



MACKAY MARINA RULES

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THE MACKAY MARINA - MARINA RULES AND REGULATIONS

The following Rules have been formulated to:

- A. assist in the good operation and management of Mackay Marina;
- B. preserve the safety of persons and vessels;
- C. ensure the peaceful use and enjoyment of Mackay Marina; and
- D. ensure that the Mackay Marina amenities and services are available to all who are entitled to those privileges.

1. CONDITIONS OF ENTRY AND USE OF MACKAY MARINA

- (a) All persons who enter Mackay Marina or moor a vessel in a berth are bound by these Rules and by their entry or mooring they are deemed to be aware of these Rules.
- (b) All Occupants of the Marina must observe and comply with the reasonable directions of Marina Management and ensure their Visitors do so as well.

2. AMENITIES

2.1 Carpark

- (a) Vehicles may be parked only in those places designated by Marina Management.
- (b) Use of the Carpark shall be at the risk of vehicle owners and entrants at all times.

2.2 Common Areas

- (a) All common areas are to be kept clean and tidy.
- (b) All Occupants and Visitors must not obstruct common areas, including Marina fairways, channels and walkways.

2.3 Amenities

- (a) The Amenities shall be kept clean and tidy at all times.

2.4 Waste Disposal

- (a) General waste is to be deposited in the bins provided for this purpose.
- (b) The disposal of hazardous or dangerous materials is strictly prohibited.
- (c) Vessels are not to discharge into the marina basin.

3. SERVICES

3.1 Amenities or Services

Marina Management does not warrant the adequacy of, nor will it be responsible for the failure or lack of adequacy of any Amenities or Services.

3.2 Electricity

- (a) No Vessel is to connect to more than one power outlet.
- (b) Occupants shall provide and maintain in good order and condition, cords for the transmission of electricity from outlets to their Vessel.
- (c) Occupants shall also provide and at all times use appropriate earth leakage circuit breaker devices on each electrical circuit.
- (d) Connections deemed non-compliant or dangerous may be disconnected and removed by Marina Management.
- (e) Where the operation of a Vessel's plant and equipment involves a regular or continual high power use, the Occupant will pay the reasonable estimated cost of the power used, upon receipt of an invoice from Marina Management.
- (f) Use of 3-phase power will be charged at the rates of the electricity provider.
- (g) Marina Management reserves the right to install electricity and water meters on any berth and charge the Occupant for usage accordingly.

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3.3 Water

- (a) Water is not to be wasted and under no circumstances are taps or hoses to be left running during the washing or cleaning of Vessels.
- (b) Hoses and fittings must be of an adequate standard to ensure the hose or fittings will not fail when pressurised.
- (c) Hoses connected to berths must be kept tidy and clear of the walkway.
- (d) Damaged and non-compliant hoses may be removed by Marina Management.

4. PROHIBITED ACTIVITIES

4.1 Re Fuelling

- (a) The refuelling of any Vessel or tender to a Vessel while moored in a berth is strictly prohibited.
- (b) Vessels must only refuel using the licensed fuel dock.
- (c) Any spillages that occur during refuelling must be immediately reported to Marina Management.
- (d) Offenders may be directed to permanently remove their Vessel from the Marina.

4.2 Human Habitation

- (a) No Vessel may be used as a place for Human Habitation, permanent or otherwise, without the express written permission of Marina Management.
- (b) Upon permission being granted by Marina Management, the Occupants will pay the live aboard charges determined by Marina Management in accordance with the Marina Leases.

4.3 Pets

- (a) No animals or pets are permitted on any Common Area within the Marina.
- (b) Rule 7.1(a) will apply to noise made by animals on board Vessels.

4.4 For Sale Signs

No "For Sale" or similar sign will be exhibited on a Vessel nor will it be offered "For Sale" by inspection carried out within the Marina, without the written approval of Marina Management.

4.5 Air Conditioners

No air conditioners or other plant and equipment which consume substantial amounts of electricity may be operated from the shore supply without the written approval of Marina Management.

4.6 Commercial Activity Prohibited

No commercial activities whatsoever may be carried on within the Marina or on or from any Vessel moored in a berth, nor shall the commercial operations area be available for use, without the express written permission of Marina Management.

