



**Decision relating to a  
proposal for the making  
of a non-material  
waterway rule**

**Local Port of Gippsland Lakes  
Aurora Channel**

Date of decision: 16/07/2025

Decision reference: 1482-2024-WR

# 1 Summary

The *Marine Safety Act 2010* (Vic) (**MSA**) has provisions for Safe Transport Victoria (**ST Vic**) to make waterway rules for or with respect to regulating or prohibiting the operation of any vessels or classes of vessel, regulating the use of State waters by bathers and others, if that use affects any boating activity, and regulating other equipment that must be carried on vessels for the purpose of safe navigation and the safety of life.

ST Vic may make a waterway rule at the request of port management bodies, local port managers and waterway managers (from herein waterway managers), a police officer or on ST Vic's initiative for Victorian State waters.

Reasons must be given for making or not making a waterway rule and after addressing the relevant considerations and principles of the MSA, ST Vic must publish its decision. This document outlines the decision and reasons relating to a proposal for making a waterway rule for the Local Port of Gippsland Lakes, for Aurora Channel.

## 1.1 The problem

Gippsland Ports Committee of Management Inc. (**Gippsland Ports**) identified that an administrative correction was required to the waterway rules, following a review of Schedule 104, which revealed inconsistencies in the geographic references for the newly established 5-knot speed restriction zone for vessels 8 metres and over, covering Aurora Channel, Steamer Channel, and Bunga Arm.

## 1.2 The proposal

The proposal submitted by Gippsland Ports is to amend the wording of the recently created 5-knot speed restriction rule for vessels 8 metres and over, extending from Aurora Channel, through Steamer Channel and thence into Bunga Arm. The amendment is to correct two instances of incorrect wording in Schedule 104, specifically clause 104.2(x)(i) & (iii), to correct wording and clarify the boundary to remove conflict with the existing rule in Bunga Arm. The rules' intent is not changed, and the proposal is to correct minor errors only.

## 1.3 Public consultation and consideration of safety risks

ST Vic determined that the proposal was within the powers of ST Vic and was of **non-material nature**. Given that the proposed rules are non-material in nature, Gippsland Ports was not required to undertake public consultation.

## 1.4 ST Vic's decision

ST Vic has decided to make the waterway rule as requested by Gippsland Ports for the Local Port of Gippsland Lakes, Aurora Channel & Bunga Arm. The corrected rule is outlined in Appendix 3.

The decision will require ST Vic to:

- Publish a notice on its internet site and in the Victorian Government gazette notice to enact the rule correction.

## 2 Background

### 2.1 The appointed waterway manager

The waters of the Local Port of Gippsland Lakes are managed by Gippsland Ports Committee of Management Inc.

In accordance with section 6 of the *Marine Safety Act 2010* (Vic) (MSA), the Minister for Ports, by Order published in the Government Gazette, has declared Gippsland Ports to be the appointed waterway manager for the waters of the Local Port of Gippsland Lakes.

### 2.2 The nature of the waterway

The Local Port of Gippsland Lakes in eastern Victoria is 247 kilometres east of Melbourne, within the East Gippsland Shire Council. Aurora Channel is located across Lake King from Paynesville and is part of the local port of Gippsland Lakes.

The channel (along with Steamer Channel) acts as a transit zone for vessels travelling to and from Ocean Grange, camping areas in Bunga Arm, and accessing Gippsland Lakes. Ocean Grange and Bunga Arm are only publicly accessible by water. Some on-water activities, such as fishing and passive activities, occur in the area. However, the area is predominantly used for transit.

### 2.3 The waterway rules

The current waterway rules for the Local Port of Gippsland Lakes are detailed in Schedule 104 of the Vessel Operating & Zoning Rules. Schedule 104 was made under section 15 of the previous *Marine Act 1988* (Vic) and published in the Victoria Government Gazette S221 on 28 June 2012.

