



## Managing and Tracking Wildlife Tree Retention Areas under the *Forest and Range Practices Act*

The information contained in this general bulletin does not constitute legal advice. Government practitioners should seek legal advice from the Ministry of Attorney General, whereas industry practitioners should seek independent legal advice. Please note this general bulletin clarifies the administrative process required to amend a Wildlife Tree Retention Area before and after reporting. This bulletin also cancels and replaces FRPA General Bulletin 15 dated July 2014.

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## LIST OF ACRONYMS

### Acronyms

<b>Acronyms</b>	<b>Full Name</b>
BCGW	British Columbia Geographic Warehouse
BCTS	British Columbia Timber Sales
CP	Cutting Permit
DDM	Delegated Decision Maker
EPMR	Environmental Protection and Management Regulation
FA	Forest Act
FDU	Forest Development Unit
FLTC	Forestry Licence to Cut
FPC	Forest Practices Code of BC Act
FRPA	Forest and Range Practices Act
FPPR	Forest Planning and Practices Regulation
FSP	Forest Stewardship Plan
GWM	General Wildlife Measure
MLTC	Master Licence to Cut
OLTC	Occupant Licence to Cut
OGAA	Oil and Gas and Activities Act
OGMA	Old Growth Management Areas
RESULTS	Reporting Silviculture Updates and Land Status Tracking System
The Commission	Oil and Gas Commission
UWR	Ungulate Winter Range
VQO	Visual Quality Objectives
WHA	Wildlife Habitat Areas
WTP	Wildlife Tree Patch
WTRA	Wildlife Tree Retention Area

## INTRODUCTION

This general bulletin provides delegated decision makers (DDMs), forest licensees, and resource professionals with an understanding of how to plan, manage, and track wildlife tree retention areas (WTRAs) consistent with forest stewardship planning and practice requirements in the Forest Planning and Practices Regulation (FPPR).

Guidance on managing and tracking WTRAs for woodlot licence holders (as per section 52 of the Woodlot Licence Planning and Practices Regulation) is included in the [woodlot licence plan template](#).

Wildlife tree retention areas are an essential and important forest management tool to achieve both biodiversity and habitat conservation across a landscape. Section 66 of the FPPR requires that each area of harvest maintain a minimum of 3.5 percent of the cut block and 7 percent of the area harvested for the previous 12 months under the cutting permit as a WTRA or as WTRA targets defined in an approved Forest Stewardship Plan. Wildlife tree retention areas can be located fully within, outside, or adjacent to the cutting permit area, and are not cruised to avoid bias; in addition, they do not form a legal requirement of the cutting permit. If a planned WTRA is relocated or reduced prior to harvest completion and/or reported the CP holder must apply for an amendment, which may trigger a reappraisal.

The agreement holder is required to report on June 1 of each year the location, size, and composition of the WTRA for all completed (harvested) cutting permits from the previous 12 months. Once the WTRAs have been reported the licensee has met their obligation and the WTRA is now the responsibility of the Ministry of Forests. The Ministry of Forests is responsible for tracking and ensuring the WTRA or its associated amendments are maintained until the area associated with the original cutting area has reached a mature seral stage.

## FIRST NATION ENGAGEMENT

In 2019 with the passage of the *Declaration on the Rights of Indigenous Peoples Act* the Province enshrined the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation. The Declaration affirms the application of the United Nations Declaration on the Rights of Indigenous Peoples in British Columbia, which includes the right of self-determination and the inherent right of self-government, the relationship of Indigenous peoples to their lands and resources, and economic rights of Indigenous peoples. Principle 6 of the Draft Principles that Guide the Province of British Columbia's Relationship with Indigenous Peoples commits to meaningful engagement with Indigenous peoples and aims to secure their free, prior and informed consent when B.C. proposes to take actions which impact them and their rights, including their lands, territories and resources.

