

**TERMS AND CONDITIONS
FOR THE
MANAGEMENT AND CONTROL OF A PUBLIC MARINE FACILITY**

1. These terms and conditions shall be read in conjunction with the requirements of the *Transport Infrastructure Act 1994* (the Act) and the *Transport Infrastructure (Public Marine Facilities) Regulation 2011* (the Regulation) as amended from time to time. Where any difference or doubt arises, the Act and Regulation shall prevail. Section and subsection numbers quoted below are correct at 29 May 2014 but may vary with future amendments to the legislation.

Definitions:

- (i) **The Authority** means a council, port authority or other person which is appointed or has agreed to be appointed manager of the public marine facility under the *Transport Infrastructure (Public Marine Facilities) Regulation 2011*.
- (ii) **public marine facility** means public marine transport infrastructure
- (iii) **public marine transport infrastructure** means state-owned or state-controlled transport infrastructure relating to Queensland waters, other than port or miscellaneous transport infrastructure
- (iv) **practical completion** means completion of works of the facility when:
- b) an inspection is carried out by the Department of Transport and Main Roads or its representative and the works are found to be satisfactory
- c) the works are complete except for minor defects:
- (i) which do not prevent the works being used for their stated purpose
- (ii) which the state determines there are reasonable grounds for not promptly rectifying.
- (v) **the state** means the State of Queensland acting through the Department of Transport and Main Roads

2. Attention is drawn to the requirements, as amended from time to time, of:

a. *Transport Infrastructure Act 1994*

- 459 – Appointment of manager of public marine facility
 460 – Manager’s responsibility for maintenance and injuries
 462 – Management by local government (making of local laws)
 463 – Management by port authority
 464 – Management by another person
 465 – Exercise of managers powers to be consistent with conditions
 466 – Fees
 467 – When a manager may resign
 469 – Regulation prevails over actions taken by a manager under this part
 519 – Transitional – Appointment as manager under the Act applies where management of facility was vested by Order in Council prior to the Act

b. *Transport Infrastructure (Public Marine Facilities) Regulation 2011*

Division 1 – Management

- 5 – Manager appointed
 6 – Condition of appointment
 7 – Manager’s responsibilities for managing public marine facility
Division 2 – Use of, and safety at, certain public marine facilities
 8 – Application of Division 2 (applies only to boat ramps and landings)
 9 – Using boat ramp or landing – penalties for misuse – load limits and signage

3. The Authority shall from the date of practical completion:
 - a. manage, control, supervise and administer the public marine facility as if it were appointed manager under the regulation
 - b. maintain the public marine facility (see the Act, Section 460 (1) and the Regulation, Section 7)
 - c. meet the costs of:
 - (v) management, control, supervision and administration of the public marine facility
 - (vi) maintenance of the public marine facility subject to clause 7 of these Terms and Conditions (see the Regulation, Section 7 (1) (d)).
4. The Authority shall (under the head of power provided by the Act, Section 462, 463 or 464) make local laws/exercise its power for the management and control of the public marine facility, and the conduct of persons thereon, which local laws/powers shall require (but not be limited to requiring) that:
 - a. If a boat ramp, it shall be available at all times for use by the public without charge for launching and retrieving of trailer-borne private recreational vessels.
 - b. If a landing, it shall be available at all times for use by the public without charge for the embarking and disembarking operations of private recreational vessels. The maximum staying time shall be determined and displayed on or near the landing.
 - c. If a landing, and it provides a queuing facility for an associated boat ramp, it shall be available at all times for use by the public for launching and retrieving trailer-borne private recreational vessels at the associated boat ramp.
 - d. A boat ramp or landing shall not be used for any other purpose except with the express permission of the Authority obtained beforehand. In particular, boat ramps and landings shall not be used by cranes without prior permission or above prescribed load limits.
 - e. The local laws shall refer to (and may extend) the acts prohibited under the Regulation, Sections 8 and 9 (Use of, and safety at, certain public marine facilities).
 - f. The manager shall determine whether a landing is to be accessible by vehicles and shall pass a local law to that effect and display the ban or maximum load by notice on or near the landing in accordance with the Regulation, Section 9(9) (Use of, and safety at, certain public marine facilities).
 - g. The manager shall erect a sign stating the maximum load to be applied to a boat ramp. The maximum load shall be in accordance with the Regulation, Section 9(7) (Use of, and safety at, certain public marine facilities).
5. The Authority may (and is hereby authorised to) enter into agreements with third parties for the non-exclusive use of the public marine facility for commercial or other purposes, provided that:
 - a. If the public marine facility is a boat ramp the Authority shall not enter into an agreement for, or otherwise authorise or permit the use of the boat ramp for the loading or unloading of barges or for the taking on or discharge of cargo.
 - b. The Authority shall not enter into an agreement for the non-private usage of any public marine facility unless the approval in writing of the Director-General, Department of Transport and Main Roads (or delegate) is first obtained.
 - c. The said Director-General (or delegate) shall not approve the entering into of an agreement if, in his opinion, the entering into of the agreement would unreasonably impede or disturb the recreational use of the public marine facility.
 - d. The Authority may, as part of any such agreement with third parties, issue licences and charge fees. A portion of such fees may, as part of the Department of Transport and Main Roads approval conditions, be set aside for structural maintenance or eventual facility replacement.
6. The local laws made in accordance with clause 4 of these Terms and Conditions may provide for the imposition of fees for parking in a parking area provided by the Authority for use in conjunction with the public marine facility.

7. The Authority shall be entitled to claim and receive from the Department of Transport and Main Roads reimbursement of the cost to the Authority of maintaining the public marine facility, provided that:
- a. the expenditure was incurred while local laws made in accordance with clause 4 of these Terms and Conditions were in force.
 - b. the prior approval of the Department of Transport and Main Roads was obtained in relation to that expenditure.
 - c. the maintenance was of a structural nature necessary to repair or prolong the life of the public marine facility or to render it safe and effective for its purpose.
Note: Reimbursable maintenance on the public marine facility does not include cleaning, the removal of silt, debris or algal growth or the operational cost associated with lighting or water supply.
 - d. the Authority has certified that the expenditure was actually incurred in relation only to the maintenance of the public marine facility and that no other claim has been made in respect of that expenditure.
 - e. the proportion of the maintenance cost incurred by the Authority to be reimbursed by the Department of Transport and Main Roads shall be as agreed in writing between the Authority and the Department of Transport and Main Roads.