



B.C. FIRST NATIONS
FORESTRY COUNCIL

Honouring our Lands: A Toolkit for First Nations Ecosystem-Based Stewardship Planning



A BC First Nations Forestry Council Initiative

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**B.C. FIRST NATIONS
FORESTRY COUNCIL**



1. Executive Summary

From 2006 to present, the British Columbia First Nations Forestry Council (the ‘Forestry Council’) has carried out various projects and programs with the intent of increasing the role of BC First Nations in the governance and stewardship of forest lands and resources, including access to benefits from the use of these lands and resources. Based on sustainability principles and Indigenous values that ensure the viability of the forests and lands for current and future generations, these projects and programs support Nations in their work with governments and others to ensure that First Nations’ interests, values, and principles are factored into forestry-related legislation; support policy and program development; promote capacity building in the form of jobs and training to increase First Nations’ participation in the forest sector; and connect First Nations’ talent to opportunities and growth in the forest sector.¹

One of the Forestry Council’s early initiatives was the 2009 *A Handbook for Ecosystem Stewardship Planning* (2009 ESP Handbook), which assisted Nations in developing planning goals, harmonizing Nation plans with Provincial plans, and standardizing Indigenous planning in BC.

In light of the Government of BC’s commitment in 2017 to modernize land use planning and most recently, to implement the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)* via the *Declaration on the Rights of Indigenous Peoples Act*,² the Forestry Council developed the 2020 *Honouring our Lands: A Toolkit for First Nations Ecosystem-Based Stewardship Planning* resource (2020 ESP Toolkit), which builds on the important work of the 2009 ESP Handbook. As such, the 2009 *A Handbook for Ecosystem Stewardship Planning* has now been transformed into this Toolkit—providing a suite of updated resources, wise practices, lessons learned, and case studies as options for Nations in BC to support ecosystem-based stewardship planning.

The 2020 ESP Toolkit acknowledges trends and considerations in First Nations ecosystem-based stewardship planning, which include notable case law (e.g., Delgamuukw, Nisga’a, and Tsilhqot’in Nation) that are making significant contributions in the protection and advancement of Aboriginal title and rights. In transforming the 2009 ESP Handbook into the 2020 ESP Toolkit, attention is placed on *UNDRIP* and the Truth and Reconciliation Commission’s *Calls to Action*, which collectively serve as a framework for reconciliation. From there, the Toolkit outlines guiding principles for First Nations ecosystem-based stewardship planning from a holistic perspective, including ecological, socio-cultural, and economic elements. The subsequent sections of the Toolkit then provide resources, wise practices, lessons learned, and case studies organized into five phases:

1 <https://www.forestrycouncil.ca/cpages/about>

2 <https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/41st-parliament/4th-session/bills/first-reading/gov41-1>

Pre-Planning

- i. Developing a vision for ecosystem-based stewardship planning
- ii. Preparing for ecosystem-based stewardship planning

Plan Development

- iii. Developing an ecosystem-based stewardship plan
- iv. Finalizing an ecosystem-based stewardship plan

Plan Implementation

- v. Implementing an ecosystem-based stewardship plan

This Toolkit is intended for treaty and non-treaty Nations in BC that are at different stages of readiness in ecosystem-based stewardship planning.

The purpose of the 2020 ESP Toolkit is three-fold: (i) provide Indigenous-informed resources to support Nations in BC to develop a vision and a corresponding set of management objectives for ecosystem-based stewardship planning, (ii) increase the role of First Nations in the governance and stewardship of lands and resources in BC, and (iii) promote meaningful engagement of Nations in BC in ecosystem-based stewardship planning and the modernization of land use planning.

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2. Disclaimers

- The British Columbia First Nations Forestry Council (the 'Forestry Council') is an advocacy organization that works to support Nations to increase their role in the governance and stewardship of forest lands and resources and their participation in the forest sector. **The Forestry Council does not represent Nations in BC nor is it a consultative body.**³
- The 2020 *Honouring our Lands: A Toolkit for First Nations Ecosystem-Based Stewardship Planning* resource (2020 ESP Toolkit) focuses on ecosystem-based stewardship planning.
- The 2020 ESP Toolkit is not intended to be a “one size fits all” nor an exhaustive list of all Indigenous-led and coordinated ecosystem-based stewardship planning activities, programs, and services occurring and being used in Nations across BC. Rather, the Toolkit is a suite of updated resources, wise practices, lessons learned, and case studies as options for Nations in BC to support Indigenous-led and coordinated ecosystem-based stewardship planning.
- In the Toolkit, case law and corresponding political events, case studies, wise practices, and resources are current as of the date of publication.
- The Forestry Council and the project team endeavoured to share notable case law, political events, case studies, wise practices, and resources as accurately as possible in this Toolkit.

3 <https://www.forestrycouncil.ca/cpages/about>



3. Acknowledgements

The 2020 *Honouring our Lands: A Toolkit for First Nations Ecosystem-Based Stewardship Planning* was prepared by the following individuals and organizations:

Project Funder

- BC First Nations Forestry Council
- BC Ministry of Forests, Lands, Natural Resource Operations & Rural Development

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Last but certainly not least, the project team members raise their hands in thanks and appreciation to the trailblazing 2009 ESP Handbook project team for developing the foundational Handbook, which is the basis of the 2020 ESP Toolkit.



4. Introduction

4.1 Overview

“All things are bound together. All things connect. Whatever happens to the Earth happens to the children of the Earth. Man did not weave the web of life, he is merely a strand in it. Whatever he does to the web, he does to himself.” Chief Seattle⁴

Chief Seattle’s words highlight the ancient, complex, and important relationships that Indigenous Peoples have with the land from spiritual and cultural perspectives.

The 2009 ESP Handbook used a unique approach to land, marine, and resource use planning that included everything from hands-on experiences to plan design. This unique approach to the 2009 ESP Handbook provided a focus for planners to design and run their own planning process through project management techniques specific to their own Nation’s vision.

During the decade following the release of the 2009 ESP Handbook, the political landscape in both BC and Canada changed considerably for Indigenous Peoples. There is now a commitment by the provincial and federal governments to fully adopt the *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), the Truth and Reconciliation Commission’s (TRC) *Calls to Action*, and the 2014 *Tsilhqot’in Decision*. As a result of these significant changes with regard to Indigenous title, rights, and reconciliation, First Nations Peoples are better positioned to advance ecosystem-based stewardship planning that is specific to their Nations’ visions and management objectives.

4.2 What is the ESP Toolkit?

The 2020 *Honouring our Lands: A Toolkit for First Nations Ecosystem-Based Stewardship Planning* (2020 ESP Toolkit) builds on the 2009 *A Handbook for Ecosystem Stewardship Planning* (2009 ESP Handbook). The 2009 ESP Handbook has now been transformed into the 2020 ESP Toolkit, providing a suite of updated resources, wise practices, lessons learned, and case studies.

The purpose of the 2020 ESP Toolkit is to:

- provide Indigenous-informed resources to support Nations in BC to develop a vision and a corresponding set of management objectives for ecosystem-based stewardship planning,
- increase the role of First Nations in the governance and stewardship of lands and resources in BC, and
- promote meaningful engagement of Nations in BC in ecosystem-based stewardship planning and the modernization of land use planning.

4 <https://www.passiton.com/inspirational-quotes/7223-all-things-are-bound-together-all-things>

4.3 Who is the Toolkit Intended to Assist?

This Toolkit is for treaty and non-treaty Nations in BC that are at different stages of readiness in ecosystem-based stewardship planning.

Stages of readiness for Nations can range widely. Some Nations may be developing their first ecosystem-based stewardship plan, revising/updating their existing ecosystem-based stewardship plan, or building capacity (e.g., financial, technical, and human resources). Other Nations may be at the stage of fully implementing their up-to-date ecosystem-based stewardship plan with monitoring, reporting, and evaluation components to ensure sustainability of ecosystem-based stewardship practices and guardianship in their traditional territories.

For a First Nations ecosystem-based stewardship plan to successfully come together, resources are required to support governance capacity.

4.4 How is the Toolkit Structured?

The 2020 ESP Toolkit contains two introductory chapters that set the context, followed by five core sections that provide information on the various components of ecosystem-based stewardship planning. Examples of the application and related uses of ESPs are also shared to demonstrate how Nations can advance their interests and values.

The first two chapters acknowledge trends and considerations in First Nations ecosystem-based stewardship planning, which include notable case law (e.g., Delgamuukw, Nisga'a, and Tsilhqot'in Nation) that are making significant contributions in the protection and advancement of Aboriginal title and rights. In transforming the 2009 ESP Handbook into the 2020 ESP Toolkit, attention is placed on UNDRIP and the TRC *Calls to Action*, which collectively serve as a framework for reconciliation. From there, the Toolkit outlines guiding principles for First Nations ecosystem-based stewardship planning and its importance from a holistic perspective, including ecological, socio-cultural, and economic elements.

The following sections of the Toolkit then provide resources, wise practices, lessons learned, and case studies with regard to the following:

Pre-Planning

- i. Developing a vision for ecosystem-based stewardship planning
- ii. Preparing for ecosystem-based stewardship planning

Plan Development

- iii. Developing an ecosystem-based stewardship plan
- iv. Finalizing an ecosystem-based stewardship plan

Plan Implementation

- v. Implementing an ecosystem-based stewardship plan

The last section provides illustrative examples of how ESPs can be applied to decision-making processes which demonstrate how Nations can advance their respective interests and values.

4.5 How to Use the ESP Toolkit

Fundamentally, stewardship is about governance. As such, we are identifying ways for Nations to work together within and across traditional territories more effectively and meaningfully, particularly relating to ecosystem-based stewardship planning.

The 2020 ESP Toolkit is intended to act as a reference that a Nation can use to support efforts in ecosystem-based stewardship planning.

As mentioned in the Disclaimers section (page 11), the 2020 ESP Toolkit is not intended to be an exhaustive list of all Indigenous-led and coordinated ecosystem-based stewardship planning activities, programs, and services occurring and being used in Nations across BC.

It is also not intended to be a “how-to” manual, nor is it intended to be prescriptive in nature as “one size does not fit all” for First Nations in BC. It is important to recognize that each Nation in BC has unique protocols, customs, languages, and practices relative to community connections and family lineages.

For Nations that are just beginning an ecosystem-based stewardship plan or starting again after time away from the ecosystem-based stewardship planning process, we recommend starting at the beginning of the Toolkit and working through each section.

For Nations that are somewhere in the middle of ecosystem-based stewardship planning work, feel free to jump to specific topics and sections of the Toolkit. We endeavoured to make each section stand alone in terms of content.

For Nations that have already built significant capacity in ecosystem-based stewardship planning and retain skills and continuity from previous ecosystem-based stewardship planning work, please refer to specific sections of the Toolkit. If Nations have already completed an ecosystem-based stewardship plan, feel free to compare previous ecosystem-based stewardship plan projects with the structure and resources outlined in the Toolkit. Doing so will enable Nations to fill in areas that may have been overlooked.

4.6 Terminology

Key terms are provided on page 83 of the Toolkit, providing a common understanding of notable terms used throughout this resource.

Unless stated otherwise, the terms “Indigenous Peoples” (international term) and “Aboriginal Peoples” (1982 Canadian Constitution term) will be used to include all First Nations, Inuit, and Métis Peoples in Canada. Also, the terms “First Nations” and “Nations” will be used interchangeably in the Toolkit.

For more information about First Nations ecosystem-based stewardship planning and related Indigenous land use planning publications and processes, a list of resources is provided in the 2020 ESP Toolkit on page 79.

4.7 Conclusion/Summary

The 2020 ESP Toolkit encourages Nations to be flexible and creative in their approaches to ecosystem-based stewardship planning. A Nation may want to seek guidance from, and reach out to, other Nations to learn and share knowledge, as well as engage in collaborations about ecosystem-based stewardship planning based on cultural values, practices, and protocols.

It is important to remember that a Nation leads the ecosystem-based stewardship planning process—so developing a vision and corresponding set of management objectives for a Nation’s current and future generations is central in this planning “circle,” ensuring that a Nation’s vision, values, and interests are first and foremost.

5. Trends and Considerations in First Nations Ecosystem-Based Stewardship Planning

This section describes First Nations' interest in developing ecosystem-based stewardship plans, including a look at the background for the current context of Nations in BC. The material in this section is organized as follows:

- Introduction
- Indigenous title, rights, and the legal context
- Current and emerging trends and realities
- Challenges and threats
- Benefits and opportunities
- Conclusion/summary

Did You Know?

In Canada, over 80% of Indigenous communities are surrounded by forested lands and have a profound relationship with the forest landscape, which supports livelihoods and spiritual and cultural well-being.⁵

5.1 Indigenous Title, Rights, and Legal Context

In Canada, each Nation is unique in their practices, teachings, lifestyle and culture, language, and customs for survival and growth. The enduring deliberation of Aboriginal title and rights is an ongoing dialogue in the realm of legal recognition and continues to contain much ambiguity.

Prior to European contact, the Indigenous Peoples of Canada built self-governing systems on their territories where they were able to ensure sustainability of all that the land offered in their own region or area.⁶

Indigenous systems were specific to each Nation or group, and they were well organized.⁷

5 Nelson, M., Natcher, D.C., & Hickey, C.G. (2008). Subsistence harvesting and the cultural sustainability of the Little Red River Cree Nation. In D. David (Ed.), *Seeing beyond the trees. The social dimensions of Aboriginal forest management* (pp. 29-40). Concord, ON: Captus Press.

6 <http://www.bctreaty.ca/self-government>

7 Marcle, L., Okanagan Rights Committee, & Okanagan Indian Education Resource Society (1993). *We get our living like milk from the land*. Penticton, BC: Theytus Books.

Did You Know?

In 1982, the Government of Canada enshrined Aboriginal rights in Section 35 of the Canadian Constitution and in Section 25 of the Canadian Charter of Rights and Freedoms to acknowledge Canada's commitment to recognize Indigenous or Aboriginal treaty rights. Aboriginal title and rights are protected under the Constitution Act, 1982.

Reconciliation is a fundamental purpose of Section 35 of the Constitution Act, 1982.

While Aboriginal rights are recognized, there continues to be debate on specific and nuanced details in ongoing court cases about exclusive right(s) to use and occupy lands (Aboriginal title).

Recently, the Governments of Canada and BC committed to reconciliation with Indigenous Peoples and full adoption and implementation of UNDRIP and the TRC *Calls to Action* in policies, programs, and legislation to bring the principles of UNDRIP into action.

For example, BC Premier John Horgan's mandate letter to cabinet ministers stated:

*"As part of our commitment to true, lasting reconciliation with First Nations in British Columbia our government will be fully adopting and implementing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and the Calls to Action of the Truth and Reconciliation Commission. As minister, you are responsible for moving forward on the calls to action and reviewing policies, programs, and legislation to determine how to bring the principles of the declaration into action in British Columbia."*⁸

For Your Information

Mandate Letter for the BC Minister of Forests, Lands, Natural Resource Operations and Rural Development: <http://bit.ly/31P3pan>

Mandate Letter of the BC Minister of Indigenous Relations and Reconciliation: <http://bit.ly/2UKQo06>

⁸ <https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/mark-mandate.pdf>

5.2 Current and Emerging Trends and Realities

Many Indigenous Peoples are seeking to reclaim and regain authority over lands and resources within their traditional territories.

Many Nations in BC and across Canada are developing customized ecosystem-based stewardship plans, creating their own monitoring systems and guardianship programs, and becoming involved in developing conservation areas in their traditional territories.

In BC, the provincial government is working to modernize land use planning and establish a vision for reconciliation, as the following mandates demonstrate:

“Work with the Minister of Indigenous Relations, First Nations and communities to modernize land use planning and sustainably manage B.C.’s ecosystems, rivers, lakes, watersheds, forests and old growth.”⁹

“Work collaboratively and respectfully with First Nations to establish a clear, cross-government vision of reconciliation to guide the adoption of the United Nations Declaration on the Rights of Indigenous Peoples, the Truth and Reconciliation Commission Calls to Action, and the Tsilhqot’in Supreme Court decision....In partnership with First Nations, transform the treaty process so it respects case law and the United Nations Declaration on the Rights of Indigenous Peoples.”¹⁰

On November 26, 2019, legislation was unanimously passed in the *BC Legislature* entitled, the *Declaration on the Rights of Indigenous Peoples Act*. This groundbreaking legislation makes BC the first province in Canada to harmonize the internationally recognized UNDRIP standards into provincial law.¹¹ Royal Assent was given to the *Declaration on the Rights of Indigenous Peoples Act* on November 28, 2019.

Did You Know?

The BC Declaration on the Rights of Indigenous Peoples Act was developed by the Government of BC in collaboration with the First Nations Leadership Council (comprised of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs).

This legislation establishes a reconciliation framework in BC that aligns with the TRC Calls to Action.¹²

“Over time as laws are modified or built, they will be aligned with the UN Declaration. In addition to these core components, the legislation intends to allow for flexibility for the Province to enter into agreements with a broader range of Indigenous governments. An additional component creates a mechanism for decision-making opportunities for Indigenous governments on matters that impact their citizens.”¹³

⁹ <https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/donaldson-mandate.pdf>

¹⁰ <https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet-mlas/minister-letter/fraser-mandate.pdf>

¹¹ <https://news.gov.bc.ca/releases/2019IRRO061-002283>

¹² https://news.gov.bc.ca/files/UNDRIP_Legislation_Factsheet.pdf

¹³ Ibid.

5.2.1 Legal Decisions on Aboriginal Title and Rights

Supreme Court of Canada decisions have acknowledged Aboriginal title and rights existed prior to European contact (colonization). Landmark legal decisions, such as Delgamuukw, Nisga'a, Gitksan, Wet'suwet'in, Haida, Musqueam, Heiltsuk, Sto:lo, and Tsilhqot'in have made significant contributions to recognition and advancement of Aboriginal title and rights.

Greater recognition of Aboriginal title and rights by the Governments of Canada and BC is largely the result of Supreme Court of Canada decisions and resulting policy changes.¹⁴

Tsilhqot'in Nation

The Tsilhqot'in National Government (TNG) consists of six communities: Tl'etinqox, ?Esdilagh, Yunesit'in, Tl'esqox, Tsi Del Del, and Xenigwet'in. The TNG communities are located in the Chilcotin Plateau, Coast Mountains, and North Cariboo. In total, there are over 3,800 Tsilhqot'in community members.

Forests are an integral part of the Tsilhqot'in people's livelihood and as such the Nation works to protect their title and rights in relation to forest resource activities. As changes in the forestry and broader natural resource management sectors are made, the TNG works to keep their communities informed about stewardship and related climate change adaptation opportunities, including the protection of Aboriginal title and rights.

The Government of British Columbia issued a license to harvest in the Tsilhqot'in territory in 1983. Since then and through changes in Chief and Council, the Tsilhqot'in continued with their objections. The Chief of the Xenigwet'in brought the first court action against this logging decision. Years later, the following Chief on behalf of the Xenigwet'in community and Tsilhqot'in Nations sought a declaration of Aboriginal title and rights to part of the Tsilhqot'in territory. The Tsilhqot'in said they have title to those lands and trees cannot be taken unless the Tsilhqot'in grant permission.

The Tsilhqot'in Nation Supreme Court of Canada decision in 2014 strengthens Indigenous claims to land title, self-determination, and decision-making authority over traditional territories. Specifically, the Supreme Court of Canada clarified the requirements for establishing Aboriginal title.¹⁵

Criteria for Aboriginal title include the following requirement: An Aboriginal group must first prove occupation, then must prove continuity and exclusivity of said occupation.

This was the first time any Canadian court declared Aboriginal title exists to a particular tract of land.

"For generations, the Tsilhqot'in people have fought for recognition of our culture, our jurisdiction over our land, water and every aspect of our lives, and our right to decide the future of our peoples. We will continue this journey and call on Canada to work with us

14 Wyatt, S. (2008). First Nations, forest lands, and Aboriginal forestry in Canada: From exclusion to co-management and beyond. *Canadian Journal of Forest Research*, 38(2). 171-180.

15 http://www.tsilhqotin.ca/Portals/0/PDFs/2014_07_03_Summary_SCC_Decision.pdf

to finally establish the rightful place of our nation in the constitutional framework of this country, replacing the Indian Act and fully embracing the Tsilhqot'in Nation judgment.”¹⁶

Refer to Appendix A for an overview of notable case law and political events that affect and influence First Nations ecosystem-based stewardship planning.

5.2.2 United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)

UNDRIP was adopted by the General Assembly of the United Nations on September 13, 2007. It establishes a comprehensive international framework of minimum standards for the survival, dignity, security, and well-being of the Indigenous Peoples of the world, and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous Peoples.¹⁷

Did You Know?

Australia, Canada, New Zealand, and the United States initially opposed UNDRIP.

It was not until May 2016 that the Government of Canada announced that Canada was a full supporter, without qualification, of UNDRIP.¹⁸

In Table 1, the following are notable UNDRIP articles that acknowledge and support the advancement of First Nations ecosystem-based stewardship planning:

Table 1. Notable UNDRIP articles acknowledging and supporting the advancement of First Nations ecosystem-based stewardship planning

UNDRIP Article	Description	Page Reference ¹⁹
Article 3	Indigenous Peoples have the right to self-determination—to freely determine their political status and freely pursue their economic and socio-cultural development.	Page 4
Article 18	Indigenous Peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own Indigenous decision-making institutions.	Page 8
Article 19	States must obtain <i>free, prior and informed consent</i> before adopting and implementing legislative or administrative measures that may affect Indigenous Peoples.	Page 8
Article 26	Recognition of rights of Indigenous Peoples to own, use, develop, and control their lands, territories, and resources.	Page 10

¹⁶ http://www.tsilhqotin.ca/Portals/0/PDFs/Press%20Releases/2018_02_15_Canada_Rights_PR.pdf

¹⁷ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

¹⁸ Joffe, P., & Lightfoot, S. (2018). Legislative framework essential for UN declaration. *The Hill Times*, January 10.

¹⁹ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

UNDRIP Article	Description	Page Reference ¹⁹
Article 27	States shall establish and implement, in conjunction with Indigenous Peoples concerned, a fair, independent, impartial, open, and transparent process, giving due recognition to Indigenous Peoples' laws, traditions, customs, and land tenure systems, to recognize and adjudicate the rights of Indigenous Peoples pertaining to their lands, territories, and resources.	Page 10
Article 28	Indigenous Peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair, and equitable compensation, for the lands, territories, and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used, or damaged without their free, prior and informed consent.	Page 10 & 11
Article 29	Recognition of rights for Indigenous Peoples to the conservation and protection of the environment and the productive capacity of their lands, territories, and resources.	Page 11
Article 32	Indigenous Peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources; states shall consult and cooperate in good faith with the Indigenous Peoples concerned through their own representative institutions to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization, or exploitation of mineral, water, or other resources; and states shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural, or spiritual impact.	Page 12

Free, Prior and Informed Consent

*Often referred to as “FPIC”, Free, Prior and Informed Consent was conceptualized through International Labour Organization 169. It is “a specific right that pertains to indigenous peoples and is recognized in the UNDRIP. It allows them to give or withhold consent to a project that may affect them or their territories. Once they have given their consent, they can withdraw it at any stage. Furthermore, FPIC enables them to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated. This is also embedded within the universal right to self-determination.”*²⁰

For more information about UNDRIP, visit <http://bit.ly/2UKWEF4>

²⁰ <http://www.fao.org/indigenous-peoples/our-pillars/fpic/en/>

5.2.3 Truth and Reconciliation Commission's (TRC) *Calls to Action*

From 2008 to 2014, the TRC heard stories from thousands of residential school survivors. The former residential school students demonstrated resilience and bravery in sharing their truths and bearing witness to other survivors' stories about the residential school system in Canada. Canadians began to come to terms with the historical impacts of the residential school system and the intergenerational implications of this trauma over time, and Indigenous and non-Indigenous Peoples endeavoured to move towards healing as a country.

In June 2015, the TRC released a report based on those hearings resulting in 94 *Calls to Action*. The 94 TRC *Calls to Action* address the legacy of residential schools and advance the process of reconciliation in Canada.²¹

Table 2 contains notable TRC *Calls to Action* that acknowledge and support the advancement of First Nations ecosystem-based stewardship planning:

Table 2. Notable TRC Calls to Action acknowledging and supporting the advancement of First Nations ecosystem-based stewardship planning.

