



## Land Use Operational Policy Ocean Energy Projects

---

<b>NAME OF POLICY:</b>	Ocean Energy Projects
<b>APPLICATION:</b>	Applies to all ocean energy projects on upland, foreshore and Aquatic Crown Land.
<b>ISSUANCE:</b>	Assistant Deputy Minister, Rural Development, Lands and Innovation, Ministry of Forests, Lands, Natural Resource Operations and Rural Development
<b>IMPLEMENTATION:</b>	Ministry of Forests, Lands, Natural Resource Operations and Rural Development
<b>REFERENCES:</b>	<i>Land Act</i> (Ch. 245, R.S.B.C., 1996)
<b>RELATIONSHIP TO PREVIOUS LAND POLICY:</b>	This policy replaces the previous Ocean Energy policy dated December 1, 2011.

---

Dave Peterson, ADM  
Rural Development, Lands and Innovation  
Ministry of Forests, Lands, Natural  
Resource Operations and Rural  
Development

Date: January 21, 2019

<b>APPROVED AMENDMENTS:</b>		
Effective date	Briefing Note /Approval	Summary of Changes:
December 10, 2019	252069	Continue the reduction of due diligence requirements beyond 2020. Allow additional five-year terms for IULs. Allow proponents who hold a GAL to convert it to an IUL
June 17, 2022	BN 270324	Moved general information regarding insurance and financial securities to the Insurance and Financial Securities Procedure.

## Table of Contents

1.	POLICY APPLICATION .....	1
2.	PRINCIPLES AND GOALS .....	1
3.	DEFINITIONS AND ABBREVIATIONS .....	1
4.	APPLICANT ELIGIBILITY .....	1
5.	FORM OF LAND ALLOCATION.....	1
5.1	Project Monitoring and Investigation Phase .....	1
5.1.1	Allocation Process .....	1
5.1.2	Investigative Licence .....	2
5.2	Project Development and Operation Phase .....	2
5.2.1	Type and Term of Tenure(s) For Projects.....	3
5.2.2	Individual tenures or Multi Tenure Instrument schedules .....	3
6.	PRICING POLICY .....	6
7.	ALLOCATION PROCESSES .....	6
7.1	Applications .....	6
7.2	Application Package .....	6
7.2.1	Application Acceptance .....	6
7.2.2	Referrals.....	7
7.2.3	Environmental Tenure Provisions and Schedules.....	7
7.3	Competitive Process .....	8
7.3.1	Remote Community or Small Scale Project.....	8
7.4	Direct Sale .....	8
8.	TENURE ADMINISTRATION .....	8
8.1	Assignment and Sub-Tenuring.....	8
8.1.1	Project Monitoring and Investigative Phase.....	8
8.1.2	Project Demonstration Phase and Project Development and Operation Phase .....	8
8.2	Monitoring and Enforcement .....	9
8.2.1	Investigative Plan, Development Plan and Plan Amendments.....	9
8.2.2	Diligent Use.....	10
8.3	Other Land Use.....	11
9.	VARIANCE.....	11
	APPENDIX 1: SUMMARY TABLE OF OCEAN POWER PROJECT TENURE TYPES AND TERMS .....	12
	APPENDIX 2: DILIGENT USE EXAMPLES.....	13

## 1. POLICY APPLICATION

This Ocean Energy policy applies to the disposition of Crown land for the various components of an ocean energy project including: maintenance buildings, submerged marine cables, other plant facilities, road(s), transmission line(s) and surrounding Crown land that will be accepted under a single ocean energy power project application.

The Ministry of Forests, Lands, Natural Resource Operations and Rural Development is the lead agency for the regulatory review of ocean energy power project proposals on Crown land. However, projects that exceed the Environmental Assessment Office (EAO) Energy Project threshold will require EAO review.

Land-use and operational policies of other agencies, such as BC Hydro, are also applicable where the legislation provides for jurisdictional responsibility.

## 2. PRINCIPLES AND GOALS

For information on Crown land allocation principles see [Crown Land Allocation Principles](#).

Further information on the regulatory process for Clean Energy Production (CEP) or Clean Energy project proposals can be found in the proponent guidebook [Clean Energy Production in BC: An Inter-agency Guidebook](#).

## 3. DEFINITIONS AND ABBREVIATIONS

For a glossary of definitions and abbreviations see [Glossary and Abbreviations](#).