4.7 Unloading Seafood Prohibited

The unloading from any commercial fishing Vessel, the transfer from or on to any Vessel in a berth or otherwise by any person within the Marina of any seafood for wholesale, consignment or on forwarding is strictly prohibited.

4.8 Fishing

The Marina has been declared a 'Fish Habitat', accordingly swimming, diving, crabbing, the use of nets and any kind of fishing within the Marina is prohibited.

4.9 No alterations

No modifications or alterations whatsoever will be made to the berths or any of the Marina Amenities or Services.

5. SAFETY & EMERGENCIES

5.1 Safety

- (a) Occupants shall be responsible for the conduct of their Visitors.
- (b) Disorderly and unsafe conduct by any person may result in their eviction from the Marina.

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5.2 Speed Limit & Boating Conventions

- (a) A speed limit of a maximum of 4 knots is to be observed, within, when departing from, or when approaching the entrance to the Marina.
- (b) When entering or departing the Marina, all Vessels must observe Maritime law and keep to the right.
- (c) Power vessels shall give way to sail.

5.3 Mooring lines

- (a) Occupants shall provide lines of adequate size and of good condition for the mooring and securing of Vessels.
- (b) All mooring ropes and lines shall be appropriately tied and kept in good order so as not to cause a trip hazard on the walkways.

5.4 Sight lines

Under no circumstances shall the sight lines of any navigational or other marks within or about the Marina be obstructed in any way.

5.5 Emergency

- (a) Occupants and Visitors shall report all emergencies, incidents, spillages, damage and collisions, immediately, to Marina Management.
- (b) In cases of emergency, Marina Management may but is not obliged to remove a Vessel from its berth and/or the Marina. In any such event, Marina Management will notify the Occupant of the place to which a Vessel is moved and the indemnity set out in Rule 8.3 shall apply to the removal.

5.6 Firefighting Equipment

Occupants of Vessels shall provide fire-fighting facilities to the standard required by any competent regulatory authority.

5.7 Flammable & Hazardous Substances

No materials of a dangerous, flammable or explosive nature are to be kept or stored on a Vessel in breach of any statute, regulation or by-law governing the operation of the Marina.

6. ENVIRONMENTAL PROTECTION ACT

- (a) The provisions of the Environmental Protection Act, any Environmental Authority issued from time to time for the Marina or any other acts or regulations governing the operation of the Marina must be observed at all times.
- (b) No toilet, which is not connected to a holding tank will be used or flushed whilst a vessel is moored in the Marina
- (c) Bilges containing anything other than clean water must not be pumped or discharged into the Marina basin.
- (d) All wastes and refuse of any kind will be disposed of ashore in the appropriate containers provided and under no circumstances shall any such substances or filth, litter or sewerage be allowed to enter the air or waterways of the Marina.

7. CONDUCT AND COURTESY

7.1 Noise

- (a) Noise of a level which causes a nuisance to other users of the Marina will not be permitted. This applies, but is not limited, to public address systems or other amplifiers, radios or similar equipment or plant and machinery. It shall be at the sole discretion of Marina Management to decide if the level of noise is causing or is likely to cause nuisance.
- (b) Halyards and other fittings on sailing and other vessels are to be secured so that they cannot cause "slapping".

7.2 Behaviour

- (a) Occupants & Visitors to the Marina are required to conduct themselves in an orderly fashion at all times and not cause a nuisance or offence to any other users of the Marina.
- (b) Occupants of Vessels are responsible for the behaviour of their crew, guests and customers and they shall also be responsible for the cost of any damages caused by those persons.

7.3 Language

Occupants & Visitors must not use foul language, which is likely to cause nuisance or offence to others in the Marina.

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8. RISK & INSURANCE

8.1 Public liability insurance

- (a) Occupants of Vessels shall take out and at all times maintain Public Liability Insurance for at least \$10,000,000.00 in respect of any single accident.
- (b) Evidence must be given on request by Marina Management of adequate insurance and Marina Management must be notified if the insurance policy is cancelled.

8.2 Third Party Insurance on Vessels

It is recommended by the Marina that Occupants take out and maintain third party insurance for the Vessel whilst moored in the Marina.

8.3 Risk

- (a) All persons enter upon the Marina and use any of the berths, Amenities and Services, including the car park and Common Areas strictly at their own risk and Visitors release Marina Management from any and all claims in respect of any loss, theft, damage or injury to property and/or people occurring anywhere in the Mackay Marina precinct.
- (b) Occupants and Visitor hereby indemnify Marina Management against all claims, losses or damages which may be brought against or which Marina Management may suffer as a result of entering the Mackay Marina Precinct, the use of the berth, or any of the Amenities or Services, whether for death, personal injury, or loss, damage or theft of property.

9. REPAIRS, DAMAGE & MAINTENANCE

9.1 Repair of Damage

The cost of the repair of any damage to a berth, the Marina or any of the services or facilities and whether caused by negligence or otherwise, shall be paid by the Occupant of the Vessel in question.

9.2 Repairs and Maintenance Limited

- (a) No external repairs and maintenance may be carried out within the Mackay Marina precinct.
- (b) Internal repairs and maintenance may be carried out with the prior express written approval of Marina Management provided that no other obligations under this rule are breached (including, without limitation, obligations to not cause any noise, nuisance or inconvenience to users of the Marina or to prevent pollutants discharging into the Marina basin).
- (c) Diving in the Marina may only occur for the purpose of non-toxic hull cleaning and hull maintenance and strictly within the berth area.

9.3 Size of Vessels and proportions

- (a) No Vessel of dimensions beyond those approved by Marina Management shall be moored in a berth and under no circumstances shall a Vessel be moored so that its anchor, bowsprit, davits or any other protrusions extend on to or over any of the walkways, pontoons or fingers.
- (b) The Marina Manager reserves the right to prohibit the operation of any Vessel within or from the Marina.

9.4 Vessels to be kept clean and tidy

- (a) Vessels moored in the Marina are to be kept in good order and repair and clean and tidy at all times.
- (b) No Vessel shall become unsightly or dilapidated, so as to reflect poorly on the Marina.
- (c) Nothing unsightly is to be hung out or otherwise left for drying on a Vessel.
- (d) Dinghies and other items of equipment are not to be stored, placed or left on any of the Common Areas of the Marina.

9.5 Vessels to be removed

Should it be necessary for any of the purposes associated with the good operation of the Marina, the Occupant will at the direction of Marina Management move or remove a Vessel from its berth or the Marina for such period of time as may be reasonably required.

10. ACCESS

10.1 Right of entry

- (a) Marina Management reserves the right of entry on to the Marina and berths at all reasonable or necessary times to view the condition and state of repair and for all other necessary purposes.
- (b) Marina Management also reserves the right to carry out all or any repairs or works which it considers to be necessary.

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10.2 Vehicular access to Esplanade and Mega Berths

- (a) All access to the Esplanade and mega berths without exception must be authorised in accordance with, and the Occupants and Visitors must comply with, the Esplanade Rules. A breach of the Esplanade Rules will be considered to be a breach of these Rules.
- (b) The Esplanade Rules are displayed in prominent positions within the Esplanade and at the Marina office.
- (c) The Esplanade Manager is responsible for the maintenance of order and good conduct by persons within the Esplanade.
- (d) All masters of Vessels using the mega berth facilities will be supplied with a copy of the Esplanade Rules on arrival and must sign an acceptance of those rules.
- (e) The Esplanade is primarily a pedestrian walkway used by the general public and mega berth users MUST exercise all care when manoeuvring vehicles into and out of the mega berth jetties on to and along the Esplanade.
- (f) Vehicles may only be driven in reverse down the ramps to the jetty platforms at all times with absolutely no exceptions.
- (g) In consideration of being permitted to use a mega berth, Amenities and Services, Occupants and Visitors hereby indemnify the Esplanade Manager, Mackay Port Authority and the State of Queensland against all claims, losses or damages which may be brought against the indemnified parties or which the indemnified parties may suffer as a result of access or egress of the Esplanade, the ramp, the jetty, the Marina, or any of the Amenities or Services and whether for death, personal injury, or loss, damage or theft of property.
- (h) Occupants and Visitors release the Esplanade Manager, Mackay Port Authority and the State of Queensland from all claims which they may be entitled to bring against the Esplanade Manager, Mackay Port Authority and the State of Queensland.
- (i) The Esplanade Manager, Mackay Port Authority and the State of Queensland accept no responsibility or liability for any claims for death, damage or injury to any person or thing as a result of the use of and access to the mega berths allocated to the Occupants or Visitors by Marina Management.

