


Land Procedure

Allocation Procedures - Applications

NAME OF LAND PROCEDURE:	Allocation Procedures - Applications
APPLICATION:	Applies to all applications for Crown land tenures for non-forestry uses or non-provincially regulated oil and gas uses.
ISSUANCE:	Assistant Deputy Minister, Tenures, Competitiveness and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands and Natural Resource Operations
REFERENCES:	<i>Land Act</i> (Ch. 245, R.S.B.C, 1996)
RELATIONSHIP TO PREVIOUS LAND PROCEDURE:	This procedure replaces the previous Allocation Procedures - Applications in effect August 16, 2004.



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MAY 26 2011

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 22, 2012		Section 2.3.3 Application Windows. Text removed from Business Rules and included in Procedure.
July 10, 2013	BN 196443	Updated guidance on advertising, including addition of a risk matrix process in Appendix 2.
February 22, 2016	BN 218037	Numerous updates and modifications were made as part of Procedures Update project, including clarifying processes, reflecting E-application amendments, and aligning with acceptable operational practices. Other changes were necessary to be consistent with <i>Land Act</i> amendments approved through Bill 25.
April 7, 2016	Email approval	Updated section 3.4.1 to revise language from RAT to EYOR
December 17, 2018	BN 235998	Amendments to clarify public input processes
April 5, 2019	BN 247587	Amendments to clarify the purpose of the procedure, the application process steps, and linkages to requirements under the <i>Land Act</i> .
February 26, 2021	BN 260513 BN 259960	Procedures and guidance related to applications were brought over from the Tenure Administration Procedure. This includes sections on application change requests, and replacement applications and information section 10.1.

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1. PURPOSE

The allocation process outlined in this procedure applies to applications for the disposition of Crown Land under *Land Act* s.11.

This procedure outlines the process steps for a Crown land application, from initial submission by the applicant through to the final decision by the Authorizing Agency.

2. DEFINITIONS AND ABBREVIATIONS

This document uses terms that are defined in the *Land Act*. For other terms, a glossary of definitions and abbreviations is available in [Glossary and Abbreviations](#).

3. APPLICATION PROCEDURES – GENERAL INFORMATION

3.1 Decision Making Authority

The authority for decision making related to this procedure is under *Land Act* s.11. **This procedure specifically relates to *Land Act* s.11(1)(a) which identifies an ‘application’ as a means by which a disposition can be made.** The subsections of *Land Act* s.11 further define the form that dispositions can take, and the authority to impose conditions in those dispositions.

Select BC Government staff in regional and district offices have been granted delegated authority to make decisions under *Land Act* s.11 on behalf of the minister. Refer to the [Land Act delegation matrix](#) for a comprehensive list.

3.2 Application Enquiries

Enquiries regarding the application for disposition of Crown land should be directed to [FrontCounterBC](#).

3.3 Application Eligibility

Application eligibility is set out in *Land Act* s.9 and s.10(1) and further defined in specific operational land policies.

3.4 Restrictions on Applications and Dispositions

The authority to accept an application or make a decision may be restricted or limited due to the following:

- a Ministerial Order issued under *Land Act* s.10.1
- a Reserve, Withdrawals or Conditional Withdrawal issued under *Land Act* s.15, s.16, or s.17.

For more information on these types of designations refer to the [Reserves, Withdrawals, Notations & Prohibitions Policy](#)

In some cases, Crown land may not be available for disposition as a result of other authorities under other statutes such as the *Park Act* or the *Environment and Land Use Act*.

Applicants will be advised of these restrictions as early as possible in the application process.

3.5 Overlapping *Land Act* Applications

The Authorizing Agency may accept more than one application for a given parcel of Crown land.

If multiple applications are received for the same area and for the same purpose, some operational policies will restrict the acceptance of these applications (e.g. [Wind Power Policy](#)). If no such restrictions exist, the Authorizing Agency will determine how to process the multiple applications. Depending on the circumstances it may be appropriate to process the applications in chronological order ('first come, first serve'), or to initiate a Competitive Process (see the [Allocation Procedure – Competitive Process](#)). If a Notice of Final Review has been sent to an applicant, then the remaining overlapping applications (same purpose, same area) may be held but not processed until a decision is made on the application that is in Final Review.

If multiple applications are received for the same parcel but for a different use, the Authorizing Agency may accept multiple applications and assess the compatibility of uses and/or the potential for accommodating the different proposals (e.g. by modifying boundaries or management plans).

If the multiple applications are not compatible or cannot be readily accommodated, the Authorizing Agency may give precedence to the application which provides the highest and best use of the land. If there is not a significant difference, preference will be given to the first application received. Once a decision has been made for the preferred application, the other applications will be disallowed.