## 4. APPLICANT ELIGIBILITY

For standard policy information on eligibility see [Eligibility and Restrictions](#).

## 5. FORM OF LAND ALLOCATION

For standard policy information on forms of allocation see [Form of Crown Land Allocation](#).

For improvements associated with an Ocean Energy Project such as transmission lines, roads, quarries, communication sites etc., reference is made to other appropriate land use policies.

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for Ocean Energy Projects.

### 5.1 Project Monitoring and Investigation Phase

This phase involves data collection, site planning, facility design, surveys and monitoring of ocean wave, tidal and current activity, as well as receipt of permit approvals and Energy Purchase Agreement (EPA). Listed below are the required project land uses and the associated tenure types that are available for each.

#### 5.1.1 Allocation Process

The Province reserves the right to allocate land for ocean (e.g. current, wave and tidal) energy power projects through a range of processes including:

- **First Come, First Served:** the Authorizing Agency accepts and processes applications on a First in Time, First in Right basis. The Authorizing Agency will not accept competing applications for Ocean Energy Projects while an application is being processed. This approach will be applied during the initial phases of Ocean Energy Project development.
- **Planned disposition:** as knowledge of ocean energy resources increases, the Province may identify areas where ocean energy will be marketed using a planned disposition approach. This usually involves allocating the opportunity through a competitive process.
- **Bonus Bid:** the Authorizing Agency may allocate known sites (e.g. investigative tenures that default to the Province through non-diligent use) and sites where there is known demand (e.g. may be adjacent to two existing ocean energy sites) through a bonus bid process.

### 5.1.2 Investigative Licence

A *Land Act* Section 11 investigative licence of occupation is the form of tenure provided to authorize initial investigation to determine site placement of ocean energy device(s). **Investigative licences will be issued for areas not exceeding 50 ha for straits or narrows less than 5 km in width and up to a maximum of 500 ha for offshore areas.** Requests for larger areas are at the discretion of the Authorizing Agency. The term for an investigative licence is up to five (5) with the possibility of replacement.

A licence of occupation may be issued to allow monitoring equipment and measuring devices (i.e. buoys, sensors, satellite communication and/or appropriate technology) to evaluate ocean energy resources and to determine site suitability. Multiple devices may be included in a single licence of occupation. For management purposes, the Regional Executive Director may require more than one licence of occupation (e.g. where a significant number of devices are proposed for the same licence area).

A licence of occupation may be issued to a single proponent to install multiple monitoring devices and equipment. A licence of occupation may also be issued to a single entity comprised of one or more developers where multiple users occupy a single investigative area for the purpose of monitoring and gathering wave, tidal and current data.

The Investigative Plan that must accompany application(s) for testing equipment should specify the locations and construction schedules for equipment as well as timing for the collection of monitoring data, and other information reasonably required by the Authorizing Agency. If the equipment is not used diligently, (see Diligent Use requirements in Section 8.4.2) a subsequent tenure will not be granted.

## 5.2 Project Development and Operation Phase

This phase involves the construction of all associated structures (i.e. transmission lines and roads) and installation of ocean energy devices required to develop the project and commercially operate. Listed below are the required project land uses and the associated tenure types that are available for each. See Section 8.4.2 for diligent use requirements associated with this phase.

It is important to note that the Authorizing Agency will review site progress on a regular basis to ensure that the land is being used in the manner consistent with the timelines and schedules outlined in the Development Plan for the site.

### **Electricity Purchase Agreement (EPA)**

Proponents who have an existing EPA at this stage of development may apply for Crown land tenures that contain a tenure term with a coincident end date as that of their EPA. For proponents who do not have an existing EPA, Crown land tenure terms are available for terms up to 10 years. If a proponent obtains an EPA within the non EPA 10-year term period, the proponent at any time within this 10-year period may replace their Crown land tenures with the coincident end date of their EPA. Standard tenure replacement charges will apply.

**UPDATE December 10, 2019:** BC Hydro is undergoing an internal comprehensive review, to be completed in 2023, and is not currently awarding or accepting applications for new EPAs. As a result, proponents with a General Area Licence of Occupation will be afforded the opportunity to replace their existing General Area Licence of Occupation with an Investigative Licence of Occupation maintaining their first in time, first in right priority of occupancy on the Crown land base. At the time the proponent wishes to reinstate the General Area Licence of Occupation they will be required to provide a new Development Plan and meet the requirements for the General Area Licence of Occupation at that time.

