



Energy, Mines and Resources
Land Management Branch
320-300 Main Street
Whitehorse, Yukon Y1A 2B5
667-5215 Fax 667-3214
www.emr.gov.yk.ca

WATER LOT LEASE

Land Application Policy

OBJECTIVE

To allow for land tenure for structures placed in or on a Yukon lake or river (e.g. typically docks, breakwaters etc.) that will be ***permanently fixed to the land***, or to allow applicants to legitimize existing structures.

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.

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.

DEFINITIONS

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.

Cumulative Effects

Changes of an environmental, social, or economic nature caused by the combination of past, existing, proposed, and reasonably foreseeable future development.

Department of Environment, Environmental Programs Branch, Environmental Affairs Section (Government of Yukon)

The department reviews applications for potential impacts to wildlife, habitat, water quality and water use, including shoreline erosion control and docks. The Water Resources Branch monitors and inspects both non-licensed water users and those that have obtained water licenses issued by the Yukon Water Board.

A dock requires a water licence if the installation involves the removal or placement of more than 100m³ of material; the proposed use or deposit has a potential for significant adverse environmental effects (e.g. hydrological impacts, deposit of waste, etc); the dock will interfere with existing rights of other water users or waste depositors; or the structure significantly changes the cross-sectional area at the point of placement of the dock.

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 applications related to fisheries.

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 removed from the water body after the summer season.

While applications are not required to authorize the placement of floating structures on Yukon lakes or rivers, 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).

Grouping of Applications

If more than one application (of any type) exists in an area and have not yet received decisions, or if there are particular sensitivities in an area, applications may be grouped together in order to consider social, economic and environmental information and to ensure that consistent information is considered in each application.

Navigable Waters Protection Division, Pacific Region, Transport Canada

The Navigable Waters Protection Division, Pacific Region is responsible for ensuring that any permanent or temporary structure placed in or on a navigable water way (most 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.

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 and Land Certainty Act*.

Pre-planning Process

A process coordinated by the Land Management Branch, Yukon Government to assess an area for its suitability for development, which may involve input from the departments of Environment, Highways and Public Works, and Community Services, and any other department with responsibilities or interests in the area. It may consider social, economic, and environmental information in areas experiencing heightened interest, such as multiple applications received; where multiple sensitivities are

identified through a land application review; where planning is occurring or anticipated; or where consultation with other governments, such as First Nations, is advisable. A pre-planning process may result in Land Management Branch closing off an area to applications, or deferring or denying applications pending more comprehensive review.

Proposed Planning Scheme: A local area plan or a regulation under the *Area Development Act* that has undergone a final consultation and that has been submitted to EMR for consideration and has been formally acknowledged to be a Proposed Planning Scheme by the Department of Energy, Mines and Resources.

Water Lot Lease

A water lot lease allows attachment of a permanent structure or dock to crown lands, which includes both the foreshore and bed of a lake or river. The water lot lease provides authority to prevent public (not government) use or 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) 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, titled lot, Settlement Land or Retained Reserve).

Water lot leases attached to trapping or big game outfitting land tenures are subject to the lessee being the registered holder of the concession.

Water lot leases attached to Settlement Land or a Retained Reserve, are subject to the applicant first being approved by the applicable First Nation.

The water lot lease can only be assigned to the holder or purchaser of the upland tenure.

Yukon (public) Land: Includes both "*Territorial Lands*" as defined in the *Territorial Lands (Yukon) Act* and "*Yukon Lands*" as defined in the *Yukon Lands Act*

ABBREVIATIONS

DFO - Department of Fisheries and Oceans Canada

IRM - Integrated Resource Management

OHWM - Ordinary High Water Mark

Date last updated: July 31, 2015

Date initially approved: November 20, 2006

PRINCIPLES

- A. Land use must comply with existing and proposed planning schemes (see Definitions).
- B. Water lots are only authorized in amounts reasonably necessary to satisfy the purpose for which the area is needed.
- C. In order to protect ecological and scenic values and to facilitate public use and access of Yukon's lakes and rivers, land within the 30.48 metre reserve from the Ordinary High Water Mark (OHWM) is not normally leased or titled.
- D. During the application review process, the Land Management Branch will, whenever possible, consider the principles of Integrated Resource Management (IRM) in finalizing a decision. Core IRM principles include fostering understanding, cooperation and communication with other departments, governments and agencies involved in resource management, consideration of all values and consultation before finalizing a decision.

POLICY PARAMETERS

A. Form of Tenure

1. Tenure may be provided under a ten (10) year lease term. Where there is a lease in place for the upland tenure, the tenure for the dock will normally coincide with the term of the lease.
2. Tenure may be provided to all names and only those names on the upland tenure.
3. Conditions:
 - ✓ A permanent dock or structure must be constructed within one year.
 - ✓ Development must meet existing planning schemes.
 - ✓ Applicants must obtain and show written proof of third party liability insurance for a minimum of \$2 million.

B. Cost of Land

1. Clients will be charged an annual fee for their water lot lease. Fee will be determined by Land Management Branch.
2. All development costs are the responsibility of the applicant.

C. Area of Tenure

1. 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.
2. As a general rule, in order to maintain public access to the shoreline water lot leases will not extend above the OHWM. (

D. Site Criteria

1. Applications may be considered if they:
 - ✓ Are located in the foreshore of properties leased or titled to the applicant.
 - ✓ Are suitable for their intended purpose.
 - ✓ Comply with existing or proposed planning schemes.
 - Local area plans (where they exist) are the primary screen for the review of applications. Docks must comply with any existing municipal zoning or area development regulations.
 - ✓ 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:
 - ✓ The area is identified as an exclusion zone, such as key habitat areas, through preliminary screening processes;
 - ✓ The applicant does not own the upland parcel or have a Yukon government lease on it.

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, Environmental Affairs Section 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 and wildlife plans, 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 the holder of a Yukon government lease/title to upland property above the area applied for, or
- ✓ Where the upland land tenure is Settlement Land or a Retained Reserve. **Note:** the application must be accompanied with written support from the applicable First Nation.

APPLICATION REVIEW PROCEDURES

Applications will be reviewed as required under the *Yukon Environmental and Socio-economic Assessment Act (YESAA)* and Regulations or under the Yukon government land review process.

The Yukon government land application review process is outlined in the document "[Guide to the Land Application Process.](#)"

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

Parks and Land Certainty Act

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

Guide to the Land Application Process