



## Land Use Operational Policy Private Moorage

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<b>NAME OF POLICY:</b>	Private Moorage
<b>APPLICATION:</b>	Applies to inland and coastal aquatic Crown lands. This policy does not apply to industrial or commercial facilities.
<b>ISSUANCE:</b>	Assistant Deputy Minister Crown Land Administration Division
<b>IMPLEMENTATION:</b>	Ministry of Agriculture and Lands
<b>REFERENCES:</b>	<i>Land Act</i> (Ch. 245, R.S.B.C., 1996) <i>Ministry of Lands, Parks and Housing Act</i> (Ch. 305, R.S.B.C., 1996)
<b>RELATIONSHIP TO PREVIOUS POLICY:</b>	
<b>POLICY AMENDMENT:</b>	Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Program Services Branch, Crown Land Administration Division.

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Warren Mitchell  
A/Assistant Deputy Minister  
Crown Land Administration Division  
Ministry of Agriculture and Lands

Original signed by Warren Mitchell 10/29/05

Date

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
August 16, 2004		Changes made as a result of the Policy and Procedures Re-write Project.
October 21, 2005		Policy changed to reflect new agency names and responsibilities
July 19, 2007	Decision Note 152082	Insurance section updated

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**EFFECTIVE DATE:** August 16, 2004

**FILE:** 12565-00

**AMENDMENT:** June 30, 2010

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<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
May 30, 2008	Decision Note 159165	<p>A comprehensive program review resulted in a number of changes. Key amendments include:</p> <ul style="list-style-type: none"> <li>• replacing the License of Occupation with a General and Specific Permission as the main form of authorization; providing descriptions and parameters of use for the General and Specific Permission;</li> <li>• adding a set of provincial Best Management Practices for private moorage construction and use; and,</li> <li>• clarifying policy associated with group moorage facilities.</li> </ul>
December 5, 2008	DN 162403	Minor update of insurance requirements
June 30, 2010	170521	Housekeeping amendments including changes to update provincial taxation requirements

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## 1. POLICY APPLICATION

This policy applies to the allocation of all aquatic Crown land (inland and coastal) for private moorage facilities (as defined below) that are affixed to and/or occupy aquatic Crown land.

The policy does not apply to mooring buoys used for private moorage. These are regulated by Transport Canada under the federal *Navigable Waters Protection Act*.

Moorage facilities for strata title or condominium developments of over three berths are administered under the provisions of the Residential policy where they have no related commercial facilities (e.g. gas bars) and are intended for private use of tenants.

Group moorage facilities of over three berths are administered under the provisions of Residential policy only where they have no related commercial activities. Group moorage with commercial activities are administered under the Commercial Marina policy.

*The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant land management policies and procedures. Text in standard script is applicable to this policy only.*

## 2. PRINCIPLES AND GOALS

The objectives of the policy are to:

- reduce risk of impacts associated with the construction and use of private moorage facilities;
- ensure that policy and procedures compliment other provincial agency, federal agency and local government requirements;
- provide flexibility to allow regional and site specific issues and conditions to be considered and addressed;
- provide dock owners with best management practices and requirements; and,
- provide for different forms of allocation, with a range of rights, interests and obligations to meet a variety of circumstances and proponent needs.

## 3. DEFINITIONS

**Application-only area** means a specified area where private moorage facilities on freshwater must be authorized by granting of a Specific Permission or a lease and are not covered by granting of a General Permission.

**Aquatic Crown land** means that land below the visible high water mark of a body of water extending offshore to the recognized limit of provincial jurisdiction, including the foreshore.

**Authorizing Agency** means the Provincial ministry responsible for the specific land use authorization.

**Dock** means a structure used for the purpose of mooring boats and for providing pedestrian access to and from the moored boats, and can consist of a single dock, wharf or pier (including walkway ramp).

**Foreshore** means that land in tidal areas lying between the high tide and the mean low tide and that land in non-tidal areas that is alternatively covered by water and exposed with the normal rise and fall of the level of the body of water, i.e. that land between the ordinary high and low water mark.

**First Nation** is a term that refers to the Indian peoples in Canada, both Status and non-Status. Although the term First Nation is widely used, no legal definition of it exists. Some Indian peoples in British Columbia have adopted the term “First Nation” to replace the word “band” in the name of their community.

**Group moorage facility** means a multi-berth moorage similar to a private moorage facility but for the personal use of a group or association of residents from the surrounding community.

