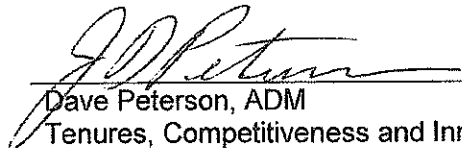




## Land Use Operational Policy Commercial - General

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<b>NAME OF POLICY:</b>	Commercial - General
<b>APPLICATION:</b>	Applies to all general commercial uses of Crown upland and aquatic land not covered under more specific land use policies, including policy for filming, marinas and golf courses.
<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)
<b>RELATIONSHIP TO PREVIOUS POLICY:</b>	This policy replaces the previous General Commercial 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

  
\_\_\_\_\_  
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:** 12150-00

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
March 22, 2011	BN175798	Amendment to clarify pricing for aquatic lands.
March 31, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries on March 14, 2011.
June 1, 2011	BN 175892	Policy and Procedure update to reflect reorganization of resource ministries April 2011
February 23, 2015	BN 212423	Clarify that this policy does not apply to tourism activities as described in the Adventure Tourism Policy (with the exception of commercial filming, golf courses and marinas). In addition, the Aboriginal Considerations section has been updated.
September 22, 2015	BN 217947	Land Act Reform Phase 1 changes
August 3, 2018	BN 241299	Amendment to section 6.3.1 to clarify the term and issuance of a lease for marina purposes.

**Table of Contents**

1.	POLICY APPLICATION .....	1
2.	PRINCIPLES AND GOALS .....	1
3.	DEFINITIONS .....	1
4.	ABBREVIATIONS .....	2
5.	APPLICANT ELIGIBILITY .....	2
6.	FORM OF LAND ALLOCATION .....	3
6.1	Temporary Licence.....	3
6.1.1	Commercial Film.....	3
6.1.2	Marina.....	3
6.2	Licence of Occupation .....	3
6.2.1	Commercial Film.....	4
6.2.2	Marina.....	4
6.3	Lease .....	5
6.3.1	Marina.....	5
6.3.2	Golf Course .....	5
6.4	Sale.....	6
7.	PRICING POLICY.....	6
7.1	Administrative Fees.....	6
7.2	Method of Valuation for Aquatic Land.....	6
7.2.1	Filled Foreshore.....	6
7.2.2	Aquatic Lands.....	6
7.3	Rentals.....	6
7.3.1	Temporary Licence .....	7
7.3.2	Licence of Occupation .....	7
7.3.3	Lease.....	7
7.4	Sales .....	8
8.	ALLOCATION PROCESSES .....	8
8.1	Applications.....	8
8.1.1	Application Package .....	8
8.1.2	Application Acceptance.....	8
8.1.3	Clearance/Statusing.....	8
8.1.4	Referrals.....	9
8.1.5	Advertising/Notification .....	9
8.1.6	Aboriginal Interests Consideration .....	9
8.1.7	Field Inspections.....	10
8.1.8	Decision/Report .....	10
8.2	Issuing Documents.....	10
8.2.1	Marinas.....	10
8.2.2	Environmental Tenure Provisions and Schedules .....	10
8.3	Competitive Process .....	11
8.4	Planned Tenure Dispositions.....	11
8.5	Direct Sale.....	11
8.5.1	Marina.....	11
8.5.2	Golf Course .....	11
9.	TENURE ADMINISTRATION.....	11
9.1	Insurance .....	11
9.1.1	Commercial Film.....	11

9.2	Security/Performance Guarantee .....	12
9.2.1	Commercial Film .....	12
9.3	Assignment and Sub-Tenuring .....	12
9.3.1	Commercial Film .....	12
9.3.2	Marinas .....	12
9.4	Tenure Replacement .....	12
9.4.1	Conversion of Existing Marina Tenures to Leases under New Policy .....	13
9.5	Monitoring and Enforcement .....	13
10.	VARIANCE .....	13
APPENDIX 1. GENERAL COMMERCIAL POLICY SUMMARY .....		14
APPENDIX 2. EXAMPLES OF TYPE A AND B COMMERCIAL USES .....		15
APPENDIX 3. ANNUAL RENT CALCULATION FOR MARINAS .....		16

## 1. POLICY APPLICATION

This policy applies to general commercial uses of provincial Crown land (for upland and both inland and coastal aquatic Crown lands).

This policy applies to all Crown land within Provincial Forests.

This policy applies to commercial floating structures except where such structures are permitted as ancillary to primary uses authorized under other Crown land use policies.