For projects **without** an existing EPA and during the term of the tenure, the tenure-holder will be required to annually demonstrate due diligence in the pursuit of an EPA, participation in any standing offer program, or similar opportunity. The Development Plan must detail these actions and will remain in full force and effect in subsequent tenures.

For projects **with** an existing EPA, the licence will require that the Improvements be constructed by the commercial operation date within the EPA. The Development Plan must detail these dates and actions, which will remain in full force and effect in subsequent tenures.

### **5.2.1 Type and Term of Tenure(s) For Projects**

Once the proponent has made the decision to proceed to the development phase of the project (based on the data obtained from the investigative phase work) an application should be made for an ocean energy project. The form of tenure issued at this stage is the multi tenure instrument (MTI). It initially offers Crown land rights associated with construction and development activities. At such time as the project is built and becomes operational, the MTI can be modified to provide the necessary longer term rights as required by the tenure holder.

### **5.2.2 Individual tenures or Multi Tenure Instrument schedules**

#### **Multi Tenure Instrument**

The MTI is the preferred tenure document for clean energy project development and operation. It is issued initially with rights equivalent to a general area licence of occupation. Subsequent Crown land rights may be added or dropped as required to meet the needs of the individual Development Plan. The types of Crown land rights available during the development and operational phase are detailed below.

### **General Area Licence of Occupation**

A licence of occupation may be issued over a broad polygon-shaped area to allow for construction and operation of improvements. The identification of required Crown land should account for both the footprint of all permanent improvements in the Intensive Use Area as well as the Extensive Use Area, as well as any additional land required for construction of the project. A Staging Area is generally required and should be identified and included in the licence of occupation area.

For the purposes of this policy Extensive Use Area means a non-exclusive tenured area, outside of the Intensive Use Areas, which is required for management and control of landscape features, public access, and safety and other defined rights and obligations required to protect the general public and the ocean resource.

Intensive Use area refers to the area of land containing all project components including any Improvements as set out in the Development Plan

The tenure holder may also request that separate tenures be issued for various improvements as per the following sections. This request may be submitted at any time during the term of the general area licence. If multiple tenures are requested, the general area licence should be amended to exclude these areas. The remainder of the general area licence will provide flexibility for alterations to the locations of the improvements during construction. Deviation from existing leases or statutory rights of way will require submission of an application for additional tenures for the new areas or for amendment to the existing tenure(s).

Upon completion of construction, the tenure area may be reduced to eliminate additional land required during construction to ultimately reflect only that land required for project operation. The final tenure may include both the intensive and extensive use areas.

The Development Plan may include the phasing in of turbines/generators, during both construction and operation. The Development Plan must detail these dates and actions.

### **Extensive Use - Licence of Occupation**

A licence of occupation may be provided for siting the ocean energy devices.

### **Extensive and Intensive Use – Licence of Occupation**

One licence of occupation may be provided for both the broad polygon-shaped area surrounding the turbine sites as well as the separately identified intensive use turbine sites. The intensive use sites will have to be delineated from the extensive use area as the rental rate for intensive use sites is calculated separately.

### **Intensive Use - Lease**

A lease would normally be issued for Intensive Use Areas including ocean energy devices, maintenance buildings and other plant facilities but may be provided for other areas as requested by the proponent.

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

### **Transmission Line – Licence of Occupation**

A licence of occupation may be provided for linear components such as the transmission line.

[See Utilities Policy.](#)

### **Road- Licence of Occupation**

A licence of occupation is the tenure available for road purposes within an ocean energy project. The licence will also require that the improvements be constructed by the commercial operation date within the EPA.

### **Road - Statutory Rights of Way**

A statutory right of way may be issued or interim licence of occupation leading to a statutory right of way.

[See Roadways Policy.](#)

### **Road – Special Use Permit (*Forest Practices Code Act*)**

Rather than apply for any of the *Land Act* instruments described above for roads located within the Provincial Forest the applicant may choose to apply for a Special Use Permit, which is issued in accordance with the *Forest Practices Code Act*, and subject to the requirements of the *Forest and Range Practices Act*.

### **Quarry – Licence of Occupation**

If applicable, a licence of occupation for aggregate purposes will be required in addition to a general area licence of occupation.

A quarry – licence of occupation will be issued separately from the general area-licence of occupation. Gravel use will be subject to royalty payment in the following circumstances:

- i) gravel removed from a quarry;
- ii) gravel used in the production of concrete; and
- iii) gravel moved from its original position and used in another location of the tenure area.

