



**Forest
Practices
Board**

Provincial Land Use Planning: Which way from here?

Special Report

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Executive Summary

The *Forest and Range Practices Act* (FRPA), and the management regime surrounding it, are critical tools in the implementation of strategic land use planning. It is within that context that the Board provides this special report which:

1. summarizes the history, and clarifies the current status, of strategic land use planning;
2. enumerates mechanisms to implement plan objectives; and
3. assesses the extent to which those mechanisms have been, and are likely to be, applied.

Prior to 1992, land use planning was largely done by the public service in response to specific resource-based conflicts. In 1992 the province announced a goal of completing comprehensive land use plans for the entire province using a consensus-seeking planning model.¹ To date, 85 percent of the province is covered by 26 strategic land use plans (SLUPs) and about 60 percent of the province is covered by plans where stakeholders reached consensus.

In April 2008, the province announced, “A New Direction for Strategic Land Use Planning in BC”² (the New Direction). The New Direction signals the end of provincial-scale, comprehensive strategic land use planning based on a consensus-seeking model.

SLUPs provide general objectives. Implementing these objectives requires mechanisms that provide more detailed direction. Early SLUPs (1992-2004) were developed based on the assumption that they would be implemented under the *Forest Practices Codes of British Columbia Act* (the Code), along with its prescribed hierarchy of strategic to operational plans. Being developed under the Code has not impaired SLUP implementation, as the elements critical to implementation seem to be: (a) whether the plan intent has been kept relevant through more detailed planning, and (b) whether legal objectives have been established.

In 2004, the Code was replaced by FRPA and its attendant legal “regime.” The FRPA legislative framework provides mechanisms for developing legal objectives that could be used to implement the direction of SLUPs. However, it is a complex and time-consuming task to translate the often general intent of an SLUP into specific legal objectives.

Compared to the Code, the FRPA regime reduces regulation of forestry and range licensees, and instead places significant reliance on a desire to maintain “social licence” through mechanisms that some refer to as “the non-legal realm.” In the context of SLUP implementation, the non-legal realm consists of professional reliance, plan implementation committees and third-party

¹ BC Parks and Forest Service British Columbia, *Towards a protected areas strategy for B.C.; Parks and Wilderness for the 90s*, 1992.

²http://ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/new_direction/new%20direction%20synopsis.pdf

certification schemes. The extent to which any of these mechanisms operates varies widely from professional to professional, from place to place and from time to time.

There are a number of other factors that influence the implementation of an SLUP including:

- the reasonably long chain of events required to translate an SLUP objective into a legally required objective;
- the clarity, or lack of clarity of SLUP objectives;
- some of the exemptions from legal requirements to implement objectives; and
- issues related to other resource users besides those using forestry and range.

The Board concludes that the province has not fully implemented “comprehensive land and water use planning” based on “local involvement and shared decision making.”³ Several factors have contributed to this conclusion:

- Achieving a consensus plan requires that objectives be stated very broadly, making it difficult to translate the plans into implementable legal objectives.
- The most secure route for translation of SLUPs into operational direction is through legal land use objectives. Legal land use objectives designed to implement the entire spirit and intent of SLUPs are in place for less than half the province. Elsewhere, there is no approved plan, or there is only a “policy” plan.
- The implementation of most of the SLUPs was predicated on the hierarchy of more detailed planning that was part of the Code. The next level of planning—sustainable resource management plans and landscape unit plans—has been accomplished in only a few areas.
- Planning was meant to be an iterative process involving periodic review by a plan implementation monitoring committee, with a full review every eight years. The role of plan implementation monitoring committees has been limited at best, and no plans have received a full review.

The New Direction sets a course for policy related to strategic land use planning. In large part, this document is a response to the province’s “New Relationship with First Nations”⁴ and, notably, the implications of government-to-government negotiation of strategic land use agreements and the re-focusing of government resources that were devoted to land use planning to a coordinated consultation and engagement framework with First Nations. Other policy-related issues addressed in the New Direction include the process for undertaking more detailed planning and plan updating and monitoring.

³ BC Parks and Forest Service British Columbia, *Towards a protected areas strategy for B.C.; Parks and Wilderness for the 90s*, 1992.

⁴ http://www.gov.bc.ca/themes/new_relationship.html

The New Direction changes strategic land use planning in two important ways:

- First, rather than engaging in comprehensive, provincial strategic land use planning, plans will only be undertaken where a need is demonstrated through a “business case.”
- Second, the role of the public stakeholder has changed from that of one who is part of a consensus-building exercise to that of one who is consulted by plan preparers.

It remains to be seen whether the *New Direction* will assist forest and range managers in clarifying the maze of legislation, regulations, government objectives, and non-legal factors so they can implement forest and range practices in a way that is consistent with strategic land use plans.

Background and Objectives

Strategic land use planning can touch on all aspects of natural resource management. At the Forest Practices Board, our interest lies in the implications of that planning on forest and range practices. The Board reports on compliance with the *Forest and Range Practices Act* (FRPA) and achievement of its intent. This legislation, and the management regime surrounding it, are critical tools in implementing strategic land use plans.

Land use planning has a long history in British Columbia. However, it was not until the 1990s that the complexities involved demanded a provincial-scale approach. In 1992, the province formally announced a goal of doubling BC's parks and wilderness areas—to be accomplished through comprehensive land and water use planning—on a provincial scale. The planning was to be strategic and based on a shared decision making, or consensus seeking, model.⁵ Over the intervening 16 years, government policies and bureaucracies related to land use planning have come and gone, but consensus-based, strategic land use planning continued. An enormous amount of time, effort and money were devoted to the task,ⁱ and by the year 2000, BC's area in parks had doubled, and designation of new protected areas continues to this day.