The above commitments build on the previous and ongoing constitutional duty to consult with Indigenous nations on matters that could impact their Aboriginal rights or title (Aboriginal Interests). It is therefore important that when harvesting, replacing and/or relocating a WTRA is being contemplated, there must be consultation and collaboration with Indigenous nations. This is particularly important when there is a risk that a WTRA may have originally been created for the purpose of protecting a cultural heritage resource (CHR) or Aboriginal Interests.

## BACKGROUND

Table 1 provides a brief overview of FPPR planning and practice provisions related to wildlife tree retention.

Table 1: Definition and Regulatory Reference

FPPR Provision	Description (Please refer to the regulation for current definitions)
Section 1 Definition	<p><b>Wildlife trees</b> are “a tree or group of trees that (a) provide wildlife habitat and (b) assist in the conservation of stand-level biodiversity.”</p> <p>A <b>wildlife tree retention area</b> is “an area occupied by wildlife trees that is located</p> <ul style="list-style-type: none"> <li>• in a cut block;</li> <li>• in an area that is contiguous to a cut block; or</li> <li>• in an area that is sufficiently close to the cut block that the wildlife trees could directly impact on, or be directly impacted by, a forest practice carried out in the cut block.”</li> </ul> <p>A <b>cut block area</b> for the purposes of minimum wildlife tree retention requirement as required under FPPR section 66 refers to the gross area of the cutblock.</p>
Section 9.1 Objective	The objective for wildlife and biodiversity at the stand level is to retain wildlife trees.
Section 12.5 – Conditional Exemption (sections 66 & 67)	A licensee is exempt from FPPR sections 66 and 67 if their approved FSP includes an intended result or strategy for wildlife and biodiversity at the stand level for the section 9.1 Objective
Section 66 – Wildlife Tree Retention	<p>(1) A minimum of 7 percent of the total area harvested by a licensee over a 12-month period (starting April 1) must be covered by wildlife tree retention areas.</p> <p>(2) The total wildlife tree retention areas associated with each cut block must be a minimum of 3.5 percent.</p> <p>(3) A wildlife tree retention area may apply to multiple cut blocks if all of the cut blocks collectively meet the requirements of sub-sections (1) and (2).</p>
Section 67 – Restriction on harvesting	A licensee must not harvest timber from or use trees in a wildlife tree retention area unless the trees on the net area to be reforested of the associated cut block(s) have achieved mature seral condition. FPPR section 91 (2) allows the DDM to exempt a licensee from this requirement under certain circumstances (see below).
Section 69 – General Wildlife Measures	<p>An authorized person carrying out a primary forest activity must comply with general wildlife measures (GWMs) applicable to the area.</p> <p>Note – it is possible that a GWM may be applicable to a WTRA.</p>
Section 86(3) – Annual reports	As part of annual reporting obligations, licensees must report the location and approximate size of all WTRAs. For guidance on reporting WTRAs in the RESULTS system, refer to <a href="#">Submitting Forest Cover to RESULTS for Openings with Treed Retention</a> .
Section 91 (2) Exemptions	The DDM may exempt a licensee from the requirements of FPPR section 67 if satisfied the licensee has specified one or more wildlife tree retention areas that provide an area,

	<p>number of trees, or habitat equivalent to the harvested portion of the wildlife tree retention area.</p> <p>In addition, the DDM may issue the exemption with conditions. For example, the exemption may allow the applicant to use a tree in the WTRA for cable yarding or fell a tree for safety but not allow the removal of the tree from the WTRA. Alternatively, the DDM could choose not to grant the exemption and impose a condition requiring the applicant to establish a no work zone around the WTRA.</p>
Section 92 – Exemptions as they apply to General Wildlife Measures	The Minister or DDM responsible for the <i>Wildlife Act</i> may exempt the licensee from FPPR section 69 in relation to GWMs if satisfied that the intent of the GWMs will be achieved or compliance with the GWMs is not practicable given the conditions within the described area of proposed development. Note: exemptions for GWMs may also be required to affect a WTRA if the GWM applies to the WTRA.
Section 92.1	If the approved results or strategy for an established objective of an FSP conflict with a requirement of FRPA Part 4 or 5, the Minister or the DDM must exempt the plan holder from the requirement (or that Part) that conflicts with the established objective. If the exemptions are in relation to FPPR section 69 or 70 (2) the Minister responsible for the <i>Wildlife Act</i> may include conditions for the exemption to address the conflict, and in relation to a provision other than FPPR section 69 or 70 (2), the Minister responsible for the <i>Forest Act</i> holds the same authority.

