

Private Moorage Policy Amendment (July 2016) – Questions and Answers

Background:

1. Why was there a review of the Private Moorage Policy?
 - A review was conducted to identify and address operational issues associated with current policy. The overriding objective was to ensure that the program is effective and efficient with respect to authorizing activities and maintaining stewardship.
2. Why was the policy changed?
 - The current authorization process was found to be onerous and required significant staff time to process applications and deal with unauthorized construction, even when the proposed or existing docks had a low risk of impact. The changes will reduce workload associated with lower risk docks.
3. Which agencies have been involved in developing the new Private Moorage policy?
 - Both federal and provincial agencies have provided input, these include: Department of Fisheries and Oceans, Transport Canada – Navigable Waters; FLNR: Ecosystem Specialists, Regional Operations, Land Tenures Branch, and Compliance and Enforcement Branch.
4. Have First Nations been involved in the policy development?
 - The Union of BC Indian Chiefs, BC Assembly of First Nations and First Nation Leadership Council were informed of the review and given an opportunity to discuss any concerns; however, no comments were received.
 - First Nations bands will be notified of the policy changes as determined by operations at a regional level.

Policy changes:

5. What are the main changes that are being made to the Private Moorage Policy?
 - Previously only freshwater docks less than 24m² in surface area were subject to the General permission.
 - The use of General Permissions has expanded, and will now apply to larger freshwater docks, as well as marine docks, subject to satisfying a set of conditions and requirements. The “surface area” limit has been replaced with limits on dimensions of private moorage structures (i.e. widths, length, distance from shore, etc). Many of the other previous requirements and conditions remain unchanged.
6. Why not subject all docks to a General Permission rather than require an application and tenure?
 - General Permissions will only be considered to cover docks that have a low risk of impact due to the type of construction and site location.. Docks with higher risks of impact, will require additional review as provided for through an application process.
7. How was it determined that a dock or ‘category’ of docks would have a low risk of impacts?
 - Docks that will satisfy best management practices and standards with respect to type of construction, their placement and use, are generally considered as having a low risk of

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impacts. In addition, if docks are located outside of areas known to be environmentally sensitive or designated areas with sensitive values, then the risk of impact is also reduced.

8. Will this change result in more docks being built?
 - It is unlikely to result in more construction of docks. However, it is likely that more docks will be constructed to satisfy the “best management standards” set out in the General Permission, in order for clients to achieve timely authorization.
9. How is stewardship of the environment being considered in the policy changes?
 - The General Permission requires the holder to adhere to best management practices that align with environmental stewardship. In addition, the dock owners will still be subject to all federal and provincial legislation (federal Fisheries Act, Water Sustainability Act, etc), and application-only areas will be established for certain sensitive areas.
10. Will the public be notified and have a say on location or construction of new docks?
 - If an application is received, the public will have an opportunity to review and comment on proposals for most individual applications as per current policies and procedures.
 - However, for docks that meet General Permission requirements the public will not be notified.
11. Why are there so many existing unauthorized docks? Why weren't these docks brought into compliance before?
 - The Ministry takes a risk-based approach regarding compliance and enforcement of policies and laws, and as a result will focus on those docks that are of priority concern.
 - Due to workload and limited staff resources, the Ministry must look at the level of risk of situations raised, whether they are brought to the Ministry's attention by 3rd party complaints or through agency inspections.
12. Who does the public contact if they have concern about a dock?
 - If you witness or are aware of a Natural Resource Violation fill out a Report of Natural Resource Violation form or call the Natural Resource Violation reporting line at 1 844 NRO-TIPS (1 844 676-8477).
 - If your concern does not involve a contravention of legislation or if you need to find out where to report another concern, contact FrontCounter BC:
 - i. FrontCounter BC website: <http://www.frontcounterbc.ca/>
 - ii. Toll free: 1 877 855-3222

Transition:

13. What happens if a tenure application was submitted for private moorage before the policy change came into effect?
 - Private moorage applications will be assessed to determine if the proposed (or existing) dock qualifies for a General Permission. If the dock does qualify, clients will be informed that their dock is now covered by a General Permission, and they will have their application fees refunded.

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- Applications for dock proposals that do not qualify for a General Permission will continue to be processed for tenure issuance. In addition, applications for which a lease had been requested may continue to be processed if a lease is determined to be suitable, even if the dock did meet the General Permission requirements.
 - If a Specific Permission tenure has already been offered, and the dock also qualifies for a General Permission, the applicant has the choice of completing the offer or not.
14. What will happen to existing tenures that qualify for a General Permission?
- Nothing needs to happen to existing tenures. These will remain in place until they expire or are otherwise terminated.
15. What happens to an existing private moorage lease or license of occupation which is coming up for replacement?
- Replacements will be assessed to determine if the existing dock qualifies for a General Permission. If the dock satisfies the requirements of the General Permission, the tenure-holder will be informed that they no longer require a tenure. However, lease-holders may still wish to acquire a replacement lease, if this form of tenure is still deemed appropriate.
16. The amended policy provides direction that Application-only Areas for private moorage are to be established by Notations of Interest (NOI). However, some Application-only Areas for private moorage were designated by section 16 'withdrawals from disposition' under the previous policy. Are these section 16 areas still valid?
- Yes, these section 16 areas are still considered Application-only Areas.
 - However, NOI's should also be placed over these section 16's to ensure that anyone searching for Application-only Areas for private moorage includes these along with other NOI's for same purpose.
 - It should be noted that as per the conditions set out in the General Permission, an overlap with any section 16 area (regardless of purpose) will mean that the dock will not qualify under the General Permission and must go through an application process.

General policy:

17. Is a Specific Permission a tenure or something else?
- The Specific Permission is a type of tenure, in fact it is a form of license of occupation.
18. How is a General Permission different from a Specific Permission?
- A *Land Act* application is not required for a General Permission. Instead of an applicant describing what they will be doing and what is being proposed, the general permission establishes the set of conditions that the dock and dock owner must adhere to in order to be considered "authorized". There is no expiry date. There is no associated rent.
19. Does the ministry provide other forms of Crown land tenure for private docks?
- Leases may also be issued for certain docks if requested by the applicant, and if it is determined to be an appropriate situation. In the past, licenses of occupation were issued, however, these are no longer available and have been replaced with Specific Permissions.

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20. How are 'application-only' areas being determined?
- Application only areas will be designated by MFLNRO Regional Operations based on an evaluation of information and inventories, some of which may be provided through engagement with federal and provincial agencies, local government and First Nations.
 - These areas may be established, modified, or deleted over time as more information becomes available.
21. How does a person find out if their dock / proposed dock is in an Application-only area?
- These areas will be established as NOIs and therefore they can be identified by using one of the online mapping programs that are available on FrontCounter BC's website. These include: [FrontCounter BC Discovery Tool](#); [Integrated Land & Resource Registry \(ILRR\)](#) and [ImapBC](#).
 - If they are having difficulty utilizing these tools or interpreting the information, they should contact FrontCounter BC.
22. What if a local government doesn't allow docks or has more restrictive requirements for dock use/construction, does the Province overrule local authority?
- No. Dock owners will be subject to local government zoning and bylaws.
23. How does a dock owner go about getting a General Permission?
- The General Permission document containing criteria and requirements for construction and use of a dock will be available for anyone to view on the Ministry of Forests, Lands and Natural Resource Operations website. The General Permission does not require an application or signatures. Simply put, if the conditions stated in the document are adhered to, a dock owner is deemed to have permission to occupy Crown land for private moorage purposes.
24. How long will it take to get a General Permission?
- The General Permission document is in effect as of the date of this announcement. As long as dock owners are aware of the rules and have ensured that they are in compliance with them, they are deemed to be authorized by the General Permission.
25. How much will it cost the dock owner?
- There is no cost associated with the General Permission (i.e. there are no application fees, nor rents).
26. What does a proponent do if their proposed or existing dock does not qualify for a General Permission?
- They can make an application for a Specific Permission or lease through FrontCounter BC at <http://www.frontcounterbc.gov.bc.ca/guides/crown-land/crown-land-tenure/overview/>
 - It should be noted that applications for a tenure will still be expected to comply with best management practices (see appendix 3 of the policy). For more information and assistance with your application please contact FrontCounter BC at:
 - i. FrontCounter BC website: <http://www.frontcounterbc.ca/>
 - ii. Toll free: 1 877 855-3222
27. How long will it take for an application to be processed for a Specific Permission or lease?

