

Guide to Construction/Alteration of Private Dock/Structure

A Department of National Defence (DND) Licence of Occupation, with a fixed term, generally of five years, is required for any private use of the Federal Crown Land within Esquimalt Harbour. A Licence of Occupation does not convey rights to Crown Land. Rather, it conveys permission, to an applicant, to use Crown Land as stated in the Licence of Occupation. Permission is sought, by application, to the Esquimalt Harbour Management Authority.

The Minister (or delegate) can cancel a Licence of Occupation, at any time, without restriction. Notice of cancellation should be given as far as possible in advance (e.g. 12 months); however, it is recognized that in some circumstances less notice time may be given. A Licence of Occupation does not mean that this same licence will be automatically renewed.

The harbour is a water-covered lot owned by Canada/DND. Occupation of space on this water, below the average high tide water mark, by dock, pier, float or anything else, requires a Licence of Occupation. The Licence of Occupation is for the Land Owners' or residents of the property, and is for personal recreational use only. For further clarity, no rental, sub-licencing, use or transfer, whether for consideration or not, or for any purpose or length of time whatsoever, of this permission to occupy and use, to any other parties whatsoever, is permitted.

How to Apply for a Licence of Occupation

The Land Owner contemplating the installation or construction of a dock that will occupy Federal Crown Land is to send an application to the Esquimalt Harbour Management Authority. It is recommended that the Land Owner advise the Esquimalt Harbour Management Authority of the intention to apply for a Licence of Occupation by letter or e-mail.

Documentation Requirements

Project Overview

- Location, size, and main features of the project
- Description of proposed work
- Description of proposed use
- Construction schedule
- Indicate how public access is maintained along the foreshore
- Indicate how the riparian rights of other local upland property owners are maintained

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General Site Layout

The purpose of this layout is to indicate the location of the dock and the adjoining upland property lines. The following information must be included:

- Dimensions in metres
- North arrow
- Utilizing an 8½" x 11" copy of the section of a map (i.e. Google Maps), draw the dock and the adjoining property lines, ensuring local known features such as coves, inlets, and points of land are included.
- On the map, indicate the street address and the legal description of the upland property

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Specific Site Layout

Utilizing 8½" x 11" paper, this is the top and side view drawings of the dock with associated fittings. The following information must be included:

- Both views are drawn to scale with dimensions in metres, the average high and low water marks must be depicted, indicate the sea bottom supports, anchor lines, and the ramp crossing the foreshore, from the dock to the upland.
- Top view - North arrow is required and indicate the distance from property lines.
- Side view must illustrate the profile of the ocean floor under the dock.
- Any reports such as but not limited to engineering reports, drawings stamped by an engineer, dredging/anchor points, habitat, and environmental reports.

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Photographs of Dock Site

Current colour photographs, to provide a view of the site, at low and high tide that the dock will occupy or is occupying, as well as a view of the shoreline in both directions.

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Proof of Property Ownership

Proof of upland property ownership, displaying the full legal description of the upland property and the full legal name(s) of the registered owner(s). Provide one of the documents listed below:

- State of Title Certificate
- Land Title System Title Search
- B.C. Assessment Notice Approval

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Municipal Authorization

This is arranged by DND, after the Esquimalt Harbour Management Authority conducts an initial feasibility review, to consider adverse operational impacts, utilizing documentation provided by the applicant. On approval, the proposal will be forwarded to the municipality for consideration. The applicant is required to comply with all municipal bylaws, codes of practice, best management practices, directives, and guidelines as applicable to the proposed project.

Esquimalt Harbour Small Project Environmental Screening Report

In order to document and understand the environmental impacts of the proposed project, the applicant must complete the form titled Small Project Environmental Screening Report. The proponent must provide sufficient detail to document and describe the project components, project schedule, details of the physical description of the site, and proposed activities, including details about how impacts will be mitigated.

Send a final draft copy of this form to the Esquimalt Harbour Management Authority. The document will be evaluated for completeness and to ensure that sufficient information has been provided to DND so that a determination under the *Impact Assessment Act* can be made. Should the document be satisfactory, it will be signed by DND and returned to the proponent for final signature. However, should the document lack details or be incomplete, it will be returned to the proponent for additional information. The proponent will complete the necessary changes and return the document back to the Esquimalt Harbour Management Authority for additional review. The final document that contains all signatures will be provided to DND. Contact the Esquimalt Harbour Management Authority to obtain the current Esquimalt Harbour Small Project Environmental Screening Report template.

Document Distribution: Finalized Document – to Esquimalt Harbour Management Authority

Fish and Fish Habitat Protection

If you are planning a project near water, it is your responsibility to ensure you comply with the fish and fish habitat protection provisions of the *Fisheries Act* by incorporating measures to avoid:

- Causing the death of fish.
- Harmful alteration, disruption or destruction of fish habitat in your work, undertaking or activity.

The Department of Fisheries and Oceans Canada (DFO) has developed guidance to help you avoid causing harm and comply with the Act.

Implement relevant measures to avoid causing harm to fish and fish habitat including aquatic species at risk, as recommended by DFO: <http://www.dfo-mpo.gc.ca/pnw-ppe/measures-mesures-eng.html>. List all relevant measures that will be employed in Section 8 of the Esquimalt Harbour Small Project Environmental Screening Report.