4. APPLICATION SUBMISSION

4.1 Application Package

Land Act s.32(1) dictates that an application for disposition must be made in the form specified by the minister and accompanied by the fee and information required by the minister. *Land Act* s.108 sets the minimum standard application information as the applicant's name, address, and a short description of the Crown land being applied for.

Application information requirements can be determined on a case by case basis, but program specific information requirements can be found in the Application Requirements Checklist which is found on the [Crown Land Uses webpage](#). Generally, an application package for disposition of Crown land may include the following:

a. *Completed application form*

Application forms will contain a brief description of the proposed use of Crown land including the purpose of the application and type of disposition requested.

They also contain contact information for the applicant and/or agent. Application forms are accessed via the [FrontCounterBC](#) website.

b. *Application fee*

The application fee is submitted with the initial application but is not processed until a decision is made as to whether to accept or reject the application (see section 4.3 below). Refer to the [Land Act Fees Regulation](#) for application fee amounts.

c. *Application Management Plan*

The Application Management Plan is a detailed report that describes the proposed use of the site. It describes the possible impacts of the proposed use on environmental, social, and economic values, and the measures that will be taken to mitigate or avoid conflicts or impacts. The Management Plan may be amended during the application review until eventually a final Management Plan becomes part of the tenure agreement if the application is approved.

d. *Site Plan and Mapping*

Applications are to be accompanied by plans and/or drawings, showing details of the area of proposed land use and the improvements to be constructed, as well as a general location map which identifies the location of the application area. Mapping standards and requirements vary between programs; FrontCounterBC will inform applicants of the specific mapping standards necessary for their application.

At any time in the application review process, additional information may be required from the applicant.

4.2 Application Submission and Review

Application packages are submitted electronically through FrontCounterBC and will be processed by the Authorizing Agency.

Applications are given a completeness review and a preliminary status check to identify any issues with the application area such as overlaps with any land not available for disposition.

When required, FrontCounterBC and/or land authorizations staff will work with the applicant to provide additional information or suggest changes to their application package.

4.3 Application Acceptance or Rejection

The Authorizing Agency must receive an application as long as requirements under *Land Act* s.10(1) and s.10(3) are met. Once an application is received a decision is made whether to accept or reject the application. An application will only be accepted if it is accompanied by a complete application package, including the spatial map file.

Application Rejection

If the application is incomplete then it is returned to the applicant with a rationale for the rejection and further direction on how to submit a complete application (if appropriate).

Application Acceptance

If the application is accepted, the following steps will be taken:

1. A Crown land File number will be assigned. The file number is recorded in the Crown Land Registry System (Tantalis) and placed in the filing system of the Authorizing Agency.
2. An entry in Tantalis will be made and the application status will be ACCEPTED
3. An acceptance letter will be sent to the applicant. The letter will include the following:
 - Confirmation of application acceptance
 - Application File number
 - A description of next steps in the application review process
 - The name and contact information for the Authorizing Agency point of contact
 - The contact is often the Authorizations Officer (i.e. reviewing official) who will be leading the review of the application
 - Notification that additional information, updates to the management plan, advertising, and/or staking may be required.
 - Notification that the application package will be posted on the [Applications, Comments and Reasons for Decision](#) (ACRFD) website.
4. The application must be posted to the ACRFD website in fulfilment of *Land Act* s.32. This posting will occur within 7 days of the application acceptance. The ACRFD posting will include application information including any supporting documentation (e.g. the Management Plan). The ACRFD website will be updated throughout the course of the application review and will show any changes in application status and new information.

Personal information is collected by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (the "Ministry") and FrontCounter BC under the legal authority of section 26 (c) of the *Freedom of Information and Protection of Privacy Act* (FOIPPA).

Ministry staff are responsible for ensuring that the posted information meets the requirements of FOIPPA and that all financial, proprietary, and personal information other than applicant name, has been severed.

4.4 Staking

As required by *Land Act* s.32(3), if the land is an un-surveyed area or an un-surveyed portion of a surveyed lot and the point of commencement is not a surveyed corner, the applicant may be required to stake the land. A copy of the Staking Notice and information will be forwarded to the applicant where required.

5. APPLICATION REVIEW

5.1 Land Status

The Authorizing Agency must undertake a detailed land status of the application area. A land status is a review of **interests** on the land such as land tenures, parks, provincial forest boundaries, local government jurisdiction, etc. to ensure that all areas under application are available for disposition under the *Land Act*. A land status will identify any **legal encumbrances and potential issues** or conflicts between the application area and existing land uses.

The Crown land application area is entered into the Edit Your Online Registry tool (EYOR) in Tantalus for status clearance. Upon entry of the application shape, the Authorizing Agency prepares a legal description for the parcel of Crown land.

This shape is also entered into the Automated Status Tool (AST). A comprehensive status report including the legal description and the other land information is attached to the file. Conflicts, if any, are described in detail on the file. Information regarding any overlapping interests should be made available to the applicant as soon as possible. The Authorizing Agency will work with the proponent to eliminate or mitigate any impacts to existing interests on the land, but in the case where conflicts cannot be resolved the application may be disallowed. See Appendix 1 for additional information.

