

EAD REPORT

TO:

Chair and Electoral Area Directors

File No: BL900 GEN

SUBJECT:

Changes to Provincial Private Moorage Program

DESCRIPTION:

Report from Christine LeFloch, Development Services Assistant, dated March 27, 2017. Overview of recent changes to Provincial private moorage regulations and associated impacts to CSRD.

RECOMMENDATION

#1:

THAT: The Board receive the staff report for information.

RECOMMENDATION

#2:

THAT: A letter be sent to Premier Christy Clark and to Steve Thompson, Minister of Forests Lands and Natural Resource Operations, and MLA Greg Kylo, outlining CSRD concerns with the changes to the Private Moorage Program, lack of consultation with local government about the changes, and requesting that Shuswap and Mara lakes be designated as an application-only area for private moorage.

RECOMMENDATION

#3:

THAT: A letter be sent to UBCM outlining CSRD concerns regarding the changes to the Provincial Private Moorage Program, and that the letter be copied to SILGA and the District of Coldstream.

RECOMMENDATION

#4:

THAT: CSRD staff be directed to prepare communications regarding Lakes Zoning Bylaw No. 900 and Foreshore Development Permit Areas to remind the public of the CSRD bylaw requirements for docks, buoys and other foreshore structures.

APPROVED for EAD Consideration:

Meeting Date: April 4, 2017

Charles Hamilton, CAO

SHORT SUMMARY:

Effective January 17, 2017 the Provincial Private Moorage Program was amended to streamline Provincial approval processes for private docks. Specifically, the General Permission was expanded to include a larger number of individual private docks and the maximum size requirement was replaced by a set of prerequisites which must be met in order to qualify for a General Permission. General Permissions are not granted in areas designated as "application-only areas", ecological reserves, parks, or where there are recorded archaeological sites. Due to the ecological and archaeological significance of Shuswap and Mara lakes, as well as the recreational and residential growth around these lakes, it is recommended that the Board request that it be designated as an "application-only area".

It is also recommended that the Board support the District of Coldstream in their request that the General Permission be amended to explicitly require that General Permission for private moorage requires compliance with any local government regulation pertaining to the construction, placement

and use of private moorage; and that Front Counter BC reinstate its practice of referring applications for private moorage to local governments.

BACKGROUND:

The CSRD was advised by copy of a letter from Greg Kockx, Manager Land Tenures Branch, Ministry of Forests Lands and Natural Resource Operations, to Gary MacIsaac, Executive Director, UBCM, dated January 17, 2017 that the Provincial Private Moorage Program had been amended to expand the General Permissions for residential docks. At their meeting held on February 7, 2017, the Electoral Area Directors Committee passed a motion that Development Services staff be directed to review the amendments to the Provincial Private Moorage Program and its impacts to Lakes Zoning Bylaw No. 900, foreshore tenures and parcel taxes. This report provides an overview of the recent amendments to the Private Moorage Policy, discusses impacts related to Bylaw No. 900, and provides a summary of the impacts on parcel taxes for dock owners.

Related to this issue, the Board passed a resolution at their meeting on February 16, 2017 to be brought forward to the Southern Interior Local Government Association (SILGA) encouraging the Province to work with UBCM to better address the multijurisdictional dock and buoy issue, by consulting with local governments to align areas of overlapping regulation and to increase provincial resources to deal with illegal docks on lakes and to lobby the Government of Canada to increase Transport Canada's resources to more effectively regulate and remove buoys on lakes that have been illegally placed, are unsafe or undocumented, or of unknown ownership. A copy of the SILGA resolution is attached to this report.

POLICY:

Crown Land Use Operational Policy – Private Moorage

This policy is administered by the Ministry of Forests, Lands and Natural Resources Operations (FLNRO) and has been in effect since May 26, 2011. Since that time it has been amended four times, two of which have been amendments to the parameters surrounding General Permissions.

Under the original policy docks having up to 20 m² of surface area were authorized under a General Permission. In August of 2013 this size was increased to 24 m² to match up with DFO regulations. Lakes Zoning Bylaw No. 900, adopted in August 2012 was written to include a maximum upward facing surface area of 24 m² for docks in residential zones as it was understood that the Provincial regulations were in the process of being amended to 24 m² and this would create consistency between all applicable agencies.

