

NELSON CITY COUNCIL RESERVE CONCESSION APPLICATION

Part A

Note: Applicant to complete Part A only if the conditions in Part B are understood and achievable. Part B will form the Licence agreement if the application is successful.

Date _____

Name of Applicant _____

Company Name _____

Location/Park _____

GST Registered Yes No **GST Number** _____

Contact Address _____

Phone Work _____

Phone Home _____

Mobile _____

Email _____

Application Type Food Drink / Recreation /Other

Please complete the following description of proposed activity. Include as an attachment any further support material as desired.

Visit MPI if you plan to sell food <https://www.mpi.govt.nz/food-safety/>

(A) Provide a description of the Proposed Activity and include intended days and times of operation:

(B) Provide a description of the potential effects of the activity on the public and the reserve and the steps the applicant proposes to take to avoid, remedy or mitigate any negative effects:

(C) Provide details of how you will manage and minimise waste to landfill (recycle & reduce):

(D) Provide (attach) information/references to support applicant’s ability to carry out proposed activity.

(E) Provide (attach) relevant Health and Safety plan, risk assessment or hazard identification register for the proposed activity.

(F) Provide a description of type, size, structure and visual presentation of facility (attach photo or similar where possible). The facility must be able to be removed on a daily basis.

(G) Does the activity use a generator: Yes No

(H) Does the activity require park power supply? Yes No

(I) Provide details of insurance policies that will be held by the applicant in respect of the proposed activity. You will need to provide evidence of all policies held prior to commencing the proposed activity. Public Liability insurance is a minimum requirement.

Fee structure:

Sports Grounds and Neighbourhood Reserves

Summer rate (September 1 – April 30) Starting from **\$279** incl. GST per month

Winter charge (May 1 – August 31) Starting from **\$142** incl. GST per month

Powered site additional **\$71** incl. GST per month

Note: the rates above are subject to a negotiated increase depending on the nature and impact on the reserve and its users.

Note: the rates above are subject to review and increase as per the Reserve Concession Licence.

Bee Hives

\$20.00 incl. GST per hive

Mountain Bike, tuition, and guided tours

\$3 incl. GST per rider per day

Note: for cost to set up a site on the reserve to trade from, please see “Sports Grounds and Neighbourhood Reserves” prices

Other

All other activities and trade enquiries will be negotiated based on the above pricing (whichever suits the activity most)

Payment options

Up-front payment to cover the entire duration of the concession can be paid directly to the Council Customer Service Centre.

For Monthly or periodic payments, you will be required to complete and application to open a customer account which will involve credit and reference checks.

Signature _____ **Name** _____

Attach further supporting documentation as desired.

Return to: customer.service@ncc.govt.nz or

Nelson City Council
110 Trafalgar Street
PO Box 645
Nelson 7040

Part B

To be completed by NCC Property staff

Reserve Concession Licence

THIS CONCESSION LICENCE is made this _____ day of _____

PARTIES:

- 1** **NELSON CITY COUNCIL** ("the Licensor")
- 2** [«**Concessionaire_Name**»] ("the Concessionaire")

BACKGROUND

- A.** The Licensor has agreed to grant the Concessionaire a personal and non-transferable **LICENCE** to carry out the Concession Activity on the Licensed Area for the purposes described in Schedule 1 of this Licence, upon the terms and conditions of this Licence.

IT IS AGREED:

"Persons under the control of the Concessionaire": includes all employees, agents or contractors, suppliers, customers and invitees of the Concessionaire.

1. Term

- 1.1. The term of this Licence shall commence on the Commencement Date and shall end on the Expiry Date described in Schedule 1, unless previously terminated in accordance with this Licence.
- 1.2. Upon expiration of this license, the Licensor is not obliged to issue the Concessionaire with a new Licence, or with any extension of the term of the Licence.

2. Concession Fee

- 2.1. The Concessionaire shall pay the Licensor the Concession Fee at the rate and in the manner described in Schedule 1 (or as varied as a result of a Concession Fee Review).
- 2.2. If the Concession Fee or any other money payable by the Concessionaire under this Licence remains unpaid for 14 calendar days after the due date for payment, the Concessionaire shall pay interest on the unpaid amount at the default interest rate described in Schedule 1, calculated from the due date for payment to the date payment of any unpaid amount is made.

- 2.3. The Licensor may review the Concession Fee payable as from the Concession Fee Review Date described in the First Schedule.
- 2.4. Upon review, the Concession Fee payable by the Concessionaire under this Licence shall be calculated in accordance with the Licensor's Annual Plan, as at the date of review, on fees paid by Concessionaire's who Licence land from the Licensor.

