

# Items for Consideration of the Trust

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## Items for Consideration of the Trust

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# Reports from Executive

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- 1. ORIGIN:           Executive Manager**  
**FILE REF:       GC3/8/2**

**REPORT TITLE:**

**Long Term Casual Occupation Agreements**

**SUMMARY OF REPORT:**

This report advises of new legislation governing holiday vans and recommends adoption of new occupancy documents detailed in this report by the Tweed Coast Holiday Parks Reserve Trust.

**RECOMMENDATION:**

That the :-

1. Tweed Coast Holiday Parks Reserve Trust adopts, from 1 July 2003, the following documents as presented in this report, for use with all Long Term Casual occupants:-
  - a. Occupation Agreement
  - b. Disclosure Document by Park Owner
  - c. Park Rules
  - d. Schedule One
  - e. Schedule Two
2. Tweed Coast Holiday Parks Reserve Trust sets the fee, from 1 July 2003, for preparation and execution of Long Term Casual Agreements to be \$55.00 inclusive of GST.
3. Executive Manager of the Tweed Coast Holiday Parks Reserve Trust be authorised to execute all such documentation on behalf of the Trust.

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### REPORT:

On 28 February 2003 the Holiday Vans (Long Term Casual Occupancy) Act 2002 took effect. This Act serves to detail the rights and responsibilities of both park owners and long term casuals, otherwise known as holiday vans.

The Act mandates the use of a number of documents, being:-

- a. Occupation Agreement
- b. Disclosure Document by Park Owner
- c. Park Rules
- d. Schedule One
- e. Schedule Two

and, from 1 July 2003, supersedes the Trusts Holiday Van Licence Agreement. Copies of each of the documents detailed above are attached to this report.

In developing the attached documents the Executive Manager has worked closely with the Caravan and Camping Industry Association so as to ensure utmost accuracy, consistency with other (local) caravan parks, and coverage by the Associations legal office in the event of challenge.

Trustee's will note that the new documents package comprises 5 individual forms totalling some 26 pages per set and that each occupancy requires an Occupants set and a Park Owners set; i.e. 52 pages. The superseded Holiday Van Licence Agreement, which the Trust introduced 5 years ago and has successfully used since, is comprised in 1 document of 8 pages.

It follows that the vastly increased complexity and administrative requirements associated with producing and executing these documents necessitates an increase in the agreement preparation fee. In this respect costings have been made and a fee in the amount of \$55.00 per occupation is recommended.

The Executive Manager recommends adoption of the whole documents package and the proposed fee.

# Reports from Executive

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## OCCUPATION AGREEMENT

**Holiday Parks  
(Long-term Casual Occupation) Act 2002**



# Reports from Executive

## OCCUPATION AGREEMENT HOLIDAY PARKS (LONG-TERM CASUAL OCCUPATION) ACT 2002

Part 1 – Introduction

1. **Date of this 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]

2. **Who is making this agreement?**

This agreement is made between:

(a) the park owner,

\_\_\_\_\_

[fill in the name and address of the park owner],

and

(b) the occupant or each of the occupants,

\_\_\_\_\_

\_\_\_\_\_

[fill in the name and residential address of the occupant or occupants]  
[If there is more than one occupant supply residential address of each]

3. **Where is the site?**

(1) This park owner gives the occupant the right to occupy site number \_\_\_\_\_ [fill in the site number]

at

\_\_\_\_\_ [fill in the name and address of the holiday park]

and the following parking space and storeroom

\_\_\_\_\_ [fill in details of any parking space or storeroom]

(2) The size of the site is \_\_\_\_\_

[fill in the dimensions of the site or its area in square metres]

4. **Who can occupy the site?**

No more than \_\_\_\_\_ [fill in number] persons may ordinarily occupy the site at any one time.

5. **How long does this agreement last?**

The fixed term of this agreement is for \_\_\_\_\_ [fill in the length of time that this agreement is for]

beginning on \_\_\_\_\_ [fill in start date] and ending on \_\_\_\_\_ [fill in end date]

6. **What happens when this agreement ends?**

When the time for this agreement ends (that is when the fixed term ends):

- (a) ~~the occupant can stay on the site at the same occupation fee unless the park owner has given the occupant at least 30 days notice in writing of the increased occupation fee and otherwise under the same terms unless or until this agreement is ended in accordance with this agreement.~~
- (b) ~~If the park owner wants to increase the occupation fee at any other time after the fixed term ends, the park owner must give the occupant at least 30 days notice in writing.~~  
[fill in what else is agreed will happen when the time for this agreement ends].
- (c) there is no provision for its continuation. [See clause 40, which provides that the park owner may give notice of termination.]

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

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

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## Part 2 – Occupation fees and charges

### 8. Amount of occupation fees

The occupation fees payable are set out in Schedule 1 and are payable every week, fortnight, month or quarter starting on the day set out in Schedule 1. (Cross out whichever is not applicable.)

