

Port Management (Local Ports) Regulations

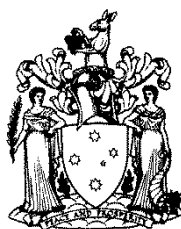
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TABLE OF PROPOSALS

<i>Proposal</i>	<i>Page</i>
Part 1—Preliminary	1
1 Objective	1
2 Authorising provision	1
3 Commencement	1
4 Revocations	1
5 Definitions	2
6 Certain Acts, regulations and other instruments prevail	5
7 Harbour master's directions prevail	6
8 Liability for offences	6
Part 2—Powers of port managers	8
Division 1—General set aside determinations	8
9 Application of Division	8
10 Activities in and access to areas set aside	8
11 Temporary prohibition of access in certain circumstances	9
Division 2—Set aside determinations for specific purposes	10
12 Berthing, mooring and anchoring	10
13 Management of cargo	10
Division 3—Conditions, notifications and record-keeping requirements	11
14 Set aside determinations subject to conditions	11
15 Port manager to maintain records of set aside determinations	11
16 Notice requirements for set aside determinations	11
Division 4—Permits	12
17 Permits to carry out certain activities or access	12
18 Offence not to comply with permit	14
19 Purpose of permit not to be detrimental	14
20 Suspension of permit	14
21 Cancellation or variation of permit	15
22 Permit to be in possession of holder	16
23 Person to produce permit for inspection on request	16

<i>Proposal</i>	<i>Page</i>
Division 5—Identification of delegates of the port manager	16
24 Identity cards	16
Part 3—Management of local ports	18
Division 1—General set aside determination offences	18
25 Offence to interfere with permitted activity	18
26 Offence to engage in prohibited or restricted activity	18
27 Offence to enter or remain in area where access prohibited	19
Division 2—Berthing, mooring and anchoring offences	19
28 Vessel to be berthed, moored or anchored in accordance with determination	19
29 Offence to install or use unapproved mooring	19
30 Vessel not to be berthed or moored in prohibited area	20
31 Vessel not to be berthed or moored in permit-only area without permit	20
32 Vessel not to be anchored in mooring area	20
33 Time limit on berthing and mooring	21
34 Vessel to be securely berthed, moored or anchored	22
35 Vessels not to lie alongside in berthing areas unless directed	22
36 Free access to and from berthed vessel	23
37 Offence to leave vessel unattended by person authorised to act as master	23
Division 3—Cargo management offences	24
38 Cargo not to be managed in prohibited area	24
Division 4—Vessel management offences	24
39 Reporting of incidents involving hazardous port activities	24
40 Refuelling of vessels	25
41 Use of propellers	25
42 Storage of equipment and other items	26
Division 5—Vehicle management offences	26
43 Vehicle entry restricted	26
Division 6—Abandoned vessels, goods and other things	27
44 Offence to abandon vessel or cause obstruction	27
45 Direction to move vessel, goods or other thing	27
46 Removal of vessel, goods or other thing	28
Part 4—Activities in local ports	30
Division 1—Regulated activities	30
47 Work in a local port	30
48 Camping	31

<i>Proposal</i>	<i>Page</i>
49 Jumping and diving	31
50 Swimming and other in-water activities	32
51 Fishing-related activities	32
52 Retrieval of fishing lines when vessel approaching wharf	33
53 Commercial activities	33
54 Organised activities	34
55 Interference with vessel moorings	35
56 Interference with property or infrastructure of port manager	35
57 Trespassing on vessels	35
58 Fireworks and other explosives	36
59 Leaving or depositing of litter and other waste	36
60 Interference with safety equipment	37
61 Obstruction to, or interference with, roads, gates and other areas	37
62 Certain gates to be kept closed	38
63 Hindrance or danger to navigation	38
64 Lighting of fires	38
Division 2—Directions	39
65 Directions to person causing interference etc.	39
Part 5—Savings and transitionals	41
66 Existing authorities taken to be valid permits	41
67 Existing set aside determinations taken to continue	41
Endnotes	42



Victoria

Port Management (Local Ports) Regulations

Exposure Draft

Part 1—Preliminary

1 Objective

The objective of these Regulations is to provide for the safe, efficient and effective management of local ports within the meaning of the **Port Management Act 1995**.

2 Authorising provision

These Regulations are made under section 98 of the **Port Management Act 1995**.

3 Commencement

These Regulations come into operation on 27 June 2015.

4 Revocations

The following Regulations are **revoked**—

- (a) the Port Management (Local Ports) Regulations 2004¹;

(b) the Port Services (Local Ports) Amendment Regulations 2012².