Aquatic land under the jurisdiction of a harbour board, harbour commission, or other legitimate administrative agency is not subject to the provisions of this policy.

This policy does not apply to tourism activities authorized under the [Adventure Tourism Policy](#), with the exception of commercial filming, marinas and golf course developments.

This policy is to be applied together with Crown Shoreland Policy, which is consolidated for reference in Appendix 1 of the [Residential policy](#).

*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.*

## 3. DEFINITIONS

**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 Provincial ministry responsible for the specific land use authorization.

**Commercial Film Production** means any motion picture, television production, and/or still photography undertaken for public production with expectation of monetary return or for use as educational, promotional, or advertising material.

**Type A Commercial Use** means a use of Crown land involving the selling, storage or servicing of goods and commodities and characterized by one or more of the

following:

- usually located in urban or developed areas;
- generally involving substantial improvements;
- requiring primary services (power, phone, road access);
- operating on a continuous (year-round) basis;
- requiring considerable/moderate administrative attention.

See Appendix 2 for examples.

**Type B Commercial Use** means a use involving the provision of services and characterized by one or more of the following:

- usually located in rural or remote areas;
- involving relatively minor or non-permanent improvements;
- operating on a seasonal basis;
- requiring moderate/minimal administrative attention.

See Appendix 2 for examples.

#### 4. **ABBREVIATIONS**

**BCA** - BC Assessment

**ha.** - Hectare

**MOU** - Memorandum of Understanding

#### 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](#).*

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

Refer to Appendix 1 for a summary of the forms and terms of Crown tenure available for general commercial operations.

If you wish to use Crown land for a short term, low impact activity you may not need to apply for tenure, you may be authorized under the [Permissions policy](#).

Any *Land Act* permits currently in good standing remain viable tenures until expiry. Activities that were previously tenured as permits and require additional time to complete, may be authorized under the Permissions policy or as a temporary licence within programs that formerly offered a temporary permit.

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

### **6.1 Temporary Licence**

A temporary licence of occupation may be issued for temporary uses, where an applicant is better served by a short term, minor rights authorization than by a longer term tenure.

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

The maximum term for a temporary licence is 2 years.

#### **6.1.1 Commercial Film**

A temporary licence may be used as an expedient method of authorizing commercial film production in cases where use of Crown land is limited to the filming of scenery or backdrops with no improvements, camps, large equipment, or major modifications to the land.

#### **6.1.2 Marina**

A temporary licence may be provided over the proposed marina development area for a one-year term. The temporary licence will include a letter from the Authorizing Agency committing the land subject to a marina operator obtaining all necessary approvals in principle from other agencies. The temporary licence may be renewed for a further year at the discretion of the Authorizing Agency.

### **6.2 Licence of Occupation**

*A licence of occupation may be issued where minimal improvements are proposed, where there are potentially multiple users of a site (e.g. communication sites), where survey is not required or when the land is located in remote areas and legal survey costs*

*required for a lease or right of way are prohibitive, and where Government wishes to retain future options and management control over the use of the lands. 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 licencees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.*

*The maximum term for a licence of occupation varies according to land use program. The maximum term provided within each land use policy is guidance to the decision maker, who exercises the discretion to make the term shorter or longer giving consideration to the facts of a particular application. When considering the appropriate term, the decision maker will normally consider factors such as the nature of the land use, the proponent's basis for seeking long term security and the Province's interest in retaining the flexibility to review or change the tenure term.*

The standard maximum term for a licence of occupation is 30 years.

Licence of occupation is the form of tenure used to authorize general commercial use of Crown land where:

- the proposed use is in a remote location or the intended duration of use is 30 years or less;
- where general commercial tenures administered as special use permits by the Ministry responsible for the *Forest Act* are being converted to *Land Act* lease or fee simple tenure and the survey requirements have not yet been satisfied; and,
- in the case of aquatic land, , where precise boundaries are not required.

### **6.2.1 Commercial Film**

In the case of commercial film production, a licence may be issued where improvements, camps, vehicles and large equipment and/or land modifications are to be part of a film production operation. The area under licence is not to exceed 4 hectares.

The term is limited to the period required for preparation, filming and clean-up (normally 1 year).

### **6.2.2 Marina**

Upon receipt of all approvals and a management plan, a licence of occupation may be issued for phase I of the marina development.



## 6.3 Lease

*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.*

*The standard term for a lease is 30 years.*

### 6.3.1 Marina

Upon receipt of all approvals and a management plan, a lease may be issued for phase I of the marina development.

