



City of Delta  
COUNCIL REPORT  
Closed Meeting

To: **Council**

From: **Corporate Services Department**

Date: **June 24, 2025**

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**Ladner Waterfront Head Lease Considerations**

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The following report has been reviewed and endorsed by the City Manager's Office.

▪ **RECOMMENDATIONS:**

- A. THAT City of Delta not pursue a Head Lease with the Ministry of Water, Land, and Resource Stewardship for the Ladner waterfront area.
- B. THAT staff meet with the South Fraser River Enhancement Society representatives to convey the decision and reasons in general terms.
- C. THAT staff continue to advocate to senior levels of government on issues shared with the South Fraser River Enhancement Society including channel dredging and securing long-term tenures for Crown land in the Ladner waterfront area.

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▪ **PURPOSE:**

The purpose of this report is to examine the feasibility of pursuing a Head Lease with the Ministry of Water, Land, and Resource Stewardship (Ministry) for the Ladner waterfront area. This matter is being presented to Council for consideration during a Closed Meeting in order to discuss the acquisition of lands or improvements, in accordance with Section 90(1)(e) of the *Community Charter*.

**Executive Summary:**

Following receipt of a request from the South Fraser River Enhancement Society (Society), during the May 5, 2025 Closed Meeting, Council instructed staff to report back with information on what pursuing a Head Lease with the Ministry would entail and provide recommendations. Staff do not recommend pursuing the Head Lease, primarily for the following reasons:

- To run the Head Lease on a cost-recovery model, staff estimate the City would need to increase rents on float home owners and other occupiers by tenfold at a minimum.

- The process to negotiate and establish a Head Lease with the Ministry is, at a minimum, a 3-5 year process with no guarantee that the parties would be able to come to agreeable terms.
- Ministry staff have noted that all consultation, including that with First Nations, would be borne by the City.
- The Ministry takes 50% of all revenue derived from the Head Lease.
- The Head Lease would need to include non-residential water lots as well, which currently have varying lease terms, tenures and outstanding issues.
- The City's housing target efforts are focused on areas identified for growth in the OCP. Ladner waterfront is not one of those areas. Longer or additional tenures for float homes will not significantly advance the City's housing objectives.

▪ **BACKGROUND:**

Provincial Crown land is land (which may be covered by water) owned by the Province. The Province may transfer control of a specific area of Crown land to an eligible applicant through a Head Lease. Eligible applicants include local governments, First Nations, Crown corporations, or other public entities. Head Leases permit the lease holder to sub-lease Crown land (or water lots) to subtenants.

The Vancouver Fraser Port Authority (Port) held a Head Lease with the Province for an area of the Fraser River that included the Ladner waterfront. At the end of 2014, the Port allowed the Head Lease to expire. In 2015, control of the Ladner waterfront area transferred back to the Province. The Province then introduced a two-year moratorium on water leases and licenses for float homes. The two-year moratorium has been renewed every two years for the past decade.

Provincial policy over the past decade has created uncertainty for float home owners. The Society sent a letter to Delta Council dated April 22, 2025 (Attachment A) requesting the City pursue a Head Lease with the Ministry believing that the City would be more willing to administer the area in a manner that would provide long-term stability for float home owners currently occupying Crown land in the Ladner waterfront area. The typical term of a Head Lease is 30-60 years although sublease tenures may vary. At the May 5, 2025, Closed Meeting Council instructed staff to report back with information on what pursuing a Head Lease with the Ministry would entail and provide recommendations.

On May 20, 2025, Delta staff met with three senior Ministry staff. Delta staff prepared a list of questions regarding the Head Lease process and the answers provided by Ministry staff are reflected in this report.

On June 6, 2025, Delta staff met with four Society members to discuss the issues faced by float home owners (e.g., no/limited tenure, inability to finance or sell their homes etc.), while staff shared some insights about what establishing a Head Lease would likely look like from the City's perspective. The Society has put forward a number of potential benefits of the City taking on a Head Lease, which are also discussed in this report.

▪ **DISCUSSION:**

Although there are a number of complex aspects to negotiating a potential Head Lease, the primary points to consider are summarized below:

- **Comparable Data:** Head Leases are extremely rare bespoke agreements and generally only held by Port Authorities. Ministry staff are not aware of any local governments who hold Head Leases similar to what is being contemplated here.
- **Geographic Area:** The only viable option would be for the Head Lease to cover all Crown parcels in the Ladner waterfront area, which would include parcels currently occupied by float homes (approximately 100 float homes would be under the Head Lease) but also vacant and marine/industrial parcels as well. A patchwork Head Lease that only includes the float home parcels is not feasible, and Ministry staff have noted the Head Lease must be for a contiguous area.
- **Process Overview and Timeline:** The Head Lease process is designed to ensure the Lessee manages the land as good or better than the Province would so that when the term of the Head Lease expires there are no issues or liabilities for the Province to address. Ministry staff estimate this Head Lease process – from the start of background work to a signed Head Lease – would take 3-5 years, at least.
- **Head Lease Background Work:** To establish a Head Lease, Delta staff, working with the Ministry, would be required to do a considerable amount of background work. For example, staff would need to prepare a detailed land status of the proposed Head Lease area, determine existing tenures that would need to be migrated into the new Head Lease (and how), address any outstanding enforcement files, consult with interested parties, and potentially re-survey the area. The Department of Fisheries and Oceans, as well as Transport Canada, may have their own requirements beyond what the Ministry requires. Ministry staff have noted that all consultation would be borne by the City.
- **Head Lease Benefits:** The key benefit to the City would be market rate rental revenue (i.e., lease payments from subtenants). However, the Province typically requires at least 50% of all revenue associated with the Head Lease.

The Province's *Pricing Policy* stipulates that for float homes, the annual rental price is the greater of either 4.5% of the land value or \$850. A rough median land value for these water lot parcels as assessed by BC Assessment, is about \$50,000 (some notably higher, some notably lower). Taking \$50,000 as an example, the annual rent payment for that parcel would currently be \$2,250 per year. Two members of the Society shared that for their water lot parcels they pay roughly \$1,400 per year and \$2,200 per year.

*Non-Financial Benefits:*

The Society has stated a number of potential benefits to the City, including increasing the City's housing inventory and having greater control of land use. The City already controls land use through the OCP and Zoning Bylaw, both of which apply to the area in question. While the current moratorium on new float homes has restricted this housing form, there is limited zoned capacity for new float homes and the number of potential

net new float home units would not significantly contribute to meeting the City's Housing Target Order within the timeframe required by the Province. Dedicating staff time to housing projects in the Ladner waterfront would take staff time away from advancing housing projects in the City's urban centres and corridors which are zoned for greater density.

In theory the City would also benefit by taking control of lots currently tenured by the City. Though the details of what the City would be permitted to do with those parcels is not clear at the moment.

#### *Uncertainty and Risk:*

Based on preliminary discussions with Ministry staff, there are a number of areas of uncertainty which would lead to the 3-5 year estimated timeline. There is no standard model or template to follow. The Province has stated that the City would need to engage with First Nations although the number of Nations with interests, and potential outcomes in terms of First Nations involvement in the management of the lease area have yet to be discussed. If the City was to embark on the process, it is anticipated that considerable staff resources would need to be dedicated with no guarantee that the parties would be able to reach agreeable terms, or that the current float home and other sub-lease holders would be amenable to the likely rate increases.

#### **Financial Implications:**

If the recommendations in this report are adopted, there are no financial implications.

In exploring a potential cost-recovery model for a Head Lease, staff estimated the costs for undertaking background and technical work (e.g., inventory, survey, environmental), legal costs, and an engagement program including with First Nations. The estimated upfront costs were roughly \$2.5 – \$3 million, and annual costs for administration, maintenance and enforcement under a potential Head Lease would likely be in the order of \$1.5 million, plus inflation, over the term of the Head Lease.

Given these rough estimates, and the fact that 50% of all revenue goes back to the Province, for Delta to break even the City would need to receive roughly \$94 million in revenue over the term of a 30-year Head Lease and more than \$180 million over the term of a 60-year lease (assuming no inflation, interest rate implications, or taxation).

The Head Lease area would include marinas and other non-residential parcels that would be charged rents under a different formula determined by the Province's *Pricing Policy*. Revenue from the Head Lease would not solely come from the residential parcels (i.e., float home owners). Assuming only 70% of the total revenue would need to come from float home owners (to account for numerous non-residential parcels in the Head Lease area), the City would need to charge an annual rent payment of approximately \$22,000, which is roughly ten times the prevailing market rates.

It is recommended that a Head Lease not be pursued and that staff communicate the decision back to the Society. The City would continue to advocate to senior levels of government on issues shared with the Society including channel dredging and

securing long-term tenures for Crown land in the Ladner waterfront area, including through upcoming UBCM meetings.

▪ **CONCLUSION:**

This report examines the feasibility of pursuing a Head Lease with the Ministry for the Ladner waterfront area. Staff find the potential costs and obligations of the Head Lease far outweigh any potential benefit to the City. Accordingly, staff recommend the City not pursue the Head Lease and continue to advocate to the provincial government to provide long-term tenure for water lots in the lower Fraser River.



Mike Brotherston  
Director, Corporate Services

Department submission prepared by: Graeme Bant, Senior Policy Analyst

▪ **ATTACHMENT:**

A. South Fraser River Enhancement Society, Letter to Delta Council, April 22, 2025



South Fraser River Enhancement Society

April 22, 2025

29 - 3871 River Road West  
Delta, B.C. V4K 3N2  
604-313-4988

To: Mayor Harvie and Delta Council

## **Request for Consideration of a Head Lease for Ladner Water Lots**

*Submitted by the South Fraser River Enhancement Society*

### **Request:**

The South Fraser River Enhancement Society respectfully requests that Delta Council pursue a Head Lease agreement with the Ministry of Water, Land and Resource Stewardship (WLRS) for the Ladner waterfront area.

### **Background:**

All Crown land in British Columbia, including submerged areas like riverbeds, is owned by the Province of BC. In 2015, the Head Lease for the Fraser River—previously managed by the Vancouver Fraser Port Authority—expired, and the province took direct control of the area. A temporary moratorium was placed on new float homes during this transition while the province worked to develop relevant policies.

In 2017, the province entered into a Collaborative Management Agreement with the Musqueam Nation concerning the Lower Fraser River. As part of this agreement, existing float homes in Ladner were recognized, and new tenure licenses were introduced. Since then, the province has stopped issuing new water lot licenses, and renewals for existing licenses have been delayed for extended periods.

On April 11, 2025, representatives from the South Fraser River Enhancement Society, along with Marcy Sangret from the City of Delta, met with WLRS Executive Directors Morgan Kennah and Ross McElroy. During this meeting, it was confirmed that the province is no longer supporting residential tenures on Crown land, as outlined in the Provincial Land Use Operational Policy.

**Impact:**

The province has tasked the City of Delta, along with other municipalities, with creating an Official Community Plan and establishing land use zoning. In Ladner, the waterfront area—stretching from the natural boundary of the River to the navigation channel—is zoned as ‘marine mixed-use.’ Access to the foreshore is provided by adjacent upland “riparian” properties, as recognized by zoning regulations.

A key example of this zoning is Port Guichon East along River Road, where many upland properties do not have enough space between the dike setback and the water to support upland homes, making float homes a practical and viable alternative for residential development.

However, the ban on residential use of Crown Land in BC—have hindered Delta’s ability to implement its existing zoning plans and effectively sterilized the shoreline.

This policy shift threatens the future of Ladner’s float home community, which has been a unique and valuable part of the area since 1985. The situation has created hardship for float homeowners who have invested in their homes and properties and now are faced with the potential loss as leases expire.

Currently, 148 float homes are located along River Road and Canoe Pass, with many of these homes being occupied by senior or aging residents. Because the province has delayed issuing or renewing leases, the market for these properties is restricted to cash buyers only. In some cases, the lack of secure lease terms has made properties unsellable, as realtors cannot list homes without guaranteed tenure.

**Potential for Growth:**

The current zoning in Ladner could accommodate an additional 10–20 float homes. This would not only generate additional tax revenue for the City of Delta, but also stimulate economic revitalization, promote the replacement of aging structures, and provide diverse housing options in the community.

**Head Lease Proposal:**

During the April 11<sup>th</sup> meeting the Ministry of WLRs suggested they would consider granting a Head Lease<sup>1</sup> to the City of Delta. While this would not be an immediate fix, it represents a viable long-term solution that would require time, effort, and investment.

Based on this option, the South Fraser River Enhancement Society formally requests that Delta Council explore the feasibility of securing a Head Lease for the area shown on the attached map. Such an agreement would allow the City of Delta to manage its waterfront independently, provide long-term stability for existing float homeowners, and support sustainable development along the Fraser River.

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<sup>1</sup> Head Lease - A Head Lease is a Crown land lease that can only be held by federal government agencies, local governments, other public entities (including port authorities), First Nations (as described in the Eligibility and Restrictions Policy) or societies registered in BC or Canada.

The South Fraser River Enhancement Society is fully committed to supporting Council and staff throughout this process and is available to assist in any way needed.

Respectfully submitted,

Sincerely,

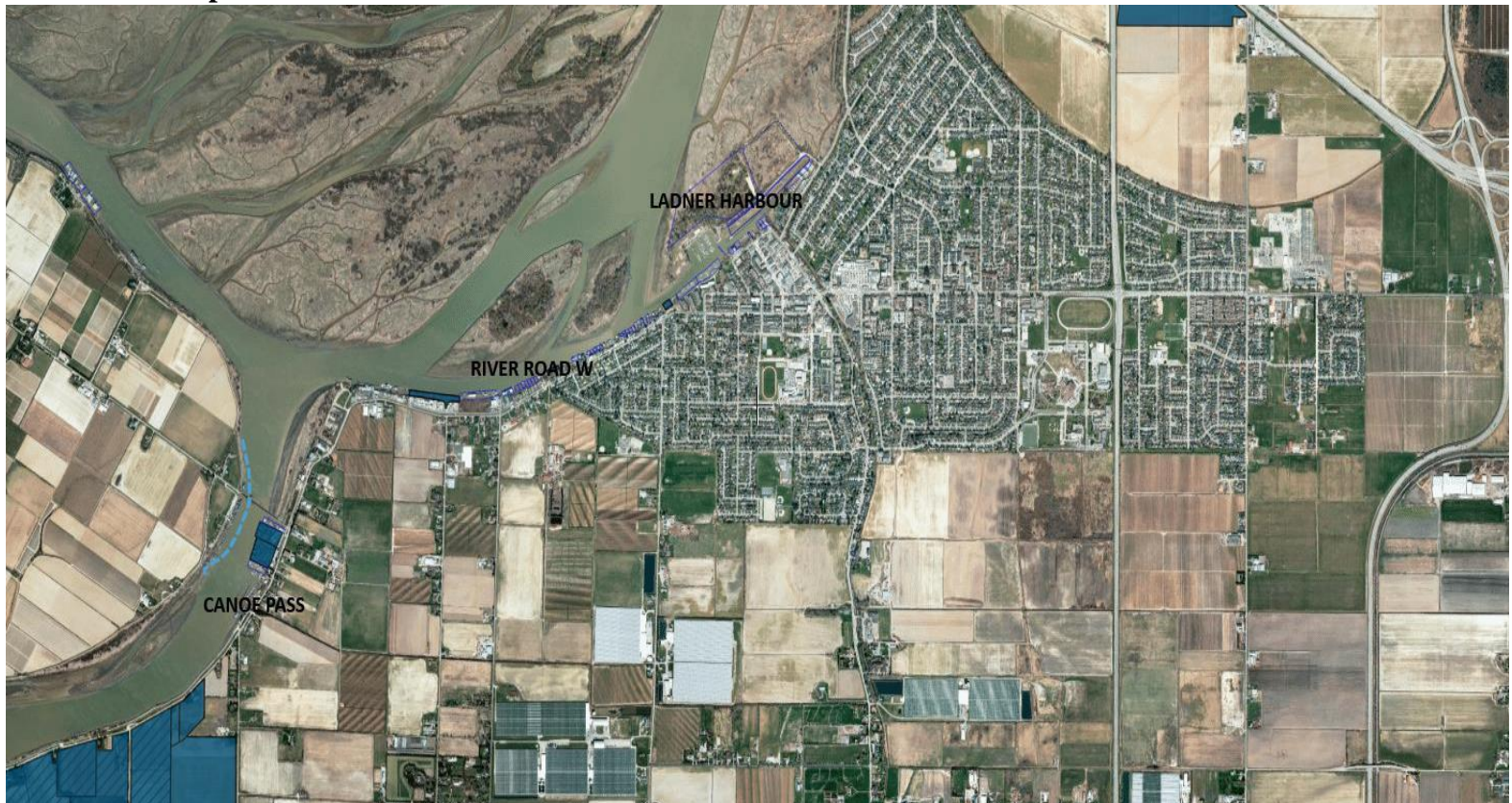


Simon Everatt, President  
South Fraser River Enhancement Society  
<http://sfres.ca>

**Attachments:**

Land Use Operational Policy – Residential  
Land Procedure Head Lease

**Proposed Head Lease area**





## Land Use Operational Policy Residential

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<b>NAME OF POLICY:</b>	Residential
<b>APPLICATION:</b>	Applies to the disposition of Crown land for residential use.
<b>ISSUANCE:</b>	Assistant Deputy Minister, Reconciliation, Lands and Natural Resource Policy
<b>IMPLEMENTATION:</b>	Ministry of Water, Land, and Resource Stewardship
<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 POLICY:</b>	This policy replaces the previous Residential Policy dated January 21, 2019

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Colin Ward, ADM  
Reconciliation, Lands and Natural Resource Policy  
Ministry of Water, Land, and Resource Stewardship

May 9, 2024

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Date:

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
May 7, 2024	BN CLIFF 41917	Updates to reflect pricing changes approved in 2023.
May 9, 2024	BN CLIFF 41581	Updated cover page to reflect the transfer of administration of the <i>Land Act</i> and <i>Ministry of Lands, Parks and Housing Act</i> from the Ministry of Forests to the Ministry of Water, Land and Resource Stewardship. No amendments to the policy.

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## 1. POLICY APPLICATION

This policy applies to the disposition of Crown land, for the following residential purposes, as defined in the [Glossary and Abbreviations](#):

- Permanent Residential
- Seasonal Residential
- Remote Residential
- Float Homes
- Ancillary Residential, including but not limited to:
  - Erosion control
  - Septic Fields
  - Thermal Loops
- Strata and Group Moorage (see Appendix 3)

This policy **does not** apply to:

- Floating communities (for these refer to [Floating Home Community Policy](#))
- Housing projects lead by local government or non-profits (for these projects refer to [Community and Institutional Policy](#))
- Tenures used for short-term rentals.

## 2. PRINCIPLES AND GOALS

For information on Crown land allocation principles see [Crown Land Allocation Principles](#).

### Operational considerations

Consistent with the Crown Land Allocation Principles and the Strategic Crown Land Sales Policy, the following are some key operational considerations to be assessed by staff when applying the Residential Policy:

- Is the Residential use considered the 'highest and best use' of the Crown land?
- Is the use for private residential use only?
- Is the area of Crown land the minimum area that is reasonably necessary for residential use; this includes satisfying local government zoning and Provincial sewage disposal requirements related to parcel size.
- Is there very limited private property available in the real estate market for the general area.
- Is the use consistent with regional growth strategies or approved local area land use plans.
- Is the use supported by existing local infrastructure or services.
- Is there certainty of access to the subject parcel for the potential duration of use (note: resource roads cannot be relied upon to provide future access as they

may be decommissioned or deactivated when no longer required for their primary use).

- For ancillary residential uses, other considerations include:
  - Is the use necessary to make the primary residential parcel functional?
  - Could the use instead be reasonably accommodated on the proponents private property?
  - Is the subject area the minimum size reasonably necessary to accommodate the use?
  - Whether the use will negatively impact adjacent upland parcels; and
  - Whether the use will interfere with public access or riparian rights of adjacent land owners.

### 3. DEFINITIONS AND ABBREVIATIONS

For a glossary of definitions and abbreviations see [Glossary and Abbreviations](#).

### 4. APPLICANT ELIGIBILITY

For standard policy information on eligibility see [Eligibility and Restrictions](#).

#### 4.1 General

An applicant under this policy must be aged 19 or over and be a Canadian Citizen or permanent resident of Canada. Exceptions to this are:

- For ancillary residential tenures, applicants do not need to meet citizenship / residency requirements however must be 19 years of age or older (see section 4.6).
- Where land is being disposed in fee simple as a result of marketing the parcel under the *Ministry of Lands, Parks and Housing Act* by public offering, citizenship/residency requirements do not apply.

With the exception of ancillary uses (including thermal loops and septic fields), an individual or family unit may not apply for more than one residential tenure or purchase more than one residential Crown lot, at a given time, but may maintain a maximum of two residential tenures provided that one of these is utilized on a permanent basis.

No sales or other dispositions are allowed on small islands less than 64.75 ha in size within the [Provincial Order in Council Reserve](#).

#### 4.2 Private Subdivision Development

Residential Crown land may be disposed to private developers for subdivision development through a competitive process (refer to section 7.2 for details). Private developers must be companies which are registered or incorporated to do business in British Columbia.

### 4.3 Permanent and Seasonal Dispositions

Applications for new permanent and seasonal tenures will not be accepted except for residual surveyed lots within an existing subdivision.

Existing leases for permanent and seasonal residential use may apply for replacement or conversion to fee simple.

Residual lots may be available for purchase via competitive process or direct sale.

### 4.4 Remote Residential

Applications for remote residential tenure are accepted only where:

- there is proven need for the applicant to reside on the site for reasons of proximity to employment in a commercial / industrial activity;
- no alternative accommodation (e.g. private residential, worker/caretaker accommodation, industrial/commercial camps, hunt/fish camps) is available in the area;
- a Crown land residential development is not anticipated in the vicinity.

Remote residential tenure is conditional upon maintenance of employment by the tenure holder in the commercial or industrial endeavor on which issuance of tenure was originally based.

### 4.5 Float Homes

Applications for new individual float homes will not be accepted, except in extenuating circumstances and only in areas that have been specifically designated for float home use in an approved land use plan (such as an Official Community Plan or a Provincial Land Use Plan). Land use planning should discourage individual dispersed float home sites.

Float home sites are not eligible for purchase.

Note that this policy only applies to individual float homes; proposals for float home communities are addressed in the [Floating Home Community Policy](#).

### 4.6 Ancillary Residential Uses

Applications for ancillary residential uses will only be considered where such uses can be clearly rationalized and cannot be reasonably placed on the proponent's existing land holdings (see section 2).

Applications can only be submitted in the name of the private property owner or the Crown land tenure holder immediately upland and adjacent to the Crown land under application. Applications for aquatic Crown lands can only be submitted in the name of the upland owner or with upland owner consent.

#### 4.6.1 Erosion Protection

Applications for retaining walls, seawalls and other erosion control measures will be considered if the applicant can prove that the structure cannot be reasonably placed on the proponent's upland property. In all cases, preference will be given to a soft armour, nature-based approach over a hard armour approach to erosion control.

#### **4.6.2 Septic Fields**

Applications for septic fields will not be considered unless the property owner can prove that they do not have adequate space on their own private property for a septic field and that there is no other feasible way of dealing with the sewage.

In those exceptional circumstances when an application is being considered, the Crown land parcel must meet the conditions of an 'extension of holdings' (refer to the [Land Procedure - Extension to Private Holdings](#)).

#### **4.6.3 Thermal Loops**

Applications for thermal loops on submerged/aquatic Crown lands can only be submitted in the name of the upland owner or with the upland owner consent.

### **5. FORM OF LAND ALLOCATION**

For standard policy information on forms of allocation see [Form of Crown Land Allocation](#).

Refer to Appendix 1 for a summary of the forms and terms of Crown land allocation available for residential uses.

#### **5.1 Licence of Occupation**

The maximum term for a licence of occupation is 30 years.

##### **5.1.1 Remote Residential**

Remote residential use is only authorized by Licence of Occupation. The term of the license should reflect the potential period of employment. If the period of potential employment is unclear, the term should not exceed 10 years.

##### **5.1.2 Float Homes**

Permanent and seasonal float homes are only authorized by Licence of Occupation.

The standard term will often be determined through land use planning or public - agency processes. Terms will generally be 10 or 20 years.

##### **5.1.3 Ancillary Residential Uses**

A license of occupation is the preferred disposition for most ancillary uses (with the possible exception of fills and retaining walls). Tenure term will vary depending on the specific type of use and remaining life of the improvements.

Thermal loop applications will only be accepted on Crown land covered by water and are authorized by License of Occupation only. The term may be limited by the expected 'life' of the thermal loop system if less than the maximum term.

For some engineered retaining walls / seawalls and fills, leases or fee simple disposition may be more appropriate.

#### **5.2 Lease**

The maximum term for a lease is 30 years.

### **5.2.1 Permanent and Seasonal Residential**

Permanent and seasonal residential tenures should be authorized by Lease.

Lease is the appropriate form of disposition for existing residual lots which do not meet *Land Title Act* standards of subdivision.

If a lease has been terminated, the Authorizing Agency may dispose of the site by lease or sale through a competitive process. In such cases, acquisition of the site may be conditional on the new lessee repairing improvements and / or cleaning up the site, if needed.