5 Definitions

In these Regulations—

48-hour berthing area means an area in a local port which is not—

- (a) a short-term berthing area; or
- (b) a permit-only berthing area; or
- (c) a prohibited berthing area;

48-hour mooring area means an area in a local port which is not—

- (a) a short-term mooring area; or
- (b) a permit-only mooring area; or
- (c) a prohibited mooring area;

alterations means any repair, maintenance, installation, modification, demolition or construction work, including work on a vessel or in respect of any equipment on a vessel, but does not include works;

berthing area means—

- (a) a short-term berthing area; or
- (b) a permit-only berthing area; or
- (c) a 48-hour berthing area;

camp means—

- (a) to erect, occupy or use, for accommodation, a tent, tarpaulin or any similar form of accommodation, shelter or temporary structure; or
- (b) to occupy or use a swag or sleeping bag; or

(c) to occupy or use for accommodation purposes a vehicle or other moveable form of accommodation;

commercial filming has the same meaning as in the **Filming Approval Act 2014**;

explosives has the same meaning as in the **Dangerous Goods Act 1985**;

fireplace means a fixed facility constructed of stone, metal, concrete or other non-flammable material provided by the port manager for the purpose of lighting, kindling or maintaining a fire;

fuelling facility means a mobile or fixed installation or equipment used in fuel storage or transfer that is located onshore or offshore;

hot works means welding, thermal or oxygen cutting or heating or any other heat producing or spark producing activity;

industrial waste has the same meaning as in the **Environment Protection Act 1970**;

litter has the same meaning as in the **Environment Protection Act 1970**;

low value means an item with a value less than—

(a) in the case of a vessel, \$5000; or

(b) in the case of any other thing, \$1000;

marine safety equipment has the same meaning as in the **Marine Safety Act 2010**;

master has the same meaning as in the **Marine Safety Act 2010**;

mooring area means—

- (a) a short-term mooring area; or
- (b) a permit-only mooring area; or
- (c) a 48-hour mooring area;

organised activity means any boat race, regatta, swimming race, competition, tournament, festival, concert, promotion, fireworks display or any other similar event;

permit-only berthing area means an area subject to a set aside determination which allows a vessel to be berthed in that area by a person who holds a permit issued under regulation 17 in relation to berthing a vessel;

permit-only mooring area means an area subject to a set aside determination which allows a vessel to be moored in that area by a person who holds a permit issued under regulation 17 in relation to mooring a vessel;

prohibited berthing area means an area subject to a set aside determination which prohibits vessels from being berthed in that area;

prohibited mooring area means an area subject to a set aside determination which prohibits vessels from being moored in that area;

Safety Director means the ***Director, Transport Safety*** within the meaning of section 3 of the **Transport Integration Act 2010**;

set aside determination means a determination made by the port manager to set aside an area under regulation 10, 11, 12 or 13;

sewage has the same meaning as in the **Environment Protection Act 1970**;

short-term berthing area means an area subject to a set aside determination which allows vessels to be berthed in that area at certain specified times or for certain specified periods, but does not include a permit-only berthing area;

short-term mooring area means an area subject to a set aside determination which allows vessels to be moored in that area at certain specified times or for certain specified periods, but does not include a permit-only mooring area;

the Act means the **Port Management Act 1995**;

transport safety officer means a person appointed under section 116 of the **Transport (Safety Schemes Compliance and Enforcement) Act 2014**;

vehicle has the same meaning as in the **Road Safety Act 1986** but does not include a vessel;

wharf includes a pier, jetty, pontoon, quay, breakwater or boardwalk.

6 Certain Acts, regulations and other instruments prevail

The following Acts, regulations and other instruments prevail over these Regulations to the extent of any inconsistency—

- (a) the Marine Safety (Domestic Commercial Vessels) National Law and any regulations or other instruments made under that National Law;
- (b) the **Marine Safety Act 2010** and any regulations or other instruments made under that Act;

- (c) the **Occupational Health and Safety Act 2004** and any regulations or other instruments made under that Act;
- (d) the **Filming Approval Act 2014** and any regulations or other instruments made under that Act;
- (e) any regulations made under section 13 of the **Crown Land (Reserves) Act 1978** as they apply to any land reserved under that Act which forms part of a local port.

7 Harbour master's directions prevail

A direction given by a port manager, transport safety officer or police officer under these Regulations that is inconsistent with a direction given by a harbour master (including a port manager acting as a harbour master) under Part 6.4 of the **Marine Safety Act 2010** has no effect to the extent of the inconsistency.

8 Liability for offences

- (1) The following persons do not commit an offence against these Regulations, other than regulation 24, if the person engages in an activity that would otherwise constitute that offence and the person is acting in the course of the person's duties—
 - (a) a police officer; or
 - (b) the Safety Director; or
 - (c) a transport safety officer; or
 - (d) the port manager; or
 - (e) an officer, employee or agent of the port manager; or
 - (f) an authorised officer appointed under Part 9 of the **Conservation, Forests and Lands Act 1987**.
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Port Management (Local Ports) Regulations
Exposure Draft

Part 1—Preliminary

- (2) A person who holds a lease or licence issued under any Act in relation to land or waters which form part of a local port does not commit an offence against these Regulations, other than regulation 47, to the extent that the lease or licence authorises the activity that would otherwise constitute the offence.
- (3) A person who holds a permit issued by the port manager under these Regulations does not commit an offence against these Regulations to the extent that the permit authorises the activity that would otherwise constitute the offence.
- (4) A person who engages in an activity or accesses an area under these Regulations is subject to any permit, consent or other authority requirements contained in or under any other Act in relation to that activity or area.

Part 2—Powers of port managers

Division 1—General set aside determinations

9 Application of Division

This Division does not apply to—

- (a) the berthing, mooring or anchoring of vessels in a local port; or
- (b) the management of cargo in a local port, including the arrival, loading, unloading or transfer of cargo.