The waterway rules for the Local Port of Gippsland Lakes have been in place for many years prior to 2012, dating back to 1988, and more than 19 amendments have been made since 1988. Since 2012, several amendments to Schedule 104 have been made, including those in 2014, 2015, 2018, 2021, and 2023. The waterway rules include an exclusion to State Rule 4(a) (5 knots within 200 metres of the shore), specific five knot speed restrictions, 10 knot speed restrictions, water-skiing prohibitions, areas prohibited to vessels, exclusive use areas, swimming prohibited areas and transit only areas.

Most recently, on 19 December 2023, ST Vic made a waterway rule at the request of Gippsland Ports, requiring a 5-knot speed restriction for vessels 8 metres and over, extending from Aurora Channel through Steamer Channel and thence into Bunga Arm. Gippsland Ports' proposal is related to the waterway rule.

## 3 Application to make a waterway rule

On 20 March 2024, Gippsland Ports submitted a Notice of Intention to Request a Waterway Rule. to ST Vic.

The proposal submitted by Gippsland Ports is for administrative corrections to a recently created waterway rule detailed in Schedule 104, summarised as follows:

- Amend clauses 104.2(x)(i) & (iii) - amend wording to clarify the boundary of the new 5-knot speed restriction zone –
  - (i) refers to the eastern boundary of Aurora Channel when it should reference the western end. The wording should be:
 

“Within the waters of the Aurora Channel, the western boundary of which commences at channel markers no.5 & no.6 and extends south easterly within the channel markers to a line

between a 5-knot sign<sup>86</sup> on the western shore of Waddy Island and a 5-knot sign<sup>87</sup> on the northernmost point of Crescent Island.”

- (iii) current wording “All the waters of Bunga Arm” creates a conflict with the existing 5-knot zone at the eastern end of Bunga Arm. Amended wording should be: “All the waters of Bunga Arm westward of a line extending north-westward from a 5-knot sign 12 on the southern shore approximately 9.3 kilometres eastward of Ocean Grange Jetty to a 5-knot sign 13 on the opposite shore.”

There are no changes to the intent of any rules, and the submission is for administrative corrections only.

### 3.1 ST Vic’s powers

After assessing the Notice of Intention, ST Vic determined that the proposed rules were:

- within the powers of ST Vic to make a rule, and
- of a non-material nature.

Given the determination that the request was within the powers of ST Vic and was of **non-material nature**, Gippsland Ports was not required to undertake public consultation.

### 3.2 Request to make waterway rules from the waterway manager

The Request for Making a Waterway Rule (Request) was received by ST Vic on 11 June 2024. A copy of the Request is provided in Appendix 2.

Under Section 194 of the MSA, Gippsland Ports submitted the Request in writing, including the required information:

- a description of the proposed rule
- a statement of the nature and scope of the problem and how the proposed rule addresses it.

### 3.3 Description of proposed waterway rule

Gippsland Ports proposed to correct the wording of the 5-knot speed restriction zone extending from Aurora Channel through Steamer Channel into Bunga Arm.

- Amend wording - clause 104.2(x)(i) to read: "Within the waters of the Aurora Channel, the western boundary of which commences at channel markers no. 5 & no. 6 and extending south-easterly within the channel markers to a line between a 5-knot sign on the western shore of Waddy Island and a 5-knot sign on the northernmost point of Crescent Island."
- Amend wording - clause 104.2(x)(iii) to read: "All the waters of Bunga Arm westward of a line extending north-westward from a 5-knot sign on the southern shore approximately 9.3 kilometres eastward of Ocean Grange Jetty to a 5-knot sign on the opposite shore."

The description was the same as outlined in the initial proposal as described above.

### 3.4 The problem and how it is being addressed

On 19 December 2023, ST Vic made a waterway rule at the request of Gippsland Ports for a 5-knot speed restriction for vessels 8 metres and over, extending from Aurora Channel, through Steamer Channel and into Bunga Arm. Gippsland Ports’ proposal is in relation to correcting the wording of that waterway rule.

