

Far North District Council and Nothing But Net Free WiFi Terms & Conditions

Far North District Council's Public Wi-Fi Terms of Service and Acceptable Use Policy

Welcome to the far North District Council's (FNDC), Nothing But Net (NBN) free public internet service (the Service).

Your use of the Service is governed by the terms set out below. It is important that you read, understand and abide by these terms. By logging into the Service, you agree to be bound by these terms of service, as they may be updated from time to time (Terms).

1. Access to the Service

1.1 Your access to the Service is completely at the discretion of FNDC, NBN and your access to the Service may be blocked, suspended, or terminated at any time for any reason including, but not limited to, a breach of these Terms, actions that may lead to liability for FNDC, NBN, disruption of access to other users or networks, and violation of applicable laws or regulations.

1.2 We may revise these Terms at any time. You accept these Terms each time you use the Service, and it is your responsibility to review these Terms for any changes each time you use the Service.

1.3 Each session is governed by the version of these Terms that is in force at the time you connect to the Service.

1.4 If you do not agree to these Terms, please refrain from using the Service.

1.5 The Service is not available in all areas and your access may be subject to capacity restrictions.

1.6 To use the Service you will need a Wi-Fi enabled device. You are responsible for ensuring that your device is suitable for use with the Service and is adequately protected against viruses or other harmful features. We are not responsible for your device or any other software and/or equipment you use to access the Service.

2. Acceptable Use of the Service

2.1 We support the free flow of information and ideas over the Internet, however, your access to the Service is conditional upon you using the Service appropriately and to a reasonable level. Your use of the Service is monitored and if we have reason to believe that you have breached these Terms or that you have otherwise misused the Service, we may suspend or permanently terminate your device's access to the Service without notice to you.

2.2 Your use of the Service and any activities conducted online through the Service shall not violate any applicable law or regulation, our rights at law or the rights of any third party.

2.3 Without limiting your general commitments above, you agree to the following in connection with your use of the Service:

2.3.1 Personal Use

You will use the Service for your own personal, non-commercial use or, if you are operating a business, or doing business, for your own internal business purposes. You will use the Service without interfering with anyone else's use of the Service.

2.3.2 Data-heavy Content

You will not use the Service to transmit, upload or download data-heavy content that may overload the Service.²

2.3.3 Spamming and Invasion of Privacy

You will not send unsolicited bulk and/or commercial messages over the Internet using the Service or use the Service for any other activity that violates another's privacy.

2.3.4 Intellectual Property Right Violations

You will not use the Service to engage in any activity that infringes or misappropriates the intellectual property rights of others, including patents, copyrights, trademarks, service marks, trade secrets or any other proprietary right of any third party.

2.3.5 Obscene or Indecent Speech or Materials

You will not use the Service to advertise, solicit, transmit, store, post, display, or otherwise make available obscene or indecent images or other materials. We will notify and fully cooperate with law enforcement if we becomes aware of any use of the Service in any connection with child pornography, the solicitation of sex with minors or any other illegal activity.

2.3.6 Defamatory or Abusive Language

You will not use the Service to transmit, post, upload or otherwise make available defamatory, harassing, abusive or threatening material or language that encourages bodily harm, destruction of property or harasses another.

2.3.7 Forging of Headers or Phishing

You will not use the Service to forge or misrepresent message headers,

whether in whole or in part, to mask the originator of the message for any purpose including the purpose of obtaining personal or financial information of another party.

2.3.8 Hacking or Unauthorised Access to Systems

You will not use the Service to access illegally or without authorisation computers, accounts, equipment or networks belonging to another party, or attempt to penetrate security measures of another system. This includes any activity that may be used as a precursor to an attempted system penetration, including, but not limited to, port scans, stealth scans, or other information gathering activity.

2.3.9 Distribution of Internet Viruses, Trojan Horses (malware) or other destructive activities.

You will not use the Service to distribute information regarding the creation of and sending Internet viruses, worms, Trojan Horses, pinging, flooding, mail bombing (malware), denial of service attacks or ransomware. Also, activities that disrupt the use of or interfere with the ability of others to effectively use the Node or any connected network, system, service, or equipment.

2.3.10 Facilitating a Violation of this Agreement

You will not use the Service to advertise, transmit or otherwise make available any software product, product, or service that is designed to violate these Terms, which includes the facilitation of the means to spam, initiation of pinging, flooding, mail bombing, denial of service attacks, and piracy of software.

2.3.11 Other Illegal Activities

You will not use the Service in violation of applicable law and regulation, including, but not limited to, advertising, transmitting, or otherwise making available ponzi schemes, pyramid schemes, fraudulently charging credit cards, pirating software, or making fraudulent offers to sell or buy products, items, or services.

2.3.12 Resale

You will not sell, transfer, or rent the Service to customers, clients or other third parties, either directly or as part of a service or product created for resale.

2.3.13 Related Parties

You agree to ensure any third party who uses the Service we provide to you is also aware of, and meets, these general obligations. You acknowledge and agree that you are wholly responsible and liable for any use by any other person (authorised or unauthorised) of the Service we provide to you, including any charges associated with that use and any consequences if such person misuses the Service or breaches these Terms. In permitting any third party to access the Service, you warrant that you have that third party's consent to enter into these Terms on that third party's behalf.

