



# Victoria Government Gazette

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## Crown Land (Reserves) Act 1978

### CROWN LAND (RESERVES) (PORTARLINGTON PUBLIC FORESHORE RESERVE) REGULATIONS 2010

I, Vivienne Clare, Acting Director, Public Land Management and Use – Public Land Division, as delegate of the Minister for Environment and Climate Change, make the following Regulations.

#### PART 1 – PRELIMINARY

#### 1 Objectives

The objectives of these Regulations are to provide for the –

- (a) care, protection and management of the Portarlington Public Foreshore Reserve; and
- (b) preservation of good order and safety of persons in the Portarlington Public Foreshore Reserve; and
- (c) use of any improvements, services or facilities in the Portarlington Public Foreshore Reserve.

#### 2 Authorising provision

These Regulations are made under section 13 of the **Crown Land (Reserves) Act 1978**.

#### 3 Commencement

These Regulations come into operation on the date they are published in the Victorian Government Gazette.

#### 4 Definitions

In these Regulations –

**aircraft** includes model aircraft, model helicopter, helicopter, glider, hang glider, or similar flying machine, kite, hot air balloon, paraglider and parachute;

**appointed person** means an officer or employee of the Committee appointed in writing by the Committee as an appointed person for the purposes of these regulations;

**camp** means

- (a) to erect, occupy or use a tent or any similar form of accommodation including a swag; or
- (b) to erect, park, occupy or use a caravan, camper van or other movable form of accommodation or temporary structure;

**Committee** means the committee of management appointed to manage the reserve under section 14 of the Act;

**damage** includes to alter, cut, destroy, deface, soil or vandalise;

**fauna** means any animal which is indigenous to Victoria whether vertebrate or invertebrate and in any stage of biological development and any other living thing generally classified as fauna but does not include humans or fish;

**firearm** has the same meaning as in the **Firearms Act 1996**;

**fireplace** means a facility constructed of stone, metal, concrete or other non-flammable material provided by the Committee in the reserve for the purposes of lighting and maintaining fires;

**flora** has the same meaning as in the **Flora and Fauna Guarantee Act 1988**;

**life-saving aid** includes any life-saving equipment, life-hook, drag, grapnel, life-buoy, warning sign, barrier, fire extinguisher, hose or similar equipment;

**SPECIAL**

**mooring** includes any equipment, facility or structure for the securing of a vessel;

**navigational aid** means any lighthouse, beacon, signal, flag or similar equipment and any adjacent supporting structure or post;

**pathway** means a footpath, bicycle path, shared path or other thoroughfare constructed or developed for use by members of the public other than with a motor vehicle;

**permit** includes any authority, approval, consent, permission, receipt or ticket given, granted or issued by the Committee in accordance with these regulations;

**Portarlington Public Foreshore Reserve** means –

- (a) Allotment 73C, Township of Portarlington being the land permanently reserved for Public Recreation and Public Purposes by Order in Council dated 1 September 1970, published in the Government Gazette on 9 September 1970, Page 3041; and
- (b) Allotment 73D, Township of Portarlington being the land permanently reserved for Public Recreation and Public Purposes by Order in Council dated 1 September 1970, published in the Government Gazette on 9 September 1970, Page 3041; and
- (c) Allotment 73E, Township of Portarlington being the land temporarily reserved for Public Recreation and Public Purposes by Order in Council dated 28 April 1964, published in the Government Gazette on 6 May 1964, Page 1381; and
- (d) Part of Allotment 73F, Township of Portarlington being part of the land permanently reserved for Public Purposes by Order in Council dated 26 May 1873, published in the Government Gazette on 13 June 1873, Page 1059; and
- (e) Allotment 73G, Township of Portarlington being the land temporarily reserved for Public Purposes by Order in Council dated 24 June 1997, published in Special Government Gazette S75 on 1 July 1997, Page 9;

