

# Ministry of Forests

## PROVINCIAL GENERAL PERMISSION FOR THE USE OF CROWN LAND

### FOR PRIVATE MOORAGE

VERSION: June 1, 2022

*(Land Act)*

#### WHEREAS:

- A. The Ministry of Forests (“the Ministry”) has responsibility for the management of Crown land, including foreshore land and most submerged land;
- B. The Minister has the authority to authorize the use of Crown land on terms and conditions which the Minister considers appropriate;
- C. The Minister wishes to provide permission for the use of Crown land for private moorage purposes.

ACCORDINGLY, the Minister declares a general permission for the use of Docks (as herein defined), on the following terms and conditions.

#### 1. Definitions

In this document,

“**Authorizing Agency**” means the Provincial ministry responsible for this private moorage general permission.

“**Aquatic Crown land**” means all Crown land situated below the natural boundary or below the highest, high water mark of any water body unless otherwise Crown Granted to another party.

“**Application-only Area**” means a designated area of submerged Crown land where the owner of a dock must apply for an authorization under the *Land Act*.

“**Area of special interest**” means known archaeological sites, areas of eel grass, ecological reserves, parks, protected area designations or any combination of these.

“**Dock**” means an aquatic structure used for the purpose of mooring boats and for providing pedestrian access to and from the moored boats, together with improvements in accordance with this document.

“**Freshwater**” means lakes, rivers and similar bodies of inland waters.

“**Foreshore**” means that land lying between the highest water mark and the lowest water mark that is alternatively covered by water and exposed with the normal rise and fall of the level of the body of water.

“**Marine**” means coastal waters including oceans and seas.

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“**Mobile dock**” means a dock with movable walkway and float used in lakes with seasonally fluctuating water levels, that can be readily moved away from the natural boundary as lake levels decrease, such that the required depth of water for boat moorage is achieved.

“**Natural boundary**” means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water is so common and usual, and so long continued in all ordinary years as to mark on the soil of the bed of the body of water a character distinct from that of its the banks in vegetation, as well as in the nature of the soil itself.

“**Platform or float**” means that portion of the dock structure that is generally used for mooring boats. (Note that while attached boat lifts generally do not contribute to structure width, boat lifting devices installed on decking are considered part of the moorage platform.)

“**Province**” means Her Majesty the Queen in Right of the Province of British Columbia.

“**Riparian vegetation**” means the vegetation growing on areas bordering streams and lakes that link water to land.

“**Riparian rights**” means certain common law rights that run with an upland property, and include access to and from the water.

“**Upland property**” means a non-aquatic land parcel that is bordering on a water body where the Dock is accessed from dry land.

“**Walkway**” means the structure that provides pedestrian access between shore and the boat mooring portion of a dock (i.e. the mooring platform or float).

## 2. Prerequisites

2.1. This permission applies only under the following circumstances:

- a. The owner of the Dock is the owner or Crown lessee of the Upland Property.
- b. A Dock shall be used for private residential moorage purposes only and the owner of the dock must not use the dock for commercial purposes or make the dock available to others for a fee.
- c. The Dock is not located over an **Area of Special Interest** (*refer to definition*).
- d. The Crown land over which the Dock has been installed, or will be installed, is not a designated **Application-only Area**, or an area that has been designated as a reserve or withdrawal prohibiting authorization of a dock under sections 15, 16 or 17 of the *Land Act*.
- e. There are no other authorizations for use of the Crown land which would prevent an overlapping permission on that land.
- f. There is only one Dock fronting the Upland Property, and no boat ramps or stand-alone boat lifts.

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### 3. Construction

- 3.1. A Dock platform or float, and walkway, must be either floating or suspended above the water.
- 3.2. A Dock may not have crib foundations or solid core structures made of cement or steel sheeting.
- 3.3. No new fill may be used in the construction or maintenance of a Dock.
- 3.4. No dredging may occur on Crown land.
- 3.5. **Riparian vegetation** on Crown land shall not be unduly disturbed.
- 3.6. A Dock must be connected to the shore and the connection must provide pedestrian access to the dock.
- 3.7. The only improvements authorized to be part of a Dock are those improvements necessary for mooring a boat (including non-overhead boat lifts, pilings and anchor lines,) and a **walkway**. No beach houses, storage sheds, boathouses, roofs, sun decks, hot tubs or other similar improvements are permitted.
- 3.8. A Dock in a **freshwater** environment must not:
  - a. extend beyond a distance of 42m from the point where the **walkway** begins, measured perpendicular from the general trend of the shoreline;
  - b. have more than a 3m wide moorage **platform or float**; or
  - c. have more than a 1.5m wide **walkway** connecting the platform or float to the shore; and
  - d. for **mobile docks** located in waterbodies that have seasonally fluctuating water levels, the outermost extent of the dock must not be more than a distance of 60m from the present **natural boundary**.
- 3.9. A Dock in a **marine** environment must be no more than:
  - a. 60m in distance from the present **natural boundary**, measured perpendicular from the general trend of the shoreline
  - b. 14m for the length of the moorage **float**
  - c. 3.7m for the width of the moorage **float**
  - d. 1.8m wide for the **walkway** connecting the float to the shore
- 3.10. Construction in or around water must only take place during the appropriate timing window specified by Fisheries and Oceans Canada.
- 3.11. Construction "... in and about a stream" (including a lake or river) must only take place in accordance with a *Water Sustainability Act*, section 11 Notification or Approval.
- 3.12. Construction materials must not contain toxic substances.

