BRITISH COLUMBIA

Land Use Operational Policy
Adventure Tourism

NAME OF POLICY:	Adventure Tourism Policy
APPLICATION:	The AT Policy applies to tourism operators who provide outdoor recreation activities for a fee or other form of compensation or reward, received or promised, from residents and non-residents on provincial Crown land and must be authorized by the Authorizing Agency and hold a valid AT Tenure. Circumstances where the AT Policy would not apply are listed in Section 1.1, Policy Application.
ISSUANCE:	Ministry of Tourism, Culture and the Arts
IMPLEMENTATION:	Integrated Land Management Bureau
REFERENCES:	*Land Act* (Ch. 245, R.S.B.C., 1996); *Ministry of Lands, Parks and Housing Act* (Ch. 307, R.S.B.C. 1996); Crown Land Fees Regulation (BC Reg. 177/2003). Other applicable *Land Act* Policies, including: Crown Land Allocation Principles; Eligibility and Restrictions; Land Pricing; Fee Refunds; Standard Wording. Other applicable Crown Land Procedures, including: Tenure Administration; Competitive Process; Policy Variance; Crown Land Fees.
RELATIONSHIP TO PREVIOUS POLICY:	This policy replaces the October 2007 Guided Adventure Tourism Policy and uses the approved pricing in the August 2004 Commercial Recreation Policy.
POLICY AMENDMENT:	Any formal request for an amendment to this policy is to be directed in writing to the Assistant Deputy Minister responsible for this policy.

Peter Walters
Assistant Deputy Minister, Tourism Division
Ministry of Tourism, Culture and the Arts

Sept. 11, 2009
Effective Date

Oct. 15, 2009
Implementation Date

Approved Amendments

Effective Date	Briefing Note / Approval	Summary of Changes
May 29, 1998		**Commercial Recreation on Crown Land Policy**
August 16, 2004	LWBC	**Commercial Recreation Policy** Changes made as a result of the Policy and Procedures Re-write project.
February 23, 2005	LWBC BN 16167	Addition of the following sections: management plan revisions and updating existing tenure documents.
October 17, 2007 (January 11, 2008)	--	**Guided Adventure Tourism Policy** Scope narrowed to guided AT activities. GAT Policy made public on January 11, 2008 via ministry websites
January 12, 2009	MTCA DN 23325	Interim Policy Directive for the Controlled Recreation Pilot Project extended for up to three years.
September 2009	MAL DN 158077	New principles replace previous versions of Crown land use principles
September 2009	MAL DN 162403 and 162582	Minor update to insurance requirements, including provisions on environmental protection
September 11, 2009	MTCA DN 24780	**Adventure Tourism Policy** The Guided Adventure Tourism Policy is replaced with the Adventure Tourism Policy. Key updates include: better harmonization with Park Use Permits; re-insertion of 2004 approved pricing; ADM approval for AT Policy updates and major variances; and temporary permits for special events. The implementation date is delayed at MAL and ILMBs request to allow time to update the tenure agreement templates and, where appropriate, prepare administrative procedures.
April 23, 2010	MTCA BN 32097	Minor administrative update: included Client Day rates described in Appendix 9 in Pricing Section 7.2.5, and added mailing address block for tourism operator to Appendix 1A template and tourism operator signature block to Appendix 1B template.

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1. POLICY APPLICATION

1.1. General

This policy applies to tourism operators who provide outdoor recreation activities (including guide services, transportation, lodging, feeding or entertainment) for compensation or reward, received or promised, from residents and non-residents on provincial Crown land (including Crown land covered by saltwater and freshwater) and must be authorized by the Authorizing Agency and hold a valid AT Tenure. These outdoor recreation activities are hereafter referred to as Adventure Tourism (AT).

This policy applies to those AT operators that require:

- Crown land on which to carry out AT activities within an extensive operating area (e.g. guided backcountry horse pack trips and heli-skiing);
- Improvements on Crown land or the foreshore (e.g., cabins/lodges, wharves, floats, ramps, storage sheds, horse corrals, trails, camps, etc.); and/or
- Floating facilities anchored to Crown land covered by water, which are linked to an extensive use Tenure under the *Land Act* or *Wildlife Act* (angling guides and guide outfitters). This excludes facilities offering moorage spaces, such as commercial marinas, unless they are offering guided services not already authorized under the General Commercial Policy or the federal government.

This policy does NOT apply to:

- AT activities on Crown land and foreshore administered under the *Park Act*;
- Commercial activities authorized by the Authorized Agency under the General Commercial Policy (e.g., hotel/motel or bed & breakfast accommodations);
- Guided hunting activities (including the transporting or packing of resident hunters) or angling guide activities authorized under the *Wildlife Act*;
- AT activities solely restricted to public forest roads designated as Forest Service Roads or constructed/maintained under a road permit in accordance with the *Forest Act*;
- All seasons resort development projects on provincial Crown land, including alpine ski resorts, which are authorized under the All Seasons Resort Policy;
- Federal Crown lands, including National Parks;
- Lands managed by a Port Authority or Harbour Commission; and
- Indian Reserves or First Nation Treaty Lands.

The italicized text in this document represents information summarized from standard Crown land operational policies and procedures under the Land Act. This material has been inserted where it provides necessary direction or context. As well, website links offer access to the full text of the relevant operational Crown land policies and procedures. Text in standard script is applicable to this operational policy only and underlined text identifies a website link to another policy, procedure, guideline or initiative. Words and terms capitalized refer to defined terms (section 3).

1.2. Guide Outfitters and Freshwater Angling Guide Operators

Considerations related to Guide Outfitters and freshwater Angling Guide Operators include:

- Commercial recreation hunting and angling guide activities are authorized under the *Wildlife Act* and are not applicable to this policy. As a result, an Extensive Use Area under the *Land Act* is not applicable.
- Any other commercial recreation activities on Crown land offered by a guide outfitter or angling guide not authorized under the *Park Act* or *Wildlife Act* must be Tenured under the AT Policy.
- A *Land Act* Tenure under this policy is required from guide outfitters and angling guides Improvements on Crown land. A management plan, with projected use information, substantiates the nature and scope of any proposed Improvements.
- Permanent Improvements on Crown land such as lodges and cabins are integral to the guide outfitter and angling guide business.
- In considering an application for an Assignment, the SDM must be satisfied that the separate Assignment of a related AT *Land Act* and *Wildlife Act* authorization (also under Assignment section 9.3) will not lead to a proliferation of Intensive Use Sites in those areas where such proliferation negatively impacts the environment and other AT businesses.
- The information provided by the registered guide outfitter and angling guide operator via the AT Operator Input Form will be used by the SDM to consider the impact of a proposed AT activity on the existing activities of guide outfitters and angling guides.

2. PRINCIPLES

Provincial employees act in accordance with applicable legal requirements when making decisions. The guiding principles are a summary of key administrative and contract law principles which guide provincial employees.

This policy is part of a series of Land Act policies that have been developed to help provincial staff use business and legal principles to achieve the government's goals with respect to the management of Crown land in a manner that is provincially consistent, fair and transparent. To that end, this policy also serves as a communication tool to help the public understand how the Province of BC makes decisions respecting Crown land.

The Strategic Policy for Crown Land Allocation Principles provides guidance to public officials who are involved in decisions related to the allocation of Crown land. This guidance is incremental to obligations under law, recognizes the statutory authority of other levels of government and guides the development of strategic and operational policy.

Crown Land Allocation Principles also guide decisions in the absence of existing policy direction:

1. Crown land values are managed for the benefit of the public;
2. Economic, environmental and social needs and opportunities are identified and supported;
3. The interests of First Nations' communities are recognized;
4. Decisions are timely, well-considered and transparent; and
5. Public accountability is maintained during the allocation of Crown land.

Key provincial initiatives that support the above principles include:

- The provincial Conservation Framework for species and ecosystems; and
- The New Relationship with First Nations and Aboriginal people.

In addition to the Crown Land Allocation Principles described above, principles specific to the Adventure Tourism sector include:

- Supporting the cross-government Tourism Action Plan;
- Ensuring there are opportunities for commercial recreation businesses to thrive and grow;
- Ensuring there is diverse, responsible and sustainable growth in commercial and public recreation use;
- Encouraging respect and cooperation; and
- Supporting sustainable 'green' tourism practices.

3. DEFINITIONS

Adventure Tourism (AT) refers to tourism operators who provide outdoor recreation activities (including guide services, transportation, lodging, feeding or entertainment) for compensation or reward, received or promised, from residents and non-residents on provincial Crown land (this includes provincial Crown lands covered by saltwater and freshwater).

Assignment is where the Tenure holder transfers to a third party all of the Tenure holder's rights under the Tenure and the transfer is for the entire unexpired portion of the Tenure Term. The existing Tenure holder retains nothing – no rights or obligations. The new Tenure holder accepts all the obligations under the Tenure as well as any new required conditions.

Example of an Assignment situation: where a business associated with the tenure is being sold and one of the terms of the sale is an Assignment of the Tenure to the purchaser.

Authorizing Agency refers to the provincial government agencies responsible for the program delivery of the Adventure Tourism Policy.

Client Day is the basic unit of visitor traffic measurement for AT activities. It represents a single client, participating in any type and any number of AT activity(ies) on Crown land, for any calendar day or portion thereof. Examples of Client Day calculations include:

- one person participating in a ten hour guided hike on Crown land
  = (one person x one day) = one Client Day
- one person participating in a two hour guided hike on Crown land
  = (one person x one day) = one Client Day
- four individuals participating in a five hour guided hike on Crown land
  = (four people x one day) = four Client Days
- three groups of six clients participating in a five hour guided hike on Crown land on the same day
  = (six persons per group x three groups x one day) = 18 Client Days
- one person participating in a guided hike on Crown land that begins at noon of one day and ends by noon the next day
  = (one person x two days) = two Client Days
- four people participating in a guided hike on Crown land that begins in the morning of one day and ends in the afternoon the next day
  = (four people x two days) = eight Client Days
- one person participating in multiple guided activities for ten hours on a single day (i.e., snowmobile, snowshoe, and dog sled)
  = (one person x one day) = one Client Day. (In this instance the applicable activity category with the highest Client Day rent is used for calculating rent).

Diligent Use refers to the responsible use of Crown land for activities carried out by an AT Tenure holder that meet the requirements identified in the approved Tenure Management Plan associated with an existing Tenure. Documentation includes an Annual Diligent Use Report and accompanying Statutory Declaration Form.

Extensive Use Area means the area of Crown land used by an Adventure Tourism operator in a dispersed manner, as opposed to concentrated use at specific sites, such as would be undertaken when using large areas of land for non-exclusive guided commercial recreation activities (e.g. guided hiking, wildlife viewing, snowmobiling and ski touring).

Improvements includes anything made, constructed, erected, built, altered, repaired or added to, in, on or under the land, and attached to it or intended to become a part of it (e.g., floating camp/dock). It also includes any clearing, excavating, digging, drilling, tunnelling, filling, grading or ditching of, in, on or under the land.

Intensive Use Sites are site specific uses of Crown land that are integral to the AT Tenure holder's operation. Three types of Intensive Use Areas exist based on the nature and scope of the land use:

1. **Primary Site** is the main business location or staging area for an AT operation. Depending upon the type of AT operation, the Primary Site may be utilized from

four months to 12 months and may contain permanent or temporary Improvements. A Primary Site, typically, is represented by one or more of the following conditions:

- is active for six or more months (not necessarily concurrently) annually, or any period in three or more seasons for AT purposes;
- contains permanent Improvements such as cabins, storage facilities, moorage facilities, etc.;
- involves other significant Improvements such as tent frames, fire pits, outhouses, etc. Trail construction, site clearing and levelling and temporary storage and caching are examples of Improvements. (Note: some AT Primary Sites may be relatively undeveloped.); and
- requires a high level of use exclusivity (e.g., limited or no Public Access) and may prohibit access to Improvements (i.e., locked or gated).

2. **Secondary Sites** are those areas used by AT Tenure holders that may be accessed and supplied from a Primary Site. Secondary Sites typically:
   - operate for AT purposes on a seasonal basis (up to six months or two seasons);
   - contain permanent Improvements (e.g., bunkhouses, crude cabins, corrals, small sheds, permanent docks, cooking facilities, portable generators, fuel caches); and
   - require a lower level of exclusivity than Primary Sites, but may prohibit access to Improvements (e.g., locked or gated) by non-Tenure holders.

