

Port of Darwin Access Policy

Summary of amendments

Variation / withdrawal of Standard Terms (clause 5.3)	Port Operator may vary the Standard Terms for a Standard Service, or withdraw a Standard Service, provided it complies with the <i>Ports Management Act 2015</i> and requirements in the Access Policy.
Exclusivity Principles (clause 5.6)	Amendments clarify certain circumstances where a Port Operator may grant exclusive access to a Service. Specifically if an Applicant can demonstrate to the Port Operator that: <ul style="list-style-type: none"> • it proposes to fund the construction of a new, expanded, upgraded or additional Facility; • it is not necessary, reasonable or practicable for the Port Operator to grant access to, or use of, that Facility to other Users; and • exclusive use would optimise the use and efficiency of the Facility and enhance competitiveness of the Port and the relevant market generally.
Berthing Scheduling Principles and Pilotage Scheduling Principles (clauses 5.8 and 5.9)	Amendments extend circumstances where the Port Operator may alter the priority of vessels berthing at a berth or the allocation of pilots in the following scenarios: <ul style="list-style-type: none"> • in the case of allocating a pilot, to give priority to a vessel that is constrained by tides (note this is already a criteria for priority of vessels berthing see clause 5.8(c)(v)); or • in the case of an LNG carrier, to: <ul style="list-style-type: none"> ○ allow expeditious loading of the vessel; or ○ seek to minimise delay which could compromise the carrier’s loading via depletion of its on-board reserve / heel for cooling of its systems.
Feasibility Review and Feasibility Study (clauses 6.6 and 6.7)	Amendments require Port Operator to include additional matters in a Decision Notice including steps an Applicant may take to satisfy the Preliminary Access Requirements and where such requirements are satisfied an itemisation of estimated costs related to a Feasibility Study. If requested the Port Operator must also provide a copy of the Feasibility Study to the relevant Applicant on request.
Access Agreement (clause 6.9)	Amendments clarify that the Port Operator must provide the draft Access Agreement for a Non-Standard Service to the Applicant as soon as reasonably practicable after negotiations.
Arbitration (clauses 7.4 and 9)	Amendments clarify timing for issuing a Dispute Notice and when a dispute may be referred to arbitration. Amendments also require parties to undertake genuine and good faith negotiations with a view to resolving a Dispute as quickly as possible.
Reasons for Decisions (clause 9)	Amendments clarify that a User or Applicant may request Port Operator to provide written reasons for a decision and also sets out when the Port Operator must provide these reasons.
Standard Services (Schedule 1)	List of Standard Services has been extended to include entry of persons and vehicles to the Port, in connection with the other Standard Services, is a Standard Service.
General or minor changes	<ul style="list-style-type: none"> • Change of terminology from “Port Manager” to “Port Operator”. • Various other minor amendments and amendments to correct typographical errors