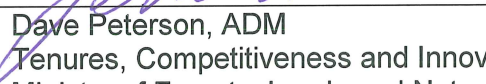


## Land Use Operational Policy Aquaculture

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<b>NAME OF POLICY:</b>	Aquaculture
<b>APPLICATION:</b>	Applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on Crown land. Does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp.
<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>Federal Fisheries Act</i> (R.S. 1985, c.F-14) <i>Federal Canadian Environmental Assessment Act</i> (R.S. 1992, c.37 [c-15.2]) <i>Federal Navigable Waters Protection Act</i> (R.S. 1985, c.N-22)
<b>RELATIONSHIP TO PREVIOUS POLICY:</b>	This policy replaces the previous Aquaculture policy dated August 16, 2004
<b>POLICY AMENDMENT:</b>	Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Tenures Branch, Ministry of Forests, Lands and Natural Resource Operations



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

MAY 26 2011

Date:

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

**FILE:** 12075-00

<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
April 1, 2012	BN 182973	Update to land values.
January 9, 2013	Email approval W. Trotter	Revision to language in s. 7.4.1
April 1, 2013	BN 195386	Update to land values.
April 1, 2014	BN 204476	Update to land values.
December 30, 2014	BN 211170	Updates provincial and federal roles in aquaculture (s.1.1 policy application and s.8.1.1B management plan), updates maximum term for a Licence and a Lease, (s. 6.2, 6.3), introduces Incidental Aquaculture Use (s.8.1.1B), and clarifies security bonds (s.9.2)
April 1, 2015	BN 212627	Update to land values.
September 22, 2015	BN 217947	Land Act Reform Phase 1 changes
July 31/September 30, 2015	Information Bulletin 2015AGRI0050-001218/ Information Bulletin 2015AGRI0062-001629	Direction on how salmon aquaculture tenure and amendment applications are to be considered (Appendix 2).
April 1, 2016	BN 220250	Update to land values.
April 1, 2017	BN 227623	Update to land values.
April 1, 2018	BN 236356	Update to land values
April 1, 2019	BN 246346	Update to land values
August 14, 2019	Joint Ministry DN Cliff #NRS 410	Implementation of June 20, 2018 strategic policy directive for finfish (salmon) aquaculture (News Release 17461) by updating guidance provided in Appendix 2.
April 1, 2020	BN 254084	Update to land values
April 1, 2021	BN 261226	Update to land values

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
April 1, 2022	BN 269471	Update to land values
April 1, 2023	BN 273536	Update to land values
October 16, 2023	TB (FIP) Decision 503592	Update to increase the minimum rent to \$850 per year, phased in over two (2) years at \$675 in year one and to \$850 in year two.
April 1, 2024	BN 277674	Update to land values

## Table of Contents

1.	POLICY APPLICATION.....	1
1.1	Shared Government Roles and Responsibility .....	1
1.2	Application of the Aquaculture Land Use Policy.....	1
2.	PRINCIPLES AND GOALS .....	2
3.	DEFINITIONS .....	2
4.	ABBREVIATIONS .....	3
5.	APPLICANT ELIGIBILITY .....	4
6.	FORM OF LAND ALLOCATION.....	4
6.1	Temporary Licence.....	4
6.2	Licence of Occupation .....	5
6.3	Lease .....	5
6.4	Sale.....	6
6.5	Reserves .....	6
7.	PRICING POLICY .....	6
7.1	Administrative Fees .....	6
7.2	Application Fee.....	6
7.3	Finfish Annual Rent .....	7
7.3.1	Finfish Land Value .....	7
7.3.2	Temporary Licence .....	7
7.3.3	Licence of Occupation .....	7
7.3.4	Lease.....	7
7.4	Shellfish Annual Rent .....	7
7.4.1	Shellfish Land Value .....	7
7.4.2	Temporary Licence .....	8
7.4.3	Licence of Occupation .....	8
7.4.4	Lease.....	8
7.5	Ancillary Residential Use .....	8
8.	ALLOCATION PROCESSES.....	8
8.1	Applications .....	9
8.1.1	Application Package .....	9
A.	Parcel and Siting Considerations .....	9
B.	Management Plan .....	10
	Incidental Aquaculture Use.....	10
C.	Tenure Expansions .....	12
8.1.2	Application Acceptance.....	12
8.1.3	Queuing/Competing Applications .....	13
8.1.4	Clearance/Statusing.....	14
8.1.5	Referrals.....	14
8.1.6	Project Review Team (PRT) .....	14
8.1.7	Advertising/Notification .....	16
A.	Additional Notification Requirements for Shellfish Tenure .....	16
B.	Upland Owner Consent.....	17
C.	Adjacent Owner Notification .....	17
8.1.8	Aboriginal Interests Consideration .....	17
8.1.9	Field Inspections.....	18
8.1.10	Decision/Report .....	18
8.1.11	Issuing Documents .....	18

8.2	Competitive Process .....	18
8.2.1	Bonus Bid Process .....	19
8.3	Planned Tenure Dispositions.....	20
9.	TENURE ADMINISTRATION .....	20
9.1	Insurance .....	20
9.2	Security/Performance Guarantee .....	20
9.2.1	Finfish Bond.....	20
9.2.2	Shellfish Bond.....	21
9.3	Assignment and Sub-Tenuring .....	21
9.3.1	Assignment.....	21
9.3.2	Sub-Tenuring .....	22
9.4	Tenure Replacement.....	22
9.5	Monitoring and Enforcement.....	23
9.5.1	Compliance and Enforcement.....	23
9.5.2	Site Decommission/Clean-up Procedures.....	23
9.5.3	Diligent Use .....	24
10.	VARIANCE .....	24
	APPENDIX 1. AQUACULTURE POLICY SUMMARY.....	25
	APPENDIX 2: SALMON AQUACULTURE CONSIDERATIONS .....	27

## 1. POLICY APPLICATION

### 1.1 Shared Government Roles and Responsibility

The Province of British Columbia is responsible for managing the use and occupation of provincial Crown land, including Crown land covered by water. The Ministry of Forests, Lands and Natural Resource Operations is responsible for the issuance and management of Crown land tenures, including tenures for aquaculture improvements.

Fisheries and Oceans Canada (DFO) is responsible for regulating, monitoring and licensing all aquaculture operations in the province (with the exception of those sites culturing only marine plants). DFO's responsibility includes most aspects of the industry including but not limited to species, production practices and volumes, fish containment, fish health, sea lice levels, waste control and fish habitat and protection measures.

Transport Canada is responsible for reviewing and approving applications for the placement of aquaculture containment and/or structures within navigable waters.

The Ministry of Agriculture is responsible for the BC *Fisheries Act* and is the lead provincial agency for strategic policy and aquaculture industry development.

Provincial and federal agencies work in a collaborative manner to review and respond to aquaculture applications but the parties make independent decisions based upon legislation, policies, and best management practices of those agencies.