The consensus-seeking nature of the planning model created expectations that the plans' land use objectives for areas outside of parks would be implemented, and that resource management practices would change accordingly. However, in 2005, the Integrated Land Management Bureau was created and given responsibility for strategic land use planning. In 2006, it announced a "New Direction for Strategic Land Use Planning in BC"⁶ (the New Direction). In April 2008, implementation of the New Direction signalled the end of provincial-scale, comprehensive strategic land use planning based on a consensus-seeking model. Instead, the New Direction states that strategic land use planning will be flexible and responsive to current and emerging government goals and priorities, including its commitment to the "New Relationship with First Nations."⁷ By March 2010, all strategic land use planning currently underway is to be completed, and new planning will be undertaken only where business drivers demonstrate a need.

Given that the province has taken a new direction in the complex maze of land use planning, it is timely for the Board to provide a special report that:

1. summarizes the history, and clarifies the current status, of strategic land use planning;
2. enumerates the mechanisms in place to enable the implementation of plan objectives; and
3. assesses the extent to which those mechanisms have been, and are likely to be, applied.

⁵ BC Parks and Forest Service British Columbia, *Towards a protected areas strategy for B.C.; Parks and Wilderness for the 90s*, 1992.

⁶http://ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/new_direction/new%20direction%20synopsis.pdf

⁷ http://www.gov.bc.ca/themes/new_relationship.html

History and status of Strategic Land Use Planning in BC

History

Prior to 1992, land use planning occurred largely in response to specific conflicts among users of land-based resources. Planning processes included coordinated access management plans, integrated watershed management plans, coordinated resource management plans and local resource use plans. These plans were typically for watershed scale areas (10,000 hectares) though other, more comprehensive plans covering larger areas had been started (forest land management plans). All these planning processes were conducted by government staff; considered input from the public; and, occasionally, tried to obtain consensus.

This planning model started to be derailed in the early 1980s with the emergence of the “war in the woods,” when a growing community of environmental activists conducted a series of high-profile campaigns to protect specific areas from logging. In response to these campaigns, and growing global sustainability initiatives, government established the Commission on Resources and Environment (CORE). CORE was to develop a provincial land use strategy that would resolve conflicts over protected areas and develop integrated land use planning for all resource values. Stakeholders were to be directly involved through a consensus-seeking model, although there was the understanding that government was ultimately accountable for land use decisions. From 1992 to 1994, CORE used the consensus-seeking model of land use planning in three regions of BC: Vancouver Island, Cariboo-Chilcotin and Kootenay-Boundary. No consensus on land use resulted, so CORE completed the plans itself. CORE submitted its recommendations to government, and further negotiations with key stakeholders led to government-approved land use plans.

CORE was then disbanded and smaller sub-regional land and resource management plans (LRMPs) were started, which continued to use a consensus-seeking approach. Under the LRMP model, some government staff facilitated the process, while others were involved in representing their agency’s interests. The resulting land use recommendations, with or without a consensus agreement, were submitted to government for approval.

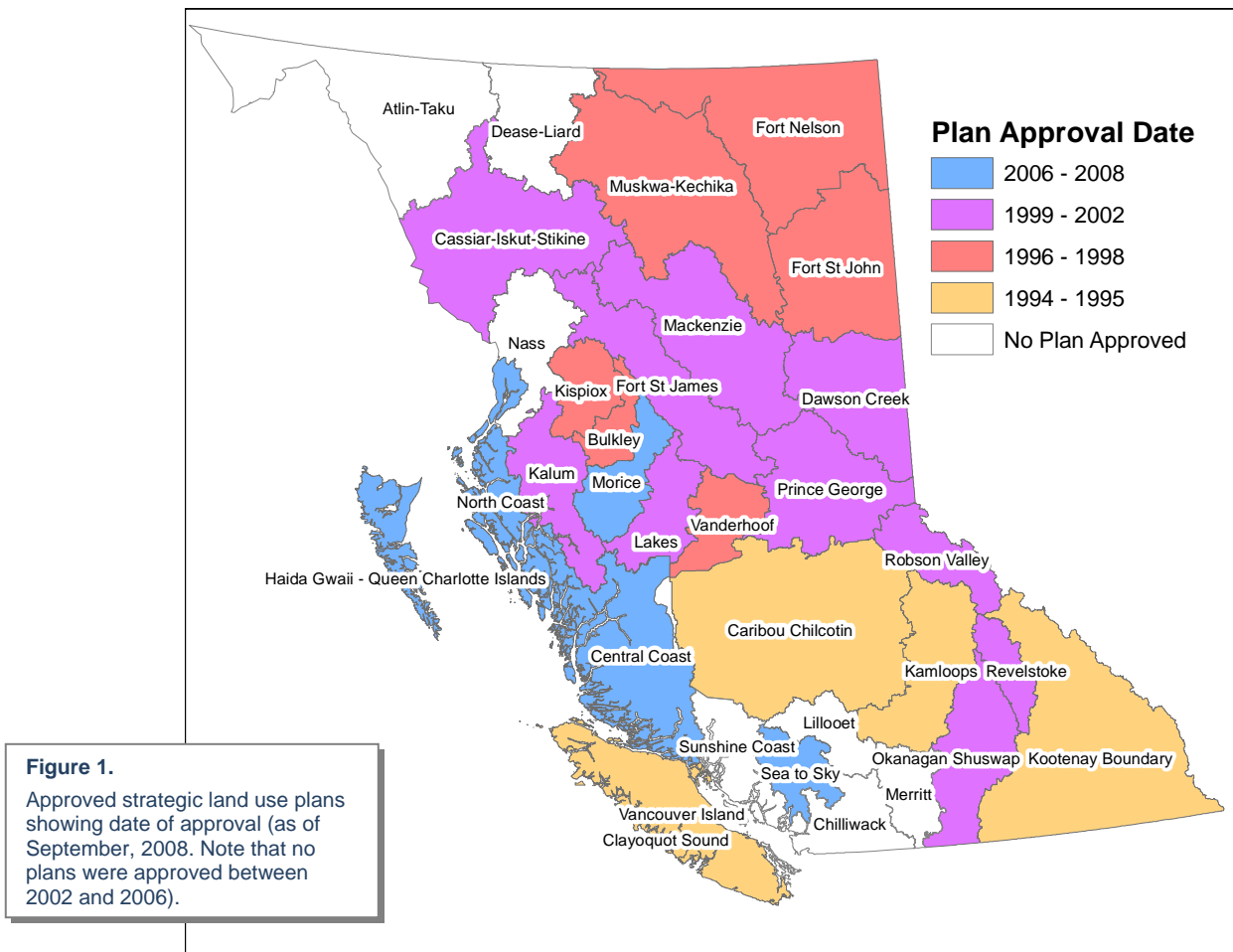
Both the CORE and LRMP plans made recommendations for protected areas, as well as for zoning outside of protected areas. The zoning recommendations directed the intensity of resource development and/or the types of resource values to be considered during on-the-ground activities.

Throughout the process, First Nations were invited and encouraged to participate but, until recently, they rarely did, except as observers. The completion of recent planning processes reflects better consultation with First Nations due to the provincial government’s 2005 commitment to a “New Relationship with First Nations” and, to some extent, recent decisions

by the courts related to First Nations concerns. During discussions with First Nations, the provincial government introduced recommendations from land use planning tables, and some of these recommendations were incorporated into strategic land use agreements with First Nations.

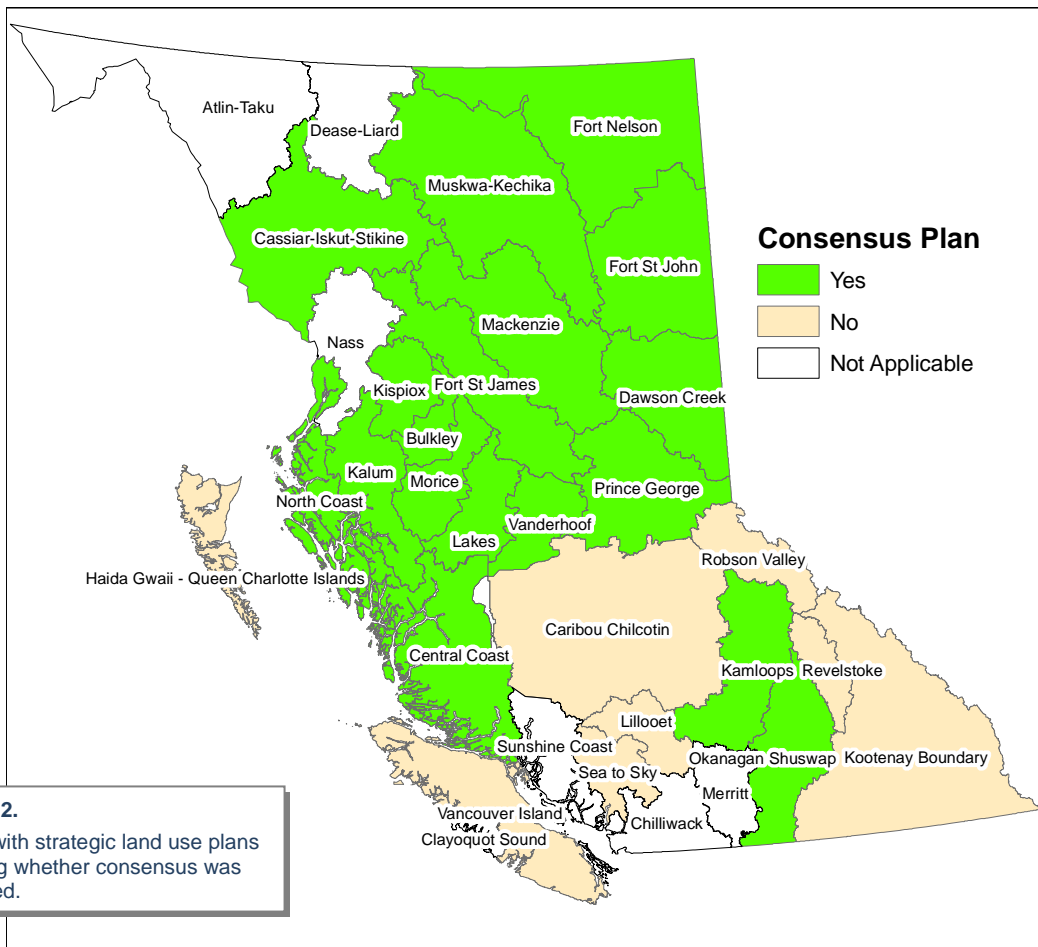
Current Status

Over the years, an array of names has been applied to comprehensive regional or sub-regional land use plans, resulting from attempts to achieve consensus. We use the term strategic land use plan (SLUP) to collectively describe these plans, regardless of whether they were officially CORE regional land use plans, land and resource management plans or strategic land use agreements with First Nations.ⁱⁱ As of September 2008, approximately 85 percent of the province was covered by 26 SLUPs – comprehensive land use plans developed using a consensus seeking model (Figure 1).



An SLUP for the Lillooet area has been approved in principle, but is not yet finalized, due to First Nation consultation requirements. The remaining eight areas of the province, including the marine coastal area and the Gulf Islands, have no SLUP. Some of these areas have plans in place, or under development, that are based on a model that incorporates input from key stakeholders rather than attempting to achieve consensus.

The planning model for SLUPs was predicated on an attempt to achieve consensus, but that was not always possible. Planning tables composed of a diverse mix of interest groups reached consensus on land use recommendations for nearly 60 percent of the province (Figure 2). Where consensus could not be achieved, staff from government agencies involved in the planning process finalized a set of recommendations that became the basis of the approved plan.



