

SUBJECT: Submerged Crown Lands Policy

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1.0 Purpose and Policy Statement

1.1 Purpose The purpose of this policy is to provide guidance and direction to Department of Natural Resources staff with respect to the administration of submerged Crown land use applications and occupations involving existing, new or previously authorized structures, works and activities.

1.2 Policy Statement It is the policy of the Department of Natural Resources (DNR) that submerged Crown lands below the ordinary high water mark (OHWM) may be allocated for approved structures, works and activities.

2.0 Background and Definitions

2.1 Background The Province of New Brunswick's boundary and proprietary rights over submerged lands are defined by various federal statutes. This includes the bed of submerged lands and extends to the overlying water column and the water. *The Crown Lands and Forests Act* provides the means to authorize the use and occupation of the bed of submerged lands and any water upon or under the surface of such lands. While the water column is part of the public domain, water use is also governed by other legislation (ex: *Clean Water Act, Navigable Waters Protection Act*).

DNR is responsible for managing approximately 2.2 million hectares of submerged lands located below the ordinary high water mark. The exceptions being those submerged lands that have been granted, or otherwise disposed of, by the Department. In non-tidal waters, where the submerged lands have not been specifically reserved by the Crown from the upland property grants, the adjacent upland owners' title extends in some cases beyond the OHWM to the middle thread of the stream (*ad medium filum aquae*).

Each year, DNR addresses numerous land use applications and occupations involving submerged Crown lands including erosion control structures, breakwaters, wharves, docks, marinas, intake and outfall pipes and dredge and disposal activities. Leases, licences of occupation and easements are used to authorize approved applications.

The Department is involved in submerged lands issues as a direct result of increased and somewhat uncontrolled development:

- a) Landowners undertaking erosion control work or infilling below the OHWM;

- b) Landowners in areas with long development histories replacing existing structures and works that are now below the OHWM due to erosion, ice damage, sea-level rise or storm surges;
- c) Landowners constructing structures and works along continuous stretches of shoreline or at varying distances below the OHWM resulting in artificial shorelines; and
- d) Landowners attempting to reclaim land lost to natural gradual erosion or sea-level rise.

When shorelines erode and recede gradually and imperceptibly over time, the property lost becomes part of the foreshore or the bed of the adjacent watercourse. This may cause the position of natural boundaries such as the OHWM to move inland. Should a landowner decide at a later date to infill to the former position of the OHWM, this may be considered an encroachment on submerged Crown lands. In other instances, numerous landowners may infill below the OHWM along a continuous stretch of shoreline. This prolongation of the shore may impede public access and create ownership issues as the actual position of the OHWM may no longer be evident.

DNR addresses applications from riparian landowners who have experienced a sudden loss of property following a storm event, flood or damage from ice.

DNR also manages submerged Crown lands in accordance with the Department of Environment and Local Government’s Coastal Areas Protection Policy, which focuses on developments in tidal areas above the ordinary low water mark (OLWM) in coastal areas.

2.2 Definitions

Armour-stone	Large rock commonly used to reinforce shorefront properties in an effort to dissipate the action of ice, water or wave energy in order to prevent erosion.
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Benthic Environment	Ecological zone at the lowest level of the body of water (e.g., ocean floor, river-bed, lake bottom) beginning at the foreshore or intertidal zone.
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Dispositions	Crown land leases conveying an exclusive legal interest in property for a prescribed term and for an approved use; licences of occupation authorizing non-exclusive occupation of Crown lands for a prescribed term and for an approved use; and easements conveying a non-exclusive legal interest in property for the purpose of access or utility; all of which are issued in accordance with Regulation 2009-62, the <i>Lands Administration Regulation – Crown Lands and Forests Act</i> .
Dredge and Disposal Projects	Mechanized dredging to deepen navigational channels, harbour entrances and basins, and the disposal of dredge spoils which may be disposed of at approved upland or submerged sites, or used for beach nourishment and dune replenishment.
Grants and Deeds	Process and documentation used to transfer title from DNR to another party.
Erosion	General term for the processes scouring the surface of the earth principally by running water, near-shore waves, ice, and wind.
Foreshore	The inter-tidal zone or that part of the beach between the OHWM and OLWM. The foreshore is normally considered Crown lands and is submerged at high tide and exposed at low tide.
Infilling	The placement of fill materials along the existing shoreline below the OHWM in order to reclaim eroded land or to increase the size of an existing upland property.
Ordinary High Water Mark (OHWM)	The average or mean height or elevation of high tides or high water marks in lakes, rivers and streams which is used as the boundary defining the extent of Crown and freehold ownership in tidal areas and along non-tidal watercourses.
Ordinary Low Water Mark (OLWM)	The average or mean height or elevation of low tides or low water marks in lakes, rivers and streams, which is used to define the seaward extent of the foreshore and, in some cases, may be used to define the extent of Crown and freehold ownership in tidal areas.
Recession	The landward movement of the shoreline caused by erosion, which shifts the position of natural boundaries of property (i.e., the OHWM).