Gravel use will not be subject to royalty payment in the following circumstances:

- i) gravel used to build and maintain public roads; and
- ii) gravel located immediately beneath the tenured area of the turbine, not used in concrete production and ultimately used in the same position (i.e. turbine bedding)

[See Aggregate and Quarry Materials Policy.](#)

### **Communications Site – Licence of Occupation**

If applicable, a licence of occupation for communication site purposes will be required in addition to a general area licence of occupation.

[See Communications Sites Policy.](#)



### **Site Decommissioning**

The site must be decommissioned by the tenure holder as per the terms and conditions of the tenure document. The length of time required to complete the decommissioning will be project specific.

## **6. PRICING POLICY**

For information on pricing see the [Pricing Policy](#).

For information on application and service fees see the [Crown Land Fees Procedure](#).

## **7. ALLOCATION PROCESSES**

For detailed standard information on allocation processes see [Allocation Procedures - Applications](#).

Additional and special requirements for ocean energy allocations are:

### **7.1 Applications**

The Authorizing Agency will not accept Ocean Energy Project investigative applications which overlap any portion of another Ocean Energy Project application or ocean energy tenure.

The Authorizing Agency will generally maintain a separation distance between the area of any new Ocean Energy Project application and the area of any pre-existing Ocean Energy Project application or tenure. The separation will apply equally to two immediately adjacent investigative licence areas *resulting from applications received on the same date* to provide equal access to the wave and tidal resources. The Authorizing Agency may adjust the size and location of the separation distance based on but not limited to site characteristics, industry standards or as prescribed by the type of technology proposed for the project.

The number of investigative applications held by any one individual or company at any one time may be limited (e.g. to prevent speculation, and to ensure the ability to meet diligent use requirements).

The above procedures also apply to allocation decisions made pursuant to a planned disposition or other competitive process.

### **7.2 Application Package**

A complete application package will include all the material defined in the Application Checklist.

#### **7.2.1 Application Acceptance**

##### **Investigative Plan**

A completed Investigative Plan is required as part of the application process for the investigative phase. The Investigative Plan can form the framework of the more complete Development Plan which is to be submitted at the time of project application. The requirements of the Investigative Plan are located on the website -

<https://www2.gov.bc.ca/gov/content/industry/crown-land-water/crown-land/crown-land-uses/clean-energy/ocean-energy>

### **Development Plan (DPIR)**

A completed Development Plan (See Section 8.4.1) will be required as part of the application process.

Placement of ocean energy devices should reflect appropriate Buffer Area requirements unless it can be demonstrated that site conditions, such as bathymetry, natural features, prescribed industry standards or other conditions warrant a lesser distance, to the satisfaction of the Authorizing Agency. In cases where the proponent holds tenure on adjacent lands for Ocean Energy Project power development, this separation may be reduced. Specific zoning may also be required by local government and must be a consideration in preparing the Development Plan.

For the purposes of this policy the term Buffer Area refers to the separation distance between devices in adjacent tenures necessary to negate the wake effects caused by ocean energy devices within the tenure area relative to an adjacent tenure. In issuing Crown land tenures, the Province strives to make decisions that do not result in the alienation of private land activities. In cases where projects are being developed on Crown land lying adjacent to private land, proponents should recognize that future potential development on private land may affect their project and should make business decisions accordingly. Where adjacent Crown lands do not have potential for ocean energy development, it is appropriate for an existing tenure holder to apply for a variance to reduce the buffer distances. It will be considered on a case-by-case basis, and would require discussion with all parties.

Ocean Energy Projects, when accepted, will be entered into the Tantalus database system as a single application using the Ocean Energy Project “Purpose” and “Sub-purpose” codes (as opposed to an individual application for each project component). The various components can be provided separate file numbers at a later date, when required, i.e. upon completion of construction and prior to survey. The [Clean Energy Production in B.C.: An Inter-agency Guidebook for Proponents](#) provides guidance for the application process.

### **7.2.2 Referrals**

Applications for investigative authorizations are referred and notice of the application will be provided to the EAO and BC Hydro to enable a coordinated approach to Ocean Energy Project power management, including (if available) information respecting suitability of the site/area for ocean energy development purposes. Applications for investigative authorizations are to be advertised.

All other applications for tenure will be referred to key agencies and groups as deemed appropriate.

