



Land Procedure: Management of Crown Lands for Conservation Purposes

NAME OF LAND PROCEDURE: Management of Crown lands for Conservation Purposes

APPLICATION: Applies to all applications for Crown lands disposition, all administered conservation lands, and lands reserved, withdrawn or conditionally withdrawn for conservation purposes.

ISSUANCE: Assistant Deputy Minister, Tenures, Competitiveness and Innovation Division
Assistant Deputy Minister, Resource Stewardship Division

IMPLEMENTATION: Ministry of Forests, Lands and Natural Resource Operations

REFERENCES: *Land Act (Ch. 245, R.S.B.C, 1996)*

RELATIONSHIP TO PREVIOUS LAND PROCEDURE: New

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November 12, 2015

Date:

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APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
November 9, 2015	BN211166	This procedure replaces the MOU between the Integrated Land Management Bureau, and the Ministries of Agriculture and Lands and Environment (2009) to reflect organizational roles and responsibilities in 2015.

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1. PURPOSE

The purpose of this procedure is to establish the processes for the management of Crown land for conservation purposes.

The specific objectives are to:

- provide guidance in identifying administered conservation lands and wildlife management areas (WMAs) when statusing Crown land;
- establish guidelines for the respective roles of FrontCounter BC (FCBC) staff, Land Authorization staff and Conservation staff in reviewing and processing disposition applications in administered conservation lands and WMAs
- provide direction on the current process to record Crown land intended for inclusion in a proposed WMA designation under the *Wildlife Act*;
- identify and provide guidance on *Land Act* mechanisms which may be used to reserve or withdraw Crown land for conservation purposes.

This procedure does not apply to Crown land under the administration of a ministry other than the Ministry of Forests, Lands and Natural Resource Operations (FLNR).

2. DEFINITIONS

Administered Conservation Lands or “ACL” means lands specifically acquired by the Crown for fish, wildlife and habitat conservation purposes and includes land acquired by the Crown via fee simple acquisition (direct purchase, donation, exchange), long-term lease from a private landowner or Crown land transfer of administration. This includes both:

- a) lands which, prior to July 20, 2011, were under the legal administration of the Ministry of Environment (MoE) for fish, wildlife and habitat conservation and management purposes and which were subsequently transferred to FLNR for the same purpose by order of the Ministers of Forests, Lands and Natural Resource Operations and Environment in July 2011 (M 192); and
- b) lands which, after July 20, 2011 are secured by FLNR for conservation land purposes via one of the same means described above.

Conservation Lands spatial layer is the spatial location and boundaries of “WMAs”, Administered lands (“Administered Conservation Lands”) and Reserve lands (“Conservation Reserve/Withdrawal” or “Notation of Interest” in Tantalus) which are available in a consolidated data layer. This layer is currently available from the BC government data warehouse under “WHSE_LEGAL_ADMIN_BOUNDARIES.WCL_CONSERVATION_LANDS_SP” and through the BC Geographic Data Discovery Service by searching on “Conservation Lands”.

Conservation Reserve/Withdrawal means any Crown land that has been designated for conservation purposes by way of a reserve (section 15), withdrawal from disposition (section 16), or conditional withdrawal (section 17), as provided for in the *Land Act* and described in the [Crown Land Use Policy: Reserves, Withdrawals, Notations and Prohibitions](#). The reserve/withdrawal will be entered into Tantalus with the purpose code of 'environment, conservation and recreation' and the sub-purpose code 'fish and wildlife management'.

Conservation staff means the regional Ecosystems Section Head and other ecosystems, fish and wildlife or resource stewardship staff responsible for day-to-day management of administered conservation lands.

FrontCounter BC staff or "FCBC staff" means staff responsible for providing clients of provincial natural resource ministries with information on natural resource authorizations, accepting natural resource applications, including applications for Crown land, and undertaking an initial screening of applications before forwarding applications to the appropriate staff for review and decision.

Lands Authorization staff means staff responsible for reviewing *Land Act* applications, making recommendations to allow or disallow the application as well as the staff responsible for issuing *Land Act* authorizations (e.g. Lands Section Heads).

Notation of Interest or "NOI" means an administrative designation established in recognition of an interest by a federal or provincial agency as described in the [Crown Land Use Policy: Reserves, Withdrawals, Notations and Prohibitions](#). The NOI will be entered into Tantalus with the purpose code of 'environment, conservation and recreation' and the sub-purpose code 'fish and wildlife management'.

Regional Manager under the *Wildlife Act* (or "Regional Manager") means the FLNR Regional Director of Resource Management¹ or other person designated as Regional Manager under the *Wildlife Act*.