**Private moorage facility** means a dock and/or a permanent way (i.e. boat ramp) that is permanently affixed to aquatic Crown land and any ancillary structures such as a boat lift and anchor lines. It is for the personal and private use by one or a number of individuals or a family unit for boat moorage.

**Riparian rights** means certain rights which run with an upland property, include access to and from the water, protection of the property from erosion, ownership of naturally accreted material and use of water of undiminished flow and quality for domestic purposes.

#### 4. **ABBREVIATIONS**

**FCBC** – FrontCounter BC

**ILMB** – Integrated Land Management Bureau

**MAL** - Ministry of Agriculture and Lands

#### 5. **APPLICANT ELIGIBILITY**

Applicants for General and Specific Permissions, new tenures, tenure or permission assignments, or tenure replacement must be 19 years of age or older. Applicants are not required to be a Canadian Citizen or permanent resident of Canada.

#### 6. **FORM OF LAND ALLOCATION**

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for private moorage.

For more detailed standard policy information on some of the available instruments see [Form of Crown Land Allocation](#).

## 6.1 Permission

A Permission is the normal form of authorization granted for private moorage.

Permissions do not convey rights to the land. A Permission conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged and does not require a survey.

A Permission does not allow the holder to curtail public access over the permission area. However, this requirement does not preclude the permission holder from protecting improvements from damage resulting from causes other than natural wear and age. The permission holder must ensure improvements are constructed or located to permit public passage around or over the structure on the foreshore (e.g. a raised walkway can be readily crossed or there is a path around the end of the walkway on the beach).

Government may authorize overlapping and layering of tenures on the permission area.

Permissions typically do not have a fixed term or expiry date. They are granted for as long as the dock owner requires or until such time as the Authorizing Agency terminates or withdraws the permission. However, in limited circumstances it may be necessary to put a fixed term in place, e.g. to match the term of tenure remaining for the adjacent non fee-simple upland property or to run with the term of an upland owners consent.

The Minister (or delegate) can withdraw permission at any time without restriction. Notice of a withdrawal of a permission should be given as long as possible in advance (e.g. 12 months), however, it is recognized that in some circumstances less notice time may be given.

There are two types of permission available: General Permissions and Specific Permissions.

### 6.1.1 General Permission

The General Permission is only granted for lake and river docks of less than 20m<sup>2</sup> in surface area. These are granted without the need for an application. Instead, if a person constructs and uses their dock in accordance with the terms and conditions contained in the General Permission document they will be deemed authorized. If the proposed dock does not meet the conditions and requirements stated in the General Permission, an application for a Specific Permission will be required.

A General Permission does not apply to marine (coastal) docks nor to lake and river areas that are designated as application-only areas (refer to Section 8.3 for more details).

A General Permission is only granted to owners of waterfront property with riparian rights to the adjacent Crown foreshore where the dock is located.

### 6.1.2 Specific Permission

The Specific Permission is the normal form of authorization granted upon application approval for private moorage facilities. Specific Permissions are available for:

- lake and river docks over 20 m<sup>2</sup> in surface area;
- lake and river docks less than 20 m<sup>2</sup> that are within designated application-only areas;
- lake and river docks less than 20 m<sup>2</sup> that do not satisfy the conditions of the General Permission;
- all docks located on the marine (coastal) foreshore; and,
- any private moorage facility that includes a permanent way/boat ramp, or a boat lift that is not attached to the dock.

Specific Permissions are only available to owners or Crown lessees of waterfront property with riparian rights. However, in exceptional circumstances an exemption may be given, in which case upland or adjacent owner consent will be required (e.g. local government, Ministry of Transportation) as per section 8.1.5.

Specific Permissions may be granted for strata title moorage or group moorage facilities of three berths or less (refer to section 6.4 for more details).

## 6.2 Lease

*A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.*

*The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).*

*A legal survey will generally be required at the applicant's expense to define the tenured area.*

*A lease can be issued in a form that is registerable in the Land Title Registry (whereas, a Licence of Occupation is not.) Registered leases for a term of 30 years or more may be considered a fully taxable transfer of interest in property and may be subject to Property Transfer Tax in accordance the Property Transfer Tax Act.*

*Where a lease is not registered in the Land Title Registry, Property Transfer Tax does not apply.*

*In most cases, a tenure holder may apply for a replacement tenure at any time following the mid-term of the lease. Replacement of tenures is at the Authorizing Agency's discretion.*

*Where a replacement lease is for the same land, will result in a total duration of more than 30 years, and the replacement lease is registered in the Land Title Registry, the leases may be viewed as a single transaction and may be subject to Property Transfer Tax.*

*Where the term of a registered lease is less than 30 years or the total duration of all leases does not exceed 30 years, Property Transfer Tax exemption is available.*

*A lease can be a registerable interest in the land that is mortgageable.*

A lease may be issued where the applicant is intending to make a substantial investment in major improvements which warrant this form of tenure.