3. Concession Activity

- 3.1. The Concessionaire shall not use the Licensed Area for any purpose other than the Concession Activity described in item 2 of Schedule 1.
- 3.2. The Concessionaire will at all times, at the Concessionaire's expense conduct the Concession Activity and any related activity in a safe and reliable manner
- 3.3. Without limiting the generality of Clause 3.2, prior to commencing the Concession Activity under this Licence, the Concessionaire must provide the Licensor with:
 - (a) evidence of the Concessionaires and any employees' competency and qualifications to carry out the Concession Activity;
 - (b) Evidence of compliance with or the ability to comply with all statutes, ordinances, regulations, rules, codes of practice, and by-laws, which may be required from any authority in respect to carrying out the Concession Activity.

4. Operation

- 4.1. The Concessionaire may operate at the times specified in item 3 of Schedule 1.
- 4.2. The Licensor may require the Concessionaire to cease operation under this Licence for a certain period as a result of emergency works, scheduled maintenance, or for any other reason. Reasonable notice in writing shall be given to the Concessionaire; however in the event of unforeseen circumstances this may not be possible.

5. Advertising

- 5.1. The Concessionaire shall not display or place, or permit to be displayed or placed, any signs, notices, advertisements or posters within the Licensed Area without the prior written approval of the Licensor. This approval is separate from any consent required by New Zealand Transport Agency or under the Resource Management Act, 1991, the Building Act, 2004 or any other legislation or regulation.
- 5.2. NRMP Rules:
 - Rule AP20r.2.1.i Location - Signs must be situated on the property at which the goods or services they advertise are available.
 - Rule AP20r.18.1 Advertising signs - Advertising signs are permitted if: there is only one sign per road frontage advertising the facilities or coming events, and it does not exceed 2m in height, and it does not exceed 1.5m².

6. General Conditions

- 6.1. The Concessionaire shall:
 - (a) ensure that the Concession Activity is under the control of the Concessionaire or its employees at all times;
 - (b) only place items on the Licensed Area that have been approved in writing by the Licensor;

- (c) keep and maintain the Licensed Area in a safe, clean and tidy condition and take all practicable steps to ensure no objectionable smells, noise, fumes, smoke or dust emanate from the Licensed Area;
- (d) immediately make good any damage to the Licensed Area caused by the use of the Licensed Area by the Concessionaire or Persons under the Concessionaire's control;
- (a) collect and dispose of all litter from within the Licensed Area, and all litter within a 10 metre radius of the Licensed Area that is attributable to the Concessionaire's use of the Licensed Area and take all practicable steps to minimise waste. Tips on waste minimisation can be found at zerowaste.co.nz.
- (b) Comply with all statutes, ordinances, regulations, rules, codes of practice, and by-laws, and with all requirements or notices or orders which may be given by any competent authority in respect of the Licensed Area, anything located on the Licensed Area, or the use of the Licensed Area.

6.2. The Concessionaire shall not:

- (a) leave on site overnight any equipment or signage without the prior approval of Licensor;
- (b) do or permit to be done on the Licensed Area anything which may become a nuisance or disturbance to, or cause damage to the property of, the Licensor, the owners or occupiers of property in the vicinity of the Licensed Area, or other users of the reserve;
- (c) Impede public access to and across the reserve, nor stop the public from having the free use and enjoyment of the reserve.

7. Assignment

- 7.1. The Concessionaire shall not transfer, assign or sublicense its rights or obligations under this Licence to any other Person, nor is the Concessionaire permitted to enter into any agreement or arrangement whereby the Concession Activity would be carried out by a person or persons other than the Concessionaire.
- 7.2. This Licence confers no legal interest of any kind in the Licensed Area.

8. Non-exclusive License

- 8.1. The Concessionaire acknowledges that the Licensor reserves to itself the right, at its discretion, to grant other licenses to use the reserve, including the Site.

9. Services

- 9.1. The Concessionaire acquires no right to the use of public services onsite for the purpose of carry out the Concession Activity other than as provided in Schedule 1.

10. Health and Safety

- 10.1. Without limiting anything in clause 3.2 or 6.1(f), the Concessionaire shall at all times during the term of this Licence comply with its obligations under the Health and Safety at Work Act 2015 and regulations, rules, guidelines and codes of practice made thereunder, as amended, and any legislation in substitution therefore. Without limiting the foregoing, the Concessionaire shall take all practicable steps to:
 - (a) provide and maintain a safe working environment;
 - (b) ensure that persons on, or on the land in the vicinity of, the Licensed Area are not exposed to hazards that are under the control of the Concessionaire;

- (c) ensure that there are in place effective methods for identifying hazards and determining whether a hazard is a significant hazard, and shall give written notice to the Licensor of hazards and significant hazards identified by the Concessionaire;
- (d) develop procedures for dealing with emergencies that may arise at the Licensed Area;
- (e) Immediately give notice to the Licensor of any accident that harms (or, as the case may be, might have harmed) any person at the Licensed Area.

10.2. The Concessionaire must if required in Schedule 1:

- (a) Prepare a safety plan for the Concession Activity
- (b) Have the safety plan audited and certified by a suitably qualified person.

Receipt of the certified safety plan by the Licensor does not in any way limit the obligations of the Concessionaire under clause 11 and is not to be construed as implying any responsibility or liability on the part of the Licensor.

