

# **Preparing an Application to Access Crown Lands:** *A Proponent's Guide*



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## General Information

“This document contains general legal information and not legal advice. If you need advice about a specific legal problem then you should contact a lawyer.”

## Introduction

The Department of Natural Resources administers activities conducted on Crown lands pursuant to the *Crown Lands Act*. Crown lands are considered public assets which can be used for a variety of beneficial uses including recreation, conservation and for economic development purposes.

This Guide has been developed to explain the process and requirements for applying for a permit for Crown land access. Permits may be issued in response to an application for access/use of Crown lands for activities with a duration of up to 12 months.

Note: For request for Crown lands leases please refer to the “Guidelines for the Preparation for Crown Lands Lease Applications”.

Microsoft Word - 2015-09-21 Guidelines Applicants Crown Land Leasing V1.3 Final.docx (novascotia.ca)

## 1.2 What are Crown Lands?

Crown lands are all or any part of lands under the administration and control of the Minister of Natural Resources as defined in the *Crown Lands Act*, including both marine and freshwater submerged areas.

The Province owns other lands across Nova Scotia, including wilderness protected areas, highways, roads, schools, housing developments, and provincial buildings; however, land managed and administered by other departments is not considered Crown land and is not covered by this Guide.

## 1.3 What is a Permit to access Crown Lands?

Crown lands is a resource to be used for the benefit of all Nova Scotians and much of Crown lands already has a significant number of commitments. The ability to consider requests for access will be dependent on availability, impact on existing uses and impact on land values. Therefore, a number of considerations must be evaluated prior to the issuance of a permit to access Crown Lands.

## 2.0 How to Apply for Permit

Requests for access to Crown lands may be initiated by submitting an application online or by submitting an application in person at the district/area office ([Department of Natural Resources](#)). For more information about how to submit an application online, please go to:

[Applications to Use Crown Land, Sell or Donate Land to the Province | novascotia.ca](#)

The form can also be downloaded from the website.

[Microsoft Word – Revised Crown Lands Application Form FINAL V13.docx \(novascotia.ca\)](#)

## **Application Submission**

Requests for access to Crown lands are reviewed after receiving an application. The department will review the application (**Appendix 4**) to determine if the applicant has provided complete information and of enough detail (**Appendix 5**) to conduct an Integrated Resource Management (IRM) GIS scan.

The IRM scan will determine:

- if the area requested is under the administration of the department;
- whether any legal encumbrance exists that would interfere with the proposed activity;
- if the proposed activity fits within the department's policies and programs related to the use of Crown lands; and
- presence and/or proximity to any resource values.

When the IRM Scan is completed, the Applicant may be informed, where necessary, that they are required to arrange specific field studies as a condition of the Permit or be referred to other provincial departments or agencies for review and authorizations.

There is a requirement for the Crown to determine if Mi'kmaw consultation is required to evaluate the potential impact of the proposed activity on aboriginal rights and interests. As part of the consultation process, the Applicant may be required to do one or more of the following:

- conduct studies or research regarding Mi'kmaq interests within and in the vicinity of the requested Crown lands and may include archaeological resource impact assessment;
- modify activities proposed for the requested Crown lands to accommodate adverse impact(s) on aboriginal and treaty rights; and/or
- respect culturally significant areas important to the Mi'kmaq and provide them with continued access to those sites.

When required, once all information from field surveys is successfully completed, the department will review all relevant information and determine if a permit can be issued. A permit sets out the conditions and identifies any further requirements including requirement for posting security for any potential damages.

Merchantable forest products remain the property of the Province and no forest products

may be removed from Crown lands, or used on site, without the prior written approval from the department. If permission is granted for on-site use or movement of forest products, all merchantable forest products must be piled at roadside by the permit holder for scaling by department staff and then paying stumpage rates in effect at the time of harvesting.

### **3.0 After a Permit is Awarded**

#### **Monitoring for Permit Compliance**

The department will monitor the activities through periodic compliance audits and site checks throughout the duration of the permit. The permit holder is obliged to cooperate and be available during audits and site checks.

### **4.0 Freedom of Information and Protection of Privacy**

Applications and applicant information submitted to the Province become the property of the Province and are subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. The department does not disclose your information to third parties, except with your express permission or as permitted by the Act.

## **Appendix 1**

### **Definitions**

**Applicant:** A person, company or organization who applies for access to Crown lands.

**Crown lands:** Means all or any part of land under the administration and control of the Minister of Natural Resources as defined in the *Crown Lands Act*.

**Department:** The Department of Natural Resources (DNR).

**Integrated Resource Management (IRM):** A process to provide specialized program knowledge to the department's land use planning and decision-making processes. IRM coordinates resource use so that long term sustainable benefits are optimized and conflicts among users are minimized. IRM includes planning for minerals, forests, recreation, wilderness, energy, wildlife, parks, biodiversity and crown lands administration.

**IRM Review:** All applications for access to Crown lands undergo an IRM Geographic Information Systems (GIS) Scan. The process combines GIS data analysis, policy analysis, and field research to make informed recommendations on Crown lands use applications, while considering the many resource values, features, interests, and issues that affect Crown lands. Other factors, including social, economic, and public safety interests are not explicitly explored in the IRM review.

**IRM Resource Values:** IRM resource values include: biodiversity values as represented by rare and/or sensitive ecosystems, unique or species-rich habitats or seasonally important wildlife habitats, geo-hazards and mineral occurrences, potential for and old growth forest values, park, recreation along with heritage and cultural values.

**Minister:** The Minister of Natural Resources or their authorized designate with respect to the administration of any portion of this policy.

**Permit:** Authority provided under the *Crown Lands Act* allows access to crown lands.

**Submerged Crown lands:** Under the *Crown Lands Act*, the Minister is responsible for Crown lands, including submerged Crown lands. The landward boundary of coastal land owned by the Province begins at the ordinary high water mark on the shore.

## Appendix 2

### Preparing an Application for Access to Crown Lands

Applications for permits to access Crown lands must clearly describe the activities proposed during the term of a permit (up to 12 months). Conditions of approval will be referenced in the permit document indicating what activities are authorized and when they can occur.

The detail required to be included with an application is dependent upon the scale and scope of the proposed activities. The plan must include information to support a thorough understanding of the type of work, the exact location, routes to access the location, timing, and opportunities for modifications.

As an aid, **Appendix 4 and Appendix 5** outline information that is required to be submitted with every application.

At the end of the authority term, the area must be rehabilitated or reclaimed as closely as possible to its original state, or to an agreed upon alternate use.

Proof of permission must be provided and is required from adjacent or other landowners regarding any required access over private lands.

Please note: the applicant may have to consult with other agencies, departments, or municipalities to understand what, if any, additional approvals are required.

#### 1.0 Site Access

All applications for access on Crown lands require the submission of spatial data (**Appendix 4**) indicating access routes and any areas requiring clearing of vegetation or breaking of soil. Providing detailed information in the spatial data will allow for thorough and seamless review and assessment of the application. Incomplete data will delay the review, assessment, and approval.

When providing spatial data is not possible, then provide information and illustrations to support the application. Site illustrations must be at an appropriate scale for clarity and include a legend. A map and data that clearly delineates the proposed lands: the location should be as precise as possible. The map should:

- be sufficiently detailed so the required land base can be determined;
- indicate size in hectares;
- include a north arrow and major features (e.g. existing roads, lakes, streams, wet lands, etc.); and
- include a boundary of proposed activities, areas to be cleared, including size identify areas for vegetation removal including the size of these areas, new and existing roads or trails, and turn around areas, including widths.

## **2.0 Environmental Considerations**

Describe predicted environmental impacts including mitigation methods to be applied to minimize impacts on soil, water, and vegetation.

### **1. Vegetation and/or Soil Removal**

State the vegetation clearing method, machinery type, widths, depth, area, including any timber removal and forwarding to roadside.

The *Field Guide to Forest Biodiversity Stewardship* (NSDNR 2017a) are guidelines for managing biodiversity features of forests. It describes why soils are a fundamental driver of biodiversity and productivity in forest ecosystems and how prior knowledge of inherent hazards and site limitations can ensure soil disturbance is limited. It also includes best management practices for conserving soil properties.

### **2. Riparian Encroachment**

Riparian areas are the interface between land and a river or stream. The blend of stream bed, water, trees, shrubs, and grasses in a riparian area provides fish habitat, and directly influences it.

You will need to buffer riparian habitat when your project is near a stream, river, creek, pond, lake, or a connected ditch, spring, or wetland.

## **3.0 Cultural Values**

The Province recognizes the importance of archaeological sites and is committed to protect and conserve this rich but fragile legacy through the *Special Places Act*. Under this Act, Special Places | Communities, Culture, Tourism and Heritage (novascotia.ca) the Department of Communities Culture Tourism and Heritage is responsible for maintaining and distributing archaeological information, adjudicating issuing various research permits under the Act to allow Archaeological Impact Assessments, as well as development near or on some protected sites. If there is a potential for disturbance of archaeological, fossils or historical artifacts, additional authorizations will be required.

## **4.0 Biodiversity and Wildlife Habitat**

Biodiversity is the variety and interconnectedness of all life, including all plants, animals, and other organisms, the genes they contain, and the systems and processes that link them.

Activities on Crown lands must be conducted in a manner that maintains or restores the natural range and structure of forest communities. Ensuring a rich forest biodiversity by maintaining or restoring various types of habitats benefits the province's wildlife species.

The *Field Guide to Forest Biodiversity Stewardship* (NSDNR 2017a) is a valuable tool that contains practical information about biodiversity management.

See **Appendix 3 Legislative Authority for Biodiversity Conservation in Nova Scotia**.



## **5.0 Site Reclamation**

Provide a plan for decommissioning and reclaiming the site, must be to a condition suitable to the department. The plan must detail how the permitted area will be re-integrated into the surrounding landscape, including:

1. A schedule of the activities.
2. A cost estimate of the major components of the reclamation plan (for example, re-vegetation).

## Appendix 3

### **Legislative authority for biodiversity conservation in Nova Scotia**

The Department of Natural Resources is committed to effective management and conservation of wild species and their habitats. Requirements for conservation and protection of wild species in Nova Scotia are established under the following enactments.

#### Wildlife Act

([Legislation: Wildlife Act | novascotia.ca](#))

#### Endangered Species Act

([Legislation | novascotia.ca](#))

([Species at risk - Government of Nova Scotia, Canada](#)).

#### Biodiversity Act

([Biodiversity Act \(nslegislature.ca\)](#))

#### Species at Risk Act (Canada)

The federal Species at Risk Act (SARA; [Legislation: Federal Species at Risk Act \(SARA\) | novascotia.ca](#))

#### Migratory Birds Convention Act (Canada)

[Migratory Birds Convention Act \(MBCA\) and Regulations - Canada.ca](#))

#### Crown Lands Act

([Crown Lands Act \(nslegislature.ca\)](#))

#### Forests Act

([Forestry Laws & Policies | novascotia.ca](#))

#### Provincial Parks Act

([Laws and Policies | novascotia.ca](#))

## Appendix 4 Supporting Information

### APPENDIX 4 - SUPPORTING INFORMATION

**Projects that will result in vegetation removal or breaking of soil, must provide the following supporting information:**

Attachment	Submitted/ Attached	Note
Map(s) showing location of planned activities and access routes	<input type="checkbox"/>	Acceptable formats: PDF, JPG, PNG, TIF Map elements must include: UTM grid, North arrow, scale, title, legend, inset overview map.
Excel table and/or GIS file of point locations	<input type="checkbox"/>	Acceptable formats: XLSX, Shape, KML, GPX, GDB; GIS files should be in UTM Zone 20 NAD 83.
GIS file(s) of access trails, cut lines, etc.	<input type="checkbox"/>	Acceptable formats: Shape, KML, .GPX, GDB; GIS files should be in UTM Zone 20 NAD 83. Differentiate between new and existing trails.
Existing State of Lands (include photos if possible)	<input type="checkbox"/>	Existing site disturbance, e.g. harvest activities, dump sites, abandoned mines, machinery ruts.
Environmental Mitigation Plan	<input type="checkbox"/>	Plan to mitigate any disturbance to environment, erosion and sediment control plan, fuel storage plan, spill response plan, and use of swamp mats, Corduroy, etc..
Safety and Emergency Response Plan	<input type="checkbox"/>	Consideration of fuel spills, safety, forest fires, first-aid supplies and training, evacuation plan, site security, etc.
Reclamation Plan and Estimated Cost	<input type="checkbox"/>	Plan to return sites to a state consistent with previous lands-use, or better, and estimated costs.
Previous Biodiversity Surveys	<input type="checkbox"/>	Lichen surveys, bird surveys, old growth forest assessment, wetlands delineation, etc. Note: additional surveys may be requested after initial review of application.
Previous Archaeological Studies	<input type="checkbox"/>	Current or historical archaeological studies and/or significant finds.