### 1.2 Application of the Aquaculture Land Use Policy

The Aquaculture Land Use Policy applies to the siting and improvements of tenures required for the cultivation of finfish, shellfish and marine plants on aquatic Crown land or foreshore. This policy does not apply to ocean ranching of finfish or the wild commercial or recreational harvesting of finfish, marine plants, wild oysters or herring spawn on kelp or tenuring of lake areas for commercial recreation fisheries.

This policy applies to bottom culture and floating or permanent structures required for stock grow-out, feed and equipment storage sheds, environment monitoring stations, processing facilities and other such uses that are within the tenure area and essential to the tenure holder's aquaculture operation.

This policy does not apply to any aquaculture upland use (such as hatcheries) or to applications/tenure solely for processing facilities on aquatic Crown land (these uses can be considered under the General Commercial or Industrial Programs).

*The italicized text in this document represents information summarized from standard Crown land management policies and procedures. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant land management policies and procedures. Text in standard script is applicable to this policy only.*

## 2. PRINCIPLES AND GOALS

*Provincial employees act in accordance with applicable legal requirements when making decisions. The Guiding Principles are a summary of key administrative and contract law principles which guide provincial employees.*

*This policy is part of a series of policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.*

The Provincial Government supports the sustainable development of the aquaculture industry and acknowledges aquaculture as a legitimate use of the coastal resource that makes decisions based on sound science and ensuring business practices are conducted in an environmentally, socially and economically sustainable manner.

## 3. DEFINITIONS

**Application package** means the Crown land application form, management plan and other supporting materials form the information package required to evaluate an aquaculture proposal and issue tenure under the *Land Act*.

**Aquaculture** means the growing and cultivation of aquatic plants, finfish, shellfish or other invertebrates for commercial purposes in any water environment or in human made containers of water, in or under the foreshore or in water.

**Aquaculturalist** means the holder of an aquaculture tenure issued pursuant to the provincial *Land Act*.

**Aquatic Crown land** means that land below the visible high water mark of a body of water, extending offshore to the recognized limit of provincial jurisdiction, including the foreshore.

**Authorizing Agency** means the Aquaculture Operations Branch (the Provincial ministry responsible for the specific land use authorization).

**Beach tenure** means an aquatic Crown land tenure situated on the foreshore between the low and high water marks.

**Diligent use** means compliance with a management plan, and satisfactory production as determined from time to time in consultation with the appropriate administering agency (see section 9.5.3).

**Extensive area** means the area of Crown land used for anchoring structures outside of intensive areas that do not impede navigation or access to lands beyond.

**Finfish** means freshwater fish and marine finfish species including salmon and non-salmonid species, such as trout and sablefish.

**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.

**Incidental Aquaculture Use (IAU)** means the movement or alteration of improvements (including anchors) within the approved tenure area in a manner that does not change the approved use for that tenure. IAU activities must be consistent with the definition and conditions set out in s. 8.1.1B and generally do not require a tenure modification agreement.

**Improvements** means any additions or alterations to Crown land tenure or physical structures that will temporarily or permanently occupy space on the tenure site required for the cultivation of a culture species. Improvements may include, but are not limited to, longlines, anchor lines, rafts, floats, barges, net pens, net cage arrays, vexar cover or fencing, docks, storage sheds or other buildings.

**Intensive area** means the area of Crown land used for activities and related improvements directly associated with the production of finfish, shellfish or marine plants. The intensive area will include net cages, netting, float camps, net storage, docks and mort sheds as well as a 30-meter buffer around these structures. The 30-meter buffer is mandatory and is intended to cover the area where anchor lines are likely to pose a restriction to navigation due to the scope and angle of lines closest to the structures. Outside of the 30-meter buffer the lines are generally at a suitable depth to allow safe passage of a boat; however, any anchor lines beyond the 30-meter buffer that restrict access or hamper navigation will also be included as part of the intensive area.

**Management plan** means the document that details the specific requirements for an aquaculture tenure, including the nature and siting of the improvements. .

**Multiculture techniques** means aquaculture within the same tenure involving more than one technique to culture the same organism (e.g. shellfish bottom and off-bottom culture).

**Phased Development** means development of a number of sites in a sequential manner.

**Project Review Team (PRT)** means a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific *Land Act* applications.

**Shellfish** means aquatic plants, shellfish or other aquatic invertebrates.

#### 4. **ABBREVIATIONS**

**AOB** – Aquaculture Operations Branch

**BCA** - BC Assessment

**DFO** - Fisheries and Oceans Canada

**ha.** - Hectare

**MA** - Ministry of Agriculture

**MOE** - Ministry of Environment



**MOU** - Memorandum of Understanding

**MFLNR** – Ministry of Forests, Lands and Natural Resource Operations

**PRT** - Project Review Team

**TC** - Transport Canada

## **5. APPLICANT ELIGIBILITY**

*Applicants for new 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; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

*For more detailed standard policy information see [Eligibility and Restrictions](#).*

The Authorizing Agency has the discretion to limit the number of active applications from any one individual or company being processed at any one time.

## **6. FORM OF LAND ALLOCATION**

Refer to Appendix 1 for a summary table of the types and terms of Crown tenure available for aquaculture operations.

*For more detailed standard policy information see [Form of Crown Land Allocation](#).*

### **6.1 Temporary Licence**

*The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.*

The maximum term for a temporary licence is up to 2 years.

Temporary licences are not usually issued for aquaculture. At the discretion of the Authorizing Agency Director, where the particulars of the situation warrant it a temporary licence may be issued to allow for the investigation of project feasibility or the placement of monitoring equipment. A temporary licence holder may not conduct commercial activity during an investigative period. Under limited circumstances, authorization can be provided for “proof of concept” and/or pilot-scale sales. Product sales can recover

some or all of the operational costs but full commercial production is not allowed under the temporary licence.

The Authorizing Agency will not accept competing aquaculture applications over the site during the term of the temporary licence. Only the temporary licence holder may apply for long-term tenure during the term of the temporary licence. A temporary licence does not guarantee any future tenure.

## **6.2 Licence of Occupation**

A licence of occupation is the most common form of Crown land tenure for aquaculture.

The term for a licence of occupation for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement license is appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

*A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, and in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.*

*A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.*

*A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licensees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.*

## **6.3 Lease**

The term for a lease for aquaculture purposes is up to 30 years. The Authorizing Agency may deem that a shorter term for either the initial or replacement lease where appropriate (e.g. to support a staged approach to development). Replacement option is available anytime after mid-term of the current tenure (e.g., 15 years).