5.2 First Nation Consultation

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 will carry out consultations in accordance with the consultation guidelines of the Province or any engagement frameworks in place to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

5.3 Referrals

Crown land applications may be referred to federal agencies, provincial agencies, and local governments. The purpose of a referral is to gather information that could impact the proposed use of the application area. For example, referrals may identify siting criteria, best management practices, applicable guidelines, jurisdiction, and other land use requirements.

FrontCounterBC manages a referral matrix that sets out the standard referral recipients for a given program or area. This matrix is regionally specific, and changes are the responsibility of the Section Head/ Senior Lands Officer. Additional referrals can be sent out at any point in the application review process.

All application referrals will have a defined time frame for completion. If a response is not received within the defined time frame, the review of the application may proceed. Responses received after that time frame may still be considered if no decision has yet been made by the Authorizing Agency. All referral comments must be recorded on file.

5.4 Notification and Comment

In addition to publishing the application on the [Applications, Comments and Reasons for Decision](#) website (*Land Act* s.32) and accepting comments from the public via the website, at any point in the application process the Authorizing Agency may require additional notification actions be taken by the applicant on behalf of the application.

It is up to the Authorizing Agency to determine if and when notification is required, what form it will take, and the intended audience. Notification may take many forms such as advertising, open forums, community meetings, etc. In some cases, the intended audience will be the general public, and in others it may be appropriate to target specific groups or individuals (e.g. special interest groups or neighboring property owners).

The Authorizing Agency may require the proponent to undertake the notification activities themselves and to identify any concerns and, where these exist, to initiate a process to resolve them. In this case the proponent must forward all comments to the Authorizing Agency and provide proof of notification. The Authorizing Agency may intervene if the two parties reach an impasse.

5.4.1 Forms of Notification

The following are two common forms of notification, but this does not preclude the use of other methods such as letter writing, phone calls, use of social media, or any other forms of advertising/notification.

(a) Advertising in Newspaper

If the Authorizing Agency requires newspaper advertising as a form of public notice, then requirements in *Land Act* s.33 must be met. The standard timeline is to advertise once a week, for two consecutive weeks, in a newspaper circulating in the community in which the Crown land application area is located. Applications may also be advertised once in the BC Gazette (specifically if a local newspaper is not a viable option).

The newspaper advertisement must include a File number and a site sketch showing the boundaries, and the area of application in relation to the nearest known named geographic features, such as bays, channels and villages. The advertisement must clearly indicate the form of tenure for which application is being made. In addition, it should include a link to the ACRFD website to allow interested parties to view further details of the application. A sketch map is not required in B.C. Gazette advertisements.

A specific date must be stated in the advertisement by which responses must be received. This must not be less than 14 days after the advertisement is first published. The advertisement must also include the name and contact information (including mailing address) of the Authorization Officer who is to receive the

responses. Copies of any comments received by the applicant must also be submitted to the Authorization Officer at the end of the advertising period.

When advertising is required, proof of advertising must be submitted to the Authorizing Agency and kept on file.

Requiring an application to be advertised will depend on, for example, the type of activity and improvements being proposed, where the site is located, and proximity to settlements and areas of public use. To determine when to advertise applications, refer to Appendix 2 – Risk Matrix and Guidelines for Advertising.

(b) Open House

An open house may be considered as a means to provide the opportunity for the public to view materials related to the application and ask questions. An open house may be held solely by the proponent or be a joint effort with the Authorizing Agency. Open houses may also be held by other jurisdictions involved in reviewing aspects of the project. In situations where the Authorizing Agency is participating in those meetings the public will be made aware of the role(s) of the parties involved and how comments will be received and processed.

An open house may be planned as part of a file specific public review strategy, particularly for complex applications which are at the higher end of the risk spectrum for advertising (Appendix 2). It can also occur later in the process as a result of public comment received in response to advertising. In either case the public comment timeframe should reflect a reasonable amount of time for the public to provide written comment after the open house has occurred.

5.4.2 *Overlap with other public engagement processes*

Projects involving a *Land Act* application may also require additional approvals by other agencies and levels of government which are outside the scope of the *Land Act* application review. In those circumstances, the application posting in ACRFD will clearly identify the aspects of the project for which public comment is being solicited.

Conversely, if the Authorizing Agency wishes to rely on or consider the public comment provided to other agencies or jurisdictions, consideration of the extent to which those processes will be sufficient to inform their review is necessary. The ACRFD posting should then identify the specific public comment processes which are being relied on and how the comment may be received and considered in the *Land Act* decision.

