



PORT OF CAPE FLATTERY

PORT CHARGES

AND

PORT RULES

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INTRODUCTION

DEFINITIONS

"Act" means the Transport Infrastructure Act 1994 (Qld) and "Regulation" means the Transport Infrastructure (Ports) Regulation Act 1994 (Qld).

"Corporation", "Ports Corporation" and "FNQPC" all mean the Far North Queensland Ports Corporation Limited, a body corporate constituted under the Government Owned Corporations (Ports) Regulation 1994 being the duly appointed port authority for the Port under the Transport Infrastructure (Ports) Regulation 1994.

"Authorised Officer" means a person so appointed for the Port under Section 5 of the Regulation.

"Wharf" means any individual wharf, jetty, pontoon, barge ramp or other facility within the Port Area which may be used by ships for the loading or discharge of cargo, goods or passengers.

"Port" means the Port of Cape Flattery as defined under the Regulation.

"Port Area" means the area of strategic port land, port facilities owned or controlled by the Corporation and the Port.

"Port Facilities" means port facilities owned or controlled by the Corporation within the Port.

"Security Regulated Ship" means as the term is defined in the Maritime Transport Security Act 2004 (Cth).

These Port Rules are a port notice within the meaning of the Regulation.

INTERPRETATIONS

Unless the contrary intention is indicated by these Rules, the definitions and interpretations under the Acts Interpretation Act and the Act and Regulation shall apply to these Rules.

Penalties are maximum penalties as prescribed under the Regulation.

If an inconsistency arises between these Rules and the Act and/or Regulation, then:

- If it is possible to read or interpret these Rules in a way which is not inconsistent, then that interpretation is to be used; and
- Otherwise, the Act and Regulation will take precedence over the Rule.

This document sets out some duties, responsibilities and authorities under the Transport Infrastructure Act. Port Users and the public should be aware that other legislation is applicable within the Port Area and this document does not diminish their effect.

DIRECTIONS AND AUTHORISED OFFICERS

Any direction given by an authorised officer under the powers given under the Regulation to an authorised officer may be in addition to or may override any of the Rules in Parts B-E of these Rules.

PART A - CHARGING

	Charging Rules	Penalty
1	Charges as prescribed in Schedule 1 are payable to the Corporation for use of the port.	
2	<p>All charges are payable within 30 days of the date of invoice.</p> <p>Where a person fails to pay the Corporation any charges as prescribed in Schedule 1 within 30 days of the date of issue of the invoice, the Corporation may charge interest on those moneys (or on any part which remains outstanding) from the due date to the date payment is actually received by the Corporation. The interest rate is that rate which is 2% above the Commonwealth Bank of Australia Corporate Overdraft Reference Rate. Interest will be calculated on monthly basis and will compound monthly.</p> <p>The Corporation may in its discretion waive the payment of interest.</p>	50 Penalty Units
3	<p>The master or agent of every ship berthing within the Port must lodge with the Corporation a copy of the manifest of cargo discharged at, or transshipped or intended to be shipped or carried from or within any part of the Port.</p> <p>Such copy of the manifest of cargo must specify:</p> <p>the respective names and addresses of the several consignors or shippers of the goods;</p> <p>the respective names and addresses of the several consignees or other persons to whom the goods are intended to be delivered or shipped or carried; and</p> <p>in respect of each and every consignment of goods, the identity, mass and measurement of the goods.</p>	50 Penalty Units
4	<p>The Master or Agent must lodge the manifest:</p> <p>a) when discharging cargo, within 24 hours of the ship berthing; and</p> <p>b) when loading cargo, within 24 hours of the ship departing.</p> <p>Transshipment is to be regarded as a discharge of cargo followed by a loading of cargo.</p>	50 Penalty Units
5	The Master or Agent of every ship entering the Port must produce to the Corporation within 24 hours of the ship being berthed a copy of the ship's International Tonnage Certificate.	50 Penalty Units
6	If more than one tonnage measurement for a ship is available the greatest gross tonnage figure available shall be used for calculating port charges.	