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## Location

- 4.1 A Dock must be oriented at right angles to the general trend of the shoreline and must not interfere with the **riparian rights** of an adjacent property.
- 4.2 The offshore end of the Dock, including boat lifts and anchor lines, must be at least 30 metres from navigation channels.
- 4.3 The Dock (including boat lift) must be at least:
  - a) five meters from the “projected side property line”\*; or
  - b) six meters from the “projected side property line” if adjacent to a dedicated public beach access or park, and
  - c) ten meters from any existing dock or structure on the foreshore.

\*The “projected side property line” is a perpendicular extension from the general trend of the shoreline, commencing at the intersection of the side property line and the natural boundary.

## 5. Use

- 5.1 The owner of the Dock keeps the dock structures and the Crown land beneath the structures in a safe, clean and tidy condition.
- 5.2 The owner of the Dock will not commit any wilful or voluntary waste, spoil or destruction of the Crown land beneath or in the vicinity of the Dock or do anything on that Crown land that may be or become a nuisance or annoyance to an owner or occupier of land in the vicinity of the Crown land.

## 6. Other Requirements

- 6.1 A Dock will be subject to any other restrictions, requirements or specifications which the Minister may impose from time to time.
- 6.2 An owner of a Dock must comply with all laws that apply to the installation and use of a Dock as contemplated by this permission.
- 6.3 The Dock must not unduly obstruct public access along the foreshore or beach.
- 6.4 Before construction of a new marine Dock (i.e. *one constructed after the effective date of this general permission*) the owner must obtain and adhere to a Marine Habitat Assessment Report for the site which must be completed by a qualified registered professional biologist. This report must be provided to the Authorizing Agency upon request.
- 6.5 Subject to the following schedule, within the Thompson Okanagan and Kootenay Boundary regions, a Dock that was built or altered during the periods indicated may have different standards apply, in place of the current setback, width and length provisions of this permission. If requested, the owner must provide proof of when the Dock was built and/or altered. If proof is not provided current conditions apply.

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Structural Element	Prior Standards		
	Construction Year		
	Pre-2007	2007-2009	2010 onwards**
Property Line Setback	≥ 3m/6m*	≥ 5m/6m*	≥ 5m/6m*
Walkway width	≤ 3.7m	≤ 3.7m	≤ 1.5m
Platform / float width	≤ 3.7m	≤ 3.7m	≤ 3m
Distance from shore	≤ 42m	≤ 42m	≤ 42m

\* 6m setback required if adjacent to a dedicated public beach access or park

\*\* Same as current standards for these specific structural elements.

≥ - greater than or equal to

≤ - less than or equal to

### 7. Termination of Permission

- 7.1 The Minister may revoke permission for a Dock at any time in their sole discretion without incurring any liability to the owner of the dock or any users of the dock and, within the period specified in a written notice of revocation of the Minister's permission, the owner of the dock must remove all parts of the dock from Crown land.
- 7.2 When the owner of a Dock removes the dock they must leave the area of Crown land over which the dock had been placed in a safe, clean and tidy condition.
- 7.3 If the owner of a Dock fails to remove all parts of the dock as required in a notice under section 7.1, the Minister may cause any or all remaining parts of the dock to be removed at the sole expense of the owner of the dock.

### 8. Other Dispositions

8.1 This Permission is subject to the following provisions:

- a) other persons may hold or acquire rights or interests in the Crown land in accordance with the *Land Act*, *Ministry of Lands, Parks and Housing Act*, *Coal Act*, *Forest Act*, *Geothermal Resources Act*, *Mineral Tenure Act*, *Petroleum and Natural Gas Act*, *Range Act*, and *Water Act*, or other Provincial legislation; such rights may exist as of the date this Permission takes effect or may be granted or acquired at a later date and may affect or take priority over your use of the Crown land;
- b) there is no right to compensation from the Province and no acceptance of any claim, action or demand arising out of any conflict between the use of the Crown land under this Permission and the exercise or operation of the interests, rights, privileges and titles described in subsection (a).

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### **9. Liability and Indemnity**

- 9.1 Ownership of and liability for a Dock shall pass to and be binding upon the heirs, executors and assigns of the Dock's owner.
- 9.2 The owner of a Dock assumes all responsibility and liability associated with the dock and must indemnify the Province for any loss or expense incurred by the Province as a result of the existence or use of the dock by any person, including, without limitation, any conflict between the existence or use of the dock and the land use or riparian rights of any person.
- 9.3 Without limiting the Dock owner's obligations or liabilities the dock owner must, at their expense, effect and keep in force a Homeowner's Insurance Policy or other insurance policy which expressly covers the use of the dock, including Comprehensive Personal Liability in an amount of not less than \$2,000,000 per occurrence.