



# ECOSYSTEM-BASED MANAGEMENT *Learning Forum*

a project of the Coastal First Nations Turning Point Initiative

## **Guidance on how to incorporate Land Use Objectives into Forest Stewardship Plans**

At the EBM Learning Forum in March 2008, Dan Cardinall gave a presentation on how and why First Nations should ensure that forest companies incorporate the Land Use Objectives into their Forest Stewardship Plans. This was identified as an important topic and more information was requested. This backgrounder attempts to provide additional information.

Forest Stewardship Plans (FSP) are the only logging plans that licensees are now required to submit for public and First Nations review and comment. FSPs for forestry tenures on the North and Central Coast are being amended over the next month or so, in order to incorporate the new Ecosystem-Based Management (EBM) land use objectives. Many of the EBM land use objectives are designed to provide First Nations with greater control over how cultural resources (e.g. cultural sites, CMTs, monumental cedar, and other traditional forest resources) are protected or managed, things .

FSPs are made up of (1) maps which show the general areas that tenure holders hope to log and build roads in, and (2) Results and Strategies, which describe how tenure holders intend to meet legal requirements, including EBM land use objectives. Following public and First Nations review and comment, FSPs are revised and then submitted to the provincial government for approval. Approved FSPs become the legally-binding document to which companies are accountable. Company's compliance is measured and enforced against the Results and Strategies in their FSP, rather than the original land use objectives.

**Poorly written Results and Strategies could significantly weaken the application of EBM land use objectives designed to protect First Nations values.** This is important for those land use objectives that are designed to protect First Nations cultural and heritage resources such as sacred sites, monumental cedar, CMTs, and traditional forest resources. It is also relevant to any of the other objectives that require information sharing or consultation with First Nations such as the objectives which are intended to protect freshwater salmon habitat.

On the other hand, FSPs amended to reflect the recent Land Use Objectives, if crafted with care, may achieve two objectives:

1. **Provide First Nations with tools they can use to have greater control over management of cultural and heritage resources**
2. Bind the Province and Licensees to more rigorous and accountable decision making regarding First Nation cultural and heritage resources.

For these reasons, **it should be a priority for First Nations to review, provide comment on, and work to ensure FSP Results and Strategies address their interests.**

In addition, enforcing the implementation of the FSPs will only be as good as the compliance monitoring that is done. Therefore it is important for First Nations to stay engaged in the process, which may mean reviewing and working to ensure harvest and road plans address their interests, and also conducting on-site inspections to ensure forestry operations are consistent with FSP Results and Strategies.

## **What to look for in FSP reviews?**

First Nations can request that specific strategies be incorporated into plans to ensure enforceable actions are described in plans.

Below are some recommendations on what to look for in FSP Results and Strategies, particularly for Land Use Objectives related to First Nations resources. If they are lacking, ask the company to include them.

1. A description of an adequate process to meet with the First Nation and share information
  - Commitment to sharing 1:20,000 maps of proposed cutblocks/roads. This is important because FSP maps are so general that they do not identify most expected cutblock and road locations.
  - Commitment to, if requested, sharing more detailed maps and site information of proposed harvesting and road construction activity
2. Description of field assessment/inventory procedures, including:
  - Commitment to collaborate with First Nation to conduct assessments or inventories, or award inventory/assessment contracts directly to First Nation
  - When needed, inventories of big cedar, CMTs, medicinal plants etc.
3. Commitment to modify proposed activities to protect/maintain important cultural resources by:
  - sharing site assessments/inventories and meeting with First Nation to discuss issues
  - modifying harvest plans etc. to protect or maintain important values
  - As an alternative, providing cultural resources such as monumental cedar directly to First Nation
4. Description of how decisions will be made
  - Make good efforts to “seek consensus” with First Nation
  - Provide First Nation with rationale for “no practicable alternative”
  - Commitment to implement accommodation measures

## **An example**

The Land Use Objectives for First Nations’ traditional heritage features identify and protect First Nations traditional heritage features. However, according to the land use objectives traditional heritage features can be altered or removed if:

- a) the First Nation says the traditional heritage feature isn’t important, or

- b) consultation indicates alteration or removal is required for access/safety purposes and there is no viable alternative

Below is an example of an FSP Strategy that, if approved by a District Manager, would actually weaken the intent of the land use objectives related to First Nations control over management of cultural and heritage resources:

1. If the Holder of this FSP constructs a road or harvests a cutblock within the area to which *Ministerial Order South Central Coast*, dated July 27, 2007 applies, the Holder of the FSP will do so in a manner consistent with:
  - a) protecting, to the extent practicable:
    - i) traditional heritage features; and
    - ii) culturally modified trees; and
2. In addition to subsection (1), the FSP Holder will annually:
  - a) for each First Nation with asserted traditional territory within the FDUs:
    - i) send 1:20,000 scale maps showing approximate locations of new proposed development areas that are within their asserted traditional territory; and
    - ii) send 1:20,000 scale maps showing approximate locations of new resource specific areas requiring information sharing; and
    - iii) request updated cultural resource information; and
    - iv) request a meeting to review the information forwarded under (2)(a)(i) and (2)(a)(ii); and
  - b) request updated cultural resource information from the Ministry of Forests and Range.
3. Despite subsection (2)(a)(ii), information sharing is not required where alteration or harvesting is for the purposes of addressing worker safety.

According to these results and strategies, the licensee is required to send maps to the First Nation and request information and a meeting. Although the commitment to share maps is important and useful, there is no commitment to conducting field inventories, and even worse, there is no commitment to actually altering operations to address the First Nations interests. And the Licensee can alter or remove CMT or traditional heritage feature without information-sharing if they unilaterally determine there is a safety issue).

Instead, here is an example of what to do - is the following example includes a much stronger set of results and strategies to address the same land use objectives:

- 3) With designated representatives of the GFN, conserve and where necessary protect cultural heritage resources by undertaking the following activities:
  - a) Before declaring area or submitting cutting permits, review proposed forest development activities to:
    - i) Determine the nature and potential extent of cultural heritage resources that may be impacted by the proposed operations;
    - ii) Assess potential conflicts between proposed forest development activities and implementation of the Gitga'at-B.C. Strategic Land Use Planning Agreement (April 10, 2006);
  - b) If necessary, undertake inventories to more accurately identify and assess cultural heritage resources identified in 3 (a)
  - c) Describe forest management activities that will address the impacts or conflicts identified in 3 (a)
  - d) Modify proposed forest development activities to address the impacts or conflicts identified in 3 (a); and
  - e) Make best efforts to resolve any issues through consensus.
- 4) Prepare a summary\* of the process in 2 and 3 above, including a description of identified issues and how they were resolved. If issues were not resolved, the summary\* will describe how the parties have attempted to address the issues. In the unlikely event that meetings have not occurred, the efforts made to meet and/or review information with Gitga'at will be documented in the summary\*. The summary\* will be provided to
  - a) the North Coast Forest District Manager, and
  - b) the designated Gitga'at First Nation representative.

This set of results and strategies specifies that the licensee will work directly with the First Nation to protect their cultural heritage resources prior to securing the legal rights to log certain areas. It includes a commitment to conduct inventories as needed, to modify proposed activities to address First Nations interests, to make "best efforts" (a very strong legal term) to resolve issues through consensus, and to document such efforts.