Retaining Wall A structure constructed of rock, timber, steel pilings, or concrete which are designed to prevent erosion of an embankment. Retaining walls may be anchored, cantilevered, piled or rely on their mass to improve the stability of materials behind the wall.

Riparian Rights Rights associated with the ownership of waterfront properties such as unobstructed access to the foreshore for navigation and protection of property from erosion. However, the right to place any structure or work on or along the foreshore only extends to the boundary of the property (i.e., above the OHWM or OLWM, or to the center-thread of a stream in non-tidal waters).

3.0 Policy Objectives

3.1 Policy Objectives DNR recognizes the social, economic and cultural benefits derived from submerged Crown lands. It is also important to recognize that the public expects a fair, balanced and consistent approach to address existing activities, structures and works, and new applications.

As a steward of submerged Crown lands in New Brunswick, DNR is obligated to protect and enhance their value and to manage these lands in a sustainable manner. This policy provides guidelines for structures, works and activities that may be permitted with or without prior authorization and those that may be restricted on submerged Crown lands.

The objectives of this policy are:

- a) To provide DNR staff with guidelines to address submerged Crown land use applications and occupations, and ensure that the Province receives fair compensation for its use;
 - b) To ensure the use of submerged Crown lands is managed to maintain the integrity of the environment, and for public access and recreation;
 - c) To allocate submerged Crown lands in a fair and equitable manner for recreational, commercial and industrial purposes; and
 - d) To ensure that the footprint of submerged Crown lands allocated for any use or purpose is limited to the minimum area required.
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4.0 Scope and Application

4.1 Application

- 4.1.1 This policy applies to those portions of the Bay of Fundy, the Northumberland Strait, the Gulf of St. Lawrence, and the Bay of Chaleur as well as any inland waters under the administration and control of the Minister of Natural Resources, except those within a Protected Natural Area.

This policy applies to any unauthorized occupation and all dispositions authorizing the use and occupation of submerged Crown lands, including:

- a) New and renewed licences of occupation;
 - b) New and renewed leases; and
 - c) Easements.
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- 4.1.2. This policy does not deal with the development of wave, wind and tidal energy projects.
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4.2 Authority

- Sections 4, 13, 21, 23, 24, 25, and 26, *Crown Lands and Forests Act*.
 - Regulation 2009-62, *Lands Administration Regulation - Crown Lands and Forests Act*
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5.0 Management Guidelines

5.1 Management Guidelines

With respect to managing developments on submerged Crown lands, DNR staff will, wherever possible:

- a) Ensure that floating structures and those supported by piles, posts or cribs are preferred over solid or fill-based structures or works;
- b) Ensure that building materials with nooks and crannies, such as rock, are preferred over solid flat materials that do not dissipate wave energy;
- c) Ensure that the footprint of any development or activity on submerged Crown lands is limited to the minimum area required to accommodate the structure or work, in order to minimize any potential negative impacts to the environment or to neighbouring properties; and
- d) Ensure that any structure, work or activity will not adversely affect riparian rights or public access and recreation.

6.0 Restricted Structures, Works and Activities

6.1 Restricted Structures or Works

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- 6.1.1** The following new structures and works are restricted on submerged Crown lands and may only be considered for authorization via a disposition provided they meet the criteria in Section 9.0 of this policy:
- a) Groins and breakwaters;
 - b) Infilling;
 - c) Causeways, where a bridge is a technically feasible alternative;
 - d) Erosion control structures or works;
 - e) Non-water-dependent structures and works; and
 - f) Structures and works that are non-compliant with this policy.

