

**35 SOUTH**  
— MARINA —  
**RULES**

**PRELIMINARY**

- (A) These Rules apply to Occupants of and visitors to 35 SOUTH MARINA.
- (B) These rules come into effect from 18 September 2019.
- (C) A definition of expressions used in these rules is contained in Part B.

**PART A – MARINA RULES****1. RULES**

- (b) Every Occupant or visitor to 35 SOUTH MARINA must comply with these rules and any rules made by Marina Management from time to time for regulating the use of the Marina.
- (c) A copy of the 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 or any amendments made to the rules from time to time.

**2. USE OF BERTH**

- (d) Upon a vessel entering the Marina it shall immediately be subject to the direction of the manager and shall be berthed and manoeuvred as directed.
- (e) Only vessels in a seaworthy condition will be admitted to the Marina. All vessels must be registered as required by law and safe boating practice.
- (f) No part of the vessel (including anchors, bowsprits, davits, swim platforms, etc.) may overhang a walkway.
- (g) Walkways must be kept clear of gear, including dinghies and skiffs at all times.
- (h) No vessel shall become unsightly or dilapidated so as to reflect unfavourably on the Marina. Decks of vessels shall be kept free and clear of debris, bottles, papers, rubbish and other unsightly material at all times.
- (i) No laundry of any type is to be hung out to dry or air in public view aboard any vessel or on any walkway.
- (j) The Marina has been declared a 'Fish Habitat' and accordingly swimming, diving, crabbing, the use of nets and any kind of fishing within the Marina is prohibited except for diving for the purpose of non-toxic hull cleaning and hull maintenance and only within the berth.
- (k) An Occupant or visitor must in or about the Marina:-
- (i) ensure any vessel is moored securely within the boundaries of a berth and does not encroach beyond the berth boundaries (length or beam);
  - (ii) ensure that any vessel is kept in a sound, safe, secure, seaworthy and watertight condition and that all mooring lines used to secure the vessel and fenders are in good condition and adequate for the vessel's size and weight. If, in the opinion of the manager, lines are inadequate or additional lines are necessary, the Occupant will be required to comply with that direction at their expense;
  - (iii) ensure that all gates, entrances and exits (including doors to amenities blocks and laundry facilities) within the Marina are properly closed after each use;
  - (iv) ensure that access through gates is not permitted to any person who is not in possession of a key;
  - (v) not carry out repairs, sandblasting, spray painting, fitting out or refitting of the vessel within the berth with the exception of minor repairs, painting, mechanical adjustments and electrical work provided that no nuisance is created to other

Occupants and no objection is raised by the manager;

- (vi) not obstruct in any way the embarkment, disembarkment, navigation, movement, or lawful activities of other Occupants or visitors of the Marina;
- (vii) not permit any commercial vessel to be moored in the berth without written approval of Marina Management, which consent may be revoked or given on conditions at the absolute discretion of Marina Management;
- (viii) not display any sign on any vessel moored in the berth or anywhere within the Marina without written consent from the manager;
- (ix) not carry on or permit to be carried on with or from the vessel or the berth, any business or activity of a commercial nature without prior written consent of Marina Management which consent may be revoked or given on conditions at the absolute discretion of Marina Management;
- (x) not refuel a vessel from the berth or any other place within the Marina. They must only refuel a vessel using a licensed fuel dock and store all oils and inflammable liquids safely and properly so as not to cause danger to other vessels using the Marina. Refuelling of a vessel within the Marina is a breach of these Marina Rules and is an unacceptable risk to public safety and other vessels stored at the Marina. Offenders will be directed to permanently remove their vessel from the Marina;
- (xi) ensure that a vessel is not used for overnight accommodation which would contravene the provisions of any regulations including the Environmental Protection Agency's Code of Practice for Vessel and Facility Management;
- (xii) take all necessary precautions against the outbreak of fire in or upon the vessel whilst it is moored in the berth;
- (xiii) not discharge anything of whatever nature into the waters in the berth or the Marina and must not (whilst the vessel is moored in the berth or otherwise in the Marina) use any toilet on the vessel unless the toilet is connected to an approved holding tank in the vessel;
- (xiv) not clean or gut fish or crabs on the walkways or throw fish offal or frames or any other fish or crustacean waste into the waters of the Marina;
- (xv) at its cost, dispose of any sewage ashore by using any sewerage pump out facility provided by the Marina;
- (xvi) keep the vessel and the berth free of pests, insects and vermin;
- (xvii) observe and comply with the reasonable directions of the Marina Management and ensure their visitors do so;
- (xviii) keep the vessel and the berth free of all infectious disease and infections which are notifiable to health authorities under the law of South Australia;
- (xix) not misuse, overload, interfere with or alter the connection, fittings or equipment in the common area or the berths relating to the supply of water, gas, electricity, lighting or other services;
- (xx) ensure that LP gas bottles, regulators and supply hoses are maintained in a condition which complies with statutory requirements and not operated in a manner or used for any purpose which may create a hazard;
- (xxi) take all reasonable precautions to protect the vessel and property on the vessel from theft or vandalism;
- (xxii) ensure all mooring ropes and hoses are organised in such a manner so as not to cause a trip hazard on the walkways;