### 9. Amount of other charges (such as water, electricity or gas charges)

The occupant agrees to pay, in connection with the site:

- 1) for electricity, water or gas, but only if a meter is installed that measures the consumption by the occupant. Every week/month/quarter and at the termination of the occupancy agreement.  
(Cross out whichever is not applicable.)  
[Note: Electricity is charged on the basis of consumption at the same rate as domestic customers of the local energy supplier including access and availability charges. The frequency that meters are read is set out in Schedule 1 and at the termination of the occupation agreement].
- 2) for the of occupancy of the site by more than two people at the rate detailed in Schedule 1;
- 3) for children and adults who are overnight-visitors as set out in Schedule 1.
- 4) for children and adults who are day-guests who do not stay overnight as set out in Schedule 1.
- 5) for vehicles including trailers in excess of one at the rate set out in Schedule 1.  
[Note: a car and a trailer or a car and a boat are considered to be two vehicle's for the purposes of this agreement].
- 6) for, if provided, pay television, telephone, internet and other communication services as set out in Schedule 1.
- 7) for extra occupation fees during school holidays or other periods as set out in Schedule 1.
- 8) for daily storage fees for continued occupation of the site by the occupant's dwelling after this agreement has been terminated, as are set out in Schedule 1.
- 9) for work done by the park owner at the request of the occupant at the rate set out in Schedule 1.
- 10) for any excess garbage or sanitary charges incurred for the removal of excess garbage, or other material made necessary by the occupant at the rate detailed in Schedule 1.
- 11) for any pan tax or similar charge imposed by the local Council or relevant supply authority with respect to the site.
- 12) for interest on overdue payments as set out in Clause 55
- 13) for security deposits for any item of equipment, for the supply of energy, for the supply of water, for the supply of telecommunications, for any cards, keys, or other access devices for boom gates, amenities etc as detailed in Schedule 1.
- 14) cost of preparing the occupation agreement as set out in Schedule 1.

### 10. 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) water charges, electricity charges and gas charges.

### 11. Occupation fees are payable in advance and on time

- (1) The occupant agrees to pay the occupation fees in advance.
- (2) The occupant agrees to pay the occupation fees on time.

### 12. How to pay occupation fees

The occupation fees may be paid in the ways set out in Schedule 1. These methods of paying may be changed during the term of this agreement if both the park owner and the occupant agree.

### 13. Manner of paying occupation fees

Occupation fees must be paid in the manner set out in Schedule 1

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**14. Receipts for occupation fees or other charges**

- (1) 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 only to make the receipt available for collection by the occupant or to post it to the occupant.
- (2) The park owner agrees that any receipt for occupation fees or charges must include the following particulars:
  - (a) the name and address of the holiday park, and the number of the site,
  - (b) the period for which the fees or charges are paid,
  - (c) the date on which the fees or charges are received,
  - (d) the amount of fees or charges paid.
- (3) 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.

**15. Fee increases**

- (1) The park owner cannot increase the occupation fees during the fixed term of this agreement unless the Consumer Price Index (Sydney All Groups) or any statutory charge, like rates or land tax, increases by at least 5%.
- (2) 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 subclause (1). 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.

**16. 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.

**Part 3 – Rights and obligations**

**Division 1 Obligations of the occupant**

**17. Offensive behaviour**

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.

**18. 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.

**19. Cleanliness of and damage to the site**

The occupant agrees:

- (a) to keep the site reasonably clean, and
- (b) to notify the park owner as soon as practicable of any damage to the site, and
- (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.

**20. 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.



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- 21. 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).
- 22. Keys and opening devices**  
The occupant agrees to return any key or other opening device provided to the occupant, when this agreement is terminated.
- 23. 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.
- 24. Agreement not to transfer without consent**  
(1) 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.  
(2) The occupant agrees that the park owner may require a new occupation agreement to be entered into.
- 25. Moveable dwellings must comply with law**  
The occupant agrees to make sure that the moveable dwelling complies with any regulations under the *Local Government Act 1993* with which it is required to comply.
- 26. 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.

### Division 2 Obligations of the park owner

- 27. 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 residence for the term of this agreement.
- 28. 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.
- 29. 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.
- 30. Tradespeople allowed to come in**  
The park owner and occupant agree that any trades people that the occupant reasonably requests should be allowed into the holiday park will be allowed in without unreasonable interference.
- 31. Permitting family members of occupant and others to temporarily occupy a site**  
(1) 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.  
(2) 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.

### Part 4 – Agreement to minimise loss

- 32. 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 someone else come onto the site?

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

The park owner 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 caretaking of the site, such as by mowing the lawn,
- (f) to carry out functions required under any legislation,
- (g) if the occupant agrees,
- (h) in the circumstances set out in Schedule 1.

### Part 6 – Obligations of the park owner relating to park rules for casual occupants

#### 34. 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.

#### 35. 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.

### Part 7 – Ending this agreement

#### Division 1 When can this agreement be ended?

#### 36. 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?

#### 37. Termination by occupant on breach of agreement

- (1) 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.
- (2) 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.
- (3) 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.

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

- (1) The park owner and the occupant agree that the occupant may give notice of termination of this agreement without having to give any reason.
- (2) 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.
- (3) 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?**

**39. Termination on breach of agreement**

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.

