

Crown Land Use Operational Policy: Community and Institutional Land Use

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
June 9, 2004	CAS Minute of April 13, 2004	Changes made to reflect new Government policy on FCGs and Nominal Rent Tenures. Note: Web links will be activated once all land policies are finalized and posted on the web site at the end of July 2004.
June 15, 2004	Ward Trotter A/Director Policy and Economic Development Branch	Statutory Rights of Way added as a tenure type available under this policy.
August 16, 2004	Ward Trotter A/Director Policy and Economic Development Branch	Template language updated as a result of the Policy and Procedures Re-write Project.
October 21, 2005		Policy changed to reflect new agency names and responsibilities
March 10, 2006	Briefing Note 138745	Appendix added to address Public Wharves within the NRT program.

Table of Contents

1.	POLICY APPLICATION	1
2.	PRINCIPLES AND GOALS	1
3.	DEFINITIONS.....	2
4.	ABBREVIATIONS	3
5.	ELIGIBILITY	3
5.1	Organizations Eligible for FCGs	3
5.2	Organizations Eligible for NRTs.....	3
5.3	Eligible (and not eligible) Land Uses	4
5.4	Tenure Restrictions for Some Land Uses.....	4
6.	FORM OF LAND ALLOCATION.....	5
6.1	Licence of Occupation	5
6.2	Lease.....	5
6.3	Statutory Right of Way.....	6
6.4	Crown Grants.....	6
7.	PRICING AND VALUATION POLICY	6
7.1	Administrative Fees	6
7.2	NRTs.....	6
7.3	FCGs	7
7.4	Crown Grants at Market Value	7
8.	ALLOCATION PROCESSES	7
8.1	Ministry Sponsorship	7
8.2	Pre-Application Valuation	8
8.3	Applications	8
8.3.1	Application Package	9
8.3.2	Application Acceptance.....	9
8.3.3	Clearance/Statusing.....	9
8.3.4	Referrals	9
8.3.5	Advertising/Notification	10
8.3.6	Aboriginal Interests Consideration	10
8.3.7	Field Inspections	10
8.3.8	Decision/Report	10
8.3.9	Processing Time	11
8.3.10	Dispute Resolution.....	11
8.3.11	Issuing Documents	11
9.	TENURE ADMINISTRATION.....	12
9.1	Insurance.....	12
9.2	Security/Performance Guarantee	12
9.3	Assignment and Sub-Tenuring.....	12
9.4	Tenure Replacement	12
9.5	Monitoring and Enforcement.....	13
9.6	Timber Administration.....	13
9.7	Communication and Publicity	13
10.	VARIANCE	13
	APPENDIX 1. COMMUNITY/INSTITUTIONAL POLICY SUMMARY	14
	APPENDIX 2: FINANCIAL GUIDELINES	15
	APPENDIX 3: EXAMPLES OF ELIGIBLE NON-PROFIT SOCIETY.....	17
	APPENDIX 4: PROCESS SUMMARY	18
	APPENDIX 5: PUBLIC WHARVES WITHIN THE NRT PROGRAM	20

1. POLICY APPLICATION

This policy applies to:

1. **Free Crown Grants (FCGs)**, which are free transfers of Crown land from the province to public sector organizations, such as regional governments and school boards (see definitions below); and
2. New **Nominal Rent Tenures (NRTs)**, which are leases and licences of occupation of Crown land that are provided to charities, non-profit organizations and public sector organizations for a token or nominal amount of rent. (see definitions below)
3. Management and **renewal of existing NRTs** issued under previous policies.
4. Crown land tenures for **community or institutional** purposes with **market rent**.
5. Sale of Crown land for **community or institutional** purposes at **market value**.

Where there are special policies or procedures for community and institutional applications for a particular land use, they will be contained in the relevant land use policy, such as [Aggregates and Quarry Materials](#) policy or [Communication Sites](#) 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.

FCG and NRT Program Policy serves to support the community, social and economic goals of the Province of British Columbia by making parcels of Crown land available for community and institutional uses. It enables the use and disposition of Crown land for health, education, public safety, community infrastructure, transportation and public facilities that benefit the public-at-large. The FCG and NRT Program provides opportunities for local economic diversification, a supportive social fabric and healthy communities.

