



Land Use Operational Policy Communication Sites

NAME OF POLICY: Communication Sites

APPLICATION: Applies to Crown land used for communication use as defined herein, including but not limited to radio, television, microwave, and satellite facilities and related works. Applies to Crown land located in provincial forest except for communication sites used for operational purposes by the Ministry of Forests and Range.

ISSUANCE: Assistant Deputy Minister
Crown Land Administration Division

IMPLEMENTATION: Ministry of Agriculture and Lands

REFERENCES: *Land Act* (Ch. 245, R.S.B.C., 1996)
Business Corporations Act (Ch. 57 R.S.B.C, 2002)
Protocol agreement on Crown Land Administration and Forest Activity.

RELATIONSHIP TO PREVIOUS POLICY: This policy replaces the previous Communication Sites policy dated August 16, 2004.

POLICY AMENDMENT: Any formal request for an amendment to this policy is to be directed in writing to the Director, Land Program Services Branch, Crown Land Administration Division.

Warren K. Mitchell

Warren Mitchell
A/Assistant Deputy Minister
Crown Land Administration Division
Ministry of Agriculture and Lands

05/10/29

Date

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
August 16, 2004		Changes made as a result of the Policy and Procedures Re-write Project.

EFFECTIVE DATE: August 16, 2004

FILE: 12250-00

APPROVED AMENDMENTS:		
Effective Date	Briefing Note /Approval	Summary of Changes:
February 4, 2005	BN #16212	Annual Consumer Price Index adjustments were made to zone land values in accordance with provisions of the Communication Site Policy.
October 21, 2005		Policy changed to reflect new agency names and responsibilities.
January 31, 2006	BN #138327	Annual Consumer Price Index adjustments were made to zone land values in accordance with provisions of the Communication Sites Policy.

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1. POLICY APPLICATION

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

This does not apply to communications sites within Provincial Forest that are used solely for forest operational purposes as provided for in the Protocol agreement on Crown Land Administration and Forest Activity.

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.

Strategic Principles

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

Sharing of Established Sites

Sharing of established sites is encouraged. A communication site tenure holder may permit a secondary user to occupy a Crown land site pursuant to procedures described in this policy.

Site Designation under Section 17 of the *Land Act*

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

3. DEFINITIONS

Additional communication use or **additional use** means the second or subsequent communication use on a communication site. An “additional use” may be by a corporate affiliate, a third party, or a tenure holder.

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

Civil infrastructure means building, radio tower, roads, powerlines and other physical infrastructure on the site but does not include radio antennas or dishes.

Communication site means the Crown land on which the facilities and equipment required for a “communication use” are placed.

Communication Site Inventory means an inventory of all “communication uses” on a tenure. The inventory is the basis from which rental calculations are made.

Communication Site Questionnaire means a form that contains technical information about communication uses on a communications site. It is required for each new tenure.

Communication use includes the placement of radio equipment and necessary support structures, including towers, buildings, and electrical power equipment on a site to operate a broadcasting station or radio service as defined in Appendix 2.

Community/institutional user means those users eligible under the [Community and Institutional Land Use policy](#).

Corporate affiliate or **Affiliate** means a corporation that is affiliated with another corporation within the meaning of Section 2 of the *Business Corporations Act*, RSBC 2002 c.57 (see Appendix 3).

Government user means an agency or department of a provincial or federal government, but does not include Crown Corporations, local government or the RCMP.

Occupational rental means the rent that is payable if Crown land is occupied, with or without lawful authority, before the issue of a disposition under the *Land Act*.

Secondary user means any party, other than the tenure holder, who occupies a Crown land site for communication use purposes. It includes corporate affiliates as well as third parties.

Sub-tenure agreement means an agreement between the tenure holder and a secondary user to use and occupy a communications site for purposes specified in the tenure document.

Tenure holder means the person, corporation or agency holding the Crown land tenure pursuant to the *Land Act*.

Third party means a person or party other than the tenure holder or corporate affiliate of the tenure holder.

4. **ABBREVIATIONS**

BCA - BC Assessment

ha. - Hectare

MAL - Ministry of Agriculture and Lands

MOU - Memorandum of Understanding

5. **APPLICANT ELIGIBILITY**

Applicants for new tenures, tenure assignment, or tenure replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or,*
- *Corporations which are incorporated or registered in British Columbia; or,*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or,*
- *First Nations can apply through band corporations or Indian Band and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the tenure arrangement, and b) giving the signatories of the tenure document the ability to sign on behalf of the Band. For tenures which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councilors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*
- *In the case of aquatic land, non-Canadians can apply if they own the adjacent upland (companies must still be incorporated or registered in B.C.).*

For more detailed standard policy information see [Eligibility and Restrictions](#).

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

6. **FORM OF LAND ALLOCATION**

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

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

6.1 Investigative Permit

An investigative permit may be issued to any proponent requiring access to the land for appraisals, inspections, analyses, inventories, surveys or other investigations of Crown land or its natural resources, or where otherwise required. No buildings or other improvements may be placed on the land.

The tenure holder must permit public access to the area without interference, and must recognize that overlapping and layering of tenures may be authorized by government.

The maximum term for an investigative permit is 2 years.

6.2 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 communication site, or 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.

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

6.3 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.

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

6.4 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. It does not generally confer the right to exclusive use and enjoyment of the area, nor the right to exclude or charge the public for the use of improvements.

A legal survey will be required at the applicant's expense to define the tenured area. A Statutory Right of Way is a registerable interest in the land that is mortgageable.

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

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

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

6.5 Sale

Crown land sales may occur through an application process if the proposed site meets specific criteria and the use is considered suitable by government agencies and other affected interests.

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

6.6 Map Reserves and *Land Act* Transfers

Map Reserves: A Map Reserve pursuant to Section 16 of the *Land Act* is the standard means to reserve land for provincial and federal government users that require Crown land for communication purposes (with the exception of Ministry of Forest and Range uses within Provincial Forest as outlined in the 1993 Protocol on Crown Land Administration and Forest Activity). The authorizing agency must be advised prior to the occupation of a reserve site by another government user. Non-government users are not allowed to occupy sites authorized by map reserve.

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

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

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

7. PRICING 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 Rentals

7.2.1 Investigative Permit

\$250 for terms up to one year, or \$500 prepaid for 2 years.

7.2.2 Licences, Leases, and Statutory Rights-of-Way

Rent for Crown land used for communication purposes is based on zone rates shown below. Refer to the zone map in Appendix 4 for the zone locations.

The zone rates for April 1, 2006 to March 31, 2007 are:

Zone 1 (Urban Areas):	\$4735
Zone 2 (Semi-Urban Areas):	\$1776
Zone 3 (Remote Areas):	\$593

On April 1 of each year the above zone rates will be adjusted to reflect the annual change in the Consumer Price Index for British Columbia during the preceding calendar year. Zone rates will be adjusted in this fashion on April 1 of each year until the pricing policy is revised.

The new zone rates are to be used as the basis for calculating rent for new tenures, replacement tenures and when undertaking rent reviews of existing tenures.

The new zone rates are not to be applied retroactively. In-stream offers and billing notices that are based on old zone rates are to be honored.

Regions are required to manually calculate the billings on the basis of the new zone rates.

The minimum rent for a communication site shall not be less than the appropriate zone rate or \$500, whichever is greater.

Rent is payable **annually** in advance by the tenure holder for each "communication use" (see Appendix 2) on a site, based on the following pricing formula:

Rent is payable for the first “communication use” on a communication site based on 100% of the zone rate.

For each “additional communication use” on sites located in **Zone 1 and 2**, rent is payable as follows:

- if the “use” pertains to the tenure holder or a corporate affiliate, rent for that use is payable based on 50% of the zone rate;
- if the “use” pertains to a third party, rent for that use is payable based on 75% of the applicable zone rate.

The rental discounts noted above for communication sites in Zones 1 and 2, **do not apply** to communication sites located in **Zone 3**. The full zone rate is payable for each “communication use” on a Zone 3 site.

Rent is **not** to be prepaid for the term of the tenure.

Where a tenure holder notifies the authorizing agency, via an up-to-date Communication Site Inventory form, that a new communication use has been added to an existing site during the year, occupational rent for the new use is charged on a prorated basis.

Government users and Community and Institutional Land Use users are exempt from paying rent under this policy (e.g. sites tenured by exempt clients and sites where they are subtenants).

Where a non-exempt user occupies a site tenured by an exempt user (identified above), the first non-exempt use pays the full zone rate.

Appendix 2 provides specific direction on how to calculate the number of “communication uses” on a communication site. Appendix 5 provides examples of rent calculations using the above formula.

7.2.3 Map Reserves and *Land Act* Transfers

Map Reserves (Section 16)

An administrative fee is not levied for the establishment of a *Land Act* reserve for provincial agencies. Federal agencies are charged an application fee of \$3300 for the establishment of a reserve or transfer of lands.

Rent is not charged for use of a reserve site by provincial or federal agencies.

***Land Act* Transfers (Section 31 or 106)**

Transfers are processed in accordance with procedures defined in the policy for [Land and Management Transfers policy](#).

Rent is not charged for additional use of a transfer site by provincial or federal agencies.

Rent is payable, pursuant to this policy, for non-government use of transfer sites. Rent for the first non-government/non-community institutional use on the site will be equal to

the full zone rate. Applicable rental discounts will apply to subsequent non-government communications uses.

7.2.4 Reconciliation of Pricing - Communication Sites/Linear Uses

Where a communication site and a linear use (public and private utility or roadway) are combined in one tenure, the communication site is treated separate from the associated linear right of way. The pricing for each use is to be calculated independently in accordance with respective policy and then added together.

Total payment = [payment for linear use] + [payment for communication site use] + [payment for additional communication uses]

Where minimum payments are specified in a policy, these are to be applied to each use independently such that the total payment will not be less than the sum of all minimums. Pre-payment of the linear use is permitted.

The tenure for the linear use must provide for shared access to the mountain top for subsequent tenure holders.

7.3 Sales

Fee simple dispositions are priced at the full market value of the land.

8. ALLOCATION PROCESSES

8.1 Applications

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

8.1.1 Application Package and Communication Site Inventory

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.

Communication Site Inventory

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

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

The inventory for a communication site will consist of:

- a completed Communication Site Inventory form signed and dated by the tenure holder;
- a tower profile showing the location of all radio antenna on the tower. These are to be cross-referenced to the inventory form "communication use number".

- a photograph of the site, if readily available.

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

Verification material (e.g. radio licences, certificate of corporate affiliate status, sub-tenure agreements) to support to the information contained in the inventory will not be collected as part of the regular inventory process. However, legal tenure documents reserve the right for the province to audit sites to confirm the inventory and to obtain such information if necessary.

Federal Government radio licencing information may be used by provincial staff to confirm inventory information.

Site Size

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

Survey Monuments

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

8.1.2 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.

8.1.3 Clearance/Statusing

After acceptance, provincial staff undertake 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.

8.1.4 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).

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

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

Fast Track Referrals

Where a proponent requires access to Crown land on short notice, the authorizing agency will attempt to accommodate the request by providing the client with a referral list. The proponent will be responsible for obtaining written comments on the proposed use from agencies/organizations identified on the list and providing them to the authorizing agency.

In such cases, provincial staff may also undertake a preliminary status of the land. This will be limited to ascertaining whether the proposed site is private land or otherwise committed (e.g., Indian Reserve, *Land Act* tenure, provincial park, etc). The client is to be cautioned, however, that further work will be required to complete the land status and that this may result in the proposal being rejected.

The proponent may also be requested to provide transportation to the site for provincial staff to expedite the processing of the tenure.

Project Review Team (PRT)

A Project Review Team (PRT) is an advanced referral method which may be used for complex applications. It is a team chaired by the authorizing agency and comprised of recognized agencies and groups which meets to review and comment on specific Land Act applications.

8.1.1 Advertising/Notification

At the time of application acceptance, provincial staff will notify applicants if advertising is required and provide the necessary instructions.

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.

8.1.2 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.

8.1.3 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.

8.1.4 Decision/Report

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

8.1.5 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.

8.2 Planned Tenure Dispositions

Planned tenure dispositions involve the province actively investigating and developing opportunities for Crown land tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, Crown lands will be allocated by the authorizing agency in accordance with standard application procedures or by competitive process.

8.2.1 Designation of Sites for Communication Purposes

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

Such a designation will enable streamlining of the tenuring process for new sites as well as the consent process for existing sites where changes to civil infrastructure are occurring. All referrals/ consultation will occur at the designation stage (i.e. new applications within the S.17 designation will not require subsequent referral).

8.2.2 Interim Consents

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

This option should be considered in low risk situations where it not likely that the location of additional facilities will result in a negative adjudication.

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

8.3 Direct Sale

Direct sales provide fee simple dispositions of Crown land through individual applications under the relevant land use program.

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.

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

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.

Investigative and temporary permits can not be sub-tenured or assigned.

9.3.1 Assignment

Assignment is the transfer of the tenure holder's interest in the land to a third party by sale, conveyance or otherwise. .

Assignment requires the prior written consent of the province. The assignee must meet eligibility requirements. The authorizing agency may refuse the assignment of existing tenures if the details of the assignment are not acceptable to the province.

9.3.2 Sub-tenuring Procedures

Sub-tenuring means an interest in the Crown land granted by a tenant of that Crown land rather than the owner (the Province).

Sub-tenuring requires the prior written consent of the province. The sub-tenure holder must meet eligibility requirements. The authorizing agency may refuse sub-tenuring of existing tenures if the details of the assignment or sub-tenure are not acceptable to the province.

A tenure holder who wishes to share with another user (corporate affiliate or third party) may do so without the authorizing agency's consent, provided that the changes proposed do not affect the civil infrastructure on the site. Where the civil infrastructure is not affected, the tenure holder must **notify** the authorizing agency of the sub-tenure and any changes in use on the site a minimum of 120 days prior to the next anniversary date of the tenure. Notification shall be in the form of a signed and dated communications site inventory form (and tower profile if an antenna is added to the site).

If the proposed changes affect the civil infrastructure, **prior consent** will be required to authorize the changes. In such instances, payment of *Land Act* fees (as per *Land Act* Fee Regulation) will also be required.

Changes to the civil infrastructure on a site may be referred to agencies as deemed appropriate by staff.

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

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

Sub-tenuring to non-government users is not allowed on reserve sites.

9.3.3 Overlapping Tenures

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

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.

Investigative permits are not generally replaced. A further two year term may be provided, at the authorizing agency's discretion, when there are legitimate requirements for a longer investigative period.

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.

The tenure holder is responsible for keeping the authorizing agency apprised of changes in use in accordance with requirements set out in the land tenure document. Where inventory information provided by a tenure holder for the site does not coincide with actual site use, provisions of Section 59 of the *Land Act* may be applied (see Compliance and Enforcement Procedures).

Administrative penalties cannot be implemented unless they are part of Compliance and Enforcement Procedures pursuant to the *Land Act*.

9.5.1 Updating the Communications Site Inventory

A change in use which affects the civil infrastructure requires the prior consent of the province. The site plan will have to be updated to reflect such changes. *Land Act* Fees will be payable.

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

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

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

9.5.2 Site Inspections

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

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

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. Communication Sites Policy Summary

TENURE	TERM	VALUATION	PRICING	METHOD OF DISPOSITION
Investigative Permit	2 yrs	Fixed amount	\$250 for terms up to one year, or \$500 prepaid for 2 years.	Application
Licences, Leases, and Statutory Rights-of-Way	30 years	Zone values (see map in appendix 4)	<p>Rent for the first “communication use” is 100% of the zone rate.</p> <p>For each “additional communication use” in Zone 1 and 2, rent is payable as follows:</p> <ul style="list-style-type: none"> • if the “use” pertains to the tenure holder or a corporate affiliate, rent is 50% of the zone rate; • if the “use” pertains to a third party, rent is 75% of the zone rate. <p>The full zone rate is payable for each “communication use” on a Zone 3 site.</p>	Application
Direct Sale	Perpetuity	Appraised market value	Full market value	Application
Reserve	N/A	N/A	N/A	Proposal

Appendix 2. Application of Communication Use Definition to Common Broadcast and Telecommunication Uses

“Communications use” means the placement of radio equipment and the necessary support structures, including towers, buildings and electrical power equipment on a site to operate a broadcasting station or a radio service. The following are common communications uses:

2.1 Broadcasting Stations and Repeaters

The placement of radio or television equipment as part of a broadcasting undertaking. Each radio or TV station on a site is a use. Broadcast related fixed radio links such as Studio Transmitter Links, TV Pick-ups, Temporary TV Links, and Multi-Hop Video signal distribution are included in this use. Also Includes Private Mobile Radio use in certain circumstances (see Private Mobile Radio definition).

[Under this definition, a broadcaster will be charged for each station that broadcasts from a site. Signal feeds (microwave dishes, satellite dishes or other directional antennas) which serve the radio or TV station are considered ancillary uses, and not charged separately, provided that they serve only the tenure holders broadcast operation(s). If the signal feed (e.g. microwave dish) also provides telecommunications service to the company, or serves a third party, it would be considered a separate use (e.g. a microwave repeater).]

2.2 Cable Television

The placement of equipment for the reception and/or retransmission of signals directly required to operate a cable distribution undertaking in accordance with the *Broadcasting Act* and Cable Television Regulations of the Canadian Radio-Television and Telecommunications Commission. Also includes Private Mobile Radio use in certain circumstances (see Private Mobile Radio definition).

[Under this definition, a satellite receiver microwave dish would be included in the cable TV definition of use, provided they are used for cable TV broadcast purposes only. If the microwave dishes also provided telecommunication service, it would be considered a separate use and for rent calculation purposes also treated as a microwave site.]

2.3. Microwave Repeater

Point to point or point to multipoint fixed radio providing commercial public or private radio communications service. Each group of up to three (3) antennas or reflectors constitute a separate use (provided the antennas are used by same company).

[Note the exemptions for microwave signal feeds used solely in support of broadcast and cable TV uses, which are considered integral to those uses].

2.4. Private Mobile Radio Service

Providing internal company communication services, telemetry or industrial control and navigational aids.

[Note: where private mobile radio is used solely by the tenure holder in support of a primary communication use already existing on the site, it will be considered ancillary to that primary use and no additional rent will be payable. However, private mobile radio is considered a separate communication use where it is the only communication use on a site, where it is licenced to and used by a sub-tenant, or where the private mobile radio system is used commercially or provides benefits to third party, regardless of whether or not a fee is paid by that party to the tenure holder.]

2.5 Public Commercial Mobile Radio Service (MF/HF/VHF/UHF)

E.g. Radio Common Carriers, Mobiltel, Autotel providing interconnected service, including service to marina and air stations.

[This includes the business of providing mobile radio services to the public, with the exception of special cases noted below (paging and cellular). This use is under the telecommunications act. Clients include BCTel, BCTel mobility, and many small radio common carriers (rcc's).]

2.6 Paging Services

[These are messaging services which are provided on a commercial basis. Clients include BCTel mobility, Cantel and many small rcc's (especially in small towns).]

2.7 Cellular Radio Service

A fixed radio link (e.g. microwave) directly required for the operation of the cellular site is included as part of the definition of cellular radio service.

[Under this definition, each cellular site operated by a tenure holder or a subtenant is one communication use, regardless of the number of cellular antennas on the site. Where one or more fixed radio link (e.g. a microwave dish) is required for the operation of the cellular site, **one radio dish only** is included as part of that cellular communication use (unless that microwave dish is operated by another party). All other microwave dishes on the site are considered separate communication uses and are priced as microwave repeaters.

2.8 Radiodetermination Service

Radar/radiolocation services.

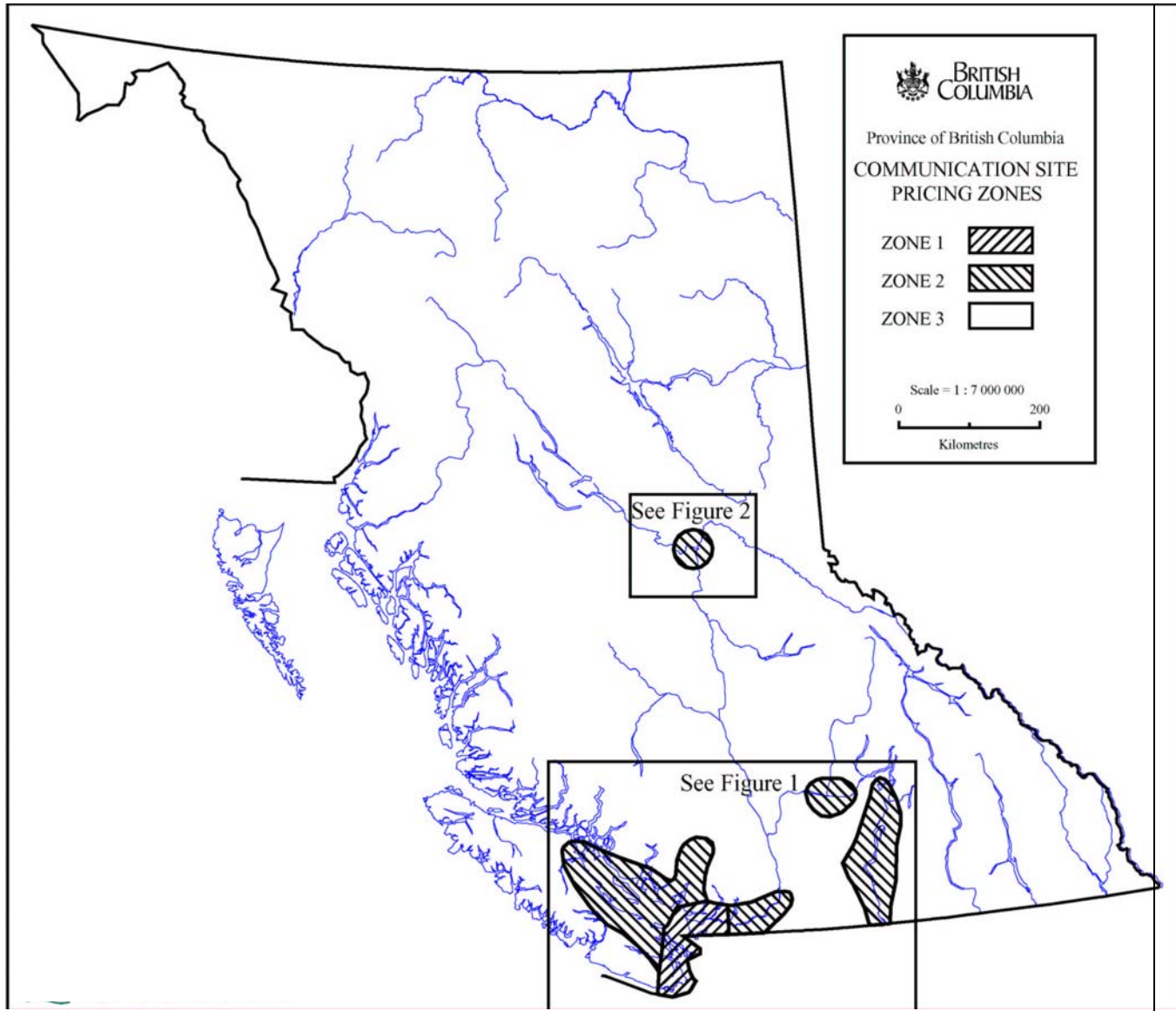
[Includes military, air traffic control and weather services. Clients are mostly limited to government. However, there may be some private use (e.g. facilities around private airports).]

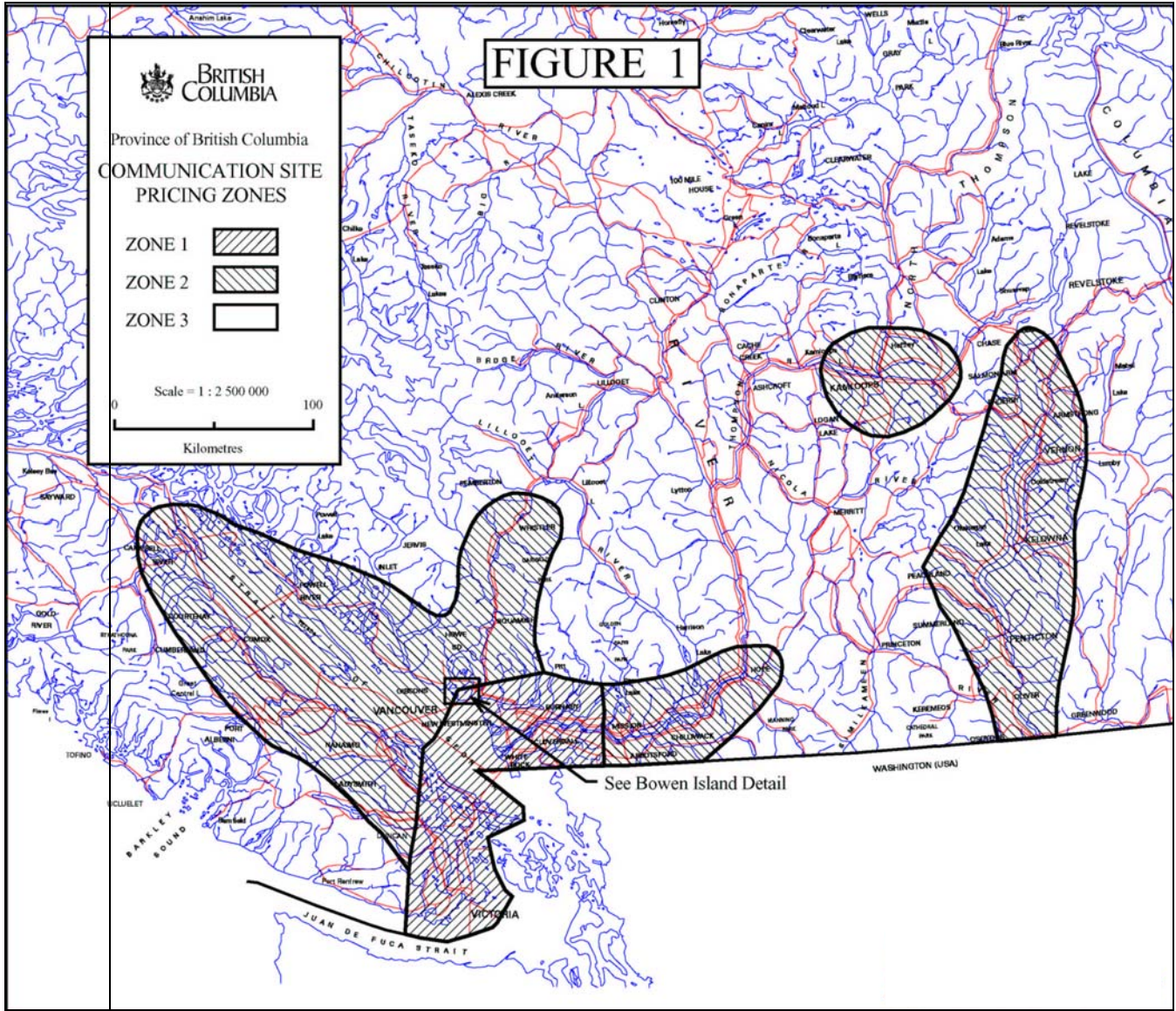
Appendix 3. Definition of Affiliate as Defined in the *Business Corporations Act*

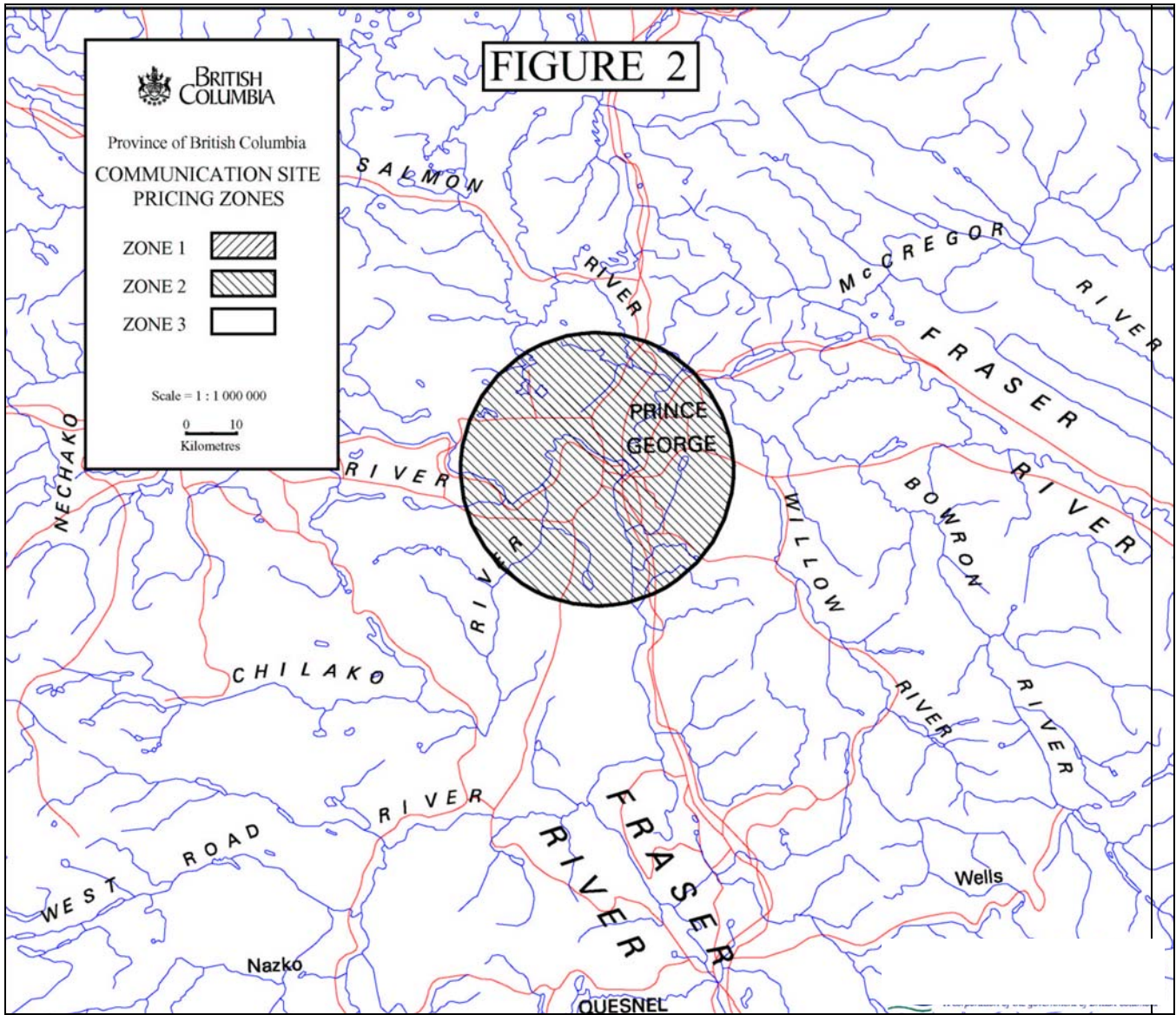
Section 2 of the *Business Corporations Act* RSBC, 2002, C. 57 reads as follows:

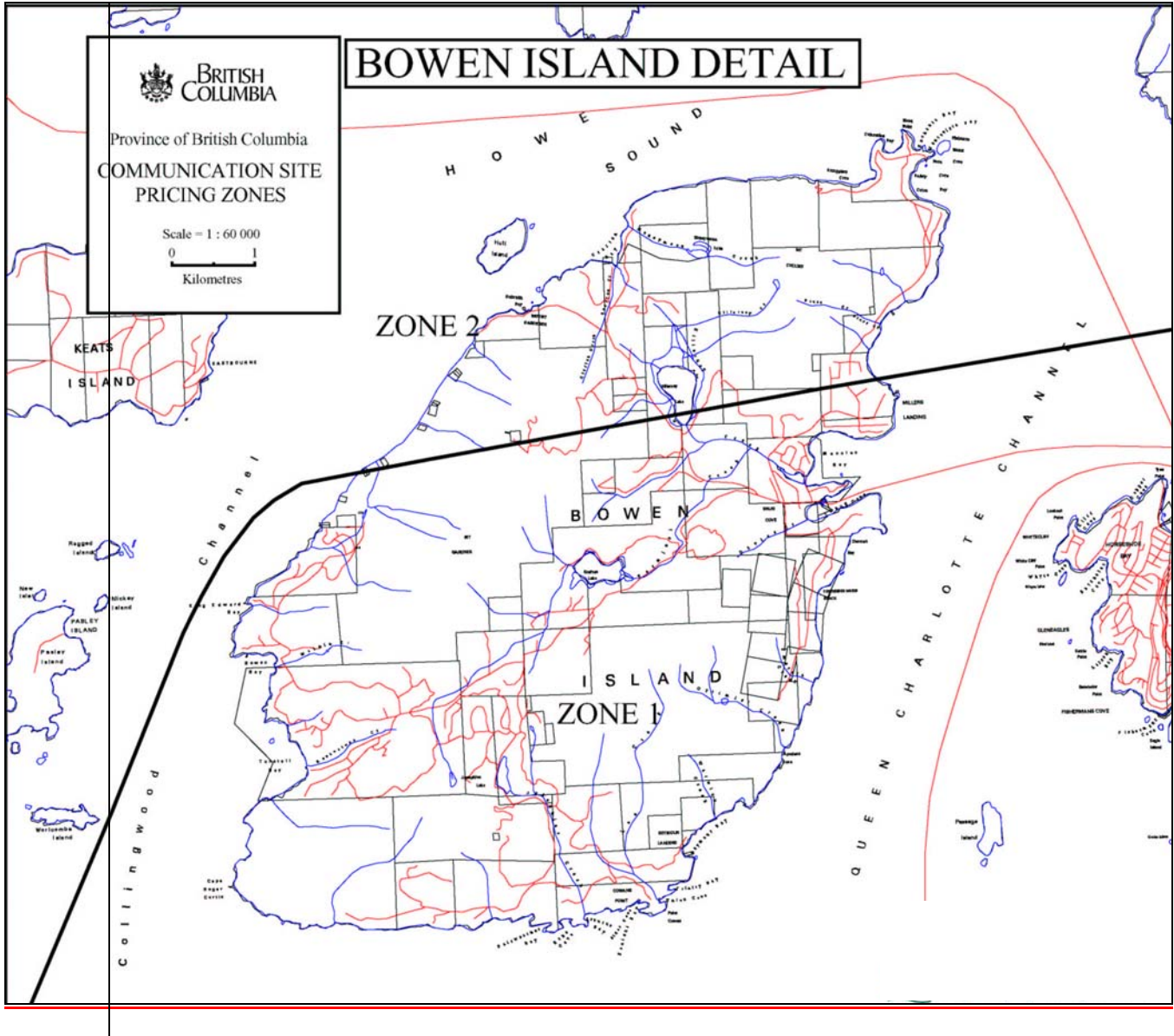
- 2 (1) For the purposes of this Act, one corporation is affiliated with another corporation if
- (a) one of them is a subsidiary of the other,
 - (b) both of them are subsidiaries of the same corporation, or
 - (c) each of them is controlled by the same person.
- (2) For the purposes of this Act, a corporation is a subsidiary of another corporation if
- (a) it is controlled by
 - (i) that other corporation,
 - (ii) that other corporation and one or more corporations controlled by that other corporation, or
 - (iii) 2 or more corporations controlled by that other corporation, or
 - (b) it is a subsidiary of a subsidiary of that other corporation.
- (3) For the purposes of this section, a corporation is controlled by a person if
- (a) shares of the corporation are held, other than by way of security only, by the person, or are beneficially owned, other than by way of security only, by
 - (i) the person, or
 - (ii) a corporation controlled by the person, and
 - (b) the votes carried by the shares mentioned in paragraph (a) are sufficient, if exercised, to elect or appoint a majority of the directors of the corporation.
- (4) For the purposes of this Act, a corporation is the holding corporation of a corporation that is its subsidiary.
- (5) For the purposes of this Act, a corporation is a wholly owned subsidiary of another corporation if all of the issued shares of the first corporation are held by one or both of
- (a) that other corporation, and
 - (b) a wholly owned subsidiary, or wholly owned subsidiaries, of that other corporation.

Appendix 4. Communication Site Pricing Zones Maps









Appendix 5. Calculating Rents for Communication Sites

Below are several scenarios to provide guidance in calculating rents for communication sites (Note that in these examples, the Zone Rates have not been adjusted to reflect CPI changes).

5.1 Multi-Use by a Single Company: (Example)

A site in Zone 2 contains a private mobile radio, a FM radio station and 2 TV stations, and **two microwave antennas** serving only the broadcast applications. All communication uses are owned by the tenure holder or an affiliated company.

The annual rent is calculated as follows:

The number of uses is determined to be 3, because the **microwave antennas** and **private mobile radio** serve only as the signal feed to the site.

Rent is therefore: 100% of the zone rate for the first use + 50% of the zone rate for 2 additional uses.

$$\$1707 + (\$853.50 \times 2) = \$3414$$

5.2 Multi-use and Multi-companies: (Example)

If a BC Tel has a **microwave site repeater with 5 antennas** (in Zone 2), there are 2 communication uses on the site. Addition of a **cellular radio** service (e.g. Cantel) would constitute a 3rd use on the site. Addition of a **paging service by BC Tel** would constitute a 4th use. If a **private mobile radio service** were added (e.g. Joe's Trucking) there would be 5 uses on the site. If another **private mobile radio service** were added (by BC Environment) there would be a 6th use.

Annual rent for the site would be calculated as follows:

\$1707 for the first use by BC Tel + 50% of the zone rate for each additional use (1 microwave, 1 paging) by BC Tel + 75% of zone rate for each additional use by a third party (1 cellular and 1 private mobile). No charge is levied for the private mobile radio used by government.

$$\$1707 + (2 \times \$853.50) + (2 \times \$1280.25) + (1 \times \$0) = \$5974.50 \text{ annual rent}$$

5.3 Tenure Held by Client under Community/Institutional Policy: (Example)

A municipality holds tenure and has a **private mobile radio** on a site in Zone 1. The municipality subsequently sub-tenures to BC Tel to permit a **microwave repeater (2 dishes)** to operate on the site. Rent would be calculated as follows:

The municipal uses would be charged a nominal fee of \$1 as **per Community and Institutional Policy**. The BC Tel microwave repeater (1 use) would be charged the full zone rate of \$4551, since the full zone rate is payable by the first commercial user on a site held by a non-paying client.

Should another use (**cellular radio - BC Cellular**) subsequently occupy the site, rent for the second commercial use would be 75% of the zone rate (i.e. 75% x \$4551 = \$3413.25).

Total rent for one institutional use and two commercial uses:
 $\$1 + \$4551 + \$3413.25 = \7965.25 annual rent

(Note: \$7965.25 is rent for first year. In subsequent years, rent would not be charged for the institutional use.)

5.4 Occupation of a S.16 Reserve site by a Non-Government User: (Example)

A non-government user wishes to place a **microwave repeater (5 dishes)** on a site in Zone 1. The site is held under *Land Act* reserve by a federal government ministry. If it is impractical or impossible for the non-government user to find an alternative site, with the consent of the federal Ministry, the authorizing agency may cancel the reserve, and instead, transfer the administration of the land to the federal Ministry, subject to certain terms and conditions.

The government user will be subject to any fees required to process the transfer as per the fees regulation. In addition, the federal ministry will be required to collect rent from the "sub-tenant" based on the communication site pricing policy, and subsequently, to pass that rent along to the authorizing agency. Since **5 microwave repeaters** are considered 2 uses, the rent payable would be \$4551 (full zone rate for the first commercial use) + \$3413.25 (75% for the second use) = \$7964.25.

Alternately, with the consent of the federal government, the reserve could be cancelled and the site tenured to the non-government user. The federal government would become a sub-tenant in the site. The rent payable to the province would be calculated as follows: 5 microwave repeaters are considered 2 uses (\$4551+\$3413.25). No rent would be attributable to the federal governments use. Total Site rent would be \$7964.25.