



Federation of BC Woodlot Associations' response to Bill 21 – Forest & Range Practices Amendment Act 2019 and the FRPA Improvement Initiative discussion paper (May 2019)

The Federation of BC Woodlot Associations (FBCWA) acknowledges and appreciates that it has had a long-standing appointee (Brian McNaughton, General Manager) to the Minister's Practices Advisory Council so is able to provide advice with respect to changes to the Forest and Range Practices Act (FRPA). The FBCWA also appreciates the opportunities in recent months to have a dialogue with staff in the Office of the Chief Forester about WL specific changes. Lastly, thank you for hosting two FRPA webinars for woodlot licence holders. They were informative and generated meaningful discussions within the woodlot sector.

What exactly is FRPA supposed to govern?

It is difficult to provide input when it's unclear what FRPA is supposed to be governing. According to Minister Donaldson's introductory remarks in the FRPA discussion paper, FRPA governs the sustainable management of B.C.'s forest and range resources while the paper's introduction says FRPA governs on-the-ground forest and range activities on B.C.'s public forests and rangelands. Governing activities versus governing the management of the province's forest and range resources, while related, are two very different legal premises.

Historically, FRPA has focussed on governing operational planning and practices by forest and range tenure holders to ensure consistency with land use and other higher-level plans and objectives set by government. It has been these plans and objectives that have defined sustainable management of BC's forests and rangelands. If, as Minister Donaldson's comment indicates, the direction is to broaden the context and purpose of FRPA to govern sustainable management of BC's forest and range resources, then this is a significant change that would necessitate and generate entirely different feedback. It also raises many questions that are not addressed in the discussion paper such as will FRPA apply to all resource users and sectors, will it apply to the public, does it replace land use planning, etc.

In absence of clarity on this very important point, this feedback from the FBCWA is premised on FRPA governing forest and range planning and practices.

FBCWA's response to Bill 21 – Forest & Range Practices Amendment Act 2019

- Terminating Woodlot Licence Plans (WLP) and requiring them to be replaced every 10 years is unreasonable and unnecessary. By all means, let's review WLPs every 10 years but incorporate that into the current system of extending WLPs that has been working reasonably well. The biggest shortcoming when it comes to extending WLPs is not about the content of plans, but rather districts not making a determination to extend a plan or not before the plan expires, a lack of understanding about what actually constitutes a failure to conform to prescribed requirements, and not utilizing WLP amendment provisions to keep plans current and conforming. The fix is simple. Clarify language in FRPA and the WLPPR and provide some training.

An obvious implication with what Bill 21 is proposing is that it will significantly increase the workload and cost to be incurred by each woodlot licensee as well as district offices that will have to review, process and approve 855 WLPs. The fact is that districts do not have the resources to extend WLPs much less deal with the added workload associated with terminating and replacing them. Add this to replacing Woodlot Licences every 10 years, new Management Plans when requested, cutting permit approval every 4 years or less, road permit issuances or amendments, etc. all for a small, area-based



forest tenure that has operating in the same location for decades. The duplication of intent and purposes is excessively and unnecessarily burdensome.

It also doesn't make much sense to terminate and replace WLPs when considered in context of government's stated reasons for wanting to improve FRPA; i.e. sustainability, social licence, public trust & confidence, and respecting First Nations. WLs have been around for 70+ years and approximately 85% have been in the same location for 20+ years (~94% for 10+ years). 70% of WLs have some area within 2km of communities and municipalities are largely supportive of WLs as evidenced by the Union of BC Municipalities calling for more WLs as part of the solution to address their concerns about commercial forestry activities in close proximity to the communities. Obviously, the current WLP extension approach is working or else there would be a public outcry about bad management and calls to get rid of WLs; not create more of them! WLs are already achieving social licence and public trust and maintaining the current framework will ensure they continue to do so.

Terminating WLPs sends a terrible message to the public and others that an existing plan is unacceptable, when in fact most or all of it is acceptable. That kind of messaging undermines public trust and confidence that our forests are being managed appropriately. In our experience, the public would rather see identified problems being fixed right away by amending a WLP when the problem becomes known.