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- 6.1.2** Any improvements to existing unauthorized structures and works on submerged Crown lands may require prior written authorization from DNR.
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6.2 Harvesting, Collection, or Beach Raking of Organic Matter

Harvesting, collecting, raking or other activities involving the large-scale removal of organic materials, including beach wrack and other aquatic plants, are not permitted on submerged Crown lands unless:

- a) They meet the criteria of Section 9.0 of this policy, in which case an application for a licence of occupation must be submitted to DNR for review and approval; or
 - b) The harvesting is approved and monitored by the Department of Agriculture, Aquaculture and Fisheries and provided the applicant has obtained a licence of occupation from DNR if required.
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7.0 Temporary and Seasonal Structures, Works and Activities

7.1 Floating Docks, Moorings, Swim Platforms and Other Structures

- 7.1.1** Floating docks, moorings, swim platforms and other structures, which are temporary or seasonal in nature, may not require any disposition from the Department to occupy submerged Crown lands provided:
- a) They are used exclusively for personal recreational purposes and do not interfere with navigation;
 - b) They do not interfere with existing uses authorized by the Department;
 - c) They occupy submerged Crown lands on a seasonal basis and are installed no earlier than April and removed by the end of November each year without the use of heavy equipment (exception: mooring blocks);
 - d) They are not permanently affixed to submerged Crown lands or associated with any permanent works (exception: mooring blocks), components, features or dredging activities on submerged Crown lands; and
 - e) They only occupy a reasonable area of submerged Crown lands to accommodate the intended use.
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- 7.1.2** Applicants are responsible for ensuring that seasonal structures and works do not adversely affect the environment and do not interfere with navigation, public access and the riparian rights of any adjacent upland property owners.
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- 7.1.3** Floating docks, moorings, swim platforms, and other structures, which meet the criteria in Section 7.1.1 and do not require a disposition, may be subject to displacement, relocation, or removal at the Department's request, if it is in the public interest to do so; or if required to accommodate any structures or works authorized by a disposition.
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- 7.1.4** Floating docks, moorings, swim platforms and other temporary or seasonal structures that do not meet the criteria in Section 7.1.1 may be considered. An application for a disposition must be submitted to DNR for review and approval.
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7.2 Beach Clean-up Activities

- 7.2.1** Clean-up activities involving the removal of any waste, debris, or garbage, as well as abandoned gear, vessels or equipment, are permitted on submerged Crown lands without prior authorization from the Department, provided:
- a) No heavy or motorized equipment is used;
 - b) No dredging or excavation is required;
 - c) All required approvals are obtained; and
 - d) The proposed activities do not conflict with bird breeding and migration, interfere with the public right of passage, recreational activities and harvesting of aquatic plants, shellfish, etc.
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- 7.2.2** Clean-up activities that do not meet these requirements may be considered and an application for a licence of occupation must be submitted to DNR for review and approval.
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7.3 Carcass Removal and Disposal

The removal and disposal of marine and other animal carcasses from submerged Crown lands must comply with DNR's *2007 Removal of Carcasses on Submerged Crown Lands Protocol* or any updated version of this protocol.

7.4 Other Temporary Occupations or Activities

Other temporary occupations or activities on submerged Crown lands, that do not involve a structure, but may potentially impact the benthic environment (ex: use of equipment or machinery), may be considered. An application for a licence of occupation must be submitted to DNR for review and approval.

7.5 Other Permits and Approvals

Notwithstanding any consent or disposition from DNR, prior to proceeding with any temporary occupation or activity on submerged Crown lands, other permits and approvals may be required in accordance with legislation including, but not restricted to:

<i>Quarriable Substances Act</i>	<i>Clean Environment Act</i>
<i>Clean Water Act</i>	<i>Canada Fisheries Act</i>
<i>Navigable Waters Protection Act</i>	<i>Canada Shipping Act</i>

8.0 Permanent Structures and Works

8.1 Access Structures and Works

Wharves, docks, boat launching ramps, marinas, piers, and other access structures or works, which are permanent in nature and occupy submerged lands, must be reviewed and approved by DNR. An application for a disposition for these structures or works may be issued provided that they meet the following criteria:

- a) Are not of excessive length or size or within a reasonable distance of an existing marina, public wharf or boat launch;
- b) Are of sound design, structurally stable, and functional, proof of which may be requested by the Department from the applicant in the form of a report from a professional engineer;
- c) Are not hazardous to the benthic environment or to neighbouring properties and all materials, machinery or equipment are free from grease, oil, leaching toxins or other contaminants;
- d) Comply with all other relevant municipal, provincial and federal legislation;
- e) Are located adjacent to the applicant's property or where the applicant has obtained the written consent from the adjacent upland owner;
- f) Are not a threat to public safety, and do not obstruct public access or use along the Crown foreshore, as determined by the Department; applicants may be required to provide safe alternative public access over or around structures and works;
- g) Are maintained in good repair by the proponent during the term of the tenure, including the clean-up of any component materials from the beach or other lands, below the OHWM or NHWM, should the structure or work be damaged or destroyed;
- h) Are not constructed of materials obtained from the beach or water body/bed, including rocks, and any backfill material is obtained from an upland source;
- i) Do not cause any discharge of silt, debris or other harmful materials into the aquatic environment; and
- j) The structures and works comply with any other terms and conditions deemed appropriate by the Department in consultation with other agencies.

8.2 Intake and Outfall Pipes

Intake and outfall pipes may be authorized on submerged Crown lands by a licence of occupation or an easement depending on their permanence, size and purpose. An application for a disposition must be submitted to DNR for review and approval.

8.3 Erosion Control Structures

- 8.3.1** In many areas of the Province, waterfront property owners have constructed works to prevent erosion. Erosion control structures such as retaining walls, armor-stone and rip-rap may be permitted on submerged Crown lands below the OHWM so long as they comply with the criteria in Section 9.0 and provided:
- a) The occupation of submerged Crown lands is limited to the minimum distance and area below the OHWM required to accommodate the structure;
 - b) No erosion control structure would be located further seaward or waterward than any neighbouring erosion control structure; and
 - c) The footprint of the existing structure occupying submerged Crown lands is not expanded.
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- 8.3.2** For any new structure, an application for a disposition must be submitted to DNR for review and approval. DNR may also require the applicant to provide a report prepared by a professional engineer confirming that the structure or work meets all relevant safety requirements and standards and will not adversely affect neighbouring properties.
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- 8.3.3** While it is acknowledged that riparian landowners have the right to protect their property, they do not have the right to encroach on the Crown foreshore. However, in some areas, uncontrolled development has already occurred and some applications may involve the construction of structures along the last undeveloped waterfront property. In special circumstances, where development has occurred on submerged Crown lands along a continuous stretch of shoreline, and where it may be difficult to determine the location of the OHWM, DNR may consider other alternatives on a case-by-case basis.
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8.4 Dredge Disposal Activities

- 8.4.1** Dredge and disposal activities may be authorized on submerged Crown lands so long as they provide a clear public or collective benefit such as small craft harbours, DNR authorized marinas, wharves and boat launching ramps. An application for a licence of occupation must be submitted to DNR for review and approval.
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8.4.2 Dredge and disposal activities involving private docks, wharves or boat launching ramps may also be considered. An application for a licence of occupation must be submitted to DNR for review and approval. The applicant may be required to provide a report prepared by a professional engineer confirming that the proposed activities meet all relevant safety requirements and standards and will not adversely affect neighbouring properties.

8.4.3 Any removal of quarriable materials occurring on submerged Crown lands may require a Quarry Permit or Quarry Lease under the *Quarriable Substances Act*.

8.5 Public Utilities

Public utilities, including submarine pipelines, and telecommunications and electrical cables may be authorized on submerged Crown lands. An application for a disposition must be submitted to DNR for review and approval. Where there is a demonstrated need to do so, the Department may issue an interim licence of occupation to authorize approved activities in advance of the finalization of a disposition.

8.6 Submerged Logging

The retrieval of logs from submerged Crown lands may be authorized in select areas subject to the criteria outlined in the *Application for Retrieval of Sunken Logs*. An application for a licence of occupation must be submitted to DNR for review and approval.

9.0 Exceptions

9.1 Exceptions

9.1.1 Restricted structures, works and activities identified in Section 6.0, as well as those that do not meet the requirements of any other Sections of this policy, may be considered provided they meet at least one of the following criteria:

- a) Are required to prevent imminent, significant damage to property;
- b) Are required to protect landowners' or the public's health, safety and welfare, and where there are no other feasible alternatives;
- c) Are required to protect public assets or are serving a clear public interest or benefit;
- d) Are required to protect property from erosion or other negative impacts and the occupation of submerged Crown lands cannot be avoided because of site characteristics or a lack of feasible alternatives; and

(e) Are approved and monitored by the Department of Agriculture, Aquaculture and Fisheries.

