

**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 lands for Crown Lands.

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 Lands;
- 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.

4.0 Policy

4.1 Objectives

The objectives of this policy are to:

- consolidate Crown Lands;
 - 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 Lands may be exchanged for freehold lands where Crown ownership of the freehold land would have a clear benefit to the Province of New Brunswick.

4.3 Land Acquisition Criteria

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 Lands;
 - b) they border on Crown Lands 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 lands located within a major block of Crown Lands 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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Policy, Continued

- 4.4 Exceptions** Exceptions may be made to the criteria in subsection 4.3 where the lands to be acquired by the Crown meet any one of the following criteria:
- they provide access to Crown Lands (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 Lands (including submerged lands) 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(s) by filing an application or they may be initiated by the Department.

5.2 Applications

5.2.1 An application, along with the required fee and information, must be submitted by interested freehold owner(s) 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.

5.3 Environmental Liabilities

5.3.1 The freehold owner(s) 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 owner(s) to conduct appropriate tests in accordance with Department of Environment 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 Crown Lands and the freehold lands. Normally, the Department will not entertain exchanges that include an expense to the Department.

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Procedures, Continued

- 5.5 Appraisals**
- 5.5.1 In order to determine market value, the Department will have appraisals prepared 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 Market value shall be determined through an appraisal prepared by an appraiser registered to practice in New Brunswick by the New Brunswick Association of Real Estate Appraisers.
- 5.5.3 The appraisal will normally be prepared by an appraiser employed by the Province. Where provincial staff are unavailable, the Department may arrange for a registered appraiser to prepare an appraisal in accordance with the Department's *Terms of Reference for Property Appraisals* found in the Appendix.
- 5.5.4 The Department will arrange for and assume the cost of appraising the Crown Lands and the freehold lands, excluding the cost of the timber cruise of the freehold lands (see section 5.6).
- 5.6 Timber Cruise**
- 5.6.1 The Department will arrange for the preparation of all timber cruises. The freehold owner(s) will be responsible for the cost of the timber cruise of their freehold lands.
- 5.6.2 Prior to the Department conducting a timber cruise of a freehold owner's lands, an estimate of the cost of the cruise will be provided to the freehold owner(s). The freehold owner(s) will then be required to undertake, in writing, their responsibility to pay the cost before a cruise is conducted.

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Procedures, Continued

5.7 Silviculture Area Where Crown Lands contain a silviculturally treated timber stand that has not reached merchantable size, a timber cruise may not be required. However, the freehold owner(s) will be responsible for paying a total recovery cost to the Department to compensate for the loss of the silviculture area. The cost will be based on criteria outlined in the Department's *Loss of Silviculture Areas* policy (number FMB 017 2006).

5.8 Surveys Where a review of the proposed exchange indicates that a survey of either the Crown Lands and/or freehold lands is required, the freehold owner(s) shall, at their expense, have a "New Brunswick Land Surveyor" prepare and submit a survey(s) to the Department for approval.

5.9 Verification of Ownership The freehold owner(s) shall, at their expense, provide the Crown with a current:

- Certificate of Registered Ownership under the *Land Titles Act* for their land, OR a current deed for their land if it is in the Registry System, at the time of application; and,
- Certificate of Registered Ownership under the *Land Titles Act* for their land at the time of closing.

The current deed or Certificate of Registered Ownership must list the applicant(s) as the current landowner(s).

5.10 Conveyance Documents 5.10.1 The Department will provide a transfer document or a 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*, and/or any other exceptions or reservations, as required.

5.10.2 The freehold owner(s) shall, at their expense, provide the Crown with a transfer document pursuant to the *Land Titles Act*.

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

7.1 Written Inquiries Inquiries concerning this policy may be made in writing to:

Director, Crown Lands Branch
Department of Natural Resources
P.O. Box 6000, Fredericton
New Brunswick, Canada, E3B 5H1

7.2 Phone Inquiries Telephone inquiries concerning this policy may be made by calling the Land Use Application Service Centre at 1-888-312-5600.

7.3 E-mail Inquiries E-mail inquiries concerning this policy may be made by e-mailing the Land Use Application Service Centre at CL_TCweb@gnb.ca.

8.0 Appendix

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