Lands Act Review

Final Report

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Review Committee:

Krista Connolly
Tracy Freeman
Paul Pope

Newfoundland Labrador

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Mr. Denis Barry, QC, Law Society Representative

Ms. Dianne Smith, QC, Law Society Representative

Mr. Herb Edwards, Solicitor, Justice and Public Safety

Mr. Peter Howe, Assistant Deputy Minister, Lands Branch, Municipal and Intergovernmental Affairs

Mr. Kevin Guest, Director of Communications, Municipal and Intergovernmental Affairs

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1. Executive Summary

In February 2015, the Department of Municipal and Intergovernmental Affairs commenced a review of the *Lands Act*. A Review Committee was established comprising professionals with expertise in law, policy and business processes. An Advisory Committee was also formed to support the Review Committee and included representatives from the Law Society of Newfoundland and Labrador, the Department of Justice and Public Safety and the Department of Municipal and Intergovernmental Affairs.

The Terms of Reference for the Review Committee (see Annex A) required a comprehensive review of the *Lands Act* and its associated service delivery model. More specifically, the Review Committee was asked to:

- Identify ways to make the *Act* more user friendly
- Assess adverse possession, shoreline reservations and unauthorized occupation and possession in terms of effectiveness and efficiency
- Examine business processes and policies, referral and consultation processes, and information technologies that are intended to support the operations of the *Act* in terms of their necessity and efficiency

As part of the review an internal and external consultation process was carried out. Public consultations ran from March 12 to April 10, 2015 and included eight sessions held throughout the province. Over 173 participants attended the sessions with the greatest representation from municipal councils, the agricultural industry and the general public.

Interested participants who could not attend a session in person were encouraged to provide feedback via an online discussion guide or to provide written submissions by email or postal mail. The Review Committee received 20 responses to the online discussion guide as well as over 45 written submissions by email and postal mail. A What We Heard document was released on the *Lands Act* review website on June 10, 2015.

In addition to the public consultation process the Review Committee engaged internal government stakeholders, including Lands Branch staff, in order to gather a wide variety of feedback and perspectives regarding proposed changes to the *Lands Act* and its associated business processes.

The Review Committee also completed legislative and business process jurisdictional scans. The jurisdictions reviewed for the main topic areas included Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan and Alberta.

1.1 Business Process Recommendations

The Lands Branch experiences a high volume of Crown lands service needs. In 2013-14, the branch processed over 3,600 applications, issued 2,100 titles and responded to over 100,000 inquiries from the public. The time it takes from start to finish can vary from application to application based upon the level of review required. However, it is not uncommon for an application to take anywhere from 6 months to over a year. Some may take even longer. Some of the most common complaints heard during the consultation process were how difficult the process is to navigate and that the time it takes for an applicant to obtain Crown lands is too long.

In order to simplify the application process for applicants, the Lands Branch could develop a detailed application guide and checklist, provide more information online (e.g. Land Use Atlas, etc.) and no longer require applicants to have a Municipal Recommendation Form completed in advance by their municipal council. Instead, the Lands Branch would forward registered applications to municipal councils as part of the referral process.

Once an application is registered by the Lands Branch, the department then refers the application to several relevant departments for their assessment. This includes departments such as Environment and Conservation, Business, Tourism and Rural Development, Transportation and Works, Fisheries and Aquaculture, etc. This internal process significantly reduces the amount of red tape that the applicant has to go

through when obtaining Crown lands and as such it is recommended that the Lands Branch continue with this approach.

It is further recommended that the Lands Branch move from a paper based postal mail referral format to an electronic referral format. This should create time and administrative efficiencies for Lands Branch staff. In addition, the department should work with other relevant departments, agencies and municipalities to develop a referral protocol agreement and include in it a mandatory response time for departments and agencies to respond to referrals. The current response time is 30 days but could be reduced to a strict 21 days with a possible extension to a maximum of 30 days, if requested.

Also with respect to ensuring a simplified business process model for Lands Branch staff, the Branch should stop carrying out checks of surveys received from licenced professional surveyors. This is an unnecessary step in terms of application processing, it is extremely time consuming, and can result in back logs causing further delays in application processing.

Lastly, due to the historical nature of the original titles housed in the Titles vault, the vault should be closed to the public. Title information could be provided to the public online as well as at a work station at each regional office. In the case that the original documents cannot be scanned and need to be viewed in person, a staff person could retrieve the relevant file from the vault and provide oversight while the document is being viewed.

1.2 Legislative Recommendations

Below are legislative and additional business process recommendations organized by the various sections of the *Act* to which they pertain.

1.2.1 Adverse Possession

One of the specific objectives set out for the Review Committee was to assess the provisions of section 36 regarding adverse possession (commonly known as “squatters

rights”). Under this section of the *Act*, a person who can show possession of Crown lands (e.g. a person may have constructed a building, fenced or cleared the land, farmed or raised animals on the land) for the 20 years between January 1, 1957 and December 31, 1976 may be eligible for a Crown grant based on adverse possession or “squatters rights”.

Throughout the consultation process significant feedback was received with respect to this section of the *Act*. However feedback varied widely from reinstating the ability for a person to claim adverse possession against the Crown to shutting it down completely and have no adverse possession against the Crown before or after 1976. In this regard, it is recommended that adverse possession remain abolished after 1976 but retain the 1957-76 exception. It is also recommended that the department issue quit claims instead of grants. A quit claim is a certificate stating that whatever interest the Crown has in the lands, it gives to the applicant. Unlike a grant, a quit claim is not a guarantee of title.

Further, under this recommendation the application process would also change such that the Lands Branch would now require an applicant to come forward with a lawyer’s opinion as to the applicant’s interest in the land as well as a survey of the land in question.

1.2.2 Shoreline Reservations

Another objective of the Terms of Reference was to assess section 7 regarding shoreline reservations. Under the *Act*, a 15 metre wide area of Crown lands surrounding a waterbody is to be reserved. However, a 10 metre wide reservation is required in certain instances, e.g. for residences. Further, there are several purposes identified in the *Act* for which title can be issued on the shoreline reservation, e.g. construction of boathouses and wharves.

To reduce the possible confusion of when a shoreline reservation is to be 10 metres versus 15 metres, it is recommended that the reservation area be 15 metres for freshwater and salt water bodies in all instances. This would mean that there would no

longer be a 10 metre reservation for specified circumstances. Current Crown titles would not be affected.

Currently, all applications for shoreline reservations require the approval of the Lieutenant-Governor in Council (i.e. Cabinet). The procedure that must be followed to receive this level of approval can result in lengthy processing times. It is recommended that the minister be given authority to approve routine shoreline reservation applications (e.g. boathouses, wharves, etc.) and to maintain Cabinet approval for other non-routine applications (e.g. intrusions on the reservation, aquaculture and industrial undertakings).

A further recommendation is to include an allowance for the construction of small boathouses and wharves within the conditions for any grants, leases and licences issued for residences and cottages that are adjacent to a shoreline reservation. This would be a very strict policy under which a boathouse or wharf could be constructed on the shoreline reservation without having to apply to Crown lands for a title document. (Note that the applicant may still have to check with the municipality or other agencies (e.g. Water Resources Division, Department of Fisheries and Oceans) whether a permit would be required under other legislation.)

With respect to the publication requirement for a notice of intent for shoreline reservation applications, it is recommended that applicants not be required to advertise in the *Newfoundland and Labrador Gazette* and newspapers. Instead, notices would be posted on the Crown lands website, at the physical location and, if required by the minister, in public places.

Lastly, better communication with the public is needed. The current website and information contained on it are not clear. The Lands Branch should look at different means to increase awareness of the responsibilities of the public regarding shoreline reservations and rights-of-way.

1.2.3 Unauthorized Occupation and Possession

There are several sections in the *Act* which address the occupation or possession of Crown lands without authorization to do so. The options currently available to the department are court orders for recovery of land; prosecution of offences; ministerial notices to remove unauthorized structures; and orders to stop fencing, building or clearing Crown lands without authority.

Rarely does the department go to court for an order to remove someone from the land or to prosecute someone for an offence. Removal notices and stop orders are used more frequently; however the current policy is to try and legalize the structure first.

The most common and consistent issue heard during the consultation process was that there is a lack of enforcement of the *Lands Act*. In this respect, it is recommended that the department take a focused and targeted approach to compliance and enforcement. Recognizing that there is a vast amount of Crown lands within the province, the Lands Branch should focus its efforts on prevention and management through a risk based approach. For example, the highest environmental and public safety risk would be addressed first.

In order to assist the Lands Branch with enforcement, a recommendation is to partner with other departments and agencies. Efficiencies could be gained if partnerships were formed with other departments such as Environment and Conservation and the Forestry and Agrifoods Agency with respect to enforcement.

Another issue heard during the consultation process is that the current fines do not serve as a deterrent. That is, the current fine of $1,000 (minimum) or three months in prison for an offence or $25 a day for failure to comply with a removal notice or a stop order, does not serve the purpose of a suitable deterrent. Therefore, it is recommended that the fines associated with enforcement of the *Lands Act* be increased.

Further, introducing ticketing and administrative penalty regimes could provide simpler means of dealing with offences rather than having to take a person to court.

Lastly, and as was the case with shoreline reservations, better communication with the public is needed. Cost effective strategies to increase awareness and educate the public should be explored.

1.2.4 Additional Recommendations

In addition to the recommendations outlined above regarding specific objectives set out in the Terms of Reference, further recommendations include:

Free Grants

This section of the *Act* provides the ability to issue free grants for schools, churches, grave sites, municipal buildings and municipal recreation parks. It is recommended that this section be refocused solely on the purposes for which municipalities could apply for free grants. Under a revised section, municipalities could apply for free grants for the site of a municipal building, recreation park or for another purpose in the public interest, with the exception of economic development (i.e. commercial, industrial, subdivision or residential developments).

In addition, it is recommended that the Lands Branch develop and publicize a policy for cemeteries and for grants or leases to non-profit organizations that are either free or nominal value (i.e. for churches and other public purposes).

Lastly, schools should be removed from this list as the Department of Education can currently use section 54 to obtain property for schools, which is the same process currently used for hospitals.

Abandoned Lands

Under the current Abandoned Lands Part of the *Act*, the Minister has the ability to take back granted Crown lands that have been abandoned for 20 years or more. However, a person can bring forth a claim to the land at any time in the future. It is recommended that this Part be removed from the *Act* and that the *Expropriation Act* be used to obtain the land for Crown purposes.

Minister versus Cabinet Authority

It is recommended that some of the provisions providing for ministerial or Cabinet approval be revised. For example, the size of land which can be granted under the minister's authority is to be increased from 20 hectares to 30 hectares.

Mandatory Land Registration

Although implementing a mandatory land registration system is outside the scope of the review it was heard in every consultation session and by multiple participants. As such, it is recommended that government investigate the appropriateness of moving toward a mandatory land registration system or even further towards a land titles system. This would have a significant impact on the administration of Crown lands.

Implementing the recommendations set out in this document will provide for a modernized *Act* with a simpler and more effective Crown lands service delivery model.

2. Summary of Recommendations

It is recommended that the Minister of Municipal and Intergovernmental Affairs, as the minister responsible for the Lands Branch:

Application Process

Application Preparation by the Applicant

1. Develop a simplified Crown lands application guide for distribution to applicants. The guide would be online and available in paper format.

2. Provide the general public with access to the Land Use Atlas online.

3. Provide a computer terminal at the front counter of each regional office that can be used by the public without Lands Branch staff supervision.

4. Post public notices pertaining to Crown lands applications on the Crown Lands website and adjust the legislation accordingly.

5. Minimize the information required for public notices that are published in newspapers pertaining to Crown lands applications (e.g. cottage lot draws).

6. Update the Crown Lands website with more detailed information and make it easier to navigate.

7. Update signage in the foyer of the Howley Building so that the general public can easily navigate to the Eastern regional front counter, the Titles vault and the mapping library.

8. Require applicants to submit GPS coordinates with their applications to aid Lands Branch staff and surveyors in land identification.

9. Provide a fillable PDF online application form for each Crown lands application.

10. Allow submission of Crown lands applications via email.

11. Investigate the possibility of providing a fully electronic Crown lands application process.

12. Investigate the ability of government's online payment system to include payment of Crown lands application fees.

13. Investigate the possibility of developing an online tracking system for Crown lands applications to be accessed by applicants.

Application Receipt and Review

14. Post at the front counter of all Lands Branch regional offices an application checklist for each type of Crown lands application.

15. Triage Crown lands applications when registered based on pre-set parameters or categories.

16. Discontinue reactivation of cancelled Crown lands applications and require submission of a new application following a 60 day waiting period.

Referrals

17. Immediately begin the practice of electronically sending Crown lands application referrals and responses through email.

18. Investigate the possibility of giving referral departments access to the AMANDA (TRACTS) system to allow them to populate and update their responses.

19. Reduce the time limit given to referral departments and agencies to respond to a Crown lands referral request to 21 days.

20. Set the maximum time frame for a response to a Crown lands referral to 30 days if the referral department or agency has requested an extension. No response after 30 days will mean that the referral department or agency has no issue with the application.

21. Develop an electronic method of flagging referral responses that are due.

22. Discontinue the practice of requiring the applicant to include an approved Municipal Recommendation Form with a Crown lands application. Instead, include the Municipal Recommendation Form as part of the application referral process.

23. Consult with departments and agencies to initiate an internal review of the process followed by each of them regarding the Crown lands application process.

24. Develop a referral protocol agreement between the Lands Branch and referring departments, agencies and municipalities.

25. Do not move towards a self-assessment referral model for Crown lands applications.

26. Conduct the land appraisal after the Crown lands application has been approved.

Survey

27. Discontinue regular survey checking by Lands Branch staff and begin spot checks of surveys.

28. Include an indemnity clause in the approval letter and title documents releasing government of any negative impacts resulting from a defective survey.

29. Determine if the higher survey standards required by the Lands Branch is the cause for the submission of defective surveys.

30. Revisit the purpose of having separate Crown lands survey standards if it is found that having surveyors adhere to the standards is the cause of survey errors.

31. Have the Survey Inspector II position report to a professional land surveyor registered with the Association of Newfoundland Land Surveyors.

32. Require survey companies to submit surveys to the Lands Branch in a digitized format.

33. Reduce the allowable extension from 12 months to 6 months for submission of the survey and health design to the Lands Branch. Amend section 10 of the *Act* to change the timeline.

Field Inspection Program

34. Task the Land Management Specialist with the initial review of referrals and complaints to determine if an inspection is warranted.

35. Task the Land Management Specialist with the delegation of inspection referrals to the Land Management Officers.

36. Task the Land Management Specialist with scheduling inspections.

37. Adopt the Crown Lands Regional Tracking System (CLRTS) database across all regions to monitor completion of inspections.

38. Have Land Management Officers conduct inspections throughout their entire region.

39. Maintain the practice of grouping inspections that are in close proximity.

40. Attach inspection reports to the AMANDA (TRACTS) system.

Other Application Processing Recommendations

41. Prepare title documents only after the health design approval has been received.

42. Discontinue sending reminder letters to applicants.

43. Forward a copy of title documents issued within municipal boundaries to municipalities.

44. Discontinue preparation of renewal documents for licences to occupy. Instead, include in the licence to occupy a clause that, after the initial time period of five years, the licence renews automatically in one-year intervals upon payment of the annual fee by the licensee. The licensee or government would have the ability to terminate the licence upon giving 30 days notice to the other party.

45. Limit the ability of a person to serve as a proxy to one applicant only in a cottage lot draw. In addition, do not allow an entrant to act as a proxy.

Filing System Related

46. Make a back-up copy of documents pertaining to Crown lands applications that are forwarded in the mail to the Titles office from the regions. Preferably an electronic copy would be made and sent to the Titles office through email.

47. Scan existing regional files in an electronic format as a means of back-up and to provide provincial access.

48. Develop an electronic database to track the location of the application file in the office.

Staffing

49. Ensure staffing levels with respect to the Lands Officer I position are adequate to allow timely registration of Crown lands applications.

50. Re-evaluate the salary scale with respect to work requirements for the Lands Officer I position.

51. Re-evaluate the salary scale with respect to work requirements for the Land Management Officer position.

52. Continue the development of a training manual for new staff. The training manual should correspond with the policy manual.

53. Ensure staff are trained in the various software programs necessary to complete their job functions.

54. Develop and implement a training program for staff.

Information Technology

55. Maintain current Information Technology systems in place to carry out the functions of the Lands Branch. Consider introducing a more integrated system if and when government decides to move towards a mandatory land registration or land titles system.

Adverse possession

56. Implement the following with respect to adverse possession against the Crown:

a. Maintain that adverse possession against the Crown continues to be abolished after December 31, 1976.
b. Maintain the 1957-1976 exception. That is, those people who can show open, continuous, notorious and exclusive possession from 1957-1976 may come forward with an application.
c. Amend section 36(2) of the *Act* to add the words “immediately prior to January 1, 1977” at the end of that subsection. This would reflect the current case law.
d. Continue to use the test of open, notorious, continuous and exclusive possession as the basis for acquiring an interest in Crown lands under section 36(2) of the *Act*. This is a widely accepted principle in the legal community which is used in other jurisdictions respecting adverse possession. It would also apply to the *Quieting of Titles Act*.
e. Issue quit claims under section 36 of the *Act*, not grants. A quit claim is a certificate stating that whatever interest the Crown has in the lands, it gives to the applicant. Unlike a grant, a quit claim is not a guarantee of title.
f. Require the quit claim to be registered in the Registry of Deeds and a copy kept in the Crown Lands Registry.

g. Provide for the issuance of a quit claim (and new up-front application requirements) to apply on a go-forward basis.
h. Work with legislative counsel to determine which provisions of the *Act* need to be amended as a consequence of the change from a grant to a quit claim, and to further amend section 36 to be reflective of other changes recommended in this report.

57. Require an application under section 36 of the *Act* to include:
a. Application including affidavit from the applicant;
b. Certificate from lawyer giving opinion as to applicant's interest in the land under the test of open, notorious, continuous and exclusive possession between 1957 and 1976;
c. Copy of deed, dated before January 1, 1977, grounding title of the applicant (if there is one) and/or affidavit of an independent person knowledgeable of the use and occupation of the land by the applicant or the applicant's predecessor during the relevant time period;
d. Abstract of title (if any documents have been registered); and
e. Survey.

58. Initiate a process for section 36 applications to ensure that other government departments have no interest in the subject parcel of land. The quit claim issued under section 36 should state that the Crown (inclusive of all government departments) has no interest in the land and include an indemnity clause against the Crown. The quit claim may be subject to other conditions as well.

59. Update the current policies for section 36 applications and post online.

Shoreline Reservations

60. Provide a 15 metre shoreline reservation for freshwater and saltwater bodies for all purposes. In other words, maintain section 7(1) of the *Act*, remove section

7(1.1), and grandfather those titles that already have less than a 15 metre shoreline reservation.

61. Allow the minister to approve some section 7 applications (e.g. boathouses, wharves, etc.) and maintain Cabinet approval for other applications (e.g. intrusions on the reservation, aquaculture and industrial undertakings).

62. Move what can be approved on the shoreline reservation to regulations and broaden the definition of what can be approved.

63. Remove the requirement currently in the *Act* for municipalities to obtain a title document from the Lands Branch before carrying out water and sewer works or the construction of public roads on the shoreline reservation.

64. Remove the details regarding a notice of intent from the *Lands Act* and place in regulations.

65. Include a provision in section 36 of the *Act* to the effect that where a quit claim is issued that covers a portion of the shoreline reservation, the approval process under section 7 does not apply.

66. Discontinue advertising notices of intent for applications on the shoreline reservation in the *Newfoundland and Labrador Gazette* and newspapers. Require public notice on the Crown Lands website and at the actual physical location of the proposed development. Enable posting at an additional location at the discretion of the minister.

67. Require publication of the notice of intent for a shoreline reservation application after the application is registered with the Lands Branch.

68. Change the timelines for the filing of objections to a shoreline reservation application to 30 days from the date the notice of intent was first posted by the applicant online and onsite, whichever is later.

69. Maintain measurement of the 15 metre shoreline reservation from the high water mark.

70. More clearly define the description of what needs to be included in the notice of intent for an application within the shoreline reservation.

71. Consider adding as a condition of a residential or cottage lease, licence or grant that is adjacent to a shoreline reservation, a clause that would permit the holder of the lease or grant to construct a small boathouse or wharf. The holder would not require a further title document from the Lands Branch.

72. Improve communication with the public respecting shoreline reservations.

Unauthorized and Illegal Occupation

73. Examine the provisions in the *Act* respecting offences and clearly state what is unauthorized use and occupation of Crown lands.

74. Expand the actions that the minister or an inspector/enforcement officer may order or take to bring about compliance, including measures to deal with an unauthorized building, structure or thing on Crown lands. Ensure that the costs and expenses of the minister or an inspector/enforcement officer can be recovered as a debt owed to the Crown.

75. Enable the court, the minister or an inspector/enforcement officer to order restoration of the land to the satisfaction of the minister.

76. Update the definition of illegal structure to include gates and other man-made structures or barriers.

77. Change the length of time to comply with a removal notice by requiring compliance within the time period set out in the notice.

78. Include a provision in the *Act* to address emergency removal of a structure or hazard.

79. Increase the current fines in the *Act*.

80. Subject commercial offenders to higher fines than individuals and include a provision in the *Act* whereby a director can be charged with an offence whether or not the corporation has been prosecuted or convicted.

81. Introduce ticketing and administrative penalties.

82. Increase the limitation period for the prosecution of an offence under the *Act* to two years.

83. Expand the provisions of the *Act* concerning the powers of inspectors/enforcement officers.

84. Partner with other departments and agencies with respect to enforcement.

85. Amend the legislation so that the department administering a special management area may also be responsible for compliance and enforcement of the regulations pertaining to the area.

86. Complete field investigations and carry out follow up procedures to ensure compliance.

87. Follow the delegation of authority as outlined in the policy manual with respect to the issuing of stop orders and removal of structures.

88. Consider the addition of resources and a management-level position within the Lands Branch with responsibility for compliance and enforcement.

89. Implement a means for the public to report complaints.

90. Provide more education to the public on what is and is not legal under the legislation in terms of use and occupation of Crown lands.

91. Update the Lands Branch policy on compliance and enforcement and post online.

92. Provide more training to inspectors/enforcement officers.

93. Emphasize a focused and targeted approach to compliance and enforcement.

94. Reinstate the Gravel Pit Campaign from 2009.

Free Grants

95. Change the focus of section 9 of the *Act* to only include free grants for municipalities for a municipal building, recreation park or other purpose in the public interest, with the exception of economic development (e.g. commercial, industrial, subdivision or residential developments).

96. Remove schools as a purpose for which a free grant may be given under section 9 of the *Act*.

97. Remove churches and cemeteries as purposes for which a free grant can be issued under section 9 of the *Act*.

98. Develop and publicize a policy for cemeteries and for dispositions to non-profit organizations (including for places of public worship) that are either free or nominal value.

Surveys and Survey Markers

99. In the definition of surveyor in the *Lands Act*, update the title of the Association of Land Surveyors to the Association of Newfoundland Land Surveyors continued under the current *Land Surveyors Act, 1991*. Further, remove “or a surveyor, not

being a member, who is employed by the government of the province for the purpose of conducting a survey".

100. Have one time frame in which a claim can be made under section 17 of the *Act*, because of a false survey or an error resulting in a discrepancy between a title document and the actual area of Crown lands received.

101. Include a provision in section 17 of the *Act* to enable the minister to recover from a surveyor as a debt owing to the Crown, the amount of compensation that is paid as a result of a false survey.

102. Prescribe the limitation period under section 17 of the *Act* as five years from the date of issuance of the title document, unless the department confirms that a shorter time period is required in the *Act* for the minister to seek repayment from a surveyor's professional liability insurance policy.

103. Maintain section 28 of the *Act* and update the language to include modern forms of property markers, including iron bars and pins.

104. Remove section 64(11) of the *Act*, which is the requirement to notify the occupier of the lands in writing that a person or surveyor has authority to enter onto the land.

Ministerial Authority

105. Increase the size of land from 20 to 30 hectares for which the minister may issue grants under section 4 or quit claims under section 36 of the *Act*.

106. Maintain 100 hectares as the size of land for which the minister has authority to reserve under section 8 of the *Act*.

107. Maintain 10 hectares as the size of land for which the minister has authority to issue free grants under section 9 of the *Act*.

108. Increase the size of land from 20 to 30 hectares for which the minister has authority to transfer to the federal government under section 53 of the *Act*.

109. Remove the requirement for the minster to obtain Cabinet approval for a transfer of land to another minister of the province under section 54 of the *Act*.

110. Remove the requirement for Cabinet approval in section 18 of the *Act* concerning inconsistent grants.

111. Expand ministerial authority under section 20 of the *Act* to waive conditions of a grant for an area of land not exceeding 30 hectares.

112. Maintain the requirement for Cabinet approval for an exchange of lands under section 22 of the *Act*.

113. Amend section 40 of the *Lands Act* such that Cabinet approval is required for the acquisition of Crown lands by:

- Lands Branch staff and senior officials in the department in which the Lands Branch resides. The senior officials would be persons in the role of an executive (deputy minister, assistant deputy minister) or communications advisor; and
- spouses or cohabiting partners of these employees.

Abandoned Lands

114. Remove, in consultation with the minister of Transportation and Works, Part II of the *Lands Act* respecting abandoned lands and address these situations through expropriation.

Crown Lands Registry

115. Maintain a requirement in the *Act* for a public registry that contains electronic and paper copies of title documents including surveys.

116. Remove the reference to applications in section 37 of the *Act*. The department can address the disclosure of applications or other information under *ATIPPA* or if preferred as part of government's proactive disclosure policy.

117. Set up a user-pay electronic database system online to allow simpler access to Crown title information.

118. Close the Titles vault to public access in the interest of document security.

119. Provide a counter service for the general public to view paper documents contained in the Titles vault that are not or cannot be scanned electronically. Viewing would be monitored by a staff person.

120. Maintain the relative humidity in the Titles vault between 45% - 55% and a room temperature range of 15^0C - 20^0C.

121. Review, in consultation with the Office of Public Engagement, Crown lands application forms to ensure they contain the minimum amount of personal information necessary. For example, it has been identified that a cell phone number and an email address of an applicant would speed up the application process.

122. Revise the Crown lands application form so that personal information is placed in a separate annex to ensure its protection. Information contained in that annex can then be easily redacted for an access to information request or if government chooses to proactively release applications.

123. Consult with the Office of Public Engagement before making the Land Use Atlas public and publishing notices of intent respecting shoreline reservations on the Crown Lands website.

Additional recommendations for changes to the Lands Act

124. Remove the reference to orders and the publication requirement under section 8 of the *Act*.

125. Expand Part IV of the *Act* to include both special management areas and public reserves for which regulations are necessary to put conditions on the use of lands within a specified area.

126. Consult with departments responsible for special management areas and public reserves as to whether new or amended provisions are required in the *Act*.

127. Adjust the timeframe, to come forward under section 18 of the *Act* with a claim of inconsistent grants, to within five years after the discovery of the error.

128. Include a provision in the *Act* to enable the collection of a debt owed to the Crown by the minister filing the amount owing as a certificate with the court.

129. Determine, in consultation with the Department of Finance, whether additional legislative provisions are required to support the collection of moneys owed from the holders of leases and licences to occupy.

130. Include a provision in the *Act* that enables Cabinet to prepare regulations for:

- the Crown lands application process
- terms and conditions of dispositions
- shoreline reservations
- publication of information on the departmental website
- format for receipt of plans and surveys from surveyors
- public reserves
- special management areas
- inspections and investigations
- ticketing
- administrative penalties

131. Make minor amendments to the *Act,* as identified in Section 19.5 of this report, in order to make the *Act* more user friendly.

Additional Recommendations

132. Investigate, in consultation with other government departments and agencies, a phased-in approach for either a mandatory land registration system or a land titles system.

133. Improve communications both within and external to government with respect to Crown lands.

134. Update the Lands Branch policy manual and post all updated policies on the Crown Lands website.

3. Abbreviations and Acronyms

ANLS	Association of Newfoundland Land Surveyors
CLAD	Crown Lands Administration Division
ILUC	Interdepartmental Land Use Committee
LMD	Land Management Division
LMO	Land Management Officer
LMS	Land Management Specialist
LO	Lands Officer
LTO	Licence to Occupy
MRF	Municipal Recommendation Form
NL	Newfoundland and Labrador
RLC	Regional Land Committee
SMD	Surveys and Mapping Division

4. Introduction

In February 2015, the Department of Municipal and Intergovernmental Affairs initiated a review of the current *Lands Act* (the *Act*). The *Act* empowers the minister to allocate Crown lands, protect Crown lands from unlawful alienation through appropriate enforcement mechanisms, reacquire abandoned lands, declare special management areas and install and maintain a network of provincial survey monuments.

The *Lands Act* has been in force since 1992 but there are parts of the *Act* that date back further than this. For example, section 36 addresses adverse possession against the Crown, which was abolished by statute as of January 1, 1977.

The department identified that a comprehensive review of the *Lands Act* and its service delivery model was needed to ensure it is the most effective way to manage, administer, utilize and protect Crown lands for the people of Newfoundland and Labrador. (See Annex A for the complete Terms of Reference.)

To ensure a comprehensive approach to the review from both a legislative and process perspective, a Review Committee was established which comprised professionals with expertise in the areas of law, policy and business processes. The Review Committee was responsible for developing informed recommendations on how to modernize the *Act* and make the Crown lands application process simpler and the service delivery model more effective.

The focus of the review included, but was not limited to, the following issues:

- Identification of ways to make the *Act* more user friendly so that it is well understood by those who use it and can be interpreted and applied consistently;
- Assessment of the provisions of section 36 regarding adverse possession (commonly known as “squatters rights”) to determine whether these provisions, and their subsequent interpretation, support the purpose and intent

of the legislation or whether changes to these provisions should be considered;

- Assessment of the provisions of section 7 regarding shoreline reservations to determine their efficiency;
- Assessment of the provisions of sections 30 to 35 regarding unauthorized occupation and possession of Crown lands in terms of their effectiveness and efficiency;
- Examination of internal business processes and policies that are intended to support the operations of the *Act* in terms of their necessity and efficiency;
- Examination of internal referral and consultation processes (i.e. Crown lands application referrals and Interdepartmental Land Use Committee referrals) that support the operations of the *Act* in terms of their necessity and efficiency; and
- Examination of current information technology used to support the operations of the *Act* in terms of their effectiveness and efficiency.

4.1 Organization of Report

This report is organized as follows. A discussion of the consultation approach used by the Review Committee is presented, followed by an overview of the Lands Branch and the allocation of Crown lands within the province. The report is then divided into three parts. Part I is focused on business process recommendations related to the application process and service delivery model. The second Part includes legislative, business process and policy recommendations related to various sections of the *Lands Act*. The third Part is focused on additional recommendations related to the *Act* as well as broader government issues.

5. Consultation Approach

An important aspect of this review was consultation with the people of Newfoundland and Labrador and stakeholders. Consultation helped the Review Committee in developing informed recommendations for making changes to the *Lands Act* and to how Crown lands services are delivered to better serve the people of Newfoundland and Labrador.

The objectives of the consultation were to solicit feedback on all aspects of the *Lands Act* and its operations. As part of the review process, the Review Committee consulted with a broad range of people and stakeholders throughout the province to hear their views and gather innovative ideas to enhance the legislation. This included both face to face and online consultations held from March 12 to April 10, 2015.

To focus the feedback received, a discussion guide with five key topic areas was developed and posted online. Stakeholders, the general public and other interested parties were encouraged to participate in the consultation process in a variety of ways including:

- public consultation sessions;
- a key stakeholder consultation session;
- completing an online discussion guide;
- providing written submissions (e.g. via email, postal mail, fax, etc.); or
- by telephoning the Review Committee.

Public and key stakeholder sessions featured:

- brief topic overviews to provide context;
- polling questions used to gather demographic information about who was in the room as well as self-rated level of knowledge on the topic areas; and

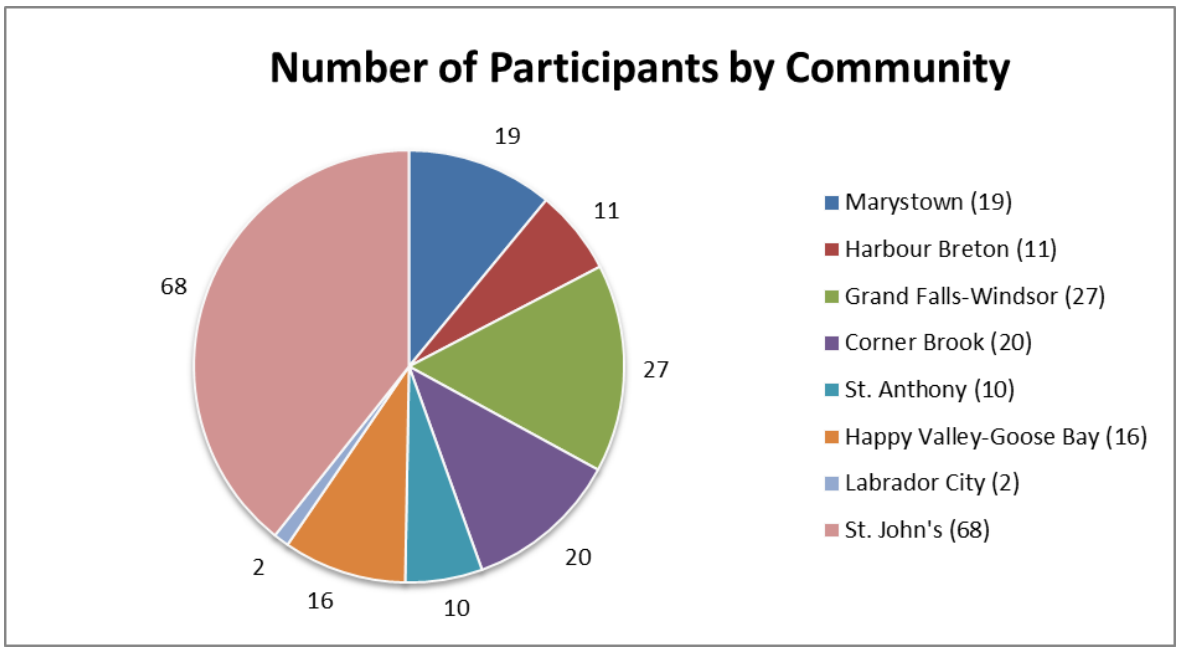
- small group roundtable discussions, including facilitation and note taking which focused on concerns, solutions and recommendations for change with respect to the *Lands Act.*

The Government of Newfoundland and Labrador's Office of Public Engagement provided critical support in the design and delivery of these sessions.

5.1 Public Sessions

Public sessions were held in eight communities across the province from March 19 – April 7, 2015. The communities included Marystown, Harbour Breton, Grand Falls - Windsor, Corner Brook, St. Anthony, Happy Valley - Goose Bay, Labrador City and St. John's. There were 173 participants across the province. See Figure 1 for the breakdown of participants by community.

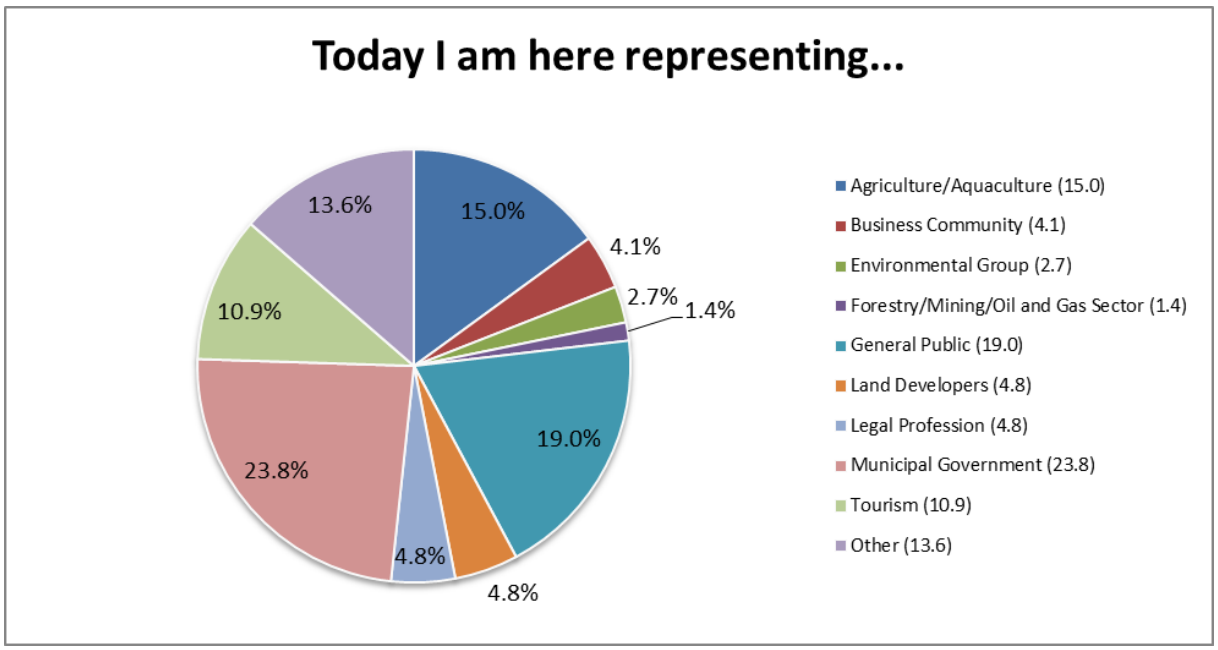
Figure 1. Number of Participants by Community



During the sessions, participants were asked what type of organization/industry they were representing. Twenty-four per cent reported they were representing a municipality

and 19 per cent were from the general public. See Figure 2 for the breakdown of participants by representation.

Figure 2. Organization/Industry Representation at Public Sessions



5.2 Key Stakeholder Session

A key stakeholder session was held on April 8, 2015 with representatives from:

- Association of Newfoundland Land Surveyors
- Department of Fisheries and Oceans
- East Coast Trail Association
- Federation of Agriculture
- Home Builders Association
- Municipalities Newfoundland and Labrador
- Newfoundland Power
- NL Aquaculture Industry Association
- NL Hydro
- NL Outfitters Association
- Public Works and Government Services Canada
- Registered Professional Foresters of NL

5.3 Written/Online Submissions

The Review Committee received 20 responses to the online discussion guide and over 45 written/email submissions.

5.4 What We Heard

A What We Heard document was released on the *Lands Act* review website on June 10, 2015.

5.5 Internal Government Consultations

In addition to the public consultation process the Review Committee engaged internal government stakeholders, including Lands Branch staff, in order to gather a wide variety of feedback and perspectives regarding proposed changes to the *Lands Act* and its associated business processes.

6. Overview of Crown Lands

The following section includes an overview of the Lands Branch as well as a brief description of the ways in which Crown lands are allocated in the province.

6.1 Lands Branch

The Lands Branch manages and administers surface rights over the province's Crown lands which comprise approximately 364,000 square kilometres of the provincial land mass. The management of sub-surface and timber rights is mandated to the Mines and Forest Services Branches respectfully of the Department of Natural Resources. Although the Lands Branch holds responsibility for surface rights only, all other resource activities affecting the surface rights to Crown lands must be approved by the Branch as the key stakeholder and central agency coordinating interdepartmental consultation.

The Lands Branch consists of three Divisions: Crown Lands Administration (CLAD), Land Management (LMD) and Surveys and Mapping (SMD). The head office for the branch is located in the Howley Building in St. John's.

6.1.1 Crown Lands Administration Division

CLAD is responsible for managing and allocating the province's Crown lands resource in an environmentally responsible manner to meet the social and economic development needs of the public and private sectors. The division has 71 positions located in four regional offices (St. John's, Gander, Corner Brook, and Happy Valley - Goose Bay), two regional sub-offices (Clarenville and Grand Falls - Windsor) as well as in head office.

6.1.2 Land Management Division

LMD is responsible for developing and administering the provincial Crown lands policy and provide support to other divisions and departments in government with respect to Crown lands management. Its purpose is to protect Crown lands for the current and

future benefit of the province and its citizens. This division has nine positions all located in head office.

6.1.3 Surveys and Mapping Division

SMD is a central service group to government providing geomatic products and services in geodesy, aerial photography, topographic mapping, geographical names and certain land records information as the base for geographic information services. This division carries out its mandate with a staff of 12 positions.

Newfoundland and Labrador has 100 million acres of land which includes 8.4 million acres of freshwater and 29,000 kilometres of coastline. Approximately 88 per cent of the provincial land mass is Crown lands. The Crown lands mass in Newfoundland and Labrador is greater than the total land mass of the maritime provinces combined.

6.2 Allocating Crown Lands

The *Lands Act* contains sections which allow Crown lands to be allocated in the following ways:

Lease (Section 3)	Crown retains ownership and is typically for a long term (i.e. 50 years). An example of a Crown lands lease would be for agricultural purposes.
Grant (Section 4)	In this case the Crown lands are sold and the Crown does not retain ownership. An example would be for a commercial subdivision development.
Easement (Section 5)	The Crown retains ownership and is typically for a long term (i.e. 50 years). An example would be to utility companies for power lines.
Licence to Occupy (Section 6)	Crown retains ownership and is typically for a short term (i.e. five years). An example of this would be for residents to construct and occupy Crown lands for remote cottages.
Transfer of Administration and Control (Sections 53 - 55)	In this situation the Crown lands are acquired by the federal government or another provincial government department. An example includes Crown lands acquired by the federal government for a government wharf.

The following figures show the current allocation of Crown lands within the province.

Figure 3. Crown Lands allocated in Labrador

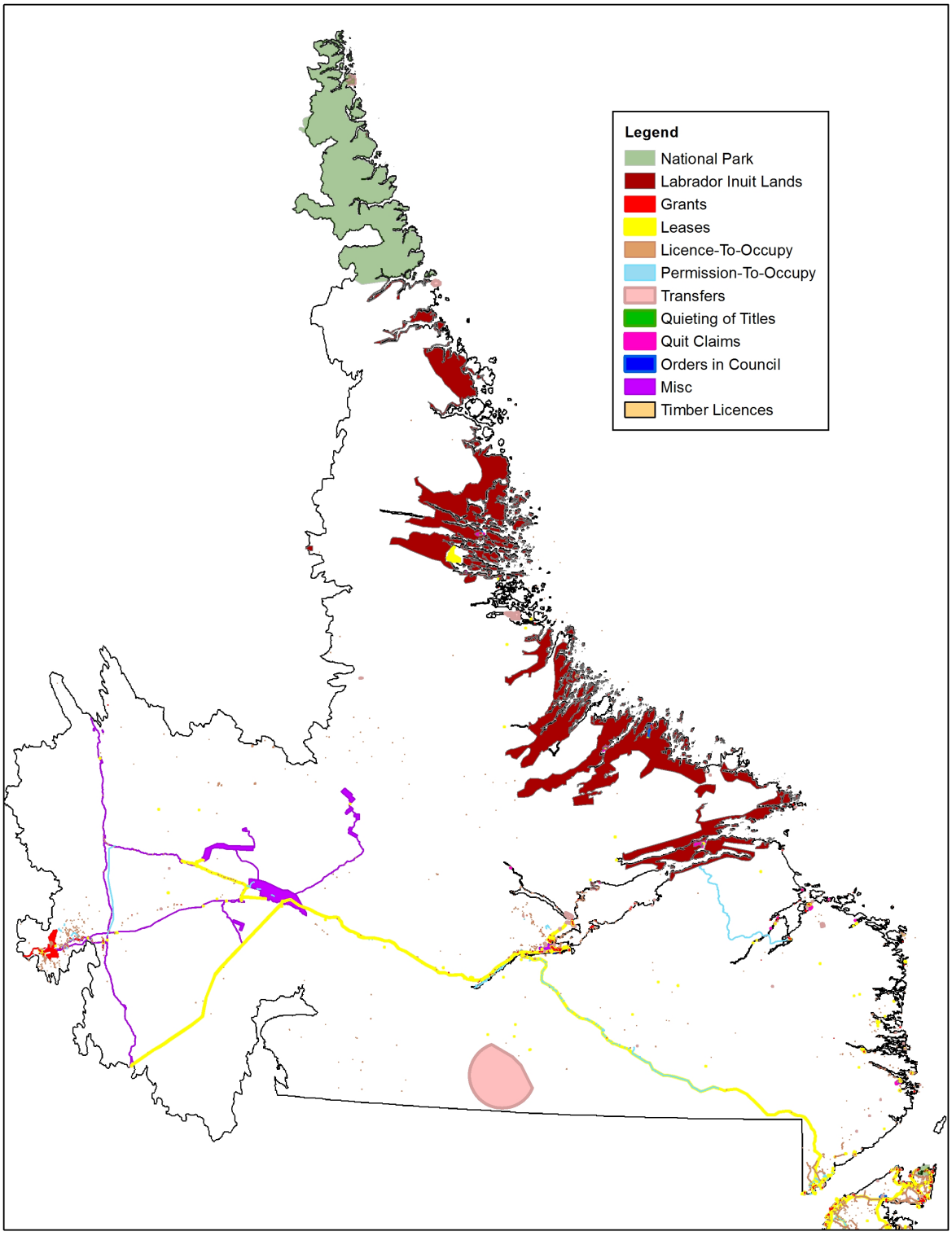
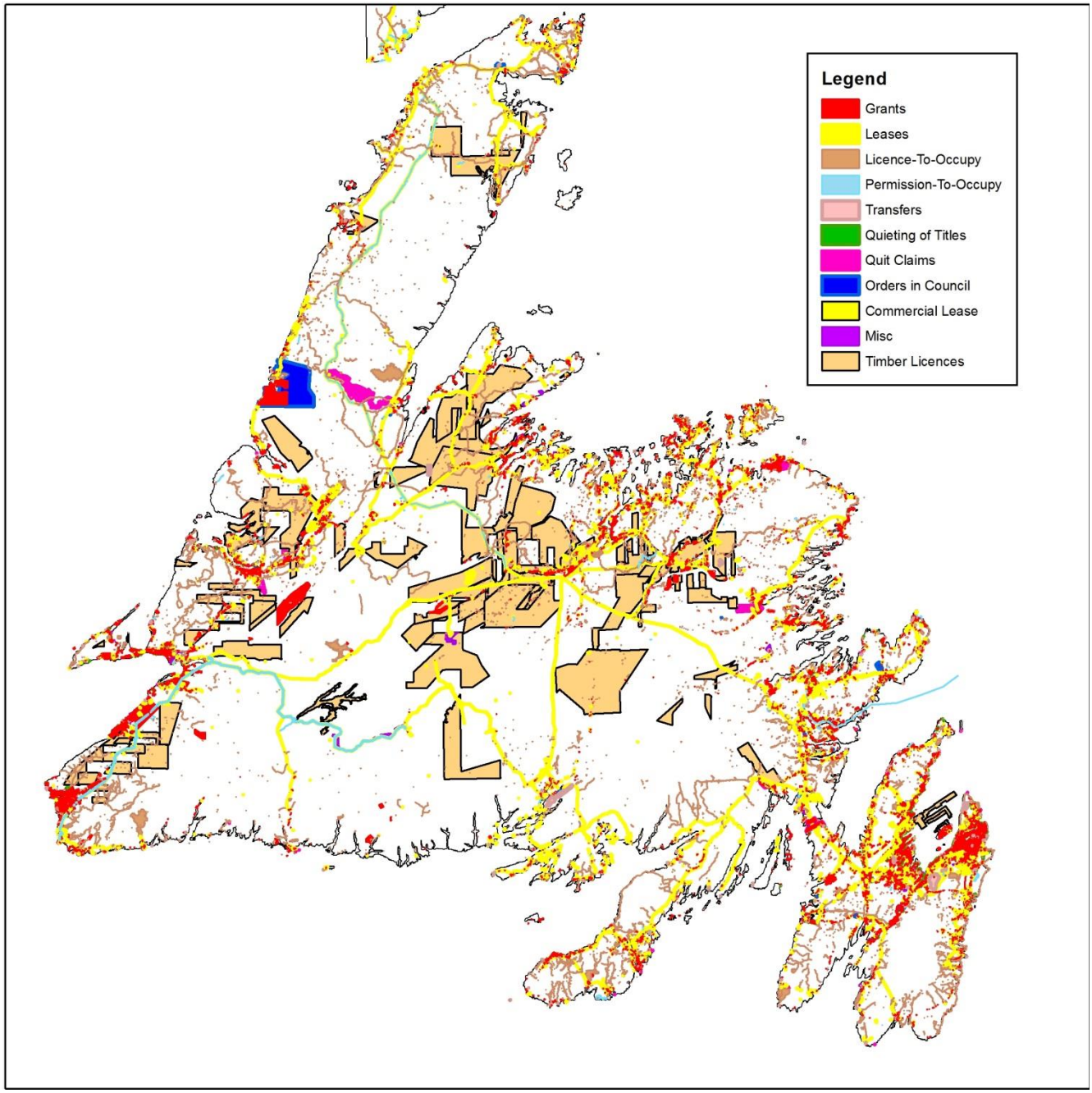


Figure 4. Crown Lands allocated in Newfoundland



PART I - Business Process Review

Introduction

The Lands Branch experiences a high volume of Crown lands service needs. In 2013-14, the branch processed over 3,600 applications, issued 2,100 titles and responded to over 100,000 inquiries from the public. The time it takes from start to finish can vary from application to application based upon the level of review required. However, it is not uncommon for an application to take anywhere from 6 months to over a year. Some may take even longer.

The Lands Branch has received many complaints concerning the length of time it takes for a Crown lands application to be processed and how difficult the process is to navigate. This concern was highlighted during the public consultation process and was normally the first comment made when the public were solicited to give input as to how the application process could be improved.

The business process review focused on the operations of the Lands Branch with respect to the application process from application preparation by the applicant to the issuance of the title document. It also reviewed other aspects of service delivery such as how the public can access information and how information is supplied.

Information for the business process review was gathered through the consultation process, staff interviews during site visits, and a review of available documentation on proposed service delivery changes under consideration by the Lands Branch.

Much work has been initiated by the Lands Branch in identifying improvements to service delivery. Recommendations contained in this Part were formulated from this work and from the review itself. This is especially the case for the field inspection program section of the report.

7. Application Process

One aspect of the business process review was to identify opportunities to reduce delays in the processing of an application for Crown lands. A review of the application process for the issuance of a Crown grant, for example, showed that the application is frequently waiting in a queue. Delays in the process are shown in Annex B. Some delays are required however to allow the Lands Branch to obtain recommendations from other government departments and agencies (referrals) and for the applicant to gather documents, such as a survey, and approvals in support of the application. The following section identifies items that cause unnecessary delays in the application process and outlines ways in which the process can be made more efficient.

7.1 Application Preparation by Applicant

7.1.1 Enhance Information Available to Public

When applying for title to Crown land the onus is on the applicant to determine that the land is unencumbered, that is to say, there are no other interests in the land. This requires applicants to conduct research into the land for which they are applying. Applicants who are in close proximity to a regional office will usually start the application process by visiting the office to view maps (paper and electronic), and obtain information and help from staff on completing the application process. These applications are checked by the counter staff, usually a Lands Officer (LO), to ensure there are no conflicts with land usage and that all documents are in order and are ready for application registration.

Applicants who reside outside the immediate regional office area do not have easy access to this one-on-one service. They have to rely mainly on limited information available on the Lands Branch website or through telephone calls to the regional office to aid them in completing their application. Because of this applications that are mailed or faxed to the department are oftentimes incomplete. These applications require follow

up with the applicant to obtain further information. In some cases, the application may have to be sent back to the applicant.

In an effort to make the application process as user friendly as possible it is imperative that the applicant be provided with the information and tools necessary to submit a correct and complete application. To aid the applicant in making an application to the Lands Branch the following should be considered.

Application Guide

A need for a simplified application guide was suggested throughout the consultation process. The guide should be available electronically and in paper format for distribution at the front counter of the regional offices and for mail-out upon request. Separate guides may be needed for different land uses or types of application. Detailed instructions on how to complete the application would be included in the guides. In addition, the guides would outline the application process step-by-step and include associated timelines where applicable.

Brochures and guides were developed by the Lands Branch in the past. A document entitled “Resources to Aid in the Identification of Crown Lands” informing applicants how to identify Crown lands already exists. These documents could be used as a basis for the development of more comprehensive guides. The application process is currently described online but the format and level of detail of the information could be improved.

Recommendation

1. **Develop a simplified Crown lands application guide for distribution to applicants. The guide would be online and available in paper format.**

Mapping Information

The Crown lands application requires that a map of the area be included by the applicant. The Land Use Atlas (LUA) is used by the Lands Branch staff to determine if

the site applied for has any restrictions attached to it. The LUA should be made available to the public online so the applicant can make an informed decision whether or not to apply for Crown land at the site of interest. This would allow a quick and easy determination as to whether the land under consideration is unencumbered or not. The LUA could also be used by the applicant to prepare the map required for the application. Information could include zoning, municipal boundaries, infilling limits, conservation areas, and other areas where certain types of applications would be restricted.

Other suggestions provided through the consultation process include putting the following information online: Crown land surveys, mapping, aerial photography, and horizontal and vertical survey marker information.

It was also suggested that a computer workstation be provided in the vicinity of the front counter of the regional offices that can be used by the general public to view the LUA without the supervision of the Lands Branch staff. This would free up time of the Lands Branch staff as they would not have to monitor what is being viewed by the client but would instead be available to answer questions and provide assistance. In addition, a tutorial on how to use the LUA and how to navigate the mapping software should be available. A tutorial on the LUA has already been developed in-house by the Lands Branch. The workstation could also be used by the public as a general computer workstation to perform a titles search, for example.

Recommendations

2. **Provide the general public with access to the Land Use Atlas online.**

3. **Provide a computer terminal at the front counter of each regional office that can be used by the public without Lands Branch staff supervision.**

Public Notices

Public notices required by the minister or the applicant in the Crown lands application process should be posted on the Crown lands website. This should be noted in the *Act*

or regulations along with the other forms of information sharing that may be prescribed, e.g. the *Gazette*, newspapers, etc.

For notices that require publication in newspapers, such as notice of a cottage lot draw, the size of notices should be kept at a minimum to reduce cost. Detailed information would be posted online on the Crown Lands website. The newspaper notice would include reference to the online information and Lands Branch contact information.

Recommendations

4. **Post public notices pertaining to Crown lands applications on the Crown Lands website and adjust the legislation accordingly.**

5. **Minimize the information required for public notices that are published in newspapers pertaining to Crown lands applications (e.g. cottage lot draws).**

<u>Crown Lands Website Related</u>

The Crown Lands website is quite robust with information pertaining to Crown lands. However it was suggested that the site needs more detailed information and should be easier to navigate. The following observations are presented:

- Under “Forms and Applications”
    - The Crown Lands “Forms and Applications” link directs to a list of forms for the entire department. This should link directly to forms specific to the Lands Branch
- Under “Services Directory”
    - Many links pertaining to Crown lands are not defined
- Information that should be easily accessible
    - List of approved surveyors
    - List of approved septic and water system designers

As previously mentioned, the website should at a minimum include the following information:

- Application guide and checklists
- Access to the LUA
- Public notices

Recommendation

6. **Update the Crown Lands website with more detailed information and make it easier to navigate.**

Signage

Signage is required in the foyer of the Howley Building that clearly directs the general public to the service counter for the Eastern Regional Lands Office and the Titles vault. Access to the map purchase counter is through this Eastern Office area. Improved signage is also needed to direct the general public to this area.

Signage at the other regional Lands Branch offices was sufficient. It was easy to locate the offices in all communities as the front counter for the regional office is located at the main entrance.

Recommendation

7. **Update signage in the foyer of the Howley Building so that the general public can easily navigate to the Eastern regional front counter, the Titles vault and the mapping library.**

7.1.2 Land Identification

Currently, applicants are requested to identify the location of the land, for which they are applying, on a topographical map. In many instances the applicant gives the wrong location as it is difficult for them to identify the actual site on a map. GPS coordinates should be required for all applications so that the Lands Branch staff and surveyors can more easily locate the land in question. This would also allow for the location to be accurately plotted in the LUA system.

Recommendation

8. **Require applicants to submit GPS coordinates with their applications to aid Lands Branch staff and surveyors in land identification.**

7.1.3 Online Applications

Throughout the public consultation process it was suggested that clients be able to apply for Crown lands through an email application process with the ability to attach required documentation. Currently, the application can only be printed and completed by hand and mailed in or faxed to a regional office. An applicant should at least be able to access a fillable PDF application form for electronic completion. The next preferable step would be the ability to forward applications by email to the Lands Branch. Ideally, government could take an extra step to provide for a fully electronic online application process.

Recommendations

9. **Provide a fillable PDF online application form for each Crown lands application.**

10. **Allow submission of Crown lands applications via email.**

11. **Investigate the possibility of providing a fully electronic Crown lands application process.**

7.1.4 Online Payments (e-commerce)

Persons who lease or licence Crown lands are currently able to pay their invoice for annual rental fees online through government's website by clicking on the "I want to… Pay Online" link located on the home page. This service should be extended to allow for payment of application fees.

Recommendation

12. **Investigate the ability of government's online payment system to include payment of Crown lands application fees.**

7.1.5 Online Application Tracking

The consultation process identified that it was difficult to get an update on an application from the Lands Branch. It was suggested that a client should be able to track their application online. Currently, the Lands Officer fields telephone calls from applicants and will refer to the AMANDA (TRACTS) system to determine at what stage the application is. It would be useful if the applicant could track the progress of the application themselves through an online tracking system. This would reduce the telephone calls made to the Lands Officer thus freeing up their time to conduct other duties.

Recommendation

13. **Investigate the possibility of developing an online tracking system for Crown lands applications to be accessed by applicants.**

7.2 Application Receipt and Review

7.2.1 Application Checklist

An application checklist for each type of application should be posted at the front counter at all of the regional offices to remind Lands Officers and applicants of items to check before accepting an application. With the current turnover of staff in this position this would be particularly helpful for new staff. A checklist has already been developed and is the current practice at the Central (Gander) office.

Recommendation

14. **Post at the front counter of all Lands Branch regional offices an application checklist for each type of Crown lands application.**

7.2.2 Application Processing Order

Current practice by the Lands Branch is to process applications on a first-come, first-served basis. During public consultations it was voiced that commercial applications that are time sensitive should take precedence. It was suggested that all applications be "triaged" with respect to pre-set parameters. For example, remote cottage applications would not take precedence over agricultural applications. However, applications would still have to be date and time stamped, and plotted in the application layer of the LUA to ensure fair distribution of Crown land in a first-come, first-served model. Once the application is registered it would then be triaged.

Parameters could include:

- Residential vs commercial
- Residence vs cottage
- Municipal vs non-municipal

It should be noted however that applications that are regularly triaged below others need to be attended to. Review of these applications could be triggered by the number of applications waiting in the queue.

Recommendation

15. **Triage Crown lands applications when registered based on pre-set parameters or categories.**

7.2.3 Application Reactivation

An application can be cancelled by the Lands Branch if the applicant does not return documentation in support of the application within a specified time frame. This includes, but is not limited to, receipt of the survey, septic and water system design, or the return of title documents. Currently, there is no limit on the number of times an application can be reactivated. This practice ties up land preventing others from acquiring it. It is recommended that the practice of reactivating applications be discontinued. A new

application would be required and the land reappraised upon approval. In addition, there should be a 60 day waiting period before reapplying.

Even though this will mean more work for the Lands Branch as the referral process has to be repeated, conditions with respect to a reservation area for example may have changed since the submission of the initial application such that an application for the area now would not be accepted.

Recommendation

16. **Discontinue reactivation of cancelled Crown lands applications and require submission of a new application following a 60 day waiting period.**

7.3 Referrals

As part of the application process the Lands Branch investigates whether the land that is being made available to the public is free of any land use conflicts and environmental implications, and that the allocation is compatible with governmental land use planning. To accomplish this, a referral system is in place to solicit comments and recommendations from government departments and agencies regarding the land applied for and its intended use. An application for Crown lands will normally only be approved if all referred departments and agencies approve the application and its intended land use.

The recommendations in this section first address items that could be improved immediately. Other ways to improve service delivery are then suggested for investigation.

7.3.1 Paper Based Referral Process

Currently, the referral process is mostly paper based with referral documents being sent by postal mail or fax to the referring departments and agencies. With approximately 3,600 applications registered per year with on average five referrals per application,

much effort is required in the preparation of the referral package. Most referral responses are returned by the referring department and agency in the same manner. Referrals should be sent, and responses received, electronically through email correspondence. An effort has been made by the Lands Branch in some regions to move towards this practice. This would allow clerical staff to easily cut and paste conditions of approval, as required, into approval letters and title documents. In addition, if referrals are to be sent by email then the accompanying map should be in the form of a GIS shape file or Google KML file.

Regionally, a dedicated email address would be needed to which referral departments and agencies could return their comments. All Lands Officers and clerical staff would have access to this email account so that it could be checked regularly. Sending the referrals to one staff member would cause processing delays if that person were on leave. Likewise, each referral department and agency would require a dedicated email address to which referrals requests could be sent so that it could be checked regularly by various staff on their end. It should be noted that the practice of sending referral correspondence electronically is currently used by the Interdepartmental Land Use Committee (ILUC).

A step further would be for referring departments to have access to the AMANDA (TRACTS) system through Government's intranet system to allow them to submit their responses electronically. The department would populate and update the database. Referrals would not need to be returned to a clerical position for this purpose. This option would reduce both the workload of clerical office staff and the application process time.

Recommendations

17. **Immediately begin the practice of electronically sending Crown lands application referrals and responses through email.**

18. **Investigate the possibility of giving referral departments access to the AMANDA (TRACTS) system to allow them to populate and update their responses.**

7.3.2 Referral Response Time

The Lands Branch requests that the referring department or agency respond in writing with comments and recommendations within 30 days. The common practice is for the response to be sent by postal mail, though some do respond by email. At the end of 30 days, the Lands Branch policy is that a written reminder notice is to be sent via postal mail requesting a response within seven days. Even if no response is received after this time, the Lands Branch will usually wait for the department or agency's response. The application does not move forward until all departments and agencies respond as it was indicated that any issue that may render a parcel of land unusable for its intended purpose be identified before the application proceeds any further.

It was also communicated throughout the regions that the offices do not have the staff resources to be sending out reminder letters by postal mail. In practice, reminders are only sent when necessary or when an applicant contacts the Lands Branch enquiring about the status of a referral.

When adopting the email referral process outlined above the Lands Branch should reduce the time limit given for referral requests to 21 days with an extension of nine days if requested. Maximum response time would be 30 days. The quicker response time is sufficient as referral documents no longer need to be sent through the postal mail. Only one reminder notice should be given and if there is no response from the referral department or agency then no issues are assumed (silence is acceptance).

Recommendations

19. **Reduce the time limit given to referral departments and agencies to respond to a Crown lands referral request to 21 days.**

20. **Set the maximum time frame for a response to a Crown lands referral to 30 days if the referral department or agency has requested an extension. No response after 30 days will mean that the referral department or agency has no issue with the application.**

7.3.3 Referral Reminder Flag

The AMANDA (TRACTS) system does not flag when a referral is due from the referring departments and agencies. The system will flag the Regional Lands Committee (RLC) review process when all referrals are received and the AMANDA (TRACTS) database is updated. Staff have to make a point to review dates manually in the system. Each regional office has its own way of flagging the due date of referral responses. Some offices use a “Dayminder” type of calendar book with reminder due dates written in on the due date while others photocopy the referral request form and file it in a folder containing other referrals due that month. If the Lands Branch is to continue sending referral reminders it should be investigated if the AMANDA (TRACTS) system can be programmed to flag due referral responses. At the very least an electronic solution should be considered. A database could be developed to display all items that are due on a specific day.

Recommendation

21. **Develop an electronic method of flagging referral responses that are due.**

7.3.4 Municipal Recommendation Form (MRF)

Applicants requesting Crown lands within a municipal planning area are required to provide a completed MRF with the application for Crown lands. The applicant is responsible for submitting the MRF to the municipality. The application will only be accepted by the Lands Branch if the MRF has been approved by the municipality. To further simplify the application process for the applicant, the MRF should become a part of the application referral process. This would reduce the application processing time as the wait time for approval of the MRF would now run concurrently with all other referrals.

Like departments and agencies, municipalities would also be subject to the 21 day response time for referrals.

The Lands Officer would make the determination if an application is to be referred to a municipality during the initial application check. Mapping, as required by the application form, would be generated and sent with the referral to the municipality.

Recommendation

22. **Discontinue the practice of requiring the applicant to include an approved Municipal Recommendation Form with a Crown lands application. Instead, include the Municipal Recommendation Form as part of the application referral process.**

7.3.5 Review of Referral Process by Departments and Agencies

Some referral departments and agencies do not, or are not able to, adhere to the current 30 day time frame for responding to referral requests. It is imperative that these timelines be met to improve the timeliness of the Crown lands application process. A review of the internal practices, procedures and policies followed by each department and agency should be conducted to determine why this is and how to optimize their referral response process. It may be determined, for example, that depending on the type of application, standard conditions can be developed and attached to the application when it is screened by the Lands Officer. This may negate the need to send a referral request to that department and agency. Or the Lands Officer could supply the applicant with documentation that is required upfront by a referring department and agency, such as the Farm Development Plan required by the Agrifoods Development Branch. Through consultations it was also indicated that in some instances a referral department and agency may receive more than one referral request for the same application; one from the Lands Branch and another from a referral department and agency.

The review would include the septic design approval and inspection process followed by Service NL. While this is not a part of the referral process before an application is approved, it is a critical part of the process after the application is approved.

Recommendation

23. **Consult with departments and agencies to initiate an internal review of the process followed by each of them regarding the Crown lands application process.**

7.3.6 Referral Protocol Agreement

A written agreement (referral protocol) between the Lands Branch and the referral departments, agencies and municipalities should be developed. It was indicated that at times there is not enough information on the application or mapping for the department or agency to make an informed response. If additional information is needed from the applicant or another department then this could be addressed in the agreement. Included in the protocol agreement would be the requirement for each department, agency and municipality to provide a resource and a single point of contact for dealing with Crown lands referrals.

Recommendation

24. **Develop a referral protocol agreement between the Lands Branch and referring departments, agencies and municipalities.**

7.3.7 Self-Assessment Referral System

Another option for application processing would be to implement a client self-assessment model similar to the Department of Fisheries and Oceans self-assessment model. This type of model would place the responsibility on the applicant to determine whether or not they would require approval from other departments, agencies and municipalities.

From the perspective of the Land Branch, this would expedite the Crown lands application process as they would no longer have to refer to other departments, agencies and municipalities. However for the applicant, the process would be more confusing and difficult as they may not know what referrals are necessary. It may increase the total amount of time it would take to obtain a parcel of Crown lands from start to finish. Moreover, the client may not refer to any departments and agencies and move forward with development on the land. Site investigation and enforcement would be required with this model.

This option was considered by the Review Committee but is not recommended.

Recommendation

25. **Do not move towards a self-assessment referral model for Crown lands applications.**

7.3.8 Appraisals

The appraisal of the market value of Crown land is initiated in conjunction with the referral process. If the application for Crown land is declined by a referral department/agency then it is cancelled and the appraisal is not needed. The appraisal should only be completed after the application is approved. Even though this may increase the time to process an application, this is preferred over time wasted on work that may not be required.

Recommendation

26. **Conduct the land appraisal after the application has been approved.**

7.4 Survey

Land surveys submitted to the Lands Branch in support of an application are checked for accuracy, correctness and omissions. The Survey Inspector position is responsible for providing a technical review of the survey. Surveys can only be submitted by a

member of the Association of Newfoundland Land Surveyors (ANLS) who must adhere to the *Crown Land Survey Standards – 2009* as set out by the Lands Branch.

7.4.1 Survey Errors and Survey Checking

The department has indicated that there are often errors in the survey (i.e. defective surveys) submitted to the Lands Branch and therefore do not comply with the Crown land survey standards. A policy, and corresponding procedure (S.001 (amendment No. 1)), have been developed by the Lands Branch regarding how to address defective surveys. As the surveys are submitted by licenced professional surveyors the question has to be raised whether it is necessary for the Lands Branch to conduct a check. Any issues that may arise from an incorrect survey would be the responsibility of the licenced surveyor and any liability dealt with through their professional insurance agency.

Much time is wasted in the application process as defective surveys are returned to the surveying company with a letter indicating what the issue is. When revised survey documents are submitted, this survey in turn, has to be inspected by the Lands Branch Survey Inspector.

The Lands Branch should not be inspecting surveys on a regular basis. The onus should be on the survey company and the ANLS to ensure that surveys are correct. The Lands Branch (government) would need to include an indemnity clause releasing government from any financial (or other) obligation resulting from an incorrect survey received from a professional surveyor. This clause would have to be a condition included in the approval letter given to the client and would be included as a condition in the title document. Not having to check the survey, and not dealing with incorrect surveys, would speed up the application process.

The Lands Branch should conduct spot checks to identify “worst offender” companies with respect to survey errors and request that the ANLS Quality Assurance Committee review those companies. The Lands Branch should refuse surveys from “worst

offender" companies until such time that they can demonstrate adherence to standards acceptable to the Lands Branch.

Recommendations

27. **Discontinue regular survey checking by Lands Branch staff and begin spot checks of surveys.**

28. **Include an indemnity clause in the approval letter and title documents releasing government of any negative impacts resulting from a defective survey.**

Unnecessary Survey Checking

If the above recommendations are not acceptable and the Lands Branch continues the practice of regularly checking surveys, then the following should be considered. Section 4 of procedure policy AP.014P calls for a survey check when the survey is submitted. This is done even if the septic design is not approved and submitted to the Lands Branch. The survey inspector should not inspect the survey until after the approval for septic design, if required, is received. Although it was indicated that it is rare that a site is not suitable for a septic system, the procedure of not inspecting the survey until the septic design is received should be followed.

7.4.2 Survey Standards

As mentioned above, surveys submitted to the Lands Branch must adhere to the *Crown Land Survey Standards – 2009* as set out by the branch. These standards are different from those contained in the ANLS Manual of Practice. It should be investigated if the difference in the two standards is the major cause of defective surveys submitted to the Lands Branch. If this is the case, then the purpose of having a separate standard should be revisited.

Recommendations

29. **Determine if the higher survey standards required by the Lands Branch is the cause for the submission of defective surveys.**

30. **Revisit the purpose of having separate Crown lands survey standards if it is found that having surveyors adhere to the standards is the cause of survey errors.**

7.4.3 Survey Inspector Qualification Requirements

The Survey Inspector II position does not require that one be a licenced surveyor. The current job description requires training in the area of geomatics engineering either from a technical college or university program. The survey inspector is checking the work of a professional surveyor but in turn does not possess the qualifications of a surveyor. This practice has been followed by the Lands Branch as it has been difficult recruiting land surveyors into the position. If the Lands Branch is to continue filling the Survey Inspector II position in this manner then this position should report to a professional land surveyor registered in Newfoundland and Labrador to oversee the inspectors' work. Some provinces employ a Surveyor General in this role.

Recommendation

31. **Have the Survey Inspector II position report to a professional land surveyor registered with the Association of Newfoundland Land Surveyors.**

7.4.4 Digital Survey Submissions

Surveyors currently submit paper-based surveys to the Lands Branch as per the Crown lands survey standards. The Survey Inspector then has to plot the paper survey in electronic format to add it to the Geographic Information System (GIS). The submission of digital surveys would allow for the quick incorporation of surveys onto mapping. In addition, application processing time would be reduced as the time for paper-based surveys to be sent through the postal system would be eliminated.

It is realized that not all survey companies may have acquired the technology to submit digitized surveys. For this reason the requirement for a digital survey should be implemented using a phased-in approach.

As with the introduction of electronic referrals a dedicated email address would be required to which survey companies could forward the survey. All Lands Branch survey staff would have access to the email account so that it could be checked on a regular basis.

Recommendation

32. **Require survey companies to submit surveys to the Lands Branch in a digitized format.**

7.4.5 Time to Complete Survey and Health Design

Current legislation requires a survey be supplied by the applicant within 12 months of the date of application approval. Similarly, departmental policy requires a health design (i.e. septic and water design) to be submitted within 12 months of the date of application approval. The applicant is responsible to obtain both the survey and health design. A 12 month extension is allowed at the request of the applicant and upon payment of the applicable fee. Because of this an applicant can tie up a parcel of land for two years, preventing others from obtaining the land who may have interest in developing it. To expedite the application process it is suggested that the survey and health design be completed within 12 months with an extension of 6 months, if requested. This would allow for these requirements to be completed during the summer season of a calendar year.

Recommendation

33. **Reduce the allowable extension from 12 months to 6 months for submission of the survey and health design to the Lands Branch. Amend section 10 of the *Act* to change the timeline.**

7.5 Field Inspection Program

The field inspection program is an integral part of the application process. Inspections are carried out by the Land Management Officer (LMO) position. Their primary duties are to conduct a site assessment with respect to an application for Crown land and to investigate complaints regarding its occupation or use. If the inspection process is delayed then this in turn delays the application process.

The procedures and practices followed by the field inspection program are not standardized across the regional offices. The following describes current procedures and practices and suggests a best practice to be adopted and followed. Best practices should be adopted across the regions and are suggested to ensure that the application process is completed in a timely manner.

7.5.1 Referral or Complaint Allocation and Preliminary Review

A referral or request for an inspection is generated by the Lands Officer (LO) through the referral process when the application is registered. When the LO allocates referrals electronically in the AMANDA (TRACTS) system they are assigned to a LMO. In some regions the paper referral is forwarded directly to the assigned LMO while in others the paper referrals are forwarded to the Land Management Specialist (LMS) (Regional Manager in Happy Valley – Goose Bay) for review and distribution to the LMOs. When the inspection referrals are forwarded directly to the LMOs, the LMOs themselves, determine if and when an inspection is warranted. The LMOs' time, especially during the inspection season (which usually runs for seven months of the year corresponding to when there is no snow on the ground) should focus on field inspections. It would be best if the preliminary review of the referral be conducted by the Land Management Specialist (LMS) who would then delegate those applications that require a field inspection to the LMOs. In Happy Valley – Goose Bay the Regional Manager would be tasked with this duty.

Recommendations

34. **Task the Land Management Specialist with the initial review of referrals and complaints to determine if an inspection is warranted.**

35. **Task the Land Management Specialist with the delegation of inspection referrals to the Land Management Officers.**

7.5.2 Inspection Scheduling and Tracking

The scheduling and tracking of inspections is also inconsistent throughout the regions with regards to responsibility and methods. In some regions the LMOs schedule and track their own inspections while in others the task is allocated to the LMS. Tracking methods range from paper-based to an electronic database solution. The Central office has developed a Microsoft ACCESS database (Crown Lands Regional Tracking System, CLRTS) to track inspections for the region. To maintain control over the inspection process the LMS should be responsible for scheduling and tracking the work of the LMOs. All regions should adopt the CLRTS to be used in daily referral and complaint inspection tracking.

Recommendations

36. **Task the Land Management Specialist with scheduling inspections.**

37. **Adopt the Crown Lands Regional Tracking System (CLRTS) database across all regions to monitor completion of inspections.**

7.5.3 Inspection Area Allocation

In all regions inspections of areas in close proximity are scheduled together. However, staff responsibilities for specific geographical areas differ. In some offices all staff travel to all areas while in other offices staff are assigned to a specific area only. Arguments can be made for either practice. Staff who travel to all areas will be familiar with the entire region should they have to fill in for a LMO who is on leave or in the event of staff

turnover. On the other hand, staff who travel to a specific area are more familiar with that area and can easily determine whether an inspection may or may not be needed.

Assigning LMOs to specific areas of the region, however, allows for a disproportionate allocation of workload. In some areas squatters rights applications are more prevalent. Other areas may generate more complaints. Application processing would be delayed by LMOs who have more inspections assigned to them. Ideally, LMOs would conduct inspections throughout the region. The practice of grouping inspections for an inspection field trip would remain. Inspections would be carried out once a sufficient number of inspection referrals are received for a specific area to warrant a field trip or if a certain amount of time has lapsed.

Recommendations

38. **Have Land Management Officers conduct inspections throughout their entire region.**

39. **Maintain the practice of grouping inspections that are in close proximity.**

7.5.4 Inspection Reporting

All regions write their reports using a word processor but not all attach the report to the AMANDA (TRACTS) system. Some regions will only print the report and file it in the application file. By attaching the file with the AMANDA (TRACTS) system it can be viewed throughout the entire region.

Recommendation

40. **Attach inspection reports to the AMANDA (TRACTS) system.**

7.6 Other Application Processing Recommendations

7.6.1 Title Document Preparation

Crown lands policy AP.037, Procedure 5, indicates that draft title documents are prepared while waiting for the health design approval. Documents are held at the Registry. There is no need to prepare the title documents as the application would be cancelled if the land is not suitable for sewage and water supply.

Recommendation

41. **Prepare title documents only after the health design approval has been received.**

7.6.2 Reminder Letters to Applicants

Various reminder letters are sent to clients regarding their application. The *Act* states, in a number of sections, that an application will be cancelled if timelines are not met. This information is also given in correspondence e.g. approval letters. Reminder letters should not be sent to applicants as timelines have already been communicated.

Recommendation

42. **Discontinue sending reminder letters to applicants.**

7.6.3 Notice to Municipality on Issuance of Title

Currently, the Lands Branch does not inform the municipality of the issuance of a title. It is the responsibility of the applicant to do this if they so wish. To ensure that the municipality receives information on titles granted within its boundaries, the Lands Branch should forward a copy of the title document to the municipality once it has been issued.

Recommendation

43. **Forward a copy of title documents issued within municipal boundaries to municipalities.**

7.6.4 Licence to Occupy (LTO) Renewals

Renewals for licences to occupy are required every five years. Issuing renewal documents is unnecessary work for Lands Branch staff. The licence to occupy should indicate that, after the initial time period of five years, the licence renews automatically for one-year periods on the payment of the annual fee. Both government and the licensee would have the option to terminate the licence on giving the other 30 days notice.

Recommendation

44. **Discontinue preparation of renewal documents for licences to occupy. Instead, include in the licence to occupy a clause that, after the initial time period of five years, the licence renews automatically in one-year intervals upon payment of the annual fee by the licensee. The licensee or government would have the ability to terminate the licence upon giving 30 days notice to the other party.**

7.6.5 Public Draw Proxies - Cottages

Entrants into public draws for cottage lots are allowed to name three proxies on their behalf. They are also allowed to act as a proxy. By naming themselves as proxies on entry forms submitted in the names of others, land speculators are able to acquire multiple entries into the draw. Successful entrants have 90 days in which to purchase the lot and are allowed a 90 extension if requested. The property reverts to the Crown if the lot is not sold. This allows speculators 6 months in which to sell the property. To prevent speculation a proxy should only represent one entrant and an entrant cannot be a proxy.

Recommendations

45. **Limit the ability of a person to serve as a proxy to one applicant only in a cottage lot draw. In addition, do not allow an entrant to act as a proxy.**

8. Filing System Related

8.1 Application File Back-Up – Regional

When an application is approved by a regional office it is forwarded to the Titles office for review and title preparation. Regions outside of the Eastern Regional office mail the application and supporting documentation to the Titles office. In some regions paper documents sent to the Titles office are not copied and therefore no back up copy exists in the event the documents are lost in the mail. A copy of any documents sent in the mail should be made.

Alternatively, the documents would be scanned and kept in an electronic format. The application would be sent to the Titles office via email. A dedicated email address would be required at the Titles office in which to send the application.

Recommendation

46. **Make a back-up copy of documents pertaining to Crown lands applications that are forwarded in the mail to the Titles office from the regions. Preferably an electronic copy would be made and sent to the Titles office through email.**

8.2 Electronic File Back-up and Provincial File Access

Regional files are paper-based, one-of files, and stored in file rooms in each regional office. These rooms are not fire-proof with newer rooms equipped with sprinkler systems. In the interest of file security and provincial access these files should be scanned into an electronic format and stored on a shared server as back-up. On a go forward basis each file would be scanned when it is finalized and the title has been issued.

Recommendation

47. **Scan existing regional files in an electronic format as a means of back-up and to provide provincial access.**

8.3 File Tracking (Paper File)

The AMANDA (TRACTS) system is currently used to track the progress of the application. The “Process Tab” screen gives a visual as to the status of the application in the application process. As each stage of the process is completed the status of the application is updated. Although the AMANDA (TRACTS) software tracks the application process it does not track where the paper file folder containing the application is located.

Depending on the application stage, the application paper file folder could be stored in any number of filing cabinets or be sitting on a person’s desk. For example, when waiting for referrals it is stored in a specific drawer in a filing cabinet. A system is needed such that the paper file can be tracked at any time. A simple electronic database that is accessible to the entire office would be useful in indicating where the file is located. When the file is removed from the cabinet it would be “signed out” by the user by indicating this in the database.

Recommendation

48. **Develop an electronic database to track the location of the application file in the office.**

9. Staffing

9.1 Staff Turnover

9.1.1 Lands Officer I (LO-I) Position

The Lands Officer I position is the first point of contact for the public with regards to the application process. Their primary duties are to receive, check and register applications, and to refer applications to departments and agencies. In all regions there are a number of position vacancies. The application process is delayed when these positions are not filled and staff do not have time to register the application. When there is only one Lands Officer I in the office their focus is on serving clients at the front counter; application paperwork is completed when time permits. If the application is not registered then it does not move forward through the process.

The department has indicated that this position has a higher than normal turnover rate and therefore there are constant vacancies. The vacancy rate for this position, throughout all regions, is currently 55%. The vacancy rate may be attributable to the rate of pay offered coupled with the plethora of knowledge the position requires especially in determining what department and agencies to send referrals. The salary scale with respect to the work requirements of this position should be re-evaluated.

Recommendations

49. **Ensure staffing levels with respect to the Lands Officer I position are adequate to allow timely registration of Crown lands applications.**

50. **Re-evaluate the salary scale with respect to work requirements for the Lands Officer I position.**

9.1.2 Land Management Officer (LMO) Position

To a lesser extent turnover in this position is also an issue. Again, when the position is left unfilled field inspections and reports are delayed which in turn delays the application

process. This position has recently been evaluated under the Job Evaluation System and was recommended that the salary scale be reduced. This will make it more challenging to fill these positions in the future.

Recommendation

51. **Re-evaluate the salary scale with respect to work requirements for the Land Management Officer position.**

9.2 Staff Training

Much information regarding staff procedures has been developed by the Lands Branch and is located electronically on the Lands Branch server. Training resources in the directory include the ArcMap Reference Manual and the Lands Officer Manual. In addition, staff have various processes written on paper. There is no complete training manual for the AMANDA (TRACTS) system but various notes are available in the directory. Information needs to be organized such that it can be easily followed by new staff. A printed version may also be useful.

Throughout the regional offices some staff require more training in the various computer software programs required to perform their job duties. Additional training in Word, Excel, AMANDA (TRACTS) and in the GIS system(s) would be beneficial. The lack of training results in other staff having to perform duties that are not a part of their job description. Training given to employees should also be tracked.

Recommendations

52. **Continue the development of a training manual for new staff. The training manual should correspond with the policy manual.**

53. **Ensure staff are trained in the various software programs necessary to complete their job functions.**

54. **Develop and implement a training program for staff.**

10.Information Technology

10.1 Current State

The Lands Branch currently operates five distinct land information systems. These systems are used mainly for application tracking and processing, and mapping requirements.

1. Application Tracking

Applications are registered and tracked using a software package known as TRACTS (The Registration of Applications and Crown Titles System) and an imbedded software application referred to as AMANDA (Application Management and Data Automation). These systems follow the application from date of receipt of an application to final title issuance. This program is networked between Head Office and the four Regional Lands Offices and operates as a “real time” system.

2. Mapping

The Crown Lands GIS (CLGIS) system contains digital maps of the province and depicts all titles issued by the Crown. The CLGIS is used to locate Crown lands during the application process and for general public inquiries. The system was introduced in 1998 to replace hard copy maps with a networked digital mapping index depicting all Crown issued titles.

3. Land Use Atlas

The Land Use Atlas (LUA) is a land management tool that is integrated with the CLGIS. It identifies current land use and identifies land use policies in map form. The LUA provides land use information for planning with respect to resource management and aids land use planning agencies in decision making on Crown lands management. The system contains over 145 land uses applied over 13 layers of information in a geographical information format. Information is obtained from other government departments and agencies having a mandate in resource management and development. A web portal viewer has been developed and is in use throughout government. Responsibility for the LUA rests with the Land Management Division.

4. Base Mapping

Large scale base mapping (1:2500 to 1:50000) is available for all municipalities in the province. Of the 4,000 maps produced, 1,300 are available in vector digital format and can be used in GIS applications. Vector data of the National Topographic Series of maps has also been produced. The entire island portion of the province is available at 1:50000 and 1:250000 scales. All of Labrador is available at 1:250000 while over 75% of Labrador is available at 1:50000.

5. Document Imaging

Crown lands titles and related documentation are scanned electronically and can be linked with the CLGIS and AMANDA (TRACTS) system. This allows for document security and backup while allowing quick information access.

10.1.1 E-Commerce

Current e-commerce options available to the public allow for the payment of lease and licence rentals through government's website. This option can be accessed through the "I want to…Pay Online" link located on the website home page.

10.1.2 Integration - Current

Currently the CLGIS, LUA and scanned title documents have been integrated and are available to internal government users via the LUA application and through a PDF search utility. However, the transfer of information from the AMANDA (TRACTS) system to the GIS is not carried out in real time, information is updated on a daily basis.

10.2 Future State

"Land agencies around the world are recognizing the need for a modern cadastral and registry system capable of integrating computer systems, streamlining land records

business functions, improving access to information by citizens, and reducing administrative costs."[1]

Based on a review of other jurisdictions, areas that have a titles system in place are using four main information technology (IT) systems to carry out their business practices. The IT systems in place in Nova Scotia are provided below as an example; that province is in the process of moving from a deeds registry system to a land titles system.

- E-service and/or e-commerce system
    - Submit application on-line
    - Pay fees on-line
    - View land parcels on-line through a GIS system
    - Obtain maps
    - Allow applicant the ability to check the status of their application
    - Nova Scotia (Access Nova Scotia)

- Business Management Software
    - Internal system used to manage and track application processing
    - Nova Scotia (CrownLINC)

- Electronic Land Registry System
    - Online access to land ownership
    - E-submission of documents
    - User-pay system
    - Nova Scotia (Property Online (POL))

- Geomatics or Geographical Data
    - All land parcels are mapped in a computerized GIS system
    - Nova Scotia GIS system (GeoNova)

With respect to these IT systems the Lands Branch already has, to some degree, corresponding systems in place. The AMANDA (TRACTS) system is used to manage and track the application process. The CLGIS and the LUA comprise the geomatics

[1] "E-submission of Land Documents in Nova Scotia: The Technology Perspective". September 2007. p. 25. Available online.

system. Crown lands registrations are available electronically internally to government departments and to the general public through a visit to the nearest regional Lands Branch office. The e-commerce aspect is currently limited to the payment of lease and licence fees.

In the short term, the Lands Branch should maintain the current IT systems in place. These systems have been modified significantly to accommodate the lands registry system in place in the province. Additional modifications suggested in this report should be considered. Consideration should also be given to investigating whether the Municipal Support Information System (MSIS) system could be modified to provide the e-commerce recommendations suggested for the Lands Branch.

However, if and when government decides to move towards a mandatory land registration system or a land titles system it should consider replacing existing software with a software solution that integrates all business functions required for the dissemination of land information and dispositions.

Recommendation

55. **Maintain current Information Technology systems in place to carry out the functions of the Lands Branch. Consider introducing a more integrated system if and when government decides to move towards a mandatory land registration or land titles system.**

PART II - Legislative Review

Introduction

The focus of the legislative review was on adverse possession, shoreline reservations and unauthorized and illegal occupation of Crown lands, as these were the sections of the *Lands Act* identified in the Terms of Reference.

The legislative review also examined provisions of the *Act* pertaining to free grants, surveys and survey markers, ministerial authority, abandoned lands, and the Crown Lands Registry. In addition, changes to make the *Act* more user friendly were identified.

The legislation of jurisdictions reviewed for the main topic areas included Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan and Alberta. In addition, Canada was reviewed for the topic of adverse possession. British Columbia was included in the review of ministerial authority and the Crown Lands Registry.

Legislative, business process and policy changes are recommended in this part of the report to modernize the *Act* and improve the service delivery model. Further amendments to the *Act* and regulations will be required to implement these recommendations. While some suggestions for wording may be provided in this report, the final wording is a decision for legislative counsel and depends on the policy instructions received from the Lands Branch.

11.Adverse Possession

This chapter is organized differently from other chapters. The first section will provide a summary of the current legislation followed by issues identified in the consultation process. Legislative, business process and policy changes are then recommended and discussed. Next, the chapter will present three other options to approach adverse possession. They are: reinstate adverse possession; abolish adverse possession altogether; abolish adverse possession altogether after a 10 year grace period. These options were considered but not recommended. Given the importance of this matter, however, the advantages and disadvantages of each option will be discussed.

11.1 Summary of the current legislation and policy

Since January 1, 1977, adverse possession against the Crown has been abolished in Newfoundland and Labrador. There is, however, an exception. Under section 36 of the *Lands Act*, a person who can show possession of Crown lands (i.e. a person may have constructed a building, fenced or cleared the land, farmed or raised animals on the land) for the 20 years between January 1, 1957 and December 31, 1976 may be eligible for a Crown grant based on adverse possession or “squatters rights”.

To determine whether or not someone has a valid claim to the land, it has to be shown that the person (or his or her predecessor) had open, notorious, continuous and exclusive possession. The terms ‘open’ and ‘notorious’ mean actual, visible and obvious - so open and notorious as to give the true owner notice of circumstances such that the owner could not be presumed to be ignorant of the possession. ‘Exclusive’ means possession by the possessor to the exclusion of the owner and all other persons without interruption or dispute. ‘Continuous’ means constant throughout the period, without interruption.

All four aspects of this test must be met. For example, in 1955, John Doe built a house and fenced a piece of land within a community. The residents of the community consider this piece of fenced land to be private property belonging to John Doe. The period of time in which he lived there included the 20 years between January 1, 1957 and December 31, 1976. In this case, John Doe or his successor may apply for a Crown grant under this section of the *Act*.

A person can apply to the Crown Lands Administration Division of government for a "squatters rights" Crown lands grant and with it must provide two affidavits. One affidavit is required from the applicant and describes the use and occupation of the land in the relevant period of time. The other is required from an independent person familiar with the use and occupation of the land particularly in the time period between 1957 and 1977.

11.2 Issues identified with the current Legislation

Throughout the consultation process, several issues with respect to the current legislation were identified. For instance, the ability for private individuals to prove claims of adverse possession is becoming increasingly difficult. This increased difficulty is partly due to the requirement to obtain an affidavit from an independent individual who can attest to the actual use and occupation of the land from 1957 to 1976.

Another comment that was often heard throughout the consultation process was that the process is too long. It can take a considerable amount of time to receive a grant under section 36 and there is no clear public understanding as to why this is so. One of the causes identified by the Lands Branch staff for the long process times is the requirement of an inspection of the land to confirm use and occupation. This in itself provides challenges and potentially lengthy delays. Inspections cannot be performed when there is snow on the ground, as evidence to support the application is not visible.

In addition, it was noted that staff within the Lands Branch are currently playing “arm chair” lawyers by trying to verify documents as to their legal validity in order to issue a grant under section 36 which certifies title to the individual.

With respect to issues identified by lawyers, some lawyers are not willing to take the risk of being sued due to the uncertainty of certifying title and therefore will not be involved in property transactions involving Crown lands. Furthermore, title insurance cannot be obtained to protect a person if the Crown claims the lands as Crown lands. In other situations, some solicitors have certified title to individuals who have had possession for a long time but which commenced after December 31, 1976, when adverse possession against the Crown was abolished. In this case, the client could bring a claim against the solicitor’s insurance or bring an application to government to legalize title.

There is also the situation where people have been in their homes for years, only to discover their deed is groundless and the years of possession between 1957 and 1976 do not meet the test of open, continuous, notorious and exclusive possession (for example, there may have been a break in the period of occupation of the land or insufficient use of the land). However, in such cases, the person can come forward and apply for a Crown grant under section 4 of the *Act*. Unfortunately, the cost of a residential grant rose to market value in 1996, which means a much higher cost to the applicant for a grant than if they had applied when they first occupied the land.

Lastly, there is a lack of public awareness regarding the *Lands Act* in general, but also in terms of adverse possession. Although there was a campaign in 1976 regarding this issue very little has been done since then to inform people about adverse possession and encourage them to come forward with their claims.

11.3 Other Jurisdictions

With respect to other jurisdictions in Canada, several do not allow adverse possession against the Crown (e.g. Manitoba, Saskatchewan or Alberta). Ontario, Nova Scotia, New Brunswick and Canada all allow some form of adverse possession against the

Crown. Similar to the current approach in Newfoundland and Labrador, the federal government abolished adverse possession as of June 1, 1950. However someone may still come forward to seek a certificate of title in court if they can prove adverse possession against the federal Crown prior to June 1, 1950. In Ontario and New Brunswick, a person can come forward to claim adverse possession against the Crown if they have 60 years possession, whereas in Nova Scotia the time period is 40 years. With respect to the document that the applicant will receive from the Crown, New Brunswick issues grants, Ontario issues quit claims and Nova Scotia issues certificates of release (similar to a quit claim). Unlike a grant, a quit claim is not a guarantee of title. A quit claim is a certificate stating that whatever interest the Crown has in the lands, it gives to the applicant.

11.4 Recommendations

In developing the recommendations outlined below, the Review Committee took into consideration feedback received during the consultation process and the Law Society's recommendations (included below) as well as a review of other jurisdictions was completed by the Review Committee.

11.4.1 Legislative Recommendations

56. Implement the following with respect to adverse possession against the Crown:

- **i. Maintain that adverse possession against the Crown continues to be abolished after December 31, 1976.**
- **j. Maintain the 1957-1976 exception. That is, those people who can show open, continuous, notorious and exclusive possession from 1957-1976 may come forward with an application.**
- **k. Amend section 36(2) of the *Act* to add the words "immediately prior to January 1, 1977" at the end of that subsection. This would reflect the current case law.**
- **l. Continue to use the test of open, notorious, continuous and exclusive possession as the basis for acquiring an interest in Crown**

lands under section 36(2) of the *Act*. This is a widely accepted principle in the legal community which is used in other jurisdictions respecting adverse possession. It would also apply to the *Quieting of Titles Act*.

m. Issue quit claims under section 36 of the *Act*, not grants. A quit claim is a certificate stating that whatever interest the Crown has in the lands, it gives to the applicant. Unlike a grant, a quit claim is not a guarantee of title.

n. Require the quit claim to be registered in the Registry of Deeds and a copy kept in the Crown Lands Registry.

o. Provide for the issuance of a quit claim (and new up-front application requirements) to apply on a go-forward basis.

p. Work with legislative counsel to determine which provisions of the *Act* need to be amended as a consequence of the change from a grant to a quit claim, and to further amend section 36 to be reflective of other changes recommended in this report.

11.4.2 Business Process Recommendations

57. Require an application under section 36 of the *Act* to include:

f. Application including affidavit from the applicant;

g. Certificate from lawyer giving opinion as to applicant's interest in the land under the test of open, notorious, continuous and exclusive possession between 1957 and 1976;

h. Copy of deed, dated before January 1, 1977, grounding title of the applicant (if there is one) and/or affidavit of an independent person knowledgeable of the use and occupation of the land by the applicant or the applicant's predecessor during the relevant time period;

i. Abstract of title (if any documents have been registered); and

j. Survey.

58. **Initiate a process for section 36 applications to ensure that other government departments have no interest in the subject parcel of land. The quit claim issued under section 36 should state that the Crown (inclusive of all government departments) has no interest in the land and include an indemnity clause against the Crown. The quit claim may be subject to other conditions as well.**

11.4.3 Policy Recommendations

59. **Update the current policies for section 36 applications and post online.**

Implementing the recommendations identified above should reduce the time it takes to process a section 36 application. The process for issuing a quit claim as opposed to a grant, where title has to be certified, is not as laborious and therefore should not take as long to complete. The process would be applicant-driven in that the greater the quality of the application, the faster the time to process it.

This approach would no longer include Lands Branch staff making quasi-legal determinations or carrying out title research. It would also reduce government's liability because government would no longer be guaranteeing title.

Also, as mentioned previously, it was heard through the consultation process that section 36 claims are getting harder to prove because of the static time period between 1957-1976 coupled with the requirement of an affidavit. With this approach the time period will remain static; however, the current application requirement for an affidavit can be avoided if the person claiming adverse possession has a deed to the land.

The land mass of the province is vast and 88 per cent is estimated to be Crown lands. It is difficult for the Crown to monitor and enforce all Crown lands in terms of adverse possession. This approach will also protect the land resource for all people in the province.

However, implementing this approach would now require the individual to obtain the services of a lawyer before applying to the Crown Lands Administration Division for a section 36 quit claim. The current process does not have this requirement. It also requires a professional survey to be completed ahead of time which again is not a requirement of the current application process under section 36.

This approach is recommended in part due to the fact the department continues to receive approximately 200 applications per year under section 36. This option gives both the public and the department the ability to deal with a claim. Adverse possession against the Crown before 1977 needs to be addressed now through public education and proactive effort from the department. In five years it would be important for the department to re-evaluate whether it will continue to accept applications under section 36 or whether it will give the public notice of the final date for accepting these applications. In no circumstances should adverse possession against the Crown after 1976 be reinstated.

These recommendations do not change the role of the court in certifying title under the *Quieting of Titles Act*. That Act refers to an interest in lands under section 36(2) of the *Lands Act*.

11.5 Other options considered:

Three other options were considered by the Review Committee. They were:

a) Reinstate adverse possession against the Crown, as recommended by the Law Society;
b) Abolish adverse possession against the Crown, both before and after 1976;
c) Abolish adverse possession against the Crown both before and after 1976, but provide a 10 year grace period in which people who have acquired an interest between 1957 and 1976 may make application for a quit claim under the *Act.*

Some advantages and disadvantages of each of these options are presented below.

a) **Reinstate adverse possession, as recommended in the submission from the Law Society of Newfoundland and Labrador.** The following submission was provided by the Law Society in relation to section 36:

"The consequences of the most recent decisions out of the Trial Division and Appeal Division, relative to the application of the 20 year period necessary to potentially jeopardize the title of the Crown, has created real issues for our members.

The insertion by Judge Adams and confirmed by the Court of Appeal, of the word 'immediately' prior to January 1, 1977, has created a significant barrier for our members and their clients to meet. As time passes the ability to satisfy proof of open, continuous, notorious, and uninterrupted possession for this period accentuates and within a short period will be virtually impossible to prove and the ability to extinguish the Crown's interest, a legislative possibility but in essence, meaningless. A number of options to address this situation were reviewed by members and we present the following for your review and consideration:

1. *Revert to a 40 year 'registration' recognition, whereby any title registered in our public registry for more than 40 years, would be legislatively presumed to have eliminated any Crown interest. This does not confirm good and marketable title in the registered owner and would still have to be evaluated by members vis-à-vis private interest, but would eliminate concerns with respect to the Crown.*

2. *The Crown would recognize any 20 year of occupation and use (as presently accepted by members) within any municipality governed by the provisions of legislation including those creating the 'City' status, and those governed by the 'Municipalities Act'. The 20 year would apply to any 20 year period, before or after 1977;*

3. *The same would apply to any 30 years period of occupation and use, recognized by the standards of our practice, for property occupation and use, for those claiming outside areas governed by the legislation referenced above.*

These suggestions are based on a review of these and other options discussed by our members. It must be emphasized that these suggestions relate to 'regulating' Crown interest only, and does not eliminate the responsibilities of our members to confirm that the title of the client is accepted by our members as good and marketable."

Although the first of the three components of the option identified above was put forward from the Law Society it was subsequently decided, in consultation with the Advisory Committee, not to include it in further considerations of this option.

Some of the arguments heard throughout the consultation process in support of this approach included:

- Having long possession should count for something.
- Eighty-eight per cent of the province is Crown lands; there is lots of land to go around.
- Movement of the time period would make it easier to prove in years to come.
- Would make it easier/cheaper for those currently in adverse possession to obtain a grant/quit claim or certificate of title respecting the lands they possess and occupy.
- Land has been passed down through generations, sometimes based on deeds, wills, or certificates from lawyers and sometimes with no paper trail whatsoever. People have not needed a paper document until they go to sell or seek a mortgage. Family members are left trying to prove title in which the Crown may have no interest. Is it reasonable to charge them market value to clean up the chain of title?

- Adverse possession against a private landholder is 10 years. Why should the Crown be any different?
- Lands Branch staff will not be making legal determinations they are not qualified to make.

Proceeding with this approach would require consideration of the following:

- The Lands Branch would need to do more proactive enforcement immediately. If not, they would lose control of all Crown lands.
- Without strict and proactive enforcement, there would be a loss of:
    - Environmental control
        - Uncontrolled developments and waste can affect groundwater and, in turn, drinking water.
    - Planning control
        - People could build on a flood plain and if government does not enforce the law, in 20/30 years the occupant may make a claim to the land.
        - There are infilling areas where development is approved. That is for shared health care, education, transportation, infrastructure, etc. Residential development is discouraged outside these infilling areas and outside municipal planning areas. Illegal adverse possession makes planning more difficult.
    - Protection of ecology and archaeology.
- It is not fair to those people who, since 1977, paid for their land. If they had waited until the change in the law, and had 20/30 years possession, they would have gotten it for very little cost.
- Government does not always know what is and is not Crown lands. Therefore, it cannot be properly monitored to ensure that this approach is not taken advantage of.

- People who have an interest in coastal trail development and maintenance are concerned that this land will be easy to get and will take away their access and everything they have worked towards.
- Are there special management areas or restricted areas where people will now claim an interest in the land through adverse possession?
- It would have to be made clear that if adverse possession against the Crown were reinstated, that it would not apply to decisions made by the court before the change in the law.

b) No adverse possession against the Crown, both before and after 1976.

Some of the arguments in support of this approach included:

- People can still apply for Crown grants under section 4 of the *Act* if they are on Crown lands or wanting to apply for a Crown lands grant in an accepted area.
- The law will be upheld as some believe it was intended to be in 1977.
- Eliminate issues with "proof" of adverse claim, e.g. affidavits, test of open, notorious, continuous and exclusive possession, etc.
- Lands Branch staff will not be making legal determinations they are not qualified to make.
- Maintain environmental control. Certain areas of land cannot handle high population density. For example, the carrying capacity of ponds would be compromised. Uncontrolled development and waste can affect groundwater and, in turn, drinking water.
- Maintain planning control
    - The land could be on a flood plain.
    - There are infilling areas where development is approved. That is for shared health care, education, transportation, infrastructure, etc. Residential development is discouraged outside these infilling areas and outside municipal planning areas. Illegal adverse possession makes planning more difficult.
    - Protection of ecology and archaeology.

- The province is vast. Eighty-eight per cent is Crown lands. There is no way the Crown can monitor all of the land in terms of adverse possession. This will protect the resource for all people in NL.
- Government took a "revolutionary" step in 1976 to abolish adverse possession on a go-forward basis. To turn back would be chaos.

If this approach were to be further considered by government, the following should be thought through:

- People who have valid claims, but have not come forward, would no longer be able to apply under section 36 and therefore would have to apply for a grant and pay market value (or some other rate determined by government in policy).
- Some people are of the view that there always has to be a policy to allow for adverse possession, especially if the Crown is not going to carry out enforcement.

c) No adverse possession before or after 1976 with a 10 year grace period for those claiming between 1957-1976 and issue quit claim.

Some of the arguments in favour of this approach included:

- Would allow people who have valid claims to still come forward for another 10 years to get a quit claim.
- People can still apply for Crown grants under section 4 of the *Act* if they are currently on Crown lands or wanting a grant in an accepted area.
- The law would be upheld as some believe it was intended to be in 1977.
- After 10 years, issues with "proof" of adverse possession, e.g. affidavits, test of open, notorious, continuous and exclusive possession, etc. would be eliminated.
- Lands Branch staff would not be making legal determinations they are not qualified to make.
- Maintain environmental control. Certain areas of land cannot handle high population density. For example, the carrying capacity of ponds would be

compromised. Uncontrolled development and waste can affect groundwater and, in turn, drinking water.

- Maintain planning control
    - The area could be a flood plain.
    - There are infilling areas where development is approved. That is for shared health care, education, transportation, infrastructure, etc. Residential development is discouraged outside these infilling areas and outside municipal planning areas. Illegal adverse possession makes planning more difficult.
    - Protection of ecology and archaeology.
- The province is vast and an estimated 88 per cent is Crown lands. There is no way the Crown can monitor all of it in terms of adverse possession. This will protect the resource for all people in NL.
- Government took a "revolutionary" step in 1976 to abolish adverse possession on a go-forward basis. To turn back would be chaos.

If this approach were to be further considered by government, some things to think through include:

- Even with a public awareness campaign people may not know that they do not have title to their land from 1957-1976 and therefore still will not come forward and will lose the opportunity to do so after 10 years, at which time their only option will be to come forward and apply for a grant and pay market value (or some other rate determined by government in policy).
- A static time period between 1957-1976 makes it hard to prove valid claims as years go by.

12.Shoreline Reservations

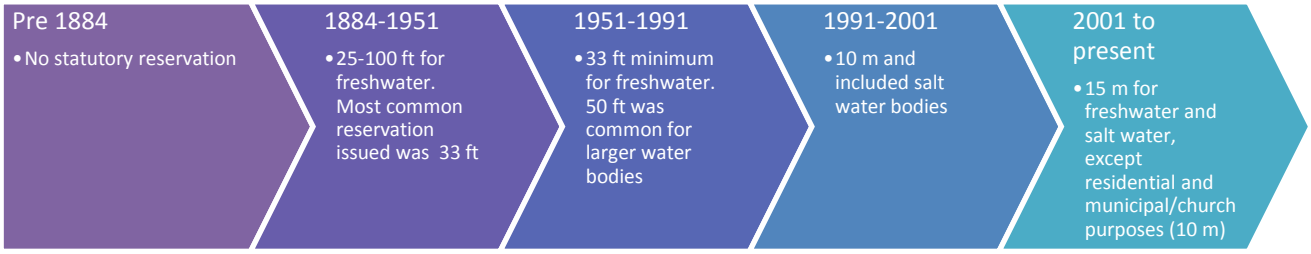
12.1 History of the Size of the Shoreline Reservation

The first statutory shoreline reservation was created under the *Crown Lands Act*, *1884* and has existed since then. Between 1884 and 1951, the statutory reservation for Crown titles was a minimum of 25 feet to a maximum of 100 feet; however, the vast majority of titles were issued based on a width of 33 feet. Thirty-three feet was used because it represented half of one chain (50 links) and was a convenient and practical measure for surveying purposes. It was also a common width of many secondary road allowances. The statutory reservation applied to land bordering on freshwater only.

The amendment to the *Crown Lands Act* in 1951 created a fixed minimum width of 33 feet around freshwater bodies but it did not stipulate a maximum. Although not a legislative requirement, it became common practice for the Crown to stipulate a width of 50 feet for major water bodies. In addition, when environmental legislation was enacted in the 1970's, a width of 50 feet was used by the Water Resources Division for protecting a strip of undisturbed vegetation between water bodies and upland developments. Today a development within 15 metres (49.2 feet) of a water body may require a permit under the *Water Resources Act*.

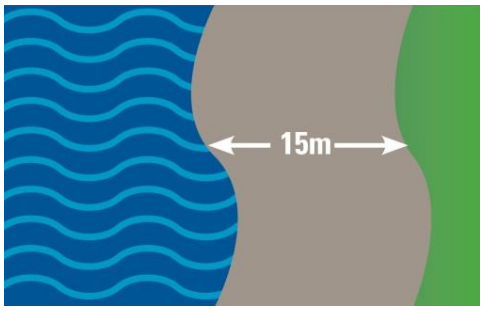
As with earlier legislation, the *Lands Act* passed in 1991 maintained a reservation of 10 metres (32.8 feet); however it also stipulated, for the first time, that the statutory reservation now applies to salt water. An amendment to the *Lands Act* in 2001 expanded the statutory reservation to 15 metres (49.2 feet) on all lands bordering fresh and salt water, with three exceptions. The 10 metre size was retained for residential purposes; municipal or church purposes; or for the purpose of a title granted pursuant to a lease or licence issued before 2001.

Figure 5. History of statutory shoreline reservations



12.2 Summary of the current legislation and policy

Under section 7 of the *Lands Act*, a 15 metre wide area of Crown lands surrounding a lake, pond, seashore or foreshore or along each bank of a river is to be reserved. This shoreline reservation is publicly accessible unless, in limited circumstances, a grant, lease or licence to the area is issued under the *Act*.



There are three exceptions. A 10 metre wide reservation is required under the legislation for the following: a) residential purposes; b) for purposes referred to under section 9 of the *Act* (i.e. free grants) including the installation of water and sewer works and the construction of public roads by a municipality; and c) for the purpose of a title document that is granted pursuant to a lease, licence or permit to occupy issued before 2001.

There are certain circumstances in which a person may apply to government for a grant, lease or licence on the shoreline reservation. It must be based on one of the following circumstances:

- Required for the purpose of an industrial undertaking
- Enable a person to carry out aquaculture activities
- Enable a municipality to engage in water and sewer works and to permit the construction of public roads
- Construction of boat houses and wharves to the extent that they intrude on the reservation
- Where a structure, built before April 1, 1992, is used as a residence and intrudes on the shoreline reservation, only to the extent of the intrusion

An individual wishing to apply for a Crown lands grant, lease, or licence under this section must first publish a notice of intent in the *Newfoundland and Labrador Gazette*, one local paper and one weekend edition of a paper having general circulation within the province at least two months prior to making the Crown lands application. People who wish to object to the application are required to write to the minister within one month of the publication of the notice.

12.3 Other Jurisdictions

There is no consistent approach to shoreline reservations in the other six jurisdictions reviewed. New Brunswick has a 10 metre reservation on freshwater bodies and Manitoba has a 30 metre reservation for land that extends to the sea or to the shore of navigable waters. Both are measured from the high water mark. They can be subject to conveyance, and public rights of passage are identified in the legislation. Ontario provides for a reservation at a depth determined by the minister, depending on the amount of public lands fronting a waterbody. Saskatchewan's legislation reserves the public rights of access to a waterbody and passage over a portage road or trail, without reserving a specified size of land.

As discussed above, Newfoundland and Labrador's *Lands Act* contains the list of developments for which a title document may be obtained with the shoreline reservation. This approach does not appear to be taken in the Crown lands Acts of the other jurisdictions reviewed. They provide for conveyances within the reservation but

without stating the purpose. The legislation may however require permits for development. Ontario, for example, requires permits for particular developments on shoreline reservations while providing a free use policy for small boathouses and wharves.

12.4 Recommendations

In developing the recommendations outlined below, the Review Committee took into consideration feedback received during the consultation process, the business process review as well as an analysis of other jurisdictions completed by the Review Committee.

12.4.1 Legislative Recommendations

Reservation Area

Newfoundland and Labrador is a leader in the preservation of its shoreline for all to enjoy. During the consultation process, the majority of participants made it very clear that they would like government to continue to preserve and enforce the shoreline reservation. The reservation is currently 15 metres, with the exception of 10 metres for specified purposes such as residences. Several municipal plans were looked at and most already require a consistent 15 metre shoreline reservation for all purposes.

Recommendation

60. **Provide a 15 metre shoreline reservation for freshwater and saltwater bodies for all purposes. In other words, maintain section 7(1) of the *Act*, remove section 7(1.1), and grandfather those titles that already have less than a 15 metre shoreline reservation.**

Ministerial Authority

Cabinet approval is currently required for all section 7 – Shoreline Reservation applications. This includes routine applications for boathouses and wharves. A lot of time is invested by Lands Branch staff in preparing documentation for Cabinet review for these applications when in most cases the applications are approved. Approval for

these ‘routine’ applications should rest with the minister responsible for the *Lands Act*. Commercial and industrial applications (except commercial boathouses and wharves) would continue to require Cabinet approval.

Recommendation

61. **Allow the minister to approve some section 7 applications (e.g. boathouses, wharves, etc.) and maintain Cabinet approval for other applications (e.g. intrusions on the reservation, aquaculture and industrial undertakings).**

Regulations

Currently the only development which can be approved on the shoreline reservation is for the purposes of aquaculture, industrial undertakings, municipal water and sewer works, construction of public roads, boathouses, wharves and preexisting residences that intrude on the reservation to the extent of the intrusion only. This definition is very prescriptive especially in terms of private development on the shoreline reservation.

Currently the Lands Branch will work with someone to the best of their ability to fit a development into one of the allowable categories or the person will go ahead and carry out the activity without acquiring proper title to do so. In order to try and reduce the number of people who go ahead without proper title, and to be consistent with the policy approach (i.e. that this section is intended to preserve access to the shoreline reservation for public use), it is recommended that developments that can be approved on the shoreline reservation be expanded and moved into regulations.

The regulations would clearly identify which developments require a title document (e.g. aquaculture, industrial undertaking, etc.) and which ones do not require a title document (e.g. municipal water and sewer works, public roads, etc.). It is further recommended that allowable developments include such things as walking trails, airplane hangars, fishing stages, stores, slipways, etc. Most importantly, there will continue to be the following provision in the regulations that pertains to most developments allowed on the

shoreline reservation: *there is to be no restricted access to the reservation on the part of the general public by erecting a fence or other means*.

The publication requirements of a notice of intent for an application on a shoreline reservation should also be moved to the regulations.

Recommendations

62. **Move what can be approved on the shoreline reservation to regulations and broaden the definition of what can be approved.**

63. **Remove the requirement currently in the *Act* for municipalities to obtain a title document from the Lands Branch before carrying out water and sewer works or the construction of public roads on the shoreline reservation.**

64. **Remove the details regarding a notice of intent from the *Lands Act* and place in regulations.**

Adverse Possession and Shoreline Reservations

Section 7 regarding shoreline reservations is intended to ensure that the shoreline remains publicly accessible. However under section 36 a person who can show open, notorious, continuous and exclusive possession of Crown lands within the shoreline reservation from 1957-1976, may have acquired an interest in the lands and may apply for those lands. It is reasonable that those who have an interest in Crown lands on the shoreline reservation and make an application under section 36 should not be required to make a separate application under section 7. Also, their possession of the shoreline reservation should not be limited to a use or development enumerated in section 7 or the proposed regulations.

Recommendation

65. **Include a provision in section 36 of the *Act* to the effect that where a quit claim is issued that covers a portion of the shoreline reservation, the approval process under section 7 does not apply.**

12.4.2 Business Process Recommendations

Notice of Intent

The Review Committee recommends that applicants for grants, leases or licences on the shoreline reservation be required to advertise notices on the government or Crown Lands website, instead of in newspapers or the *Gazette*.

Newspapers are no longer circulated province-wide and people do not regularly view the *Gazette*. In addition, the cost to advertise in a newspaper may be prohibitive to some individuals. Rather than incur these costs some may decide not to bother with the application process, go forward with their development, and deal with the consequences, if any, in the future.

Although the *Gazette* and most newspapers in the province are published online, not everyone has access to a computer or the internet. The same issue would apply to information posted on the Crown Lands website. To address this issue, a copy of the notice of intent would also be required to be posted at the location where the development is to occur. As well, the minister may also require posting in public areas in the community and within adjacent communities, such as the post office, or a community or town hall.

Under the current process, at times an applicant will have advertised the notice of intent only to have the application refused through the referral process and thereby rejected by the Lands Branch. This situation is highly probable for applicants who do not have easy access to the regional offices and submit an incomplete application. Therefore, a notice of intent should only be posted after the application is registered.

If the application is registered by the Lands Branch, then the applicant should be notified and required to post a notice of intent online and onsite. Posting online and onsite will be for 30 days. A person who objects to the development will have 30 days to notify the minister from the date the notice of intent was first posted online and onsite, whichever is later.

Recommendations

66. **Discontinue advertising notices of intent for applications on the shoreline reservation in the *Newfoundland and Labrador Gazette* and newspapers. Require public notice on the Crown Lands website and at the actual physical location of the proposed development. Enable posting at an additional location at the discretion of the minister.**

67. **Require publication of the notice of intent for a shoreline reservation application after the application is registered with the Lands Branch.**

68. **Change the timelines for the filing of objections to a shoreline reservation application to 30 days from the date the notice of intent was first posted by the applicant online and onsite, whichever is later.**

12.4.3 Policy Recommendations

Measurement of shoreline reservations

Another issue heard during the consultation process, with reference to the shoreline reservation, is that it does not always contain walkable land. However, using the high water mark as an environmental marker is a standard in many other jurisdictions that have shoreline reservation legislation. Through its research and investigation, the Review Committee could not find an alternate standardized means to measure the shoreline reservation in order to ensure it always encompasses a portion of walkable land.

The Committee is aware that 15 metres from the high water mark may still be along the face of a cliff, depending on its slope. It may not include walkable land. The Committee contemplated a measurement that would provide for a continuous strip of walkable land along the seacoast or a riverbank. In doing so, the Committee considered using as a measurement for the seashore or a riverbank, a size of 15 metres from the edge of a cliff, even if below the cliff there is an accessible beach of any size. However, given the size and nature of the shoreline, the standard approach using the high water mark was preferred. Therefore it is recommended to continue to measure the shoreline reservation from the high water mark.

The statutory shoreline reservation is a minimum only. Other mechanisms may be explored by the department on a case-by-case basis for undeveloped land.

Recommendation

69. **Maintain measurement of the 15 metre shoreline reservation from the high water mark.**

Description of Notice of Intent

Currently the description requirements for a notice of intent are very vague and sometimes it is difficult to determine where the development will occur exactly. Therefore, it is suggested that the policy regarding the notice of intent be revised to ensure that a more specific description of the location of the development be included. For example, it could require the applicant to provide GPS coordinates for the location.

Recommendation

70. **More clearly define the description of what needs to be included in the notice of intent for an application within the shoreline reservation.**

Small Boathouses and Wharves

Consideration should be given to adding as a condition of a residential or cottage lease, licence or grant that is adjacent to a shoreline reservation, a clause that would permit the holder of the lease or grant to construct a small boathouse or wharf. The holder would not require a further title document from the Lands Branch.

The holder would not be permitted to restrict access to the reservation on the part of the general public by erecting a fence or by other means. The department would have to provide clear policy direction for this condition. The department may wish to consult with the Department of Environment and Conservation or Department of Fisheries and Aquaculture before finalizing the policy direction. Some things to consider are:

i. Size of the boathouse and wharf under this condition would have to be clearly outlined. For example the size of a wharf may be 3-4 feet wide and 15 feet long. Similarly, the maximum size of a boathouse allowed may be one story high (10 feet) and 15 feet x 15 feet. A boathouse of this size would hold a boat and storage only.
ii. The boathouse or wharf is not to cover the full width or the full length of the reservation. Need to allow public access.
iii. Only one wharf and one boathouse allowed in the shoreline reservation that is adjacent to the land granted, leased or licensed.
iv. Person building the boathouse or wharf must be the holder of the lease, licence or grant to land adjacent to that reservation (in other words, the upland owner). If the person is not the upland owner then that person would need to apply to Crown lands for proper title and approval.
v. No notice of intent would be required.
vi. If there is a traditional trail or footpath on the shoreline reservation, then the person cannot cover it with a wharf or boathouse.
vii. Boathouses are not to include living quarters as they are not allowed on shoreline reservations.
viii. Creosote wood is not to be used.

ix. Other conflicts – The department will have to consider whether the permission in the lease, licence or grant might conflict with existing or proposed development on the shoreline reservation (e.g., aquaculture, trail development) and how that might be resolved amicably.

x. The holder may require further permission from another government department or agency (Water Resources Division or Department of Fisheries and Oceans, for example) or from a municipality. That would be the responsibility of the holder to obtain such permission.

xi. Grandfather provision – The department may, by regulation, consider adding this as a condition to existing cottage or residential leases or grants adjacent to a shoreline reservation, provided that the construction of or an existing small boathouse or wharf will not conflict with the carrying capacity of the water body or an existing use of the shoreline reservation, and all of the other conditions are met.

Recommendation

71. **Consider adding as a condition of a residential or cottage lease, licence or grant that is adjacent to a shoreline reservation, a clause that would permit the holder of the lease or grant to construct a small boathouse or wharf. The holder would not require a further title document from the Lands Branch.**

Communication

The current website and information contained on it is not clear. The public are unsure as to what waterbodies should have a shoreline reservation (e.g. brooks) and surveyors are unclear as to when it is 15 metres versus 10 metres. The province should look at a broad public awareness program to make people aware of their responsibilities regarding shoreline reservations and rights-of-way.

Recommendation

72. **Improve communication with the public respecting shoreline reservations.**

13.Unauthorized and Illegal Occupation of Crown Lands

13.1 Summary of current legislation

There are various sections in the *Lands Act* which address the occupation or possession of Crown lands without proper authorization, for example, building a cottage on Crown lands without having a Crown title issued for the land. These sections include:

Court order (Section 30) - When a person forfeits rights to Crown lands and refuses to vacate the land or when a person is wrongfully in possession of Crown lands, government can apply to a judge of the Trial Division for an order that the person deliver up the lands to the Crown.

Offence (Section 31) - A person who encloses, marks off or takes possession of Crown lands who does not have the right to do so is guilty of an offence and is liable on summary conviction to a fine of $1,000 or more or up to three months in prison, or both a fine and imprisonment.

Removal of structure (Section 32) - Government can issue a written notice to anyone who places a structure (i.e. building, wharf, fence, trailer, bus or other motor vehicle converted for the purpose of habitation, a wall or materials that may be used in the erection of a structure and the contents of the structure) on Crown lands who does not have authorization to do so, to remove the structure within 60 days. If the structure is not removed within 60 days the person can be charged with an offence and fined $25 for each day that the structure remains on Crown lands. Government has the right to remove or demolish the structure and the costs associated with removal or demolition may be recovered from the person who erected, maintained or used the structure.

Stop Order (Section 33) - A person who is erecting a fence, clearing land, erecting a building, placing materials to erect a building, or constructing a road may be ordered to stop doing that activity and to restore the lands to their original condition.

Appeal (Section 34) - A person has 14 days to appeal a stop order to the Trial Division.

Where order not obeyed (Section 35) - If a stop order has not been complied with and no appeal has been filed within the 14 days, a government employee who is designated to do so can carry out the restoration ordered. The cost may be recovered by government. Every person on whom an order is made and who refuses to comply can be fined at least $25 for each day of refusal and in default of payment can be imprisoned for up to three weeks.

13.2 Issues identified with the current legislation

Throughout the consultation process one of the most common themes heard was that there is currently a lack of enforcement of unauthorized occupation of Crown lands. Participants suggested that the Lands Branch do not have enough staff or resources to patrol and police the vast amount of Crown lands that make up Newfoundland and Labrador. This was extremely concerning to participants especially in terms of environmental and public health concerns not being addressed. Several participants mentioned the Gravel Pit Camper campaign that government launched in 2009 which sought to address the illegal use and occupation of Crown lands for gravel pit camping. These sites can inflict a lot of environmental damage in terms of septic waste etc. and participants were grateful that government had the political will at that time to address the issue. Unfortunately the campaign was brief and did not address all illegal gravel pit sites and as such there are still gravel pit campers around the province who are causing damage to the environment.

Another issue that was heard from participants was that there needs to be more consistency in what is enforced, and that the politics should be taken out of the process. Several participants in several different sessions commented on the apparent interference of MHA's in the Crown Lands process. Both in terms of advocating for the approval of applications as well as advocating to not enforce particular illegal occupants. With this type of pressure on staff and enforcement officers it is very difficult

to be seen as doing a fair and consistent job at enforcement. Some participants went as far as to say 'if you create the law then you need to enforce it'.

In the current legislation some of the issues identified included the lack of a deterrent in terms of fines and penalties. Participants mentioned that the fines and penalties are not stiff enough to deter people from doing what they know is illegal. It was also heard that the value of the land should be appreciated and that government should do a better job at communicating with the public what is, and is not, legal with respect to Crown lands.

Another underlying theme heard throughout the consultation process was that enforcement would be much easier if government knew what is Crown lands. One of the issues with the current enforcement of illegal use and occupation of Crown lands is that government does not know what is Crown lands until someone comes in to apply for the land and it is investigated as to whether or not it actually is Crown lands. Hence if government were to move toward a mandatory land registration system it would make enforcement much simpler and much more consistent.

13.3 Recommendations

In developing the recommendations outlined below, the Review Committee took into consideration feedback received during the consultation process, a business process review as well as an analysis of other jurisdictions.

13.3.1 Legislative Recommendations

Offences

It is suggested that the Lands Branch determine what is considered to be unauthorized use and occupation of Crown lands and provide more clarity in the legislation. For example, some jurisdictions specify dumping or filling on Crown lands as an illegal use. The Lands Branch may wish to review New Brunswick's legislation in this respect.

Recommendation

73. Examine the provisions in the *Act* respecting offences and clearly state what is unauthorized use and occupation of Crown lands.

Ministerial Compliance Order

Currently, the minister can remove or demolish an unauthorized structure. There is no ability for the minister to impound, sell, auction or otherwise dispose of the structure or the contents of the structure. Restoration of the land is addressed in the provision on stop orders but not in the provision on removal notices.

The jurisdictional scan shows how buildings or things in other jurisdictions become the property of the Crown. For instance, when the minister issues a warrant in Ontario to deal with unauthorized use or occupation, the building or thing becomes the property of the Crown and can be sold, disposed of or destroyed at the minister's direction. The minister can alternatively decide not to take possession. In New Brunswick, the minister can carry out any measures to effect compliance, such as a) restoring land or b) taking possession, removing or disposing any property or thing that is constructed, placed, left, abandoned or disposed of on Crown lands. In Manitoba, Saskatchewan and Alberta, when an order for possession is made by the court, any buildings or structures on the land become the property of the Crown.

A broader section in Newfoundland and Labrador is needed. As the department examines this provision, it may also examine whether there continues to be a need for a separate stop order provision and the current appeal process for a stop order.

Recommendation

74. Expand the actions that the minister or an inspector/enforcement officer may order or take to bring about compliance, including measures to deal with an unauthorized building, structure or thing on Crown lands. Ensure that the costs and expenses of the minister or an inspector/enforcement officer can be recovered as a debt owed to the Crown.

Restoration of land

The provisions of the *Act* that currently address restoration refer to restoration of the land to its original condition. That may not be possible nor satisfactory if the restoration would create greater environmental harm.

Recommendation

75. **Enable the court, the minister or an inspector/enforcement officer to order restoration of the land to the satisfaction of the minister.**

Illegal Structure

Currently the definition of illegal structure is limited to a wharf, building, fence, trailer, bus or other motor vehicle converted for the purpose of habitation, a wall or materials that may be used in the erection of a structure and the contents of a structure. Through consultations it was noted that this definition is very limited as it does not include gates or other man-made structures or barriers such as rock walls, boulders placed to block access, etc. Therefore it is suggested that the definition of illegal structure be amended to include gates and other man-made structures or barriers.

Recommendation

76. **Update the definition of illegal structure to include gates and other man-made structures or barriers.**

Time to comply

During the consultation process, some people expressed the view that 60 days (to a maximum of 6 months upon approval) is not long enough to comply with a removal notice and others expressed the view it is too long. One reason given to extend the time is the transient nature of our work force. In our current work environment it is reasonable to believe that many people work away for six months of the year and

therefore may not have received the removal notice before the 60 day period has lapsed. Similarly, if the structure is a seasonal structure then the person may not return within the 60 days to see and adhere to the removal notice that has been posted on the structure. On the other hand, it was suggested that a person who has received the removal notice personally should not be given extra time to remove the structure.

Recommendation

77. **Change the length of time to comply with a removal notice by requiring compliance within the time period set out in the notice.**

Emergency removal of structures

In the *Lands Act* there is no provision to allow inspectors and enforcement officers to deal with the emergency removal of structures that are a public safety concern. For instance, inappropriately placed wires, ropes, chains, etc. One scenario cited during consultations was a wire pulled across a beach. Currently there is no provision in the *Act* which allows an officer to immediately remove the wire, however leaving it intact for any period of time poses a public safety risk and could cause serious harm. Therefore it is suggested that a provision be added to the *Lands Act* to allow for the emergency removal of structures that inspectors/enforcement officers have reasonable grounds to believe is a public safety risk.

Recommendation

78. **Include a provision in the *Act* to address emergency removal of a structure or hazard.**

Fines

A penalty should serve as a deterrent but the current penalty of $1000 (minimum) or three months in prison (or both) for an offence or $25 a day for failure to comply with a removal notice or a stop order does not serve this purpose. While three months

imprisonment is a satisfactory penalty, the size of the fine should be increased and commercial offenders should be subject to higher fines than individuals.

Examples of fines in other jurisdictions are as follows. In Alberta, the maximum fine for the majority of offences under the *Public Lands Act* is $25,000 for an individual and $100,000 for a corporation. Offences that involve willfulness have a maximum fine of $100,000 and $1,000,000 respectively. The fine for contravention of Crown lands legislation in New Brunswick is a maximum of $20,500 except for subsequent offences or where a corporation is fined an extra amount (a maximum of $20,000 extra). In Manitoba's lands legislation, the general penalty is a maximum of $10,000.

A comparison can also be made to fines in other Newfoundland and Labrador legislation. For example, a fine under the *Environmental Protection Act* and *Water Resources Act* is between $500 and $10,000 for an individual (except a maximum of $50,000 for contravention of environmental assessment provisions) and between $1,000 and $1,000,000 for a corporation. The maximum fine under the *Animal Health and Protection Act* is $50,000. The maximum fine under the *Wild Life Act* is $5,000 for a first caribou or moose-related offence, and $10,000 for a subsequent caribou or moose-related offence. The same structure applies to maximum fines under the *Aquaculture Act* at $5,000 for the first offence and $10,000 for a subsequent offence.

Recommendations

79. Increase the current fines in the *Act*.

80. Subject commercial offenders to higher fines than individuals and include a provision in the *Act* whereby a director can be charged with an offence whether or not the corporation has been prosecuted or convicted.

Ticketing and Administrative Penalties

A ticket is a way to commence a proceeding for an offence without having to bring a prosecution in court. An administrative penalty is an alternative to both ticketing and to bringing a prosecution. New Brunswick and Manitoba have a ticketing regime. Alberta provides for both regimes, although the only offences that are currently ticketable are those pertaining to recreational access. In Newfoundland and Labrador, ticketing and administrative penalty regimes are provided for in legislation pertaining to environmental protection, fish inspection and aquaculture. More information will be provided to the Lands Branch for their consideration before implementing this approach. This would require amendments to the *Lands Act* and the creation of regulations.

Recommendation

81. Introduce ticketing and administrative penalties.

Limitation Period

The limitation period to bring a prosecution under the *Lands Act* is currently one year. To be in line with other jurisdictions (i.e. New Brunswick, Ontario and Alberta), the limitation period for bringing a prosecution should be increased to two years, and it should be from the date the Deputy Minister becomes aware of the alleged offence.

Recommendation

82. Increase the limitation period for the prosecution of an offence under the *Act* to two years.

Powers of the Officer

Other Acts in Newfoundland and Labrador contain a section that the inspectors/enforcement officers have the powers, authorities and immunities of a peace officer under the Criminal Code. This provision should be added to the *Lands Act*. In addition, the department should examine whether a limitation of liability clause would be

appropriate. Moreover, powers of inspectors/enforcement officers respecting inspections and investigations need to be reviewed by the department and expanded, if necessary. Any additional provision concerning an offence for interfering with an inspector/enforcement officer would also need to be considered.

Recommendation

83. Expand the provisions of the *Act* concerning the powers of inspectors/enforcement officers.

Partner with other departments

It has been identified that the Lands Branch does not have enough staffing resources to enforce the *Act* properly especially considering the vast geography that they must cover. Therefore it is suggested that the Lands Branch partner with enforcement officers from other departments such as Environment and Conservation and the Forestry and Agrifoods Agency, to allow officers from other departments to identify illegal structures and a) either notify a Crown lands enforcement officer or b) allow other department officers to enforce the *Lands Act*. Partnering with other departments would reduce costs associated with multiple enforcement officers from different departments completing work in the same area and would create operational efficiencies. This would require an amendment to the *Lands Act* to enable the minister to designate people from outside the department as inspectors/enforcement officers.

Moving a step further in this direction would be for government to set up an enforcement authority in which there would be a separate agency of enforcement officers designated to enforce several Newfoundland and Labrador Acts. Officers would be responsible for enforcing Acts which cover wildlife, forestry, environment and Crown lands. For example see the British Columbia enforcement authority.

Recommendation

84. Partner with other departments and agencies with respect to enforcement.

Special Management Areas

Section 58 of the *Lands Act* refers to the designation of a minister responsible for the administration of a special management area. It should be expanded to give that same minister responsibility for the inspection and investigation of the area.

Recommendation

85. **Amend the legislation so that the department administering a special management area may also be responsible for compliance and enforcement of the regulations pertaining to the area.**

13.3.2 Business Process Recommendations

Field Investigations

It was identified throughout the consultation process and the business process review that field inspections and the appropriate follow up procedures are not being followed currently by Lands Branch staff. For example, conditions on leases are not always followed up to ensure compliance. This is not acceptable as government has to hold itself accountable, as do holders of leases and grants. In relation to this, with the follow up inspections, the Lands Branch should also more frequently and more consistently enforce the reversion of Crown lands if the development for the specific purposes is not adhered to within strict timeframes.

Priority is placed on approval of applications rather than compliance. Staffing shortages and the amount of paper work required does not allow time for follow up of compliance issues. Compliance is typically not followed up unless a complaint is received.

Recommendation

86. **Complete field investigations and carry out follow up procedures to ensure compliance.**

Delegation of Authority

The delegation of authority in the *Act* and policies with respect to stop orders and removal of structures is not followed in practice. Policy AD.002 delegates ministerial authority for the issuance of a stop order to a Land Management Officer or Land Survey Inspector under the authority of the Regional Lands Manager or Manager of Crown Lands Administration. A removal of structure notice is delegated to a Regional Lands Manager and the Manager of Crown Lands Administration. Currently in practice the Land Management Officer has to provide information in writing and seek approval before issuing a stop order or a removal notice.

In addition to requiring a written document, a stop order requires several additional site visits. This process involves more time of the LMO; time that could be spent conducting field inspections. Also, it should be noted that much work could be completed on the structure from the time the complaint is received to when a stop order is posted, and if the structure was completed in that time period then the LMO would have to go back and request permission to issue a removal notice.

Staff currently have delegated authority to post stop orders and removal notices and it is suggested that they be allowed to act on this authority.

Recommendation

87. **Follow the delegation of authority as outlined in the policy manual with respect to the issuing of stop orders and removal of structures.**

Resources and Leadership

Inspections and investigations require dedicated time and resources. They also require a level of oversight and leadership. At the management level in the Lands Branch, leadership for compliance and enforcement should be separate from leadership for the administration of Crown lands.

Recommendation

88. Consider the addition of resources and a management-level position within the Lands Branch with responsibility for compliance and enforcement.

Public reporting of complaints

Participants during the consultation process identified a need for a formalized mechanism to allow residents to contact the Lands Branch and identify people who they believe to be using or occupying Crown lands without the authorization to do so. Therefore it is suggested that the Lands Branch implement a means for the public to submit complaints about potential offenders. One method that could be explored is an anonymous online complaints portal so that the public can submit complaints electronically and a Lands Branch staff member can be tasked with monitoring and fielding out complaints to the appropriate staff members for follow up.

Recommendation

89. Implement a means for the public to report complaints.

13.3.3 Policy Recommendations

Public Education

It was identified through the consultation process that government could do a better job of informing the public on what is and is not legal under the legislation in terms of use and occupation of Crown lands. For example, a proactive approach would be to include signage on forest roads indicating necessity of Crown title for structures; develop brochures and place them in public places such as regional offices and post offices; and create an awareness campaign and education on the implications of encroaching on Crown lands, etc. In addition, the Crown Lands website could be updated to provide the necessary information to inform the public.

Recommendation

90. Provide more education to the public on what is and is not legal under the legislation in terms of use and occupation of Crown lands.

Policies

In the current policy manual there is a policy regarding the illegal occupation of Crown lands which is several years old and appears to be outdated. A revised policy should include procedures and practices for compliance and enforcement of unauthorized occupation of Crown lands.

Recommendation

91. Update the Lands Branch policy on compliance and enforcement and post online.

Training

Considering the changes recommended in this report for compliance and enforcement of the *Lands Act*, i.e. introduction of ticketing and administrative penalties, it is recommended that a mandatory training program be implemented for inspectors/enforcement officers under this *Act*.

Recommendation

92. Provide more training to inspectors/enforcement officers.

Focused and Targeted Approach

Recognizing that there is a vast amount of Crown lands within the province requiring monitoring and enforcement, it is suggested that the Lands Branch take a focused and targeted approach to enforcement. The Lands Branch should focus its efforts on the prevention, management and resolution of those unauthorized occupations that through a risk based assessment approach, pose the highest environmental and public safety risk to the Crown and to the people of the province.

Recommendation

93. Emphasize a focused and targeted approach to compliance and enforcement.

Gravel Pit Campaign

In 2009, the Department of Environment and Conservation (who at the time had responsibility for Crown lands) launched a gravel pit camper campaign to focus on those who have set up long-term or permanent occupation of land to which they do not have legal title. Many of these illegal structures pose a threat to public health and safety. There are also environmental concerns due to a lack of proper infrastructure, and some have also been built in areas where requests for titles have previously been refused. Therefore it is recommended that this campaign be reinstated and that unauthorized gravel pit campers again be targeted and posted for removal.

Recommendation

94. Reinstate the Gravel Pit Campaign from 2009.

14.Free Grants

14.1 Summary

Under section 9 of the *Lands Act,* the minister can grant up to 10 hectares of land free of charge for the site of a church, school, cemetery, municipal building or municipal recreational park. While the grant is free the applicant must still pay an administration fee.

Through the consultation process some participants identified an interest in increasing the purposes for which a grant can be issued for free. Some suggestions were to include affordable housing, cultural heritage, environmental protection, municipal roads, and economic development within section 9.

When comparing across the legislation of other jurisdictions, Newfoundland and Labrador appears to be in the middle. That is, of the six provincial Acts examined on the issue of free grants, three had explicit free grant provisions and three did not. Of those jurisdictions that did have free grant provisions, two (Manitoba and Saskatchewan) included more purposes for which lands could be granted for free compared to Newfoundland and Labrador. While Alberta's Act contained fewer purposes, it was more prescriptive in requiring strict conditions on those purposes.

The provisions in Manitoba and Saskatchewan are similar to the free grant provision in Newfoundland and Labrador's *Crown Lands Act* before 1991. That earlier provision included more circumstances for which Crown lands could be granted for free. They included: for the sites of market places, public buildings, jails, court houses, places of public worship, cemeteries, schools, benevolent institutions, squares, parks, public or municipal housing projects, private non-profit or co-operative housing projects, urban developments or improvements to be carried out by a municipal authority, and for other purposes which in the opinion of the Lieutenant-Governor in Council may be for the public benefit. Also under the former *Crown Lands Act,* the minister had authority to grant land for free up to 20 hectares as opposed to the current 10 hectares. Therefore, it

appears that at the time of drafting of the current *Lands Act* there was a conscious decision to restrict how much land could be granted for free under section 9 at the minister's authority and for what purposes it could be granted.

14.2 Recommendations

14.2.1 Legislative Recommendations

Municipalities

It is recommended that section 9 of the *Act* focus on free grants for municipalities. It is further recommended that municipalities be able to apply for grants for the site of a municipal building, recreation park, or for another purpose in the public interest, with the exception of economic development (i.e. commercial, industrial, subdivision or residential developments). The public purpose (other than economic development) would be determined by the minister. A farmers market, for example, might qualify.

Recommendation

95. **Change the focus of section 9 of the *Act* to only include free grants for municipalities for a municipal building, recreation park or other purpose in the public interest, with the exception of economic development (e.g. commercial, industrial, subdivision or residential developments).**

Schools

The Department of Education can currently use section 54 of the *Act* to obtain property for schools, similar to the current process for the Department of Health and Community Services and hospitals. Therefore it is recommended that schools be removed from this provision as a purpose for which free grants can be issued.

Recommendation

96. **Remove schools as a purpose for which a free grant may be given under section 9 of the *Act*.**

14.2.2 Policy Recommendations

Policy for nominal or free grants

Currently the department may choose to issue grants, leases and licences for free or for a nominal amount to non-profit organizations. They may not be limited to the purpose of a church or cemetery. It is recommended that the department develop and publicize a policy with respect to these dispositions. Strict conditions would be required. Provisions along the lines of sections 19(3), (6) and (7) of Alberta's *Public Lands Act* should be added to the policy, to make clear that the disposition is in the public interest and extends only for the purpose approved. The policy would also need to address free dispositions to corporations for the sites of cemeteries.

Recommendations

97. **Remove churches and cemeteries as purposes for which a free grant can be issued under section 9 of the *Act*.**

98. **Develop and publicize a policy for cemeteries and for dispositions to non-profit organizations (including for places of public worship) that are either free or nominal value.**

15.Surveys and Survey Markers

15.1 Definition of "Surveyor"

Under the current *Lands Act*, the definition of "surveyor" means a surveyor who is a registered member of the Association of Land Surveyors created by *The Land Surveyors Act* or a surveyor, not being a member, who is employed by the government of the province for the purpose of conducting a survey.

Recommendation

99. **In the definition of surveyor in the *Lands Act*, update the title of the Association of Land Surveyors to the Association of Newfoundland Land Surveyors continued under the current *Land Surveyors Act, 1991*. Further, remove "or a surveyor, not being a member, who is employed by the government of the province for the purpose of conducting a survey".**

15.2 Correction of error

Section 17 states that the minister may compensate a person if, due to an error or false survey, the parcel of Crown lands is less than the area of land mentioned in the grant, lease, licence or easement. If the area of land to be compensated (i.e. the deficiency) is less than one quarter of the area of land described in the title document, the person must make a claim to the minister for compensation within five years of the issuance of the title document. If the deficiency is equal to or greater than one quarter of the land described in the title document, then there is no limitation period and a person can seek compensation from the minister at any time. Having different timelines and conditions under which a person may come forward for compensation can be confusing and unclear.

It was also recommended as a business process earlier in this report that the Lands Branch no longer review every survey submitted by a licensed surveyor. It has also been recommended that an indemnity clause be added to the title document, so that

government is not held in any way responsible for an error in a survey. If a person seeks compensation from the minister under section 17 of the *Act* as a result of a false survey, then it is only fitting that the minister be able to recover the amount from the surveyor as a debt owed to the Crown. If this provision is added to section 17, then the department will want to confirm whether a time period of five years from the date of issuance of the disposition is satisfactory, or whether a shorter time period is required. The extent of the limitation period may depend on when a debt can be repaid to the minister from a surveyor's professional liability insurance policy.

Recommendations

100. Have one time frame in which a claim can be made under section 17 of the *Act*, because of a false survey or an error resulting in a discrepancy between a title document and the actual area of Crown lands received.

101. Include a provision in section 17 of the *Act* to enable the minister to recover from a surveyor as a debt owing to the Crown, the amount of compensation that is paid as a result of a false survey.

102. Prescribe the limitation period under section 17 of the *Act* as five years from the date of issuance of the title document, unless the department confirms that a shorter time period is required in the *Act* for the minister to seek repayment from a surveyor's professional liability insurance policy.

15.3 Lands fenced or marked

Section 28 of the *Lands Act* outlines the requirement for all land holders, whether Crown land or private land, to mark the physical boundaries of their property.

Nova Scotia and Ontario are the only two jurisdictions, of the six reviewed, which contain a requirement that the boundaries of Crown lands are to be surveyed and kept maintained.

Although section 28 of the *Lands Act* is not relied upon frequently, it has been used by the Lands Branch as authority to require a land survey during a boundary dispute, and provides the legislative mechanism to require the holder of the lands to bear the cost.

For the above noted reasons, maintaining section 28 is useful in a jurisdiction with no mandatory land registration system. That said, it is recommended that the language be updated to include modern forms of property delineation, including iron bars and pins. Any change in the wording of this provision would also need to be made to the offence provision, section 65 of the *Act*.

Recommendation

103. Maintain section 28 of the *Act* and update the language to include modern forms of property markers, including iron bars and pins.

15.4 Survey Markers

Part V of the *Lands Act* contains provisions which deal with survey markers. Section 64 of the *Lands Act* gives a person with ministerial approval the right to enter any land for the purpose of installing control survey markers. To carry out their duties surveyors may enter any land in the province and are also allowed to install temporary markers. A person entering occupied lands under this section must provide written notice to the person occupying the land. Anyone using the powers granted by this section is liable for damage to property or injury caused while performing these duties, and must take reasonable precautions to prevent fires and restore the land as much as possible to its original condition. If the person does cause damage and an agreement is not reached between the person and the injured party, a judge may determine compensation. The judge's finding cannot be appealed unless the compensation exceeds $1,000.

Section 65 of the *Lands Act* makes it illegal to hinder a working surveyor or to alter a marker used by a surveyor under section 64. A person who violates this law may face up to a $500 fine or 3 months imprisonment. While this section penalizes interfering with a surveyor, it does not affect the right a surveyor may have to file a civil suit against the interfering person.

During the consultation process it was heard that the requirement for surveyors to notify the occupants of land in writing of their intent to enter onto the land and to advise what they will be doing on the land makes it difficult to carry out the required work in a timely and efficient manner.

A legislative scan of the six other jurisdictions showed that no other jurisdiction had this or a similar provision in its lands legislation or surveys legislation. It is recommended that section 64(11) of the *Act* be removed. If however the person who installs control survey markers or a surveyor causes injury or damage in the course of performing duties referred to in section 64, then that person or surveyor has a responsibility to notify the occupier of the land.

Recommendation

104. Remove section 64(11) of the *Act*, which is the requirement to notify the occupier of the lands in writing that a person or surveyor has authority to enter onto the land.

16.Ministerial Authority

This section of the report focuses on the authority of the minister and Cabinet to allocate and reserve Crown lands. Other sections of the report deal with similar subject matter (e.g. reservations, free grants and inconsistent grants), but from a different perspective.

16.1 Grants, Leases, Easements and Licences to Occupy (Sections 3 to 6 and 36 of the *Lands Act*)

In Newfoundland and Labrador, the minister has the power to issue easements, leases and licences of Crown lands upon terms and conditions set by the minister. The minister may also issue grants of land; however, grants exceeding 20 hectares require approval of the Lieutenant-Governor in Council (Cabinet).

A review of other jurisdictions indicates that there is no consistent approach for division of powers between the minister and Cabinet for the purposes of issuing grants, leases, easements and licences. In general, the allocation of powers varies widely with no other jurisdiction dividing the powers of the minister and Cabinet according to the size of land. For example, New Brunswick uses a similar system for easements, leases and licenses but is more restrictive in terms of grants, requiring Cabinet approval for all grants, regardless of size. In Nova Scotia, the minister has the authority to: grant Crown lands that does not exceed $25,000 at market value; issue a lease or licence not exceeding 10 hectares; and, issue easements not exceeding $25,000 at market value. In Manitoba, transfers of title are under the control of Cabinet; however, the minister may do so if the land is worth $25,000 or less. In Alberta, the minister has the power to issue dispositions (defined as licence, lease, easement); and may grant land, provided it is not sold at less than fair market value. The Cabinet issues dispositions in special cases not captured by the regulations (grant at less than fair market value; disposition greater than 25 years). In British Columbia the minister has the power to issue licences of occupation, easements, leases and grants without Cabinet approval.

The Lands Branch advises that the number of Cabinet approvals required under sections 3 to 6 of the *Act* varies from year to year. In 2013 and 2014, the number of requests considered by Cabinet under these sections was ten and three, respectively. Of those requests, there were four approvals for the disposition of land between 20 and 30 hectares; with the remainder ranging between 43 and 88 hectares. No applications were refused, but on occasion, some were sent back to the department for clarification or required additional conditions in the title.

During consultations, several stakeholders expressed the desire to expand the minister's power to issue grants greater than 20 hectares; however, there was no consensus as to an appropriate amount. Anecdotal evidence suggests that the current limit of 20 hectares is being circumvented by dividing land requests over 20 hectares into two or more separate applications.

Recommendation

105. Increase the size of land from 20 to 30 hectares for which the minister may issue grants under section 4 or quit claims under section 36 of the *Act*.

16.2 Reservations by Order (section 8 of the *Lands Act*)

In Newfoundland and Labrador, the minister may reserve up to 100 hectares of land by order, or a greater amount with Cabinet approval.

In Ontario, the minister may designate any amount of land a restricted area, as long as that land is not within a municipality, or Cabinet can set aside public lands (whether or not in a municipality) for "any purpose that will benefit research in, and the management, utilization and administration of, the public lands and forests."

In Manitoba, Cabinet alone has the power to put aside lands and only for public purposes including transport (railways, airports, harbours, bridges) or ecological purposes (provincial parks, provincial forests, wildlife management areas). In Alberta, Cabinet may set aside public land for similar ecological purposes or for the Government

of Canada. In British Columbia, Cabinet may reserve Crown lands from disposition for any purposes in the public interest. The minister may do the same but on a temporary basis. The minister also has the power to designate a portion of Crown lands for disposition but only for a particular use.

A review of Orders in Council in this province revealed that during 2013 and 2014, only one application was brought to Cabinet for a reserve of land greater than 100 hectares.

Recommendation

106. Maintain 100 hectares as the size of land for which the minister has authority to reserve under section 8 of the *Act*.

16.3 Free Grants (section 9 of *Lands Act*)

In Newfoundland and Labrador, the minister may issue a free grant for the purposes of a church, school, cemetery, municipal building or park. The minister needs Cabinet approval to issue a grant for land greater than 10 hectares for these purposes.

Manitoba issues free grants for similar purposes but uses expansive language to also capture agriculture purposes; and “any other like purpose”, but requires Cabinet approval for any of them.

In Alberta, the minister has power to issue free grants of any size; however, the purposes are slightly more limited than those in this province, and include schools, churches, cemeteries, and community halls.

In British Columbia, the available purposes for which free grants may be issued are very wide and may be provided for any purpose to municipalities, regional districts, hospital boards, educational bodies, government corporations, and transportation authorities. Cabinet approval is always required.

In Newfoundland and Labrador, no applications were made to Cabinet for free grants in 2013 and 2014. Additionally, it is noteworthy that in 1991, this section of the *Act* was

amended to restrict the purposes for free grants, as well as reduce the size of land under ministerial authority from 20 to 10 hectares.

Recommendation

107. Maintain 10 hectares as the size of land for which the minister has authority to issue free grants under section 9 of the *Act*.

16.4 Transferring Lands to Canada or Other Ministers (sections 53 and 54 of the *Lands Act)*

In Newfoundland and Labrador, the minister may transfer control of lands to the Government of Canada or to other ministers of the provincial government, but requires Cabinet approval to do so if the land is more than 20 hectares.

In Nova Scotia, the minister may transfer land to the Government of Canada that does not exceed $25,000 in value. Otherwise, the transfer to Canada is to be done with the approval of Cabinet. The minister has the authority to transfer land to another minister of the provincial Crown without limitation.

In Ontario the power to transfer to Canada or within the Government of Ontario rests with the minister alone, regardless of the size or value of the land.

In Alberta, the power to transfer to Canada or within the Government of Alberta belongs to the Cabinet.

In British Columbia, the minister has full control over transfers to and from other ministries, but Cabinet has the exclusive power to transfer land to the Government of Canada.

In this province, during 2013 and 2014, three applications were made to Cabinet under section 53 to transfer control of land to Canada, and one application to transfer control to other ministers under section 54.

As mentioned above, several jurisdictions provide ministers with authority to transfer within their provincial governments (e.g. Ontario, British Columbia and Nova Scotia). The Committee recommends the authority to transfer within the provincial Crown occur at the ministerial level under section 54, thereby removing the current Cabinet requirement. It is noteworthy that section 15 of the *Executive Council Act*, gives authority to a minister to acquire or sell land without Cabinet approval.

Recommendations

108. Increase the size of land from 20 to 30 hectares for which the minister has authority to transfer to the federal government under section 53 of the *Act*.

109. Remove the requirement for the minster to obtain Cabinet approval for a transfer of land to another minister of the province under section 54 of the *Act*.

16.5 Inconsistent Grants (section 18 of the *Lands Act*)

In Newfoundland and Labrador, if more than one title is issued for the same Crown lands, the fee may be repaid. Alternatively, lands may be assigned in substitution if they have been improved or have passed from the original grantee. A certificate may also be given, entitling a person to acquire Crown lands of a value and to an extent that is equitable and just. The minister has the power to do this if the area involved is less than 20 hectares. The minister requires Cabinet approval if the area involved is greater than 20 hectares.

In Ontario all the same remedies are available under the same circumstances; however the minister does not require Cabinet approval regardless of the size of the land. Similar to Ontario, Manitoba and Alberta permit the minister to remedy the error, but does not provide the remedy option of issuance of certificates.

Recommendation

110. Remove the requirement for Cabinet approval in section 18 of the *Act* concerning inconsistent grants.

16.6 Waiver of Conditions (section 20 of the *Lands Act*)

In Newfoundland and Labrador, a condition of a grant may be waived by the minister or where the area of land involved is 20 hectares or more, by Cabinet. If the condition has an agricultural purpose the minister must first secure the approval of the minister responsible for agriculture.

In Nova Scotia, the minister can declare a grant null and void if the land is being used in violation of an approved condition of use. If the minister prefers the condition be waived, Cabinet approval is required.

Ontario has a similar provision, which allows the minister to waive any conditions from any grants of any size.

In Newfoundland and Labrador, this section was considered by Cabinet once in 2013 and 2014.

Recommendation

111. Expand ministerial authority under section 20 of the *Act* to waive conditions of a grant for an area of land not exceeding 30 hectares.

16.7 Exchanging Land (section 22 of the *Lands Act*)

In Newfoundland and Labrador, the minister, with Cabinet approval, may exchange Crown lands for freehold lands. New Brunswick, Manitoba, Alberta and British Columbia have similar provisions although British Columbia stipulates the land received must be of an equivalent value or the difference paid.

In this province, this section was not considered by Cabinet in 2013 and 2014.

Recommendation

112. Maintain the requirement for Cabinet approval for an exchange of lands under section 22 of the *Act*.

16.8 Conflict of Interest (section 40 of the *Lands Act*)

Section 40 of the *Lands Act* states that no person employed with the department shall acquire, either alone or with another, a title to Crown lands without Cabinet approval. The department in which the Lands Branch currently resides is the Department of Municipal and Intergovernmental Affairs.

Ontario has a similar provision. In Nova Scotia, departmental executive and relatives require Cabinet approval to acquire Crown title. In Manitoba, the general rule is that an employee requires Cabinet approval to acquire title, with limited exceptions involving approval of a committee of at least three deputy ministers.
In this province, this provision was considered by Cabinet six times in 2013, and three times in 2014.

The committee recommends changing this section to require Cabinet approval for employees of the Lands Branch and senior officials of the Department of Municipal and Intergovernmental Affairs. The senior officials would be persons in the role of an executive (deputy minister, assistant deputy minister) or communications advisor. It seems reasonable to limit the section to capture only those employees with a direct working relationship with the Lands Branch. However, this section should also be amended to include spouses or cohabiting partners of these employees. While no issues have been identified in this respect the amendment would be consistent with the *Conflict of Interest Act, 1995*.

Recommendation

113. Amend section 40 of the *Lands Act* such that Cabinet approval is required for the acquisition of Crown lands by:

- **Lands Branch staff and senior officials in the department in which the Lands Branch resides. The senior officials would be persons in the role of an executive (deputy minister, assistant deputy minister) or communications advisor; and**
- **spouses or cohabiting partners of these employees.**

17.Abandoned lands

Part II of the *Lands Act* is dedicated solely to the handling of abandoned lands. Section 43 defines abandoned lands as:

> "lands granted, leased or licensed under Part I of this Act or a former Act respecting Crown lands and lands unlawfully occupied that have been for at least 20 years unused and unoccupied by the original grantee, lessee or licensee or by a person lawfully claiming under the original grantee, lessee or licensee or person in unlawful occupation."

During the consultation process, several comments were made about the "abandoned land" provisions in the *Lands Act*. The main theme related to the need for an appropriate and timely mechanism to revert title back to the Crown for the purpose of allowing productive use of the vacant land. There were divergent views with respect to the 20 year time frame established in the *Act*; some suggested increasing it while the majority felt it should be shortened.

The Lands Branch also queried whether Part II of the Act remains relevant and practical legislation for two reasons: 1) the provision is rarely used, if at all; and 2) the prescribed proceedings under the *Act* can occur over a long span of time.

17.1 Overview of Legislation

Sections 45 to 52 of the *Act* outline the necessary procedure for the reclamation by the Crown of abandoned land. In this regard, the process is commenced with a written notice issued by the minister requesting those individuals with interests in the land to make a claim for the minister's consideration within three months of publication in the *Gazette*. The notice must contain several elements, including: 1) a general description of the lands sufficient to identify them; 2) a copy of the grant, lease or licence if one was issued; and, 3) the name of the last known owner.

Where the minister considers that a claim has been substantiated, the proceedings may be discontinued. In all other cases, the minister shall refer the claim to the court for a determination. Where no individual comes forward with a claim or where a claim referred to the court is rejected, the Lieutenant-Governor in Council may make an order declaring that the title to the lands is vested in the Crown.

It is noteworthy that where a situation occurs when an individual files a claim with the minister after an order has been made declaring that title to the abandoned land has vested in the Crown, the Lieutenant-Governor in Council, on the recommendation of the minister, has the discretion to order that the claim be dealt with and determined as though filed within time. In other words, there is no time limit for an individual to come forward at a later date and contest the reclamation.

17.2 Other Jurisdictions

A review of other jurisdictions indicates that the only other jurisdiction with comparable provisions in its Crown lands legislation is New Brunswick (NB). Similar to this province, NB provides under its *Crown Lands and Forests Act* that "where it appears to the Minister that land within the Province has been abandoned, and the existence and whereabouts of the person (or in case of his death the heirs or next-of-kin) are not known to the Minister, the Minister may take proceedings to revest those lands in the Crown." Additionally, NB's prescribed statutory process for the reclamation of abandoned land is very similar to the process in this province. Of notable difference; however, is the fact that NB does not contain a specific definition for abandoned land nor a time requirement that the lands be abandoned for at least 20 years.

17.3 Expropriation

Under Newfoundland and Labrador's *Expropriation Act*, the Minister of Transportation and Works has the power to expropriate land in certain circumstances and for particular purposes. Of particular relevance to "abandoned land" circumstances is the fact that the Act permits the minister to pursue expropriation where the owner: 1) is incapable of conveying the land; or, 2) is not known to the minister or cannot be found after

reasonable inquiry. In these situations, the minister with Cabinet approval, would issue a notice of expropriation and title to the land could vest in the minister as early as ten days after the notice is posted. Compensation for the land is paid by the Crown to the Trial Division in trust for the rightful owner.

The *Expropriation Act* requires that land be acquired for particular purposes, and contains an enumerated list of those purposes. The list appears very broad and includes: 1) public buildings and other public works; 2) roads/airstrips/ferry landings/bridges; 3) development of an industrial enterprise; 4) developing of a fishing enterprise by a person; 5) hospitals/schools; 6) development of vacation accommodations by a person; and 7) development of sports facilities by a person. Of particular importance is the fact that the Act contains a "catch all" provision and permits land to be expropriated (with Cabinet approval) for "the use of the Crown or of the public for another purpose".

Recommendation

114. Remove, in consultation with the minister of Transportation and Works, Part II of the *Lands Act* respecting abandoned lands and address these situations through expropriation.

18.Crown Lands Registry

The *Lands Act* requires the Lands Branch to maintain a registry containing copies of applications, grants, leases, licences, easements and surveys. These documents are to be open to the inspection of the public during normal business hours. A person may obtain a copy of a grant, lease, license, easement or application kept in the division.

The public registry is located in a fire-proof vault at the Howley Building in St. John's. In the vault are file folders on Crown lands transactions generally containing the following documents for public inspection: title document; completed application form; approval letter; survey; map; and surveyors report. The folders are filed sequentially by application number. It is noteworthy that the completed application contains personal information, including an applicant's age, address and telephone number. The vault also contains bound volumes of titles dating back to before the Great Fire of 1892. These volumes are very fragile and some are not in good condition. Cadastral maps, among others, are also stored in the vault.

The general public has access to the file room and can physically view any document contained therein. A file clerk is stationed at the entrance of the vault.

In addition, separate file folders containing supporting materials for Crown lands transactions are kept in regional file rooms; however, they are not available for public inspection as per normal course.

18.1 Interaction with the *Access to Information and Protection of Privacy Act, 2015 (ATIPPA)*

In the province, all information relating to Crown lands records is subject to *ATIPPA*. Therefore, an applicant can receive records relating to a particular Crown lands transaction, if requested (subject to limited *ATIPPA* exceptions). This may result in the applicant receiving some materials from folders held in the vault and in regional file

rooms. The information, however, is severed to remove anything requiring protection under *ATIPPA*, such as personal information, legal opinions, and business information. In practice, it appears that the majority of records are disclosed with minimal severing.

18.1.1 Other Jurisdictions

A review of other Canadian jurisdictions reveals that, similar to Newfoundland and Labrador, the majority of comparable Crown lands legislation does not appear to contain substantive guidance on the types of information that may be disclosed for Crown lands transactions. For example, in New Brunswick, the *Crown Lands and Forests Act* does not contain disclosure provisions for Crown lands information. Routine disclosure of information is provided to the applicant, but not a third party, who must make an access to information request through New Brunswick's *Right to Information Act.*

Manitoba's equivalent legislation requires registration of documents evidencing a disposition of Crown lands, but does not contain provisions related to their disclosure. Manitoba's practice is to disclose only the issued title document, and further information may be obtained by making an access to information request under the *Freedom of Information and Protection of Privacy Act*.

British Columbia's (BC) *Land Act* establishes a Crown lands registry to record all acquisitions and dispositions. Public inspection can occur during regular business hours, however the legislation does not contain specifics on the types of information to be held in the registry, other than in a manner acceptable to the minister.

BC's Act also creates a requirement for a publicly accessible electronic registry containing information in relation to Crown lands. The Integrated Land and Resource Registry (ILRR) provides information on different legal interests on Crown lands (tenures, regulated uses, land and resource use restrictions and reservations). The ILRR also contains information on administrative boundaries (e.g. electoral boundaries) and base map information (e.g. topography, grids). The information to be included through the registry is set out in the Act, regulations and ministerial standards.

In terms of BC's disclosure practices, the Ministry of Forests, Lands and Natural Resource Operations also provides a searchable public database on its website which discloses particular information about Crown lands applications, including pending and processed. A review of the database indicates that documents provided by the applicant to support the application (such as management plans, maps, photos) are disclosed on the website. Additionally, the site includes the departmental decision letters.

As well in British Columbia, an individual may make an application under the *Freedom of Information and Protection of Privacy Act* to access additional materials not available on the website.

Alberta is the only jurisdiction that has a prescriptive regulatory regime dictating the types of information that must be disclosed in relation to Crown lands. The Alberta *Public Lands Administration (PLA) Regulation* provides that the following information must be disclosed to the public:

- Plans, specifications and other documents and information provided to the department as part of an application by an applicant for a disposition
- Documents and information provided to the department in accordance with the *Public Lands Act*, PLA Regulations or a term of the disposition
- Information contained in a registry established by the department
- Any other information that is in the public interest

The PLA Regulation goes further to require the disclosure of documents created or issued by the department including forms, dispositions, and interpretation letters.

It is noteworthy that the Regulation permits an applicant to request that documents provided in support of an application be kept confidential where the material relates to a trade secret. The Regulation also permits the protection of documents or information that is the subject of an investigation or proceeding.

All requests for Crown lands information are made to Alberta's Energy Regulator (AER) and the *Freedom of Information and Protection of Privacy Act* specifically does not apply to information in AER's database.

18.1.2 2015 ATIPP Report

In this province, the recent 2015 Report on the Access to Information and Protection of Privacy Act considered the relationship between *ATIPPA* and other legislation that protects information on leases, licenses and grants such as the *Aquaculture Act* and *Regulations* and the *Fish Inspection Act.* Although in an aquaculture context of overriding legislation, the Report states at page 145:

> *"One cannot imagine that there is anything special about aquaculture licenses, leases, and land grants for aquaculture…that would require such records to be protected under provisions of a statute providing comprehensively for aquaculture…. The existing provisions of the ATIPPA can provide any protection that may be justified. The public interest is best served if access to such records is regulated by the ATIPPA."*

Recommendations

115. **Maintain a requirement in the *Act* for a public registry that contains electronic and paper copies of title documents including surveys.**

116. **Remove the reference to applications in section 37 of the *Act*. The department can address the disclosure of applications or other information under *ATIPPA* or if preferred as part of government's proactive disclosure policy.**

18.2 Access to Crown Titles (Electronic)

Crown titles are available electronically for viewing within the regional offices. It would be useful for professional title searchers, lawyers, land surveyors and the general public to also have access to these files through the internet. Currently, one has to call or visit a regional office to obtain and view this information or have the office send a paper copy of the requested document. An electronic, self-serve, user-pay system could be set up allowing for quick and easy access to the title documents. This system would save time for the customer and also be a revenue generator for government. Alternatively, titles

could be retrieved by viewing the LUA. Currently, titles can be viewed by clicking on the Crown title polygon pertaining to the title of interest.

Recommendation

117. **Set up a user-pay electronic database system online to allow simpler access to Crown title information.**

18.3 Titles vault

In the interest of document security the general public should not have access to the vault. The possibility exists for the theft, destruction or alteration of documents. Most title document files are available electronically and therefore a paper copy could be printed upon request. For documents that are not scanned, viewing should be supervised as discussed below. Identity theft may also pose a problem as files in the vault may contain personal information.

Recommendation

118. **Close the Titles vault to public access in the interest of document security.**

18.4 Document Access – Paper Documents

The Titles vault also contains items of historical significance which should be protected and monitored when viewed by the general public. A counter service or research area should be available for document viewing. Anyone wanting to view these documents would have to request a staff person to retrieve them, and then, only a limited number of documents would be allowed to be viewed at a time. A staff person would need to be available to provide oversight. In addition, no food, drink, or the use of ink pens would be allowed when viewing documents.

Recommendation

119. Provide a counter service for the general public to view paper documents contained in the Titles vault that are not or cannot be scanned electronically. Viewing would be monitored by a staff person.

18.5 Climate Control

Climate control, especially humidity, is important in the preservation of paper documents. The Newfoundland Archives located at The Rooms suggests that paper documents be stored at a temperature between 15^0C - 20^0C, and that relative humidity be maintained between 45% - 55%. In the interest of document preservation the temperature and humidity in the vault should be maintained as stated above.

Recommendation

120. Maintain the relative humidity in the Titles vault between 45% - 55% and a room temperature range of 15^0C - 20^0C.

18.6 Personal Information Protection

Recommendations

121. Review, in consultation with the Office of Public Engagement, Crown lands application forms to ensure they contain the minimum amount of personal information necessary. For example, it has been identified that a cell phone number and an email address of an applicant would speed up the application process.

122. Revise the Crown lands application form so that personal information is placed in a separate annex to ensure its protection. Information contained in that annex can then be easily redacted for an access to information request or if government chooses to proactively release applications.

123. Consult with the Office of Public Engagement before making the Land Use Atlas public and publishing notices of intent respecting shoreline reservations on the Crown Lands website.

19.Additional recommendations for changes to the *Lands Act*

19.1 Reservation of Crown lands

The department uses section 8 of the *Act* to reserve land from disposition altogether or to set aside a portion of Crown lands for a particular use (for example, eligible for commercial dispositions only). In the majority of cases, the reservation is not done by legislative instrument.

There is one recent circumstance approved by Cabinet, the Glover Island Public Reserve, in which the order has been filed as a legislative instrument. This is necessary because a separate regulation has been created respecting the uses to which the Crown lands on Glover Island may be put and the conditions under which they may be used. The Glover Island Public Reserve Order and separate regulations are similar to an order and regulations that may be created under Part IV of the *Act* (Special Management Areas), although their legislative authority is under section 8 and section 41 of the *Act*.

Changes to Part IV and section 8 are recommended. Part IV should be expanded to take into consideration public reserves such as Glover Island for which regulations are necessary to put conditions on the use of the Crown lands within a specified area. The department, in consultation with departments that administer public reserves, would need to examine whether any provisions in Part IV might also apply to a public reserve, or whether new provisions entirely would be needed.

The proposed policy direction for section 8, then, would be to focus on those reserved areas for which regulations are not required. The minister's decision to reserve and set apart Crown lands would be evidenced in writing, in a directive, and not in a legislative instrument.

Recommendations

124. Remove the reference to orders and the publication requirement under section 8 of the *Act*.

125. Expand Part IV of the *Act* to include both special management areas and public reserves for which regulations are necessary to put conditions on the use of lands within a specified area.

126. Consult with departments responsible for special management areas and public reserves as to whether new or amended provisions are required in the *Act*.

19.2 Inconsistent grants

Section 18 of the *Lands Act* states that where through error more than one grant, lease, or licence inconsistent with each other has been issued for the same Crown lands, government may return the purchase money, fee or rental to the person whom it is due. A claim, however shall not be entertained unless it is made within five years from the date of issuance of the grant, lease or licence.

In Ontario the five year limit is absolute and is from the discovery of the error, not the date of the grant. In Manitoba and Alberta, claims must be made within one year from the discovery of the error.

Recommendation

127. Adjust the timeframe, to come forward under section 18 of the *Act* with a claim of inconsistent grants, to within five years after the discovery of the error.

19.3 Collection of debt owed to the Crown

There are several sections of the *Lands Act* in which an amount of money can be recovered by the minister as a debt owed to the Crown. The minister is currently required to apply to the court for an order to recover an amount owing that has not been paid. Other Acts in Newfoundland and Labrador contain a provision that enables the minister to simply file a certificate in the court to recover debt.

Recommendations

128. Include a provision in the *Act* to enable the collection of a debt owed to the Crown by the minister filing the amount owing as a certificate with the court.

129. Determine, in consultation with the Department of Finance, whether additional legislative provisions are required to support the collection of moneys owed from the holders of leases and licences to occupy.

19.4 Authority for Regulations

Recommendation

130. Include a provision in the *Act* that enables Cabinet to prepare regulations for:

- **the Crown lands application process**
- **terms and conditions of dispositions**
- **shoreline reservations**
- **publication of information on the departmental website**
- **format for receipt of plans and surveys from surveyors**
- **public reserves**
- **special management areas**
- **inspections and investigations**
- **ticketing**
- **administrative penalties**

19.5 Recommendations to make the *Act* more user friendly

These are some housekeeping changes that are generally independent of the other recommendations in the Report. If the department accepts these changes, final wording would be determined by the Office of the Legislative Counsel.

Section 2 Definitions

"disposition"

- Add a definition of "disposition" (or similar term) to mean, at a minimum, "a lease, licence, easement, grant or quit claim". Where other provisions of the *Act* would refer to "lease, licence, easement, grant or quit claim", refer instead to a "disposition". Where a section does not apply to one or more dispositions, then exclude that disposition from the application of that particular section.

Section 4 Grants of Crown lands

- Use the wording "not exceeding" as found in section 4(1) and "exceeding" or "in excess of" as found in section 4(2) throughout the *Act* for consistency

Section 11 Report of adverse claim

- Replace the word "commissioned" with the word "authorized" in section 11(1).

Section 14 Where grant, etc. effective

- Refer to an easement as being issued rather than granted.

Section 20 Minister may waive condition

Section 20(1) – Clarify the word "involved". To accomplish that, remove "involved is less than 20 hectares" and replace with words along the following lines: "contained in the original grant does not exceed 30 hectares."

Section 20(2) – Remove "involved is 20 hectares or more" and replace with words along the following lines: "contained in the original grant exceeds 30 hectares."

Section 20(3) – Replace “Minister of Forestry and Agriculture” with “minister responsible for agriculture” or a similar title.

Section 21 Road reservation

- Replace “Minister of Works, Services and Transportation” with “minister responsible for transportation and works” or similar title.
- Replace “paragraph 18(a) of *The Department of Works, Services and Transportation Act*” with “paragraph 5(a) of the *Works, Services and Transportation Act*” (Note that section 5(a) provides: “Except in so far as they have been closed according to law, (a*) all allowances for highways made by surveyors of the Crown*; … except those that are vested in a municipal authority, are public highways vested in the Crown.”)

Section 25 Adverse claims

- Enable the minister to publish a notice in a newspaper having general circulation in the area in which the lands are located and on the Crown Lands website.

Section 36 Adverse possession abolished

Section 36(3) and (4)

- Replace “agricultural, business or residential purposes or for a purpose referred to in section 9” with “a purpose referred to in subsection (5)”

Section 36(5) (new)

- Add a new subsection 36(5) as follows: “Paragraphs (3)(b) and (4)(b) apply to agricultural, business or residential purposes or for the purpose of a place of public worship, cemetery, municipal building or municipal recreational park.”

Section 37 Copies of grants, etc.

- Remove the reference to prescribed fees. Any fees would not be prescribed by regulation; instead, they would be set by the Minister.

Section 39 Certificate of minister

- Replace “Registrar of the Supreme Court” with “Trial Division”.

Section 53 Transfer to Canada

- Confirm with the Department of Natural Resources that reference can be made to the current *Mineral Act*.

New section Fees and forms

- Include an additional section: “The minister may establish fees and forms for the purpose and administration of this Act.” Legislative counsel and the department may wish to review the usage of the word “fees” throughout the *Act* before finalizing this additional section.

Recommendation

131. Make minor amendments to the *Act,* as identified in Section 19.5 of this report, in order to make the *Act* more user friendly.

PART III - Additional Recommendations

20.Additional Recommendations

20.1 Mandatory Land Registration

Land registration in Newfoundland and Labrador is based on the deeds registry system. It is not compulsory for purchasers to register private land sales, although today many do. Our historical settlement as a fishing colony, which banned permanent habitation to protect the migratory cod fishery, has resulted in an unusual land tenure system involving a mix of Crown issued titles, registered deeds, unregistered deeds and adverse possession. This has had significant impact on the administration of Crown lands in the province especially near rural communities where land claims based on adverse possession remain widespread. The process of delineating the boundaries of Crown versus private land is extremely difficult often resulting in time-consuming boundary negotiation.

