

Cabinet Decision Document

MINISTER: Honourable Michael de Jong, Minister of Forests.

IDENTIFIER NUMBER:

DATE: May 22, 2002

TITLE:

Part 13 Designated Area for the Central Coast Land and Resource Management Plan

ISSUE:

Implementation of the Cabinet decision on the Central Coast Land and Resource Management Plan (CCLRMP) requires an Order-in-Council for a "designated area" under section 169, Part 13 of the *Forest Act* to allow temporary deferral of forest development in areas identified for protection, and to provide the mechanism to temporarily reduce allowable annual cuts (AACs).

DECISION REQUESTED (RECOMMENDATION):

Approve the attached order for a designated area covering twenty candidate protection areas and seventeen option areas in the Central Coast LRMP, to allow suspension of harvesting authorizations, and temporary AAC reductions under the *Forest Act* until June 30, 2003.

BACKGROUND:

Land Use Planning

The Central Coast Land and Resource Management Planning area covers approximately 4.8 million hectares of foreshore and upland area on the west coast of British Columbia. It includes the communities of Bella Bella, Shearwater, Ocean Falls, Klemtu, Bella Coola, and Oweekeno. A map of the planning area is attached as Appendix 1.

For the purposes of forestry administration, the Central Coast LRMP covers portions of eight management units. These units include: four Tree Farm Licenses (TFLs) (TFL25 – Western Forest Products, TFL39 – Weyerhaeuser Company Ltd., TFL45 – International Forest Products and TFL47 – TFL Forest Ltd.), and four Timber Supply Areas (TSAs), (Kingcome, Mid Coast, North Coast, and Strathcona).

The Central Coast LRMP is part of the "Coast Strategy" which includes the coastal part of BC north of Bute Inlet. Included in the strategy are the Central Coast, North Coast and Queen Charlotte Islands. All three sub-regions are at various stages of land use planning. A critical component of the coast strategy is the agreement with the international

environmental community to provide relief from the market campaign against coastal forest companies.

On April 4, 2001, the previous government announced their approval of phase 1 of the CCLRMP. The government announced two types of land-use designations that could potentially impact the harvest levels for the eight forest management units within the planning area:

Candidate Protection Areas (13% of the plan area)

These areas have general agreement as to their future protection. However, final definition, designation and management planning for these areas must take into account the views of First Nations. Accordingly, in the interim until the definition of objectives for protection and management actions are resolved, these areas will be designated under the *Environment and Land Use Act*.

Option Areas (11% of the plan area)

Option areas have been identified as areas with significant cultural, ecological and economic values, however more work is required to determine whether these areas will be fully protected or open to activity under ecosystem-based management.

On November 15, 2001, the new government publicly endorsed the Coast Strategy. The Ministry of Sustainable Resource Management (MSRM) is now finalizing the land-use designations and moving forward to complete the LRMP. Until the LRMP is finalized, the expectation is that resource activities will be officially suspended in the two land use designation areas.

MSRM staff have worked with the planning participants and First Nations to ratify 20 of the 21 large Goal 1 candidate protection areas. The boundaries have been ratified by the table participants, and are now confirmed in preparation for designation under the *Environment and Land Use Act*. See the companion cabinet submission called *Establishing Central Coast Protection Areas Under the Environment and Land Use Act*. The *Environment and Land Use Act* designations will result in protection areas that will be removed from the province's economic resource base (i.e. exclusions of logging and mining). The land use planning process is expected to be completed on March 31, 2003. There will be a period of time for government to review and approve the plan, and consult with first nations on the final plan, and for these reasons, it is proposed that the *Environment and Land Use Act* order designations will be time bound, until June 30, 2003.

Since November 15, 2001, MSRM staff have also worked with the planning participants to determine the boundaries of the option areas. One of the option areas was withdrawn for potential Part 13 designation. Planning participants believe that resource values there can be handled through site specific operational planning. The boundaries for the seventeen option areas have been ratified by the table participants and are now confirmed in preparation for designation under Part 13 of the *Forest Act*. The Part 13 designations are expected to defer forest management activities in the option areas until the end of the

planning process, and government review and approval of the plan. This is expected by June 30, 2003.

