



## Land Use Operational Policy Roadways

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<b>NAME OF POLICY:</b>	Roadways
<b>APPLICATION:</b>	Applies generally to: public and private roads to Land Act dispositions and to private property; statutory rights-of-way for access; public road allowances under Section 79 and 80, Land Act; roads within Crown land subdivisions; and, dedications under Land Title Act Section 102 and 107 of titled lands.
<b>ISSUANCE:</b>	Assistant Deputy Minister, Rural Development, Lands and Innovation
<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 Sections 13, 14, 40, 57, 58, 79 and 80) <i>Transportation Act</i> (Ch. 44, R.S.B.C., 2004); <i>Land Title Act</i> (Ch. 250, R.S.B.C., 1996);
<b>RELATIONSHIP TO PREVIOUS POLICY:</b>	This policy replaces the previous Roadways policy dated June 1, 2011.

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Date:

**APPROVED AMENDMENTS:**

Effective Date	Briefing Note /Approval	Summary of Changes:
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## 1. POLICY APPLICATION

Applies generally to:

- public and private roads accessing Land Act dispositions and private property;
- statutory rights-of-way for access;
- public road allowances under Section 79 and 80, Land Act;
- roads within Crown land subdivisions;
- dedications under Section 102 and 107, Land Title Act, of titled lands.

Does not apply to:

- roads authorized by legislation other than Land Act and Land Title Act;
- roads within Provincial Forests that are intended for forestry related uses;
- gazetted roads constructed under authority of the Transportation Act.

Note that in the case of industrial roads associated with Clean Energy Projects, and located within the Provincial Forest, authorization may be applied for and granted in accordance with this policy, or by a Special Use Permit, in accordance with the Provincial Forest Use Regulation, *Forest Practices Code Act*.

## 2. PRINCIPLES AND GOALS

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

### 2.1 Public Roads

Public roadway means a portion of Crown land designated or indicated as a road which is open to the public. The general intent of the Roadway policy is to consider and provide for access needs across Crown lands where required, and to provide access road authorization to private parties planning to build roads which also serve public access needs.

This intent creates a responsibility that every public road will contribute as much as possible to the overall network of roads in the area it services. It also creates a responsibility, whenever a parcel of Crown land is alienated, to consider the advisability of a Section 79 *Land Act* corridor for road purposes to provide future access to lands around or beyond the subject parcel. Ongoing liaison with the appropriate approving officers, as designated by Section 77, *Land Title Act*, is essential to the proper execution of these responsibilities.

### 2.2 Private Roads

Private roadways are roads or railbeds over which exclusive use of the land is conveyed to the authorized tenure holder and which are not open to public use. Private roads may be authorized only if there are clear physical reasons why access should not be provided to the public, e.g. physical hazards due to industrial traffic, danger from explosives, sour gas, etc.

### 2.3 Bridges

Bridges generally carry a greater liability risk than roadways, and therefore deserve special consideration. Tenures should be maintained on bridges throughout the construction period

and, wherever feasible, during their usable life. Before tenures expire, the need for renewal of the tenure and renovation or removal of the bridge should be considered.

### **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](#).

An applicant for a Section 80 public road allowance must be the owner of the private land being subdivided, and must require the road allowance for access. An agent may make application in the name of the owner.

### **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 roadways.

Under the *Land Act*, unless there is express provision to the contrary, roadways are deemed to be a maximum of 20 metres in width for all forms of tenure. More detailed information on road specifications is contained in Appendix 2.

Note, until 2015 a works permits was a standard form of *Land Act* authorization for construction and maintenance of a public roadway on Crown land. This form of authorization is no longer being granted.

#### **5.1 Licence of Occupation**

The maximum term for a licence of occupation is 10 years.

The road must be open to public use and cannot be gated or similarly controlled unless a licence of occupation is to be issued for a private roadway for temporary use as an interim right of occupancy (usually 2 years), pending completion of the required survey for a statutory right of way.

In exceptional circumstances a licence of occupation, rather than a statutory right of way, may be issued for short term use (10 or fewer years) for a private roadway (but not a railbed), where there are clear economic reasons why survey costs for a statutory right of way are unaffordable.

#### **5.2 Statutory Right of Way**

A statutory right of way is the preferred tenure for roads or rail-beds where public use must be excluded.

A right of way for a private road may be issued for as long as required, provided the term does not exceed 30 years.