5.4.3 *Public Comments*

Public comments will be collected via the ACRFD website and other forms of notification deemed appropriate by the Authorizing Agency. All comments will be placed on file and considered in the decision process; however, persons or parties that submit comments will not be provided with a response unless the Authorizing Agency determines it to be appropriate (e.g. if the decision maker requires additional information).

5.5 Site Inspections

A site inspection may be required to obtain information, resolve conflicts, and reduce uncertainty and risk. The decision to make an inspection lies with the Authorizing Agency. Generally, site inspections should be carried out if there is a gap in information, or if there is a need for a better understanding of the application area and adjoining areas. Site inspections are generally carried out on larger or more complex project applications. Travel expenses to remote and hard to access sites may be paid for by the proponent.

5.6 Additional Information

At any point in the application review process, additional information may be requested pursuant to *Land Act* s.35. The following is a description of some common pieces of additional information but should not be considered an exhaustive list:

(a) Upland Owner Consent

For applications located on or close to water:

- If the applicant owns the adjacent upland, proof of ownership for the upland property will be requested.
- If an application proposes to have tenure improvements located on the bed of a water body which may infringe on the upland owner riparian rights, the applicant will in most cases be asked to seek written consent from the upland owner for the proposed use and duration of the tenure.

(b) Third Party Reports

The type of proposed activity and/or location may trigger the need for assessments or similar evaluations that can be used to identify values at risk, potential impacts, and ways to mitigate or avoid them.

Specific assessments may be a requirement in some program policies and procedures (e.g. wind and water clean energy projects, extensive agriculture). However, even when not specified in a policy, under *Land Act* s.35 the Authorizing Agency has the ability to require applicants to provide information in the form of feasibility studies, evaluations, and technical / professional assessments at any time during the application process. The Authorizing Agency can rely on subject matter expertise and staff knowledge, direction provided in provincial or regional guidelines, and advice/expert recommendations from referral agencies, including provincial and federal ministries and local government, to determine what assessments may be appropriate in a given situation. Assessments can include biologist reports, including wildlife and marine habitat assessments; terrain stability mapping; terrain stability field assessments; soil arability assessments; archaeological assessments; and socio-economic analysis.

In limited situations socio-economic assessments and business case analyses are useful tools to help determine economic impacts and risks, as well as, the costs and benefits of proposals. These are generally done for large scale complex projects that may have a broad range of potential impacts on communities and other businesses. The size and scope of proposed operations and their location will determine the required depth and comprehensiveness of the analysis. (Refer to the

Clean Energy Development Plan Requirements document for an example of a process for assessing potential socio-economic impacts.)

The proponent is responsible for conducting and funding assessments. Many types of assessments will need to be conducted by qualified professionals. Assessment methods and standards are to be completed in accordance with relevant professional association guidelines. In some cases, a ministry subject matter expert, one hired by the ministry or one provided by another government agency may be asked to advise on the methodologies to be used, or establish terms of reference to guide client assessments. These experts may also review the assessment report for completeness and appropriateness, as needed.

5.7 Application change requests during review

If an applicant requests changes to their application information during review, the Authorizing Agency will review the request and determine if any review steps should be repeated with the new information. If the degree of change is significant, the Authorizing Agency will require a new application.

Requests for Name Changes and Assignments

Assignments are not permitted for applications. If an *individual* is attempting to assign their application, they should be notified that a new application (by the new applicant) is required.

A 'name change' may occur when the applicant requests to change their legal name as it appears on their application.

When an *individual* requests a name change from one legal name to another legal name (as in the case of marriage, divorce, legal name change, etc.) proof of the name change must be provided in the form of legal documentation (e.g. name change certificate, marriage certificate, Passport, Drivers Licence, etc.). No fee is charged for this. Tantalus will be updated and the application will continue to be processed under the new name.

When a *corporate entity* with an incorporation number requests a name change but the incorporation number DOES NOT change, legal documentation showing that the incorporation is the same and a Certificate of Name Change is required. No fee is charged for this. Tantalus will be updated and the application will continue to be processed under the new name.

When a *corporate entity* with an incorporation number requests a name change as a transfer of assets and the incorporation number DOES change then the request is for an assignment (not a name change) which are not permitted for applications. In this case, the new company will need to submit a new application or if applicable, sign the tenure and then request assignment to the new entity.

6. APPLICATION DECISION PROCESS

6.1 Review and Consideration

A reviewing official within the Authorizing Agency will review and consider all relevant material, including information from the applicant, First Nations, referral responses, stakeholders, the public, the land status report and site inspections. This information is reviewed and considered in light of legal requirements and government policies including government direction, Crown land strategic and operational policies, including the [Crown land Allocation Principles](#).

The Authorizing Agency will work with the applicant to revise the management plan in response to information gathered during the application review phase.

In the case where multiple approvals from other agencies or levels of government are required for the proposed use of Crown land, the review may include consideration of decisions made or pending from other government bodies. These other decisions cannot dictate or direct the *Land Act* decision, but they can be used to inform the decision maker of other jurisdictional considerations that impact the proposed use of the site.