Gippsland Ports identified that an administrative correction was required to the waterway rule/s following a review of Schedule 104 to ensure accuracy in the defined boundaries of the 5-knot speed restriction zone. The review found inconsistencies in the geographic references within the waterway rule, specifically affecting the Aurora Channel and the Bunga Arm.

The proposed corrections aim to address ambiguities in the current rule wording, particularly:

Clause 104.2(x)(i) incorrectly refers to the eastern boundary of Aurora Channel, when it should specify the western end.

Clause 104.2(x)(iii) states "All the waters of Bunga Arm," which conflicts with an existing 5-knot zone at the eastern end of Bunga Arm, leading to potential enforcement challenges.

Gippsland Port outlined that the proposed rule correction intends to improve clarity, remove conflicting references, and ensure the rule accurately reflects the intended boundaries. The correction is purely administrative and does not introduce any new restrictions or enforcement changes.

## 4 ST Vic's conclusions

Gippsland Ports has complied with the requirements of the MSA for a rule that is of a **non-material nature**.

ST Vic is making a <sup>1</sup>decision. <sup>2</sup> On making a rule that is of a **non-material nature** (i.e. correction of a minor error in a rule). In the case of making a non-material rule, the mandatory considerations do not apply, and the waterway manager was not required to undertake public consultation.

ST Vic has concluded that the correction is strictly administrative, to ensure accurate geographic references within the rule text while maintaining all existing enforcement conditions. No substantive changes to the rule application or vessel operations have been proposed.

## 5 ST Vic's Reasons/Decision<sup>2</sup>

I am satisfied that Gippsland Ports has identified and proposed an administrative correction to the waterway rule for the Local Port of Gippsland Lakes, specifically for Aurora Channel and Bunga Arm. There are no safety issues or risks associated with the correction—only intent to reduce ambiguity and improve the accuracy of the waterway rule, ensuring it is reflected correctly in the rule and at the waterway.

I, Simon Farrar, Director Safety Operations (Delegate of ST Vic), hereby advise that, after having regard to:

- the powers to make waterway rules in the Marine Safety Act 2010 (Vic), and
- having taken into account the Objectives and Principles of the Transport Integration Act 2010 (Vic)

I have decided to make the waterway rule correction as requested by Gippsland Port for Aurora Channel and Bunga Arm. A draft of the waterway rule/s to be made is provided at Appendix 3.

The final rule correction will be published by notice in the Government Gazette and on ST Vic's internet site and will come into effect on the date or dates specified in the notice.



### SIMON FARRAR

Director Safety Operations  
Delegate of Safe Transport Victoria

Dated: 18/07/2025

<sup>1</sup> MSA section 187 (refer Appendix 1 - 5)

<sup>2</sup> MSA section 188 (refer Appendix 1 - 4)

# Appendix 1 - Marine Safety Act requirements for waterway rule making

The *Marine Safety Act 2010* (Vic) (**MSA**) details the process that must be followed when a port management body, local port manager or waterway manager proposes that the Safe Transport Victoria introduces or amends waterway rules.

1. **Section 184** of the MSA details the powers of Safe Transport Victoria in relation to the making of a waterway rule, by notice published in the Government Gazette. Specifically, section 184(1A) provides that the Safe Transport Victoria may make rules for or with respect to –
  - (1A) *Safe Transport Victoria may make a rule -*
    - (a) *at the request of a port management body, local port manager, waterway manager or police officer under section 194; or*
    - (b) *on Safe Transport Victoria's own initiative.*
  