When it comes to managing resources on a WL, sustainability requires vision and foresight. Plans to achieve sustainability need to be for one more rotation; not stopped and reconsidered every 10 years!

What's particularly confounding and troubling is that Bill 21 ditches the WLP extension approach that has been working and is intent on replacing it with the FSP-like terminate and replace process that hasn't been working very well and is the source and focus of complaints about the lack of social licence, public trust & confidence, and respect. It's a step backwards for WLs.

By all means, a WLP should be reviewed periodically and every 10 years may very well be appropriate. But the objective should be to improve existing plans by making amendments based on new knowledge and new objectives. The Federation proposes that a WLP review involve a field trip where people actually look at the management of the WL; i.e. the effectiveness of the plan, the practices, results or strategies and measures. If something needs improvement, then amend and extend the WLP.

- Bill 21 provides for government to establish practice requirements in regulations for visual quality, natural range barriers (NRB) & invasive plants (IP). The Federation's concern is that blanket practice requirements in regulations will be too generic and not site or circumstance specific enough. There needs to be an option for a WL holder to apply for an exemption and/or propose alternative performance requirements.

FRPA and applicable regulations need to ensure range tenure holders meet their obligations with respect to NRBs and IPs so the burden of containing livestock and preventing the introduction and spread of invasive plants does not fall inappropriately and disproportionately onto WLs and other forest tenure holders. Range tenure holders need to make NRBs known in their Range Use Plans (RUP) so WL and other forest tenure know where they are located and what they are; i.e. dense band of timber, steep slope, debris heavy area, etc.

Without knowing specifics, it's unclear if setting practice requirements for visual quality will make much of a difference to WLs. WLs are already legally bound to achieve visual quality objectives and the objectives set by government in FRPA and the WLPPR. An important concern is if visual quality



practice requirements will be based on today's landscapes or the more ecologically natural landscapes of 80 to 100 years ago. It makes a big difference considering today's situation with so many wildfires, high fuel loads, poor forest health, etc. Provisions for WLs to be exempted or propose alternative performance requirement for visual quality are required.

- Section 41 in Bill 21 says "In prescribed circumstances, before a person submits for approval a range use plan or an amendment to a range use plan, the person must make the plan or amendment publicly available for review and comment." RUPs should be subject to same review and comments provisions as WLPs and FSPs. In addition, the regulation should require RUPs to be referred to woodlot licensees and other area-based forest tenure holders whose licences overlap with the RUP. FRPA requires range and forest tenure holders to respect each other's rights and interests. Transparency in planning and making values known is essential to ensure that all parties are able to comply with FRPA.

Not Covered by Bill 21 but Other Recommended FRPA Changes Relating to WLs

- In order to avoid any confusion or misinterpretation, FRPA and its regulations need to clearly state that the Forest Operations Map requirements do not apply to WLs.
- WLs should be exempt from Government Action Regulation orders, general wildlife measures and land use objectives orders unless the minister, subject to some very specific legal tests such as the failure to apply the order to a WL would result in significant adverse impacts to attainment of the stated objective, determines otherwise. In most cases, the objectives set by government, objectives in FRPA & the WLPPR, practice requirements and scale and nature of WL operations are adequate to meet the intent of the various orders and measures. The time and cost to obtain exemptions or special provisions for each WL or group of WLs is usually a waste of time, money and effort for all concerned.
- The current due process provisions in FRPA are beyond the reach of most WL licensees. A simpler, more efficient and effective, licensee friendly process is needed. The Federation requests that FRPA require the establishment of a board, tribunal, committee or commission with a mandate to resolve FRPA related WL disputes, recommend improvements to FRPA and the WLPPR, and provide correct interpretations to woodlot licensees, decision-makers and ministry staff.
- Section 16(a)(i) of the Forest Recreation Regulation needs to be amended so a WL holder doesn't have to get an authorization from a recreation officer for something that a district manager (delegated decision maker) has already authorized.
- Include clauses in the WLPPR similar to (a) FPPR s. 97.1 in the WLPPR which allows a person who believes they have met their obligation to establish a free growing stand to the extent practicable to submit a declaration to the district manager and (b) FPPR 46.11 which specifies that small areas within a harvest unit that do not meet stocking targets are allowed.
- Make it clear that FSPs don't apply to WLs – crown (Schedule B) or private (Schedule A) land.
- FRPA needs to set a time limit by which the minister must approve a WLP and/or a WLP amendment and include a provision that makes it unlawful to withhold approval as a means of forcing licensees to comply with anything outside of regulatory content that a district may wish to impose.

Responses to the FRPA Discussion Paper's Questions

How should the Province identify opportunities and priorities for adapting forest management to a changing climate, such as mitigating the effects of beetle infestations, drought and fire?



Shift the emphasis away from climate change ‘in general’ and focus on practicing good forest and natural resource management. Healthy forests help combat climate change. Get climate change ‘politics’ out of forest management and get back to the basics of practicing good silviculture. Invest more in research. Shift focus from examining every little thing that a forest or range tenure holder does to looking at the bigger picture and analyzing forest management as a whole. Move away from setting single objectives on specific areas and practice integrated management; e.g. actively manage an area for wildlife habitat attributes rather than set it aside for preservation or as a conservancy. Pay more attention to managing young forests in the interval between 15 - 20 years (free growing) and 80+ years (harvest age). Promote standards and practices that improve forest health and vigour, reduce mortality, lessen overcrowding such as juvenile spacing, commercial thinning, and pruning, and rely more on natural regeneration (shelterwoods, seed tree and partial cutting). Help rather than hinder and interfere with mother nature’s efforts to adapt to a changing climate.

What factors should be considered in the planning of forest operations to reduce the risks of wildfire around your community?

Remove barriers and obstacles to practicing good forest management consistent with the ecological characteristics of sites within wildland urban interface areas. Or, to put it another way, remove land and resource management designations and constraints that result in forests and ecosystems in poor condition with high fuel loads around communities (and all across BC). While well intentioned, land designations and associated constraints with respect to visual quality and scenic areas, old growth management areas, ungulate winter ranges, etc. put nearby communities, infrastructure and resource values at risk from volatile, high intensity wildfires.

A vital step in landscape-level planning is understanding what is important to the public. Based on what is important to you or your community, what information on the condition of resource values such as species-at-risk habitat do you think is necessary to support the planning process?

This is a leading question. The obvious answer is more knowledge, science and research so we better understand the interactions of ecosystems with the societal and resource values that are important to us. We need to better understand and apply the principles of multiple use and integrated resource management to better achieve the full range of values expected from our forests and rangelands. BC needs to consider the societal and economic implications of species at risk. We also need to be more cognizant and realistic in our efforts and recognize success when it is already occurring. Case in point, many WLs already support many species and other resource values, including species at risk, because of the way they are managed; e.g. small-scale operations, sustainable harvest levels, maintaining and re-using infrastructure not just for the term of a permit but the lifespan of the tenure, etc. Accept that in many cases various species, including species at risk, are present because the area is a WL and that additional constraints and moratoria aren’t necessary.

How would you like to be involved in the planning process?

FRPA & the WLPPR specifies WL holders’ involvement in planning process as requirements. As noted elsewhere, WL holders would like to be apprised when FSP holders are about to embark on operational planning for roads and timber harvesting so they can identify important values to be considered (if not already). They would also like to be informed about range tenure holders and others (mines, cell towers, access by others, etc.) plans and proposed practices on or near their WL and private property.



Resource roads are a valuable asset in the province as they provide access for the forest industry, ranchers, other resource users, and the public for commercial and recreation purposes. Yet, these same road networks are costly to maintain and have potential negative impacts on wildlife, water quality and fish habitat. What values do you believe are important to consider when planning new roads, road use and maintenance, and deactivation in your area?

