



Objective

To determine whether the Department of Fisheries, Forestry and Agriculture effectively manages the administration of Crown lands.



Audit Period

April 1, 2020 - December 31, 2023



Why this Audit is Important

Crown Lands are intended to be used for the social and economic benefit of Newfoundlanders and Labradorians - anything that causes a deviation from that purpose creates the risk of land misuse or misappropriation, and may cause unnecessary harm to residents and the economy. When guidance policies and procedures are either outdated or functionally ineffective, it becomes impossible to establish a foundation for best practice and the risk of mismanagement increases. Inconsistent application of existing policies and procedures can lead to unpredictable and possibly unfair outcomes for the public accessing Crown lands. Government is the custodian of provincial Crown lands, as a result it is responsible for ensuring appropriate program management and oversight as well as effective and practical communication with the public.



Conclusions

We have serious concerns with the Department of Fisheries, Forestry and Agriculture's ability to effectively manage Crown lands' administration. Systemic issues may have encouraged the misuse of, or allowed for, the extended illegal occupation of Crown lands - which may have contributed to public safety risks, negative environmental impacts, strains on the province's court system, and affected the well-being of land owners.

The foundation of Crown lands administration has been built on an inadequate lands registration system. Policies and procedures are significantly outdated, informal, or non-existent, and the Crown Lands Division has an incomplete inventory of lands records. Processes are notably inconsistent between regions and divisional oversight of those responsible for administration is informal. Key performance indicators and risk management processes were not formally documented or clearly defined, and reporting of performance at any level was ad hoc at best. These weaknesses may have led to opportunities for instances of fraud; conflicts of interest to have influenced decision-making; and inhibited management's ability to assess how well it is meeting its objectives.

The department had no formal policy, procedures, or guidance relating to complaints management, enforcement, and inspections. The department also did not effectively carry out its monitoring, inspection, or enforcement responsibilities. These responsibilities were poorly communicated in the department and minimal enforcement activities were performed during our audit; this may have contributed to the misuse of, or illegal occupation of, Crown lands.



Summary of Recommendations

1. The Department of Fisheries, Forestry and Agriculture update and implement formal policies, procedures, and internally developed process documents relating to the administration of Crown lands and related enforcement activities. Once formalized, they should also be regularly reviewed and communicated to all relevant personnel across all regions.
2. The Department of Fisheries, Forestry and Agriculture adopt formal oversight processes, including risk management processes, related to the administration of Crown Lands.
3. The Department of Fisheries, Forestry and Agriculture, in consultation with other departments as needed, address the issues identified in this audit with respect to land systems, including registration and titles management.
4. The Department of Fisheries, Forestry and Agriculture address the issues identified in this audit with respect to the accuracy of public information regarding available crown land.



After reading this report, you may want to ask the following questions of government:

1. When will government act on the land system recommendation from the 2015 Lands Act review?
2. What action will government take to fix the departmental administration issues relating to policies, procedures, monitoring, and oversight identified in this audit?
3. How will government ensure that complaints received from the public are appropriately and consistently handled?

What We Found

Land Systems

- Government did not have a lands title system, lacked a unified land system, and title registration was also not mandatory.
- Registries across government were not reconciled with each other and often contained different information about land ownership.
- The Department of Fisheries, Forestry and Agriculture had not implemented the 2015 recommendation of the Lands Act Review.

Crown Lands Inventory and Record Keeping

- There was no complete list, or mapping inventory, of all available Crown lands. Additionally, mapping information in the Land Use Atlas was outdated and contained inconsistencies compared to the records management system.
- The records management system was missing approximately 17,000 titles - approximately 15,000 titles that existed in physical copies were not digitalized and approximately 2,000 titles destroyed by fire in 1892, and not yet recovered.

Policies and Procedures

- Most departmental policies were severely outdated. The average age of policy documents was 20 years.
- The application referral process and related drafted guidelines were incomplete and inconsistent across regions.
- Land survey spot checks were done for large projects (cottage planning areas and large agriculture projects), but rarely done otherwise. There were also inconsistent processes across regions and subjectivity within how process steps were completed and documented.

Crown Lands Applications

- 33 of 53 samples (62%) did not meet the department's internal 90-business day processing standard for routine applications as noted on their website. The average processing time for these samples was 172 business days, with the longest being 615 business days.
- When compared to the official 2002 delegation policy, 16 of 54 applications (30%) had not been approved by the appropriate person.
- We found two of three samples classified as commercial applications (67%) had no support indicating the company having a status of good standing, yet the applications had been approved. We found the check for good standing in the registry of companies and deeds online was the only due diligence performed to verify the commercial applicant.

Government Transfers

- 13 transfer applications (37%) took over 150 business days to be processed.
- There was no internal standard regarding processing times or survey response time for government to government transfers.

Monitoring and Inspecting

- There were no formalized processes for the routine monitoring and inspecting of non-agricultural Crown lands to ensure the use of land adhered to application conditions.

Delegation of Responsibilities

- The Resource Enforcement Division did not have the proper authorities required to legally enforce the Lands Act, and monitoring and enforcement activities were not appropriately delegated, resulting in confusion between divisions.
- There were periods of time since May 2021 that neither the Crown Lands Division or the Resource Enforcement Division believed they were responsible for monitoring, inspecting, and enforcement activities.
- There were instances when the Resource Enforcement Division thought they were responsible for inspecting, monitoring, and enforcement activities but were not actually legally able to perform these activities; as a result unauthorized actions were taken. For example, invalid stop orders were issued.

Complaints and Enforcement

- The department had no formal policies or procedures for handling public complaints or transferring them.
- In 23 of the 36 complaints sampled (64%), there was no evidence of any action taken by the department.
- The department did not enforce removal of illegal structures when the occupier did not comply; In four of eight samples (50%) there was nothing to indicate follow-up had been completed to see if the structure had been removed. Illegal occupancy of Crown lands continues to be an issue due to the lack of proactive monitoring, inspections and enforcement.
- There were no formalized enforcement policies, procedures, or processes and minimal enforcement was performed during our scope period.

Oversight

- There were informal and inconsistent oversight processes across regions, and key performance indicators, including reporting requirements, were not clearly defined.
- There was only one individual performing land value appraisals and there was no established review process; there was also no other person that performed or regularly reviewed the appraisal work.