

Proposed Tenure Disposition in Coastal British Columbia

December 2022

The Ministry of Forests (“the Ministry”) has received several requests from Interfor Corporation (Interfor) to sub-divide and transfer a number of forest tenures in Coastal British Columbia.

If approved the tenure dispositions (transfers) will result in approximately 558,607 m³ of timber harvesting rights being transferred to First Nation controlled entities, and 104,486 m³ being transferred to non-First Nation companies.

The sub-division and transfer requests require the approval of the Minister of Forests. To support the Minister, the Ministry will be consulting with First Nations and engaging with communities, the public, and workers, to gather information so that the Minister can ensure that the tenure dispositions are in the best interests of British Columbians.

Interfor is conducting a strategic review of their remaining Coastal timber harvesting rights and may request the disposition of additional forest tenures and permits at a later date. These requests would be considered by the Ministry separately and would require additional information gathering and consultation.

The Tenure Disposition Requests

Interfor’s requests consists of

- Three Replaceable Forest Licence (RFL) sub-divisions to create a total of eight RFLs and the subsequent transfer of six of these RFLs to new holders.
- Six RFLs transfers to new holders (this is in addition to the six RFLs transfers noted above).
- One Tree Farm Licence (TFL) sub-division to create two TFLs and the subsequent transfer one of these TFLs to a new holder.

Interfor and the intended new tenure holders are advancing to purchase agreements. The Province is not involved in the purchase agreements nor are they privy to the negotiations.

The following table highlights the tenure dispositions requested:

<i>General Location</i>	<i>Timber Supply Area (TSA) or TFL</i>	<i># Sub-divisions requested (new and amended tenures created)</i>	<i># Transfers Requested</i>	<i>Annual Allowable Cut Transferred (m3)</i>
South Island	Arrowsmith	1 (2)	3	98,971
North and Central Island	North Island	0	2	168,184
Central Coast	Great Bear Rainforest South	1 (3)	2	125,000
North and Central Coast	Great Bear Rainforest North	0	1	24,488
Central Coast	Tree Farm Licence 45	1 (2)	1	25,000
Sunshine Coast	Sunshine Coast	1 (3)	4	221,450
Total		4 (10)	13	663,093

A more detailed description of the tenure sub-divisions and transfers can be found in the Appendix. The Ministry will also be providing detailed information specific to each tenure disposition for each TSA and the TFL in a separate document.

Are there other tenures or permits being transferred?

Interfor has requested that the Ministry transfer several road permits and some cutting permits to the new tenure holders. It is also expected that Interfor may request the transfer or assignment of other permits and licences such as special use permits and licences of occupation to the new tenure holders. These permits and licences may be transferred concurrently with the transfer of the FLs or TFL or independently. Details of the ancillary permits and licences to be disposed of by Interfor will be provided in the detailed information for each tenure transfer.

What are the legal requirements for the subdivision of a Forest Tenure?

The *Forest Act* allows a tenure holder to request the Minister to sub-divide a tenure into one or more tenures. The *Forest Act* also requires that the tenures being created are of the same type as the parent tenure and that the combined AACs of the newly created tenures equal the AAC of the original tenure. The decision maker may refuse the subdivision if they consider that it would compromise forest management. All newly created agreements from a tenure subdivision must have a term with an expiry no later than the earliest expiry date of the original tenure.

With regard to the subdivision of a TFL, a new TFL would be created that consists of a specified area derived from the original TFL.

What are the legal requirements for the transfer of a Forest Tenure?

The *Forest Act* allows the holder of a forest tenure to apply to the Minister (or delegate) to transfer the tenure to a new holder. The Minister (or delegates) approval is required before the transfer can proceed.

In considering whether to approve a tenure transfer, the decision maker must consider the effect of the disposition on

- the marketing of fibre in British Columbia, and
- the public interest.

If the transfer would result in a party holding rights to harvest Crown timber in an amount that would be detrimental to competition in the marketing of fibre in British Columbia, or it would not be in the public interest for the intended recipient to hold the tenure, then the decision maker must not approve the transfer, or may only approve the transfer if conditions are attached that addresses the competition or public interest concerns.

A market competition assessment will be conducted by the Ministry as detailed in the Disposition and Change of Control regulation, and that assessment along with information pertaining to the public interest will be provided to the decision maker to support their decision.

The *Forest Act* also requires that for a tenure transfer to be completed:

- all monies owed to government must be paid.
- all private land included in a TFL remain in the TFL.
- if the tenure had replaceable contractor rights, those rights be assumed by the new holder of the tenure (see additional information on the next page).

How is the public interest considered?