3. **Temporary Sites** are normally accessed from Primary or Secondary Sites. Temporary Sites typically:
   - involve seasonal and intermittent use (e.g., once or twice per week on average);
   - contain 'low order' Improvements (e.g., fire pits, very crude corrals, small wharves or boat launches, tent frames, outhouses) that can be removed during the off season;
   - do not convey exclusive use or allow lock up of Improvements; and
   - involve the use of small areas (normally less than ½ ha).

Land Use Report is a report written by the Statutory Decision Maker, or their designate, in response to an AT Tenure application and includes the results of Statusing, the referral process and First Nations consultation, as well as, the final recommendation. The SDM approves the Land Use Report.

Level of Use refers to the number of participants, frequency and nature of the use.

Limits of Acceptable Change (LAC) is a framework for establishing acceptable and appropriate resource and social conditions in recreation settings. The primary emphasis is on the conditions desired in an area, and how to manage impacts to sustain those desired conditions, rather than on how much use an area can tolerate.

Major Modification refers to a substantial change to the Tenure agreement and is considered to be a new application under the Crown Land Fees Regulation of the *Land Act*. These substantive changes include, but are not limited to, requests for additional Crown land areas, new activities or new Improvements that will typically require referrals and further consultation.

Market Value is the most probable value a property should bring in a competitive and open market under all conditions requisite to a fair sale and assuming the price is not affected by undue stimulus. Market value may be estimated by BC Assessment, internally by the Authorizing Agency, or by an independent land appraisal.

Minor Amendment refers to changes related to insurance, security and bonds, legal description (e.g., correction or reduction of operating area), minor extensions to the term of the disposition to meet survey requirements, and to other similar matters, but not including changes that substantially alter the terms and conditions of a Tenure agreement.

Mechanized Activity means guided AT activities where mechanized or motorized transport of clients (e.g., helicopters, snow cats, snowmobiles, motorcycles, All Terrain Vehicles, etc.) is an integral part of the recreation experience offered to the clients. Motorized use includes vessels that use power as an integral part of the guided operation (go up and down a river, exceed the speed of the water flow, or are used as tour vessels which access Crown land for guided tourism purposes (e.g., white water rafting). Vessels that use motorized propulsion only intermittently for control or safety purposes are considered non-mechanized for the purposes of this policy. In addition, where a vessel simply provides a transport service to and from a kayak operation it will be considered a non-motorized activity. Pedal bikes are also not included.

Minimal Impact Sites are intermittently used day use sites or overnight campsites where low impact recreation activities are practiced. Day use sites include water access 'put-in' and 'take-out' sites. Examples of low impact activities include: choosing campsites with more durable terrain, packing out all waste to a proper disposal area, minimizing campfire impacts, respecting wildlife, being considerate of other recreation users and leaving the area in a similar condition as was first encountered. These sites are on a first-come first-serve basis and are non-exclusive.

Public Access refers to the public's ability/privilege to access provincial Crown land.

Quiet Enjoyment means the right to exclusive use of a defined area.

River Corridor means up to 30 metres parallel to and above the high water marks of both shorelines of a river.

Shoreline Frontage refers to the length of the natural shoreline.

Special Events refers to short-term organized commercial recreation events on provincial Crown land and include both guided and unguided Adventure Tourism activities.

Statusing refers to the process of determining rights, titles, or interests in a particular area or for a parcel of land by searching records, maps, and other documents for jurisdictions, Tenures or expressed interests by other agencies or parties in the area in question.

Statutory Decision Maker (SDM) refers to the Authorizing Agency's representative with delegated authority under the Land Act to authorize AT tenures under the AT Policy.

Sub-Tenure is where the Tenure holder transfers some of the Tenure holder's rights under the Tenure to a third party but not all of them. The transfer may not be for the entire unexpired portion of the term. The Tenure holder continues to be bound to the Province for all of the obligations under the Tenure. The sub-tenant is bound only to the Tenure holder.

Example of a Sub-Tenure situation: the AT Tenure holder decides to seek approval from the Province to allocate some of their approved Client Days (for the purpose provided for in the Crown land Tenure) to a third party business that operates/advertises under a separate business name.

Example of when it is not a Sub-Tenuring situation: the AT Tenure operator may contract out the services of a guide, food caterer, or transport company under the Tenure holders' company name – in other words, by all appearances, it will be one company. The Province has no contractual relationship with their contractor.

Tenure is a disposition of Crown land under the *Land Act* as a specific form of land allocation. Forms of tenure allocated under the AT policy include investigative permit, temporary permit, licence of occupation and lease. These forms of tenure grant the right to carry out identified activities during the tenure term.

Tenure Management Plan (TMP) refers to a combination of text and maps that are components of the legal agreement between the Authorizing Agency and the Tenure holder. TMPs describe the specific nature and scope of the AT operation, including the boundaries within which it operates, as well as, the conditions, provisions, restrictions and guidelines for the use of Crown land.

Tenure Replacement *is a subsequent Tenure document issued to the Tenure holder for the same purpose and area*.

Term is the length of time that a Tenure holder's interests are in effect as per the Tenure agreement.

4. ABBREVIATIONS

AT Adventure Tourism

AIA Archaeological Impact Assessment

AOA Archaeological Overview Assessment

ATOIF Adventure Tourism Operator Input Form

BCA BC Assessment

ha Hectare

JUA Joint Use Agreement

LAC Limits of Acceptable Change

LUP Land Use Plans

MOU Memorandum of Understanding

PRT Project Review Team

SDM Statutory Decision Maker

TMP Tenure Management Plan

TPG Tourism Peer Group

5. APPLICANT ELIGIBILITY

Applicants for new Tenures, Tenure assignment, or Tenure Replacement must be:

- *Canadian citizens or permanent residents 19 years of age or older; or*
- *Corporations which are incorporated or registered in British Columbia; or*
- *Registered partnerships, cooperatives, and non-profit societies which are formed under the relevant provincial statutes; or*

- *First Nations peoples applying through band corporations or Indian Bands and Tribal Councils. Band or Tribal Councils require a Band Council Resolution a) authorizing the council to enter into the Tenure arrangement, and b) giving the signatories of the Tenure document the ability to sign on behalf of the Band. For Tenures, which are to be registered in the Land Title Office, First Nations must apply through either a band corporation or trustees. Band members can elect 1 or more trustees to hold a Tenure on behalf of the Band. Verification of election must be by way of a letter signed by the Chief and councillors of the Band giving the full names of the trustees and stating that they were elected at a properly convened meeting of the Band. A Band Council Resolution is not required.*

For more detailed standard policy information see Eligibility and Restrictions.

6. FORM OF LAND ALLOCATION

Types of AT Tenures available include investigative permits, temporary permits for Special Events, licences of occupation and leases . Each is described below and summarized in Appendix 8.

6.1. Investigative Permit

An investigative permit may be issued to any AT applicant requiring access to the land for appraisals, inspections, analyses, inventories, surveys or other investigations of Crown land or its natural resources, or where otherwise required. No buildings or other Improvements may be placed on the land. An investigative permit does not allow the permit holder to undertake AT activities for compensation or reward received or promised.

The Tenure holder must permit Public Access to the area without interference. *The maximum term for an investigative permit is two years.*

Prior to issuance of an investigative permit, the applicant must ensure that Tenured AT Tenure holders are aware of their activities, and that due process is taken to minimize impacts on existing operations.

An investigative permit is generally not replaceable; however, at the discretion of the SDM a Replacement Tenure may be granted where the operator requires more time for investigation.

6.2. Temporary Permit for Special Events

A temporary permit may be issued for temporary uses, where a business is better served by such a permit than by a license of occupation. Temporary permits may be granted for Special Events by the SDM and are applicable to Special Events that occur up to and including 14 days within a consecutive 30-day period.

The tenure holder must allow public access to the area without interference, unless authorized by the SDM for temporary Improvements to address safety, and must recognize that overlapping and layering of tenures may be authorized by Government.

Special Event applicants may be required to contact overlapping Tenure holders and in some cases have an ATOIF completed to ensure that the proposed activities do not interfere with the operations of the existing Tenure holders.

Proof of insurance is required. A security may be required.

6.3. **Licence of Occupation ("licence")**

A licence of occupation may be issued where minimal Improvements are proposed, where there are multiple users of a site, and in remote areas where survey costs are prohibitive. It may also be used to allow development to proceed while awaiting completion of survey requirements for a lease or right of way.

A licence of occupation conveys fewer rights than a lease. It conveys non-exclusive use for the purpose described, is not a registerable interest that can be mortgaged, and does not require a survey.

A licence of occupation does not allow the tenure holder to curtail public access over the licence area except where it would impact the licencees' right to use the land as per the licence document. Government may authorize overlapping and layering of tenures.

The standard term for an initial and Replacement licence is up to 30 years.

The SDM may deem that a shorter term for either the initial or Replacement license is appropriate. This decision is based on a consideration of relevant factors that may include, but are not limited to:

- the applicant's demonstrated business and financial needs;
- the applicant's past performance on an existing Tenure;
- whether all development contemplated in the TMP has been completed;
- consistency with objectives of government approved land use plans;
- future land use commitments;
- results of First Nations consultation efforts;
- pending land use planning, Limits of Acceptable Change studies, or species at risk strategies that may affect future land use decisions;
- the results of site assessments associated with the proposed use;
- whether requisite site assessments have been completed; and
- with respect to reports, fees and rents due, the applicant is in good standing.

A licence is the standard form of Tenure for an AT Tenure holder's guiding activities within an Extensive Use Area and may include Intensive Use Sites and/or Minimal Impact Sites. A licence may:

- take the form of a single area or multiple areas of Crown land separated by various distances;
- lie within a single Authorizing Agency administrative region or cross regional boundaries; and/or
- be for either mechanized and/or non-mechanized uses.

6.4. **Lease**

A lease should be issued where long term tenure is required, where substantial improvements are proposed, and/or where definite boundaries are required in order to avoid land use and property conflicts.

AT Leases are available for small parcels of Crown land, where there is Intensive Use, it is necessary to define specific boundaries for the use and Quiet Enjoyment for the leasee and clients is required. A lease is the standard form of an AT Tenure for a Primary Site and may be used for Secondary Sites where precise boundaries are required because of the nature of development in an area. AT Leases will be issued only where substantial Improvements and investments are to be made in and on the land for permanent facilities or on small sites that are absolutely critical to the operation.

The tenure holder has the right to modify the land and/or construct Improvements as specified in the tenure contract. The tenure holder is granted the right to exclusive use and quiet enjoyment of the area.

*A legal survey will generally be required at the applicant's expense to define the tenured area. A lease is a registered interest in the land that is mortgag*eable.

The standard term for a lease is up to 30 years, including Replacements. In limited situations shorter terms may be appropriate. SDM decisions to vary from the standard term should be based on a determination of factors such as those listed in section 6.3.

In addition and at the discretion of the SDM, a short-term, standard licence can be issued until authorized permanent Improvements on the area(s) are substantially complete and a legal survey is completed. At this time, and based on prior written agreement, the licence may be converted to a lease.

7. PRICING OF AT TENURES

This section discusses the administrative fees and annual rent for available AT Tenures, payment schedule procedures and notification of rent changes.

7.1. Administrative Fees

Application fees for Tenures, and other administrative fees, are payable to the Province of BC. These fees are set out in the fee schedules contained in the Crown Land Fees Regulation.

Application fees for non-mechanized and mechanized Tenures are $250 and $3300, respectively. The mechanized application fee does not apply to Special Events with unguided AT activities authorized under a temporary permit.

Fees for AT Tenure modifications (e.g., major and minor amendments, Tenure expansions, modifications) are listed below:

- Minor amendment: $100
- Major amendment: New application fee ($250 for non-mechanized uses and $3300 for mechanized uses).

7.2. Annual Rent

Section 7.2 describes annual rent for investigative permits, temporary permits, licences of occupation, and leases.

7.2.1. Investigative Permit

Minimum annual rent is $250 per year; $500 for two years.

7.2.2. Temporary Permit for Special Events

Minimum rent for a temporary permit with Intensive Use Sites and/or an Extensive Use Area with Client Day fees is $125.

- **Intensive Use Sites**: Temporary sites are $100 per site.
- **Extensive Use Area**: For guided AT activities, rent is the greater of the total Client Day fee for the period or $125, whichever is greater.

7.2.3. Licence of Occupation

Minimum annual rent for a licence of occupation with Intensive Use Sites and/or an Extensive Use Area with Client Day fees is $500.