*A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid conflicts.*

*The tenure holder has the right to modify the land and/or construct improvements as specified in the tenure contract. The tenure holder is granted quiet enjoyment of the area (exclusive use).*

*A legal survey will generally be required at the applicant's expense to define the tenured area.*

*A lease can be issued in a form that is registerable in the Land Title Registry (whereas, a Licence of Occupation is not.) Registered leases for a term of 30 years or more may be*

*considered a fully taxable transfer of interest in property and may be subject to Property Transfer Tax in accordance the Property Transfer Tax Act.*

*Where a lease is not registered in the Land Title Registry, Property Transfer Tax does not apply.*

*In most cases, a tenure holder may apply for a replacement tenure at any time following the mid-term of the lease. Replacement of tenures is at the Authorizing Agency's discretion.*

*Where a replacement lease is for the same land, will result in a total duration of more than 30 years, and the replacement lease is registered in the Land Title Registry, the leases may be viewed as a single transaction and may be subject to Property Transfer Tax.*

*Where the term of a registered lease is less than 30 years or the total duration of all leases does not exceed 30 years, Property Transfer Tax exemption is available.*

*A lease can be a registerable interest in the land that is mortgageable.*

## **6.4 Sale**

Not available under this program. Sale of upland sites may be available through the General Commercial or Industrial programs, dependent on local government zoning.

## **6.5 Reserves**

Federal and provincial agencies may apply for the establishment of an aquaculture reserve to withdraw from disposition high value aquaculture sites required for public purposes, including research and education, and to address First Nations' interests.

# **7. PRICING POLICY**

## **7.1 Administrative Fees**

*Application fees for tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the [Land Act Fees Regulation](#).*

Application fees and other common administrative fees are listed in Appendix 1.

## **7.2 Application Fee**

The application fee for new finfish aquaculture tenures is \$4925 + GST = \$5171.25.

The application fee for new shellfish aquaculture tenures is \$1,200 + GST = \$1260.

To provide some upfront cost relief for shellfish aquaculture applicants, only \$500 of the application fee is to be paid when the application is submitted. The remainder of the fee is to be paid once a decision has been made on the application. The net amount of the remaining "back-end" portion of the fee will be determined by factoring in any refund that is due to the client (see the Pricing Policy - [Fee Refunds](#)). Multiple shellfish beach sites may be included in a single application if the individual sites would not be economically

viable as standalone tenures and the individual sites are approximately within a 500m radius of each other.

## **7.3 Finfish Annual Rent**

### **7.3.1 Finfish Land Value**

The land value for finfish aquaculture sites is set at \$11,969/ha as of April 1, 2024. The Finfish Land Value will be adjusted annually to account for CPI changes.

### **7.3.2 Temporary Licence**

\$250 for terms up to one year, or \$500 prepaid for 2 years

### **7.3.3 Licence of Occupation**

Intensive areas – annual rent is calculated as 7.5% of the Finfish Land Value

Extensive areas – annual rent is 7.5% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is \$675+GST.

The pricing for freshwater finfish aquaculture will be equivalent to the Finfish Land Values for marine finfish aquaculture.

### **7.3.4 Lease**

Intensive areas – annual rent is calculated as 8% of the Finfish Land Value.

Extensive areas – annual rent is 8% of one half the Finfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is \$675+GST.

## **7.4 Shellfish Annual Rent**

### **7.4.1 Shellfish Land Value**

The land value for shellfish aquaculture is set at \$7,839/ha as of April 1, 2024. The Shellfish Land Value will be adjusted annually to account for CPI changes.

Phase-in: the current land values for existing shellfish sites are to be doubled each year until the above Shellfish Land Value is attained.

#### **Development Discount**

Any new shellfish tenure will be eligible for reduced pricing during the first 5 years. A developmental discount rate of 50% of the Shellfish Land Value is to be used.

The discount does not apply to new tenures that overlap or partially overlap sites previously approved for shellfish aquaculture or, to expanded areas of approved shellfish tenure agreements added as an amendment to the original tenure area.

The minimum rent of \$675+GST/year will apply.

#### **7.4.2 Temporary Licence**

Temporary Licence \$250 for terms up to one year, or \$500 prepaid for 2 years.

#### **7.4.3 Licence of Occupation**

Intensive areas annual rent is calculated as 4% of the Shellfish Land Value.

Extensive areas – annual rent is 4% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is \$675+GST.

#### **7.4.4 Lease**

Intensive areas – annual rent is calculated as 5% of the Shellfish Land Value.

Extensive areas – annual rent is 5% of one half the Shellfish Land Value (i.e. 50% of intensive area land value).

Minimum rent per tenure is \$675+GST.

### **7.5 Ancillary Residential Use**

Upland residential sites required to support aquaculture operations may be considered under the [Residential land use](#) policy. Fees and rents will be assessed in accordance with that program.

Floating facilities for residential use can be included as part of the general aquaculture tenure (licence or lease). At the time the original application is submitted there will be no additional application or processing fee if floating facilities for ancillary residential use are included within an aquaculture tenure. The addition of residential facilities after the granting of the original tenure will require a new application and processing fee. An additional rent will be charged for residential use, with a minimum additional rent of \$500/year.

## **8. ALLOCATION PROCESSES**

Areas of Crown land which have the capability and suitability to support aquaculture may be identified through an integrated resource planning process or aquaculture specific coastal plans (e.g., Aquaculture Opportunity Studies; Shellfish Aquaculture Action Plans). These planning processes involve significant local community and sector input for marine activities in the area. The resulting maps and reports can help direct clients to apply for aquaculture tenures in areas with a higher likelihood of approval and avoid locations with significant environmental issues or social conflicts.

The Authorizing Agency will take into consideration input from these resource planning and advisory processes, where they exist, as well as other sources contacted as part of the referral process when making planned tenure dispositions or evaluating individual applications. The Authorizing Agency will also take into consideration the Provincial Government's sustainability principles in its decision-making.

Where an Economic Measures MOU is in place with First Nations and where community criteria for tenure selection has been established for shellfish aquaculture, new applications will be accepted for suitable sites where they do not conflict with sites identified in the MOU.

In the absence of a formal Economic Measures MOU or MOU sites selection agreement with First Nations, the Authorizing Agency will accept shellfish tenure applications. These will be subject to consideration of First Nations interests and rights, any completed coastal resource plans, standard referral processes and community input as part of the public consultation process.

Where a coastal resource planning process or an Economic Measures negotiation is actively in progress, the Authorizing Agency Director may designate specific areas of the coast where aquaculture applications will be accepted but will be parked until the associated planning process or negotiations are concluded in a timely manner.

## **8.1 Applications**

*New and replacement tenures are normally offered in response to individual applications.*

### **8.1.1 Application Package**

*Applications must be complete before they can be accepted for processing. A complete application package will include all the material defined in the Application Checklist.*

**In terms of applications for salmon aquaculture, refer to Appendix 2.**

#### **A. Parcel and Siting Considerations**

##### **Siting Criteria for Aquaculture Tenure**

Specific guidelines regarding separation distances and other siting considerations have been developed. These must be reflected in site plans and management plans. Siting considerations include:

- riparian rights and requirements for navigation;
- First Nations potential aboriginal interests and rights; and
- environmental concerns.

The Authorizing Agency Director, at the request of the PRT and in consultation with relevant regulatory agencies, has the discretion to modify general siting criteria or establish additional density and separation requirements where appropriate.

Where separation guidelines are not met, applicants must include a detailed explanation and justification for proceeding with the application.