During every consultation session, the issue of mandatory land registration arose. Some of the ideas expressed were:

- Government needs to identify what lands are Crown lands
- Introduce mandatory land registration for private and Crown lands
- Introduce a Torrens style system (i.e. a certified land title system)
- Combine the Registry of Deeds and the Crown Lands Registry

There are a number of factors at play here. First is whether the land is considered private or public land. If there is no mandatory registration, then it may not be known that someone has a claim to a piece of land, whether by unregistered deed or otherwise.

The second factor is surveys and boundaries. Registered and unregistered documents today may not contain up-to-date surveys. One recommendation received during the consultation process was for Newfoundland and Labrador to create a compulsory registration system where every property transaction would be accompanied by an up-to-date survey.

The third factor is certainty of title. Registration in the Registry of Deeds gives notice to others that a person has a claim to land. However, registration in the Registry of Deeds does not guarantee free and clear title to the land. In Newfoundland and Labrador, it is the responsibility of the purchaser to ensure that there is a good root of title to property before buying it. The purchaser needs to know whether someone else has an interest in that property. Professional title searchers are involved in searching through historical documents in a number of registries, and lawyers provide purchasers with opinions as to the root of title. The purchaser cannot rely on the most recent registration in the Registry of Deeds as the basis for determining who has an interest in the land.

On the other hand, in a Torrens style system of certified land title, the government guarantees title to a piece of land. This means that a purchaser can rely on the guarantee of title and does not have to conduct a historical search of records.

The fourth factor is adverse possession. Claims to adverse possession between 1957 and 1976 would have to be addressed through applications under the *Lands Act* or the *Quieting of Titles Act* while it is still possible to prove the claim. If not, property transactions on the basis of adverse possession would be groundless.

Certified land title is already the standard in the four western provinces. In addition, New Brunswick, Nova Scotia and Ontario have been converting to certified land title by using a phased-in approach. For example, in Nova Scotia, as land is sold, it is registered in the land titles registry. The lawyer for the seller certifies to government that the seller has a good root of title to the land. The government, in turn, guarantees title to future purchasers.

In his doctoral thesis entitled “Newfoundland Law of Real Property: The Origin and Development of Land Ownership”, Professor Alexander McEwan referred to some of the recommendations in the report of the Task Force on Land Use, appointed by government in 1972. One of the Terms of Reference of that Task Force was to investigate and report on the land registration system in force in Newfoundland and Labrador at that time. The Task Force recommended:

- that an improved form of land registration is desirable and should be implemented
- the government pursue its objective of the eventual conversion of the present system of land registration to a land titles system
- that immediate steps be taken to amalgamate the Crown Lands Registry and the Registry of Deeds
- that a committee be appointed to study and make recommendations on the most suitable form of a land titles system for the province, having regard to a number of enumerated factors and the variety of models of this system
- adverse possession be immediately abolished by statute, without prejudice to any right, title or interest acquired prior to the date of enactment (which was done)

With respect to successful implementation of an improved system, the Task Force noted the need for:

- adequate funding
- government policy decisions and enabling legislation
- public participation and acceptance
- legal compulsion to register all documents affecting land
- well-trained staff to administer the system

According to the Task Force, compulsory registration would ideally be implemented over time and be based on geographic area. The Registry of Deeds would continue to apply outside of the compulsory registration areas.

This commentary also ties in with Professor McEwan's recommendations in 1978 for dealing with adverse possession. He wrote (at page 248),

> *"In many rural areas of Newfoundland, property boundaries are either poorly marked or not marked at all, and a widespread intestacy among large families, many of whose descendants have migrated and who are often unaware of their rightful interests in land, means that present claims of possessory ownership*

must be treated with extreme care. A more concerted approach to the problem appears to deserve consideration, and a possible method might be the initial identification of areas where title defects are most acute, followed by systematic removal of the flaws through the cooperative efforts of municipality, provincial government and individual owner."

Professor McEwan refers to the *Land Titles Clarification Act* in Nova Scotia, as a way to assist residents where there appears to be confusion in the ownership of land.

Recommendation

132. Investigate, in consultation with other government departments and agencies, a phased-in approach for either a mandatory land registration system or a land titles system.

20.2 Better communication

One of the main themes heard during the consultation process was poor communication both within and external to government. Included in this Report are specific recommendations for improving communication with respect to the application process, shoreline reservations and enforcement. However considering the volume of feedback received throughout the consultation process with respect to communication issues a more general recommendation to improve communications with the public on all aspects of the *Lands Act* is warranted.

It was also heard that internal communications within government are also challenged especially in terms of the Crown lands referral process and what the expectations are for referral departments and what role they play in the application process. This has been recommended to be addressed through a protocol agreement with relevant departments, agencies and municipalities. However again it is felt that a more general recommendation to improve communications within government with respect to Crown lands is also warranted.

Recommendation

133. Improve communications both within and external to government with respect to Crown lands.

20.3 Policy Manual

Recommendation

134. Update the Lands Branch policy manual and post all updated policies on the Crown Lands website.

21.Conclusion

Recommendations for change are made throughout this Report. It is noted that some amendments to the legislation would not be able to come into force until certain implementation activities are completed. One example is the creation of a page on the Crown Lands website for publication of notices of intent for applications on the shoreline reservation. Other transitional matters would include new application requirements for people who assert an interest in adverse possession and a grace period before fines are increased.

To position government for success and to ensure a quick move into implementation, while ensuring operational requirements and service delivery continue to be a focus for Crown Lands senior staff, additional short-term resources may be required to develop a work plan and to begin implementation of these recommendations.

Implementing the recommendations set out in this document will maintain the protection of Crown lands in the public interest. It will also provide for a modernized *Act* with a simpler, more effective Crown lands application process and service delivery model, including improved timelines and better communication both internally within government and externally to the public.

Annex A – Terms of Reference

Lands Act Statutory Review

Terms of Reference

The *Lands Act*, SNL 1991 c 36 (the "Act") came into force on April 1, 1992. While the *Lands Act* does not contain a reference to a statutory review, there have been amendments to various sections of the *Act* since it came into force. The current review constitutes the first comprehensive review of the *Act*. There are sections of the current *Act* that have their origins in previous legislation (i.e. the *Crown Lands Act*).

1. Purpose

To carry out a comprehensive review of the existing *Lands Act* to develop informed recommendations on how to modernize the *Act* and make the Crown lands application process simpler and the service delivery model more effective and provide the recommendations arising from the review to the Minister of Municipal and Intergovernmental Affairs, Government of Newfoundland and Labrador.

2. Guiding Principles

This review will be conducted in an open, transparent and respectful manner. Information related to the review process including the Terms of Reference will be publicly disclosed. The cost of conducting the review will be made publically available, including expense claims for the Committee members. Additionally, information received and recorded by the Committee through the consultation process will be compiled into a "What We Heard" report and released publicly, while ensuring the protection of personal privacy.

3. Review Committee ("Committee")

The Committee shall consist of three members, all of whom shall be independent from the Lands Branch of the Department of Municipal and Intergovernmental Affairs and who have expertise in the respective areas of:

- law, with specific experience in conducting statutory reviews;
- policy, with significant experience at the management level in policy roles with the Government of Newfoundland and Labrador; and
- business process review, which should include formal LEAN training and certification and/or equivalent education or experience in operational or business reviews.

A chairperson will be named by the minister from among the members.

The Committee, through the chairperson, will report to the Minister of Municipal and Intergovernmental Affairs and will be supported by an Advisory Committee as outlined in section 4.

4. Advisory Committee

4.1 An Advisory Committee will be established to support the Committee, and allow for input and information sharing throughout the review process, with membership as follows:

- ADM for Lands Branch, Municipal and Intergovernmental Affairs;
- Law Society of Newfoundland and Labrador representative(s) as nominated by the Law Society;
- Department of Justice and Public Safety representative(s)
- Director of Communications, Municipal and Intergovernmental Affairs

4.2 Role

The role of the Advisory Committee is to:

- provide support, advice and guidance to the Review Committee;
- review and provide feedback on documents, where requested by the Review Committee;
- impart information sharing to the Review Committee; and
- act as a conduit for the Law Society's input into the review process.

5. Scope of the Work

5.1 The Committee will conduct a comprehensive review of the provisions and operations of the *Act*, as well as business processes and policies that support the operations of the Act, which will include, but not be limited to, the following issues:

- Identification of ways to make the *Act* more user friendly so that it is well understood by those who use it and can be interpreted and applied consistently;
- Assessment of the provisions of Section 36 regarding adverse possession (commonly known as "squatters' rights") to determine whether these provisions, and their subsequent interpretation, support the purpose and intent of the legislation or whether changes to these provisions should be considered;
- Assessment of the provisions of Section 7 regarding shoreline reservations to determine their efficiency;

- Assessment of the provisions of Sections 30 to 35 regarding unauthorized occupation and possession of Crown lands in terms of their effectiveness and efficiency;
- Examination of internal business processes and policies that are intended to support the operations of the *Act* in terms of their necessity and efficiency;
- Examination of internal referral/consultation processes (i.e. Crown lands application referrals and Interdepartmental Land Use Committee referrals) that support the operations of the Act in terms of their necessity and efficiency; and
- Examination of current information technology used to support the operations of the Act in terms of their effectiveness and efficiency.

5.2 Public Engagement

- On behalf of the department and subject to the minister's approval, the Committee will design and deliver public engagement activities to seek input from citizens and stakeholders (including, but not limited to, residents of Newfoundland and Labrador, municipalities, Municipalities Newfoundland and Labrador, Aboriginal governments/organizations, Professional Municipal Administrators, legal professionals, government departments, agencies, and other public bodies).
- The Committee will utilize multiple methods of engagement to provide a flexible, comprehensive consultation process including the use of: in-person public sessions; focus groups with key stakeholders; discussion guides; written submissions; and online feedback.
- Following the consultations, the Committee will publicly report on feedback being received through the release of a "What We Heard" document.

5.3 Jurisdictional Scan

- The Committee will conduct an examination of Canadian practices related to Crown lands and identify opportunities and challenges experienced by other jurisdictions.

6. Final Committee Report and Recommendations

- The Committee will prepare a final report for submission to the minister. The report will include:
    - an executive summary;
    - research and analysis of the jurisdictional scan and leading practices;
    - detailed summary of the public consultation process including aggregate information regarding types and numbers of participants; issues and concerns; emerging themes and recommendations brought forward by citizens and stakeholders; and
    - detailed findings and recommendations for the minister's consideration.

7. Timelines

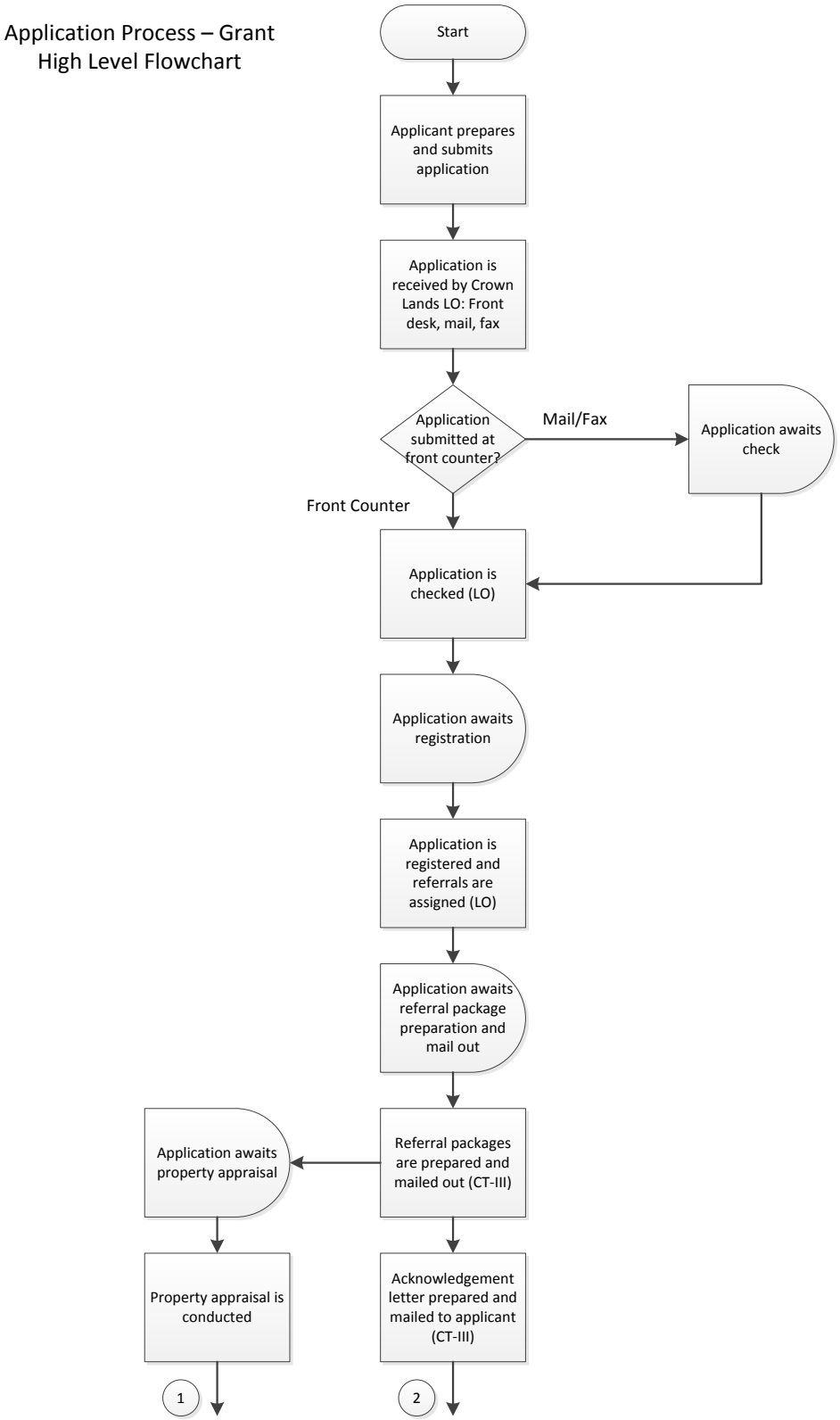
- Review commences — Week of February 9, 2015
- Public Engagement Process — March 19, 2015 – April 9, 2015
- What We Heard document released — Week of April 20, 2015
- Final Report with Recommendations due — June 1, 2015

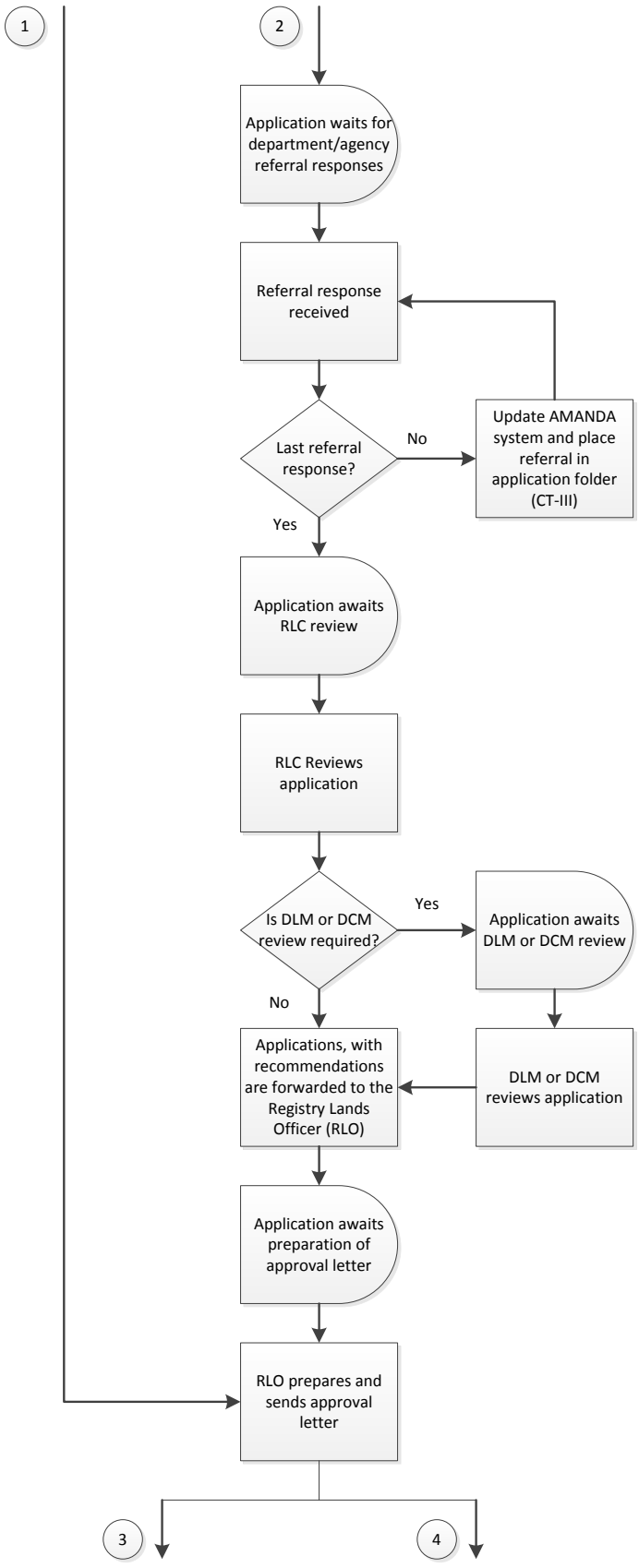
8. The Department of Municipal and Intergovernmental Affairs will:

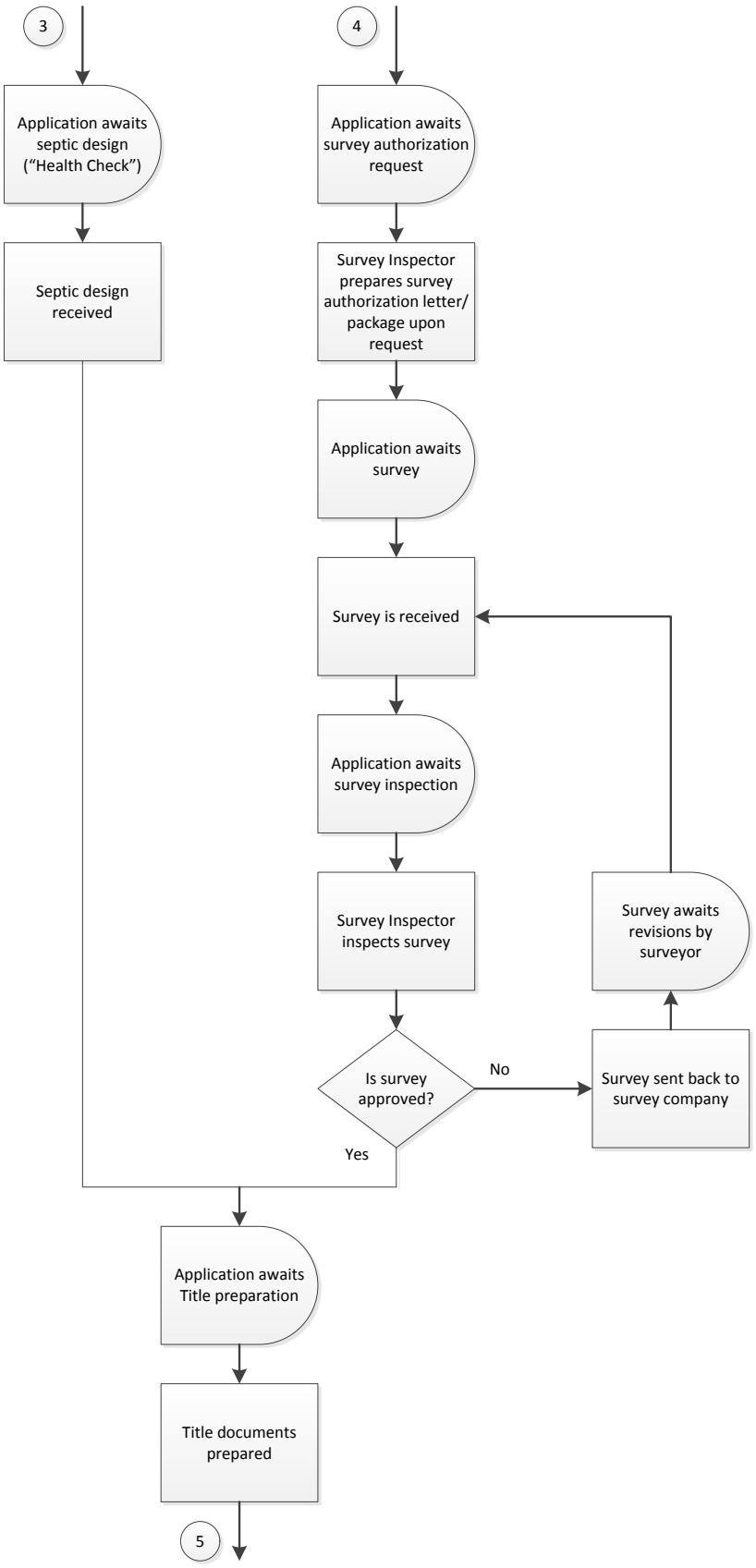
- Establish the Terms of Reference for the Committee;
- Select the Committee Members;
- Solicit nominees from the Law Society for the Advisory Committee;
- Select other Advisory Committee members;
- Compensate Committee members;
- Ensure the Committee has access to resources, including accommodations, to conduct its work;
- Establish a link on Municipal and Intergovernmental Affairs website for the consultation process, and maintain the website;
- Ensure departments and agencies participate in the review;
- Determine the location of public consultation sessions;
- Approve the design and delivery of the consultation process; and
- Provide background information related to the administration of the *Act*.

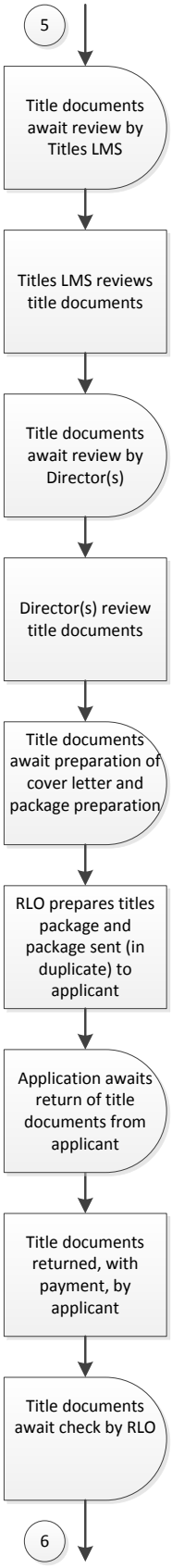
Revised March 4, 2015

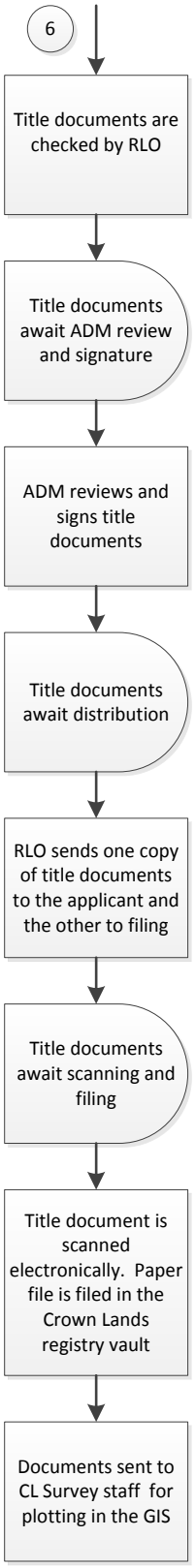
Annex B – Application Processing Flowchart




1
2
Application waits for department/agency referral responses
Referral response received
Last referral response?
No
Update AMANDA system and place referral in application folder (CT-III)
Yes
Application awaits RLC review
RLC Reviews application
Is DLM or DCM review required?
Yes
Application awaits DLM or DCM review
No
Applications, with recommendations are forwarded to the Registry Lands Officer (RLO)
DLM or DCM reviews application
Application awaits preparation of approval letter
RLO prepares and sends approval letter
3
4


3
4
Application awaits septic design ("Health Check")
Application awaits survey authorization request
Septic design received
Survey Inspector prepares survey authorization letter/ package upon request
Application awaits survey
Survey is received
Application awaits survey inspection
Survey Inspector inspects survey
Survey awaits revisions by surveyor
Is survey approved?
No
Survey sent back to survey company
Yes
Application awaits Title preparation
Title documents prepared
5


5
Title documents await review by Titles LMS
Titles LMS reviews title documents
Title documents await review by Director(s)
Director(s) review title documents
Title documents await preparation of cover letter and package preparation
RLO prepares titles package and package sent (in duplicate) to applicant
Application awaits return of title documents from applicant
Title documents returned, with payment, by applicant
Title documents await check by RLO
6


6
Title documents are checked by RLO
Title documents await ADM review and signature
ADM reviews and signs title documents
Title documents await distribution
RLO sends one copy of title documents to the applicant and the other to filing
Title documents await scanning and filing
Title document is scanned electronically. Paper file is filed in the Crown Lands registry vault
Documents sent to CL Survey staff for plotting in the GIS


Newfoundland
Labrador