Reserve Lands, as used in the conservation lands spatial layer, include Conservation Reserves/Withdrawals and NOIs (areas also classified in Tantalus under the sub-types designated use areas, map reserves, and OIC reserves).

Wildlife Management Area or "WMA" means an area of land under the administration of FLNR which is of special importance to fish and wildlife and is designated as a WMA under section 4 of the *Wildlife Act*. WMAs include critical wildlife areas and wildlife sanctuaries designated pursuant to section 5(1) and section 5(2) of the *Wildlife Act* respectively. In some circumstances leased lands can be included within a WMA.

¹ Under the current *Land Act* delegation matrix, the Regional Director of Resource Management has delegated disposition authority for authorizations related to designated WMAs and ACLs.

3. BACKGROUND

The Minister of Forests, Lands and Natural Resource Operations (FLNR) administers Crown land under various statutory authorities including the *Land Act*, the *Ministry of Lands, Parks and Housing Act*, and the *Wildlife Act*. The Minister administers all Crown land except land specifically under the administration of another Minister or agency of government.

Crown land adjudication, tenure administration and Crown land sales functions are delegated from the Minister to regional staff including the Lands Authorization staff.

Prior to 2011, the Ministry of Environment (MoE) acquired Administered Conservation Lands (ACLs) to fulfill specific conservation objectives or for designation as WMAs under the *Wildlife Act*. MoE also secured other conservation interests on Crown land by way of reserves, withdrawals or NOIs under the *Land Act*.

The creation of FLNR in 2011 resulted in the transfer of the *Wildlife Act*, (including designated WMAs), and ACLs from the Ministry of Environment (MoE) to FLNR and included the legislative tools available to secure and manage Crown lands (including issuing authorizations) for the purpose of conservation.

The administration of ACLs was transferred to FLNR by order of the Ministers of Forests, Lands and Natural Resource Operations and Environment in July 2011 (M 192). The order specifies that the lands transferred to FLNR continue to be administered and managed for fish, wildlife and habitat conservation.

4. GENERAL ROLES AND RESPONSIBILITIES

In ACLs and WMAs, under the *Wildlife Act*, the Regional Manager is responsible for the administration of those lands for conservation purposes and for the activities that occur on those lands. Therefore any disposition of Crown land in ACLs and WMAs require written permission from the Regional Manager to address any potential interference with the administration of the land for conservation purposes and to fulfill the requirement under section 4(4) of the *Wildlife Act*, prior to a *Land Act* disposition decision.

The Regional Manager is responsible for the management of ACLs and WMAs, including undertaking improvements. Improvements may be carried out by entering into contractual arrangements or agreements with third parties. Improvements being carried out on an ACL showing as an “acquisition” or as a “lease” (i.e. privately owned conservation lands leased to the Crown), in the Conservation Lands Spatial Layer, require review and adherence to the terms and conditions of the acquisition or lease, including the terms and conditions of any financial contributions, interest or arrangements for acquisitions, any encumbrances on title, and notification and written permission of the landowner. This requirement applies whether or not the acquisition or lease lands are included in a WMA. Improvements and dispositions on lands leased to the Crown for conservation management purposes will be determined by the specific terms and conditions of the lease, but in most cases sub-tenuring is not permitted on these lands. Permission from both the Regional Manager and the landowner/lessor is

required for any third party use of lease properties. Contracts, permits or agreements may also be entered into under the authority of the *Wildlife Act*.

Land Authorization staff are responsible for making recommendations and where supported by the Regional Manager consider authorizing dispositions of Crown land under the *Land Act* and the *Ministry of Lands, Parks and Housing Act* and for administering dispositions.

4.1 FrontCounterBC (FCBC)

FCBC is responsible for providing information to applicants on the types of authorizations they require. FCBC also accepts all resource tenure applications, including applications for Crown land, and forwards completed applications to the appropriate adjudication agency. As part of the initial screening process, FCBC is responsible for preliminary statusing of interests on the land. FCBC will refer to the Conservation Lands spatial layer as part of this status.

If an application for disposition of Crown land is received by FCBC where all or part of the land under application is within a WMA or other ACL area, as shown in the Conservation Lands spatial layer, the application will be directed to regional Conservation staff for the purposes of seeking a recommendation from the Regional Manager (refer to Appendix 1). For ACL that includes lease land (privately owned conservation lands under long term lease to the Crown), the landowner is also to be consulted. If the Regional Manager does not consent to the use, and the application is only partially within a WMA or other ACL area, FCBC will provide the applicant the opportunity to amend the application area as appropriate to eliminate the overlap.

