



PORT WINDOW ALLOCATION RULES

GeelongPort Pty Ltd, ABN 50 003 996 594 Trading as GeelongPort

8 April 2019

Purpose

GeelongPort Pty Ltd (**GeelongPort**) has developed these rules for the allocation and use of berth, storage and laydown facilities at the Port of Geelong (**GeelongPort Facilities**). The purpose of these rules is to promote the economically efficient operation of, use of and investment in the GeelongPort Facilities.

Allocation Rules

1. (Principles):

GeelongPort will allocate access to the GeelongPort Facilities (**Port Windows**) on non-discriminatory and reasonable commercial terms having regard to the following matters:

- a. the legitimate business interests of Ports Pty Ltd and GeelongPort, their operation and use of, and their investment in, the GeelongPort Facilities, including (without limitation):
 - i. GeelongPort's contractual obligations and the operational and technical requirements necessary for the safe and reliable operation of the GeelongPort Facilities; and
 - ii. the cost and/or risk of providing access to an access seeker may be higher than the cost and/or risk of providing access to another access seeker;
- b. the costs to Ports Pty Ltd and GeelongPort of providing access, including any costs of any further investment (but excluding any costs associated with losses arising from increased competition in upstream or downstream markets);
- c. the economic value to Ports Pty Ltd and GeelongPort of any additional investment that the person seeking access, Ports Pty Ltd or GeelongPort has agreed to undertake;
- d. the interests of all persons holding contracts for use of any part of the GeelongPort Facilities;
- e. contractual obligations of Ports Pty Ltd, GeelongPort or other persons already using the GeelongPort Facilities;
- f. the economically efficient operation of the GeelongPort Facilities;
- g. the legitimate business interests of the person seeking access to a Port Window, including:
 - i. the benefit that person or its cargo is likely to provide in contributing to the efficient operation of, use of, and investment in the GeelongPort Facilities;
 - ii. to extent to which the access seeker is a regular and consistent user of the GeelongPort Facilities;
 - iii. the potential alignment of the access requested by the access seeker with other operations at the Port of Geelong;
- h. the potential for the relevant cargo to add new business to the Port of Geelong;
- i. the period of access to GeelongPort Facilities requested by the access seeker;
- j. the actual and reasonably forecast utilisation of the GeelongPort Facilities by area and time alongside berth during the period to which the application relates;
- k. the actual and reasonably forecast requirements of existing customers of GeelongPort during the period to which the application relates; and
- l. any other matter GeelongPort considers is relevant, acting reasonably.

2. **(Process)**

- a. A request for access to the GeelongPort Facilities must include estimated time of arrival, estimated time to discharge the cargo, product type, expected tonnages, requested berth, preferred/required storage location, area required and date and time of required access and use, as shown in the Application for Berth Hire, Application for Port Services for Vessel, and Application for Facility Hire forms (**Application Form**).
 - i. On receipt of any request through a completed Application Form by a potential access seeker for a Port Window, GeelongPort will determine whether it is able to provide access for the potential access seeker as requested, taking into account the Principles; and
 - ii. any other matter GeelongPort considers is relevant, acting reasonably.
- b. If GeelongPort determines that there is sufficient available capacity to meet the request, GeelongPort will allocate a Port Window to the access seeker as close to the requested arrangements as possible, subject to the Principles.
- c. The allocation of a Port Window will:
 - i. be on the terms and conditions set out in the Application Form, the GeelongPort Standards and Procedures, and relevant storage agreements and other reasonable commercial terms as determined by GeelongPort from time to time;
 - ii. include a commitment from GeelongPort to use its reasonable endeavours to provide access to the Port Window subject to anticipated and unexpected delays, force majeure events, earlier vessels to pilot (as described in paragraph 2.d below), and other aspects standard for a port facility of this type.
- d. Subject to GeelongPort's discretion when applying the Principles, a vessel arriving first to pilot (as marked at Latitude 38°21.18'S and Longitude 144°32.6'E) shall have priority access over later vessels, provided the vessel:
 - i. declares readiness to work the nominated cargo;
 - ii. has labour booked to work the cargo immediately or at the next normal shift on a 24 hour, seven days per week basis (subject to any applicable law or regulation); and
 - iii. has entered into a contract with GeelongPort for use of the GeelongPort Facilities.
- e. Where an access seeker pauses, or plans to pause, cargo loading or discharging activities for more than four hours, GeelongPort may direct the vessel to move to another berth or to anchorage (at the access seeker's expense) to allow a waiting vessel to berth and commence loading or discharging. When the access seeker has resolved its delay, its vessel will return to the next available suitable berth at the access seeker's expense.

3. **(Variation)**

GeelongPort may vary these rules from time to time, including if required to address any new regulation relating to the allocation and use of the GeelongPort Facilities or the operation of the Port of Geelong generally.