- (l) The berth is to be used solely for the permitted use under a lease, or licence, as appropriate. A copy of a sublease and licence terms are available for inspection at the Marina office.

### 3. CONDUCT AND COURTESY

- (a) Occupants shall be responsible for the conduct of their visitors. Disorderly conduct may result in eviction from the Marina.
- (b) Occupants and visitors must not use foul language or do anything on the Marina, the berth or the vessel which is likely to cause nuisance, annoyance, disruption or injury to any person in or about the Marina;
- (c) Noise including radios, sound systems, television and musical apparatus must be kept at a level which does not create a nuisance to Occupants of other vessels. Between the hours of 10pm and 6am, noise must be kept to a level which is reasonably inaudible to Occupants of other vessels.
- (d) Children must be supervised by a responsible adult at all times.
- (e) Bicycles are not to be left on walkways or left unattended in any of the common areas. All bicycles are to be parked in designated bicycle parking areas and must display a waterproof tag with the Occupant's berth number. Bicycles which are not tagged may be considered abandoned and may be disposed of at the discretion of the manager.
- (f) Halyards and lines must be tied in a manner which will prevent slapping or other noise. Any nuisance which, in the reasonable opinion of the manager, is being caused by halyards and/or lines may be rectified by the manager at the Occupant's expense.
- (g) Between the hours of 6pm and 7am:-
- (i) Power generating equipment, power tools or other noise-making machinery shall not be operated;
  - (ii) Vessel engines shall not be run except for the purpose of entering or leaving a berth.
- (h) Misconduct, theft or vandalism is to be reported immediately to the manager and the appropriate authorities.

### 4. ANIMALS

- (a) The acceptance of animals is at the discretion of the manager and is based on size, number, noise created and nuisance to other Occupants and visitors.
- (b) Dogs and cats must be registered if required by any local government law.
- (c) All animals must be kept either within the confines of the Occupant's vessel, or if beyond such confines, must be kept on a leash or within a cage.
- (d) Animals must not be permitted to foul any part of the Marina.
- (e) Animals are not to be left unattended in any part of the Marina.

### 5. COLLISION

Occupants and visitors must immediately report to the manager particulars of any collision (whether considered minor or not) in which the Occupant or visitor is involved or which is observed with any vessel in or about the Marina or any vehicle in the carpark.

### 6. FIRE FIGHTING EQUIPMENT

- (a) Fire extinguishers and fire hoses are for the express purpose of fighting vessel or Marina fires and are not to

be removed from fire station reels or boxes for any other reason.

- (b) All discharged fire extinguishers are to be reported to the manager.

### 7. SERVICES

- (a) Only approved power leads shall be permitted.
- (b) One power connection is available per vessel and no vessel is to connect to more than one power outlet.
- (c) No modification or alteration whatsoever is to be made to the power or water supply on the pedestal.
- (d) Power leads deemed by the manager to be hazardous because of being damaged, non-compliant, not tested and tagged or a trip hazard may have to be disconnected. The manager will endeavour to contact the Occupant prior to doing so, however on occasion the need to unplug a dangerous power lead may override this contact.
- (e) Marina Management reserves the right to install power and water meters on any berth and charge the Occupant for usage.
- (f) Hoses connected to pedestals must be kept tidy and clear of the walkway and fitted with a sturdy trigger nozzle (i.e. with spring loaded shut off).
- (g) Water hoses and their fittings must be of an adequate standard to ensure the hose or fittings will not fail when pressurised.
- (h) All water usage (including times) must be in accordance with applicable local government restrictions.