11. GENERAL

11.1 Authority of Manager

- (a) Marina Management has the authority to operate the Marina, administer these Rules and make decisions on all of the matters referred to herein.
- (b) The decision of Marina Management on all such matters or otherwise relating to Vessels or persons within the Marina shall be final and binding.

11.2 By-laws

Occupants and Visitors to vessels must observe and comply with any by-laws or rules and regulations of the Mackay Port Authority in force from time to time.

11.3 Not transferable

The right to occupy a berth or use the Marina, Amenities and Services is not transferable or assignable.

11.4 Rules subject to change

- (a) Changes may be made to these Rules by Marina Management at any time and will be effective immediately.
- (b) A copy of these Rules will be available in the Marina office and Occupants and Visitors are deemed upon entry to the Marina to have notice of the Rules and amendments made to the Rules from time to time.

11.5 Marina Leases

The Marina Management may give other directions to comply with the Marina Leases, Esplanade Lease or comply with any directions given by an authority.

12. DEFINITIONS AND INTERPRETATION

In these Rules unless a contrary intention appears:-

Amenities mean the areas specified from time to time by Marina Management which contain toilets, showers and other facilities for use by the Occupants and Visitors of the Marina.

Authority means any state, federal or local government or other person or authority having jurisdiction over the Marina, vessels and waterway in or about and adjacent to the Marina.

Berth means a marina berth at the Marina.

Common Areas means all parts of the Marina intended for common use of the Occupants and Invitees of the Marina including the Amenities, walkways, pontoons and access bridges associated with the Marina and any dry land under the control of Marina Manager.

Claim includes any claim, demand, remedy, suit, injury, damage, loss, cost, expense, liability, action, proceeding, right of action, notice, injunction, restraining order, claim for compensation or claim for abatement of rent.

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Cost includes any cost, charge, expense, outgoing, payment of other expenditure, including reasonable legal fees.

Environmental Protection Law means any law or any requirement of an authority relating to waste, pollution, use of land or water, or the protection, preservation and enhancement of the environment.

EPA means the Environmental Protection Agency (or equivalent) for the State of Queensland.

Esplanade means the area contained within Lot 52 on SP 126417 fronting Mackay Marina which includes gardens, access ways, and a pedestrian walkway.

Esplanade Manager means Port Binnli Pty Ltd.

Esplanade Rules means the '*Marina Precinct Rules: Commercial use of Esplanade*' being the rules governing the order and conduct of the persons within the Esplanade as agreed between the Mackay Port Authority as the landlord, and Port Binnli Pty Ltd as the tenant, of the Esplanade.

Human Habitation means the occupation of a vessel in a berth by a person or persons for the purpose of habitation for any length of time.

Law means any statute, rule, regulation, proclamation, ordinance or by-law, present or future, state, federal or otherwise.

Mackay Marina means the marina known as 'Mackay Marina' including marina basin, dry land, waterways and all improvements from time to time which comprise the marina, Berths and common areas of the Mackay marina together with the land or buildings under the control of or leased or licensed by Marina Management.

Mackay Port Authority means North Queensland Bulk Ports Corporation Limited.

Marina means the group of floating mooring berths and the waterways within Mackay Marina containing the Berth and the Common Areas.

Marina Leases means the various lease tenures that relate to Mackay Marina from time to time including at the date of these rules perpetual lease PPL 0/212986, Title Reference 40022447; registered sub-lease number 703772894; registered sub-sub-lease number 703782934; and Standard Terms Document 704670980.

Marina Management means Mackay Marina Pty Ltd and its officers, employees or nominees who are the managers of the Marina.

Occupant means any person who is authorised to occupy a berth or any part of Mackay Marina including dryland commercial tenants, berth owners and casual berth occupiers and the permitted invitees of those parties.

Rules means these marina rules including any amendments, changes or modifications made by Marina Management from time to time.

Services mean the services which are provided by Mackay Marina or any authority and include but are not limited to, all electricity, gas, lighting and water consumed and/or used in or about Mackay Marina.

Vessel means any marine vessel moored in a berth in or about the Marina or immediately adjacent to the Marina.

Visitor means anyone visiting any part of Mackay Marina for any reason (with or without invitation) and includes an Occupant's invitees, employees, agents, tradesmen, contractors and customers.