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

- (1) 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.
- (2) 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.
- (3) 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**

**41. 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.

**42. How notices are properly given**

- (1) The park owner and the occupant agree that a notice of termination given to the occupant may be:
  - (a) posted to the occupant's site and to the occupant's principal place of residence, or
  - (b) given to the occupant personally, or
  - (c) given to a person aged over 16 who normally pays the occupation fees, or
  - (d) given to a person aged over 16 who occupies the site to pass on to the occupant.
- (2) The park owner and the occupant agree that a notice of termination given to a park owner may be:
  - (a) posted to the park owner's residence, or
  - (b) given to the park owner or to the park manager personally, or
  - (c) posted or faxed to the park owner's, or park manager's, place of business, or
  - (d) given to a person aged over 16 who normally collects the occupation fees.

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### Division 5 Miscellaneous

**43. 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.

**44. 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.

**SEE NEXT PAGE FOR ADDITIONAL TERMS**

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### ADDITIONAL TERMS

**45. Occupation of the Site**

The occupant agrees:

- 45.1. during the course of a year, not to use the site for more than the number of nights set out in Schedule 1.
- 45.2. not to use the site for any continuous period greater than the number of nights set out in Schedule 1 except with the prior permission of the park owner.
- 45.3. if the site is occupied for a period greater than the number of nights permitted under this clause to pay the occupation fee set out in Schedule 1.

**46. Not to carry on business**

The occupant agrees not to carry on or conduct a business or any commercial enterprise on site or the holiday park.

**47. Installation and Use of Moveable Dwelling Unit**

The occupant agrees:

- 47.1. to install any moveable dwelling and any additions to the site in the location and in the manner and to the standards as directed by the park owner.
- 47.2. not to install any moveable dwelling or associated structure on the site except the moveable dwelling and additions shown in Schedule 2 attached to this agreement.
- 47.3. that the moveable dwelling and the additions in Schedule 2 attached to this agreement will be completed and the installation completed on the site before the occupant occupies the dwelling.
- 47.4. not to bring any other moveable dwelling or associated structure onto the holiday park unless the park owner agrees in writing first.
- 47.5. to leave enough space for parking (at least 18sq.m) unoccupied by the dwelling unit, any annexe or any other roofed area on the site.
- 47.6. that the park owner is not required to provide more than one parking space on the site.
- 47.7. that the size of the dwelling unit, the annexe or roofed structure may not occupy more than the area set out in Schedule 2.
- 47.8. that no part of the dwelling unit, any annexe or roofed structure may be closer than 2.5 metres to any other dwelling, annexe or structure, or such greater distances required between dwellings by the park owner which are set out in Schedule 2.
- 47.9. not to use, or permit the site to be used as a principal place of residence.

**48. Payment of statutory or other charges**

- 48.1. The occupant agrees to pay any fee required by the local council, any government or statutory authority or service provider for occupying or installing the moveable dwelling, or any addition, alteration or extension of it.
- 48.2. ~~Subject to clause 9-1), the occupant agrees to pay for any electricity, water or gas consumed by the occupant with the next payment of occupation fees after the calculation of the amount owed by the occupant which will be undertaken approximately every 90 days.~~
- 48.3. The occupant agrees to pay for any charges incurred pursuant to clause 9 on or before the day that the next occupation fee is due after the charges have been incurred.

**49. Maintenance of Moveable Dwelling and Associated Structures**

The occupant agrees to maintain the moveable dwelling and any additions, alterations or extensions in a condition satisfactory to the park owner, having regard to their condition at the time they were installed on the site.

**50. Alterations, additions and extensions to moveable dwellings and associated structures**

The occupant agrees not to build, alter, add to or extend any structure, including without limitation, a carport, deck, veranda, screen, pergola, clothes line, shed, driveway, fence, pathway, paving or retaining wall, garden without first getting the written permission of the park owner.

**51. Damage**

- 51.1. The occupant agrees to be responsible for any damage caused by installing, removing, modifying or repairing the moveable dwelling or as a result of any addition, alteration or addition.
- 51.2. The occupant agrees to be responsible for any damage caused by the occupant, including without limitation, the occupant's guests or visitors, to any boom gate or any other equipment or facility installed in the holiday park.

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**52. Costs of Upgrading to comply with Council requirements**

The occupant agrees:

- 52.1. to comply with a direction to rectify any non compliance with the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995 (or any replacement of them) or requirement of the local Council.
- 52.2. to be responsible for the payment of costs of rectifying any non compliance including, without limitation, upgrading the moveable dwelling and any associated structure or otherwise complying with requirements of the local Council or the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995 (or any replacement of them).

**53. Selling the Dwelling Unit**

The occupant agrees to notify the park owner of the intention to sell the dwelling unit.

**54. Boom Gate Keys**

The park owner agrees:

- 54.1 to give a key or other opening device or information required to operate the boom gate (if the occupant asks for a key or other opening device or information to operate the boom gate) for a registered vehicle owned by the occupant provided that the occupant gives such details of the vehicle that the park owner may reasonably require.
- 54.2 to refund the deposit paid under clause 9 13) when the occupant returns the key or other opening device required to operate the boom gate.

