month's written notice to the Permit holder. Council shall be under no obligation to repair or reinstate the Pen if it is destroyed or so damaged that it cannot be used.

18. **Signage**

The Permit holder must not affix any signage to any part of the Pen without Council's prior written consent (which may be withheld in its absolute discretion, or granted upon such terms and conditions as it may see fit).

19. **Notices**

Any notice, notification or demand given by either party for the purposes of this Permit shall be in writing and shall be sent to the other party at the address from time to time and in writing specified by the other party.

20. **Costs**

The Permit holder must pay to Council on demand all reasonable costs (including legal and valuation costs) and charges which Council may incur or for which Council may become liable relating to this Permit or Council remedying the Permit holder's breach of any term of this Permit or Council's exercise or attempted exercise or enforcement of any power, right, or remedy conferred on Council by this Permit.

21. **Amendment**

Every amendment or renewal of this Permit shall not be valid unless it is in writing and signed by or on behalf of both of the parties.

22. **Waiver**

No waiver by either of the parties of any of the provisions of this Permit shall constitute a waiver of any of the other provisions of this Permit, and no such waiver shall be of a continuing nature unless otherwise expressly provided and each such waiver shall be of no effect unless it is in writing or evidenced in writing signed by or on behalf of the party giving or making the waiver.

23. **Termination**

23.1 If:

- (a) the Permit holder fails to pay the Permit fee or any other money payable under this Permit to Council on the due date for payment, or the date of Council's demand (if there is no due date); or
- (b) the Permit holder fails to perform or observe any of the Permit holder's other obligations under this Permit for a period of 14 days; or
- (c) the Permit holder assigns or attempts to assign or transfer this Permit, or lends, lets, sub-licenses or attempts to lend, let, or sub-license the Pen;

Council may:

- (d) re-enter the Pen (with force, if necessary) and determine this Permit; or
- (e) terminate this Permit by written notice of termination served on the Permit holder;

either immediately or at any later time.



- 23.2 If Council terminates this Permit under clause 23.1, then:
- (a) the Permit holder will be treated as having breached an essential term of this Permit;
 - (b) the Permit holder must compensate Council for Council's losses (if any) which arise as a result of termination following the Permit holder's breach;
 - (c) Council may recover damages for that breach;
 - (d) this Permit and the parties' respective rights and obligations under this Permit will cease from the date of termination, but without prejudice to any rights which have accrued up to the date of termination.

24. **Permit renewal**

- 24.1 The Permit holder acknowledges that there is no right of renewal contained within this permit, and no continued right of occupation of the Pen beyond the Termination date.
- 24.2 If the Permit holder wishes to renew the permit for a further term, the Permit holder must submit a written application for a new permit at least three (3) calendar months prior to the Termination Date.
- 24.3 In considering whether to grant a new permit, Council will take into account any breaches of the permit and any evidence collected under Clause 5.2 of this permit.
- 24.4 The Permit holder acknowledges that Council has the sole right to determine the method of allocation of Pens and the method of determination of Permit fees.

25. **Removal of Property**

- 25.1 Unless the Permit Holder has been granted a renewal for a further term, the Permit holder must remove all of the Permit holder's Property, and repair any damage caused by that removal, before the Termination Date.
- 25.2 If the Council terminates this Permit under clause 23, the Permit holder must remove the Permit holder's Property, and repair any damage caused by that removal, within five (5) working days of the termination.
- 25.3 If the Permit holder fails to comply with either clause 25.1 or 25.2, the Council may remove the Permit holder's Property and repair any damage caused by that removal. In that case, the Permit holder must pay to the Council on demand all costs incurred by the Council in doing so.
- 25.4 If the Permit holder fails to comply with a demand under clause 25.3, then the Council may sell those items of the Permit holder's Property removed by the Council in any manner the Council sees fit to defray the Licensor's costs of removal and apply the balance (if any) towards meeting the Licensor's claims against the Permit holder.
- 25.5 Alternatively, the Council may choose not to remove the Permit holder's Property, and instead may require the Permit holder by written notice to remove the Permit holder's Property and repair any damage caused by that removal within five (5) working days of the date of service of that notice.
- 25.6 If the Permit holder fails to comply with a notice under clause 25.5, then the Permit holder's Property will (at the Licensor's election) become the Licensor's property on the expiry of ten (10) working days from the date of service of the notice on the Permit holder. The Council will not have to pay compensation for the Permit holder's Property to the Permit holder.

26. Indemnity

The Permit holder shall indemnify and keep indemnified Council against all actions, claims, proceedings, losses, damage, costs and other liabilities of any nature whatsoever, direct or indirect, arising in respect of any act or omission on the part of the Permit holder arising from a breach of this Permit or relating to the use of the Pen.

27. Disputes

27.1 If the parties are unable to resolve a dispute by negotiation within a reasonable time either party may require the dispute to be escalated for resolution by their respective Chief Executives or equivalent officers.

27.2 Notwithstanding the existence of a dispute and the operation of this clause 30, each party must continue to perform its obligations under this Permit pending resolution of the dispute. Nothing in this Permit affects the right of a party to institute court proceedings seeking urgent injunctive relief.

28. Entire Agreement

This Permit constitutes the whole of the arrangement between the parties and all previous correspondence, negotiations, explanations and statements leading to the creation of this Permit shall not form part of this Permit.

29. Interpretation

29.1 In this Permit unless the context indicates otherwise:

- (a) Expressions defined in the main body of this Permit have the defined meaning in the whole of this Permit including the background and the schedule;
- (b) Section, clause and other headings are for ease of reference only and do not form any part of the context or affect this Permit's interpretation;
- (c) Where two or more persons are bound by a provision in this Permit, that provision will bind those persons jointly and each of them severally;
- (d) Any obligation not to do anything includes an obligation not to suffer, permit or cause that thing to be done;
- (e) References to parties are references to parties to this Permit and include each party's executors, administrators and successors;
- (f) References to persons include references to individuals, companies, partnerships, associations, trusts, government departments and local authorities in each case whether or not having separate legal personality;
- (g) Singular words include the plural and vice versa;
- (h) References to sections and clauses are references to sections and clauses of this Permit; and
- (i) References to a statute include references to regulations, orders, rules or notices made under that statute and references to a statute or regulation include references to all amendments to that statute or regulation whether by subsequent statute or otherwise.

29.2 Definitions in this permit unless the context indicates otherwise:



- i. Authority means and includes every governmental, local, territorial and statutory authority having jurisdiction or authority over the Pen or Reserve;
 - ii. Commencement Date shall have the meaning set out in Schedule Two;
 - iii. Default Interest Rate shall have the meaning set out in the schedule;
 - iv. GST means tax levied under the Goods and Services Tax Act 1985 and includes any tax levied in substitution for that tax;
 - v. Permitted Use shall have the meaning set out in the schedule;
 - vi. Permit Fee shall have the meaning set out in the schedule;
 - vii. Permit Fee Payment Date(s) shall have the meaning set out in the schedule;
 - viii. Permit holder includes the Permit holder's agents, employees, contractors and invitees;
 - ix. Permit holder's Property means the Boat, trailer and all equipment stored by the Permit holder in the Pen;
 - x. Council includes the Council's successors and permitted assigns, and the Council's agents, employees, and contractors;
 - xi. Term shall have the meaning set out in the schedule;
 - xii. Termination Date shall have the meaning set out in the schedule; and
 - xiii. Working day has the same meaning as in section 4 of the Property Law Act 2007;
- 29.3 The schedule and its contents and the appendices have the same effect as if set out in the body of this Permit.