10.3. If the Concessionaire shall default in carrying out its obligations under clause 10 and if the Licensor shall choose to carry out any necessary work to remedy the default then the Concessionaire shall forthwith upon demand reimburse to the Licensor all money so expended or incurred by the Licensor.

10.4. The Licensor may immediately suspend or terminate this License if the Concessionaire breaches this clause.

11. Insurance and indemnity

11.1. The Concessionaire acknowledges and agrees to occupy the Licensed Area at the Concessionaire's risk and releases to the full extent permitted by law the Licensor from all claims and demands of any kind and from all liability which may arise in respect of any damage to any property or injury to any person as a result of the Concessionaire's use and occupation of the Licensed Area.

11.2. The Concessionaire shall effect (prior to the commencement date), and keep current, in respect of the Licensed Area and the Concessionaire's use of the Licensed Area, a policy of insurance for the types and amounts not less than specified in Schedule 1.

11.3. The Concessionaire shall indemnify the Licensor to the fullest extent permitted by law from any loss, harm or damage whatsoever the Licensor may suffer from:

- (a) any breach or non observance of this Licence by the Concessionaire; or
- (b) any act or omission of the Concessionaire, servants, agents or invitees on the Licensed Area which is not covered by insurance under clause 11.2; or
- (c) the conduct of the Concession Activity.

12. Costs:

12.1. The Licensee will be liable for all costs and expenses including collection costs and solicitors fees incurred by Council in recovering any monies payable to the Council under this Licence.

13. Termination

13.1. This Licence may be terminated at any time if:

- (a) The Concessionaire is in breach of any terms and conditions of this Licence;

- (b) This Licence is assigned to or obtained and utilised by someone other than the Concessionaire without the written consent of the Licensor;
- (c) The Concessionaire is in default in payment of the Concession Fee or any other payments to be paid to the Licensor for a period of 10 working days, following receipt of a written notice detailing the payment unpaid, and requiring payment;
- (d) The Concessionaire, if an individual, is adjudged bankrupt;
- (e) The Concessionaire, if a company or incorporated society or trust board, is put into liquidation or placed in receivership or under official or statutory management;
- (f) The reserve where the concession is situated for any reason becomes unsuitable for such concessions, or the Licensor requires the Licensed Area, upon when the Licensor may in its sole discretion terminate the license with 28 days written notice;
- (g) The Concessionaire ceases to operate for a period of 28 consecutive days without reasonable explanation. In such case, the Licence shall be deemed to be cancelled and a new concessionaire may be appointed by the Licensor;

13.2. Upon the expiry or termination of this Licence, the Concessionaire shall immediately remove all of the Concessionaire's chattels from the Licensed Area and make good any damage caused by such removal and return the Licensed Area to the condition it was in at the commencement of the Licence.

13.3. The Concessionaire may terminate this Licence by notice in writing to the Licensor at any time provided the Licence Fee is paid up to date.

13.4. Termination of this Licence for any reason shall be without prejudice to the rights and remedies of either party against the other.

14. Liability:

14.1. It is agreed that the Licensor will not be liable under any circumstance for any loss of business or earnings suffered by the Concessionaire due to suspension or termination of this Licence by the Licensor pursuant to the terms of this Licence.

15. Notices

15.1. Any notice to be given under this Licence by one party to the other is to be in writing and made by personal delivery, by pre-paid post, or by email addressed to the receiving party at the address set out in Schedule 1.

16. Concessionaire to Occupy at Own Risk

16.1. The Concessionaire acknowledges and agrees that it has entered into this Licence in reliance upon its own judgment and that no warranty or representation expressed or implied has been or is made by the Licensor that the Site is now suitable or will remain suitable or adequate for use by the Concessionaire.

SCHEDULE 1

1	Licensed Area	
2	Concession Activity (Permitted Use)	
3	Operating Hours	
4	Term	
5	Expiry Date	
6	Concession Activity Fee (subject to review)	
7	Concession Fee Payment Dates	
8	Concession Fee Review Dates	Every year in the process of the Licensor's review of its Annual Plan at the end of the Licensor's financial year.
9	Default Interest Rate	12% per annum
10	Insurance (to be obtained by Concessionaire)	Insurance(s): Amount: Certificates of Insurance received:
11	Health and Safety	Safety Plan Approved: Certification of Audit Provided:
12	Use of or Provisions of Services	
13	Addresses For Notices	Licensor: Nelson City Council 110 Trafalgar Street PO Box 645 Nelson 7040 (03) 546 0200 Concessionaire (in New Zealand): Phone: Email:
14	Special Conditions	See Schedule 3.

SCHEDULE 2: LICENSED AREA

SCHEDULE 3: SPECIAL CLAUSES

Signed by _____ on behalf of Nelson City Council as Licensor: 	Signed by _____ as Concessionaire :
Position:	Trading as: «Trading_As»