Additionally, notice will be sent to existing waterpower producers and wind and ocean energy tenure holders within one kilometre of the new area under application.

### **7.2.3 Environmental Tenure Provisions and Schedules**

Tenure terms and conditions may be selected from standard tenure document template provisions or in some cases they may be drafted to address specific issues identified through the processing of an application. For more details see the [Tenure Administration Procedure](#).

### **7.3 Competitive Process**

As per Section 5.1.1, the Province reserves the right to allocate Crown land used for Ocean Energy Project purposes through competitive processes. Examples of the situations where a competitive process would be applied include:

- Planned disposition approach: as ocean energy technology develops and the sector matures, the Province may identify areas where ocean energy will be marketed using a planned disposition approach.
- The Authorizing Agency may also employ a competitive process to allocate an individual site, where investigative phase authorizations are not replaced or which default to the Province as a result of non-diligent use and sites where there is known demand (e.g. may be adjacent to two existing Ocean Energy Projects) or sites where two applications for the same area are received on the same day.

See [Allocation Procedures – Competitive Process](#).

#### **7.3.1 Remote Community or Small Scale Project**

Applications which would provide power to a community without access to the provincial electricity grid and small scale projects are not normally subject to competitive processes. Please see the [Community and Institutional Policy](#) for further information.

### **7.4 Direct Sale**

Direct sale of ocean energy sites is not contemplated at this time, but may be considered at a later date.

## **8. TENURE ADMINISTRATION**

For standard tenure administration information see the [Tenure Administration Procedure](#).

For information regarding insurance and financial securities, see the [Insurance and Financial Securities Procedure](#)

Additional and special requirements for ocean energy allocations are:

### **8.1 Assignment and Sub-Tenuring**

#### **8.1.1 Project Monitoring and Investigative Phase**

Assignment is allowed with an investigative licence.

#### **8.1.2 Project Demonstration Phase and Project Development and Operation Phase**

Assignment may occur at the development and operation phase subject to the following considerations.

- the Authorizing Agency must have written support from power purchasers (BC Hydro and others) that they support the assignment and are prepared to deal with the new owner;

- written proof that Environmental Assessment Certificate or other required government approvals be transferred or otherwise provided to the assignee;
- the assignee must agree to be bound by all terms and conditions, covenants and obligations agreed to by the assignor and any new ones that may be reasonably required by the Province.

## **8.2 Monitoring and Enforcement**

### **8.2.1 Investigative Plan, Development Plan and Plan Amendments**

All proponents will be required to initially prepare an Investigative Plan and a more comprehensive Development Plan that is approved by the Authorizing Agency. An investigative and subsequent Development Plan is part of the tenure agreement and as such becomes part of the legal contract between the tenure holder and the Province. Failure to comply with an approved Investigative or Development Plan is an event of default which if not addressed, may lead to termination of the tenure agreement. An Investigative and subsequent Development Plan is one of the principle ways in which the Authorizing Agency assesses diligent use.

The Investigative Plan will be prepared by the applicant and contain two parts: Project Overview, and Project Description which will include the purpose; location, size and main features of project; and construction schedule for the term of the licence. It will also include a general outline of the investigations that will be conducted.

More information about the Development Plan is contained in the [Clean Energy Production in BC: An Inter-agency Guidebook](#) and the DPIR – the [Development Plan Information Requirements](#), also located in the How to Apply page.

For ocean energy, the Development Plan will must include details such as the location of Improvements, particulars of construction, schedule of construction, production phase-in, installed turbine capacity; targeted long term production levels, environmental management strategies, site security, public access and safety, reclamation and decommissioning strategies and any other matters as reasonably requested by the Authorizing Agency.

Once each stage of the Development Plan is approved by the Authorizing Agency, the tenure holder must comply with the Development Plan. The tenure holder must advise the Authorizing Agency of any extraordinary events that may affect their ability to comply with the Development Plan. A tenure holder may request an amendment to the Development Plan that the Authorizing Agency must consider, but not necessarily approve. Examples of amendments that are anticipated include but are not limited to: changes to tenure boundaries, expansion or reduction in area, change in timing of construction and development, tenure term or tenure purpose, a significant alteration of site improvements and or layout of structure on the tenure area are proposed, for example, adding structures to the site not approved in the current plan.

The Authorizing Agency may require, from time to time, amendments to the Development Plan where in the reasonable opinion of the Authorizing Agency, such amendments are required for environmental, safety, land-use or other similar reasons in the public interest.