10 Activities in and access to areas set aside

- (1) For the purposes of promoting the safe, efficient and effective management of a local port, a port manager may make a determination to set aside an area in a local port—
 - (a) in which a specified activity is permitted; or
 - (b) in which a specified activity is prohibited or restricted; or
 - (c) to which access is prohibited or restricted.
 - (2) In making a determination under subregulation (1), a port manager must have regard to the following matters—
 - (a) providing reasonable public access to the local port;
 - (b) accommodating the competing interests of local port users as far as is practicable;
 - (c) protecting public health and safety;
 - (d) protecting, conserving and improving—
 - (i) local port facilities, features and amenity; and
 - (ii) the natural environment.
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- (3) A determination made under subregulation (1) may permit, prohibit or restrict more than one activity.

11 Temporary prohibition of access in certain circumstances

- (1) Subject to subregulation (2), a port manager may make a determination to set aside an area in a local port in which—
- (a) access to that area; or
 - (b) the carrying out of an activity in that area—
- is prohibited or restricted for not more than 90 days.
- (2) A port manager may only make a determination under subregulation (1)—
- (a) in the event of, or in anticipation of, any fire, flood, natural disaster or other emergency; or
 - (b) if the port manager reasonably believes that there is imminent risk of—
 - (i) harm or damage to—
 - (A) the health or safety of any person;
or
 - (B) local port facilities or other property; or
 - (C) the natural environment; or
 - (ii) significant interference with the safe, efficient and effective management of the local port.
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- (3) A port manager is not required to have regard to the matters set out in regulation 10(2) when making a determination under subregulation (1).
- (4) A determination made under subregulation (1) in relation to an area in a local port replaces any previous set aside determination made by the port manager in respect of that area or any part of that area.
- (5) A person must comply with a current determination made under this regulation.

Penalty: 10 penalty units.

Division 2—Set aside determinations for specific purposes

12 Berthing, mooring and anchoring

A port manager may make a determination to set aside an area in a local port in which the mooring, berthing or anchoring of a vessel is—

- (a) permitted; or
- (b) prohibited; or
- (c) restricted.

13 Management of cargo

A port manager may make a determination to set aside an area in a local port in which the management of cargo, including the arrival, loading, unloading or transfer of cargo is—

- (a) permitted; or
 - (b) prohibited; or
 - (c) restricted.
-

Division 3—Conditions, notifications and record-keeping requirements

14 Set aside determinations subject to conditions

In making a set aside determination, a port manager may include in the determination any reasonable condition which applies in relation to the activity or access that is the subject of the determination.

15 Port manager to maintain records of set aside determinations

A port manager must keep a written record of any set aside determination, including any condition to which the determination is subject.

16 Notice requirements for set aside determinations

- (1) As soon as practicable after making a set aside determination, a port manager must display details of the set aside determination, including any condition to which the determination is subject, in a place or manner that ensures the information is reasonably likely to be seen and understood by relevant users of the local port.
- (2) Details of any set aside determination made by a port manager—
 - (a) must be published in the Government Gazette and on the port manager's Internet website; and
 - (b) may be published in any other manner that the port manager considers appropriate.

Division 4—Permits

17 Permits to carry out certain activities or access

- (1) A person may apply in a form approved by the port manager for a permit issued under this regulation.
- (2) A port manager may issue a permit in writing that authorises a person—
 - (a) to berth, moor or anchor a vessel in a local port; or
 - (b) to manage cargo, including undertaking any activity related to the arrival, loading, unloading or transfer of cargo, in a local port; or
 - (c) to engage in an activity, or access an area, in a local port which does not fall within paragraph (a) or (b) and which would otherwise contravene these Regulations or a set aside determination.
- (3) Subject to subregulation (4), a port manager must issue a permit under subregulation (2)(c) unless the port manager is satisfied that—
 - (a) engaging in the activity or accessing the area would—
 - (i) create a significant risk of harm or damage to—
 - (A) the health or safety of any person; or
 - (B) local port facilities or other property; or
 - (C) the natural environment; or

Port Management (Local Ports) Regulations
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Part 2—Powers of port managers

- (ii) significantly interfere with—
 - (A) any other activity being engaged in or any other area being accessed as permitted under these Regulations within the local port; or
 - (B) the provision of reasonable public access to the local port; or
 - (C) the safe, efficient and effective management of the local port; and
 - (b) attaching one or more reasonable conditions to the permit would not cause the port manager to be satisfied as to the matters referred to in paragraph (a).
 - (4) A port manager may refuse to issue a permit to an applicant if the port manager reasonably believes that—
 - (a) the applicant has contravened a permit (or a condition attached to that permit) previously issued to the applicant by the port manager; and
 - (b) it is reasonably likely that the applicant will contravene the permit to which the application relates (or a condition attached to that permit) if the permit were issued.
 - (5) A port manager may attach any reasonable condition to a permit issued under subregulation (2).
 - (6) A permit issued under subregulation (2) authorises the holder of the permit to engage in the activity or access the area specified in the permit—
 - (a) for the purpose specified in the permit; and
 - (b) for the period specified in the permit; and
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- (c) subject to any conditions attached to the permit.