3. Disclaimer

3.1 By using this Service, you acknowledge that:

3.1.1 the Service may not be uninterrupted, continuously available or error-free;

3.1.2 we may monitor the Service for the purpose of managing network equipment, network performance checks, or as otherwise required by any applicable law or as directed by an authorised government agency;

3.1.3 we cannot guarantee that the Service is be free from viruses or other harmful applications;

3.1.4 we cannot guarantee the security of the Service and that unauthorised third parties may access your computer or files or otherwise monitor your connection;

3.1.5 our ability to provide the Service without charge is based on the limited warranty, disclaimer and limitation of liability set out in these Terms and it would require a substantial charge if any of these provisions were unenforceable;

3.1.6 the Service and any products or services provided on or in connection with the Service are provided on an "as is", "as available" basis without warranties of any kind. All warranties, conditions, representations, indemnities and guarantees with respect to the content or Service and the operation, capacity, speed, functionality, qualifications, or capabilities of the services, goods or personnel resources provided hereunder, whether express or implied, arising by law, custom, any prior oral or written statements given by us, or otherwise (including, but not limited to any warranty of satisfactory quality, merchantability, fitness for particular purpose, title and non-infringement) are hereby overridden, excluded and disclaimed; and

3.1.7 you are responsible for the safety, security, configuration of your Wi-Fi enable device or any other software and/or equipment you use to access the Service. You accept that we also have no control over the information transmitted via the Service. We cannot guarantee the security of the Service and you agree to use the Service at your own risk. We will not be liable for any loss or damage to your equipment or data or any other loss or damage you may suffer in connection with your use of the Service.

4. Your rights under Consumer Law

4.1 Any rights you may have, or obligations we may have to you, under the Consumer Guarantees Act 1993 and the Fair Trading Act 1986 (together Consumer Law) apply alongside these Terms. Subject to clause 4.2, the limitations of our liability set out in clause 5 do not

impact the rights and remedies otherwise available to you under Consumer Law.

4.2 If you are acquiring the Service for the purposes of a business as defined in the Consumer Guarantees Act 1993 you acknowledge that, to the maximum extent permitted by law, the provisions of that Act do not apply to the Service that we provide to you under these Terms.

5. Limitations of liability

5.1 Neither FNDC, Enable nor any of our respective related companies, officers, employees, contractors or agents shall not be liable to you for any indirect or consequential loss, or for any loss of data, profits, revenue, goodwill, business or anticipated business or anticipated profits or savings to the extent arising in connection with the Service or these Terms.

5.2 To the extent permitted by law, the total liability of FNDC, NBN and our respective related companies, officers, employees, contractors or agents for any loss, liability, damage, claim, cost or expense suffered by you in connection with the Service or these Terms shall be:

5.2.1 \$10 for any event or for any series of related events; and

5.2.2 \$100 in the aggregate.

5.3 Notwithstanding clause 5.2, we shall not be liable to you for any loss, liability, damage, claim, cost or expense to the extent that it is caused by you (for example, through your breach of contract or negligence).

5.4 You may become aware that you have suffered loss before we do. If you suffer any loss as a result of the Service, you agree to take reasonable steps to avoid or minimise your loss and that we are not liable for any loss that results from your failure to take reasonable steps to do so.

6. General

6.1 If you have any questions or concerns regarding the Service or these Terms please contact the Council's helpdesk on 09 401 5200.

6.2 These Terms shall not be construed as creating a partnership, joint venture or agency relationship between the parties. If any provision of this Agreement is held to be unenforceable, in whole or in part, such holding will not affect the validity of the other provisions of these Terms.

6.3 These Terms are for the benefit of FNDC and NBN and for the benefit of our respective related companies, and will, with any necessary modifications, apply to any of those related companies, and will be enforceable by them under the Contract and Commercial Law Act 2017.

6.4 If we are prevented from carrying out any obligation in these

Terms by reason of any act of God, riot, act of war, terrorism, epidemic, governmental action, fire, power failure, earthquake or other disaster or any other circumstance beyond our reasonable control, we will endeavour to advise you of the existence of the circumstances and the expected duration of, and the obligations affected by, the circumstances. Our performance of these Terms and provision of the Service to you will, to the extent that it is made impossible or impracticable by such circumstances, be suspended until such circumstances cease to exist. We will not be liable to you for a failure to perform, or a delay in performing, any obligation set out in these Terms in the circumstances contemplated by this clause.

6.5 These Terms are governed by the laws of New Zealand.

6.6 You acknowledge that FNDC's and NBN's performance of the Service and these Terms is subject to any existing laws and legal processes to which we are subject, and nothing contained in these Terms shall waive or impede our right to comply with law enforcement requests or requirements relating to your use of this Service or information provided to or gathered by us with respect to your use of the Service.

6.7 These Terms constitute the complete and entire statement of all terms, conditions, and representations of the agreement between you and us with respect to its subject matter and supersedes all prior writings or understanding.