



Land Use Operational Policy Communication Sites

NAME OF POLICY:	Communication Sites
APPLICATION:	Applies to Crown land used for communication use as defined herein, including but not limited to radio, television, microwave, and satellite facilities and related works. Applies on Crown land located in provincial forest except for communication sites used for operational purposes by the Ministry of Forests, Lands, Natural Resource Operations and Rural Development.
ISSUANCE:	Assistant Deputy Minister, Rural Development, Lands and Innovation
IMPLEMENTATION:	Ministry of Forests, Lands, Natural Resource Operations and Rural Development
REFERENCES:	<i>Land Act</i> (Ch. 245, R.S.B.C., 1996) <i>Business Corporations Act</i> (Ch. 57 R.S.B.C, 2002)
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the previous Communication Sites policy dated May 26, 2011.

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January 21, 2019

Date:

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:

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1. POLICY APPLICATION

This policy applies to the disposition of Crown land for communication site purposes including, but not limited to all types of radio, television, microwave, satellite, and cellular transmission and/or receiving stations.

This policy does not apply to communications sites within Provincial Forest that are used solely for forest operational purposes, and therefore authorized under forest legislation.

This policy does not apply to uses ancillary to the communication site, such as roads and utility lines, that are authorized in accordance with other Crown land use policies.

2. PRINCIPLES AND GOALS

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

Strategic Principles

- To encourage efficient administration of Crown land used for communication purposes.
- To ensure diligent use of Crown land.
- To secure a fair return to the Crown for the use of Crown land for communication purposes.
- To minimize the potential negative impacts of communication use on other legitimate users and the natural environment.
- To coordinate Crown land administration with the requirements of other provincial and federal agencies with responsibility for communication licensing and/or administration.

Sharing of Tenured Communication Sites

Sharing of communication sites is encouraged. A communication site tenure holder may permit a secondary user to occupy a Crown land site pursuant this policy. For the purposes of this policy secondary user means any party, other than the tenure holder, who occupies a Crown land site for communication use purposes including corporate affiliates and third parties.

Site Designation under Section 17 of the *Land Act*

Mountain tops having strategic value for communication purposes will normally be designated for communication use pursuant to Section 17 of the *Land Act*.

3. DEFINITIONS AND ABBREVIATIONS

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

For definitions of Communication Site User Categories see the [Pricing Policy](#).

4. APPLICANT ELIGIBILITY

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

Federal and provincial government agencies requiring Crown land for communication site purposes may also apply under this policy.

5. FORM OF LAND ALLOCATION

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

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for communication sites.

5.1 Licence of Occupation

A licence of occupation is the standard form of tenure for communication sites. The maximum term of a licence of occupation is 30 years.

5.2 Lease

The maximum term for a lease is 30 years.

Non-mountain top sites in populated areas may be disposed of by lease or sold in fee simple, provided they are within a municipality and border on privately owned land. A lease is offered where a site meets the above criteria but does not meet requirements for subdivision under the *Land Title Act*.

5.3 Statutory Right of Way

A statutory right of way may be offered for mountain top sites at the request of a client where there are (will be) significant improvements on the land and where a document registerable in the Land Title Office is required for financing/security purposes.

At the request of a client, the Authorizing Agency may agree to convert an existing licence to a statutory right of way provided that every party on the mountain top (subtenants of the applicant and all adjacent tenure holders) agrees to the conversion. It is the responsibility of the applicant to provide written evidence of such support to the Authorizing Agency.

The maximum term of a statutory right of way for communication sites is 30 years.

5.4 Sale

Non-mountain top sites in populated areas may be sold in fee simple, provided they are within a municipality and border on privately owned land.

5.5 Withdrawals and *Land Act* Transfers

Withdrawals: A withdrawal from disposition pursuant to Section 16 of the *Land Act* is the standard means to reserve land for provincial and federal government users that require Crown land for communication purposes. The Authorizing Agency must be advised prior to the occupation of a section 16 withdrawal site by another government user. In this policy “government users” means agencies or departments of a provincial or federal government but does not include Crown Corporations or local governments. Non-government users are not allowed to occupy sites authorized by a section 16 withdrawal.