18 Offence not to comply with permit

The holder of a permit issued under these Regulations must comply with the permit, including any condition attached to the permit.

Penalty: 20 penalty units.

19 Purpose of permit not to be detrimental

A port manager must not issue a permit under these Regulations in respect of land in a local port that has been reserved under the **Crown Land (Reserves) Act 1978** if the purpose of the permit is detrimental to the purpose for which the land is reserved.

20 Suspension of permit

- (1) A port manager may suspend a permit issued under these Regulations if the port manager reasonably believes that—
 - (a) because of changed circumstances, the port manager could now refuse to issue the permit under regulation 17; or
 - (b) the holder of the permit has not complied with a condition attached to the permit.
- (2) A suspension under subregulation (1)—
 - (a) must be in writing; and
 - (b) must set out the reasons for the suspension; and
 - (c) must state the period for which the permit is suspended, being a period of not more than 90 days; and

- (d) takes effect—
 - (i) immediately on the written notice of suspension being provided to the holder of the permit or the holder's employee, agent or contractor; or
 - (ii) on a later date specified in the written notice.

21 Cancellation or variation of permit

- (1) A port manager may cancel or vary a permit if the port manager reasonably believes that—
 - (a) because of changed circumstances, the port manager could now refuse to issue the permit under regulation 17; or
 - (b) the holder of the permit has not complied with a condition attached to the permit; or
 - (c) the holder of the permit has contravened a provision of these Regulations.
 - (2) Before cancelling or varying a permit under subregulation (1), a port manager must—
 - (a) give the holder of the permit written notice which—
 - (i) states the port manager's reasons for cancelling or varying the permit; and
 - (ii) informs the holder of the permit that the holder may make a written submission in response to the notice within the time specified by the port manager, which must not be less than 7 days; and
 - (b) consider any submission that is received within the specified time under paragraph (a)(ii).
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- (3) A port manager may cancel or vary a permit at the request of the holder of the permit.
- (4) Subregulation (2) does not apply to the cancellation or variation of a permit under subregulation (3).

22 Permit to be in possession of holder

The holder of a permit issued under these Regulations must ensure that the permit is in the holder's possession at all times while the holder engages in an activity or accesses an area as authorised by the permit or purports to do so.

Penalty: 10 penalty units.

23 Person to produce permit for inspection on request

The holder of a permit issued under these Regulations must produce the permit for inspection while the holder engages in an activity or accesses an area as authorised by the permit (or purports to do so) if requested to produce the permit by—

- (a) the port manager; or
- (b) a transport safety officer; or
- (c) a police officer.

Penalty: 10 penalty units.

Division 5—Identification of delegates of the port manager

24 Identity cards

- (1) The port manager must issue an identity card to each person to whom the port manager delegates any power conferred on it under section 44C of the Act.

Port Management (Local Ports) Regulations
Exposure Draft

Part 2—Powers of port managers

- (2) The identity card must include—
 - (a) the name of the delegate of the port manager;
and
 - (b) a photograph of the delegate of the port manager.
- (3) A delegate of the port manager must produce the delegate's identity card if asked to do so before or during the exercise of any power conferred on that delegate by the port manager unless the request is unreasonable in the circumstances.
- (4) A person to whom the port manager issues an identity card under subregulation (1) must immediately return the identity card to the port manager if that person ceases to be a delegate of the port manager.

Penalty: 10 penalty units.

Part 3—Management of local ports

Division 1—General set aside determination offences

25 Offence to interfere with permitted activity

- (1) Subject to subregulation (3), a person must not, in an area that is subject to a set aside determination made under regulation 10(1)(a), engage in an activity which would unreasonably obstruct or interfere with an activity that is permitted by that determination.

Penalty: 10 penalty units.

- (2) Subject to subregulation (3), a person must not, in an area that is subject to a set aside determination made under regulation 10(1)(a), engage in an activity in contravention of that determination.

Penalty: 10 penalty units.

- (3) Subregulations (1) and (2) do not apply to a person who engages in an activity referred to in subregulation (1) or (2), as the case may be, in accordance with a permit issued under regulation 17.

26 Offence to engage in prohibited or restricted activity

- (1) Subject to subregulation (2), a person must not engage in an activity in an area that is subject to a set aside determination made under regulation 10(1)(b) in contravention of that determination.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who engages in an activity in accordance with a permit issued under regulation 17.

27 Offence to enter or remain in area where access prohibited

- (1) Subject to subregulation (2), a person must not enter into, or remain in, an area that is subject to a set aside determination made under regulation 10(1)(c) or 11 in contravention of that determination.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who enters into, or remains in, an area in accordance with a permit issued under regulation 17.

Division 2—Berthing, mooring and anchoring offences

28 Vessel to be berthed, moored or anchored in accordance with determination

The master of a vessel must not berth, moor or anchor the vessel in an area that is subject to a set aside determination made under regulation 12 in contravention of that determination.

Penalty: 10 penalty units.

