



## Land Procedure Land Exchanges (General)

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<b>NAME OF LAND PROCEDURE:</b>	Land Exchanges (General)
<b>APPLICATION:</b>	Applies to all exchanges involving Crown land, excluding the exchange of Crown land for Indian Reserve lands.
<b>ISSUANCE:</b>	Assistant Deputy Minister, Crown Land Administration Division
<b>IMPLEMENTATION:</b>	Ministry of Agriculture and Lands
<b>REFERENCES:</b>	<i>Land Act</i> (Ch. 245, R.S.B.C, 1996) <i>Ministry of Lands, Parks and Housing Act</i> (Ch. 307, R.S.B.C., 1996)
<b>RELATIONSHIP TO PREVIOUS LAND PROCEDURE:</b>	This procedure replaces the previous 1.5.0200 – Land Exchanges procedure

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Grant Parnell  
Assistant Deputy Minister  
Crown Land Administration Division  
Ministry of Agriculture and Lands

Original signed for Grant Parnell Sept. 25, 2008

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Date

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
September 22, 2008	BN 161912	General housekeeping changes and updates including agency names
June 10, 2010	BN 169643	Minor amendments to align this procedure with MALs role as defined in BN 170220

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**EFFECTIVE DATE:** August 16, 2004  
**AMENDMENT:** June 10, 2010

**FILE:**11340-00

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## 1. PURPOSE

Land exchanges will be considered where there is a clear benefit to the Province and direct purchase of the land is not an option.

This procedure applies to all land exchanges carried out by the Authorizing Agency where Crown land is exchanged for privately held land, except the exchange of Crown land for Indian Reserve lands (see Land Exchanges (Indian Reserve lands)).

The Ministry Executive is responsible for the Authorizing Agency's land acquisition program that includes purchases, gifts, reversions and land exchanges.

## 2. DEFINITIONS

**Acquisition** means a taking of property by sale, discount, negotiation, mortgage, pledge, lien, issue or re-issue, gift or any other voluntary transaction, creating an interest in property. Upon completion, it is legally binding and, for accounting purposes, meets generally accepted accounting principles.

**Authorizing Agency** means the Provincial ministry responsible for the specific land use authorization.

**Disposition** is the act of disposing or transferring property to the care or possession of another. Upon completion, it is legally binding and, for accounting purposes, meets generally accepted accounting principles.

**First Nation** is a term that refers to the Indian peoples in Canada, both Status and non-Status. Some Indian peoples in British Columbia have adopted the term "First Nation" to replace the word "band" in the name of their community.

**Land Exchange** means the transfer of lands between two parties where part or all of the consideration is the acquisition of the others land. Exchanges have two components (an acquisition and a disposition). Lands to be exchanged are exchanged on an equal-value basis. Timber is usually valued separately and/or negotiated separately from the bare land value. The total value of the two parcels including land and timber value must be equal.

## 3. GENERAL POLICY AND PROCEDURES

Land exchanges are discouraged where other means of acquisition exist. This is particularly the case where recoverable funding from the Crown Land Account or other funding sources can be used for a purchase-sale transaction. Land exchanges will only be considered where acquisition is not an option and there is a clear need and benefit to the Province in doing the exchange.

Agencies of Government have been provided with their own funding mechanisms for obtaining land. Exchanges of Crown land are not part of such mechanisms unless specific and prior authority is provided at the Ministerial or Cabinet level.

Land exchanges initiated by private parties are not encouraged as procedures are cumbersome and costly.

All potential land exchanges initiated for the Authorizing Agency's projects must be approved by the Authorizing Agency's regional director prior to any commitments being made.

All proposed land exchanges on behalf of other agencies of Government must be approved by Cabinet or Ministerial Order as appropriate. Where Cabinet approval is not required, a Ministerial Order will be drafted to authorize the exchange. Prior approval by Treasury Board and the Lieutenant Governor in Council is required for land exchanges involving non-recoverable expenditures.

### 3.1 Authorizing Agency Projects

Where privately held land is required for a project and an outright purchase is not possible, the need for a land exchange is identified by the Authorizing Agency.

The regional office carries out the preliminary examination, identifies the proposed exchange lands, completes a status of the properties and arranges for an estimate of the approximate property values. The regional office may confer with the private land owner to explain the procedures and to determine if the owner is a willing party; however, no commitments are to be made, particularly with respect to property value or any other terms of exchange.