6.2 Land Use Report and Decision Recommendation

Once all the relevant information has been reviewed and considered, the reviewing official decides whether they have sufficient information to make a recommendation. If they are satisfied, they will prepare a Land Use Report which will include a recommendation for the application decision.

The Land Use Report template can be found in the Tantalus Document Generator (DoG). The Land Use Report is a summary of input and information considered in making the recommendation. It will include:

- A description of the area and the purpose of the application.
- A summary of the history of land use in the area and any issues.
- A description of land use conflicts or encumbrances that were cleared during the application review.
- A summary of the relevant information considered from the applicant, First Nations, referral responses, stakeholders, the public, the land status report and site inspections. This includes a description of the evidence relied on in making a recommendation and whether information was tested or verified.

The Land Use Report will include a recommendation to either approve or disallow the application, supported by a rationale for the recommendation. Should the recommendation be to approve the application, the reviewing official will document recommendations on the following conditions in the Land Report:

- length of tenure;
- amount and method of payment (including royalty amounts if applicable);

- amount and type of security and insurance (see [Security and Insurance Procedure](#));
- requirements for legal survey if needed; and
- any other terms and conditions required by policy or specified in the Land Use Report that will become part of the tenure document.
 - Tenure document templates contain several provisions (standard provisions and pick provisions for specific circumstances) that protect the Province against possible environmental risks. Where there are significant risks to environmental values and the standard environmental provisions do not adequately reduce potential liabilities and risks to the Province (e.g. where there is a known high risk of contamination as a result of past use or current tenure holder activities), additional obligations may be added to standard tenure documents to ensure good environmental stewardship and to reduce impacts to future land use opportunities.
 - In circumstances where additional requirements are being considered staff must contact Legal Services and Lands Branch.

The recommendation will be accompanied by a rationale that summarizes the key factors considered in making the recommendation. Recommendation rationales may refer to the Crown Land Allocation Principles in accordance with the [Strategic Policy: Crown Land Allocation Principles](#), especially in the case of complex and contentious applications. If the recommendation deviates from policy or government direction, information must be provided to explain the rationale.

The reviewing official will attach the latest version of the Management Plan and tenure map to the Land Use Report, and any other necessary supporting documents such as the First Nation consultation record.

6.3 Recommendation Review

When there is a recommendation to disallow an application, a decision maker will review the recommendation and determine if they need any additional information before making a decision. Once they have all the necessary information to make the decision to disallow then they will document the decision and notify the applicant as per Section 6.7 below.

When there is a recommendation to approve an application, a reviewing official or decision maker will review the recommendation and determine if they have enough information to approve the preparation of tenure documents and the issuance of the Notice of Final Review. If more information is needed, then the reviewing official or decision maker may request additional information or changes to the Land Use Report and any of its attachments. Any changes to the recommendation or Land Use Report must be recorded on file.

6.4 Preparing Tenure Documents

The Land Use Report will have all the necessary information for draft tenure documents to be prepared, including:

- Recommended terms or conditions
- Tenure sketch map (which will become the Legal Description Schedule map)
- A Management Plan

The Crown land tenure document is a contract that is issued and maintained pursuant to the *Land Act*. As such, the provisions contained therein must clearly reflect the *Land Act* and other relevant statutes or common law. Document terminology and translation is specifically related to property laws and careful attention must be paid to the language that is used in these contracts. The template provisions (i.e. terms and conditions), have been prepared by government's legal services.

The official land tenure templates are protected and stored within the Document Generator component of Tantalus (DoG). Tenure templates include fixed provisions with mandatory and optional picks. The provisions selected for inclusion in the tenure document are based on the information provided in the Land Use Report. Adding content into these documents through the insertion of 'free field' text is possible, but this discretion must be exercised only under suitable circumstances by those who have been delegated appropriate authority and have a sound knowledge of contract and property law. Prior to adding the free field provisions staff must discuss with legal counsel and the Lands Branch.

6.5 Notice of Final Review

Once the decision maker or reviewing official has approved the issuance of a Notice of Final Review, the Authorizing Agency will send the following to the applicant:

- A letter notifying the applicant of the final review stage of their application and outlining any requirements prior to final decision
 - These requirements can include obtaining liability insurance, posting a financial security, or conducting a legal survey.
- a Tenure Document to be signed by the applicant (*Land Act* section 98) (note: these documents are un-signed by the decision maker and therefore not yet executed)
- Copy of the latest Management Plan for their signature (if required)

Notice of Final Review letters only include requirements for issuance of the disposition and generally do not include conditions which relate to other jurisdictional requirements (e.g. obtaining permits from other agencies). It is the applicant's responsibility to obtain all the necessary authorizations or approvals that allow placing improvements or commencing operations under the tenure. One condition that can be included in the Notice of Final Review letter is the requirement for an applicant to obtain the appropriate local government zoning.

