

Esperance Bay Yacht Club (Inc)

EBYC Marina Lease Terms and Conditions of Use

Definitions:

Club:	Esperance Bay Yacht Club (Inc) (EBYC)
Marina Committee:	Committee appointed by the Club's General Committee annually to manage the Club's Marina.
Pen:	Pen site in the Club's Marina shown on the marina plan.
Marina:	The entire Marina complex.
Lessee:	The owner or owners of a vessel having title to the vessel with a signed Lease.
Lease:	This document when signed by the Club and Lessee.

Please Note

- Please read and understand these EBYC Marina Lease Terms and Conditions of Use and seek legal advice if necessary. Fill out and sign the form and return it to the Club's Marina Committee with a copy of the vessel current insurance details (minimum Third Party and Public Liability of \$10M), gas and electrical certification and vessel registration.
- **Approval from the EBYC is required before you can access the Marina.**
- It is the Lessee's responsibility to be aware of updates to these EBYC Marina Lease Terms and Conditions of Use that will be posted on the Club's notice board and / or placed on the Club's website.
- **If you wish to Slip or use the EBYC Hard Stand you must sign a separate agreement.**

Key Lease Requirements

- Please report any damage to the Marina or vessels immediately.
- **No penholder is to communicate with Southern Ports directly. All communication must be directed to the Club. (See Clause 11)**
- The Marina gates must be always closed.
- No alterations, fixings or adjustments whatsoever can be made to any part of the Marina by a Lessee.
- No fuel or fuel containers of any type are to be left on the Marina.
- Vessels must be kept clean and tidy and free from nesting birds.
- Ultrasonic bird deterrent may be used. Sonic deterrents must be approved in writing by the Club.
- Fenders must only apply pressure to the marina rubbing strake and not the structure below.

1 Applications

- 1.1 All applications for Pen Leases must be made in writing to the Marina Committee and may be refused or granted at the discretion of the Club. There may be a waiting list for Leases and an applicant does not need to be a financial Senior Member of the Club during the waiting period.
- 1.2 **All vessels in the marina, or before entering the marina, must be seaworthy.** Vessels deemed unseaworthy will not be permitted to enter the Marina or must be removed by the Lessee immediately. The Club has absolute discretion in determining the seaworthiness of a vessel.
- 1.3 All Pen Lessees must be financial Senior Members of the Club (in accordance with the Clubs constitution and bylaws) for the duration of the Lease.
- 1.4 **Lessees applying for short term Leases do not have to be financial Senior Members of the Club. The duration of short-term Leases is at the discretion of the Club.**
- 1.5 Applications for Pen Leases are to be signed by all Lessees (owners) having title to the vessel.
- 1.6 All applications for Pen Leases shall acknowledge the conditions of the Lease being this Terms and Conditions of Use document by signing this document and returning it to the Marina Committee.
- 1.7 Proof of insurance shall be provided at the time of making an application for a Lease. Proof of insurance must be provided annually. Minimum insurance shall be Third Party Insurance and Public Liability Insurance cover of \$10 Million.
- 1.8 Pen Leases are not transferable and cannot be sublet by the Lessee.
- 1.9 The Club reserves the right to cancel or change any location of a Pen Lease at any time on fourteen days notice being given to a Lessee.
- 1.10 Any notice to be served herein on the Pen Lessees may be served by letter addressed to their place of abode or address registered in the books of the club or email address and notice so posted or sent shall be deemed to be served.
- 1.11 Vessels will be sited according to draft, length and class, or as the Club shall direct.
- 1.12 **The Lessee is responsible for the conduct and actions of all crew, guests, and visitors to the Marina and in the absence of the Lessee.**

2 Unoccupied Pens

- 2.1 Any Lessee intending to leave their Pen unoccupied for a period more than 30 days shall give notice to that effect to the Marina Committee and advise if the Lessee wishes to have their Pen sublet for any of the period it will be unoccupied. The Lessee must give the Club 14 days written notice to return to a sub-let Pen.
- 2.2 Subject to 2.1, the Club reserves the sole right to sublet any temporarily unoccupied Pen for such period and on such terms and conditions as they may think fit.