**prohibited access area** means an area set aside by a determination of the Committee under subregulation 7(1);

**restricted access area** means an area set aside by a determination of the Committee under subregulation 7(1);

**the Reserve** means the Portarlington Public Foreshore Reserve;

**stone** has the same meaning as in the **Mineral Resources (Sustainable Development) Act 1990**;

**take** means –

- (a) in relation to flora, to kill, injure or disturb any live flora, or to remove or collect all or any part of any flora whether alive or dead; and
- (b) in relation to fauna, to kill, injure or disturb any fauna or to remove any fauna whether alive or dead;

**vehicle** has the same meaning as in the **Road Safety Act 1986** but does not include a wheelchair, motorised wheelchair, pram, stroller, or other similar device for the conveyance of children or disabled or injured persons;

**vessel** has the same meaning as in the **Marine Act 1988**.

## 5 Application of Regulations

- (1) Parts 1, 2, 3, 5 and 6 of these Regulations do not apply to any of the following persons when acting in the course of his or her duties;
  - (a) a member of the Committee; or
  - (b) any officer or employee of the Committee; or
  - (c) an authorised officer; or
  - (d) a person authorised by the Secretary or an employee of the Secretary.
- (2) A person acting in accordance with a lease, licence, tenancy or permit granted or issued under the Act or a corresponding previous enactment over land in the reserve is not subject to these Regulations, to the extent that the activities authorised by that lease, licence, tenancy or permit are inconsistent with these Regulations.

**PART 2 – POWERS OF COMMITTEE****6 Erection of buildings and carrying out of works**

The Committee may erect buildings and carry out works to provide facilities or services on the Reserve if the consent required to be obtained in accordance with regulation 36 has been obtained.

**7 Areas set aside as restricted or prohibited access areas**

- (1) The Committee may, by determination, set aside a specified area in the Reserve as being a prohibited access area or a restricted access area –
  - (a) by a person who is in possession of alcohol;
  - (b) by a person with glass bottles, glass containers or glass utensils in their possession;
  - (c) for reasons of public safety;
  - (d) for the protection of flora, fauna, geological or geomorphological features or cultural values; or
  - (e) for swimming.
- (2) A person must not enter or be in a restricted access area or a prohibited access area, unless that person does –
  - (a) in accordance with the determination of the Committee under which the area is set aside; or
  - (b) under and in accordance with a permit issued by the Committee.
- (3) The Committee may issue a permit to a person to enter or be in a restricted access area or a prohibited access area.

**8 Specific Use Areas**

- (1) The Committee may, by determination, set aside a specified area or areas within the Reserve for one or more of the following purposes –
  - (a) protection or management of flora, fauna, geological or geomorphological features or cultural values;
  - (b) re-establishment or planting of trees, shrubs, grass or other vegetation;
  - (c) protection or management of cultural, historic or geological features or values;
  - (d) amenities or facilities for public use;
  - (e) camping;
  - (f) engaging in sport or recreational activity;
  - (g) the lighting or maintaining of fires;
  - (h) the entry by any person accompanied by a dog under that person's control;
  - (i) the riding, driving or leading of a horse or a mule or a donkey or a camel or the drawing of a vehicle by any of those animals;
  - (j) the parking of any vehicle or vehicles of a particular class or classes;
  - (k) the operation of any vehicle or vehicles of a particular class or classes;
  - (l) a pathway;
  - (m) the launching, landing, loading, unloading or mooring of vessels generally or vessels of a particular class;
  - (n) the entry by a person in a vessel or in vessels of a particular class or classes into a water covered area.
- (2) A person must not enter or be in a specific use area, unless that person does so in accordance with a determination of the Committee under which the area is set aside.

**9 Determination of the Committee**

- (1) In a determination by the Committee made under these Regulations relating to the nature or use of an area, the Committee may specify conditions on the use of that area.
- (2) If the Committee has made a determination under these Regulations, the Committee must cause signs or notices to be erected or displayed at or near to the area indicating –
  - (a) if appropriate, that it is an prohibited access area or a restricted access area; and
  - (b) if appropriate, details of any specific use that the Committee has determined is permitted, prohibited or restricted in that area; and
  - (c) any conditions on the use of the area specified under subregulation (1).