The applicant may request changes to the tenure document or management plan. These requests will be reviewed and considered by the reviewing official and/or decision maker and any changes to these documents will be recorded in the Land Report. All changes must be approved by the decision maker.

It is the applicant's responsibility to review and understand the tenure document and fulfil all outstanding commitments prior to final decision. Once the applicant has fulfilled all outstanding commitments they will review and sign the draft tenure document and Management Plan (if required) and return these documents to the Authorizing Agency.

The applicant must respond to the Notice of Final review letter within the timeframe given (the standard is 60 days) or risk cancellation of their application (to be recorded in Tantalus as 'offer not accepted'). For those situations where it is known that the requirements will take considerable time to complete (e.g. rezoning or surveys), the Authorizing Agency needs to make reasonable allowances or set reasonable time expectations in the letter.

6.5.1 Survey Instructions

In the case of a lease, right of way, lease to purchase or sale disposition, a survey is required at the applicant's expense to define the parcel area.

If a survey is required, the applicant will be notified in the Notice of Final Review letter. The applicant will then engage a land surveyor to conduct the legal survey and provide the surveyor with:

- a copy of the Notice of Final Review letter signed by both the applicant and the Authorizing Agencies decision maker, and
- a copy of the tenure sketch map (as found in the Legal Description Schedule)

In turn, the surveyor will request survey instructions from the Surveyor General Division (SGD) of the Land Title and Survey Authority.

If the subject area is crossed by or adjoins a road or waterbody or watercourse the SGD requires additional information before survey instructions can be issued. See Appendix 3 for details on the additional information required. Provincial staff can contact any staff at the SGD regarding specific legal survey related questions.

6.6 Final Review

Once the applicant has met all outstanding commitments and returned signed copies of the draft tenure document and Management Plan, the Authorizing Agency may move forward with the final review.

The decision maker will complete a final review of the file including the Land Use Report and tenure document before moving to a decision. If the decision maker requires additional information, it is their responsibility to request it prior to making a decision.

6.7 Decision

An application decision can only be made by a decision maker with delegated authority under *Land Act* s.11. The decision options are either to disallow the application or allow it by signing a *Land Act* tenure.

Once the decision maker has reached a decision, they will prepare a Reasons for Decision document which includes the decision rationale. The Reasons for Decision is a summary of the key factors considered in making the decision and should clearly indicate who the final decision maker is by including their name, position title, and source of their authority under the *Land Act* (e.g. delegated authority under Section 11).

If the decision is to issue a tenure, the decision maker will sign the tenure document and the final Management Plan (if signatures are required). The signature by the decision maker on the tenure document is the final *Land Act* decision and it is effective on the date of the execution (*Land Act* s.42); that is, when the tenure document is signed.

Once the final decision has been made, the decision and tenure details must be recorded in Tantalus. The following documents must also be uploaded to Tantalus: the Land Use Report, the final Management Plan (if applicable), and a Reasons for Decision document.

The Applications, Comments and Reasons for Decision (ACRFD) site will be updated to show the change in application status once the decision has been made. The Reason for Decision document and any other updated supporting documents will be uploaded to ACRFD within 7 days.

The proponent will be notified of the decision by a letter or email. The correspondence will include a decision rationale (if the application has been disallowed), the name and position title of the decision maker and a contact name for any follow up. If a tenure has been issued, the proponent will also receive a copy of the signed tenure document and final Management Plan.

7. APPLICATION FOR CROWN LAND BY PROVINCIAL EMPLOYEES

Provincial employees and spouses/partners are eligible to acquire vacant Crown land. At the time of application, the employee must select the box in the electronic application identifying themselves or their spouse/partner as an employee. The Regional Executive Director or ministry Executive, will, in turn, provide specific direction to the appropriate staff regarding the inspection and preparation of the report.

Advertising is compulsory for all applications submitted by Provincial employees.

The Authorizing Agency's Regional Executive Director or ministry Executive may seek assistance in the preparation of the inspection report from a staff member external to the region.

Where a Provincial employee intends to participate in a public competition, written notification of his/her intention must be submitted to the Authorizing Agency's Regional Executive Director (copy to the ministry Executive).

Prior to adjudicating the application, the Regional Executive Director will notify the ministry Executive of his/her decision. In the case of application by a Regional Executive Director, the ministry Executive will adjudicate the application.

8. REPLACEMENT TENURE APPLICATIONS

A replacement tenure means a subsequent tenure agreement issued to the tenure holder for the same purpose and area. Replacements mostly occur at the time of tenure expiry, however, in some cases, tenure holders may apply for an early replacement at any time following the mid-term of the tenure (this is usually done for business reasons).