TRC Call to Action	Description	Page Reference ²²
TRC Call to Action #43	Calls upon the orders of government (federal, provincial, territorial, and municipal governments) to fully adopt and implement UNDRIP as the framework for reconciliation.	Page 4
TRC Call to Action #92	Calls upon the corporate sector in Canada to adopt UNDRIP as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous Peoples and their lands and resources. Furthermore, TRC Call to Action #92 asks corporate Canada to make opportunities available for Indigenous Peoples by addressing the gaps that disconnected their communities from economic opportunity, to build respectful relationships, and to ultimately commit to partnerships that will lead to long-term sustainable growth.	Page 10

Overall, the TRC *Calls to Action* encourage all citizens, organizations, and levels of government to take an active role in being reflective in their work and in their understanding of their relationships with Indigenous Peoples, for example, advocating for the inclusion of Indigenous ways of knowing and encouraging more collaboration with Indigenous communities when appropriate.²³

For more information on the TRC's 94 *Calls to Action*, visit http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

21 <http://www.trc.ca/about-us/trc-findings.html> and http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

22 http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

23 <http://www.trc.ca/about-us/trc-findings.html> and http://trc.ca/assets/pdf/Calls_to_Action_English2.pdf

5.2.4 Modernization of Land Use Planning

The Government of BC has committed to collaborating with Indigenous governments in natural resource management that is informed by UNDRIP and the TRC *Calls to Action* in efforts to modernize land use planning. As part of this approach, the Government of BC committed \$16 million over three years (FY2018-19 to FY2020-21). In general, land use planning sets the strategic direction to guide sustainable resource stewardship and management of provincial public land and waters that meet economic, environmental, social, and cultural objectives. Ninety-four percent of BC is provincial public land. Existing land use plans in BC, developed without the participation of Indigenous Nations, cover over 90% of provincial public land. However, current land and resource management challenges require a renewed approach to land use planning and are key drivers for reconciliation with Indigenous governments and the implementation of UNDRIP.

For more information about **modernizing land use planning in BC**, visit <http://bit.ly/2UPjECK>.

For more information about the ***BC Declaration on the Rights of Indigenous Peoples Act in relation to forestry***, visit https://news.gov.bc.ca/files/UNDRIP-Legislation_Factsheet-Forestry.pdf

Danesh and McPhee's (2019) *Operationalizing Indigenous Consent through Land-Use Planning* provides insights into a revitalized approach to land use planning as a way to apply the UNDRIP Free, Prior and Informed-Consent (FPIC) standard to further implement Aboriginal title and rights. Danish and McPhee discuss three models of consent-based decision-making processes:

- **Model #1.** Consent is achieved through an understanding about jurisdiction authority and meaning on certain matters; one party or the other will be the decision-maker;
- **Model #2.** Consent is achieved by both jurisdictions agreeing to be designated decision-makers regarding specific matters; and
- **Model #3.** Consent is achieved through processes and structures in which both the Crown and Indigenous decisions will be rendered as an outcome, with agreed-upon mechanisms for addressing divergent outcomes or decisions when they arise.²⁴

5.3 Challenges and Threats

While there is a positive momentum occurring with respect to First Nations ecosystem-based stewardship planning, putting these changes into action remains a complicated task. Questions that arise are *how do we effectively “indigenize” our ecosystem-based stewardship plans, land use plans, and/or implement the UNDRIP and the TRC Calls to Action?* Challenges that Nations may face in implementing UNDRIP in relation to First Nations ecosystem-based stewardship planning are as follows:

- The Declaration is perceived by some national and provincial/territorial governments as an aspirational guide, without legal force (not legally binding), and lacking a corresponding action plan.
- Full recognition of UNDRIP, no matter how well-intentioned, may be viewed as adding more barriers to the development of lands and resources. This concern is often associated with UNDRIP's statement that resource development requires the “free, prior and informed consent” of Indigenous land-owners, which may be perceived as an infringement on Aboriginal and treaty title and

²⁴ <https://irpp.org/wp-content/uploads/2019/07/Operationalizing-Indigenous-Consent-through-Land-Use-Planning.pdf>

rights—creating potential conflicts and mistrust pertaining to resource and development projects, for example, Site C, TransMountain/Kinder Morgan pipeline, and liquified natural gas terminals.

- It is often argued that implementing UNDRIP will change the jurisprudence that the Supreme Court of Canada developed over the past 30+ years in interpreting Section 35 of the *Constitution Act, 1982*.

Also, the ecological challenges facing future landscapes in BC are complex and unprecedented. The linkages between the natural and anthropogenic issues that we are facing are intricately connected. Climate change, declining forest health, flooding, unprecedented wildfire seasons, natural resource extraction, population growth, and pressures with increasing developments intensify the need to involve First Nations in ecosystem-based stewardship planning to address the socio-cultural, ecological, and economic complexities on the land base.

5.4 Benefits and Opportunities

Given the recent changes in legislation, recent case law, and an increasing involvement of First Nations in the forest sector, it is important to include First Nations' interests, values and principles to address current and emerging land and resource management challenges in a renewed approach to ecosystem-based stewardship planning.

Ocean Management Reconciliation Framework Agreement for Coastal First Nations

*Through a Reconciliation Framework Agreement for ocean management for Coastal First Nations, there is a pathway towards developing a coordinated approach to governance, management, and protection of marine ecosystems, marine resources, and marine use activities in the Pacific North Coast.*²⁵

*“This agreement will get families and fishers back on the water and re-establish a small boat fleet in our communities. By working together—on a nation-to-nation basis—we will provide opportunities for our communities to fully participate in the fishing economy; create new jobs and investments; and increase economic opportunities and build capacity.” Chief Marilyn Slett, President, Coastal First Nation.*²⁶

First Nations have the opportunity to implement UNDRIP in their ecosystem-based stewardship planning.

As a collective framework for reconciliation, UNDRIP and the TRC *Calls to Action* can be used to support the advancement of meaningful engagement of Nations in modernizing land use planning that can aid in addressing the effects of colonization (e.g., loss of ceremonies, languages, families and relations, loss of identity, self, land, and resources).

²⁵ <http://bit.ly/2UHziXf>

²⁶ Ibid.

5.5 Conclusion/Summary

First Nations Peoples have inherent rights and responsibilities to protect the land and its resources. Indigenous perspectives on ecosystem-based stewardship planning need to be heard, valued, and reflected in BC's policies and legislation.

Reconciliation is not about forgiving and forgetting; rather reconciliation is about remembering and changing.

Reconciliation is not a final destination; rather it is a shared journey for Indigenous and non-Indigenous Peoples in Canada.

6. Guiding Principles for First Nations Ecosystem-Based Stewardship Planning

This section describes guiding principles for all phases of First Nations ecosystem-based stewardship planning. In particular, there is a focus on the importance of ecosystem-based stewardship planning based on an adaptation of the Four R's (respect, relevance, reciprocity, and responsibility) in Indigenous forestry stewardship. The material in this section is organized as follows:

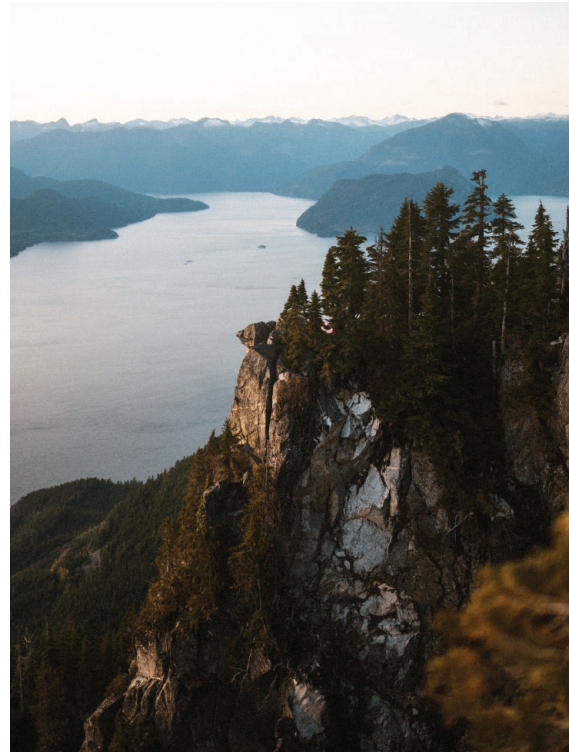
- Introduction
- Importance of First Nations Ecosystem-Based Stewardship Planning
- Adaptation of the Four R's in Indigenous Forestry Stewardship
- Social Justice and Legal Context
- Planning for the Seven Generations
- Summary/Conclusion

6.1 Introduction

Ecosystem-based stewardship focuses on environmental sustainability and restoration. As “stewards of the land,” many Nations care for their lands in a manner that ensures resilience and biologically diverse landscapes for future generations. An ecosystem-based stewardship plan is unique to a Nation’s land or ecosystem and strategically interconnected with a Nation’s vision, values, goals, and objectives. Additionally, it is important for each Nation to recognize the care and time that it will take to develop a meaningful and effective ecosystem-based stewardship plan.

The intention of the 2020 ESP Toolkit is to help Nations identify their vision and ecosystem-based stewardship plan objectives of what is required for sustainable approaches in the management and use of lands and resources in their territories.

This section identifies and describes the “big picture” elements of a plan. Figure 1 provides a visual of the key elements of the ecosystem-based stewardship planning process. Nations are encouraged to develop and envision their own set of management objectives for ecosystem-based stewardship planning based on social, cultural, ecological, and economic values.



I. Pre-Planning

- *Developing a vision and corresponding set of values, goals, and management objectives for ecosystem-based stewardship planning.* This first phase aids in setting a clear direction for ecosystem-based stewardship planning in terms of land, marine, and resource usage in traditional territories.
- *Preparing for ecosystem-based stewardship planning.* In this second phase, there is a focus on (i) developing pre-planning inventories, which includes developing comprehensive and rigorous cultural inventories (e.g., Traditional Land Use and Occupancy) and documenting the full holistic range of a Nation's values (e.g., socio-cultural, economic, and ecological values); and (ii) determining the pre-planning scope, which includes the determination of long-term interests in socio-cultural, economic, and ecological sustainability based on holistic and respectful relationships with the lands, waters, and wildlife. Furthermore, there is recognition and protection of Aboriginal rights, interests, and values across a Nation's whole territory; and (iii) engaging in assessment and analysis, which includes utilizing tools that address socio-cultural and ecological sustainability (e.g., ecosystem-based management cumulative effects assessments). In this phase, there is an opportunity to recognize Traditional Knowledge (TK) and its use in the planning process. Also, there is a further opportunity to recognize Nations' traditional ways of life and economies.

II. Developing a Plan

- *Developing an ecosystem-based stewardship plan.* This third phase includes community-based capacity building opportunities pertaining to ecosystem-based stewardship. It is advantageous for a plan to be Nation-driven in terms of establishing a vision based on a Nation's rights, values, and interests; and to ensure resources and wise practices are identified, reviewed, and considered. Areas such as socio-cultural, economic, and ecological analyses; environmental impact analysis; community engagement and review; and guardianship are reviewed, considered, and documented (if and where needed).
- *Finalizing an ecosystem-based stewardship plan.* In this fourth phase, based on a Nation's governance systems, agreement and approval of the customized ecosystem-based stewardship plan occurs, which includes documenting the role(s) of community and leadership in implementing and advancing the ecosystem-based stewardship plan.

III. Implementing a Plan

- *Implementing an ecosystem-based stewardship plan.* In this fifth/final phase, Nations establish governance structures that support the strategic oversight of customized ecosystem-based stewardship plans. This involves (i) developing and/or amending legal, regulatory, and policy frameworks as well as revenue sharing agreements that give effect to First Nations ecosystem-based stewardship plans; (ii) establishing governance and related decision-making institutions, arrangements, and processes as well as developing capacity building opportunities to implement First Nations ecosystem-based stewardship plans; and (iii) implementing active monitoring of First Nations ecosystem-based stewardship plan effectiveness and advancing purposeful adaptive management.

Figure 1. A phased approach to First Nations ecosystem-based stewardship planning



Another way of looking at the phases of ecosystem-based stewardship planning is by how they each contribute to the next. As you can see in Figure 1, each phase of ecosystem-based stewardship planning helps achieve a Nation's own vision. Developing and agreeing to a unified vision in each Nation guides the creation of work plans for each phase, which then in turn contributes towards the future goals and objectives of ecosystem-based stewardship planning.

Each of the five major sections of the proposed First Nations ecosystem-based stewardship planning process form subsequent sections of the 2020 ESP Toolkit. Each section of the 2020 ESP Toolkit contains the same heading titles that Figure 1 sets out.

6.2 Importance of First Nations Ecosystem-Based Stewardship Planning

Planning must support First Nations interests, cultures, and ways of life.

British Columbia's past land use planning was, and continues to be, driven by management objectives established with little or no input from Indigenous Peoples in BC. Although there has been a gradual move towards including BC First Nations in land use planning (e.g., *The New Relationship*, modernization of Land and Resource Management Plans), these initiatives lack a firm foundation in meaningful engagement for a government-to-government decision-making process. The time is now, more than ever, to move forward with these initiatives and put them into action so Nations in BC can position themselves with their own customized ecosystem-based stewardship plans driven by their community and/or Nation based on their own languages, cultural values, governance structures, and sustainability priorities.

Vertebrate biodiversity on Indigenous-managed lands in Australia, Brazil, and Canada equals that in protected areas

The conclusion of a 2019 University of British Columbia-led study by Schuster, Germain, Bennett, Reo, and Arcese that biodiversity is highest on Indigenous-managed lands comes as little surprise.

Schuster et al. (2019) focused their research efforts in Canada, Brazil, and Australia, where there is a relatively large total area that is owned or managed by Indigenous communities. Target 11 of the 20 Aichi Biodiversity Targets (that fall under the Convention of Biological Diversity—CBD) states “by 2020, at least 17% of terrestrial and inland water are conserved through effectively and equably managed, ecologically representative and well connected systems of protected areas and other effective area-based conservation measures.”²⁷

Schuster et al.'s 2019 study found that lands managed or co-managed by Indigenous communities were more vertebrate species rich than existing protected areas or non-protected areas. Based on their results, the authors also strongly supported or encouraged partnering with Indigenous communities to ensure the enhancement of Indigenous land tenure practises on Indigenous-managed lands as having the potential to improve nation-wide and/or global shortfalls in land protection for biodiversity conservation that would apply a mixture of conventional protected areas and Indigenous-managed lands.²⁸

The results of this study are a testament to First Nations' land management practices as an inherent responsibility in stewarding the land now and into the future.

“In light of this, collaborating with Indigenous governments, communities and organizations can help to conserve biodiversity as well as support Indigenous rights to land, sustainable resource use and well-being.”²⁹

27 <https://www.cbd.int/sp/targets/>

28 <https://www.rcinet.ca/en/wp-content/uploads/sites/3/2019/07/Schuster-et-al-Indigenous-lands.pdf>

29 <https://news.ubc.ca/2019/07/31/biodiversity-highest-on-indigenous-managed-lands/>

There are many different ways that people approach planning for the lands and the waters. Nations continue to express the need to manage for more than just profit, based on ecosystem values and services.

Westbank First Nation

The Westbank First Nation (WFN) in the Okanagan Territory holds two forestry licenses: A Community Forest Agreement and a Replacement Forest License.

WFN's forest operations fall under Ntityix Resources LP (Ntityix is the Okanagan or nsyilxcen word for Chief Salmon, who is one of the Four Food Chiefs to the Syilx People).

WFN forest practices are a testament to meeting and honouring traditional ways alongside what is laid out by provincial legislation under their forest licenses.

WFN has been taking steps to be careful around their harvesting practices, ensuring they are not solely focused on fiber extraction, but rather use a balanced approach, incorporating harvesting techniques that uphold ecosystem values that include protecting medicinal plants, food plants, and critical habitat for species.

Additionally, WFN carefully determines the annual sustainable harvesting amount using both scientific approaches for modeling and WFN's traditional and cultural values. Thus, WFN critically examines if the numbers that science provides make sense and ask, "Do they account for long term sustainability on the land that incorporates our traditional and cultural values?"

In the summer of 2019, the WFN forestry crew collected approximately one pound of huckleberries for seeds to grow and plant huckleberries on their cut blocks in 2021. They continue to space and prune to open up passages for wildlife, reduce wildlife hazard, and reduce competition for remaining trees.³⁰

For more information about Ntityix Resources LP, visit <https://www.ntityixresources.com/>

³⁰ <https://www.ntityixresources.com/news/2019/8/23/summer-2019-updates>

Menominee Indian Tribe of Wisconsin

The Menominee Indian Tribe of Wisconsin have established resilient forestry practices over 150 years with a focus on ecosystem values, while also ensuring economic profitability.

The Menominee Indian Tribe of Wisconsin's proven approach in practicing sustained yield "blends modern forestry science with the traditional beliefs embedded deep in their culture."³¹ This practice began in the mid-1800s. According to the Tribe's oral tradition, the chief counselled them to "start harvesting the trees with the rising sun and work toward the setting sun, but to take only the mature trees, the sick trees and the trees that have fallen. When you reach the end of the reservation, turn and cut from the setting sun to the rising sun and the trees will last forever."³²

Over the years, the Menominee Indian Tribe of Wisconsin received a number of awards for their practices. In 1995, the United Nations recognized their exceptional contribution for balancing land use with sustainable practices to preserve forests for future generations.³³

The 2020 ESP Toolkit is rooted in a First Nations worldview, which recognizes that all creatures, all plants, the rocks, the ground, the waters, and the air are to be treated as equals for sharing on Mother Earth.

The following are some of the most common aspects of a First Nations worldview that the 2020 ESP Toolkit is based on. Each area noted below concludes with one possible way that First Nations perspectives might be harmonized and/or translated into directions to ecosystem-based stewardship planners and related planning professionals.

6.2.1 A Way of Life

Many Nation-based businesses approach commercial sales from a respectful position that honours cultural values, protocols, and traditions. Furthermore, many Nations view their territories and ancestral lands *as their breadbasket, medicine chest, toolbox, building supply store, training centre, and home.*

³¹ <https://www.americanforests.org/magazine/article/menominee-forest-keepers/>

³² Ibid.

³³ Ibid.

Okanagan Nation Alliance - Okanagan Select

The Okanagan Nation Alliance's journey to the recovery of sustainable populations of wild Okanagan Sockeye Salmon (near the brink of extinction) and the creation of Okanagan Select, an Indigenous business (Okanagan Nation Aquatic Enterprises Ltd.) is exemplary.

*Through the Nation's foundational commitment in bringing back sc'win³⁴ (sockeye salmon - *Oncorhynchus nerka*), their goals incorporated six crucial initiatives:*

- (1) Cooperation,*
- (2) Keep the water flowing,*
- (3) Add another lake,*
- (4) Add more river,*
- (5) Restore what we have, and*
- (6) Our prayers brought the salmon back.³⁵*

The healthy recovery of sockeye salmon for future generations also required an approach that ensured the protection, enhancement, and conservation for salmon. This approach encompasses traditional methods through selective fishing handed down to Nation members by their ancestors.

The creation of Okanagan Select and its practises for the environment, society, culture, and economy is a demonstration of the true essence of the word "sustainability."

For more information about Okanagan Select, visit <https://okanagansselect.ca>

6.2.2 Relationship to the Ancestral Lands

"Look after the land and the land will look after you." This view focuses on reciprocity of the relationship between Indigenous Peoples and ancestral lands. The implications of a two-way connection change how to approach managing lands and resources: it is not a purely extractive relationship.

2019 marked the United Nations International Year of Indigenous Languages. Critical to the reconciliation with First Nations in BC is the increasing attention that is given to honour and respect the diversity of Indigenous languages in the Province. Indigenous languages are incredibly complex and intricately tied to the land/terrain and water. *"The knowledge of territory, including water, is encoded in the Indigenous languages,"* she [Daisy Rosenblum, assistant professor in the University of British Columbia's First Nations and Endangered Languages Program] says. *"For example, many of the languages in British Columbia don't describe cardinal directions of north, south, east and west. In some languages, the directional system is 'upriver' or 'downriver' or 'out to sea' or 'into the woods.' Everything is described in those terms."*³⁶

³⁴ <https://www.sylx.org/okanagan-nation-committed-to-restore-scwin-sockeye-salmon-to-their-natural-habitat-the-okanagan-watershed/>

³⁵ <https://www.sylx.org/fisheries/okanagan-sockeye/our-journey-bringing-the-salmon-home/>

³⁶ <https://www.hellobc.com/stories/indigenous-languages-in-british-columbia/>

Did You Know?

“Language is not only the capacity that allows us to communicate ideas, but also a complex structure in which meaning is stored.”³⁷

Planning must recognize and support First Nations relationships to ancestral lands.

6.2.3 Traditional Knowledge

Traditional Knowledge (TK) is defined by the Convention on Biological Diversity (CBD) as follows:

Article 8(j): Traditional Knowledge, Innovations & Practices...*knowledge, innovations and practices of indigenous and local communities around the world. Developed from experience gained over the centuries and adapted to the local culture and environment, traditional knowledge is transmitted orally from generation to generation. Collectively owned, traditional knowledge takes the form of stories, songs, folklore, proverbs, cultural values, beliefs, rituals, customary laws, local language, and animal husbandry and agricultural practices, including the development of plant species and animal breeds.*³⁸

Furthermore, the Assembly of First Nations defines TK as “the collective knowledge of traditions used by Indigenous groups to sustain and adapt themselves to their environment over time. This information is passed on from one generation to the next within the indigenous group.”³⁹

TK also includes landscape-level knowledge that sometimes can be mapped. For example, knowledge of bear dens, beaver lodges, nesting areas for migratory waterfowl, raptor nests, and caribou migration routes are all types of knowledge that help in understanding the ecosystem at the landscape level. Similarly, knowledge of places where there are always partridges, caribou, or places where otters eat freshwater mussels helps describe the landscape as it functions. Traditional Knowledge may be spatially-explicit, provides knowledge of how an ecosystem or species behaves or changes over time, and tells the story of original people’s integration into their respective ancestral lands.

Traditional Knowledge is foundational in First Nations ecosystem-based stewardship planning.

*Language is the vessel that contains traditional knowledge, which is ultimately and intricately linked to the environment.*⁴⁰

37 <https://news.umanitoba.ca/the-conversation-ancestral-languages-are-essential-to-indigenous-identities-in-canada/>

38 <https://www.cbd.int/doc/meetings/cop/cop-09/media/cop9-press-kit-tk-en.pdf>

39 https://www.afn.ca/uploads/files/env/ns_-_traditional_knowledge.pdf

40 <http://www.fnesc.ca/wp/wp-content/uploads/2015/08/PUBLICATION-61496-Science-First-Peoples-2016-Full-F-WEB.pdf>

6.2.4 A Sacred Responsibility

An example of sacred responsibility can be found in several points from the Carrier Sekani Tribal Council land use vision document.

“We are part of the land ... our living and lives come out of the land ... the land is part of our family and we are part of the land ... all life forms are interconnected and sacred ... sharing and co-existence are the cornerstone of Carrier Sekani resource use.”⁴¹

Planning must allow us to carry out our profound responsibility to manage our own actions as humans and to care for all other life in our ancestral lands.

6.3 Adaptation of the Four R’s in Indigenous Forestry Stewardship

Kirkness and Barnhardt defined four critical elements (in the realm of higher education) that described ethical principles of meaningful engagement. They are *Respect, Relevance, Reciprocity, and Responsibility*.⁴²

In the 2020 article *Articulating Indigenous rights within the inclusive development framework: An assessment of forest stewardship policies and practices in British Columbia, Canada*, Caverley, Lyall, Pizzirani, and Bulkan adapted Kirkness and Barnhardt’s 4 R’s for Indigenous forest stewardship as follows:

- **Respect.** *Respect for cultural knowledge, traditions, rights, values, and activities of Indigenous individuals and communities, including their spiritual, social and economic ways of life. This includes renewed appreciation by many Indigenous communities, for being “stewards of the land,” ensuring economic opportunities in traditional territories are sustainable as well as respectful to cultural, spiritual, social, economic, and traditional ways of life. Respect also acknowledges Indigenous Peoples’ cultural rights which includes, but is not limited to, traditional knowledge, cultural protocols, and respect for social unity while acknowledging cultural uniqueness among and within Indigenous Peoples;*
- **Relevance.** *Relevance occurs when more culturally relevant forest governance models are embedded in programs, policies, practices, and processes—collaborative consent, consultation, negotiation, and mutual understanding are important actions for ensuring relevance. Indigenous Peoples and communities need to be fully engaged in sustainable capacity growing and resource management (e.g., collaborative consent);*
- **Reciprocity.** *Making deliberate efforts to develop reciprocal, evolving, and equitable relationships and application of benefits, rights, and values for participating Indigenous individuals and communities with non-Indigenous Peoples, communities, and organizations. This includes full application of integrated land use planning which considers multiple rights and values; and*

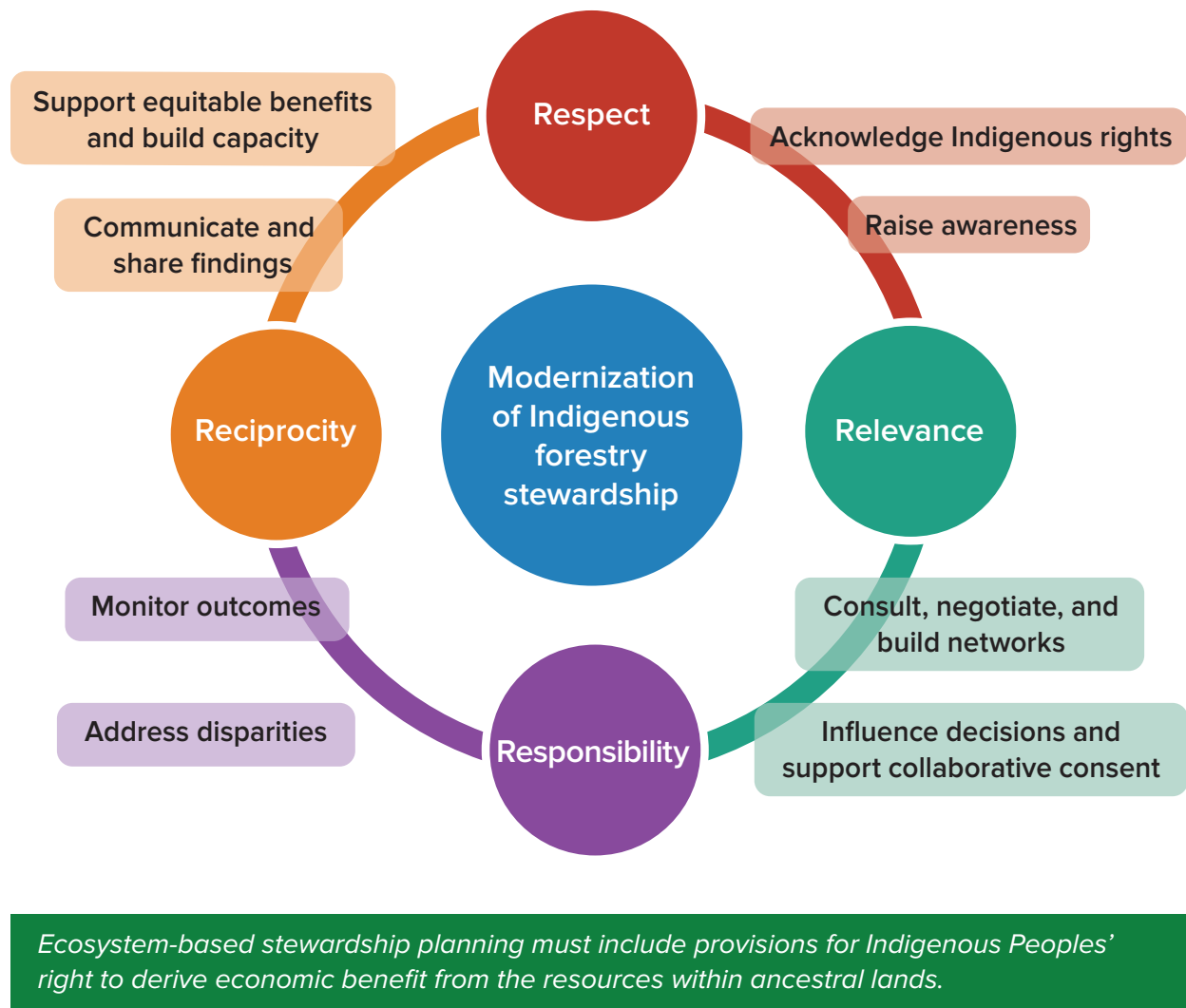
⁴¹ <http://www.carriersekani.ca/images/docs/cstc/CSTC%20Background%20-%20Feb%202007.pdf>

⁴² Kirkness, V.J., & Barnhardt, R. (1991). First Nations and higher education: The four Rs – respect, relevance reciprocity, responsibility. *Journal of American Indian Education*, 30(3). 1-15.

- **Responsibility.** Recognition of power and privilege imbalances and related social inequities that impact and influence decision-making and subsequently sharing responsibility and addressing said disparities between Indigenous and non-Indigenous Peoples.⁴³

It is becoming increasingly important to ensure that the 4 R's are also enshrined in "Relationships," as trusting relationships are imperative to gaining respect, relevance, reciprocity and ultimately responsibility from a First Nations ecosystem-based stewardship planning perspective.

Figure 2. Adapted framework based on Caverley et al.'s (2020)⁴⁴ assessment of forest stewardship reflecting and recognizing Indigenous rights.



43 Caverley, N., Lyall, A., Pizzirani, S., & Bulkan, J. (2020). Articulating Indigenous rights within the inclusive development framework: An assessment of forest stewardship policies and practices in British Columbia, Canada, *Society & Natural Resources*, 33(1). 25-45. DOI: [10.1080/08941920.2019.1597237](https://doi.org/10.1080/08941920.2019.1597237)

44 Ibid.

6.4 Social Justice and Legal Context

For thousands of years, Indigenous Peoples have been caretakers of the lands and waters. Nations' respective practices in harvesting what the lands and waters provided often embraced sustainability, reciprocity, and respect. This holistic approach was rooted in ancestral knowledge, specific to Nations' homes (or ecosystems), shared by their ancestors through stories, cultural protocols, and traditions to support self-determination and resilience. Simply, Nations' values and principles are inherent to their rights and responsibilities to ensure the land and waters and all they provide for sustenance are sustained for future generations.

Interestingly, the term “ecosystem-based stewardship” closely parallels what Indigenous Peoples have practiced since time immemorial. Having said that, the term “stewardship” may conjure thoughts that might be confused or associated with colonial governmental control, management, or regulation. However, it is important to recognize that for the purpose of the 2020 ESP Toolkit, the term “ecosystem-based stewardship” relates to guardianship and responsibility in caring for lands in a sustainable way—supportive of Nations having their own respective vision statements, ecosystem-based stewardship plans, and corresponding management objectives specific for their traditional territories.

Refer to Appendix A of the 2020 ESP Toolkit for an overview of notable case law and political events that affect and influence First Nations ecosystem-based stewardship planning.

*There have been over one hundred cases challenging the Crown's failure to consult and accommodate since 2004, and First Nations have been successful in the majority of these cases.*⁴⁵

Did You Know?

“Since the formation of the TRC Calls to Action in 2015 and Canada's full adoption of UNDRIP in 2016, there have been 33 strategic forestry-related contractual agreements between Indigenous Peoples and the BC government. These agreements reflect aspects of UNDRIP, the TRC Calls to Action, and meaningful engagement (the Four R's) through the articulation of processes which support collaborative co-governance models for land use planning, inventories, protected areas, and natural resource consultation agreements and forest-based business opportunities (e.g., carbon and forest tenures).”⁴⁶

⁴⁵ <http://bit.ly/2SiTx5z>

⁴⁶ Caverley, N., Lyall, A., Pizzirani, S., & Bulkan, J. (2020). Articulating Indigenous rights within the inclusive development framework: An assessment of forest stewardship policies and practices in British Columbia, Canada, *Society & Natural Resources*, 33(1). 25-45. DOI: [10.1080/08941920.2019.1597237](https://doi.org/10.1080/08941920.2019.1597237)

6.5 Summary/Conclusion

The global situation of current land, water, and resource planning and management requires a new approach that embraces planning through a government-to-government relationship with Indigenous Nations. This approach embraces a community-driven process where the vision entails the indigenization of ecosystem-based stewardship plans, providing sustainable approaches that are necessary for Nations to live up to the responsibility of caring for the land. Once there is a coherent vision and plan for a Nation's territory, the process of collaboration and government-to-government discussions can begin.



7. Pre-Planning: Developing a Vision for Ecosystem-Based Stewardship Planning

This section describes the first phase of ecosystem-based stewardship planning: developing a vision statement and corresponding set of values, goals, and management objectives to aid in setting a clear direction for ecosystem-based stewardship planning in terms of land, marine, and resource use in First Nations traditional territories. The material in this section is organized as follows:

- Introduction
- Importance of Vision Statements
- The Essence of Vision Statements: To Inspire a Clear Direction
- Examples of Vision Statements
- Vision Statement Development
- Values, Goals, and Management Objectives
- Funding and Resourcing
- Summary/Conclusion

7.1 Introduction

The first phase is to define a vision statement and corresponding set of values, goals, and management objectives for ecosystem-based stewardship planning. It is an important and proactive step in eventually identifying management objectives and a corresponding set of performance measures to subsequently implement and monitor the customized ecosystem-based stewardship plan for a Nation.

Xaxli'p Ecosystem-Based Plan

The Xaxli'p Ecosystem Based Plan ensures the starting place for Xaxli'p values is to think about their territory as the basis for their survival. Their plan is foundational in guiding all land use activities within the Xaxli'p Survival Territory that reflect Xaxli'p values. It also is reinforced with the guiding principle of Xaxli'p, "what happens to one happens to others," meaning that when you damage one part of the three (land, people, language), you damage all.⁴⁷ The framework for making decisions is based on the principles of first, protecting the land and water-ecosystems, and second, using the land and water-ecosystems in ways that maintain a balanced ecosystem for all users (the parts of and processes).⁴⁸

47 Xaxli'p Community Forest (2018). *Ecosystem-based planning*. Retrieved on November 18, 2019 from <https://www.xcfc.ca/traditional-use-study>

48 Ibid.

With the commitment of the Province to modernizing land use planning, there is a growing interest for Nations to move forward with ecosystem-based stewardship planning as a tool for the development of their own land use plans for their territory. This requires resources. Often Nations might be in a position where there are opportunities to work alongside other agencies (e.g., non-governmental organizations/ NGOs, environmental non-governmental organizations/ ENGOs, and intergovernmental groups). However, a Nation's vision or voice might be lost when trying to develop joint planning outcomes with other stakeholder groups. Hence, it is vital for Nations to develop their own visions and ecosystem-based stewardship plans first, and then explore alignment and/or harmonization with other agencies based on the firm foundation of what values, interests, and management objectives are essential in their Nations.

7.2 Importance of Vision Statements

A vision statement is generally a summary statement of a Nation's aspirations and how they want their lands and resources managed. The corresponding set of values to support the Nation's vision statement highlights what is important to a Nation in terms of guiding principles, values, and beliefs. The set of values thus serve as a foundation for how the ecosystem-based stewardship plan will be framed and subsequently developed by a Nation.

7.3 The Essence of Vision Statements: To Inspire a Clear Direction

Organizations commonly use a vision statement as an overarching guide for planning processes. It is a summary statement of a plan's aspirations and how the Nation wants to be viewed by their People, strategic partners, and the broader public. Like an organization, a Nation can benefit from creating a vision statement. If Nations are partnering with another entity, a blended vision might be used where elements of each group merge to form a common vision, or partners might choose to use two or more separate vision statements that are compatible.

In general, an organization's vision is usually captured in a single sentence, or a very short paragraph, called a vision statement.

A vision statement does not tell you how the vision will be achieved. Rather, it is like a compass pointing the direction, but it is not the map detailing the terrain that you will have to travel through or the personal or community resources that you will use to get there.

For more information about planning terminology and related key terms, refer to page 83 of the 2020 ESP Toolkit.

7.4 Examples of Vision Statements

Many First Nations and organizations already have defined vision statements.

Lil'wat Vision Statement

I tmícwsa i Ucwalmícwa

Pála7 t'u7 ti tmícwsa i Ucwalmícwa

I kél7a swéqwel's i skelkela7lhcálha ti St'át'imca sqwal'út. Nilh ti7 wa7 szwatenítas ti tsunam'cálsa ti tmícwa.

I sqwéqwel's i Líl'wata Úcwalmicw sqwal'mínítas i skélkel7a tmicw. Wa7 t'u7 wa7 tsúwa7s i Líl'watemca ti tmícwiha.

The people and the land are one.

The stories our ancestors first spoke in the Ucwalmícwts language of the St'át'imc celebrate the understanding that the people and the land are one. Those stories tell of the rich history of the Lil'wat people and our traditional lands. The Lil'wat have always been, and will continue to be, a people of the land.⁴⁹

Wet'suwet'en Vision and Purpose

We are the proud, progressive Wet'suwet'en dedicated to the preservation and enhancement of our culture, traditions and territories; working as one for the betterment of all.⁵⁰

Nisga'a Lisims Government

"Sayt-K'il'im-Goot: one heart, one path, one nation."

NLG is committed to ensuring its programs, services, and day-to-day operations reflect this vision.

In the spirit of Sayt-K'il'im-Goot, the Nisga'a Nation is a place where:

- *our Ayuuk, language, and culture are the foundation of our identity*
- *learning is a way of life*
- *we strive for sustainable prosperity and self-reliance*
- *we inspire trust and understanding through effective communication, and*
- *our governance and services evolve to meet our people's needs.⁵¹*

49 <https://lilwat.ca/wp-content/uploads/2015/03/LLUP-Phase-1-August-2006-FINAL.pdf>

50 <http://www.wetsuweten.com/office/our-mission/>

51 <https://www.nisgaanation.ca/vision-statement>

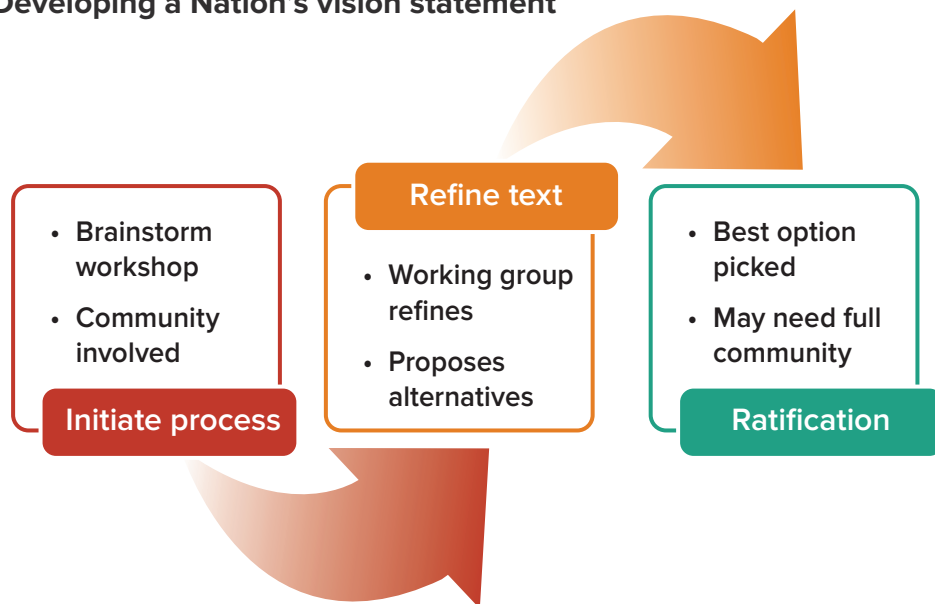
7.5 Vision Statement Development

It is important for a Nation to have its own vision statement. The reason is simple: if Nations do not know exactly what their own vision for the future is, they will not be in the “driver’s seat” in terms of leading and coordinating their direction on ecosystem-based stewardship planning and related activities by and for the Nation.

Defining the vision is a critical first step to ecosystem-based stewardship planning. Areas for reflection when Nations are developing a vision for ecosystem-based stewardship planning include...

- *What are the Nation’s vision and long-term goals and management objectives?*
- *Does the Nation’s plan involve the entire community?*
- *Is the plan at the landscape level for the Nation’s entire territory or at a smaller level (e.g., forest license)? What is the geographic scope/area?*
- *Is there a timeframe (e.g., 2020-2030) that has been defined by the Nation? Will the plan be re-visited every year, every three years, every five years?*
- *What does sustainable planning look like in the Nation? A balance between ecological and environmental conservation, economic interests, and socio-cultural values?*
- *Are there any existing regulations (local, provincial, federal) that are in place with respect to land use?*
- *How are elements of human well-being addressed?*

Figure 3. Developing a Nation’s vision statement



Defining a vision for a group of Nations (e.g., Tribal Council) is slightly more complicated.

7.6 Values, Goals, and Management Objectives

As complementary dimensions to developing a vision statement, values, goals, and management objectives provide further context for Nations' ecosystem-based stewardship plans:

- **Values** are typically guiding principles, ideals, aspirations, and beliefs that serve as a foundation in how plans will be carried out by Nations;
- **Goals** are generally a long-term outcome for what Nations are wanting to achieve with their plans^{52, 53}; and
- **Management objectives** are concise time-specific statements that outline core values about the ecosystem. These are values articulated by a Nation and aid in determining what the ecosystem-based stewardship plan is to achieve to be seen as successful/ effective.^{54, 55}

Coast Information Team Ecosystem-based Management (EBM) Planning Handbook

Developed by the Coast Information Team (CIT), the EBM Planning Handbook is part of a broader EBM Framework that identifies principles, goals, management objectives, and key elements of EBM. The purpose of the Handbook is to provide guidance on implementing EBM across multiple scales—from First Nations territories or other planning sub-regions, through landscapes and watersheds to individual sites.

The CIT brought together the best available scientific, technical, traditional and local knowledge to inform the process of EBM implementation.

CIT EBM Guiding Principles (values) include, but are not limited to, maintain ecological integrity, recognize and accommodate Aboriginal Rights and Title and interests, and promote human well-being.⁵⁶

An example of a CIT EBM goal and corresponding set of management objectives follows:

CIT EBM Goal: Maintain the ecological integrity of terrestrial, marine, and freshwater ecosystems

Corresponding CIT EBM Management Objectives (for the above goal):

- *Maintain ecosystem functions and processes (e.g., streamflow, water quality, soil productivity, natural disturbance rates and patterns) across scales and through the long term.*

52 <http://www.fao.org/sustainable-forest-management/toolbox/modules/forest-management-planning/tools/en/?type=111>

53 <https://www2.gov.bc.ca/gov/content/industry/forestry/bc-timber-sales/goals-objectives-principles>

54 <http://www.fao.org/sustainable-forest-management/toolbox/modules/forest-management-planning/tools/en/?type=111>

55 <https://www2.gov.bc.ca/gov/content/industry/forestry/bc-timber-sales/goals-objectives-principles>

56 Coast Information Team. (2004). *Ecosystem-Based Management Planning Handbook*. Retrieved on November 23, 2019 from <https://www.for.gov.bc.ca/tasb/slrp/citbc/c-ebm-hdbk-fin-22mar04.pdf>

- *Maintain the natural diversity of species, genes, and habitat elements across scales and over time.*
- *Protect and where necessary restore under-represented, endangered, or degraded ecosystems.⁵⁷*

For more information about the work of the Coast Information Team and Ecosystem-Based Management—including additional information on ecosystem-based stewardship values (guiding principles), goals, and management objectives—visit <https://coastfunds.ca/resources/ecosystem-based-management/> and <https://www.for.gov.bc.ca/tasb/slrp/citbc/c-ebmf-fin-03May04.pdf>

7.7 Funding and Resourcing

All project-planning costs money. Ecosystem-based stewardship planning requires multi-year funding to advance each of its components. Overall, planners need to consider technical resources (e.g., equipment, supplies, tools, maps), financial resources (e.g., funding), and human resources (e.g., planners, project managers, administration and staff, consultants with understanding of the Nation and/or subject matter expertise in land use planning with a particular focus on First Nations ecosystem-based stewardship planning interests, values, and issues).

7.8 Summary/Conclusion

For the first phase of ecosystem-based stewardship planning, it is important for Nations to develop a vision statement and corresponding set of values (guiding principles), goals, and management objectives that set a clear direction for ecosystem-based stewardship planning in terms of land, marine, and resource use in their traditional territories. There are many complexities in creating a vision statement, as it envisions aspirational use of lands and resources in traditional territories for current and future generations.



⁵⁷ Coast Information Team. (2004). *Ecosystem-Based Management Planning Handbook*. Retrieved on November 23, 2019 from <https://www.for.gov.bc.ca/tasb/slrp/citbc/c-ebm-hdbk-fin-22mar04.pdf>

8. Pre-Planning: Preparing for Ecosystem-Based Stewardship Planning

As the second phase in ecosystem-based stewardship planning, this section describes how to prepare an ecosystem-based stewardship plan—developing pre-planning inventories, determining the pre-planning scope, and engaging in assessment and analysis. In this section of the 2020 ESP Toolkit, it is assumed that the Nation has now developed or already has a vision statement (and corresponding set of values, goals, and management objectives) for ecosystem-based stewardship planning. The material in this section is organized as follows:

- Introduction
- Indigenizing Ecosystem-Based Stewardship Planning
- Phases of Ecosystem Based Stewardship Planning
- First Nations Ecosystem-Based Stewardship Plan Preparation
- Development of Pre-Planning Inventories
- Scope and Scale for Ecosystem-Based Stewardship Planning
- Engagement in Assessment and Analysis
- Summary/Conclusion

8.1 Introduction

There are a number of templates and processes for ecosystem-based stewardship planning that preceded the 2020 ESP Toolkit. Often, they are built from processes that had success, but are also driven by Eurocentric methods. Elements of the 2020 ESP Toolkit acknowledge non-Indigenous approaches to planning; however, what is unique about this approach is supporting a Nation's abilities to create or build their own ecosystem-based stewardship plan that is exclusive to their laws, values, stories, languages, protocols, and governance systems.

8.2 Indigenizing Ecosystem-Based Stewardship Planning

A common recurring question many Nations are asking is how to “Indigenize” a plan and/or ensure that an ecosystem-based stewardship plan reflects what is critically important to their Nation to ensure economic development considers principles of ecological integrity. Nations may already be in the process of developing an ecosystem-based stewardship plan or in the early stages of building one. Whether Nations are engaged in mid-planning or just thinking about developing an ecosystem-based stewardship plan, there are notable components that might provide some additional insights or suggestions in moving forward. Wherever Nations may be in the land use or ecosystem-based stewardship planning process, the timing of starting to think about planning or moving forward with it is crucial for many reasons, especially given the Government of BC's recent commitment to adopting UNDRIP.⁵⁸ The end result of this process will be implementing and delivering ecosystem-based stewardship planning that reflects a Nation's vision and

58 <http://bit.ly/2Olek07>

set of values, goals, and management objectives. Planning processes will be unique to Nations and their respective visions, values, goals, and management objectives.

It is a complex and time-consuming task to “Indigenize” an ecosystem-based stewardship plan (or other land use plans) that were designed under the foundation of a system that follows a Eurocentric governance model or planning structure rooted in Canadian common law. A significant piece of “Indigenizing” an ecosystem-based stewardship plan not only involves the input of the community (includes fluent speakers, knowledge holders), traditional use studies (TUS), oral stories, etc., but it also requires the re-entrenchment of methods on communication, resolving disputes, etc., that are immersed in Indigenous Legal Orders (or Indigenous Legal Traditions).

“Indigenous legal traditions” can encompass various Indigenous legal orders (structure and organization of laws) and Indigenous laws within those orders. These orders or traditions are manifested through community processes of communication and through resolving disputes specific to each Nation.⁵⁹

In BC, there are a few cases that portray the application of Indigenous law to environmental management in Canada. *Indigenous Legal Traditions and the Future of Environmental Governance in Canada* provides detail through the use of three case studies where Indigenous Peoples use their own traditional approaches grounded in their ancestral legal traditions that challenge current threats to their lands and waters.⁶⁰

Case Studies from “Indigenous Legal Traditions and the Future of Environmental Governance in Canada”

The creation of the Gitanyow Lax’yip Land Use Plan was in development for nearly a decade, with a team that consisted of Hereditary Chiefs and technical experts. This Plan, released in 2012, gives effect to and forms part of Gitanyow law.

The Yinka Den Alliance (YDA) is a coalition of six Nations (Nak’azdli, Nadleh Whut’en, Saik’uz, Takla Lake, Tl’azt’en and Wet’suwet’en First Nations) in the central interior of BC that came together to address the Enbridge Northern Gateway proposal of twin pipelines along the 1178 km right of way from Alberta to Kitimat, BC. The YDA (initially through the Carrier Sekani Tribal Council) emphasized the application of their own legal traditions and governance systems in the decision-making process.

In 2009, the Tsleil-Waututh Nation adopted a Stewardship Policy that comprises Tsleil-Waututh jurisdiction and law, mandating a review of any proposal inside their Consultation Area.⁶¹

59 Clogg, J., Askew, H., Kung, E., & Smith, G. (2016). Indigenous legal traditions and the future of environmental governance in Canada. *Journal of Environmental Law and Practice*. Retrieved on November 30, 2019 from https://www.wcel.org/sites/default/files/publications/2016_indigenouslegaltraditions_environmentalgovernance_jelp.pdf

60 Ibid.

61 Ibid.

8.3 Phases of Ecosystem Based Stewardship Planning

The process will change as it evolves, but generally, here are some of the notable components in the ecosystem-based stewardship plan process:

I. Pre-Planning

- *Developing a vision and corresponding set of values, goals, and management objectives for ecosystem-based stewardship planning*
- *Preparing for ecosystem-based stewardship planning*

II. Developing a Plan

- *Developing an ecosystem-based stewardship plan*
- *Finalizing an ecosystem-based stewardship plan*

III. Implementing a Plan

- *Implementing an ecosystem-based stewardship plan*

It is important to remember that this is a complex, multi-phased project that may last two to five years. An ecosystem-based stewardship plan is also a living document that will need updating from time to time. The project will have a definite structure, timeline, budget, and conclusion. Preparation for planning will also involve the creation of work plans.

At the very broadest of levels, preparing for ecosystem-based stewardship planning includes, but is not limited to, the following indicators:

- the Nation develops a new ecosystem-based stewardship plan,
- the Nation reconciles an existing ecosystem-based stewardship plan of its own, and/or
- existing provincial land use plans are undergoing major amendments (e.g., land use modernization).

A Nation might want to review its vision statement at this stage. For example, a vision statement that includes diversifying your local economy might point to the need to plan for reducing local dependence on a given industry that is in decline.

A Nation can shape its own process to achieve certain management objectives. In general, management objectives are concise statements that outline core components of what an ecosystem-based stewardship plan must achieve to be seen as successful and sustainable in nature. The following are some common reasons that Nations might engage in ecosystem-based stewardship planning:

Support for treaty negotiations	Develop management objectives for forest lands and resources	Housing strategies	Referrals and consultation
Provincial planning processes	Economic development	Fisheries and water protection	Emergency and disaster management (i.e., wildfire/ flood) response
Cultural resources protection	Tourism and recreation	Agriculture and local food security protection	Territorial planning

Many of these planning areas suggest specific kinds of data that a Nation needs to gather. For example, planning ahead for anticipated issues such as emergency management and disaster response requirements needs very specific types of spatial data. A Nation might also need copies of their emergency management and disaster response policies and plans.

8.4 First Nations Ecosystem-Based Stewardship Plan Preparation

Work Plan

A work plan describes the activities that a Nation expects to carry out. Often written as a sequence of steps, a work plan is organized along a timeline. In creating a work plan, it is helpful to keep in mind the purpose of this phase.

In the preparation for planning, the overarching goal is to prepare a Nation for the next phase of the ecosystem-based stewardship planning process: ecosystem-based stewardship plan development. Therefore, the Phase 1 work plan should only contain the activities and resources required to get *ready* for ecosystem-based stewardship plan development.

The following are the most common elements of developing a work plan:

1. Identifying the need to plan
2. Resourcing plan preparation and completion
3. Defining the scope of work to be undertaken
4. Gathering information and sharing
5. Identifying short term issues
6. Ratifying the work plan

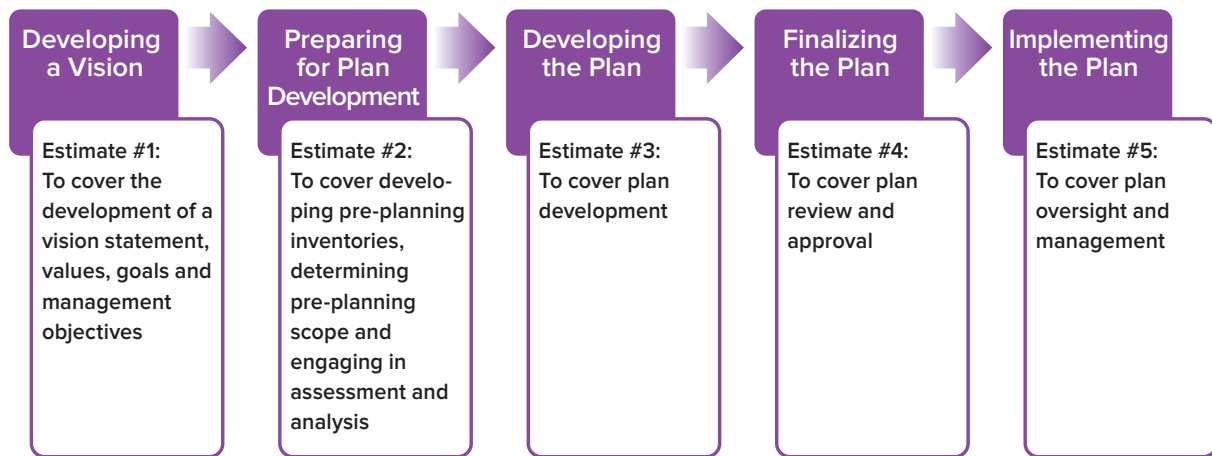
Important resources to support First Nations ecosystem-based stewardship planning are reference material and guidance material.

Please refer to page 79 of the 2020 ESP Toolkit for a list of notable reference materials. It is important to account for the time that it will take to identify and collect a Nation's own set of reference materials.

Budgeting

Prior to initiating the planning process, a Nation will need to estimate sufficient funding resources to cover all phases of ecosystem-based stewardship planning. Generally, a Nation can only estimate the resources required for planning.

Figure 4. Estimating resources for First Nations ecosystem-based stewardship planning



Timelines

Timelines are an integral part to ecosystem-based stewardship planning project management. It is important to list major activities and associated tasks for ecosystem-based stewardship planning to estimate the length of time required to complete them.

A timeline helps schedule each activity or set of tasks, allowing one to view the entire project at a glance. This helps to track concurrent activities and projects.

There are many project management software packages that will help a Nation assign resources and schedule activities. For example, MS-Project (an industry standard), Gantt charts, and Microsoft (MS) Excel can aid a Nation in setting up timelines and assigning resources for ecosystem-based stewardship planning project management.

8.5 Development of Pre-Planning Inventories

This process includes developing comprehensive and rigorous cultural inventories (e.g., Traditional Land Use and Occupancy) and documenting the full holistic range of a Nation's values (e.g., socio-cultural, economic, and ecological values). Areas for reflection when Nations are pre-planning inventories include...

- What is the Nation's high priority land and resource information inventory interests and gaps?
- With regards to the above, does this include traditional gathering and/or hunting grounds, other culturally significant areas, connectivity between culturally significant areas, or mapping?

Traditional Use Studies (or Use and Occupancy Mapping)

Many First Nations have conducted Traditional Use Studies (TUS) and/or economic feasibility studies that can be used to initially inform the development of an ecosystem-based stewardship plan.

If a Nation has not completed a TUS, this information is critical and must be collected as part of the development of an ecosystem-based stewardship plan.

The precision of sophisticated traditional land management regimes created by Indigenous Peoples is the result of time-immemorial practices handed down by their ancestors. Each Nation will carry with them unique practices in their approaches to land and water stewardship for resource extraction to ensure an ethic of sustainability and environmentalism. The languages of individual Nations hold unique instructions for their responsibilities in caring for the land and water and all they encompass throughout the seasons in BC's temperate zone ecosystems.

TUS or Use and Occupancy Mapping (UOM) combine a form of social sciences through conversations/ interviews with Elders, Traditional Knowledge Holders, and other respected community members with environmental knowledge, which are then translated through computer modeling (GIS). Depending on a Nation's capacity, the depth and robustness of the TUS or UOM will vary.

Over the past few decades, the shaping of TUS, UOM, and Traditional Land Use and Occupancy Study (TLUOS)^{62, 63} has gone through a series of developments. Originally, TUS guidelines and research designs were developed by government ministries and/or proponents for development projects or natural resource harvesting where the focus was "inventory-based" to define site specific interests.⁶⁴ While the TUS have slowly been morphing into a process that is Indigenous-led, they continue to be foundational and critical to guide resource development and extraction activities that are proposed on traditional territories.

Traditional Use Studies have considerably morphed into a process that is Indigenous-led, capturing a number of varying features that go further in embracing the land and the relationships on the land, rather than identifying a single specific location for hunting or digging.⁶⁵

Wise Practice

Chief Kerry's Moose: A Guidebook to Land Use and Occupancy Mapping, Research Design and Data Collection

Chief Kerry's Moose: A Guidebook to Land Use and Occupancy Mapping, Research Design and Data Collection is work completed by Terry Tobias. This publication has been instrumental in guiding many Nations preparing for and subsequently completing a TUS.

While the method generated by Tobias was revolutionary, there has been considerable advancement since that time. This research work is vital in supporting community through the lifetime of a project, for negotiations, agreements, court cases, etc.⁶⁶ Many TUS are continually updated as a "work in progress" through adding more information as part of ongoing community work.

62 Horvath, S., MacKinnon, L., Dickerson, M.O., & Ross, M. (2002). *The impact of the traditional land use and occupancy study on the Dene Tha' First Nation*. Retrieved on November 30, 2019 from: http://www3.brandonu.ca/cjns/22.2/cjnsv.22no.2_pg361-398.pdf

63 Markey, N. (2001). *Data "Gathering Dust": An analysis of traditional use studies conducted within Aboriginal communities in British Columbia*. Retrieved on November 30, 2019 from: <http://bit.ly/31KsinC>

64 Ibid.

65 G. Bridge, personal communication, December 11, 2019.

66 Tobias, T.N. (2000). *Chief Kerry's moose: A guidebook to land use and occupancy mapping, research design and data collection*. Retrieved January 20, 2020 from http://www.fngovernance.org/resources_docs/Land_Use__Occupancy_Mapping_Guidebook.pdf

There is a tremendous amount of background and supporting work involved in creating a TUS that requires developing a budget, creating work plans, and obtaining funds.⁶⁷

As noted by Tobias,⁶⁸ some types of land use and occupancy information that are mapped by Indigenous Peoples include, but are not limited to,

- Places where animals are harvested for food, clothing, medicines, and tools*
- Places where plant materials are harvested for food, clothing, medicines, tools, shelter, and fuel*
- Places where rocks, minerals, and soils are collected for making tools, conducting ceremonies and other programs*
- Traditional Ecological Knowledge (TEK) of plants, habitats, and sites critical to the survival of important animal populations*
- Settlements, trading posts, cabins, camps, and burial grounds*
- Spiritual or sacred spaces (i.e., ceremonial sites, rock painting, pictographs, birth and death sites)*
- Legends and other accounts about specific places*
- Travel and trade routes*
- Aboriginal place names*

An excerpt of Tobias' work in terms of the notable activities to be carried out in advancing a TUS can be found in Appendix B of the 2020 ESP Toolkit.

To view (in full detail) Tobias' work, Chief Kerry's Moose: A Guidebook to Land Use and Occupancy Mapping, Research Design and Data Collection, visit <http://bit.ly/2SIIN6N>

Furthermore, development of efficient and effective processes and methods (standards) for using information and planning resources is another part of the pre-planning stage. This includes establishing a set of standards for information collection, analysis, and management; building incentives into ecosystem-based stewardship planning to encourage approaches to increase efficiency and effectiveness; and establishing information sharing.

OCAP Standards

In order to support culturally congruent and ethical standards in the collection, protection, utilization, and sharing of data in terms of conducting research with First Nations, the First Nations Information Governance Centre established the OCAP standards: Ownership, Control, Access and Possession. For more information about the OCAP standards, visit <https://fnigc.ca/ocap>

67 Tobias, T.N. (2000). *Chief Kerry's moose: A guidebook to land use and occupancy mapping, research design and data collection*. Retrieved January 20, 2020 from http://www.fngovernance.org/resources_docs/Land_Use_Occupancy_Mapping_Guidebook.pdf

68 Ibid.

8.6 Scope and Scale for Ecosystem-Based Stewardship Planning

There is a growing awareness and concern over the health and state of BC's ecosystems triggered by climate change and land management practices. There is a need for new approaches based on shared decision-making regarding land and resource management and planning. Grounded by BC's commitment to modernization of land use planning, UNDRIP and Free, Prior and Informed Consent (FPIC), ecosystem-based stewardship planning provides opportunities to explore new approaches to shared decision-making for protecting land (e.g., parks and protected areas), conserving values from development, densification, and resource extraction.

The determination of long-term interests in socio-cultural, economic, and ecological sustainability is another important component of ecosystem-based stewardship planning—based on holistic and respectful relationships with lands, waters, and wildlife. Furthermore, pre-determining the scope and scale of ecosystem-based stewardship planning also includes recognizing and protecting Aboriginal rights, interests, and values across a Nation's whole territory.

Typically, an ecosystem-based stewardship planning process is a multi-year initiative.

Different scales of project scope include comprehensive, territory-wide, and landscape-level planning.

Coastal First Nations Great Bear Initiative

The nine-member Nations (Wuikinuxv, Heiltsuk, Kitasoo/Xaixais, Nuxalk, Gitga'at, Metlakatla, Old Massett, Skidegate and the Council of the Haida Nation) represent the Coastal First Nations Great Bear Initiative who have been working together to protect their coast and improve the quality of life. Each member Nation is unique in their culture and in being closely connected to the land and sea.⁶⁹

The leaders of these member Nations successfully negotiated land and resource agreements with the Government of BC through a government-to-government process whereby the Government of BC agreed to increase their autonomy over governing and managing their traditional lands.⁷⁰ Their commitment embraces the principles of "ecosystem-based management" while developing a thriving and diverse economy based on protecting ecosystem health and strengthening cultures and communities.⁷¹

The Great Bear Rainforest (also known as the Amazon of the North) is a temperate rainforest that is comprised of old growth cedars (1,000+ years old), waterfalls, grizzly bears,

69 Coastal First Nations Great Bear Initiative. Retrieved on November 18, 2019 from <https://coastalfirstnations.ca/our-communities/>

70 Ecosystem-based Management Fact Sheet. Retrieved on November 18, 2019 from https://coastalfirstnations.ca/wp-content/uploads/2017/06/Fact_Sheet_1.pdf

71 Ibid.

black bears, Kermode (“Spirit”) bears, etc.⁷² The 6.4-million-hectare area along the coast of BC is under an ecosystem-based management regime.⁷³

In April 2001, the Coastal First Nations, industry-environment representatives, and other First Nations and stakeholders agreed to a joint framework that guides land-use planning on the coast.⁷⁴ This framework included the commitment to an ecosystem-based management process that supports healthy ecosystems⁷⁵ and healthy communities to reflect and emphasize the intent to manage human activities rather than managing ecosystems. A consensus was made for a definition for ecosystem-based management for the Great Bear Rainforest to be

“an adaptive approach to managing human activities that seeks to ensure the coexistence of healthy, fully functioning ecosystems and human communities. The intent is to maintain those spatial and temporal characteristics of ecosystems such that component species and ecological processes can be sustained, and human wellbeing is supported and improved.”^{76, 77}

Through this process, the following were noted as essential elements of ecosystem-based management:⁷⁸

Addressing human well-being: Conservation financing. Conservation financing initiative was developed, securing \$120 million. This opportunity strategically links into new economic opportunities that do not rely on ecosystem degradation.

Addressing ecological integrity: Protected areas. 1.3 million hectares of protected area is added to existing protected areas and 297,000 hectares of biodiversity areas. The protected areas fall under new legislation that facilitated and recognized First Nations cultural uses within them.

Addressing ecological integrity: Explicit management models. Outside of protected areas, forest management strategies were designed based on a complete management model that considered the entire range of objectives to reflect the goal of ecological integrity and management strategies. Models are presented in a manner that can be recorded, communicated, and easily updated.

Ecosystem representation. Methods and approaches of ecosystem-based management. Acceptance that existing ecosystems are classified and mapped (i.e., Terrestrial Ecosystem

72 BC Ministry of Forests, Lands and Natural Resource Operations and Rural Development. *Great Bear Rainforest*. Retrieved on November 18, 2019 from <https://greatbearrainforest.gov.bc.ca/tile/the-adaptive-management-framework/>

73 Price, K., Roburn, A., & Mackinnon, A. (2009). Ecosystem-based management in the Great Bear Rainforest. *Forest Ecology and Management*. 258. 495-503. 10.1016/j.foreco.2008.10.010

74 Ibid.

75 Ibid.

76 Ibid.

77 Coast Information Team. (2004). *Ecosystem-Based Management Planning Handbook*. Retrieved on November 18, 2019 from <https://www.for.gov.bc.ca/tasb/slrp/citbc/c-ebm-hdbk-fin-22mar04.pdf>

78 Price, K., Roburn, A., & Mackinnon, A. (2009). Ecosystem-based management in the Great Bear Rainforest. *Forest Ecology and Management*. 258. 495-503. 10.1016/j.foreco.2008.10.010

Standards and Guidelines) and definitions of protective targets for old forest representation are documented.

Hydroriparian ecosystem. This ecosystem occurs at the watershed scale (rather than at the terrestrial scale). Specifically, “hydroriparian ecosystems consist of aquatic ecosystems plus those of the adjacent terrestrial environment that are influenced by, and influence, the aquatic system.”⁷⁹

For more information about the Great Bear Rainforest, visit <https://greatbearrainforest.gov.bc.ca/categories/ecosystem-based-management-ebm/>

Clayoquot Sound

In 1993, tensions intensified against harvesting practices on Clayoquot Sound in BC. The Government of BC granted a logging zone amounting to 62% of the crown land in Clayoquot Sound with 17% allocated for “careful logging.”⁸⁰ At that time, a total of 859 people were arrested, tried, and convicted in BC Supreme Court, which was hailed as the largest act of civil disobedience in Canadian history.⁸¹

A Scientific Panel was appointed by the Government of BC in 1993 in response to a recommendation from the Commission on Resources and Environment following the Government of BC’s 1993 decision on forest practices on Clayoquot lands.⁸² The Clayoquot Sound Scientific Panel of 1995 recommended “an ecosystem-based approach to planning in which the primary planning objective is to sustain the productivity and natural diversity of the Clayoquot Sound region. Planning at a variety of spatial and temporal scales is critical at all stages of forest ecosystem management.”⁸³

The philosophy of the Clayoquot Sound Scientific Panel was as follows...

“Ecosystems, resources and resource values are interconnected. The Panel asserts that sustainable forest practices in Clayoquot Sound must be judged by the extent to which all resources are respected and sustained. Sustainability depends on maintaining ecosystem productivity and connections. The Panel identified two key features to shape the Panel’s recommendations:

- Recognition that ecosystems and the values with which they are imbued are dynamic, and that the forest practices and policies must both anticipate and accommodate changing conditions; and*

⁷⁹ Ibid.

⁸⁰ Mahli, P. (1994). Towards a different world order – the fight to save Clayoquot Sound. *Here in America*. Retrieved on November 18, 2019 from <https://origins.osu.edu/sites/origins.osu.edu/files/origins-archive/Volume2Issue2Article6.pdf>

⁸¹ Grant, P. (2010). Clayoquot Sound. *The Canadian Encyclopedia*. Retrieved on November 18, 2019 from <https://www.thecanadianencyclopedia.ca/en/article/clayoquot-sound>

⁸² *Report of the Scientific Panel for Sustainable Forest Practices in Clayoquot Sound* (1994). Retrieved on November 18, 2019 from <http://bit.ly/39paVvi>

⁸³ Clayoquot Sound Scientific Panel (1995). *Sustainable Ecosystem Management in Clayoquot Sound: Planning and Practices*. Retrieved on November 24, 2019 from <https://www.for.gov.bc.ca/hfd/library/documents/bib12571.pdf>

- *Recognition that forest practices and policies reflect the knowledge, understanding, and values in existence at a point in time.*

For such reasons, Panel recommendations invoke the precautionary principle: act cautiously and make subsequent adjustments based on the application of methods tested and found successful in similar environments; support change by diligent monitoring of responses in the Clayoquot environment.”⁸⁴

8.7 Engagement in Assessment and Analysis

In the development of land use plans with orders of government and when Nations have developed their own ecosystem-based stewardship plans, it is important for Nations to be proactive in their engagement (in areas such as assessment and analysis) when considering the extent to which they are creating a shared plan which considers Traditional Knowledge (TK) in a way that gives it an equal standing to Western science. This process includes utilizing tools (e.g., ecosystem-based management cumulative effects assessments) that address socio-cultural and ecological sustainability.

Overall, when engaging in assessment and analysis as part of the ecosystem-based stewardship planning process, there is a necessity to fully recognize TK. Also, there is further interest to fully recognize Nations’ traditional ways of life, cultural values/protocols/practices, and economies.

8.8 Summary/Conclusion

As part of the ecosystem-based stewardship plan preparation process, issues such as work planning, budgeting, managing timelines, and establishing the scope and scale for ecosystem-based stewardship planning become indicators for successful completion.



⁸⁴ Ibid.



9. Plan Development: Developing an Ecosystem-Based Stewardship Plan

In this third phase, resources and wise practices for the development of ecosystem-based stewardship plans are identified, reviewed, and considered. Areas such as management direction, multiple scales mapping, assessment and mapping of human vulnerabilities, collaboration, planning function, environmental and conservation planning, socio-economic planning, risk management, knowledge and information management, monitoring, and adaptive co-management are reviewed, considered, and documented (if and where needed). An assumption is made that development of a Nation's vision statement and preparation work on the identification of management objectives are completed prior to this phase. The material in this section is organized as follows:

- Introduction
- Components of an Ecosystem-Based Stewardship Plan
- Resources for First Nations Ecosystem-Based Stewardship Development
- First Nations Ecosystem-Based Stewardship Development Wise Practices
- Summary/Conclusion

9.1 Introduction

After the pre-planning phase of ecosystem-based stewardship planning, this next phase involves developing the actual plan. Nations across BC have unique protocols, geography, interests, and values. As such, this section of the 2020 ESP Toolkit highlights notable components/dimensions of ESPs with corresponding resources and related wise practices that can be adapted/customized by Nations if, and where, needed.

9.2 Components of an Ecosystem-Based Stewardship Plan

In reviewing various First Nations ecosystem-based stewardship plans and related land use plans, the following provides a list of instrumental components:

Management direction. A set of goals, objectives, requirements, targets, and indicators that provide clear guidance as to where people want to go and how to get there, as well as how to tell if they are on the right road.

Multiple scales mapping. Planning across scales is not necessarily a step-by-step process. Rather, it is ongoing - all scales and decisions at any one scale may influence or be influenced by decisions made at scales above or below it.

Did You Know?