**55. Parking Permit**

If the park owner asks, the occupant agrees to display a 'parking permit' sign, supplied by the park owner, on the dash board or other nominated part of the vehicle for the whole time that the vehicle is within the holiday park.

**56. Overdue Payments**

- 56.1 The occupant agrees that any overdue payments, including occupation fees and other charges, attract interest at the rate equivalent to 2% above the interest rate charged by the Commonwealth Bank on an unsecured loan on the first business day of the month that interest becomes payable under this clause. Interest payable for part of a month shall be the amount that would have been payable had the amount been outstanding for the whole of the month.
- 56.2 The occupant agrees that interest is payable from the date that the payment is overdue.

**57. Occupants, guests and visitors**

The occupant agrees:

- 57.1 any other person who comes on to the holiday park to visit the occupant is a day-guest. Any guest who stays overnight is an overnight-visitor.
- 57.2 no more than the number of overnight-visitors set out in Schedule 1 may stay overnight on the site at the same time.
- 57.3 the occupant may not hire the dwelling for the use of any person, but the occupant may receive reimbursement from a day-guest or overnight-visitor for any payment that the occupant is required to pay to the park owner under this agreement as a result of the presence of the overnight-visitor or day-guest, but not for more than that amount.

**58. Occupant To Give Prior Notice If Other Person Is to Occupy Site**

If the occupant permits any person other than the occupant to occupy the site, the occupant agrees to notify the park owner, before the person comes onto the site, of the name, residential address and date of arrival and proposed length stay of that person or persons.

**59. Children**

The occupant agrees to be responsible for the actions of any child of the occupant or any child of a day guest or an overnight-visitor while the child is on the holiday park.

**60. Responsible Parent or Guardian to Supervise**

- 60.1. Within the meaning of the Civil Liability Act 2002, the occupant agrees not to permit the site to be occupied by an incapable person or to permit an incapable person to engage in a recreational activity unless the incapable person or persons are under the control of or accompanied by another person. [incapable person means a person who, because of the person's young age or a physical or mental disability, lacks the capacity to understand the risk warning.]

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60.2. Within the meaning of the Civil Liability Act 2002, the occupant agrees to release and indemnify the park owner against any claims made by an incapable person who suffers harm as a result of engaging in a recreational activity in, on or near the site while under the control of or accompanied by another person.

**61. Change of Address**

The occupant agrees to advise the park owner of any new residential address in writing within 7 days of the change of address.

**62. Surveillance**

The occupant agrees that the park owner may install closed circuit television, or any other surveillance device, in any part of the park, other than in the shower and toilet areas of the amenity block.

**63. Indemnity and Insurance**

The occupant agrees:

- 63.1. to indemnify the park owner against any liability for any damage, loss or injury that may occur as a result of the occupant's occupation of the site, including, without limitation, damage caused by flooding, whether or not the park owner is aware or should have been aware that there was any likelihood of flooding.
- 63.2. to take out and keep a public risk insurance policy for at least \$10million for each event covering liability for injury and property damage arising from the occupant's occupation of the site.
- 63.3. the park owner has the right to ask the occupant to increase the amount of cover referred to in this clause if the occupant is given at least 14 days written notice of the amount of the increase.
- 63.4. the park owner may ask for and the occupant must produce, a current certificate of insurance, and that the park owner may take a copy of that certificate.

**64. Risk Warning About Recreational Activities**

Within the meaning of the Civil Liability Act 2002, the park owner warns the occupier and other persons who engage in any recreational activity, within the meaning of the Civil Liability Act 2002 in, on or near the site, that the pursuit of such activities may result in harm or personal injury.

All persons who engage in a recreational activity do so at their own risk.

Recreational activity is defined in the Civil Liability Act 2002 to include: (a) any sport (whether or not the sport is an organised activity), and (b) any pursuit or activity engaged in for enjoyment, relaxation or leisure, and (c) any pursuit or activity engaged in at a place (such as a beach, park or other public open space) where people ordinarily engage in sport or in any pursuit or activity for enjoyment, relaxation or leisure.

**65. Whole Agreement**

- 65.1. This agreement, except as amended in writing according to the agreement or the Holiday Parks (Long-term Casual Occupation) Act 2002 and signed by both the park owner and the occupant, comprises the whole agreement between the park owner and the occupant.
- 65.2. Except as provided by law, neither the park owner nor the occupant is entitled to rely on any oral representation or any implied condition in determining the respective rights and obligations of both the resident and the park owner under the agreement.

**FURTHER ADDITIONAL TERMS**

**66. Late Check Outs**

Occupancy fees payable beyond the first 105 days must be paid on arrival and are calculated from 10.00am to 10.00am the following day, other than for the Sunday of a normal weekend and the Monday of a long weekend when check-out time is 7:00pm for occupancies both within and beyond the first 105 days. Occupancy past these hours will be regarded as an additional day.

**67. One Car Only**

Fees charged are for one vehicle per site. Additional vehicles, boats and/or trailers may be admitted but only with the park owner's consent and must be parked as directed by the park owner and only where they fit wholly within the site. To improve the overall amenity and to avoid congestion it is common that additional vehicles, boats and/or trailers will not be permitted in busy periods.

