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# WATER LOT LEASE

## Land Application Policy

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### OBJECTIVE

To facilitate provision of land tenure for structures placed in or on a Yukon lake or river, e.g. typically docks or breakwaters, that will be permanently fixed to the land.

### PURPOSE

This policy is intended to provide clear direction regarding the review of applications for water lot leases to secure access to land for structures / docks located below the Ordinary High Water Mark (OHWM) and permanently fixed to the land.

Information is also provided on authorizations required for placing a floating dock on a Yukon lake or river (see Definitions).

The purpose of the policy is to:

- ✓ Ensure community interests are protected with respect to the management and disposition of public land;
- ✓ Meet development standards as defined in the *Subdivision Act* and *Regulations*, planning schemes (See Definitions), other regulatory authorities, and resource management plans and policies.

### BACKGROUND

This policy documents longstanding procedures under which applications can be made for water lot leases. It has been developed to facilitate clear communication within Yukon Government, and with other governments and the public regarding the application process for docks or other structures constructed below the Ordinary High Water Mark (OHWM).

### DEFINITIONS

#### Water Lot Lease

A Water Lot Lease allows attachment of a permanent structure / dock to crown lands (both the foreshore and bed of a lake or river). The water lot lease provides authority to prevent public (not government) use / trespass of the structure only. Water lot leases do not prevent the public from using any portion of the foreshore (30.48 metre reserve above the Ordinary High Water Mark, OHWM) or any portion of the lake or river.

A water lot lease is tied by terms and conditions in the lease document to the upland property i.e. leased or titled lot, and cannot be assigned without written permission of the Yukon. Water lot leases attached to trapping or big game outfitting land tenures are subject to the lessee being the registered holder of the concession.

**Fisheries and Oceans Canada, Pacific Region / Yukon Transboundary River Area (DFO)**

DFO is responsible for the protection of fish and fish habitat. The department is responsible for reviewing water lot lease applications for potential impact on fish and fish habitat. Where there is potential impact on fisheries values, a fisheries authorization may be required. DFO coordinates with the Department of Environment, Yukon Government, on the review of water lot lease / fisheries related applications.

**Department of Environment, Environmental Programs Branch (YG)**

The department reviews applications for potential impacts to wildlife, habitat, and waterfront access. The Water Resources section monitors and inspects water licences issued by the Yukon Water Board. A dock will require a licence if the installation or removal poses a threat to Yukon waters (e.g. hydrological impacts, deposit of waste), or the structure alters substantially the cross-sectional area such as to affect other users or navigability.

**Planning Scheme**

A regional plan; sub-regional plan; district plan; community plan; local area plan; or land use policies and regulations made under the *Area Development Act*, the *Highways Act*, the *Lands Act* or the *Territorial Lands (Yukon) Act*. Also includes Special Management Area plans created to fulfill obligations under First Nation Final Agreements; Habitat Protection Areas under the *Wildlife Act*; and Parks under the *Parks Act*.

**Navigable Waters Protection Division, Pacific Region, Transport Canada**

The Navigable Waters Protection Division, Pacific Region is responsible for ensuring that any structure (permanent or temporary) placed in or on a navigable water way (most all lakes and rivers) does not impede or obstruct boat traffic or constitutes a hazard to navigation.

**Permanent Dock**

A dock that is affixed to the bed of the water body or foreshore through pilings; rock filled wood cribs; concrete; or other structure.

**Floating Dock**

A dock that is not permanently affixed to either the bed of the water body or the foreshore (land). Floating docks are often tethered to trees or rocks, or have an anchor that is removable. Most floating docks are seasonal and are pulled out of the water body after the summer season.

While water lot leases are not required to authorize placing a floating structure on a Yukon lake or river, people should contact Navigable Waters Protection Division, Pacific Region, Transport Canada and DFO Pacific Region / Yukon prior to placing a floating dock to ensure compliance with their regulatory requirements (See Definitions).

**Preliminary Screening Process**

An interdepartmental / governmental process coordinated by the Lands Branch, Yukon Government, to identify areas suitable and unsuitable for specific kinds of development (e.g., rural residential). Screening processes are normally initiated in response to development pressure (single or multiple applications) where there are other suitable areas for development. Once areas of potential suitability are identified, applicants who have applied in unsuitable areas are directed to re-apply in identified areas.

**Note:** Where there is a difference between definitions in this policy and definitions within an applicable Act or regulation, the definition in the Act or regulation prevails.