Sales and tenures will be managed in accordance with generally accepted accounting principles. Government will be accountable for in-kind contributions to community and institutional initiatives. When Crown land is provided for less than market value, government is accountable for the value of the land or tenure and the alignment of the proposed use with government objectives.

3. DEFINITIONS

Authorizing agency means the provincial ministry responsible for the specific land use authorization.

Book Costs refers to any costs incurred by the province in order to prepare a parcel of land for FCG or NRT use, including but not limited to development, advertising and appraisal costs.

Community organization means a registered charity or non-profit organization which is an incorporated society pursuant to the *Society Act*, is exempt from property taxes, and is exempt from income taxes.

Community Use means the use of Crown land for the purpose of providing a beneficial community service such as the advancement of education or alleviation of poverty, or other public benefit.

Concessionary Value means the value of the annual rentals for the entire tenure term (discounted by the appropriate rate) minus the actual amount charged (generally \$1) (see Appendix 3 Financial Guidelines).

Free Crown Grant means a written instrument issued pursuant to Section 51 of the *Land Act*, which conveys Crown land in fee simple and free of charge (other than book costs, see above).

Market value is the most probable value which a property should bring in a competitive and open market under all conditions requisite to a fair sale and assuming the price is not affected by undue stimulus. Market value may be determined by BC Assessment, internally by the authorizing agency or by an independent land appraisal.

Government Agency refers to a government corporation, an improvement district incorporated under the *Municipal Act*, agency established by bylaw, such as park or recreation commission or fire department; or similar bodies established by and accountable to provincial, regional or municipal government by way of enactment or bylaw and authorized to perform a specific public purpose.

Institutional Use means the use of Crown land for purely public-oriented purposes by local government and other incorporated organizations which, pursuant to statute, as expressly authorized to provide a specific community service.

Local Government means a municipality, regional district or First Nations acting as a local government for the purposes of this policy.

Municipality means a municipality as defined in the *Local Government Act*.

Nominal Rent Tenure means a lease or licence of occupation that is provided for a token or nominal amount of rent.

Non-Profit Society means a society incorporated under the *Society Act*.

Public Sector Organization refers to a government ministry or agency, the Greater Vancouver Transportation Authority or a non-commercial government corporation.

Registered Charity means a society incorporated under the *Society Act* that holds a current charitable tax number from the Government of Canada.

4. ABBREVIATIONS

DMCERD - Deputy Ministers Committee on Environment and Resource Development

FCG - Free Crown Grant

MAL - Ministry of Agriculture and Lands

NRT - Nominal Rent Tenure

5. ELIGIBILITY

5.1 Organizations Eligible for FCGs

To be eligible for a FCG, an applicant must be:

- A public sector organization;
- A local government; or
- A First Nation (Indian band, band corporation or tribal council). A First Nations band, band corporations or tribal councils that have been incorporated under the laws of BC or Canada, or recognized by special status, are considered a local government for the purposes of this policy.

5.2 Organizations Eligible for NRTs

To be eligible for a NRT, an applicant must be:

- A public sector organization;
- A local government;
- A First Nation (Indian band, band corporation or tribal council); or
- A community organization.

To qualify for a NRT, a community organization should be open to the entire community or provide a benefit to the entire community.

A list of types of examples of eligible non-profit societies is included in Appendix 3.

Religious organizations are not eligible for new NRTs and will be referred to appropriate Crown land use policy for other opportunities regarding land tenure or sales. Seasonal camps operated by religious organizations will be eligible for renewal of existing NRTs.