29 Offence to install or use unapproved mooring

- (1) A person must not install a mooring in a local port except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

- (2) The master of a vessel must not moor the vessel to a structure in a local port unless—

- (a) the structure is specifically provided or approved by the port manager for that purpose; or

- (b) the master moors the vessel in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

30 Vessel not to be berthed or moored in prohibited area

- (1) The master of a vessel must not berth the vessel in a prohibited berthing area except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

- (2) The master of a vessel must not moor the vessel in a prohibited mooring area except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

31 Vessel not to be berthed or moored in permit-only area without permit

- (1) The master of a vessel must not berth the vessel in a permit-only berthing area except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

- (2) The master of a vessel must not moor the vessel in a permit-only mooring area except in accordance with a permit issued by the port manager under regulation 17.

Penalty: 10 penalty units.

32 Vessel not to be anchored in mooring area

The master of a vessel must not anchor the vessel in a mooring area except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

33 Time limit on berthing and mooring

- (1) Subject to subregulation (2), the master of a vessel that is berthed in a berthing area or moored in a mooring area must ensure that the vessel is not berthed or moored for a continuous period that exceeds—
 - (a) in the case of a mooring area or berthing area that is not a 48-hour berthing area or 48-hour mooring area, the period specified by the port manager under regulation 12 or 17; or
 - (b) in the case of a 48-hour berthing area or 48-hour mooring area, 48 hours.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who moors or berths a vessel in accordance with a permit issued under regulation 17.
 - (3) A vessel is taken to have been berthed for a continuous period unless the master of the vessel moves the vessel, before the expiry of any time limit which applies in relation to the vessel's current berth—
 - (a) from its current berth to a different berth so that the vessel no longer occupies any of the same space it previously occupied; or
 - (b) from its current berth and anchors the vessel so that the vessel no longer occupies any of the same space it previously occupied; or
 - (c) from its current berth to a mooring; or
 - (d) from its current berth to an area outside the local port.
 - (4) A vessel is taken to have been moored for a continuous period unless the master of the vessel moves the vessel, before the expiry of any time
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limit which applies in relation to the vessel's current mooring—

- (a) from its current mooring to a different mooring so that the vessel no longer occupies any of the same space it previously occupied; or
- (b) from its current mooring and anchors the vessel so that the vessel no longer occupies any of the same space it previously occupied; or
- (c) from its current mooring to a berth; or
- (d) from its current mooring to an area outside the local port.

34 Vessel to be securely berthed, moored or anchored

- (1) The master of a vessel must ensure that the vessel is secure and is not capable of breaking adrift when it is berthed, moored or anchored in a local port.

Penalty: 10 penalty units.

- (2) The master of a vessel must ensure that, when the vessel is anchored in a local port, it is anchored so that neither the vessel nor the anchor is capable of endangering or causing damage to another vessel.

Penalty: 10 penalty units.

35 Vessels not to lie alongside in berthing areas unless directed

- (1) A port manager may direct the master of a vessel to berth that vessel alongside another specified vessel in a berthing area.
- (2) The master of a vessel must immediately comply with a direction given by the port manager under subregulation (1).

Penalty: 10 penalty units.

- (3) The master of a vessel must not berth the vessel alongside another vessel in a berthing area except—
- (a) in accordance with a direction given by the port manager under subregulation (1); or
 - (b) in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

36 Free access to and from berthed vessel

- (1) Subject to subregulation (2), the master of a vessel that is berthed at a wharf in a local port must ensure that persons and goods have free access across the deck of that vessel at all times—
- (a) to and from any vessel berthed alongside that vessel; and
 - (b) to and from the wharf.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply if the master does not provide free access across the deck in accordance with a permit issued under regulation 17.

37 Offence to leave vessel unattended by person authorised to act as master

- (1) Subject to subregulation (2), the master of a vessel must ensure that there is a person on board the vessel, or in the immediate vicinity of the vessel, who is licensed if the vessel is berthed in an area that is subject to a set aside determination which permits—
- (a) the loading of cargo onto, or unloading of cargo from, the vessel; or

- (b) passengers embarking or disembarking the vessel.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply if the master of the vessel holds a permit issued under regulation 17 which allows the vessel to be berthed without a person who is licensed being on board the vessel or in the immediate vicinity of the vessel.
- (3) For the purposes of this regulation, a person is licensed if the person holds—
 - (a) a licence under Part 3.2 of the **Marine Safety Act 2010**; or
 - (b) a certificate of competency under the Marine Safety (Domestic Commercial Vessels) National Law which authorises that person to act as the master of the relevant vessel.

Division 3—Cargo management offences

38 Cargo not to be managed in prohibited area

A person must not manage cargo, including undertaking any activity related to the arrival, loading, unloading or transfer of cargo, in an area that is subject to a set aside determination made under regulation 13 in contravention of that determination.

Penalty: 20 penalty units.

Division 4—Vessel management offences

39 Reporting of incidents involving hazardous port activities

A person carrying out a hazardous port activity in a local port must immediately notify the port manager of any incident involving the activity, including but not limited to the following—

- (a) an explosion, fire or harmful reaction;
- (b) the escape, spillage or leak of bulk cargo or liquids.

Penalty: 20 penalty units.

40 Refuelling of vessels

- (1) Subject to subregulation (2), a person must not refuel a vessel in a local port except if the vessel is refuelled—
 - (a) from a single, portable container of up to 25 litres in capacity which is suitable for containing fuel; or
 - (b) using a fuelling facility in an area subject to a set aside determination which permits the carrying out of that activity in that area.