Licensees have the flexibility to (a) propose their own results and/or strategies for the *objective set by government for wildlife and biodiversity at the stand level* in their FSPs, or (b) adopt the practice requirements set out in FPPR sections 66 and 67.

Additional guidance on meeting wildlife tree retention provisions may be found in [FRPA General Bulletin 8: Wildlife Tree Retention: Guidance for District and Licensee Staff](#) and [Wildlife Tree Retention - Management Guidance](#).

## DISCUSSION

### *Establishing Wildlife Tree Retention Areas*

#### **DISCUSSION QUESTION #1: *Which wildlife tree patches established under the FPC become WTRAs under FRPA?***

A WTP established under the FPC meets the FPPR’s definition of a WTRA (and, therefore, is subject to FPPR requirements for wildlife tree retention) if it is a patch or area of dispersed retention within, contiguous to, or sufficiently close to (i.e., one tree length or less) the cut block it is associated with.

WTPs that are located outside a cut block and too far away from the cut block (i.e., greater than one tree length) to have a direct impact on it will not meet the criteria for WTRA at the cutblock level, but can contribute to landscape-level WTRA targets.

## **DISCUSSION QUESTION #2: *How are WTRAs created and formally established?***

A WTRA is created by a forest professional during cut block planning and is identified in a cruise plan submission. Once created, for operational reasons the WTRA may change location, shape, and/or size at one or more of the following stages:

- After cruise plan submission, but prior to inclusion in a cutting permit (CP) application
- After CP issuance, but prior to annual reporting
- After annual reporting

As the WTRA moves through these stages, there is increasing interdependence between the exact spatial location of the WTRA and other processes (e.g., stumpage appraisal calculation, assessing cumulative wildlife tree retention targets, enforcement).

1. Generally, prior to inclusion in a CP application, a WTRA has been spatially located in the field and is identified in the cruise plan. At this stage, the proposed WTRA may not be identified or identified as “Forest vs Non-forest” but there are few linkages to other processes.
2. Once a CP has been issued and a WTRA has been located within (includes WTRA located along the external boundary of the cutblock) the cutblock on the appraisal map and in the site plan, the location of the WTRA directly impacts the stumpage appraisal calculation and contributes to retention targets. WTRAs that are wholly located within the cut block outer boundary have a direct impact on the appraisal process and any changes to the WTRA of an issued CP prior to completion may trigger a reappraisal in accordance with the Interior or Coastal Appraisal Manuals. Note that the appraisal manuals prevent BC Timber Sales from reappraising the stumpage rate for a Timber Sales Licence.
3. After the WTRA has been included in the annual report, as per FPPR section 86 (3) the information on location and approximate size of associated WTRAs may be used to assess compliance with FSP commitments and practice requirements. The WTRA is now a permanent land use designation until the cut area of the original cutting permit area has met a mature seral condition. Any changes at this stage require an exemption in accordance with FPPR section 91 (2) for those agreement holders subject to FPPR Sections 66 and 67. A holder of an FSP with approved results and/or strategies for section 9.1 objectives is not bound by the prohibition in FPPR section 67 but will be required to achieve the approved results and/or strategies stated in their FSP.

## **DISCUSSION QUESTION #3: *Which retention objectives in RESULTS apply to WTRAs?***

All retention objective codes in RESULTS are deemed long-term retention and meet the definition of WTRA except for ‘TIM’ (Timber). A reserve objective code of TIM is considered short-term retention, for example variable retention patches and, therefore, is not subject to an exemption requirement for harvesting.

## *Alternative Results and/or Strategies for Objective 9.1*

### **DISCUSSION QUESTION #4: *What are some important considerations for writing alternative results and/or strategies in relation to the objective in FPPR section 9.1 (the 'objective')?***

As noted in the Background section, licensees and BCTS have the flexibility to (a) propose their own results and/or strategies for the objective set by government for wildlife and biodiversity at the stand level in their FSPs or (b) adopt the practice requirements set out in FPPR sections 66 and 67.

FPPR, section 12.5 (1-4) exempts a licensee or BCTS from the requirements of FPPR sections 66 and 67, if alternate results and/or strategies for the objective are approved in the FSP. If alternate results and/or strategies are approved, the exemption provision under FPPR section 91 (2) does not apply.

Alternate FSP results and/or strategies must be (a) consistent with the objective under section 9.1 to the extent practicable; (b) measurable (for results) or verifiable (for strategies); and (c) free of self-exemptions. For more information on exemptions refer to [FRPA General Bulletin 25](#).

Alternate results and/or strategies should consider: **(a)** the standard of environmental protection reflected in the default practice requirements; **(b)** the standard for approving early harvesting and replacement of WTRAs in FPPR section 91 (2); and **(c)** the factors applicable to the result or strategy for the objective outlined in FPPR section 3 (2), Schedule 1.

For example, if a licensee is proposing an alternative wildlife tree retention target that is lower than the **minimums outlined in** FPPR section 66, it is reasonable for the DDM reviewing the FSP to request supporting information to indicate that **the alternative tree retention target will result in** wildlife (forest) management **that is** the same or better according to Government's objectives (for wildlife). The DDM will consider any rationale that has been provided in their decision to approve **or reject** the **proposed** alternative.

## *Partial or Complete Harvest of a WTRA*

### **DISCUSSION QUESTION #5: *Can a road be built through a WTRA?***

Licensees should avoid locating a road through a reported WTRA where practicable to maintain the integrity of the WTRA. If the WTRA must be harvested the following applies: Harvesting within a reported WTRA requires approval of the DDM under FPPR section 91 (2) unless alternate results and/or strategies have been approved in a FSP that specify how the objectives related to WTRAs will be met and the harvest is in accordance with those results and/or strategies. Reporting procedures for circumstances in which harvesting occurs within an approved WTRA are outlined below (Discussion Question #6).

**DISCUSSION QUESTION #6: *When can a WTRA be moved (harvested and replaced), how can it be moved, and who can move it?***

These questions are tied together because they may have implications for the achievement of wildlife tree retention targets across overlapping forest development units (FDUs). Answers to these questions will depend on the commitment in the approved FSP and where in the planning/reporting process the change in WTRA location is being contemplated. Once the WTRA is reported in RESULTS the reported area and composition of the WTRA is expected to be maintained until the next rotation, regardless of the FSP or FRPA requirement. This does not prevent the alteration (as authorized by the FSP or an exemption) of a reported WTRA. However, it establishes the baseline requirements the DDM and applicant must maintain in the replacement of the reported WTRA.

The holder and any partners of an approved FSP must meet the WTRA targets stated in the approved FSP or the FPPR when establishing and reporting the WTRA. Once the WTRA has been reported it is the responsibility of the Ministry of Forests to track and maintain it. Any authorized person requesting an amendment to a reported WTRA must maintain and demonstrate how the amendment to the reported WTRA is equivalent in purpose, size, and composition. Note that an approved FSP may provide the authority to amend a WTRA, in which case the licensees would not seek an exemption from the DDM but must achieve and be consistent with the standards described in the approved FSP.

**Stage 1 (After cruise plan submission but prior to inclusion in a CP submission)**

Licensees have the flexibility to move *their own* planned WTRAs at this stage; however, implications to the stumpage appraisal calculation or the achievement of wildlife tree retention targets will result. Relocating a WTRA will trigger the need for a cruise plan amendment (see [Cruising Manual](#)) since it is unlikely the proposed WTRA was included in the cruise.