2. **Section 193** of the MSA details the process and considerations for assessment of a Notice of Intention to Request a Waterway Rule.
  - (1) *Before making a request for the making of a rule under section 194, a port management body, local port manager or waterway manager must notify Safe Transport Victoria of the body's or manager's intention to make the request.*
  - (2) *A notification under subsection (1)—*
    - (a) *must be in writing; and*
    - (b) *must contain the following information—*
      - (i) *the name and address of the body or manager; and*
      - (ii) *a description of the rule that the body or manager proposes be made; and*
      - (iii) *a statement of the nature and scope of the matter that is proposed to be addressed and an explanation of how the proposed rule would address the matter; and*
    - (c) *may be accompanied by a draft of the proposed rule.*
  - (3) *On receiving a notification under subsection (1), Safe Transport Victoria must—*
    - (a) *consider whether the rule that is proposed to be requested—*
      - (i) *appears to be within the powers conferred on Safe Transport Victoria to make the rule; and*
      - (ii) *is of a material nature or a non-material nature; and*
    - (b) *within 2 weeks after receiving a notification under subsection (1)—*
      - (i) *advise, in writing, the port management body, local port manager or waterway manager of the matters under subsection (5), (6) or (7), as the case requires; and*
      - (ii) *publish notice of the advice in the Government Gazette.*
  - (4) *An advice under this section must set out the reasons of Safe Transport Victoria as to the matters under subsection (5), (6) or (7), as the case requires.*
  - (5) *If Safe Transport Victoria is of the view that the rule that is proposed to be requested appears to be within the powers conferred on Safe Transport Victoria to make the rule and is of a material nature, Safe Transport Victoria must advise the port management body, local port manager or waterway manager—*
    - (a) *of that view; and*
    - (b) *that it must comply with section 196 before making a request for the making of the rule under section 194.*
  - (6) *If Safe Transport Victoria is of the view that the rule that is proposed to be requested appears to be within the powers conferred on Safe Transport Victoria to make the rule and is of a non-*

material nature, Safe Transport Victoria must advise the port management body, local port manager or waterway manager—

- (a) of that view; and
- (b) that it is not required to comply with section 196 before making a request for the making of the rule under section 194.

(7) If Safe Transport Victoria is of the view that the rule that is proposed to be requested does not appear to be within the powers conferred on Safe Transport Victoria to make the rule, Safe Transport Victoria must advise the port management body, local port manager or waterway manager of that view.

3. 'non-material' is defined in section 183 of the MSA and means:

*'non-material nature', in relation to a proposed rule, includes correction of a minor error in a rule;*

4. **Section 188** of the MSA requires Safe Transport Victoria to publish its decision whether to make or not make a rule:

- (1) *Safe Transport Victoria must publish its decision whether to make a rule under section 184 on Safe Transport Victoria's Internet site.*
- (2) *A decision that is published under subsection (1) must contain a statement of the reasons of Safe Transport Victoria for making or not making the rule, including—*
  - (a) *a description of the matter that was addressed by the request or proposal for the making of the rule; and*
  - (b) *Safe Transport Victoria's conclusions after having regard to the mandatory considerations.*
- (3) *In the case of a decision relating to a request for the making of a rule, Safe Transport Victoria must also publish the request as part of his or her decision.*

5. **Section 187** of the MSA outlines matters that must be considered in making a rule:

- (1) *In making a rule, Safe Transport Victoria must have regard to—*
  - (a) *the mandatory considerations; and*
  - (b) *if the rule is being made following a request from a port management body, local port manager or waterway manager, the summary of submissions or comments received by that body or manager under section 194; and*
  - (c) *if the rule is being made by Safe Transport Victoria on Safe Transport Victoria's own initiative or at the request of a police officer, any submissions or comments made to Safe Transport Victoria under section 195 by the date specified in a notice under section 195(3)(a).*
- (2) *This section does not apply in the case of the making of—*
  - (a) *an urgent safety rule; or*
  - (b) *a specified amendment rule; or*
  - (c) *a rule that is of a non-material nature.*

6. '**Mandatory considerations**' are defined in section 183 of the MSA. In relation to a proposed waterway rule, mandatory considerations mean:

- (a) *the safety risk, or the nature and level of a safety risk, that the proposed rule is intended to minimise or eliminate;*
- (b) *whether there are alternative ways (legislative or otherwise) to address the matter being or to be addressed by the proposed rule;*
- (c) *the expected benefits and costs of the proposed rule on those persons likely to be affected by the proposed rule, if made.*

