





## Land Procedure Extensions to Private Holdings

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<b>NAME OF LAND PROCEDURE:</b>	Extensions to Private Holdings
<b>APPLICATION:</b>	Applies where a Crown land disposition is approved for the expansion of an existing private holding.
<b>ISSUANCE:</b>	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
<b>IMPLEMENTATION:</b>	Ministry of Forests, Lands and Natural Resource Operations
<b>REFERENCES:</b>	<i>Land Act</i> (Ch. 245, R.S.B.C, 1996) <i>Land Title Act</i> (Ch. 250, R.S.B.C, 1996) <i>Land Act Regulation</i> 315/76
<b>RELATIONSHIP TO PREVIOUS LAND PROCEDURE:</b>	This procedure replaces the previous Extensions to Private Holdings procedures dated August 16, 2004

  
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Dave Peterson, ADM  
Tenures, Competitiveness and Innovation  
Ministry of Forests, Lands and Natural  
Resource Operations

  
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Date:

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**EFFECTIVE DATE:** June 1, 2011  
**AMENDMENT:**

**FILE:** 11240-00

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011

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## 1. PURPOSE

To describe procedure respecting the expansion of private land holdings through the incorporation of adjacent or nearby Crown land.

To describe the circumstances when consolidation or binding of titles is a condition of Crown land disposition.

This procedure applies where Crown land is required by a private land owner in the following circumstances:

- to improve the viability of a private land use;
- where the parcel of Crown land is not a standalone parcel and only the adjacent private land owner can make beneficial use of it;
- to rationalize legal boundaries to conform to the configuration of the land; or,
- it is desirable to legalize an existing trespass encroachment.

## 2. DEFINITIONS

**Authorizing Agency** means the Provincial ministry responsible for the specific land use authorization.

**Binding of Titles** means the registration (pursuant to Section 219 of the *Land Title Act*) in a Land Title Office of a standalone covenant in favour of the Crown against two or more parcels of land which prevents their separate sale or transfer.

**Consolidation of Titles** means the cancellation (pursuant to Section 100 of the *Land Title Act*) of a common boundary(s) that separates two or more adjoining surveyed parcels of land so that the parcels are consolidated to form a single, new parcel (and title).

**Explanatory Plan** means a plan that is not based on a ground survey, but on existing descriptions, plans, or records of the Land Title Office, and is certified correct in accordance with the records of the Land Title Office by a British Columbia Land Surveyor.

**First Nation** is a term that refers to the Indian peoples in Canada, both Status and non-Status. Although the term First Nation is widely used, no legal definition of it exists. Some Indian peoples in British Columbia have adopted the term “First Nation” to replace the word “band” in the name of their community.

## 3. GENERAL PROCEDURE

Crown land is allocated for expansion of an existing holding only where the proposed use is the highest and best use of the Crown land.

An application for the expansion of a private holding is accepted only from the registered owner of the land that is to benefit from the expansion. Applicants must meet the eligibility requirements as set out in the land use policy under which the application for expansion is submitted.

All expansion dispositions are made on a direct sale basis. Full market value payment is a condition of Crown grant.

Crown land that is part of an expansion to existing holding is subject to consolidation or binding of titles with the private land in the following circumstances:

- it is desirable to legalize an existing unauthorized encroachment onto Crown land;
- the parcel being acquired cannot be registered in the Land Title Office as a separate parcel (normally due to lack of proper access);
- the parcel being acquired is smaller in size than the minimum acreage requirements imposed by local government zoning; or,
- agricultural Crown land is already in the ALR land and binding or consolidation of titles is a specific requirement of the Agricultural Land Commission (determined as a consequence of an application to the ALC pursuant to the current agreement with that agency).

Note: Subject to the first three points above, binding or consolidation of titles for agricultural Crown land is not a requirement where the land is outside the ALR.