9.1.2 An application for a disposition must be submitted to DNR for review and approval.

9.1.3 The applicant may also be required to provide a report prepared by a professional engineer confirming that the proposed structure, work or activity meets all relevant safety requirements and standards and will not adversely affect neighbouring properties.

9.1.4 If approved, the occupation of submerged Crown lands would be limited to the minimum distance and area below the OHWM required to accommodate the structure, work or activity.

10.0 Other Actions

10.1 Other Actions

In addition to the issuance of dispositions, the Department may consider other actions in accordance with the *Crown Lands and Forests Act* in order to address cases involving special circumstances. This may include entering into agreements, transfers of administration and control, or disposals of submerged Crown lands.

11.0 Maintenance and Repairs to Structures and Works

11.1 Maintenance and Repairs

11.1.1 Maintenance and repairs to any existing structures and works on submerged Crown lands may be undertaken without further authorization from the Department provided:

- a) The dimensions and footprint of the original structure or work occupying submerged Crown lands does not change;
- b) All work occurs within the existing footprint and the use of heavy equipment on the Crown foreshore is not required;

- c) The work poses no hazard to the environment or to neighboring properties;
 - d) The work does not require any dredging or excavation on submerged Crown lands; and
 - e) The proposed activities do not conflict with bird breeding and migration, interfere with the public right of passage, recreational activities and harvesting of aquatic plants, shellfish, etc.
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11.1.2 If the proposed maintenance or repairs would result in an increase of the occupied area of submerged Crown lands, prior authorization would be required. Therefore, an application for a disposition must be submitted to DNR for review and approval.

11.1.3 Regular maintenance or repairs involving the temporary occupation of submerged Crown lands outside the authorized area may require a licence of occupation. Therefore, an application for a licence of occupation must be submitted to DNR for review and approval.

11.1.4 Prior to authorizing any maintenance or repairs to unauthorized structures or works on submerged Crown lands, DNR may request that the applicant obtain the appropriate disposition to legalize their current occupation.

11.2 Emergency Repairs

In recognition of the right of riparian landowners to protect property from storm surge, ice damage, flooding and other catastrophic events, DNR will attempt to address requests to repair damaged erosion control structures as quickly as possible. Therefore, in response to requests and applications regarding emergencies posing immediate and impending risks to public safety and/or further loss or damage of property, DNR may issue written consent or an interim licence of occupation to expedite the process. In extraordinary cases and notwithstanding Section 11.1.1(b), and provisions outlined in other Sections of this policy, riparian landowners may be permitted to use heavy equipment on submerged Crown lands provided they meet all of the other provisions in Section 9.1 and Subsection 11.1 and the following:

- a) All requirements prescribed by DNR are fulfilled and any other approvals are obtained;
 - b) The use of heavy equipment on the foreshore is limited to access only to undertake structural repairs for a short distance along the Crown foreshore and for no more than a single day; and
 - c) The proposed access will not adversely affect other riparian landowners (whose written consent may be required in some cases).
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12.0 Pre-Authorization Requirements

12.1 Site Development Plan

12.1.1 Applicants must submit a Site Development Plan (SDP) along with any application for a lease or licence of occupation. In addition to other information, the SDP would include a project description and timeline, available survey or location data showing the adjacent upland properties and the position of the OHWM, a maintenance schedule and a rehabilitation plan.

12.1.2 Approved SDPs are considered part of any lease or licence of occupation. Once approved, all construction, maintenance, repairs and other activities must conform to the approved SDP. If the lessee or licensee wishes to deviate from the approved SDP, a written request must be submitted to DNR for approval. The approval must be obtained by the lessee or licensee in writing before any revision to the SDP comes into effect.

12.2 Public Consultation

12.2.1 Public consultation may be required where it appears that an application for a disposition may:

- (a) Adversely affect public access and recreation, or an adjacent landowner's riparian rights;
- (b) Pose a threat to public health or safety; or
- (c) Create a serious nuisance or hazard to the environment.