If an exchange appears feasible and beneficial to the Province, and funding for appraisals, legal survey(s), property purchase tax, real property taxes, etc. are in place, the region prepares an exchange proposal and submits it to Regional Executive.

The Regional Executive Submission will include:

- The rationale for the land exchange including the benefits to the Province.
- Indication of the source of funding to pay for the Authorizing Agency's exchange costs.
- A statement of the costs to the Authorizing Agency including:
  - approximate land value
  - estimate of fee appraisal costs
  - estimate of legal survey costs
  - estimate of property purchase tax estimate of real property taxes
  - estimate of legal services and other costs
  - total cost to the Authorizing Agency
- Estimates of value of the private lands and the Crown land, and clarification on how any difference in value between the properties will be handled.

- Clarification of approvals that will be required, e.g. Order-in-Council to remove land from Provincial Forest, Ministerial Orders, etc.

### **3.2 Land Exchanges Conducted For Client Ministries**

The Authorizing Agency may be responsible for the completion of land exchanges on behalf of other ministries and departments of Government.

### **3.3 Exchange Proposals Initiated by Private Parties**

When an exchange is initiated by a member of the public and it is primarily to the proponent's interest, the initiator will be expected to pay the full cost of the appraisal, legal survey, etc. When the exchange is to the advantage of both parties, there may be a sharing of appraisal costs and other expenses. In certain cases, where the Authorizing Agency initiates the exchange, the Authorizing Agency may pay the full costs.

### **3.4 Negotiation Activities**

Once the exchange proposal is approved by Regional Executive, all negotiations are the responsibility of the regional office.

The basis of an exchange will, whenever possible, be for similar use lands, e.g. timberland for timberland, etc.

Independent consultants will be engaged to estimate values, i.e. real estate appraisers, forestry consultants, including forest land appraisers, timber cruisers, log brokers, etc. All parties to the exchange should agree to the choice of the independent consultants and to the terms of reference before the consultants are engaged (see [Appraisal](#) procedures, Appendix 3 for Accredited Appraiser Canadian Institute minimum requirements to include in a terms of reference).

Where an exchange includes timber and/or land which are most suitable for the growing of forest crops, the "Instructions for Timberland Appraisals Required for Ministry of Forests and Range Exchanges" will be used (see Appendix 1).

### **3.5 First Nations**

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. The Authorizing Agency carries out consultations with First Nations in accordance with its guidelines and policies on First Nations consultation to identify the potential for aboriginal rights or title over the subject property and to determine whether infringement of either might occur (refer to the Aboriginal Interest Consideration Report form contained in the Land Use Report).

## **Appendix 1. Instructions for Timberland Appraisals Required For Ministry of Forests and Range Exchanges**

### **1.1 Fee Simple Lands**

1. The objective of the appraisal is to estimate the market value of the properties being exchanged. The appraisals should, therefore, consider the highest and best use of each property.
2. Where the highest and best use of a property is based on growing and/or harvesting timber, an estimated value derived from separate figures for land, forest cover and merchantable timber should be prepared. If available, market evidence provides adequate information to establish a value based on comparable sales. This should also be presented and the consultant(s) should give his (their) joint opinion regarding the most relevant figure that represents market value.
3. In preparing value estimates based on separate figures for land and merchantable timber, the method should incorporate the following features:
  - (a) land values should be based on comparable sales with due consideration of locality, productivity, and other relevant factors;
  - (b) the net timber values should be based on the following:
    - i) the consultants' best estimates of logging costs (and processing costs, if appropriate) as of the date of the appraisal;
    - ii) the consultant's best estimate of average product values over the past market cycle, adjusted if required, to reflect significant trends or changes in the product values which may be realized over the longer term; prior to averaging, historic product prices should be inflated to dollars of purchasing power comparable to those used in estimating logging (and processing) costs;
  - (c) in preparing estimates of net timber values, the appraiser should identify and estimate any other factors, e.g. value to owner, timing of harvest, etc., affecting timber values in the circumstance of the particular proposed exchange.

### **1.2 Temporary Tenures**

1. The objective of the appraisal is to estimate the net market value of the timber on the existing and new licences being exchanged. The land value in timber production or other uses need not be considered.
2. In valuing merchantable timber, the instructions in Sections 3(b) and 3(c) above should apply.
3. Any cost to the licensee from restrictions and obligations attached to the tenures in question should be considered in the valuation.