Penalty: 20 penalty units.

- (2) Subregulation (1) does not apply to a person refuelling a vessel in accordance with a permit issued under regulation 17.

41 Use of propellers

- (1) Subject to subregulation (2), the master of a vessel must not cause or permit any propeller or other propulsion system on board the vessel to be operated while the vessel is berthed at a wharf in a local port.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply if—
 - (a) the propeller or other propulsion system is operated to enable the vessel to arrive at or depart from the berth; or
 - (b) the master remains on board the vessel while the propeller or other propulsion system is operated and the operation does not cause harm or damage to—
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- (i) the health or safety of any person; or
 - (ii) local port facilities or other property; or
 - (iii) the natural environment; or
- (c) the propeller or other propulsion system is operated in accordance with a permit issued under regulation 17.

42 Storage of equipment and other items

The master of a vessel must ensure that equipment and other items are not stowed or secured on the vessel in a local port in a manner which may cause harm or damage to the safety of any person or other property.

Penalty: 10 penalty units.

Division 5—Vehicle management offences

43 Vehicle entry restricted

A person driving or in charge of a vehicle must not enter or park the vehicle in a local port except if—

- (a) the vehicle enters or is parked in an area subject to a set aside determination which permits vehicles entering or being parked in that area; or
- (b) the vehicle enters or is parked in the local port in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

Division 6—Abandoned vessels, goods and other things

44 Offence to abandon vessel or cause obstruction

- (1) The master or owner of a vessel must not abandon the vessel in a local port except in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

- (2) The master or owner of a vessel must not berth, moor or anchor the vessel in a manner that creates an unreasonable obstruction except in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

45 Direction to move vessel, goods or other thing

- (1) A port manager may give a direction that a vessel, goods or other thing be removed from the local port, or moved to another place within the local port, if the port manager reasonably believes that the vessel, goods or other thing is or are—

- (a) abandoned; or
- (b) causing an obstruction; or
- (c) likely to create a risk of harm or damage to—
 - (i) the health or safety of any person; or
 - (ii) local port facilities or other property; or
 - (iii) the natural environment; or
- (d) likely to interfere with—
 - (i) reasonable public access to the local port; or
 - (ii) the safe, efficient or effective operation of the local port; or

- (e) in the case of a vessel, unseaworthy, sinking, sunk or partially submerged.
- (2) A direction given under subregulation (1) must be in writing and must be given to—
 - (a) in the case of a vessel, the owner or master of the vessel; or
 - (b) in the case of goods or any other thing, the owner of, or the person who is responsible for, the goods or other thing.
- (3) A direction given under subregulation (1) may specify—
 - (a) the manner in which the vessel, goods or other thing is to be removed or moved; and
 - (b) the time by which the vessel, goods or other thing is to be removed or moved.
- (4) A person to whom a direction is given under subregulation (1) must comply with the direction.

Penalty: 20 penalty units.

46 Removal of vessel, goods or other thing

- (1) In accordance with subregulation (2), a port manager may move or dispose of a vessel, goods or other thing which may be the subject of a direction given under regulation 45(1) if—
 - (a) the owner, master or person responsible, as the case may be, has been given a direction under regulation 45 and has not complied with that direction within the specified time; or
 - (b) the owner, master or person responsible, as the case may be, cannot be identified or located after all reasonable enquiries have been made.
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Port Management (Local Ports) Regulations
Exposure Draft

Part 3—Management of local ports

- (2) The port manager—
- (a) may move the vessel, goods or other thing to a place located within or outside the local port for storage; or
 - (b) may dispose of the vessel, goods or other thing by sale, destruction, appropriation or any other means if the port manager reasonably believes that the vessel, goods or other thing is perishable or of low value.
- (3) A port manager must maintain a record of any action taken under this regulation.
- (4) A person must not remove or interfere with a vessel, goods or other thing stored under subregulation (2)(a) without the permission of the port manager.

Penalty: 20 penalty units.

Part 4—Activities in local ports

Division 1—Regulated activities

47 Work in a local port

- (1) A person must not carry out any works in a local port except in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

- (2) A person must not carry out any alterations in a local port if those alterations involve the use of hot works or dangerous goods except in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

- (3) A person must not carry out any alterations in a local port which do not involve the use of hot works or dangerous goods unless the alterations are carried out—

(a) in a manner that—

(i) does not cause the discharge or deposit of materials or waste on to any land or into any waters or the atmosphere; and

(ii) does not unreasonably interfere with the carrying out of any other activity or access in, or the amenity of, the local port; or

(b) in an area that is subject to a set aside determination which permits the carrying out of those alterations in that area; or

(c) in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

- (4) A person who carries out works or alterations in a local port must carry out those works or alterations in a manner that ensures any safety and environmental risks associated with the works or alterations are appropriately managed.

Penalty: 20 penalty units.

- (5) For the purposes of subregulation (3), *appropriately managed* includes, but is not limited to, the following—
- (a) identifying the nature and extent of the safety and environmental risks associated with carrying out the works or alterations; and
 - (b) considering the likely impact of those risks; and
 - (c) implementing measures and strategies to eliminate or reduce those risks as far as is reasonably practicable.