In the summer of 2016 FLNRO conducted a review of the Private Moorage Policy, and in January of 2017 made further amendments to the policy based on the results of that review without consultation with local government. Under the updated policy General Permissions are allowed as follows:

Section 6.1.1 General Permission

"The General Permission is available for ocean, lake and river docks located on Crown land, and is granted without the need for an application. As long as a person constructs and uses their dock in accordance with the terms and conditions contained in the General Permission document they will be deemed authorized. If, however, the proposed dock or existing dock does not meet the conditions

and requirements stated in the General Permission, an application for a Specific Permission will be required.

A General Permission does not apply to docks that are in areas designated as:

- *application-only areas (refer to Section 11.2 for more details);*
- *Land Act section 15 reserves, or section 16 or 17 withdrawals; or*
- *Protected Areas, such as ecological areas, parks, conservancies or wildlife management areas.*

A General Permission is only granted to owners of waterfront property with riparian rights to the adjacent Crown foreshore where the dock is located; and only if no other private moorage facilities are fronting the upland property.

If it is unclear whether a client's dock qualifies for a General Permission, the client may be asked to provide additional information to help Authorizing Agency staff determine whether a General Permission is valid (e.g. a draft site plan showing design, location or orientation, title for upland property). In addition to meeting the criteria of the General Permission, clients may also be required to satisfy authorization requirements of other agencies and/or under other legislation (e.g. a notification of works in and about a stream in accordance with Section 11, Water Sustainability Act)."

Section 11.2 Designated Application Only Areas

"In certain designated areas General Permissions will not apply. In these areas, docks will require an application for a Specific Permission. The application process will allow for site specific evaluation and consideration to address local circumstances and conditions before authorization is granted."

Application-only areas will cover areas that will generally have a higher risk of impacts or user conflicts related to the construction and use of any size dock.

Regional operations of the Authorizing Agency may work with provincial and federal resource agencies First nations and communities to identify appropriate application-only areas. Once designated, information on these specific areas will be available from the Authorizing Agency.

Refer to Appendix 5 for a detailed description of the process and criteria for designating application-only areas. (Appendix 5 is provided as an attachment to this report.)

The General Permission document which contains the full set of conditions and requirements is attached to this report. A summary of the key changes is provided here:

General Permission (2013)	General Permission (2017)
<i>'Province', 'Dock', and 'Upland Property' were the only terms defined.</i>	List of definitions expanded to include 12 additional terms, including <i>'mobile dock'</i> which is equivalent to the term <i>'floating dock'</i> as used in Bylaw No. 900
Size requirements: <ul style="list-style-type: none"> • 24 m² excluding the walkway portion of the dock, • maximum of 3 m in width for the float, • maximum of 1.5 m in width for the walkway 	Size requirements for freshwater docks amended to: A freshwater dock must not: <ol style="list-style-type: none"> a. extend beyond a distance of 42 m from the point where the walkway begins, measured perpendicular from the general trend of the shoreline; b. have more than a 3 m wide moorage

	<p>platform and float; or</p> <ul style="list-style-type: none"> c. have more than a 1.5 m 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 60 m from the present natural boundary. <p>*based on these parameters the maximum size of a dock which could qualify under the General Permission if all other requirements are met would be 120 m².</p>
<p>Location requirements: The Dock including boat lift must be at least:</p> <ul style="list-style-type: none"> a. 5 m from the projected side property line; or b. 6 m from the projected side property line if adjacent to a dedicated public beach access or park, and c. 10 m from any existing dock or other foreshore structure 	<p>Location requirements are unchanged.</p> <p>*These are the same property line setback requirements used in Bylaw No. 900.</p>
<p>Use requirement:</p> <ul style="list-style-type: none"> • Dock to be used for private, non-commercial moorage purposes only and owner not to make dock available to others for a fee. 	<p>Use requirements:</p> <ul style="list-style-type: none"> • statement regarding non-commercial use of dock only is now included as a prerequisite. • Condition regarding keeping the dock in and the Crown land beneath it in a safe, clean and sanitary condition has been moved to the Use section • Additional condition included to state that the owner shall not cause a nuisance to adjacent owners
<p>Other requirements:</p> <ul style="list-style-type: none"> • Dock will be subject to any other restrictions, requirements or specifications which the Minister may impose from time to time; • Dock owner must observe, abide by and comply with all other bylaws and regulations of any governmental authority having jurisdiction • Dock must not obstruct public access along the foreshore or beach. 	<p>Other requirements:</p> <ul style="list-style-type: none"> • The original requirements still apply; • New requirement included to allow different siting and size parameters for docks in the Thompson Okanagan and Kootenay Boundary regions depending on the date of construction of older docks – owner to provide proof of date of construction if requested. If proof not provided current conditions apply.