### 8. COMMON AREAS AND GARBAGE

- (a) An Occupant or visitor must not obstruct the common areas in any way.
- (b) Common areas are to be kept clean and tidy.
- (c) Hoses are not to be left connected to any tap in the common areas.
- (d) Rubbish is to be deposited in the bins provided for that purpose however no offsite or contractor's rubbish is to be deposited in Marina bins. Occupants are to use any recycling facilities where provided. The disposal of batteries, cooking or lubricating oils, fish products, offensive-smelling or other undesirable waste in Marina bins is prohibited. Cartons and other bulky hollow items must be flattened before placing into Marina bins.
- (e) No part of the Marina (except those areas specifically designated as storage areas) is to be used for the storage of any item.

### 9. SPEED LIMIT AND 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 leaving the Marina, observe Maritime Law and keep to the right. Power gives way to sail.

### 10. DAMAGE AND REPAIR

- (a) An Occupant and visitor must:-
- (i) to the satisfaction of Marina Management, repair damage to the services, berth, equipment, buildings, furniture, appliances or the Marina caused by any act, omission, negligence or default of the Occupant or visitor and must on demand from the Marina Management, pay to the Marina Management the reasonable costs of any such repairs not done by the Occupant or visitor;

- (ii) must report any damage, accident or defect (whether considered minor or not) in the services or berth to the manager as expeditiously as possible;
  - (iii) not undertake any works, in or about or make alterations to the berth or any part of the Marina;
- (b) The manager may enter any berth without notice to:-
- (i) view its state of repair and condition without notice;
  - (ii) effect any repair to the berth;
  - (iii) do anything to restore or preserve good order, safety or security of any person, the vessel, berth or the Marina.
- (c) In the event that the manager believes an emergency or imminent danger or risk to a vessel or the Marina exists, the manager may enter any vessel at risk by force for the purpose of rendering it and the Marina safe. An Occupant may, at their option, provide the manager with keys to their vessel to allow access if required in accordance with this subrule however any key so provided will be at the sole risk of the Occupant.

#### 11. INSURANCES AND INDEMNITIES

- (a) An Occupant must take out and maintain:-
- (i) public risk insurance in respect of the vessel for at least \$10,000,000 in respect of any single accident;
  - (ii) third party insurance on the vessel; and
  - (iii) any other insurance reasonably required by Marina Management.
- (b) Evidence must be given on request by Marina Management of adequate insurance and Marina Management must be notified if any insurance policy is cancelled.
- (c) An Occupant and visitor must not:-
- (i) do anything which may affect rights under any insurance policy taken out by Marina Management or other person; and
  - (ii) store chemicals, inflammable or volatile liquids or substances in the vessel other than those that are required for safe operation of the vessel (and then only in such quantities as are reasonably required and in appropriate and approved containers).
- (d) An Occupant and visitor are liable for and indemnify the Marina and Marina Management against any liability for any claim arising from:-
- (i) the use by the Occupant or visitor of a berth or vessel;
  - (ii) any damage, loss, injury or death caused or contributed to by any act, omission, negligence or default of the Occupant and/or any visitor of the Occupant and/or visitor;
  - (iii) the impounding or moving of a vessel under clause 10 or otherwise; and
  - (iv) a breach by the Occupant or visitor of these rules.
- (e) the Marina and Marina Management may enforce any indemnity before incurring any expenses.
- (f) The Occupant and visitor releases the Marina and Marina Management from and agrees that the Marina and Marina Management is not liable for any claim arising from:-

- (i) damage, loss, injury or death unless it is caused by the negligence or default of the Marina and Marina Management;
  - (ii) anything the Marina and Marina Management is permitted to do under these Marina Rules;
  - (iii) any defect in or faulty operation of any service;
  - (iv) the common areas not being clean.
- (g) Occupants and visitors acknowledge that all their property which may be on the berth or the vessel anywhere in or about the Marina is at their sole risk.