5.3 Eligible (and not eligible) Land Uses

- (a) FCGs and NRTs are intended for institutional uses that benefit the public or community uses that help eligible organizations to provide valuable community services.
- (b) FCGs and NRTs are intended for uses that are consistent with government's objectives and strategies.
- (c) A FCG or NRT to a First Nation must be for off-reserve Crown land and must be required to serve the community living on-reserve
- (d) FCGs and NRTs are only available for land purposes that cannot be effectively fulfilled using the existing land holdings of the applicant.
- (e) The entire parcel applied for under this policy must be necessary for the public use specified in the application.
- (f) Crown land is also available for sale or tenure at market value where the particular use does not meet the requirements for a FCG or NRT (e.g. where ministry sponsorship can not be obtained).
- (g) **Public wharves that charge fees or rents under the NRT program (See Appendix 5)**

Land acquisition for uses such as schools, universities, colleges and health facilities may be acquired through the capital planning process and are not captured under the FCG or NRT program. Contact the appropriate ministry responsible for more information regarding these land uses.

Land uses that, in the opinion of the province, compete directly with private-sector businesses may not be eligible. For example, an application from a yacht club to establish a marina that would compete with an existing private marina in the area would most likely not be accepted nor recommended for approval for a FCG or NRT. Similarly, a municipal golf course that competes with private golf courses would most likely not be accepted nor recommended for approval.

The community environment must be considered when deciding whether the proposed use will compete with private sector operations, or provide a unique service.

Recreation societies may be eligible either as community organizations under this policy, or as commercial recreation organizations under the [Commercial Recreation](#) policy. Eligibility will be determined on a case-by-case basis, according to the circumstances of the community environment.

5.4 Tenure Restrictions for Some Land Uses

The form of tenure is restricted for the following land uses:

- **Cemeteries:** Disposition under this policy is by FCG only. Only applications from First Nations, local governments or public sector agencies will be accepted.
- **Waste disposal sites:** Dispositions to local government are preferably by FCG, with a restrictive covenant limiting the use to waste disposal purposes.
- **Waste collection sites:** Lease or licence tenure is preferred.

6. FORM OF LAND ALLOCATION

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for community and institutional uses.

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

6.1 Licence of Occupation

A licence of occupation may be issued where minimal improvements are proposed, where short-term tenure is required, where there are multiple users of a site (e.g. communication sites), and in remote areas where survey costs are prohibitive. 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.

For NRTs over \$100,000 a licence may be considered for terms of:

- 10 years or less for projects that are not expected to require ongoing use of Crown land; or
- 30 years for projects that are expected to require ongoing use of Crown land.

6.2 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 is a registerable interest in the land that is mortgageable.

The standard term for a lease is 30 years.

Lease is the normal form of tenure used to allocate Crown land to community organizations for projects that are expected to require the ongoing, long-term use of Crown land.

6.3 Statutory Right of Way

A statutory right of way is normally used to authorize linear uses of Crown land for transportation, communication, energy production and utility developments.

The tenure holder is granted a legal right of passage over the land for a specific purpose.

Statutory right of way for major activities are normally issued for so long as is required. Shorter tenures are issued where the investments are lower, the use is of a shorter duration, or as defined under a specific program.

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

6.4 Crown Grants

FCGs are available only to local governments, First Nations and public sector organizations. Crown Grants at market value may be issued to parties that are not eligible for FCGs, if the proposed site meets specific criteria and the use is considered suitable by government agencies and other affected interests.

Where improvements, including the removal of merchantable timber, are required in order to carry out the intended public purpose, the authorizing agency has the discretion to initiate issuance of a lease or licence of occupation followed by conversion of this tenure to a FCG when improvements are completed. The tenure provisions may include stumpage charges for timber removal. Conversion arrangements should be clearly outlined in the relevant Order in Council, Cabinet Decision Note and/or briefing materials.

7. PRICING AND VALUATION 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 NRTs

Leases, licences of occupation and statutory rights of way issued under this policy or its predecessors, are charged a nominal rental of \$1.00, prepaid for the entire term of the tenure. (See appendix 5 for special procedures for public wharfs)

Stumpage charges for timber removal may apply (see section 9.6).

Parties which do not qualify for NRTs may be able to have their land use tenured under another land use policy that utilize market rate tenures. Rent in these cases will be charged at the rate specified in the appropriate policy.