- **Intensive Use Sites:**
  - Primary Sites - 7.5 percent of BCA land value or $500, whichever is greater;
  - Secondary Sites - 4.5 percent of BCA land value or $100 per site, whichever is greater; and
  - Temporary Sites - $100 per site.
- **Extensive Use Area:** The minimum rent will be remitted at Tenure Commencement. The actual per Client Day fees will be remitted at the end of season when submitting Annual Diligent Use reports as per section 7.4.2.

Where no BCA land value exists for Licences with Intensive Use Sites, the Authorizing Agency may conduct an initial land valuation based on fair market value. This valuation will subsequently be provided to BCA.

Note: Within an Extensive Use Area, Minimal Impact Sites are not considered an Intensive Use Site for the purpose of rent. No separate fee is to be collected.

7.2.4. Lease

Minimum annual rental for a lease is $500.

- Primary Sites – 8 percent of BCA land value or $500, whichever is greater; and
- Secondary Sites – 5 percent of BCA land value or $100 per site, whichever is greater.

Again, where no BCA value exists, the Authorizing Agency will establish the initial land valuation based on fair market value. This valuation will subsequently be provided to BCA.

Each lease area must be a separate Tenure. If, for example, three lease areas are part of the operation (e.g., two Primary Sites and a Secondary Site) then three Tenures are issued. Extensive Use Areas are not available with a lease.

7.2.5 Client Day Rates

For permits and licences with Extensive Use Areas, Client Day rates for guided activities are: $1 for Non-Mechanized, $4 for Mechanized Ski Guiding and $6 for Other Motorized. Rent is calculated by the minimum annual rent for the licence/permit or total Client Days, whichever is greater. Refer to Appendix 9, Summary of AT Tenure Pricing.

7.3. Notification of Rent Changes

The Authorizing Agency will give the Tenure holder 18 months notice or less for an Intensive Use Site if the basis of the change is solely due to a change in policy (e.g., change to percentage of land value). For changes due to an increase or decrease in the Market Value of the Intensive Use Site, the Authorizing Agency will provide at least 15 days notice.

Notwithstanding the 18 months notice, any applications for a modification or a Replacement Tenure may result in a fee or rent increase at the sole discretion of the SDM.

7.4. Payment Schedule Procedures

7.4.1. First year

On the Tenure commencement date, the Tenure holder pre-pays the applicable fixed amounts:

- Rent for Intensive Use Sites and minimum rent for Extensive Use Areas.

7.4.2. Subsequent Years

For the second and subsequent years, in addition to the fixed amounts listed above, the Tenure holder must pay the Client Day fees that are in excess of the pre-paid minimum rent for the previous year's reporting period.

Not less than two weeks prior to the anniversary of the commencement date (payment due date), the Authorizing Agency will send the client an invoice for the fixed amounts.

A Statutory Declaration Form (refer to Appendix 1B) is used to determine payment for actual Client Day fees for the reporting period that just ended, must be submitted with payment.

The client will submit the completed Statutory Declaration Form for the reporting period and the payment for the fixed amounts (as invoiced), plus the Client Day fees in excess of the minimum rent (as reported on the Statutory Declaration).

7.4.3. Reporting Periods

The reporting period will cover a one-year period. Specifically, the reporting period will start on the Tenure commencement date and end the day before the anniversary of the commencement date.

AT Tenure holders may request to have the reporting period, and consequently the invoicing date, modified to coincide better with their operating season (i.e., to report and be invoiced at the end of the operating season). Refer to section 9.7.4 for further details on updating Tenure document provisions.

Tenure holders may also request that all of their Tenures (AT Tenures and Park Use Permits) or Tenures they acquire from other operators be modified to have the same commencement dates and terms. Tenure holders may also request, to the extent possible, to have other dates associated with annual reporting or payment of annual fees synchronized. Appropriate modification fees and occupational rent will apply. It may not be possible to harmonize completely based on different maximum terms between AT Tenures and Park Use Permits (up to 30 years versus up to 10 years, respectively).

8. AT TENURE ALLOCATION PROCESSES

8.1. Pre-Application Considerations

New and Replacement Tenures are normally offered in response to individual applications. In addition to the standard procedures for accepting and processing an AT application, the Authorizing Agency should first consider the following:

- multi-region application;
- application for areas crossing provincial parks;
- water-based activity;
- application with Shoreline Frontage.

8.1.1. Applications for Multi-Region Licence of Occupation

Multi-region applications apply to those situations where an AT Tenure applicant plans to conduct activities in more than one of the Authorizing Agency's administrative regions. In those situations, the Authorizing Agency will accept the application and forward it to the SDM in the Authorizing Agency office nearest to receipt of the application. This SDM will contact the SDMs in the other involved regions. Together they will designate a single 'coordinating' office, which will be primary the contact for the applicant. Typically, the coordinating office will be located in the same region as the applicant's main office or where the majority of the AT Tenure holder's activities occur (not necessarily the office that receives the application). In some minor cross-boundary situations, one region may handle the entire application process.

In addition to coordinating the application process with other regions, the primary tasks of the coordinating office are: to maintain and keep the original file; be the main client contact; administer the Tenure; carry out Statusing; issue Tenure documents; and invoice and manage accounts.

The Land Use Report, Aboriginal Interest Consideration Report, Tenure document and TMP should be made available to all the applicable Authorizing Agency regions.

The referral process will be co-ordinated amongst the Authorizing Agency staff of the involved regions. They will collectively decide how the referral process and First Nations consultation efforts will be addressed (i.e. which agencies and stakeholders get referrals). The coordinating office may send out referrals and request that the responses be returned to them. Alternatively, the coordinating office may send out referrals and request that the responses are returned to the SDM in the involved regions. In this latter case, the regional office(s) will return the referral responses and their recommendations to the coordinating office.

First Nations consultation is to be co-ordinated amongst affected regions as per the preceding section (see section 8.9.1 for details on First Nation consultation).

Where required, applicants must advertise their application for multi-region Tenure in newspapers that circulate in each community in which the land is situated. The coordinating office and affected regions will decide how the advertising will occur and whether public responses will be sent to the coordinating office or to the nearest Authorizing Agency office. If responses are sent to the latter, they are forwarded to the coordinating office for review.

The final disposition decision concerning the multi-region application requires input from the SDMs in the involved regions. SDMs will provide the coordinating office with recommendations on any proposed use within their region in a "sub-report". They will also discuss issues concerning the multi-region application. The coordinating office will make the final decision and is responsible for contacting the applicant regarding the SDM's decision.

8.1.2. Applications for Areas Crossing Provincial Parks

The Authorizing Agency or BC Parks may receive an application for an activity that crosses in and outside of park boundaries. In these cases, the agency (the Authorizing Agency or BC Parks) will inform the other about the receipt of the application. Both agencies will work cooperatively to adjudicate the application. Where possible, Tenure documents will be synchronized. If Tenure is granted, separate Tenures will be required to authorize use under the *Land Act* and the *Park Act*. Tenure holders must follow park management plans while operating within BC Parks.

8.1.3. Water-Based Activities

River Corridors may be identified as Extensive Use Areas for the purpose of delineating the experience setting or patterns of use. River Corridors identified as proposed Extensive Use Areas will generally not be subject to detailed land Statusing during the Tenure application process.

Sections of a River Corridor or ocean foreshore area may be identified as Extensive Use Areas in cases where Minimal Impact Sites (e.g., campsites) are located below the high water mark and change from year to year (e.g., due to foreshore erosion or accretion).

Minimal Impact Sites are identified for Tenure referral and use management purposes; they are not Intensive Use Sites. No rental is applied to specific Minimal Impact Sites. Rental is applied to the Extensive Use Area licence or permit.

8.1.4. Application with Shoreline Frontage

The lake, river or sea Shoreline Frontage of a single or combined parcel(s) of land occupied by an AT operation may not exceed 200 metres.

The ability to issue licences is restricted by Order-in-Council (OIC) 467/1982. This OIC precludes issuance of Tenures other than permits for all unsurveyed islands and islets lying south of the 51st parallel and east of the 129th meridian, and all unencumbered and unalienated islands, less than 64.75 ha in size, within the coastal tidal waters lying north of the 51st parallel, without the approval of the Lieutenant Governor in Council.

8.2. **Applying for AT Tenures**

Applications for AT Tenures must be complete before they can be accepted for processing. A complete application package will include all the material defined in the AT Application Requirements Checklist.

8.2.1. Preparing a Tenure Management Plan (TMP)

A TMP is an integral component of an application package. A TMP is required for the following Tenure applications: temporary permits for Special Events, licences and leases. While a TMP is not normally required for investigative permits, the SDM may require the AT Tenure applicant to submit reports on levels of use, locations of use and interactions or conflicts with other AT Tenure holders or public users. In addition, information on features within the Extensive Use Area, such as wildlife sightings or populations, may be requested by the SDM.

The contents of a TMP must:

- specify and justify the proposed area(s), purpose, terms and conditions;
- establish estimated level of use, including number of clients on a monthly and annual basis;
- specify measures to eliminate or minimize conflicts with existing interests in the area; and
- specify measures to protect environmental integrity;
- where applicable, consider relationship-building opportunities with First Nation communities;
- address Public Access;
- consider affected parties' interests and minimize/mitigate impacts on other resource users, where appropriate; and
- include a statement that the Tenure holder will make best efforts to adhere to the desired behaviours described in the May 2006 provincial Tourism Wildlife Guidelines for Backcountry Commercial Recreation.

TMPs for an Extensive Use Area require AT Tenure applicants to identify, as precisely as possible, the areas of concentrated use to be used by the AT tenure applicant (e.g. all trails, ski runs, stopovers, Minimal Impact Sites). The specific nature of the uses (purpose, location, number of Client Days, etc.) and land areas required for the activity is also needed.

In reviewing the nature and scope of the AT applicants proposal, the SDM must be satisfied that the TMP:

- relates to the nature and scope of activities to be undertaken;
- relates to the activities that will be undertaken in the near future (usually required to be within the initial 5 years) as identified in a justifiable implementation strategy contained within the TMP;
- relates to the location and nature of facilities or Improvements and to access points and routes;

- excludes or addresses areas of significant environmental, social, cultural or land use concerns; and
- minimizes potential conflicts with other users of Crown land (including the public).

8.2.2. TMP Monitoring Considerations

The SDM may identify additional specific information requirements for applications. Monitoring criteria and standards may also be developed in response to applications which give rise to complex issues or resource management challenges in the planning or administration of the AT Tenure. The SDM will work closely with the AT applicant and stakeholders to develop monitoring criteria/indicators and standards that are:

- simple and regular;
- as inexpensive and practical as possible;
- related directly to the identified issue; and
- linked directly to the activities proposed or undertaken by the applicant.

This set of criteria/indicators should be accompanied by a clear scheme that outlines the frequency and standards to be employed in monitoring and reporting. Changes to levels, type or timing of AT use may occur on the basis of this monitoring. Both the AT Tenure holder and SDM must have a clear understanding of what action can or will be taken with respect to the monitoring outcomes.

Where the AT Tenure holder is required under the TMP to perform monitoring, the cost will be borne by the AT Tenure holder.

At the discretion of SDM, additional requirements and criteria may be applied to proposals that enter a competitive process.

8.2.3. Accepting AT Tenure Applications

New applications are to be submitted to the Authorizing Agency and will be reviewed for acceptance based on application package completeness, compliance with policy and program criteria, preliminary Statusing, and other information that may be available to provincial staff. The acceptance review is to be typically completed within 7 calendar days. Applications that are not accepted will be returned to the applicant.

8.3. Applications on Hold

If necessary, in the opinion of the SDM, Tenure applications may be put on hold pending the outcome of land use planning or assessments that address Crown land tourism opportunities or First Nation consultation. If this action is taken, notification will be sent to applicants affected.

In some cases where land use planning incorporating recreation/tourism values is underway but not yet completed, the SDM may consider issuing Tenures. Such circumstances may include situations where:

- no significant issues have been raised with respect to the use proposed by the application; or
- the AT applicant demonstrates the support of the land use planning table and participants.

If an application is on hold the applicant is prohibited from conducting those AT activities outlined in their proposed TMP.

8.4. **Application Processing**

Once an application is accepted for processing, the Authorizing Agency will: undertake a detailed Statusing; solicit comments from recognized agencies and groups; notify the applicant of advertising requirements; consult with First Nations; and, where applicable, conduct field inspections (section 8.11).

8.5. **Statusing**

After acceptance of the application, the Authorizing Agency undertakes a detailed land status of the specific area under application to ensure all areas are available for disposition under the Land Act and to identify potential issues.

8.6. **Referrals**

Referrals are a formal mechanism to solicit written comments on an application from recognized agencies and groups. Referrals are initiated as per legislated responsibilities and formal agreements developed with other provincial and federal government agencies. Referrals may also be used to address the interests of local governments. Referral agencies, organizations and special interest groups provide their responses to the Authorizing Agency within 30 days.

The extent of referrals should be consistent with the nature and scope of the AT application proposal. Referrals may be required to Transport Canada for guided activities undertaken on navigable waters or via air transport (e.g. heli-hiking).

8.6.1. Project Review Team

A Project Review Team (PRT) is an advanced referral method that may be used for complex applications. It is a team chaired by the SDM *and comprised of recognized agencies and groups that review and comment on specific Land Act applications*.

A PRT may be established by the SDM for an AT application. An application for an AT project that may have a significant impact on the environment, other recreation users or the AT application may be more effectively reviewed by an inter-agency committee at the regional or district level to determine:

- a recommendation on whether the application should proceed to the next stages of the review process;
- land and resource use issues;
- a non-exhaustive list that identifies all other government permits, licences and approvals required for the operation; or
- the most appropriate form of consultative process to use for the application.

8.6.2. Advertising/Notification

At the time of application acceptance, the Authorizing Agency notifies applicants if advertising is required and provides the necessary instructions. Advertising is required for licences and lease applications. It is generally not required for investigative permits, but may be required for temporary permits for Special Events as the discretion of the SDM.

Advertisements must clearly describe the Tenure location, types of activity proposed, and the type of tenure under application. If required, advertising should be consistent with the scale of the proposal and its potential for impacts and conflicts.

8.6.3. Upland Owner Consent

Owners of waterfront property have certain "riparian rights" that include the right of boat access to and from the upland (see Riparian Rights and Public Foreshore Use In the Administration of Aquatic Crown Land. The Authorizing Agency will advise applicants if there is a need to obtain a letter indicating the upland owner's consent to their application.

8.6.4. Adjacent Owner Notification

New applications to Tenure foreshore adjacent to privately owned property, including Indian Reserves, are brought to the adjacent property owner's attention through referrals or direct contact. The Authorizing Agency may advise applicants that there is a need to obtain a letter indicating adjacent owner's consent to their application.

8.7. Aboriginal Interests Consideration

The Authorizing Agency is responsible for ensuring the Province's obligations to First Nations are met in the disposition of Crown land. Provincial staff carry out consultations in accordance with the consultation guidelines of the Province to identify the potential for Aboriginal rights or title over the subject property and to determine whether infringement of either might occur. The consultation process with First Nations will vary.

8.8. Assessing the Ability of the Land to Support AT Use

Applications for new or modified AT Tenures will be assessed for the ability of the land to support the AT applicant's proposed use. Along with the principles described in

section 2, available information used to assist the SDM in their assessment of the land to support the AT applicant's proposed use may include, but are not limited to:

- nature and scope of overlapping AT tenures;
- ATOIF responses;
- referral responses from government agencies;
- consultation with industry and key stakeholder groups;
- responses from the public (e.g. as a result of advertising);
- vicinity of sensitive areas;
- consultation with First Nation(s);
- vicinity of known archaeological sites;
- nature and scope of public recreation use;
- land use plans and regional growth strategies; and
- existing land and resource studies (e.g. LAC).

At the discretion of the SDM, in situations where no clear information exists concerning the acceptability of environmental, cultural or experiential changes as a result of a proposed AT applicants use, the SDM, in consultation with a Project Review Team (refer to section 8.6.1) and/or a Tourism Peer Group (refer to Appendix 2), may develop Tenure management objectives or criteria to facilitate the adjudication of AT application using the best available information.

The SDM will continue to review TMPs and consider the issuance of Tenures to AT applicants in areas where there are significant concerns that the Tenure management objectives set for an area are being exceeded (or are not being met).

8.8.1. Overlapping AT Tenures

Individual applications for AT Tenures may be assessed at the pre-application stage to determine whether a proposed AT Tenure overlaps with another AT Tenure holder.

The following 3 potential issues are considered during the adjudication process related to overlapping AT tenures:

- quality of the guest experience provided by the AT Tenure holder;
- impact on the manner in which an AT Tenure holder must run their business; and
- safety and risk.

Refer to Appendix 2 for detailed procedures on assessing and dealing with overlapping AT Tenures.

The compatibility considerations for guest experience and impact on the current Tenured AT operator are listed in Appendices 6 and 7.

8.8.2. Sensitive Areas

Sensitive areas are those susceptible to disturbance from both water and land-based AT activities. Sensitive areas may be identified through a land and resource planning

process, during a revision of a TMP or during the application process (i.e., result of referral with ministries/local government and/or consultation with First Nations). Where appropriate, the SDM may establish specific management requirements and AT use thresholds for sensitive areas, or segments thereof, in consultation with industry representatives and other stakeholders. The SDM will endeavour to develop TMPs that balance AT use with the sensitive area. The development of criteria will reflect an appropriate strategy to balance specific concerns. High-use areas may require limits to the number of licences issued and/or Client Days authorized.

In establishing these limits, the SDM will consider economic viability, Tenured AT Tenure holders, previous levels of use and activities, areas of cultural or heritage significance, known archaeological sites, land use conflicts, and social and environmental concerns. AT Tenure holders may be required to provide evidence of the previous levels of use (e.g., Annual Diligent Use Report, signed waivers, bus log books) to help determine allocation levels.

8.8.3. Archaeological Impact Assessments

At the discretion of the SDM, an Archaeological Overview Assessment (AOA) and/or Archaeological Impact Assessment (AIA) may be required. AOAs and/or AIAs may be required for proposed Intensive Use Sites, Minimal Impact Sites above the high water mark and, to a lesser extent, Minimal Impact Sites below the high water mark, in cases where the proposed AT activity may impact Aboriginal Rights and Title.

8.8.4. Public Recreation

The SDM will ensure there is diverse, responsible and sustainable growth in both commercial and public recreation use on Crown land.

Proposed AT applications that overlap recreation sites, trails or interpretive sites established under Section 56 of the *Forest and Range Practices Act* (*FRPA*) require authorization from the district recreation officer for commercial recreation activities as per Section 16 of the Forest Recreation Regulation. This Section 16 requirement is in addition to the *Land Act* SDM authorization under the AT Policy.

Referrals to the district recreation officer is required for new AT applications, including major Tenure modifications of an existing AT operation. Authorization to use a *FRPA* Section 56 recreation site, trail or interpretive site is typically addressed during the referral response from the district recreation officer during the AT Tenure application process carried out by the Authorizing Agency.

At the discretion of the SDM, for areas of Crown land outside of *FRPA* Section 56 sites or trails, the AT applicant/Tenure holder may be required to make reasonable efforts to obtain a third party joint use agreement with an organized public recreation group.

In general, if a proposed recreation activity is the same or similar as the existing recreation activity, the activities are considered to be either neutral or compatible.

8.8.5. Land Use Plans and Regional Growth Strategies

Land use plans provide direction for the management and allocation of public lands and resources over a defined area. This land base is commonly referred to as provincial Crown land.

Land use plans help to form the foundation for balanced land and resource solutions that meet economic, environmental and social requirements throughout the Province. Land use plans guide not only government decision makers, but also those seeking natural resource development opportunities.

A regional growth strategy is a local government strategic plan to promote human settlement that is social, economic and environmentally healthy and that makes efficient use of public facilities, land and other resources. A regional growth strategy gives long range planning direction for regional district and municipal official community plans and assists with decisions regarding implementation of provincial programs in the area.

Approved land use plans and regional growth strategies will be considered by the SDM in the adjudication of an AT Tenure application and the consideration of any TMP modifications. For more information about land use plans refer to the Integrated Land Management Bureau.

8.9. **Adjudication**

In response to an AT tenure application, the SDM or their designate, prepares a Aboriginal Interest Consideration Report and a Land Use Report. The SDM approves the Aboriginal Interest Consideration Report, the Land Use Report and the TMP.

At the discretion of the SDM, AT Use Zones may also be established for Tenure administration purposes.

8.9.1. Aboriginal Interest Consideration Report

The SDM, or their designate, prepares the Aboriginal Interest Consideration Report in response to an AT tenure application and consultation with First Nations. The SDM reviews and approves this report.

8.9.2. Land Use Report

Once a Land Use Report is completed, *the applicant will be notified in writing of the SDM's decision. A link to the SDM's Reasons for Decision can be found on the Authorizing Agency's website.*

Single Application - where only one application is being considered, the application can be:

- accepted as proposed;

- accepted as a suitable land use with modifications or conditions to address the concerns and interests identified during the referral process, and which have been specified in writing to the applicant by the Authorizing Agency; or
- rejected as an unsuitable or conflicting land use.

Multiple Applications - where more than one application is considered for the same general area, the applications may be reviewed to determine:

- if any of the received proposals are considered acceptable and suitable land uses; and
- which applications provides a more suitable use of land, and are more compatible with existing uses.

If a competitive process is necessary to identify which applications are most suitable. A Competitive Process may be required as a result of:

- incompatibility between applications; or
- if there is a potential to significantly impact the environmental, social and economic resource values if all the applications were approved.

In these cases, a competitive process may be necessary to identify which applications are most suitable. In all cases, the SDM will provide written reasons for their decision to the applicants.

8.9.3. Tenure Management Plans

If the application has initially been deemed a suitable land use, and if issues raised during the application review have been addressed, AT Tenure applicants will be required to prepare a final approved TMP before Tenure is granted. A final approved TMP will:

- address all the issues deemed to be relevant by the SDM that were raised during the land use acceptability review (e.g., Statusing, referrals, overlapping Tenures) and/or the competitive process;
- identify how operating conditions, standards or criteria identified during earlier stages of the application process will be met; and
- be compatible with existing public recreation use (where relevant) and expected growth in use over time.

To properly evaluate a final TMP, studies or assessments of anything new or unclear may be required (at the expense of the applicant). In general, all clarification regarding an AT Tenure holder's intentions should have been sought and received by the Authorizing Agency well before the approval stage.

As deemed necessary by the SDM and before a Tenure may be issued, the final TMP may be reviewed by:

- relevant agencies of government where this need has been identified in the initial referral of the application;
- the public;

- other licence holders in the area;
- affected parties;
- First Nations; and/or
- advisory groups.

Where an AT applicant is unable or unwilling to make changes to a final TMP required by the SDM, the proposal may be rejected.

If all conditions are generally satisfied and the TMP is approved and signed by the SDM, an offer will be made to the applicant, after which a *Land Act* Tenure(s) will be issued.

The final approved TMP will form a part of the Tenure documentation. It will include all operating conditions and standards resulting from the review process.

8.9.4. Adventure Tourism Use Zones

At the discretion of the SDM, AT Use Zones may be established for Tenure administration purposes and applied to AT Tenure holders in order to better manage recreation use within a geographic area. The coastal Sea Kayak Zones are shown as an example of an AT Use Zone (see Appendix 4).

Approved land use plans, regional growth strategies, referral responses and applicable studies, such as Limits of Acceptable Change, will be used to guide the SDM in the establishment of AT use zones.

The SDM will consult with Tenured AT operators prior to the establishment of AT Use Zones.

8.10. **Issuing Tenure Documents**

If the application is approved, Tenure documents are offered to the applicant. All preconditions must be satisfied prior to the SDM *signing the documents. It is the applicant's responsibility to obtain all necessary approvals before placing Improvements or commencing operations on the Tenure*.

8.11. **Field Inspections**

Field inspection means the on-site evaluation of a parcel of Crown land by the Authorizing Agency staff. The need to conduct a field inspection will vary and the decision to make an inspection ultimately lies with the SDM.

The Authorizing Agency will provide reasonable notice of the inspection to the AT applicant or Tenured operator and, where possible, schedule it for a mutually acceptable time. The AT applicant or AT Tenure holder may be required to provide transport to remote sites and the cost of the field inspection.

8.12. **Competitive Process**

The Authorizing Agency may initiate one of a number of different competitive processes (e.g., public auction, request for proposals) where permitted by program policy and when deemed appropriate by the SDM. A competitive process may be established where:

- multiple applications are received for the same general area (by coincidence or as a result of expressions of interest received through advertising);
- one or more are deemed to be a suitable land use; and where
- two or more are deemed to be incompatible with each other, and/or they collectively exceed the acceptable limits of change on the land; or
- it is believed that multiple interests may exist; or
- the SDM wishes to use its discretion.

All competitors are required to submit an application as outlined in section 8.2. Also refer to the Crown Land Allocation Procedure and Competitive Process Policies.

8.13. **Planned Tenure Dispositions**

Planned Tenure dispositions involve the Authorizing Agency actively investigating and developing opportunities for Crown land Tenures, followed by announced openings within specific geographic areas. Under a planned disposition project or study, the Authorizing Agency will allocate Crown land in accordance with standard application procedures or by competitive process. All competitors are required to submit an application as laid out in section 8.2.

9. TENURE ADMINISTRATION

For more detailed standard Crown land policy and procedures, refer to the procedures for Tenure Administration.

9.1. **Insurance and Environmental Protection Considerations**

A Tenure holder is generally required to purchase, maintain during the term of the Tenure, and provide evidence to the Province of, a minimum level of general liability insurance specified in the Tenure document (e.g. proof of insurance attached to the Annual Diligent Use Report or Statutory Declaration Form). *The Authorizing Agency may make changes to the insurance requirements and request copies of insurance policies at any time during the term of the Tenure.*

A minimum of $2 million third party liability insurance is required for most AT Tenures. In the case of heli-ski AT Tenure holders, a minimum of $5 million third party liability insurance is required. Tenure holders may also require other types of insurance depending on the nature and scope of their operation (e.g. aircraft liability insurance of $10 million; watercraft liability insurance of $2 million).

Waivers will not be accepted by the Authorizing Agency in place of minimum insurance requirements.

The need for an environmental schedule or additional insurance requirements will be considered on a case by case basis by the SDM *when processing new or Replacement Tenures, or tenure Assignments. Circumstances that may warrant an environmental schedule or additional insurance requirements may include sites where there is a known or high risk of contamination or environmental impacts due to current or past activities; or a high risk of contamination or environmental impacts occurring in the future as a result of the tenure holder's activities.*

9.2. **Security or Performance Guarantee**

A security deposit or bond may be required to be posted by the Tenure holder where any Improvements on, or changes to, the land are proposed. The security deposit is collected to ensure the Tenure holder completes all the obligations and requirements specified in the Tenure. Examples where a security deposit may be used include: paying for clean up or reclamation of an area as a result of a Tenure holder's negligence; or to ensure compliance with development requirements.

The SDM may determine whether to require a security deposit or bond for an investigative permit, temporary permit for Special Events, licence or lease Tenure, and decide the amount of such a security deposit or bond. The amount is generally determined by the SDM based on the number, size and scale of Improvements, or the uses of Intensive Use Sites or Extensive Use Areas. The Tenure Administration Procedures clarify that a minimum of $1,000 is normally required for licences and leases.

Where the SDM requires a security/performance guarantee and where operations span both Crown lands and a park, a single security/performance guarantee may be requested. Refer to Section 3.3 'Bonds for Multiple Tenures' under the Tenure Administration Procedures.

9.3. **Assignment**

Assignment require the prior written consent of the SDM*. The assignee must meet eligibility requirements. The* SDM *may refuse the assignment of existing tenures if the details of the assignment are not acceptable to the Province.*

Investigative and temporary permits for Special Events cannot be assigned.

In the consideration of an application for Assignment, the SDM must be satisfied that the separate assignment of related AT *Land Act* and *Wildlife Act* authorizations will not lead to a proliferation of Intensive Use Sites in those areas where such proliferation may negatively impact the environment or other AT businesses.

Conditions of the SDM's consent to assignment include:

- the concurrent transfer of all permits necessary to support the operation and that the assignee is aware of permit requirements;
- the awareness of the assignee of permit requirements and agreement to commit to, and be responsible for, operating under the terms and conditions of the original Tenure(s), including all provisions of the TMP;
- the assignee meets eligibility requirements listed under section 5 of this policy; and
- the details of the assignment are acceptable.

Assignments may be subject to First Nations consultation.

The SDM will not unreasonably withhold assignment. The SDM will make reasonable efforts to accept or reject the assignment application within 45 days of the Assignment request.

9.4. **Sub-Tenuring**

Sub-Tenuring requires the prior written consent of the SDM. The sub-tenure holder must meet eligibility requirements. The SDM may refuse a sub-tenure application if the details of the sub-tenure are not acceptable to the Province. Investigative and temporary permits cannot be sub-tenured.

As a general operating policy, the SDM prefers to address multiple use AT activities under the overlapping AT Tenure procedures (refer to section 8.8.1 and Appendices 2, 6 and 7) rather than engaging in Sub-Tenuring.

Conditions of the SDM's consent to Sub-Tenuring include:

- a Sub-Tenure must not be for any purpose other than the purpose provided in the Tenure;
- the Sub-Tenure holder meets the eligibility requirements as listed under this policy;
- in the case of a lease, the current lease holder must demonstrate that they need to retain exclusive use of the leased area irrespective of their application to Sub-Tenure;
- the Sub-Tenure holder recognizes that they will not have higher priority than other AT Tenure holders and that the SDM is not precluded from granting overlapping Tenures to other AT Tenure holders (i.e., there is no implicit agreement that the Tenure holder will be the only AT Tenure holder in an area approved to Sub-Tenure; and there is no agreement that the Authorizing Agency will not Tenure other users);
- Sub-Tenure holder must adhere to their approved/signed Tenure agreement and TMP. Any activities that deviate from the approved TMP will require approval from the SDM and likely result in an amendment to their Tenure agreement; and

- details (financial and otherwise) of the Sub-Tenure are acceptable to the SDM.

The SDM reserves the right to withhold approval of a Sub-Tenure until they are satisfied the agreement is in the public's best interest. Where an application for a Sub-Tenure is being considered, the SDM may require the sub-tenant, as a condition of approval, to be bound to the Authorizing Agency (not just the tenure holder) with respect to the rights which the sub-tenant gets from the AT Tenure holder.

Without exception, all requirements for the sub-tenant(s) are the responsibility of the Tenure holder.

9.5. **Tenure Replacement**

As a general principle, the SDM favours the approval of a Replacement Tenure if the following considerations are met:

- the Tenure is in good standing; and
- Replacement is deemed to be in the public interest.

Failure to comply with the above considerations may result in the SDM declining to replace a Tenure or may alter the terms and conditions of the Replacement Tenure.

For greater clarity, public interest considerations may include, but are not limited to:

- Crown land allocation principles and specific AT principles;
- Consistency with objectives in government approved land use plans;
- Pending land use planning, tourism use study recommendations or species at risk strategies that may affect future land use decisions; or
- Future land use commitments (e.g. First Nation agreements, regional infrastructure development, and the pending establishment of a park, protected area or conservancy).

Investigative permits are not generally replaced. A further two year term may be provided, at the Authorizing Agency's discretion, when there are legitimate requirements for a longer investigative period.

Temporary permits for Special Events are not replaced.

A Replacement licence or lease be applied for any time after commencement of the Tenure.

9.6. **AT Tenure Holder Reporting Requirements**

9.6.1. Annual Diligent Use Report and Statutory Declaration

Tenure holders must complete the Annual Diligent Use Report (Appendix 1A) and accompanying Statutory Declaration form (Appendix 1B) on an annual basis. The report will be used to monitor Diligent Use of Tenure holders and to adjudicate

overlapping Tenure applications. The Statutory Declaration is used for rental purposes. For operations with both AT Tenures and PUPs, only a single Annual Diligent Use Report is to be submitted. In these few cases, a special template form will be provided by the Authorizing Agency. Upon receipt of the Annual Report, the SDM is to confirm that operator is in compliance or is not in compliance and may include additional TMP requirements.

9.6.2. Risk Management Plan Documentation

Risk Management Plans must be made available to the Authorizing Agency or SDM upon request. This plan is required in addition to a TMP; it is not attached to or part of the TMP or Tenure agreement.

All AT Tenured operators offering backcountry snow sport activities (e.g., skiing, snowshoeing, snowmobiling, backcountry lodging) are required to have an Avalanche Risk Management Plan.

9.7. Tenure Management Plan Administration

9.7.1. Review of Approved TMPs

After the Tenure is granted, the TMP is typically reviewed every five years by the SDM or periodically at the request of either party. Modification of the TMP may follow these reviews.

9.7.2. TMP Compliance

This section applies to the utilization of Crown land by Tenured operators who are not in compliance with their Tenure conditions.

Where a SDM becomes aware that an AT Tenure holder's performance is not in compliance with the terms of their Tenure or TMP, the SDM may:

- order the operator to cease operations immediately; or
- submit an application justifying the need to modify their TMP.

If the non-compliance does not cease, or if an acceptable application is not received, the SDM will take the appropriate compliance action. Action may range from a warning letter, modification to Tenure conditions, to possible cancellation of Tenure. If the non-compliance requires immediate action, a trespass notice pursuant to the *Land Act* may be issued.

9.7.3. TMP Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans, act as the basis for monitoring and enforcing specific performance requirements over the life of the tenure.

Tenure terms and conditions include Diligent Use of the Tenured area as described in the TMP and reported in the Annual Diligent Use Report. The SDM will acknowledge receipt of Annual Diligent Use Report and providing a copy of their comments to the Tenure holder.

9.7.4. Modification

This section describes how Tenures and/or TMPs may be modified at the preference of the Tenure holder or by the SDM (refer to section 3 for a definition of Minor Amendment and Major Modification).

9.7.5. Modification by Tenure Holders

AT Tenure holders, who wish to take advantage of new or modified Tenure provisions, may request to have their Tenures modified. The Tenure holder must contact the SDM to discuss their proposed modification as requests for significant changes may require a revised TMP. Approval for such modifications will depend on the impact of such changes on:

- Levels of acceptable change indicators created through processes such as LUPs, LAC studies, etc.;
- the viability of the operation itself; and
- other AT Tenure holders or resource users in or adjacent to the Tenure area.

If extensive modifications were implemented since the original Tenure was issued, the SDM may decide that the existing document should be amended into an updated Tenure document (note: this is not the same as a Tenure Replacement). For this updating, the Tenure modification fee will apply unless other changes are being made to the Tenure, in which case the appropriate administrative fee will be charged.

9.7.6. Modification by the SDM

Tenures issued after February 23, 2005, may include a provision that allows the SDM to modify TMPs during the term of the Tenure under certain conditions as described in the following section. Modifications may be necessary to address concerns about:

- public safety;
- approved land-use plans;
- extent of Diligent Use (e.g., low or no Client Day numbers for two years in the absence of clear and compelling reasons for this from the operator);
- acceptability of environmental changes (e.g., protection of species at risk);
- acceptability of experiential changes (e.g. incompatible activities where the existing activity does not adapt or conflicts with the introduced activity);
- results of First Nations consultation; and,
- other similar issues.

In cases where the applicant applies for an Assignment, Replacement or Modification, the SDM may request a change to the Tenure and/or the TMP.

9.7.7. Procedure for TMP Modification by SDM

In those cases where the SDM wants to modify an AT Tenure holder's TMP, the Authorizing Agency representative will contact the AT Tenure holder to inform them that the SDM is considering a TMP modification. They will also be informed that a consultation process will occur with the SDM once the AT Tenure holder has reviewed the proposed changes.

An "Initial Notice" (or advance notice) of the proposed TMP changes will be delivered to the Tenure holder by registered mail so as to confirm receipt by Tenure holder. This notice will include (but not be limited to) the following:

- Tenure reference information;
- reason for TMP review;
- proposed revisions to the TMP;
- proposed effective date of revision;
- the Authorizing Agency contact person; and
- time period for consultative process with the Authorizing Agency.

The standard period will be 60 days from receipt of notice during which time the SDM will be available for consultation.

In the case of urgent circumstances the initial response/consultation period may be shortened (see below).

Once the AT Tenure holder receives the initial notice, the Authorizing Agency representative will schedule a consultation meeting to discuss the proposed changes. At this time, the AT Tenure holder should be prepared to discuss:

- proposed TMP revisions;
- potential impact of the proposed TMP revisions on their business; and
- possible mitigation strategies.

The SDM will consider all information obtained during the initial notice period and consultation process with the Tenure holder, as well as information obtained from other sources. The SDM will take reasonable steps to minimize impacts of TMP changes and work with the AT Tenure holder to offset losses. If significant new information is received during that time, this information may be shared amongst interested parties for review and comment. If analysis of information results in significant changes to the proposed TMP modification as set out in the initial notice, then Step 1 of the procedures may be repeated.

A “Final Notice”, which outlines the SDM’s decision with regard to the TMP modification, will be sent via registered mail to the Tenure holder. The Final Notice will include, but not be limited to:

- advisement whether the SDM intends to proceed with the proposed revision as set out in the Initial Notice; and
- particulars of any changes (if any) to those matters dealt with in the Initial Notice.