The Authorizing Agency, from time to time, may request a consolidation of the amendments to the Development Plan.

### 8.2.2 Diligent Use

All proponents who have acquired Ocean Energy Project tenures must demonstrate diligent use of the tenured area. The onus is on the proponent to produce verifiable evidence, satisfactory to the Authorizing Agency that diligent use is being maintained. Diligent use is measured against the obligations set out in the Investigative Plan and the Development Plan including but not limited to meeting construction schedules or energy production targets.

The Authorizing Agency is under no obligation to extend or replace a tenure where the proponent has not demonstrated, to the satisfaction of the Authorizing Agency that they have met the due diligence requirements set out in this policy and may in longer term tenures require adjustments to Development Plans, including tenure area, or in extremely serious breaches of performance, initiate procedures to terminate the tenure agreement. The diligent use requirements specific to each Ocean Energy Project development phase are described below.

**NOTE: Diligent use requirements will be waived for investigative tenure holders who have held an investigative tenure for 5 or more years and provide a written statement that further diligent use activity is not required to move to a project application. Continuation of this practice will be reviewed in 2025.**

**It is the investigative tenure holders' responsibility to demonstrate that the investigative tenure area has been held for 5 or more years and diligent use applied in each of the 5 years.**

#### **Project Monitoring and Investigation Phase**

Initial data collection must have begun within 12 months of being in receipt of all required permits and licences. Diligent use at this phase may include for example, the finalization of approvals from the EAO, expenditures for surveys, field work, site analysis, road access and obtaining financing and reaching agreement with a purchaser for energy production, First Nations considerations and public consultation. On a case-by-case basis information would have to be presented to demonstrate that expenditures have been incurred and that these expenditures are reasonable. The intent of diligent use requirements at this stage is to ensure that the project proceeds to the project development phase in a timely fashion (See Appendix 2 – Diligent Use Examples).

A subsequent investigative licence may be offered, at the discretion of the Authorizing Agency, to proponents holding sites where diligent use has not been achieved because of factors outside of the proponent's control or where further investigative work is required. The Investigative plan will be updated by the proponent to reflect the changes and diligent use will be required going forward otherwise the term will expire with no replacement.

#### **Project Development and Operation Phase**

This phase occurs during the term of a 10-year licence of occupation for a project without an existing EPA or similar, and prior to the commercial operation date of a project with an EPA. During this period the site is to be under construction and proceeding to full production as consistent with the Development Plan schedule, generally within two years of licence issuance. Construction schedules for roads, installation of ocean energy devices, transmission lines and other associated infrastructure, completion of legal surveys, expected power production levels and other requirements articulated in the Development Plan must be substantially on target. The Regional Executive Director may adjust targets on a case-by-case basis based on

extenuating circumstances. Should diligent use not be substantially achieved, the Authorizing Agency may refuse to issue long term tenures over the ocean energy site.

Following construction of the Improvements or a particular phase of the development, the site must continue to be used as per the Development Plan. If the characteristics of the site preclude achievement of production levels specified in the Development Plan after the project development phase, the Authorizing Agency should consider whether or not the matter can be best dealt with by an amendment to the Development Plan. Rent, based on land area under tenure will in all cases be payable. In cases involving serious breaches of performance the Province may need to consider initiating termination procedures for ocean energy tenures.

### **8.3 Other Land Use**

The Authorizing Agency may issue tenure to other FLNR applications for non-ocean energy land use within the investigative phase tenure area. Upon receipt of a non-ocean energy application, the Authorizing Agency would normally notify and request comments from the ocean energy tenure holder to determine compatibility. Acceptance of the non-ocean energy application will be at the discretion of the Authorizing Agency.

The Authorizing Agency may issue tenures to other applicants for non-ocean energy power uses within the Extensive Use Area of the tenure or any Intensive Use Areas under licence or right of way, subject to compatibility and the specific language in tenure documents.

## **9. VARIANCE**

Variances to this policy must be completed in accordance with the [Policy Variance Procedure](#).

