

Lax Kw'alaams Culturally Modified Tree Policy 2023



I. OBJECTIVES

The objectives of this document include:

- a. To protect the cultural heritage and traditional forest gathering sites of Lax Kw'alaams Band;
- b. To support the collection and recording of information on CMTs in Lax Kw'alaams Band territory;
- c. To protect CMTs, particular those that are significant examples and a diverse sampling;
- d. To promote greater understanding of and education regarding CMTs;
- e. To support the recognition of CMT experts within the Lax Kw'alaams community and encourage the training of new experts;
- f. To provide greater guidance and certainty to the proponents and developers within Lax Kw'alaams Territory

Proponents, developers and institutions operating within Lax Kw'alaams Territory should aim to work in a co-operative and consistent manner in addressing Culturally Modified Trees (CMTs).

CMTs are recognized as significant for many reasons including:

- g. an obvious and visible connection to Lax Kw'alaams' ancestors and past;
- h. an indicator of an area of special interest to Lax Kw'alaams, particularly regarding the existence of other cultural heritage resources;
- i. an anthropological indicator of how areas and resources were used by Lax Kw'alaams' ancestors;
- j. an indication of where Lax Kw'alaams individuals can reasonably look for suitable materials for current needs.

II. DEFINITIONS

For the purposes of this document a Culturally Modified Tree" (CMT) is: a tree that been intentionally altered by people participating in the traditional utilization of the forest. This policy will apply to pre- and post-1846 CMTs.

CMTs include:

- k. Bark strip CMTs
- l. Plank CMTs:
- m. Canoe CMTs;
- n. Grave site markings;
- o. Burnt strip CMT's.
- p. Message and marker trees;
- q. Test hole CMTs.
- r. Medicinal CMTs

III. GUIDELINES

Anyone wishing to harvest trees from within Lax Kw'alaams territory shall require that culturally modified trees (CMTs), whether standing or fallen, whether alive or dead, be protected. Unless consent is received in writing from Lax Kw'alaams Band.

Any cutting authority shall provide that CMTs may only be moved, altered, disturbed, cut or logged with the consent of Lax Kw'alaams. The consent of Lax Kw'alaams will be reasonably given in good faith where prescribed under this policy.

The management measure for CMT's will depend largely on the significance of the CMT's identified. The management of CMT's may vary dependant upon the type and number/concentration of CMT's and their cultural importance to Lax Kw'alaams. Information on significance will be included in the CMT assessment reports and reports from AIA processes or in field review from Lax Kw'alaams. Both scientific and cultural significance must be considered.

Where individual CMT's are found, the preferred management objective will be to leave a suitable buffer to ensure its on-going viability. Where groups of CMT's are found the preferred management objective will be to avoid harvesting in the area of the concentration.

Trees of endangered species, such as Pacific Yew, should not be harvested.

Public access into CMT heritage sites should occur only in consultation with Lax Kw'alaams Band.

IV. PROCEDURE

During broad level project planning; assessment, planning, and collaboration with Lax Kw'alaams Band regarding CMTs must occur so as to promote conservation of CMTs and to facilitate their management.

Assessments and Surveys:

- s. CMT surveys are to be initiated at the initial project planning stage in consultation with Lax Kw'alaams.
- t. Proponent's will provide CMT survey schedules to Lax Kw'alaams during or immediately after initial project planning consultation in order to give as much opportunity for advance planning as possible.

At least one Lax Kw'alaams expert, who has knowledge of CMTs, traditional use in the area and the physical landscape, must partake in the assessment stage. Lax Kw'alaams Band will designate these CMT surveyors.

Scientific significance will be determined by existing Archeological Branch policy. Cultural significance will be determined by the Lax Kw'alaams cultural representatives.

All CMTs found must be thoroughly documented and an archaeological history established complete with mapping and photographs.

Project plans will be finalized in accordance with these guidelines and in consultation with Lax Kw'alaams First Nation where any impact on CMTs is anticipated or found.

Lax Kw'alaams is developing a digitized database of CMTs, in the event of CMT discovery the CMT will be added to this database. Proponents and developers are expected to compensate Lax Kw'alaams' time taken to update the database.

Field Discovery:

- u. The following steps must be followed when an undocumented CMT is discovered during project operations:
 - i. Stop or modify work to the extent necessary to avoid any impact on the CMT;
 - ii. Take a detailed photographic record of the CMT;
 - iii. Notify Lax Kw'alaams of CMT discovery and determine significance;
 - iv. Protect the CMT where possible (see Guidelines table)
 - v. Seek approval from Lax Kw'alaams for disturbance or removal of CMT if project cannot be altered so as to avoid impacting the CMT.

If a CMT is accidentally cut during project operations, the tree must be left and the steps above (s.4.2.a.i-v) followed.

Removal:

- v. If CMT disturbance or removal is approved by Lax Kw'alaams, Lax Kw'alaams will have the right to the entire tree for cultural use (this right may be waived upon written agreement).

Compensation:

- w. The removal of a CMT means a loss of heritage to the Tribe, which must be compensated if it was taken without written approval from Lax Kw'alaams Band.
- x. Compensation must be negotiated on a case-by-case basis or it defaults to an administrative penalty against the authorizing government (British Columbia, Canada, or other) in 2023 the penalty for \$50,000.

Compensation may take any number of forms, including but not limited to:

- i. cash payment, royalty on timber removed, setting aside of other areas reserved for the use of the First Nation, or
- ii. training or opportunities in the development or project.

V. Cooperation

- y. Parties operating within Lax Kw'alaams territory will at all times endeavor to agree on the interpretation, application and implementation of this Policy. Lax Kw'alaams will make every attempt through cooperation and consultations to arrive at a mutually satisfactory resolution of any matter that might affect the operation of this Policy.

Type	Guidelines	Rationale
Canoe CMT	<ul style="list-style-type: none"> -Record details -Protect- <ul style="list-style-type: none"> - 30m reserve (greater if required for windfirm or viability) - 20m management zone (selection log; 60% retention) 	Important cultural heritage. Canoes and canoe building are activities integral to the identity of the people.
All other CMTs	<ul style="list-style-type: none"> -Record details -Protect- <ul style="list-style-type: none"> - 20m reserve (greater if required for windfirm or viability) - 20m management zone (selection log; 60% retention) 	The spiritual harvest of cedar and medicines are activities integral to the identity of the people.
Concentration of CMTs	<ul style="list-style-type: none"> - Numbers greater than 8 CMT's per hectare shall be considered significant - Leave, with 30 m buffer around outermost CMT's 	The spiritual harvest of cedar and medicines are activities integral to the identity of the people. Concentrations show repeated use and important locations.