

Highview Waters Resort
Michael Falzon
135 Merool Lane, Moama NSW

SITE HOLDERS AGREEMENT

BETWEEN:

Michael Falzon trading as Highview Waters Resort (the Resort Owner)

AND

(“The Occupant”) (Unit ___)

**DATED THE _____ THIS AGREEMENT IS MADE PURSUANT TO
THE HOLIDAY RESORTS (LONG-TERM CASUAL OCCUPATION)
ACT 2002**

1. This Agreement is made the _____ between the Resort Owner as to the one part and occupant to the other part the full names and addresses of which are as set out above.
2. The resort owner gives the occupant the right to occupy site number _____ at the Highview Waters Resort (“the Holiday Resort”).
3. The size of the site is 10 mtrs x 20 mtrs
4. Who can occupy the site? No more than twelve persons may ordinarily occupy the site at any one time.
5. The fixed term of this agreement is for 12 months, beginning on the _____ and ending on the _____
6. When the time for this agreement ends:
 - (a) the occupant can stay on the site at the same occupation fee (or at an increased fee if the fee is increased in accordance with this agreement) and otherwise under the same terms unless or until this agreement is ended in accordance with this agreement.
7. The resort owner and occupant agree to comply with the terms of this agreement and the occupant agrees to be bound by the Summary of Rules Entry and Site Holding Conditions provided with this Agreement. The resort owner reserves the right to vary the summary of rules, entry and site holding conditions.

8. The occupation fees payable are \$5800 inc gst per annum. Boat storage shed are at \$1300 ex gst per annum. Larger sheds are an extra \$100 per annum.
9. The occupant agrees to pay, in connection with the site, for electricity.
10. The resort owner agrees to pay, in connection with the holiday resort on which the site is situated, for:
 - (a) Council rates, and
 - (b) Land taxes, and
 - (c) Water Rates.
11. Occupation fees are payable in advance and on time:
 - (a) The occupant agrees to pay the occupation fees within 7 days from date of invoice.
 - (b) The occupant agrees to pay the occupation fees on time.
12. The occupation fees may be paid in the following ways:
 - Cash/Cheque/EFT

These methods of paying may be changed during the term of this agreement if both the resort owner and the occupant agree.
13. Manner of paying occupation fees Occupation fees must be paid to the resort owner at 135 Merool lane, NSW
14. Receipts for occupation fees or other charges:
 - (1) The resort owner agrees to provide a receipt for any occupation fees or other charges under this agreement paid to the resort owner or to make sure that the resort manager provides a receipt for the occupation fees or charges paid to the resort manager. If the occupation fees or charges are not paid in person, the resort owner agrees only to make the receipt available for collection by the occupant or to post it to the occupant.
 - (2) The resort owner agrees that any receipt for occupation fees or charges must include the following particulars:
 - (a) the name and address of the holiday resort, 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 resort 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 resort owner and the occupant, into an account at an authorized deposit-taking institution (such as a bank, building society or credit union) nominated by the resort owner.
15. Fee increases
- (1) The resort owner cannot increase the occupation fees during the fixed term of this agreement.
 - (2) The occupant must be given 30 days' notice in writing if the resort 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 resort owner and occupant subsequently agree to a lesser increase than that set out in the notice, the resort owner does not need to give a further 30 days' notice.
16. Refund of occupation fees The resort owner agrees to refund any fees paid in advance if the occupancy is ended by the resort owner before the end of the fixed term agreement.
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 resort to interfere with:
- (a) the reasonable peace, comfort or privacy of any neighbour of the occupant or any other person lawfully in the holiday resort, or
 - (b) the proper use and enjoyment of the holiday resort by the other occupants or residents of the holiday resort.
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 resort 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 resort, 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 resort owner's prior written permission.
21. Occupant's responsibility for the actions of others. The occupant agrees to be responsible to the resort owner for any act or omission by any person the occupant allows on the site, or elsewhere in the holiday resort, who breaks any of the terms of this agreement (including any resort 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 resort 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 resort owner's prior written permission.
 - (2) The occupant agrees that the resort 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.
27. Possession of the site. The resort 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 resort 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 resort owner agrees that the occupant will have use of the site without undue interruption by the resort owner.
29. Cleanliness. The resort owner agrees to make sure the site, everything provided with the site for use by the occupant, and the common areas of the holiday resort, are reasonably clean and fit to occupy or use.
30. Tradespeople allowed to come in. The resort owner and occupant agree that any tradespeople that the occupant reasonably requests should be allowed into the holiday resort will be allowed in without unreasonable interference.
31. Permitting family members of occupant and others to temporarily occupy a site.
 - (1) The resort 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 resort owner.
 - (2) The resort owner and occupant agree that the resort 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.
32. Parties to minimise loss from breach of agreement. The resort 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 resort owner will not be able to claim damages for loss that could have been avoided by reasonable effort by the resort owner.)