Tenure replacement applications should be initiated well before tenure expiry to allow adequate time for processing. Replacement applications should be processed expeditiously so that a replacement tenure can be put in place at the time of tenure expiry. This reduces the risk to the Crown and ensures that tenure terms and conditions, and rental amounts are kept up to date. This also protects the prior rights of *Land Act* tenure holders from mineral or petroleum tenures which could be established between Land Act tenure expiry and replacement.

Replacement of tenures is at the Authorizing Agency's discretion. The Authorizing Agency may disallow a replacement application.

A replacement application must include:

- the replacement application fee
- confirmation from the tenure holder that they are applying for a replacement tenure
- an updated Management Plan reflecting how the site is to be used during the replacement tenure term
- any updated information relevant to the file such as a change of address or contact information for the tenure holder

A replacement application may include:

- any additional information and/or professional reports may be requested by the Authorizing Agency

A replacement application is an application and should be processed in accordance with the guidance in this procedure. The submission of a replacement application will differ from that of a new application; a replacement is often triggered by a letter from the Authorizing Agency and therefore not submitted thru virtual FrontCounter BC. Furthermore, at this time, replacement applications are not being posted to ACRFD.

During the replacement application review, the Authorizing Agency will review information on file and conduct status. Referrals and advertising are not commonly done for replacement applications but may be required in some cases. First Nation consultation may also be required as per government's consultation guidelines, or any engagement frameworks in place.

Other replacement considerations may include, but are not limited to, the following:

- whether the expiring tenure is in good standing.

- whether the tenure holder has been diligently using the tenure for the purpose it was intended.
- no outstanding taxes or rental payments (proof of no outstanding taxes must be obtained prior to replacement – see acceptable examples of proof in [Tenure Administration Procedure](#) s.9.2.1).
- any issues or comments raised on file.
- whether the development proposed in the existing management/development plan has been completed.
- whether further assessments or modifications are required for development which were not completed during the term of the expiring tenure.
- whether any additional authorizations related to their use of the land are in good standing.
- any Land Use Objectives that may have come into effect since the original tenure was issued.
- any other relevant matters identified by staff or the decision maker during the review.

If a replacement application contains a request to significantly alter the terms and conditions of their current tenure (i.e. new area or a different purpose) then the Authorizing Agency may require a new application rather than a replacement application. If a new application decision cannot be made prior to the existing tenure expiry date, the Authorizing Agency should process a replacement application (without the significant changes) first in order to ensure that a tenure is in place upon expiry. The Authorizing Agency will then continue to process the new application.

Temporary licences are issued for a single term of up to two years and are not replaceable during the term. In situations where the client requires additional occupancy beyond the expiry date, they can re-apply through Frontcounter BC for the appropriate type of tenure.

APPENDIX 1 – SURFACE TENURE CONFLICT MITIGATION WITH SUB-SURFACE ENCUMBRANCES

Land Act Tenures Ministry Act Tenures	Mineral/Coal Tenure				Petroleum/Natural Gas Tenures
	Mineral Claim, Mineral Lease or Mining Lease	Placer Location or Placer Lease	Coal Licence or Coal Lease	Crown Granted Mineral Claim(3)	Permit, Drilling Reservation, Drilling Licence, or Petroleum and Natural Gas Licence.
Crown Grant	Quit claim(1) is preferable but if not obtainable, the Crown grant will contain a covenant indemnifying the Crown.			Registerable Quit Claim	The Crown grant is made subject to the rights of the holder of any existing registered statutory right of way.
Lease and Licence	Quit claim is preferable. A standard overlapping rights release and Indemnity is provided in the Lease and Licence.			Registerable Quit Claim	Leases/licences are issued subject to the prior rights of the holder of other existing <i>Land Act</i> rights as identified in the Tenure.

(1) Quit Claim is a document executed by the holder of sub-surface tenure relinquishing the surface rights back to the Crown.

Quit Claim in registerable form is an executed document that is registerable under the *Land Title Act* and must be registered in the appropriate Land Title Office.

(2) Crown Granted Mineral Claim means the conveyance in fee simple of mineral and coal rights under former legislation that included the right of the grantee to the use and possession of the surface and timber for mining purposes only.

APPENDIX 2 –RISK MATRIX AND GUIDELINES FOR ADVERTISING

Table 1. Risk of the public being negatively impacted by a Crown land proposal

IMPACT OF PROPOSAL (based on type of activity)		LIKELIHOOD OF PUBLIC BEING AFFECTED (based on general proximity to the public)	
		Remote location Low	Rural /Urban High
High - Moderate	Major permanent improvement	M	H
	Long term		
	Exclusive use / public restricted		
	Significant on-site or off-site impacts/disturbance (e.g. ground, noise, air, water)		
	Large area		
Low - None	Temporary improvement	N	L
	Short term		
	Non-exclusive use; no significant limit to public access		
	No significant on-site or off-site impacts/disturbance		
	Small area		

Process for determining risk

A. For each **new application** using table 1:

1. Determine **Impact** of the proposal (based on type of activity) – **High-Moderate** or **Low-None**:
 - a. Place in the category where 3 or more of the activity types apply;
 - b. If in doubt, assign activities to the high–moderate grouping;
 - c. If improvements are already in place and have been previously authorized the application may be treated the same as a replacement in accordance with ‘C’ below (e.g. if the proposal is for a permit to maintain an existing non-status road, or for an overlapping licence for a telephone cable which is to be strung on existing electrical transmission poles under licence).
2. Determine **Likelihood** of the public being affected (based on general proximity to the public) - **High** or **Low**:
 - a. Remote areas typically have limited public highway access, and mostly rely on access by resource roads, or may have water or air access only. They are usually long distances from settlement areas.

- i. Remote sites that are in popular recreational areas that experience a moderate or high level of public use should be considered the same as urban/rural locations.
 - b. Urban/rural areas are fairly well accessed by permanent public roads or highways and other services; and they are often in or near to settlement areas.
3. By cross-referencing the selected **Impact** with the selected **Likelihood**, the **Risk Ranking** can be determined:

Impact of the proposal X **Likelihood** of the public being affected = **Risk** of the public being negatively impacted by the proposal.

- B. Based on the **risk ranking**, advertising of **new applications** is recommended as follows:

RISK RANKING	ADVERTISING REQUIRED
N – Negligible	No
L – Low	No*
M – Moderate	Yes*
H – High	Yes

** The advertising requirement for L and M risks may be modified based on local knowledge / experience with respect to expected level of public interest and potential impact on the public (e.g. there may have been similar applications in the same general area, or recent public consultation on specific land uses through land use planning or local government planning / zoning, or EAO processes).*

- C. For **replacements** advertising should not be required, unless:
 - a. there has been significant public interest in the tenured activities or site during the term of the existing tenure (e.g. as evidenced by notes / letters on file or based on staff knowledge); or,
 - b. the land use surrounding the existing tenure has changed significantly since the tenure was issued, in which case it should be treated as a new application, as per above process.
- D. Where there are or likely to be **competing interests** for use of the parcel under a new application or replacement, advertising should be considered, which may trigger a competitive allocation process.
- E. **Specific requirements provided in an operational policy** for a particular program area take precedence over the above process.

- F. If a **Provincial employee applies** for a disposition the application must be advertised.
- G. **Regional Advertising Guidelines** may be developed to reduce the need to assess individual applications. Such guidelines could benefit from using the risk matrix and risk ranking tables as follows:
- a. As a group, regional staff involved in processing tenure applications, may use the risk matrix (table 1) to review program areas that are normally applied for within their region in order to:
 - i. Identify the general types of use / proposed activities and their potential impacts which will not require advertising.
 - e.g. a group decision may be made to exempt from advertising: all investigative use permits, except aquaculture, regardless of location; temporary aquatic heli-log dumps on the west coast of Vancouver Island; non-motorized adventure tourism activities located east of River 'X' and north of highway 'Y', etc.
 - ii. Identify areas / sub-regions that could be considered remote vs. urban or rural (e.g. all areas north of the river 'X' are to be considered remote, or all areas east of highway 'Y', etc.).
 - b. It is important that any outcome of this process be recorded, placed on file and made readily available to staff.
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APPENDIX 3 - ADDITIONAL INFORMATION FOR SURVEY INSTRUCTIONS

When a survey is required for a tenure that is crossed by or adjoins a road or a waterbody or watercourse, the Surveyor General Division (SGD) requires additional information before survey instructions can be issued.

The additional information can be added to the Land Use Report sketch and depicted as mark-up or annotation to the sketch. It is important that this annotated sketch is provided to the applicant so they can in turn provide it to the surveyor. If the additional information is not provided, the SGD will stop processing the survey request and refer back to the originating author of the Land Use Report. The survey request will remain on hold until the additional information is supplied. To avoid these delays, the following must be provided:

If the subject parcel is crossed by or adjoining a road:

- Is the road defined by legal survey?
- Is it a public highway administered by MOTI?
 - If yes, was it established by Gazette Notice or under section 42 of the *Transportation Act*?
 - Is there an 'action' to close this part of the highway?
- Indicate if it is one of the following types of road, and if so, specify the width:
 - Forest Service Road.
 - Petroleum Development Road.
 - Public road, as defined under the *Land Act*.
 - Non-status road, and if yes:
 - Does it need to be dedicated as highway?
 - Does it need to be surveyed out of the parcel, or will the road form part of the survey parcel?

If the subject parcel is crossed by or adjoining a watercourse:

- Is there any filled aquatic land area? If so, is it to be included as part of survey?
- Is there any unfilled foreshore to be included as part of survey?
- Have there been any other alterations to the natural boundary that might be relevant to the survey?