##### **Parcels for Tenure Expansions**

A parcel must not be capable of being a stand-alone site to be considered for expansion. In general, the add-on parcel must be of reasonable size (e.g. shellfish tenure may be expanded by up to 20% of their original tenure size or 2.5 ha. for inter-tidal sites and 10

ha. for deep water sites, whichever is greater). A site is not considered stand-alone if it is not economically viable due to the following factors:

- high utilization cost if the site is located too great a distance from the market;
- expected low return on the effort spent if site has poor biophysical conditions;
- low potential production;
- restricted operation time if the site is subject to closures due to pollution;
- restricted production methods or production intensity as defined in the management plan due to tenure size; or
- utilization is not feasible due to access restrictions (e.g. the site is only accessible through an existing tenure).

The characteristics that make a site “standalone” will depend on the species cultured as economic factors and biophysical requirements vary among species. The determination of a site’s ability to be “standalone” will rest with the Authorizing Agency Director. An expansion parcel must not impede riparian access to upland properties or reasonable access to other established tenures. Deepwater expansions cannot impede the movement of boats and equipment required for the operation of existing tenure.

This policy does not guarantee that applications for tenure expansion will receive a favourable land-use decision.

## **B. Management Plan**

All aquaculture tenure applications require a tenure Management Plan. The approved tenure Management Plan is referenced in the tenure document and forms part of the tenure agreement.

The tenure Management Plan for *Land Act* tenure agreements for shellfish, finfish and freshwater / land-based aquaculture activities is made of Parts I, II and V of the harmonized aquaculture application. Once approved by MFLNR, Parts I, II and V becomes the tenure Management Plan (with a cover page that is dated and signed) and is retained as evidence of the approved tenure boundaries and purpose of occupation granted under the *Land Act* tenure agreement.

An application for a tenure modification to amend the approved tenure Management Plan is required:

- to change the authorized use of the approved tenure;
- to expand or reduce the size of an approved tenure boundary; or
- upon request from the Director of Authorization.

An application to modify the tenure agreement, complete with fees and an updated Management Plan, is required where substantial alterations of site improvements are being proposed.

### ***Incidental Aquaculture Use***

Some changes to improvements (i.e. fishing gear and accommodations) within an aquaculture tenure area, that are not considered to be substantial alterations, do not

require a tenure amendment. These changes to improvements must be consistent with the definition and conditions for “Incidental Aquaculture Use” as follows:

Incidental Aquaculture Use (IAU) is defined as the movement, alteration or addition of improvements (fishing gear and/or accommodation) within the approved tenure area in a manner that does not result in a substantive alteration to improvements and does not change the approved use. These IAU changes may include:

- relocation or realignment of existing improvements within the tenure area. For example: net cages, long lines; storage sheds, work floats and temporary worker/caretaker accommodation;
- a change of 30% or less of the Intensive Area within the tenure boundary; or
- a change of 30%<sup>1</sup> or less in the footprint of improvements within the tenure boundary; or
- Modifications to improvements required to support best management practices, husbandry and to respond to stock availability in a manner that is consistent with all federal authorizations.

Examples of IAU for shellfish aquaculture may include:

- changing or adding different types of culture infrastructure used (e.g. strings, trays, nets);
- increasing the number of rafts;
- changing the type of flotation systems or buoys; or
- installing a "pouch" system on the inter tidal muddy areas to prevent oysters from sinking into substrate.

Examples of IAU for finfish aquaculture may include:

- changing the design or configuration of net cages; or
- changing the type of flotation systems and buoys used.

**IAU conditions:** Changes that meet the definition of IAU will not require a tenure modification under this policy if **all** of the following conditions are met; specifically, a tenure holder must:

- be authorized by the federal government to conduct aquaculture and obtain all necessary federal approvals before placing or changing improvements on the tenure;
- hold a form of tenure that is a licence of occupation or lease in good standing;
- ensure all improvements (fishing gear and accommodation) are within the approved tenure area;
- not substantively change the height or size of an accommodation for workers or a caretaker;
- where appropriate, update the tenure security bond to reflect any proposed changes in improvements; and

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<sup>1</sup> The 30% figure is cumulative and represents the total change since the last approved management plan.



- notify FCBC in writing (e.g., email) of the proposed change within a minimum of 21 days prior to initiating the IAU change. In the case of urgent safety issues with improvements, the notification period is waived and notification could occur afterwards.

**Trigger for submission of a tenure amendment application:**

The tenure-holder must apply for a tenure modification when:

- proposed changes result in the extension of improvements beyond the tenure boundary;
- the proposed change increases the Intensive Area within the tenure boundary by more than 30%;
- the proposed change increases the footprint of the improvements within the tenure boundary by more than 30%;
- requested by the Director of Authorization when the proposed changes to improvements do not meet the spirit and intent of the definition or conditions for an IAU; or
- request for premature tenure replacement (e.g. to increase the tenure term).

IAU does not apply to federal authorizations and the proposed change may trigger the need to apply for an amendment to the federal government. FCBC will forward the notification to the appropriate agencies.

**C. Tenure Expansions**

The completed application package for tenure expansion is the same as for a new tenure. It would include a new management plan and supporting materials to cover both the original tenure and the expansion area(s). Where a tenure expansion is being proposed, a new management plan must fully explain how the expansion parcel will improve the overall operation. The new plan must state proposed production levels. See Section 8.1.7 for additional notification requirements for shellfish tenure expansions.

**8.1.2 Application Acceptance**

*New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary status, and other information which may be available to provincial staff. The acceptance review is to be completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.*

Once an application is accepted the following actions will be taken:

- ensure that all accepted applications are noted on regional status maps;
- park the application pending Aquaculture PRT screening; and
- Authorizing Agency will notify the PRT and make arrangements for inter-agency screening of the application as per Section 8.1.6.

The province will accept, but not proceed to decisions on applications in those areas where:

- aquaculture specific resource planning processes are in progress; or
- significant negotiations are in progress to establish Economic Measures MOUs with First Nations or develop associated community consultation criteria.

### **8.1.3 Queuing/Competing Applications**

In general, competing aquaculture applications (e.g. applying for aquatic lands already the subject of a previously accepted aquaculture application) will be dealt with through a queuing process (see Section 8.2 for exceptions where a competitive process may be used).

For finfish, competing applications will be defined as an application for an area that is:

- within one km of a site with a prior accepted application from the same company; or
- within three km of a site with a prior accepted application from a competing company.

For shellfish, a competing application is an application that is applying for part or all of a site that has an accepted application.

If it is confirmed that an aquaculture application is competing with a previously accepted application, provincial staff will notify the proponent that their application is for an area already applied for, inform them of the policy to proceed to decision on the first application accepted and offer them a choice between the following options:

- secure a place in a queue which will ensure the application is processed once any prior accepted application(s) for the specific area have been formally disallowed; or
- have the application and administration fee payment returned.

If the first option is chosen the proponent is informed that this now authorizes the province to cash the application fee.