7.3 FCGs

FCGs are made free of charge, except for the following:

- application and administrative fees;
- assessed value of merchantable timber that is not reserved for the Crown;
- improvement costs including buildings and other developments created with public funds; and
- book costs incurred by the province.

7.4 Crown Grants at Market Value

Crown land may be purchased at market value for community or institutional purposes where the particular use does not meet the requirements for a FCG or NRT.

8. ALLOCATION PROCESSES

Processes for FCGs and NRTs are summarized in a STEP by STEP process in Appendix 4.

8.1 Ministry Sponsorship

The authorizing agency advises the applicant whether the application requires a sponsor ministry.

Ministry sponsorship is required for:

- all FCG's regardless of the fair market value of the land;
- NRT's for a term of 30 years or more which have a fair market land value greater than \$100,000;
- NRT's for a term of greater than one year and less than 30 years where the rent that would normally be paid for the lease, licence of occupation or statutory right of way is \$100,000 or more for the term of the tenure ("the concessionary value"); or
- NRT's that are considered by government to be controversial or have significant issues associated with them (i.e. regardless of term or value).

Sponsorship is not required for:

- NRT's for a term of one year or less;
- NRT's where the fair market value of the land is less than \$100,000; or
- NRT's with a "concessionary value" of less than \$100,000.

In cases where sponsorship is required, a letter of support from the sponsoring ministry is required at the time of application.

Projects of public sector organizations that have already been approved through the capital planning process of a government ministry do not require sponsorship. Contact the appropriate ministry for more information (e.g., Ministry of Advanced Education, Ministry of Education).

The applicant provides the sponsor ministry with the necessary information on the proposed project, including at minimum:

- the location and legal description of the property
- the proposed purpose or use planned for the land
- the proposed length of tenure term
- details on how your proposed project meets the Province's standard [selection criteria](#) and any additional criteria the sponsor ministry may have.

The sponsor ministry will then:

- apply the government-approved selection criteria to applications that are consistent with their ministry's mandate and service plan commitments, to ensure that the applications support government's broader strategic goals;
- make a decision to sponsor or not to sponsor the application; and
- work with the authorizing agency to confirm the value of the potential FCG or NRT.

In cases where sponsorship is required, a letter of support from the sponsoring ministry is required at the time of application. If the applicant does not obtain ministry sponsorship, the applicant may apply for a [standard tenure](#) or sale at market value under the appropriate Crown land use policy.

8.2 Pre-Application Valuation

In cases where ministry sponsorship is (or may be) required, the province will determine the value of the land parcel sought prior to application, upon written request from the applicant.

The authorizing agency will determine and provide the following information to the sponsoring ministry:

- The market value of the land;
- The value of any associated book costs (note these costs are subject to change and will be finalized prior to issuance of the FCG or NRT);
- The concessionary value of a NRT (if applicable).

Appendix 2 provides guidelines for calculating the fair market value and concessionary value of FCGs and NRTs.

8.3 Applications

New and replacement tenures are normally offered in response to individual applications.

8.3.1 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](#).

In cases where sponsorship is required, a letter of support from the sponsoring ministry is a required part of a complete application package.

All applications for which the end-use requires construction of improvements, must be accompanied by an outline of proposed operations, indicating the nature and location of improvements, and proposed operating schedules.

Applicants must justify the Crown land requirement in relation to their other land holdings. Applications must include a letter from the council, board, or authorized spokesperson to confirm that the applicant can not effectively utilize existing land holdings for the intended public use.

Applications will include a written explanation of why all of the land applied for under this policy is required for the intended public use.

8.3.2 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.

In cases where sponsorship is required, a letter of support from the sponsoring ministry is a required part of a complete application package.

8.3.3 Clearance/Statusing

After acceptance, provincial staff undertakes 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.

8.3.4 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).

If the adjudication process identifies significant issues or conflicts that cannot be resolved by the authorizing agency and the sponsoring ministry, the issue(s) may be referred to the Deputy Ministers Committee on Environment and Resource Development for resolution (see 8.3.10).

8.3.5 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.

8.3.6 Aboriginal Interests Consideration

The authorizing agency is responsible for ensuring the province’s obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur.

The authorizing agency is not responsible for the financial obligations associated with any First Nation accommodation resulting from a FCG or NRT. The sponsoring ministry or applicant is responsible for these obligations. In addition the costs related to FN accommodation can not be booked against the FCG/NRT budget allocations in the Crown Land Account.

8.3.7 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.

8.3.8 Decision/Report

a) NRTs that do not require ministry sponsorship

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

b) Sponsored Free Crown Grants and NRTs

Cabinet determines whether sponsored FCG and NRT applications are approved.

If a sponsored application is approved, the authorizing agency prepares a Cabinet Decision Note supporting the application and an Order in Council Package (if the application is for a FCG). If an application does not pass the

adjudication process, then the authorizing agency and the sponsoring ministry will jointly prepare a Cabinet Decision Note setting out the advantages and disadvantages of the application.

The Cabinet Decision Note will be forwarded to MAL for review and processing through to Cabinet Operations. MAL will notify the authorizing agency once Cabinet Operations has informed MAL (and the sponsoring ministry as appropriate) of the decision.

The authorizing agency will then provide written notification of the decision to the applicant within 14 calendar days of receiving formal notification of the decision of Cabinet.

8.3.9 Processing Time

For NRTs that do not require ministry sponsorship, standard processing time requirements apply.

For applications that require a decision of Cabinet, the processing time clock stops when the cabinet decision package is submitted to Cabinet Operations.

8.3.10 Dispute Resolution

If the adjudication process identifies significant issues or conflicts, the authorizing agency will advise the applicant, the sponsoring ministry and other affected ministries. Issues that cannot be resolved by the authorizing agency and the sponsoring ministry may be taken to the Deputy Ministers Committee on Environment and Resource Development (DMCERD) for resolution. The authorizing agency or the sponsoring ministry may initiate the DMCERD process.

8.3.11 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.

In cases where a decision of Cabinet is required, no offer or announcement will be made until the Order in Council or Decision Note has been signed.

The authorizing agency will provide offer documents to the applicant within 14 calendar days of receiving formal notification of the decision of Cabinet. In doing so the authorizing agency will have fulfilled the joint communication requests set out in section 9.7.

Restrictions on FCGs

For all FCG dispositions, land use is limited to a specified public purpose. Compliance is assured by placing a reversionary clause within the Crown grant and use of restrictive covenants. The land is returned to the Crown in the event that it is no longer used for the specified public purpose. See Crown Grants: Use of Restrictive Covenants and Reversionary Clauses.

If the holder of an existing FCG wants to use the land of purposes that require the removal of covenants, the holder may apply to purchase the land at market value.

Restrictions on NRTs

When a lease, licence of occupation or statutory right of way is issued to a community organization, a special proviso is to be included in the tenure document, which specifies that upon dissolution of the organization, the tenure may be terminated at the option of the Crown.

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.

9.2 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.

A requirement for a performance guarantee for *Land Act* dispositions may be made at the discretion of the authorizing agency. A guarantee is not normally required for NRTs.

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.

Assignment of a lease, licence of occupation or statutory right of way allocated under this policy or its predecessors is subject to the prior consent of the province and the assignee's conformance with the eligibility requirements of this policy.

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.

9.5 Monitoring and Enforcement

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

9.6 Timber Administration

Timber removal that is required to carry out the intended public purpose for which a FCG is to be issued, may be completed within the term of an interim lease or licence of occupation.

When a FCG is made for land containing merchantable timber:

- a reservation may be placed in the grant requiring the grantee (or successors) to pay for any timber removed; or
- the assessed value of the timber may be charged at the time the grant is issued.

9.7 Communication and Publicity

The authorizing agency is responsible to coordinate a communications strategy with the sponsoring ministry and Public Affairs Bureau (via communication staff). A joint agency press release is optional for an NRT, at the discretion of the authorizing agency.

10. VARIANCE

Any decision that would vary from this policy must be made by the Assistant Deputy Minister, Crown Land Administration Division, Ministry of Agriculture and Lands.

Appendix 1. Community/Institutional Policy Summary

TENURE	ELIGIBILITY	TERM	VALUATION	PRICING	METHOD OF DISPOSITION
Licence of Occupation NRT	Public Sector Organization, Local Government, First Nation or Community Organization	10 years or 30 years (may be issued for less than 10 years)	Appraised Market Value (or BCA actual land value) of the land; plus current value of any improvement or calculate concessionary value if market value is < \$100, 000	\$1.00 prepaid for full tenure term for NRT In either case, stumpage charges may apply See special procedures for public wharves.	Application (letter of sponsorship may be required for NRT)
Lease NRT	Public Sector Organization, Local Government, First Nation or Community Organization	30 years	Appraised Market Value (or BCA actual land value) of the land; plus current value of any improvement	\$1.00 prepaid for full tenure term for NRT In either case, stumpage charges may apply See special procedures for public wharves	Application (letter of sponsorship required for NRT)
Statutory Right of Way NRT	Public Sector Organization, Local Government, First Nation or Community Organization	30 years	Appraised Market Value (or BCA actual land value) of the land; plus current value of any improvement	\$1.00 prepaid for full tenure term for NRT In either case, stumpage charges may apply	Application (letter of sponsorship may be required for NRT)
FCG	Public Sector Organization, Local Government or First Nation	Perpetuity (or as long as the land is used for the specified public purpose)	Appraised Market Value of the land; plus Value of unreserved merchantable timber.	Application fees; plus Book costs; plus Value of unreserved merchantable timber; plus current value of any improvements	Application with a letter of sponsorship
Crown Grant	Public Sector Organization, Local Government, First Nation or Community Organization	Perpetuity	Appraised Market Value of the land; plus Value of unreserved merchantable timber; plus current value of any improvements.	Application fees; plus Market value of land and improvements; plus value of unreserved merchantable timber.	Application

See Appendix 2: Financial Guidelines

Appendix 2: Financial Guidelines

This Appendix provides guidelines for calculating the market value and concessionary value of FCGs and NRTs for the purpose of recording transactions against ministry budgetary allocations in the Crown Land Account.

The authorizing agency will determine the market value based on standard procedures, see [Appraisals](#).

2.1 FCGs

The value of a FCG includes:

- the market value of the land
- the assessed value of merchantable timber that is not reserved for the Crown;
- the current value of any improvements including buildings and other developments created with public funds.

The actual amount charged for a FCG will reflect all book costs incurred by the province (development costs, advertising, appraisals, etc.).

2.2 NRTs

The concessionary value of a NRT is the difference between market rent and the actual amount charged for the NRT.

Principles:

The following principles must be applied:

1. NRTs must be recorded in the fiscal year that the Order in Council approving the NRT is signed;
2. The full term must be recorded. For example, a ten year tenure must include the full ten years when calculating the concessionary value;
3. The NRT must be discounted to reflect the time value of money, see [Pricing](#) procedure, section 5.4;
4. There is no requirement to record NRTs where the concessionary value or market value of the land is less than \$100,000.

Assumptions:

Assumptions will be made when determining which NRTs will be recorded and which calculations will be used. Assumptions will be made because;

- A large number of annual leases, license of occupations or statutory rights of way involved;
 - NRTs do not reflect cash or commercial exchange; and
 - Most NRTs are issued for standard 10 or 30 year terms.
1. The concessionary value of a NRT will never exceed the value of the land itself. Recording a NRT for more than the land value would be inconsistent with policy of

the Office of the Comptroller General which treats NRTs as disposals. This assumption enables land values to be considered first in the concessionary value calculation. Consequently, there is no need to calculate the concessionary value of a property with a market value of less than \$100,000.

2. Thirty years is the point at which cumulative tenure rent payments are assumed to equal the value of the land. Therefore, the value of a NRT with a term of 30 or more years can be calculated as the market value of the land.
3. For the purposes of community and institutional use, the annual market rent is calculated at 5% of the market value of the property. Crown land tenure pricing tends to range between 3.5% and 8% of land value. Five percent represents the average of market rent.

Examples

The following examples illustrate how to determine the concessionary value using the principles and assumptions above:

1. Lease of a property with a market value of \$65,000.
 - Calculation of the concessionary value is unnecessary because it can be assumed to be no greater than \$65,000 and
 - NRTs with a concessionary value of less than \$100,000 do not need to be recorded.

2. 30 year lease is granted for a property with a market value of \$350,000.

The concessionary value can be assumed to be \$350,000 because value of the lease is assumed to equal the value of the land when a lease is for 30 years. There is no need for calculation.

3. A ten-year tenure for a property with a market value of \$125,000.
 - The annual rent is \$6,250 (5% of \$125,000)
 - The discounted rent for the ten year term is \$[XX],0000 (Present value based on a discount rate of [Y])
 - The actual rent paid is \$1.
 - The concessionary value is \$[ZZ],000 (\$[XX],000 - \$1).

Appendix 3: Examples of Eligible Non-Profit Society

Examples of eligible types of not-profit societies include:

- First Nations and Band societies
- Airport societies
- Community Agricultural and Fair societies
- Community Amateur Radio and TV societies
- Community Service organizations – Lion's Club, Kinsmen Club, Rotary Club
- Fisheries Enhancement societies
- Habitat Enhancement societies
- Health, Care and Treatment societies
- Historical, Museum and Arts societies
- Local Indoor and outdoor Recreation organizations (athletic and sport societies; hiking and cross-country ski clubs; recreation commissions; nature societies; boating and marina societies)
- Senior Citizen societies
- Rifle, Gun and Archery Range societies
- Rod and Gun clubs
- School Outdoor Education societies
- University and College Alma Mater societies
- Volunteer Firefighters associations
- Water User societies
- Women's and Youth Shelter societies
- Youth Camp organizations – Boy Scouts, Girl Guides
- Youth Groups – Boys and Girls Clubs, YMCA

Appendix 4: Process Summary

FCG Process

- STEP 1**
- ▶ Applicant obtains and reviews the application guide, FCG forms and other information available from the website or the nearest regional office.
 - ▶ The authorizing agency advises applicant about general eligibility and the appropriate sponsor ministry.
- STEP 2**
- ▶ Applicant advises the appropriate sponsor ministry of intention to apply for a FCG.
 - ▶ Applicant provides the ministry the necessary information on the proposed project, including at minimum:
 - the location and legal description of the property
 - the proposed purpose or use planned for the land
 - details on how your proposed project meets the Province's standard selection criteria and any additional criteria the sponsor ministry may have.
 - ▶ The sponsor ministry will then:
 - evaluate your application against the selection criteria, and if selected
 - work with the authorizing agency to determine the market value of the potential FCG and any associated book costs incurred by the province.
 - ▶ Applicants that receive a letter of support from the sponsoring ministry proceed to Step 3.
 - ▶ Applicants who do not obtain ministry sponsorship may consider applying to purchase or tenure the Crown land at market value.
- STEP 3**
- ▶ Applicants submit to the authorizing agency the following:
 - the complete FCG application package
 - the letter of support from your sponsor ministry, and
 - the application fee
 - ▶ Incomplete application packages will not be accepted for adjudication.
- STEP 4**
- ▶ The authorizing agency will seek additional information that may be required during the decision-making process. Timely responses will allow the process to advance.
- STEP 5**
- ▶ If Cabinet approves the application, the authorizing agency and the sponsor ministry will notify the applicant and provide a FCG letter of offer
 - ▶ Written acceptance of the offer is required; upon receipt, a FCG for the approved specified purpose will be issued to the client organization
 - ▶ The sponsor ministry and the authorizing agency will coordinate any public announcements with the client organization.

