

**swiya GENERAL PERMISSION FOR THE USE OF CROWN LAND FOR PRIVATE  
MOORAGE**

**VERSION: September 17, 2024**

*(Land Act)*

**WHEREAS:**

- A. The Ministry of Water, Land and Resource Stewardship (“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 shíshálh swiya is designated as an Application-only Area pursuant to the Province’s Private Moorage: Land Use Operational Policy and the Provincial General Permission for the Use of Crown Land for Private Moorage dated May 9, 2024 does not apply within the shíshálh swiya;
- D. The Minister wishes to provide permission for the use of Crown land for private moorage purposes for Docks and Boathouses present in Marine areas in the shíshálh swiya as of July 1, 2024.

ACCORDINGLY, the Minister declares a general permission for the use of Docks and Boathouses, as built, present in marine areas in the shíshálh swiya as of July 1, 2024 on the following terms and conditions.

**1. Definitions**

In this document,

“**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*.

“**Best Management Practices**” means the best management practices set out in the shíshálh swiya Dock Management Plan.

“**Boathouse**” means an aquatic structure used only for the purpose of storing or sheltering boats with a roof on the structure, attached to a Dock, present in the marine areas in the shíshálh swiya.

“**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, present in the marine areas in the shíshálh swiya.

“**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.

“**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 His Majesty the King in Right of the Province of British Columbia.

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

**“shíshálh swiya”** means the area shown on Schedule A.

**“shíshálh swiya Dock Management Plan”** means the shíshálh swiya Dock Management Plan dated April 4, 2018 and as amended or replaced from time to time.

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

## **2. Prerequisites**

- a. This permission applies only under the following circumstances:
  - i. The owner of the Dock or Boathouse is the owner or Crown lessee of the Upland Property.
  - ii. The Dock or Boathouse is in a marine area within the shíshálh swiya.
  - iii. The Dock or Boathouse was existing in its current location on Crown land in the marine area as of July 1<sup>st</sup>, 2024.
  - iv. The Dock or Boathouse is being used for private residential moorage purposes only and the owner of the Dock or Boathouse is not using the Dock or Boathouse for commercial purposes or making the Dock or Boathouse available to others for a fee.
  - v. There are no other authorizations for use of the Crown land which would prevent an overlapping permission on that land.
  - vi. The owner of the Dock or Boathouse has completed self-registration of their Dock or Boathouse.

## **3. Construction and Maintenance**

- a. If a Dock owner replaces existing decking on the Platform or Float or Walkway, it must be replaced with light-penetrating decking or approved alternative in accordance with specifications in the shíshálh swiya Dock Management Plan.
- b. If a Dock or Boathouse's floatation is composed of unencapsulated Styrofoam that is not actively breaking apart, if the Dock or Boathouse owner replaces the existing unencapsulated Styrofoam floatation, it must be replaced with encapsulated or non-Styrofoam floatation system that ensures light penetration through the structure to the sea floor in accordance with specifications in the shíshálh swiya Dock Management Plan.

- c. If a Dock or Boathouse is composed of unencapsulated Styrofoam that is actively breaking apart, the Dock or Boathouse owner must replace the unencapsulated Styrofoam within two years of the date of written notification from the Ministry or in alignment with timelines from other regulatory requirements, whichever is sooner, with encapsulated Styrofoam or a non-Styrofoam floatation system that ensures light penetration through the structure to the sea floor in accordance with specifications in the shíshálh swiya Dock Management Plan.
- d. If pilings for a Dock or Boathouse need to be replaced, they must not be replaced with creosote pilings.
- e. No new fill may be used in the construction or maintenance of a Dock or Boathouse.
- f. No dredging may occur on Crown land.
- g. Vegetation on Crown land shall not be unduly disturbed.
- h. A Dock or Boathouse must be connected to the shore and the connection must provide pedestrian access to the Dock or Boathouse.
- i. The only improvements authorized to be part of a Dock or Boathouse are those improvements necessary for mooring a boat (including non-overhead boat lifts, pilings and anchor lines,) and Walkways. No beach houses, storage sheds, roofs, sun decks, hot tubs or other similar improvements are permitted on a Dock or Boathouse.
- j. Maintenance or construction work in or around water must only take place during the appropriate timing window specified by Fisheries and Oceans Canada.
- k. Maintenance or construction work "... 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.
- l. Construction materials must not contain toxic substances.
- m. Maintenance or construction work must not have ground-disturbing impacts, except in the case of replacements of pilings where the same Dock or Boathouse structure is being maintained.

#### **4. Location**

- a. A Dock or Boathouse must not interfere with the Riparian Rights of an adjacent property.
- b. The offshore end of the Dock or Boathouse, including boat lifts and anchor lines, must be at least 30 metres from navigation channels.

#### **5. Use**

- a. The owner of the Dock or Boathouse must keep the Dock or Boathouse structures and the Crown land beneath the structures in a safe, clean and tidy condition.

- b. Repairs to the Dock or Boathouse should be made in alignment with the shíshálh swiya Dock Management Plan.
- c. The owner of the Dock or Boathouse will not commit any wilful or voluntary waste, spoil or destruction of the Crown land beneath or in the vicinity of the Dock or Boathouse 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.
- d. This permission does not authorize Boathouses to be used for living accommodations.

## **6. Other Requirements**

- a. A Dock or Boathouse will be subject to any other restrictions, requirements or specifications which the Minister may impose from time to time.
- b. An owner of a Dock or Boathouse must comply with all laws that apply to the installation and use of a Dock or Boathouse as contemplated by this permission.
- c. The Dock or Boathouse must not unduly obstruct public access along the Foreshore or beach.
- d. Before construction of a new marine Dock the owner must apply for authorization and adhere to the shíshálh swiya Dock Management Plan.

## **7. Termination of Permission**

- a. The Minister may revoke permission for a Dock or Boathouse at any time in their sole discretion without incurring any liability to the owner of the Dock or Boathouse or any users of the Dock or Boathouse and, within the period specified in a written notice of revocation of the Minister's permission, the owner of the Dock or Boathouse must remove all parts of the Dock or Boathouse from Crown land.
- b. This permission is effective for five years or until such time as:
  - i. The Dock or Boathouse is issued a longer term authorization; or
  - ii. This permission is revoked as per section 7a.
- c. When the owner of a Dock or Boathouse removes the Dock or Boathouse they must leave the area of Crown land over which the Dock or Boathouse had been placed in a safe, clean and tidy condition.
- d. If the owner of a Dock or Boathouse fails to remove all parts of the Dock or Boathouse as required in a notice under section 7a, the Minister may cause any or all remaining parts of the Dock or Boathouse to be removed at the sole expense of the owner of the Dock or Boathouse.

## **8. Other Dispositions**

- a. This permission is subject to the following provisions:

- i. 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, Heritage Conservation 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;
- ii. 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).

## **9. Liability and Indemnity**

- a. Ownership of and liability for a Dock or Boathouse shall pass to and be binding upon the heirs, executors and assigns of the Dock's or Boathouse's owner.
- b. The owner of a Dock or Boathouse assumes all responsibility and liability associated with the Dock or Boathouse 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 or Boathouse by any person, including, without limitation, any conflict between the existence or use of the Dock or Boathouse and the land use or Riparian Rights of any person.
- c. Without limiting the Dock or Boathouse owner's obligations or liabilities the Dock or Boathouse 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 or Boathouse, including Comprehensive Personal Liability in an amount of not less than \$2,000,000 per occurrence.