Upon initiation of the marina operation, a lease tenure may be issued for a standard 30-year term.

### 6.3.2 Golf Course

A lease may be issued for golf course developments. At the discretion of the Authorizing Agency, the term of a golf course lease may be the standard term of 30 years with a provision for lease replacement at mid-term.

## 6.4 Sale

*Crown land sales may occur through an application process if the proposed site meets specific criteria and the use is considered suitable by government agencies and other affected interests.*

Fee simple disposition is preferred for long-term general commercial use, golf course developments and filled areas for marinas and yacht clubs.

## 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](#).*

### 7.2 Method of Valuation for Aquatic Land

#### 7.2.1 Filled Foreshore

Unauthorized fills that are being legalized, pre-authorized fills created from materials dredged from adjacent aquatic lands, and fills that have been in place for a period greater than 10 years, are valued at 100% of upland value. Upland values may be determined from BCA actual land value or suitable market evidence where available.

Where special costs are incurred to create an authorized fill, the value of such areas may be discounted by a percentage of upland value not to exceed 50 per cent (discount to apply to rentals for a maximum of 10 years).

#### 7.2.2 Aquatic Lands

Where suitable market evidence for aquatic land is available (e.g. National Harbours Board's aquatic land leases), it can be used as a basis to establish Crown land values.

In the absence of comparable market values, the value of aquatic Crown land is established in relation to the value of upland property, as follows:

- the normal value relationship is 50 per cent of upland property value;
- the minimum value relationship is 10 per cent of upland value for areas considered by provincial staff to be unusable due to the presence of obstructions;
- the maximum value relationship is 100 per cent of upland value for integrated upland - foreshore uses.

In determining the upland value, upland parcels with similar commercial zoning, usage, services/amenities, and general location as the aquatic lands should be used.

If the use of the aquatic land tenure area is integrated with the uplands, then the land value of the immediately adjacent upland parcel should be used.

## 7.3 Rentals

### **7.3.1 Temporary Licence**

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

### **7.3.2 Licence of Occupation**

Rental for Type A commercial tenures is 7.5% of BCA actual land value, or appraised land value where BCA values do not reflect market value of the land.

Rental for Type B commercial tenure is 4.5% of BCA actual land value, or appraised land value where BCA values do not reflect market value of the land.

See Appendix 2 for examples of Type A and B commercial use.

Minimum annual rent is \$500.

#### **Commercial Film**

A licence of occupation for commercial film production is charged \$500 per year (or for any portion thereof) payable in advance.

### **7.3.3 Lease**

Rental for Type A commercial tenures is 8% of BCA actual land value, or appraised land value where BCA values do not reflect market value of the land.

Rental for Type B commercial tenure is 5% of BCA actual land value, or appraised land value where BCA values do not reflect market value of the land.

See Appendix 2 for examples of Type A and B commercial use.

Minimum annual rent is \$500.

#### **Golf Course**

Annual rental for a lease for golf course developments is based on a negotiated percentage of gross revenues from the operation, including restaurant or other ancillary facilities located on the leasehold, but excluding revenues generated through the sale of liquor.

The rental rate chosen should reflect local market conditions so as to eliminate any competitive cost advantage for the lessee. The standard minimum rate is 5% of gross revenue. A negotiated rate, higher or lower, may be set, based on local market conditions. A lesser rate may be applied during the first three years of a developing facility. The rental rate for the 4th and subsequent years of the lease should be adjusted to reflect local market conditions and golf course development.

For the first year of a replacement tenure, rent should be calculated as a percentage of the gross revenues from the previous year of operations at a rate that reflects local market conditions. An average revenue from two or more previous years of operations may be used when unusual market conditions may have affected revenues for the preceding year.

### **Marina and Yacht Club Tenures**

Refer to Appendix 3.

## **7.4 Sales**

Fee simple dispositions are priced at the full market value of the land.

## **8. ALLOCATION PROCESSES**

### **8.1 Applications**

General commercial Crown land is available by direct application:

- in rural and remote locations,
- for aquatic land,
- where an existing shoreland tenure qualifies for purchase, and,
- for commercial film production.

Crown land for commercial uses in urban areas is generally disposed of through competitive process, see section 8.2.

#### **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.*

#### **Marina Management plan**

For marinas in staged development, a proposed management plan showing the amount of lineal footage of moorage space is required for purposes of establishing the potential gross income in the first phase of operation.

