

Department of Natural Resources
And Renewables

Applicant Guidelines for The Coastal Crown Lands Policy

A. Purpose:

This document explains when and how to apply to use coastal Crown lands, per the Department of Natural Resources and Renewable's (the Department) Coastal Lands Policy (the Policy). The purpose is to provide a clear explanation on what activities can be undertaken on coastal Crown lands, including submerged Crown lands.

The Department of Natural Resources and Renewables is responsible for approving any and all activities taking place on lands administered under the *Crown Lands Act* and/or the *Beaches Act*.

Note: Not all applications received by the Department may fall under the Department's jurisdiction. If the location identified on the application form is not administered by one of these Acts the applicant will be informed their application cannot be processed by the Department. It will be up to the applicant to determine if the lands fall under the jurisdiction of another level of government or is privately owned.

B. Definitions:

These definitions will provide an explanation of terms that may not be familiar to everyone wishing to apply to use coastal Crown lands. All terms in this section are found throughout this document.

- a. **Adjacent upland property:** a parcel of land that lies above the ordinary high water mark of a body of water and adjoins land below the ordinary high-water mark. Includes both privately owned lands and Crown lands.
- b. **Boat ramp:** a permanent or semi-permanent structure or device which rests fully or partially on submerged land and is used for the primary purpose of launching or bringing ashore any type of vessel and includes a slipway and other similar structures.
- c. **Floating dock:** an extension of a wharf, which may be permanently or temporarily affixed to the wharf or which may be attached to a mooring.
- d. **IRM report:** an Integrated Resource Management (IRM) report is a planning and decision-making tool used by the Department in assessing requests to use Crown lands to ensure a mix of land-use activities, minimize land-use conflict and balance social, economic and environmental benefits from activities on Crown lands, and to include any recommendations necessary to effect the

protection and enhancement of biodiversity and ecosystems on Crown lands as an overall priority.

- e. **Materials Deposit:** any discharging, spraying, releasing, spilling, leaking, seeping, pouring, emitting, emptying, throwing dumping or placing.
- f. **Mooring:** a permanent or semi-permanent structure or device which rests on submerged land for the purpose of securing a vessel, wharf, floating dock, or raft.
- g. **Mooring grid:** an area of submerged land for which more than three moorings have been laid out and allocated in accordance with a plan accepted by the Department.
- h. **Shoreline Stabilization:** stabilization required for the protection or restoration of the shore as a result of destabilization from coastal erosion, flooding or storm surge. The Department of Environment and Climate Change (ECC) has identified that stabilization can either be: hard structures; a permanent shore-stabilizing structure built to reduce erosion from wave action; or, natural structures that use vegetation and other natural elements to create natural structures that may shift and change over time.
- i. **Submerged Crown lands:** land which is below the ordinary low and high-water mark of a body of water and includes the beds and shores of bodies of fresh water.
- j. **Structures:** includes, but not limited to, building, camp, trailer, houseboat, raft, wharf, fence wall and moorings.
- k. **Wharf:** a permanent or semi-permanent structure which rests wholly or partially on submerged land and consists of a platform supported by poles, piles, cribwork or other material and is primarily used for securing watercraft.

C. Objective of the Coastal Lands Policy:

The objective of the Policy is to set out the Department's requirements and processes for acceptance, review and issuance of permissions for activities over freshwater bodies or the submerged land under freshwater bodies, within intertidal areas of the coast, submerged Crown lands beyond the ordinary highwater mark and coastal Crown lands.

D. Policy Application

The Policy applies to all applications to undertake activities on or over coastal Crown lands and submerged Crown lands.

Crown lands for the purposes of the policy includes waterfront Crown lands, submerged coastal Crown lands, Crown lands between the ordinary low- and high- water mark and Crown lands beneath waterbodies that are under the administration and control of the Department and Crown lands pursuant to the *Crown Lands Act* and the *Beaches Act*.

Any Beaches designated under the *Beaches Act* are not included in this policy but follow the requirements under the *Beaches Act*. If it is not clear if the location falls under the *Beaches Act*, consult with the Director of Parks. Any beaches that are not designated are included in this policy.

The Policy includes the beds and shores of freshwater bodies and intertidal lands adjacent to water lots. It does not include submerged lands within the boundaries of Federal Harbours or water lots not within the ownership of the Department. Sales of infilled Crown lands would be covered under the *Sale of Crown Land Policy*; however, this policy applies to activities taking place on infilled Crown lands.

E. Policy Directives

All requests to authorize activities under the Policy must be made in writing by submitting a completed application form (Use of Crown Lands application) to the Department. **General e-mails, letters and phone calls will not be considered an application and will not initiate any type of review or approval process.**

1. Authorization:

All uses of the Crown lands, activities or placement of infrastructure or structures on the Crown lands covered by the Policy require written authorization from the Department in the form of a permit, license, lease, easement, or grant. The Department will make final determination on which of these is the most appropriate method for authorizing the activity.