### **3.1 Consolidation of Titles**

Consolidation of titles applies where the subject Crown land and the applicant's private holdings directly adjoin each other.

The applicant is responsible for arranging and paying for survey work required in relation to a consolidation of titles (except at the discretion of the Authorizing Agency, e.g. large parcel consolidations within an ALR). Although the cost of a consolidation survey is the responsibility of the applicant, a maximum allowable credit towards the purchase price (as compensation for the cost of the survey of the land being added) is 50% of the value of the land being added. This credit does not apply to the cost of surveying the entire new parcel (i.e. survey of the applicant's existing land combined with the newly acquired land).

As a condition of consolidation, applicants are required to provide the Authorizing Agency with the written consent of each holder of a registered charge on the title to their land (alternatively, charge holders may be required to sign off on the consolidation plan).

### **3.2 Binding of Titles**

Binding of titles applies where the subject Crown land and the applicant's private holdings are physically separate or where special circumstances dictate that consolidation is inappropriate (e.g. where the cost of a consolidation survey are excessive compared to the value of the land being added). Binding of titles can also be used where a local government holds a fee simple parcel and a free Crown grant is to be issued for the Crown parcel. In this case, binding of titles will allow for the registration of a restrictive covenant on the Crown parcel without impacting the private parcel.

If the private holdings are encumbered by a mortgage, it must be modified to include the additional property before a *Land Title Act* (Section 219) covenant binding title can be registered against the land. Because of the complexity in accomplishing the foregoing, it is strongly recommended that the applicant in these circumstances retain a solicitor or notary public prior to making application for a Crown Grant. If the applicant does not retain counsel, it is suggested that further advice be obtained from Legal Services.

### **3.3 First Nations**

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. The Authorizing Agency carries out consultations with First Nations in accordance with its guidelines and policies on First Nations consultation to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur (refer to the Aboriginal Interest Consideration Report form contained in the Land Use Report).

## **4. CROWN GRANT PROCEDURE**

Upon the grantee's acceptance of the Crown Grant offer letter, the consolidation proviso is placed in the Crown grant document and the time limit established for consolidation is diarized in the Surveyor General Division, Land Title and Survey Authority (binding of titles is done automatically by the Registrar of Titles under authority of *Land Act* Regulation 315/76).

When the time period for consolidation has expired, the Authorizing Agency or Surveyor General Division will ascertain if the consolidation has been completed.

Where the consolidation has not been completed, the grantee will be given notice indicating that if consolidation is not fulfilled within 60 days, the Authorizing Agency will initiate cancellation proceedings.

## **5. APPRAISAL PROCEDURE**

The value of Crown land may be affected when it is subject to binding or consolidation. Factors to be considered in conducting an appraisal include:

- cost to the purchaser to bind or consolidate titles;
- loss of separate legal status of the property; and,
- change in the future utility of both the Crown land and private land.

Binding or consolidation frequently causes a decrease in the market value of the land to be sold, due to restrictions placed on the sale that are not normally found in the marketplace. There are exceptions where the future development potential of the private land is greatly increased and the value of the combined private land and Crown land is greater than their values as separate entities (i.e. increased area or improved access makes additional use viable, e.g. residential subdivisions).

## **5.1 Appraisal Approaches**

### **5.1.1 Highest and Best Use to Bind or Consolidate**

This appraisal approach normally applies to Crown land that is of value only to the adjacent land owner(s). In this situation, the Crown land is not valued separately. The "before and after" approach is appropriate, i.e. the private land is valued before the extension and after the extension - the difference is the market value of the Crown land.

### **5.1.2 Commitment to Sell to a Particular Land Owner**

This appraisal approach may apply where Crown land has attributes that would make it available to be sold on the open market yielding its maximum market value, but due to a prior commitment, is to be sold to a particular owner subject to binding or consolidation of titles. A downward adjustment in the market value of 15% is recommended to be used to reflect the binding of title or consolidation restriction.