Where preliminary statusing shows that there are conflicts over Crown land, such as when all or part of the land requested is reserved or withdrawn from disposition (section 15 or 16), applications will not be accepted. Where other designations are in place, such as a notation of interest or a conditional withdrawal (section 17), which may not be in conflict with the proposed use, applications can be accepted and proceed to adjudication.

Any questions regarding compatibility of proposed uses within a *Land Act* conditional withdrawal area (section 17) for fish and wildlife management purposes should be directed to Conservation staff.

FrontCounterBC (FCBC) staff will receive requests for establishment of reserves, withdrawals and NOIs from Conservation staff and forward them to Lands Authorization staff following the standard process and timelines.

FCBC will include 'proposed WMA' in the record for a section 16 application received from Conservation staff where a WMA is the intended purpose for the area.

FCBC will record withdrawals requested by Conservation staff in Tantalus using the purpose code of 'environment, conservation and recreation' and the sub-purpose code 'fish and wildlife management'.

4.2 Conservation Staff

4.2.1 Initiating and Maintaining Land Act Conservation Reserves/Withdrawals

Conservation staff may initiate an application for a *Land Act* reserve/withdrawal to provide interim protection to an area of Crown land prior to designation as a WMA, or to ensure that land is managed for conservation purposes. Conservation staff may request an area be designated as a Notation of Interest (NOI) to ensure that they are included in referrals prior to a *Land Act* disposition decision.

When initiating an application for a *Land Act* reserve/withdrawal for the purposes above, conservation staff should consider optimizing the placement of the *Land Act* reserve/withdrawal by co-locating (overlapping or adjoining) the proposed reserve/withdrawal with other existing wildlife designations where physically and legally appropriate. Other designations may include Wildlife Habitat Areas and Ungulate Winter Ranges established under the *Forest and Range Practices Act*. Co-locating can result in more unified or contiguous areas set aside for conservation purposes.

Conservation staff will initiate a request with FCBC for a *Land Act* section 16 withdrawal from disposition on lands specifically proposed for WMA designation, where they previously would have sought a section 106(2) transfer of administration. The application will identify 'proposed WMA designation' as the intended purpose. The application will be delivered to the corresponding regional FCBC office.

Conservation staff will be responsible for addressing First Nations, stakeholder or public conflicts that arise in connection with a reserve/withdrawal proposal.

Conservation staff will submit to the appropriate regional FCBC office the completed reserve/withdrawal application form which must be accompanied with a cover letter that contains the following information:

- The length of term for the reserve/withdrawal;
- The signature of the Ecosystems Section Head or Regional Manager;
- The name, business address and phone number of a contact person; and,
- Description of current legal status and use of the subject area as understood by conservation staff, and if there are any known conflicts between the proposed reserve/withdrawal and existing tenures.

Authorizations and Conservation staff may periodically review the need for existing conservation reserves/withdrawals and provide a rationale or recommendation for continuing or cancelling existing conservation reserves/withdrawals.

4.2.2 Initiating and Maintaining Records of WMAs and Administered Conservation Lands

Headquarters Conservation staff (Resource Management Objectives Branch) will ensure that the conservation lands layer in the BC government data warehouse is updated by GeoBC yearly to reflect any new WMAs and ACLs and will work with appropriate Lands Authorization staff to ensure that Tantalus is similarly updated.

4.2.3 Applications for Dispositions on Land Act Conditional Withdrawal (S.17) and NOI areas

Lands under application with a conditional withdrawal and/or a NOI where the interest holder is noted as 'fish and wildlife' or 'conservation', will be referred by Lands Authorization staff to Conservation staff prior to a decision being rendered.

Conservation staff are responsible for reviewing referrals and providing comments within the standard referral process and timelines.

For lands conditionally withdrawn, offers of tenure will only be made where the use is considered to be compatible with the purpose of the withdrawal, as determined jointly by Conservation and Lands Authorization staff.

4.2.4 Dispositions on Administered Conservation Lands

Where preliminary statusing shows that all or part of the lands under application are ACLs (including WMAs), FCBC will forward the application to the appropriate Conservation staff. The Regional Manager may:

1. If the land is in an ACL or WMA, decide not to provide permission for the proposed use if the use interferes with the administration of the land for conservation purposes or pursuant to section 4(4) of the *Wildlife Act*;
2. If the land is in an ACL or WMA, and comprises an acquisition or lease, decide not to provide permission for the proposed use if the use conflicts with the terms and conditions of the acquisition or lease, including with the terms and conditions of any financial contributions, arrangements or interest or, with any encumbrances on title (including restrictive covenants), and does not receive written permission for the intended use from the private landowner.
3. If the land is in an ACL, and the proposed use relates to accessing, managing or protecting wildlife, authorize the use through the establishment of an agreement under section 3 the *Wildlife Act*, Ministry of Lands, Parks and Housing Act or other statute; or,
4. If the proposed land use is compatible with the conservation purpose of the ACL, forward the application to Lands Authorization staff to adjudicate under the *Land Act*.