PART B - CONTROL OF ACTIVITIES IN PORT

	Charging Rules	Penalty
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1	<p>Any person on the Port Area must comply with any notices, markings, fences and barriers which are used to:</p> <ul style="list-style-type: none"> a) regulate or prohibit access by persons to the Port Area b) regulate or prohibit the use of strategic port lands or Port facilities. 	25 Penalty Units
2	<p>No person shall place or cause to be placed any refuse, rubbish or litter within the Port Area except in a place or receptacle provided for that purpose.</p>	25 Penalty Units
3	<p>The maximum loading on any wharf owned or under the control of the Corporation is, unless otherwise stipulated, 500 kg per square metre.</p>	50 Penalty Units
4	<p>The maximum loading on any boat ramp within the port is 5 tonnes.</p>	50 Penalty Units

PART C - MOVEMENT AND MOORING OF SHIPS

	Charging Rules	Penalty
1	Any person in charge of a ship must comply with any notices which are used to indicate rules for the movement, mooring or control of ships within the Port Area.	100 Penalty Units
2	The person in charge of a ship using a wharf shall not moor or fasten the ship to any part of the wharf except to such bollards or other fastenings as are provided for the purpose and the person in charge of a ship must not allow the ship to be alongside the wharf unless it is properly moored or fastened.	100 Penalty Units
3	No person shall carry out repairs to the engines of a ship or any other repairs of whatsoever nature to a ship whilst it is moored at the wharves without the prior approval of the Corporation.	100 Penalty Units
4	No ship is permitted to moor or anchor within 100 metres of any part of the offshore wharf and loading facility with the exception of ships engaged in the loading of cargo or ships required for the maintenance or construction of the facilities.	100 Penalty Units
5	A person shall not permit a ship to be rafted to any other ship moored at any wharf without the prior approval of the Corporation.	100 Penalty Units

PART D - MOVEMENT, HANDLING OR STORAGE OF GOODS

	Charging Rules	Penalty
1	<p>A person in charge of goods must comply with all notices, fences, markings and barriers which are used to indicate rules for the control of the movement, handling or storage of cargo and goods within the Port Area.</p>	50 Penalty Units
2	<p>Dangerous Goods</p> <p>Dangerous Goods means</p> <ol style="list-style-type: none"> 1. Goods that are so classified under the Australian Standard AS3846 – 1998 “The Handling and Transport of Dangerous Cargoes in Port Areas” or the <i>Dangerous Goods Safety Management Act 2001 (Qld)</i>; and 2. Any other goods which may be declared by the Chief Executive Officer to be dangerous goods for the purposes of this rule. Any person in charge of goods should ascertain whether the Chief Executive Officer has made a declaration that goods are dangerous goods for the purposes of this rule by accessing the Corporation’s Website www.portsfnq.com.au or by telephoning or faxing the Corporation and requesting a list of goods which have been declared by the Chief Executive Officer as dangerous goods. <p>Nothing in this Rule exempts or should be taken as exempting any person from compliance with all other laws relating to dangerous goods, in particular the <i>Transport Infrastructure Act 1994</i> and the <i>Transport Operations (Marine Safety) Act 1994</i>.</p> <p>Approvals:</p> <p>A person in charge of dangerous goods who proposes to store, handle, carry, use, transport or otherwise deal with any dangerous goods within the Port must notify in a form approved by the Chief Executive Officer or cause to be notified, the Corporation at least 2 working days prior to the date on which it is anticipated the dangerous goods will enter the Port.</p> <p>A person must not store, handle, carry, use, transport or otherwise deal with any dangerous goods within the Port including the Port Area and Port Facilities where the volume or weight of dangerous goods exceed the trigger levels stated in the table in this port rule, unless written authorisation has been provided by the Chief Executive Officer. Breach of this rule is an offence.</p> <p>The Chief Executive Officer may require any application by any person to bring dangerous goods within the Port above the trigger levels to be made on a prescribed form and to require certain prescribed information such as a risk assessment to accompany such application to allow consideration by the Corporation.</p> <p><i>Trigger Levels for Risk Assessment of New Dangerous Goods Cargo:</i></p>	<p>50 Penalty Units</p> <p>100 Penalty Units</p>

Dangerous Good (and class)	Trigger Level
Explosives (class 1.1 – 1.6)	25 kg
Ammonium Nitrate	400 t
Organic Peroxides	125 kg
All other dangerous goods	An increase by weight or volume of the same dangerous goods of 10% or more in a year above the weight or volume of the same dangerous goods stored, handled, carried, used, transported or otherwise dealt with by a person in the financial year ending 30 June 2003.