Public forests have a public value; therefore, it is expected that a forest tenure holder provide benefits to British Columbians.

The public interest related to a tenure transfer is not defined in legislation; however, the relevant factors to be considered by a decision maker are generally confined to the implications of the intended recipient holding the agreement. This will generally include the decision maker determining if the intended recipient is able and willing to manage the tenure in the best interests of British Columbians. A decision maker will review each transfer request based on government objectives, the specific circumstances, and the implications of the disposition.

To determine the public interest the ministry will use various forms of information gathering. The scope and method of the engagement will depend on the size and complexity of the tenure transfer and the interest expressed by the public and interest groups. Common methods of engagement include using ministry web sites, letters, email, and meetings. Additional information can be found at [Identifying the Public Interest in Proposed Timber Tenure Dispositions](#). Ministry staff will be available to answer enquiries raised during the engagement process.

What are the First Nation consultation requirements?

The province has a duty to consult with and, when required, accommodate First Nations whenever it proposes a decision or activity that could potentially impact treaty rights or aboriginal rights (including title rights - claimed or proven). The duty stems from court decisions and agreements entered into with individual First Nations and is consistent with the province's commitment to implement the United Nations Declaration on the Rights of Indigenous Peoples.

Decision makers with authority to make tenure transfer decisions are responsible for ensuring adequate consultation with potentially affected First Nations is carried out and accommodations are provided when warranted.

What happens to existing license obligations, such as silviculture?

Generally, the new tenure holder will assume the ongoing and new obligations (e.g., stumpage, free growing, road maintenance, hazard abatement, etc.) associated with the tenure. In some cases, the existing and new tenure holder will make specific arrangements regarding past obligations such as meeting silviculture requirements.

What happens to replaceable contractors operating within these licences?

There are multiple replaceable contractors that operate on Interfor's Coastal forest tenures. The Timber Harvesting Contractor and Subcontractor Regulation outlines the legal requirements for affecting a contractor's rights when a licence is transferred or subdivided. In the case of a transfer, the new licensee must either assume the contractual obligations or offer a new contract with the same terms and conditions as the original contract. Similar principles apply for a subdivision with the amount of work to remain consistent for each contractor. Discussions will occur between Interfor and the intended tenure recipient to ensure contractor rights are managed in accordance with the legal requirements. Additional information can be found here: [Timber Harvesting Contract and Subcontract Regulation](#).

Appendix: Interfor's Subdivision and Transfer Requests

South Island Natural Resource District – Arrowsmith Timber Supply Area

<i>Existing Tenure</i>	<i>Proposed Subdivided Tenures</i>	<i>AAC (m³/year)</i>	<i>Intended Recipient</i>
A19235	A19235	29,486	San Industries Ltd.
	A98667 (proposed)	20,000	Matchlee General Partnership Ltd on behalf of the Mowachaht / Muchalaht First Nation
A86838	NA	49,485	Cisaa Forestry LLP (Tseshaht First Nation)

Sunshine Coast Natural Resource District – Sunshine Coast Timber Supply Area

<i>Existing Tenure</i>	<i>Proposed Subdivided Tenures</i>	<i>AAC (m³/year)</i>	<i>Intended Recipient</i>
A19220	A19220	81,031	NA (retained by Interfor)
	A98741 (proposed)	18,550	Klahoose First Nation
	A98809 (proposed)	81,450	Klahoose Forestry Limited Partnership (Klahoose First Nation)
A19224	NA	81,450	Tsain-ko Development Corporation (Shíshálh Nation)
A98515	NA	40,000	Tsain-ko Development Corporation (Shíshálh Nation)

Campbell River Natural Resource District – North Island Timber Supply Area

<i>Existing Tenure</i>	<i>Proposed Subdivided Tenures</i>	<i>AAC (m³/year)</i>	<i>Intended Recipient</i>
A94730	NA	104,689	KCFN Forestry Ventures LP (KA:'YU:'K'T'H'/CHE:K'TLES7ET'H' First Nations)
A94732	NA	63,495	Quatsino First Nation

Coast Mountain Natural Resource District – Great Bear Rainforest North Timber Supply Area

<i>Existing Tenure</i>	<i>Proposed Subdivided Tenures</i>	<i>AAC (m³/year)</i>	<i>Intended Recipient</i>
A16841	NA	24,488	Metlakatla Forestry Corporation (Metlakatla First Nation)