48 Camping

A person must not camp in a local port except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

49 Jumping and diving

- (1) Subject to subregulation (2), a person must not jump or dive from a wharf, a natural asset or any other infrastructure in a local port in contravention of a sign or notice erected or displayed on or near that wharf, natural asset or other infrastructure by the port manager.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who jumps or dives in accordance with a permit issued under regulation 17.

50 Swimming and other in-water activities

- (1) Subject to subregulation (2), a person must not swim, bathe, snorkel or scuba dive under or within 20 metres of a wharf in a local port in contravention of a sign or notice erected or displayed on or near that wharf by the port manager.
- (2) Subregulation (1) does not apply to a person who swims, bathes, snorkels or scuba dives in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

51 Fishing-related activities

- (1) A person must not clean fish on a wharf or other structure in a local port except—
 - (a) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or
 - (b) in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

- (2) A person must not leave or store fishing-related equipment in a local port except—
 - (a) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or
 - (b) in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

- (3) A person must not stretch or repair fishing equipment in a local port except—
- (a) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or
 - (b) in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

52 Retrieval of fishing lines when vessel approaching wharf

A person who is in possession of, or in charge of, fishing lines on a wharf in a local port must ensure that all of those lines are retrieved from the water when a vessel approaches or departs from that wharf.

Penalty: 10 penalty units.

53 Commercial activities

- (1) A person must not advertise or otherwise offer any thing or any service for sale, trade or hire in a local port except—
- (a) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or
 - (b) in accordance with a permit issued under regulation 17; or
 - (c) as otherwise authorised by law.

Penalty: 20 penalty units.

- (2) A person must not undertake any commercial filming activities in a local port except—
- (a) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or

- (b) in accordance with a permit issued under regulation 17; or
- (c) as otherwise authorised by law.

Penalty: 20 penalty units.

54 Organised activities

- (1) A person must not organise or conduct, or take part in organising or conducting, an organised activity in a local port except—
 - (a) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or
 - (b) in accordance with guidelines made by the port manager which permit the organisation or conduct of that activity; or
 - (c) in accordance with a permit issued under regulation 17; or
 - (d) as otherwise authorised by law.
- Penalty: 20 penalty units.
- (2) For the purposes of these Regulations, a port manager may make guidelines in relation to the organisation, or conduct, of organised activities in a local port.
 - (3) Guidelines made under subregulation (2)—
 - (a) must be published in the Government Gazette and on the port manager's Internet website; and
 - (b) may be published in any other manner that the port manager considers appropriate.
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55 Interference with vessel moorings

- (1) A person must not cut, break or destroy a vessel's mooring in a local port unless—
- (a) the person is the master or owner of the vessel; or
 - (b) the person reasonably believes there is an emergency and it is appropriate action to take.

Penalty: 10 penalty units.

- (2) A person must not interfere with, cast off or remove a vessel from a wharf or mooring in a local port unless—
- (a) the person is the master or owner of the vessel; or
 - (b) the person reasonably believes there is an emergency and it is appropriate action to take.

Penalty: 10 penalty units.

56 Interference with property or infrastructure of port manager

A person must not damage, deface or interfere with any property or infrastructure in a local port which is owned, managed or otherwise provided by the port manager except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

57 Trespassing on vessels

A person must not climb on or over, or otherwise enter onto, any vessel in a local port which is owned by another person unless the first mentioned person—

- (a) has the permission of the vessel's master or owner; or
- (b) has the permission of another person authorised by, or acting on behalf of, the owner; or
- (c) must do so to gain access to a vessel berthed alongside that vessel or to a wharf as a result of a direction given by the port manager under regulation 34.

Penalty: 10 penalty units.

58 Fireworks and other explosives

- (1) A person must not discharge or use any fireworks or other explosives in a local port except in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

- (2) The master or owner of a vessel must not, without reasonable excuse, allow fireworks or explosives to be discharged in a local port by any person on board the vessel except in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

59 Leaving or depositing of litter and other waste

A person must not leave or deposit any litter or industrial waste in a local port except—

- (a) in a receptacle provided for that purpose; or
- (b) in an area subject to a set aside determination which permits the carrying out of that activity in that area; or

- (c) in accordance with a permit issued under regulation 17; or
- (d) in the case of waste water or sewage from a vessel, if—
 - (i) the person uses sewage pump out facilities or other similar facilities or services to dispose of the waste water or sewage; or
 - (ii) the vessel has on board facilities to store and treat the waste water or sewage before its disposal.

Penalty: 10 penalty units.

60 Interference with safety equipment

A person must not remove or interfere with any marine safety equipment or other safety equipment provided by the port manager in a local port except—

- (a) in an emergency; or
- (b) in accordance with a permit issued under regulation 17.

Penalty: 20 penalty units.

61 Obstruction to, or interference with, roads, gates and other areas

A person must not damage, obstruct or interfere with any road, footpath, footway, access area, unloading area or gate in a local port except in accordance with a permit issued under regulation 17.

Penalty: 10 penalty units.

62 Certain gates to be kept closed

- (1) Subject to subregulation (2), a person who enters through a gate in a local port which bears a sign or notice stating that the gate is to be kept closed at all times must ensure that the person closes the gate without delay after using it.