7. **Section 194** of the MSA sets out the process by which requests for waterway rules can be made. Sub-section (3) provides:

- (3) *A request for the making of a rule—*
- (a) *must be in writing; and*
  - (b) *must contain the following information—*
    - (i) *the name and address of the body or manager making the request; and*
    - (ii) *a description of the rule that the body or manager proposes be made; and*
    - (iii) *a statement of the nature and scope of the matter that is proposed to be addressed and an explanation of how the proposed rule would address the matter; and*
    - (iv) *an explanation of how the proposed rule addresses the mandatory considerations; and*
    - (v) *in the case where a port management body, local port manager or waterway manager has been advised of the matters under section 193(5)—*
      - (A) *a list of submissions and comments received under section 196; and*
      - (B) *a summary of the matters raised in the submissions and comments received under section 196; and*
      - (C) *how the port management body, local port manager or waterway manager has taken into account the submissions and comments that address the mandatory considerations; and*
  - (c) *must be accompanied by a draft of the proposed rule.*

# Appendix 2 - Copy of the Request to Make a Waterway Rule

## Maritime Safety

**WM 2**

1 July 2023

### Waterway Manager

### Request to Make a Waterway Rule

*Marine Safety Act 2010 (Vic) Section 194*

#### Things to know before requesting a rule

- Completing this form is the second step in proposing a waterway rule. Before starting this form, you must complete a *Notice of Intention to Request a Waterway Rule* form, available from Safe Transport Victoria (ST Vic) website, and receive a letter from ST Vic advising the next steps in making the rule.
- If you would like to discuss your request for a waterway rule before completing this form, please contact the Waterway Safety Team on 1800 638 802.
- A waterway manager can only request rules in relation to the operation of vessels on waters, or use by persons of waters, under their control.
- Where the term 'waterway manager' appears in this form, it includes a port management body, a local port manager or waterway manager.
- There is no fee to lodge this request.
- If you need additional space to answer the questions in this form, attach a separate page referencing your answer to the question number.

#### Non-material

If you were directed by ST Vic that the proposed rule is of a non-material nature and public consultation is not required, you do not need to complete questions 12, 13, 14 and 15.

#### Public consultation

Section 196 of the *Marine Safety Act 2010 (Vic)* outlines the process of public consultation that must occur before submitting a request to make a waterway rule.

If you were directed by ST Vic, you must have conducted a minimum of 4 weeks public consultation inviting submissions and comments from the public in relation to the proposed rule.

The waterway manager must:

- Initiate the consultation by
  - (a) publishing a notice of the proposal to request the making of a rule on the waterway manager's internet site and in some other way that gives notice of the proposal to persons who the waterway manager reasonably believes will be affected by the proposed rule if made; and
  - (b) making copies of the proposal available at the waterway manager's principal place of business and internet site; and
- Comply with the notice requirements (i.e. include a summary of the proposal and where copies of the proposal are available, specify when and how submissions and comments must be made); and
- Consider every submission or comment received during the consultation when preparing the request to make the waterway rule.

To satisfy the publishing requirements, in addition to publishing the notice on your internet site, a combination of the following examples, may be effective depending on the circumstances - notifying local waterway users, clubs and groups, displaying the notice at boats ramps and on community notice boards, advertising in local newspapers and on local radio, posting on social media, engaging with other agencies and organisations to assist in effectively communicating with organisations and clubs using the waterway who may be affected.

#### Mandatory considerations

In this request you must explain how the proposed rule meets the mandatory considerations of:

- the safety risk, or the nature and level of a safety risk, that the proposed rule is intended to minimise or eliminate; and
- whether there are alternative ways (legislative or otherwise) to address the matter being or to be addressed by the proposed rule; and
- the expected benefits and costs of the proposed rule on those persons likely to be affected by the proposed rule, if made.

