# SEA TO SKY outdoor recreation management

#### FINAL REPORT MARCH 20 2018



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In partnership with:





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### **EXECUTIVE SUMMARY**

This report outlines the BC Outdoor Recreation Decision-Making Framework (hereon, the BC Framework) developed for British Columbia's Ministry of Forests, Lands, Natural Resource Operations and Rural Development (hereon, the Ministry). The Ministry is tasked with managing provincial Crown land in BC and is faced with considerable challenges related to British Columbia's popularity among outdoor recreation enthusiasts.

These challenges are particularly evident in the Sea-to-Sky region (S2S) located north of Greater Vancouver. The S2S played host to the 2010 Winter Olympics and has observed unprecedented growth ever since. The Ministry is concerned that this growth is applying too much pressure on the outdoor recreation experience and natural assets that make the S2S such a desirable place to live and visit.

With this in mind, a robust decision-making framework will ensure that the Ministry can be proactive in their land use and outdoor recreation management, and reach consistent and durable decisions.

The BC framework builds off a similar framework initiated by the Bureau of Land Management (BLM) in the United States. The US Visitor Use Management Framework (VUMF) aims to proactively manage visitor use on US Federal lands in order to encourage access while protecting resources and values. Although the context in British Columbia is very different than that in the US, the VUMF nonetheless offers a helpful starting point for developing a made-in-BC framework.

In order to adapt the VUMF to BC, the project team undertook a process that included extensive research, consultation, testing, and refining. This process led to a deeper understanding of the challenges faced when managing Crown land in BC, while recognizing that the BC framework needs to incorporate significant changes to the content and structure currently existing within the VUMF.

In terms of content, a BC framework requires:

(i) incorporating First Nations Rights and Title;

(ii) First Nations aspirations and interests; and,

(iii) terminology that is more commonly found in BC.

For structure, the BC framework requires:

(i) increased usability; and,

(ii) a process that results in consistent and durable decisions, therefore relying less on professional judgement.

The BC framework, outlined in this report, is the first step towards providing the Ministry with a cohesive and proactive land use and outdoor recreation management plan. However, much more work needs to be done to incorporate how the content changes can be inclusive of First Nations. An identified avenue for this is by engaging with local First Nation communities (youth, Council, Elders) on how they would like to be involved in future development of the BC framework.

Further, through the testing of the tool, it has become clear that for the BC Framework to result in the durable decision-making that the Ministry seeks, the BC Framework will need to be employed as part of a suite of tools within a management strategy of multiple sub-areas.

This strategy will act as the key guidance to inform how decisions are made. To this end, the project team recommends that the Ministry take the following actions in developing a robust outdoor recreation management strategy for the Sea to Sky region:

- Engage with local First Nations on how an outdoor recreation management strategy can be more inclusive of First Nations, and their desired level of involvement.
- Develop a detailed management strategy for key hotspot zones in the S2S, such as Shannon Basin. This will determine long-term goals and desired conditions for managing multiple sub-areas that are experiencing rapid increase in use.
- Engage in a process to develop sub-area management plans for key hotspot zones, such as Shannon Basin, within the Seato-Sky region, as a component of the management strategy.
- Develop a stringent application process to alleviate the burden on the Ministry, while guiding proponents on how to responsibly approach the application process.



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# PROJECT OVERVIEW



British Columbia's Sea to Sky region (S2S) is an area rich in natural assets, recreational opportunities, natural resources, and cultural value. Its popularity as a tourism and recreation destination has only increased since it was showcased to the world during the 2010 Winter Olympics. Unprecedented growth and unanticipated increase in visitation to the S2S has spurred the need for a targeted strategy and robust planning practices to ensure that the area can continue to be enjoyed by all, while mitigating the many current, projected and unforeseen negative impacts. A comprehensive decision-making framework that considers the multifarious social, environmental, and economic impacts, cultural values, and visitor experience will help the S2S achieve its potential, without compromising its sustainability.



#### WHO WE ARE

The Sea to Sky Outdoor Recreation Management Project was initiated by the BC Ministry of Forests, Lands, Natural Resource Operations and Rural Development (hereon, the Ministry) in partnership with Fraser Basin Council (FBC). The planning team leading this project (hereon, the Team) are Brittany Morris, Marjan Navab-Tehrani, and Cyril Tomlinson, Master of Community & Regional Planning students at the School of Community & Regional Planning (SCARP), University of British Columbia (UBC). The team brings a collaborative and generative approach to problem solving and synthesizing complex challenges. This approach stems from a combined thirty years of experience spanning four continents working in diverse multi-stakeholder situations and sustainable community development projects. Using this approach, the team developed the first phase of a robust decision-making framework for land use and outdoor recreation management decisions in British Columbia's (BC) Sea to Sky (S2S) region.

#### WHAT WE DID

This project involved research, consultations, and a final testing workshop. The research portion of our project included delving into relevant literature such as outdoor recreation management strategies in Canada and abroad; laws, policies and plans surrounding the land management practices of the Ministry; and, international and domestic laws, policies, best practices and Indigenous perspectives pertaining to First Nations rights, consultation, treaty processes, and reconciliation.

Our consultation process involved different levels of involvement with stakeholders and key informants. First, we engaged with the tourism sector in the Sea to Sky region at a 'Destination Development Program for the S2S Corridor' event, hosted by Destination BC. Next, we engaged with BC Parks at their Annual General Meeting to test and gain feedback on select components of the VUMF. Then, we went on a site-visit to Shannon Basin and discussed the vision of the S2S Gondola and the region from the perspective of the Gondola operators. This was followed by key informant telephone interviews with individuals from the US Forest Service, and the US National Parks Service, who assisted in developing the VUMF.

At this point, we incorporated all of our findings into our prototyped BC version of the framework. Unfortunately, due to timing and current Council changes with the Squamish Nation, we were unable to consult with them in regard to our framework. This is a key component that must be followed in the future.

Our final consultation event was a 5-hour workshop with nine Ministry staff from the Squamish and Surrey offices, our project partner from the Fraser Basin Council, and a Director of BC Parks. Here, we tested many new components of the framework and received extensive feedback. From the feedback received from attendees, we were able to pull out main themes to inform our next step recommendations, as well as many wording and conceptual changes to the BC version of the framework. We integrated these changes to produce our final BC version of the framework, which will be detailed in Section 4.

#### **HOW WE DID IT**

For this project, the Team was provided with the Visitor Use Management Framework (VUMF) to test and adapt to the BC context. The VUMF was created by six federal agencies in the US: the Bureau of Land Management; National Park Service; U.S. Fish and Wildlife Service; U.S. Forest Service; National Oceanic and Atmospheric Administration; and the U.S. Army Corps of Engineers. These agencies created the VUMF to provide cohesive guidance to analyze and manage visitor use on federally managed lands. The VUMF can be divided into two main tools. The first tool is the body of the framework which is comprised of four elements; within each element there are three to four steps. The elements define the objective, and the steps outline what is required to meet the element's objective. The elements are: (1) Build the Foundation (Why?); (2) Define Visitor Use Management Direction (What?); (3) Identify Management Strategies (How?); and, (4) Implement, Monitor, Evaluate, and Adjust (Do!). Essentially, the VUMF is a structured decisionmaking process that provides thorough instruction and prompts, for the duration of a decision or project. For instance, the steps in Element 1: Build the Foundation, prompt decision-makers to thoroughly understand why they need to make a decision, while gathering all relevant information to inform the decision. Figure 1 below displays the visual used for the VUMF.



#### FIGURE 1 - VISITOR USE MANAGEMENT FRAMEWORK

The second main tool of the VUMF is called the Sliding Scale Criteria (SSC), and coupled with this is the Decision Support Tool (DST). The purpose of this tool is to provide a rating for the complexity of the decision or project. This complexity rating is intended to inform how much time, money, and resources will be allocated to the decision or project by the project manager. First, one goes through the DST, then the SSC to determine an initial complexity rating.

The DST is made up of eight general guiding questions that are aimed to determine the complexity of the decision or project. The manager is supposed to deliberate over the question, then write down a rationale for their thoughts in regard to the question, and then finally, determine a low, moderate, or high rating of complexity for the question. Figure 2 below displays the DST as it exists in the VUMF.