Implementation of Strategic Land Use Plans

Strategic land use plans (SLUPs) have a function similar to corporate mission statements. They normally provide high level direction about broad objectives for resource management zones and some strategies for achieving those objectives. Implementation of SLUP objectives usually requires more detailed planning and enumeration of specific actions. SLUPs are implemented through legal objectives that must be met, as well as through non-legal discretion exercised by agreement holders.ⁱⁱⁱ

Legal Implementation

History – the *Forest Practices Code of British Columbia Act*

While still in effect, the *Forest Practices Code of British Columbia Act* (the Code) governed the development of forest and range resource management plans and provided a regulatory framework requiring those plans to be considered by managers. The Code was predicated on a hierarchy of legally required planning. Portions of SLUPs relevant to forest and range management were to be translated into legally binding higher level plans, and those plans were to drive the development of tactical forest development plans (FDPs). Direction from the higher level plans and FDPs was to be used in operational plans (silvicultural prescriptions). For some objectives in SLUPs, notably old growth and landscape level biodiversity, further planning at the landscape unit^{iv} scale was needed. Other objectives, such as ungulate winter range and community watershed objectives, were implemented through specific designations under the Code.

Two points are important here. First, under the Code, while there was no legal requirement for operational forestry to meet the objectives in the SLUPs—it had to be consistent with the objectives as translated into the higher level plans, landscape unit plans and other designations. Second, most of the SLUPs were initiated during the Code era, and the work of those planning tables at that time was based on the assumption that the hierarchy of plans, codified by the Code, would be in place to effect implementation of the SLUP.

“Landscape unit planning is a much more technical form of planning than the broad land use decisions and social values that were considered in developing the LRMP with community endorsement. The focus for landscape planning, as with operational forest planning, is to meet the broad intent recommended by the LRMP.”

From the Vanderhoof LRMP –
http://ilmbwww.gov.bc.ca/slrp/lrmp/princegeorge/vanderhf/plan/vanderhoof_lrmp/section2.0.html

It is also important that the Code contained a broad safety mechanism in the “adequately manage and conserve” test (Section 41(1)(b)),^v which enabled district managers or designated environment officials to ensure an agreement holder’s FDP reflected the direction in SLUPs. This was a key tool in implementing SLUPs, because it could be used to offset any shortcomings where SLUP direction was not adequately reflected in higher level plans. Section 41(1)(b) was eliminated when the *Forest and Range Practices Act* (FRPA) replaced the Code.

Current legal framework – The FRPA Regime

In 2004, the Code was replaced by FRPA. FRPA, along with amendments to the *Land Act* and a series of “professional accountability acts”^{vi} are known collectively as the “FRPA regime.”

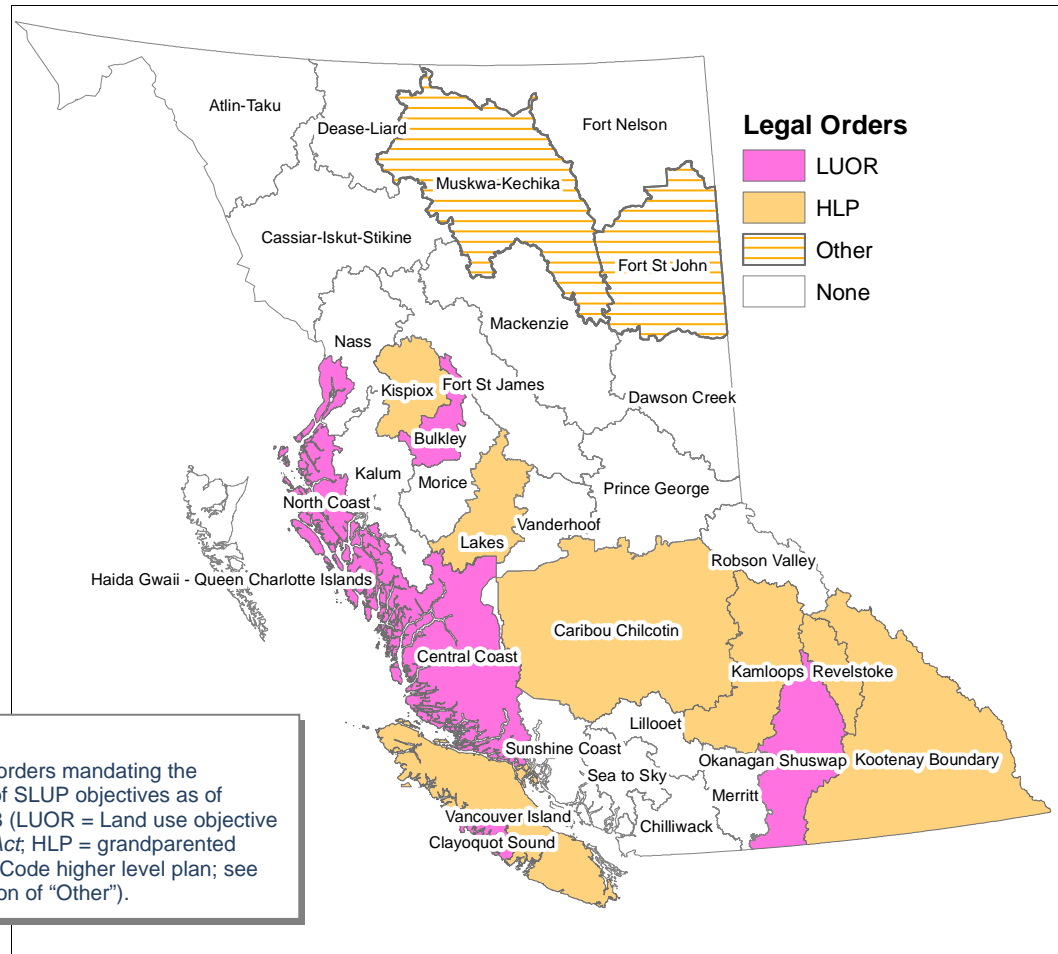
Under the FRPA regime, the *Land Act* can make direction in a SLUP into a legal land use objective. The *Land Act* also contains provisions to grandparent Code higher level plans into legal land use objectives. When preparing land use objectives, the entire SLUP direction is considered, not just the specific objectives. However, not all SLUP objectives are translated directly into separate land use objectives; several SLUP objectives may be combined. Additionally, land use objectives typically pertain only to the activities of forest and range agreement holders, and not to other resource users. In general, draft objectives are developed in consultation with the forest industry to ensure they are operationally feasible.