#### Safe Transport Victoria - Maritime

PO Box 2392, Melbourne Victoria 3001 T 1800 638 802  
 E [waterways@safetransport.vic.gov.au](mailto:waterways@safetransport.vic.gov.au) [safetransport.vic.gov.au](http://safetransport.vic.gov.au)



WM 2

Page 1 of 7

7. Has the proposed rule changed since lodging your initial intention to make this rule?

No  → Go to question 8.

Yes  → How has it changed from the initial intention and what is the reason for the change?

Click or tap here to enter text.

8. Provide a statement of the nature and scope of the matter that the proposed rule intends to address

**To correct two instances of incorrect wording in Schedule 104.2**

9. How would the proposed rule address the matter in question 8?

It would correct the two instances of incorrect wording in Schedule 104.2

## Mandatory considerations

10. Provide an explanation of how the proposed rule meets the mandatory considerations.

What safety risk, or the nature and level of a safety risk, does the proposed rule intend to minimise or eliminate?

n/a

What alternative ways (legislative or otherwise) have you considered or tried, to address the matter and safety risks the proposed rule intends to address? Explain why these alternatives were or would be unsuccessful?

n/a

If the rule is made, what are the expected benefits and costs of the proposed rule on those persons likely to be affected? Provide a general summary of the benefits and costs or attach a separate benefit and cost analysis.

n/a



14. Provide a summary of the matters, issues, comments and suggestions received in the submissions. The summary must relate to submissions specific to the proposed rule and not any comments received about the waterway in general.

An example of the type of summary required is.....

- 12 of the 15 submissions received were generally supportive of the proposed waterway rule to establish a designated swimming area in the Lake by prohibiting boating in a specified area of the lake.
- The three submissions that were opposed to the proposed rule were from personal watercraft (PWC) owners/operators who each submitted that they liked to use the sandy beach (adjacent to the proposed swimming area / "no boating zone") as a base for the use of the PWC by family members and that any safety risks were already addressed by existing waterway rules that limit vessel speeds to 5 knots when within 50 metres of a swimmers or the shore.
- The submission from the Lake Ski Club was supportive of the proposal but noted that if the "no boating zone" extended any further than 200 metres into the lake it would restrict the ability of vessels to pass each other through the narrow section of lake immediately to the north of the north-east corner of the proposed zone.
- Three submissions were supportive of the proposed rule but its was argued in two responses that all PWCs should be prohibited on the lake and in one submission it was submitted that only sail vessels should be permitted on the lake.
- One submission was supportive of the proposed rule but suggested that the northern boundary of the no boating zone should be marked by more buoys, at 50 metre intervals, to make the zone boundary highly visible to both swimmers and boaters alike.

n/a

15. Explain how you have taken into account the submissions and comments received in addressing the mandatory considerations.

n/a

# Appendix 3 – Waterway Rule to be made

## SCHEDULE 104: The Local Port of Gippsland Lakes

### 104.2 Five (5) knot speed restriction zones for the purposes of Clause 7.

After Clause 104.2(w) and before 104.3 insert:

(x) For powered vessels of eight (8) metres in length or more:

- i) Within the waters of the Aurora Channel, the western boundary of which commences at channel markers no.5 & no 6 and extending south easterly within the channel markers to a line between a 5-knot sign<sup>86</sup> on the western shore of Waddy Island and a 5-knot sign<sup>87</sup> on the northern most point of Crescent Island.
- ii) Within all the waters of Steamer Channel commencing at a line between a 5-knot sign<sup>1</sup> on the western shore of Waddy Island and a 5-knot sign<sup>2</sup> on the northern most point of Crescent Island, excluding waters north of a line between a 5-knot sign<sup>3</sup> on the south-eastern corner of Waddy Island and a 5-knot sign<sup>4</sup> on Clear Point, thence to the confluence of Steamer Channel and Bunga Arm.
- iii) All the waters of Bunga Arm westward of a line extending north-westward from a 5 knot sign<sup>12</sup> on the southern shore approximately 9.3 kilometres eastward of Ocean Grange Jetty to a 5 knot sign<sup>13</sup> on the opposite shore.