- Applications can take up to 140 days or longer from receipt of a complete application to when a decision can be made. Applications which require the applicant to complete other related processes (e.g. local government bylaw variance, archaeological assessment) may take longer.

28. How much will it cost a dock owner to acquire a private moorage tenure (i.e. a Specific Permission or lease)?

- The application fee is \$250 plus GST. There is no annual rental for a specific permission.
- There is a \$200 – \$400 annual rent for a lease depending on the size of the lease area.

Dock Construction, Maintenance and Use:

29. Is local government approval required to build or modify a dock under a General Permission?

- Docks must be located, constructed and used in accordance with any relevant local government zoning and bylaws.

30. Are any other agency approvals necessary to build, modify or maintain a dock under a General Permission?

- Other authorities may be required depending on circumstances. These may include:
 - i. Section 11 *Water Sustainability Act* requirements for “works in and about a stream (or lake)” (more information can be provided by FrontCounter BC);
 - ii. Federal Department of Fisheries and Oceans- Habitat assessment

31. Is a boat lift or a roof allowed as part of a dock under a General Permission?

- The General Permission will describe what improvements are allowed. For instance, it is OK to have a non-overhead boat-lift that is attached to the dock, but not overhead boat lifts (i.e. with frames and mechanisms that are attached to the dock and sit above the boat slip). A roofed or covered berth is not allowed under a general permission. Freestanding boat lifts which are not attached to a dock are also not allowed under a General Permission but may be considered for a Specific Permission.

32. Why is boat moorage the only use permitted on a dock?

- As the name implies the private moorage policy deals specifically with boat moorage for private residential use. Limitations on use have been put in place to address the concerns and issues that have been brought to the attention of the ministry over time from agencies, local government and the public. Providing these rules up front reduces potential conflict and negative impacts that could otherwise result in applications having to be modified or rejected.

33. What does the Province mean by the owner assuming liability for the dock?

- This means that any negative impact or harm that the use of the dock causes to a person or property will be the responsibility of the owner of the dock. Owners of all docks are required to obtain and maintain homeowner’s insurance for their dock structures.

34. Why do some regions of the province have rules in place for private moorage that are more restrictive than requirements elsewhere?
- Certain requirements differ depending on whether the dock is in freshwater or in marine waters. Best management practices and construction standards reflect differences in site conditions and the type of values that need to be taken into consideration when locating a dock in either a freshwater body or in marine waters.
 - Additionally local governments may have zoning and bylaws in place that address local interests and may contain more restrictive requirements than what is provided in the Crown land use policy.

Understanding the Requirements of the General Permission

35. Some of the provisions and terms used in the General Permission document may be difficult for some clients to fully comprehend. What can they do to avoid misinterpretation?
- It is up to the clients to understand what they must comply with. If they require additional help or support understanding the requirements a few options are available:
 - Clients are encouraged to read the definitions at the start of the document to help understand some of the terms used.
 - A 'Checklist and Interpretive Guide' has been prepared to help clients with a number of the requirements. Certain provisions have explanatory notes and / or links to information, including mapping tools, to help clients determine if they will be in compliance with requirements or not.
 - Clients are to contact FrontCounter BC if they require additional help or support, including assistance in using the mapping tools – though these tools also have web tutorials associated with them as well.
 - Many private moorage facilities are built by dock construction companies, many of which have a good understanding of the requirements and authorizations necessary to build a dock.