

Subject Communication Tower Sites on Crown Land		Policy PL 4.10.02	
Compiled by - Branch Lands & Waters	Section Land Management	Date Issued November 30, 2005	
Replaces Directive Title Communication Tower Sites	Number PL 4.10.02	Dated May 1, 2002	Page 1 of 9

1.0 DEFINITIONS

In this policy,

“communication tower” means a tower or structure built to support equipment used to transmit communication signals;

“co-location” means the placement of additional antennae(s) on an existing communications tower on Crown land by another company or affiliate subject to Ministry notification and approval;

“consumer price index” means the annual average consumer price index, seasonally unadjusted, for Ontario for all items, as determined by Statistics Canada. The index provides a broad measure of the cost of living in Ontario in the prices paid by consumers for a shopping basket of consumer goods and services from the general categories of an average household’s expenditure - food, shelter, furniture, clothing, transportation, and recreation. Changes in the index over time provide a broad measure of the cost of living;

“Memorandum of Agreement” is an agreement negotiated with another party (e.g. corporation) acknowledging the party’s use of certain public lands under the jurisdiction of the Ministry for the construction, operation and maintenance of a communication tower;

“telecommunications facility” means any facility, apparatus or other thing that is used or is capable of being used for telecommunications or for any operation directly connected with telecommunications, and includes a transmission facility;

2.0 INTRODUCTION

The Ministry recognizes the social, economic and emergency management benefits associated with the maintenance and expansion of an integrated telecommunication network throughout Ontario. In order to facilitate the orderly review and development of communication towers on Crown land, this policy and accompanying procedure (PL 4.10.02 Communication Tower Sites on Crown Land) provides overall guidance and direction.

Over the years, tower locations have been developed by the public and private sector for microwave repeater sites, television and radio sites, and two-way radio communications. More recently, the increased use of mobile wireless technology has resulted in higher demand for hilltop and other suitable locations for wireless infrastructure (e.g. cellular phones). This policy is applicable to the broad range of permanent and temporary communication towers proposed for and situated on Crown land.

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3.0 PROGRAM DIRECTION

3.1 Goal

To provide clear and consistent policy direction to the communications industry, Ministry staff and the public on the development, review, tenure considerations and rental fee structure for communication towers on Crown land.

3.2 Objectives

The objectives of this policy are to:

- ensure fairness, equity and consistency in the review and authorization of communication tower sites on Crown land;
- provide a standardized and consistent approach to the granting of tenure and the collection of rents for communication tower sites on Crown land;
- consider the Ministry's long term communications needs by ensuring the opportunity for co-location where necessary;
- encourage the co-location of communications facilities by the private sector to minimize environmental and social impacts to the Crown land base; and
- provide a fair return for the use of Crown land consistent with the principle of fair market value.

3.3 Interpretation and Application

This policy and associated procedure (PL 4.10.02 Communication Tower Sites on Crown Land) provides policy direction and details pertaining to the application review and approval process for communication towers occupying and proposed for Crown land. For the purposes of this policy, Crown land is defined as:

- ungranted public lands (i.e. unpatented Crown land);
- acquired property which has been deemed to be public lands in accordance with subsection 38 (2) of the Public Lands Act;
- common and public highways in a territory without municipal organization; and
- lands under water which are deemed public lands under provisions of the Beds of Navigable Waters Act.

Notwithstanding the above, communications towers and related infrastructure proposed by the Ministry of Natural Resources are not subject to this policy and associated procedure – they are subject the Ministry's *Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects*. Applications for new tower sites proposed by other provincial ministries or agencies may be subject to additional requirements as set out under specific Class Environmental Assessment documents (e.g. Ontario Realty Corporation Class EA).

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4.0 APPLICATION AND REVIEW OF NEW TOWERS ON CROWN LAND

The identification of a suitable location for a new communications tower site by a company is generally based on the service needs of an applicant within a specific geographic location, as well as locational and technical factors such as line of sight and distance to the nearest network tower.

Prior to submitting an application to establish a communications tower on Crown land, an applicant is encouraged to pre-consult with the local Ministry field office in order to pre-identify and scope any land use issues or environmental and social constraints that may affect locational and development approval of the tower facility and related infrastructure (e.g. roads). Co-location of new communications facilities proposed by the private and public sector with existing, complementary towers is recommended, in order to reduce the overall impact on the Crown land base.

The Ministry's Crown Land Use Policy Atlas (CLUPA) is a useful tool for obtaining information on the land use policies affecting Crown lands in central and northern Ontario. Generally, communications towers and related infrastructure may be permitted in all Crown land use designations, save and except conservation reserves and provincial parks, where differing land use direction, management plan or permitted use direction may apply.

Applications for new communication tower sites will be reviewed by the Ministry consistent with its vision of sustainable development and mission of ecological sustainability. MNR will review an application for a new communications tower site consistent with the Ministry's Public Lands Act and Environmental Assessment Act legislative, policy, procedural and public consultation requirements as detailed in procedure PL 4.10.02 Communication Tower Sites on Crown Land.

The Federal government (Industry Canada) has responsibility for locational approval of radio and wireless communication facilities including:

- establishment of new towers or modifications to existing facilities;
- public consultation and notification of a new tower location;
- aeronautical safety;
- radio frequency field emissions; and
- application of the Canadian Environmental Assessment Act.

As part of the application proposal for Crown land, it is the responsibility of the applicant to provide MNR with documentation of Industry Canada approvals. The Canadian Radio-television and Telecommunications Commission (CRTC) is not directly involved in the approval of tower locations. The CRTC regulates phone companies, cable companies, satellites and radio stations and issues licences for the use of airwaves.

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5.0 AUTHORIZATION AND TENURE

A standardized approach to the granting of tenure and the establishment and collection of rent for the occupation of Crown land by communication towers provides fairness, equity and consistency for the communications industry. To achieve this, communication tower sites will be authorized by a standardized *multi site licence of occupation* for tower sites.

A typical tower will occupy an approximate area of 2.0 hectares (4.94 acres), not including the access road which will vary in length depending on terrain and other physical constraints. The location of the access road is to be included on the reference plan and authorized through the licence but will not form part of the site size calculation.

5.1 Memorandum of Agreement (MOA)

In order to support a more efficient business relationship with the telecommunications industry, this policy acknowledges the use of a Memorandum of Agreement (MOA) for certain telecommunications companies operating provincially or regionally with more than three tower locations. The MOA is utilized to document the business relationship between the company and the Ministry and provides efficiencies in invoicing and administration through the consolidation of tenure documents onto one schedule. The MOA is complementary to the multi-site licence of occupation which are both issued for a coincidental term of fifteen (15) years. A new and/or extension to the MOA is negotiated at the end of the fifteen (15) year term.

5.2 Multi-Site Licence of Occupation

A *multi site licence of occupation* will be issued for all new tower sites on Crown land. A schedule is prepared for each individual site subject to the licence of occupation and as new sites are approved, the schedule is added to the Licence. As a site is decommissioned and removed from active use, the schedule is deleted, subject to the asset removal and environmental remediation terms of the MOA.

Where mutual agreement is reached with an individual company, existing tenure documents (i.e. lease) for existing towers located can be converted to the multi-site licence of occupation. Certain companies may wish to maintain existing lease agreements if the expiry date extends beyond the fifteen year term of the licence of occupation. These documents may be allowed to continue by the Ministry, subject to ensuring that the rental revision occurs in accordance with the fee structure contained in section 5.0 of this policy.

5.3 Ownership and Disposition of Crown Lands Occupied by Towers

In general, the Ministry will maintain title and ownership of all Crown lands upon which communications towers are authorized by licence or lease, save and except where disposition of said Crown lands by sale to the tower owner is determined to be in the best interests of the public.

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These situations would include Crown lands:

- declared surplus to the Ministry as part of an asset review process;
- situated within urban or high market value areas where the projected net revenue generated by the sale of the Crown land would exceed the rental rate of the site over a ten (10) year period; or
- Crown lands with tower sites operated by other public agencies may be transferred by the Ministry with a reversionary clause to the federal government, other provincial ministries, or federal or provincial government agencies entitled to hold land, by use of a Minister's Order under Section 16 Public Lands Act.

6.0 RENTAL RATES AND FEES

Based on consultation with the telecommunications industry, a zonal approach has been developed to establish market rent for towers on Crown land. These zonal values provide a market rent for each site within a geographic area and are more specifically identified in **Table A – Zonal Rental Rates** and accompanying maps. This table provides the zonal rates as they escalate over the five year period 2006-2010. The escalation in the rates ensures that the rents are kept current and is consistent with ensuring a fair return to the Province for the use of Crown resources.

An administration fee of \$1,000 is required for the issuance of a new *multi site Licence of Occupation*. This fee is not required when the Licence is amended to include or delete tower locations.

6.1 Co-location Rents and Fees

Opportunities for co-location between companies are encouraged in order to reduce the number of new towers and the associated environmental and visual impact. Where a company receives a request for co-location from another company or agency, or where an affiliate of the company proposes to co-locate to generate revenue to the prime tenant, the prime tenant is required to give notice to the Ministry. The prime tenant is also required to pay an increased rent to the Ministry equal to the zonal value for that location in which the tower is situated. Additional antennae placed on the tower by the prime tenant or its affiliate which does not produce revenue, is not subject to an additional rental fee.

6.2 Non Cellular Rents and Fees

The Ministry recognizes small scale non-cellular telecommunication companies operating in northern Ontario provide services to a smaller more dispersed market base and hence face unique business challenges. Upon submission of a business summary by the company to the Ministry detailing the information summarized below, a non cellular annual rental rate of \$2,500.00 per location will be considered by the Ministry. The business summary should include:

- description of the business
- information on the location, number and types of towers and antennae operated by the company; and
- description of the customer base.

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6.3 Non Revenue Producing Tower Sites

MNR occasionally receives requests from municipalities, school boards, local fire and police and the resource sector to construct a communications tower for internal operations specific to their operational needs. These facilities are classified as non revenue producing and are subject to an annual fee which recognizes the non commercial nature of the use. Based on a review of the administrative fees charged by industry administering similar applications, an annual fee of \$1,000.00 is to be charged for these locations. These sites are to be authorized by the *multi site Licence of Occupation*.

Co-location opportunities with wireless and non wireless companies are subject to the additional rental fee based on the zone in which the property is located or, in the case of a non wireless antennae, \$2,500.00.

7.0 REFERENCES

7.1 Statutory References

- Beds of Navigable Waters Act (R.S.O. 1990)
- Class Environmental Assessment for MNR Resource Stewardship and Facility Development Projects (MNR 2003)
- Public Lands Act (R.S.O. 1990)

7.2 Directive Cross References

- PL 4.02.01 Application Review and Land Disposition Process Policy and Procedure
- PL 4.10.02 Communication Tower Sites on Crown Land Procedure
- PL 4.10.03 Utility Corridor Management Policy and Procedure
- PL 6.01.02 Crown Land Rental Policy

TABLE A—ZONAL RENTAL RATES

Year	Remote/Bush Zone	Remote Zone	Rural Zone (sites up to 0.033 ha.)	Rural Zone (sites over 0.033 ha.)	Population Centre
2006	\$4,037.00	\$5,769.00	\$5,769.00	\$6,922.00	\$9,229.00 *
2007	\$4,138.00	\$5,913.00	\$5,913.00	\$7,095.00	2006 fee + 2.5%
2008	\$4,241.00	\$6,061.00	\$6,061.00	\$7,272.00	2007 fee + 2.5%
2009	\$4,347.00	\$6,213.00	\$6,213.00	\$7,454.00	2008 fee + 2.5%
2010	\$4,456.00	\$6,368.00	\$6,368.00	\$7,640.00	2009 fee + 2.5%
Non cellular rate 2006 to 2010	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500

ZONE DEFINITIONS (refer to maps):

REMOTE/BUSH ZONE refers to that part of northern Ontario situated north of the Ottawa River/Temagami-Lake Superior meridian. A typical tower site would be 1.6 to 2.0 hectares in size, subject to final site plan and survey.

REMOTE ZONE refers to that part of northern Ontario situated south of the Remote/Bush Zone and situated within the Ministry's North Bay, Sudbury and Sault Ste. Marie administrative districts. A typical tower site would be 1.6 to 2.0 hectares in size, subject to final site plan and survey.

RURAL ZONE refers to that area of central and southern Ontario situated south of the Remote Zone and situated within the Ministry's Kemptville, Pembroke, Bancroft, Peterborough, Parry Sound, Midhurst, Aurora, Guelph and Aylmer administrative districts. A typical tower site would be either 0.033 hectares or 1.6 to 2.0 hectares in size, subject to final site plan and survey.

POPULATION CENTRES refers to all communities within Ontario with an urban/suburban population greater than 30,000. A typical tower site would be either 0.033 hectares or 1.6 to 2.0 hectares in size, subject to final site plan and survey.