#### 12. DEFAULT AND ENFORCEMENT

- (a) Marina Management may, upon reasonable grounds, terminate the right of entry or access of any Occupant or visitor to the Marina without prejudice to its other rights in law or equity.
- (b) A written warning will be issued to an Occupant or visitor breaching any rule in response to every complaint made by another Occupant or visitor of the Marina.
- (c) An Occupant or visitor who has been given three written warnings and has failed to remedy the specified breach will forfeit their entitlement to occupy a berth or enter upon the Marina and will be required to remove themselves and their vessel from the Marina within one (1) week of being given written notice to do so.
- (d) If an Occupant fails to remove their vessel from the Marina in accordance with subrule (c) above, Marina Management may:-
- (i) enter the Marina berth with force if necessary and eject the Occupant and all other persons; and
  - (ii) impound the vessel; and/or
  - (iii) remove the vessel from the Marina.
- (e) If an Occupant is in default in respect of payment of moneys, Marina Management:-
- (i) shall have a lien over the vessel and may detain it until all monies payable by the Occupant to Marina Management are paid in full or satisfied; and
  - (ii) may remove the vessel to another wet or dry area within the Marina or waterway at the Occupant's sole cost and expense.
- (f) Ending of the right to occupy or visit does not affect any prior claim that Marina Management may have against the Occupant or visitor.
- (g) Marina Management's acceptance of rent or other money is not a waiver of any contravention of these rules.

#### 13. COMPLAINTS AND SUGGESTIONS

- (a) Complaints and suggestions may be made either orally or in writing to the manager or marked "Private and Confidential" and posted to "Marina Management" at PO Box 1212, North Haven 5018 or otherwise deposited in a box provided for that purpose.
- (b) All complaints will be treated as confidential.

#### 14. CONTRACTORS AND TRADESPERSONS

- (a) Any contractor or tradesperson working on a vessel or within the Marina must report to the Marina office prior to commencing work and provide details of the work intended to be carried out.
- (b) Identification and evidence of insurance must be presented.
- (c) All tools and cords must be tested and tagged by a person licensed to provide electrical compliance testing.

- (d) Occupants are responsible for any tradespersons they engage to undertake work on their vessels. It is the Occupant's responsibility to ensure reporting has occurred and that insurance is in place.

#### 15. CLEANING AND MAINTENANCE OF VESSEL AND BERTH AND BY LAWS RELATING TO ENVIRONMENTAL PROTECTION

- (a) An Occupant or visitor must not:-
- (iii) throw overboard garbage or refuse of any kind;
  - (iv) fuel any vessel in the berth; or
  - (v) harm the environment by spilling fuel or oil.
- (b) All incidents must be reported promptly to the manager who will keep a log of every incident.
- (c) An Occupant or visitor will at their own cost, observe, perform and fulfil all requirements of any Environment Protection Agency or law and permits affecting the vessel or the berth or the Marina or any part of it and ensure that all licenses, registrations and permits for the vessels are maintained and copies provided to the manager upon request;
- (d) Any oil leaks from a vessel must be repaired immediately and inspected by the manager. Any oil leaks must be contained by a suitable method.
- (e) Any vessel found to be leaking oil or fuel will be dealt with in the following manner:-
- (i) The Occupant or person in control of the vessel will be notified immediately by phone to rectify the fault immediately.
  - (ii) Drip trays and / or absorbent pads will be placed to collect spillage at the Occupant's cost; and
  - (iii) A report will be made and lodged with the relevant Environmental Protection Agency.
- (f) Pumping out bilges is strictly prohibited in the Marina. Incidents of pump out of bilges will be reported by the manager to the relevant Environmental Protection Agency.
- (g) Releasing sewerage or greywater into the Marina is strictly prohibited.
- (h) Any vessel found to be discharging bilge or greywater into the Marina will be dealt with in the following manner:-
- (i) The Occupant will be notified immediately personally or by phone or email to cease the activity.
  - (ii) The vessel, if unattended, will be boarded and pumps de-activated.
  - (iii) Bunds will be placed around the area and the discharge will be removed by mechanical or other method at the expense of the Occupant.
  - (iv) A report will be made and lodged with the relevant Environmental Protection Agency.

#### 16. OCCUPANT AND VISITOR WARRANTIES

- (a) An Occupant or visitor warrants and represents to Marina Management that all information provided by the Occupant or visitor to the Marina is true and correct and all authorities and consents in respect of the waterway and the Marina needed by the Occupant and visitor have been obtained.

#### 17. NO REPRESENTATION

- (a) The Occupant acknowledges that no promise, representation or warranty is given by Marina Management:-
- (i) that the berth 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.