The *Environment and Land Use Act* orders will prohibit commercial forest harvesting in the candidate protection areas. However, the Part 13 is being proposed to apply over the same areas so that:

- a) the Chief Forester can reduce the allowable annual cut contribution of the order areas for the affected management units until the LRMP is complete; and
 - b) the approval of operational plans and cutting permits can be temporarily suspended.
- Upon government approval the Chief Forester can incorporate the direction of the land use plan into his normal timber supply review process.

Option areas may again become part of the working forest based on an ecosystem based management (EBM) regime. MSRM has created a Coast Information Team, which will work with planning participants to help design the EBM framework. Until the EBM regime is approved, these areas have been voluntarily deferred from regular forestry operations.

Both designations (*Environment and Land Use Act* and Part 13 of the *Forest Act*) are considered key to implementing the “Coast Strategy”. The intent of this Cabinet submission is to seek government approval to designate both land-use categories, under Part 13 of the *Forest Act* until the final decisions are made in Phase 2 of the planning process. Implementing the Part 13 designation will support the Coast Strategy, and will have implications to management unit AACs, forest company harvest levels, and licence administration.

Forest Act Part 13

Section 169, Part 13 of the *Forest Act*, allows Cabinet to specify a “designated area” if it “believes it is in the public interest to do so.” The designation enables other statutory decisions. The Minister of Forests may suspend or vary forestry permits, plans or licences and direct statutory decision-makers to not approve submitted plans. In the absence of a formal Part 13 designation, MOF statutory decision-makers are compelled by the *Forest Practices Code of British Columbia Act* to review and approve any submitted plans that meet all requirements of the Code. This may result in approval of harvesting and road construction on these lands.

Section 173 allows the Chief Forester to temporarily reduce the AAC of a TSA or TFL if all or part of the area is designated under Part 13. The designation also allows the Minister of Forests to apportion any AAC reduction within a TSA to timber sale licences and forest licences.

Timber Supply

As a result of Cabinet’s acceptance of the Phase 1 - planning product, approximately 24% of the planning area will become either designated through the *Environment and Land Use Act* (protection areas) or through Part 13 of the *Forest Act* (option areas). The overall impact of these two types of designations is a reduction in the timber harvesting land base

(THLB) of 75,000 hectares. This represents about 8.8% of the total timber harvesting land base for the 8 units¹ within the planning area. While 8.8% is the average, there is considerable variation projected by individual forest management units. Details on the specific impacts are outlined in Appendix 2.

Temporary AAC reductions under a Part 13 designation will reduce harvesting pressures outside of these areas. The forest industry will require access through the candidate protection and option areas to timber beyond the boundaries of the land use designations. Section 170 of the *Forest Act* enables this in Part 13 areas by enabling a ministerial order to exempt certain road permits. For required access through the candidate protection areas, access on existing roads and Forest Service Roads will be allowed. The *Environment and Land Use Act* order will not prohibit the use, or maintenance of existing roads and will not prevent future construction along specific corridors.

FISCAL MANAGEMENT CONSIDERATIONS:

Under Part 13 of the *Forest Act*, the Chief Forester may reduce the AACs of the affected TSAs and TFLs for the term of the designation. To estimate the economic implications of reducing the harvest levels, it was assumed that harvest levels might be reduced by an amount equal to the percent of the THLB affected in each management unit². The results show an annual loss in stumpage revenue of between \$5.6 and \$9.2 million dollars³ and potential employment impacts of approximately 734⁴ person-years. These losses assume that the licensees are harvesting their full AAC.

Over the last number of years, the licensees have been voluntarily deferring harvesting from these areas. This action, and other pressures such as the softwood dispute and poor markets, has resulted in the licensees not fully utilizing their licence AACs, and thus the economic impacts described above have already started to occur. However, there will likely be additional short-term revenue and employment impacts that result from the deferrals to the end of June 30, 2003.

The financial effects of the Part 13 designation on forest licensees and government revenues are difficult to determine in the context of broader challenges to the coastal forest industry including the utilization of relatively poor quality timber (i.e. predominance of hemlock and balsam), the softwood lumber trade issue and generally poor markets. Direct

¹ Note that TFL 25, TFL 39 and TFL 47 include blocks that are not within the planning area, therefore this figure only represents the 5.8% of the total THLB of the TFLs and TSAs affected.

