



General Policy Eligibility and Restrictions

NAME OF GENERAL POLICY:	Eligibility and Restrictions
APPLICATION:	All Crown land sales and tenures.
ISSUANCE:	Assistant Deputy Minister Reconciliation, Lands and Natural Resource Policy
IMPLEMENTATION:	Ministry of Water, Land and Resource Stewardship
REFERENCES:	<i>Cremation, Interment and Funeral Services Act Land Act</i> (Ch. 245, R.S.B.C, 1996) <i>Ministry of Lands, Parks and Housing Act</i> (Ch. 307, R.S.B.C, 1996)
RELATIONSHIP TO PREVIOUS GENERAL POLICY:	This procedure replaces the previous Eligibility and Restrictions Policy in effect July 24, 2004

Colin Ward, ADM
Reconciliation, Lands and Natural Resource Policy
Ministry of Water, Land and Resource Stewardship

May 9, 2024

Date:

APPROVED AMENDMENTS:		
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
February 2, 2015	BN 212293	Removal of section 3.1 to reflect Community and Institutional Use change to allow leases for historic cemeteries.
September 22, 2015	BN 217947	Land Act Reform phase 1 changes
May 9, 2024	BN CLIFF 41581	Updated cover page to reflect the transfer of administration of the <i>Land Act</i> and <i>Ministry of Lands, Parks and Housing Act</i> from the Ministry of Forests to the Ministry of Water, Land and Resource Stewardship. No amendments to the policy.
June 3 rd , 2024	BN CLIFF 41960	Update to reflect legislative changes to the Property Law Act and Land Title Act regarding First Nation eligibility for tenures and sales.

Table of Contents

1.	PURPOSE	1
2.	APPLICANT/PURCHASER ELIGIBILITY	1
2.1	Sales	2
2.2	Tenures	2
2.2.1	Tenure expansions	2
2.2.2	Multiple (<i>Land Act</i>) Tenure Holders.....	2
3.	RESTRICTIONS ON SALE/TENURE	2
3.1	Crown Land for Cemetery Sites.....	3

1. PURPOSE

General eligibility for Crown land application for tenures and sales is established under the *Land Act* or the *Ministry of Lands, Parks and Housing Act*. Specific land use eligibility requirements may be set by policy, see individual land operational policies for details.

The *Land Act* also sets out restrictions for Crown land tenure and sale as per this Procedure.

2. APPLICANT/PURCHASER ELIGIBILITY

For the purposes of this policy, reference to eligibility for First Nations includes:

- a treaty First Nation as defined in the *Interpretation Act*;
- the Nisga'a Nation as defined in the *Interpretation Act*;
- a Nisga'a Village as defined in the *Interpretation Act*;
- shíshálh Nation, as defined in the the *shíshálh Nation Self-Government Act* (Canada);
- shíshálh Nation Government District, as defined as "District" in the *shíshálh Nation Self-Government Act* (Canada);
- Westbank First Nation;
- a band as defined in the *Indian Act* (Canada); or
- any other body of Indians that, under an Act of Canada, is established as a legal entity (pursuant of s.44(1) (c) of the *Property Law Act*).

Applications from a First Nation, require a resolution from:

- the Band Council (most likely in the case of an *Indian Act* band), or
- other First Nation representative governing body (for a First Nation operating under a structure other than a Band Council)

which,

- a) authorizes the First Nation Band council, or other representative governing body (as applicable), to enter into the tenure or sale arrangement on behalf of the First Nation, and
- b) gives the signatories of the tenure or sale agreement the ability to sign on behalf of the First Nation.

Applications from Tribal Councils must be in the name(s) of the representative First Nation bands or groups listed above.

2.1 Sales

Crown land sales made through marketing activities under the *Ministry of Lands, Parks and Housing Act*, are open to all individuals (regardless of citizenship), corporations, and First Nations.

Sales made through land use programs under the *Land Act*, either following an individual application or as a result of a planned disposition processes, are subject to the requirements of the *Land Act* as well as the specific eligibility requirements of the relevant land use program. Corporations, a First Nation, and individuals may apply for a Crown Grant however *Land Act* (s.9) restricts Crown grants for individuals to Canadian citizens and permanent residents over the age of 19.

2.2 Tenures

Applicants for new Land Act tenures, tenure assignment, or tenure replacement must be:

- Canadian citizens or permanent residents 19 years of age or older; or,
- corporations which are incorporated or registered in British Columbia. Corporations also include registered partnerships, cooperatives, and non-profit societies which are formed under the relevant Provincial statutes; or,
- a First Nation; or,
- In the case of aquatic land, non-Canadians can apply for *Land Act* tenure if they own the adjacent upland (companies must still be incorporated or registered in B.C.). This provision applies to applications for commercial as well as private purposes.

Specific land programs can include more restrictive eligibility requirements. Where additional eligibility requirements are set, these will be clearly explained and justified in the relevant land use policy.

2.2.1 Tenure expansions

The applicant is required to be utilizing the original tenure efficiently and effectively, as per the requirements of the relevant land use program and the terms and conditions of the tenure document, in order to apply for an expansion.

2.2.2 Multiple (*Land Act*) Tenure Holders

Where an applicant currently holds or has held any other form of *Land Act* tenure, licence or permit, and where one or more such tenure, licence or permit is not in good standing, the Authorizing Agency has the right to refuse a *Land Act* application, assignment or replacement.

3. RESTRICTIONS ON SALE/TENURE

Undeveloped Provincial Crown land is generally available by sale or tenure, subject to eligibility requirements and the conditions below. However, some types of Crown land are restricted from general disposition.

- Order-in-Council 467/1982 precludes issuance of tenures other than temporary licences for all unsurveyed islands and islets lying south of the 51st parallel and

east of the 129th meridian, and all unencumbered and unalienated islands, less than 64.75 ha in size, within the coastal tidal waters lying north of the 51st parallel, without the approval of Cabinet.

- Aquatic Crown land (land below the natural high water mark of lakes, streams and other waterbodies) is restricted from sale, except by Cabinet approval (*Land Act* section 18).
- Crown land suitable for quarrying is also restricted from sale, except by order of the Minister (*Land Act* section 19).
- Waste disposal sites: Dispositions to local government are preferably by SCG, with a restrictive covenant limiting the use to waste disposal purposes.
- Waste collection sites: Lease or licence tenure is preferred

3.1 Crown Land for Cemetery Sites

Crown land for cemeteries is disposed of by Sponsored Crown Grant only as per the [Community and Institutional Policy](#).

- Note: For local not for profit, community groups wishing to manage their historic, community, rural cemetery a lease is available for nominal rent. Consumer Protection BC issues Certificates of Public Interest if the cemetery is intended for use.