### **5.2.2 Ancillary Residential**

Lease tenure may be available for some engineered retaining walls / seawalls and fills where they are integrated with significant residential structures on the fee simple or leased upland.

## **5.3 Sale**

Crown land for residential lots may be provided on a fee simple basis where it meets *Land Title Act* standards of subdivision. For more information on sales refer to sections '7.2 Competitive Process' and '7.3 Direct Sale', and for additional sales considerations refer to Appendix 2.

Existing permanent or seasonal residential lessees may apply to purchase at any time (refer to 7.3).

Shoreland residential properties which do not meet *Land Title Act* subdivision standards for access can be sold as water access only if a covenant to that effect is registered on the title (refer to Appendix 2).

### **5.3.1 Foreshore Fills**

Direct sale of historic fills may be considered on a case-by-case basis. Considerations may include whether the fill was authorized or not, the historic use of the fill, and what the impacts may be to adjacent shoreland, riparian rights and public access along the foreshore.

### **5.3.2 Septic Fields**

In those exceptional circumstances when an application is being considered for a septic field, Crown land allocation is only done on a fee simple basis in accordance with the [Land Procedure - Extension to Private Holdings](#).

## **6. PRICING POLICY**

For information on pricing see the [Land Policy - Pricing](#).

For information on application and service fees see the [Crown Land Fees Procedure](#).

## **7. ALLOCATION PROCESSES**

For detailed standard information on allocation processes see [Allocation Procedures - Applications](#).

## 7.1 Applications

Remote residential lots, ancillary uses and, in limited situations, float homes, are disposed of by direct application.

Residual lots, existing residential leases and in some cases, parcels for septic fields and foreshore fills may be available for direct sale by application.

### 7.1.1 Crown shoreland requirements

A minimum of 25% of the shoreland around each water body is to be retained in public use to ensure protection of beaches and other public recreational opportunities. This is over and above the public road access to the waterfront provided for in subdivision plans.

Shoreland dispositions are required to meet or exceed *Land Title Act* subdivision requirements for public access to the water.

## 7.2 Competitive Process

For details and descriptions refer to the [Allocation Procedures – Competitive Process](#).

### 7.2.1 Marketing Residual Residential Parcels

Residual (refer to definition) residential parcels can be marketed on a sale basis under the *Ministry of Lands Parks and Housing Act* by public offering at the discretion of the Authorizing Agency. In such cases, participants need not be Canadian citizens or permanent residents of Canada.

Where residual lots are offered, a review of market value should be undertaken every six months, or more frequently if the Authorizing Agency believes such review is warranted by changing market conditions.

### 7.2.2 Subdivision Development

The Authorizing Agency may identify suitable blocks of land for residential development and offer them to the private sector by public offering. Conditions of development, if any, are prescribed in a development plan, secured by a development contract. Disposition may be by lease-purchase where there is a need to ensure bona fide land development, or in fee simple with development secured through a bond or collateral agreement for development.

Crown land for residential purposes is subdivided under the *Land Title Act*. Sites must meet standards prescribed by the local approving officer of the Ministry responsible for the *Transportation Act* or the approving officer of the local municipality.

For procedures on marketing of residential lots, refer to the [Allocation Procedures – Competitive Process](#).

## 7.3 Direct Sale

Residual lots may be available by direct sale for a period established by the Authorizing Agency subject to the [Allocation Procedure - Direct Sales](#).

Existing lessees may also apply to purchase their site via the Direct Sales Procedure.

## 8. TENURE ADMINISTRATION

For standard tenure administration information see the [Tenure Administration Procedure](#).

For information on insurance and financial securities, see the [Insurance and Financial Securities Procedure](#).

### 8.1 Assignment and Sub-Tenuring

Assignment of residential tenures requires the prior consent of the Authorizing Agency and compliance with eligibility requirements.

Remote residential tenure assignments are made only where the assignee has also been assigned or otherwise obtained any applicable commercial or industrial tenures and permits for which the residential tenure was issued.

If a permanent residential tenure is assigned, the rental rate will be recalculated based on the most recent assessed land value at the time of the next invoice for the assigned tenure holder in order to stay current with fair market value. Addition of joint tenants or tenants-in-common to a permanent residential lease will be limited to permanent occupants<sup>1</sup> only.

Sub-tenuring will only be permitted in exceptional circumstances.

### 8.2 Short-term rentals

Short-term rentals (e.g. (AirBnB) are not permitted under this policy.

### 8.3 Permanent Occupancy

Permanent residential tenure holders will be required to show proof on demand of permanent occupancy, typically in the form of a Home Owner Grant.

### 8.4 Tenure Replacement

Tenure holders may apply for the replacement of their existing tenures. For more information on replacements, refer to the [Land Procedure - Applications](#).

### 8.5 Tenure Conversion

A lessee may be eligible to convert an existing seasonal lease to a permanent lease prior to expiry, or replace it with a permanent residential lease on expiry where the existing lease land is to be used for full-time residential purposes. Standard application procedures will apply.

## 9. VARIANCE

Variances to this policy must be completed in accordance with the [Policy Variance Procedure](#).

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<sup>1</sup> People who use the tenure as their principal place of residence.

**APPENDIX 1. RESIDENTIAL POLICY SUMMARY**

<b>Use</b>	<b>TENURE</b>	<b>TERM</b>	<b>METHOD OF DISPOSITION</b>
<b>Remote</b>	<b>Licence</b>	For term of employment; max. 30-years	Application  Only if required for access to employment, and if satisfies 'remote' criteria.
<b>Float Homes</b>	<b>Licence</b>	Normal 10- 20 years (to be based on planning parameters)	Application  Only accepted in planned / designated areas.
<b>Ancillary Residential Uses</b>	<b>Licence</b>	Max. 30 years	Application  Thermal loops only available for submerged / aquatic lands.
	<b>Lease</b>	Max. 30 years	Application  Exceptional circumstances for "extension of holdings", and historic fills.
<b>Permanent /Seasonal</b>	<b>Lease</b>	Max. 30 years	Competitive process (may include lease to purchase).  Direct application limited to residual lots in subdivision.
	<b>Fee Simple</b>	Perpetuity	Competitive process or real estate listing; <u>residual</u> lots by direct sale.  Direct sale to existing lessees of qualified properties.
<b>Group or Strata Moorage</b>	<b>Licence</b>	Max. 30 years	Application
	<b>Lease</b>	Max. 20 years	Application

## APPENDIX 2. ADDITIONAL REQUIREMENTS RELATED TO CROWN LAND SALES FOR RESIDENTIAL USE

### 2.1 Access Requirements

Parcels should have access by a public highway or be accessible by water. Where access is by water, the body of water fronting the parcel must have access by a public highway. The Crown Grant will contain a clause referring to “water access only”.

Although Forest Service roads and other natural resource roads may be open to the public, their mid to long-term availability cannot be guaranteed and should not be relied upon to satisfy access requirements. Once natural resource roads are no longer required for the intended use they are subject to deactivation or decommissioning which may restrict or prohibit vehicle access.

### 2.2 Health Requirements

For parcels created under the *Land Act*, the requirements of the Medical Health Officer must be satisfied. Sale of lots which do not meet current standards for on-site sewage disposal may occur subject to registration in the Land Title Office of a restrictive covenant which ensures that future building of habitable improvements occurs in compliance with Health regulations. In some circumstances other options may need to be considered to address concerns of the Medical Health Officer.

### 2.3 Utilities

Utilities that are untenured at the time of sale are not protected by the Province.

Where parcels are encumbered with utility licences, the utility company is notified of potential lot sale(s) and is advised to convert the licence to a statutory right of way before a prescribed date. Note: If the Province is conducting survey work in these areas, it may be possible to coordinate survey instructions to serve the needs of the utility and the Province.

### 2.4 Private Driveways

Private driveways that are non-status roads are not normally protected by the Province prior to sale. However it may be possible to legalize these accesses.

Where legal access is not dedicated in the subdivision plan, the lots may qualify for sale as water access, provided that the water body on which they are located has access.

### 2.5 Flood Hazard

Where a parcel is located in a floodplain, or where the Ministry of Environment (MoE) expresses concern about flooding, a restrictive covenant prohibiting development in the floodplain, and a corresponding indemnity covenant are registered on the title. Standard floodplain setbacks and building elevations for specified lakes are provided by Water Stewardship, MoE.

## **2.6 Terrain Stability Hazard**

Terrain stability hazards may need to be assessed. Where risks have been identified as a concern, mitigation measures may need to be put in place, or it may be determined that the site is not appropriate for sale. For more guidance, refer to [Crown Land Procedures – Landslide](#).

## **2.7 Waterfront Walkways**

Public walkway strips along the natural boundary will not be sold if they are necessary to protect public access to lands beyond, and such access cannot reasonably be provided by alternative means.

## APPENDIX 3. RESIDENTIAL STRATA TITLE AND GROUP MOORAGE POLICY

### 3.1 Purpose and Definitions

The purpose of this appendix is to provide direction on the disposition of residential **strata title and condominium moorage facilities and residential group moorage facilities, with four or more berths.**

Small strata title and group moorage facilities with **three or less berths** are covered under the **Private Moorage policy.**

Strata title and group moorage facilities that include commercial activities may be administered under the Commercial Marina policy or the General Commercial policy.

Group moorage facility means a multi-berth moorage similar to a private moorage facility\* but for the personal use of a group or association of residents from the surrounding community.

Strata title or condominium moorage facility means a multi-berth moorage similar to a private moorage facility\* but used by the residents of a waterfront strata or condominium development.

### 3.2 Applicant Eligibility

Crown land may also be disposed to strata title corporations or private developers who are registered or incorporated in British Columbia.

### 3.3 Form of Land Allocation

The term of tenure is not to be greater than the remaining term of the Crown land residential tenure on the adjacent upland property. In situations where upland owner consent is required the term of the moorage tenure should not run longer than the period of consent provided.

#### 3.3.1 Licenses of Occupation

A license of occupation may be used for tenure strata title and condominium moorage facilities and group moorage facilities with four or more berths.

The maximum term for a licence of occupation is 30 years.

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\* **Private moorage facility** as defined in the Private Moorage policy means a dock and/or a permanent way (i.e. boat ramp) that is permanently affixed to aquatic Crown land and any ancillary structures such as a boat lift and anchor lines. It is for the personal and private use by one or a number of individuals or a family unit for boat moorage.

### 3.3.2 Lease

The maximum term for a lease is 20 years.

## 3.4 Pricing Policy

For standard policy information on pricing see the [Land Policy -Pricing](#)

## 3.5 Other requirements and considerations

### 3.5.1 Group Moorage

Group moorage will be available to local resident groups/associations or community organizations where:

- local government has given their support and approval; and,
- the area has boat access only, no public transportation and there is very limited availability of public and commercial moorage; or
- group moorage may reduce cumulative impacts that could result from waterfront property owners developing multiple single docks.

Important considerations when locating a group moorage facility include availability of adjacent parking, as well as impact on neighbouring property owners and public access.

Commercial activity is prohibited at group moorage sites including the renting or selling of berths, but not including any necessary membership fees to cover maintenance and administrative costs.

A riparian agreement is required between the members of any association or group and the owner of an upland property that the group moorage facility is fronting. If the facility is located adjacent to a road allowance, consent by the Ministry responsible for the *Transportation Act* will be required.

#### Identification of Users

Where application for a group moorage facility is not in the name of an organization, the names of all individuals should be included on the application form and will be included in the tenure document. However, if possible group moorage tenures should be in the name of a registered society or association to avoid having to undertake assignments every time a member of the group changes.

For group moorage facilities that do not front private property held by all the owners of the facility, upland or adjacent owner consent will be required. In limited situations this may include consent from local government or Ministry responsible for the *Transportation Act* (e.g. in the case of docks located at the end of road allowances or adjacent to waterfront walkways owned by local government).

### 3.3.2 Strata Moorage

Tenures for strata title moorage are available to the strata corporation which owns the upland property with riparian rights to the foreshore.

For new strata developments the initial tenure may have to be in the name of the development company; which can then be transferred to the strata corporation once the corporation is established.

For developments that will have commercial use (e.g. vacation / resort accommodation and berth rentals) the developer may want the moorage facility managed by a property management company, rather than the strata corporation. In such cases, the developer may consider transferring riparian rights to the Crown by registering a riparian right of way against the title, prior to establishment of the strata corporation.

### 3.3.3 Management Plan, Tenure Boundaries and Development Requirements

A management plan is required for all applications for strata title and group moorage facilities.

Strata title and condominium moorage facilities are normally limited to one berth per residential unit. At the Authorizing Agency's discretion, strata title and condominium moorage facilities may include an increase of up to ten percent of the total number of residential units to accommodate guest berths. These facilities shall not be used by the strata corporation for commercial use.