***Land Act* Transfers:** Where a non-government user is unable to find an alternate site, the Authorizing Agency may, with the consent of the agency holding the withdrawal for communication purposes, agree to the use of the site by a non-government user. In such instances the section 16 withdrawal will be cancelled and a transfer processed pursuant to Section 106 (provincial ministries) or Section 31 (federal ministries) of the *Land Act*. Where this occurs the agency receiving the transfer of administration assumes the responsibilities for management of the site, including the issuance of tenures and collection of rents specified in this policy from secondary users.

Alternatively the agency holding the withdrawal may relinquish the withdrawal and become a sub-tenant in a site which would be tenured to the non-government user.

The Authorizing Agency must be notified prior to the occupation of a transfer site by a secondary user.

6. PRICING POLICY

For information on pricing including definitions of Communication Site User Categories 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 communication site allocations are:

7.1 Applications

7.1.1 Application Package and Communication Site Inventory

Communication Site Inventory

The communication site inventory is a critical component of the application package as it is the basis for calculating annual rental payments for the site.

Where the Authorizing Agency has been unable to obtain inventory information from a client, staff may use the best available information to establish an appropriate rent for the site under this policy. This may be based on site inspection, Industry Canada Information or file information as appropriate.

The inventory for a communication site will consist of the full names of all users on the site and the purpose of the use (e.g. remote monitoring of equipment, emergency dispatch, cellular telephone service, internet services) for each user. The completed Communication Site Inventory form must be signed and dated by the tenure holder.

A site plan in plan view locating the civil infrastructure (building, towers, guy wires, power lines, roads) on the site will also be required for all new sites. A survey plan or reference sketch prepared by a B.C. Land Surveyor may be required.

Verification material (e.g. radio licences, sub-tenure agreements) to support the information contained in the inventory will not be collected as part of the regular inventory process. However, legal tenure documents reserve the right for the province to audit sites to confirm the inventory and to obtain such information if necessary. In this policy sub-tenure agreement means an agreement between the tenure holder and a secondary user to use and occupy a communications site for purposes specified in the tenure document.

Site Size

The area of a communication site tenure should reflect the needs of the applicant as well as the principles of efficient and diligent use of Crown land. In high use areas, clients should be encouraged to use self-supporting rather than guyed towers.

Survey Monuments

A communications site must not interfere with existing trigonometric control stations, Order in Council reserves surrounding them, and survey rays to such stations. The Surveyor General Division of the Land Title and Survey Authority should be contacted if there is a concern in this regard.

7.1.2 Referrals

A completed communication site questionnaire and site plan should accompany referrals for new sites.

Changes in “communication users” or changes to existing sites that will result in significant alteration of the physical structures on the site may be referred as deemed appropriate by the Authorizing Agency.

7.1.3 Designation of Sites for Communication Purposes

Mountain tops having strategic value for communication purposes (existing and new communication sites) will normally be designated for communication site use pursuant to S. 16 or S.17 of the *Land Act*. An area of suitable size to accommodate future communication sites should be contained within the area designated under S. 16 or S.17.

Such a designation will enable streamlining of the tenuring process for new sites as well as the consent process for existing sites where changes to civil infrastructure are occurring. All referrals/consultation will occur at the designation stage (i.e. new applications within the designation area will not require subsequent referral).

7.1.4 Interim Consents

Where a S. 17 designation is not in place, the Authorizing Agency may consent to the placement of additional civil infrastructure on an existing communication site on an interim basis pending completion of referrals, advertising or other approvals as may be required.

This option should be considered in low risk situations where it is unlikely that the location of additional facilities will result in a negative decision.

The facilities should be of temporary nature (i.e. not fixed to the ground) and the client must understand that if final consent is not granted, the facilities must be removed as soon as is reasonably possible, at the cost of the client.

8. TENURE ADMINISTRATION

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

Additional and special requirements for communications site allocations are:

8.1 Security/Financial Guarantee

PCB's, fuel tanks and other hazardous material may be present on communication sites. The Authorizing Agency should take into consideration such factors when establishing performance guarantees for these sites. Government policy and procedures regarding disclosure and management of the site (pursuant to the *Waste Management Act* and the *Contaminated Sites Regulation*) apply.

8.2 Assignment and Sub-Tenuring

8.2.1 Sub-tenuring Procedures

A tenure holder who wishes to share a communication site with another user (corporate affiliate or third party) may do so without the Authorizing Agency's consent, provided that the changes proposed do not affect the civil infrastructure on the site. Where the civil infrastructure is not affected, the tenure holder must **notify** the Authorizing Agency of the sub-tenure and any changes in use on the site a minimum of 120 days prior to the next anniversary date of the tenure. Notification shall be in the

form of a signed and dated Communications Site Inventory form (and tower profile if an antenna is added to the site).

If the proposed changes affect the civil infrastructure, **prior consent** of the Authorizing Agency will be required to authorize the changes. In such instances, payment of *Land Act* fees (as per the [Crown Land Fees Regulation](#)) will also be required.

Under the terms of the tenure agreement, the tenure holder is responsible for the site (including subtenant activities, liability and contamination) and for paying rent for the site, including that attributable to subtenant(s) communication uses.

The province reserves the right to obtain site use information (e.g. radio license information, copies of sub-tenure agreements) from a tenure holder where deemed necessary by regional staff to resolve a dispute or clarify the current use of a site.

8.2.2 Overlapping Tenures

In special circumstances a tenure may be issued over an existing communication site tenure (e.g. strategic sites; guy-wires crossing into another tenure). For an overlapping tenure to be considered the two users must each have their own facilities, and consent of both parties must be obtained. If sharing of facilities is occurring, then a sub-tenure situation exists and separate tenures are not available.

8.3 Monitoring and Enforcement

The tenure holder is responsible for keeping the Authorizing Agency apprised of changes in use in accordance with requirements set out in the land tenure document. Where inventory information provided by a tenure holder for the site does not coincide with actual site use, provisions of Section 59 of the *Land Act* may be applied.

8.3.1 Updating the Communications Site Inventory

A change in use which affects the civil infrastructure requires the prior consent of the province. The site plan will have to be updated to reflect such changes. [Crown Land Fees Regulation](#) fees will be payable.

A change which does not affect the civil infrastructure (i.e. any change to the use on a site which can be recorded on the inventory form or tower profile only) does not require consent. However provincial staff must be **notified** of such changes 120 days prior to the next anniversary date (billing date) of the tenure.

Notification will be in the form of an up-to-date communication site inventory form (and tower profile if required), signed and dated by the client.

The onus is on the tenure holder to maintain the inventory in up-to-date status. The Authorizing Agency will not request annual confirmations of inventory information.

8.3.2 Site Inspections

At the discretion of the Authorizing Agency, inspections of sites may be undertaken to verify inventory information. These audits will normally be conducted by Authorizing Agency staff, and may involve participation of a communications engineer or other advisors familiar with communications equipment and use. Trespass action may be taken where a site inspection does not correlate with inventory information.

The Authorizing Agency may request a tenure holder to provide transportation, at no cost to the province, to enable inspections of remote sites. Such site inspections will be coordinated with routine maintenance trips to the site by the tenure holder.

9. VARIANCE

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

APPENDIX 1. COMMUNICATION SITES POLICY SUMMARY

TENURE	TERM	METHOD OF DISPOSITION
Licences, Leases, and Statutory Rights-of-Way	Up to 30 years	Application
Direct Sale	Perpetuity	Application
Reserve	N/A	Proposal