The Tenure holder will normally receive a minimum of 12 months from the day the registered letter is received before the effective date for revised components of the TMP.

If urgent circumstances apply, the date could be set at less than 12 months.

A Tenure holder may submit a written, formal objection to the SDM’s decision with supporting rationale to the SDM’s manager (address to be provided by the Authorizing Agency). Under normal circumstances, the maximum time period for objections to be received by the Authorizing Agency will be 60 days from the day of receipt of the final notice sent by registered letter. The registered letter is deemed to be received on the fifth day after it is mailed. A shorter period may be stipulated by the SDM in the event of urgent circumstances. If a formal objection is not received within the specified timeframe, the proposed change will be enacted on the effective date provided in the notice.

9.7.8. Urgent Circumstances

Certain situations may necessitate making revisions to a TMP sooner than the standard 12-month implementation timeframe. The actual timeframe will be determined on a case-by-case basis. Urgent circumstances are those that involve matters of public interest, such as:

- significant environmental concerns;
- specific government direction to close an area or restrict use that requires compliance within 12 months (e.g., through the implementation of a land use plan); or
- public safety concerns.

9.7.9. Tracking Modifications made to the TMP

To ensure that all modifications are noted and all parties can easily identify the most current approved TMP, a standard “Amendment Log” form will be attached to the TMP on file (refer to Appendix 3 - TMP Modification Log Template).

If an original TMP becomes difficult to follow due to several modifications made during the term of the Tenure, the SDM may request the Tenure holder provide an updated TMP for the SDM’s approval.

9.8. Conversion of Multiple Tenures into a Single Multi-Region Tenure

Clients may request to have existing multiple Tenures, which are currently established within different regions, combined into a single Tenure. This request may be made if the existing Tenures are related to the same operation. The request may be processed at Replacement (section 9.5) or during a Tenure Modification. If the request occurs during a Tenure Modification, a new Tenure document will be necessary and standard administrative fees would apply.

9.9. Tenure Cancellation

In addition to the cancellation procedure set out in section 9.7.2, the SDM may cancel licences or permits if:

- Government requires the Tenured land for its own use; or
- in the SDM's opinion, it is in the public interest to cancel the Tenure.

The Authorizing Agency must send a notice by registered mail notifying the licensee/permit holder of government's intention to cancel the Tenure. In such cases, the Authorizing Agency will follow the TMP Modification procedure outlined in section 9.7.4 and section 9, Cancellation of Tenures under the procedures for Tenure Administration applied to *Land Act* policies.

9.9.1. Clerical Error, Land Not Available, Incorrect Survey, etc

As per the Tenure Administration procedure for *Land Act* programs, if clerical errors are found, the SDM will advise the Tenure holder by certified mail of the particular error and advise that the Authorizing Agency is cancelling the disposition pursuant to Section 44 of the *Land Act*. The letter will specify the date of cancellation and the compensation (if any) that will be paid should circumstances warrant. The final cancellation is completed as per section 9.9 above.

9.10. Monitoring and Enforcement

Tenure terms and conditions, including requirements contained in approved management/development plans, act as the basis for monitoring and enforcing specific performance requirements over the life of the Tenure.

10. POLICY VARIANCE

Major variances from this policy must be approved by the Assistant Deputy Minister responsible for the AT policy. Decisions on minor variances are made by the SDM in consultation with the Regional Executive Director of the Authorizing Agency. Refer to the Policy Variance Procedures for more information.

11. APPENDICES

Appendix 1A: AT Tenure Holder's Annual Diligent Use Report

This section to be completed by the AT Licensee:

Reporting Period:

Date of report: _____(month, day, year)

For period beginning: _____ending: _____(month, day, year)

Contact Information:

Company Name: _____

Contact Name (if different than Company): _____

Mailing Address: _____

File #: _____ Licence of Occupation #: _____

Years in Operation:_____

This section to be completed by the Statutory Decision Maker:

Date report received from Licensee by the Authorizing Agency: _____
(month, day, year)

Date copy of signed report returned by the Authorizing Agency to Licensee: _____
(month, day, year)

Is the adventure tourism Licencee, File _____, using the land responsibly and in accordance with their approved Tenure Management Plan?

(Circle one) **YES** **NO**

SDM Comments: (e.g. note successes, suggestion for improvement and/or direction for possible TMP modification)

_____ _____
Statutory Decision Maker - Signature Date Signed

_____
SDM – Printed Name

Completion of the Annual Diligent Use Report by the Adventure Tourism Tenure Holder (Licensee) and the Statutory Decision Maker (SDM) is in accordance with the Adventure Tourism Policy. The Licensee is to complete the attached form and return it to the SDM. For multi-region Tenures the report should be sent to the coordinating office. The coordinating office will forward a copy of the report to the other regions as required. Upon receipt of the completed document, the SDM will sign the received form and add comments as appropriate. A copy of the signed document will be returned to the Licensee and the original copy will be kept by the Authorizing Agency and attached to the Licensee's file.

This section to be completed by the Adventure Tourism Licensee:

A) **Description of Changes in your Operation** – If applicable, describe changes in your operation from previous years. Include any suggestions from the Statutory Decision Maker from previous years' Annual Diligent Use report. Include any relevant descriptions of future plans (short and long term).

B) **Annual Report on Client Days** - (Identify by area if operating in more than one. Note additional areas using attached paper)

Area (list by identifying number and/or name as per TMP Map)	**Location of area**	**Type of Activity**	**Number of Client Days Current Report Period**	**Number of Client Days Previous Report Period**	**Comparison of target set in approved TMP** (actual Client Days less target Client Days)
Total Client Days:					

C) Identify any <u>special circumstances</u> relevant to the period of this report (identify by area name and number if applicable).

- Environmental conditions (e.g., snow pack, river level, etc.)

- Change in market demand as a result of other influences

- Other

D) <u>Community involvement -</u> Describe the relationship and the commitment by your company to (the) local community(ies), and region(s), including specific initiatives that have resulted from your activity in this Tenure. Consider the economic, environmental, social and cultural influence as appropriate.

E) <u>Environmental</u> - Identify any changes that you have noted in the condition of the areas) in which you operate over the past year (do they remain the same, improved, worsened). If applicable, describe specific environmental stewardship initiatives that you have undertaken during this reporting period (are there new or continuing efforts, are they planned for next reporting period).

F) <u>Optional Miscellaneous Information</u> - Include other relevant information that you feel may influence a Diligent Use determination or that your management plan requires you to report on.

I confirm that the Insurance for my tenured adventure tourism business is valid.

Signature of AT Tenure holder _____

Printed name of AT Tenure Holder: _____

Date Signed: _____

Appendix 1B: Example of a Statutory Declaration Form for Rental Purposes

Province of British Columbia, Integrated Land Management Bureau, in the matter of

File Number _____ and Licence Number _____

TO WIT:

I, _____

<<printed name of tenure holder>>

of «Company»_____

«Address » _____

In the Province of British Columbia, do solemnly declare the following:

Between dates _____ and _____ the following

Client Days were recorded:

Activity (Specify)	Area (name or number)	Operating Dates (from/to)	Client Day Rate $	X	No. of Client Days	=	Total Client Day fees
				X		=	
				X		=	
				X		=	
				X		=	

Total Client Day fees $_____

Plus Harmonized Sales Tax $_____

Sub Total $_____

(minimum rent amount) $ (xxx) plus HST

Total Client Day fees less annual rent paid $_____
(to be submitted with declaration and invoice payment)

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same legal force and effect as if made under oath.

Declared before me at the _____ of_____,

in the Province of British Columbia, this _____ day of _____, A.D.

_____ _____

A Commissioner for taking Affidavits for British Columbia or
A Notary Public in and for the Province of British Columbia

Adventure Tourism Operator

Appendix 2: Overlapping AT Tenure Application Procedures

Part 1: CONTEXT

Purpose

The purpose of the overlapping AT tenure application procedure is to provide guidance and information to the SDM on the considerations used to help adjudicate new applications for AT Tenures over areas with existing Tenured AT operations.

Background

Under the authority of the *Land Act* and in keeping with the existing policies and the principles of integrated management, the SDM authorizes use of Crown land to AT operators via licences of occupation and permits. As the AT sector grows in all regions of the province, and activities compete for the same land base, the SDM must make complex adjudication decisions.

As outlined in section 8.6 of the AT Policy, Tenure AT applicants are required to contact and inform AT Tenure holders of the specifics of their application and TMP. The preferred outcome is for the AT applicant and AT Tenure holder to reach agreement through modifications to the AT applicant's TMP or a third party Joint Use Agreement (JUA). However, it is recognized that this may not always be possible. This appendix provides tools to assist the SDM where an agreement cannot be reached between the AT applicant and the Tenure holder.

In cases where two or more applications are received over an area not previously Tenured by an AT operation or where there is temporal separation from current Tenures, the SDM staff may initiate a competitive process.

It is important to note that not all AT applications that overlap an existing Tenure holder will result in Tenure. At the discretion of the SDM, applications that have low compatibility with an existing Tenured AT operator may be denied Tenure. The SDM Reason For Decision will be made available to the applicant.

Compatibility Criteria

The following criteria are designed to provide context about overlapping Tenure considerations for the SDM, and where appropriate, the TPG panel and SDM's Manager. The following 3 potential issues are considered during the adjudication process related to overlapping AT tenures:

- quality of the guest experience provided by the AT Tenure holder;
- impact on the manner in which an AT Tenure holder must run their business; and
- safety and risk.

The compatibility considerations for guest experience and impact on the current Tenured AT operator are described below and reflected in Appendices 6 and 7:

1. **Guest experience** - Impact of the proposed AT activity on the quality of the guest experience provided by the existing AT Tenure holder.
    - High Compatibility – Minimal or negligible impact of the proposed AT activity on the quality of the guest experience provided by the existing AT Tenure holder.
    - Moderate Compatibility – Moderate impact of the proposed AT activity on the quality of the guest experience provided by the existing AT Tenure holder. A third party joint use agreement may be required.
    - Low Compatibility – Significant impact of proposed AT activity on the quality of the guest experience provided by the existing AT Tenure holder. A third party joint use agreement is required.

2. **Impact on current AT operator** - Degree to which a proposed AT activity results in changes in the manner in which an existing AT Tenure holder must operate their business.
    - High Compatibility– Minimal or negligible changes in the manner in which an existing AT Tenure holder must operate their business
    - Moderate Compatibility – "Moderate or few changes in the manner in which an existing AT Tenure holder must operate their business". A third party joint use agreement may be required.
    - Low Compatibility – Significant changes in the manner in which an existing AT Tenure holder must operate their business. A third party joint use agreement is required.

In some cases, a proposed AT activity may complement or have a neutral affect on an existing AT activity. For example, proposed hiking with existing wildlife viewing. In other cases, a proposed AT activity may conflict with an existing AT activity. For example, proposed ATV use in an area with existing hiking and wildlife viewing.

Impacts associated with moderate compatibility activities can be readily mitigated through:

- Using timing or geography to separate the activities;
- Altering the party size and/or frequency of the new activity to protect client experience;
- Requiring a particular mode of access or transportation to minimize or eliminate conflicts; and/or
- Changing the location or lowering the level of facility development proposed in the TMP, if necessary, to be compatible to existing operations.

3. **Safety and Risk Compatibility** - SDM considerations for safety and risk compatibility between an existing Tenured AT operator and a proposed overlapping AT operator includes, but is not limited to, the review of:
    - land use plans and studies;
    - existing AT Tenure holders management plan;
    - AT operator's proposed management plan;
    - AT Operator Input Form responses;
    - Interaction between mechanized AT activities, including those related to air transport and navigable waters;
    - Referral responses from government agencies; and
    - Consultation with First Nations.

Safety and risk compatibility are not included in the compatibility ratings shown in Appendices 6 and 7.

Assessing Impact of New Applications on Tenured AT Holder Modification

If an AT Tenure holder, who is responsibly using the land, believes that the approval of the new Tenure application will restrict the modification of the existing business (i.e., increasing Client Days or approved uses) within the authorized area of the Tenure holder, the SDM will provide that Tenure holder with an opportunity to make an expansion request (section 9.7.5). If the AT Tenure holder wishes to modify, the business must submit an expression of interest to the Authorizing Agency within 30 calendar days of being notified. Nothing prevents a Tenure holder from notifying the Authorizing Agency earlier in the process (e.g., after being approached by the new AT applicant).