Note on Risk Assessment:

Risk Assessment:

In evaluating new projects which entail the handling of dangerous cargoes in FNQPC ports, a risk assessment of the proposed activity will be required (as per Section 2.2 of AS3846 – 1998) to be undertaken by the proponent where the proposed quantities exceed those outlined in the Table above. The risk assessment is to be undertaken at the proponent's cost and is required to be submitted to FNQPC as part of the approval process. FNQPC must approve the scope of the risk assessment with the project proponent before its commencement.

All risk assessments are to be undertaken in accordance with AS4360-1999 "Risk Management" and section 18 of the Dangerous Goods Safety Management Regulation 2001.

PART E - MOVEMENT, STOPPING OR PARKING OF VEHICLES

	Charging Rules	Penalty
1	A driver or a person apparently in charge of a vehicle must comply with all notices, markings, fences and barriers which are used to control the movement, stopping or parking of vehicles within the Port Area.	25 Penalty Units
2	A person must not drive a vehicle within the Port Area unless the person holds a current license for a vehicle of that type.	10 Penalty Units

PART F - PORT DEVELOPMENT

	Rule	Penalty
1.	Definitions	
1.1	This Rule may be known as the Cape Flattery Port Development Rule	
1.2	<p>For the purpose of this Port Rule the following words have the following meanings:</p> <p>“Minister” means the Minister from time to time charged with the administration of Section 86 of the Harbours Act 1955 as continued by Section 236 of the Transport Infrastructure Act 1994.</p> <p>“Work” includes –</p> <ul style="list-style-type: none"> (i) any harbour works; (ii) any pile, buoy, mooring or other structure; (iii) any works for which the sanction of the Minister is required under Section 86 of the Harbours Act 1955, as continued by Section 236 of the Transport Infrastructure Act 1994; (iv) Any works which may affect – <ul style="list-style-type: none"> (a) the safe, secure or efficient operation of the Port; (b) the convenience of port users; (c) the environment at the port area; (d) the port’s operation. 	
2.	No Port works without Corporation approval	
	<p>No person shall carry out or attempt to carry out any works on any part of the port area without first obtaining the Corporation’s approval in writing to the carrying out of that work which approval may be:</p> <ul style="list-style-type: none"> - granted by the Corporation with or without conditions (which may be imposed in the discretion of the Corporation and which may include the lodgment of a security bond or guarantee); or - withheld by the Corporation <p>in the absolute discretion of the Corporation.</p>	
3.	Application for Approval	

3.1	<p>Any such application for approval to carry out proposed works shall: be made in such form as may be required by the Corporation; and include:</p> <p>detailed plans of the proposed works;</p> <p>(i) details of how it is proposed to carry out the proposed work; all such information as may be required under section 86 of the Harbours Act 1955 to be submitted to the Minister for Sanction;</p> <p>(ii) all such other information as the Corporation may require to enable it to reasonably consider and assess the application including:</p> <ul style="list-style-type: none"> - any necessary environmental approvals under the Environmental Protection Act; - the predicted timing size and frequency of vessel movements in the area which may be affected by the proposed works; <p>(iii) details of any anticipated noise, disturbance, or nuisance caused by the works;</p> <p>(iv) details of any anticipated or necessary disruption to any of the activities carried out on or in the Port area; details of any other necessary approvals which have been obtained by the applicant;</p> <p>(v) the impact which the proposed works will have on:</p> <ul style="list-style-type: none"> - navigation in the Port; - movement of goods or cargo within the Port; - transport movement within the Port; - other Port users; <p>(iv) independent expert reports with respect to any of the aforesaid matters.</p>	
3.2	<p>The applicant will also supply any additional information data or reports (including expert reports) the Corporation may request to enable it to fully consider the impact of the proposed works on the Port and the Port Area.</p>	
4	<p>Chief Executive Officer may exempt from compliance</p>	
4.1	<p>The Chief Executive Officer may, by notice in writing, exempt:</p> <p>(i) a person; or</p> <p>(ii) a class of persons</p> <p>from compliance with all or part of any of the requirements of this Port Development Rule.</p>	

4.2	The Chief Executive Officer may, by notice in writing provide that: (i) an area within the Port described in that notice will not be subject to all or some of the requirements of the Port Development Rule; (ii) particular works as specified in the notice will not be subject to all or some of the requirement of the Port Development Rule.	
4.3	The Chief Executive Officer may impose such conditions as the Chief Executive Officer considers appropriate on any such exemption.	
5.	Non-Compliance with Port Rule an offence	
5.1	A person who fails to comply with this Rule (unless the person has a reasonable excuse for not complying with it) shall commit an offence	25 Penalty Units
6.	Rule does not exempt Applicant from compliance with other Laws	
6.1	Nothing in this Port Development Rule exempts or excuses the applicant from compliance with all other laws or requirements which may apply with respect to the proposed works.	
6.2	Any approval given to any applicant under the Port Development Rule (and any exemptions given by the Chief Executive Officer under paragraph 4 of this Rule) will be subject to the applicant's compliance with all other laws and requirements applicable to the proposed works.	

PART G – PORT SAFETY AND SECURITY

	Rule	Penalty
1.	Definitions	
1.1	This Rule may be known as the Cape Flattery Port Safety and Security Rule.	
1.2	For the purpose of this Port Rule the following words have the following meanings: 'Entry Restriction Order' means any order of the Corporation restricting entry to the Port to any or all vessels based on security or safety grounds; 'International Ship Security Certificate' or 'ISSC' has the same meaning given to that term as in the <i>Maritime Transport Security Act 2003</i> ; 'Notice to Mariners' means the "Notice to Mariners" issued by Maritime Safety Queensland; 'Secretary' means the secretary from time to time of the Commonwealth Department of Transport and Regional Services..	
2.	Restriction of entry to Port	
2.1	Where the Corporation has reasonable grounds to believe that the safety or security of the port and the operation of the port's facilities and services may be compromised by the entry to the port of any or all vessels, the Corporation may at its sole discretion, restrict entry of any or all vessels to the Port by the issue of an Entry Restriction Order.	
3.	Communication of Entry Restriction Order	
3.1	Entry Restriction Orders may be communicated to: (a) all ships via a Notice to Mariners; or (b) by the Corporation to an individual ship or ships either verbally or in writing.	
4.	Vessels not to enter Port	
4.1	No vessel shall enter the Port in non-compliance with an Entry Restriction Order.	100 Penalty Units
5.	International Ship Security Certificate	
5.1	The master or agent of every vessel desiring entry to the Port must lodge upon request by the Corporation at least 24 hours prior to its entry to Port a copy of its International Ship Security Certificate.	100 Penalty Units
5.2	Failure to provide the ISSC may, at the sole discretion of the Corporation, result in the delay or denial of entry of the vessel into the Port.	