#### 18. RESERVATIONS

- (a) Marina Management reserves the exclusive right to:-
- (i) use any part of the Marina that is not rented for any purpose;
  - (ii) control the common area in its absolute discretion;
  - (iii) move any vessel to another berth in the Marina or elsewhere in its absolute discretion; and
  - (iv) construct or permit the construction, demolition or removal of any building, marina or other works on any part of the Marina and the Occupant and visitors may not make objection or claim in respect of any of these matters.
- (b) Marina Management is not liable to anyone for any damage which anyone may suffer because of any interruption to any service.

#### 19. DETERMINATION

- (a) On termination of their occupation or access to the Marina, Occupants and visitors must:-
- (i) deliver all keys to the Marina office;
  - (ii) vacate the berth and leave it and any part of the Marina used by them in a clean state; and
  - (iii) remove their property; and
  - (iv) not cause any damage to the berth or the Marina in the removal of anything from the berth. If any such damage is caused, they must at their cost, promptly repair that damage to the satisfaction of Marina Management.

#### PART B – INTERPRETATION

#### 20. DEFINITION AND INTERPRETATION

In these rules unless a contrary intention appears:-

**Amenities Block** means the area specified from time to time by Marina Management which contains 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 visitors of the Marina.

**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.

**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 the protection, preservation and enhancement of the environment.

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

**Manager** means the manager of 35 SOUTH MARINA from time to time, or his nominee.

**Marina** means the group of floating mooring berths and the waterways within 35 SOUTH MARINA containing the berth (including the amenities blocks, walkways, pontoons, piles and access bridges associated with the Marina and any dry land under the control of Latitude 35 Marina Pty Ltd as Trustee for the Latitude 35 Marina Trust).

**Marina Management** means the management of 35 SOUTH MARINA.

**Occupant** means any person who is authorised to occupy a berth or any part of 35 SOUTH MARINA (including on-site commercial tenants and on-water commercial operators).

**Permitted Use** means the mooring of a marine vessel.

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

**Services** mean the services which are provided by 35 SOUTH MARINA or any authority and include but are not limited to, all electricity, gas, lighting and water consumed and/or used in or about 35 SOUTH MARINA.

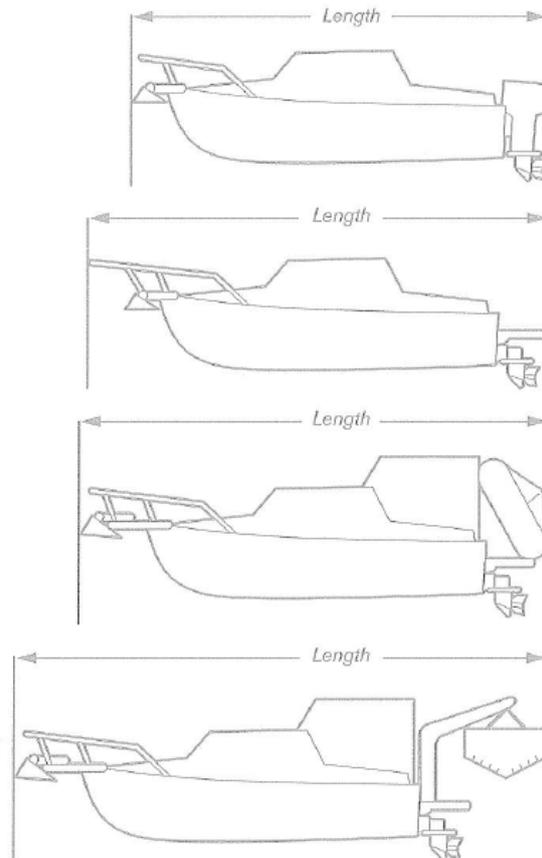
**35 SOUTH MARINA** means the wet and dry land waterways including all improvements from time to time which comprise the Marina, berths and common areas of 35 SOUTH MARINA together with the land or buildings under the control of or leased or licensed by Latitude 35 South Marina Pty Ltd as Trustee for the Latitude 35 Marina Trust.

**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 35 SOUTH MARINA for any reason (with or without invitation) and includes an Occupant's invitees, employees, agents, tradesmen, contractors and customers.

**Walkways** means the fingers and arms of the floating mooring berths.

## PART C – HOW TO MEASURE YOUR BOAT



### **NB:**

Measure to outer most extremities, including anchor, bow, motor, tender etc. When measuring, state on form if anchor and/or dinghy are fitted.