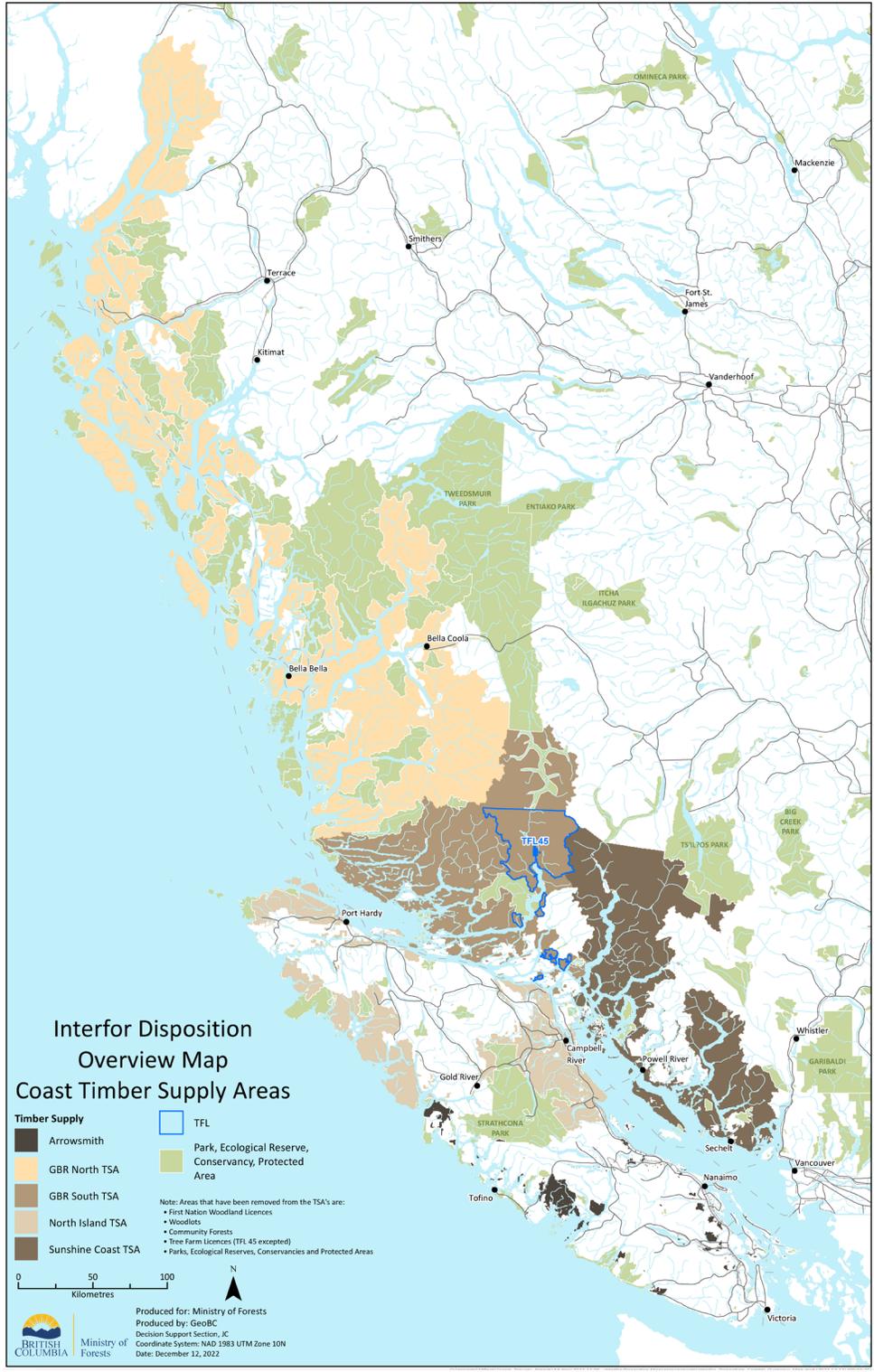
North Island Central Coast Natural Resource District – Great Bear Rainforest South Timber Supply Area

<i>Existing Tenure</i>	<i>Proposed Subdivided Tenures</i>	<i>AAC (m³/year)</i>	<i>Intended Recipient</i>
A19238	A19238	42,395	NA (retained by Interfor)
	A98746 (proposed)	50,000	T'Se'Kame Forestry Ltd.
	A98747 (proposed)	75,000	San Industries Ltd.

North Island Central Coast and Campbell River Natural Resource Districts

<i>Existing Tenure</i>	<i>Proposed Subdivided Tenures</i>	<i>Approximate AAC (m³/year)</i>	<i>Intended Recipient</i>
TFL 45	TFL 45	104,920	NA (retained by Interfor)
	TFL 64	25,000	Matsayno Sustainability Corporation as general partner for and on behalf of Matsayno Sustainability Limited Partnership (Kwiakah First Nation)

Appendix: Coastal Overview Map



Ministry of Forests