Penalty: 10 penalty units.

- (2) Subregulation (1) does not apply to a person who does not close a gate in accordance with a permit issued under regulation 17.

63 Hindrance or danger to navigation

A person must not leave or deposit on, or attach to, a wharf, navigation aid or any other structure in a local port any thing which may cause a hindrance or danger to navigation.

Penalty: 10 penalty units.

64 Lighting of fires

A person must not light, kindle, use or maintain a fire in a local port except—

- (a) on board a vessel in a suitable appliance for the purposes of cooking or personal comfort; or
- (b) in a fireplace; or
- (c) in accordance with a permit issued under regulation 17; or
- (d) in accordance with any other law.

Penalty: 10 penalty units.

Division 2—Directions

65 Directions to person causing interference etc.

- (1) Without limiting regulation 45, a port manager, transport safety officer or a police officer may direct—
 - (a) a person in a local port—
 - (i) to cease engaging in an activity;
 - (ii) to leave a specified area in the local port; or
 - (iii) to leave the local port; or
 - (b) the master or owner of a vessel, or a person in charge of a vehicle, in a local port—
 - (i) to move the vessel or vehicle to another place within the local port; or
 - (ii) to remove the vessel or vehicle from the local port.
- (2) A port manager, transport safety officer or police officer may only give a direction under subregulation (1)—
 - (a) in the event of, or in anticipation of, any fire, flood, natural disaster or other emergency; or
 - (b) if that person reasonably believes the direction is required—
 - (i) to prevent significant harm or damage—
 - (A) to the health or safety of any person; or
 - (B) to local port facilities or other property; or
 - (C) to the natural environment; or

Port Management (Local Ports) Regulations
Exposure Draft

Part 4—Activities in local ports

- (ii) to prevent significant interference with—
 - (A) the carrying out of any activity or access permitted within the local port; or
 - (B) reasonable public access to the local port; or
 - (C) the amenity of the local port; or
 - (iii) to otherwise prevent significant interference with the safe, efficient and effective management of the local port.
- (3) A person to whom a direction is given under subregulation (1) must immediately comply with the direction.

Penalty: 20 penalty units.

Part 5—Savings and transitionals

66 Existing authorities taken to be valid permits

An authority issued by a port manager under the Port Management (Local Ports) Regulations 2004 that is in operation immediately before 27 June 2015 is taken on and from that date to be a permit issued under regulation 17 of these Regulations.

67 Existing set aside determinations taken to continue

- (1) A set aside determination made by a port manager under regulation 200, 201 or 203 of the Port Management (Local Ports) Regulations 2004 that is in operation immediately before 27 June 2015 is taken on and from that date to be a set aside determination made under regulation 10 of these Regulations.
 - (2) A set aside determination made by the port manager under regulation 205 of the Port Management (Local Ports) Regulations 2004 that is in operation immediately before 27 June 2015 is taken on and from that date to be a set aside determination made under regulation 12 of these Regulations.
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Endnotes

¹ Reg. 4(a): S.R. No. 81/2004 as amended by S.R. Nos 70/2012 and 61/2014.

² Reg. 4(b): S.R. No. 70/2012.

Explanatory details

Local ports are ports declared to be local ports by Order in Council under section 6 of the **Port Management Act 1995**. Column 2 of the Table lists the ports declared as local ports as at 27 June 2015. The corresponding item in Column 3 for each local port is the relevant port manager for that local port.

<i>Column 1</i> <i>Item</i>	<i>Column 2</i> <i>Name of local port</i>	<i>Column 3</i> <i>Port manager</i>
1	Port of Portland Bay	Glenelg Shire Council
2	Port of Port Fairy	Moyne Shire Council
3	Port of Warrnambool	Warrnambool City Council
4	Port of Port Campbell	Corangamite Shire Council
5	Port of Apollo Bay	Colac Otway Shire Council
6	Port of Lorne	Lorne Foreshore Committee of Management
7	Port of Barwon Heads	Barwon Coast Committee of Management Inc.
8	Port of Port Phillip	Parks Victoria
9	Port of Western Port	Parks Victoria
10	Port of Anderson Inlet	Gippsland Ports Committee of Management Inc.
11	Port of Corner Inlet and Port Albert	Gippsland Ports Committee of Management Inc.
12	Port of Gippsland Lakes	Gippsland Ports Committee of Management Inc.
13	Port of Snowy River	Gippsland Ports Committee of Management Inc.

Port Management (Local Ports) Regulations
Exposure Draft

Endnotes

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Item</i>	<i>Name of local port</i>	<i>Port manager</i>
14	Port of Mallacoota	Gippsland Ports Committee of Management Inc.

Penalty Units

These Regulations provide for penalties by reference to penalty units within the meaning of section 110 of the **Sentencing Act 1991**. The amount of the penalty is to be calculated, in accordance with section 7 of the **Monetary Units Act 2004**, by multiplying the number of penalty units applicable by the value of a penalty unit.

The value of a penalty unit for the financial year commencing 1 July 2014 is \$147.61.

The amount of the calculated penalty may be rounded to the nearest dollar.

The value of a penalty unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a penalty unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.