## APPENDIX 1: SUMMARY TABLE OF OCEAN POWER PROJECT TENURE TYPES AND TERMS

Tenure Type	Term of Tenure	
	Without EPA	With EPA
<b>Project Monitoring and Investigation Phase</b>		
Investigative Licence	5 year term	5 year term
<b>Project Development and Operation Phase</b>		
Multi Tenure Instrument	10 years	Expiry coincident with EPA expiry
General Area - Licence of Occupation	10 years	Expiry coincident with EPA expiry, construction completed by Commercial Operation Date (COD)
Ocean Energy Project – Licence of Occupation Extensive Use Areas	10 years	Expiry coincident with EPA expiry, construction completed by COD
Ocean Energy Project – Licence of Occupation Intensive Use Areas	10 years	Expiry coincident with EPA expiry, construction completed by COD
Ocean Energy Project – Lease Intensive Use Areas	10 years	Expiry coincident with EPA expiry, construction completed by COD
Ocean Energy Participation Rent		
Transmission Line – Licence of Occupation	10 years	Expiry coincident with EPA expiry, construction completed by COD
Transmission Line – Statutory Right of Way	10 years	Expiry coincident with EPA expiry, construction completed by COD
Roads	10 years	Expiry coincident with EPA expiry, construction completed by COD
Quarries	10 years	Expiry coincident with EPA expiry, construction completed by COD
Communication Sites	10 years	Expiry coincident with EPA expiry, construction completed by COD

## **APPENDIX 2: DILIGENT USE EXAMPLES**

All proponents who have acquired Ocean Energy Project tenures must demonstrate diligent use of the tenured area. The onus is on the proponent to produce verifiable evidence, satisfactory to the Authorizing Agency that diligent use is being maintained. Diligent use is measured against the obligations set out in the Development Plan including but not limited to meeting construction schedules or energy production targets. Proponents without an EPA must actively pursue acquiring an EPA as evidence of diligent use and obtain an EPA within the 10-year term of the tenure during the demonstration phase.

### **Oceanographic Surveys**

Oceanographic surveys may include but not limited to monitoring and measuring:

- Lagrangian drift (surface, bottom and mid-water column)
- Wave height and direction
- Water and tide levels
- Dissolved Oxygen
- Conductivity
- Temperature
- pH
- Turbidity
- Water/sediment interface current velocity
- Ocean velocity
- Barometric pressure
- Sediment-water interface

Geophysical surveys map seabed morphology and sub-bottom stratigraphy. Remote sensing systems and technologies include:

- Sub-bottom seismic reflection
- Sub-bottom seismic refraction - towed and bottom resting
- Acoustic sediment classification
- Ground penetrating radar
- Side scan sonar
- Marine magnetometers and gradiometers
- Underwater photographic and video systems
- Remotely Operated Vehicles (ROV)

### **Biophysical and Archaeological Surveys**

Surveys would be conducted within the IP boundary and additionally adjacent to the site. These investigations would be designed to gain a better understanding of the local biophysical/cultural setting, including habitat and species presence. Investigations may focus on determining the presence of “key feature” at the site – such as a rare or listed species, sensitive habitat, or an archaeological resource. The intention would be to evaluate the potential for significant environmental effects to this key feature in order to determine whether the key feature represents a significant barrier to develop the project.



Costs for a one-week survey to investigate biophysical/archaeological issues could range from \$10,000 to \$20,000 depending on ease of access to the site and complexity.

### **Road Access and Land Use Survey**

Road surveys could be conducted by a professional road design engineer or specialist that would involve a compilation of road access information and land use, particularly relating to resource roads and the limiting factors for Ocean Energy Project development (such as load limitations on bridges, present or existing forestry activities etc.). This survey would be appropriate where road access constraints (and access constraints for installation of transmission lines) may affect the feasibility of the project. The intention would be to determine whether site access is sufficient for the project. Costs for a one-week road access and land use survey could range between \$10,000 and \$15,000.

### **First Nations Considerations**

Building relationships with First Nations, combined with negotiations and consultations with First Nations Chiefs, Council, community members and other bodies can require significant resources financially and time wise. In most cases the intention would be to develop a Protocol Agreement between a Proponent and the First Nation(s). Estimated costs can vary greatly, but could range between \$10,000 and \$30,000.

### **Public Consultation**

Public consultation and community relationship building are necessary to determine acceptance of a project in a region and to identify ways the local community would like to be involved in future project planning and development. Distributing accurate and adequate information is an essential step in ensuring that residents and stakeholders have the resources they need to provide input on a proposed Ocean Energy Project. Consultation should be conducted via public meetings or open houses, printed material, smaller visits or stakeholder meetings or other media. Costs for this task can vary greatly and could range between \$10,000 and \$30,000 depending on the level of effort expended.