If the prior application is disallowed the next application in the queue will then be processed. The first application in the queue for the applicable area is then forwarded to the PRT for screening.

If an earlier applicant accepts a tenure offer, all applicants in the queue will be notified of the decision and the queue is cleared. The province will retain \$500 from each application held in the queue, the remainder of any application fees will be returned to the applicants. There will not be any refund provided to shellfish aquaculture applicants who have only submitted the \$500 “up front” portion of their application fee (see section 7.2 for more details).

#### **8.1.4 Clearance/Statusing**

*After acceptance, provincial staff undertake a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.*

#### **8.1.5 Referrals**

*Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments and First Nations. Referral agencies, organizations and identified special interest groups provide their responses to the Authorizing Agency within 30 days (45 days for First Nations).*

Where tenure applications meet established siting criteria and other specific requirements as set out in formal agreements with other provincial and federal government agencies, and where the topic has been formally included in the terms of the agreement, referrals will not be conducted, although First Nations consultation requirements will continue to be applicable.

The Authorizing Agency will ensure that all aquaculture applications for both new and replacement tenure, as well as major amendments to existing approved management plans, are referred for review and comment to agencies. Finfish and shellfish referral checklists will be maintained by the Authorizing Agency.

Fisheries and Oceans Canada may respond by informing applicants and the province that a review under *Canadian Environmental Assessment Act* or *Navigable Waters Protection Act* is underway. The Authorizing Agency Director may choose to park the application until the federal environmental review is completed.

The Authorizing Agency will ensure referral responses are tracked and interpreted and that referral responses are provided to DFO as per current agreements.

Referrals to First Nations will be carried out as per the provincial consultation guidelines and, wherever possible, harmonized with DFO. It is recognized that provincial consultations with First Nations are not meant to replace or satisfy federal aboriginal consultation requirements.

#### **8.1.6 Project Review Team (PRT)**

*A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by the Authorizing Agency and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.*

The aquaculture PRT is responsible for reviewing application packages, determining if information requirements are complete and reporting findings to the Authorizing Agency. The inter-agency Project Review Team membership will normally include the following representation:

- MFLNR (2)

- TC – Coast Guard (1)
- DFO – Major Projects Review Unit (1)
- MOE (1)

Specific agency representatives may also change depending if the PRT is screening shellfish or finfish applications.

For all finfish and shellfish applications received and accepted by the province, the PRT will have 30 days from the date of notification by the Authorizing Agency to undertake an initial screening to:

- ensure proponents have provided adequate technical information for government agencies to effectively review the application package; and
- review and compare applications against approved siting criteria and evaluate whether all the required siting buffer information has been provided.

If there are any information omissions, the Authorizing Agency will ask the proponent to supply the missing information within a specific timeframe that does not exceed 60 days. The proponent will provide the additional information to the Authorizing Agency which will then disseminate the information to the PRT review agencies. If the applicant does not provide the requested missing information within the timeframe stipulated, the applicant is informed by letter that the application has been disallowed and any further continuation of the proposal will require another application and fee.

Once the PRT has completed its screening and if the application is not disallowed the Authorizing Agency will:

- ensure that the client is informed of the timeframe for adjudication of the application;
- un-park the application to complete the adjudication process;
- ensure the application is posted on the relevant web site and the status of the application on the web is updated when adjudication is complete; and
- refer the management plan and supporting materials to review agencies, local governments and other interests (as outlined above under referrals).

The PRT, as a whole, may invite presentations and submissions from the applicant. Where required, staff from agencies participating on the PRT may also contact the proponent directly (for example, with questions about data provided or additional information required). When this occurs, those officials will be expected to indicate to the PRT Chair the nature of the contact (i.e. topic, results of discussion, any correspondence, etc.).

Additional federal or provincial agency staff may attend meetings on request or by invitation, but may only address agenda items or introduce additional items at the discretion of the Chair and official PRT members. Individual PRT agencies may choose to have additional staff attend for information purposes, but approval from the Chair and official PRT members is required for other staff to participate in discussions.

The PRT may, at times, be expected to respond to the Authorizing Agency's request for additional advice such as evaluating and weighting criteria to assist the agency in dealing with competing applications (refer to Section 8.2 on Competitive Processes).

### **8.1.7 Advertising/Notification**

*At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.*

Staking is required for aquaculture applications. A person intending to apply for Crown tenure is required to post a notice indicating his or her intention to do so at the intended location. This notice must contain the applicant's name and address, the site being applied for by local name, the area of application, a metes and bounds description (including latitude and longitude) and the purpose of the application.

At the discretion of the Authorizing Agency Director applicants may also be required to seek public input through open houses, local advisory committees, including stakeholders on Project Review Teams, etc.

All new finfish applications will require public consultation which will most often be conducted via an open house session in a local community near the area under application. Where possible, the Authorizing Agency will coordinate the holding of such an open house with DFO.

Applications for investigative permits or tenure replacements do not require public consultation or open houses.

The Authorizing Agency may need to coordinate advertising with other organizations that also have this requirement, in particular DFO.

The availability of tenure sites by public competition (see Section 8.2) or other proactive offerings (other than direct application) will be advertised by the province.

After PRT review and acceptance by the Authorizing Agency, all applications and their status will be posted on the relevant website.

#### **A. Additional Notification Requirements for Shellfish Tenure**

Where an application for a shellfish tenure (new or expansion) covers an area which may affect an existing shellfish tenure's ability to expand, then the applicant will notify neighbouring tenure holders of the application by a registered letter. The purpose of the notice is to alert the neighbouring tenure holders of the application and provide an opportunity for these tenure holders to identify issues or concerns with the proposal.

The applicant must confirm that the notification has taken place no later than 30 days from the acceptance date of the application. If the regional office does not receive the necessary confirmation within this timeframe, the application may be disallowed. Notification of neighbouring tenure holders can also be done prior to making application, in which case the confirmation can be submitted along with the application. This latter approach is encouraged to avoid delays and reduce the need for application amendments (concerns can be worked out amongst tenure holders ahead of time).

For expansions that are proposed for areas adjacent to or between other existing tenures that would likely limit the other tenure holders ability to expand in the future (as per Parcels for Tenure Expansions under Section 8.1.1) the following applies:

- if within 30 days of the notification date all neighbouring tenure holders confirm that the proposal will not conflict with their plans for expansion the application will proceed; or
- if within 30 days of the notification date a neighbouring tenure holder(s) express an interest in expanding their tenure (written confirmation) and the applicant's proposal will conflict with such expansion, the applicant's proposed area may need to be reduced to ensure that the area adjacent to and between the existing tenure can be divided equitably between those existing tenure holders who wish to expand. If an expression of interest is submitted by a neighbouring tenure holder(s) the applicant's initial application will be parked until such time as an application(s) is received by the Authorizing Agency from the other tenure holder(s) - this must be done no later than 60 days from the receipt of the expression of interest. The adjacent area will only need to accommodate multiple expansion parcels (be divided between the applicants) for those tenure holders that submit an application within the 60-day period.

The Authorizing Agency Director may, at his or her discretion, reduce or revise the area under application in consultation with the proponent and the neighbouring tenure holder.

**B. Upland Owner Consent**

*Owners of waterfront property have certain "riparian rights" which include the right of access to and from the upland (see [Riparian Rights and Public Foreshore Use in the Administration of Aquatic Crown Land](#)). Provincial staff will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.*

**C. Adjacent Owner Notification**

*New applications to tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. In certain circumstances, provincial staff may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.*

**8.1.8 Aboriginal Interests Consideration**

*The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.*

It is recognized that DFO has a separate process for First Nations consultation in order to meet federal fiduciary obligations and, where possible, provincial and federal agencies should try to harmonize First Nations referrals on the same application.

### 8.1.9 Field Inspections

*Field inspection means the on-site evaluation of a parcel of Crown land by provincial staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the Authorizing Agency.*

The Authorizing Agency will coordinate and share information on field inspections and may invite other relevant federal and provincial agencies to participate in inspections. Site data collected by other federal and provincial agencies may be used by the Authorizing Agency.

### 8.1.10 Decision/Report

*The applicant will be notified in writing of the government's decision. [Reasons for Decision](#) are posted on the relevant website.*

### 8.1.11 Issuing Documents

*If the application is approved, tenure documents are offered to the applicant. All preconditions must be satisfied prior to the Authorizing Agency signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing improvements or commencing operations on the tenure.*

Wherever possible, the provincial tenure and federal licence documents should be issued at the same time. Management plans and supporting materials will not be attached to the tenure document, but will be referenced in the document as being held on file by the Authorizing Agency.

## 8.2 Competitive Process

*The Authorizing Agency may initiate one of a number of different competitive processes (e.g. public auction, request for proposals) where permitted by program policy and when deemed appropriate by provincial staff.*

Occurrences where the province will have to initiate a competitive process should be minimized by the fact that an early process for screening and queuing applications has been established. The cases where a competitive process may be required are as follows:

- competing applications are initially received on the same day;
- the province invites competing expressions of interests for an area or region-specific opening or call for applications;
- tenures previously used and considered suitable for aquaculture have expired without replacement, been cancelled or been abandoned; or
- a *Land Act* reserve, not specific to a First Nations Economic Measures MOU, which is considered best suited for aquaculture has been cancelled.

In these cases, the Authorizing Agency will apply criteria developed in consultation with the PRT. The details of these evaluation criteria will be customized to the particular application situation, but should strive to reflect the range of factors listed below:

- potential employment/job benefits;

- implications for industry development;
- education and training opportunities;
- partnerships with First Nations or local government;
- consideration of land-use and environmental factors;
- revenue benefits for the Crown;
- the use of environmental technologies;
- compatibility with the provincial government's Sustainability Principles; and
- any additional community criteria that may have been established as part of a negotiated Economic Measures MOU with First Nations.

Potential applicants will be advised of these criteria prior to submitting their application packages. The PRT will evaluate the applicability and weighting of evaluation criteria and may be asked to provide advice to the Authorizing Agency.

In the case where competing aquaculture applications are determined by the above process to be of relatively equal merit, the Authorizing Agency Director may direct that the applicants be invited to make bonus-bid offers for the site in question. The applicant who does not have his or her bid accepted will then be offered the option of being first in queue after the accepted application as per Section 8.1.2.

If competing applications over the same parcel are for different uses (e.g. aquaculture and log handling), disposition will be on the basis of best use of the land as determined by the Authorizing Agency Director in consultation with other appropriate agencies.

Depending on the circumstances, a process of First Nations consultation may be required.

### **8.2.1 Bonus Bid Process**

The Authorizing Agency Director may decide to utilize a closed bonus-bid process in cases where aquaculture tenures have reverted to the Crown or where two or more competing applications are deemed tied after evaluation against the criteria as outlined above.

The following special procedures apply for holding a bonus-bid competitive process or auction:

- a site previously used for a particular aquaculture purpose will normally first be auctioned for the same purpose unless the Authorizing Agency Director, determines that another form of aquaculture constitutes better use;
- a closed-bid auction will be held within 12 months of the parcel(s) becoming vacant to ensure that production is not interrupted for overly long periods;
- the Authorizing Agency Director will ensure that procedures for disposition of sites by public competition are consistent from the aspect of administrative fairness. The same requirements as those expected of an applicant making direct application would apply to the public disposition process including advertising, local zoning and availability of upland owner's consent;



- the Authorizing Agency Director will consult with DFO prior to advertising the parcel(s) for public auction regarding site suitability and production capability. Local governments, other government agencies and interest groups may be consulted as appropriate;
- where several areas are proposed for marketing, the Authorizing Agency Director may advertise the areas at a single auction;
- in developing the minimum requirements for bids, the Authorizing Agency Director may utilize some or all of the criteria identified in Section 8.2. The Authorizing Agency will communicate these added requirements to all potential applicants; and
- the successful applicant(s) will be required to submit a management plan which will be reviewed by the Authorizing Agency and, as appropriate, local governments, First Nations, government agencies and interest groups.

### **8.3 Planned Tenure Dispositions**

*Planned tenure dispositions involve the province actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the Authorizing Agency in accordance with standard application procedures or by competitive process.*

## **9. TENURE ADMINISTRATION**

### **9.1 Insurance**

*A tenure holder is generally required to purchase, and is responsible for maintaining during the term of the tenure, a minimum level of public liability insurance specified in the tenure document. The province may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the tenure.*

### **9.2 Security/Performance Guarantee**

*A security deposit or bond may be required to be posted by the tenure holder where any improvements on, or changes to, the land are proposed. The security deposit is collected to insure compliance and completion by the tenure holder of all the obligations and requirements specified in the tenure. Some examples where such security may be used are for any type of clean-up or reclamation of an area, and/or to ensure compliance with development requirements.*

The Authorizing Agency may determine the amount of the security deposit or bond. The amount is generally based on the use and the number, size and scale of Improvements. The Tenure Administration Procedures provides minimum bond amounts for aquaculture.

#### **9.2.1 Finfish Bond**

All operators are required to submit a performance bond per finfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket performance bond is held by the BC Salmon Farmers Association on behalf of its members.

### **9.2.2 Shellfish Bond**

All operators are required to submit a performance bond per shellfish tenure held or appropriate blanket bonds where multiple tenures are held.

A blanket bond is administered by the British Columbia Shellfish Growers Association for its members.

## **9.3 Assignment and Sub-Tenuring**

*Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).*

*Assignment or sub-tenuring requires the prior written consent of the Authorizing Agency. The assignee or sub-tenure holder must meet eligibility requirements. The Authorizing Agency may refuse the assignment of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.*

*Investigative and temporary permits cannot be sub-tenured or assigned.*

The Authorizing Agency will notify relevant federal and provincial agencies (e.g. MOE, DFO) of completed assignments and sub-tenures so that other licences and permits may be updated. Circumstances that would require full referral of the application for assignment or sub-tenure are detailed below.

As a condition of consent for assignment or sub-tenure, the Authorizing Agency will require verifiable financial information (e.g. a statutory declaration or a financial statement from a financial institution or accountant) specifying the total value of the transaction, the component of value that is associated with the land tenure and the component that is associated with the value of improvements on the tenure.

### **9.3.1 Assignment**

A management plan (existing or new) is required prior to assignment:

- where a plan is in place, the proposed assignee must either accept the existing plan (by initialing and dating a copy of the approved plan) or submit an amended or new management plan; or
- where no plan exists, the proposed assignee must submit a complete new management plan along with supporting materials.

In the case where a new or amended management plan is submitted, the authorizing agency will refer the plan and its supporting materials to all appropriate referral agencies for review and approval prior to assignment (e.g. there will be no amendment of management plan or supporting material during the assignment process.)

It is preferable that an application for tenure assignment be submitted with an existing management plan accepted by the proposed assignee. Once an assignment is made

the assignee may then apply to amend the management plan and the Authorizing Agency will refer the application for review as per Section 8.1.5.

A lease or licence of occupation must be brought to a satisfactory level of development/production prior to assignment. Assignment of new tenure will not generally be allowed until after the third year of development. The following procedures apply:

- confirmation of diligent use based on Annual Aquaculture Statistical Reports (AASR) of annual production figures for the site.
- if AASR data is not available for the site the tenure holder requesting assignment will do one of the following:
  - submit AASR data for the most recent two years of production;
  - submit proof of purchase (either in the form of receipts or as reported in site inspection reports) of finfish smolts or two years' worth of shellfish stocking; or
  - submit a copy of the agreement of sale of the site.

The Authorizing Agency Director may waive the requirement of satisfactory development and production of the site if the following applies:

- the request for assignment is a result of internal corporate restructuring (.e.g. an individual requests his tenure be assigned to a company in which he is a principal partner);
- there is no change to the management plan; and
- the client requesting the assignment holds numerous tenures and another company or person is acquiring all the holding.

### 9.3.2 Sub-Tenuring

The Authorizing Agency Director will consider requests for sub-tenuring on a case by case basis.

Sub-tenure documentation must either commit the sub-tenant to the aquaculture management plan of the primary tenure-holder or be based on a new management plan acceptable to the province. The Authorizing Agency and other referral agencies or organizations as appropriate will review all new management plans.

Rental rates for sub-leases and licences are not to be less than rates established under this policy. A revenue-sharing agreement will be negotiated with the Authorizing Agency reflecting appropriate consideration for sub-tenured uses.

## 9.4 Tenure Replacement

*Replacement tenure means a subsequent tenure document issued to the tenure holder for the same purpose and area.*

*In most cases, tenure holders may apply for a tenure replacement at any time following the mid-term of the tenure. Replacement of tenures is at the Authorizing Agency's*

*discretion. The province may decline to replace a tenure, or may alter the terms and conditions of a replacement tenure. For tenure terms and conditions see Section 6.*

*Investigative permits are not generally replaced. A further two year term may be provided, at the Authorizing Agency's discretion, when there are legitimate requirements for a longer investigative period.*

## **9.5 Monitoring and Enforcement**

*Tenure terms and conditions, including requirements contained in approved management/development plans' act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.*

### **9.5.1 Compliance and Enforcement**

Compliance inspections, monitoring and enforcement actions will take place as per the service agreement on compliance and enforcement coordination between MFLNR, MOE and in cooperation with DFO.

### **9.5.2 Site Decommission/Clean-up Procedures**

Upon decommissioning of a site the client will report to the Authorizing Agency that the tenure has been left in a clean, sanitary and safe manner this will include all anchors, cables, lines and shore ties, unless otherwise directed. The client must supply the following:

- a Statutory Declaration signed in the presence of a Commissioner for taking Affidavits for British Columbia or a Notary Public in and for the Province of British Columbia swearing the site is clean, safe and sanitary; and
- a representative remotely operated vehicle (ROV) or video transect(s) of the ocean floor within and adjacent to the tenure boundary demonstrating that the site is clean, safe and sanitary.

Copies of both the Statutory Declaration and the videotape/CD will be forwarded to DFO and MOE for their review.

MFLNR will conduct audits on a representative sample of these sites to ensure the terms of the Statutory Declarations are met.

The province holds performance guarantees on all tenures. A performance guarantee will not be released until the Authorizing Agency Director is satisfied that the work has been completed to the satisfaction of the provincial and federal agencies.

Where clean up failed to occur at past abandoned sites and if the company or an affiliate exists, they will be contacted and requested to address any cleanup issues. If the previous company is no longer operative, the province will work with the BC Salmon Farmers Association or the British Columbia Shellfish Growers Association to address outstanding clean up of such sites.

### 9.5.3 Diligent Use

All aquaculturalists who have acquired a new tenure must demonstrate that work has started on the site within 12 months of being in receipt of all required licences and permits (unless the Authorizing Agency Director recognizes extenuating circumstances).

To be considered as diligent use the site is to be in compliance with the management plan within five years of issuance of the initial tenure (unless the Authorizing Agency Director recognizes extenuating circumstances). The objectives of diligent use are to:

- ensure that aquaculture tenure is used diligently;
- ensure that aquaculturalists know the basis for which a tenure can be cancelled;
- ensure that aquaculturalists performance is evaluated in an objective and fair manner;
- ensure that leases or licenses of occupation are only provided for commercial and other approved purposes; and
- justify alienation of the Crown resource from the general public.

MFLNR may assess diligent use at any time. The onus is on the aquaculturalist to produce verifiable evidence, satisfactory to the province, that diligent use is being maintained. Verification of diligent use will be by way of:

- confirmation of diligent use, based on DFO's Annual Aquaculture Statistical Reports (AASRs) of annual production figures for the site; or
- conducting site inspections to verify diligent use.

Any aquaculturalist not making diligent use of their tenure will be sent a registered letter explaining the requirement and requesting that an explanation be provided within 30 days. If a reasonable explanation is not forthcoming, a second registered letter will be sent to the aquaculturalist indicating that unless a reasonable explanation is received within 30 days of the date of the letter the tenure may be cancelled. The Authorizing Agency Director will consider the response.

If a satisfactory explanation is not received within the time frame prescribed above, Authorizing Agency will begin tenure cancellation proceedings.

The cancellation of tenure will be carried out according to Section 43 of the *Land Act*. In general, this process will require the Authorizing Agency to provide notice by registered mail requesting the tenure holder to comply with the covenant, stipulation or term within 60 days after the notice is mailed.

If the default continues after the 60-day period, the disposition may be cancelled. The Authorizing Agency will advise other affected parties (e.g. MOE, DFO, BCA, local government, etc.) of cancellation proceedings.

## 10. VARIANCE

Variances to this policy must be completed in accordance with the Policy Variance Procedure.

## APPENDIX 1. AQUACULTURE POLICY SUMMARY

Table 1. Summary of *Land Act* Aquaculture Tenures, Terms, Fees<sup>2</sup> & Rents

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
<b>Investigative Permit</b>	<ul style="list-style-type: none"> <li>2-year term</li> <li>Replacement can be allowed at end of term.</li> </ul>	\$250+GST/year, or \$675+GST prepaid for the entire term	<ul style="list-style-type: none"> <li>Application fee - \$500+GST</li> </ul>
<b>Licence of Occupation</b>	<p><b>Shellfish:</b></p> <ul style="list-style-type: none"> <li>30-year licence</li> <li>Replacement option anytime after mid-term (e.g., 15 years)</li> </ul> <p><b>Finfish:</b></p> <ul style="list-style-type: none"> <li>30-year licence</li> <li>Replacement option anytime after mid-term (e.g., 15 years)</li> </ul>	<p><b>Shellfish</b></p> <ul style="list-style-type: none"> <li>Intensive - 4% of Shellfish Land Value with a \$675+GST minimum</li> <li>Extensive - 4% of half the Shellfish Land Value with a \$675+GST minimum</li> <li>Development period – for the first 5 years, 50% of the Shellfish Land Value with a \$675+GST minimum</li> <li>Replacements:               <ul style="list-style-type: none"> <li>Intensive - 4% of double land value on file until the Shellfish Land Value is achieved</li> <li>Extensive- 4% of double land value on file until the Shellfish Land Value is achieved</li> <li>\$675+GST minimum</li> </ul> </li> </ul> <p><b>Finfish</b></p> <ul style="list-style-type: none"> <li>Intensive - 7.5% of Finfish Land Value with a \$675+GST minimum</li> <li>Extensive - 7.5% of half the Finfish Land Value with a \$675+GST minimum</li> </ul>	<p><b>Shellfish</b></p> <ul style="list-style-type: none"> <li>Application fee - \$1200+GST</li> <li>Tenure Replacements - \$600+GST</li> <li>Tenure Conversions - \$600+GST</li> <li>Tenure Expansions - \$600+GST</li> <li>Amendments: minor - \$100+GST other - \$500+GST</li> </ul> <p><b>Finfish</b></p> <ul style="list-style-type: none"> <li>Application fee - \$4925+GST</li> <li>Tenure Replacements - \$2462.50+GST</li> <li>Tenure Conversions - \$2462.50+GST</li> <li>Tenure Expansions - \$2462.50+GST</li> <li>Amendments: minor - \$100+GST other - \$500+GST</li> </ul>
<b>Lease</b>	<p><b>Shellfish:</b></p> <ul style="list-style-type: none"> <li>30 years</li> <li>Replacement option after mid-term (e.g., 15 years)</li> </ul>	<p><b>Shellfish</b></p> <ul style="list-style-type: none"> <li>New tenures - 5% of Shellfish Land Value with a \$675+GST minimum</li> </ul>	Same as for Initial Licence of Occupation fees (above)

<sup>2</sup> Includes fees that are listed in the *Land Act* Fees Regulation. If there is a discrepancy between this table and the regulation, the regulation takes precedence.

Tenure Type	Term of Tenure (Maximum)	Annual Rent Payments	Administrative Fees
	<b>Finfish:</b> <ul style="list-style-type: none"> <li>• 30 years</li> <li>• Replacement option after mid-term (e.g., 15 years)</li> </ul>	<ul style="list-style-type: none"> <li>• Replacements - 5% of double the land value that is on file until the Shellfish Land Value is achieved (\$675+GSTminimum)</li> </ul> <b>Finfish</b> <ul style="list-style-type: none"> <li>• Intensive - 8% of Finfish Land Value with a \$675+GST minimum</li> <li>• Extensive - 8% of half the Finfish Land Value with a \$675+GST minimum</li> </ul>	
<b>Ancillary Residential Use</b>	Upland – as per Residential Program  Floating – as per aquaculture tenure	Upland - rents will be assessed as per Residential Program  Floating - additional rent will be charged with a minimum additional rent of \$675+GST year	Upland – application and processing fees as per Residential Program  Floating - no additional application or processing fees

## APPENDIX 2: SALMON AQUACULTURE CONSIDERATIONS

This Directive provides interim direction to regional *Land Act* decision-makers regarding the consideration of finfish (salmon) aquaculture tenure applications and implements the following strategic policy direction from the Ministry of Agriculture in the June 20, 2018 Information Bulletin AGR10046-001248:

*Effective June 2022, the Province will grant Land Act tenures only to fish farm operators who have satisfied Fisheries and Oceans Canada (DFO) that their operations will not adversely impact wild salmon stocks, and who have negotiated agreements with the First Nation(s) in whose territory they propose to operate. Operations with expired provincial tenures, or tenures that expire before June 2022, may operate with month-to-month tenures.*

This Directive replaces previous Ministry of Agriculture direction provided in the July 31, 2015 AGR10050-001218 Information Bulletin/ September 30, Information Bulletin 2015AGR10062-001629.

For clarity, this directive does not affect the 2008 moratorium north of Klemtu (established by OIC #174) or the 2013 restrictions in place in the Discovery Islands (see news release #AGR10018-000570).

Additional operational policy direction for finfish (salmon) aquaculture is, as follows:

1. Effective immediately, applications for tenures for new sites, replacement of existing tenures, tenure expansions, or tenure assignments that apply to any period after June 30, 2022 should be approved only where the applicant demonstrates that both of the following two conditions have been met:
  - (a) the applicant has satisfied DFO that operations will not adversely impact wild salmon stocks; and
  - (b) the applicant has entered into an agreement with the First Nation(s) in whose territory the proposed tenure is located.
2. The decision maker may consider that possession by the applicant of a valid federal aquaculture licence is adequate to meet the condition under 1(a).
3. The agreements described in 1b are expected to be negotiated directly between the applicants and First Nations and do not include the Province. The provincial decision maker may consider that provision by the applicants of a letter or email of support, non-objection, deferral or abstention from the First Nation(s) in whose territory they propose to operate is sufficient evidence that the condition under 1(b) has been met.
4. Tenures that have an expiry date of June 30, 2022 or earlier and which fail to meet the conditions described in 1(a) and 1(b) by June 30, 2022 should be provided notice to vacate and decommission the site, consistent with tenure terms and conditions.



5. Applications for the replacement of Crown land tenures may, at the discretion of the decision-maker, be approved in the absence of an agreement described in 1(b) provided that any such authorization does not apply to any period after June 30, 2022. Approvals and month-to-month tenancy to occupy Crown land for the period up to June 30<sup>th</sup> 2022 are intended to allow the tenure-holder the opportunity to meet the conditions under 1(a) and 1(b).
6. Applications to update the tenure management plan that do not include an application to increase the size of the tenure area, as well as changes to improvements considered to be Incidental Aquaculture Use, will not be required to meet 1(a) and 1(b).
7. Nothing in this policy limits the Province's legal obligations to consult with First Nations.