2. Coastal Crown land use applications:

All requests to use Crown lands require the applicant to submit an application to use Crown lands to the Department. The application form can be found at <https://novascotia.ca/natr/land/clo/>.

- a. Permits for activities defined in section F(a)(i) below can be issued from the local Department offices on receipt of the completed application form and submission of all other required information.
- b. Applications for all other requests/activities or a combination of the activities described in section F require the application form to be submitted to the Land Services Branch of the Department.
- c. Applications to use Crown lands can be submitted as an attachment via e-mail, using the email address provided in the application form or can be sent by regular mail or hand delivered to a Department regional office.

3. Prohibitions and Exemptions

3.1 Infill

- a. **New infill on the Crown lands is prohibited** except in the following circumstances:

- i. Where a minimal amount of infill, needed for repair of an existing structure that does not increase the total footprint of the area of Crown Lands occupied, is required to repair/support an existing wharf crib or existing boat ramp/slipway.
- ii. Where infill is required to be used for the repair or construction of a public road or associated infrastructure.
- iii. For repairs to existing armorstone/shoreline protection measures, provided the amount of infill to be used is the minimum amount needed for repair and does not increase the total footprint of the area of Crown Lands occupied by the existing armorstone/ shoreline protection measures.
- iv. Placement of infill for an emergency purpose that has been permitted by the Department.

b. Any material deposited on the submerged Crown lands that alters the existing ordinary high-water mark is considered infill that is ungranted land under the administration and control of the Department.

c. Existing infill that is lawfully placed (has been placed by the adjacent upland owners with the Department's permission) may be sold to the adjacent upland owner(s).

d. The sale of infill must follow the policy requirements for the sale of Crown lands pursuant to the *Policy for the Sale of Crown Lands*.

3.2 Dredging

a. The dredging of submerged Crown lands is prohibited except for:

- i. Dredging work being done on behalf of the Federal Government in relation to the protection of navigation or fishing; other work authorized by the Federal Government.
- ii. Requests from private property owners for dredging of channels or areas that have previously been dredged with the approval of the Department, if all of the following conditions are met:
 - A. approval has not been revoked,
 - B. activities were in compliance with the terms of the approval given,
 - C. the proposed area to be dredged is the minimal amount of space needed to allow for navigation or preservation of water movement
 - D. there are no adverse effects to wildlife or endangered species identified by IRM, or other natural or biodiversity values under the mandate of the Department, that cannot be avoided or mitigated.

iii. Requests from other government entities for dredging that is required to protect government owned roads or infrastructure.

iv. Dredging that is required for an emergency purpose that has been authorized by the Minister of NRR or by either the Provincial or Federal Government.

3.3 Permanent Structures built on new or existing wharves connected to private land

- a. The Department will not authorize the installation or building of a new permanent residential structure for the purposes of living, full time or part time or for rental as an accommodation, short or long-term.

4. Approvals of Other Departments or Governments:

1. It is the applicant's responsibility to secure any and all necessary approvals.
2. Proceeding with any work prior to receiving all applicable approvals may result in the termination of the Department's approval. Subsequent requirement to remove any structure or any other requirements resulting from the termination of Department approval will be determined in consultation with ECC Provincial Enforcement, as applicable.

5. Application Process Requirements for Approvals

5.1. General Application requirements:

- a. The applicant must complete all applicable fields in the application form and also provide:
 - i. the nearest upland property adjacent to the proposed location (PID or Civic Address) for the request's authorization/activity;
 - ii. a sketch showing the dimensions of any proposed structures;
 - iii. construction methodology, approach to construction site, type of machinery to be used, a project timeline for work/construction, and appropriate mitigation measures associated with the request;
 - iv. if available at the time of application, the survey or building location certificate showing the waterfront boundary line of the property where any structures will make landfall;

v. notification of adjacent upland owners in the form provided on the attached Appendix B or other legal agreement between the applicant and adjacent land owners;

vi. a list and status of outstanding authorizations, if known at the time of application, from other government departments;

vii. an application for a marina or mooring grid must include a proposed layout for moorings and how the proposal will address boating density issues in its grid and allowances for vessels during emergencies and existing navigational channels as well as a plan for conducting public consultation with the community of the proposed marina.

viii. applications for construction of new bridges that are not part of a public road must provide information to confirm the proposed design and location of the bridge will not impact existing access to shoreline or navigation (if applicable).

b. An application will be considered complete when the above information has been provided to the Department.

c. Any applications regarding the use of Crown Lands located at any beaches that are not designated pursuant to the Beaches Act will be sent to the Parks Division of the Department of Natural Resources and Renewables before an IRM review is requested.

d. Crown records research and an IRM review must be completed by the Department for all license, lease, easement, and infill/sale applications and for permits when required. The IRM review, when required, for permits may vary in the level of review depending on the level of potential disturbance. Criteria for determining the level of review will be outlined in the procedure on issuing permits (Appendix C).

e. Proof of security/insurance in the amount and form to be determined by the Department, in consultation with the Provincial Director of Risk Management, Service Nova Scotia and Internal Services, may be required prior to the issuance of an authorization pursuant to this policy.