The standard term for a lease is 20 years.

A lease for a private moorage facility is not issued for a period greater than the remaining term of the Crown land residential tenure on the adjacent upland property.

The leaseholder will not be able to interfere with public access over the lease area, or interrupt passage by the public over the intertidal area.

## **7. SURVEY**

Requirements for legal survey of the proposed aquatic tenure area will be at the discretion of the Authorizing Agency. Survey is not normally required where natural features define the land, or where the likelihood of boundary conflict is minimal. As the duration/intensity of use and the level of investment increase, so does the advisability of survey.

## **8. AUTHORIZATIONS FOR SMALL MULTI-BERTH MOORAGE FACILITIES**

Group moorage facilities or strata title moorage facilities, with three berths or less may be issued a Specific Permission. For facilities with more than three berths owners must apply under the Residential Policy.

Group moorage will be available to local resident groups/associations or community organizations where:

- local government has given their support and approval; and,
- the area has boat access only, no public transportation and there is very limited availability of public and commercial moorage; or,
- group moorage may reduce cumulative impacts that could result from waterfront property owners developing multiple single docks.

Important considerations when locating a group moorage facility include availability of adjacent parking, as well as impact on neighbouring property owners and public access.

Commercial activity is prohibited at group moorage sites including the renting or selling berths, but not including any necessary membership fees to cover maintenance and administrative costs.

A riparian agreement is required between the members of any association or group and the owner of an upland property that the group moorage facility is fronting. If the facility

is located adjacent to a road allowance, consent by the Ministry of Transportation will be required.

## **9. FORESHORE FILLS, BREAKWATERS AND NON-MOORAGE STRUCTURES**

Proposals are normally not accepted for foreshore fills, breakwaters or permanent foreshore improvements (e.g. sun decks, boat houses) that are not part of a private moorage facility (as defined). However, in exceptional circumstances authorization may be considered (e.g. where fill or breakwater was historically established) in accordance with the Residential Policy.

## **10. PRICING POLICY**

### **10.1 Administrative Fees**

*Application fees for tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the Crown [Land Fees Regulation](#).*

A General Permission does not require an application fee. An application fee of \$250 applies to Specific Permissions and leases.

### **10.2 Rentals**

#### **10.2.1 Permission**

There is no rent charged for General or Specific Permissions.

#### **10.2.2 Lease**

A nominal charge of \$200 per annum is levied for a private moorage facility lease. Where the area of aquatic Crown land required for a lease exceeds 2000 square metres, an additional annual charge of \$1.00/square metre is levied to a maximum total annual charge of \$400.

## **11. ALLOCATION PROCESSES**

### **11.1 Applications**

*New and replacement tenures are normally offered in response to individual applications.*

New Specific Permissions are offered in response to an application. General Permissions will not require an application. General Permission documents will be made available to proponents by the Authorizing Agency, normally through FCBC .

Although applications will not be required for many small lake and river docks under 20 m<sup>2</sup>, clients must first contact FrontCounter BC prior to commencement of construction to ensure that they are fully informed of the conditions and requirements of a General Permission, and to ensure that a proposed dock is not located in an application-only area. Clients may be required to provide additional information to help

staff determine whether an application is needed (e.g. a draft site plan showing design, location or orientation). In addition, clients may need other agency authorizations, such as a notification of works in and about a stream in accordance with Section 9 of the *Water Act*.

### 11.1.1 Application Package

*Applications must be complete before they can be accepted for processing. A complete application package will include all the material defined in the [Application Checklist](#).*

#### **Management Plan and Tenure Boundaries**

A management plan is required for private moorage applications.

In issuing tenures or permissions, staff are to ensure that permission or tenure boundaries encompass the minimum area required to authorize the placement of necessary improvements (including boat lifts and anchor lines). The permission or tenure area should not include unoccupied open water or tidal areas between structural improvements.

Refer to Section 9.5.1, Development Requirements, as well as the Private Moorage Requirements and Best Management Practices (Appendix 2) for additional factors that may affect the placement and design of a private moorage facility.

#### **Identification of Users**

Where application for a private moorage facility is made by more than one individual, the names of all individuals should be included on the application form and will be included in the tenure document. The exception will be for moorage facilities under the name of registered community organizations.

If possible group moorage tenures should be in the name of a registered society or association to avoid having to undertake assignments every time a member of the group changes.

### 11.1.2 Application Acceptance

*New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing and other information which may be available to provincial staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.*

### 11.1.3 Clearance/Statusing

*After acceptance, provincial staff undertake a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.*

### 11.1.4 Referrals

*Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government*

agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to the Authorizing Agency within 30 days (45 days for First Nations).

### **11.1.5 Advertising/Notification**

*At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.*

#### **Upland Owner Consent**

*Owners of waterfront property have certain “riparian rights” which include the right of access to and from the upland (see [Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land](#)). Provincial staff will advise applicants if there is a need to obtain a letter indicating the upland owner’s consent to their application.*

#### **Adjacent Owner Notification**

*New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, provincial staff may advise applicants that there is a need to obtain a letter indicating adjacent owner’s consent to their application.*

#### **Riparian Agreement**

*A riparian agreement is normally required between parties if a private moorage facility infringes on the riparian rights of an adjacent property owner, and the property owner is willing to grant consent. This avoids some issues that may occur when the adjacent property owner sells their property, and the new owner is unwilling to provide consent.*

### **11.1.6 Aboriginal Interests Consideration**

*The Authorizing Agency is responsible for ensuring the Province’s obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.*

### **11.1.7 Field Inspections**

*Field inspection means the on-site evaluation of a parcel of Crown land by provincial staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the Authorizing Agency.*

### **11.1.8 Decision/Report**

*The applicant will be notified in writing of the government’s decision. [Reasons for Decision](#) are posted on the relevant website.*

### **11.1.9 Issuing Documents**

*If the application is approved, tenure documents are offered to the applicant. All preconditions must be satisfied prior to the Authorizing Agency signing the documents.*

*It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.*

## **11.2 Planned Tenure Dispositions**

*Planned tenure dispositions involve the province actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the Authorizing Agency in accordance with standard application procedures or by a competitive process.*

## **Designated application-only areas**

In certain designated areas General Permissions will not apply. In these areas, docks less than 20 m<sup>2</sup> in size will require an application for a Specific Permission. The application process will allow for site specific evaluation and consideration to address local circumstances and conditions before authorization is granted.

Application-only areas will cover lakes, rivers or portions of either that will generally have a higher risk of impacts or user conflicts related to the construction and use of any size dock.

Regional operations of the Authorizing Agency may work with local governments, provincial and federal resource agencies and First Nations to identify appropriate application-only areas. Once designated, information on these specific areas will be available from the Authorizing Agency.

Refer to Appendix 4 for a detailed description of the process and criteria for designating application-only areas.

## **12. TENURE ADMINISTRATION**

### **12.1 Insurance**

An authorized user is required to ensure that they keep in force a homeowner's insurance policy or other residential insurance policy, including general liability, in an amount specified in the tenure or permission document.

### **12.2 Security/Performance Guarantee**

*A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area and/or to ensure compliance with development requirements.*

### **12.3 Assignment and Sub-Tenuring**

*Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).*

*Assignment or sub-tenuring requires the prior written consent of the Authorizing Agency. The assignee or sub-tenure holder must meet eligibility requirements. The Authorizing Agency may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.*

Assignment of a Specific Permission will follow the same process as assignment of a lease.

Assignment of a General Permission is not required. If ownership of the associated upland property changes, the new owner will only need to ensure that the dock satisfies the conditions of the General Permission to be deemed the grantee.

## **12.4 Tenure Replacement**

*Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.*

*In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at the Authorizing Agency's discretion. The province may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see Section 6.*

Permissions do not have a fixed term and will not require replacement. However, significant modification of a private moorage facility (e.g. increasing the size or dimensions, changing the orientation, adding other structures) may require replacing an existing General Permission with a Specific Permission, or replacing an existing Specific Permission with a new Specific Permission. Some modifications may only require consent of the Authorizing Agency without the need for replacement.

### **9.4.1 Transition of Tenure Issued Under Former Private Moorage Policy**

An existing license of occupation issued under the previous private moorage policy is valid to term expiry. At the time of tenure expiration, if a lake or river dock is less than 20m<sup>2</sup> in area and satisfies the conditions of the General Permission, the dock will be deemed to have a General Permission. If the dock is over 20 m<sup>2</sup> in an application-only area, or the private moorage facility is on the marine coast, the dock owner may apply for and replace the license with a Specific Permission or in some circumstances a lease.