## **Appendix 5**

### **Information to provide in an application for Crown Lands Access**

#### **ALL APPLICATIONS REQUIRE:**

- Written description of the request purpose and how the Crown lands will be accessed
- Maps or site photos showing the accurate location of the planned activity, including Property Identifier Number (PID)
- PID(s): full PID, partial PID

#### **ADDITIONAL REQUIREMENTS:**

#### **COMMERCIAL APPLICATIONS**

- Accurate spatial data from industrial applicants (e.g., wind energy, mining companies, utility companies, government agencies)
- Shape file preferred (point feature) showing the accurate location of the proposed activity, including PIDs
- Engineering plans showing the proposed placement of any infrastructure or project work
- Identify whether the project is a single stage or multi-phase. If multi-phase indicate where in the project timeline this current application fits.

#### **COASTAL PERMITS**

- Wharf:
  - Sketch of proposed structure, including dimensions
  - Materials to be used in construction
  - Confirm that the application is from the upland owner
  - Machinery to be used
- Maintenance dredging:
  - Location for the disposal of dredging spoils
  - Approximate amount of material to be dredges
  - Machinery to be used
  - Identify how the water will be accessed

#### **CROWN LANDS ACCESS PERMITS**

- Identify if the access is existing or new
- Locations of each access route to each site
- Extent of ground disturbance (e.g., tree removal, vegetation removal, grubbing)
- Identify if motorized or non-motorized use
- Identify any requirements for new bridges/culverts, including length and width
- Number of sites

- Spatial data showing location: of each site and each access route
- Equipment to be used

### **APPLICATIONS FOR EASEMENTS**

- Confirm if new construction, over an existing road, or a combination of new and existing
  - If over an existing road, identify any upgrades required.
- Confirm if request is for access, utilities, or both
- Approximate dimensions of the easement
- Identify any known historic access agreements
- Extent of ground disturbance (e.g., tree removal, vegetation removal, grubbing)
- Equipment to be used
- Final surface materials (e.g., gravel, paved, natural)

### **APPLICATIONS FOR CROWN LEASES** [Microsoft Word - 2015-09-21 Guidelines Applicants Crown Land Leasing V1.3 Final.docx](#)

- If the request is part of a large project, then multiple IRM reviews may be required. Specify the scope of the current request.
- Indicate if a development plan was submitted (if applicable)
- Identify any infrastructure to be placed on Crown lands
- Identify if an Environmental Assessment will be required

### **APPLICATIONS FOR CROWN LICENCES**

- Identify any known historic access agreements
- Extent of ground disturbance (e.g., tree removal, vegetation removal, grubbing, etc.)
- Identify any infrastructure to be placed on Crown lands

### **APPLICATIONS FOR LETTER OF AUTHORITY**

- **Recreational trails:**
  - Extent of ground disturbance (e.g., tree removal, vegetation removal, grubbing)
  - Identify if motorized or non-motorized use
  - Identify any requirement for new bridges/culverts, including length and width
- **Geotechnical drilling/water monitoring wells:**
  - Number of sites
  - Spatial data showing location: of each site
  - Locations of each access route to each site
  - Identify if the access existing or new
  - Depth of drilling
  - Duration of testing
  - Type of drilling (e.g., hand collection, drill rig)

- **Wind energy towers:**
  - Number of towers
  - Map with location of each tower and access to each site
  - Identify if the access existing or new
  - Extent of ground disturbance
  - Equipment to be used
  - Duration of monitoring