From the date the Authorizing Agency receives an expression of interest, the AT Tenure holder(s) will have 60 additional calendar days to submit a formal application for Tenure modification. If the AT Tenure holder applies to modify their Tenure, the SDM will initiate a competitive process (section 8.12). Note: the competitive process applies only to the modification of the Tenure holder's operation, not the current use of an existing Tenured area.

If either of the above time frames is not satisfied, or if the AT Tenure holder chooses not to apply to modify their Tenure, the Authorizing Agency will continue to process the new overlapping application as if it were not a competing application.

The Authorizing Agency does not hold or reserve Crown land for AT Tenure holders who may want to extend the geographic boundaries of their existing Tenures or to modify their business operations at a future date beyond what has been approved in the TMP provided by the AT Tenure holder.

PART 2: PROCEDURE FOR ADJUDICATING APPLICATIONS

The procedures below outline the process the SDM uses to adjudicate applications for overlapping AT Tenures. It describes the responsibilities of the AT applicant, AT Tenure holders, and the Authorizing Agency/SDM when an application is received and overlaps with an existing AT Tenure. The process is divided into four sequential steps. The goal is to reach a resolution at the earliest stage possible. The SDM will implement the next step if the previous step proves unsuccessful in producing an agreeable outcome.

At all stages in an overlap process the SDM and/or recommending body should make an effort to understand the nature of the overlap and the concerns expressed by an existing operator. Overlaying Tenures can have subtle yet significant effects on existing businesses, which may not initially be apparent.

STEP 1: In the initial step, the primary responsibility to reach a resolution lies with the AT applicant. The roles of the Authorizing Agency/SDM, the AT applicant and the existing Tenure operator are described below.

The Authorizing Agency Responsibilities – Upon receiving a Tenure application, the Authorizing Agency will provide the AT applicant with a list of overlapping AT Tenure holder names and copies of the AT Operator Input Form (ATOIF) (Appendix 5).

AT Applicant Responsibilities - The AT applicant is responsible for:

- Notifying AT Tenure holder(s) by registered letter of the following:
    - the application for overlapping Tenure;
    - any management issues associated with the new application;
    - the requirement, if no agreement is reached between the existing AT operator and the AT applicant, for the existing operator to complete and submit the ATOIF to the regional the Authorizing Agency office within 45 days of receipt of the forms (as noted by the Tenure holders signature on the registration letter);
    - Sending an ATOIF and a copy of their TMP to each of the AT Tenure holders on the list, via registered mail, within seven days of receiving the list from the Authorizing Agency; and
    - Contacting and discussing the AT Tenure holder's proposal and TMP and ideally, reaching an agreement with the Tenure holder(s) on their proposed TMP. Agreement can take the form of a signed JUA (which may also include agreed upon changes to a AT applicant's and/or existing AT holder's TMP).

Within 60 days, an AT applicant must provide the SDM with either:

- An agreement signed by the AT applicant and the AT Tenure holder (this could take the form of a JUA or a modified TMP with the existing operator's consent);

OR if not resolved,

- A detailed description of:
    - the steps the AT applicant took to meet with the AT Tenure holder(s);
    - the mitigative actions proposed by the AT applicant to resolve the overlap situation with the AT Tenure holder(s); and
    - the areas of disagreement between the AT applicant and the AT Tenure holder(s).

Failure of the AT applicant to meet the requirements as outlined above and the associated timelines may result in disallowance of the application.

AT Tenure Holder Responsibility - The AT Tenure holder is responsible for:

- meeting with the AT applicant, consider their proposal and attempt to reach an agreement in good faith; and
- if the AT Tenure holder does not reach agreement with the AT applicant, they are responsible for completing and returning the ATOIF to the Authorizing Agency within 45 days of receipt. These forms do not constitute a veto for AT Tenure holders but offer the opportunity to provide specific information on how the proposed application will impact their operations to aid the SDM in the adjudication process.

Where there is limited potential for conflict identified in the ATOIF (e.g., uses are clearly separated by time or geography, and/or there are no Improvements, noise impacts, etc. that would affect either Tenure holder) or a JUA exists with Tenure holder(s), then the application will be evaluated (e.g., land status, referrals, consultation with First Nations) with no further consideration to overlapping boundaries.

STEP 2: Where an agreement is not reached between the AT applicant and Tenured operator and overlap issues are identified, the SDM may employ a more rigorous process to determine if the application should be accepted for processing. This process is as follows:

In addition to the issues outlined in section 2 of this Appendix, the SDM will use the following to aid the assessment of Tenure compatibility:

- responses to the ATOIFs from AT Tenure holder(s);
- Matrices for Assessing the Compatibility of AT activities (Appendices 6 and 7);
- both the AT Tenure holder's and the AT applicant's TMPs;
- guidance from existing Land Use Plans and consultation with other stakeholders; and
- other information provided by the AT applicant and/or Tenured operator, including the Diligent Use Form.

With this information the SDM will attempt to resolve the overlap issue to the satisfaction of the AT applicant and Tenured holder. If the SDM is unsuccessful in this

attempt they may form and seek advice from a Tourism Peer Group (TPG) panel, as outlined in Step 3.

STEP 3: If the SDM cannot resolve the issue to the satisfaction of the AT applicant and Tenure holder they may activate a TPG panel.

The TPG panel should use the three considerations described in section 2 of this appendix to form their recommendation. They will have 30 days to:

- review the AT applicant's and Tenure holder's management plans, the ATOIF (if completed), and any other documentation that may be informative to the overlap issue;
- interview the AT applicant and Tenured operator (if required); and
- write a recommendation with respect to the AT application;

The TPG panel has no decision-making power; however, the SDM will use the TPG panel's recommendations to assist in evaluating the application. The TPG panel's recommendations may also be referred to in determining what, if any, modifications would be required to the AT applicant's TMP.

The SDM will inform the AT applicant and Tenured operator as to whether evaluation of the application will continue.

STEP 4: If a AT Tenure holder or AT applicant does not agree with the SDMs decision, they have 14 days to submit an appeal to the SDM's manager once they have received written notice of decision. The application should not be processed to an offer until a decision on the appeal has been made. The SDM's manager holds the final decision making power. The SDM's manager will review all available material. The SDM's manager has 30 days to inform the SDM of their decision. The SDM, in turn, informs the AT applicant and Tenured operator of the decision in writing.

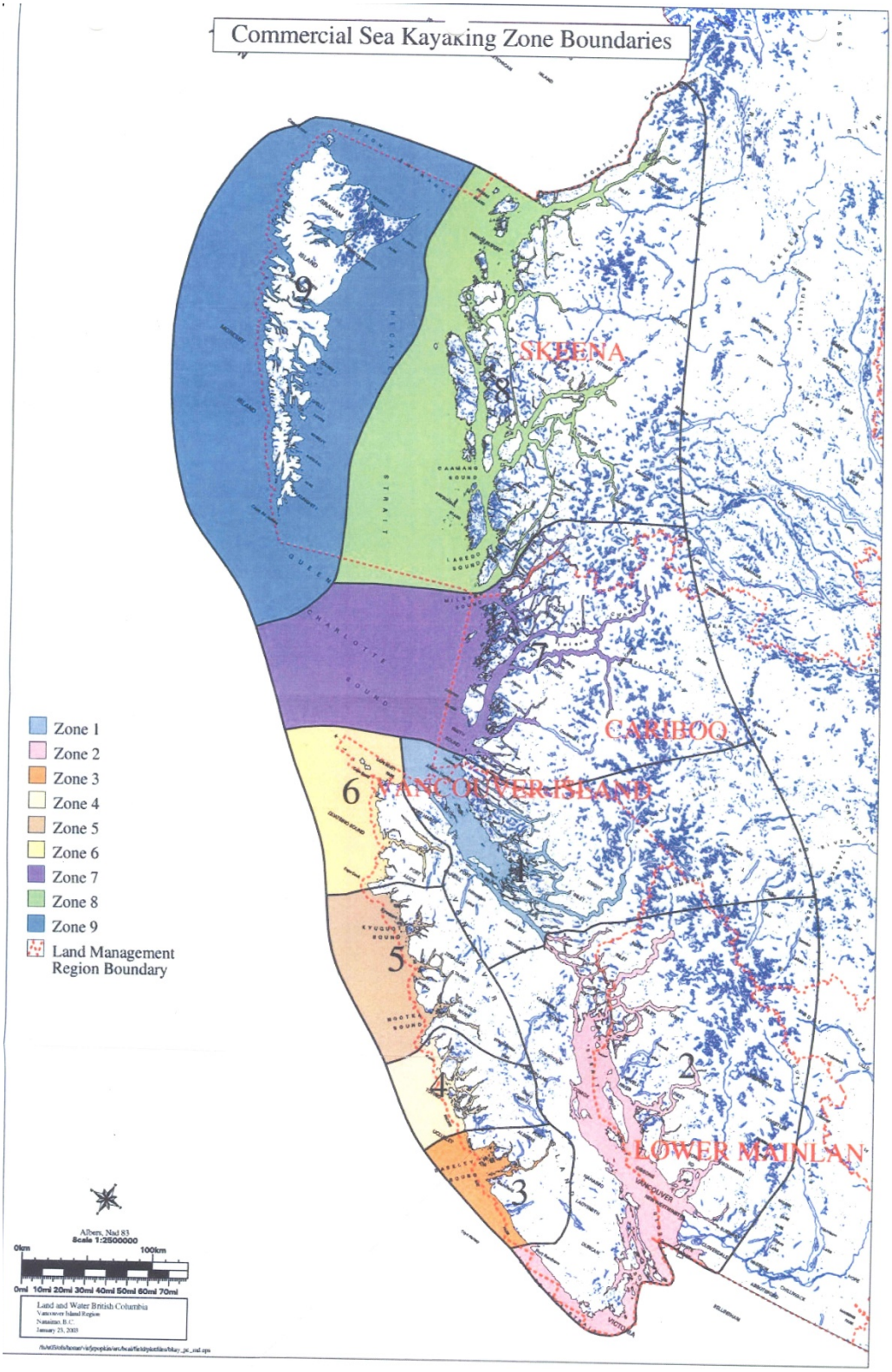
Appendix 3: Tenure Management Plan Modification Log Template

APPROVED TENURE MANAGEMENT PLAN MODIFICATIONS

File Number: Document Number:

Effective Date (month/day/year)	Entered by SDM: (printed full name)	Initials	Summary of Changes

Appendix 4: Example of AT Use Zone - Sea Kayaking Zone Boundaries



Appendix 5: Adventure Tourism Operator Input Form (ATOIF)

This form is provided to obtain input from Adventure Tourism (AT) Tenure holders Tenured under the *Land Act* or licensed Guide Outfitters Tenured under the *Wildlife Act*.

Input is requested on potential issues or resolution of issues associated with overlapping tenure areas as a result of an AT application made by:

Name of AT Applicant: _____

AT Applicant's Crown land File Number: _____

Information provided on this form will be used by the Statutory Decision Maker (SDM) as part of the adjudication process for reviewing Adventure Tourism applications with overlapping tenure and does not imply a veto for AT Tenure holders.

Company name of the existing AT Tenure holder/licensed Guide Outfitter:

_____

Crown land Tenure file number of AT Tenure holder/licensed Guide Outfitter: _____

Instructions: AT Tenure holders or Guide Outfitters please respond to the specific questions relating to the proposed tenure management plan (see attached) for this application. Please attach any additional information to this form if you require more space for a complete reply.

1. Within the areas of overlap, do you believe the AT applicant's proposed activities may affect the way in which you currently operate?

_____ No _____Yes (please explain how it will affect your current operations).

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

2. Within the areas of overlap, are there ways in which you and the AT applicant could both operate that would help minimize any changes to your current operation? For example, operating at different times, using different areas for activities that are not compatible, etc.

_____ No _____Yes (please explain).

3. If there are ways in which you and the AT applicant could both operate that would help minimize any changes to your current operation, are the services of Authorizing Agency staff still needed to help address overlapping area issues?

__No __Yes (Please explain the role the Authorizing Agency may play to assist you with this).

4. Within the areas of overlap, do you believe this AT applicant's proposed activities may negatively affect the kind of experience that you currently offer to your guests?

__ No __ Yes (Please explain how it will affect the experience that you currently offer your guests).

5. Within the areas of overlap, are there ways in which both you and the AT applicant could operate which would minimize any changes to the experience you currently offer your guests?

__ No __ Yes (please list).

6. Within the areas of overlap, do you believe the AT applicant's proposed activities may affect safety or risk management efforts associated with your business?

