



## Land Use Operational Policy Private Moorage

**NAME OF POLICY:** Private Moorage

**APPLICATION:** Applies to inland and coastal aquatic Crown lands. This policy does not apply to industrial or commercial facilities, nor to seasonal private moorage facilities as defined in section 3.

**ISSUANCE:** Assistant Deputy Minister  
Crown Land Administration Division

**IMPLEMENTATION:** Ministry of Agriculture and Lands

**REFERENCES:** *Land Act* (Ch. 245, R.S.B.C., 1996)

**RELATIONSHIP TO PREVIOUS POLICY:** This policy replaces the previous Private Moorage policy dated August 16, 2004

**POLICY AMENDMENT:** 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.

*Warren K. Mitchell*

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

*05/10/29*

Date

APPROVED AMENDMENTS:		
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

**EFFECTIVE DATE:** August 16, 2004  
**AMENDMENT NO:** 1 (October 21, 2005)

**FILE:** 12565-00

**APPROVED AMENDMENTS:**

Effective Date	Briefing Note /Approval	Summary of Changes:

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## 1. POLICY APPLICATION

This policy applies to the disposition of all aquatic Crown land (inland and coastal) for private moorage facilities as defined below.

This policy applies to private moorage facilities that are affixed to and/or occupy aquatic Crown land on a permanent basis. Seasonal private moorage facilities, as defined below, do not require *Land Act* tenure.

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

*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

*Provincial employees act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide provincial employees.*

*This policy is part of a series of policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.*

## 3. DEFINITIONS

**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.

**Private Moorage Facility** means a year-round facility comprised of a single floating dock wharf, or pier (including walkway ramp), or combination thereof, including improvements which assist in providing private recreational boat access to water (e.g. permanent private ways), used for moorage purposes by one or a number of individuals or a family unit. It is for personal and private use, is permanently affixed to aquatic Crown land, and is not normally removed in its entirety on a seasonal basis.

**Seasonal Private Moorage Facility** means a single floating dock, wharf, or pier (including walkway ramp), or combination thereof, free of boathouses and other like structures used by one or a number of individuals or a family unit. It is for

personal and private use of the upland owner(s) or lessee(s), is not permanently affixed to aquatic Crown land, and is withdrawn from the water and stored on the upland during the winter season. The water area occupied is minimal and does not involve fill or other permanent works on Crown land.

#### **4. ABBREVIATIONS**

**BCA** - BC Assessment

**ha.** - Hectare

**MAL** - Ministry of Agriculture and Lands

**MOU** - Memorandum of Understanding

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

*Applicants for new tenures, tenure assignment, or tenure replacement must be 19 years of age or older.*

#### **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 see Form of Crown Land Allocation.*

Tenure for moorage facility is not issued for a period greater than the term of tenure remaining for non-fee simple adjacent upland properties.

##### **6.1 Licence of Occupation**

*A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, where there are multiple users of a site (e.g. communication sites), or in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.*

*A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.*

*A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licencees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.*

*The standard term for a licence of occupation is 10 years.*

The normal form of tenure for private moorage facilities is a licence of occupation. As a general guide, the area of a licence issued for this purpose should not exceed 600 square meters.

## 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 is 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, such as breakwaters and fills, which warrant this form of tenure.

The standard term for a lease is 20 years.

### 6.2.1 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.

## 7. PRICING POLICY

### 7.1 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 Land Act Fees Regulation.*

### 7.2 Rentals

#### 7.2.1 Licence of Occupation

The rent for a 10-year licence for a private moorage facility is \$400 for the full term of tenure. This amount may be prorated if the term is less than the standard term of 10 years; however, the rent will not be less than \$200.

Where the area of aquatic Crown land required for a private moorage licence exceeds 600 square metres, an additional rent of \$1.00/square metre (to a maximum total fee of \$600) is charged. This amount is also subject to prorating where the term of the licence is less than 10 years.

Where an applicant can demonstrate hardship, the rent may be based on an annual rental schedule, using a \$100/year rate for each year of the 10-year term.

### **7.2.2 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.

### **7.2.3 Condominium/Strata Title Facilities**

Strata Title and condominium moorage facilities administered under this policy are charged rental in accordance with the above lease and licence pricing policy as a single group facility.

## **8. ALLOCATION PROCESSES**

### **8.1 Applications**

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

#### **8.1.1 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.*

##### **Site Plan and Tenure Boundaries**

A site plan is required for private moorage applications. The province discourages the use of excessive numbers of pilings and dolphins or other works which might impede the ability of the general public to pass and repass over the foreshore.

In issuing new or replacement tenures, staff are to ensure that tenure boundaries encompass the minimum area required to authorize the placement of necessary improvements. Tenure area should not include unoccupied open water or tidal areas between structural improvements.

##### **Identification of Users**

With the exception of strata corporations, 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.

#### **8.1.2 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.*

### **8.1.3 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.*

### **8.1.4 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).*

### **8.1.5 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.*

### **8.1.6 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.*

### **8.1.7 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.*

### **8.1.8 Decision/Report**

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



### **8.1.9 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.*

## **8.2 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 competitive process.*

## **9. TENURE ADMINISTRATION**

### **9.1 Insurance**

*A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. The province may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.*

For private moorage tenures, a rider to include the tenure area under standard homeowner insurance may be sufficient for provincial requirements.

### **9.2 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.*

### **9.3 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.*

### **9.4 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.*

## **9.5 Monitoring and Enforcement**

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

### **9.5.1 Development Restrictions**

Private moorage tenures shall not interrupt the movement of beach material by water along the shoreline (littoral transport), such as with solid core structures, without the prior consent of the province.

Private moorage facilities shall not impede public access to and use of the foreshore, and must allow the public to pass unrestricted over or around structures at all times.

Private moorage facilities shall not constitute a hazard to navigation in accordance with the federal *Navigable Waters Protection Act*.

Strata title and condominium moorage facilities administered under this policy shall be used only by tenants and shall not be used by the strata corporation to generate profit.

### **9.5.2 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 holding public meetings.

Occupational rental is not normally charged for the use of an area prior to issuance of tenure under this policy.

## **10. VARIANCE**

*Any decision that would vary from this policy must be made by the Assistant Deputy Minister, Crown Land Administration Division, Ministry of Agriculture and Lands.*

## Appendix 1. Private Moorage Facilities Policy Summary

TENURE <sup>1</sup>	NORMAL TERM <sup>2</sup>	VALUATION	PRICING <sup>3</sup>	METHOD OF DISPOSITION
Licence of Occupation	10 Years	Fixed amount	\$400 rent prepaid the full tenure term, plus \$1.00/sq. m for areas in excess of 600 sq. m (to a maximum total of \$600).  \$200 minimum total rent.	Application
Lease	30 years	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> Facilities which are not permanently affixed to Crown Land and which are withdrawn from the water and stored on the upland during the winter season do not require *Land Act* tenure.

<sup>2</sup> Tenure is not to be issued for a term greater than the term of tenure remaining for the adjacent non fee-simple upland property.

<sup>3</sup> Pricing for licences of less than ten years duration will be prorated, but will not be less than \$200 plus application fees. A rental of \$100 per year may be charged where an applicant requests periodic payment on the basis of hardship.