PART H – MARINE FUEL TRANSFER ACTIVITIES AND REFUELLING FACILITIES

	Notice	Penalty
	Definitions	
	<p>"Corporation" means the Ports Corporation of Queensland, a body corporate constituted under the Government Owned Corporations (Ports) Regulation 1994 being the duly appointed port authority for the Port under the Transport Infrastructure (Ports) Regulation 2005.</p>	
	<p>"Port Area" means for the Port, the area of the Corporation's strategic port land (which is not within its port limits) and its port limits.</p>	
	<p>"Marine Fuel Transfer Activity" means any transfer of fuel from a container, vessel, vehicle or facility to another container, vessel, vehicle or facility over waters (including over wharves or jetties or other marine structures) in the Port Area where quantities of fuel greater than 200 litres are being transferred.</p> <p>Transfers solely on land are not regulated under this Port Rule.</p>	
	<p>"Refuelling Facility" means a building, structure, land or fixed equipment where fuel is stored or handled for the purpose of carrying out a Marine Fuel Transfer Activity. A Refuelling Facility includes a Refuelling Facility located on land or over water.</p> <p>A Refuelling Facility does not include service stations, fuel storage tanks, or fuel trucks, that are located solely on land and are not involved in Marine Fuel Transfer Activity.</p>	
	Carrying Out a Refuelling Activity in the Port Area	
1.	<p>No person shall carry out or attempt to carry out a Marine Fuel Transfer Activity in any part of the Port Area, without holding the Corporation's written approval for the Marine Transfer Activity.</p>	25 penalty units
	Application for Approval to Carry Out a Marine Fuel Transfer Activity	
2.	<p>Any application to the Corporation for approval to undertake a Marine Fuel Transfer Activity shall:</p> <ul style="list-style-type: none"> (a) identify that part of the Port Area where the Marine Fuel Transfer Activity will be performed under the approval and the expected volumes and type of fuel to be transferred. (b) provide any information regarding the Marine Fuel Transfer Activity reasonably requested by the Corporation to assist in its consideration of the application. 	

3.	<p>The Corporation may, in its absolute discretion:</p> <ul style="list-style-type: none"> (a) grant an approval to undertake a Marine Fuel Transfer Activity with or without conditions; or (b) withhold its approval. 	
4.	<p>The Corporation may, in its absolute discretion, revoke, suspend or impose or change a condition of an approval to undertake a Marine Fuel Transfer Activity if it considers that the Marine Fuel Transfer Activity may:</p> <ul style="list-style-type: none"> (a) affect the operation of a Port; (b) cause damage to the Corporation's strategic port land; or (c) cause damage to the environment. 	
5.	A holder of an approval to undertake a Marine Fuel Transfer Activity must not breach a condition of the approval.	25 penalty units
Operating a Refuelling Facility in the Port Area		
6.	No person shall operate a Refuelling Facility in any part of the Port Area without holding the Corporation's written approval for the Refuelling Facility.	100 penalty units
Application for Approval to Operate a Refuelling Facility		
7.	<p>Any application for approval to operate a Refuelling Facility shall:</p> <ul style="list-style-type: none"> (a) be in writing; (b) identify the area where the controlled activity will be performed under the approval; (c) provide any information regarding the Refuelling Facility reasonably requested by the Corporation to assist in its consideration of the application.. 	
8.	<p>The Corporation may, in its absolute discretion:</p> <ul style="list-style-type: none"> (a) grant an approval to operate a Refuelling Facility with or without conditions; or (b) withhold its approval. 	

9.	<p>The Corporation may, in its absolute discretion, revoke, suspend or impose or change a condition of an approval to operate a Refuelling Facility if it considers it necessary to do so having regard to:</p> <ul style="list-style-type: none">(a) the efficient operation of the Port; or(b) the safety or security of the Port, its users or the Corporation's employees.	
10.	<p>A holder of an approval to operate a Refuelling Facility must not breach a condition of the approval.</p>	100 penalty units

SCHEDULE 1

PORT OF CAPE FLATTERY

- 1.0 Harbour Dues at the rate of \$0.58 per tonne (*\$0.638/tonne inclusive of GST*) are payable in respect of all silica sand, mineral sands or similar material shipped from the port.
 - 1.1 Harbour dues are not payable on ships stores when shipped in the port for consumption or use by the loading ship.
- 2.0 Tonnage Dues at the rate of \$0.04 per gross registered ton (*\$0.044/GRT inclusive of GST*) are payable in respect of each ship in excess of 1,000 gross registered tons.
- 3.0 A Port Security Charge at a rate of \$0.04 per gross registered tonne (*\$0.044/GRT inclusive of GST*) is payable in respect of each Security Regulated Ship which occupies a wharf within the Port.

Effective as at 1 July 2009