__ No __ Yes (Please explain how it will affect your safety and risk management efforts).

7. Within the areas of overlap, what ways would you suggest both you and the AT applicant may operate that would help minimize any changes to the safety or risk management practices associated with your business?

8. With respect to this AT application, are there any concerns related to activities that would occur adjacent to your tenure boundaries?

__ No __ Yes – please explain.

9. With respect to this AT application, are there any concerns that may prevent your operation from modifying your Tenure (Client Days, approved uses)? If so, please explain.

_____ _____

Signature of AT Tenure holder **Date (**month/day/year)

_____

Print Name

Please send completed ATOIF to the Authorizing Agency at the following address:

Appendix 6: Matrix to Assess the Compatibility of Summer Recreational Activities

This summer activity compatibility matrix tool is used by the Statutory Decision Maker to guide their decision-making process with respect to the adjudication of Adventure Tourism (AT) Tenure applications. It is based on two compatibility considerations of guest experience and impact of the AT operator (see Appendix 2 for further information).

Existing activities are shown in the column at the left. To find compatibility rating between an existing activity and an AT activity proposed for overlapping Tenures; select an existing activity from the column on the left, and then read across the row to find the cell that intersects with the proposed activity at the top of the table. The level of compatibility is noted as high (H), moderate (M), or low (L). (Example: to identify if an application for a sea kayaking Tenure is compatible with an existing fly-in-hike Tenure, identify 'fly-in-hike' cell in the left column and look across page until you intersect with cell under 'marine, non-motorized.' In this example, the two activities have 'high' compatibility).

Proposed Activity / **Existing Activity**	Hike	Fly-in-Hike	Horse/Llama	Mountain Bike	ATV	Mountaineering/Climbing	Wildlife Viewing	Bear Viewing	Fresh Water – non-motorized	Marine – non motorized	Fresh Water – motorized	Marine - motorized
Hike	H	M	M	M	L	H	M	M	H	H	H	H
Fly-in-hike	M	L	M	M	L	H	M	M	M	H	M	H
Horse/Llama	H	H	M	L	L	H	H	H	H	H	H	H
Mountain Bike	M	M	M	L	L	H	M	M	H	H	H	H
ATV	M	M	M	M	L	H	M	M	H	H	H	H
Mountaineering/Climbing	H	M	H	H	H	M	M	M	H	H	H	H
Wildlife Viewing	M	M	M	M	M	M	M	M	M	M	M	M
Bear Viewing	M	M	M	M	M	M	M	M	M	M	M	M
Fresh Water – non-motorized	H	H	H	H	H	H	H	H	M	H	H	H
Marine – non-motorized	H	H	H	H	H	H	H	H	H	M	H	M
Fresh Water – motorized	H	H	H	H	H	H	H	H	H	H	M	M
Marine - motorized	H	H	H	H	H	H	H	H	H	M	H	M

*Refer to Appendix 2 for information related to safety and risk compatibility considerations.

Appendix 7: Matrix to Assess the Compatibility of Snow Sport Activities

This snow sport compatibility matrix is a tool used by Statutory Decision Makers to guide their decision-making process with respect to adjudication of the Guided Adventure Tourism (AT) Tenure applications. It is based on the two compatibility considerations of guest experience and impact on current AT operator (see Appendix 2 for further information).

Existing activities are shown in the column at the left. To find compatibility rating between an existing activity and an AT activity proposed for overlapping Tenures; select an existing activity from the column on the left, and then read across the row to find the cell that intersects with the proposed activity at the top of the table. The level of compatibility is noted as high (H), moderate (M), or low (L). (Example: to identify if an application for a snowshoe Tenure is compatible with an existing ski tour Tenure, identify 'ski tour' cell in the left column and look across page until you intersect with cell under 'snowshoe.' In this example, the two activities have 'high' compatibility).

Proposed Activity / **Existing Activity**	Heli-ski	Ski tour	Cat-ski	Snowmobile/ ORV	Snowshoe	Nordic ski	Dog sled	Mountaineering/ Climbing
Heli-ski	L	M	M	L	H	H	H	H
Ski tour	L	M	L	L	H	H	H	H
Cat-ski	L	M	L	L	H	H	H	H
Snowmobile/ORV	M	H	M	L	M	M	M	H
Snowshoe	M	M	M	L	H	H	H	H
Nordic ski	M	M	M	L	H	H	M	H
Dog sled	M	M	M	L	M	M	L	H
Mountaineering/ Climbing	M	M	M	M	H	H	H	M

*Refer to Appendix 2 for information related to safety and risk compatibility considerations.

Appendix 8: Summary Table of AT Tenure Types and Responsibilities

Tenure Type	INVESTIGATIVE PERMIT	TEMPORARY PERMIT (SPECIAL EVENTS)	LICENSE OF OCCUPATION	LEASE
Purpose	Authorizes short-term investigative uses.	Authorizes short term Special Events.	Authorizes AT use over Extensive Use Areas and/or Intensive Use Sites. Non-exclusive use over generally a larger area(s) of land for guided AT activities. Can be used to authorize Intensive Use Sites or Minimal Impact Sites.	Authorizes Intensive Use of small site-specific areas. Can authorize Primary Sites.
Applicability	Uses are low impact and have low potential for conflict: Low usage levels (below limits of acceptable change) No modification required as part of the investigation. No construction or placement of improvements or permanent or semi-permanent structures. Does not permit AT activities for compensation or reward.	Uses are low to moderate impact and have low to high potential for conflict.	Uses may involve some impact and may have potential for conflict: Some modification or disturbance of the land, May involve construction or placement of improvements/ structures, Motorized and non-motorized uses.	Uses require construction or placement of permanent improvements/ structures, or need for defined boundaries and Quiet Enjoyment of land.
Example	Investigating a given area to assess ability to meet business needs.	Adventure races (e.g.. running, bicycle, motocross), musical events	Includes activities such as guided hiking, horse-back riding, sea-kayaking, heli-skiing, snowmobiling or mountain biking. Cabins/huts, docks, corral.	Remote lodge
Rights and Responsibilities	Right to carry out specified investigative activities. Must permit public access without interference . Overlapping and layering of tenures may occur. Insurance may be required. Security may be required.	Right to carry out specified activities for short term. Overlapping of tenures may occur Insurance is required. Security may be required.	Right to carry out specified activities. Right to modify land, and/or construct Improvements as specified in the TMP. Overlapping and layering of tenures may occur. Insurance and security required.	Right to carry out specified activities within a small area. Right to modify land, and/or construct improvements as specified in the TMP. Right of exclusive use. Insurance and security required. Survey required.
Tenure term	Up to 2 yrs	Up to and including 14 days in a 30-day consecutive period	Up to 30 yrs	Up to 30 yrs
Replacement	Generally not replaced unless SDM approves.	Not replaced.	Any time after commencement date	Any time after commencement date

Tenure Type	INVESTIGATIVE PERMIT	TEMPORARY PERMIT (SPECIAL EVENTS)	LICENSE OF OCCUPATION	LEASE
TMP	Generally not required	Special Event TMP is required and approved by Authorizing Agency or SDM.	Required and approved by SDM	Required and approved by SDM
Referrals	Not generally required. Must contact existing AT tenure holder(s).	May be required at discretion of the SDM.	Required - extent depends on nature and scope of proposal.	Required - extent depends on nature and scope of proposal.
Consultation with First Nations	Required	Required	Required	Required.
Advertising	Not required.	Not generally required.	Required.	Required.
Assignment	Not permitted.	Not permitted.	Permitted by SDM.	Permitted by SDM.
Sub-tenuring	Not permitted.	Not permitted.	May be permitted by SDM	May be permitted by SDM.

Appendix 9: Summary of Adventure Tourism Tenure Pricing

Tenure	Term	Valuation	Pricing (Rental)
Lease	Up to 30 years	Appraised market value, BCA's actual land value, or fair market value as estimated by the SDM.	* Minimum annual rental is $500. Intensive Use Site: Primary Sites – 8 percent of land value or $500, whichever is greater. Secondary Sites – 5 percent of land value or $100 per site, whichever is greater. Extensive Use Area: not available with a lease.
Licence of Occupation	Up to 30 years	Intensive use**:** appraised market value, BCA actual land value, or fair market value as estimated by the SDM. Extensive use: Revenue sharing	*Minimum annual rental is $500 for licences with Intensive Use Sites and/or an Extensive Use Area. Intensive Use Site: Primary Sites - 7.5 percent of land value or $500, whichever is greater. Secondary Sites - 4.5 percent of land value or $100 per site, whichever is greater. Temporary Sites - $100 per site. Extensive Use Area: Non-mechanized: $1 per Client Day. Other motorized: $6 per Client Day. Mechanized ski guiding*: $4 per Client Day.
Investigative permit	Up to 2 years	Fixed amount	$250 for term up to one year, or $500 prepaid for two years.
Temporary Permits - Special Events	Up to and including 14 days within a 30-day consecutive period	Intensive use**:** Fixed Amount Extensive use: Revenue sharing	* Minimum rental is $125 for permits with Intensive Use Sites and/or an Extensive Use Area . Intensive Use Site Temporary Sites - $100 per site. Extensive Use Area: Guided AT - Client Day rates (same as a licence of occupation) or $125, whichever is greater.

* Mechanized ski guiding operations are defined as businesses which use tracked vehicle, fixed wing plane or helicopter to guide or conduct ski excursions onto Crown land.

** The minimum rent will be remitted at licence commencement. For tenures with Extensive Use Areas, rent for guided activities is calculated by the minimum annual rent for the licence/permit or total Client Days, whichever is greater. The actual per Client Day fees will be paid at the end of season when submitting annual activity reports as per section 7.4

Appendix 10: Examples of Rent Calculations for AT Operators

1. Licence of Occupation with Extensive Use Area and Intensive Use Sites (large operator)
Assumptions: This is year 3 of an operation. 4500 Client Days of non-mechanized guided activity occurred in the previous year. The operation has Intensive Use Sites: 1 Primary Site; 2 Secondary Sites and 3 Temporary Sites. Land value is $10,000 ha; Primary Site is 2 ha in size; Secondary Site are 1 ha.

Client Day fees: based on actual from previous yr = **$ 4500**
1 Primary Site: 7.5% x (1 x $20,000) = **$ 1500**
2 Secondary Site: 4.5% x (2 x $10,000) = **$ 900**
3 Temporary Sites: 3 x $100 = **$ 300**
Total Annual Rent: $ 7300

2. Licence of Occupation with Extensive Use Area and Intensive Use Sites (small operator)
Assumptions: Year 3 of an operation. 400 Client Days of non-mechanized guided activity in previous year. Operator has Intensive Use Sites: 3 Temporary Sites.

Client Day fees: 400 X $1 = **$ 400**
Temporary Sites: 3 x $100 = **$ 300**
Total Annual Rent: $ 700

3. Licence of Occupation, Intensive Use Sites Only
This would, for example, apply to guide outfitters who do not pay Client Day fees for guided hunt purposes approved under the *Wildlife Act* and who has Intensive Use Sites. Note that if the calculated rent (% x land value) does not exceed the minimum rent, then the $500 minimum applies. Assumptions: one Primary Site, 3 Secondary Sites, 10 Temporary Sites. The Primary Site is 2 ha, Secondary Site 1 ha; land value is $5,000/ha.

Client Day fees: **not applicable**
Primary Site: 7.5% x (1 x $10,000) = **$ 750**
Secondary Site: 4.5% x (3 x $5,000) = **$ 675**
Temporary Site: 10 x $100 = **$1000**
Total Annual Rent: $ 2425

4. Special Event Permit, Extensive Use Area and/or Intensive Use Sites
Rent for a Special Event permit is based on Client Days and a minimum rent payable of $125/permit for up to 14 days within a consecutive 30 day period.

Operator 1: Assume an operator offers guided non-mechanized hiking activities, has 175 Client Days and 2 Minimal Impact Sites.

Client Day fees: 175 x $1 = **$175**
Minimal Impact Site x 2 = **$0**
Total Rent: $ 175

Operator 2: Assume an operator is offering overnight camping, unguided water sport activities and has 1 Temporary Site.

Temporary Site: 1 x $100 = **$100**
(Minimum rent applies) **Total Rent: $ 125**

Operator 3: Assume an operator offers guided sea kayaking, has 230 Client Days and 3 Temporary Sites.

Client Day fees: 230 x $1 = **$230**
Temporary Camps: 3 x $100 = **$300**
Total Rent: $530