The Department may require the applicant to undertake public consultation at their own expense and may include:

- a) Written notification to landowners within a prescribed distance from the proposed structure, work or activity;
- b) Publish notices in both official languages in no less than one weekday and one weekend edition of at least one local and one regional newspaper that serves the area in which the use is proposed. Notifications would include:
 - A description of the proposed structure, work or activity;
 - Location of the proposed structure, work or activity;

- Indicate to whom and where comments are to be forwarded;
- Indicate that the names of individuals who have concerns with the proposal will be kept confidential; however, DNR may share the concerns that were identified with the applicant; and
- Prescribe a deadline for submitting comments.

(c) The applicant may also be required to host public consultation sessions at their own expense in order to outline the proposed structure, work or activity to the community and to seek public input.

12.2.2 Where legitimate concerns are raised during public consultation to which there is no resolution, the Department may reject the application.

12.2.3 Where it appears that concerns may be addressed, the Department may request the applicant to work with affected parties to seek resolution. If this involves a dispute amongst landowners, the Department may require the applicant to obtain signed releases from the disputing parties freeing the Province from any future claims.

12.2.4 If any concerns are not resolved within a reasonable period of time, the Department may reject the application.

12.2.5 Public consultation will not be required for:

- a) Proposals where public consultation is undertaken as part of another approval process such as an Environmental Impact Assessment (EIA) or amendments to a by-law or regulation enacted under the *Community Planning Act*;
 - b) Disposition renewals and assignments;
 - c) Maintenance and repairs to existing authorized structures or works;
 - d) Submerged logging; and
 - e) Previously authorized dredge and disposal projects associated with the maintenance of small craft harbours, and DNR authorized wharves, docks, marinas, and boat launching ramps.
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**12.3
Consultation
with First
Nations**

The Department may require applicants to consult with First Nation communities should there be a need to mitigate any impacts to Aboriginal or treaty rights in accordance with the *Government of New Brunswick Duty to Consult Policy* and any other relevant policies or guidelines developed by the Province of New Brunswick.

12.4 Insurance Prior to the Department issuing a disposition, the applicant may be required to obtain \$2,000,000.00 public liability insurance. “Her Majesty the Queen, in Right of the Province of New Brunswick” must be named as an “additional-insured” in the policy and the policy must be maintained over the entire term of the disposition. A copy of the policy and/or a certificate of insurance must be provided to DNR upon request.

12.5 Survey The applicant is required to provide a Plan of Survey or a Subdivision Plan prepared by a licensed New Brunswick Land Surveyor at their own expense:

- a) For all new leases and easements;
- b) Any additions or withdrawals of submerged Crown lands from a lease or easement;
- c) For any licence of occupation, if deemed appropriate by the Department; and
- d) For any disposition where the original surveyed boundaries have been altered or are no longer visible.

12.6 Registration

12.6.1 After a disposition is finalized, DNR may require the holder to register the disposition in the appropriate Registry Office and submit proof of registration within a specified period of time.

12.6.2 In every circumstance, the holder of a disposition is responsible for bearing all costs associated with the registration of documents and title (ex., transfer of leased lands from the Land Registry System to the Land Titles System for mortgage purposes).

**12.7 EIA
Registration**

12.7.1 Crown lands applications that correspond to one of the undertakings described in Schedule A of Regulation 87-83, *Environmental Impact Assessment Regulation – Clean Environment Act*, must be registered by the applicant. The Department of Environment and Local Government would determine whether or not an environmental impact assessment is required. In such instances, DNR may evaluate applications but will not make any final offer to an applicant until:

- a) A Certificate of Determination is issued by the Minister of Environment and Local Government; or

(b) The Lieutenant-Governor in Council has issued an approval for the undertaking.

12.7.2 If the undertaking is not approved, DNR will reject the application.

12.8 Review Agencies

DNR may call upon the expertise of any governmental and non-governmental review agencies to evaluate any application and SDP.

13.0 Disposition Requirements

13.1 Lands Administration Regulation

Submerged Crown lands disposition holders must abide by all the requirements contained in Regulation 2009-62, *Lands Administration Regulation – Crown Lands and Forests Act*.

13.2 Other Permits and Approvals

Throughout the entire term of occupation, disposition holders must obtain, maintain and comply with all permits and approvals issued in accordance with other legislation including, but not restricted to:

<i>Quarriable Substances Act</i>	<i>Clean Environment Act</i>
<i>Clean Water Act</i>	<i>Canada Fisheries Act</i>
<i>Navigable Waters Protection Act</i>	<i>Canada Shipping Act</i>

13.3 Use and Inspection of Submerged Crown Lands

The holder of a disposition will occupy submerged Crown lands for the approved use and purposes only. The Department may exercise its right to inspect the subject lands at reasonable times to ensure that the structure, work or activity complies with the provisions of the disposition.