Due to impractical circumstances, it is sometimes necessary for a licensee to harvest a WTRA established by another licensee. Collaborative planning between the licensees is required to ensure the change is acceptable, the necessary exemptions (FPPR section 91 (2)) are in place, and the relocated WTRA and harvested openings are reported with a rationale prepared and signed by a qualified professional. Note that an exemption is not required if results and strategies in the approved FSP address this issue.

Wildlife tree retention targets in an FSP may be based on individual cut blocks, individual cutting permits, or across landscape units. Individual FSP commitments will determine the area within which the WTRA may be moved.

**Stage 2 (After CP issuance but prior to annual reporting)**

At this stage, licensees may move WTRAs located outside of the CP boundary without impacting other processes; however, moving WTRAs located within the CP boundary may impact other processes.

For example, moving WTRAs within the CP boundary (i.e., internal-to-block or contiguous with the harvest edge) without a CP amendment could result in standing waste applying to the new location<sup>1</sup>. Moving internal-to-block WTRAs may necessitate reappraisal of the CP, in which case the appropriate appraisal manual (Interior or Coastal) should be consulted. Licensees are advised to amend the site plan to show the new location of the WTRA and to include reasons for the change of location.

Note that contiguous WTRAs that are not located within the CP boundary may be unprotected (prior to reporting) during the clearance process of adjacent cut blocks.

### **Stage 3 (After annual reporting)**

Licensees may still move WTRAs at this stage, but the process will depend on whether the FSP includes default practice commitments or alternate results and/or strategies.

If default practice requirements are adopted (i.e., FPPR section 67 applies):

Once a WTRA has been reported in RESULTS, moving the WTRA will require an exemption for changes to the reported WTRA from the DDM under FPPR section 91 (2). The DDM may exempt a licensee from FPPR section 67 upon request if they are satisfied the licensee has specified one or more WTRAs that provide an area, number of trees, or habitat that is equivalent to the portion of the original WTRA from which timber is proposed to be harvested. The WTRA can be moved by anyone if the DDM grants an exemption under FPPR section 91 (2), regardless of which licensee originally designated the WTRA.

If alternate results and/or strategies are approved (i.e., FPPR section 67 does not apply):

If alternate results and/or strategies are approved in the FSP, the exemption provision in FPPR section 91 (2) and Schedule 1 factors do not apply. Results or strategies including an amendment or relocation to the WTRA should be consistent with the Schedule 1 factors the Minister may consider under FPPR, section 91 (2).

As discussed in [FRPA General Bulletin 25](#), FPPR section 12 (7) provides DDMs with authority to exempt the FSP holder(s) from specifying results or strategies for objectives where it is determined that *it is not practicable*; however, exemption only applies to requirements going forward, it does not allow for amendments to past FSP results or strategies or previously approved harvest authorities (including reported WTRAs). Requests for exemptions are on a case-by-case basis and should be accompanied by a rationale explaining the specific circumstances or conditions, as to why it is not practicable to achieve the objective for the area identified in the exemption request. See [FRPA General Bulletin 25](#) for more information.

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<sup>1</sup> See [Interior](#) or [Coast](#) Appraisal manual, and [Cutting Permit and Road Tenure Administration](#) manual.

### **DISCUSSION QUESTION #7: *When can the area of a WTRA be changed?***

The area of a WTRA can be changed under the following circumstances:

1. Prior to reporting in accordance with FPPR section 86 (3) (a) (iv).
2. Once reported in accordance with FPPR section 67; a WTRA can be harvested when the rest of the cut block (associated with original Cutting Permit/Opening #) has developed attributes consistent with a mature seral condition.
3. When an exemption under section FPPR section 91 (2) is received (when FPPR section 67 applies) or in accordance with the results and strategies (and factors in FPPR Schedule 1) under the FSP, as applicable.

### **DISCUSSION QUESTION #8: *If a wildlife tree patch from a cut block harvested under the FPC is proposed to be harvested, how is the authorization and reporting handled?***

A WTP associated with a cut block harvested under the FPC will generally meet the criteria for WTRA under FRPA if it is a patch or area of dispersed retention within, contiguous to, or sufficiently close to the cut block it is associated with (see Discussion Question 1). As such, any former WTP that meets the criteria of WTRA becomes a WTRA under FRPA.

Unless alternate results and/or strategies for Objective 9.1 are specified in the FSP, FPPR section 67 applies to WTRAs (that were formerly WTPs) and sets the timeframe for potential future harvest. FPPR section 91 (2) applies to the harvest and replacement of WTRAs.

As described below, collaborative planning and reporting of WTRAs is always recommended where FDUs overlap.

#### **Single licensee involved:**

If the WTRA in question is associated with a free-growing cut block harvested by the same licensee applying for the exemption under FPPR section 91 (2):

- The licensee may apply to the DDM for an exemption under FPPR section 91 (2), and should provide the
  - a) location of the WTRA proposed for harvest;
  - b) reason why an exemption is required; and
  - c) location of the replacement WTRA and how it meets the equivalency test in FPPR section 91 (2).
- If an exemption is granted, the licensee will be responsible for updating the forest cover inventory of the original cut block. The licensee must update the forest cover through RESULTS. This includes removing the WTRA that is to be harvested, delineating the new polygon for the replacement WTRA on the appropriate layer, and adding the attribute information of the replacement WTRA.

### **Two licensees involved:**

If the WTRA in question is associated with a free-growing cut block harvested by a different licensee than the licensee applying for the exemption, the following applies:

- The original licensee has no obligation associated with the WTRA,
- The area that is removed from the WTRA is now associated with a new cutblock with new obligations, including free-growing and is therefore the responsibility of the licensee requesting the exemption.
- The licensee requesting the exemption is responsible for establishing a suitable replacement WTRA (area and location) and report applicable forest cover updates on or before June 1 of each year.
- WTRA requirements associated with the new cutting permit must also be met and reported on or before June 1 of each year.
- As a courtesy, the licensee requesting an exemption or the District Manager may notify the original obligation holder of the change to the WTRA.

### ***Tracking and Reporting WTRAs***

**DISCUSSION QUESTION #9:** *How are WTRAs tracked under FRPA and who is responsible? What are the liabilities for licensees to ensure that WTRAs are windfirm and do not blow over after the block is harvested?*

As per FPPR section 86 (3), licensees must submit an annual report containing WTRA information to the DDM. This WTRA information is submitted through the RESULTS application and is stored spatially in the BCGW. The information then comes up on the adjudication report for licensees and district staff to see.

Decision makers who authorize harvesting (e.g., cutting permits, road permits, forestry licenses to cut, occupant licenses to cut) use the data from the BCGW to look for cutblocks that overlap WTRAs. When overlaps occur, Ministry staff advise the permit applicant prior to issuing the cutting authority. The permit applicant then decides on the appropriate course of action, consistent with their legal and professional obligations (i.e., apply for an exemption or amend their harvesting plans to avoid the existing WTRA).

Note: WTRAs are subject to natural disturbances (wind, fire, pest, etc.). Trees that are damaged still contribute to the WTRA and are, therefore, to remain in place unless authorized for removal under a cutting authority. In this case an exemption would also be required.

**DISCUSSION QUESTION #10:** *How are new WTRAs managed between yearly reports?*

Although annual reporting of silviculture accomplishments (FPPR section 86 (3) and (5)) must be completed before June 1 of each year for a given reporting period (previous 12 months), licensees may submit their disturbance reporting upon completion of harvesting activities anytime during the

reporting period. Timely reporting of denudation activities accompanied by forest cover facilitates updates to the consolidated WTRA layer in the BCGW. Licensees operating within the same FDU are encouraged to collaborate and share information with each other to ensure WTRAs are not accidentally harvested and that a licensee does not become non-compliant.