### **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 roadway allocations are:

### 7.1 Applications

#### 7.1.1 Application Package

##### Location Requirements

Roads should be designed so as to connect to the roadway plan for the surrounding area. If a referral to the Ministry responsible for the *Transportation Act* is needed, it should be given priority in the referral process so that all referral agencies can evaluate the same proposed route without undue delays.

A public road allowance should be located along the boundary of a parcel unless the road has already been constructed or topographical features indicate a better alternative.

##### Consultant's Report

The Authorizing Agency may require an applicant to provide a report from a qualified professional (registered professional forester, registered engineer, or certified engineering technician with a minimum of two years of road building experience.) As a guideline, a consultant's report may be required where:

- the length of a roadway is over 5 km and justifies the expense; or
- the route crossed by the road has known environmental sensitivities.

Requirements for the report may include the following:

- the consultant's declaration that he has been on site and located the road;
- a road plan, profile and cross-section of the located road, including location of culverts, bridges, cattleguards, etc;
- explanation of why the road is required;
- recommendations on type of equipment to be used in construction;
- constraints governing construction of the road, such as time of year construction is to occur.

##### Engineering Report for Bridges

The Authorizing Agency may require an engineering report to accompany an application for Crown land to construct a bridge. The report should not generally be requested until after the decision has been made to authorize the road.

#### 7.1.2 Referrals

Outside municipal boundaries the Ministry responsible for the *Transportation Act* is the primary referral agency. If their response makes re-routing necessary, other referral agencies should be informed of the change as quickly as possible.

### 7.1.3 Issuing Documents

Public road allowance dedications occur on Crown land that is registered in the Land Title Office. To be consistent with Section 102 of the *Land Title Act*, dedications of roads are subject to the applicant providing the Authorizing Agency with written confirmation from the appropriate approving officer that the proposed road meets Ministry responsible for the *Transportation Act* or municipal requirements (unless the highway has been previously established by notice in the Gazette).

The type of survey required for a road dedication can be determined by a land surveyor. The Surveyor General can also provide assistance.

#### Road Specification Guidelines

Road specifications guidelines are provided in Appendix 2. They may be used at the discretion of the Authorizing Agency and may be amended for the particular type or proposed use of a road. These can also be superseded by recommendations of a qualified professional (refer to 7.1.1).

## 8. TENURE ADMINISTRATION

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

Additional and special requirements for roadway allocations are:

### 8.1 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 (general liability or, for non-commercial activities, homeowner's insurance) specified in the tenure document.

The province accepts no responsibility for maintenance or improvements to roads authorized under the Land Act.

### 8.2 Security/Financial Guarantee

A financial guarantee may be required by the Authorizing Agency prior to issuance of a tenure. The amount of the bond, determined by the Authorizing Agency, should be commensurate with the level of risk and decommissioning costs.

## 9. PUBLIC ROADS

The province assumes responsibility for ensuring that the need for future roads is considered before disposing of Crown land. When a decision is made regarding sale or lease of Crown land, the road needs for the surrounding area should be considered, and the appropriate public road allowance made. The provision of access to lands beyond by leaving access corridors of vacant Crown land, is an essential consideration in the allocation of Crown land. Road allowances should conform with a grid pattern or follow one side of a property boundary when possible.

Public road allowances authorized pursuant to this policy will be a standard width of 20 metres (25 metres in the Peace Region) plus three (3) metres beyond cuts and fills. A wider allowance should be necessary only if required by the appropriate approving officer.

## 9.1 Section 79 *Land Act* Public Road

The purposes of a Section 79 public road allowance are:

- to dedicate road on a survey plan at the time a parcel of Crown land is being surveyed and subsequently disposed of by way of lease or Crown grant, in order to recognize an existing road or trail or to plan for access to lands beyond;
- to record this in the Crown Land Registry; and
- to create a legal road entity.

There must be just cause for the deletion. The allowance should be for a road that is in use or that is necessary for access to lands beyond. It should tie into existing roads or rights of way.

A public road allowance should be located along the boundary of a parcel unless the road has already been constructed or topographical features indicate a better alternative.

A request for deletion is submitted to the Surveyor General Division of the Land Title and Survey Authority. The request should contain a legal description, a sketch map, and a note on the width of the allowance (20 metre minimum). For unsurveyed areas, locational evidence should be provided, where obtainable, from such sources as: forest cover mapping, topographic base maps, air photos, or, if no other evidence is available, a centre line traverse of the roadway with a tie to existing survey evidence. For surveyed areas, an effort should be made to locate survey evidence and identify it on a copy of the official plan, survey plan, or sketch map.