² The decision to reduce the AAC is at the discretion of the Chief Forester. Actual reductions may be smaller when timber flow patterns and forest productivity within each affect management unit are considered.

³ Based on an average stumpage of between \$13.05/m³ (Coast average rate 1990-94, excluding FRBC) and \$21.65/m³ (Coast average rate 1999-2001, including FRBC). Source: *Central Coast LCRMP Phase-1 Framework Agreement - Socio-Economic and Environmental Assessment, 2001*.

⁴ Based on an average employment coefficient of 0.8 Pys/'000 m³ for woodlands and saw milling. Indirect and induced impacts based on weighted average multiplier for logging and saw milling of 1.15. Source: *Central Coast LCRMP Phase 1 Framework Agreement - Socio-Economic and Environmental Assessment, 2001*.

losses of provincial stumpage revenue and effects on employment over one year solely due to the designations are difficult to estimate in this context.

Although there may be some reduction of harvesting, revenues and employment, there will be long term benefits to the crown as the result of resolving land-use conflicts and ending the international market boycott of coastal timber.

OPTIONS:

Option 1: Approve the application of Part 13 to the Option areas only as identified in the attached table (Appendix 3), until June 30, 2003.

This option would result in separate statutory decisions to suspend harvesting, and operational plan approvals and reduce AACs until the end of the CCLRMP planning process and final government decision on the plan.

Advantages:

- Provides the legal basis for the Minister of Forests to suspend logging and road building operations in the option areas only. Relieves the district managers of the legal responsibility to approve code compliant operational plans submitted by the forest industry.
- The Minister's order will exempt one road permit (RP10175) and cutblock 5 of the Ingram Forest Development Plan issued to Western Forest Products (FLA16845) in order to allow access through the Western MacPherson Option area to timber beyond the option area boundary. A Special Use Permit issued to the Department of Fisheries and Oceans for use of a road in the Deer lake Option area will also be exempted from suspension.
- The application of a Part 13 designation will allow the Chief Forester to implement temporary AAC reductions, only in the option areas.
- Demonstrates that government is fulfilling only a portion of Cabinet's decisions to endorse Phase 1 of the planning process.
- May partially help to support continuing cessation of the international boycott of coastal timber.

Disadvantages:

- Only allows adjustments to harvest levels in the option areas, and would not address harvest levels in management units with *Environment and Land Use Act* orders.
- Delays the AAC adjustment for management units with *Environment and Land Use Act* orders. In this event, AAC adjustments would be determined by the Chief Forester under the *Forest Act* - section 8, as part of the Timber Supply Review, which will take time to complete.
- May be interpreted that AACs will be reduced for temporary designations, but not for permanently protected areas.

Option 2: Approve the application of Part 13 to the Candidate Protection Areas designated under the *Environment and Land Use Act* and also the Option areas identified in the attached table (Appendix 3), until June 30, 2003.

This option would result in separate statutory decisions to suspend harvesting, and operational plan approvals and reduce AACs until the end of the CCLRMP planning process and final government decision on the plan.

Advantages:

- Allows for the immediate suspension of harvesting rights and temporary AAC reductions for both types of land-use designations. Relieves the district managers of the legal responsibility to approve code compliant operational plans submitted by the forest industry.
- The Minister's order will exempt one road permit (RP10175) and cutblock 5 of the Ingram Forest Development Plan issued to Western Forest Products (FLA16845) in order to allow access through the Western MacPherson Option area to timber beyond the option area boundary. A Special Use Permit issued to the Department of Fisheries and Oceans for use of a road in the Deer lake Option area will also be exempted from suspension.
- The application of a Part 13 designation will allow the Chief Forester to implement temporary AAC reductions, immediately for both types of designations.

Option 3: Do not approve the application of Part 13 to either of the two types of designated areas (Candidate Protection Areas or Option Areas) identified in the attached table (Appendix 3).

Advantages:

- The AACs of the management units with candidate protection areas will stay at current harvest levels until the next section 8 of the *Forest Act* determination by the Chief Forester. The AACs for units affected by the option areas will not be adjusted.
- Will not allow for the immediate suspension of harvesting rights for both types of land-use designations.

Disadvantages:

- Will not provide the legal basis for the Minister of Forests to suspend logging and road building operations in the option areas. However, *Environment and Land Use Act* designation for protection areas precludes logging operations in these areas.
- May result in district managers having to approve operational plans and permits in these areas, if the plans and permits are code compliant. This may be seen as contrary to government's endorsement of phase 1 of the land use plan.
- Will not provide the legal basis for the Chief Forester to reduce the AACs of the affected management units for both *Environment and Land Use Act* order areas, and Option areas.

Significant Implications:

The following aspects of implementing Part 13 designations should be given consideration.

Legislative and Legal Considerations:

Part 13 of the *Forest Act* was introduced in the early 1990s. It has been used in a number of land and treaty situations to allow treaty negotiators and planners to finalize the land use status of certain parcels of land. Part 13 of the act is currently set to expire on January 1, 2006.

If Cabinet establishes the designated area, and the Chief Forester reduces the AAC for the TSAs, the Minister of Forests will need to apportion the reduction among licensees that hold tenure within the TSAs. In the case of TFLs, the AAC will be temporarily reduced accordingly. The Part 13 AAC reductions will remain in place for as long as the designated areas remain in place. If at the time of the expiry of the Part 13, a designated area does not become a protection area, and forest management is an acceptable land use, then the affected AAC for the unit will be re-instated. Subsequent section 8 AAC determinations will consider any special forest management regimes associated with the final land use decision.

The Minister of Forests will also need to consider suspension of forest management activities or provide direction to district managers to not approve forest management activities within the designated areas. All forest development plans, permits, and prescriptions within the designated areas can be suspended by ministerial order for the term of the order unless exempted. As noted previously, exemptions will be made where required for the continuation of forest related operations in adjacent areas. Within the option areas there are numerous forest development plans that are at various stages of the approval process. Although most licensees have voluntarily deferred harvesting in these areas for the short term, approved forest development plans are still in effect. The ministerial order relieves the district manager of the legal obligation to review and approve operational plans and cutting permits, which meet the requirements of the Code.

Economic and Social Considerations:

On November 15, 2001, government publicly announced the endorsement of Phase 1 of the planning process and agreed to move forward to complete the land-use plan by March 31, 2003. If the Chief Forester reduces the AACs of the management units in the planning area, the resulting harvest reduction could result in job losses and reduced government resource revenue. As identified previously, these losses are estimated to be about 734 person years of employment (including indirect employment impacts) and stumpage revenue losses of between \$5.6 and \$9.2 million annually. However, as also previously mentioned, as a result of the voluntary deferral of forestry operations in the protection and option areas, over the past few years, the impact has already started to occur.

Environmental Considerations:

The temporary AAC reductions will reduce the pressure to harvest the AAC volumes attributable to the deferred areas from the remainder of the timber harvesting land.

The reduced harvest pressure will reduce the impact on non-timber resources. As a result of less harvesting, biodiversity, fish and wildlife, scenic and cultural values will be less likely to be impacted. Although harvesting has been voluntarily deferred in all these areas over the past few years, the establishment of designated areas will increase the amount of area protected, and thus improve the management of those environmental values that benefit from protection.

During the implementation of the Part 13 designation and the establishment of the *Environment and Land Use Act* orders, the management of access in the candidate protection areas will be improved. The Ministry of Sustainable Resource Management and the Ministry of Forests will cooperate in an access management planning process and an enhanced referral process to ensure that the environmental values in the protection areas are respected and accommodated.

Federal or International Considerations:

The central coast of BC has been the focus of international attention on the provincial government's land use policies and forest practises. The April 4, 2001 agreement was hailed as ground breaking and the agreement resulted in the cessation of a market boycott of BC coastal forest products. Although temporary, the designation of the option and protection areas would demonstrate to the buyers of BC forest products that the BC government is still committed to the land mark agreement. This decision may help licensees become certified, and also increase the industries ability to access overseas markets.

Regional and Community Considerations:

Any AAC reduction would impact the manufacturing facilities that depend on wood supply from the affected TSAs and TFLs. Application of Part 13 will impact harvesting in the central coast area, and mills on southern Vancouver Island and in the Lower Mainland. This decision, in combination with other timber supply and land-use decisions, is expected to increase the rate of industry rationalization on the coast.