13.4 Good Repair

Throughout the term of the lease, the lessee must ensure that the lease area and any improvements within the lease boundaries are maintained in good condition and usable working order. DNR may require lessees to clean, restore or remove any improvements from the lease area as a result of being in a state of disrepair or neglect so as to be dangerous or unhealthy. This may include, but is not restricted to:

- A structure that is no longer suitable for use;
 - An exterior finish of a structure or building that is not maintained;
 - An excessive accumulation of rubbish, debris and discarded materials on a property; and
 - Derelict vessels, items of equipment or machinery, or bodies and parts of such items.
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13.5 Storage and Use of Petroleum Products and Other Fuels

13.5.1 The installation, storage and use of petroleum products on submerged Crown lands must comply with DNR's *Policy on Storage of Petroleum Products on Crown Lands* where applicable, as well as the *Petroleum Products Storage and Handling Regulation (89-87) – Clean Environment Act*.

13.5.2 The Department may also restrict or limit the installation, use and storage of other fuels on submerged Crown lands, such as propane, and prior written approval may be required from DNR.

13.5.3 Notwithstanding any policies, standards or regulations, DNR reserves the right to restrict or limit the use and storage of these materials on submerged Crown lands.

13.6 Unauthorized Occupations

Any unauthorized use of submerged Crown lands or continued use or occupation of these lands after the termination of any disposition may be treated as an unauthorized occupation in accordance with Section 71 of the *Crown Lands and Forests Act*.

14.0 Renewals, Assignments and Conversions

14.1 Lease and Licence of Occupation Renewals

Dispositions may be renewed provided:

- a) The disposition is in good standing, including no outstanding accounts (e.g., payment of rent and all applicable property taxes) or the lessee/licensee undertakes to meet any outstanding requirements within the timeframe specified by DNR;
 - b) The subject submerged Crown lands are not required by DNR for other purposes;
 - c) There are no survey requirements; and
 - d) All applicable fees have been paid.
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**14.2 Lease and
Licence of
Occupation
Assignments**

Dispositions may be assigned provided:

- a) The disposition is in good standing, including payment of rent and all applicable property taxes, or the disposition holder undertakes to meet any outstanding requirements within the timeframe specified by DNR;
 - b) The subject submerged Crown lands are not required by DNR for other purposes; and
 - c) All applicable fees have been paid.
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**14.3 Lease
Conversions**

14.3.1 Lease conversions may be considered provided they conform to the following:

- a) The lessee must submit an application for the type of lease that corresponds to the proposed use to DNR for review and approval and shall pay all applicable fees;
 - b) The application shall be evaluated against any policy or practice that applies to the proposed use; and
 - c) If the application is approved, the existing lease will be cancelled and a new lease will be issued subject to the terms and conditions applicable to the new use.
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14.3.2 Holders of dispositions that do not adhere to the occupancy requirements and undertake such conversions (ex: to commercial) without prior authorization from DNR may be subject to further actions, including the cancellation of the disposition.

15.0 Cancellation and Termination

**15.1
Cancellation**

15.1.1 A disposition may be cancelled if the holder of a disposition breaches any of the provisions outlined in paragraph 3(2)(z) of the *Lands Administration Regulation (2009-62) – Crown Lands and Forests Act*.

15.1.2 In the event there are unresolved issues, the Minister reserves the right to cancel the disposition.

15.2 Lease Terminations A submerged Crown lands lease may be terminated in the event that it expires.

15.3 Reservation If a lease or licence of occupation is cancelled or terminated, it may not necessarily be re-offered.

16.0 Inquiries

16.1 Written Inquiries Written inquiries concerning this policy may be forwarded to:
Director, Crown Lands Branch
Department of Natural Resources
P.O. Box 6000
Fredericton, NB, Canada
E3B 5H1

16.2 Telephone Inquiries Telephone inquiries concerning this policy may be directed to the Land Use Application Service Centre by calling toll-free at 1-888-312-5600.

16.3 E-mail inquiries E-mail inquiries concerning this policy may be forwarded to the Land Use Application Service Centre at CL_TCweb@gnb.ca.
