

PORT WINDOW ALLOCATION RULES

GeelongPort Pty Ltd, ABN 50 003 996 594

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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 capacity and capability of the GeelongPort Facilities to accommodate the cargo and or vessel(s);
- l. the actual and reasonably forecast requirements of existing customers of GeelongPort during the period to which the application relates; and
- m. any other matter GeelongPort considers is relevant, acting reasonably.

2. (GeelongPort Berth Booking)

GeelongPort may, at its discretion, establish a berth booking that overrides the berthing protocol. This would be to enable maintenance or other works that require dedicated access to a berth to be undertaken.

For any of these bookings, GeelongPort will endeavor to provide extended notice of the requirement for the berth to allow agents, customers and vessels to schedule around the booking.

3. (Process)

- a. A request for access to the GeelongPort Facilities must include estimated time of arrival (ETA), 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. Vessel agents are required to ensure the following ETA advice and updates are provided:
 - i. Seven (7) days prior to arrival – Berth Application Form lodged with expected arrival date and time (ETA) to the pilot boarding ground (PBG). Berth Application Forms lodged less than 7 days prior to arrival, will be assessed on a case-by-case basis.
 - ii. 48 hours – ETA confirmation (confirmation of planned arrival to the pilot boarding ground). This time will be used to confirm the berthing sequence and allocate a berth. If no update is provided, then the arrival time nominated on the initial berth application will be utilized.

The 48 hours ETA confirmation ensures supply chain participants can plan labour and landside logistics with certainty.

At all times, agents are required to ensure GeelongPort is immediately advised of any changes to the time of arrival (ETA).

Where a 48 hour ETA confirmation is provided less than 48 hours prior to the arrival of the vessel, it is at the express discretion of GeelongPort to allocate the vessel a berth.

Berth Application and ETA confirmation timeframes are also required for vessels seeking to move to another GeelongPort berth.

- c. The allocation of a berth 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 berth 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 the pilot boarding ground (as marked at Latitude 38°21.18'S and Longitude 144°32.6'E) shall have priority access over later vessels ("First to Pilot"), provided the vessel:
 - i. declares readiness to work the nominated cargo (Notice of Readiness or NOR);
 - 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. The principle of “First to Pilot” may not apply where:
- i. The berth is operated under lease.
 - ii. The berth is operated under an arrangement where a third party has been given rights to determine the shipping line up for that berth.
 - iii. The agents/principals reach agreement amongst themselves to change the berthing sequence – any such agreement must be provided to GeelongPort in writing and in advance of the allocation change.
 - iv. A berth application has not been received as outlined in section 3b.
 - v. A disruption to the existing schedule occurs GeelongPort will take reasonable action, including but not limited to modifying the berthing order to minimize the overall impact to port users.
 - vi. Agents or other stakeholders provide insufficient, untimely, inaccurate or incomplete information to GeelongPort.
- f. 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.
- g. Where an access seeker’s cargo loading or discharge activities fail to meet reasonable average transfer rates (indicative minimum of 150tph for dry bulk and 500tph for liquid bulk (excluding bitumen), GeelongPort may direct the vessel to increase the transfer rate. Acting reasonably and in consultation with the customer, GeelongPort may also direct the vessel to move to another berth or to anchorage (at the access seeker’s expense) where transfer rates cannot be increased, and the low productivity is having a negative impact on the ports operational efficiency.

Minimum indicative transfer rates may not apply where environmental or other compliance obligations require these be reduced.

4. (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.

5. (Dispute)

Disputes regarding the allocation of berths, storage or laydown areas must:

- a. Be submitted in writing to GeelongPort Operations as soon as possible via operations@geelongport.com.au;
- b. If the dispute cannot be resolved within 8 hours of submission, then it is to be escalated to GeelongPort’s Head of Service Delivery (or their delegate).

All disputes will be responded to in writing outlining the rationale for the decision and with specific reference to the relevant part(s) of these Protocols as appropriate.