FINANCIAL:

Parcel Tax implications:

Starting in 2015 provincially registered dock owners were issued a second folio by BC Assessment. As not all docks are registered with the Province, BC Assessment is now using information from multiple sources to generate folios for unregistered docks. They hope to have accounted for all docks by next year. Since licences issued by the Province are not the only source of information being used to generate folios for docks the Private Moorage Policy changes do not impact on the ability of BC Assessment to generate new folios for foreshore structures.

Communications:

If the Board directs staff to prepare communication materials as recommended there would be associated costs related to advertising in local newspapers.

KEY ISSUES/CONCEPTS:

Review of Private Moorage Program

In the summer of 2016 the Ministry of Forests Lands and Natural Resource Operations (FLNRO) conducted a review of the Private Moorage Policy in order to identify and address operational issues. Conversations with FLNRO staff along with publications on the FLNRO website indicate that the objective of the review was to ensure that the program is effective and efficient with respect to authorizing activities and maintaining stewardship. They also indicate that former regulation was found to be onerous and required significant staff time to process applications and deal with unauthorized construction, and that this was true even when the proposed or existing docks under application had a low risk of impact. FLNRO media publications state that the changes that have been introduced are intended to reduce workload associated with lower risk docks. CSRD staff are not aware of any consultation with local government regarding these changes. FLNRO staff were also not aware of any consultation with local government.

Changes to General Permission

The main changes that were made to the Private Moorage Policy were to the requirements regarding which docks qualify for General Permission and which ones require an application for a Specific Permission. Previously, only freshwater docks less than 24 m² in surface area were subject to the General Permission. Under the amended policy General Permissions have been 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 (width, length, distance from shore etc.) resulting in an overall increase in maximum dock size from 24 m² to 120 m². Many of the other previous requirements remain unchanged. The document has also been restructured to improve readability.

General Permissions are not granted for docks proposed to be located in Application-only Areas or Areas of Special Interest. Areas of special interest include known archaeological sites, ecological reserves, parks, and protected areas. Ministry staff have confirmed that there are no Application-only Areas, ecological reserves, parks, or protected areas in the residential foreshore areas of Shuswap or Mara Lakes. However, CSRD staff are aware that there are known archaeological sites on Shuswap and Mara Lakes, that these lakes have ecological significance due to the Adams River Sockeye salmon population, and are known to be important lakes for First Nations. These lakes are also heavily used recreationally, have a number of public beaches and parks, and are experiencing residential growth along the shorelines resulting in significant pressure for new residential moorage. The CSRD also has local government regulations related to foreshore development including Lakes Zoning Bylaw No. 900, Foreshore Development Permit Areas (DPA) in Electoral Areas C and F, and a proposed Foreshore DPA for Electoral Area E.

Under the Private Moorage Policy, Application-only Areas may be designated by the Ministry of Forests Lands and Natural Resource Management due to known concerns or issues within these areas. Appendix 5 of the Private Moorage Policy indicates that the Ministry will work with provincial and federal resource agencies, local government and First Nations, as needed to identify potential application-only areas based on certain criteria. These criteria include but are not limited to:

- narrow water bodies where riparian rights are at risk of being infringed, or navigation and safety compromised (e.g. small coves, channels and sections of rivers);
- areas important for public access and use (e.g. beaches, areas adjacent to waterfront parks)
- areas subject to local requirements associated with foreshore development
- environmentally sensitive areas (e.g. fish spawning, critical habitat areas mapped by Ministry of Environment);
- areas where First Nations have expressed a strong interest, or have specifically requested consultation on all private moorage proposals;
- areas which contain Land Act dispositions or other government authorizations that are at risk of being in conflict with dock placement and use; and
- areas that are experiencing significant growth and concerns associated with waterfront development.

As many of these criteria would be applicable to Shuswap and Mara Lakes, staff are recommending that the Board send a letter to the Minister of Forests Lands and Resource Operations requesting that Shuswap and Mara Lakes be designated as an application-only area. If designated, all new docks on Shuswap and Mara Lakes would require an application for Specific Permission from FLNRO.