**68. No Temporary Structures To Remain Erect When Site Is Not Occupied**

No vehicle/boat/trailer or structure other than the caravan and annexe detailed in Schedule Two is allowed to remain on the site when the site is not occupied.

## Reports from Executive

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69. **Check In On Arrival**  
The Occupant and such other persons as the Occupant may permit to occupy the moveable dwelling will on arrival or as soon as practicable check in at the park office so that the register of occupiers can be updated.
70. **Electrical Connection As Per AS/NZS 3001 : 2001**  
Only 15 amp power cords with 15 amp terminals are permitted for connection of power. The minimum length of cord is 10 metres, and all power cords must comply with AS/NZS 3001:2001.
71. **No Open Fires**  
Open fires are expressly prohibited in the Holiday Park.
72. **Contractor Access**  
Occupants wishing to employ a Contractor to carry out work on their property must first obtain a Contractor Site Access Form from the park office. The Contractor must be instructed by the Occupant to complete the form and bring it to the park office when access to the site is required. No Contractor will be allowed on site (or permitted to remain on site) without a Site Access Permit, which will be issued by the park owner. Work is not to commence until Access Permits have been issued.
73. **Disconnect Electricity And Water When Not In Use**  
If the Holiday Van is to be unoccupied for periods in excess of 48 hours then the electricity supply must be disconnected and water supply turned off.
74. **Wheels On And Wind Restraints**  
The wheels, axles and tow bar of the moveable dwelling must not be removed and must be maintained in proper working order. Moveable dwellings must be appropriately restrained to comply with the Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995 to withstand strong winds and/or prevent flotation in the event of a flood where it is not possible to remove the movable dwelling from the site.
75. **Sale On Site**  
The Occupant may sell the movable dwelling situated on the site subject to the following conditions:  
a. The Occupant must provide written notice of termination of this Occupation Agreement.  
b. The Purchaser must enter into a new Occupation Agreement with the park owner.  
c. The Purchaser must first be approved by the park owner as a suitable person to be issued with an Occupation Agreement.  
d. The movable dwelling and associated structure if applicable situated on the site must first be approved by the park owner as being in a suitable condition and state of repair to allow it to remain on site.
76. **RCD must be fitted**  
The Occupant agrees:  
a. to install a suitable and approved residual current device (RCD) to the movable dwelling and associated structure situated on the site,  
b. that installation may only be performed by an electrician licenced in the state of New South Wales, and  
c. to, within 60 days of the date of this Occupation Agreement, provide to the park owner proof of installation in the form of the electricians invoice or copy thereof detailing the works undertaken and nominating the number of the site and the name of the Holiday Park where the movable dwelling and associated structure is situated.



# Reports from Executive

## ACKNOWLEDGEMENT BY OCCUPANT

The occupant acknowledges that, at or before the time of signing this occupation agreement, the occupant was given a copy of each of the following:

Occupant to initial each box if occupant has received the document

Disclosure document with questions and answers by park owner	
Park Rules for Long-term casual occupants	
Schedule 1	
Schedule 2	

**THE PARK OWNER AND THE OCCUPANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.**

### SIGNED BY THE OCCUPANT

In the presence of

\_\_\_\_\_  
(name of witness)

\_\_\_\_\_  
(signature of Occupant)

\_\_\_\_\_  
(signature of witness)

### SIGNED BY THE PARK OWNER

In the presence of

\_\_\_\_\_  
(name of witness)

\_\_\_\_\_  
(signature of Park Owner)

\_\_\_\_\_  
(signature of witness)

# Reports from Executive

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## Reports from Executive

# DISCLOSURE DOCUMENT

BY PARK OWNER

Holiday Parks (Long-term Casual Occupation) Act 2002



### PROSPECTIVE OCCUPANTS HAVE A RIGHT TO CERTAIN INFORMATION

A park owner who proposes to enter into an occupation agreement under which a person will be the occupant of a site must prepare, or arrange for the preparation of, a document that includes the following questions, and any other questions that may be prescribed by the regulations, and correct written answers to those questions:

**(a) What occupation fees will be charged under the occupation agreement?**

See attached Schedule 1 and Clause 8 of the Occupation Agreement.

**(b) Will there be any extra occupation fees charged during school holidays or any other busy periods?**

See attached Schedule 1, Clause 9.7 of the Occupation Agreement.

**(c) Will there be any extra occupation fees charged for additional occupants or visitors?**

See attached Schedule 1, Clause 9.2 of the Occupation Agreement.

**(d) Will the occupant have to pay any additional or extraordinary charges (other than occupation fees), for instance any gas or water charges? If the occupant does have to pay, for what purposes does the occupant have to pay?**

See attached Schedule 1 Clause 9.1 [But Only if a meter is installed that measures the consumption by the occupant] and Clauses 9.3, 9.4, 9.5 and 9.6)

**(e) What are the costs of preparing the occupation agreement?**

See attached Schedule 1, Clause 9.14 of the Occupation Agreement

**(f) How much notice will the occupant get before occupation fees go up?**

The park owner will give the 30 days written notice required under the Holiday Parks (Long-term Casual Occupation) Act 2002.