In issuing new or replacement tenures, staff are to ensure that tenure boundaries encompass the minimum area required to cover the placement of improvements (including anchor lines) and mooring of boats. The tenure area should not include unoccupied open water or tidal areas between structural improvements.

The tenure holder will not be able to obstruct public access over the tenure area, or interrupt passage by the public over the intertidal area.

Refer to the Private Moorage Policy "Private Moorage Requirements and Best Management Practices - Appendix 3" for additional factors that may affect the placement and design of a moorage facility.

### 3.3.4 Foreshore fills, breakwaters and non-moorage structures

Proposals for foreshore fills, breakwaters or permanent foreshore improvements (e.g. sun decks, boat houses) that are not part of a moorage facility (as defined) are normally discouraged, but in exceptional circumstances may be authorized in accordance with the Residential Policy.



## Land Procedure Head Lease

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<b>NAME OF LAND PROCEDURE:</b>	Head Lease
<b>APPLICATION:</b>	Applies to head leases that are authorized under the <i>Land Act</i>
<b>ISSUANCE:</b>	Assistant Deputy Minister Reconciliation, Lands and Natural Resource Policy
<b>IMPLEMENTATION:</b>	Ministry of Water, Land and Resource Stewardship
<b>REFERENCES:</b>	<i>Land Act</i> (Ch. 245, R.S.B.C, 1996)
<b>RELATIONSHIP TO PREVIOUS LAND PROCEDURE:</b>	This is a new procedure established in 2012.

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Colin Ward, ADM  
Reconciliation, Lands and Natural Resource Policy  
Ministry of Water, Land and Resource Stewardship

May 9, 2024

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Date:

<b>APPROVED AMENDMENTS:</b>		
Effective Date	Briefing Note /Approval	Summary of Changes:
May 9, 2024	BN CLIFF 41581	Administrative edits to reflect the transfer of administration of the <i>Land Act</i> from the Ministry of Forests to the Ministry of Water, Land and Resource Stewardship and other regulatory body changes.
July 25, 2024	N/A	Minor update to reflect changes to Eligibility Policy related to First Nations.

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## 1. PURPOSE

These guidelines have been prepared to compliment Crown land policies, and assist Ministry staff in the use and development of head lease agreements.

## 2. BACKGROUND

A Head Lease is a Crown land lease with a local government, First Nation, Crown corporation or other public entity (including a port authority) which permits the tenure holder to sub-tenure to third parties.

Head leases can be very complex agreements and may be structured quite differently from other program specific leases, depending upon the particular circumstances relevant to each case. They often obligate an applicant to accept financial, professional and legal burdens which can be much larger than program specific leases.

Situations that require use of a head lease are rare. The agreements themselves are often unique, with some conditions and obligations being negotiated between Authorizing Agency staff and applicants.

As head leases are infrequently granted, staff knowledge and experience is quite limited. These guidelines have been developed to provide information that is critical to government staff when considering and negotiating a head lease agreement.

## 3. DEFINITIONS

**Head Lease** means a leasehold interest issued for the purpose of sub-tenuring of the land to others for specific uses. Authority is provided through the *Land Act*.

**Leasehold Interest** means, in respect of land, the interest granted by an agreement creating the relationship of landlord and tenant and includes a right on the part of the tenant to enjoy the exclusive possession and use of the land for a stated definite period of time.

## 4. HEAD LEASE CONSIDERATIONS AND REQUIREMENTS

### 4.1 Eligibility

Head leases can only be held by federal government agencies, local governments, other public entities (including port authorities), First Nations (as described in the [Eligibility and Restrictions Policy](#)) or societies registered in BC or Canada.

### 4.2 Suitability

Head leases are used in situations where it is desirable to enable the conveyance of control of an area from the Crown to an eligible applicant. However, proposals should be reviewed to determine whether a head lease is the best option for conveying control and satisfying government and client needs. If the applicant is not in a position to absorb the obligations of a head lease, other options may be available. The Lands Branch and the Ministry of Attorney General should be contacted for further information.

### 4.3 Pre- planning phase

Before committing to enter into head lease negotiations, the following steps should be taken:

1. Detail the authorizing agency's goals and objectives with respect to entering into a head lease for the specific situation. Additionally, be aware of the applicant's needs and objectives.
2. Complete a detailed land status of the area being considered, including all historic uses that may have an impact on a head lease (e.g. previous mining activities may have left areas of contamination, Tree Farm Licences that exist that may have to be cancelled or amended prior to issuance of a head lease).
3. Determine whether there are any existing *Land Act* tenures contained in the proposed head lease area and if so, whether these areas should be included or excluded from the head lease. If it is decided to include these areas, it is necessary to develop a migration / transition strategy.
4. Determine the nature and type of First Nations consultation that will have to be conducted with respect to the head lease itself and the sub-tenures that will be issued throughout the term, and assess the impact on the ministry's goals and objectives.
  - a. The nature of head leases may contribute to greater complexity in the consultation process and a corresponding requirement for a deep level of consultation with First Nations. It may be prudent to consider whether development of a Memorandum of Understanding with the applicant prior to negotiation of the head lease, or using a management plan as part of the head lease, could serve to reduce the amount of or intensity of consultation with First Nations that may be required prior to or throughout the term of the head lease.
  - b. If necessary discuss with regional operations First Nations consultation staff.
5. Determine which stakeholders will need to be informed or engaged in discussions, and decide the format and costs of that engagement.
6. Determine whether the head lease can be adequately described or whether a legal survey of the area will be required.
7. Prepare a detailed costs and benefits analysis
  - a. Determine potential costs to the authorizing agency associated with the issuance of a head lease. This should include not only "up-front" costs but also ongoing costs of administration. Examples of costs to be considered include:
    - Staff time.
    - The costs for Ministry of Attorney General legal advice and drafting of the tenure agreement.
    - Costs associated with the cancellation or amendment of existing tenures, including other resource tenures, such as Tree Farm Licenses.

- Costs for contract work that may be required; such as for phase 1 and phase 2 preliminary site investigations (in accordance with the *Environmental Management Act*).
  - Loss of gross revenue to the Crown as a result of the sharing of revenue through the head lease.
  - Costs of First Nations consultation
  - Costs of stakeholder engagement
- b. Assess the benefits to the province of not having to administer tenures, including the potential cost savings from not having to directly engage in compliance and enforcement activities within the area.
- c. The cost/benefit analysis will assist in deciding whether a transfer of some control in the form of a head lease or other legal instrument meets the goals and objectives of the authorizing agency.
8. Confirm obligations with the applicant: are they prepared to take on the legal, financial and administrative obligations and risks that are inherent with a head lease in contamination obligations?