There is no change to the application process for a new or replacement lease. The holder of a lease or a license of occupation may replace their existing tenure with a permission at any time (i.e. in accordance with the conditions of their tenure and this policy). The replacement application fee will apply. Refunds will not be provided for any prepaid tenure rental.

## **12.5 Monitoring and Enforcement**

*Tenure terms and conditions, including requirements contained in approved management/development plan; act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.*

### 12.5.1 Development Requirements

Lease and permission documents will contain development requirements and restrictions associated with providing for public access, protecting the environment, avoiding navigation hazards and protecting community values.

The General Permission has an established set of requirements that cannot be varied from, whereas the Specific Permission provides for more flexibility which is facilitated through review and consideration of the application and proposed management plan. Refer to Appendix 2, Private Moorage Requirements and Best Management Practices for further information on development requirements, restrictions and guidelines.

Private moorage facilities must also be developed and used in compliance with local government bylaws and zoning, and federal and provincial legislative requirements.

Private moorage facilities may also have to comply with other agency requirements and permits (e.g. Transport Canada, Ministry of Environment and Federal Fisheries and Oceans). These may be identified through the application referral process; however, it is ultimately up to the applicant to ensure that they are in compliance and have the appropriate approvals in place with these other agencies.

### 12.5.2 Legalization of Unauthorized Use

The Authorizing Agency should establish a plan of action before taking action regarding unauthorized private moorage facilities in a given area. The plan should identify priority areas for legalization, outline a sequence of procedures with timelines to be followed and establish implementation guidelines including: informing local government, informing area residents and advertising of public meetings to be held.

Occupational rent is not normally charged for an existing facility prior to issuance of tenure or permission under this policy.

## 13. VARIANCE

*Major variances from this policy must be approved by the Assistant Deputy Minister, Crown Land Administration Division, Ministry of Agriculture and Lands. Decisions on minor variances can be made by regional adjudication staff, in consultation with the Regional Executive Director, Integrated Land Management Bureau. Refer to the [Policy Variance Procedure](#) for more information.*

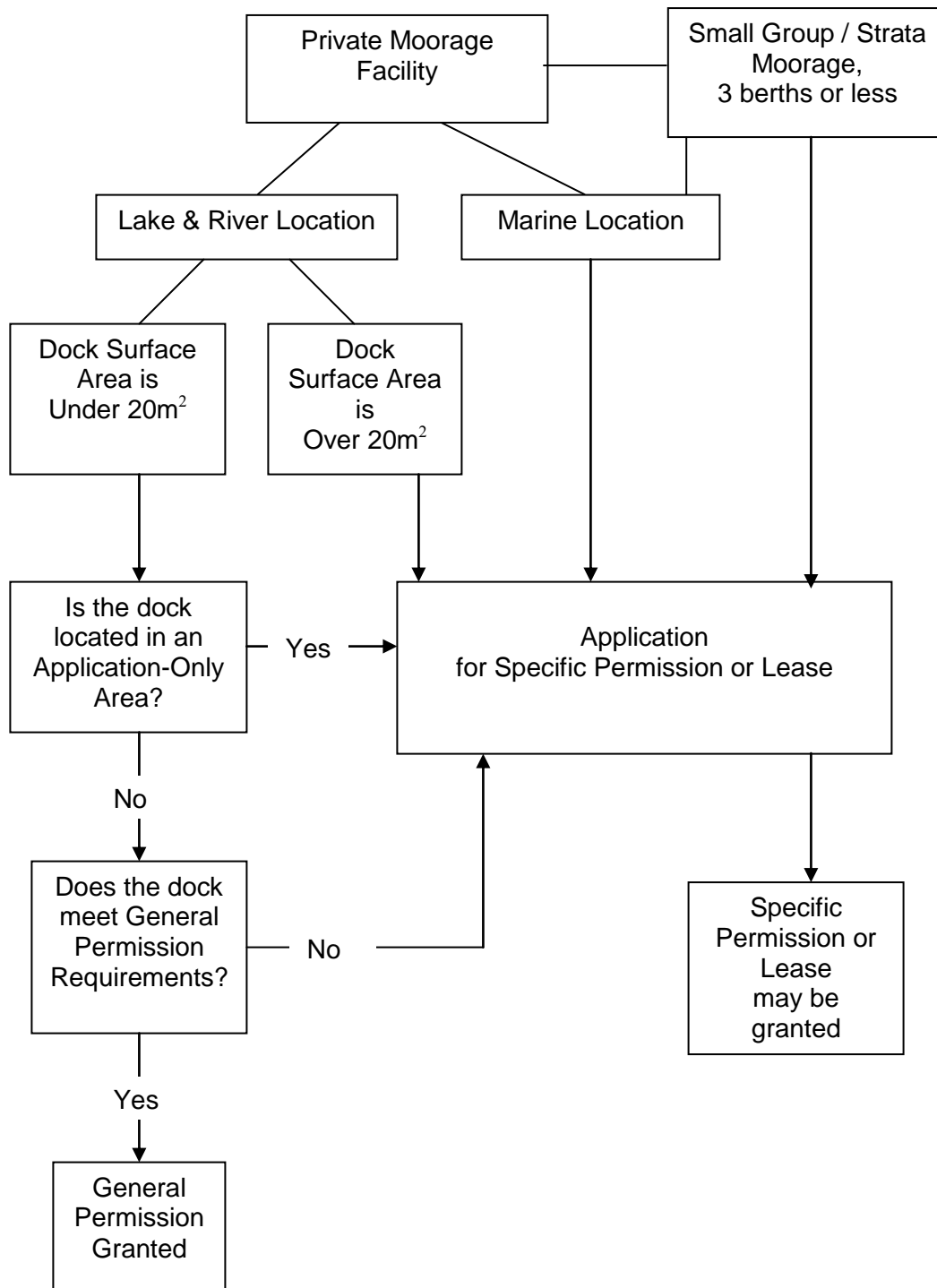
## Appendix 1. Private Moorage Policy Summary

FORM OF AUTHORIZATION	NORMAL TERM	VALUATION	PRICING	METHOD OF DISPOSITION
General Permission	No fixed term or expiry date <sup>1</sup>	n/a	No rent	No application.
Specific Permission	No fixed term or expiry date	n/a	No rent	Application
Lease	20 year term	Fixed amount	\$200 per annum, plus \$1.00/sq. m for areas in excess of 2000 sq. m to a maximum total of \$400 per year. \$200 minimum annual rent.	Application

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<sup>1</sup> Fixed terms may be put in place in limited circumstances, e.g. to match the term of tenure remaining for the adjacent non fee-simple upland property,

## Appendix 2: Ministry of Agriculture and Lands Private Moorage Program – Allocation Overview



## Appendix 3 Ministry of Agriculture and Lands – Requirements and Best Management Practices

### Designing Your Dock or Boat Launch

#### Protecting Our Shores and Coastlines

Crown land is a public asset and the Province has a responsibility to ensure it is managed to maximize and sustain the flow of economic, social and environmental benefits to British Columbians, now and in the future. Crown land is available for the use, benefit and enjoyment of all British Columbians.

The Private Moorage policy is intended to provide owners and Crown tenure holders of waterfront property an opportunity to occupy and use the Crown foreshore fronting their property for personal and private use, and guide that use so that it does not impact the environment, navigation, safety, community values, public and First Nation interests and the legal rights of others.

This document is intended to help ensure compliance with Ministry of Agriculture and Lands and other agency requirements. In addition, it provides recommended practices that have been demonstrated to be an effective and practical means of preventing or limiting harmful impacts associated with the construction and maintenance of private moorage facilities.

#### **For all shoreline improvement projects, always remember:**

**Contact Your Local FrontCounter BC Office.** FCBC staff will review the proposal and confirm whether an application is required. FCBC will also provide information on other authorizations or approvals that may be required. Call FCBC toll free at 1-877-855-3222 or visit [www.frontcounterbc.gov.bc.ca](http://www.frontcounterbc.gov.bc.ca) to find your local office.

**Your project plan may require approval from more than one provincial or federal agency,** such as the Ministry of Environment for works that fall under the *Water Act*, Transport Canada that fall under the *Navigable Waters Protection Act*, or the federal Department of Fisheries and Oceans for works that fall under the *Fisheries Act*. For further information, consult the links on page 3.

**Your project must adhere to local government requirements.** Consult your local bylaws and official community plans to ensure your improvement is in compliance with all applicable laws and zoning. Local requirements will supersede any less restrictive provincial or federal government requirements.

#### **Requirements for All Private Moorage Facilities**

##### **Do not:**

- **Interfere with navigation.** This can be a particular issue on rivers, coves and other narrow water bodies. Offshore end of the structure should be at least 30 metres (100 feet) from navigation channels. Ensuring this distance will help avoid contravening the federal *Navigable Waters Protection Act*.
- **Use fill below the present natural boundary.**
- **Dredge on the foreshore.**

- **Use roofed or covered structures** on or adjacent to the dock unless permitted by local bylaw.
- **Use crib foundations or solid core structures made of cement or steel sheeting.** These types of dock structures block the free flow of water and can cause erosion and impact habitat.
- **Unduly impede public access along foreshore.** Between high water and low water mark, structures cannot block public access along a beach or foreshore area, unless reasonable alternative means of passage are available to enable going around or across the structure (e.g. stairs over a dock).
- **Use structures for non-moorage purposes.** Non-moorage uses are prohibited. These uses include beach houses, storage sheds, patios, sun decks, retaining walls and hot tubs, which should only be placed on private land. In exceptional circumstances some non-moorage uses may be considered for tenure under the Residential policy; these will be considered on a case by case basis only.

**Do:**

- **Construct only one private moorage facility per property.**
- **Ensure that all structures (i.e. dock, boat launch, boat lifts) are five meters from the side property line (six meters if adjacent to a dedicated public beach access or park), and at least 10 meters from any existing dock or structure.** This is a federal requirement under Transport Canada's *Navigable Waters Protection Act*. All docks should be oriented at right angles to the general trend of the shoreline.
- **Ensure dock structures are not grounded at low water/low tide.** All docks must be on pilings/suspended or floating at all times.
- **Work in the water outside of spawning and nursery periods.** Consult local work timing windows, available through the Ministry of Environment: [http://www.env.gov.bc.ca/esd/esd\\_reg\\_ops.html](http://www.env.gov.bc.ca/esd/esd_reg_ops.html)
- **Work away from the water.** To avoid water contamination in the construction of your dock, conduct as many construction activities as is practicable, well back from the water.
- **Remain sensitive to views, impacts on neighbours, and orientation to neighbouring docks.**
- **The owner of the Dock keeps the Dock and the Crown land beneath the Dock in a safe, clean and sanitary condition.**

**General Permission - Requirements**

Individuals cannot build on or develop aquatic Crown land, including Crown foreshore, without the province's authorization, even if they own adjacent property or "upland." However, a General Permission is in place for use of aquatic Crown land in lakes and rivers, if the structure meets the following conditions:

- **Do not exceed 20 m<sup>2</sup> in total surface area.** (i.e. of dock, pier, walkway).
- **Do not extend a distance greater than 30 metres from the present natural boundary of the upland parcel.**
- **Do not exceed 1.5 metres in width for access ramps or walkways and 3 metres width for any other portion of the dock.**

- **Do not use pressure treated wood.** To avoid water contamination, use unpainted and unstained preferred dock woods such as red cedar, redwood, cypress, eastern white cedar, or plastic decking and floats. Please refer to the Ministry of Environment *Guide for Works In and Around Water*, and Fisheries and Oceans Canada's *The Dock Primer* for more information (links provided below).
- **Ensure your proposed improvement is not located in an Application-Only Area.** Some local areas may prohibit General Permissions and require application for Specific Permission or lease, for reasons of environmental sensitivity or other local concerns. For more information contact FrontCounterBC, toll free at 1-877-855-3222 or visit [www.frontcounterbc.gov.bc.ca](http://www.frontcounterbc.gov.bc.ca) to find your local office.
- **The owner of the Dock is the owner of the upland property or is the holder of a Crown land residential lease for the upland property.**
- **It is the only dock or moorage facility fronting the upland property.**

Please note: variance from any of the above requirements triggers the need to apply for a Specific Permission. There is no application required for General Permissions. Leases may also be applied for in limited circumstances; consult the policy for more information on leases.

#### **Specific Permission - Requirements**

A Specific Permission must be applied for, if the dock or moorage facility:

- is located on marine waters;
- is located on a lake or river and the dock is over 20m<sup>2</sup> ;
- is located on a lake or river and the dock does not adhere to any of the requirements of the General Permission;
- is located in an Application-Only Area;
- includes boat lift structures unattached to a dock or in the absence of an associated dock, or a permanent way or boat ramp; and,
- is for group moorage three berths or less.

An application is required for all Specific Permissions. If the applicant of the proposed dock is not the upland owner, written consent of the upland owner and Specific Permission will be required. Satisfying the requirements for all private moorage facilities will reduce the risk of impacts associated their construction and use, and will improve the chance of getting agency approval.