As of September 2008, legal orders intended to comprehensively implement SLUPs were in place for about half the province, and land use objectives had been established in 12 of the SLUP areas. In addition, specific legislation was enacted to implement plans for the Muskwa-Kechika and Fort St. areas^{vii} (Figure 3).

Land use objectives under the *Land Act* can also incorporate more detailed planning done subsequent to the completion of an SLUP. These plans can provide a comprehensive set of objectives reflecting the entire direction in the SLUP. Eight such plans covering 11 percent of the province have been completed. More commonly these plans are for single resource values (i.e., old growth management areas or wildlife management areas), and often only for portions of the SLUP area. Another key difference between these plans and SLUPs is that they are not based on a consensus model. The plans are developed by government staff, and key stakeholders are consulted as appropriate. These plans are mechanisms for implementing SLUPs. A table summarizing the status of SLUPs and lower level plans is provided in our on-line version of this report, as a link, at www.fpb.gov.bc.ca.

The FRPA regime also enables the implementation of some SLUP objectives through objectives or measures enabled by the *Government Actions Regulation* of FRPA, which addresses issues about:

- resource features (such as karst caves)
- lakeshore management zones
- scenic areas and visual quality objectives
- community watersheds and water quality objectives
- wildlife habitat areas and wildlife habitat features
- ungulate winter ranges
- species at risk, regionally important wildlife and ungulate species
- fisheries sensitive watersheds and temperature sensitive streams



The extent to which these mechanisms have been used to implement objectives in SLUPs varies greatly and is, in part, a function of whether the related issues directly affect local residents and whether the mechanism was in place under the Code. For example, objectives for visual quality and community watersheds were well established under the Code and continue to be implemented in many places throughout the province under the FRPA regime. In contrast, objectives or measures for regionally important wildlife, or wildlife habitat features, have yet to be implemented anywhere.

The FRPA regime also contains provincial scale objectives, and practice requirements, under the *Forest Planning and Practices Regulation (FPPR)*, the *Range Planning and Practices Regulation* and the *Provincial Non-Spatial Old Growth Order* established under the *Land Act*.⁸ These objectives, and the associated practice requirements, may reflect objectives of a given SLUP. To the extent that this is the case, those SLUP objectives are legally enforceable.

⁸ <http://ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/oldgrowth/index.html>

Forest and range agreement holders must prepare plans (forest stewardship plans (FSPs) and range use or range stewardship plans, respectively) that specify results or strategies consistent with the objectives set by government.

In preparing FSPs, agreement holders may refer to SLUPs to clarify the “spirit and intent” of a legal objective (where an objective is vague or could be interpreted a number of ways—e.g., “maintain a mosaic of angling opportunities”), or to clarify specific terms used in a legal objectives (e.g., to more specifically define “thermal cover” and how it will be measured in the objective to “maintain at least 25 percent of the forested area in thermal cover”). Agreement holders may choose to incorporate alternative results or strategies in FSPs that reflect SLUP direction. For example, SLUP direction for pine marten could be incorporated into the results or strategies for FPPR 8 (riparian management areas) and FPPR 9.1 (stand level biodiversity), although the words “pine marten” would not appear in the FSP. If the direction is incorporated into the result or strategy for an objective, it becomes a legal commitment.

Results and/or strategies in FSPs that are tied to legal objectives are enforceable under FRPA. FSP content *not* tied to a legal objective is *not* legally enforceable.

Forest agreement holders must also prepare site plans to provide direction to operations. FRPA states that site plans must be consistent with the associated FSPs. The extent to which the SLUP direction is explicitly reflected in site plans will depend on the agreement holder’s commitment to the SLUP. SLUP direction that is out-of-date or unclear is unlikely to be used. Similarly, as agreement holders become less and less familiar with the SLUP, due to the passage of time and staff turnover, they are less likely to refer to it in site plans.

Non-Legal Implementation

A key element of the FRPA regime is the reduction in regulatory burden, compared to that of the Code. FRPA’s intent was to reduce cost and administrative complexity, while maintaining high environmental standards, public acceptance of forestry operations and continued timber supply. The FRPA regime is imbedded in a policy framework that places much of the onus for maintaining these things in what some refer

“In our day to day lives, societal expectations are usually the most powerful influences on our actions or decisions. What our neighbours, clients or customers think of us is generally of greater concern to us than anything the law may require of us.”

Roberta Reader, *The Expectations that Affect the Management of Public Forest and Range Lands in British Columbia: Looking Outside the Legislation*, 2006.

<http://www.for.gov.bc.ca/code/training/frpa/looking.html>

to as “the non-legal realm.” Because of the relatively recent implementation of FRPA, the effectiveness of the non-legal realm remains uncertain. While only legal constraints can require the implementation of the social choices and societal expectations expressed in SLUPs, many agreement holders and government staff have commented that social licence was indeed a factor motivating consideration of SLUPs in stewardship decisions. In the context of

implementing the aspects of SLUPs related to forest and range practices, there are a number of mechanisms that affect the accountability resulting from social licence.

Professionals responsible for forest and range practices could be held accountable by their professional organizations as governed by professional accountability acts.^{viii} For example, professional foresters are legally required to abide by the code of ethics of the Association of BC Forest Professionals and could conceivably lose their right to practice if they don't. Canon 1 of that code of ethics states that a forester's responsibility is to, "practice good stewardship...to provide those values that have been assigned by society."⁹ SLUPs provide one articulation of the values that have been assigned by society. However, foresters may consider that only a part of the public interest is expressed in SLUPs.¹⁰ Additionally, according to their code of ethics, foresters must, "seek to balance the health and sustainability of forests, forest lands, forest resources, and forest ecosystems with the needs of those who derive benefits from, rely on, have ownership of, have rights to, and interact with them."¹¹ That is, objectives in an SLUP must be weighed against numerous other factors when planning and executing forest operations. If a forest or range professional is thought to have acted inappropriately, the principle mechanism for recourse is through a complaint to his or her professional association. However, it is forest and range agreement holders, not forest and range professionals, who are responsible for ensuring that activities on the land comply with the legal requirements of FRPA and the *Land Act*.

Plan implementation monitoring committees or other similar formal bodies (e.g., community resource boards) can promote accountability between the SLUP and its implementation. However, their effectiveness varies widely among SLUPs; these bodies are advisory in nature. In general, the most actively implemented SLUPs may be those that have a strong and committed public monitoring body in place.

Forestry agreement holders can enhance their social licence by obtaining certification that holds them accountable to independent standards^{six} through third-party audits with varying degrees of rigor. Certification typically requires agreement holders to consider both the legal and non-legal context in which they operate (which would include SLUPs) but it does not require them to implement specific SLUP provisions. Sustainable forest management plans, created for the certification process, could implement SLUP direction. Agreement holders are not legally accountable for commitments made in a sustainable forest management plan. We also note that SLUPs can be used to guide the preparation and approval of forest stewardship plans (FSPs) in a number of non-legally binding ways. For example, district policy based on SLUPs can be interpreted as standard practices, and those could be cited in FSPs. Standard practices^x are assumed to represent a lower risk to the resource value, and require less supporting documentation than innovative practices.

⁹ http://www.abcfp.ca/regulating_the_profession/bylaws/documents/ABCFCPECodeOfEthics.pdf

¹⁰ http://www.abcfp.ca/regulating_the_profession/documents/guideline-public-interest.pdf

¹¹ http://www.abcfp.ca/regulating_the_profession/bylaws/documents/ABCFCPECodeOfEthics.pdf

Factors influencing SLUP implementation

The Chain of Events

There is a reasonably long chain of events required to translate an objective in an SLUP to a legally required operational forest (or range) practice. The SLUP objective must first be translated into a legal land use objective, after which that objective is translated into a result or strategy in an FSP. The FSP result or strategy is further translated into operational direction in a site plan. Finally, the site plan is implemented on the ground. At each step, the original objective in the SLUP may be rephrased or modified, and the original intent could be lost. Loss of fidelity to the original message is particularly an issue where the original SLUP direction is unclear, out-of-date and/or unfamiliar to staff. Continued work on the SLUP to refine its direction, particularly through more detailed planning, and an active plan implementation monitoring committee (or similar public body) can help maintain the fidelity of the message. An important corollary of the “chain of events” is that all the regulatory mechanisms in FRPA link back only to the objectives set by government, not to the SLUP itself. As a result, establishing SLUP direction in a legal objective is the only certain way to ensure its implementation. When preparing an FSP, agreement holders may choose to refer to an SLUP, but they are not required to do so.

Clarity of Objectives

The clarity of SLUP objectives strongly influences how effectively they may be translated into practices on the ground. Under the consensus planning model, objectives were developed through negotiation among numerous sectors with conflicting interests and perspectives. At the end of the negotiation, all parties had to reach consensus on specific language. That often required compromises, sometimes resulting in unclear objectives. In addition, the early SLUPs in particular were deliberately written to provide broad strategic direction, with the intent that it would be refined or “operationalized” in lower level plans. For example, plan objectives containing words like “consider” and phrases like “mosaic of angling opportunities” are difficult to interpret without further definition. These problems also resulted in some objectives at the strategic level that conflicted with ones at the operational level. This requires those preparing and reviewing FSPs to interpret the intent of the SLUP in order to resolve the conflict.

Continued Work on the Plan

SLUPs for which comprehensive lower level plans have been completed are more easily implemented at the operational scale. Some SLUPs have been effectively replaced by more detailed planning, which provides clearer, more up-to-date, direction. Agreement holders and government staff may choose to refer to these plans for direction, rather than to the SLUP. This is only a problem if the SLUP contains direction not adequately captured by the more detailed plans. Continued work on components of the SLUP can also help maintain familiarity with it

and keep it current (e.g., the Biodiversity Conservation Strategy for the Cariboo-Chilcotin plan, and various watershed assessments, habitat inventories, and wildlife tree retention guidelines).

Exemptions from Implementation

Land use objectives may not always be implemented. Under FPPR Section 25(2), a delegated decision-maker can exempt an agreement holder from preparing a result or strategy for a grandparented higher level plan on the grounds that any public benefit would be outweighed by:

- a) a material adverse impact on wood costs, and
- b) undue constraint on a licensee's timber harvesting rights.

Additionally, under FPPR Section 12(7), a delegated decision-maker can exempt an agreement holder from preparing a result or strategy where it is "not practicable" to do so. Some of the criteria used to determine what is "practicable" are suggested in a FRPA Administration Bulletin:¹²

- not directed at forest practices or operational plans;
- no longer relevant;
- cannot be reasonably interpreted or implemented (e.g., if inventories have not been completed); and
- not feasible given the type of licence that applies.

Other Land Uses and Unanticipated Events

Land use objectives established under Section 93.4 of the *Land Act* apply only to forest and range practices and do not constrain activities related to other resources, such as mining, oil and gas, and independent power projects. These activities could compromise the effectiveness of land use objectives in meeting the intent of an SLUP. For example, roads and transmission corridors can be built in ungulate winter ranges, old growth management areas and wildlife habitat areas. Activities not covered by FRPA could be constrained by objectives established under Sections 93.1-93.3 of the *Land Act*, but these sections are not in force (i.e. there are no enabling regulations).

Previously unanticipated events can alter the context in which a plan was developed and render plan direction ineffective. Examples include changing economic conditions and the mountain pine beetle epidemic in central BC.

¹²http://www.for.gov.bc.ca/hth/timten/FRPA_implementation/Bulletins/FRPA%20No%204%20Bulletin%20Land%20Use%20Objectives%20guidance%20July%2027%202006.pdf

Evolving policy related to land use planning

In 2006, the government released “A New Direction for Strategic Land Use Planning in BC” (the New Direction),¹³ based on a comprehensive review of strategic planning in the province. The following are some of the key policy changes influencing SLUP implementation.

The New Relationship with First Nations

As part of the new relationship with First Nations, the government has made a commitment to “develop new institutions or structures to negotiate Government-to-Government Agreements for shared decision-making regarding land use planning.”¹⁴ This is consistent with recent court decisions that indicate there is a “duty to consult when a Crown actor has knowledge, real or constructive, of the potential existence of Aboriginal rights or title.”¹⁵

The New Direction recognizes the commitments to engage First Nations on a government-to-government basis in land use planning. Consideration of the need for First Nations involvement in land use planning was explicit throughout the New Direction document. At the same time, there was a clear recognition that the framework and processes required to address the “New Relationship with First Nations,” commitments needed to be viewed as a work in progress. Government continues to express its commitment to ensure that “First Nations will participate in land use negotiations across the Province and have a strong role in land use decisions.”¹⁶

Recently, government-to-government negotiations with First Nations have influenced the translation of SLUPs into legal objectives. The SLUPs approved for the Morice, Central Coast, North Coast, and Sea-to-Sky plans provided part of the basis for the province’s negotiating position with the First Nations in these areas. The outcome of these negotiations, reflected in the government-to-government negotiations, supersedes the SLUP. Note that a government-to-government agreement was signed with the Council of the Haida Nation for the Haida Gwaii in the absence of an approved SLUP. The legal land use objectives for the North Coast and Central Coast closely follow wording from the government-to-government negotiations between the province and First Nations. In general, First Nations are seeking assurance by including SLUP direction in very explicit legal objectives.

Strategic land use planning in BC has recently been affected by refocusing of staff and resources with the aim of coordinating government’s engagement with First Nations. Many of the staff of the Integrated Land Management Bureau, particularly in regional offices throughout the province, that were involved in land use planning have been re-assigned to work on a more coordinated consultation and engagement framework with First Nations.

¹³http://ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/new_direction/new%20direction%20synopsis.pdf

¹⁴http://www.gov.bc.ca/themes/new_relationship.html

¹⁵ *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)* (2004 SCC 74)

¹⁶http://www.gov.bc.ca/themes/new_relationship.html

The Planning Context

Early SLUPs were based on the principle that land use and resource management recommendations must be within the environmental capacity of the land to sustain use.

The New Direction notes that, while the rationale for strategic planning has changed over the years, there are three reasons that have remained constant:

1. resolution of resource conflicts;
2. resolution of potential competing uses through land allocation; and
3. delivery of government protection or conservation programs (e.g., Protected Areas Strategy, Grizzly Bear Conservation Strategy, Identified Wildlife Management Strategy).

“A sustainable British Columbia requires that the negative effects of human activity on the environment are minimized and the broad implications of human activities for the environment, the economy and social well-being are considered. Preservation of biodiversity; protection of pure water, clean air and uncontaminated terrestrial, wetland, coastal and sea-bottom systems; stabilization of global climatic conditions; protection of natural beauty for aesthetic and spiritual values; and a commitment to a new economic ethic based on making better use of what we have are fundamental to a sustainable future.”

LRMP Plans: A Statement of Principles and Process.

http://ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/lrmp_policy/stmt.htm

The content of SLUPs is a reflection of the context in which they were developed. Early SLUPs, developed under the banner of sustainability of all values, reflect their context by tending toward broad and comprehensive motherhood objectives. Later SLUPs, developed within the context of sustainable economic development, are more focussed on measures and targets that quantify the balance of resource uses and impacts. In part, this shift reflects concerns that the language in SLUPs was too general, and was an accommodation of the shift from the prescriptive Code to the results-based FRPA regime.

Direction from Detailed Plans

SLUPs developed under the Code were intended to provide broad strategic direction to more detailed plans. There was also an understanding that information gained through detailed planning would be used to refine the strategic plans.

Recent policy direction is to not engage in more detailed planning unless there is a business case to do so (i.e., proposed new plans must meet defined criteria and have been subject to a scoping analysis). However, strategic direction in many of the SLUPs, particularly those developed under the Code, can be difficult to translate directly into operational plans without further detailed planning.

Plan Updates and Amendments

The LRMP *Statement of Principles and Process*¹⁷ stated that “The land and resource management plan undergoes a major review beginning in the eighth year after approval and is completed on the tenth anniversary. The conduct of this review generally conforms to the process for the initial plan as described in this document.” Thus, SLUPs were to be regularly updated. To date, none of the SLUPs has received a major review. Policy under the New Direction is to “update specific components of the plan only and in accordance with an established list of priority circumstances.” During their development, SLUPs were characterized as living documents that would be updated in response to new information and changing conditions. However, unless sufficient resources are put into updating the plans themselves, or updating direction through more detailed planning, the SLUPs will become dated and lose relevance.

Role of Plan Monitoring Committees

Planning areas with a strong public advisory body (e.g., plan implementation monitoring committee (PIMCs)) tend to have active plans. PIMCs will only be effective where there are resources to support their work and their input is recognized and considered.

It is not clear what role PIMCs will play under the New Direction, except that it is not likely that there will be one PIMC for each plan, as was originally envisaged.

Monitoring Plan Effectiveness and Implementation

The LRMP *Statement of Principles and Process*¹⁸ stated that “all resource agencies, with the co-operation of the public, are responsible for monitoring resource management and development activities to assess compliance with land and resource management plans.” Plans were to be monitored to see if they were being implemented as written and there was to be effectiveness monitoring to assess how well the desired objectives were *actually* being achieved. Monitoring reports were to be used to update and amend the SLUP.

With the advent of the FRPA regime, effectiveness monitoring has largely become the responsibility of the Forest Resource Evaluation Program. That program is specifically linked to eleven FRPA “resource values,”¹⁹ rather than to SLUPs. Implementation monitoring is still expected to occur; however, New Direction policies related to how the monitoring will happen have not been finalized.

¹⁷ http://ilmbwww.gov.bc.ca/slrp/lrmp/policiesguidelinesandassessments/lrmp_policy/stmt.htm

¹⁸ Ibid.

¹⁹ <http://www.for.gov.bc.ca/hfp/frep/values/index.htm>

Conclusions

In BC, the era of comprehensive, provincial scale strategic land use planning based on a consensus-seeking model is drawing to a close. The initial goal set in 1992, of doubling the protected areas system,²⁰ has been achieved and exceeded. However, we have fallen short of the goal of implementing “comprehensive land and water use planning” based on “local involvement and shared decision making.”²¹ Several factors have contributed:

- Consensus based plans were approved for about 60 percent of the province. However, achieving consensus required that objectives be stated very broadly, making it difficult to translate the plans into implementable legal objectives.
- Strategic land use plans are typically too general to be implemented as written—they need to be translated into operational direction. The most secure route to implementing the objectives in a land use plan is through the creation of legal land use objectives. However, this has only been accomplished for plans covering less than half the area of the province. The remainder of the province either has no approved plan or has a policy plan that may end up languishing on the shelf.
- The implementation of most of the SLUPs was predicated on a hierarchy of plans that would allow strategic direction to be translated to operations through more detailed planning. The next level of planning—sustainable resource management plans and landscape unit plans—was only accomplished in a few areas.
- Plans were not meant to be completed. Planning was to be an iterative process involving constant review by a plan implementation monitoring committee, with a full review every eight years involving the entire planning table. These reviews were meant to keep the plan relevant in a changing world. The role of plan implementation monitoring committee has been limited at best, and no plans have received a full review.

The majority of SLUPs were developed based on the legislative and policy context in place during the era of the Code. Development under the Code does not impair SLUP implementation. What appears to be critical is (a) whether the plan intent has been kept current and relevant through more detailed planning, and (b) the extent to which legal objectives have been established.

The FRPA legislative framework contains provision for creating objectives set by government that could be used to implement SLUPs. However, it is a complex and time-consuming task to translate the often general intent of an SLUP into appropriately detailed and specific legal objectives. The FRPA regime places much of the onus for doing sound forestry on mechanisms in the “non-legal realm.” In this context, these mechanisms include professional reliance,

²⁰ BC Parks and Forest Service British Columbia, *Towards a protected areas strategy for B.C.; Parks and Wilderness for the 90s*, 1992.

²¹ *Ibid.*

oversight by plan implementation monitoring committees, and third-party certification. The extent to which any of these mechanisms operates varies widely from professional to professional, from place to place and from time to time.

The “New Direction for Strategic Land Use Planning in BC” changes the nature of strategic land use planning in two important ways:

- The role of the public stakeholder has changed from being one who has a seat at the planning table and is part of the consensus building exercise required to develop a plan, to being one who is consulted for input by plan preparers.
- The goal of having comprehensive strategic land use plans in place for the entire province has been abandoned. Instead, planning will be done only when and where a need can be demonstrated through the development of a “business case.”

It remains to be seen whether the New Direction will assist forest and range managers in navigating through the maze of legislation, regulations, government objectives, and non-legal factors so they can implement forest and range practices in a manner consistent with the direction provided by strategic land use plans.

End Notes

ⁱ By government, stakeholders, members of the public and First Nations. Large public processes that lasted 2 to 12 years. The Integrated Land Management Bureau estimates that BC invested approximately \$6 million/year on strategic planning since 1990, with the larger planning processes (e.g., the Central and North Coast LRMPs) costing up to \$10 million to complete (reference is footnote 4). These estimates do not include plan implementation and monitoring nor do they account for the time volunteered by members of the public.

ⁱⁱ This confusion is made worse because there are other plans called Sustainable Resource Management Plans (SRMPs) and Landscape Unit Plans (LUPs) that are not based on the consensus-seeking model. We discuss the role of these plans later in the document. Further confusion is created by the fact that the *New Direction* renames all these plans, regardless of nature of the plan, as Strategic Land and Resource Plans.

ⁱⁱⁱ Companies and individuals that hold licences under the *Forest Act* or *Range Act*.

^{iv} Typically, watersheds of 10,000 to 100,000 hectares.

^v The *Forest Practices Code of British Columbia Act* contained the following:

41. Approval of plans by district manager or designated environment official

41. (1) The district manager must approve an operational plan or amendment submitted under this Part if (a) the plan or amendment was prepared and submitted in accordance with this Act, the regulations and the standards, and (b) the district manager is satisfied that the plan or amendment will adequately manage and conserve the forest resources of the area to which it applies.

^{vi} The *Foresters Act*, the *Agrologists Act*, the *Engineers and Geoscientists Act* and the *College of Applied Biology Act*.

^{vii} The *Muskwa-Kechika Act* (1998) and *Fort St. John Pilot Regulation* of the Code, respectively.

^{viii} See endnote vi.

^{ix} There are three standards in common use in BC: Sustainable Forestry Initiative Standard (SFIS), Canadian Standards Association (CSA) and ISO 14001. A fourth standard, Forest Stewardship Council (FSC), is not commonly used in BC for forest stewardship. ISO 14001 is often used in conjunction with SFI or CSA, as it only defines the environmental management system.

^x “Standards of practice” are existing practices that have been informed by non-legal guidance and believed to be the benchmark from which the degree of consistency with objectives can be determined. The designated decision maker can point to policy LRMPs as one source of results/strategies that speak to the “standards of practice” by value that also balance across values.” (MFR Resource Tenures and Engineering Branch, *Administrative Guide for Forest Stewardship Plans*, Nov. 2006, p. 134).