Communities such as Port Hardy, Port McNeil, Campbell River, Bella Bella, Klemtu, Bella Coola, Oweekeno are impacted by the land use plan and the decision by the forest companies to voluntarily defer harvesting.

On April 3, 2002, the Ministry of Sustainable Resource Management announced the approval of a \$35 million trust fund to address the economic impacts of the land use plan decision. This fund will be used to help workers, contractors, and communities, whose interests have been negatively affected by the land use decisions.

Third Party consultations:

A wide range of stakeholders supports the Part 13 designation to help implement the Coast Strategy. Forest licensees, environmental groups, First Nations and local governments were all consulted on the boundaries and the proposed exemptions and the plan participants will have an opportunity for continued involvement in the Central Coast LRMP. The planning participants have ratified the boundaries of each area.

Consultation with Government Agencies:

The Ministry of Sustainable Resource Management is the lead agency for the Coast Strategy and the Central Coast LRMP. Ministry of Forests, the Treaty Negotiation Office and the Ministry of Water, Land and Air Protection are key participants and support Part 13 designation.

RECOMMENDED DECISION:

Option 2. Approve the application of Part 13 to the Candidate Protection Areas designated under the *Environment and Land Use Act* and also the Option areas identified in the attached table (Appendix 3), until June 30, 2003.

SIGNATURE:

Michael de Jong
Minister of Forests

Appendix 1
Map of Central Coast Land and Resource Management Plan
Planning Area

Appendix 2
Timber Harvesting Land Base (THLB) of forest management units affected by Part 13
Designation within the Central Coast Land and Resource Management Plan.

Management Unit	Timber harvesting land base (ha.)	THLB in Candidate Protection Areas		THLB in Option Areas		THLB in Candidate Protection & Option Areas	
		(ha.)	(%)	(ha.)	(%)	(ha.)	(%)
Kingcome TSA	168,726	4,261	2.5%	0	0.0%	4,261	2.5%
Mid Coast TSA	185,144	9,390	5.1%	22,022	11.9%	31,411	17.0%
North Coast TSA	118,594	1,721	1.5%	3,340	2.8%	5,061	4.3%
Strathcona TSA	172,728	0	0.0%	0	0.0%	0	0.0%
TFL 25 Blk 2	12,978	0	0.0%	0	0.0%	0	0.0%
TFL 25 Blk 5	47,780	10,582	22.1%	14,638	30.6%	25,220	52.8%
TFL 39 Blk 3	14,747	879	6.0%	0	0.0%	879	6.0%
TFL 39 Blk 5	10,613	0	0.0%	0	0.0%	0	0.0%
TFL 39 Blk 7	18,006	7,202	40.0%	0	0.0%	7,202	40.0%
TFL 45	27,826	584	2.1%	0	0.0%	584	2.1%
TFL 47 -Johnstone	64,353	165	0.3%	0	0.0%	165	0.3%
Grand Total	848,283	34,784	4.1%	39,999	4.7%	74,783	8.8%

¹ - Timber harvesting land base (THLB) = Crown forest land that is currently considered feasible and economical for timber harvesting.

² - THLB affected by Part 13 designation (i.e. candidate protection areas and option areas).

Appendix 3
Proposed Areas for Part 13 Designation

Candidate Protection Areas
Ahnuhati Complex
Ape Lake
Broughton Extension
Cape Caution
Catto Creek
Chapple/Cornwall
Clayton Falls
Dean River Estuary and Corridor
Hanson Island
Hot Springs/No Name Creek
Khutze
Kitasoo Spirit Bear
Koeye
Lockhart Gordon
Pooley Island
Price/Swindle
Racey Inlet
Smokehouse
Upper Kimsquit
Upper Klinaklini

Option Areas
Ashlum/Reeve/Upper Inziana
Cascade/Sutslem
Deer Lake
Elizabeth Lake
Green/Sheep Passage
Helmcken
Hot Springs/No name Creek
Ickna
Jump Across
Klekane/Aaltanhash
Neekas
Piper/Sandell
Roscoe
Surf
Tolmie
Western/McPherson
Whalen