**FIGURE 2 - DECISION SUPPORT TOOL** 

s	De iupp	ecision port Tool	RATING QUESTIONS	RATIONALE	HIGH MODERATE LOW
	<b>Pro</b> cha	<b>ject: Reduce</b> pter 2, "Rela	the Size of a Campgro ating Issues to the Slidi	und (see a full description in example 1 ng Scale")	under
	1	What is the situation invite irreplaceable	likelihood that the volves sensitive, rare, or e <b>natural</b> resources?	Surveys show the site has no sensitive, rare, or irreplaceable natural resources.	Low
	2	What is the situation invite irreplaceable	likelihood that the volves sensitive, rare, or e <b>cultural</b> resources?	Surveys show the site has no sensitive, rare, or irreplaceable cultural resources.	Low
	3	What is the and significa natural or co	likelihood of imminent ant changes to the ultural resources?	The footprint of the campground has already been established, so significant changes will not occur.	Low
	4	What is the and significa visitor exp	likelihood of imminent ant changes to erience?	There may be short-term disturbance, but overall, the improvements will enhance visitor experience.	Moderate
	5	How will the aspects of la the area or s	e issue affect other and management in surrounding areas?	As major maintenance, there may be short-term disturbance during construction, but overall, the improvements will enhance visitor experience.	Low
	6	What is the of the issue' impacts incl state, local/o or project.	geographic extent s impacts? Scales of ude: national, regional, county, and site	This is a local campground and is considered a project.	Low
	7	What is the stakeholders action? Stak local commu public, speci recreational users, traditi tribes, and c	relative interest of s affected by the keholders may include: unities, general ial interest groups, visitors, commercial ional-subsistence users, others.	Stakeholders are locals and are interested in the improvements as shown by attendees of local outreach meetings.	Low
	8	Is the impac long lasting	t temporary (low) or (high)?	The maintenance happens over one season, but the improvements to visitor experience are long lasting.	Low - High

SOURCE: VUMF (2016)

Within the VUMF, these eight questions are not comprehensive, and decision makers may decide to add further questions as appropriate to better meet their needs and context.

After the DST is completed, decision makers then turn to the SSC. The SSC is made up of four criteria. These are: (1) Issue Uncertainty; (2) Impact Risk; (3) Stakeholder Involvement; and (4) Level of Controversy. Decision makers are supposed to consider their responses to the DST, and again provide a rationale, and a low, moderate, or high rating of complexity for each of these criteria. Finally, the decision maker decides upon a final and overall complexity rating for the project of low, moderate, or high. Figure 3 below shows the SSC.

#### FIGURE 3 - SLIDING SCALE CRITERIA

**CRITERIA** - Use the ratings assigned to questions 1-8 to evaluate the following 4 sliding scale criteria. Combine those criteria into a single qualitative rating (high, moderate, or low) of the project's appropriate location on the sliding scale.

	CRITERIA	RATIONALE	HIGH MODERATE LOW
A	Issue Uncertainty	This project is clearly stated, and the ability to complete the work is fairly certain. No surprises are anticipated.	Low
В	Impact Risk	The risk to resources and visitor experience is low since the campground is established and surveys have been completed.	Low
с	Stakeholder Involvement	Stakeholders are supportive of the project and want it to be completed.	Low
D	Level of Controversy	Low levels of controversy exist due to the established nature of the campground. Additionally, the project will create opportunities to improve the visitor experience.	Low
	Location on the Sliding Scale		Low

#### SOURCE: VUMF (2016)

The SSC and DST are intended to be completed before the Elements and Steps of the VUMF, and should be considered throughout the life of the project. We outline the pros and cons of the VUMF within the BC context in the Workshops section, found on page 18 of the report. The Workshops section also includes how we have addressed the cons and changed the VUMF to produce a framework suited for the challenges and opportunities of outdoor recreation management in BC.

#### **PROJECT TIMELINE**

#### FIGURE 4 - PROJECT TIMELINE



Our project commenced in September of 2017, and finished in March of 2018. The first two months we conducted research to familiarize ourselves with the problem, as well as the relevant policies, procedures, and legal cases. November and December were geared towards direction setting, and this involved consultations, and providing the Ministry with different options. January and February involved in-depth engagements, and brought together all of our research into the prototyped BC Framework. In our final month, we tested and refined our tool to create a final product.

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#### **PROJECT PROCESS**

#### **FIGURE 5 - PROJECT PROCESS**



This project applied an iterative process approach to inform the development of the BC Framework.

Our research and analysis shaped our consultations and our changes to the BC Framework, in turn these changes sparked new ideas for future research.

As well, our consultations continuously refined the BC Framework.

This approach borrows ideas from design-thinking, which provides a solutions-based approach to problem solving by encouraging innovation throughout the process.

# CONTEXT

## PATHWAYS TO RECONCILIATION

The need for reconciliation runs deep in Canada. Settler-colonial processes increasingly alienated First Nations from the management of their land for cultural, spiritual, and economic use. This is a result of the division and transfer of land in BC (and throughout Canada) without the input of the land's original inhabitants, and the imposition of oppressive systems to minimize and weaken family ties and cultural linkages. While these processes shaped the governance of lands in BC in ways that have excluded Indigenous identities and values, these lands have been Indigenous places since time immemorial.

From the perspective of the BC Treaty Commission, reconciliation means "a true sharing of prosperity: of land, resources, economic, social, cultural, and governmental space" (p.3, BC Treaty Commission Annual Report 2017). Reconciliation in BC will take some time and it will be a tough journey, however the Ministry acknowledges this urgent need to renew relationships on a basis of inclusion, mutual understanding, and respect. The Ministry and First Nation governments have "Reconciliation is a process of healing of relationships that requires public truth sharing, apology, and commemoration that acknowledge and redress past harms... Reconciliation requires that a new vision, based on a commitment to mutual respect, be developed."

Truth and Reconciliation Commission of Canada, 2015

expressed the desire to build and maintain respectful relationships and work together more collaboratively in ongoing processes to enable reconciliation taking root.

The BC Framework incorporates key findings from the following relevant sources and perspectives to weave together an international, legal, and First Nations lens to inform the reconciliation pillar of the BC Framework.

#### UNDRIP AS A CATALYST FOR INDIGENOUS PEOPLES RIGHTS IMPLEMENTATION AND RECONCILIATION IN CANADA

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) recognizes the right of Indigenous peoples to legal options in the event of State infringements on their rights to culture, traditionally used resources, lands and territories. UNDRIP is intended to circulate and facilitate an understanding of this relationship on an international level, enabling infiltration into domestic level legislature and dialogue.

In Canada, implementation of UNDRIP is an opportunity to explore and readdress the relationship between international law, Indigenous peoples' own laws and aspirations, and Canada's constitutional narratives. Canada, recently expressing the political will to begin implementation having officially endorsed UNDRIP in May 2016 (INAC 2016), has an international legal commitment to provide free, prior and informed consent (FPIC) to First Nations before government approval of projects that may affect First Nations' lands, resources, and communities. The official endorsement of this soft law signals that Canada may be on a path towards reconciliation with Indigenous peoples.

The Team used UNDRIP as a guiding document to incorporate its spirit and intent into the BC Framework.

### CREATING INDIGENOUS SPACE IN CANADA'S CONSTITUTION - THE DUTY TO CONSULT

In addition to the guidance provided by legislation, such as the Land Act, Forest and Range Practices Act (FRPA) and other regulatory tools, provincial land managers have a legal obligation to consult with First Nations. Known as the duty to consult, this obligation stems from several landmark court decisions that have contributed to an evolving interpretation of the Constitution of Canada. Significantly, in 1982 existing Aboriginal and treaty rights were recognized and affirmed in Section 35(1) of the Constitution Act, 1982. The interpretation of these Section 35 rights continue to evolve through the court system.

The duty to consult is triggered when claimed or proven rights (including title) or treaty rights may be impacted by a potential Crown decision or activity (Province of British Columbia, 2010).

In these situations, the Province is required to consider and potentially accommodate any Aboriginal rights and title which may be impacted (Province of British Columbia, 2010).

Additionally, spatial and governance relationships between the provincial government ("the Province") and First Nation governments will undergo significant changes as treaty negotiations come into place. Treaties will provide for expanded First Nations' selfgovernment, and bring significant changes to current land ownership, management and governance, natural resource extraction, coordination of land use, economies, and provision of shared infrastructure and social services.

Taking the duty to consult and treaty negotiations into account is pivotal for making durable land management decisions in BC. However, going beyond the legal requirements and exploring opportunities for relationship building and collaboration will lead to a more robust decision-making framework, while also creating space for mutual trust and reconciliation in intergovernmental relationships. This serves as an important foundation of the BC Framework proposed in this report.

#### LOCAL FIRST NATIONS CONTEXT

It is imperative to view Indigenous territory not only as land or natural elements, but as spaces of culture that weave a relationship between nature, spirituality and community. The Team has reviewed the land use plans and strategies of First Nations whose traditional territory encompasses the S2S to bring an Indigenous lens on land in the S2S, and inform how the BC Framework can integrate the content of the plans' principles. These plans holistically describe how the community wants the Nation's land and resources to be protected, managed and utilized for the benefit of present and future generations. A review of these plans is important to understand potential impacts to First Nations' Rights and Title. As well, Land Use or Partnership Agreements between Squamish, Lil'Wat, In-SHUCK-ch, and Tsleil-Waututh Nations and the Ministry (LUA, 2007) are captured in the S2S Land and Resource Management Plan (LRMP). The Team incorporated First Nations' land use aspirations as well as ways of being, knowing, and doing into the BC Framework.



## LAND MANAGEMENT & POLICY

## CROWN LAND MANAGEMENT

The Province of British Columbia is comprised of a land base totalling 94.6 million hectares. Of this, 88.7 million hectares, or 94%, is provincial Crown land (Ministry, 2011). Crown land, by definition, is a public asset that is highly valued by the residents of BC. As a result, the Province has a responsibility to ensure that Crown land is managed in such a way that maximizes the benefits and distributes them fairly, to all British Columbians.

The Ministry of Forests, Lands, Natural Resource Operations and Rural Development, is tasked with the stewardship of provincial Crown land and natural resources, and the protection of B.C.'s archaeological and heritage resources (Province of BC, n.d.). Provincial land use decisions have tended to favour multiple uses on Crown land, rather than exclusive uses (Ministry, 2011). Currently (2011), the total area allocated to provincial Crown land tenures and protected areas (105.9 million hectares) is 119% of the total provincial Crown land base (Ministry, 2011). While the Ministry strives to ensure that Crown land is allocated in the public's best interest, there is bound to be conflict with so many interest groups. Examining land management in the S2S makes this abundantly clear.

94.6

million hectares of land in BC

94%

of BC's total land base is provincial Crown land

119%

of BC's total land base is allocated to provincial Crown land tenures and protected areas

## THE LAND ACT

The Land Act is a key part of the legislative and regulatory framework for managing Crown land in British Columbia. The Land Act governs the acquisition, disposition, management and administration of Crown land throughout the province, subject to the terms and reservations considered advisable by the Minister. Of note, the Land Act is the guiding legislation when considering applications for commercial use on provincial Crown land. The Ministry must therefore consult the Land Act in order to convey land to the public through the issuance of Crown land tenures in the form of leases, licenses, permits and right-of-ways (Ministry, 2011).

#### FOREST AND RANGE PRACTICES ACT

The Forest and Range Practices Act (FRPA) on the other hand, directs non-commercial use on provincial Crown land. Proponents wishing to offer commercial outdoor recreation activities are subject to the Adventure Tourism (AT) Policy. Via the AT policy, the Ministry can allocate Crown land in the three following ways: (1) temporary licenses; (2) licenses of occupation; and, (3) leases. The eligibility for these different types of tenure is dependent upon the intended use, characterized as intensive use sites, guided activities, and special events. Applicants for commercial uses that are not authorized under the AT policy are subject to the Commercial General Policy. The Commercial General policy offers the same three types of land tenure offered by the AT policy.

### S2S LAND AND RESOURCE MANAGEMENT PLAN

In the hopes of more effectively managing provincial Crown land in BC, the Province embarked on a process of developing Land and Resource Management Plans (LRMP) for key areas of the province. Starting in the early 2000s, 17 LRMP's were developed, covering an area of 52,189,150 hectares of Crown land. These plans are intended to provide broad strategic direction for the management of Crown land and natural resources, and integrate a diverse suite of values to reflect a balanced vision of how the land will be managed (Ministry, 2011, p.58).

The Sea-to-Sky LRMP was approved by the Minister of Agriculture and Lands in April 2008. Part of the LRMP planning process was government-to-government discussions between the Ministry and First Nations; as well as recommendations from the public and the various resource sectors operating in the region (Ministry, 2008, p.i). The planning process ran over five years, and today it provides strategic guidance for managing land in the region.

# TOURISM & OUTDOOR RECREATION

## **SEA-TO-SKY REGION**

The S2S is an area of approximately 1,091,000 hectares in BC's south coast sub-region. Rich in natural assets, recreational opportunities, natural resources and cultural value, the S2S is experiencing unprecedented growth in both its urban areas as well as demand on its natural environment. During the most recent census period, the Resort Municipality of Whistler was the fifth fastest growing municipality in Canada (among municipalities with a population of 5,000 or more, located outside of census metropolitan areas), with a 5-year growth rate of 20.7%. The District of Squamish was not far behind, with a 5-year growth rate of 13.7%. Smaller communities in the area include the Village of Pemberton, Baptiste Smith, Britannia Beach, D'Arcy, Furry Creek, Lions Bay, Mt. Currie, Port Douglas and Skatin.

The S2S is home to seven First Nations. The In-SHUCK-ch, Lil'Wat, Musqueam, Stat'imc, Squamish, Stó:lō, and Tseil-Waututh Nations all have reserve lands and asserted traditional territory within the S2S (Ministry, 2008). In total, the population of the S2S planning area is approximately 40,000 (Stat Can, 2016).

### S2S TOURISM AND OUTDOOR RECREATION

BC has become a world class destination, attracting visitors from around the world each year. People are drawn to the area for its abundance of outdoor recreation. traditional cultures, vibrant communities, and adventure tourism opportunities. While the S2S has always been a popular destination for tourists, visitation to the area has experienced unprecedented growth since hosting the 2010 Winter Olympics. As a result, the S2S has become the only region in BC where tourism is the highest ranked basic economic sector. Despite the economic benefits provided by tourism and outdoor recreation in the S2S. there are a number of land use considerations that need balancing; most notably, First Nations Rights and Title to traditional territory, adventure tourism development, as well as natural resource extraction. To balance these interests, the Province has a suite of regulatory tools at their disposal.





#### **DESTINATION BC**

On November 30th, 2017, the Team joined the Ministry, representatives from the tourism sector, local governments, and a plethora of interest groups at Destination BC's Destination Development Program for the Sea to Sky Corridor.

This engagement session was the second in a series of ongoing events hosted by Destination BC. Session attendees participated in a series of break-out groups to discuss multiple topics pertaining to tourism development in the S2S, including a tourism vision for the S2S. Collectively, the vision for the S2S region ten years from now was determined to be in relation to activities being in harmony with natural, cultural, economic, and social values.

In summary, there was general consensus that increased growth in tourism in the region is desirable, and that this needs to happen in a sustainable way. The challenges identified were in relation to requiring more resources and capacity - such as increased staffing, housing for staff, and improved transportation within and to the region - in order to support the projected increased tourism in the area.

#### **KEY THEMES:**

- Ensure authentic experiences
- Work towards long-term stability
- Recognize that the largest tourism pool are people from the region
- Reflect local First Nations ways of being and their relationship with the area
- Attract visitors who respect the natural and cultural assets and values found within the S2S

## SEA TO SKY GONDOLA

On February 8th, 2018, the Team was joined by a representative from the Ministry, FBC, and management staff from the Sea to Sky Gondola for a site-visit to Shannon Basin. This visit contributed to the Team's understanding of the challenges faced in Shannon Basin, and the S2S more broadly. respondents were asked to provide feedback regarding how the VUMF is employed in practice, and how effective it has been in relation to its intended use. Through this process, the Team gathered valuable insight into the successes and shortcomings of the VUMF as it currently exists, which provided important guidance for developing the BC Framework.

#### **KEY TAKEAWAYS:**

- A better understanding of the challenges associated with competing Crown land tenure applications.
- The need to identify opportunities for collaborating with First Nations.
- The need to consider whether a particular issue will benefit the broader community, and if so, to what extent.

#### AMERICAN AGENCIES, CREATORS OF VUMF

To better understand the VUMF, the Team conducted several phone interviews with members of the United States' Interagency Visitor Use Management Council, the body responsible for developing the VUMF. Four members of the Council were consulted and asked a series of questions related to how and why the VUMF was developed. In addition,

#### **KEY TAKEAWAYS:**

- The VUMF is intentionally broad in order to meet the needs of six diverse federal agencies operating in a range of contexts.
- The individual agencies using the VUMF benefit from the framework being broad because it provides the flexibility to tackle decisions across a range of scales.
- The Sliding Scale Criteria is intended to ensure that the level of analysis for a particular decision is commensurate with the complexity of the decision.
- The VUMF is primarily used by the National Parks Service on more complex projects, and less so on site-specific decisions.



#### **BC PARKS**

On December 5th, 2017, the Team, along with Ministry staff and FBC joined BC Parks at their Annual General Meeting. During this meeting, Ministry staff and the Team presented on the VUMF and engaged with BC Park managers on how the framework can be used.

First, BC Park managers were guided through a scenario of a park management decision using key components of the VUMF (DST and SSC). Then, the Team provided a brief presentation on the proposed changes to the VUMF. Finally, the Team asked for specific feedback from the BC Park managers on using the framework, and any suggestions for changes, while prompting with open ended questions. Suggestions fit within two broad categories: (1) structural changes to the framework; and, (2) content changes within the questions of the framework.

Suggested structural changes, are as follows:

 Changing the three-tier ranking system to a five-tier ranking system to allow for greater accuracy; and,  Asking about issue uncertainty at the end of the tool as opposed to the beginning of the tool, as the ease at which the decision maker answers the previous questions would shed light on how uncertain or certain the issue is.

As observers of this exercise, the Team noticed difficulties expressed by BC Parks staff in applying the DST to the SSC. This highlights the necessity to create a clear flow within the process of using the DST and the SSC.

Content related changes or additions are suggested as follows:

- Add a time scale question or criteria to the DST or SSC;
- Direct questions towards understanding cultural values of First Nations and if consultation is necessary;
- Determine how to measure impact if the area is already impacted, and, if the already impacted area still has value;

- Consider ecosystem services;
- Determine if visitor experience will be positively or negative impacted by the project, as opposed to just the magnitude of impact;
- Determine if questions in regard to the type of activity need to be added to the DST for recreation related decisions (such as if it is for bouldering, or snowmobiling); and,
- Consider safety of users.

The Team incorporated as many of these suggestions as appropriate into a prototype BC Framework. The prototype was tested at the workshop with the Ministry.



#### WORKSHOP WITH MINISTRY OF FLNRORD & BC PARKS STAFF

On March 6th, 2018, the Team ran a five-hour testing workshop with nine staff from the Ministry's Squamish and Surrey offices, the project partner from the Fraser Basin Council, and a Director of BC Parks. In preparation for testing the BC Framework, the Team consulted with our peers in the Indigenous Community Planning program at SCARP in regard to our incorporation of First Nations Rights & Title, and Aspirations & Interest into the BC version of the framework. The intention behind this peer-to-peer consultation was to fine-tune our wording, ensure correct terminology was used, and eliminate as much misunderstanding as possible.

The workshop had two main goals:

- Test changes the Team incorporated into the prototyped BC Framework based on previous consultations and extensive research; and,
- 2. Gather feedback and insight from Ministry decision-makers to inform the final BC Framework that will provide the Ministry with a foundation for implementing this framework in the future.

The workshop was divided into three main parts to enable understanding of the project, fruitful discussion and fun participation:

- **1.** Visioning
- 2. Shannon Basin Scenario Complexity Rating System
- **3.** Shannon Basin Scenario Framework Elements and Steps.

First, we presented an overview of our project, the VUMF, the pros and cons of different components of the VUMF, and how the BC Framework addresses the cons.

In Table 1, on the following page, we have listed the pros and cons of VUMF, and how we addressed the cons in our version for testing at this workshop.



#### TABLE 1 - PROS, CONS & CHANGES TO VUMF

	Pros	Cons		Fixes
	Simple and broadly applicable	Numbering of steps implies linear process	BC Framework Elements and Steps	Numbering of steps allows for iterative process
VUMF Elements and Steps	Builds on previous frameworks and extensive experience	Relies heavily on professional judgement		Prompted to do more research, thus rely less heavily on professional judgement
	Successfully captures ecological planning	Only applies to American law and policy		Incorporation of First Nations Rights & Title, and Aspirations and Interests
	Provides a rating for project complexity	Name does not indicate purpose	BC Framework Complexity Rating System	Name represents purpose
	It is a marker for how much time, money, and resources are needed	Sliding scale innacrruately implies infinite possible ratings		Accurately implies rating scale is finite and concrete
VUMF Sliding Scale Criteria	Allows prioritization of projects by decision makers	Unclear how this fits into rest of framework		Clear incorporation throughout the rest of the framework
and Decision Support Tool		Does not include BC contextual considerations		Includes First Nations relations
		Singular final complexity rating could be an inaccurate representation of overall project complexity		Five final complexity ratings divided by criteria to ensure accurate representation

This was followed by a discussion of immediate reactions to our changes, and the participants thoughts in regard to the VUMF. Next, a short visioning exercise allowed us to gather feedback related to the following questions:

- 1. What does visitor use mean to you?;
- Do you think the term 'Visitor Use Management Framework' is applicable in the BC context?;
- **3.** What do you think is a better alternative?; and,
- **4.** What do you hope the BC Framework will achieve?

Through this exercise, we discovered that the concept of visitor use is not appropriate in the BC context. Crown lands are a public asset, and local residents and First Nations communities would likely take offence to being referred to as 'visitors'. For this reason, participants felt that 'Visitor Use Management Framework' is not a suitable title, and emphasis should be placed on recreation. Based on this input and previous findings, the Team came up with 'BC Outdoor Recreation Decision-Making Framework' as a more suitable alternative that reflects the objective of the framework and what it will be used for. In response to what workshop attendees hope the framework will achieve, participants indicated a need for defensible rationale, easier decision-making, and involving First Nations at all points of the decisionmaking process.

After visioning, we provided an introduction to a real decision scenario that currently exists in Shannon Basin. This scenario was used to go through two parts of our framework. The first part was to test the Complexity Rating System (CRS), and the second part was to test the Framework Elements and Steps. We concluded with an in-depth, round-table feedback session.

The shorter nature of the CRS, and the brief time commitment it requires, enabled us to test the CRS in its full capacity. The workshop version of the CRS is provided in appendix A. The Elements and Steps are quite detailed and extensive, making this section impossible to comprehensively test all steps in a single day. Given the restraints, we created a redacted and compressed version of the Elements and Steps to test at the workshop. This version is provided in appendix B.

As a result of this process, the Team gained many great insights on content and structural changes that we incorporated into the BC Framework. Recommendations for next steps also emerged. In fact, the most dominant themes that arose during the workshop were not directly related to the BC Framework, but rather stressed the need for an overall outdoor recreation management strategy, and a more stringent application process.

A management strategy refers to an identified long-term aim for carrying capacity, appropriate use, facilities, and purpose for a given area that can inform land use and outdoor recreation management decisions. The BC Framework relies on the existence of a management strategy to answer certain questions and fulfill certain steps. The need for a management strategy was particularly noticeable during the workshop. During the scenario exercise, participants became frustrated at certain points when they realized they could not rely on an existing management strategy to inform the objective of the step. As well, participants identified that engaging with local First Nations at the onset of developing an outdoor recreation management strategy

has plenty of short and long-term benefit for both governments. Reasons being, collectively setting partnership directions and mutual understanding of First Nations interests and aspirations, as appropriate, would avoid transactional forms of consultation over every new management decision. Although creating a detailed management strategy is an arduous process, a strategy would ultimately cut down much of the day-to-day clog of the Ministry's work, while allowing for constructive and meaningful relationship building with First Nations.

The second gap identified during this workshop was the need for a stringent application process. Many of the participants were disappointed by the poor quality and lack of depth in the application used for the workshop scenarios, and stressed that this level of quality is the norm. As well, some of the Ministry staff expressed that they are often put in a position to take on more work in order to facilitate acceptance of the proponent's application. However, Ministry staff questioned whether this type of review is complementary to the Ministry's current decision-making process. Ministry staff also expressed that previous proponent's prepared their applications in a way that engaged with First Nations to form a positive working relationship in advance of the application to the Ministry. This approach reduced the overall workload for the Ministry and streamlined the application process; an obvious case of this is the S2S Gondola.

Building off findings and workshop recommendations, the need for next steps that are proactive, robust and strengthen connections become apparent. In order to facilitate development of an outdoor recreation management strategy for the Sea to Sky region, the following themes emerged:

- 1. Necessity of a streamlined application guideline, or process, which places more responsibilities on the proponent.
- 2. Importance of an inclusive approach to engagement and consultation processes that inform the strategy and subsequent phases.
- **3.** Significance of simplifying the Ministry's decision-making process. These findings are further discussed in the Next Steps section of this report.

These findings are further discussed in the Next Steps section of this report.
# FRANEWORK

# **STRUCTURE & CONTENT**

In response to the findings from the Ministry workshop, the Team further refined the BC Framework. This final phase of changes was primarily in regard to word choice, as well as structural changes to the CRS and the Elements and Steps.

Regarding the CRS, an additional column prompts decision-makers to rate their level of uncertainty alongside their perceived complexity rating. In addition, some of the wording was altered to reflect the feedback received at the workshop. For Elements and Steps, some restructuring and re-wording reflects the feedback received at the workshop and is better suited to the BC context.

The remainder of this chapter represents our final version of the BC Framework.

# **COMPLEXITY RATING SYSTEM**

### **TABLE 2 - COMPLEXITY RATING QUESTIONS**

	RATING QUESTION	RATIONALE	RATING (1 = least complex, 5 = most complex)	Uncertainty (1 = least uncertain, 5 = most uncertain)
1	What are the Aboriginal Interests in the area?			
2	How complementary is the proposed outcome with known First Nations aspirations?			
3	Is the spirit of reconciliation considered in the proposed outcome?			
4	What is the likelihood that the situation involves sensitive, rare, or irreplaceable cultural resources? Think comprehensively, such as heritage sites, significant recreational sites, and First Nations cultural sites.			
5	What is the likelihood of imminent and significant changes to the cultural values and resources?			
6	What is the likelihood that the situation involves sensitive, rare, or irreplaceable natural values, and natural resources?			
7	What is the likelihood of imminent and significant changes to the natural or cultural resources?			
8	What is the likelihood of imminent and significant changes to the natural values and resources?			
9	What is the likelihood of imminent and significant changes to visitor experience?			
9	How will the issue affect other aspects of land management in the area or surrounding areas?			
10	What is the geographic extent of the issue's impacts?			
11	What is the relative interest of stakeholders affected by the action?			
12	Is the impact temporary (low complexity) or long lasting (high complexity)?			

# **COMPLEXITY RATING SYSTEM**

### **TABLE 3 - COMPLEXITY RATING CRITERIA**

	CRITERIA	RATIONALE	RATING (1 = least complex, 5 = most complex)
1	Impact Risk		
2	Stakeholder Involvement		
3	Level of Controversy		
4	First Nations Relations		
5	Issue Uncertainty		

# **BC FRAMEWORK** Element 1: Build the Foundation

# **STEP 1. Develop an understanding of local First Nations**

- Whose traditional and ancestral territory of a First Nation is the project proposed on?
- Could decisions or actions potentially infringe proven Aboriginal rights and title, or treaty rights?
- Are there government negotiations for this area currently underway? A government activity might infringe upon a right if it:
  - Imposes undue hardship on the First Nations;
  - Is considered by the court to be unreasonable;
  - Prevents the right-holder from exercising that right.

# STEP 2. Develop your purpose and need statement (expression of management opportunities and issues to be addressed)

- Explain the nature of the overarching issue and the compelling reason for action, not the proposed action or solution.
- Document issues by writing issues statements to help determine which issues are within the scope of the project and clarifying the project purpose and need.
- Analyze the issues what is creating the issue? What key values or desired conditions could be affected? Who is or could be affected by the issue? What is known about their interests or concerns?

# STEP 3. Review the area's purpose and applicable legislation, agency policies, and other management direction

- Scan land management plans, land use plans, memorandums, land use agreements, First Nations' land use plans or strategic directions, and any other relevant plans.
- Is there an opportunity or desire from First Nations of taking a co-governance (shared responsibility, authority, and commitment) direction or to partner in stewardship of the proposed decision? This will help inform the 'management strategy' later in the framework.
- Determine the purpose of the area.
- Review the area's history to better understand the background, such as past decisions made and their outcomes.
- Determine what makes the area important and unique within the larger region.
- What are the governance systems within this area of land? How does it affect your issue?
- Are there varying levels of government (First Nations, province, regional, local, federal) who would need to be involved, or who would be impacted by activity?

### STEP 4. Assess and summarize existing information and current conditions

- Define the project area (clear boundary).
  - Consider the role of the area in the larger ecosystem or landscape.
  - Consider the current status and condition of all natural, cultural, and recreational resources and visitor experience opportunities in the area.
  - What is the likelihood that the proposed outcome will benefit residents of the local community? How and to what extent?

- Consider threats to significant resources and visitor experiences
- Consider the spatial footprint of the project
- Consider public use and recreation trend data
- Consider existing administrative resources and operations, including staffing, funding, and public use facilities
- Familiarize yourself with potentially impacted First Nations:
  - History of the community
  - Fishing, hunting, and gathering activities
  - Environmental concerns or sensitive/sacred sites (if identified)
  - Governance custom, elected, or majority elected leadership
  - Community priorities
  - Traditional knowledge, law and values of the area as appropriate
  - Socio-economic situation
  - Relationship with any previous project proponents
  - Social media of FN community for current community information
  - Think of the seasonality of cultural practices, traditions, celebrations, and activities such as fishing or hunting as appropriate
  - Understanding of the project/activity/proposition
- Is the proposed outcome complementary to local First Nations aspirations or land use objectives?

- Are there opportunities for collaboration? Or identifying objectives or vision of the area, such as collaborating on a Memorandum of Understanding of the area?
- Does the First Nation have their own consultation protocol? Are partnerships in place already?
- What are the long term impacts of the project?
- Is there a risk to public safety?
- Organize the Assessment: •
  - Determine what information gathered so far is useful.
  - Determine which data sources are necessary to make defensible decisions.
  - Determine how the intended data will inform the project.
  - Determine how much confidence there is in the data.
  - Determine if new data need to be collected or if existing data will suffice. If new data is needed, can it be collected with existing resources, or will outside or technical assistance be required?
- Document the Assessment: •
  - Synthesize, summarize, and document the key information in a useful format.
  - Produce a document that records the most important physical, biological, social, and managerial attributes and values for the area, and their relationships with each other, if applicable.
  - Does this project consider elements of inclusivity and equity?
  - Identify and map the opportunities and challenges for the area in descriptive terms, such as areas of land that are both suitable and desirable for recreational activities and other uses by visitors.
  - Use the assessment document during the course of the project and as part of the final project documentation.

With the information gathered in previous steps, it might be a good time to revisit the CRS, and redetermine the level of uncertainty and the complexity rating.

# **STEP 5. Develop an Action Plan**

- Put a project team together:
  - Assign associated roles and responsibilities.
  - Identify the resources needed and available to tackle the project.
  - Develop the timeline, including schedules, project milestones, and deliverables.
  - Consider how your timeline may differ from the timeline of local First Nations. Is there mutual understanding, trust and respect of timelines?
- Identify guiding principles and key considerations for developing an action plan. Consider First Nations, ecological, cultural, experiential, and economic principles, as appropriate.
- Develop a roadmap of engagement and consultation strategies, as appropriate:
  - How would First Nations like to be engaged and/or involved? How would you incorporate this into an engagement strategy with First Nations?
  - Is there a duty to consult and accommodate First Nations? If not, do you intend to develop an engagement plan?
  - Using a stakeholder mapping approach (identify, understand, and prioritize stakeholders), develop a stakeholder analysis matrix to inform a stakeholder consultation strategy.
  - Identify where stakeholders fit on IAP2 Spectrum of Public Participation.
  - Based on your current working relationship with local First Nations, what is your understanding of their capacity? Do you have the ability to provide capacity or assistance to First Nations during engagement?

# **Element 2: Define Visitor Use Management Direction**

# STEP 1. Define desired conditions for the project area

- What are we trying to achieve?
- What are the guiding principles or 'ground rules' used to inform the decision?
- Is there an understanding of desired conditions for First Nations partnerships? If not, what are the desired conditions for First Nations partnerships?
- Have you or will you ensure a bilateral understanding of desired conditions between your entity and local First Nations?
- For larger areas, develop a spectrum of management zones that recognize the desired diversity across the landscape. Avoid zoning that is more complex than can be realistically managed for on the ground.
- Produce a desired condition statement that is:
  - Results oriented (the 'what', not the 'how').
  - Focused on the fundamental resources and values of the area.
  - Integrates physical, biological, social and managerial attributes to describe resource conditions and visitor experiences or opportunities that are ecologically, socially, and economically sustainable.
  - Future oriented considers a 10 year+ timeframe and allows for flexibility over time.
  - Responsive to the range of opportunities consistent with legal requirements, First Nations Rights, Title, and Aspirations, and the input received from stakeholders.
  - Useful needs to be clearly worded and detailed enough that managers and public can understand it.
- Do the desired conditions for project area reflect the spirit of reconciliation, as appropriate?

# STEP 2. Define appropriate visitor activities, facilities, and services

- Provide more specific direction for the types of visitor activities, facilities, and visitor services that are consistent and complement desired conditions (just examples).
- Establish the connection between what is appropriate in the area and the purpose of the area (see table 5 page 36 for example).

# With the information gathered in previous steps, it might be a good time to revisit the CRS, and redetermine the level of uncertainty and the complexity rating.

### **STEP 3. Select indicators and establish thresholds**

- What are acceptable levels of impact from visitor use on First Nations, ecological integrity, culture, visitor experience, and economic development?
- Form a list of potential indicators based on the desired conditions statement. Consider a First Nations perspective when choosing your indicators.
- Screen potential indicators based on:
  - Connection to visitor use can the trend created from monitoring information demonstrate a correlation to visitor use or to an aspect of the setting that is important to achieving the desired conditions?
  - Importance is the indicator highly relevant to the desired conditions? Will the indicator provide useful information to inform management decisions?
  - Sensitive to change is the indicator sensitive enough to provide useful and timely information to managers so that management action can be taken?
  - Reasonable is the indicator related to an existing monitoring effort, or can it be reasonably or feasibly monitored with existing staff or partners?

- Reliable can the indicator be monitored accurately and yield the same result if measured by different people?
- Determine the appropriate unit of measurement for each indicator.
- If possible, incorporate an initial test period.
- Establish thresholds for each indicator.
- Thoroughly document the rationale behind establishing the threshold so there is a clear link between desired conditions, information gathered, and the choice made.
- Include only those indicators that are truly important to informing management so that desired conditions can be achieved.

# **Element 3: Identify Management Strategies**

# STEP 1. Compare and document the differences between existing and desired conditions, and, for visitor use-related impacts, clarify the specific links to visitor use characteristics

- Analyze the gap between existing and desired conditions.
  - Use trend data if possible.
  - Ensure identical metrics are used when comparing conditions.
  - Examine the data closely for accuracy.
  - If existing information includes public comments from a concurrent process, allow time and resources to compile and analyze comments methodically.
  - Review the completeness of the current condition data across the project area, looking for holes and

gaps that would suggest existing information is inadequate. If the data are lacking, conduct additional inventories or monitoring. In situations in which additional time or funding is not available but a decision still needs to be made, expect a greater reliance on professional judgement and the need to articulate that the decision was based on the "best available data".

- Use the same considerations when examining resource condition data.
- Are the indicators and thresholds tracking changes in conditions so they may be compared with desired conditions?
  - If desired conditions are being achieved, and existing conditions are well within the established thresholds, proceed to Element 3 Step 4.
  - If desired conditions could fail to be achieved in the near future, and existing conditions are close to thresholds, assess the potential reasons for changes in condition.

# STEP 2. Identify visitor-use management strategies and actions to achieve desired conditions

- Refer to Element 3 Step 1 to determine if desired conditions were not achieved or if they might not be achieved in the near future.
- Identify probable causes of non-achievement.
- Develop management strategies and actions to address or prevent the issues. Some examples are:
  - Modify type of use.
  - Modify visitor behaviour, attitudes and expectations.
  - Modify the timing, and location of use.
  - Increase the ability of sites to handle use.

- Modify the spatial distribution of use.
- Reduce use or increase the supply.
- To select an appropriate action, consider:
  - How likely is the action to address the probable causes of the issue or opportunity?
  - To what degree does the action protect the visitors' abilities to enjoy their recreational experiences without unnecessary regulation by the managing agency?
  - How effectively can the action be implemented?
- Other questions to consider:
  - Does the action affect visitors during the planning stages of their trip or while they are engaged in their recreational experience?
  - Does the action adversely affect a large or small number of visitors?
  - Does the action adversely affect an activity to which visitors attach a great deal of importance?
  - Are visitors likely to resist the management action?
  - What are the implementation costs of the action in terms of facility construction, operation and maintenance, staff workload, communication, and enforcement?
  - Is the action likely to create new issues or move issues elsewhere?

# STEP 3. Where necessary, identify visitor capacities and additional strategies to manage use levels within capacities

• Need to consider the maximum amount and type of use the area can accommodate while still achieving desired conditions.

• Identify management strategies and actions that should be implemented to ensure that use remains within the established capacity (e.g., viewing platform, 25-person capacity, allocate parking accordingly).

# With the information gathered in previous steps, it might be a good time to revisit the CRS, and redetermine the level of uncertainty and the complexity rating.

### STEP 4. Develop a monitoring strategy

- Were the planned actions implemented? When? How?
- How effective were they?
- Revisit the CRS. E.g., at the high end of the CRS, the project will require greater investment in information about the use and impacts occurring. At the low end, more rapid monitoring strategies could be developed to provide general knowledge of visitor use and related resource conditions.
- To develop a monitoring strategy, consider:
  - What is going to be monitored and why?
  - Where will monitoring occur?
  - Which techniques will be used for each indicator?
  - How often will an indicator be monitored?
  - Do local First Nation communities have an interest in monitoring? What are the opportunities for Indigenous-led monitoring and enforcement?
  - Where are comparable areas for later reference?
  - How will data be collected and who will collect the data?
  - What equipment is needed?

- How will data be managed and used?
- How will the findings be reported?
- Who are the audiences for receiving the monitoring information (e.g., managers, stakeholders)?
- Are there other data sources that provide the indicator data?

# **Element 4: Implement, Monitor, Evaluate, and Adjust**

## **STEP 1. Implement management actions**

- Prepare for implementation.
  - Make sure that the resources necessary for implementation are available.
  - Ensure that funding, training, staff, and other resources are available.
  - Develop a communication plan (keep the CRS in mind).
  - Develop a communications plan with local First Nations. Are there communication protocols already established?
- Implement the new management action
  - Gather and prepare staff to initiate the action.
  - Make sure relevant staff members, First Nations, and stakeholders know about the implementation.
  - How would local First Nations like to be involved during the implementation process?
  - Train staff; purchase supplies, equipment, and products; and hire contractors, if necessary.
  - Ensure staff members know how to care for changed facilities and what the desired conditions are for the area.

- Inform the public with announcements so people know change is coming.
- Watch for immediate reactions.
  - Look for immediate reactions toward the change.
  - Address concerns and respond appropriately.

# STEP 2. Conduct and document ongoing monitoring of management action

- Follow the monitoring strategy developed in Element 3 Step 4.
  - Focus on indicators that provide consistent observations over time.
  - Take corrective action, as needed. Don't wait until the end of a planned monitoring period, be proactive.
  - Use monitoring results as a tool to inform ongoing adjustment of management strategies and actions.
  - Document the effectiveness of management actions in maintaining and meeting the desired conditions.
  - Retain monitoring data to ensure quality and consistency over time and to identify trends and novel patterns or relationships.
  - Use monitoring data to brief managers, project teams, stakeholder groups, and the general public.

### **STEP 3. Evaluate Effectiveness of Management Actions**

• Continually evaluate observations in context of the desired conditions.

# STEP 4. Adjust management actions if needed to achieve desired conditions, and document rationale.

• Make adjustments in management actions when there is evidence that thresholds are being approached, when triggers have been reached, or when conditions are trending away from desired conditions.

- Thresholds should not be changed without rigorous analysis and strong rationale. Do not be pressured into changing them.
- If an issue arises, strive to identify its probable cause.
  - Determine the level of action needed to correct the resource condition based on the extent to which resources and visitor experiences have changed.
  - Ensure that a change to protect one resource does not adversely affect another.
- Document the rationale for adjustments, including:
  - A summary of the original action and how it was implemented.
  - Analysis of the monitoring data that suggests the need for an adjustment.
  - Reasoning for the selection of the new actions, including analysis/evidence from which decisions were based.
  - What will change, how it will change, and the resources needed to make the change.
  - How the adjusted action will improve conditions.
- Revisit CRS to update uncertainty and project complexity, as needed.

# NEXT STEPS

# RECOMMENDATIONS & EMERGING DIRECTIONS

The BC Framework, outlined in this report, is the first step towards providing the Ministry with a cohesive and proactive management plan. However, more work needs to be done to incorporate the content changes that are inclusive of First Nations interests and aspirations. To achieve this, the Ministry needs to embark on an engagement strategy with local First Nation communities. Further, through the testing of the BC Framework, it is clear that for the BC Framework to result in the durable decision-making that the Ministry seeks, the BC Framework will need to be employed as part of a suite of tools within a management strategy of multiple sub-areas. This strategy will act as the key guidance to inform how decisions are made. As such, the Team recommends that the Ministry take the following actions in developing a robust outdoor recreation management strategy for the Sea to Sky region:

Engage with local First Nations on how an outdoor recreation management strategy can be more inclusive of First Nations, and their desired level of involvement.  Prior to going forward with the next phase of developing a management strategy, the Ministry will need to engage First Nations in the S2S.

- Engagement should strive to incorporate First Nations interests and aspirations within the overall management strategy for the region.
- Ideally, the Ministry will be able to work alongside local First Nations throughout all future phases of the planning process.

### Develop a detailed management strategy for key hotspot zones in the S2S, such as Shannon Basin.

This will determine long-term goals and desired conditions for managing multiple sub-areas that are experiencing rapid use. A successful strategy would:

Identify sub-areas based on their potential similarities to: (1) exhaust the area's land base for outdoor recreation opportunities;
(2) jeopardize the area's natural and cultural assets and resources; and, (3) hinder visitor

experience. Strategy development would include determining exactly which indicators are the most significant.

- Serve as a foundation for all future decisionmaking in the S2S.
- Partner with First Nations.
- Be inclusive, and transparent by ensuring that the strategy is informed by a comprehensive set of interests through a robust engagement and consultation strategy.
- Develop desired conditions for various areas of the S2S, as deemed appropriate.
- Inform the BC Framework to enable durable decisions.

### Engage in a process to develop sub-area management plans for key hotspot zones, such as Shannon Basin within the Sea-to-Sky region, as a component of the management strategy.

We recommended that these sub-areas be identified based on a set of shared indicators, and then managed similarly. This approach is much like how zoning is done in an urban context. Some considerations are:

- Use and expand upon the Recreation Opportunity Spectrum (ROS). Sub-areas that fall within the same range on the ROS can have the same management strategy applied to them.
- Determine carrying capacity for sub-areas, as well as types of appropriate use and facilities.
- Collect baseline data as necessary as a foundation to later test the efficacy of the management strategy.

Develop a stringent application process to alleviate the burden on the Ministry, while guiding proponents on how to more responsibly approach the application process. A successful stringent application process would:

- Incorporate best practices seen in previous successful applications with the Ministry.
- Take key lessons from comprehensive application review processes, such as Port of Vancouver's Project and Environmental Review (PER) process, and the City of Vancouver Development Application process.
- Instigate a positive working relationship between the proponent and local First Nations.
- Consider long-term impacts of the project, including environmental, cultural, and economic changes and challenges.
- Better reflect the complexity of the proposal, including potential impacts and interests.
- Incorporate any further desires of the Ministry staff, as appropriate.

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# **APPENDIX A**

### Workshop Version of the Complexity Rating System

INSTRUCTIONS	RATING QUESTIONS	RATIONALE	RATING (1 = least complex, 5 = most complex)
Step 1 - Consider each of the following questions in relation to the Sea to Sky Adventure Company's Backcountry Yurt Lodge Lease Tenure Application	Is there Aboriginal Interest in the area?		
Step 2 - For each question, please provide a rationale	What is the likelihood that the situation will interfere with First Nations aspirations?		
Step 3 - Assign a complexity rating for each question with 1 representing a very low level of complexity and 5 representing a very high level of complexity	Does the project proponent have a positive working relationship with interested First Nations?		
	What is the likelihood that the proposed activity will benefit the local community? How and to what extent?		
	What is the likelihood that the situation involves sensitive, rare, or irreplaceable cultural resources?		
	What is the likelihood that the situation involves sensitive, rare, or irreplaceable natural resources?		
	What is the likelihood of imminent and significant changes to the natural or cultural resources?		
	What is the likelihood of imminent and significant changes to visitor experience?		
	How will the issue affect other aspects of land management in the area or surrounding areas?		
	What is the geographic extent of the issue's impacts?		
	What is the relative interest of stakeholders affected by the action?		
	Is the impact temporary or long lasting?		

INSTRUCTIONS	CRITERIA	RATIONALE	RATING (1 = least complex, 5 = most complex)
Step 4 - Consider all of the questions from the previous page in relation to each of the criteria provided here.	Impact Risk		
Step 5 - Provide a rationale for each of the criteria	Stakeholder Involvement		
Step 6 - Assign a complexity rating for each criteria	Level of Controversy		
Step 7 - Prepare a brief statement of complexity indicating how it will inform the rest of the project	Government-to-Government Relations		
	Issue Uncertainty		

# **APPENDIX B**

Workshop Version of the Elements & Steps

# **ELEMENT 1: WHY? Build the Foundation**

### STEP 1: Develop a purpose & need statement

- What is the issue? What are the management opportunities?
- Which First Nations traditional and ancestral territory is the project proposed on?
- Could decisions or actions potentially infringe proven Aboriginal rights and title, or treaty rights?
- Currently, is there a treaty process for this area?

Purpose & Need Statement

STEP 2: Review the area's purpose and applicable legislation, agency policies, plans, governance structures, and other management direction



# STEP 3: Assess & Summarize Existing Information & Current Conditions

- Define the project area (suggest a clear boundary of the project's spatial footprint)
- Understand the First Nations affected
- Consider the project's possible long-term impacts, and other factors that could impact the project in the long-term

Notes



Now is a good time to re-consider your Complexity Rating!

# STEP 4: Develop a project action plan

- Identify guiding principles and key considerations for developing a project action plan
- How are First Nations involved? How would you develop a meaningful consultation strategy with First Nations?
- Now, consider all of the stakeholders involved (First Nations are not considered stakeholders). Please refer to spreadsheet in your group folder titled "Stakeholder Analysis" and follow the steps.



# ELEMENT 2: WHAT? Define Land Use Management Direction

STEP 1: Define desired conditions for the project area?



STEP 2: Give examples of appropriate activities, facilities, & services.





Now is a good time to re-consider your Complexity Rating!

# STEP 3: Select indicators and discuss how you would go about establishing thresholds

• How would you determine acceptable levels of ecological and experiential impact from visitor use based on desired conditions for the site? Form a list of 5 or more examples of potential indicators.



# **ELEMENT 3: HOW? Identify Management Strategies**

STEP 1: Compare & document differences between existing & desired conditions

Notes

# STEP 2: What are your key considerations for developing a management strategy?

**Key Considerations** 



Now is a good time to re-consider your Complexity Rating!

# STEP 3: What are your key considerations for developing a monitoring strategy?

**Key Considerations** 

# **APPENDIX C**

### Workshop Visioning Exercise

### What Does Visitor Use Mean to You?

- The context of "visitor" is extracting natural resource value (like forestry and mining)
- Probably means different things to different people
- Tourists Not Locals
- People who are making impacts or using facilities
- How communities expect to and do use the public lands
- ...direct correlation with impacts on land base
- Sustainable Recreation Appropriate Carrying Capacity
- User group conflicts, capacity
- Land use issues, maintenance burden, development of infrastructure
- Public expecting a certain type of experience
- Varying demands and types of interests in land use

# Do You Think The Term 'Visitor Use Management Framework' is Applicable in a BC Context?

Strongly disagree - 0 Disagree - 4 Neutral - 0 Agree - 3 Strongly Agree - 0

- FN perspective We're not visitors. This is our land, our home. Similar feeling by local non FN residents
- "Residents" are usually "visiting" their recreation destination
- For parks (BC parks), we think of recreational users as "visitors" and clients the parks system
- Ok with broad, captures more

### What Do You Think is a Better Alternative?

- User Management Framework
  - Not restricted to visitor. Residents are significant component.
- Recreation Use Management Framework

### What Do You Hope This Framework Will Achieve?

- Managing cumulative impacts
- Easier decision making and defensible rationale
- I hope that FN's can get involved in this very early planning stage. If not, we risk losing support if we try to impose land management rather than co-managing the land.
- Fuller consideration of impacts/decisions
- Connection between use and managing that use within set objectives and/or carrying capacities
- FN's playing a key role in setting desired condition
- Lead to communications for the public

- ...justify why certain decisions are made. Consistency, transparency.
- Lead to development of strategy
## **APPENDIX D**

## Key Dates & Landmark Legal Cases

**Calder v Attorney General of BC (1973):** While the lower levels of court had denied the existence of Aboriginal title, the Supreme Court ruled in 1973 that Aboriginal title had indeed existed at the time of the <u>Royal Proclamation of 1763</u>. The Supreme Court's 1973 decision was the first time that the Canadian legal system acknowledged the existence of Aboriginal title to land and that such title existed outside of, and was not simply derived from, colonial law.

While the Nisga'a did not win their case and the ruling did not settle their land question, it did pave the way for the federal government's Comprehensive land claims process, which sets up a process for Aboriginal groups to claim title to their territory. The province of British Columbia, however, refused to acknowledge Aboriginal title until 1990, when the British Columbia Claims Task Force was established. This would then lead to the B.C. Treaty Process and the settling of the first modern land claim in British Columbian history, the Nisga'a Final Agreement in 1998. The Supreme Court's acknowledgement of the existence of Aboriginal title also opened the door for other Aboriginal rights cases, most notably Delgamuukw v. British Columbia (1997), which further defined Aboriginal title. As a landmark case, the Calder decision continues to be cited in modern Aboriginal land claims across Canada, as well as internationally in Australia and New Zealand.

**Guerin v. The Queen (1984):** the SCC established that the Canadian government has a fiduciary duty to First nations, meaning that they are legally required to act in the best interest of FNs. In this case, the Crown had struck a deal with SGCC based on terms not fully described to Musqueam. The SCC ruled that the Crown had failed to act in Musqueam's best interest.

**SPARROW (1990)**: In <u>R. v. Sparrow</u> (1990) the Supreme Court of Canada took the same approach as those judges in Calder who said that the Nisga'a still had title. They said that unless legislation had a "clear and plain intention" to extinguish aboriginal rights, it did not have that effect. Applying this test to fisheries legislation, the Court concluded that a century of detailed regulations had not extinguished the Musqueam people's aboriginal right to fish for food and ceremonial purposes. This case, however, dealt with Aboriginal fishing rights, not rights in land.

This case was precedent-setting insofar as it set out criteria, known as "the Sparrow Test" to determine if governmental infringement on Aboriginal rights was justifiable, providing that these rights were in existence at the time of Constitution Act, 1982. The Sparrow test first seeks to define whether or not a right has been infringed upon. A government activity might infringe upon a right if it:

- Imposes undue hardship on the First Nation;
- Is considered by the court to be unreasonable;
- Prevents the right-holder from exercising that right.

The Sparrow test then outlines what might justify an infringement upon an Aboriginal right. An infringement might be justified if:

- It serves as a "valid legislative objective." The court suggested that a valid legislative objective would be conservation of natural resources, in which First Nations interests would come second only to that;
- "There has been as little infringement as possible in order to effect the desired result;"
- Fair compensation was provided, and,
- Aboriginal groups were consulted, or, "at least...informed"

**VAN DER PEET (1996):** this case resulted in "the Van der Peet test" which further set parameters for the courts to determine what constitutes a valid Aboriginal right. Only those rights that were practiced prior to European contact are recognized.

These "tests" (Sparrow and Van der Peet) have come under criticism from both Aboriginal and non-Aboriginal people who claim that, in trying to achieve "certainty" over what constitutes an Aboriginal right, the courts may have instead limited the flexibility and fluidity of Aboriginal rights.

**DELGAMUUKW (1997):** In <u>Delgamuukw v. British Columbia</u> (1997), the Supreme Court of Canada ruled in the Delgamuukw case that aboriginal title is a right to the land itself –not just the right to hunt, fish and gather — and that when dealing with Crown land, the government must consult with and may have to compensate First Nations whose rights may be affected. However, there was no decision as to whether the plaintiffs have aboriginal title to the lands they claimed. The court said the issue could not be decided without a new trial. Delgamuukw confirmed that aboriginal title was never extinguished in BC and therefore still exists; it is a burden on Crown title; and when dealing with Crown land the government must consult with and may have to accommodate First Nations whose rights are affected.

**HAIDA AND TAKU (2004):** Two cases provide broad guidelines for the negotiation and definition of aboriginal title in BC. In Haida v. British Columbia and Taku River Tlingit First Nation v. British Columbia (2004), the Supreme Court of Canada ruled that due to the Honour of the Crown, the government has a duty to consult and possibly accommodate Aboriginal interests even where title has not been proven. This established a general framework for the duty to consult and accommodate Indigenous peoples across Canada. The duty to consult arises from the need to address Aboriginal rights prior to those rights being addressed through a treaty or court decision. In Haida and Taku, the court ruled that First Nations do not have a veto over what can be done however, the consultative process must be fair and honourable, and government is entitled to make decisions even in the absence of consensus.

This decision affirmed that the goal of treaty making is to reconcile Aboriginal rights with other rights and interests and it is not a process to replace or extinguish rights. The courts stated, "Reconciliation is not a final legal remedy in the usual sense. "It said "just settlements" and "honourable agreements" are the expected outcomes.

**MARSHALL AND BERNARD (2005):** In R. v. Marshall; R. v. Bernard (2005) the Supreme Court of Canada set limits on aboriginal title, adopted strict proof of aboriginal title. It stated that any claim to aboriginal title would depend on the specific facts relating to the aboriginal group and its historical relationship to the land in question. Traditional practices must translate into a

modern legal right, and it is the task of the court to consider any proper limitations on the modern exercise of those rights. As with the treaty right, an aboriginal practice cannot be transformed into a different modern right.

The court further stated that aboriginal title would require evidence of exclusive and regular use of land for hunting, fishing or resource exploitation. Seasonal hunting and fishing in a particular area amounted to hunting or fishing rights only, not aboriginal title. However, the court did not rule out the possibility that nomadic and semi-nomadic peoples could prove aboriginal title. The court also emphasized that there must be continuity between the persons asserting the modern right and a pre-sovereignty group.

**TSILHQOT'IN (WILLIAMS) (2014):** In Tsilhqot'in Nation v. British Columbia (2014) the Supreme Court of Canada, for the first time, declared Aboriginal title to a specific area in BC. Given the importance of the Tsilhqot'in decision, the Treaty Commission had Blake, Cassels & Graydon LLP provide a legal opinion, by lawyers Marvin R.V. Storrow, QC, legal counsel in some of the seminal Section 35 Aboriginal law cases in Canada, and Roy Millen, who clerked with Chief Justice McLachlin and is a leading practitioner in Aboriginal law. This was published in the 2014 Annual Report, pages 25-27.