A WL affords the opportunity to examine access to and within a defined area with values that are known and a reasonable forecast of ongoing and future use. The WLP process, including public review and comment and meeting with First Nations, establishes the forums for information exchange. The plan submission combined with notification of impending work provide for final checks. At this point, the process is working well. Roads that are to be retained as permanent access, deactivated or reduced to trails or minor access are known and managed accordingly.

Where things begin to fall apart for WLs is when others propose roads through a WL that are not consistent with the approved WLP and commitments that the WL holder has made to neighbours and others. The issue arises from recent legal interpretations that are different from past, long standing interpretations; notably that (a) an FSP applies to a WL and (b) a road permit applied for over a WL that is consistent with the FSP must be issued. These interpretations are problematic at many levels which is why the Federation requests FRPA be amended to clarify its original intent; i.e. that an FSP does not apply to a WL area.

How can the Province improve transparency and timelines of information regarding proposed operational and landscape-level objectives, plans and results?

Woodlot Licence Plans already must specify objectives, contain spatial information and specify practice requirements, results, strategies, measures and alternative practice requirements. They must also identify areas where timber harvesting will occur, not occur or only occur with modified practices; including specifying what those practices will be. WLPs are available upon request and subject to amendment at any time. In addition, WL holders must provide notification of when timber harvesting and/or road construction will commence, including a map showing the location.

The WL approach is successful. In its March 2016 forestry survey, the Union of BC Municipalities identified establishing more WLs in the areas around communities as the way to improve transparency, exchange information in a timely manner and work more collaboratively with the forest sector.

As woodlot licence holders and residents of rural communities, we feel it would be better if FSP holders notified communities, First Nations and the public of their intent to plan forest activities. The notification should contain a map and would signal a call for input about values and infrastructure that are important in the area. As WL holders we would be able to share our knowledge about the area and provide input into a full range of considerations such as access, new roads, resource features, management strategies, etc.

Input needs to be received at the start of operational planning. The problem with Forest Operations Maps is that it's done after operational planning and immediately prior to CP or RP issuance. It's too late in the process and out of step with the way resource management and operations should be and need to be planned and scheduled. Calling for last minute changes after all the time, work and money has been spent is not a recipe for success as was learned back in the good ole Forest Development Plan days.



What information will help inform your feedback on plans that may impact you, your community or your business (e.g. maps of cutblocks and roads planned in your area, hydrological assessments, wildlife habitat areas or recreation opportunities, etc.)?

To what plans does this question apply – FSPs, LLPs, WLPs, FOPs, range use plans, sustainable resource management plans, land use plans, or others? It’s an important question, and one that also illustrates the plethora of plans that currently exist. BC is suffering from planning overload. Too many plans trying to do too many different things with too many overlaps and conflicting purposes. BC needs an intervention to cleanse the planning palette. When the planning process is clarified then the question about ‘information needs’ can be better addressed.

That said, information about the surrounding area is required so that proposed resource development can be assessed in the proper context. This speaks more to land use planning, defining the timber harvesting land base, TSR analyses and landscape level planning. This is where it gets confusing because landscape level planning is not necessarily operational level planning which the discussion paper implies it can and will be. LLP can feed relevant information to operational planning, but it is not necessarily a substitute for it. It isn’t site specific enough. The rubber still hits the road on the ground, not in a computer model in some office.

What additional values should be considered in FRPA that will allow us to manage forest and range practices in a better way?

This question asks about managing forest and range practices, not sustainably managing forests and rangeland. It goes back to key question - what exactly is FRPA supposed to govern?