In the case of 4 above, Conservation staff will forward to Lands Authorization staff notification of the Regional Manager's preliminary consent for the proposed application and may also identify any considerations or conditions required if the proposed land use is to proceed.

In most cases, lands which have been leased from a third party to the Crown are not available for disposition under the *Land Act*.

Before a *Land Act* tenure may be issued, the Regional Manager must provide written consent to the use under the *Wildlife Act* and the Land Authorization staff must approve the proposal under the *Land Act*. In cases where the Regional Manager has determined that the proposed use is not acceptable, and does not provide permission, a *Land Act* tenure cannot be offered.

Applications to which the Regional Manager has indicated preliminary consent will be adjudicated and administered by Lands Authorization staff. Prior to final tenure issuance, Conservation staff may ask to review a copy of the draft tenure documents.

When both parties are satisfied with the contents of the tenure documents, the Regional Manager will advise in writing that:

- the proposed land use activity is compatible with the administration of the land for conservation purposes; and,
- if the land is in a WMA, he/she permits the use pursuant to section 4(4) of the *Wildlife Act*.

Where the Regional Manager has determined that the proposed use is acceptable, Lands Authorization staff may still decide to disallow the application.

4.3 Lands Authorizations Staff

4.3.1 Land Act Reserves/Withdrawals

FCBC and Lands Authorizations staff will respond to all requests for *Land Act* reserves, withdrawals and conditional withdrawals in accordance with standard timelines, consistent with approved policies and procedures for Crown land allocation.

Prior to expiry or cancellation of *Land Act* conservation reserves/withdrawals by Land Authorizations staff, Conservation staff will be provided with an opportunity to provide a rationale or recommendation to either continue the reserve/withdrawal or allow the expiry of the reserve/withdrawal. Those reserves/withdrawals identified by Conservation staff as no longer required will be cancelled or allowed to expire.

4.3.2 Disposition of Administered Conservation Lands

Where preliminary statusing shows that all or part of the subject lands are ACLs, FCBC will forward the application to Conservation staff.

A *Land Act* tenure may not be issued without agreement from the Regional Manager that the proposed use will not interfere with administration of the land for conservation purposes. Applications to which the Regional Manager has indicated preliminary consent can proceed to adjudication by Lands Authorizations staff.

A *Land Act* tenure may not be issued on ACL comprising an acquisition or lease unless the use is determined not to be in conflict with the terms and conditions of the acquisition or lease, including with the terms and conditions of any financial contributions, arrangements or interest or with any encumbrances on title (including restrictive covenants), and in the case of a lease, receives written permission for the intended use from the private landowner.

Prior to improvements being carried out on ACL comprising an acquisition or lease, these lands require review and adherence to the terms and conditions of the acquisition or lease, any encumbrances on title, and notifications and written permission of the landowner.

Lands Authorizations staff may issue *Land Act* tenures for uses compatible with the ACL, subject to the written consent of the Regional Manager prior to final adjudication and offer as per section 4 of the *Wildlife Act*.

However, even when the Regional Manager has determined that the proposed use is acceptable, Lands Authorization staff may still decide to disallow the application and not offer a tenure.

Prior to final tenure issuance, Lands Authorization staff may forward a copy of the draft tenure documents for review by Conservation staff.

When both parties are satisfied with the contents of the tenure documents, and written permission of the Regional Manager has been received by Lands Authorization staff, a final decision to offer a *Land Act* tenure may be made by Lands Authorization staff.

Pursuant to the sections 119 and 120 of the *Wildlife Act*, any government revenue derived from ACL and WMA lands is payable to the Habitat Conservation Trust Foundation (HCTF) annually near fiscal year end.

A work flow diagram showing the roles and responsibilities for land applications is in Appendix 1.

4.3.3 Disposition of Crown land with Land Act Conservation Reserves/Withdrawals

Lands reserved or withdrawn under section 15 or 16 may not be disposed of. Where lands under application are conditionally withdrawn under section 17 or have a notation of interest, they must be referred to Conservation staff to ensure compatibility of the proposed use and the conservation purpose. For lands conditionally withdrawn, offers of tenure will only be made where the proposed use is considered to be compatible with the purpose of the reserve, as determined jointly by Conservation and Lands Authorization staff.

Lands Authorizations staff will confer with Conservation staff in establishing the conditions to be incorporated in the *Land Act* tenure, and will monitor for compliance with the terms and conditions of the tenure.

Appendix 1 – Flow diagram for *Land Act* applications