3 Charges

- 3.1 Charges shall be based on the EBYC Marina Current Rates and Charges that apply at the date of signing of this agreement by the Lessee. EBYC Marina Current Rates and Charges document is available upon request.
- 3.2 Charges shall be made at an annual rate and payable 12 months in advance. A refund may be made at the discretion of the Club, on the relinquishing of the Pen by the Lessee.
- 3.3 The Pen Lease and fees shall commence from the date of granting of a Lease application and apply until the end of the financial year (30 June). The Lease will automatically continue for 12-month periods after this time and the sole discretion of the Club.

4 Sale of Vessel

- 4.1 In the event of the sale of any vessel occupying a Pen the Lessee of the Pen shall forthwith give notice in writing of such sale to the Club and shall cause such vessel to be removed from the Pen within fourteen days of such sale or such other time at the discretion of the Club. The Lessee agreement to Lease is not transferable with the sale of a vessel.

5 Pen Fastenings

- 5.1 The fastening of the vessel to the Marina is the responsibility of the Lessee and shall be reviewed by the Club. Fastenings shall be approved rope (unless otherwise approved by the Club) with a minimum breaking strain based on hull displacement as set out below. Ropes shall be able to absorb shock / snatch loads and recover.

<u>Vessel Displacement</u>	<u>Breaking Strain</u>
Less than 3 tonnes	2200 kg
3 – 5 tonnes	3400 kg
5 – 7 tonnes	4200 kg
7 – 9 tonnes	4900 kg
9 – 12 tonnes	6000 kg

- 5.2 Each Lessee is responsible for supplying and fixing all mooring lines in an approved manner including splices ends.
- 5.3 Bow and stern lines and springer lines are to be adequate to secure the vessel to limit surge and to absorb shock. Springer lines should be approximately 50% of the vessel length. Fenders are to be provided by the Lessee. **Fenders must only apply pressure to the marina rubbing strake and not the structure below.**
- 5.4 Mooring lines are to be positioned in fairleads or protected in plastic tubing where they touch the vessel.
- 5.5 Mooring lines are to be tensioned to retain the boat in the Pen at all levels of the tide, swell and wind conditions.
- 5.6 Lessees shall keep and maintain the pen fastenings in good order and condition in accordance with the above regulation at all times. Lessees will be given notice of any maintenance required to pen fastenings and should maintenance not be completed within 14 days of such notice, the Club will

immediately attend to such maintenance and forward any cost for the same for payment by the Lessee. If the Club deems any such maintenance urgent, the Club will immediately attend to such maintenance and forward any cost for the same for payment (including the Clubs administration costs) by the Lessee.

6 Pen Alterations

- 6.1 The Marina, its pens, walkways, fixtures, and fittings are the property of the Club and shall only be leased to Lessees.
- 6.2 **The Lessee must not adjust, alter, make fixing to or place fixings into any part of the Marina. No additions, extension, or alterations of any sort to the Marina shall be made without the express written permission of the Club.**
- 6.3 A Lessee may not relocate its vessel unless approved in writing by the Club.