## Reports from Executive

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**(g) How much notice will the occupant get before he or she is asked to leave the site or otherwise end the agreement?**

This will depend on the reason that the agreement is being ended. For example, the park owner can give 7 days notice of termination where there has been a breach of the agreement (including failure to pay fees and charges), 3 months notice of termination may be given so long as the notice ends after any fixed term.

**(h) How will any disputes about the occupation agreement be sorted out, or any other disagreements?**

The park owner is willing to help resolve any issues about the Occupation Agreement. Any unresolved disagreements can be taken to the Consumer, Trader and Tenancy Tribunal, but not later than 30 days after becoming aware of the breach or disagreement.

**(i) Can an occupant sell the occupant's moveable dwelling while it is in the holiday park? What restrictions are there on an occupant regarding the sale of the occupant's moveable dwelling while it is in the holiday park? What are the commission arrangements if the park owner sells the occupant's moveable dwelling?**

Sale of a moveable dwelling while it is in the holiday park is only allowed with the consent of the park owner. Commission arrangements are set out in Schedule 1 Clause 17.

**(j) Is there any restriction on the types of moveable dwellings allowed at the park?**

The moveable dwelling:

- • must conform with the aesthetic standards of the park and must conform with Local Government (Caravan Parks, Camping Grounds and Moveable Dwellings) Regulation 1995;
- • must have a compliance plate specified by that regulation attached to it and a compliance plate required by the Plumbing and Drainage Code of Practice; • must be insured; and
- • if the unit is supplied with gas from a bottled supply, the appropriate gas compliance plate must be attached.

The park rules for casual occupants also set several restrictive standards.

**(k) What can the occupant put on the site besides the moveable dwelling (such as a carport or garden shed)?**

The answer to this should take into account:

- (i) what the park owner will permit, and
  - (ii) what the local council will permit, and
  - (iii) what regulations made under the *Local Government Act 1993* will permit.
- Carports, garden sheds, verandahs, decks, pergolas, garages, clothes lines are generally NOT permitted.

## Reports from Executive

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**(l) Are there restrictions on the use of common facilities? If so, what hours are the facilities available and who may use the facilities? Are there any other restrictions on the use of these facilities?**

Yes. The park rules for casual occupants set out the hours during which facilities may be used. These hours may vary depending on the time of the year. Some facilities are closed during various hours to permit cleaning and maintenance. The facilities may only be used by occupants and guests. Children must always be supervised by a parent or an adult guardian/carer. Causing a nuisance, interfering with the peaceful use of park facilities by others, and unsafe usage of any equipment is not permitted. Restrictions apply on the use of some facilities after dark. A noise curfew applies.

**(m) Who pays for the cost of an occupant's dwelling being relocated within the park during the term of the occupation agreement?**

The park owner and the occupant may agree to relocate the occupant's dwelling during the fixed term. If there is agreement the park owner will pay for the reasonable costs of relocation within the park.

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## Reports from Executive

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### For Casual Occupants Holiday Parks (Long-term Casual Occupation) Act 2002

# PARKRULES

These Park Rules for Casual Occupants form part of the Occupancy Agreement. These rules relate to the use, enjoyment, control and management of the holiday park. They apply to occupants (including their guests, visitors and invitees) when they are on the holiday park, including any area administered or cared for by the park owner.

These rules are designed for the safety and protection of occupants and for the protection of property.

#### **1 OCCUPATIONAL HEALTH AND SAFETY (OHS)**

- 1) Occupants must comply with any directions of the park owner in relation to compliance with the Occupational Health and Safety Act 2000 and the Occupational Health and Safety Regulation 2001.
- 2) Any installation, alteration, addition, or repair of the occupant's dwelling may only be undertaken by a licensed tradesperson.
- 3) Occupants must ensure that no tradesperson enters the holiday park until that person has provided license, public liability and workers compensation insurance details to the park owner, and until the park owner is satisfied that the person is familiar with any relevant OHS requirements applicable to the park.

#### **2 COURTEOUS AND CONSIDERATE MANNER**

- 1) The occupant should act in a courteous and considerate manner towards the park owner, the park manager and their respective employees or contractors and other occupants and guests of the park.
- 2) The park owner, the park manager and their respective employees or contractors should act in a courteous and considerate manner towards occupants and guests of the park.

## Reports from Executive

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### **3 BIKES, SKATEBOARDS, SCOOTERS, ROLLERBLADES AND OTHER RECREATIONAL EQUIPMENT**

1) The park owner may confiscate any bike, skateboard, scooter or rollerblades or any other recreational equipment used by the occupant or the occupant's family, visitors, or guests, if in the opinion of the park owner:

- (a) The equipment is being used in a manner that is dangerous for the user or other park users or both; or
- (b) the use is not in accordance with the park rules for casual occupants; or
- (c) the use is such as to cause a nuisance; or
- (d) the equipment is being used in areas where the use is not permitted.

2) The park owner will return any equipment that has been confiscated under this clause within 36 hours of the time the equipment was confiscated.

3) Confiscation under this rule does not limit the park owner's other rights under the occupation agreement.

4) As required by law bike helmets must be worn.

5) Riding of bikes after street lights come on is not permitted.

**4 CHILDREN** must be supervised properly so that they are not a nuisance or danger to themselves or others.

**5 CRIMINAL ACTIVITY** Occupants must not offend against the law at the park or use the dwelling unit for the furtherance of any criminal activity.

**6 VANDALISM** Occupants must not commit any acts of vandalism.

**7 FIREARMS** Occupants must not carry any firearm or any other weapon at the park.

**8 UNLAWFUL DRUGS** Occupants must not use, or be under the influence of, any unlawful drugs or substances.

**9 ANTISOCIAL BEHAVIOUR** Occupants must not undertake, participate or be involved in any antisocial behaviour.

**10 NOT CARRY ON TRADE OR BUSINESS** Occupants must not carry on any trade or business in the park.

## Reports from Executive

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**11 PETS, POULTRY AND ANIMALS** Occupants must not keep or care for any pets, poultry or animals on the site or in the dwelling, except with the prior written permission of the park owner.

**12 GARBAGE** Occupants must comply with any instruction given by the park owner for the disposal of garbage, including any instruction regarding separation and packaging of garbage to enable optimum environmental outcomes.

### 13 VEHICLES

1) Occupants must not use any vehicle in any way that is dangerous to other occupants and persons lawfully on the park, or in a manner that may cause damage to their property.

2) Occupants must not allow any vehicles owned by or in the custody or control of the occupant (including guests and visitors) to be driven or used on the park:

- (i) At a speed in excess of 10 kph.
- (ii) By an unlicensed driver, including a learner driver.
- (iii) To give driving lessons on the park.
- (iv) For "joy riding" on the park.
- (v) For the repair or servicing of any vehicle, except in any area designated from time to time by the park owner.
- (vi) Where the driver or passenger(s) is not wholly within the vehicle.

3) Occupants may only keep or use registered and roadworthy vehicles on the park.

4) Occupants must comply within 24 hours of being told by the park owner to remove from the park any vehicle or motorcycle or similar which makes excessive noise.

### 14 PARKING

1) Occupants must not park any vehicle so that it endangers or is likely to endanger another person or property of any other person.

2) Occupants must not allow any vehicle, boat or trailer to be parked on any road in the park.

3) Occupants must park any vehicle, boat or trailer on the site.

4) Visitors, guests and contractors must use the visitor parking area to park their vehicles while they are on the park.



## Reports from Executive

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- 5) Where there is no room to park either on the site or in the other parking areas within the park, the vehicle, boat or trailer must be removed from the park immediately.

### 15 CARE OF THE SITE

- 1) Occupants must keep the lawn mowed and trimmed and any garden neat and tidy.
- 2) Occupants must keep the lawn and any garden free of all weeds and noxious plants.
- 3) Occupants must not install a garden without getting the park owner's permission in writing first.
- 4) Occupants may install grass of the types out in Schedule 2.
- 5) Occupants must not use fixed hoses to water the lawns except when the occupant pays for the water used.

### 16 STORAGE OF GOODS ON THE SITE

- 1) Occupants must not store materials of any kind on the site or the moveable dwelling or any associated structure that are not for normal domestic use.
- 2) Occupants must not store any flammable liquids or chemicals.
- 3) Occupants must ensure that goods stored on the site or in the moveable dwelling or associated structure do not create a health or fire risk.
- 4) Occupants must ensure that no goods of any type remain outside the dwelling when the occupant is not in residence in the park.
- 5) Occupants must ensure that any goods left on the site while the occupant is in residence, such as bikes, barbeques, are locked or secured.

### 17 POOL

- 1) A person who is not a competent swimmer may not enter the pool unless accompanied by a competent adult.
- 2) Children under the age of 12 must not be in the pool enclosure unless accompanied by an adult who is a competent swimmer.

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3) Unless closed for maintenance, pool hours are from 9am to 6 pm unless otherwise posted on the pool gate.

4) Running, Bombing, Diving, Pushing and Ducking are not permitted in the pool enclosure.

5) No alcohol or food may be taken into, or consumed, in the pool enclosure.

6) Glass may not be taken into the pool enclosure.

### **18 POOL WATER SLIDE**

1) At all times when on the water slide, users must go feet first and face up.

2) Before using the slide users must ensure that the area of entry into the pool is clear.

3) Only one person may be on the slide at any one time.

4) When using the water slide, all parts of the body must remain within the profile of the slide.

5) The area where users of the water slide enter the water must be kept clear at all times.

6) No one is permitted to go up the water slide.

7) Diving from any part of the water slide is not permitted.

### **20 AMENITY BLOCK**

1) Children under the age of 10 must not be in an amenity block unless accompanied by an adult.

2) Playing in and around an amenity block is not permitted.

### **21 PLAYGROUND**

Children under the age of 10 may not use the playground equipment unless supervised by an adult.

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### **22 OTHER FACILITIES AND AMENITIES**

Rules for Use and Time of Use, as posted on or near other facilities and amenities, must be observed.

# Reports from Executive

## HOLIDAY PARKS OCCUPATION AGREEMENT SCHEDULE ONE



**HOLIDAY PARK:** \_\_\_\_\_

**OCCUPANT:** \_\_\_\_\_

The **occupation fee** in Clause 8 is \$ \_\_\_\_\_ .00 each year, and is payable in instalments of \$ \_\_\_\_\_ .00 each week/month/quarter/year. [Cross out which ever is not applicable.]

Payments must be made on \_\_\_\_\_ (eg first business day of each month).

The occupant agrees, on entering into this agreement, to pay any proportion of the occupation fee that accrues between the date of this agreement and the date the periodic payment must be made on, as well as the first full periodic payment.

The following payments are to be made:

**1** costs of preparing the occupation agreement \$ \_\_\_\_\_ .00 (See Clause 9.14).

**2** for occupancy of the site by more than 2 people. (Clause 9.2)

\$ \_\_\_\_\_ .00 for each adult per night, and

\$ \_\_\_\_\_ .00 for each child per night.

**3** for overnight-visitors (Clause 9.3)

\$ \_\_\_\_\_ .00 for each adult per night and

\$ \_\_\_\_\_ .00 for each child per night.

**4** for day guests – (Clause 9.4)

\$ \_\_\_\_\_ .00 for each adult per day or part thereof,

and \$ \_\_\_\_\_ .00 for each child per day or part thereof.

**5** or vehicles including trailers in excess of one – (Note: a car and a trailer or a car and a boat are considered to be one vehicle) (Clause 9.5)

\$ \_\_\_\_\_ .00 each night during school holiday or other busy periods

\$ \_\_\_\_\_ .00 each night at times other than school holidays or busy periods

**6** charges for pay television, telephone, internet and other communication services [here set out charges, if any]

# Reports from Executive

7 for extra occupation fees during school holidays or other periods. (Clause 9.7)

\$ \_\_\_\_\_ .00 each night/week during school holidays  
\$ \_\_\_\_\_ .00 each night/week during other periods, as set

out following:

8 for daily storage fees for continued occupation of the site by the occupant's dwelling after the agreement has been terminated, (Clause 9.8). The daily storage fee is an amount equivalent to the daily occupation fee in force at the date the agreement was terminated.

9 for work done by the park owner at the request of the occupant. (Clause 9.9)  
\$ \_\_\_\_\_ .00 each hour (minimum charge of \$ \_\_\_\_\_ .00)

10 for any excess garbage or sanitary charges incurred for the removal of excess garbage, or other material made necessary by the occupant. (Clause 9.10)  
\$ \_\_\_\_\_ .00 each hour (minimum charge of \$ \_\_\_\_\_ .00)

11 for pan tax, at the rate charged by the supply authority.

12 for security deposits

- a. boom gate security deposit. (Clause 9.13 and Clause 54)  
\$ \_\_\_\_\_ .00 for first boom gate key or cards, \$ \_\_\_\_\_ .00 for each additional boom gate key or card.
- b. Electricity security deposit \$ \_\_\_\_\_ .00
- c. Water security deposit \$ \_\_\_\_\_ .00
- d. Amenity key deposit \$ \_\_\_\_\_ .00
- e. Other deposits \_\_\_\_\_ (specify)  
\$ \_\_\_\_\_ .00
- f. Other deposits \_\_\_\_\_ (specify)  
\$ \_\_\_\_\_ .00
- g. Other deposits \_\_\_\_\_ (specify)  
\$ \_\_\_\_\_ .00

13 during the year, the occupant may not use the site for more than \_\_\_\_\_ nights. (Clause 45.1)

14 occupant not to use site, except with the prior permission of the park owner, for any continuous period greater than \_\_\_\_\_ nights. (Clause 45.2)

15 if the site is occupied for a period greater than the number of nights in 13 above the occupant is to pay the occupation fee of \$ \_\_\_\_\_ .00 – for each additional night. (Clause 45.3)

16 no more than \_\_\_\_\_ overnight-visitors may stay overnight on the site at the same time. (Clause 57.2)

17 Commission, if any, to be paid by the occupant to the park owner on sale of holiday van on site: \$ \_\_\_\_\_ .00 or \_\_\_\_\_ % of sale price. (See Clause (i) in the Disclosure Document with Questions and Answers by Park Owner.)

18 Additional circumstances where park owner can access site (See Clause 33(h) in the Occupation Agreement.)

# Reports from Executive

## SCHEDULE TWO HOLIDAY PARKS OCCUPATION AGREEMENT



**Holiday Park: «Park»**

**Occupant: «Title1» «Name1» «Title2» «Name2» «Name»**

**Site No.: «Site»**

The following apply to your occupancy agreement:

**1** Description of holiday van and associated structures to be installed on the site – clause 47.2 and 47.3:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**2** Area of the site to be occupied by holiday van and associated structures – clause 47.7 may not be more than:

\_\_\_\_\_ (insert either the maximum size of the dwelling unit or the percentage of the size of the site that the dwelling may occupy)

**3** Distances between moveable dwellings, annexe or structure must be at least **2.5** metres. (Clause 47.8)

**4** Occupant may install grass, however, only the following types can be used (see park rule 15.4):