A proposed management plan is also required to accompany applications for marina expansion and tenure conversion to the new policy.

#### **8.1.2 Application Acceptance**

*New applications will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary statusing, 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.*

#### **8.1.3 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.*

#### **8.1.4 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).*

##### **Commercial Film**

For commercial film production, a referral of a licence of occupation should be sent to the [BC Film Commission](#).

##### **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.*

#### **8.1.5 Advertising/Notification**

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

##### **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.*

##### **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.*

#### **8.1.6 Aboriginal Interests Consideration**

The Province of British Columbia has a legal obligation to consult and, where required, accommodate First Nations when a Crown activity or decision may adversely impact claimed or proven Aboriginal rights and title, as well as, a treaty right. When consulting with First Nations, the Authorizing Agency is guided by the document titled “[Updated Procedures for Meeting Legal Obligations When Consulting First Nations](#)”. These procedures do not replace or supersede treaties, consultation process agreements or other agreements – where applicable, such agreements will guide consultation.

While the Province is responsible for ensuring adequate and appropriate consultation and accommodation, proponents may be involved in the procedural aspects of consultation (see [Guide to Involving Proponents When Consulting First Nations](#)). AT

operators are encouraged to engage with First Nations communities prior to seeking an AT Tenure application.

### **8.1.7 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.*

### **8.1.8 Decision/Report**

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

## **8.2 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.*

### **8.2.1 Marinas**

Coastal commercial marina tenure documents will include a clause which does not allow the tenure holder to restrict the use of any service or facility to a limited group of persons – the marina is to be available for use by all members of the public.

For marina documents, the clause requiring prior consent for any assignments is to include the following: "If the Lessee/Licencee is a corporation, then a change in control (as that term is defined in the *Business Corporations Act*) of the Lessee/Licencee is deemed to be an assignment of this lease/licencee."

### **8.2.2 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.

In some cases the standard environmental provisions in the tenure document may not adequately reduce potential liabilities and risks to the Province relating to contamination or degradation of Crown land. In these situations a specific set of environmental terms and conditions (referred to as an environmental schedule), as well as additional insurance requirements, should be considered for inclusion into the tenure document.

The need for an environmental schedule or additional insurance requirements will be considered on a case by case basis when processing new or replacement tenures, or tenure assignments. Circumstances that may warrant an environmental schedule or additional insurance requirements may include sites where there is a known or high risk of contamination or environmental impacts due to current or past activities; or a high risk of contamination or environmental impacts occurring in the future as a result of the tenure holders activities.

For circumstances where additional requirements are being considered regional staff are to contact Land Tenures Branch (Ministry of Forests, Lands, and Natural Resource Operations), who will work with Ministry of Justice to prepare a customized environmental schedule if warranted.

### **8.3 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.*

General commercial Crown land is disposed of by a competitive process except for those uses listed in 8.1.

### **8.4 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.*

### **8.5 Direct Sale**

*Direct sales provide fee simple dispositions of Crown land through individual applications under the relevant land use program.*

A management plan is normally required to accompany all applications and submissions for sales.

#### **8.5.1 Marina**

Filled areas for marinas and yacht clubs will be disposed of by direct sale.

#### **8.5.2 Golf Course**

Direct sale is the preferred option for golf course developments.

## **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.*

#### **9.1.1 Commercial Film**

Insurance for commercial film tenures will be \$3 million and must include fire coverage as well as third party liability.

## 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.*

### 9.2.1 Commercial Film

The minimum security bond for film is \$5000 per tenure.

## 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 can not be sub-tenured or assigned.*

Assignees of shoreland tenures may be provided with the opportunity for purchase where the use of the land, access and location are considered appropriate for sale.

### 9.3.1 Commercial Film

Assignment of a commercial film production tenure is not permitted.

### 9.3.2 Marinas

As a condition of assignment for coastal commercial marinas the following paragraphs must be inserted where they are not already part of the tenure documents:

*“In using the Land as permitted by this Lease/Licence, the Lessee/Licencee will not restrict or permit the restriction of the use of any service or facility set out above to a defined or limited group of persons, it being the intention of the parties that such services and facilities will be available for use by all members of the public.*

*The Lessee/Licencee shall not assign, mortgage, sublet or transfer this lease/licence without the prior consent of the Lessor. If the Lessee/Licencee is a corporation, then a change in control (as that term is defined in the *Business Corporations Act*) of the Lessee/Licencee is deemed to be an assignment of this lease/licence.”*

## 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.*

At expiry of the temporary licence, the tenure holder may re apply through Virtual Frontcounter BC. The tenure holder may supply the previous file number and upload a revised Investigative Plan. If it appears that there is a conflict with what the application is for and what the tenure holder/applicant intends to do in the Investigative Plan or the term seems substantially longer than 2 years, a standard licence of occupation may be required at market rent.

