



Due to ongoing regulatory changes as part of the FRPA improvement initiative, this document is outdated, and may not accurately reflect current legal requirements. As soon as the new legal provisions have been finalized, the required changes will be incorporated into an updated version. Readers are advised to refer to the wording of applicable legislation and regulations themselves and obtain their own legal advice. August 2022.

FRPA ADMINISTRATION BULLETIN

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WOODLOT LICENCE PLANNING: FIRST NATIONS INFORMATION SHARING BULLETIN

Introduction:

This document, First Nations Information Sharing Bulletin for Woodlot Licence Planning, is intended to provide information and guidance specific to woodlot licence tenure holders. It is highly recommended that Woodlot Licence Plan (WLP) proponents:

- become familiar with the information provided in this bulletin; and
- use the FRPA Administration Bulletin Number 1 for additional detail and information

prior to planning for, and engaging in, the information sharing exercises described in this document.

The Ministry of Forests and Range published FRPA Administration Bulletin Number 1, dated June 10, 2005 on First Nations information sharing. It provides an overview of First Nations consultation requirements, an overview of principles and definitions on this subject, and a complete set of tasks associated with statutory review and comment requirements and common law consultation processes with First Nations related to Forest Stewardship Plans (FSPs) under the *Forest and Range Practices Act* (FRPA). It is available at <http://www.for.gov.bc.ca/rco/pfit/Bulletins.htm>

Background:

The legal obligation for consultation in respect of aboriginal interests rests with the Crown. However, the Crown has chosen to delegate some of the procedural aspects (i.e. information sharing and gathering) of consultation to woodlot licence holders through:

- 1) the preparation of a WLP; **and**

- 2) the requirement to make the WLP available for review and comment by First Nations, other parties with interests on the Crown land and members of the public.

Before deciding whether or not to approve a WLP, the delegated decision maker (the district manager, in this case) must decide:

- 1) whether the WLP meets the legislated requirements; and
- 2) whether the First Nations consultation process has been adequate.

Prior to making a decision, the decision maker will consider:

- the information sharing process undertaken by the licensee and the First Nations;
- the information received from First Nations concerning their stated aboriginal interests within the WL area; and
- any existing information on aboriginal interests gained from other consultation efforts.

It is important to note that the decision maker consults with First Nations on a range of decisions regarding the Crown land of a woodlot licence. This range of decisions includes strategic or administrative decisions (e.g. the location and initial AAC of a woodlot licence) as well as operational decisions (e.g. approval of a WLP).

For more information or further explanation of the consultation requirements and processes, WLP proponents are referred to the First Nations Liaison person at the local MOFR district office.

Information Sources and Roles and Responsibilities:

The MOFR collects and maintains relevant information pertaining to First Nations consultations. The following information is available at the local district and/or regional office:

- a map and list of First Nations with aboriginal interests in the district, including the appropriate contact people, and agreements signed with government (e.g. Forest and Range Agreements (FRA), Forest and Range Opportunities (FRO), Protocol Agreements, Interim Measures Agreements, etc.);
 - these agreements may specify the consultation time period that the MOFR must follow (usually 60 days);
- information on cultural heritage resources that have been identified by the minister as “resource features”;

- known information on traditional use and archaeological sites;
 - this information may be available where Traditional Use Studies and/or Archaeological Assessments have been undertaken. In most cases, First Nations consent may be required in order to access Traditional Use Study information;
 - In most instances, other agencies are custodians/collectors of this information;
- information obtained through previous consultation efforts by the MOFR during:
 - the area selection and advertisement process if a woodlot was issued since 1995 (the last expansion period);
 - the replacement of the woodlot licence;
 - review, comment and approval of Forest Development Plans; and
 - the issuance of cutting authorities.

The MOFR provides as much existing information as possible regarding the interests of local First Nations. The MOFR may be invited to attend information sharing meetings between the woodlot licence holder and the First Nation.

However, because of the number of variables, the MOFR is unable to specify one information sharing process that will fit the situation of each and every woodlot (over 800) and each and every First Nation (approximately 200).

Based on the above information provided by the MOFR, and considering the holder's local knowledge and relationship with the First Nation(s), the holder and district personnel should discuss what the appropriate level and extent of information exchange may be between the holder and those First Nations who may be affected by the WLP.

By providing the above information to the holder and then the holder making reasonable efforts to conduct information sharing activities, it should reduce the possibility of the holder being asked to conduct follow-up meetings. Where follow-up meetings are requested, it is suggested that the MOFR be invited to attend.

Woodlot Licence Plan Task List:

The following is a list of tasks associated with WLP preparation and submission. The list contains a number of steps that are required either by policy or legislation. The list also includes voluntary steps and suggestions that contribute to effective and timely information sharing (by the woodlot licence holder) and consultation (by the MOFR).

Task	Source of Direction
<p data-bbox="235 300 1101 331">1. Early Development of a Result or Strategy by Information Sharing</p> <p data-bbox="235 365 1192 430">The holder must specify a result or strategy in the WLP that is consistent with the objective of conserving and protecting cultural heritage resources that are:</p> <ul style="list-style-type: none"> <li data-bbox="332 468 1094 533">(i) the focus of a traditional use by an aboriginal people that is of continuing importance to that people; and <li data-bbox="332 533 976 564">(ii) not regulated under the <i>Heritage Conservation Act</i>. <p data-bbox="235 600 1149 695">To determine if this WLP result or strategy is consistent with this government objective, the decision maker will consider the factors listed in Section 5 of Schedule 1 of the WLPPR.</p> <p data-bbox="235 735 391 766">Suggestions:</p> <ul style="list-style-type: none"> <li data-bbox="235 804 1211 900">• Consider acquiring information from the MOFR and other agencies regarding First Nations with aboriginal interests in the WLP area, the contact people, and agreements signed with government. <ul style="list-style-type: none"> <li data-bbox="284 938 1219 1035">○ Find out if Forest and Range Agreements (or similar agreements) exist with local First Nations and what consultation timelines and other requirements apply to the consultation efforts of the MOFR; and <li data-bbox="284 1035 1127 1100">○ Plan how to streamline public review and comment with the MOFR requirement for consultation. <li data-bbox="235 1140 1208 1239">• District staff have constant interaction with local First Nations and also have access to information regarding broader government initiatives including those of other provincial agencies and the federal government. <li data-bbox="235 1276 1219 1509">• Consider involving the First Nations in the WLP area in the planning process as early as possible. This practice builds relationships and enables early planning considerations that may avoid costly delays later in the process. To this end, consider sending one or more letters asking First Nations in the WLP area for information on cultural heritage resources at the time the holder of the woodlot licence is gathering and mapping other resource information in preparation for writing the WLP. <li data-bbox="235 1547 1200 1812">• Consider including three elements in the intended result or strategy: <ul style="list-style-type: none"> <li data-bbox="332 1614 1154 1677">a) What the holder will do if something new is found on the woodlot related to cultural heritage resources; <li data-bbox="332 1680 1200 1745">b) What the holder will do if new information related to cultural heritage resources becomes known to the holder; and <li data-bbox="332 1747 1182 1812">c) What on-going communication is reasonable for the woodlot licence holder and the First Nation (e.g. an offer to meet every five years). 	<p data-bbox="1247 365 1463 462">FRPA, Section 13 and WLPPR, Section 9</p> <p data-bbox="1247 632 1386 728">WLPPR, Schedule 1, Section 5</p> <p data-bbox="1247 835 1427 900">Recommended (voluntary)</p> <p data-bbox="1247 1304 1487 1503">A suggested letter is provided in the Woodlot Licence Plan template and can be a good first step</p>