NRT Process

- STEP 1**
- ▶ Applicant obtains and reviews the application guide, NRT forms and information available from the website or the nearest regional office.
 - ▶ The authorizing agency advises applicant on general eligibility and whether application requires a sponsor ministry.
 - ▶ If the NRT application does not require ministry sponsorship (either the market value of the land or the concessionary value are less than \$100,000; or, the term of tenure sought is one year or less) go to Step 3. The authorizing agency will process as per the standard application processing procedures.
- STEP 2**
- ▶ The applicant advises the appropriate sponsor ministry of your intention to apply for a NRT.
 - ▶ The applicant provides the sponsor ministry the necessary information on the proposed project, including at minimum:
 - location and legal description of the property
 - proposed purpose or use planned for the land
 - proposed length of tenure term –standard terms are 10 and 30 years.
 - details on how the proposed project meets the Province’s standard selection criteria and any additional criteria the sponsor ministry may have.
 - ▶ The sponsor ministry will then:
 - apply the government-approved selection criteria to applications that are consistent with their ministry’s mandate and service plan commitments, to ensure that the applications support government’s broader strategic goals.
 - work with the authorizing agency to confirm the value of the NRT.
 - ▶ Once the applicant receives a letter of support from the sponsoring ministry, the applicant proceeds to Step 3.
 - ▶ If the applicant does not obtain ministry sponsorship, the applicant may apply to the authorizing agency for a standard tenure at market rent.
- STEP 3**
- ▶ The applicant submits the following:
 - the complete NRT application package
 - the letter of support from your sponsor ministry (if required), and
 - the application fee
 - ▶ Incomplete application packages will not be accepted for adjudication
- STEP 4**
- ▶ The authorizing agency may request additional information that is required during the decision-making process. Timely responses will allow the process to advance.
- STEP 5**
- ▶ If the NRT application is approved (a Cabinet decision for all NRTs requiring ministry sponsorship), the authorizing agency and the sponsor ministry will notify the applicant and provide a letter of offer.
 - ▶ Written acceptance of the offer is required; upon receipt a NRT for the approved specified purpose will be issued to the client organization.
 - ▶ The sponsor ministry and the authorizing agency may want to coordinate any public announcements with the client organization.

Appendix 5: Public Wharves within the NRT Program

Public Wharves refers to wharves owned by local government or eligible community groups to provide non-commercial marine-based access to the public. This can include limited commercial operations.

A number of public wharves were divested as part of the federal government's Small Craft Harbours Program and are operated by local governments or non-profit organizations as Nominal Rent Tenures (NRT's).

NRT's are not intended to be commercial operations or to be associated with commercial operations. Where long term or permanent moorage is being provided, an applicant should apply for a marina tenure to ensure a level playing field with commercial marina operators in the area.

Temporary moorage and other marine access, however, is an acceptable use of a nominal rent tenure for a public wharf facility as it provides a general benefit to the community. Fees charged for such services will not automatically trigger a requirement for a change in pricing to reflect the commercial nature of the use or a change to another tenure program.

Applications for a nominal rent tenure for a public wharf must be accompanied by a management plan that states what the annual operating costs are estimated to be, broken down into maintenance and operation including staff salaries, and the estimated amount and source of revenue.

The amount of revenue permitted to be generated should not be greater than that required to maintain and operate the facility. In the case of organizations or local governments which maintain more than one wharf facility, the expenses and revenues for each facility should be considered separate from the others. This is consistent with other cost-recovery models used by government, i.e., the regulation for cost-recovery for forest recreation sites.

A notarized financial accounting listing sources of revenue and total revenue, as well as nature and amount of total expenses must be submitted annually, no later than 30 days after the anniversary date of the tenure.

The lessee must provide copies of all sublease agreements with commercial operators such as water taxis and float plane operators for approval on a case by case basis. These types of commercial service will be allowed only where they are vital to a community and cannot be reasonably provided at an alternative location.

Under the nominal rent tenure program, no ancillary commercial uses such as restaurants, food concessions, ice plants, boat or other equipment rentals or sales are permitted on public wharves. Disposition of petroleum products from public wharves is a commercial operation.

Commercial operations on public wharves may be permitted, provided the tenure holder applies to amend the nominal rent tenure to permit the requested type(s) of commercial operation. The tenure holder will then be charged \$500 or 5% of the revenue from the commercial enterprise whichever is greater.

As Nominal Rent Tenures expire, they will be replaced under this new policy (and any subsequent amendments to the Community and Institutional Land Use Policy), and this may result in participatory rents where applicable.