In addition to the current 11 objectives, FRPA needs three new objectives

- Forest health objective. The 2018 forest health overview reports ~8,000,000 hectares currently under attack by some forest health agent – or approximately 6X the area burned in each of the last two fire seasons. Insect populations and the spread of diseases respond to the amount of favourable habitat and host material. Epidemics are not acceptable. Forest health needs to be given more attention if we want to manage our forests sustainably. If we don’t, mother nature will – think more catastrophic pest outbreaks, wildfires and the so-called new normal. Forest health agents at endemic levels should be the objective.
- Fire objective that covers the use and acceptance of fire as a natural tool to be used in fire-based ecosystems and for fire mitigation/prevention; i.e. create and maintain healthy forests with live trees and reduced ladder and ground fuel. With respect to fuel management and fire mitigation, the objective requires some language to ensure silviculture is part of fuel mitigation prescriptions.
- Societal objective so human and community values are given fair and equitable consideration with respect to principles that FRPA purports to achieve - social licence, public trust & confidence, and respect First Nations and all citizens.

FRPA would also benefit from a definition for ‘sustainability.’ This term is being bandied about and takes on a different interpretation depending on the context and person speaking.

With respect to practices, FRPA needs to consider the reasonableness and practicality of its requirements. Does it contain sufficient flexibility to allow for the site-specific application of appropriate practices or is it evolving into the second coming of the Forest Practices Code? The contribution of local knowledge supported by practical experience must be given its due. Innovation, operational trials and research needs to be encouraged; not bogged down by needless bureaucracy and aversion to taking a risk or trying something new. We have to stop letting the requirements of



computer systems over ride good management decisions. For example, just because a treatment doesn't fit into RESULTS doesn't make it a bad treatment.

Lastly, economics is a value. There needs to be a fulsome examination and assessment of FRPA requirements in context with requirements of other Acts and legislation; e.g. waste vs coarse woody debris, overlapping waste and fuel hazard assessments, spread of invasive plants by recreationists and the general public, the extent to which current practices or lack thereof (FRPA, highways, etc.) contribute to man caused wildfires, etc. Are we receiving acceptable benefits from the expenditures being made? Are we pricing ourselves out of business?

In what ways should the province strengthen government oversight and industry accountability regarding forest and range activities to better address the challenges of climate change and the interests of all British Columbians?

In the case of WLs, FRPA needs to establish some kind of 'board,' 'tribunal,' 'committee' or 'commission' with the mandate to resolve FRPA related WL disputes, recommend improvements, and provide correct interpretations to woodlot licensees, decision-makers and ministry staff.

The current oversight model is draconian when applied to a small tenure holder. It isn't very practical, not used very much and is failing to fulfil its intended purpose. The scale and nature of WL infractions tend to be so minor in the big scheme of things that they don't rank up on C&E's priority list. This is a source of great frustration for some ministry staff. So, in absence of C&E action, some staff are inclined to create their own ways to carry out enforcement. In some cases, the actions are contrary to legislation or amount to the bullying or intimidation of licensees. This is no way to carry out oversight and exact accountability which is why the Federation believes more district involvement, cooperation, advice and extension services to WL licensees is required. The emphasis needs to be on doing it right in the first place, not enforcing penalties and fixing mistakes when something has been done wrong.

Simply giving district managers more authority is not the solution. Already we see that DMs don't have the time to deal with WL specific business. Case in point are WLP extensions. Letters being sent as statutory decisions say staff have advised, not that the DM has determined (as required by law) that a plan does not conform. Often the letters don't contain any reasons for not extending a plan – also a failure to follow the legal requirements. DMs have so many higher priorities to deal with and WLs, quite frankly, are too small and not a big enough risk. Consequently, FRPA improvements for WLs need to reduce, not increase, the administrative burden (e.g. replace WLPs) and promote building working relationships between district staff and WL licensees that are supported by some form of board or tribunal. That said, FRPA would still need enforcement provisions with appropriate due process to address egregious non-compliance.

FRPA and the regulations need to be scanned for all of the statutory decisions, oversight and enforcement that DMs are required to undertake. In the FBCWA's view, the breadth and scope are unrealistic.

Thank you for the opportunity to provide comments and feedback. Any questions or inquiries should be directed to Brian McNaughton, General Manager, FBCWA at gen_manager@woodlot.bc.ca or by calling 250.398.7646.