**10 Permits**

- (1) The Committee may issue a permit for any of the activities referred to in Regulations 12(1), 16, 17(1), 19(1), 20(1), 21(1), 22(1), 24(1), 26(1), 27(1), 28(1), 29(1) or 30(1).
- (2) A permit issued by the Committee under sub-regulation (1) authorises the holder to enter and use an improvement, service or facility or to enter or be in an area of the Reserve –
  - (a) for the purpose specified in the permit; and
  - (b) for the period specified in the permit –subject to any terms and conditions specified in the permit, including the payment of any fee imposed by the Committee under regulation 11(2).
- (3) A permit issued by the Committee under these Regulations must be in writing.
- (4) The holder of a permit must comply with any terms and conditions of that permit.
- (5) The Committee or an appointed person may revoke or cancel a permit at any time –
  - (a) if the holder of the permit has –
    - (i) breached the conditions of the permit; or
    - (ii) otherwise breached these Regulations; or
  - (b) if the continuation of the permit is likely to be detrimental to, or interfere with, the management and protection of the natural environment, features, or visitors in the Reserve; or
  - (c) for the purposes of management of the Reserve.
- (6) If a permit is revoked or cancelled under subregulation (5), the Committee or an appointed person must cause the holder of the permit to be notified in writing of the revocation or cancellation of the permit within a reasonable time after cancellation.
- (7) The cancellation or revocation of a permit under subregulation (5) comes into effect when the holder of the permit receives notice of that cancellation or revocation in accordance with subregulation (6).
- (8) The holder of a permit issued by the Committee must produce that permit for inspection when requested to do so by the Committee, an authorised officer or an appointed person.

**11 Fees**

- (1) The Reserve is open to the public free of charge except as otherwise imposed by the Committee in accordance with subregulation (2).
- (2) The Committee may impose fees that it considers necessary for entry to the Reserve or for the use of improvements, services or facilities in the Reserve.

- (3) If the Committee has imposed a fee for entry to the Reserve or use of improvements, services or facilities in the Reserve under sub-regulation (2), the Committee must cause notices indicating the amount of the fee to be displayed in the Reserve in a conspicuous place at or near entry to the Reserve or the improvement, service or facility.
- (4) A person must not enter the Reserve or use an improvement, service or facility within the Reserve without paying the relevant fee, if any, imposed by the Committee under subregulation (2).

### **PART 3 – USE AND CONTROL OF THE RESERVE**

#### **12 Dogs, horses and other animals**

- (1) A person must not bring a dog, horse or other animal into the Reserve, or allow a dog, horse or other animal under that person's control to remain in the Reserve.
- (2) Sub-regulation (1) does not apply to a person who –
  - (a) brings a dog which is used as a guide dog into or allows that dog to remain in the Reserve; or
  - (b) brings into or allows to remain in the Reserve a dog which is in an area set aside under regulation 9(1) as an area where dogs are permitted ; or
  - (c) brings into or allows to remain in the reserve a horse, mule, donkey or camel which is in an area set aside under regulation 9(1) as an area for the riding, driving or leading of those animals or the drawing of a vehicle by any of those animals; or
  - (d) brings an animal into or allows an animal to remain in the Reserve in accordance with a permit issued under regulation 10 that authorises the holder to bring a dog, horse or other animal into the Reserve or allow a dog, horse or other animal under that person's control to remain in the Reserve.
- (3) A person who brings an animal into the reserve in accordance with this Regulation must ensure that the animal is effectively controlled from causing any nuisance, injury, unreasonable disturbance or damage to any person, garden, shrub, tree, building, fencing or other improvement.

#### **13 Removal of animal faeces**

A person who brings a dog, horse or other animal, other than a dog used as a guide dog, into the Reserve must collect and remove all of the faeces left in the Reserve by that dog, horse or other animal or ensure that the faeces is placed in a receptacle provided in the Reserve for that purpose.

#### **14 Vehicles**

- (1) A person must not –
  - (a) operate a vehicle in the Reserve; or
  - (b) park or leave a vehicle stationary in the Reserve.
- (2) Sub-regulation (1) does not apply to a person who –
  - (a) operates a vehicle in the Reserve or;
  - (b) parks or leaves a vehicle stationary in the Reserve, in an area set aside by the Committee under regulation 9(1).

#### **15 Vessels**

- (1) A person must not, in the Reserve, launch, land, moor, load or unload a vessel, unless that person does so in accordance with a determination made under regulation 9(1).
- (2) A person must not, in the Reserve, launch, land, moor, load or unload a vessel unless the relevant fee has been paid to the Committee under and in accordance with regulation 11(2).

**16 Aircraft**

A person must not, in the Reserve, launch, fly, land, control or operate any aircraft, unless that person does so under and in accordance with a permit issued by the Committee under regulation 10 that authorises the holder to launch, fly, land, control or operate any aircraft.

**17 Camping**

- (1) A person must not camp in the Reserve, unless that person does so –
  - (a) in an area set aside for camping by determination under regulation 9(1) and in accordance with that determination; and
  - (b) in accordance with a permit issued under regulation 10 that authorises the holder to camp in the Reserve.

**18 Lighting or maintaining of fires**

- (1) A person must not light or maintain a fire in the Reserve.
- (2) Sub-regulation (1) does not apply to a person who lights or maintains a fire in the Reserve during a time or period when the lighting of fires is not prohibited under any Act or regulations in –
  - (a) a fireplace provided by the Committee; or
  - (b) in accordance with a determination made under regulation 9(1).
- (3) A person who lights or maintains a fire in the Reserve must ensure that the fire is extinguished before he or she leaves the place of the fire.

**19 Protection or re-establishment of flora**

- (1) A person must not, in the Reserve, fell, pick, take, destroy or damage any flora.
- (2) Subregulation (1) does not apply to a person who is –
  - (a) engaged in a sport or recreational activity; or
  - (b) acting under and in accordance with a permit issued by the Committee under regulation 10 to fell, pick, take, destroy or damage any flora.
- (3) If a determination is made by the Committee under regulation 9 to set aside an area –
  - (a) for the re-establishment or planting of trees, shrubs, grass, or other vegetation; or
  - (b) for the protection of flora,  
a person must not enter that area unless –
    - (c) he or she does so under and in accordance with a permit issued under regulation 10 that authorises the holder to enter an area set aside for the re-establishment or planting of trees, shrubs, grass or other vegetation or for the protection of flora; or
    - (d) he or she does so under and in accordance with a lease, licence, permit or other authority under the **Mineral Resources (Sustainable Development) Act 1990** or the **Petroleum Act 1998**.

**20 Introducing flora**

- (1) A person must not knowingly bring, plant or introduce any seed, tree, shrub, fern or other vegetation or any part of any tree, shrub or other vegetation in or onto the Reserve.
- (2) Sub-regulation (1) does not apply to a person acting in accordance with –
  - (a) a permit issued under regulation 10 that authorises the holder to engage in any of the activities under subregulation (1); or
  - (b) a lease, licence, permit or other authority under the **Mineral Resources (Sustainable Development) Act 1990** or the **Petroleum Act 1998**.

**21 Interfering with buildings and other assets**

- (1) A person must not, in the Reserve –
  - (a) move or interfere with any sign, noticeboard, equipment, seat, table, gate, post, fence, bridge, facility, building or structure; or
  - (b) move or interfere with any navigational aid or life saving aid except for the purpose of saving life.
- (2) Sub-regulation (1) does not apply to a person acting in accordance with –
  - (a) a permit issued under regulation 10 that authorises the holder to engage in any of the activities under subregulation (1).

**22 Stone**

- (1) A person must not, in the Reserve, take any stone.
- (2) Sub-regulation (1) does not apply to a person who takes stone in accordance with –
  - (a) a permit issued under regulation 10 that authorises the holder to take any stone; or
  - (b) a lease, licence, permit or other authority under the **Mineral Resources (Sustainable Development) Act 1990** or the **Petroleum Act 1998**.