7 Electrical and Gas Safety

- 7.1 The Australian standards and regulations that govern the construction and modification of on board electrical and gas installations, as well as the correct method of connecting to a Marina on shore power supply, must be followed by the Lessee. The Lessee must provide such compliance documents at the signing of the Lease and is responsible for compliance with all standards and regulations as altered from time to time.
- 7.2 Supply leads used for connecting the vessel to the shore-based electricity supply shall comply with the current Australian Standards. **In addition, the supply lead shall be inspected and tested by a licensed electrical contractor, at intervals to comply with the standards and regulations. An inspection tag shall be fitted to the supply lead within 1 metre of the supply lead plug.** The details on the tag are to be in indelible ink. Inspection tags with unreadable details will be regarded as being out of date. All plug ends shall be captive screw type with an IP56 rating.
- 7.3 The Club will tag and test supply leads if they are out of date and bill the Lessee's account.
- 7.4 The maximum allowable power draw from any connection to a pedestal is 15 amps.
- 7.5 All vessels in the Marina or left unattended alongside any Club jetty shall isolate all batteries from the electrical system by means of an approved enclosed switch.
- 7.6 Regular inspections shall be carried out by the Lessee to ensure that all electrical wiring is in good condition and has not become frayed, or connections loosened. All electrical circuits (other than self starter circuits) must be protected by suitable fuses and switches.
- 7.7 No flammable liquid operated battery charger / generators shall be left running while a vessel is unattended in the Marina, hardstand or alongside any Club jetty.
- 7.8 Battery trickle chargers or other electrical equipment, attached to the Club's power mains are permitted to be left unattended under the following conditions, only and after inspection by the Club's Safety Officer or Marina Manager.

- A suitable fuse shall be fitted on the AC side of the battery charger.
 - In the event of an approved overload release switch being installed on the vessel, an inline fuse to the AC side of the battery charger can be omitted but a fuse must be on the secondary side of the transformer.
 - The lead from the AC mains to the vessel shall be of an approved rating and in good condition. Such lead shall be attached to the vessel in such a manner that no chafing or rubbing can occur at the point of attachment to the vessel and jetty, wharf, or pile, or between the vessel and other vessel.
- 7.9 Kerosene operated refrigerators are not permitted.
- 7.10 All vessels that have LP Gas fittings must provide a certification to the Club at the signing of the Lease.

8 Fuels and Oils

- 8.1 The Marina does not have refuelling facilities.
- 8.2 **Fuel containers must not be placed or stored on the Marina.**
- 8.3 Lessee's must ensure that all fuels stored on vessels are secure and are maintained to a high standard.
- 8.4 No petrol, oil or other flammable liquid, or any petrol, oil or similar soaked material of any description shall be discharged or thrown into the water from any vessel on the Marina or alongside any Club jetty.
- 8.5 No vessel shall be left unattended with its engine running while in the Marina or alongside any Club jetty.
- 8.6 Appropriate spill kits should be deployed if fuels or oils are accidentally discharged.

9 Noise

- 9.1 People and wildlife who live near the Marina can find loud noises disturbing. Lessees must ensure that you check your vessels motor to ensure that it is not too loud and control the volume of music players and other devices that you have on board. **Lessees are also required to secure their vessels to ensure halyards and loose objects do not produce repetitive wind activated noise. Wind driven devices and generators that generate noise are restricted to daylight hours of operation. Ultrasonic bird deterrent may be used. Sonic deterrents must be approved in writing by the Club.**

10 Vessel Safety and Fire Safety

- 10.1 It is the sole responsibility of the vessel captain / master to put to sea. It is the Lessee responsibility and / or the responsibility of the person in charge of the vessel at the time, to comply with all safety requirements for vessels and Marinas dictated by law, standards, and government authorities at the time. The Club has the sole right to inspect vessels and their compliance. Noncompliance allows the Club to void the Lease at its discretion.
- 10.2 Vessels having an engine of any description shall have appropriate fire extinguishers that display the current Australian Standards Association

approval seal showing the appropriate approval number. They shall be conspicuous, quickly accessible positions, not together, but towards fore and aft according to the construction of the vessel.

- 10.3 All fire extinguishers carried on board each vessel shall be made available for inspection upon request by the Club. When instructed, such fire extinguishers shall be recharged at the owner's expense.
- 10.4 **Fire Hydrants and Fire Hose Reels are not to be used for any other purpose than fire fighting and can not be used for boat wash down.**

11 Club Seabed Lease

- 11.1 The Lessee acknowledges that the Club leases the area of the Marina from the authority in charge of the port. The Lessee must do all things to ensure the Club meets its obligations under the lease with the authority in charge of the port and must communicate all matters relating to the Marina and its surrounds through the Club.