#### **9.4.1 Conversion of Existing Marina Tenures to Leases under New Policy**

Holders of unexpired marina and yacht club tenures may convert such leases to new documents, provided that tenure holders surrender existing tenures in good standing and are prepared to accept new tenure under the terms and conditions of this policy.

Written requests may be submitted by lessees desiring to abandon prepaid marina leases in favour of 30 year annual rental marina leases under this policy. Prepaid rental refunds are calculated and processed in accordance with standard policy.

Applications for tenure conversion must be accompanied by a marina management plan if one is not in place under the former tenure.

### **9.5 Monitoring and Enforcement**

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

## **10. VARIANCE**

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

**Appendix 1. General Commercial Policy Summary**

TENURE	TERM	VALUATION	PRICING	METHOD OF DISPOSITION
Temporary Licence	2 years	Fixed amount	\$250 for terms up to one year, or \$500 prepaid for 2 years	Application
Licence of Occupation (General)	30 years	Upland is BCA or appraised market value. Aquatic land is 50 to 100% of upland property value.	Annual rental of 7.5% (Type A) and 4.5% (Type B) of land value. \$500/yr minimum.	Competitive process or Application
Licence of Occupation (Film)	1 year	Fixed amount	\$500/yr or portion thereof	Application
Licence of Occupation (Marinas)	30 years	Non-moorage foreshore and fill is appraised market value based on actual use.	Annual rental of 3.5% of potential gross income for the initial licence and 4% thereafter (moorage). 7.5% or 4.5% of land value (non-moorage). \$500/yr minimum per tenure.	Application
Lease (General)	30 years	Upland is BCA or appraised market value. Aquatic land is 50 to 100% of upland property value.	Annual rental of 8% (Type A) and 5% (Type B) of land value. \$500/yr minimum	Competitive process or Application
Lease (Marinas)	30 years	Non-moorage foreshore and fill is appraised market value based on actual use.	Annual rental of 3.5% of potential gross income for years 1-15 and 4% thereafter (moorage). 8% or 5% of land value (non-moorage). \$500/yr minimum per tenure.	Application
Lease (Golf Courses)	30 years	Revenue sharing	Minimum of 5% of Gross revenue from all operations on leasehold. \$500/yr minimum	Application
Fee Simple	Perpetuity	Appraised market value	Full market value in advance. (Fill may be discounted by up to 50%.)	Competitive process; or by application in rural and remote locations.

## **Appendix 2. Examples of Type A and B Commercial Uses**

### **2.1 Type A Commercial Uses**

retail and wholesale outlets, wholesale distribution warehouses  
entertainment centres (commercially operated)  
repair centres  
motels and hotels  
gas/service stations  
fuel docks  
fuel storage depots  
equipment rental business  
air/boat charter facilities  
volume tourist attractions (exception: tourist attractions that are authorized under the AT Policy).  
restaurants  
commercial office buildings  
commercial education/instruction centres  
medical service centres, food and beverage processing/packing (where associated with production of commodity on an adjacent site)  
pubs  
cash (fish) buyers  
shopping malls  
trailer courts

### **2.2 Type B Commercial Uses**

boat launching ramps  
seasonal marinas  
churches  
summer kiosks  
commercial helipad (exception: helipads authorized under the AT Policy)  
sewage disposal site/field for marinas, trailer parks  
docks and wharves required for moorage space associated with an upland hotel or motel on private land for which no moorage rate is directly levied.

N.B. Both Type A and Type B commercial categories include aquatic land improvements that are associated with the particular use (fills, piling, wharves, docks, moorage, etc.).

### Appendix 3. Annual Rent Calculation for Marinas

“Ancillary marina use” means the following, where they are below the mean high water mark and not on fill:

- Boathouses
- Fuel docks
- Marina ways (portion submerged at mean high tide)
- Launching ramps (portion submerged at mean high tide)
- Boat sales/dock
- Boat rentals/dock
- Boat charters/dock

The lineal footage of the above facilities will be calculated and added to the total lineal footage for moorage for purposes of calculating the annual potential gross income from moorage.

The total rental for marinas is the combined rental from moorage and ancillary uses and marina non-moorage uses as calculated below.