#### 4.4 Head Lease preparation

Once it is decided that a head lease is an appropriate instrument to use, the head lease is prepared using a Ministry of Attorney General approved head lease template (contact Lands Branch for details). The following provides a description of basic components that need to be decided as part of the drafting process. Ministry of Attorney General legal counsel can assist as needed.

1. Term
  - Standard term for a head lease is 30 years to a maximum of 60 years.
  - As sub-leases will likely be issued throughout the term and as sub-lessees will require reasonable time to amortise their investments, renewal or early replacement options of the head lease should be considered.
2. Survey requirements
  - It will need to be decided whether Head Lease sub-tenures (especially sub-leases) should be surveyed, and to which standard; i.e. to the standards of the Surveyor General of BC or to a different standard.
3. Revenue
  - Typically the rental formula provides for the Crown to get a minimum of 50% of the total revenue the head lessee receives from sub-tenure holders; the remaining amount is retained by the head lessee. However, the revenue sharing proportions can vary if rationale can be provided. If the Crown is to receive less than 50%, it must be approved by the Assistant Deputy Minister, Reconciliation, Lands and Natural Resource Policy.
  - There may also be limited situations where it is appropriate to have a revenue sharing formula where the amount to be retained is set as a proportion of the

“net” revenues received (e.g. for a First Nations corporation the rental formula could provide for a 50/50 split of ‘revenues less operating expenses’.

- Irrespective of the nature of the rental formula agreed upon, it needs to be decided if payment of a minimum annual rental is warranted.
- Head lessees should be required to submit annual audited gross statements of all revenue received by the holder of the head lease. The revenue sharing formula should be applied against all revenue received, including rent, royalties and other fees.
- The rental formulas used by head lease holders in determining rental for sub-tenures do not need to be the same as the provincial formula. However, the head lease needs to ensure that rentals and royalties charged for sub-tenures are based upon prevailing market rates. The head lease may provide for a process that allows the Authorizing Agency to verify this, such as a report from an independent fee appraiser.
- The head lease should allow for a sufficient amount of time between the expiry of a lease year and when rental is due to the Crown to allow for collection of outstanding accounts, auditing of books, etc.
- The head lease needs to be clear about what, if any, charges need to be paid to the Crown should the head lessee utilize some of the land for their own purposes. If charges are deemed appropriate, they should be in accordance with the pricing for the Crown land policy for the intended use.
- The head lease should be specific about what, if any, sub-tenured uses will be exempt from paying rental or royalties (e.g. if the head lessee is a First Nations Band or Society, it is likely that uses associated with traditional rights will be excluded). Refer to the Community & Institutional Policy for more information on eligible uses and proponents.

#### 4. Performance Standards

- The head lease must be very specific with respect to what actions or functions are to be provided by the head lessee. In addition to sub-tenuring sites, the head lessee should monitor the area, enforce conditions of sub-tenures, collect all rents, notify sub-tenure holders in writing of issues, and prevent unauthorized use.
- The head lessee should be required to submit all relevant details respecting sub-tenures to the Crown annually, or upon request. Additionally, there may be other information relevant to the leasehold (e.g. unauthorized uses or trespass action taken), that you wish to have the head lessee report on at regular intervals and/ or submit upon request. Such information has proven necessary in the past to respond to enquiries from both the public and government officials.
- Consider whether notification or consultation should occur between the head lessee and the Crown when applications are received by either party to use land that is contiguous to the other’s area of control. This may be desirable as some uses will impact the immediately adjacent lands.

- If the head lease area contains foreshore or land covered by water, the head lease:
  - must contain a clause protecting the riparian rights of the upland properties and must contain a clause that indemnifies the Crown against their decisions in this regard; and may require the written consent of the Crown prior to any fill or permanent improvements being placed on the land.

5. Environmental Schedule

- In some cases the standard environmental provisions may not adequately reduce potential liabilities and risks to the Province relating to contamination or degradation of Crown land. In these situations a specific set of environmental terms and conditions (referred to as an environmental schedule), as well as additional insurance requirements, should be considered for inclusion into the head lease.
- The need for an environmental schedule or additional insurance requirements is to be considered on a case by case basis. Circumstances that may warrant an environmental schedule or additional insurance requirements may include sites where there is a known or high risk of contamination or environmental impacts due to current or past activities; or a high risk of contamination or environmental impacts occurring in the future as a result of the head lessee or sub-tenure holders proposed activities.

6. Insurance and Security

- Head lease documents must contain standard insurance clauses. Standard insurance policy wording should be used. In all cases optional insurance policies are available. Please contact Lands Branch for assistance regarding insurance requirements. The branch will work with Risk Management Branch to determine what, if any, of the current available suite of policies is required. However:
  - Any changes to insurance clauses that might be required, and amounts of insurance that might be required, should be discussed with both Risk Management Branch and Ministry of Attorney General.
  - In addition to commercial general liability insurance, other insurance policies may be required (e.g. environmental risk). Further information can be accessed through Lands Branch. If necessary, Risk Management Branch, Ministry of Finance will be consulted to provide additional advice.
  - Insurance rates for head leases of large areas can be extremely expensive and can influence the viability of head leases. Discussions about this should ideally occur with the applicant at an early stage.
  - Provincial requirements are that all insurers must be registered in Canada.

7. Rights to be Held Back in the Public Interest

- Head leases must ensure that the province has the right to grant rights of ways through the area without any compensation for impacts on the head lease. Additionally, the head lease should not give authority for the issuance of rights of ways by the head lessee.
- The province needs to retain the right (without compensation) of withdrawing from the head lease, any filled foreshore for the purpose of selling it to the upland property owner.

8. Assignment

- Most Crown tenures allow for assignment to third parties. It must be decided whether it is appropriate for the head lease to be eligible for assignment to a third party or be eligible for conveyance to a third party by other means such as bankruptcy, foreclosure or any other means.

9. Termination

- Head leases need to contain clauses indicating how terminations will occur should the head lessee wish to terminate the agreement, or if termination should happen to occur for any other reason.
- Among other issues, these clauses should indicate the responsibilities of each party; i.e. who will notify the sub-lessees with respect to the changes, which records will be returned to the Crown, and how users that have been authorized by sub-tenure pursuant to the head lease will be handled by the province upon termination of the head lease.