33. Resort owner's access to the site. The resort owner agrees that the resort owner, the resort manager or any person authorised in writing by the resort 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 resort owner to believe the site is abandoned,
 - (d) if electricity, water or gas is supplied to the occupant by the resort 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,
34. Resort rules for casual occupants. The resort owner agrees to give the occupant a copy of any resort rules for casual occupants that are in force for the holiday resort, before or at the time they enter into this agreement.
35. Obligation to promote compliance with resort rules for casual occupants. The resort owner agrees to take all reasonable steps to make sure that the resort owner's other occupants do not contravene any resort rules for casual occupants for the holiday resort.
36. Ending this agreement. The resort owner and the occupant agree that this agreement can be terminated in one or more of the following circumstances:
- (a) if the resort 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 resort owner becomes entitled to possession of the site,

- (d) if a person succeeding to the title of the resort 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 resort owner, whether or not that permission is subsequently withdrawn,
- (h) by merger (that is, where the interests of the resort owner and the occupant become vested in the one person),
- (i) by disclaimer (for example, on repudiation by the occupant accepted by the resort owner),
- (j) if the fixed term ends, there is no provision for a continuing agreement and the resort owner or the occupant has terminated the agreement after the expiry of the next period for which the occupation fee was payable.

37. Termination by occupant on breach of agreement.

- (1) The resort owner and the occupant agree that the occupant may give the resort owner a notice of termination of this agreement if the resort owner has breached a term of this agreement.
- (2) The resort 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 resort owner.
- (3) If this agreement creates an occupancy for a fixed term, the resort 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 resort owner is earlier than the day the term ends.

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

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

- (2) The resort 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 resort owner.
- (3) This clause does not apply if the agreement creates an occupancy for a fixed term and that term has not finished.

39. Termination on breach of agreement.

- (1) The resort owner and the occupant agree that the resort owner may give notice of termination of this agreement to the occupant if the occupant has breached a term of this agreement.
- (2) The resort 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 resort owner.
- (3) The resort owner and the occupant agree that a notice of termination given by a resort 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 resort owner and the occupant agree that a notice of termination given by a resort owner on the ground of a breach of the agreement to pay occupation fees is not ineffective merely because of any failure of the resort owner or the resort manager to make a prior formal demand for payment of the fees.
- (5) If this agreement creates an occupancy for a fixed term, the resort 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 resort owner is earlier than the day the term ends.

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

- (1) The resort owner and the occupant agree that the resort owner may give notice of termination of this agreement without having to give any reason.
 - (2) The resort 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 resort 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.
41. Notices of termination. The resort 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 resort 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 resort owner and the occupant agree that a notice of termination given to a resort owner may be:
 - (a) posted to the resort owner's residence, or
 - (b) given to the resort owner or to the resort manager personally, or
 - (c) posted or faxed to the resort owner's, or resort manager's, place of business, or
 - (d) given to a person aged over 16 who normally collects the occupation fees.

- 43. Apportionment and recovery of occupation fees on termination. The resort 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 resort 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 resort 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 resort owner, and

 - (b) is not evidence of the creation of a new occupancy.

SIGNED for and on behalf of
Highview Waters Resort
135 Merool lane, Moama NSW

SIGNED, SEALED & DELIVERED
by the said Occupant: