



## Land Use Operational Policy Eligibility and Restrictions

**NAME OF POLICY:** Eligibility and Restrictions

**APPLICATION:** All Crown land sales and tenures.

**ISSUANCE:** Assistant Deputy Minister  
Crown Land Administration Division

**IMPLEMENTATION:** Ministry of Agriculture and Lands

**REFERENCES:** *Cemetery and Funeral Services Act* (Ch. 45, R.S.B.C. 1996)  
*Land Act* (Ch. 245, R.S.B.C, 1996)  
*Ministry of Lands, Parks and Housing Act* (Ch. 307, R.S.B.C, 1996)

**RELATIONSHIP TO PREVIOUS POLICY:** Replaces Eligibility and Restrictions 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		New document.
October 21, 2005		Policy changed to reflect new agency names and responsibilities

**EFFECTIVE DATE:** August 16, 2004  
**AMENDMENT NO:** 1 (October 21, 2005)

**FILE:** 11100-00

**APPROVED AMENDMENTS:**

Effective Date	Briefing Note /Approval	Summary of Changes:

**Table of Contents**

1. PURPOSE/SCOPE..... 1

2. APPLICANT/PURCHASER ELIGIBILITY..... 1

    2.1 Sales..... 1

    2.2 Tenures..... 1

        2.2.1 Tenure expansions ..... 1

3. RESTRICTIONS ON SALE/TENURE ..... 2

    3.1 Crown Land for Cemetery Sites ..... 2

## 1. PURPOSE/SCOPE

Eligibility for Crown land tenures or sales is established under the *Land Act* and the *Ministry of Lands, Parks and Housing Act*.

## 2. APPLICANT/PURCHASER ELIGIBILITY

### 2.1 Sales

Crown land sales made through marketing activities under the *Ministry of Lands, Parks and Housing Act*, are open to all individuals and corporations, regardless of citizenship.

Sales made through land use programs under the *Land Act*, either following an individual application or as a result of a planned disposition processes, are subject to the requirements of the *Land Act* as well as the specific eligibility requirements of the relevant land use program. The *Land Act* restricts Crown grants to Canadian citizens and permanent residents over the age of 19. As well, B.C. companies and associations may apply for Crown Grants (see below).

### 2.2 Tenures

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.). This provision applies to applications for commercial as well as private purposes.

Specific land programs can include more restrictive eligibility requirements. Where additional eligibility requirements are set, these will be clearly explained in the relevant land use policy.

#### 2.2.1 Tenure expansions

The applicant is required to be utilizing the original tenure efficiently and effectively, as per the requirements of the relevant land use program and the terms and conditions of

the tenure document, in order to apply for an expansion. Specific land programs may include additional restrictive requirements (refer to applicable program policy).

### 3. RESTRICTIONS ON SALE/TENURE

Undeveloped provincial Crown land is generally available by sale or tenure, subject to eligibility requirements and the conditions below. However, some types of Crown land are restricted from general disposition.

- Order-in-Council 467/1982 precludes issuance of tenures other than permits for all unsurveyed islands and islets lying south of the 51st parallel and east of the 129th meridian, and all unencumbered and unalienated islands, less than 64.75 ha in size, within the coastal tidal waters lying north of the 51st parallel, without the approval of Cabinet.
- Aquatic Crown land (land below the natural high water mark of lakes, streams and other waterbodies) is restricted from sale, except by Cabinet approval (*Land Act* section 18).
- Sale of Crown land suitable for quarrying must be approved by the Minister of Agriculture and Lands
- Land whose highest economic use is timber or pulpwood cannot be disposed of under the *Land Act* (*Land Act* section 23)

#### 3.1 Crown Land for Cemetery Sites

Cemetery sites require approval of the Minister. Subject to the *Agricultural Land Commission Act* and the *Land Act*, Cabinet may reserve an area of unoccupied Crown land, not exceeding 4 ha, for a cemetery. Under the *Cemetery and Funeral Services Act* the minister may dispose of the reserved site by:

- selling the land to a municipality or municipalities,
- leasing the land to a society, or
- leasing the land to a board of cemetery trustees.

However, the Community and Institutional Land Use Policy restricts disposition for cemeteries to Free Crown Grants to First Nations, local governments and public sector agencies only.