#### **For Further Reading:**

- The Dock and Shore Primer: [http://www.dfo-mpo.gc.ca/regions/central/pub/index\\_e.htm](http://www.dfo-mpo.gc.ca/regions/central/pub/index_e.htm)
- Working In and Around Water: [http://www.env.gov.bc.ca/wsd/water\\_rights/cabinet/working\\_around\\_water.pdf](http://www.env.gov.bc.ca/wsd/water_rights/cabinet/working_around_water.pdf)
- Ministry of Environment Best management Practices for Small Boat Moorage: [http://www.al.gov.bc.ca/clad/tenure\\_programs/programs/privatemoorage/reqs\\_best\\_mgmt\\_practices.pdf](http://www.al.gov.bc.ca/clad/tenure_programs/programs/privatemoorage/reqs_best_mgmt_practices.pdf)

#### **Provincial and Federal Regulatory Jurisdictions:**

- FrontCounterBC: 1-877-3222 (toll-free) or <http://www.frontcounterbc.gov.bc.ca/>
- Private Moorage Policy, Ministry of Agriculture and Lands: <http://www.al.gov.bc.ca/clad/index.html>

- Fisheries and Oceans Canada, Pacific Region Operational Statements: [http://www-heb.pac.dfo-mpo.gc.ca/decisionsupport/os/operational\\_statements\\_e.htm](http://www-heb.pac.dfo-mpo.gc.ca/decisionsupport/os/operational_statements_e.htm)
- Water Stewardship Division, Ministry of Environment: [http://www.env.gov.bc.ca/wsd/water\\_rights/licence\\_application/section9/index.html](http://www.env.gov.bc.ca/wsd/water_rights/licence_application/section9/index.html)
- Transport Canada, Docks and Boathouses and the Navigable Waters Protection Act: <http://www.tc.gc.ca/marinesafety/TP/tp14595/menu.htm>

## **Appendix 4 Process and Criteria for Designating Application-Only Areas**

### **Purpose**

As part of the revised Private Moorage program, General Permissions for small docks (less than 20m<sup>2</sup>) on lakes and rivers can be granted without an application. However, regions have the discretion to designate lakes, rivers or portions of either as application-only areas within which General Permissions will not be granted. Due to known concerns or issues within these areas, proposals for small docks will be required to undergo site specific evaluation through the application process. Specific Permissions will be the normal form of authorization granted for docks within application-only areas.

The intent is to provide an added tool for mitigating risks known to be associated with specific locations and areas of interest.

### **Roles and Responsibilities**

#### Agency staff

- The Regional Executive Director or designate, Integrated Land Management Bureau (ILMB) will be responsible for designating application only areas.
- ILMB will work with local governments, provincial and federal resource agencies and First Nations as needed to identify potential application-only areas.
- ILMB will provide information on the location of these designated areas to FCBC (regional operations)
- FCBC will maintain a list and/or map of these areas (e.g. a map may be included in the ILRR; designated areas may be added as a transparent polygon with a visible border)
- FCBC will provide information on the location of designated areas to clients in response to enquiries
- Land Program Services will monitor for implementation and address any policy issues that may arise.

#### Clients

Clients are encouraged to contact FrontCounterBC with information on their small dock proposal (location, site plan, design, etc.), so that staff can inform clients whether or not an application is required (i.e. is the proposal in an Application-Only area) and if appropriate, provide them with a hard copy or web link to the General Permission.

### **Process**

Initially for the launch of the new private moorage program, ILMB may designate broad areas as application-only areas. Over time these areas will be refined with input from resource agencies, local government and First Nations.

For instance, if a particular lake is known to have numerous user conflicts, the entire lake area may be designated initially. Refining these areas further, e.g. designating specific coves rather than the entire lake area, will be done in a second, post-implementation phase.

Note that the designations are not done through a legal instrument; they are simply providing a description of the location for administrative purposes.

### **Criteria**

Application-only areas can include, but are not limited to:

- narrow water bodies where riparian rights are at risk of being infringed, or navigation and safety compromised (e.g. small coves, channels and sections of rivers);
- areas important for public access and use (e.g. beaches, areas adjacent to waterfront parks);
- areas subject to local government requirements associated with foreshore development (e.g. zoning, bylaws, local no-build covenants);
- environmentally sensitive areas (e.g. fish spawning, critical habitat areas mapped by Ministry of Environment);
- areas where First Nations have generally expressed a strong interest, or have specifically requested consultation on all private moorage proposals;
- areas which contain *Land Act* dispositions or other government authorizations that are at risk of being in conflict with dock placement and use; and,
- areas that are experiencing significant growth and concerns associated with waterfront development.