

SUBJECT: LAND EXCHANGES POLICY



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1.0 Purpose

To set criteria to guide Departmental staff in advising prospective applicants, reviewing applications and in making recommendations regarding exchanges of freehold land for Crown Land

2.0 Policy Application

This policy applies to all land exchanges involving Crown Lands, as defined under Section 1 of the *Crown Lands and Forests Act*.

3.0 Background

There are often clear benefits to the Province in exchanging Crown Lands for freehold lands.

Examples of freehold lands potentially worth acquiring would include those that

- help consolidate Crown Land holdings,
- reduce boundary line maintenance, or
- offer significant resource features to the Crown such as:
 - special wildlife or wetland habitats;
 - recreational opportunities;
 - coastal habitats;
 - ecologically significant areas; or
 - access to Crown Lands or water-based resources.

Examples of Crown Lands potentially worth disposing of would include those that

- do not offer any special resource features to the Crown,
 - are bordered for the most part by freehold lands, or
 - have significant potential for private development.
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4.0 Policy

- 4.1 Objectives** The objectives of this policy are to :
- consolidate Crown Land holdings;
 - acquire lands that contribute to Departmental programs; and
 - dispose of lands whose costs of management exceed the value of their contribution to Departmental programs
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4.2 General Policy Statement It is the policy of the Department of Natural Resources that Crown Land may be exchanged for freehold land where Crown ownership of the freehold land has a clear benefit to the Province of New Brunswick.

- 4.3 Land Acquisition Criteria** 4.3.1 Exchanges may be made only where the lands to be acquired by the Crown
- have market values within 10% of the lands to be disposed of;
 - have merchantable timber values of no less than 90% of that of the lands to be disposed of;
 - meet at least one of the following criteria:
 - a) they have more than 50% of their boundary in common with Crown Land;
 - b) they border on Crown Land and utilize boundaries not requiring periodic maintenance (e.g. roads, rivers) such that the length of boundary requiring maintenance is reduced; or
 - c) they adjoin other freehold land located within a major block of Crown Land such that the acquisition would lead to future consolidation of land units;
 - have clear and free title that can be obtained by the Crown under the Land Titles Act;
 - have no associated restrictions imposed on the transfer, which the Department is not prepared to accept; and
 - have no known or suspected significant environmental liabilities or contamination.
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- 4.4 Exceptions** Exceptions may be made where the lands to be acquired by the Crown meet any one of the following criteria:
- they provide access to Crown Land (including submerged land) or Crown resources;
 - they would facilitate the implementation of Departmental programs or projects;
 - they have ecological, cultural, or scientific importance; or
 - their acquisition would provide a significant environmental, social or economic benefit.
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- 4.5 Land Disposal Criteria** Exchanges may be made only where the lands to be disposed of by the Crown
- have no known significant ecological, cultural or scientific importance;
 - are not required to provide access to Crown Land (including submerged land) or Crown resources;
 - are not required to implement a Departmental program;
 - are free of Departmental commitments; and
 - have less than 50% of their boundary in common with other Crown Lands.
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5.0 Procedures

- 5.1 Initiation** Land exchanges may be initiated by a freehold owner by filing an application or they may be initiated by the Department.
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- 5.2 Applications**
- 5.2.1 An application, along with the required fee and information, must be submitted by interested freehold owners to the Department before a land exchange initiated by them will be considered.
- 5.2.2 The application fee is non-refundable, except where the exchange is finalized, and then the application fee will be credited towards the difference in value payable by the applicant.
- 5.2.3 Applications that obviously do not conform to this policy, will be rejected without review and the client advised of the reason for the rejection.
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**5.3
Environmental
Liabilities**

5.3.1 The freehold owner shall provide information on existing and past uses of the lands to be acquired and that of adjacent properties.

5.3.2 Where significant environmental contamination is suspected, the Department shall require the freehold land owner to conduct appropriate tests in accordance with Department of Environment & Local Government standards and provide a certificate that the lands are free of suspected contaminants.

**5.4 Market
Value**

Exchanges will be based on market values of the properties. Under normal circumstances, the Department will not entertain exchanges that include an expense to the Department.

5.5 Appraisals

5.5.1 In order to determine market value, the Department will have an appraisal, conducted for both properties. Market value will include the value of the land plus any resources that run with the land, such as timber, quarriable substances or aggregates.

5.5.2 All appraisals must be signed by an appraiser registered to practice in New Brunswick by the New Brunswick Association of Real Estate Appraisers. Where appraisals are conducted by persons other than Departmental employees, they must be prepared in accordance with the Terms of Reference found in the Appendix.

5.5.3 All timber cruises must be conducted in accordance with the Terms of Reference found in the *N.B. Forest Development Survey Field Manual* (Forest Management Branch, Department of Natural Resources, Revised March 2000) .

5.5.4 The Department will bear the cost of appraising (including timber cruises) the Crown parcel, while the freehold owner(s) will be charged for the cost of appraising their land.

5.5.5 The freehold owner(s) will be given an estimate of the costs of the appraisal and will undertake, in writing, their ability and willingness to pay the costs before an appraisal will be conducted.

5.6 Surveys Where a review of the proposed exchange indicates that a survey of either the Crown and/or freehold lands is required, the freehold owner(s) shall, at their expense, have a “New Brunswick Land Surveyor” conduct the survey(s) and submit the survey(s) to the Department.

5.7 Certificate of Registration The freehold owner(s) shall provide the Crown, at their expense, a Certificate of Registration under the *Land Titles Act* for their land.

5.8 Conveyance Documents 5.8.1 The Department will prepare a Transfer Document or Grant from the Crown to the freehold owner(s), which will include any applicable reservations in accordance with Section 15 of the *Crown Lands and Forests Act* and Subsection 3(2) of the *Mining Act*.¹

5.8.2 The freehold owner(s) shall provide the Crown, at their expense, a Transfer Document.

¹ Please Note: DNR is presently working on a MOU with Service New Brunswick, which will allow DNR to place its lands under the Land Titles system. In the interim, this may be done by the Department of Justice on behalf of DNR. Once the MOU is finalized, it is anticipated that Crown Lands being disposed of in land exchange proposals will be placed under Land Titles by DNR.

6.0 Authority

The *Crown Lands and Forests Act* provides that:

- Section 13** the Minister, with the approval of the Lieutenant-Governor in Council, may issue a grant of Crown Lands...(e) to a person, as all or part of the consideration in exchange of Crown Lands for freehold lands...
- Subsection 20(1)** with the approval of the Lieutenant-Governor in Council, the Minister may exchange Crown Lands for freehold lands.
- Subsection 20(2)** freehold lands that are acquired as a result of an exchange of lands shall be vested in the Crown in the right of the Province under the administration and control of the Minister...
- Section 21** with the approval of the Lieutenant-Governor in Council, the Minister may convey Crown Lands acquired under this or any other Act... (d) to a person, as all or part of the consideration in an exchange of lands.
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7.0 Inquiries

Inquiries concerning this policy may be directed to the Manager, Land Planning and those concerning land exchange applications should be directed to the Manager, Land Use at the following address: Department of Natural Resources, Crown Lands Branch, P.O. Box 6000, Fredericton, NB E3B 5H1; Tel: (506) 453-2437.

8.0 Appendix

NB NATURAL RESOURCES (DNR) TERMS OF REFERENCE FOR PROPERTY APPRAISALS

1. Any appraisal assignment shall be prepared by an appraiser who is registered to practice as a real estate appraiser under the New Brunswick Association of Real Estate Appraisers / Association des évaluateurs immobiliers de Nouveau-Brunswick Act.
2. All appraisal reports shall meet the requirements of the Canadian Uniform Standards of Professional Appraisal Practice (“The Standards”) and shall be in a narrative format.
3. Should the Highest and Best Use of the subject property or portion thereof be estimated as timberland for the production of wood fibre, the market value shall be derived using a combination of:
 - a) the residual value for the land:

value of the land plus the non-merchantable wood volume on the property derived by the Direct Comparison Approach, and;
 - b) the value of the standing timber (Stumpage Approach):
 - i) based on the forest inventory estimate of the subject property prepared by a member, in good standing, of the Association of Registered Professional Foresters of New Brunswick, and;
 - ii) based on the current market tree length stumpage rates, i.e. softwood, cedar, hardwood, poplar, etc., and the market conditions within the Forest Products Marketing Board in the area of the subject property as of the date of the appraisal.
4. Should the subject property or portion thereof be estimated to have merchantable quarriable substance(s), i.e. aggregates, clay, gravel, peat, sand, soil, stones, etc., the market value of the property shall include the value of the quarriable substance(s).

All appraisal reports shall be submitted to DNR, Crown Lands Branch, for review and approval.