**DISCUSSION QUESTION #11: *Is the reported WTRA tied to the original Cutting Permit or Opening?***

The reported WTRA is tied to the original opening for an entire rotation unless it was harvested, and suitable replacement was found. In this case, it's not unreasonable for a WTRA to be added to another opening in order to meet the FSP requirement or other land use objectives. Tracking the life cycle is important to determine the time at which the reported WTRA and its associated amendments (which occurred during the life cycle of the WTRA) are available for harvest without obligation to replace or maintain the original WTRA.

**DISCUSSION QUESTION #12: *Can a WTRA be shared with another cutting permit, specifically if said WTRA exceeds the default practice requirements defined under FPPR section 66?***

Section 66 of the FPPR allows a WTRA to apply to more than one cut block but it must still meet the WTRA requirements of 3.5 percent per cutblock and 7 percent of the total area harvested by a licensee over a 12 month period or the requirements stated in the approved FSP for each cutting permit, or timber sales licence. Note that the WTRA must be sufficiently close to the original cut block(s) to be directly influenced by the forest practices carried out in the original cut block. There is no requirement that all relevant cut blocks be within the same cutting permit or timber sales licence.

**DISCUSSION QUESTION #13: *If a WTRA is in the way of a proposed road, can the WTRA be amended by the DDM? If so, does the person who established the WTRA originally have to propose the amendment or can the person requesting the road amend the WTRA? If the WTRA exceeds the requirements of the FSP, does the proponent have to maintain the reported WTRA size or can the size be reduced if it meets the FSP requirements?***

If the WTRA is in the way of a proposed road, the agreement holder (licensee who wishes to re-establish the WTRA) must apply under FPPR section 91 (2) for an exemption or comply with the results or strategies under their FSP, as applicable. Once the WTRA has been reported under FPPR section 86 (3), the attributes associated with the WTRA will apply regardless of whether or not the WTRA exceeds the requirements under the FSP or the FPPR. The applicable attributes must meet

an equivalency<sup>2</sup> determination by the Minister/DDM under FPPR section 91 (2) or the results and strategies under the FSP.

**DISCUSSION QUESTION #14: *Can an area that is set aside as an Old Growth Management Area (OGMA) be used to meet the requirements of a WTRA? Can the same apply to WHAs, UWRs, VQOs, etc.?***

There is no restriction prohibiting the use of an OGMA as part of a WTRA. An area identified (spatially) as an OGMA can be used to contribute to the WTRA targets described in an approved FSP.

All land-use designations (e.g., WHA, UWR, VQO) can also be used to achieve WTRA targets; however, the requirements of the most restrictive land-use designation would be applied and any amendments to an area used to meet multiple objectives will need to continue to comply with requirements set for each objective.

***WTRA impacted by Oil and Gas Activities***

**DISCUSSION QUESTION #15: *Can an established and reported WTRA be amended for a purpose other than forestry such as activities identified under the Oil and Gas Activities Act (OGAA)?***

A WTRA can be affected by oil and gas activity, pursuant to OGAA section 25 (1) (b) and section 6 of the Environmental Protection and Management Regulation (EPMR). Under the OGAA, the Oil and Gas Commission (“the Commission”) must consider the objectives of government in relation to WTRAs before approving an operating area for an oil and gas activity. Under EPMR section 6, the government objective is that no portion of the area described in the harvesting authorization is to be within a WTRA as defined under the FPPR.

Despite the EPMR section 6 objective, the Commission could approve the location of an activity that would impair a WTRA. The OGAA and EPMR section 6 have the same WTRA retention requirements as are found in FPPR section 67.

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<sup>2</sup> Equivalency is the measure of similarity between the current and proposed WTRA. This may require that the proposed WTRA be similar in size, shape, composition, and/or function.