Specifically, the Lessee acknowledges that the ports activities involve high levels of noise, dust, and odour. The Member is not entitled to claim against the port or the Club in relation to such matters and will not complain to governmental agencies about such matters. All concerns the Lessee may have in relation to these matters must be communicated through the Club.

A copy of the Club Seabed Lease with the port is available for review, or a copy can be provided to the Lessee.

12 Club Environmental Management System

- 12.1 The Lessee acknowledges the Environmental obligations contained in the Club's Seabed Lease and the Environmental Management System developed and implemented by the Club. The Member must do all things necessary to ensure the Club meets these obligations. A copy of the Club's Environmental Management System is available for review, or a copy can be provided to the Lessee. The Club takes its Environmental responsibility seriously. Below are some key points that Members must comply with in addition to being conversant with and complying with current regulations, standards, and laws.

Waste and Garbage

- Not throwing any waste overboard, store it in a secure area onboard.
- Collect any garbage you come across, either in the water or on land.
- Dispose of all waste at a proper waste disposal facility on shore.
It is against the law to dump the following in our oceans:
- Oil.
- Plastics thrown into the sea at all;
 - Synthetic ropes,
 - Plastic garbage bags, and
 - Synthetic fishing lines and nets.
- Garbage discharged within 12nm from the nearest land;
 - Food waste,
 - Paper products,
 - Rags,
 - Glass or
 - Metals, etc.

Remember the simple saying: 'Stow it, don't throw it'. View the AMSA brochure for more information.

The Club has waste disposal bins located at the Club's building for the safe and efficient disposal of waste and garbage.

Sewage

Sewage can have varying effects on the marine environment, depending on habitat types and locations. Some may be able to absorb more sewage, but others could be significantly impacted. You can reduce the amount of sewage being released into the water by:

- Using shore facilities when in the Marina, rather than your vessel's toilet.
- Installing an approved sewage treatment system in your boat if possible (please contact the Department of Health for more information).

The Club has toilet facilities on its premises that are accessible to members and crew of vessels. There are also public toilets near the commencement of the rock break wall that forms the marina. The Department of Transport's sewage strategy provides guidelines for sewage discharge in Western Australian waters. It established 3 zones based on the degree of risk to public health and the environment:

Zone 1: No discharge

There is strictly no discharge of any sewage from a vessel in the following areas:

- Marinas, yacht clubs, boat harbours and ports.
- Most inland waterways, including the Swan and Canning rivers.
- The Rottnest Island reserve.
- Marine nature reserves and sanctuary zones within marine parks.
- Designated areas of marine parks, marine management areas or fish habitat protection areas.
- Within 500 metres of any aquaculture operation.
- Within 100 metres of any recognised swimming area.

Zone 2: No discharge except for vessels with approved treatment systems

Vessels with a WA Department of Health approved sewage treatment system may discharge sewage in this zone, as long as the equipment is functionally properly.

This discharge is limited to waters not included in Zone 1 and designated parts of estuaries, marine parks and fish habitat protection areas.

Treated sewage must not be discharged less than 20 metres from a stationary vessel or person in the water.

Zone 3: Open

All other waters not designated under Zones 1 or 2 are considered open for untreated sewage discharge.

Sewage must not be discharged within 500 metres of land or 100 metres of a stationary vessel or person in the water.

13 Access Gates and Security

13.1 The Marina is secured by access security gates. These security gates provide security of personal property on the Marina and the restriction of persons (unauthorised) who may not be familiar with the Marina environment. This restriction of unauthorised persons is important to manage their safety and wellbeing. The Lessee is required to ensure the gates are always secured without exception.

13.2 One Marina key will be allocated to the Lessee. A deposit is payable and further keys can be provided at the cost set out in the EBYC Marina Current Rates and Charges.