<ul style="list-style-type: none"> • Consider any guidelines for cultural resource management such as the Guidelines for Managing Cedar for Cultural Purposes. <ul style="list-style-type: none"> ◦ http://www.for.gov.bc.ca/hfp/frep/repository/cult_Cedar_Guidelines.pdf 	
<p>2. Providing Notice</p> <p>Publish a notice in a newspaper as required.</p>	<p>WLPPR, Section 17</p>
<p>3. Required Review and Comment</p> <p>Make “reasonable efforts” to meet with affected First Nations to review the plan and solicit First Nations comments prior to WLP finalization. Document efforts made to meet. There is no formula (i.e. how many letters or phone calls) to determine what constitutes a reasonable effort. Reasonable is generally considered to be fair, proper, just and suitable under the circumstances.</p> <p>Note: Be aware that formal agreements, such as Forest and Range Agreements (FRAs) and Forest and Range Opportunities (FROs) have consultation standards that stipulate plan provision and time frame requirements. These FRA/FRO standards apply to the MOFR and are to be shared with the woodlot holder.</p> <p>Suggestions:</p> <ol style="list-style-type: none"> 1. Consider the following: <ol style="list-style-type: none"> a. Sending a letter to the affected First Nation explaining the WLP review and comment process and inviting input. Items worth communicating to the First Nation in the letter include: <ol style="list-style-type: none"> i. The time frame for the review and comment period; ii. Suggested times and locations to meet and to discuss the WLP; iii. Provide a copy of the result or strategy or a copy of the WLP; iv. A summary of any earlier communications or information received from the First Nation; v. A description of the information received from other sources, such as MOFR, on cultural heritage resources; vi. A description of cultural heritage resources that are known by the holder of the woodlot licence or their consultant; and vii. A request to the First Nation that they submit their comments on the WLP in writing, as the WLP proponent must consider all written comments. b. Allowing an appropriate time for response from the First Nations. c. Documenting/recording all efforts made to meet with First Nations. d. Having a system to confirm that communication was received by the First Nations. e. Maintaining communication with the MOFR regarding the results of communication efforts with First Nations. 2. If a meeting is arranged with First Nations affected by the WLP, consider the following: <ol style="list-style-type: none"> a. Inviting MOFR district staff to the meeting to promote continuity. b. Explaining the content of the WLP, particularly aspects of the WLP that may be important to the First Nations such as the result or strategy for cultural heritage resources. (Ideally developed with the First Nation’s input, as per the previous section.) 	<p>WLPPR, Section 17</p> <p>FRA/FRO agreements and WLPPR, Section 17 (3)(b)</p> <p>Recommended Voluntary</p>

<ul style="list-style-type: none"> c. Collecting and recording specific information from the First Nation on their aboriginal interests relevant to the WLP and how these interests may be impacted. d. Identifying action items or potential concepts to address concerns raised. e. Reiterating the timelines for providing comments and importance of providing these comments in writing. f. Outlining the evaluation process. g. Contacting the district to inform them of the information-sharing process to date and concerns or issues raised by the First Nation that cannot be addressed by the holder of the woodlot licence. 	
<p>4. Responding to Review and Comment</p> <p>Consider any written comments received in respect of the WLP during the advertisement period that pertain to the content of the WLP and that are within the scope of the requirements of the WLPPR.</p> <p>Matters involving land claims and/or treaty settlement issues are not issues to be addressed through the review and comment of a WLP. These comments should be forwarded on to the district manager.</p> <p>Suggestions:</p> <ul style="list-style-type: none"> • Respond to the First Nation regarding their concerns. • Consider providing a written response to any written comments received from the First Nation. • Keep copies of the responses and, if appropriate, include relevant copies when submitting the WLP for approval. 	<p>WLPPR, Section 17 (4)</p> <p>Recommended Voluntary</p>
<p>5. Submitting the WLP for Approval</p> <p>The district will need to understand:</p> <ol style="list-style-type: none"> 1) the result or strategy concerning Cultural Heritage Resources; and 2) the information sharing activities undertaken in preparing the WLP. <p>This will assist in determining the need for:</p> <ol style="list-style-type: none"> 1) any follow-up meeting(s); and 2) a First Nation to see applications for cutting permits or road permits in the woodlot before they are issued. <p>The following information must be included in the Supplemental Information package accompanying the WLP:</p> <ol style="list-style-type: none"> a) A copy of the notice published in a newspaper. b) A copy of all written comments received during the advertisement (review and comment) period. c) A description of the changes made to the WLP as a result of comments received during the advertisement period. d) A description of the efforts to meet with First Nations during the advertisement period. 	<p>WLPPR, Section 17 (5)</p>

<p>The following information should be included in the Supplemental Information package accompanying the WLP:</p> <ul style="list-style-type: none"> a) A description of the communications with First Nations and information received from them in building the WLP. b) Appropriate information to describe any commitments the holder made with First Nations during the term of the WLP. <p>Provide a copy of the final (approved) WLP, or part of the WLP, to any affected First Nation who has requested it.</p>	<p>Recommended (Voluntary)</p>
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Contacts

For more information on First Nations information sharing and Woodlot Licence Planning, or if you have any questions regarding this bulletin, please contact:

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Or

The local MOFR aboriginal liaison officer.