**23 Animals and nests**

- (1) A person must not in the Reserve –
  - (a) disturb, harass, hunt, capture or take any fauna or other animal; or
  - (b) destroy, disturb or interfere with the nest, bower, display mound, lair or burrow of any fauna or other animal; or
  - (c) poison any fauna or other animal.

**24 Erecting or using buildings and structures**

- (1) A person must not, in the Reserve –
  - (a) erect or place any building or structure, or
  - (b) enter, occupy or use the whole or any part of any building or structure which is provided for public use except in accordance with the purposes for which the building or structure is provided.
- (2) Subregulation (1) does not apply to a person who is acting under and in accordance with a permit issued under regulation 10 that authorises the holder to erect or place any building or structure or to enter, occupy or use a building or structure in the Reserve for a purpose other than the purpose for which it is provided.

**25 Use of toilets, showers and other facilities**

- (1) A person must not, in the Reserve, enter or use a toilet, shower or other facility designated solely for the use of persons of the opposite sex.
- (2) Subregulation (1) does not apply to the entering or use of a toilet, shower or other facility by a child under the age of 6 years if accompanied by an adult.

**26 Engaging in sport or recreational activity**

- (1) A person must not, in the Reserve, engage in any sport or recreational activity likely to cause interference, disturbance, inconvenience or danger to other persons using the Reserve.
- (2) Sub-regulation (1) does not apply to a person –
  - (a) who is engaged in any sport or recreational activity in an area of the Reserve set aside under a determination made under regulation 9(1); and
  - (b) the appropriate fee has been paid to the Committee in accordance with regulation 11(2).

- (3) A person must not play or conduct a specified sport or activity unless the person does so under and in accordance with a permit issued under regulation 10 that authorises the holder to play or conduct a specified sport or activity in the Reserve.

**27 Organised events**

- (1) A person must not, in the Reserve, conduct an organised event, rally, concert, festival, tour, fete or public meeting or similar event.
- (2) Sub-regulation (1) does not apply to a person who holds a permit issued under regulation 10 authorising the holder to conduct an organised event, rally, concert, festival, tour, fete, or public meeting or similar event.

**28 Public address**

- (1) A person must not, in the Reserve, preach or deliver an address or use any amplifier, public address system, loud hailer or similar device.
- (2) Sub-regulation (1) does not apply to a person who holds a permit issued under regulation 10 authorising the holder to preach or deliver an address or use any amplifier, public address system, loud hailer or similar device.

**29 Commercial Activities**

- (1) A person must not, in the Reserve –
- (a) sell or offer any article for sale; or
  - (b) take photographs for gain or commercial purposes; or
  - (c) supply any vehicle for hire or carry any passengers for fee or reward; or
  - (d) conduct any school or provide any form of instruction for gain; or
  - (e) display, advertise for sale or trade or hire any article, device, service or thing; or
  - (f) solicit or collect money or orders for goods or services or other purposes; or
  - (g) take part in or advertise any entertainment for gain; or
  - (h) give out, distribute, erect, leave set up or display any handbill, placard, notice, pamphlet, book, paper, advertising matter or any like thing; or
  - (i) offer for hire any article, device or thing; or
  - (j) conduct a tour for gain or for commercial purposes.
- (2) Sub-regulation (1) does not apply to a person who holds a permit issued under regulation 10 that authorises the holder to engage in any of the activities under subregulation (1).

**30 Machinery and power tools**

- (1) A person must not, in the Reserve, operate any portable or stationary generator, air-compressor, chainsaw, oxy-acetylene or electrical cutting or welding apparatus or other machinery.
- (2) Sub-regulation (1) does not apply to a person who holds a permit issued under regulation 10 that authorises the holder to operate any portable or stationary generator, air-compressor, chainsaw, oxy-acetylene or electrical cutting or welding apparatus or other machinery.

**31 Gates**

A person must not, in the Reserve, leave any gate open except where the gate is already open.