Applications to use Crown lands received under the Policy may require, in addition to the information identified above, following information:

5.2 Notification:

- a. At minimum, all applicants requesting a **license, lease, easement, or to place permanent structures/infrastructure** on the Crown lands must notify adjacent upland owners closest to the proposed activity/structure. This requirement does not apply to purchases of infill that are entirely located in front of the applicant's private property.
- b. At minimum, all applicants requesting a **permit** for placement of new permanent structures/infrastructure on Crown lands below the ordinary high water mark must notify the two directly adjoining waterfront properties that are nearest to the proposed activity/structure, with whom the applicant shares a common boundary line, including if the property is Crown lands, unless:
- ii. the applicant has a survey or building location certificate showing the boundaries of their property providing sufficient information to confirm the landfall location of the proposed activity/structure is placed approximately midway between the two adjoining property lines and is not within 3.05 metres (10 feet) of either adjoining property line, or
 - iii. the request is to make repairs to an existing structure and the repairs will not increase the size of the existing footprint or height, or
 - iv. the request is for short-term use of the submerged Crown lands that does not require placement of permanent structures, including but not limited to floating wharves, or
 - v. the permit is to authorize a mooring that is more than 60 metres (196 feet) beyond the ordinary high-water mark.
- b. By submitting an application, the applicant is affirming that notification has been provided to adjacent upland owners.
- c. No upland owner notification is required for activities that are taking place 60 metres (196 feet) or more beyond the ordinary high-water mark, unless the activity is taking place in a cove or inlet. In these cases the applicant may be required to notify additional landowners.

5.3 Survey:

All requests for leases, easements and sales of infill require the applicant to complete a survey of the Crown lands at their expense. Prior to completing a survey, the applicant must contact the Director of Surveys for the Department to obtain an order of survey.

5.4 Appraisal:

All commercial leases and sales of infill requests require the applicant to obtain an appraisal of the Crown lands at their expense.

5.5 Consultation:

- a. Public Consultation: The Department has the discretion to require public consultation be conducted for any applications made under this policy
- b. Mi'kmaq Consultation: The Department will continue to follow established protocols for consulting the Mi'kmaq on Crown land authorizations, per the Department's Mi'kmaq Consultation Policy (April 2019) and associated Branch procedures (i.e., Regional Services Mi'kmaq Consultation Procedure (September 2020) and the Land Services Branch Aboriginal Consultation Protocol (2014)).

5.6 Integrated Resource Management (IRM) review:

The Department will scan all requests for any authorizations under this policy to determine if the completion of a full IRM review is required.

F. Policy Guidelines

- a. There are several different types of authorizations the Department may issue to authorize activities on Crown lands under the Policy. The type of authorization will be determined by the Department.
- b. The process for reviewing and approving/rejecting an application may vary depending on the activity applied for and the type of authorization being considered.
- c. The timeline for completing the application review process will also vary depending on the type of authorization being issued.
- d. Acceptable methods and materials for construction are included in these guidelines as appendix A.

G. Accountability

- a. The Deputy Minister is responsible for the consistent implementation of the Policy by all staff.
- b. Senior management is responsible for ensuring the Policy meets the objectives of the Department; approving and implementing the Policy; and, ensuring that authority is effectively delegated to appropriate staff.
- c. The Lands Services Branch is responsible to ensure that all elements of the policy undertaken by that branch follow the directives and guidelines of the Policy.

- d. The Regional Services Branch is responsible for ensuring that all elements of the policy undertaken by that branch follow the directives and guidelines of the Policy.

H. References

Sale of Crown Lands Policy, Department of Natural Resources, 1995
Coastal Lands Policy, Department of Natural Resources, 2003
Coastal Lands Policy, Department of Natural Resources, 2012
Unauthorized Structures Policy, Department of Natural Resources, 2020
Fees for activities on Crown Lands (schedule effective April 1, 2015)

I. Enquiries, Review and History

For enquiries contact: Director, Land Administration, Lands Services Branch
(902) 424-4006

Next review date: 2024/ 01/01 (or sooner if *Coastal Protection Act* Regulations dictate a change to policy)

To be reviewed by: Director, Land Administration, Lands Services
Directors, Eastern, Central and Western Regions, Regional Services

Previous revisions: 2012, 2003

Appendix A: Construction Requirements for Shoreline Structures

Appendix B: Upland Owner Notification Form