In general, in ecosystem-based management, there are typically five planning and management scales:

- *Region (10,000,000 ha)*
- *Territory/subregion (500,000 - 5,000,000 ha)*
- *Landscape (30,000 - 100,000 ha)*
- *Watershed (1,000 - 50,000 ha)*
- *Site (less than 250 ha)*

Assessment and mapping of human vulnerabilities. A Nation's exposure to unexpected change or threats and their ability to cope with those changes or threats. Assessment and mapping of human vulnerabilities organizes information in a way that facilitates a comparison of socio-economic and ecosystem concerns/issues which may impact and influence ecosystem-based stewardship planning for a Nation.

Collaboration. The engagement of Nations' members and their strategic partners across different sectors (e.g., neighbouring Nations, municipal/provincial/federal governments, resource users, tenure holders at all scales). Documentation of collaborations provides a means to identify and establish mutual interests, objectives, constraints, and incentives to ensure that land use and resource development supports community well-being. Collaboration occurs at various stages of the ecosystem-based stewardship planning process and may not always involve the same participants being engaged throughout said process.

Planning function. Ecosystem-based stewardship planning is interactive. As such, it tends to consist of four overlapping planning functions (assessment, design, integration, and implementation). It is also ongoing: even when plans are finalized and implemented, adaptive co-management and monitoring will provide new information that over time will be used to revise resource policies, management objectives, and targets.

Environmental and conservation planning. Environmental and conservation planning is to protect ecological integrity while achieving high levels of human well-being. This type of planning includes developing a system of protected areas to aid in sustaining important ecological socio-cultural values.

Socio-economic planning. Creation and subsequent implementation of plans that will generate revenue, provide sustainable livelihoods, distribute benefits and burdens equitably and enhance cultural, community, and household well-being.

Risk management. Drawing on professional and expert opinions, traditional and local knowledge, and risk assessment methods to develop explicit targets for management objectives. The focus on risk management in this context is to evaluate the effects that resource management activity (or activities) will have on conservation values and ecosystem functions.

Knowledge and information management. Existing information including traditional, local, technical, and scientific knowledge is documented in the ecosystem-based stewardship plan. A variety of systems may be utilized to keep track of knowledge so that sources are not lost or overlooked (e.g., important considerations include Elder knowledge and Traditional Knowledge).

Monitoring. This component involves developing a program to (i) determine whether planning requirements are being met, and (ii) evaluate whether management is achieving objectives and/or assess and validate management assumptions.

Adaptive Co-Management. A formal process of “learning by doing,” where management activities are designed as experiments to test different management assumptions and hypotheses. It is a collaborative approach to adaptive management that engages Nations, governments, proponents, and planning participants in (re)defining issues, developing management plans, and monitoring outcomes. Adaptive co-management provides a means for the responsibilities of rights-holders and stakeholders to be defined and shared. It also provides a means for planning participants and managers to learn through actions in one period so that they may modify future ecosystem-based stewardship plan decisions.

9.3 Resources for First Nations Ecosystem-Based Stewardship Plan Development

At a minimum, estimating resources for this phase of ecosystem-based stewardship planning contains provisions for at least the following three topics: work planning, budgeting, and managing timelines. All three are strongly interrelated. Timelines often follow set schedules or at least have final deadlines. This sets a cap on how many activities may be accomplished. Therefore, a cap is set on the budget as well.

Often, one aspect of the trio (work plan, budget, timeline) becomes the limiting factor that affects the other two items. For example, if a Nation must complete many activities in a very short time, the budget will need to reflect that intensity of effort, perhaps by including more people hired to carry out the work. On the other hand, if the timeline is very short, but there is a budget cap, then activities will need to be prioritized, trimmed, or deferred to match.

Work Planning

When beginning to draft a work plan, start by listing all the major activities that need to be accomplished. The following is a list of common activities that a Nation can account for:

Ecosystem-based stewardship planning engagement

- 1 Organize plan
- 2 Create or review vision statement
- 3 Review and affirm purpose for planning
- 4 Review preliminary base data
- 5 Set overarching direction or assumptions - are these management objectives?
- 6 Conduct cultural mapping

The groundwork of planning – data collection, analysis and writing

- 7 Create scenarios – do these identify management objectives for the territory?
- 8 Conduct socio-economic analysis
- 9 Conduct environmental impacts analysis
- 10 Compile outcomes
- 11 Write draft ecosystem-based stewardship plan
- 12 Review and revise draft ecosystem-based stewardship plan
- 13 Ratify final ecosystem-based stewardship plan

The first six activities in the list are connected as they set up the community engagement aspects of the land use planning process. The last six activities consist of data collection, analysis, and writing: the groundwork of planning. The middle activity, #7, is a pivot point, where a Nation begins imagining, “*What would things look like if we did this? How would things change if we chose not to do that?*”

Human Resource Considerations

Allow for some contingency time in your estimations. Particularly where field work is concerned, unexpected situations (e.g., weather, vehicle repair) may result in delays.

For listing human resource requirements, it is helpful to set up two kinds of lists. The first covers any new positions created. The second describes additional demand on any existing staff.

A sample listing of human resources may include a forestry crew to conduct field inventories (economic objectives, wildlife, and habitat), fisheries manager, archaeologist and Elders (cultural resources and values), GIS technician, and a project manager. This is not a complete human resource listing. This is only an example of job types that may be needed for a Nation’s ecosystem-based stewardship planning project.

Picking Your Project Manager

It is important to pick a project manager carefully. This person is critical to the success of the project completing on time, staying within budget, and meeting deliverables.

It is crucial to take the time to explicitly define the role of the Project Manager. This is key to achieving success in completing an ecosystem-based stewardship plan.

9.4 First Nations Ecosystem-Based Stewardship Plan Development Wise Practices

Development of a draft ecosystem-based stewardship plan. Activities that go before developing a draft plan, such as creating maps, identification of management objectives, and holding community meetings, may be numerous. These activities are foundational to the development of an ecosystem-based stewardship plan. However, draft ecosystem-based stewardship plans themselves are not necessarily huge documents. In fact, a case can be made for keeping an ecosystem-based stewardship plan document small and highly focused. An ecosystem-based stewardship planning document simply summarizes the outcomes of the processes followed in the work plan.

Ecosystem-based stewardship plans vary considerably in both scope, scale, and content. Refer to “Resources” section of the 2020 ESP Toolkit commencing on page 79 for a list of First Nations land use plans and ecosystem-based stewardship plans. What ultimately goes into a Nation’s ecosystem-based

stewardship plan will reflect the priorities, interests, and values of a community, which will address a Nation's social, cultural, economic, and environmental priorities.

Socio-cultural, economic, and environmental analyses. The socio-cultural, economic, and environmental assessment (SCEEA) provides a systematic approach that details an ecosystem-based stewardship plan's advantages and/or disadvantages through a societal, cultural, economic, and environmental lens. This assessment is a crucial part of the planning process.

Each Nation, Band, First Nation, or Tribal Council has its own specifics or approach on what to address through the SCEEA.

Carrier Sekani Tribal Council Environmental and Socio-Cultural Agreement

As a guideline, the Environmental and Socio-Cultural Initiatives Agreement was signed in 2015 by the Nadleh Whut'en First Nation, Nak'azdli Indian Band, Saik'uz First Nation, Stelat'en First Nation, Takla Lake First Nation, Tl'azt'en Nation, Ts'il Kaz Koh First Nation (formerly Burns Lake Indian Band) and the Carrier Sekani Tribal Council with the BC Minister of Natural Gas Development and the BC Minister of Aboriginal Relations and Reconciliation. This signed agreement intends for the signatories to collaborate on issues related to environmental stewardship and socio-cultural matters; restore, manage and rehabilitate fish and wildlife populations; and promote and enhance the social and cultural well-being and opportunities for members and communities.

For more information on the 2015 Carrier Sekani Tribal Council Environmental and Socio-Cultural Agreement, visit <http://bit.ly/2tDh1K>

Structure of SCEEA. The SCEEA typically contains two broad kinds of information:

- “Base case”/baseline data that provide updated demographics, economic factors, and environmental factors such as habitat and/or climate change that characterize the Plan area and any communities within the planning area.
- Impacts analysis that describes how different planning scenarios might impact the people and the economic base.

Did You Know?

“Base case” is often used interchangeably with another term, “baseline.”

In general, a baseline or base case is a description or snapshot of the situation as it is today and is used as the starting point to compare change against. It is needed to understand any potential impacts.

The tables in Appendices C and D respectively illustrate common elements of a socio-economic and environmental analysis. Base case or baseline data is always needed before impact assessments can be done. Appendix C lists *elements for the base case section* of your SCEEa analysis, while Appendix D lists *elements for conducting your SCEEa analysis*.

9.5 Summary/Conclusion

In phase three, the focus is on developing a customized ecosystem-based stewardship plan. In developing an ecosystem-based stewardship plan, wise practices are shared in the form of notable components/ dimensions of ESPs and associated resources (e.g., tables, checklists) to support Nations in conducting socio-cultural, economic and ecological analyses and monitoring and guardianship (if and where needed) moving forward.

10. Plan Development: Finalizing an Ecosystem-Based Stewardship Plan

In this fourth phase, governance systems are reviewed. Agreement and approval of the customized ecosystem-based stewardship plan also occurs, which includes documenting the role(s) of community and leadership in implementing and advancing an ecosystem-based stewardship plan. For this section of the 2020 ESP Toolkit, an assumption is made that development of a Nation's vision for ecosystem-based stewardship planning, preparation work on ecosystem-based stewardship planning, and development of an ecosystem-based stewardship plan are completed prior to this phase. The material in this section is organized as follows:

- Introduction
- Nation Agreement
- Summary/Conclusion

10.1 Introduction

Finalizing the ecosystem-based stewardship plan is typically a straightforward process. The following are the basic steps to bring a Nation's ecosystem-based stewardship plan to fruition:

- Assemble outcomes of Socio-Cultural Economic & Environmental Analysis (SCEEA)
- Assemble outcomes of community and stakeholder reviews
- Present draft language and maps to a Nation's membership and leadership
- Receive feedback from membership for recommended changes
- Revise draft ecosystem-based stewardship plan as necessary
- Present revised ecosystem-based stewardship plan back to the same groups
- Ratify ecosystem-based stewardship plan

Finalizing and formalizing recognition of the plan will also require parallel sets of meetings with the Government of BC, which will likely follow the same general process.

The steps outlined above are a “bare-bones” outline of a process that involves a considerable amount of writing, research, and consultation. Do not underestimate the amount of work that consolidation of data and reports or compiling outcomes of meetings represent.

10.2 Nation Agreement

Approvals. The following list provides Nations with a draft outline of steps that they will need to consider when developing and delivering an ecosystem-based stewardship planning presentation:

- Present draft language and maps to the Nation's membership and leadership,
- Receive feedback from membership for recommended changes,
- Revise draft plan as necessary, and
- Present revised plan to the same groups.

After revising the draft ecosystem-based stewardship plan based on community input and feedback, the plan is now ready to develop frameworks for implementation and guardianship.

Development of a framework for ecosystem-based stewardship plan implementation.

In order to develop a framework for plan implementation, it is important to consider how a Nation will engage in three discrete kinds of activities:

- Plan-directed projects and input into land and resource use decisions for the territory;
- Compliance practices; and
- Guardianship practices.

Ecosystem-based stewardship planning is an expression of a Nation's Aboriginal title and rights. As such, the act of ecosystem-based stewardship planning is of a constitutional nature in relation to recognizing and demonstrating a Nation's Aboriginal title and rights. Therefore, finalization of the ecosystem-based stewardship plan requires ratification that reflects the importance of a Nation's decisions.

10.3 Ratifications

Some examples are as follows:

Formal Agreement of the representatives at the land use planning or ecosystem-based stewardship table;

Formal Approval of their principles through a Nation's decision-making process; and/or

Ratification by leadership.

10.4 Summary/Conclusion

For phase four of the ecosystem-based stewardship process, governance systems are reviewed and either developed or revised. From there, approvals and ratification according to a Nation's decision-making process(es) are carried out in relation to the ecosystem-based stewardship planning process.

11. Plan Implementation: Implementing an Ecosystem- Based Stewardship Plan (ESPs)

In this fifth/final phase, it is important to establish governance structures that support the strategic oversight of customized ecosystem-based stewardship plans. The material in this section is organized as follows:

- Introduction
- Governance
- Summary/Conclusion

11.1 Introduction

There is growing recognition of Aboriginal title and treaty rights. Indigenous Peoples in Canada have gained increasing autonomy over traditional lands in a number of ways—for example, rights to fishing and hunting, the right to the enforcement of treaties, and recent court cases (e.g., *Tsilhqot'in Nation v British Columbia* [2014, SCC 44]), which strengthen Indigenous claims to land title, thereby, leveraging decision-making authorities over traditional territories. From an ecosystem-based stewardship planning perspective, implementation of ESPs involves advancement of Indigenous governance and application of the ESPs in relation to current processes with various orders of government. As previously mentioned in the 2020 ESP Toolkit, it is advantageous for Nations to be in the “driver’s seat” in terms of leading and coordinating their direction on ecosystem-based stewardship planning, and related activities by and for Nations.

11.2 Governance

The implementation of a Nation-led and coordinated ecosystem-based stewardship plan aids in advancing a Nation’s title, rights, values, and interests in land and resource decision-making for their territories (e.g., forest stewardship planning, water management, and wildlife management). Overall, ESPs have the potential of promoting Indigenous models of self-determination with a focus on the negotiation of practical and workable arrangements to implement self-government. It is both important and necessary for Nations to actively participate in meaningful engagement in governance and corresponding intergovernmental relations. This engagement enhances Nations’ capacity for self-governance, self-determination, sustainable ecosystem stewardship, community development, and economic diversification.

Lessons Learned: Excerpts from “Supporting resurgent Indigenous-led governance: A nascent mechanism for just and effective conservation”

Artelle et al. (2019) explored pathways towards transformative change in Indigenous-led conservation, making the case to expand our collective worldviews and related perspectives and actions to support the decolonization of existing systems, structures, and corresponding attitudes related to current mainstream practices of conservation planning.⁸⁵

The following are notable excerpts from Artelle et al.’s (2019) article, “Supporting resurgent Indigenous-led governance: A nascent mechanism for just and effective conservation”...

- *“Much of the landscapes and seascapes of conservation interest are within Indigenous territories, so augmenting conservation within them will increasingly not be possible, justified, nor legal without Indigenous consent and partnership.”⁸⁶*
- *“Resurgent Indigenous governance provides potential for rapidly increasing the spatial coverage of conserved areas.”⁸⁷*
- *“Resurgent Indigenous governance provides potential for increased conservation effectiveness.”⁸⁸*

To read this article and learn more about the significance of Indigenous-led conservation, visit <https://www.sciencedirect.com/science/article/pii/S0006320719307803>

Gwaii Haanas Archipelago Management Board

As a form of cooperative management, the Gwaii Haanas Archipelago Management Board has equal representation from the Haida and Parks Canada. Board members are responsible to their respective government agencies to ensure that legislation, policies, and agreements are adhered to. The Gwaii Haanas Agreement, signed in 1993, expresses respect for Canada and Haida interests, with a mutual commitment to protect Gwaii Haanas.

For more information about the Gwaii Haanas Archipelago Management Board, visit <https://www.pc.gc.ca/en/pn-np/bc/gwaiihaanas/info/coop/amb>

To view Gwaii Haanas National Park Reserve, National Marine Conservation Area Reserve, and Haida Heritage Site plans and policies, visit

<https://www.pc.gc.ca/en/pn-np/bc/gwaiihaanas/info/coop/plans>

⁸⁵ <https://thenarwhal.ca/how-a-resurgence-in-indigenous-governance-is-leading-to-better-conservation/>

⁸⁶ <https://www.sciencedirect.com/science/article/pii/S0006320719307803>

⁸⁷ Ibid.

⁸⁸ Ibid.

The Nisga'a Treaty Final Agreement sets out a variety of governance bodies that may also be useful models. Information on how the Nisga'a operate as a government can be found on the Nation's website at <https://www.nisgaanation.ca>

Terms of Reference Considerations. There are many models available for governance structures.

11.3 Summary/Conclusion

In the fifth/final phase of ecosystem-based stewardship planning, governance structures need to be established that support the strategic oversight of customized land use plans.





12. Applying Ecosystem-Based Stewardship Planning to Advance First Nations Interests and Values

The following are select examples for how ecosystem-based stewardship planning can advance First Nations interests and values in decision-making processes that pertain to the use and management of lands and resources in Nations' territories.

Notable examples in this section of the 2020 ESP Toolkit focus on the Timber Supply Review process – e.g., government-to-government discussion regarding the use and management of lands and resources; development of a long-term implementation plan; guardianship and monitoring; and information sharing and gathering.

12.1 Examples to Support ESP Implementation

Establishment of legislated land, marine, and/or resource use designations and objectives. Examples of establishing legislated designations and objectives primarily relate to zones covering specific areas on the ground. Establishing a zone for cultural protection is one example of a designation. Establishing a limit to levels of activity in a conservation area is an example of setting an objective. Refer to the “Resources” section of the 2020 ESP Toolkit commencing on page 79 for examples of First Nations' land use plans and their corresponding land, marine, and/or resource use designations and objectives.

Legislation, regulation, and policy actions are required to implement the plan. One example of requiring legislation, regulation, or policy to implement a Nation's land use plan is the case of the Muskwa-Kechika, whose Advisory Board was established by an act of legislation. For more information, visit <http://bit.ly/39mBEbG>

12.2 Timber Supply Review Process

The Timber Supply Review (TSR) process is an example for how ESPs can be used to support meaningful engagement of Nations in this process.

In general, the TSR process is complex, examining parameters such as the sustainable rate of timber production from an area, constraints on areas other than timber production, disease or insect infestations, and the economic and social objectives of the Crown.⁸⁹

In the TSR, it is important that a Nation's vision, values, goals, and management objectives are incorporated into the data package and that First Nations are involved in the determination of the Annual Allowable Cut (AAC).

⁸⁹ <http://bit.ly/39ogU3t>

The objectives of the TSR are to

1. Identify the best available economic, environmental, and social information to support the Chief Forester's AAC determination—this identification should reflect current forest management practices, including their potential impact on short- and long-term timber supply;
2. Identify First Nations' and public interests and concerns that may be affected by an AAC determination; and
3. Identify where improved information is required to support future timber supply reviews.⁹⁰

The Chief Forester's decision-making requires the utilization of the "best available information for a wide range of environmental, social and economic factors as specified in Section 8 of the *Forest Act*."⁹¹

Although the Province of British Columbia's land and resource management plan (LRMP) processes are morphing into a new phase of modernization, there remain positive effects from the 1997 LRMP process with the Central and North Coast First Nations.⁹² The Central and North Coast First Nations were at that time developing their own land use plans for their territories. Recommendations from both of these processes formed the basis for the signing of the government-to-government Land and Resource Agreement between Coastal First Nations and the Province.⁹³ This Strategic Land Use Planning Agreement established new protected areas (namely conservancies and biodiversity areas) that recognized Aboriginal title and rights. Laid out in the Agreement was a call for all lands outside of protected areas to implement Ecosystem-Based Management (EBM).⁹⁴ The detailed Strategic Land Use Planning Agreement specified how timber would be cut in areas identified to have significant cultural resources, fish streams, and wildlife habitat. Under the EBM process, forest companies are obliged to address Land Use Objectives through management strategies specified in their forest stewardship plan. Specifically, these plans identify the important cultural and ecological values to protect and provide guidance on how to analyze different options for long term timber supply.⁹⁵

Ecosystem Stewardship Plans (ESP) provide an alternative approach that can be used as an instrument to deliver on the TSR.⁹⁶ The ESP approach closely aligns with holistic Indigenous land management practices which aid in creating a strategic framework that supports adaptability under temporal and spatial scales. It is through a Nation's ESP that is specific to their ancestral lands (traditional territory), where a Nation's vision, guiding principles (values), goals and management objectives are comprehensive; thereby, positioning a Nation with a robust plan that firmly contributes to the AAC decision-making process via the TSR.

The TSR process supports the AAC determination made by the Chief Forester. Cultural values and practices are critical pieces to any land or water management activities. The TSR process varies - depending on the

90 https://coastalfirstnations.ca/wp-content/uploads/2017/06/Fact_Sheet_2.pdf

91 Ibid.

92 Turning Point Initiative Coastal First Nations. (n.d.). *EBM fact sheet: Land use plan roadmaps that guide us in managing our resources*. Retrieved on November 30, 2019 from https://coastalfirstnations.ca/wp-content/uploads/2017/06/Fact_Sheet_2.pdf

93 Ibid.

94 Ibid.

95 Turning Point Initiative Coastal First Nations. (n.d.). *EBM fact sheet: Land use plan roadmaps that guide us in managing our resources*. Retrieved on November 30, 2019 from https://coastalfirstnations.ca/wp-content/uploads/2017/06/Fact_Sheet_2.pdf

96 Bourgeois, W.W. (2008). Ecosystem-based management: Its application for forest management in British Columbia. *Journal of Ecosystem and Management*, 9(1), 1-11. Retrieved on December 18, 2019 from <https://jem-online.org/index.php/jem/article/view/379>

complexity of the information or issues associated with a Timber Supply Area (TSA) or Tree Farm License (TFL).⁹⁷ Generally, the review consists of three stages:

- The first stage is information sharing and gathering. This package is made available for public review and comment and First Nations consultation;
- The second stage is the timber supply analysis which follows the data package but will differ as a result of public and First Nations input in response to the package; and
- The third stage is the AAC determination that is made by the Chief Forester.

For more information, visit the TSR Backgrounder: <http://bit.ly/39nwZXd>

Providing information on cultural and spiritual values and interests for the TSR process requires skills, knowledge, and capacity to inventory, maintain and update relevant data and information (e.g. spatial/maps and non-spatial/characteristics and data) about each (cultural and/or spiritual) value and interest to inform the process.⁹⁸ Maintaining a current inventory of cultural and spiritual interests also requires adequate information technology (IT) and can be improved with consistent inventory standards (i.e., how information is recorded and stored). For small, remote communities, intermittent power supply, poor internet service, readily available IT technical support, and access to related professional services (e.g., forest professional, archeologist) are often challenges for maintaining these important inventories.⁹⁹ Hence, having a solid team, strong relationships and partnerships are all critical pieces to ensure effective and accurate data are being obtained and delivered. It is advisable for Nations to be cognizant of technological advancements in remote sensing data (such as LIDAR and high-resolution imagery)¹⁰⁰ to aid in obtaining a reliable forest inventory. Therefore, access to technological advancements in remote sensing data may be better met through partnerships, where the strengths of various organizations can build upon and complement each other.

Through a Nation's ESP, their vision, guiding principles (values), goals, and management objectives are clearly defined and expressed. The opportunities to model multiple ecosystem values according to their specific laws, practices, and values is unprecedented.

As noted in the following case study, the joint decision-making process that was legislated in the *Haida Gwaii Reconciliation Act* gives strength to the TSR process.¹⁰¹ The determination of the AAC through the TSR is paramount to the ESP process for First Nations and cannot be stressed enough in terms of advancing Nations' title, rights, interests and values, and land/ resource decision-making.

In order to play a meaningful role in the TSR process, Nations need to be able to identify their vision, guiding principles (values), goals, and management objectives for their territories.

97 British Columbia Ministry of Forests, Lands, Natural Resource Operations and Rural Development. (2017). *Timber supply review backgrounder*. Retrieved on December 18, 2019 from <http://bit.ly/39nwZXd>

98 P. Nuttall, personal communication, December 17, 2019.

99 Ibid.

100 Bourgeois, W., Binkley, C., LeMay, V., Moss, I., & Reynolds N. (2018). *British Columbia Forest Inventory Review Panel Technical Background Report. Prepared for the Office of the Chief Forester Division, British Columbia Ministry of Forests, Lands, Natural Resource Operations and Rural Development*. Retrieved on December 18, 2019 from <http://bit.ly/3byoTwW>

101 http://www.bclaws.ca/civix/document/id/complete/statreg/10017_01

Case Study: Haida Gwaii and Land/Natural Resource Management Decision-Making

There has been a significant shift in the TSR decision-making process on Haida Gwaii.

The Kunst'aa Guu–Kunst'aayah Reconciliation Protocol (KKRP) was signed in 2009 between the Haida Nation (as represented by the Council of the Haida Nation) and the Province of British Columbia where both “parties seek a more productive relationship and hereby choose a more respectful approach to coexistence by way of land and natural resource management on Haida Gwaii through shared decision-making and ultimately, A Reconciliation Agreement.”¹⁰² As a result of this Protocol, the AAC for Haida Gwaii is determined by a joint decision-making body.¹⁰³ The Haida Gwaii Reconciliation Act was outlined...to delegate authority to the Haida Gwaii Management Council (HGMC) for Haida Gwaii's future AAC determinations. The HGMC now initially determines the AAC, followed by the Chief Forester's determination for each of the management units.¹⁰⁴

Furthermore, the Haida Gwaii Reconciliation Act articulates that the Haida Nation and the Government of BC are to guide joint decision-making regarding land and natural resource management on Haida Gwaii.

For more information about the Haida Gwaii Reconciliation Act, visit http://www.bclaws.ca/civix/document/id/complete/statreg/10017_01

Ecosystem-based stewardship plans are intended to provide guidance to the Government of BC on the values that are identified by strategic partners and stakeholders. However, current land use plans developed by the Government of BC have had little or no participation or input from First Nations. Although many of the land use plans or land and resource management plans are in the process of being modernized, there continues to be gaps in the involvement of First Nations participation, including a lack of resources (technical, financial, and human) to support their meaningful involvement.

12.3 Guardianship

“All ethics so far evolved rest upon a single premise: that the individual is a member of a community of interdependent parts. The land ethic simply enlarges the boundaries of the community to include soils, waters, plants and animals, or collectively the land.”

Aldo Leopold¹⁰⁵

Ongoing government-to-government activities are required to advance an ecosystem-based stewardship plan.

An ecosystem-based stewardship plan is a living document that requires monitoring, periodic reporting, and evaluation of the plan's implementation and effectiveness.

¹⁰² Ibid.

¹⁰³ http://www.haidagwaiimanagementcouncil.ca/wp-content/uploads/2019/03/HGMC_FALL18_online.pdf

¹⁰⁴ Ibid.

¹⁰⁵ <https://www.aldoleopold.org/teach-learn/green-fire-film/leopold-quotes/>

Compliance and monitoring can be achieved by developing monitoring or guardianship programs. These require ongoing access to resources (e.g., technical, financial, and human).

Reflections from the Front Lines: An Indigenous Forester's Perspective

Matt Wealick is a Registered Professional Forester and has been exploring forest planning options through forest simulation modelling. Current management practices view First Nations cultural and spiritual values as “just another impact or constraint” to the Annual Allowable Cut (AAC).

However, when values are clustered into an area, it allows for a greater diversity of values to be managed for in a defined area. Using spiritual and cultural values as a base layer (or the first layer) and adding other wildlife and environmental objectives allows for the identification of areas that can be used to manage for a diversity of objectives that include those set by government.

First Nations' cultural values and current provincial wildlife and environmental objectives are often aligned when focusing on riparian areas. By slightly widening riparian areas, the model showed there is the opportunity to manage for a diversity of values in some areas, which did not result in additional constraints on the AAC and ultimately created better wildlife management areas.

Indigenous Guardianship “In Action”

Caribou Guardianship Initiative

This project is located in Iqaluit, Nunavut where the aim is to influence decisions on conserving caribou in the Qikitaaluk Region while respecting Inuit values. For more information, <http://bit.ly/2OKVPlq>

Coastal Guardian Watchmen Network

This Network plays a vital role in stewardship, ensuring that resources are managed in a sustainable way. Foundational to the Network is the advocacy of traditional and contemporary Indigenous laws to monitor, protect, and restore cultural and natural resources along the coastal territories of BC. Stewardship leaders along the coast of BC came together, recognizing it was time to work together to form a collective presence. As a result, they created a standard training program and a collective monitoring system, which led to the creation of the Coastal Guardian Watchmen. This regional initiative continues to this day. For more information, visit <http://bit.ly/2SFrXhS>

Ha-ma-yas Stewardship Network Guardian

In May 2019, the Ha-ma-yas Stewardship Network Guardian gathering was held on Quadra Island at the Hakai Institute to aid in training and building capacity. Seven Nations attended the gathering. For additional information, visit <http://bit.ly/2Hh43Em>

Guardians of Monumental Cedars

The Nanwakolas Council and member First Nations are located on northern Vancouver Island. For more information, visit <http://www.nanwakolas.com>

The Indigenous Guardians Pilot Program

Established in 2017, the Indigenous Guardian Pilot Program is a federal government initiative. This pilot program is designed to provide Indigenous Peoples with greater opportunity to exercise responsibility in the stewardship of their traditional lands and water. The outcome of this program is to inform a long-term approach for a potential National Indigenous Guardian Network. Eligible initiatives for this program include research, surveys, inventories, training, capacity building, etc. The funding commitment for this program is four years. For more information, refer to <http://bit.ly/2voi1l7>

Wise Practices

Identify impediments to land use plan implementation and formal recognition by the province.

Funding and resources are necessary to carry out compliance and enforcement activities and to develop monitoring and guardianship programs.

Continued information gathering is a wise practice as ecosystem-based stewardship plans are living documents that will need updating from time to time.

12.4 Summary/Conclusion

Ecosystem-based stewardship planning involves the recognition and use of the ecosystem-based stewardship plan to influence and guide the management and use of lands and resources in Nations' territories.



“One of the Forestry Council’s 2019 Indigenous Forestry Scholarship recipients out in the field”.

13. Conclusion

As a framework for reconciliation, the implementation of UNDRIP and the TRC *Calls to Action* with Aboriginal title and rights case law are positioning Nations in BC with opportunities to advance Indigenous-led and coordinated ecosystem-based stewardship planning based on a holistic set of ecological, socio-cultural and economic values and principles, and corresponding management objectives. By working together with orders of government (e.g., Governments of BC and Canada), Nations can increase their role in the governance and stewardship of forest lands and resources, which includes their rights, principles, and values.

Indigenous-led and coordinated ecosystem-based stewardship plans give Nations the necessary information to define, choose, and make informed decisions about the current and future use of their lands and resources in their traditional territories across the generations.

“Teach your children what we have taught our children, that the earth is our mother. Whatever befalls the earth befalls the sons of the earth. If men spit upon the ground, they spit upon themselves.

This we know: the earth does not belong to man - man belongs to the earth. This we know. All things are connected like the blood that unites one’s family. All things are connected.”
Chief Seattle¹⁰⁶

¹⁰⁶ https://www.goodreads.com/author/quotes/331799.Chief_Seattle



14. Resources

The following is a list of resources to support a Nation's ecosystem-based stewardship planning endeavours.

Note: This is not an exhaustive list. There are many other useful materials, books, and documents not included on this list.

Capacity Building

- New Relationship Trust
<http://www.newrelationshiptrust.ca/>

Economic Sustainability

- Canadian Council for Aboriginal Business
<https://www.ccab.com/>
- Journey to economic independence: BC First Nations' perspectives (PowerPoint presentation)
<http://bit.ly/37hjnew>
- Pathways to Collaboration
<http://bit.ly/38jNMKC>

Ecosystem Stewardship

- BC Parks
<http://www.env.gov.bc.ca/bcparks/>
- Environmental Stewardship Initiative – Province of BC
<http://bit.ly/2HbfJbF>
- First Nations Ecosystem Management Network
<https://www.gatheringvoices.com/fneconet1>
- On-the-Ground Indigenous Stewardship Programs Across Canada Inventory Project
<http://bit.ly/37iDycf>
- Tribal Parks and Indigenous Protected and Conserved Areas – Lessons Learned from BC Examples
<http://bit.ly/2POU9uT>

First Nations Councils in BC

- BC First Nations Energy & Mining Council
<http://fnemc.ca/>
- BC First Nations Fisheries Council
<https://www.fnfisheriescouncil.ca/>
- BC First Nations Forestry Council
<https://www.forestrycouncil.ca/>
- BC First Nations Health Council
<http://fnhc.ca/>
- BC First Nations Technology Council
<https://technologycouncil.ca/>

First Nations Land Use Plans – Examples

- Carrier Sekani Tribal Council: A CSTC Background (2007)
<http://www.carriersekani.ca/images/docs/cstc/CSTC%20Background%20-%20Feb%202007.pdf>
- Clayoquot Sound (1995)
<https://www.for.gov.bc.ca/hfd/library/documents/bib12571.pdf>
- Great Bear Rainforest
<https://greatbearrainforest.gov.bc.ca/tile/the-adaptive-management-framework/>
- Hupacasath Territory Land Use Plan – Phase One (2003)
<http://hupacasath.ca/wp-content/uploads/2016/03/LUP-Phase1-2003.pdf>
and Phase Two (2006)
<http://hupacasath.ca/wp-content/uploads/2016/03/LUP-Phase2-2006.pdf>
- Kwadacha Nation Land Use Plan (2017)
<http://bit.ly/3btPmeW>
- Leq'á:mel First Nation Land Use Plan (2015)
<http://leqamel.ca/wp-content/uploads/2017/03/FINAL-Land-Use-Plan-March-26-2015.pdf>
- Nunavut Land Use Plan - Draft (2016)
https://www.nunavut.ca/sites/default/files/2016_draft_nunavut_land_use_plan_0.pdf
- shíshálh Nation Strategic Land Use Plan (2018)
<https://shishalh.com/wp-content/uploads/2018/08/shishalhStrategic-Land-Use-Plan.pdf>

First Nations Traditional Use Studies and Land Use Planning – General Resources

- A Voice on the Land by Russell Collier, Ben Parfitt and Donovan Woollard
<http://ecotrust.ca/report/an-indigenous-peoples-guide-forest-certification-canada/>
- Chief Kerry's Moose: A Guidebook to Land Use and Occupancy Mapping, Research Design and Data Collection by Terry N. Tobias
http://www.fngovernance.org/resources_docs/Land_Use_Occupancy_Mapping_Guidebook.pdf
- Mapping our Land: Community Mapping Handbook by Alix Flavelle
<https://www.amazon.ca/Mapping-Our-Land-Community-Handbook/dp/1551053764>

Governance

- Centre for First Nations Governance
<http://www.fngovernance.org/>

Human Resources

- BC Capacity Initiative
<http://www.bccapacity.org/>
- Indigenous Works
<https://indigenousworks.ca/en>

Project Management Resources

- Gantt chart template1
<https://www.officetimeline.com/timeline-template/gantt-chart-download>
- Gantt chart template2
<http://bit.ly/2HaY9o2>
- Project Management Institute
<https://www.pmi.org/>

Research and Data Collection

- Ownership, Control, Access and Possession - OCAP ®
<https://fnigc.ca/ocap>

Socio-Cultural Sustainability

- Archaeology in BC
<https://www2.gov.bc.ca/gov/content/industry/natural-resource-use/archaeology>
- Canadian Archaeological Association
<http://www.canadianarchaeology.com/>
- First Voices
<https://www.firstvoices.com/>

United Nations Declaration on the Rights of Indigenous Peoples

- Understanding and Implementing the UN DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES: An Introductory Handbook
https://www.indigenousbar.ca/pdf/undrip_handbook.pdf



15. Key Terms

Aboriginal Rights. “Collective rights which flow from Aboriginal peoples’ continued use and occupation of certain areas. They are inherent rights which Aboriginal peoples have practiced and enjoyed since before European contact.”¹⁰⁷

Aboriginal Title. “The inherent Aboriginal right to land or a territory.”¹⁰⁸

Annual Allowable Cut. The maximum amount of timber that may be harvested each year from a particular area of land. This rate of cut takes into consideration socio-economic and environmental decisions.¹⁰⁹

Anthropogenic. Generally, it refers to influences of human beings on nature. These effects may include, but are not limited to, deforestation, resource extraction, sewage, fertilizers, pesticides, and burning of fossil fuels.

Base Case (baseline). A baseline or base case is a description or snapshot of the situation as it is today and is used as the starting point to compare change and measure impacts.

Collaborative Consent. A mutual consent process that focuses on governance and changing how decisions are made. Specifically, it requires all governments (Canadian and Indigenous) to continuously build new shared spaces, structures, and institutions as part of an evolving relationship, ensuring that there is free, prior, and informed consent.^{110, 111}

Crown. In general, all provincial and federal government departments, ministries, and agencies, including all government employees who carry out work on behalf of government.

Ecosystem-Based Management. An adaptive approach to managing human activities that seeks to ensure the co-existence of healthy, fully functioning ecosystems and human communities.¹¹²

Ecosystem-Based Planning. Land use planning and management decision-making that is culturally relevant to First Nations, reflects their unique connection with land and resources and is congruent with their inherent responsibility to care for the land, water, air, people, animals, and fish in a manner consistent with their spiritual beliefs and values. Said planning ensures the protection, maintenance, and restoration of biological diversity, at all spatial and temporal scales. Ecosystem-based planning recognizes the relationships between ecosystems, cultures, and economies.^{113, 114}

107 https://indigenousfoundations.arts.ubc.ca/aboriginal_rights/

108 https://indigenousfoundations.arts.ubc.ca/aboriginal_title/

109 <http://bit.ly/2SDsOQa>

110 Papillion, M., & Rondon, T. (2017). Proponent-Indigenous agreements and the implementation of the right to free, prior, and informed consent in Canada. *Environmental Impact Assessment Review*, 62. 216-224.

111 <http://policyoptions.irpp.org/magazines/january-2018/collaborative-consent-as-a-path-to-realizing-undrip/>

112 <https://www.for.gov.bc.ca/tasb/slrp/citbc/c-ebm-hdbk-fin-22mar04.pdf>

113 Ecosystem-based planning. (2018). *Xaxli'p Community Forest*. Retrieved on November 18, 2019 from <https://www.xfc.ca/traditional-use-study>

114 Hammond, H. (2002) *Ecosystem-based planning – Principles & Processes*. Retrieved on November 18, 2019 from <http://www.silvafor.org/assets/silva/PDF/Methodology/PrinciplesandProcess.pdf>

Framework. A broad overview, outline, or skeleton within which details can be added. For example, a Nation may want to create a strategic framework to set the context for individual land use management programs and projects.

Gantt chart. A commonly used tool to estimate one's time on tasks for conducting project evaluations. The vertical (Y axis) outlines the given (project evaluation) tasks. The horizontal (X axis) outlines the time scale. Gantt charts highlight milestones that must be met to stay on time in the project evaluation.

Geographic Information System (GIS). A computer-based system used to input, store, retrieve, and analyze geographic data sets. The GIS is usually composed of map-like spatial representations called layers that contain information on attributes such as elevation, land ownership and use, crop yield, and soil nutrient levels.

Goals. Generally long-term outcomes for what Nations want to achieve with their plans.^{115, 116}

Jurisprudence. In general, it refers to the study, knowledge, and/or administration of law.

Management objectives. Concise time-specific statements that outline core values about the ecosystem. These are values articulated by a Nation and aid in determining what the ecosystem-based stewardship plan is to achieve to be seen as successful/effective.^{117, 118}

Meaningful Engagement. A willingness and ability to provide opportunities for Indigenous Peoples or communities to actively take part in policy and decision-making processes that are balanced in terms of sharing power and influence.¹¹⁹ At times, definitions of terms such as “meaningfulness” and “meaningful engagement” and the corresponding operationalization of same have been confused with parallel or similar forms of participation in policy development and decision-making such as “information sharing” and “consultation.”¹²⁰

Nation Building. The efforts of Indigenous communities to increase capacity for self-governance, self-determination, and sustainable community and economic development. Furthermore, nation building acknowledges the (re)building of institutions of self-government that are culturally appropriate to Indigenous communities.¹²¹

Performance Measures. Indicators or metrics used to gauge program success.

Timber Supply. “The amount of timber that is forecast to be available for harvesting over a specified time and under a particular management regime. It is a combination of the condition of the existing forest, the growth rate of the existing and harvested forest, how the forest is managed for timber and other resource values, [and] choices around the rate of harvest.”¹²²

115 <http://www.fao.org/sustainable-forest-management/toolbox/modules/forest-management-planning/tools/en/?type=111>

116 <http://bit.ly/31KKZYf>

117 <http://www.fao.org/sustainable-forest-management/toolbox/modules/forest-management-planning/tools/en/?type=111>

118 <http://bit.ly/31KKZYf>

119 <https://www.ictinc.ca/blog/aboriginal-engagement-vs-aboriginal-consultation-whats-the-difference>

120 OECD (2016). *Open government: The global context and the way forward*. Paris: Author.

121 <https://nni.arizona.edu/programs-projects/what-native-nation-building>

122 <https://www2.gov.bc.ca/gov/content/industry/forestry/managing-our-forest-resources/timber-supply-review-and-allowable-annual-cut>

16. BC First Nations Forestry Council

BC First Nations Forestry Council (www.forestrycouncil.ca)

The BC First Nations Forestry Council (the 'Forestry Council') was established on April 27, 2006 to provide support to BC First Nations communities in forestry-related matters. The Forestry Council evolved out of the Interim Mountain Pine Beetle Working Group, established in 2005, to coordinate a First Nations response to the Mountain Pine Beetle (MPB) epidemic.

The Forestry Council seeks to advance the role that First Nations play in the governance and stewardship of forest lands and resources and to increase their involvement as full partners in the forest sector, including access to an equitable share of the benefits derived from forest lands and resources within their traditional territories.

As the original stewards, and with a knowledge that goes back generations, First Nations are key players in the transformation of the forest sector in BC, addressing the economic, social, and environmental challenges of managing forest lands and resources.

Governance

The Forestry Council is governed by representatives from the BC First Nations Summit (FNS), the Union of BC Indian Chiefs (UBCIC), and the BC Assembly of First Nations (BCAFN), who together make up the BC First Nations Leadership Council.

What We Do:

- Advocates for changes to forest policies, legislation and practices to increase the role of First Nations. The Forestry Council assists First Nations to increase the role that they play in the governance and stewardship of forest lands and resources, and to improve the economic wealth and well-being based on sustainability principles and Indigenous values that ensure the viability of the forests and lands for current and future generations.
- The Forestry Council supports First Nations in their work with governments and others to advocate for the incorporation of First Nations' interests, values, and principles in forest legislation, policy reform, and program development.
- The Forestry Council promotes jobs and training to increase First Nations' participation in the forest sector and to connect First Nations' talent to opportunities and growth in the forest sector.

The Forestry Council is an advocacy organization that works to support Nations in their efforts to increase their role in the governance of forest lands and resources, and their participation in the forest sector. We do not represent First Nations nor are we a consultative body.

A BC First Nations Forest Strategy

In 2016, the First Nations Forestry Council (the Forestry Council), the Ministry of Forests, Lands, Natural Resource Operations and Rural Development (FLNRORD) and the Ministry of Indigenous Relations and Reconciliation (MIRR) began working together to develop a BC First Nations Forest Strategy (the Forest Strategy). The Forest Strategy has been informed by feedback received through a series of engagement sessions with First Nations in 2015, 2017, 2018, and 2019. The Forest Strategy acknowledges the cultural, ecological, economic, and social relationships between First Nations and the forests within their traditional territories.

The Forest Strategy is intended to

- increase the participation of First Nations in the governance and stewardship of forest lands and resources,
- advance reconciliation,
- support implementation of the *United Nations Declaration on the Rights of Indigenous Peoples* and the *Truth and Reconciliation Calls to Action*, and
- contribute to the revitalization of the forest sector with First Nations as full partners.

A British Columbia First Nations Workforce Strategy

The BC First Nations Workforce Strategy has been developed as a long-term initiative to increase the participation and success of BC First Nations in the BC forest sector training, careers, employment, and self-employment as forestry employees, managers and executive staff, and forestry contractors and self-employed entrepreneurs.

The vision is to achieve sustainable and meaningful career, employment, and business outcomes for First Nations people in the BC forest sector through collaborative partnerships among forest companies, Indigenous Skills and Employment Training Program (ISETP) service providers, and the Forestry Council.

Appendix A: Notable Case Law and Political Events

As a means of better understanding Indigenous government-to-government relations, it is important to know how specific documentation such as Canadian legislation and policies have had historical effects on Indigenous Peoples in Canada and how recent case law, policies, practices, legislation, and related processes are recognizing and reconciling the effects of colonization:

Notable case law and/or political event	Description
<i>Royal Proclamation of 1763</i>	As settlers occupied British North America, the British government proclaimed that the interests of Aboriginal People and their lands must be protected under the Crown. For example, the <i>Royal Proclamation of 1763</i> describes that the Crown is required to have an agreement in place to acquire land from Aboriginal People. To date, this proclamation has and continues to be significant in terms of recognizing Aboriginal title and rights.
<i>Constitution Act, 1867 – Section 91(24)</i>	This specific section of the Act describes that the Government of Canada has exclusive legislative authority for Indians and lands reserved for Indians (reserves).
<i>Constitution Act, 1982 – Section 35</i>	This specific section of the Act provides constitutional protection to the rights of Aboriginal Peoples in Canada. Examples of Aboriginal rights that Section 35 has been found to protect are fishing, logging, hunting, Aboriginal title (the right to land), and the right to enforcement of treaties.
<i>Indian Act</i>	This statute, first passed in 1876, gave the Government of Canada exclusive authority over Indian People living on reserves. The Act defines who are Indians and their associated rights. The Act previously denied First Nations People the right to vote unless they gave up their Indian status and associated rights. In 1960, First Nations People received the right to vote in federal elections without giving up their Indian status. At present, the Indian Act remains in effect. Though amendments were made to the statute from approximately 1881 to 2000, the Act remains fundamentally unchanged since 1876. An amendment in 2000 allows First Nations band members living off reserve to vote in band elections and referendums. The Indian Act is currently administered by the Minister Responsible for Indigenous-Crown Relations.

