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July 7, 2021

**VIA EMAIL: [dwalker@whiterockcity.ca](mailto:dwalker@whiterockcity.ca)**

Darryl A. Walker, Mayor  
City of White Rock

Re: Modernizing Forest Policy - Local Government Engagement Sessions

Dear Mayor Walker:

On June 1, 2021, the Honourable Katrine Conroy, Minister of Forests, Lands, Natural Resource Operations and Rural Development sent a letter to local government leaders introducing government's intentions for [Modernizing Forest Policy in British Columbia \('Intentions Paper'\)](#). These 20 policy intentions were developed based on extensive consultation and engagement on forest policy and program changes over the last few years where local governments and others provided input, including changes to forest management as part of the *Forest and Range Practices Act* Improvement Initiative, Interior Forest Sector Renewal, Coast Forest Sector Revitalization and the Old Growth Strategic Review.

The Ministry of Forests, Lands, Natural Resource Operations and Rural Development (the 'Ministry') is seeking your insight and input into these policy changes as leaders of your communities. The Ministry will host several regionally focused, virtual engagement sessions this month, in cooperation with UBCM. This letter is your invitation to attend a session and provide insight and input into forest policy change.

With many significant policy changes on the horizon, these July engagement sessions will focus on two-thirds of the changes over the span of a couple hours. These sessions will be designed to learn a bit about the policy area and ask questions, as well as provide input. An online feedback portal is available for you to submit insight and input on behalf of your team of elected leaders and communities either after the session, or as an alternative to attending the session if the timing is not going to work for you. The policy topic areas of focus and summaries for each topic, called 'conversation starters,' are available in Appendix 1.

Please use the link below to register for your regional virtual engagement session on July 27<sup>th</sup> 1:30pm-4:00pm

[https://us02web.zoom.us/meeting/register/tZAodeCtrzsuGNM8\\_IN4Ep5ZSyRPHzWPt2qs](https://us02web.zoom.us/meeting/register/tZAodeCtrzsuGNM8_IN4Ep5ZSyRPHzWPt2qs)

Upon registration, the Ministry will follow up with more details related to our virtual meeting. If this time does not work for you, you can either ask to attend a different regional session via [Forest.Policy@gov.bc.ca](mailto:Forest.Policy@gov.bc.ca) or send your comments into the [online consultation and engagement feedback form](#) previously mentioned.

With many forest policy topics to discuss in a short amount of time, it would be good to hear from you before our session which topics are of greatest interest to your community. With this pre-session input, we can prioritize our time to these topics. To highlight your priority policy topics, [please click here](#).

I appreciate summer engagement sessions are not easy, especially with local government managing through floods in the spring and reacting to wildfires over the last several weeks on top of regular business. Although this timing is not ideal, I anticipate that these topics are of great interest. I look forward to hearing your perspective, and I hope you can join me to engage on the Ministry's next steps toward a better forest sector.

Sincerely,

A handwritten signature in blue ink that reads "Michael Pedersen". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Mike Pedersen  
Executive Director

Ministry of Forests, Lands, Natural Resource Operations and Rural Development  
[Mike.Pedersen@gov.bc.ca](mailto:Mike.Pedersen@gov.bc.ca)

**Appendix 1: Policy Change Topics and Timing for Consultation and Engagement**

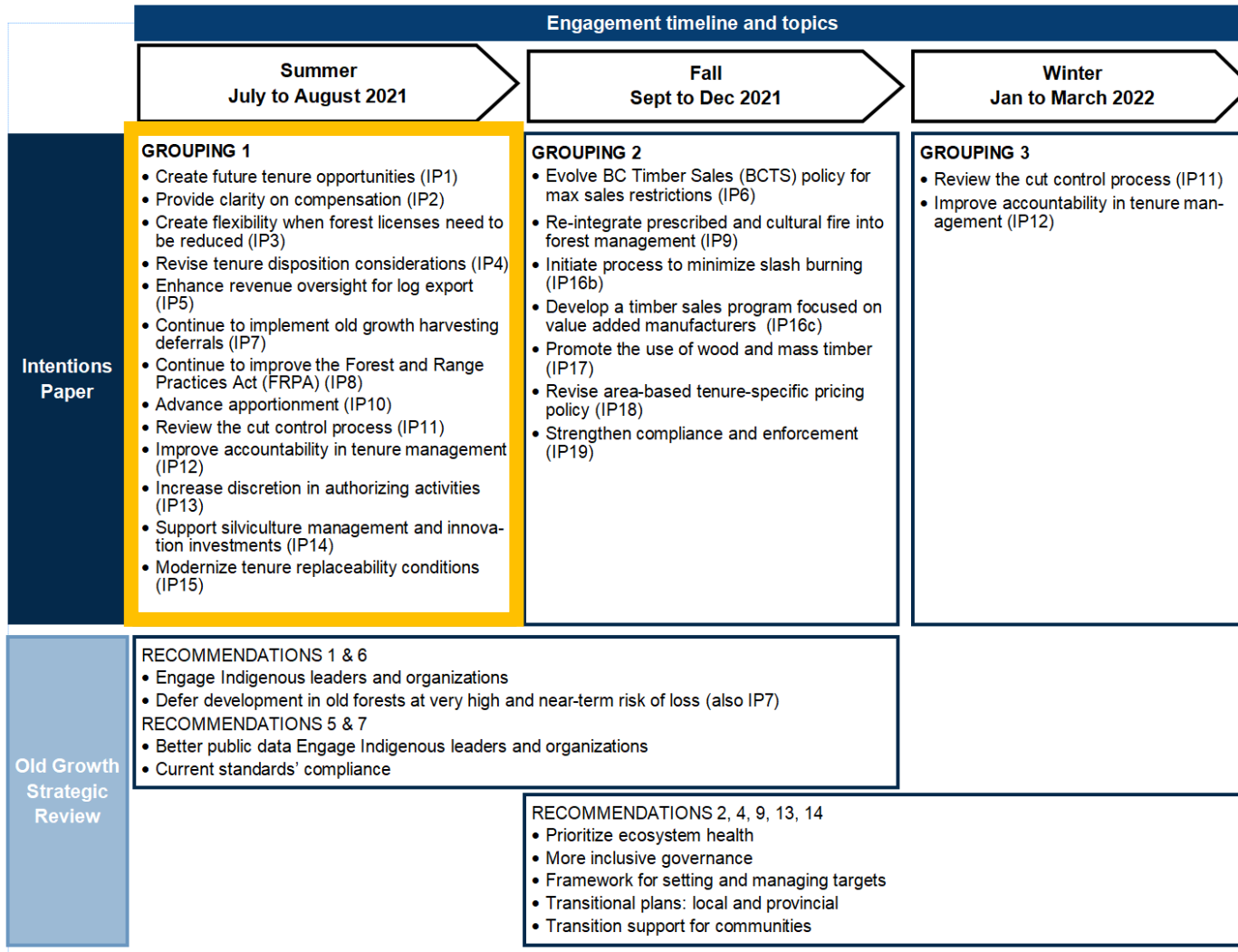
POLICY TOPICS

Topics for summer consultation, for possible legislative and regulatory amendments in fall 2021, and engagement are below. Background on each topic is found on the following pages.

<b>For consultation this summer</b>	<b>For engagement this summer</b>
<ul style="list-style-type: none"> <li>• Creating future tenure opportunities – Intention Paper topic #1</li> <li>• Providing clarity on compensation – Intention Paper topic #2</li> <li>• Creating flexibility when forest licences need to be reduced – Intention Paper topic #3</li> <li>• Enhancing revenue oversight for log exports - Intention Paper topic #5</li> <li>• Committing to implementing further deferrals of old growth forests – Intention Paper topic #7</li> <li>• Continuing to improve the Forest and Range Practices Act – Intention Paper topic #8</li> </ul>	<ul style="list-style-type: none"> <li>• Revising tenure disposition considerations – Intention Paper topic #4</li> <li>• Advancing apportionment – Intention Paper topic #10</li> <li>• Reviewing the cut control process – Intention Paper topic #11 – Grade 4 Credits</li> <li>• Improving accountability in tenure management – Intention Paper topic #12 – Attribution policy</li> <li>• Increasing discretion in authorizing activities – Intention Paper topic #13</li> <li>• Supporting silviculture management and innovation investments – Intention Paper topic #14</li> <li>• Modernizing tenure replaceability conditions – Intention Paper topic #15</li> </ul>

## TIMING FOR ENGAGEMENT AND CONSULTATION

Policy topics from the Intentions Paper have been grouped into three different timing sessions (summer, fall, winter) to get insight and input from local government, Indigenous Nations and stakeholders to incorporate into policy design and implementation.



## **Grouping 1 – Policy Intentions Conversation Starters**

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## **Backgrounder Purpose**

The purpose of this document is to provide more information to inform engagement and consultation conversations on the Province's intentions to modernize forest policy. On June 1, 2021, the Honourable Katrine Conroy, Minister of Forests, Lands, Natural Resource Operations and Rural Development, [released](#) 20 intentions for change focused on sustainability, people and communities, and reconciliation with Indigenous peoples.

Three guiding principles frame this work, as described in more detail in the [Intentions Paper](#):

1. Increasing forest sector participation,
2. Enhancing stewardship and sustainability, and
3. Strengthening the social contract.

This package provides the next level of detail, or summary information, for each of the focus topic areas in the first of three engagement periods. For summer 2021, this first engagement period is called **Grouping 1** and the focus is on 13 of the 20 policy intentions. This material is intended to inform conversations on these policy intentions and generate policy insight, ideas, and perspectives as the ministry meets with Indigenous peoples, local government leaders, forest industry, labour, and environmental interest representatives.

For ease of reference, the topics have been named and numbered as they appear in the Intentions Paper (i.e., Creating future tenure opportunities, and, Intention Paper topic #1). Policy intentions are arranged in two groups. The first group of policy intentions **for information** has been informed by broad and deep consultations and engagements over the past several years with Indigenous Nations, communities, and stakeholders during negotiations, government to government discussions, and previous engagement initiatives intended to share policy change (i.e. the Old Growth Strategic Review, the *Forest and Range Practices Act* Improvement Initiative, Interior Forest Sector Renewal and Coast Forest Sector Revitalization). These intentions will help to initiate significant change in the forest sector in the short term and could be the focus of policy and legislative amendments as early as fall 2021.

The second group of policy intentions, labeled **for discussion**, includes potential changes that are incremental to long term change, and require significant additional discussion to generate specific insight, input, and perspective.

The policy intentions are numbered, may be out of sequence, or may not appear (i.e., Intention Paper topic # 6 and 11). This is because of the history of engagement to date, as described above. Additional information on all topics will be provided in the coming months.

## **Policy Intentions - For Information**

### **A. Creating future tenure opportunities – Intention Paper topic #1**

#### **Background on policy**

As timber supply declines, government has very limited ability to diversify who holds tenure, which drives who participates in and benefits from the forest sector. The current forestry legislative framework does not provide government with forest tenure redistribution tools to address these concerns. The current framework does enable “area takings” and allowable annual cut (AAC) reduction in Timber Supply Areas (TSAs) for limited purposes including access (e.g., roads, pipelines, transmission lines) and non-timber harvesting activities. Forest tenure redistribution has previously required one-off, customized legislation (e.g., *Forestry Revitalization Act*, 2003). This is a lengthy and costly process that does not allow for timely and efficient redistribution actions.

#### **What we have heard regarding this topic**

- From Indigenous engagement on the Interior Forest Sector Renewal initiative and the B.C. First Nations Forestry Council reporting out, First Nations seek access to increased volume and tenure opportunities, which requires revisions to the *Forest Act*. This summary also includes a request to consider greater access to area-based forest tenures.
- From community and stakeholder engagement on Interior Forest Sector Renewal initiative, forest tenure and fibre supply were the topics of greatest interest from both the 36 in-person sessions across B.C.’s interior and the online submissions and survey contributions. The focus of feedback was to redistribute forest tenure for the benefit of greater diversity in the forest sector. Fibre access for smaller manufacturers and for communities to manage tenure were notable in what government heard.
- From the “A New Future for Old Forests” report, effective management of existing old forests and the Province’s ability to emphasize biodiversity means being able to identify and manage these forests outside of the timber harvesting land base (i.e., remove these stands from the typical operating land base – for conservation or low intensity forest management activities).

#### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: Enhance the legal mechanisms to allow tenure to be redistributed for harvesting purposes, encouraging greater diversification in the forest sector. Reasons to redistribute tenure, connected to our goals, include: As a component of an Indigenous Nation treaty or negotiated agreement; Maintaining B.C.’s strong market-pricing system, through the BC Timber Sales program; and As part of a community’s vision for economic resilience and local employment.
- A future state will:
  - Provide government with a new legislated tool to designate an area for the purposes of redistributing tenure for new and specific harvesting purposes:
    - Disposing of Crown land to provide to an Indigenous Nation as fee simple, to further an agreement respecting treaty, interim or economic measures
    - Removing Crown land from an existing area-based licence to provide AAC for the purposes of BC Timber Sales or Indigenous forest licences

- Including Crown land in a new Community Forest Agreement, or an area-based tenure for Indigenous Nations
- Maintain government's ability to remove tenure for the purposes of access or non-timber harvesting purposes, such as special management areas for old forests

### **Principles and Considerations**

Key principles and considerations for creating future tenure opportunities.

#### **PRINCIPLES**

- Tenure redistribution purposes are to be clear, specific, legally defined
- Lost harvesting rights resulting from tenure redistribution should be compensable

#### **CONSIDERATIONS**

Tenure redistribution considerations must be founded on good information. Where the Province does not have consistent or current forest inventory information, such as for area-based licences, government will need to be able to secure this information from licence holders. Shared inventory information can improve land use decision making, including considerations for compensation, and advance stewardship work done between governments today and governments and stakeholders. A consistent dataset can improve efficient, effective, and shared recommendations for decisions.

Once redistribution has been determined within a TSA or area-based licence, government needs the ability to suspend or cancel rights under existing permits and licences. This way, the future intended use of the area can be met without existing or newly authorized activities impacting the future opportunity while the transition of tenure is underway.

Government has set goals specific to creating new tenure opportunities as outlined below (from the Intentions Paper). These goals will inform future policy work around where forest tenure should be considered for redistribution for the purposes of reconciliation with Indigenous peoples, BC Timber Sales for market pricing, fibre access for value-added producers and community interests.



## **B. Providing clarity on compensation – Intention Paper topic #2**

### **Background on policy**

The current *Forest Act* contains a compensation framework. This framework indicates there is value to forest tenure and fixed improvements (e.g. road, log dump), but the legislation is silent on the method to calculate its value. This lack of clarity has led to numerous court cases, arbitrations, and negotiations to fill the void on what is appropriate compensation for lost timber harvesting rights.

### **What we have heard regarding this topic**

- Over the last few decades, arbitrators and the Courts have been highly critical of the compensation framework present in the *Forest Act*. The beginning of this issue is highlighted in the arbitration record in the 1993 MacMillan Bloedel South Moresby arbitration:
  - “...there are no words of limitation modifying the term “compensation” where it appears in s.53 (now s.60). The law presumes full compensation” and
  - “The term “compensation” is a term of art based on value to owner”.

### **Intentions and future state**

- Intention established by the Province: Establish a clear framework laying out where and under what circumstances compensation for lost harvesting rights will apply. Changes will be designed around the nature of the tenure agreement between government and the licensee to provide for a systematic and equitable approach in compensation calculations.
- A future state will:
  - Be consistent with the approximately 90% of compensation cases the Province has processed from 2009 to 2016, where a net income approach was used to negotiate settlements.
  - Fully recognize that fixed improvements have no intrinsic value to the licensee and that fixed improvements are expenses, not assets. The licensee does not own the land but instead holds a contractual agreement to harvest timber.

### **Principles and Considerations**

Key principles and considerations for policy development on a compensation framework.

#### **PRINCIPLES**

- Increase clarity and certainty for all parties on compensation valuations.
- Recognize fair market assessment of tenure value
- Compensation is not available for fixed improvements which are fully recognized in the stumpage appraisal system.

#### **CONSIDERATIONS**

A tenure agreement provides the tenure holder with the right to enter onto Crown land, and with a Cutting Authority, undertake timber harvesting. Following stumpage payment, the tenure holder owns the logs. A tenure agreement does not prescribe the use of the log and therefore restricts the value of the tenure agreement to the value of the log, which is assessed as the net income derived from the sale of the log.

## **C. Creating flexibility when forest licences need to be reduced – Intention Paper topic #3**

### **Background on policy**

The Province is divided into management units for the purposes of defining sustainable harvest rates, amongst other reasons. A management unit is generally considered a Timber Supply Area (TSA) or a Tree Farm Licence (TFL). The Province's Chief Forester is responsible to set the sustainable harvest rate for each management unit every ten years. The sustainable harvest rate is called the Allowable Annual Cut or AAC.

The sustainable harvest rate can increase, decrease, or stay relatively unchanged every time a new AAC is determined depending on the unique circumstances of the management unit. A decrease in the available timber for harvesting, such as the case where large wildfires have consumed available fibre or a land use decision has led to timber being removed from what is available to harvest (e.g. new protected or conserved area), means the available AAC for the management unit must be decreased.

Once a new AAC is determined for a TFL, the harvest rate is automatically reduced. For a TSA where there are volume-based licences, a proportionate reduction approach is applied. This means for each tenure holder with their individual AAC >10,000m<sup>3</sup>, they will have their available harvest reduced by a similar proportion or percentage. For example, if a new AAC required that a ten percent reduction in harvesting was appropriate across the TSA, each tenure holder would experience a ten percent reduction in their assigned AAC.

This policy is contrary to government's vision of creating a more diverse and competitive forest sector for a few reasons. It doesn't allow for consideration of unique circumstances in different management units. It can have a disproportionate impact on the smaller tenure holders who may already face economy of scale challenges, when the larger tenure holders can 'absorb' the harvest reduction more easily. It doesn't consider that some Indigenous Nations may hold a tenure agreement because of a comprehensive reconciliation agreement or accommodation connected to their rights and title, which should factor into reduction decisions.

### **What we have heard regarding this topic**

- From Indigenous engagement on the Interior Forest Sector Renewal initiative and the B.C. First Nations Forestry Council reporting out, First Nations seek access to increased volume and tenure opportunities and consider reforming forest tenure management with reconciliation as an objective.
- From the community and stakeholder engagement on Interior Forest Sector Renewal initiative, forest tenure and fibre supply were the topics of greatest interest from participants. Feedback included considering access to the future timber supply because of its declining availability and allowing for flexibility for different communities or regional needs in future decisions (i.e. one size fits all is less desirable).
- From Indigenous Nations in government-to-government conversations, that the Province should take all steps necessary to support reconciliation including for forest tenures provided as part of agreements and for accommodation purposes.

- From some forest companies with manufacturing facilities, security of timber supply to fulfill part of their milling needs is important to maintain at least one shift running during market downturns.

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: The Province employs a Chief Forester, who sets the sustainable harvest rate, the Annual Allowable Cut (AAC). In some situations, such as when the timber supply is decreasing, the Chief Forester will determine the AAC needs to be reduced to maintain a sustainable harvest rate. This means that the harvest volume allocated through licences in the area must be reduced to maintain a sustainable harvest rate. Current policy uses a proportionate reduction method where all tenure holders (excepting very small ones) experience a similar percentage decrease to their licence. However, this method does not allow for government to consider several important elements in our changing environment, such as the unique pressures faced by small operators, or Indigenous or other local community interests. Given this, we plan to introduce a more flexible approach.
- A future state will:
  - Provide government with the tools to distribute AAC reductions among forest licenses in a manner that is fair and supports government’s vision for a diverse and competitive forest sector.
  - A new reduction approach is anticipated to be customizable for different local circumstances

### **Principles and Considerations**

Key principles and considerations for shifting the licence reduction policy from a proportionate basis to a more flexible model.

#### PRINCIPLES

- Accountability and transparency for decision makers
- Fair and equitable for the circumstances and similar situations
- Consistency and predictability, to support certainty
- for decision makers, meaning for the responsible person making the decision

#### CONSIDERATIONS

Like changes advanced under 2019’s Bill 22 for tenure disposition and change of control, licenses that are held singly or by jointly related persons will be grouped, for the purposes of licence reduction decisions. This is important to ensure greater forest sector diversity can be achieved.

## **D. Enhancing revenue oversight for log exports - Intention Paper topic #5**

### **Background on policy**

The *Forest Act* requires fee payment to the government for timber exported off provincial lands. This fee is called the fee-in-lieu of manufacture, paid on timber and logs that are exempted from the requirement to be manufactured in B.C. and are instead exported. The Province does not currently have the power to inspect, audit, or assess the fee-in-lieu payments. The Province does have this due diligence ability for stumpage payments.

### **What we have heard regarding this topic**

- From the Coast Forest Sector Revitalization initiative, log and timber exports are a critical market for forest companies in B.C.

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: When logs are exported off provincial lands, a fee-in-lieu of manufacturing domestically is charged. To better ensure the Province receives these fees, we plan to add the ability to audit and assess fee-in-lieu of manufacture payments, like our ability to audit and assess stumpage payments
- A future state will:
  - Provide similar authorities to the government, through the Ministry of Finance, to administer a revenue oversight function.

### **Principles and Considerations**

Key principles and considerations for establishing revenue oversight for log exports.

PRINCIPLES

Not applicable.

CONSIDERATIONS

Not applicable.

## **E. Committing to implementing further deferrals of old growth forests – Intention Paper topic #7**

### **Background on policy**

In September 2020, the Province released a report on the future of old growth management written by two independent panelists, with 14 recommendations for change. Government has committed to implementing these recommendations through a priority-based approach. The immediate focus is to work with Indigenous Nations on future possible timber harvesting deferrals where old forests are at high and near-term risk of immediate biodiversity loss.

### **What we have heard regarding this topic**

- This work draws directly from the published report: [A New Future for Old Forests](#)

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: Government’s vision to modernize forest policy complements the ongoing work implementing recommendations out of the strategic review A New Future for Old Forests. As a first step, in September 2020, government announced the harvesting deferral of 196,000 hectares of old growth in nine separate areas. To give context, this is equivalent to an area of approximately 480 Stanley Parks. In addition, government also enacted the Special Tree Protection Regulation, protecting up to 1,500 exceptionally large, individual trees. This important work will continue, and government is committed to engaging with Indigenous leaders, industry, labour, environmental groups and communities to further identify potential additional deferral areas.

### **Principles and Considerations**

Key principles and considerations to implementing future timber harvesting deferrals in old forests.

#### **PRINCIPLES**

- Working with Indigenous Nation leadership is paramount
- A science-based approach to areas at high risk of biodiversity loss will guide our work

#### **CONSIDERATIONS**

Government has published a high-level timeline (see below) which illustrates the anticipated focus areas for engagement over the next several years.

Government’s timeline on the old growth initiative means by 2023, decisions will need to be made on deferral areas – either to protect them indefinitely or to return them to an unprotected status.

Government may wish to create one or more designation categories for such protected areas and will be assessing and considering the need for new designation types for old growth protections where existing *Park Act* or *Forest and Range Practices Act* protections may not meet the objectives. The contemplated name of an initial new designation type for future old growth conservation is ‘Special Forest Resource Management Area.’

# Old Growth Strategic Review – The Path Forward

**MAY 2020 - ONGOING**

## **IMMEDIATE MEASURES**

- » Commitment to partnership with Indigenous Nations
- » Deferral of old growth at risk of irreversible loss
- » Better public data
- » Compliance with current standards

**2021 – ONGOING**

## **ELEMENTS REQUIRED TO SUPPORT CHANGE**

- » Prioritize ecosystem health
- » More inclusive governance
- » Framework for setting and managing targets
- » Transition plans: local and provincial
- » Transition support for communities

**2023 – ONGOING**

## **THE NEW OLD GROWTH STRATEGY**

- » Three zone management
- » Funds for monitoring and evaluation
- » Updated biodiversity targets and guidance
- » Better inventory and classification
- » More innovative practices

## **F. Continuing to improve the *Forest and Range Practices Act* – Intention Paper topic #8**

### **Background on policy**

As part of changes to the *Forest and Range Practices Act* (FRPA), the Province intends to move forward with the proposed introduction of a new approach to forest planning. 'Forest Landscape Plans' (FLPs) are expected to replace the existing Forest Stewardship Plan (FSP) framework through British Columbia (B.C.) over time. The new FLP regime responds to a range of challenges B.C.'s forest sector has experienced over the last decade by:

- better coordinating forest development at a landscape scale,
- realizing sustainable harvest levels in support of B.C.'s economy,
- achieving greater oversight of forest management, and
- ensuring that land managers have the right tools to establish resilient forests and rangelands when faced with the uncertain impacts of climate change upon these ecosystems.

FLPs will also help to create partnerships between Indigenous Nations and the Provincial government and allow for the meaningful engagement of forest licensees, stakeholders, and the public. Indigenous peoples want to play a greater role in the forest sector and in forest management but have had limited opportunity to ensure their values and interests are appropriately reflected. The Province's ability to support Indigenous participation and decision-making in forest planning through existing legislation and policy tools is limited.

### **What we have heard regarding this topic**

All from the FRPA engagement conversations to date:

- Indigenous peoples are committed to working with the Province to support sustainable forest and range management across B.C.
- There are currently limited opportunities for Indigenous peoples to meaningfully participate in forest planning and management within their traditional territories.
- Earlier engagement in forest planning, at a level in between the strategic landscape level planning applicable to all activities typically articulated in a Land Use Plan, and the operational activities that occur on the ground, like the harvesting of a cutblock or the construction of a new road.
- Greater participation in forest planning and management includes the authority to share in decision-making. Free, prior, and informed consent is the objective.

### **Intentions and future state**

- Intentions established by the Province in the Intentions Paper:
  - Indigenous peoples want to play a greater role in the forest sector and in forest management. The Province's ability to support this through existing legislation and policy tools is limited. Enabling the opportunity for shared decision-making agreements to be negotiated and implemented, government-to-government, will be part of this work.

- Our government initiated a multi-phased improvement initiative with the Forest and Range Practices Act in 2018. We engaged with interested Indigenous peoples to understand where they sought improvements and have been working on changes to our legislative framework since. The Forest and Range Practices Act ensures forest values are considered, managed and conserved; we have heard this is important to British Columbians and we intend to move forward with changes like the proposed tactical planning approach of ‘Forest Landscape Plans’ to better incorporate those values and ensure Indigenous peoples can be involved at the start of the forest planning process. We also plan to better link forest management with fire management through this work.
- A future state will:
  - Include the tactical planning approach of ‘Forest Landscape Plans’ to better incorporate a range of forest values and ensure Indigenous peoples can be involved at the start of the forest planning process. Enabling the opportunity for shared decision-making agreements to be negotiated and implemented, government-to-government, is an important part of this work.

### **Principles and Considerations**

Key principles and considerations for enabling shared decision-making agreements starting with the FLP framework.

#### PRINCIPLES

- Forest Landscape Plans are developed in collaboration with Indigenous peoples.
- The values Indigenous peoples place on forests and forest ecosystems are important.
- Shared decision-making at the forest stand level (e.g. a watershed) of forest planning supports operational activity.

#### CONSIDERATIONS

Implementing shared decision-making agreements under s.7 of the *Declaration on the Rights of Indigenous Peoples Act* (‘Declaration Act’) requires legislative amendments to the relevant statutes to enable the joint exercise of a statutory power of decision, and/or consent being given by an Indigenous Governing Body prior to the exercise of a statutory power of decision.

Negotiation of a s.7 shared decision-making agreement is a related but separate process.



## **Policy Intentions - For Discussion**

### **G. Revising tenure disposition considerations – Intention Paper topic #4**

#### **Background on policy**

When a tenure holder wants to transfer a tenure or change who controls it, the Minister must approve the transfer. In deciding if it should be approved, the Minister must consider if the transfer is in the public interest and how it affects fibre concentration (i.e., the competitive nature of access to fibre). This obligation was established through an amendment to the *Forest Act* in 2019 under Bill 22. Prior to this 2019 change, the Minister was made aware of such tenure dispositions but had no role in the process.

#### **What we have heard regarding this topic**

- From government meetings between the Province and rural and Indigenous communities, there is a strong desire to be engaged in the tenure disposition process.
- From the forest industry in tenure dispositions from the last two years, there is an interest to better understand what the public interest considerations entail, so they can consider in structuring their tenure disposition transaction.
- From the Interior Forest Sector Renewal Initiative Indigenous feedback, the Province should create more situations where Indigenous participation and partnership are considered.

#### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: Build on the success of 2019's Bill 22 in addressing public interest considerations when a tenure transfer or change of control occurs. This could include a review of impacts of the transfer or change of control to the local economy, including the proposed changes to the regional wood manufacturing sector if a mill is indefinitely curtailed resulting from the proposed transaction, and the interests of local Indigenous peoples.
- A future state will:
  - Consider the type of licence or tenure agreement, which is being disposed of, and place greater emphasis on tenures or licences that are replaceable and have a greater allowable annual cut or harvest volume assigned to them.

#### **Use the tools set out in the regulation for consistent and transparent analysis. Principles and Considerations**

Key principles and considerations for revising expectations for tenure disposition.

##### PRINCIPLES

- Flexibility to apply public interest considerations at the local level is important

##### CONSIDERATIONS

- The current fibre concentration assessment found in regulation, the Herfindahl-Hirschman Index (HHI) is a common measure to determine market competitiveness, often pre- and post-merger,

and acquisition transactions. It is well suited to the tenure structure in B.C. and is simple to use for fibre concentration calculations.

## H. Advancing apportionment – Intention Paper topic #10

### Background on policy

Apportionment is a discretionary decision which establishes the Minister’s vision for the allocation of allowable annual cut (AAC) to different forms of forest tenure in a timber supply area (TSA), typically following an AAC determination. If the AAC is reduced, the Minister may also decide how much of that reduction should be applied to forest licence volumes. Current policy includes how this reduction should occur and guidance for how to address harvest reductions. A proportionate reduction approach has been applied in the past where licence holders each shoulder a similar amount, or percentage, of the fibre supply reduction relative to their previous AAC.

Historically, apportionment and proportionate reduction have been used to assist government in making sustainability-based volume reductions in TSA’s that are facing a declining AAC. More recently, apportionment discussions have begun to evolve to include multiple objectives, providing a forum to address local communities and local Indigenous interests about fibre use and tenure access. This has occurred in part due to the lack of other forums to discuss these matters and the interest of many to be involved in the forest sector. Apportionment decisions, once simpler are now complex and can take years to complete. This situation has become challenging in the TSAs where available fibre supply is reducing, and government wants to improve sustainability measures.

### What we have heard regarding this topic

From the Interior Forest Sector Renewal process,

- Maintaining access and certainty of fibre supply supports private sector capital investment, which in turn supports communities.
- Rural and Indigenous communities want to have greater input into how forests are managed around their communities.
- Communities, forest companies and other stakeholders have indicated that increasing access to forest tenure for smaller operators can help promote resilient communities and forest sector diversity.

From other conversations and meetings:

- Indigenous peoples and the B.C. First Nations Forestry Council have both highlighted apportionment as an avenue to support reconciliation.
- Forest companies seek clear, predictable, and timely decisions to keep their operations running and people employed.

### Intentions and future state

- Intention established by the Province in the Intentions Paper: Apportionment is a discretionary decision on how the minister would like to divide the AAC in a Timber Supply Area (TSA) among the various tenure types. As government proceeds with rebalancing tenure opportunities, we will be looking to improve the apportionment process so that decisions can be made in a timely way which considers harvest sustainability, the interests of local Indigenous peoples and other stakeholders.

- A future state will:
  - Focus on timeliness and sustainability, and
  - Consider the interests of current tenure holders and business, as well as Indigenous and rural communities, and other stakeholders.

### **Principles and Considerations**

Key principles and considerations important for considering policy changes regarding apportionment:

#### PRINCIPLES

- Safeguard sustainability by making timely apportionment and reduction decisions.
- Incorporate reconciliation into decision making, where possible, and increase Indigenous participation in the forest sector.
- Support the BC Timber Sales timber pricing mandate in future decisions.
- Ensure a competitive forest sector and robust economy by providing stability and certainty to industry.
- Increase community participation in the forest sector.
- Provide transparency in future policy to promote clarity and predictability.

#### CONSIDERATIONS

Future policy on how to reduce harvest volumes for licence holder's links to Intentions Paper topic #3 on government's intention to increase flexibility in how reductions proceed in the future. A one-size-fits-all approach to policy can constrain local circumstances especially as several management units are forecast to see timber supply reductions in future AAC determinations.

With a tenure redistribution mechanism contemplated in Intentions Paper topic #1 above, apportionment will be more clearly focused on sustainability.

A short-term, mid-term and long-term policy shift may be required given the current decline in available timber supply in B.C.'s Interior, interests to maintain sustainability and the desired future state of tenure distribution.

## **I. Reviewing the cut control process – Intention Paper topic #11 – *Grade 4 Credits***

### **Background on policy**

Grade 4 credits were introduced in 2006 to better incent the full utilization of mountain pine beetle impacted forest stands that may otherwise have been left in a harvested area as residual, unused fibre. Also, if left in a harvested area and not removed, this additional fibre increased wildfire risk. A Grade 4 log or slab is a lower quality log than grades 1 and 2 that are used to make lumber for various construction uses but can still be manufactured into a variety of products. For instance, the lower quality may be the result of the tree having been dead for some time, it has dried out and cracks have formed in the wood.

The incentive that Grade 4 credits create is that if harvested and delivered to facility other than a sawmill, the volume of fibre removed which is classified as Grade 4 is not calculated as part of the total harvest off the tenure holder's licence. This means the licensee can harvest more fibre than what is included in their tenure agreement with the Province. The volume of Grade 4 credit harvested is not counted against their allowable annual cut (AAC) and does not impact the licensee's cut control. Examples of such manufacturing facilities include but are not limited to pulp and paper, chipping, pellet, and bioenergy.

With the large-scale salvage effort following the mountain pine beetle epidemic essentially over, the intended use of this tool must be reconsidered. The declining fibre supply across B.C.'s interior has generated greater interest to utilize lower quality fibre, and the demand (and willingness to pay) for this fibre has increased. If the Province does not revise the Grade 4 credit policy, and harvesting continues to be unaccounted for in individual licensee's assessments and Timber Supply Area (TSA) wide assessments, overharvesting is a real risk in some areas. Specifically, the sustainability of forecasted harvest levels in most TSA's does not account for Grade 4 crediting and TSA overharvesting is a likelihood. This could place further pressure on the fibre available for the mid-term timber supply impacting communities, jobs, harvest sustainability, climate change and ecosystem health.

### **What we have heard regarding this topic**

From forest sector participants:

- Grade 4 credits have been an effective method of delivering low quality timber to secondary manufacturers who may otherwise have difficulty obtaining fibre.
- Licensees and mills have developed business relationships based on Grade 4 credits, which supports local employment and maximizes fibre utilization within harvested areas.
- Removing Grade 4 credits may remove the incentive to bring low quality fibre to secondary users.
- Grade 4 credit use has declined overall, however there is continued use in some Timber Supply Areas (TSAs).
- There has been a significant shift in where Grade 4 credits are being applied. For a tool designed for pine salvage as part of the mountain pine beetle epidemic, now the tool is being used for other tree species like spruce and balsam and other various other scenarios which is contrary to the original intent of this crediting tool.

From communities, Indigenous peoples, and the public:

- Sustainability of our forest resources is important, as expressed in engagement initiatives from Interior Forest Sector Renewal, Coast Forest Sector Revitalization and the *Forest and Range Practices Act* Improvement Initiative.

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: Current cut control requirements do not require a tenure holder to: use all of their AAC; access timber consistent with the intentions of the Chief Forester (including profile instructions for the types of timber harvested or partitions made to determine where harvest occurs); or fulfill a licence's management plan. As a result, the intention of sustainable harvest within the AAC may not be realised as less-desirable parts of the AAC can be under-utilized in favour of higher value timber. Specifically, in B.C.'s interior, cut control "crediting" has been used for years to encourage the salvage of lower-quality fibre by not attributing for that harvesting to a tenure holder's AAC. This approach was helpful when salvaging timber damaged by the mountain pine beetle but does not address new challenges such as a declining mid-term timber supply. We plan to review how cut control is designed and implemented, so as to make improvements, such as encouraging tenure holders to utilize their AAC in a way that honours the intended harvest profile.
- A future state will:
  - Include a shift in policy to recognize the large-scale salvage effort that the grade 4 cut control credit policy was created for, the mountain pine beetle epidemic, has largely concluded, and
  - Consider the creation of new tools or modification of existing tools to facilitate the use of low-quality fibre sources, without creating additional pressures on the Allowable Annual Cut (AAC).
  - Be cognizant to the valuable business relationships this tool and others have generated, to increase utilization of our fibre resources, getting fibre to the right manufacturing facility in many cases.

### **Principles and Considerations**

Key principles and considerations applicable to revising the grade 4 credit policy as a tenure management tool include:

#### PRINCIPLES

- Timber harvesting rights and harvest levels should align with the sustainable AAC
- Increasing and maintaining fibre utilization is important
- Maintaining business arrangements that support communities and jobs are important

#### CONSIDERATIONS

This work is part of the greater package of tenure management tools that needs to be reconsidered but is being accelerated because of the sustainability risks to the timber supply it poses.

## **J. Improving accountability in tenure management – Intention Paper topic #12 – Attribution policy**

### **Background on policy**

A licence holder can employ a legal mechanism, called attribution, to transfer harvested timber volume between licences. The reason a tenure holder may want to do this is to manage their cut control, meaning the amount of volume they are required to harvest over a five-year period as set out in their tenure agreement. The ability to attribute timber harvesting creates flexibility for a licence holder to manage their harvesting and silviculture activities, fibre flow and legal obligations. The Minister is responsible for making decisions on attributions, and a licence holder must meet specified requirements and public interest considerations for the Minister to consider an attribution approval. The approval of an attribution cannot be predetermined in advance of harvest and is neither guaranteed nor automatic.

Attributions are used as a key strategic partnership tool between licence holders and often involve business arrangements regarding operations on tenures held by Indigenous peoples. Success of these arrangements rely on the approval of an attribution after the harvest has been completed. This reliance on a post harvest decision creates uncertainty and increased financial and operational risk to the licence holders if the attributions are not approved.

### **What we have heard regarding this topic**

Primarily from licence holders, both Indigenous and non-Indigenous:

- The attribution mechanism is a critical tool that supports business to business arrangements.
- Preapproval of the attributions prior to harvesting would promote partnerships in the sector with increased certainty of reciprocal benefit between the parties involved.
- Concerns that excessive use of attributions can negatively impact various forest management objectives.
- Uncertainty regarding attribution approval and timing creates substantial risk to licence holders' business arrangements.
- Clarity is sought in policy for timely decisions to allow for confidence in harvest planning and developing partnership arrangements.

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: Holding a tenure on Crown land puts the holder in a position of public trust. Governments sees an opportunity to strengthen that accountability. Tenure holders employ various tenure management strategies to support their operations at both a cutting authorization level and tenure management level. Examples include licence subdivisions and consolidations, cut control attributions, licence extensions or cut block splitting at a permit level. Although these strategies are often used for legitimate forest management reasons, at times they may not be in the public interest. Our government intends to consider the tools available to decision makers in both monitoring and reporting on tenure agreements to ensure these strategies are employed in the public interest.
- A future state will:

- Maintain attribution as a mechanism to support relationships, either business-to-business or between a licence holder and an Indigenous Nation,
- Consider more timely attribution decisions, and
- Outline more clearly the expectations and requirements expected to employ attribution as a tenure management tool.

### **Principles and Considerations**

Key principles and considerations applicable to attribution policy development include:

#### PRINCIPLES

- Sustainability – Attributions must not compromise the management unit or licence AAC.
- Reconciliation – Attributions should benefit partnership opportunities that increase Indigenous participation in the forest sector.
- BC Timber Sales (BCTS) – Integrity of BCTS operations must be maintained.
- Revenue - Attributions should not impact provincial revenue.
- Timely – Attributions policy should provide for clear and transparent rules and regulations to allow for streamlined and timely decisions.

#### CONSIDERATIONS

Used inappropriately, attributions may be used as a surrogate for transfer of tenure rights between parties. Consider limitations on attributions to avoid risks regarding transfer of tenure rights.

This work is part of the greater package of tenure management tools that needs to be reconsidered but is being accelerated because of the partnership opportunity it presents and more immediate changes that must be advanced regarding how the tool has been used.



## **K. Increasing discretion in authorizing activities – Intention Paper topic #13**

### **Background on policy**

Under the current forest management framework, a statutory decision maker (e.g. District Manager) is required to issue a cutting permit or road permit application. There are limited exceptions when a decision maker could refuse to issue a permit or place conditions on the permit. These include but are not limited to:

- The rights of the agreement holder (e.g. tenure holder, licence holder) are suspended,
- The agreement holder has not paid a security, or a deposit as required under law, and
- The agreement holder has not completed their obligations as required under a previously issued permit, as part of the same overall agreement

In the minority of cases, a decision maker has had to issue a permit which may have not been in the public interest or reflective of local Indigenous interests. A decision maker did not have the ability to consider other forest values that could be comprised if the permit, as presented, moves forward.

### **What we have heard regarding this topic**

- Forest Practices Board (FPB) investigations have highlighted the constraints on statutory decision maker discretion to refuse a permit, and the risk this creates for publicly held forest resources.
- From District Managers across B.C., in conversations with local Indigenous Peoples and local stakeholders, the decision maker is expected to be able to make decisions if a proposed authorization is not in the public interest.
- From comments received during the Interior Forest Sector Renewal Initiative, the Province needs tools to better support sustainable forest management and manage the land in accordance with multiple forest values and Indigenous values.
- From the BC First Nations Forestry Council led engagement sessions on Interior Forest Sector Renewal, safeguards are needed for the environment and forest values other than, or in addition to, timber (fibre) production.

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: Currently, when statutory decision makers issue cutting permits or road permits (authorizations to harvest timber or build roads), they have minimal discretion to refuse a permit. There are instances when a permit request submitted is in stark contrast to the public or Indigenous interests, but these decision makers have limited ability to do anything about it. We will explore options to provide discretion in authorization decisions based on important forest values, such as water, wildlife, and Indigenous heritage. Decision makers need to be able to reject authorizations, or to approve an authorization with conditions, if there are concerns the permit could irreparably impair other forest values.
- A future state will:

- Offer a statutory decision maker the option to either refuse or alter an authorization if they determine issuance of a permit would significantly impact the management and conservation of forest resources.
- Strengthen government’s ability to assert management control over public forestry resources to regain public trust regarding sustainability issues, focused on road permits and cutting permits.
- Ensures improved tools to assert management control over forestry activities based on specific circumstances
- Ensures that local Indigenous interests and values are adequately identified and accounted for within landscape level forest plans, to inform the development of authorizations by tenure holders and decision makers.

**Principles and Considerations**

Key principles and considerations when considering what discretion, a statutory decision maker should have for authorizations like cutting permit and road permit approvals include:

**PRINCIPLES**

- Forest stewardship and sustainability are important.
- Authorization refusal should come with a written rationale and with an offer for an opportunity to be heard.
- Implementation support will be required for decision makers, including policy, guidance, and training.
- Decisions are based on meaningful consultation and consideration of local Indigenous values and interests.
- Clear definitions for “prescribed circumstances” where a decision maker may refuse or alter an authorization permit need to be identified. For instance, broad based topics like ‘climate change’ would not be considered but specific examples or circumstances could be considered.

**CONSIDERATIONS**

There is regulatory authority within the *Forest Act* where government could provide discretion to the issuance of cutting permits and road permits that if such objectives were compromised, a permit request could be refused.

## **L. Supporting silviculture management and innovation investments – Intention Paper topic #14**

### **Background on policy**

One way to maximize the timber supply available, and sequester more carbon, is to invest in forest stands to grow more quickly and support their overall health. This can be achieved through silviculture investments. Silviculture investments can cover a wide range of activities like using genetically selected seeds for new seedling growing stock, tree fertilization, tree pruning, spacing and commercial thinning.

The Province currently invests more than \$20 million annually on these silviculture investments in addition to investments completed by industry as a legal requirement for harvesting. There has been increasing interest for the Province to invest more in such treatments given the declining timber supply in the Interior (following mountain pine beetle kill and catastrophic wildfires), to help fill the gap that will be experienced over the next few decades – what is called the mid-term timber (fibre) supply.

Right now, there is no legal mechanism to prevent timber harvesting in areas that have received additional silviculture investment. For instance, fertilization investments to mitigate climate change only realize a maximum climate benefit if they can remain unharvested (and otherwise unharmed, such as from wildfire), for 10 years post treatment. There is also no consistent way these investments are being tracked across the Province to ensure they can be maintained to realize their full benefit, and investment.

### **What we have heard regarding this topic**

- From the Interior Forest Sector Renewal Initiative, it's important for government to do its part to maintain certainty of fibre supply, as this certainty underpins capital investment in the sector and resiliency of rural communities.
- From forest sector participants, through meetings and the recent Coast Forest Sector Revitalization and Interior Forest Sector Renewal, that is critical to have a regular, predictable flow of fibre to maintain operations, which means maintaining jobs.
- From the Interior Forest Sector Renewal engagement and the B.C. First Nation Forestry Council's report on this topic, supporting a vigorous timber supply aids in creating and maintaining forest resource management opportunities for Indigenous communities.
- From multiple engagement initiatives and provincial and municipal government meetings, communities want to have more input into, and control of the forests that surround their communities, for multiple values be it timber supply and their visual backdrops, to carbon storage and sequestration, to wildfire mitigation.
- From the report 'A New Future for Old Forests,' recommendation 12 speaks to advancing a silviculture innovation program aimed at developing harvesting alternatives to clearcutting that maintain old forest values. The reasons for this recommendation are further detailed in the report but includes improved acceptance of forestry activities, to improve ecosystem health, to increase access to stands otherwise not accessible to forest harvesting (if harvesting is less intrusive), to reduce conflict between people and communities who support timber harvesting versus those that are not supportive, to increase operational efficiency with experience, and to increase overall returns for economic, ecological and social measures.

## **Intentions and future state**

- **Intention established by the Province in the Intentions Paper:** One way to maximize limited timber supply is to increase silviculture investments, helping stands grow back faster and healthier. Licensees are required to replant within a few years of harvest and steward these young trees until they reach a state of “free growing.” The Province spends over \$20 million annually on additional silviculture enhancements beyond the “free growing” obligations of the tenure holders. However, investments are not monitored to ensure the resulting trees are harvested at an optimum time to take advantage of the investment. We will consider limits on timber harvest until provincial silviculture investments have optimized harvest opportunity in consideration of risk and other values. This can include activities like commercial thinning, or any innovative forest practices that may be advanced pursuant to recommendation 12 within the Old Growth Strategic Review report.
- A future state will:
  - Consider limiting timber harvest in treated areas until the benefits are realized that drove the investment and treatment in the first place (e.g., timber supply investment, carbon investment for climate change mitigation),
  - Expand awareness amongst government decision makers and those involved in forest planning activities where silviculture investments have occurred, and how these investments may alter authorization approvals, such as cutting permits, and
  - Connect silviculture investments as a value to be managed in forest stands for forest managers, so that a statutory decision maker may have discretion to not approve activities in an area where investments have occurred but have not yet reached their maturity date.

## **Principles and Considerations**

Key principles and considerations for developing policies regarding silviculture investments and innovation investments include:

### PRINCIPLES

- Spending on silviculture investments are made with the understanding the benefits intended with the investment will be achieved.
- Taking action to mitigate climate change through forest management is important.
- Improving awareness of what investments have been made, where and why, are important for forest managers and decisions makers.
- Enabling the ability to say no to authorizations within silviculture investment areas is important to protect the investment; but some limited exemptions are also important, like ensuring community safety from wildfire.

### CONSIDERATIONS

- The Forest Landscape Planning (FLP) framework and process proposed for improvements to the *Forest and Range Practices Act* could be a future mechanism to provide direction for where silviculture investments could be prioritized, and how to protect such investments.

## **M. Modernizing tenure replaceability conditions – Intention Paper topic #15**

### **Background on policy**

The Minister must offer a replacement tenure of the same size and term, generally 25 years, to holders of replaceable tenures (Tree Farm Licence, Forest Licence) before the tenth anniversary of the tenure. This replacement regime was designed in the 1960s to encourage investment in infrastructure and manufacturing facilities.

Currently, a replaceable tenure must be re-offered to the existing tenure holder assuming some basic conditions have been met, such as the tenure holder paying annual rent on their tenure and their tenure not being suspended due to legal issues. These conditions do not represent the suite of expectations the public, local communities and local Indigenous peoples expect when they think of the forests around their communities being on a long-term lease to a company. The conditions that a company who holds replaceable tenure require renewal.

### **What we have heard regarding this topic**

- From many meetings with Indigenous Nations, we hear that the continued replacement of these forest tenures without considering their interests for the forests on their traditional territories does not align with reconciliation.
- From the community and stakeholder engagement on Interior Forest Sector Renewal initiative, there was significant interest in the future of forest tenure policy ensuring communities can have a voice in forest management and that forest management considers local interests.
- From many meetings with communities, Indigenous peoples, and stakeholders, we understand there is a shared interest to be engaged on tenure replacements. Tenure holders should have greater accountability to the communities where they operate and should look to how to better partner for shared success.

### **Intentions and future state**

- Intention established by the Province in the Intentions Paper: While licensees require certainty to make business decisions, we intend to ensure replaceable tenures demonstrate a clear commitment to sustainability and sound management. So-called evergreen tenures, which must by law be renewed, date back to the 1960s, when considerations around Indigenous partnerships, forest sustainability and climate change were very different. We will revisit the criteria and expectations for tenure replacement, which we expect to include licence performance on a range of public interest considerations as part of the replacement process. In essence, we are looking for holders of replaceable tenures to find creative ways to partner and grow the industry, inclusive of Indigenous interests, while maintaining the long-term stability industry needs to thrive.
- A future state will:
  - Maintain the current requirement that the tenure holder has paid their annual rent and conducted timber harvesting activities within the regulated standards including the allowable annual cut.
  - Consider performance measures such as harvesting the timber profile in accordance with direction from the province's Chief Forester, and increasing utilization

- Considers local Indigenous and rural community perspectives and interests.

### **Principles and Considerations**

Key principles and considerations for considering changing the considerations for tenure replacements.

#### PRINCIPLES

- Transparency in the criteria applied
- Timeliness in future decision-making processes
- Stewardship and sustainability are built into replacement considerations
- Rights and title holders' voices contribute to decisions

#### CONSIDERATIONS

There are several Forest Licences and Tree Farm Licences currently due for replacement and an additional 11 transfers in process.

Amendments to the *Forest Act* are required to support implementation any new transfer or replacement policies.