14 Lessee Warranties and No Representation

- 14.1 The Lessee warrants and represents to the Club that all information provided by the Lessee is true and correct and all authorities and consents in respect to the Marina needed by the Lessee have been obtained.
- 14.2 The occupant acknowledges that no promise, representation, or warranty is given by the Club (i) that the Pen is or will be fit for, suitable or adequate for the vessel for the permitted use; or (ii) regarding the sufficiency or efficiency of the services.

15 Other

- 15.1 The failure of the Lessee to comply with this Lease provides the Club with the right to void this agreement if it elects to do so.
- 15.2 The Lessee is responsible for maintaining their vessel in a clean and presentable manner that is determined by the Club. Failure to do this is a breach of this agreement. It is agreed by the Lessee that the Club can clean a poorly maintained vessel and charge the Lessee's account.
- 15.3 The Lessee is responsible for the cost of rectification for any damage caused to the Marina and its surroundings by the Lessee.
- 15.4 In the case of any fire or other emergency, a Lessee shall be deemed to have granted to any member of the Club the right to make a forcible entry into the Lessee's vessel for the purpose of dealing with such emergency.
- 15.5 Where applicable any or all the above rules are also for trailer vessels with engines of any type or size using the Club's launching ramps or operating in the Club areas or Marina.
- 15.6 Vessels must be re-inspected by the Club and updated documentation must be requested if ownership of the vessel changes, new engines or appliances are fitted.
- 15.7 Lessees are not permitted to reside or permit others to reside on their vessels while the vessel is in the Marina for any continuous period more than 7 days without written permission. No business activity can be carried out in the Marina.
- 15.8 Motor vehicles are not to be parked in front or adjacent to the gangway unless they are loading or unloading.
- 15.9 The Lessee shall not carry out any works or grinding that has potential to damage neighbouring vessels, risk the Esperance Bay environment, or discomfort other Club members. The Lessee remains responsible for any damage to other vessels caused by their own work or work performed by contracted tradespersons.
- 15.10 Goods and materials should not be stored on the Marina and vessels should not "overhang" the Marina structure.
- 15.11 The Club may at its own discretion or upon the recommendation of the Marina Committee alter these EBYC Marina Terms and Conditions and therefore the Lease. It is the Lessee's responsibility to be aware of updates to these Terms and Conditions of Use that will be posted on the Club's notice board and / or placed on the Club's website.
- 15.12 **If you wish to use the EBYC for Slipping or Hard Stand storage you must sign a separate agreement.**

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Owner/Owners Name (Lessee).....
Company Name.....ACN/ABN.....
Mailing Address.....
Postal Address.....
Email Address.....
Mobile/ Telephone.....
Alternative Emergency Contact and Phone No.....
Vessel NameVessel Make / Brand.....
Recreational (Yes/No) Commercial (Yes/No)
Length Overall (M)
Beam (M)
Draft (M)
Loaded Displacement Tonnage Sewerage Holding Tanks (Yes/ No)
Engine Fuel..... Diesel (Yes/No) Unleaded (Yes/ No)
Insurance Company / Broker Name.....
Registration Number **Certificate Attached** Yes No
Public Liability for \$10M. **Copy Attached** Yes No
Electrical Certificate. **Copy Attached** Yes No
Gas Certificate. **Copy Attached** Yes No
Lease / Short Term Stay Start; Date /..../..... Time.....
Lease / Short Term Stay Finish; Date /..../..... Time.....

The Lessee hereby agree to comply with EBYC Marina Lease Terms and Conditions of Use and EBYC Marina Current Rates and Charges applying to a Lease.

Signed by the owner / owners having title of the vessel. (The Lessees)

Signature(s)

Dated

Credit Card Details (Short Term Stay Only)

I authorise the Club to deduct the Pen Lease fee from the following credit card.

Master Card or Visa

Card Holder Name..... Signature

Card Number _ _ _ _ _ Expiry _ _ / _ _ CCV No _ _ _

Signed by the EBYC Club Representative (The Club)

Signature.....

Dated.....