Notable case law and/or political event	Description
<i>1969 White Paper</i>	Former Minister of Indian Affairs Jean Chrétien prepared a policy document (1969 White Paper) that proposed the elimination of the Indian Act and Aboriginal land claims. In addition, the white paper supported the assimilation of First Nations People into the Canadian population as “other visible minorities” rather than being recognized as a distinct racial group. In response to the 1969 White Paper, Harold Cardinal and the Indian Chiefs of Alberta countered the white paper by preparing the “Citizens Plus” policy document (Red Paper). The Red Paper coupled with the <i>Calder v. British Columbia</i> (1973) decision were contributing factors for the Liberal Party of Canada (the governing party of Canada during this time) to step away from the policy recommendations described in the 1969 White Paper.
<i>Calder v. Attorney General of British Columbia</i> (1973)	Aboriginal title exists as a legal right, independent of Crown recognition. Frank Calder (and other members of the Nisga’a Tribal Council and James Gosnell (and other members of the Gitlakdamix Indian Band), Maurice Nyce (and other members of the Canyon City Indian Band), W.D. McKay and all other members of the Greenville Indian Band, the Kincolith Indian Band.¹²³ The appellants declared “that the Aboriginal title, otherwise known as the Indian title, of the Plaintiffs to their ancient tribal territory has never lawfully been extinguished.” The action was dismissed in trial and the Court of Appeal rejected the appeal. The Nisga’a appealed to the SCC where the ruling stated that Aboriginal title had existed at the time of the Royal Proclamation of 1763.¹²⁴ Calder and other Nisga’a Elders declared the Nisga’a title to their lands had never been lawfully extinguished through treaty or any other means.
<i>R. v. Bartleman</i> , [1984] 55 B.C.L.R. 78 (B.C.C.A.)	Protection on Treaty hunting rights.¹²⁵ In 1977, D. Bartleman shot and killed a deer on land owned by T.D. Groves (Vancouver Island) using an rim-fire cartridge in a .22 rifle.¹²⁶ To Bartleman’s defense, he stated he was exercising his right to hunt under the North Saanich Indian Treaty of 1852, and the <i>Wildlife Act</i> did not apply to him but rather directed attention to s.88 of the <i>Indian Act</i>, R.S.C 1970, c. I-6.¹²⁷ The Judge (Honourable Judge Giles), decided that the treaty did not protect Mr. Bartleman because he was (1) hunting on land outside the geographical limits of the treaty and (2) he felt the location of where Mr. Bartleman was hunting (where the deer was shot) was not “unoccupied” land within the definition of the treaty.¹²⁸

123 *Calder et al. v. Attorney-General of British Columbia*, [1973] SCR 313, 1973 CanLII 4 (SCC). Retrieved December 18, 2019 from <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/5113/index.do>

124 Indigenous Foundations. (n.d). *Calder case*. Retrieved September 1, 2019 from https://indigenousfoundations.arts.ubc.ca/calder_case/

125 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

126 *R. v. Bartleman*, 1984 CanLII 547 (BC CA). Retrieved on September 1, 2019 from <https://www.canlii.org/en/bc/bcca/doc/1984/1984canlii547/1984canlii547.html>

127 Ibid.

128 Ibid.

Notable case law and/or political event	Description
<i>Guerin v. The Queen</i>, [1984] 2 S.C.R. 335	Establishment of the legal nature of the Crown's fiduciary obligations to First Nations' lands.¹²⁹ The Musqueam Indian Band surrendered valuable surplus reserve lands to the Crown for lease to a golf club.¹³⁰ The terms obtained by the Crown were less favorable than those approved by the Band at the surrender meeting.¹³¹ The Indian Affairs Branch official did not return to the Band for its approval of the revised terms. They withheld pertinent information from both the Band and an appraiser assessing the adequacy of the proposed rent.¹³²
<i>Pasco v. C.N.R. Co.</i> (1985), 69 B.C.L.R. 76	Protection of the native fishery along the Fraser and Thompson rivers by obtaining an injunction preventing Canadian National Railway (C.N.R.) from double tracking.¹³³ In 1985, the Oregon Jack Creek Indian Band and Robert Pasco sought to restrain the C.N.R. from proceeding with its twin tracking construction programme along an eight-mile stretch of the Thompson River between Spences Bridge and Ashcroft in the vicinity of Oregon Jack Creek Indian Reserve No. 5.¹³⁴ The widening of the railroad to accommodate a second track would involve the replacement of rock fill between the existing mainline and the Thompson River.¹³⁵ The fill would encroach on the river bed, interfering with the traditional fishing methods and supply of fish available to the Indian Band.¹³⁶
<i>R. v. Jimmy</i> (1987), 15 B.C.L.R. (2d) 145 (B.C.C.A)	Establishment that Band bylaws prevail over the federal <i>Fisheries Act</i>.¹³⁷ In the BC Court of Appeal (1987), the accused was fishing in the Cowichan River (in 1984), which runs through the Cowichan Indian Band Reserve.¹³⁸ A fisheries officer approached the accused where he observed a wild steelhead on the bank of the river. The accused was charged for being in possession of a wild steelhead, which was contrary to s.60 of the British Columbia Sport Fishing Regulations. In 1983, the Cowichan Indian Band had passed a Fishing By-law, No. 2, pursuant to the provisions of s.81 (o) of the <i>Indian Act</i>. The appeal was to decide whether the Cowichan Indian Band fishing bylaw, 1983, No. 2 afforded an answer and defense to the charge against the accused.¹³⁹

129 <https://www.mandellpinder.com/landmark-cases>

130 *Guerin v. The Queen*, [1984] 2 SCR 335, 1984 CanLII 25 (SCC). Retrieved August 30, 2019 from <http://canlii.ca/t/1lpfn>.

131 Ibid.

132 Ibid.

133 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

134 *Pasco v. C.N.R.*, 1985 CanLII 320 (BC SC). Retrieved on August 30, 2019 from <http://canlii.ca/t/213qk>

135 Ibid.

136 Ibid.

137 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

138 *R. v. Jimmy*, [1987] CanLII 2600 (BC CA). Retrieved September 1, 2019 from <http://canlii.ca/t/210sr>.

139 Ibid.

Notable case law and/or political event	Description
<i>Claxton v. Saanichton Marina</i> (1989), 36 B.C.L.R. (2d) 79 (B.C.C.A)	Protection of Treaty fishing rights.¹⁴⁰ In 1987, Louis Claxton, Chief of the Tsawout Indian Band, and other members were awarded a permanent injunction in the BC Supreme Court decision against the construction of a marina in the Bay.¹⁴¹ The ruling referenced that Governor James Douglas had “implemented a policy to protect the construction of a marina in the bay. That policy was implemented to protect the Indians in their right to pursue their traditional economy of hunting and fishing.” Also, “that they had the right to resist... the proposed marina at Saanichton Bay as it would diminish in the extent the fishery contractually reserved to predecessors” of the original signatories to the Douglas Treaty.¹⁴²
<i>R. v. Sparrow</i> [1990] 1 S.C.R. 1075 and <i>R. v. Van der Peet</i>, [1996] 2 S.C.R. 507	The Aboriginal right to fish for food.¹⁴³ This significant court case determined that there is under the Canadian Constitution an existing Aboriginal right to fish for food for social and ceremonial purposes. The appellant (Ronald Sparrow, in 1984) was charged under the <i>Fisheries Act</i> for fishing with a drift net longer than permitted by the terms laid out in the Band’s Indian food fishing license.¹⁴⁴ Sparrow admitted the facts alleged constituted an offence, but he defended (himself) on the charge, based on the fact that he was exercising an existing Aboriginal right to fish and that the net length restriction contained in the Band’s licence was invalid or that it was inconsistent (note: this case was the first case for the SCC to interpret what section 35 actually meant).¹⁴⁵ The Court ruled that the <i>Constitution Act</i> provides “a strong measure of protection” for Aboriginal rights, and that the proposed government regulations that infringe on the exercise of those rights must be constitutionally justified.”¹⁴⁶

140 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

141 Tsawout First Nation. (2019). *Saanichton Bay*. Retrieved December 18, 2019 from <https://www.tsawout.ca/about-tsawout/>

142 Ibid.

143 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

144 Indigenous Corporate Training Inc. (2019). *Indigenous Rights, Title and the Duty to Consult*. Retrieved September 1, 2019 from <https://www.ictinc.ca/hubfs/ebooks/ebooks%202019/Indigenous%20Self-Government%20eBook%20August%202019.pdf>

145 *R. v. Sparrow*, [1990] 1 SCR 1075, 1990 CanLII (SCC). Retrieved September 1, 2019 from <http://canlii.ca/t/1fsvj>.

146 Ibid.

Notable case law and/or political event	Description
<i>Blueberry River Indian Band v. Canada (Department of Indian Affairs)</i>, [1995] 4 S.C.R. 344	Treaty reserve case articulation of the legal obligations of the Crown.¹⁴⁷ In 1916, The Beaver Band of Indians (now known as Blueberry River and Doig River Indian Band), entered into treaty with the Crown where they were given a parcel of land in BC in exchange for surrendering Aboriginal title.¹⁴⁸ In 1940, the Band surrendered the mineral rights to the Crown in trust “to lease” for its benefit.¹⁴⁹ The federal government (after WWII) instituted a program where agricultural land was made available to veterans to settle on. The Band, not using the reserve land for farming, agreed to surrender the reserve to the Crown “to sell or lease.” The land was transferred to the Director of the Veteran’s Land Act for a sum. A portion of that sum was used by the Department of Indian Affairs to purchase other lands for the Band closer to trap lines. A few years later, oil and gas exploration was developing. Through “inadvertence,” the Director of the Veteran’s land act had obtained mineral rights. Through a series of ownership/land transfers of mineral rights and surface rights of reserve lands, in 1978 the Blueberry River and Doig River Indian band (formerly the Fort St. Beaver Band until 1977) claimed damages against the Crown for allowing the Crown to make an irresponsible surrender of the reserve land and for disposing of it under value.¹⁵⁰ The trial judge dismissed the claims (except for the sale of the surface rights), which the judge found to be undervalued. The appellants appealed. The justice of the Specific Claims Tribunal found that the Crown breached its legal obligations to the Doig and Blueberry First Nations.¹⁵¹
<i>R. v. Van der Peet</i>, [1996] 2 SCR 507, 1996 CanLII 216 (SCC)	Further definition of Aboriginal rights as outlined in Section 35 of the <i>Constitution Act</i>. Van der Peet was charged with selling salmon under their native food fishing license. This license allowed Van der Peet to fish for purposes of sustenance and ceremonial uses, not for selling fish to non-Aboriginal people. The British Columbia court ruled that the Van der Peet’s right to sell fish was not protected by Section 35.¹⁵²

147 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

148 *Blueberry River Indian Band v. Canada (Department of Indian Affairs and Northern Development)*, [1995] 4 SCR 344, 1995 CanLII 50 (SCC). Retrieved September 1, 2019 from <https://www.canlii.org/en/ca/scc/doc/1995/1995canlii50/1995canlii50.html>

149 Ibid.

150 Ibid.

151 Mandell Pinder LLP Barristers & Solicitors. (2015). *Doig River First Nation and Blueberry River First Nation v Her Majesty the Queen in the Right of Canada*. Retrieved September 1, 2019 from <http://bit.ly/2SgENEs>

152 Indigenous Foundations. (n.d.). Van der Peet Case. Retrieved September 1, 2019 from https://indigenousfoundations.arts.ubc.ca/van_der_peet_case/

Notable case law and/or political event	Description
<i>R. v. Gladstone</i>, [1996] 2 S.C.R. 723	First establishment of Aboriginal right to fish commercially.¹⁵³ Two members of the Heiltsuk Nation were accused and charged under s. 61(1) of the <i>Fisheries Act</i> with attempting to sell herring spawn on kelp without the proper license.¹⁵⁴ By the Van der Peet test, the Heiltsuk Nation proved they have an Aboriginal right to take and sell herring spawn on kelp in commercial quantities.¹⁵⁵ To be recognized as an Aboriginal right, an activity must be an element of a practice, custom, or tradition integral to the distinctive culture of the Aboriginal group. The evidence in the accused case satisfied this requirement. In this case, the Aboriginal right falls on the part of sale, trade, and bartering of fish for commercial purposes, not on the part dealing with livelihood, support, and sustenance as in the <i>R v. Sparrow</i> case. The decision ruled that the Heiltsuk did have the Aboriginal right to barter and trade herring spawn on kelp to a certain degree.^{156, 157}
<i>Delgamuukw v. British Columbia</i>, [1997] 3 S.C.R. 1010	Confirmation that Aboriginal title has not been extinguished in British Columbia. The results from this significant court case (that has been touted a major victory for Aboriginal people) has jurisdictional and economical components. The decision requires the government to recognize and respect Aboriginal title, Aboriginal law, and oral histories.¹⁵⁸ The appellants (Gitksan or Wet'suwet'en hereditary chiefs) claimed separate portions of the 58,000 km² in BC. Their claim was based on their historical use and ownership of the territory and jurisdiction over it.¹⁵⁹ During the trial, the appellants' entered as evidence an "adaawk" (collection of sacred oral tradition about their ancestors, histories, and territories) and "kungax" (a spiritual song or dance or performance which ties them to their land).¹⁶⁰ Although the plaintiffs lost at the trials, the SCC ordered a new trial. The SCC ruled that the appeal should be allowed in part and the cross appeal dismissed. The SCC observed that Aboriginal title constituted an ancestral right protected under section 35(1) of the <i>Constitution Act 1982</i>.¹⁶¹

¹⁵³ Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

¹⁵⁴ *R. v. Gladstone*, [1996] 2 SCR 723, 1996 CanLII 160 (SCC). Retrieved September 1, 2019 from <http://canlii.ca/t/1fr8w>.

¹⁵⁵ Ibid.

¹⁵⁶ Ibid.

¹⁵⁷ First Nations Governance. (n.d.) *R. v. Gladstone* (1996). Retrieved September 1, 2019 from <http://www.fngovernance.org/timeline/gladstone.htm>

¹⁵⁸ Center for First Nations Governance. (2013). Research: *Delgamuukw/Gisday'wa*. Retrieved September 1, 2019 from <http://www.fngovernance.org/publications/delgamuukw>

¹⁵⁹ *Delgamuukw v. British Columbia*, [1997] 3 SCR 1010, 1997 CanLII 302 (SCC). Retrieved September 1, 2019 from <http://canlii.ca/t/1fqz8>.

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

Notable case law and/or political event	Description
<i>Osoyoos Indian Band v. Oliver (Town)</i>, 2001 SCC 85	Installation of the Crown’s fiduciary obligations in relation to the taking of reserve lands.¹⁶² A strip of land on the Osoyoos Indian band (OIB) land was bisected by an irrigation canal that was built in 1925. Through a series of enactments from 1925, it was not until 1995 when the OIB Council passed a resolution directing the provincial Assessment Authority to assess the canal lands and include them on the Band’s 1996 assessment roll.¹⁶³ The Town of Oliver objected, leading to the Band Board of Review stating a case for the BC Supreme Court asking (1) whether lands taken pursuant to s.35 of the <i>Indian Act</i> are “land or interests in land” in a reserve within the meaning of s. 83(1)(a) such that those lands are assessable and taxable pursuant to Band by-laws; and (2) if s.35 of the <i>Indian Act</i> authorizes the removal of lands from reserve status, whether the federal Order-in-Council removed the lands from reserve status so that they are not assessable and taxable by the Band.¹⁶⁴ The British Columbia Supreme court answered “no” to the first question and “yes” to the second question. The OIB appealed twice (first appeal was dismissed, second appeal by the SCC was allowed). The SCC allowed the appeal where the Order-in-Council transferred only an easement, not the fee simple. As a result, the canal lands remained land “in the reserve” and subject to taxation.^{165, 166}
<i>British Columbia (Minister of Forests) v. Okanagan Indian Band</i>, 2003 SCC 71	Award of advance costs for Aboriginal people to enable litigation of title and rights issues in the courts.¹⁶⁷ In 1999, members of the Okanagan Nation began logging on Crown land in BC without authorization under the <i>Forest Practices Code of British Columbia Act</i>.¹⁶⁸ A stop work order was served by the government under the code, but the Bands claimed they had Aboriginal title to the lands in question and were entitled to log them.¹⁶⁹ The Ministry applied to have the proceedings remitted to trial but the Band argued it should not go to trial due to the expense and limited funds.¹⁷⁰ The court upheld that although the Band did not have a constitutional right to legal fees funded by the Provincial Crown, the court did have a discretionary power to order interim costs and ordered the Crown to pay the legal costs of the Bands as ordered by the chambers judge from time to time.¹⁷¹

¹⁶² Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

¹⁶³ *Osoyoos Indian Band v. Oliver (Town)*, [2001] 3 SCR 746, 2001 SCC 85 (CanLII). Retrieved September 1, 2019 from <http://canlii.ca/t/51xr>.

¹⁶⁴ Ibid.

¹⁶⁵ Ibid.

¹⁶⁶ Vlex Intelligent legal information (n.d.). *Supreme Court of Canada Osoyoos Indian Band v. Oliver*, 160 BCAC 171. Retrieved September 1, 2019 from <https://ca.vlex.com/vid/osoyoos-indian-band-v-681254681>

¹⁶⁷ Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

¹⁶⁸ *British Columbia (Minister of Forests) v. Okanagan Indian Band*, [2003] 3 SCR 371, 2003 SCC 71 (CanLII). Retrieved September 1, 2019 from <http://canlii.ca/t/1g5kv>.

¹⁶⁹ Ibid.

¹⁷⁰ Ibid.

¹⁷¹ Ibid.

Notable case law and/or political event	Description
<i>Haida Nation et al. v. British Columbia (Minister of Forests) et al.</i>, 2004 SCC 73	Confirmation that the Crown's duties of consultation and accommodation where core principles on the duty to consult were established. A Tree Farm License (T.F.L. 39) was issued on the Queen Charlotte Islands in 1961 by the provincial government (Block 6).¹⁷² In 1981, 1995, and 2000 the Minister replaced T.F.L. 39, and in 1999 the Minister approved a transfer of T.F.L. 39 to Weyerhaeuser Co.¹⁷³ The Haida Nation challenged the transfer and replacement, asking them to be set aside. The judge found the government had a moral, not a legal, duty to negotiate with the Haida.¹⁷⁴ The Court of Appeal reversed the decision declaring that both the government and Weyerhaeuser have a duty to consult with and accommodate the Haida with respect to harvesting timber from Block 6.¹⁷⁵
<i>Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)</i>, [2004] 3 SCR 550	Requirement for consultation and accommodation.¹⁷⁶ The Taku River Tlingit First Nation (TRTFN) objected to a mining company in BC who since 1994 has sought permission from the BC government to reopen an old mine.¹⁷⁷ The TRTFN objected to the proposed road through a portion of their traditional territory. The Province granted the project approval certificate in 1998.¹⁷⁸ The TRTFN brought a petition to nullify the decision.¹⁷⁹ It was clear the decision makers had not been sufficiently careful in the final months of the process to ensure they effectively addressed the concerns of the TRTFN. The unanimous decision provided clarification of the duties of consultation and accommodation in respect to government decisions (which may impact asserted Aboriginal rights).¹⁸⁰ The Province had failed to meet its duty to consult with and accommodate the TRTFN.
First Nations-Federal Crown Political Accord on the Recognition and Implementation of First Nations Governments	Signed in May 2005, this national agreement between First Nations and the Government of Canada focuses on the reconciliation, collaborative review, and development of policies relating to First Nations' rights and self-government.

172 *Haida Nation v. British Columbia (Minister of Forests)*, [2004] 3 SCR 511, 2004 SCC 73 (CanLII). Retrieved September 1, 2019 from <http://canlii.ca/t/1j4tq>

173 Ibid.

174 Ibid.

175 Ibid.

176 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

177 *Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*, [2004] 3 S.C.R. 550, 2004 SCC 74. Retrieved September 1 2019 from <https://www.canlii.org/en/ca/scc/doc/2004/2004scc74/2004scc74.html>

178 Ibid.

179 Lexum. (2019). *Judgments of the Supreme Court of Canada Taku River Tlingit First Nation v. British Columbia (Project Assessment Director)*. Retrieved September 1, 2019 from <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2190/index.do>

180 Indigenous Corporate Training Inc. (2019). Taku case. Retrieved September 1, 2019 from <https://www.ictinc.ca/blog/taku-case>

Notable case law and/or political event	Description
Transformative Change Accord	Signed in November 2005, this agreement between First Nations, the Government of British Columbia and the Government of Canada supported new approaches in addressing the title and rights interests of First Nations (over the next 10 years). The priority areas set out in the accord are relationships, education, health, housing and infrastructure, and economic opportunities.
New Relationship	Established in 2005, this agreement between BC First Nations and the Government of BC established a new government-to-government relationship based on respect, recognition, and reconciliation of Aboriginal title and rights.
BC First Nations Leadership Accord	In 2005, this accord established the BC First Nations Leadership Council, which includes the executive of the Union of BC Indian Chiefs, the political task force of the BC First Nations Summit, and the BC Regional Chief of the Assembly of First Nations.
<i>Musqueam Indian Band v. British Columbia (Minister of Sustainable Resource Management)</i> , 2005 BCCA 128	Definition and application of the Crown's duty to accommodate Aboriginal title.¹⁸¹ The golf course that is a part of the University of British Columbia, Vancouver sits within the traditional Musqueam territory and is one of the few remaining parcels of Crown land held in the Musqueam territory that could be available for treaty settlement. ¹⁸² The Band argued that a decision by Land and Water BC and the Minister of Sustainable Resource Management to sell the golf course to UBC had been made without good faith consultation or accommodation with respect to Musqueam's asserted Aboriginal title and rights. ¹⁸³
<i>R. v. Sappier; R. v. Gray</i> , 2006 SCC 54	Establishment of the Aboriginal right to harvest timber on Crown land.¹⁸⁴ The respondents were charged under New Brunswick's <i>Crown Lands and Forest Act</i> with unlawful possession of or cutting of Crown timber from Crown lands. ¹⁸⁵ The logs were taken for traditional uses for the construction of homes, and the residue was used for community firewood. Their defense was they possessed an Aboriginal and treaty right to harvest timber for domestic/ personal use. ¹⁸⁶ They were acquitted at the trial.

181 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

182 *Musqueam Indian Band v. British Columbia (Minister of Sustainable Resource Management)*, [2005] BCCA 128 (CanLII). Retrieved September 1, 2019 from <http://canlii.ca/t/ljwjn>.

183 Ibid.

184 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

185 *R. v. Sappier; R. v. Gray* [2006] 2 SCR 686, 2006 SCC 54 (CanLII). Retrieved September 1, 2019 from <https://www.canlii.org/en/ca/scc/doc/2006/2006scc54/2006scc54.html>

186 Ibid.

Notable case law and/or political event	Description
<i>R. v. Morris</i> , 2006 SCC 59	Establishment of the Treaty right to night hunting and the role of Indigenous laws.¹⁸⁷ Two members of the Tsartlip Indian Band of the Saanich Nation were hunting at night when they shot a decoy deer set up by provincial conservation officers to trap illegal hunters.¹⁸⁸ They were arrested and charged under BC's <i>Wildlife Act</i>.¹⁸⁹ At their trial, the individuals raised their right to hunt over the unoccupied lands under the North Saanich Treaty of 1852.¹⁹⁰ The trial judge ruled that the accused did not have a treaty right to hunt at night. The SCC reversed the convictions based on the decision that violated their right to hunt as protected in the 1852 North Saanich Treaty.¹⁹¹
Statement of Apology to former students of Indian Residential Schools	On June 11, 2008, Prime Minister Stephen Harper officially apologized on behalf of the Government of Canada for the Indian Residential School system. For over a century (1840s–1990s), the Indian Residential School system took over 150,000 Indigenous children from their families and communities to non-Indigenous operated residential schools across Canada. The Indian Residential School system was intended to isolate Aboriginal children by removing them from their languages, families, communities, and cultures, thereby assimilating them into mainstream Canadian culture. In addition to the negative effects of assimilation, there were allegations of abuse (psychological, physical, and sexual), overcrowding, lack of medical care, and poor sanitation that many Aboriginal children were exposed to during their attendance at Residential Schools. In a move towards reconciliation between Indigenous Peoples (particularly, former Residential School survivors) and the Government of Canada, the statement of apology in 2008 was intended to write a new chapter in Canadian history of working together in partnership to ensure that government systems and processes like Residential Schools are not condemned to be repeated for future generations.

187 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

188 *R. v. Morris*, [2006] 2 S.C.R. 915, 2006 SCC 59. Retrieved September 1, 2019 from <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2334/index.do>

189 Ibid.

190 Ibid.

191 Ibid.

Notable case law and/or political event	Description
United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)	September 2007. In May 2016, the Government of Canada announced that Canada is a full supporter, without qualification, of UNDRIP. This declaration establishes a comprehensive international framework of minimum standards for the survival, dignity, security, and well-being of the Indigenous Peoples of the world, and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous Peoples. UNDRIP covers a wide range of human rights and fundamental freedoms related to Indigenous Peoples, such as the freedom from any discrimination (Article 2); the right to self-determination and to freely determine political status and pursue economic, social, and cultural development (Article 3); the right to self-government relating to internal and local affairs (Article 4); and the right to life, physical, and mental integrity, liberty, and security of person (Article 7). Furthermore, states must obtain free, prior and informed consent (FPIC) before adopting and implementing legislative or administrative measures that may affect Indigenous Peoples (Article 19) and prior to approving any project affecting their lands or resources (Article 32).
<i>R. v. Kapp</i> 2008 SCC 41	Interaction between section 25 Charter and section 35 Aboriginal rights.¹⁹² This case led to the adoption of the Aboriginal Fisheries Strategy. The case was initiated through an appeal from the British Columbia Court of Appeal against the Federal government's decision to enhance Aboriginal involvement in commercial fisheries.¹⁹³ The Strategy resulted in an issuance of a communal fishing license to permit fishers (from three Aboriginal bands) to fish for salmon in the mouth of the Fraser River for a period of 24 hours and to sell their catch.¹⁹⁴ During this 24-hour period, commercial fishers (non-Aboriginal) participated in a protest against the decision. These commercial fishermen claimed they were charged with fishing at a prohibited time, arguing that the commercial fishing license discriminated against them on the basis of race.¹⁹⁵ The Supreme Court of Canada rejected the claim of the appellants, stating the purpose of the program under which the license was issued was to regulate fishing and that it enhanced the conditions of a disadvantaged group.¹⁹⁶

192 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

193 Equal Rights Trust (2008). *R v. Kapp*, 2008 SCC 41. Retrieved August 30 2019 from <http://bit.ly/39rxkYM>

194 *R. v. Kapp*, [2008] 2 SCR 483, 2008 SCC 41. Retrieved September 1, 2019 from <http://canlii.ca/t/1z476>.

195 *R. v. Kapp*, [2008] SCC 41 (2008). Retrieved September 1, 2019 from <https://www.lexisnexis.ca/documents/2008scc41.pdf>

196 Ibid.

Notable case law and/or political event	Description
<i>Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council</i>, 2010 SCC 43	Outline of the Crown’s consultation duties.¹⁹⁷ This court decision provided guidance in three areas that outline the Crown’s consultation duty and the role of regulatory tribunals in assessing the adequacy of such consultation.¹⁹⁸ In 2006, Alcan announced plans to modernize and expand its smelter at Kitimat, BC. The expansion project was dependent on a power sale agreement with BC Hydro and Power Authority. An Energy Purchase Agreement (EPA) was signed in 2007 by BC Hydro to buy Alcan’s surplus electricity.¹⁹⁹ The EPA required the approval of the British Columbia Utilities Commission (BCUC) that had the power to decide questions of law.²⁰⁰ The BCUC stated the expansion would not adversely affect any Aboriginal interest. The Carrier Sekani Tribal Council intervened, asserting their interest on the subject water and related resources in an action for Aboriginal title and in the treaty process.²⁰¹ The BCUC dismissed the Carrier Sekani’s interventions. The BC Court of Appeal reversed the Commission’s orders and remitted the case to the Commission for evidence and argument on whether a duty to consult First Nations exists and if so, had it been met.²⁰² Alcan and BC Hydro appealed. Chief Justice reviewed three elements from the <i>Haida Nation v. British Columbia (Minister of Forests)</i> decision that must be satisfied for the duty of consultation to be triggered: 1) The Crown must have knowledge, actual or constructive, of a potential Aboriginal claim or right; 2) There must be contemplated Crown conduct; and 3) There must be potential for the contemplated conduct to adversely affect an Aboriginal claim or right.^{203, 204}
<i>Lax Kw’alaams Indian Band v.</i>	Aboriginal right to fish commercially.²⁰⁵

197 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 30, 2019 from <https://www.mandellpinder.com/landmark-cases/>

198 Bennett Jones (2010). *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*. Retrieved August 30, 2019 from <https://www.bennettjones.com/Publications-Section/Updates/Rio-Tinto-Alcan-Inc,-v,-d,-Carrier-Sekani-Tribal-Council>

199 Supreme Court of Canada Summary 33132 (n.d.). Retrieved August 30, 2019 from https://www.scc-csc.ca/WebDocuments-DocumentsWeb/33132/FM030_Respondent_Carrier-Sekani-Tribal-Council.pdf

200 Ibid.

201 Ibid.

202 Ibid.

203 WeirFoulds LLP. (2010). *Case Law Update: Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*. Retrieved August 30 2019 from <https://www.weirfoulds.com/case-law-update-rio-tinto-alcan-inc-v-carrier-sekani-tribal-council>

204 Miller Thomson Avocats / Lawyers. (2010). Case Comment – *Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council*. Retrieved August 30, 2019 from <http://bit.ly/2Hbhm9h>

205 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

Notable case law and/or political event	Description
<i>Canada Attorney General</i>, 2011 SCC 56	The Lax Kw'alaams Indian Band sought a declaration as to their Aboriginal rights. The Lax Kw'alaams' basis of their claim pertained to the pre-contact society's culture and sustenance of fisheries, which included some trade (gift exchanges between kin at feasts and potlatches). Salmon, halibut, herring spawn, seaweed, shellfish, and eulachon were integral to the culture, but trade in fish or fish products other than the grease from eulachon or candle fish was held not be integral to the culture of pre-contact.²⁰⁶ The trial judge and a panel of British Columbia Court of Appeal rejected the Lax Kw'alaams claim, holding that the Lax Kw'alaams Indian band's modern right to fish commercially all fish species in their territory was not a "logical evolution" of the pre-contact trade in eulachon grease.²⁰⁷
<i>Canada v. Kitselas First Nation</i> 2014 FCA 150	First consideration of work of Specific Claims Tribunal.²⁰⁸ The Chair of the Specific Claims Tribunal found that the Kitselas First Nation had validly established a breach of a legal obligation of the Crown in Right of Canada as a result of the non-inclusion of a 10.5-acre parcel of land in a reserve initially identified in 1891 (known as Kitselas I.R. No.1).²⁰⁹ The 10.5-acre parcel of land was the site of the ancient village of Gitau.²¹⁰ The case confirmed that the lands were habitually used, and the case confirmed that the federal Crown had a fiduciary duty during certain reserve allotments.²¹¹

206 Lax Kw'alaams Indian Band v. Canada (Attorney General), [2011] 3 SCR 535, 2011 SCC 56. Retrieved August 30, 2019 from <http://canlii.ca/t/fnr69>

207 WeirFoulds LLP. Case Law Update: *Lax Kw'alaams Indian Band v. Canada* (Attorney General) (2011). Retrieved August 30, 2019 from <https://www.weirfoulds.com/case-law-update-lax-kwalaams-indian-band-v-canada-attorney-general>

208 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

209 *Canada v. Kitselas First Nation*, [2014] FCA 150. Retrieved August 28, 2019 from <http://canlii.ca/t/g7cd8>

210 Mandell Pinder LLP Barristers & Solicitors. (2014). *Canada v. Kitselas*, 2014 FA 150 – Case Summary. Retrieved August 28, 2019 from <http://www.mandellpinder.com/495/>

211 Ibid.

Notable case law and/or political event	Description
<i>Tsilhqot'in Nation v. British Columbia</i>, 2014 SCC 44	First declaration of Aboriginal title.²¹² This significant court decision was the first time any Canadian court declared Aboriginal title exists to a particular tract of land. In 1983, the Government of BC issued a license to Carrier Lumber Ltd. to harvest trees in the Tsilhqot'in territory.²¹³ The Tsilhqot'in objected by way of a blockade at Henry's Crossing.²¹⁴ Since that time, and through changes in Chief and Council, the Tsilhqot'in continued with their objections. The Chief of the Xeni Gwet'in brought the first court action against this logging decision.²¹⁵ Years later, the Chief (on behalf of the Xeni Gwet'in community and Tsilhqot'in Nations) sought a declaration of Aboriginal Title and Rights to part of the Tsilhqot'in Territory.²¹⁶ The Tsilhqot'in said they have Title to those lands, and trees cannot be taken unless the Tsilhqot'in grant permission.²¹⁷
Truth and Reconciliation Commission (TRC) Calls to Action	In June 2015, the TRC published 94 <i>Calls to Action</i> addressing the legacy of residential schools and advancing the process of Canadian reconciliation. There are individual and collective roles for individuals living and working in Canada to advance the <i>Calls to Action</i>.
<i>Chartrand v. British Columbia (Forests, Lands and Natural Resource Operations)</i>, 2015 BCCA 345	Clarification of the Crown's obligations when engaged in deep consultation, and there is no reciprocal duty on Indigenous peoples to consult if the Crown offers inadequate consultation.²¹⁸ This decision provided clarity on the Crown's obligation to consult and be accountable for constructing meaningful consultation.²¹⁹ Although the reviewing judge dismissed the petition, the judge did declare the Provincial Crown has an ongoing duty to consult and seek accommodation.²²⁰ The BC Court of Appeal overturned the decision of the BC Supreme Court where the province breached its duty to consult with the Kwakiutl First Nation regarding the decisions to remove private lands from a Tree Farm License (TFL) and to approve and renew a Forest Stewardship Plan (FSP) on the Kwakiutl First Nation's Traditional Territory.²²¹

212 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

213 *Tsilhqot'in Nation v. British Columbia* Plain Language Version. (n.d.) Retrieved August 28, 2019 from http://www.tsilhqotin.ca/Portals/0/Tsilhqotin_Nation_v_BC_Plain_Language_corrected.pdf

214 Ibid.

215 Ibid.

216 Ibid.

217 Ibid.

218 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

219 *Chartrand v. British Columbia (Forests, Lands and Natural Resource Operations)*, [2015] BCCA 345. Retrieved August 28, 2019 from <https://www.canlii.org/en/bc/bcca/doc/2015/2015bcc345/2015bcc345.html>

220 Ibid.

221 Ibid.

Notable case law and/or political event	Description
<i>Gitxaala Nation v. Canada</i> , 2016 FCA 187	Canada breached its duty to consult First Nations in approving the Northern Gateway Pipelines Project.²²² The Federal Court of Appeal (FCA) overturned Canada's approval of the Northern Gateway Pipelines Project (two 1,178 km pipelines, a marine terminal, and oil tanker routes, subject to the fulfillment of 209 conditions). The FCA agreed with the Gitxaala Nation that Canada had failed to fulfill its constitutional duty to consult.²²³
Bill C-262	A private member's bill (sponsored by former New Democratic Party Member of Parliament Romeo Saganash) outlines that the Government of Canada, in consultation and cooperation with Indigenous Peoples in Canada, will implement UNDRIP, ensuring all Canadian laws are consistent with UNDRIP, and calls for the creation of a national action plan (and associated annual reporting process) for implementation across jurisdictions. On February 7, 2018, the House of Commons in Canada voted to send Bill C-262 to second reading. As of May 30, 2018, Bill C-262 was passed in the House of Commons and was stalled in Senate in summer 2019 in terms of voting on the private member's bill before the House of Commons rising prior to the 2019 federal election.
<i>Williams Lake Indian Band v. Canada (Aboriginal Affairs and Northern Development)</i> , [2018] 1 SCR 83, 2018 SCC 4	Recognition of Canada's responsibility for specific claims dealing with colonial breaches of obligation to protect Indian villages and settlements.²²⁴ The ruling was in favor of the Williams Lake Indian Band where the "Band" was wrongfully displaced from its village lands at the foot of Williams Lake (<i>Yucwt</i>) where the Band had lived for hundreds of years, establishing houses, a church, traditional harvesting areas, and an ancestral burial ground.²²⁵ The Specific Claims Tribunal (an adjudicative Tribunal created to decide First Nations claims) established that the Colony of British Columbia (BC) and Canada violated fiduciary obligations to the Band.²²⁶

222 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

223 *Gitxaala Nation v. Canada*, 2016 FCA 187 – Case Summary. *Mandell Pinder LLP Barristers & Solicitors* (2016). Retrieved August 27, 2019 from <https://www.mandellpinder.com/gitxaala-nation-v-canada-2016-fca-187-case-summary/>

224 Mandell Pinder LLP Barristers & Solicitors (n.d.). Retrieved August 27, 2019 from <https://www.mandellpinder.com/landmark-cases/>

225 Mandell Pinder LLP Barristers & Solicitors. (2018). *Williams Lake Indian Band v. Canada (AANDC)*, 2018 SCC 4 – Case Summary. Retrieved August 27, 2019 from <https://www.mandellpinder.com/williams-lake-indian-band-v-canada-aandc-2018-scc-4-case-summary/>

226 Ibid.

Notable case law and/or political event	Description
<i>BC Declaration on the Rights of Indigenous Peoples Act</i>	Introduced in the BC Legislature in October 2019, the <i>BC Declaration on the Rights of Indigenous Peoples Act</i> was developed by the Government of BC in collaboration with the First Nations Leadership Council (comprised of the BC Assembly of First Nations, First Nations Summit, and Union of BC Indian Chiefs). This legislation establishes a reconciliation framework in BC which aligns with the TRC <i>Calls to Action</i>. “Over time as laws are modified or built, they will be aligned with the UN Declaration. In addition to these core components, the legislation intends to allow for flexibility for the Province to enter into agreements with a broader range of Indigenous governments. An additional component creates a mechanism for decision-making opportunities for Indigenous governments on matters that impact their citizens.”²²⁷ The <i>BC Declaration on the Rights of Indigenous Peoples Act</i> was unanimously passed in the BC Legislature on November 26, 2019, making BC the first province in Canada to harmonize the internationally recognized UNDRIP standards into provincial law.²²⁸ Royal Assent was given to the <i>Declaration on the Rights of Indigenous Peoples Act</i> on November 28, 2019.

227 https://news.gov.bc.ca/files/UNDRIP_Legislation_Factsheet.pdf

228 <https://news.gov.bc.ca/releases/2019IRR0061-002283>

Appendix B: Notable Activities for Advancing a TUS – Excerpts from Chief Kerry’s Moose: A guidebook to land use and occupancy mapping research design and data collection

	TASKS	ACTION	DESCRIPTION
RAW DATA	1	Develop community consensus	Community participation and support is vital for a successful project. One of the three key factors that must be in place for use and occupancy mapping to succeed.
	2	Hire and train personnel	The team to organize, deliver and follow-up on the interview within community. May include • Project director • Cultural advisors • Cultural heritage resource support • TUS researchers • GIS analysts • Writers
	3	Develop research design and test interview guide	Interview guide will inform the asking of questions; this is the most concrete expression of research design.
	4	Interview participants and collect map biographies	This document supports map biography through face-to-face interviews where the participant will indicate on a map the places that he or she has harvested resources or gone to for spiritual purposes.

	TASKS	ACTION	DESCRIPTION
AFTER THE DATA IS COLLECTED	5	Replicate and store raw data	Backing up the raw data. Copies of the original should be stored separately and securely.
	6	Translate Indigenous language interview recordings	The language and Traditional Ecological Knowledge (TEK) specific to each Indigenous group will vary, and it may be necessary to have all the interviews done in the first tongue (particularly with respect to place names and TEK) and more importantly if the Elders or Knowledge holders wish to be interviewed in their first language.
	7	Transcribe audio recordings	Interview recordings containing the raw data will need to be converted into written or typed form (transcripts) to access them in a useable report. Transcription can be expensive (~9 hours / 1 recorded hour).
	8	Review transcripts and map biography data	Checking for consistency with the material marked on the overlays through the interviews. For example, if there was a burial site on the map that is not mentioned in the transcript. Are titles, dates, symbols readable?
	9	Digitize data on map biographies and produce digital composites	The process of converting data that has been marked on overlays or paper maps into electronic forms. Digitized information can be stored and combined in different ways.
	10	Collect and collate data	TUS involves interviewing many individuals and then combining all their data on one set of maps.
	11	Enter descriptive data into a database	Each participant's transcript is entered into a database on a feature-by-feature basis. Descriptive data is very useful for report writing.
	12	Verify community maps, share with community and revise	Completing the map, displaying the community's use and occupancy data, and having the community come together to see the final product is an important step. Corrections to existing information and additional data will result in an improved set of community maps.
	13	Write report	It is important to capture how the use and occupancy mapping data was collected through the methodology section of your project without encroaching on confidentiality. This piece of the project is vitally important and should be as detailed as possible.

Appendix C: List of Elements for the Base Case Section of your Analysis

The following table lists elements for the base case section of your SCEEa analysis. The base case or baseline data always comes before impact assessments.

SCEEa Element	Description
Biophysical Attributes	Describes basic ecology and geological structure of planning area. It might be helpful to provide both a Western science description as well as an Indigenous approach for a description of lands. Western science approach will usually use the Biogeoclimatic Ecosystem Classification (BEC) system to describe ecosystems. Initial investigations for a Nation's area can be completed by way of desktop or online searches using iMap BC (http://bit.ly/2UHFhoB). Initial investigations can be accompanied by maps to help visualize composition, structure and function of planning area.
Traditional Use Sites	Habitats for various kinds of historically abundant or desirable ecosystems are listed in detail. Examples include berry picking grounds, hunting/trapping grounds/areas, or fishing sites. Characteristics of "best quality" habitats or locations are described. Past and current locations of focal habitats are usually mapped and included with the data.

SCEEA Element	Description
Cultural Features	Cultural features in a socio-economic analysis can be either social or economic or both. For example, even though cultural features are part of the social structure of a First Nation, they might also be a part of the economic picture. Cultural tours are one example. Examples of cultural features include • Medicinal plant collecting sites • Hunting/trapping areas • Villages or camp sites • Archaeological sites • Food gathering sites • Fishing sites • Spiritual sites
Species at Risk	Provincial and Federal agencies have been established to list and protect species at risk (this is an inherent responsibility to First Nations). Provincially and federally-funded research projects often attempt to quantify local populations and to describe their distribution. A useful site for listing status of Species at Risk is the BC Species and Ecosystem Explorer (http://a100.gov.bc.ca/pub/eswp/). E-flora (http://linnet.geog.ubc.ca/DB_Query/QueryForm.aspx) and E-fauna (http://ibis.geog.ubc.ca/biodiversity/efauna/). This section could also be located in the Environmental Impacts Analysis section. List species at risk here only if the species have a special social and/or cultural element. For example, the Tailed Frog exists in some coastal oral histories and is also listed as a Species at Risk. Usually accompanied by maps showing distribution and population.
Existing Provincial Planning	Lists any existing official provincial planning regimes in the planning area. For example, Protected Areas, Ecological Land Reserves, or Agricultural Range Lands are officially recognized planning regimes. May include charts to illustrate relative amounts per category and can be accompanied by maps showing regimes.
First Nations Strategic Directions or Planning Assumptions	Lists any overriding directions or assumptions that a Nation has given to planning groups that affect the outcome of the process. For example, directions to explore economic diversification scenarios or to restore impacted habitat would affect outcomes.

SCEEA Element	Description
Other Jurisdictions	Includes municipal, district, regional, provincial, and federal jurisdictions. The purpose of this data is to help identify where other decision-making authorities will be making decisions. Some areas, such as water or wetlands, may have multiple, overlapping jurisdictions. Usually accompanied by maps showing jurisdictions.
Other Lands or Water Classification	Lists any other classifications that affect planning outcomes. The Timber Harvesting Land Base (THLB) or a World Heritage Site are two examples of other classifications. First Nations classification may sometimes be included here. For example, Clan territory designation or administrative boundaries are valid examples.
Community Profiles	Listings of community names, locations, history, economic bases, population totals, amenities, and household earnings. Descriptions for this section are typically overviews, with details following in subsequent sections. In the case of First Nations communities, additional important information, such as cultural and linguistic background is usually included. Significant organizations having potential to affect planning outcomes are also listed. For example, treaty negotiations offices or tribal councils are included.
Demographic Trends	Describes changes to demographics over time, often for the immediately previous decade, but sometimes for shorter or longer periods of time. Changes to age groups, education levels, earning levels, business trends, or geographic distribution of significant groups are all included. In many Nations, the largest demographic group is the youth or young adult age group. Nations using hereditary systems of governance may also wish to describe changes to significant groupings, such as changes to House or Clan populations. Additionally, Nations may need to document shifts in on-reserve versus off-reserve populations. A standard source for demographic trends is Statistics Canada. Search for Nations in Statistics Canada databases to find trend data.
Labour Force Composition, Employment and Earning Trends	Different kinds of industry or businesses require different kinds of labour, implement different numbers of people, and pay at different scales. Changes or trends occurring over time, often the previous decade, may show shifts that need to be considered. Descriptions in this section are often cross-indexed with breakdowns of jobs by industrial sector and may be supplemented with education levels required to fill these jobs.

SCEEA Element	Description
Tenure Types and Distribution	Tenures of all types are listed, usually with sub-sections breaking down company holding where a company may hold several different kinds of tenures or a number of geographically distributed licenses. Tenure types include forestry licenses, water licenses, and fishery licenses, for example. A complete listing and mapping of all licenses and tenures within a Nation's territory usually reveals their whole territory – including multiple, overlapping tenures for all commercially significant resource types. Tenures are usually illustrated with maps showing their location. Many tenures have definite terms, requiring renewal every few years.
Tenure Allocation	Tenures and licenses always allocate known quantities of an available resource. In fisheries, for example, a fishing license carries with it a quota of fish that may be caught and sold. In forestry, the Provincial Allowable Annual Cut and Apportionment Decisions determine how much timber a company may take each year. In Agricultural Range leases, a cattle company has access to a specific allotment of hectares of grazing land each year. Allocations are usually accompanied by maps showing geographic distribution and associated companies.

Appendix D: List of Elements for Conducting your SCEEA Analysis

This table describes elements most commonly encountered in the analysis section of a Socio-Cultural Economic & Environmental Analysis (SCEEA) report. Note: A Nation may not need every section described below. Additionally, a Nation may need to add other sections to describe potential impacts not listed here. The following list provides examples of commonly included elements of an analysis.

SCEEA	Description
Economic Impacts Analysis	Trends and earnings from tenure allocations are subjected to analysis with consideration for different scenarios. For example, increasing the Agricultural Range lands to meet an anticipated increased need for beef means a projected increase in agricultural earnings. Similarly, a decrease in Allowable Annual Cut for a given area means a projected decrease in forestry earnings for the tenure holder for that area. Analyses are always tied to quantifiable changes in variables, such as change in the availability of a resource, or change in area. Though mappable, economic impact analyses are always accompanied by graphs and charts showing numeric projections based on changes in variables.
Local Health Area Projection	Nations may wish to include projections for changes to health in their area. For example, sudden increases in income for a community with historically low earnings can sometimes result in impacts on family life and health. Examples of impacts communities may wish to consider include increased drug and alcohol abuse, increased family violence, or increased levels of Sexually Transmitted Infections (STIs). Ability of local health authorities to cope with sudden increased caseloads is often a major factor for consideration for such analyses.
Education Impacts Projection	Nations considering scenarios for development or protection of their territories may wish to project future interests for trained, educated people to fill newly created jobs. Increased levels of protection, for example, to achieve habitat restoration goals, may require that field staff be trained in compliance and enforcement monitoring or resource-specific technician skills. Numbers of anticipated jobs with their expected education levels may help Nations plan their education interests several years in advance.

SCEEA	Description
Community Infrastructure Projection	Nations currently at or near their practical limits for infrastructure expansion who are considering a range of economic development scenarios may wish to also consider infrastructure needs to meet changes. For example, an increase in mining adjacent to a Nation may also require upgraded roads, communications, water, and sewage, or other community and regional considerations.
Species at Risk Analysis	Nations retain the responsibility to care for plant and animal species at risk of extinction. Scenarios for development or protection are evaluated for their likeliness to impact critical habitat or breeding populations. Specific attributes critical to the survival of species are listed and mapped. Again, this section can easily be included under environmental impacts analysis instead. However, a Nation should at least consider the option of including an analysis of potential impacts here if a Nation attaches any cultural significance to species at risk.
Habitat Impacts Analysis	When a Nation conducts an analysis for impacts to habitat, keep in mind you are not just focusing on environmental impacts. A Nation may want to consider social impacts or economic impacts of a scenario. For example, if a Nation is highly dependent on moose or fish for part of their annual diet, changing the habitat might or might not have an effect. Even if they decide there is no impact anticipated, they still need to show that they considered the possibility and ruled it out. For the economic impact, a Nation may consider resource-dependent activities and list the potential impacts in change of amount of resources and change in monetary terms.
Cultural Features Impacts Analysis	Given that Nations likely used all of their territories throughout the seasons, it is likely there will be some impact to features by proposed development. Nations can use a rough rating of “high, medium, or low” likeliness of impacts by proposed scenarios of development. A rating of “high” would be applied to destruction or interference with a feature such that it becomes unusable. Petroglyphs are one example that would automatically get a high rating. “Low” impact applies to features that are capable of withstanding some impact without making them unusable. For example, berry grounds might occur in many places and regrow over time. “Medium” impact ratings are somewhere in the middle and are used where subjective judgment is necessary to decide if impacts are more or less harmful.

SCEEA	Description
Existing Provincial Planning Regimes Analysis	Existing planning regimes from previous planning processes may need to be rewritten or updated for a variety of reasons (e.g., impacts of wildfires). They should be considered to be living documents. In some cases, if prior planning regimes were enacted by legislation, you will need to list legislative changes required, if any.
First Nations Strategic Direction	In describing a Nation's strategic direction, this section is where the Nation states how the directions and/or planning assumptions are applied. Usually, they do not list them separately, but they include them at the start of each section.
	For example, a planning assumption might be to assign buffers for all areas needing protection. When they begin consideration for each section, they start by asking if this is a situation requiring a buffer. If it is, then they describe why the situation warranted a buffer, how big the buffer is, and how much that reduces available lands or waters by. If a Nation has two or more scenarios, they describe impacts of the official directions or assumptions for each section. Typically, a Nation uses a table to lay out the range of anticipated impacts.