## 9.2 Section 80 *Land Act* Public Road

A Section 80 public road dedicates Crown land for a road in order to provide access over Crown land to a privately owned subdivision, where there is no suitable access across private land, or where the proposed dedication meets long range objectives for a public road grid for the area.

All applications for a Section 80 public road are to be accompanied by:

- three copies of the preliminary subdivision plan showing the proposed road allowance location;
- a letter from the appropriate approving officer, indicating tentative approval of the proposed road and stating the width required to be dedicated; and
- any supporting information which might assist in the adjudication of the application, such as why the road is needed, why the particular route was chosen, information on any existing roads to the subdivision, and consideration of the availability of the client's land for all or part of the proposed road.

**Inspection:** Upon receipt of an inspection report, the Authorizing Agency adjudicates the application and advises the applicant of the result.

**Letter of Advisement:** If the adjudication is positive, the Authorizing Agency issues a letter advising the applicant to prepare the final subdivision plan for approval by the approving officer and subsequent processing and signature by the Surveyor General. If a charge for the land is to be made, the applicant is advised in the letter.

Once an application for dedication of road pursuant to section 80 is approved a letter of approval and a copy of the approved application sketch must be sent to the Surveyor General Division.

**Registration:** The Surveyor General will sign the subdivision plan thereby authorizing the dedication of road on the plan. Once signed, the Surveyor General Division returns the



approved plans to the sender for registration in the Land Title Office, and sends a copy of the covering letter to the Authorizing Agency.

Construction is authorized under a licence of occupation.

### **9.3 Dedication of Roads pursuant to the *Land Title Act***

An application for a road over titled Crown land (or a request from a municipality) may lead to dedication under the *Land Title Act* (i.e., Ministry responsible for the *Transportation Act* or the municipality affected will assume responsibility for the road at a stage to be determined by negotiation). Section 107, *Land Title Act*, requires that title exist in the Land Title Office, or be raised in the name of the Crown by Crown grant, and that a reference plan, signed by the Surveyor General, be approved by the approving officer. The approving officer's confirmation that the proposed road fulfils *Land Title Act* requirements is essential before proceeding with a survey and preparation of a reference plan.

## **10. VARIANCE**

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

## Appendix 1. Roadways Policy Summary

TENURE	TERM	METHOD OF DISPOSITION
Interim Licence of occupation pending completion of survey requirement for statutory right-of-way.	Usual term is two years	Application
Licence of Occupation	10 years	Application
		Application
Statutory Right-of-way (private roads only).	30 years normal term	Application
Public Road Allowance (Section 80).	Dedicated in Perpetuity	Application

## Appendix 2. Road Specifications

*The following provides guidance and considerations related to construction of roads with generally low levels of impact and low intensity of use. Planning, designs and specifications of other roads should be provided by qualified professionals*

### A. Road Engineering

1. With due consideration for the appearance of forest landscapes in visually sensitive areas and for the protection of water quality, fisheries, and other resource values, the location and design (alignments and gradients) of roads and bridges shall be such that the combined costs of construction and maintenance are minimized. Competent personnel shall be employed for the design and location of roads and firm supervision and control given all construction work.
2. Road construction is recognized as a major cause of stream sedimentation. Accordingly, the amount of road built shall be minimized particularly where unstable or sensitive areas and fine textured soils have been identified. Road construction shall be avoided through areas having a high potential for sedimentation or slope instability, wherever other resources are threatened.

Where possible, environmental impacts will be minimized by:

- locating roads away from streams, narrow canyons, slide areas and marshes;
  - locating roads on benches, ridge tops, and flatter slopes;
  - taking precautions to ensure that non-culverted drainage channels are clear and the risk of subgrade erosion is minimized whenever unfinished road is to be left over the winter;
  - prescribing for each roads those design specifications that are best adapted to given slopes, topography, and soils.
3. The following specifications may be modified or amended only with the approval of the Authorizing Agency. Construction prescription, e.g., end hauling, may be added to meet unusual or special conditions.

### B. Minimum Road Specifications

1. Turnouts: Five turnouts, preferably intervisible, with a usable length of about 30 metres and a total width including road of 8 metres should be built per kilometre of single lane road. For temporary roads, construct turnouts as required and where the least environmental damage will occur.
2. Widenings: On blind curves, the road should be at least 8 metres wide around the curve and for 100 metres approaching each end of the curve.
3. Right of Way Clearing, Grubbing and Slash Disposal:
  - Fell all trees within a right-of-way area 4 metres beyond the top of cuts and 3 metres beyond the toe of fills. Fell leaners and damaged trees which are adjacent to the right of way and yard into the right of way any trees felled into standing timber.

- Recover merchantable logs, (Licence to Cut requirement from the Ministry responsible for the *Forest Act*).
  - Remove stumps and organic soil to a maximum width of 12 metres on level ground and easy slopes except where construction by overlanding is being done. Go to widths more than 12 metres as dictated by sideslopes and centreline cuts.
  - Dispose of road clearing slash and non-merchantable wood by piling and burning or by burying either in the toe of the fill, or in pushouts adjacent to the right of way as directed by the B.C. Forest Service.
4. Ballasting and Surfacing: Place sufficient ballast or surfacing material to carry planned vehicle traffic without rutting or deforming the road surface. Give due consideration to the planned traffic frequency, quality of ballast and surfacing materials, and required maintenance.

### **C. Pits and Quarries**

Obtain approval of the Authorizing Agency for pits or quarries that will extend beyond the right-of-way boundaries. Clear the area and dispose of slash as per B3 bullets 1, 2 and 4. Dress the pit slopes to a natural angle of repose before road is abandoned if deemed necessary by provincial staff.

### **D. Culverts**

1. Design all culverts according to accepted engineering principles to carry the design load and pass the specified peak flood. Install metal culverts according to manufacturer's recommendations.
2. Select metal pipe or cedar log culverts with enough capacity to pass the 50 years flood on main roads and the 25 years flood on the other roads at HW/D=1.0. Place pipe culverts at a slope coincident with the stream slope whenever practical.
3. Install enough culverts to ensure the natural drainage pattern of all streams both seasonal and continuous. Install additional culverts as necessary to drain ditches and minimize ditch erosion. Provide temporary culverts during the pioneering stage where siltation or erosion is a problem. Keep stream channel free of construction debris.
4. Space crossdrain culverts no more than 150 metres apart on grades over 10% and 230 metres on grades less than 10%.
5. Do not install metal culverts smaller than 500 millimetres in diameter or wood culverts with an opening smaller than 500 millimetres by 1,000 millimetres.
6. Select sound cedar for wood culverts. As a general rule, place sill logs outside the average highwater mark of the stream unless otherwise designated as per D1.
7. Provide adequate drainage at all road junctions.

### **E. Special Provisions for Maintenance of Water Quality**

Note: For any works in and about a stream a section 11 , *Water Sustainability Act* notification or approval is required

1. Install aprons or flumes to carry water from culverts over unstable fills or, preferably, replace the unstable fill at the culvert with a non-erodible material (e.g. rip-rap) to absorb the impact of discharge. Protect culvert inlets from erosion as required.
2. Maintain the natural course of all streams whether seasonal or continuous.
3. Install crossdrain culverts to divert ditch water away from seasonal and continuous streams, or direct the water into sediment catchment basins away from the streams.
4. Construct cut and fill slopes to suit the local soil and rock material. See best management practices for some recommended slopes.
5. Adopt measures to stabilize cutbanks and fill slopes when soils are unstable, e.g. grass seeding.
6. Plan borrow pit and waste areas to minimize erosion and water turbidity.
7. Do not dump or spill material or debris in any stream or lake. Keep culvert and bridge sites clean during construction.
8. Suspend any road building operation causing erosion or siltation especially during periods of intensive rainfall or heavy runoff or when soils are saturated.
9. For shovel constructed subgrade on easy slopes, increase the cleared width to provide for spreading of unusable material. Such material should be spread no more than 1 metre deep and must be suitably protected to prevent erosion, (e.g. grass seeding).
10. Use backhoes to build road on erodible or poorly drained soils.

### **F. Special Provisions for Protection of Fish Bearing Streams**

1. The design, and the time and method of construction of all structures proposed over fish bearing stream must adhere to s. 11 *Water Sustainability Act* requirements, and must be in compliance with the federal Fisheries Act (the later which may require review of the proposed works).
2. Protect the shorelines of streams and lakes and shoreline shrubs from damage due to right-of-way clearing, logging, and burning.
3. Observe all constraints listed above, particularly in D and E.

### **G. Cattleguards**

Construct suitable cattleguards at all points where the Works cross any fence lines or natural boundaries as may be required.