**32 Use of Beach Umbrellas**

- (1) A person must not, in the Reserve, erect or use a beach umbrella or similar device for providing shade or weather protection on any beach.
- (2) Sub-regulation (1) does not apply to a person who uses a beach umbrella or similar device which is securely anchored –
  - (a) by means of a disc made of wood, metal or similar material being at least 30 centimetres in diameter fitted over the shaft immediately above the tip and the tip is buried in the sand to a depth of at least 30 centimetres; or
  - (b) by means of a bag filled with at least 5 kilograms of dry weight of sand securely tied to the device; or
  - (c) by means of a device with an equivalent effect to an anchoring device referred to in paragraph (a) or (b).

**33 Firearms, snares and traps**

A person must not, in the Reserve, possess, carry or use –

- (a) a firearm
- (b) a trap; or
- (c) a snare.

**34 Stones or missiles**

A person must not, in the Reserve, propel or throw any stone or missile which is likely to cause danger or unreasonable disturbance to other persons or to animals or is likely to damage any flora or property.

**35 Royalties**

A person authorised by a current permit issued under regulation 10 to take stone from the Reserve must pay to the Secretary the royalty specified in Schedule 3 of the Mineral Resources (Sustainable Development)(Extractive Industries) Regulations 2010, in respect of the type and quantity of stone taken.

**PART 4 – WORKS AND IMPROVEMENTS****36 Consent of Minister**

- (1) The Committee must obtain all the necessary approvals and permits and the consent of the Minister or the consent of the Minister's authorised delegate before undertaking any works or improvements on the Reserve.
- (2) The consent of the Minister or the Minister's authorised delegate is not required if the works and improvements are:
  - (a) for the purpose of carrying out repairs or maintenance of structures, facilities and other improvements; or
  - (b) minor works or improvements necessary to keep the Reserve in good order or appearance; or
  - (c) to provide information to the public; or
  - (d) works and improvements agreed to under a management or development plan which has been approved by the Minister or the Minister's authorised delegate.

**PART 5 – GENERAL****37 Obstruction**

A person must not, in the Reserve, obstruct, hinder or interfere with a member of the Committee, an authorised officer or appointed person, any other officer or employee of the Committee or a person authorised by the Committee in the execution of his or her duties in the Reserve.

**38 Direction and directions to leave**

- (1) An appointed person or authorised officer may direct a person in charge of a vehicle to move the vehicle or remove the vehicle from the Reserve if –
  - (a) the vehicle is parked or standing contrary to any determination made under these Regulations; or
  - (b) in the opinion of the appointed person or authorised officer the vehicle is obstructing or likely to obstruct the passage of people or other vehicles in the Reserve; or
  - (c) the vehicle is a danger or likely to be a danger to people using the reserve or is likely to cause injury or damage to property in the Reserve; or
  - (d) the vehicle is being driven in a manner which is likely to prejudice the safety of persons or cause injury or damage to property in the Reserve.
- (2) An appointed person or an authorised officer may direct any person whom that officer believes on reasonable grounds has contravened these Regulations to leave the reserve or any part of the reserve.
- (3) When directed to do so by an appointed person or an authorised officer, a person must immediately –
  - (a) move a vehicle as directed within the Reserve; or
  - (b) remove a vehicle from the Reserve; or
  - (c) leave the Reserve or the part of the Reserve.

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**Notes****Contravention of regulations**

A person who contravenes these Regulations is liable to a penalty under section 13(5) or (6) of the **Crown Land (Reserves) Act 1978**.

**Litter**

The depositing of litter in the Reserve is prohibited under the **Environment Protection Act 1970** and may result in the imposition of penalties under that Act.

**Motor Vehicles**

Under the Land Conservation (Vehicle Control) Regulations 2003, motor vehicles are prohibited within a reserve except on a road, in a parking area or in an area declared to be a free access area. A contravention may result in the imposition of penalties under those regulations.

**Fire**

In addition to Regulation 18, the lighting of fires is governed by the Forests (Fire Protection) Regulations 2004 and failure to adhere to those Regulations may result in the imposition of penalties.

Dated 29 April 2010

VIVIENNE CLARE  
Acting Director, Public Land Management and Use  
Public Land Division  
as delegate of the Minister for Environment and Climate Change

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