## **PRINCIPLES**

Land tenures must comply with existing and proposed planning schemes (see Definitions).

Land tenures are only authorized in an amount reasonably necessary to satisfy the purpose for which the land is needed.

Land within the 30.48 metre reserve from the Ordinary High Water Mark (OHWM) is not normally sold in order to protect ecological and scenic values and to facilitate public use and access of Yukon's lakes and rivers.

## **POLICY PARAMETERS**

### **A. Form of Tenure**

1. Tenure may be provided under a ten (10) year water lot lease and will normally coincide with the term of the upland tenure.
2. The following conditions would apply:
  - ✓ Legal survey by a Canada Lands Surveyor may be required. Subdivision approval is required prior to survey.
  - ✓ Permanent dock / structure must be constructed within one year.
  - ✓ Development must meet existing planning schemes.

### **B. Cost of Land**

- ✓ Land will be leased at 10% of market value per annum.

### **C. Area of Tenure**

- ✓ The area of the lease will not exceed the waterfront width of the associated upland tenure and will normally be limited to the area required to accommodate proposed permanent structures.
- ✓ As a general rule, water lot leases will not extend more than 30.48 metres beyond the Ordinary High Water Mark (OHWM) in order to minimize potential hazards and impact on scenic values.

### **D. Site Criteria**

1. Applications will be considered if they:
  - ✓ Are located in the foreshore of properties leased or titled by the applicant.
  - ✓ Are suitable for their intended purpose.
  - ✓ Comply with existing or proposed planning schemes.
    - a) Local area plans (where they exist) are the primary screen for the review of applications.

- b) When an application is conditionally approved in an area where the proposed use does not conform to existing zoning, a zoning amendment will be required prior to final approval, *i.e.* if there is a proposed change in use of upland parcel.
- ✓ Are not located in areas identified in Section 4, below.
- 2. The interests of adjacent land owners will be considered in the review of water lot lease applications.
- 3. Applications within municipal boundaries may be subject to municipal policies.
- 4. Applications will not be considered if they:
  - ✓ Are located in areas identified as exclusion zones, such as key habitat areas, through preliminary screening processes.

#### **E. Resource Management Criteria**

1. The Department of Fisheries and Oceans, Pacific Region reviews applications for potential impact on anadromous fish and fish habitat. A fisheries authorization may be required (See Definitions, Department of Fisheries and Oceans, Pacific Region).
2. The Department of Environment, Environmental Programs Branch reviews applications for potential hydrological impacts (*e.g.* erosion), and deposit of waste into water bodies. A water licence may be required. (See definitions, Department of Environment, Environmental Programs Branch)
3. Unique or representative landscape features, environmentally sensitive areas, shorelines and archaeological sites are normally retained for public use rather than alienated for private use.
4. Applications are reviewed to ensure that proposed structures will not impede or obstruct boat traffic or constitute a hazard to navigation (see Definitions, Navigable Waters Protection Division, Pacific Region, Transport Canada).
5. Sites needed to accommodate public access and use of land or water resources are normally retained for public use rather than alienated for private use.
6. Applications under this policy will comply with existing and proposed planning schemes and resource management plans *e.g.* forestry, wildlife where applicable.
7. Applications are reviewed to ensure that the needs of other public and commercial resource users are considered in an equitable manner.

#### **ELIGIBILITY**

- ✓ Any individual nineteen (19) years of age or older.
- ✓ Must be holder of lease or title to upland property above area applied for.

**APPLICATION REVIEW PROCEDURES**

Applications for water lot lease purposes will be reviewed as required by the *Yukon Environmental and Socio-economic Assessment Act (YESAA)* and Regulations or as required by the Yukon government land review, e.g. for any existing structures.

**AUTHORITIES****Acts / Regulations**

*Yukon Lands Act / Regulations*  
*Territorial Lands (Yukon) Act / Regulations*  
*Subdivision Act / Regulations*  
*Area Development Act / Regulations*  
*Municipal Act / Regulations*  
*Building Standards Act / Regulations*  
*Public Health and Safety Act*  
*Public Health Regulations*  
*YESAA / Regulations*  
*Wildlife Act / Regulations*  
*Waters Act / Regulations*  
*Navigable Waters Protection Act / Regulations*  
*Fisheries Act / Regulations*  
*Environment Act / Regulations*

**Policy**

Land Value Appeal Policy