Conduct a self-assessment to determine whether your project needs to be reviewed by DFO: <http://www.dfo-mpo.gc.ca/pnw-ppe/reviews-revues/request-review-demande-d-examen-003-eng.html>. Note that if your project cannot completely implement all of the protection measures, a Request for Review form will need to be completed and submitted to the DFO Regional Fish and Fish Habitat Protection Program: ReferralsPacific@dfo-mpo.gc.ca. DFO will review the project plans to identify the potential risks of the project to the conservation and protection of fish and fish habitat, and will work with you to ensure that impacts are managed in the best way possible. If you can avoid impacts to fish and fish habitat, a *Fisheries Act* Authorization is not required. Ensure that all mitigation measures recommended by DFO are added to Section 8 of the Esquimalt Harbour Small Project Environmental Screening Report.

The Request for Review form and the response letter from DFO shall be included with the Esquimalt Harbour Small Project Environmental Screening Report submission to the Esquimalt Harbour Management Authority.

Document Distribution:

- Copy - of statement confirming that your work meets the self-assessment criteria – to Esquimalt Harbour Management Authority
- Original Request for Review form - to DFO. Copy to be included as an Annex to the Esquimalt Harbour Small Project Environmental Screening Report
- Copy of the DFO response to Request for Review – to Esquimalt Harbour Management Authority. Copy to be included as an Annex to the Esquimalt Harbour Small Project Environmental Screening Report

Navigation Protection Program

Copy of the *Canadian Navigable Waters Act* (CNWA) Approval, other approval or permit issued by the Navigation Protection Program at Transport Canada or a statement confirming that your work meets the assessment criteria for the class of works established by the Minor Works Order for Docks and Boathouses. As such, under the CNWA, the work may proceed without an Application to the Minister as long as it complies with the legal requirements. For additional information, including how to apply to Transport Canada and the assessment criteria of the Minor Works Order, please visit: <http://www.tc.gc.ca/eng/programs-621.html>.

Document Distribution:

- Original - to Transport Canada
- Copy - of the final approval issued by Transport Canada - to Esquimalt Harbour Management Authority

Insurance

Certificate of Insurance indicating personal liability insurance for two million dollars. His Majesty the King in the Right of Canada must be named as an additional Named Insured. This liability insurance is to be maintained for the duration of the Licence of Occupation.

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Licence of Occupation Fee

Rates are \$250/year for permissible, conforming applications. Permissible, non-conforming applications would be reviewed and assessed on a case-by-case basis.

Upon approval, an invoice will be sent to the applicant. The applicant has the option of paying annually for their licence or to make full payment for the entire term.

Approval

With the Licence of Occupation in hand, the applicant can then take steps to undertake the approved work. No modification of this approved work is permitted without prior consent of the Esquimalt Harbour Management Authority. Work must be completed within a year of the start date of the licence.

Completed Application

The completed application is to be submitted to the Esquimalt Harbour Management Authority. If an application is submitted electronically, please ensure to attach all relevant documents (individually scanned and saved with appropriate title).

Contact Information

Esquimalt Harbour Management Authority
Building 262 Dockyard
King's Harbour Master
Canadian Forces Base Esquimalt
PO Box 17000 Stn Forces
Victoria B.C. V9A 7N2
Tel: 250-363-2165
E-mail: esqkhmehma@forces.gc.ca
Esquimalt Harbour Website: www.esquimaltharbour.ca

Information For New Land Owner

A Licence of Occupation issued by DND is non-transferable. After a property is sold, the new Land Owner must apply for a new Licence of Occupation. The licence issued to the previous Land Owner will be cancelled.

Documentation Requirements

- Expression of Interest. Entails a letter or e-mail indicating that the new Land Owner wishes to apply for a new Licence of Occupation.
- Proof of property ownership that indicates the full legal name(s) of the registered owner(s).
- Authorization from the appropriate municipality. The Esquimalt Harbour Management Authority arranges this.
- Certificate of Insurance indicating personal liability insurance for two million dollars. His Majesty the King in the Right of Canada must be named as an additional Named Insured.

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Definitions

Applicant is the Land Owner of the upland property.

Dock means a structure used for the purpose of mooring boats and for providing pedestrian access to and from the moored boats, and consist of a structure connected to the upland by a walkway ramp.

Federal Crown Land means land below the average high tide water mark, extending offshore within the recognized boundaries of Esquimalt Harbour, and administrated by the Esquimalt Harbour Management Authority.

Foreshore means that land in the tidal areas lying between the average high tide mark and the average low tide mark.

Group Moorage Facility means a non-commercial multi-berth dock similar to a private moorage facility but for the personal use of a group or association of residents from the surrounding community.

Permissible, Non-Conforming means permissible by established authorities but not in compliance with prescribed guidelines.

Private Moorage Facility means a dock that is permanently affixed to Federal Crown Land and any ancillary structures, such as a boat lift and anchor lines. It is for the personal and private use of the applicant.

Riparian Rights means certain rights, which run with an upland property, include access to and from the water, protection of the property from erosion, ownership of naturally accreted material, and use of water of undiminished flow and quality for domestic purposes.

Upland means land that is above the foreshore.