**DISCUSSION QUESTION #16:** *If the Commission has approved the location of a pipeline through a reported WTRA, is the licensee obligated to amend the current WTRA and find area to make up for the loss of area in the WTRA? Would they have to get approval to locate an alternative WTRA or can they apply for an exemption? Who is responsible for amending the WTRA and finding alternative area: the forest tenure holder or the Commission? Does the Commission have the jurisdiction to put a pipeline through a WTRA regardless of the impact to the forest tenure holder's goals or does the Commission need to apply for an amendment?*

In this scenario, the Commissioner of the Oil and Gas Commission is the decision maker and is not responsible for meeting requirements under the FRPA. To harvest timber in the approved pipeline area, the pipeline permit holder will be required to hold a MLTC under the *Forest Act*. Pursuant to OGAA section 99 (2), a MLTC held by a person subject to the OGAA is not subject to FRPA or the FPC. The pipeline permit holder, as the holder of the MLTC, will be required to meet the requirements of the OGAA and EMPR section 6, which are similar to FPPR section 67.

The licensee under FPPR section 66 would not be liable if something happened to the WTRA once reported or for up to 12 months after the completion of harvest. Whether the licensee is obligated to amend the WTRA depends upon whether the WTRA is established through their FSP or through FPPR section 66. If the WTRA is established through a result/strategy under the FSP, the FSP holder will be required to meet its results/strategies for WTRAs. If the licensee is operating under FPPR section 66, it must meet the required percentage specified under this section at the completion of harvest.

The Commission has the jurisdiction to approve a pipeline permit or any other permit under the OGAA that would impact a WTRA. An applicant for a permit under the OGAA has prescribed requirements under the Requirements for Consultation and Notification Regulation to consult with other rights holders, which may include *Forest Act* licensees, on proposed oil and gas activities to avoid potential conflict, reduce duplication, and improve timber utilization.

### ***WTRA impacted by harvesting under a minor tenure***

**DISCUSSION QUESTION # 17:** *Can the holder of a minor tenure, such as an occupant licence to cut, or forestry licence to cut that has not been identified as a major tenure as defined under Forest Act section 1, amend a WTRA?*

The holder of an OLTC is not required to prepare an FSP or comply with an FSP. Results and strategies for WTRAs are normally described in an FSP and may result in exemption from FPPR sections 66 and 67, if the approved FSP meets the requirements for those exemptions.

As stated above, FPPR sections 66 and 67 are practice requirements as opposed to planning requirements and apply to all agreement holders. Therefore, the holder of an OLTC must comply with the retention provisions of FPPR section 66 for WTRAs as they are applicable to harvesting under the authority of an OLTC. If possible, the DDM may issue a OLTC that excludes the WTRA from the OLTC or include conditions that are consistent with FRPA, however the DDM may be required to issue the OLTC, such as for mining.

Where compliance with FPPR section 66 and the retention of the existing WTRA is not practicable, the OLTC holder can apply for an exemption under FPPR section 91. The following two options for exemption under FPPR section 91 are available:

1. FPPR section 91(1)(b) the DDM can grant exemptions from the provisions of FPPR section 66 or 67 for “minor tenure” which include OLTC where compliance is not practicable. In the case of an OLTC it is less likely that an equivalent area could be identified, since the agreement area(s) are relatively small, and the agreement holder has no control over areas outside of their tenure.
2. FPPR section 92(2) also allows the DDM to grant exemptions from FPPR section 67, but only where the agreement holder identifies an equivalent area, which is more common with harvesting authorities required to have an FSP.

## **CONTACT FOR MORE INFORMATION**

Questions about the content of this FRPA General Bulletin should be directed to:

<b>Branch</b>	<b>Position</b>
Forest Tenures Branch	Senior Tenures Forester (responsible for cutting authorities)
Integrated Resource Division	Biodiversity Specialist
Office of the Chief Forester, Forest Science, Planning and Practices Branch	Silviculture Reporting Specialist