Effect on Lakes Zoning Bylaw No. 900

While the width requirements for docks and walkways remain the same, the changes to the General Regulation have virtually eliminated the maximum area requirement for docks at the Provincial level. This means that any efforts to regulate overall dock size are now at the discretion of the applicable local government. Lakes Zoning Bylaw No. 900 currently limits the upward facing surface area for single family residential docks at 24 m² which is consistent with the former Provincial standard. Without this local level regulation individual residential docks could become as large as 120 m². Staff feel that the new provincial maximum size permitted is excessive and that the size limits should remain in Bylaw No. 900 in order to prevent residential docks from becoming overly large. Variances to this standard would continue to be addressed on a case by case basis.

While the changes to the General Permission document do not directly affect Bylaw No. 900, this may not be well understood by the general public. To mitigate any misunderstandings staff suggest that notices be posted on the CSRD website, social media and in local papers reminding the public that despite changes to provincial dock regulations, local government regulations are still in effect and remain status quo. This would also be a good time to remind the public of the Lakes Zoning Bylaw No. 900 and applicable Development Permit requirements.

Local Government Response

In response to the recent changes to the Private Moorage Policy the District of Coldstream has adopted a resolution which has been sent to Premier Clark and will be forwarded to the Southern Interior Local Government Association (SILGA) to seek support with the intention of presenting the resolution at the 2017 UBCM Convention. The resolution requests that FLNRO amend the General

Permission to explicitly require that a General Permission for private moorage requires compliance with any local government regulation pertaining to the construction, placement and use of private moorage; that Front Counter BC reinstate its practice of referring Private Moorage applications to local governments, and further that if the Ministry does not amend the General Permission, that the Thompson Okanagan area be designated an "application-only area". The Village of Harrison Hot Springs has provided a letter of support to the District of Coldstream regarding their requests. It is suggested that the CSRD write a letter to Premier Clark, the Minister of Forests Lands and Resource Operations and MLA Greg Kylo requesting that Shuswap and Mara Lakes be designated as an Application-only Area and to the District of Coldstream endorsing their resolution to SILGA.

IMPLEMENTATION:

If the Board endorses the staff recommendation, two letters will be prepared for signature by the Chair. One to be sent to Premier Christy Clark, FLNRO Minister Steve Thompson, and MLA Greg Kylo requesting that Shuswap and Mara Lakes be designated as an Application-only Area. The second letter would be sent to UBCM, with copies sent to SILGA and the District of Coldstream, endorsing their resolution to the Southern Interior Local Government Association. This letter would be circulated to other UBCM member municipalities and regional districts.

DESIRED OUTCOMES:

That the Board endorse staff recommendations.

BOARD'S OPTIONS:

1. *Endorse the Recommendations.*
2. *Deny the Recommendations.*
3. *Defer.*
4. *Any other action deemed appropriate by the Electoral Area Directors Committee.*

LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:

1. Provincial General Permission for the Use of Crown Land for Private Moorage, dated January 17, 2017	Attached to Board Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
2. Letter from Greg Kockx, Manager Land Tenures Branch, MFLNRO, to Gary MacIsaac, Executive Director, UBCM, dated January 17, 2017	Attached to Board Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
3. Letter from District of Coldstream to Premier Clark, dated February 22, 2017	Attached to Board Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
4. 2017 CSRD Board Resolution to SILGA re: Enforcement of Provincial and Federal Dock and Buoy Requirements	Attached to Board Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>
5. Private Moorage Crown Operational Policy Appendix 5 – Process and Criteria for Designating Application Only Areas	Attached to Board Report: <input checked="" type="checkbox"/>	Available from Staff: <input type="checkbox"/>

Report Approval Details

Document Title:	2017-04-04_EAD_DS_new provincial dock regulations.docx
Attachments:	<ul style="list-style-type: none">- private_moorage_general_permission 2017.pdf- Letter from Greg Kockx re changes to Private Moorage Program.pdf- Letter from District of Coldstream dated February 22, 2017.pdf- 2017 SILGA Resolution - Dock and Buoy.pdf- Appendix 5 - Process and Criteria for Designating Application-Only Areas.pdf
Final Approval Date:	Apr 3, 2017

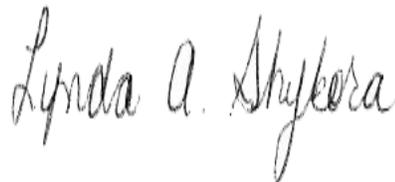
This report and all of its attachments were approved and signed as outlined below:



Corey Paiement - Apr 3, 2017 - 1:57 PM



Gerald Christie - Apr 3, 2017 - 2:07 PM



Lynda Shykora - Apr 3, 2017 - 2:59 PM



Charles Hamilton - Apr 3, 2017 - 3:01 PM