#### 3.1 Moorage and Ancillary Use Rental

(a) "Potential Gross Income from Moorage" is the total potential income from boat moorage which a marina operation could receive in any given year. It is calculated as follows:

Potential Gross Income = (number of linear feet of moorage charged at month-to-month open moorage rate x month-to-month rate) + (number of linear feet of moorage charged at monthly open moorage rate based on prepaid, annual, non-discounted payment x monthly rate) x Number of Operational Months.

(b) The annual rental for marinas and yacht clubs is 3.5% of potential gross income from moorage in the first 15 years of tenure and 4% of potential gross income thereafter. All replacement tenures are charged the 4% rate. For the purposes of determining rental, the first year of the licence of occupation is considered year 1 of the 30 year marina tenure period. Minimum annual rental is \$500 per tenure.

(c) The lineal footage of moorage space, the moorage rates, the number of months of the year the marina is open for business, the list of ancillary uses, and the level of business operation in the period of closure are obtained by the Authorizing Agency in a Statutory Declaration from the tenure holder prior to the anniversary date of the tenure. In addition, provincial staff may request updates to the management plan indicating current improvements. To be eligible under this policy, a marina must be open for a minimum of 4 months per year.

(d) The provisions of section 7.2 regarding discounts in land value for filled areas are applicable only to non-moorage components of a marina tenure.

(e) Where a progression of tenures is used to accommodate staged marina development, the temporary licence is provided at a rental of \$250 per annum. The annual rental for a proposed development or expansion under a lease or standard licence of occupation is 3.5% of potential gross income for the moorage completed

under the development/expansion at that time, plus 50% of 3.5% of potential gross income calculated for the facilities which remain to be completed under the management plan. A second discount of up to 50% will be applied to the annual rent from moorage, (as calculated above) for up to 10 years, where a marina management plan necessitates special costs for authorized filling, dredging, removal of dredged material, and breakwater construction within the tenure area. There is no discount for maintenance dredging. A list of ancillary facilities, for which rental is calculated on the basis of potential gross income, is provided in the definitions above.

- (f) Where a marina is undertaking a staged development as per 3.1(e) above, and the marina tenure has been in place for 15 years or more (as per 3.1(b) above), the percentage applied to gross potential income is 4% for the completed development/expansion, plus 50% of 4% of the potential gross income calculated for the facilities which remain to be completed under the management plan.
- (g) Rental is not charged for breakwaters established for marina development or enhancement provided that they are not used for any purpose other than a breakwater. Breakwater areas are included within the marina tenure area.

### **3.2 Non-Moorage Use Rental**

- (a) All marina and yacht club facilities not listed as ancillary uses are charged a rental based on % of land value, with minimum annual rent of \$500. The rate is dependent upon the classification of use as either Type A or Type B commercial use (see appendix 2). The land value will be established by the Authorizing Agency and reviewed every 5 years by independent fee appraisal, using standard appraisal instructions. Appraisal for leasehold interest is based on existing use of the land rather than highest and best use. B.C. Assessment actual land value will not be used for rental calculation during the term of tenure.
- (b) Fill which is not purchased in fee simple is to be charged the upland commercial rate for rental purposes. The valuation of fill will be reviewed every 5 years as above.
- (c) The rental exclusive of floats will be reduced by up to 50 per cent for up to 10 years for costs incurred by the marina or yacht club for site development (breakwater construction dredging and rock blasting). A \$500 minimum annual rent applies.

### **3.3 Statutory Declaration for Marinas**

Marina and yacht club tenure holders are required to complete an annual Statutory Declaration which identifies:

- (i) monthly moorage rate based on open moorage charges to boaters, and including both month-to-month rate and a monthly rate based on annual (non-discounted) prepaid charges;
- (ii) the amount of linear footage rented under the rates identified in (i) below;
- (iii) the number of months the marina is open for business;
- (iv) a list of ancillary uses in the marina development; and

(v) the level of business operation during the period of marina closure.

A Statutory Declaration form will be provided to the tenure holder at the time of issuance of an annual notice.

The monthly moorage rate for yacht clubs is based on the nearest comparable moorage rate for a commercial marina.

### **3.4 Sale of Filled Areas**

For marinas and yacht clubs, the province will dispose of filled areas in fee simple at current appraised market value, less up to a maximum discount of 50 per cent of the purchase price for the cost of fill (using comparables). Appraisal is based on highest and best use and may accommodate discounting for various factors.