

MEMORANDUM OF UNDERSTANDING (MOU)
between the
BC ASSETS AND LAND CORPORATION (BCAL)
and
PROVINCIAL REFERRAL AGENCIES

1. PURPOSE

BCAL has developed this agreement to clarify and simplify the responsibilities and procedures with respect to referrals of *Land Act* applications or relating to the management and administration of Crown land. This is part of a broader government-initiated strategy to improve accountability, provide better customer service, make more timely decisions and reduce red-tape. This agreement ensures that BCAL will make Crown land allocation decisions that support the government's objective of a thriving economy while protecting the environment, recognizing aboriginal rights and title, and respecting the jurisdiction of other provincial agencies.

2. SCOPE

This MOU ensures BCAL will work together with other provincial agencies in a streamlined, non-duplicative and efficient manner within the existing legal framework. It defines the relationship between BCAL and all provincial referral agencies, and includes appendices that further clarify responsibilities and procedures with respect to individual agencies. This agreement applies to all Crown land, including Crown land for non-forest uses within a Provincial Forest.

3. PRINCIPLES

The following principles will guide the relationship between BCAL and all provincial referral agencies:

- Pre-screening will be used to eliminate unnecessary referrals. Referral agencies will develop best management practices and guidelines which can be applied by BCAL to reduce the number of referrals required.
- The best management practices and guidelines must be effective, practical and manageable from a cost perspective. They should allow a simplification of the process by providing clear direction which can be applied to the majority of cases, without requiring additional expert advice from either the referral agency or consultants.
- Where necessary, referral responses will be specific to an agency's jurisdiction or responsibilities. The referral agency will identify whether a response is based on:
 - legislation or regulation,
 - policy, or
 - scientific/technical information as it relates to legislation/policy/regulation
 - strategic advice from the Treaty Negotiation Office

- Referral agency input will support and inform BCAL's decision making.
- Referral responses must be received by BCAL within 30 days (reply required date will be noted on the referral). In the absence of a response by the deadline, BCAL can move forward with the adjudication process.
- Referral agencies will continue to work with BCAL to identify efficiencies in the referral process and other areas of mutual concern.

4. ROLES AND RESPONSIBILITIES

4.1 BCAL is responsible for:

- exercising statutory decision making authority for Crown land dispositions under the *Land Act* and the *Ministry of Lands, Parks and Housing Act*;
- evaluating land allocation and management decisions with respect to the best management practices and guidelines established by other agencies;
- initiating referrals for applications which cannot be adequately addressed through best management practices or guidelines;
- working within the spirit and intent of Government and Inter-Agency approved land use plans, and in accordance with the sustainability principles being developed by the Ministry of Sustainable Resource Management;
- minimizing any potential negative impacts in an appropriate, cost effective and scientifically-based manner;
- making the final land use decision, giving due weight and consideration to approved best management practices and guidelines, as well as referral responses received within 30 days.

4.2 Referral agencies support the processes and decisions of BCAL by:

- establishing effective and practical best management practices and guidelines which simplify Crown land disposition and management, and allow BCAL to undertake only necessary referrals;
- providing referral responses as required, within the specified timeframe and according to the principles set out in Section 3 of this MOU. Referral responses will be based on the agency's specific, legislation, jurisdiction or approved policy.

5. PROCESS FRAMEWORK

5.1 Improved Communication

- Representatives of BCAL and referral agencies (ADM/VP or designate) will meet at the request of either party to confirm established roles and responsibilities, discuss BCAL land use planning priorities, and review and formalize new or revised best management practices or guidelines.
- BCAL and referral agency staff (at both Provincial and Regional levels) shall

encourage on-going communication relating to the implementation of this MOU and regarding matters of agency and mutual interest

- BCAL and referral agencies shall openly and freely share information (except where prohibited by agreements with third parties, or statutory or regulatory restrictions) as required by either agency in the delivery of its mandate.

5.2 Best Management Practices and Guidelines (No Referrals)

- For the purposes of this MOU best management practices and guidelines refer to the siting, land use and decision making parameters contained in the appendices. These are intended to assist BCAL clients in preparing land use applications and BCAL staff in determining whether or not a referral is required.
- All agencies party to this MOU agree that appendices setting out best management practices and/or guidelines will be in place by March 31, 2002. These practices and guidelines will be the subject of ongoing review to ensure that they are effective, practical and manageable.
- The objective is to have one set of best management practices and/or guidelines (possibly by land use category) for the province. However, it is recognized that special circumstances may require different standards. In these cases, regional managers for BCAL and the appropriate regional manager from the other agency will define such standards as required. Amendments and additions to the appendices must be agreed to by the BCAL Executive Director, Business Development and Vice President, Land Management and equivalent referral agency position.
- Best management practices and guidelines will be used by BCAL staff in their processing of Crown land applications. Where the application meets established best management practices or guidelines, no referral will be undertaken.
- Best management practices and guidelines may also be:
 - supplied to applicants or included in correspondence where appropriate;
 - incorporated into *Land Act* tenures, where BCAL deems this useful or at the request of the relevant agency;
 - used with respect to Crown land development and marketing activities; or,
 - posted on the BCAL website.

5.3 Referrals

- Referrals will be undertaken where best management practices and/or guidelines have not been established, and the *Land Act* application is

determined by BCAL to have the potential to impact on that agency's legislated jurisdiction.

- Referrals may also be undertaken if BCAL has determined there are specific circumstances where:
 - the established best management practices and guidelines are not considered by BCAL to be directly applicable;
 - the established best management practices and guidelines would create unreasonable or onerous requirements for the intended use;
- Referral responses must be received by BCAL within 30 calendar days (a response required date will be noted on the referral.) In the absence of a response by the deadline BCAL can move ahead with the adjudication process.
- Referrals will clearly indicate whether comments are based on an agency's legislation, regulation, or policy (which is based on legislation) or, whether it represents scientific/technical information (or Treaty Negotiation Office's – strategic advice.

6. DISPUTE RESOLUTION

BCAL has the statutory decision-making authority with respect to Crown land allocation and management. However, Crown land allocation decisions can impact on the jurisdiction of a number of provincial agencies. It is anticipated that the majority of Crown land applications can be processed without referrals, through the use of established best management practices and guidelines. No conflicts should arise in these cases. When a conflict occurs between BCAL and a referral agency in regard to the application of this MOU, the following process will apply:

- Wherever possible, conflicts between BCAL and referral agencies will be resolved at the operational level, between agency staff adjudicating and reviewing the *Land Act* application. A formal notice of dispute will be provided immediately in writing to the affected agency.
- Conflicts that have not been resolved by operational staff within two weeks will be reviewed by the BCAL Senior Land Officer and the staff member in the relevant referral agency who holds a similar direct supervisory position.
- When a conflict has not been resolved by the Senior Land Officer within one week, a detailed briefing note will be prepared jointly and presented to the regional manager/director level in both agencies.
- If the conflict has not been resolved at the regional manager/director level within one week, it will be addressed by the Executive members responsible for the administration of this MOU. Executive level resolution is final and will be communicated in writing to staff in both agencies.

7. PERIODIC REVIEW

The BCAL Executive Director, Business Development will review and report to the BCAL

Vice President, Land Management Division, on the effectiveness of this MOU after the first year of implementation, and as required thereafter if significant issues are identified.

8. LEGISLATION AND POLICY CHANGES

Agencies agree to consult with each other with respect to planned legislation or major policy changes that may impact the implementation of this MOU.

9. AMENDMENTS AND TERMINATION

This MOU may be reviewed and amended by the consent of all parties. Any party to this agreement may withdraw from the MOU on sixty (60) days notice.

Appendices attached to this MOU may be added or amended upon agreement of the BCAL Director, Land Program Services and equivalent referral agency position. Executive signature is not required for changes to the appendices. It is anticipated that the best management practices and guidelines contained in the appendices will need to be reviewed during implementation and will continue to evolve over time.

10. EFFECTIVE DATE

This MOU becomes effective upon execution by all parties.

Signed
Bill Valentine
Chief Executive Officer
BC Assets and Land Corporation

November 20, 2001
Date:

Signed
Derek Thompson
Deputy Minister
Water, Land and Air Protection

November 8, 2001
Date:

Signed
Don Wright
Deputy Minister
Forests

November 7, 2001
Date:

Signed
Jack Ebbels
Deputy Minister
Energy and Mines

November 19, 2001
Date:

Signed

November 6, 2001

Dr. Penny Ballem
Deputy Minister
Health Services

Date:

Signed

Marg Arthur
Deputy Minister
Agriculture, Food and Fisheries

November 7, 2001

Date:

Signed

John Dyble
Acting Deputy Minister
Transportation

November 7, 2001

Date:

Signed

Kirk Miller
Chief Executive Officer
Land Reserve Commission

November 9, 2001

Date:

Signed

Philip Steenkamp
Deputy Minister
Treaty Negotiation Office

November 15, 2001

Date: