

# From Conflict to Care: BC's Forest Future

A New Stable System for  
Communities, Economies  
and Ecologies



V.1.0

February 2, 2026

Yellow cedar (*Chamaecyparis nootkatensis*)

## A MESSAGE FROM THE CO-CHAIRS

# Charting a Path to Stability

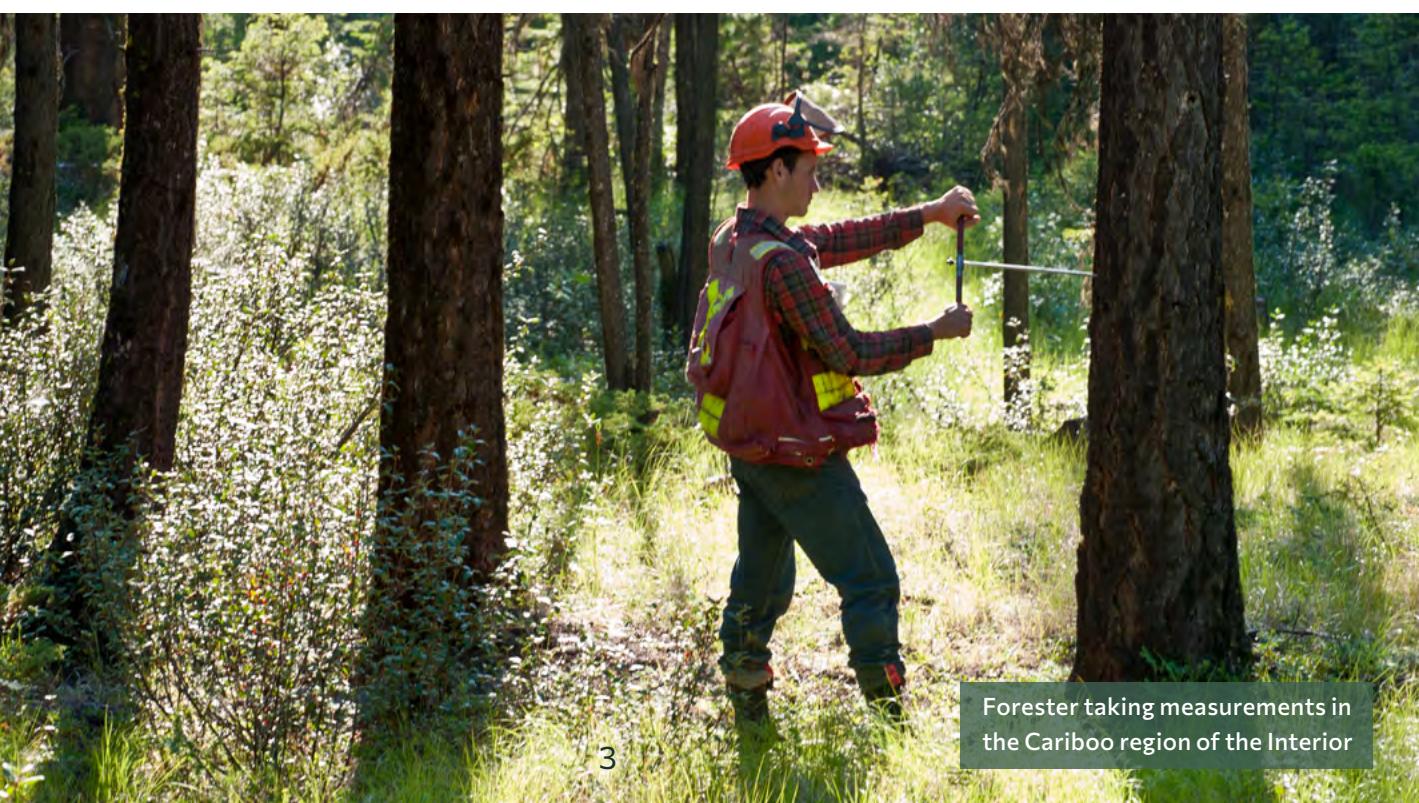
We present this report at a defining moment for our province's forests and the communities that rely on them. Over the past months, we have engaged in deep listening, research and rigorous debate. We have heard the frustration born of uncertainty, but we have also witnessed a profound, shared desire for a better way forward.

This report is not merely a collection of policy adjustments—it is a call to fundamentally reimagine our relationship with the land and with each other.

## The Intent Behind Our Work

We realized early on that the instability in our sector—the boom-and-bust cycles that get deeper each time, the ecological decline, and the eroding trust—stems from systems that are no longer aligned with our reality. Our intent with this report is to move away from the conflicts of the past and ground our future in a concept we call **Land Care**.

This shift is about acknowledging that mindsets which once guided us are insufficient for the complexities of today. We aim to inspire a system where the well-being of our economy, our families, our forests and all that depend on them is understood as inseparable.



Forester taking measurements in the Cariboo region of the Interior

## Listening to Diverse Voices

In crafting these recommendations, we strove to hold space for the diverse motivations and needs across the province:

**For First Nations:** We recognize that true stability is impossible without a shared journey of reconciliation. This means respecting the principle of “nothing about us, without us” and ensuring that stewardship is responsive to the unique relationships, needs and circumstances of each region of our province.

**For Forest Workers and Contractors:** We heard your need to believe in a future for your families. You need a sector that offers long-term opportunities, not just short-term survival, as we navigate the realities of timber supply.

**For Communities:** Your safety and vitality are paramount. We envision a future where communities have greater control over their own destiny: with homes buffered from wildfire risks, and meaningful work that better connects people to the land.

**For Political Parties:** The future of BC’s forests is not a partisan issue. Our recommendations are a call for sustained action across election cycles. The challenges we face are decades in the making, some self-imposed, others not. It’s time to depoliticize forests and forestry and embrace our shared reality.

**For Businesses and Investors:** We understand that confidence requires transparency and a system that you can comprehend. You need a clear framework that allows you to invest in British Columbia’s future, moving beyond quarterly pressures to building lasting value.

**To the Professionals and Public Servants:** We see your passion, dedication, and drive to make a difference. We want to help you break free from the quarterly metrics of corporations, ministry silos, and bureaucratic processes that hold us static. Imagine leading with purpose with flexibility to learn—growing relationships versus managing issues—and working within systems designed to nurture both the lands and communities you serve.

**For Conservation Groups and Concerned Citizens:** We share your frustration with delays in implementing past initiatives that called for more than just policy tweaks. This report doesn’t replace previous work; it provides the pathways to achieve it by establishing a stable framework to implement reviews such as the Old Growth Strategic Review’s 14 recommendations as the cohesive package that was intended.

## A Note of Caution

While we are optimistic that these recommendations can shift the dialogue in BC and set us on a structured, hopeful path forward, we must be clear: this report is not a magic wand. The challenges we face are complex and deeply rooted.

This is not a menu of easy options. Stability requires a holistic transition to a new system built on transparency, equal access to information, regionalized area-based management, and transition structures established outside of government. Cherry-picking comfortable parts of this plan while ignoring the root causes of instability will only perpetuate the challenges we face.

This report is an invitation to build a new, more stable future together, one that respects Indigenous rights, empowers regional decision-making, fosters transparency for businesses, and restores our connection to the land.

## Gratitude and Hope

The work captured in this report was shaped by an intense six-month timeframe that the Provincial Forestry Advisory Council (PFAC) had to complete it. The recommendations and vision it outlines would not have been possible without the extraordinary dedication of the PFAC members<sup>1</sup>. To each member of the team, we extend our heartfelt thanks. Your time, expertise, and passion have been nothing short of inspiring.

Through countless hours of discussion, debate, and discovery, we forged more than a report—we built lasting connections and strengthened our relationships with a shared respect for all who generously offered their time and insights to inform our work.

While the Council members have not attempted to agree on every word, these recommendations reflect our high-level consensus. Reaching that consensus was no small task. This report is offered to British Columbia as an invitation to move forward with courage, empathy and a shared sense of purpose.

Sincerely,



Garry Merkel, RPF



Shannon Janzen, RPF

Co-Chairs, Provincial Forestry Advisory Council

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1. <https://pfac.ca/who-we-are/>



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# GLOSSARY

## Allowable Annual Cut (AAC)

The maximum amount of timber that can be harvested each year from a specific area of land, usually measured in cubic metres.

## Apportionment

The way the Allowable Annual Cut (AAC) for a Timber Supply Area (TSA) is divided among different types of forest tenures and programs. For example, part of the AAC might go to replaceable licenses, some to non-replaceable licenses, and some to BC Timber Sales. The Chief Forester is responsible for setting the AAC, while the Minister of Forests is responsible for deciding how that AAC is apportioned among tenure types and programs. Apportionment aims to keep total harvest amounts within the AAC while supporting different users and objectives.

## Appurtenancy

A legal right or responsibility that is connected to a piece of land or license. For example, historically in BC this required a forest company to deliver the wood it harvests to a certain processing facilities.

## Area-Based Tenure

A forestry license that covers a defined piece of land. Holders manage both the forest and other values in the area and generally have exclusive rights within it.

## British Columbia Timber Sales (BCTS)

A BC government program that has a target for selling about one-fifth of the province's timber harvest. BCTS sells timber and collects information to help set prices for wood harvested from public lands as an integral component of BC's current stumpage system.

## Bureaucratic Inertia

When organizational processes (including government) move slowly or resist change because of rules, procedures, or established ways of doing things. This can make it hard to adapt quickly, even when new information or priorities suggest a different approach.

## Case Law

Law established by the outcome of previous court cases, serving as a precedent for future decisions.

## Cutting Permit (CP)

A legal approval that gives permission to cut trees in certain areas (called cut blocks). The permit includes details about where to cut, how much can be harvested, and any fees. CPs can contain multiple cutblocks and usually last for four years and special rules / penalties apply if all the wood isn't harvested at expiry.

## Ecosystem Conditions

The current state of ecological systems, including biodiversity, health, and functionality.

## Forest Act

A provincial statute that governs the management and use of Crown forest lands in BC. It sets the legal framework for granting timber harvesting rights through licences and agreements, establishes rules for determining the Allowable Annual Cut (AAC), and regulates stumpage payments to the Crown.

## Forest Tenure

Legal agreements that grant rights, under the Forest Act, to harvest timber or manage forests on public land.

## Forest and Range Practices Act (FRPA)

A law and its rules that set the standards for activities on public forests, like planning, building roads, logging, and replanting trees.

## Independent Assessment

A review or evaluation conducted by an impartial third party to ensure objectivity, impartiality and credibility.

## LiDAR (Light Detection and Ranging)

A remote sensing technology that uses laser pulses to measure distances and create detailed, three-dimensional maps of the Earth's surface. In forestry, LiDAR is used to gather precise data about forest structure, including tree height, canopy density, and terrain features.

## LiDAR-Based Forest Inventory

A forest inventory method that uses LiDAR data to estimate key forest attributes, such as species composition. This approach provides highly accurate and spatially detailed information, improving forest management and planning compared to traditional ground-based methods.

## Market Pricing System (MPS)

The method currently used to set fees (stumpage) that companies pay for harvesting trees from Forest Tenures.

## Management Unit

An area of public forest land in BC that is used for planning and setting harvest limits. Management units include but are not limited to Timber Supply Areas (TSAs) and Tree Farm Licences (TFLs). Each unit currently has an Allowable Annual Cut (AAC) set by the Chief Forester, based on a Timber Supply Review (TSR).

## Non-Replaceable License

A type of harvesting license that cannot be renewed. It typically covers a set total volume of wood and ends after its term (usually 4 to 15 years).

## Quota/Volume-Based Allocation

A system where forest harvesting rights are allocated based on a fixed volume or percentage of the total allowable cut.

## Replaceable License

A harvesting license that can be renewed. The holder can keep harvesting a set amount of timber as long as they follow the rules and renew the license regularly (usually every 10 years).



## Road Permit

A permit that allows a license holder to build and use roads on public land for forestry. Others can also use these roads but may need to pay for maintenance.

## Stumpage

The fee companies must pay the government for harvesting trees from public land. The rate is usually set per cubic metre of trees cut.

## Tenure

A legal agreement that gives a person, company, First Nation or community the right to harvest trees. Tenures can be based on a defined area or a set volume of timber and can be renewable or not.

## Timber Supply Area (TSA)

A region defined by the province to help plan and manage how much timber can be harvested. Each TSA has an AAC set by the Chief Forester, and it supports both renewable and non-renewable tenures.

## Timber Supply Review (TSR)

A regular review process (currently required every 10 years) to set an AAC in each management unit of BC.

## Volume-Based License

A forestry license that lets companies harvest a set amount of timber from a Timber Supply Area. While operating areas may be established, several companies may share the same area, and these licenses usually don't give exclusive rights to manage the land, only to harvest trees.

## Wood Waste

Unused or discarded wood material resulting from logging or processing activities.

# ACKNOWLEDGEMENTS

This report reflects the collective effort of people and organizations committed to the future of British Columbia (BC)'s forests. The Provincial Forestry Advisory Council's ('PFAC' or 'the Council') work was made possible by many who stepped forward to share their time, expertise and vision.

We thank the project sponsors of the Cooperation and Responsible Government Accord (CARGA) Leaders (The Hon. Ravi Parmar and MLA Rob Botterell) for honouring their commitment to maintain PFAC's independence—allowing us to prepare this report free from political influence or ideology. It is a unique opportunity to undertake a review that extends across BC Government ministries to facilitate a cross-government approach to implementation—we are grateful for this opportunity. We thank the Forest Practices Board and Munro Thompson Communications for administrative and communications support, enabling PFAC to operate at arm's length from the Province.

Special thanks to the 'Namgis First Nation for hosting PFAC in their territory and showcasing leadership through modernized land-use planning and BC's first Forest Landscape Plan (FLP). Their collaboration,

alongside the expertise of TFL 37 professionals and managers, highlights how effective governance tied to operational commitment can work to achieve stabilizing outcomes.

We are grateful to the many subject matter experts from the BC Government staff across multiple ministries, forest professionals, woodlots, community forests, contractors, industry associations, forestry companies, environmental non-governmental organizations (ENGOs), forests and wildlife advisory committees, Indigenous businesses, and members of the public, among many others, for helping us gather diverse perspectives. Thanks to Russ Taylor Global for grounding PFAC in the BC and global market opportunities and risks. Thanks also to Geoff Plant for grounding our work in the history of Indigenous case law, and to the University of British Columbia for connecting us with the next generation of forest managers.

Finally, to First Nations and Indigenous communities across BC: we thank those who have participated and hope this report honours your input and knowledge, enabling everyone to learn from one another as we build a future that reflects the needs and interests of your communities.

# Provincial Forestry Advisory Council Members

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*Coastal Douglas-fir and western hemlock forest near Nanaimo*

## EXECUTIVE SUMMARY

# Charting a Path to Stability

This report comes at a pivotal moment for British Columbia's forests and forest sector. The current instability—marked by boom-and-bust cycles with increasingly deeper declines, ecological degradation, and eroding trust—stems from outdated systems misaligned with today's realities. The Provincial Forestry Advisory Council (PFAC) finds that BC's *Forest Act* and associated policies, designed for an era of industrial expansion and abundant low-cost fibre, are no longer adequate to address the complex ecological, social, and economic challenges of today.

The core purpose of this report is to fundamentally reimagine the relationship with the land through a concept called Land Care. This approach shifts the focus from managing harvest volumes to managing lands, ensuring the well-being of the economy, communities, and forests is seen as interconnected and inseparable.

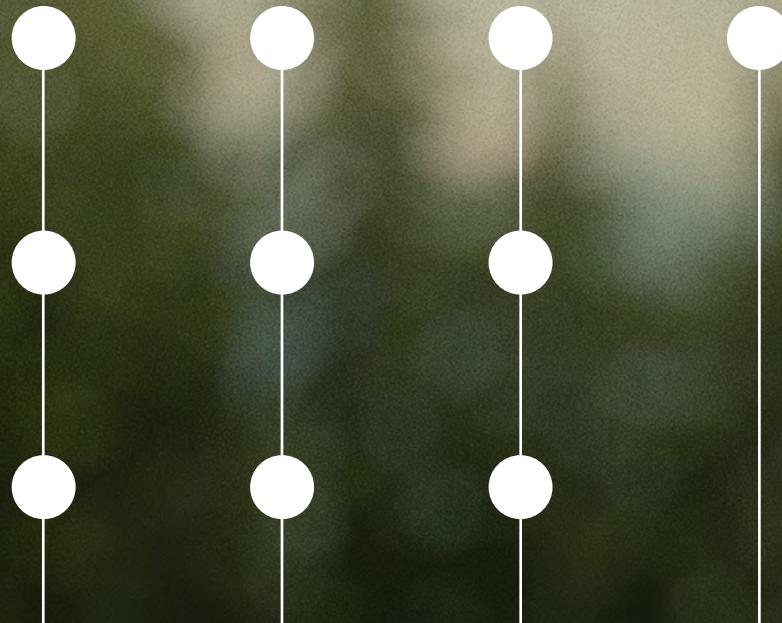
## The Current Reality

The report highlights a critical misalignment between existing structures and on-the-ground realities:

- **Interior BC:** Operators face declining fibre supply, straining mills and communities, and often leading to short-term decisions that undermine future stability.
- **Coastal BC:** The sector suffers from chronic underinvestment and a “hemlock paradox”—an abundance of underutilized species lacking a clear market strategy—perpetuating reliance on old-growth cedar and log exports.
- **Systemic Issues:** Across the province, shifting political direction, a lack of transparency, siloed government ministries, and bureaucratic inertia hinder adaptation.

The status quo is unsustainable. Without structural change, instability will worsen. The path forward requires a shift from a volume-based focus to a region-centric, area-based land management approach that respects Indigenous rights, empowers local decision-making, and results in transparent, reliable outcomes.

# STRATEGIC THEMES & RECOMMENDATIONS



The PFAC report outlines **four strategic themes** supported by **ten actionable recommendations**.

## THEME 1: Transparency – Trusted Information

**Objective:** Establish a publicly accessible, reliable data foundation to support all land management decisions.

Trust is eroded by inconsistent data currently controlled largely by industry and government. To support evidence-based decisions, the Province must transition to external, expert driven, transparent and service-oriented data management and delivery.

- R1 } Develop a robust, publicly accessible forest and ecosystem inventory, including parks and protected areas.** Use LiDAR technology to create a high-quality inventory for all public lands, serving as a foundational baseline that is broadly accessible.
- R2 } Establish an independent body for data and inventory management.** Move data standards and management to an independent body with expertise to create products that efficiently and cost-effectively serve end users, including all government ministries.
- R3 } Produce an independent High-Value Old Growth assessment.** Commission or cause an arm's-length assessment (e.g., by the Forest Practices Board) to clarify the status of High-Value Old Growth and identify conservation pathways. Focus on the coast and interior temperate rainforest to achieve quick results without compromising Indigenous decision-making authority.

## THEME 2: Regionalized Land Management: Area-Based Management Approach

**Objective:** Shift to a forward-looking, area-based system that empowers regional decision-making and aligns with Land Care.

The current Timber Supply Review (TSR) process is outdated and reactive. Stability requires transitioning to Regional Forest Management Areas (RFMAs) where planning is adaptive, locally driven, and continuous.

- R4 } Enable new Regional Forest Management Areas (RFMAs) through legislation.** Replace or amend existing units (like TSAs) with RFMAs, each with a single coordinating land manager to oversee planning.
- R5 } Link management plans to area-based management units.** Replace the static TSR process with dynamic, forward-looking management plans. The Annual Allowable Cut (AAC) should be a result of spatially explicit results from long-term planning.
- R6 } Establish management zones in the Wildland Urban Interface (WUI).** Create community-defined WUI zones with dedicated funding (Community Forest Resilience Fund) to prioritize wildfire risk reduction.

## THEME 3: Independent Oversight: Sustained Progress and Accountability

**Objective:** Create non-partisan structures to support the public service and ensure transition functions endure across election cycles.

Government ministries need dedicated support to manage this transition, facilitating coordination across fragmented mandates, workloads, and political volatility. Independent structures are essential to ensure resources yield meaningful results for British Columbians.

**R7}** **Establish an Independent Forest Oversight Body.** Create an arm's length oversight body to oversee the transition to RFMAs, address barriers, and ensure actions align with core principles across political cycles.

**R8}** **Build the foundation for new reconciliation pathways.** Collaborate with First Nations to define opportunities for reconciliation tied to the unique relationships and circumstances of each region, ensuring governance structures respect Indigenous Rights and Title.

**R9}** **Start province-wide RFMA implementation with on-the-ground trials.** Launch practical trials driven by grassroots proposals to test and refine area-based management models before full legislative rollout. Ensure trials are well-structured and documented to prevent delays or frustration caused by inflexible bureaucratic processes.

## THEME 4: Relentless Focus and Program Alignment

**Objective:** Streamline initiatives to support the transition, eliminating conflicting mandates.

**R10}** **Cease Unaligned Initiatives starting with BC Timber Sales (BCTS).** This recommendation emphasizes the need to transition toward area-based land management and regional decision-making. This shift aims to disentangle timber pricing from forest management, streamline resources, and focus on creating a stable, forward-looking system that better serves communities, ecosystems, and economies, while avoiding fragmented, piecemeal changes.

## Key Takeaways

**For Government:** This report calls for a cross-ministry approach that redistributes spending toward regional capacity, reliable data and transparency. Transition functions should move to independent bodies to ensure timely results, realize cross-government benefits, and to break through bureaucratic inertia.

**For First Nations:** The recommendations recognize Indigenous rights as a solution to solve foundational problems in our province. The shift to RFMAs offers new pathways for reconciliation and governance.

**For Industry & Investors:** Stability and predictability are a key goal of this report. Transparent data and clear regional standards will de-risk investment and encourage long-term value creation that is aligned with land management outputs.

**For Communities:** The focus shifts to safety, regional relationships, and local empowerment. Wildland Urban Interface (WUI) zones prioritize fire protection, and regional management ensures that local voices shape decisions affecting their environment.



## The Road Map: Phased Implementation

The transition is ambitious but achievable through a phased approach:

### 1. Foundational Actions

**(Immediate):** Establish the independent data and oversight bodies; begin LiDAR inventory; launch WUI management zones.

### 2. Early Implementation

**(6-24 months):** Conduct structured trials, operationalize collaborative WUI zones, and design governance frameworks for RFMAs.

### 3. Transition to Area-Based Management (1-5 years):

Define RFMA boundaries, implement trial management models, adapt tenure agreements and develop dynamic management plans.

### 4. Long-Term Integration (3-5 years):

Reform stumpage systems, integrate BCTS into area-based units, and fully enact the new legislative system.

British Columbia stands at a critical crossroads. The challenges facing our forests—and the communities that depend on them—cannot be solved by minor adjustments to outdated, overly complex system and structures. To secure a sustainable future, we must embrace a fundamental shift from volume-based resource extraction to a holistic system of Land Care. This shift to area-based land management offers a logical and viable path forward, incorporating lessons from other Canadian jurisdictions and research to address BC's complex challenges.

This transition requires courage, steadfast commitment and a willingness to move beyond the short-term focus of election cycles. It demands a durable, depoliticized framework grounded in trusted, accessible data, independent oversight and external transition capacity to guide change. Central to this success is a renewed partnerships with Indigenous Peoples. We must honor our constitutional obligations not just in words, but by co-designing management pathways that empower First Nations and local communities, while ensuring everyone feels heard.

The recommendations outlined in this report are not a menu of options but a collective first step to a cohesive roadmap. Selective implementation will only perpetuate the systemic barriers we face today. By acting now and fully adopting this unified approach, BC can create the stability necessary for its forest sector to adapt to changing circumstances, foster innovation, and restore confidence in our Province's ability to effectively manage its greatest natural asset.

## 1.0 INTRODUCTION

# The Unsustainable Status Quo

This final report builds on PFAC's *Phase 1 Interim Report*<sup>2</sup>, synthesizing months of discussion, research, and engagement to address the root causes (see *Appendix A, p. 50*) of instability in BC's forest sector. Our Phase 2 work began with an acknowledgement: BC's Forest Act—largely shaped during an era of industrial expansion—was designed for a reality that no longer exists. The circumstances and approaches that once attracted investment and sustained large-scale operations are now outdated and insufficient to meet today's complex ecological, social and economic realities.

The interim report confirmed what many have long recognized: existing systems, structures and processes are misaligned with the current realities of BC's forests. This misalignment spans Indigenous legal imperatives, land and ecosystem management goals, and the economic need for predictable outcomes. Over time, forestry has become overly complex, weighed down by layers of outdated policies from an era when BC was working to regulate an industry mainly built on abundant access to low-cost fibre.

This complexity has not only created inefficiencies but has also substantially increased costs, making forest resource

management increasingly unsustainable in today's fiscal environment. Yesterday's assumptions no longer hold true, and the need for a more adaptive and forward-looking approach is clear.

Today, what has emerged is a complex system of legislation that is hard to comprehend, combined with bureaucratic inefficiencies such as ministries working in silos and sometimes at cross purposes with opposing mandates. Adding to this challenge is the instability caused by election cycles, which drives frequent shifts in priorities and mandates. This volatility forces the constant retooling of internal processes, adding further cost and rigid administrative barriers, with resources most often directed to emergent issues—addressing symptoms rather than fundamental problems. Lasting stability—for communities, economies and ecosystems—demands a cohesive approach, driven by consistent and sustained action, something that BC has yet to achieve under any political administration.

## The Economic Reality

The economic reality in BC differs across the province, with the most extreme contrast between the BC Coast and the Interior.

- **In the Interior**, operators are currently grappling with a declining fibre supply and rising costs. This places significant strain on mills and communities. This pressure can force short-term decisions that rob from the future to meet current demands. This, in turn, further destabilizes the sector and erodes confidence in its long-term viability.

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2. <https://pfac.ca/wp-content/uploads/2025/10/PFAC-Phase-1-Interim-Report-FINAL.pdf>

- **On the Coast**, the forest industry faces long-standing underinvestment and high costs. A unique challenge is the “hemlock paradox”—an abundance of underutilized species like hemlock and balsam that lack a clear manufacturing and market strategy to improve their value. This perpetuates reliance on high-value old-growth cedar and log exports and has knock-on effects for the pulp and paper sector that depends on the continuous production of sawmill byproducts.

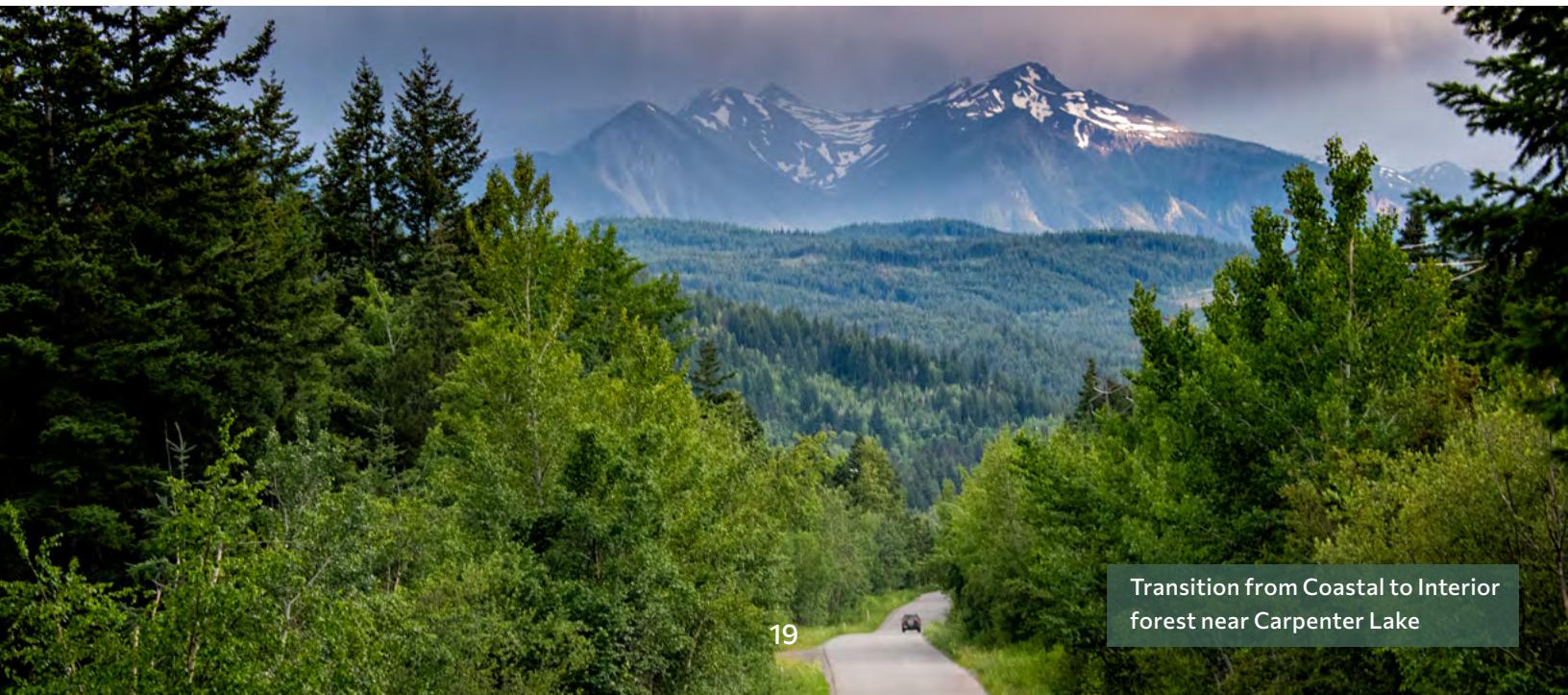
Across both the Coast and Interior, unclear decision-making and a lack of transparency in forest management hinder the sector’s ability to adapt. Due to its previous abundance of access to low-cost fibre and a historically stable US trade partner, the processing industry has had little incentive to innovate or to explore new markets and expand its horizons - inadvertently limiting BC’s opportunities for fostering long-term local economic growth and wealth creation.

For more details on these dynamics, see *Appendix B* (p. 52).

## Land Care: A Shared Responsibility

Managing land is a shared responsibility that requires respect for its history, ecosystems, and the people who depend on it. Forests are not just collections of trees to be harvested; they are living ecosystems that sustain life, support communities, and are central to the identity and well-being of British Columbia. They are the heart of BC—the lifeblood of rural communities, a foundation of Indigenous cultures, and the backdrop to where people work, play, and live. Their stewardship is a responsibility shared by all.

PFAC’s recommendations are grounded in a belief in the capabilities of BC’s professionals and the people living and working in communities to make informed, balanced decisions. However, we also recognize the challenges posed by a declining fibre supply and question whether corporate interests—particularly those of publicly traded companies driven by quarterly profit expectations—can appropriately align with the long-term



stewardship required for responsible land management. The pressure to deliver short-term financial returns often conflicts with the need for thoughtful, sustained care of the land, creating a disconnect between corporate priorities and the ecological, social, economic, and legal imperatives of forest land management and decision-making. As such, the recommendations in this report are designed to disconnect land management from corporate interests to the greatest extent possible. Whether these recommendations go far enough remains to be seen, but they are a critical first step in a shared journey toward area-based land management.

The recommendations provided in this report are not just technical adjustments but a philosophical shift—placing the care of the land at the centre of decision-making and ensuring that decisions are guided by the needs of the land and its people.



### 3. BC Ministry of Forests, 2025

## The Path Forward

To create a sustainable future, we need to shift our focus from managing harvest volume to managing lands. This requires moving toward area-based management and **rethinking the Annual Allowable Cut (AAC) to ensure it is an outcome of forest management that reflects the current forest and ecosystem conditions.**

The current AAC process is outdated and largely detached from operational reality. It relies on Timber Supply Reviews conducted every 10 years—some of which are overdue—and fails to respond to rapidly changing circumstances. Approximately 50% of BC's current AAC was set prior to 2019<sup>3</sup> and has not been updated in response to natural disturbance and other land base changes that have occurred during this time. This creates a lack of transparency for businesses, communities and workers. Looking ahead, we need a forward-thinking system that adapts to challenges like climate change and wildfires, while directly connecting to actionable, on-the-ground management that creates flexibility to try new things and adapt to changing circumstances.

Achieving a reliable and accurate depiction of the state of BC's forests also demands a coordinated approach to data collection and reporting. By implementing the International Organization for Standardization (ISO) quality of reporting standards, we can enhance clarity and transparency, enabling us to effectively track progress on a variety of indicators, including BC's conservation goals. A shared philosophy for managing lands—one that recognizes the interconnectedness of priorities and avoids siloed management—is critical. This

approach can foster trust and collaboration among stakeholders while providing a comprehensive and accurate representation of the outputs of BC's forest management system.

The status quo is not working and there is no indication that things will get better without change. The ever-elusive silver-bullet solutions are not readily available in most regions of our province, but we do have options, and those options require a structured transition to area-based land management and regional decision-making with transparent and predictable outcomes.

## Supporting the Public Service

This report, on several occasions, calls for certain transition functions to reside outside of government. This is by no means a negative reflection on the people who reside within government; in fact, it is the opposite. Public servants bring invaluable expertise, commitment, and institutional knowledge to their roles, often working tirelessly to meet the needs of their communities. However, getting from where we are today to where we need to be in the future, and expecting a group of individuals residing within multiple ministries to both do their day job and undertake the heavy lift of internal coordination and transition functions, is impractical and very likely impossible given political cycles and day-to-day short-term administrative requirements. Transition functions, by their nature, require specialized expertise and a focused, independent approach that is often best sourced externally. By situating these functions outside government, our recommendations aim

to complement the efforts of public servants, enabling them to focus on their critical ongoing responsibilities while ensuring the transition is managed effectively both within the context of (i) today's fiscal realities, and (ii) a timeframe that is prudent for British Columbians.

## A Critical Moment

BC's forest sector is at a critical juncture. Communities are strained, mills have closed, and jobs have been lost. Yet, this moment also presents a unique opportunity for meaningful change. There is a growing recognition that real solutions require sustained action and long-term commitment, not just quick fixes.

Over the past two decades, British Columbians have lost confidence in the state of the forests. This includes diminishing trust in ecological, economic and forest management outcomes, and the efficiency of decision-making processes set among a complicated web of policies and legislation. These downward trends highlight the urgent need to reverse the trajectory in order to restore confidence in our province.

This report is offered with hope—hope that it will spark a broader conversation about what is possible and inspire deliberate, sustained action for the betterment of BC's forests, ecosystems, their inhabitants, and the businesses, communities, and workers who depend on them.

While this report highlights the challenges of short-term thinking, sometimes driven by some corporate interests, we want to acknowledge the businesses that continue to invest in BC, amidst the uncertainty. A profitable business

sector is not at odds with land management—it is a critical partner in building a resilient and prosperous future for the province. That said, business investments can, and must be, done in context with the care of lands and in a way that benefits the people living and working in the rural communities of our province.

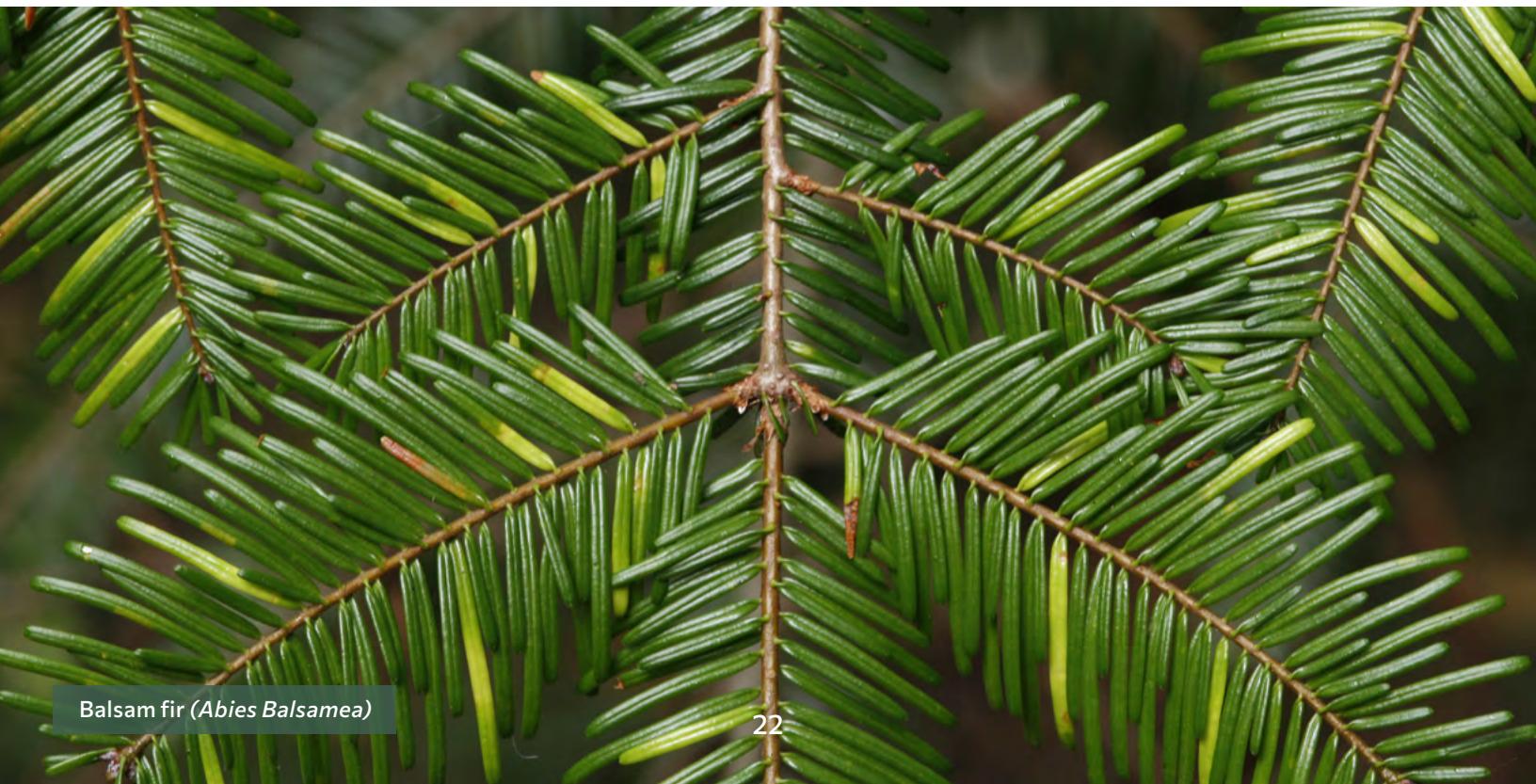
The recommendations in this report are not the final word, nor do they claim to solve every challenge overnight. Rather, they are practical and meaningful steps that the Province can take to adapt its system to a changing world. These are the first steps to creating a foundation for a new, more stable system—one that empowers communities, fosters conflict resolution within and among them, provides businesses with clarity and predictability around resource management outputs to enable investment, and allows the Province to focus on supporting lasting solutions rather than managing short-term crises.

## PFAC Limitations

PFAC's work began in mid-June 2025 and unfolded over six months—a period of rapid and significant change in global circumstances. We acknowledge, with humility, that a six-month analysis cannot fully capture the complexity of issues shaped over decades and further complicated by global forces and rapidly changing circumstances. While we cannot evaluate every issue or predict the future, we have focused on long-standing challenges and what is within the BC Government's control—seeking to untangle complexity and address root causes.

We recognize that additional steps and deeper analysis will be required to achieve the broader vision. Yet, we remain optimistic. By focusing on priorities and taking deliberate, thoughtful action, we can begin to overcome entrenched barriers and move beyond a system stuck in an inflexible and unworkable status quo.

Kristin Charlton, Sundew Media, courtesy naturallywood.com



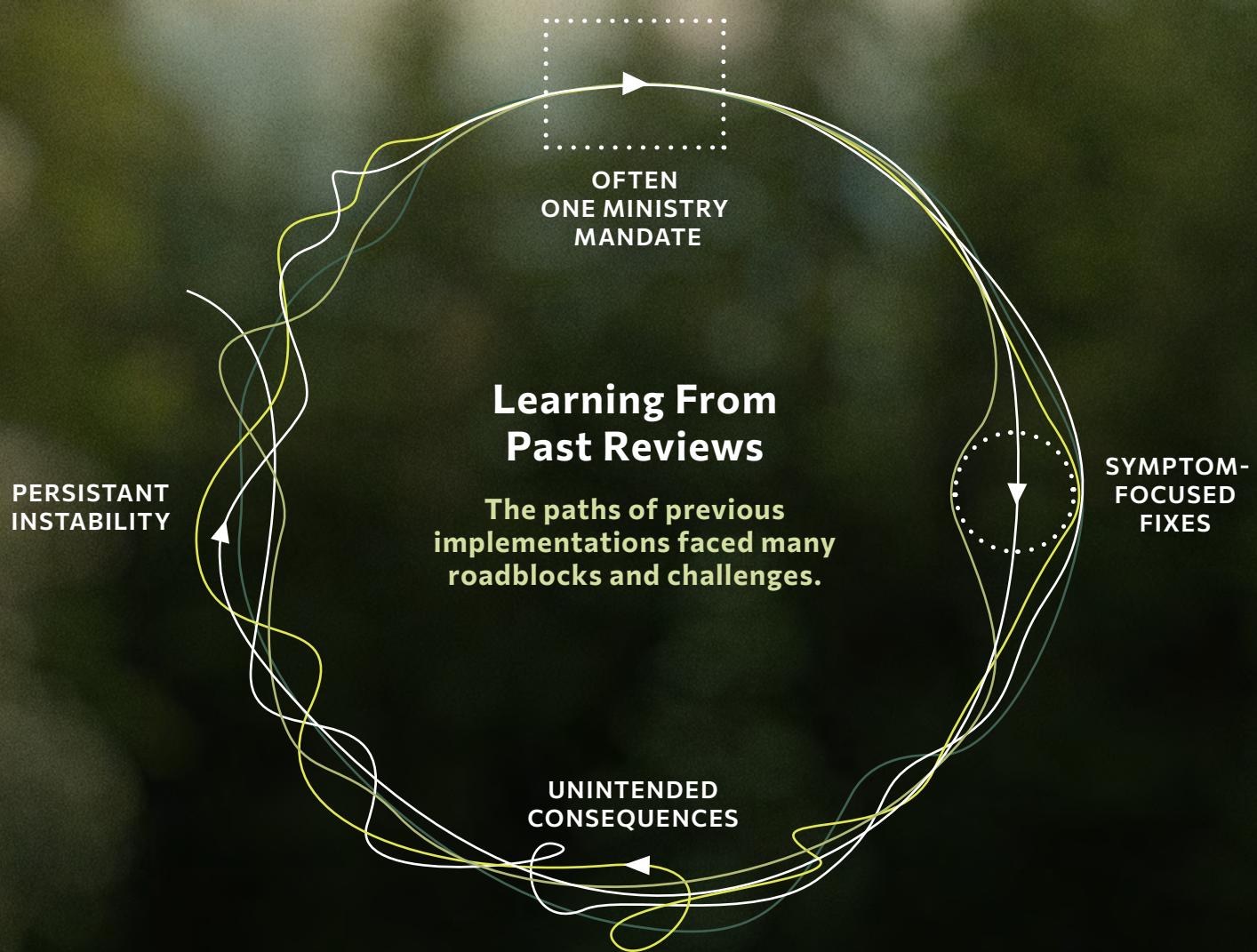
Balsam fir (*Abies Balsamea*)

## 2.0 THE CONCEPTUAL FRAMEWORK

# Learning From Past Reviews

**PFAC's work was guided by this foundational question: *Why have decades of reviews and initiatives failed to solve the problems BC is facing today?***

The answer lies in the design and execution of these efforts. Many past initiatives were narrow in scope, often driven by top-down directives from single ministries or programs, when responsibilities for outcomes rested with multiple ministries. The reviews often focused on single issues and, due to their design, were rarely able to effectively get at the root causes. As such, past reviews have often led to unintended consequences, simply added to workloads, and generally made little to no real impact on the ground.



## Government Barriers and Short-Term Thinking

Provincial government barriers have often compounded the failures of the recommendations of past review to materialize in the way that was intended. Comprehensive approaches were often cherry-picked to align with the ideology of the day, addressing only the least contentious and most visible issues. Additionally, government bureaucracy has struggled to maintain focus on long-term solutions, frequently redirecting resources to emergent priorities.

**FOR EXAMPLE:** The introduction of Coastal Fibre Recovery Zones (recommended in 2019) was intended to reduce wood waste but failed to address the underlying market failure for certain coastal species. As detailed in *Appendix A* (p. 50), this policy treated a symptom while ignoring the “sticky” issue: a lack of viable markets for over half of the coastal tree species.



Post-harvest slash and non-harvested mature trees at a cutblock in the Sea-to-Sky Corridor

## Diverse Challenges, Rigid Systems

BC's forestry challenges are not the same everywhere. They are as diverse as our province's ecosystems. Yet, our management system remains rigid. Over 70% of BC's forest tenures are quota/volume-based, allocated through apportionments from Timber Supply Areas (TSAs)<sup>4</sup>. These large administrative units perpetuate volume-based competition and short-term thinking, despite the best efforts of professionals. This system entrenches decision-making in a “lowest common denominator” approach, reducing flexibility and hindering alignment with transparent land management objectives—particularly those requiring proactive responses to wildfire and climate change.

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### 4. BC Ministry of Forests, 2025



## Evolving Circumstances

External factors further complicate the path forward. Since PFAC began its work, U.S. softwood lumber duties have more than doubled, and evolving Indigenous case law continues to reshape the legal landscape. These realities underscore the need for simplified systems that are adaptable and strongly reinforce the need to get un-stuck from bureaucratic inertia.

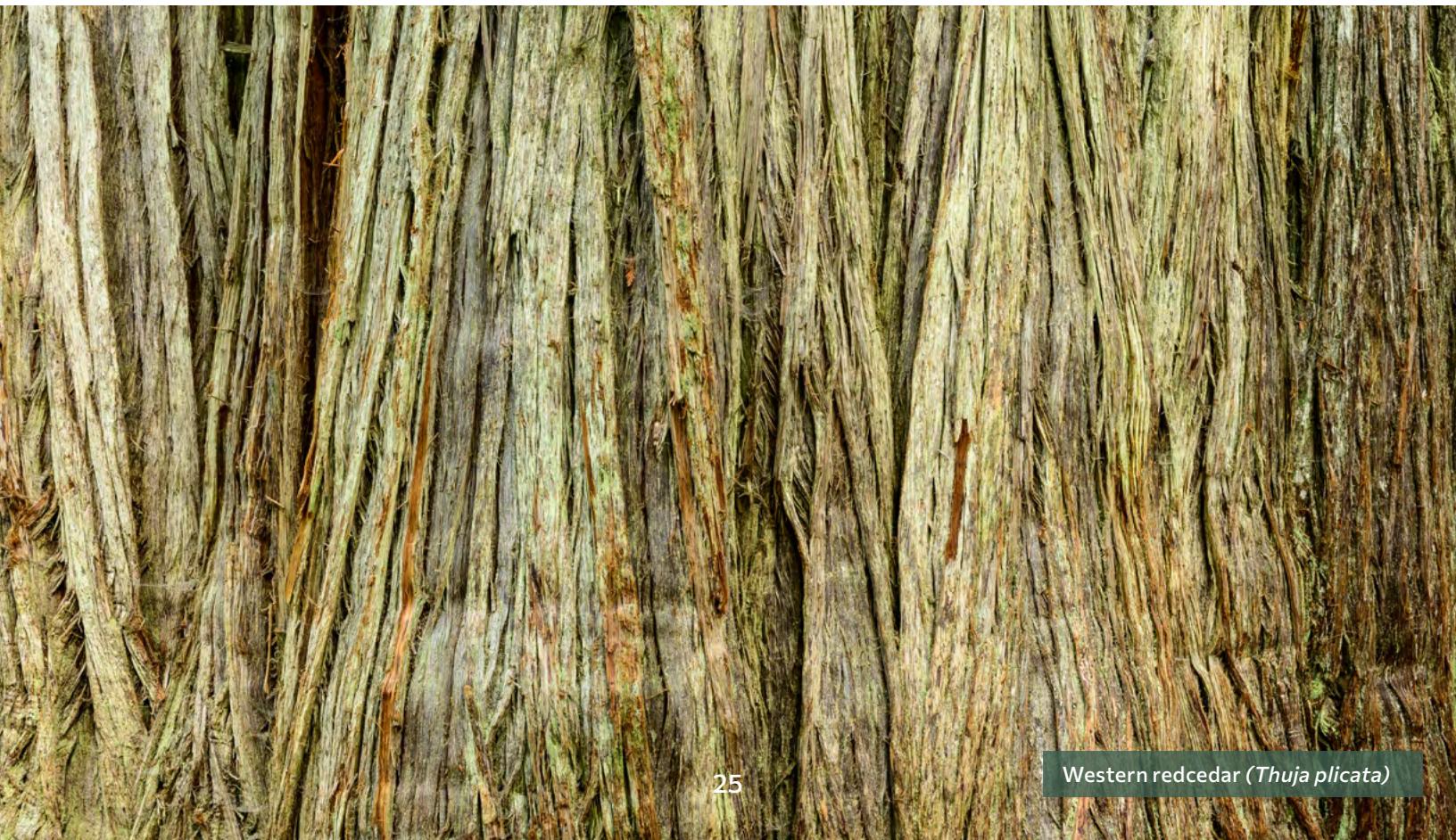
While BC faces competition from other lumber-producing regions and is overly reliant on US markets (representing >70% of lumber shipments), growth opportunities remain for BC wood products<sup>5</sup>. Global situations can change overnight, and as such, we need to build systems and structures capable of responding to the needs of the future.

## A Cross-Government Approach

The lack of progress of past initiatives highlights the need for a cross-government approach. This conceptual framework sets the stage for the next section, which explores the critical role of Indigenous constitutional rights in creating a stable and reliable foundation for forest policy in British Columbia.

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### 5. Russ Taylor Global



### 3.0 REGIONS FIRST

# Foundations for Inclusive and Durable Governance

Any credible path forward for BC's forest policy must be firmly rooted in the constitutional reality of Indigenous rights. These are not optional considerations but constitutionally protected ownership and governance rights. The Crown's duty to consult and accommodate applies wherever Indigenous rights are asserted, regardless of whether they have been proven in court.

## Embracing the Constitutional Imperative

Embracing this constitutional imperative is not a barrier to progress; it is the essential pathway to stability and conflict resolution. It requires a fundamental shift in governance—moving away from rigid, top-down directives toward collaborative decision-making frameworks. Research and jurisprudence confirm that durable resource management systems emerge when those with direct knowledge of and connection to the land are empowered to lead.

## Principles for Durable Governance

Long-term research on shared resource governance highlights that

successful management requires specific structural elements. These are not merely political preferences but practical necessities for stability<sup>6</sup>:

- **Clearly Defined Management Areas:** Establishing clarity on the specific geographic scope of stewardship ensures accountability and prevents resource depletion. This defines the “where” of management, rather than dividing interests.
- **Collective-Choice Arrangements:** Involving those directly affected by governance rules in modifying and designing those rules ensures the process is fair, inclusive, and practically applicable to local realities.
- **Monitoring and Conflict Resolution:** Transparent systems for tracking resource use and resolving disputes quickly and equitably foster trust among all parties.

## Adapting to Local Contexts

Effective governance cannot be static; it must be responsive to the unique regional conditions. A robust governance structure includes tools for dispute resolution that respect Indigenous rights and title while enabling Indigenous groups to collaborate on solutions **rooted in their own ways of knowing and being**. These principles align naturally with many Indigenous approaches to shared responsibility, offering decision-making frameworks responsive to the land rather than distant bureaucratic mandates.

**6.** <https://www.sciencedirect.com/science/article/abs/pii/S0265964612000604>

## Inclusion and Collaboration: Pillars of Stability

A future forest policy that respects the needs and values of all British Columbians must be built on inclusion. The BC Government cannot fulfill its constitutional obligations through unilateral action; it must meaningfully include Indigenous communities in resource decision-making. This direction is reinforced by BC's Declaration on the Rights of Indigenous Peoples Act (DRIPA) and recent case law. Political authority is sustained only when all British Columbians feel heard and represented in the decisions shaping their future.

## Reconciliation as a Governance Spectrum

Reconciliation is a dynamic, evolving process that requires structural flexibility. Governance frameworks must accommodate diverse needs, histories, and aspirations of Indigenous Nations. Pathways to reconciliation in land stewardship exist on a spectrum, ranging from treaties and collaborative resource management to shared decision-making frameworks (co-governance).

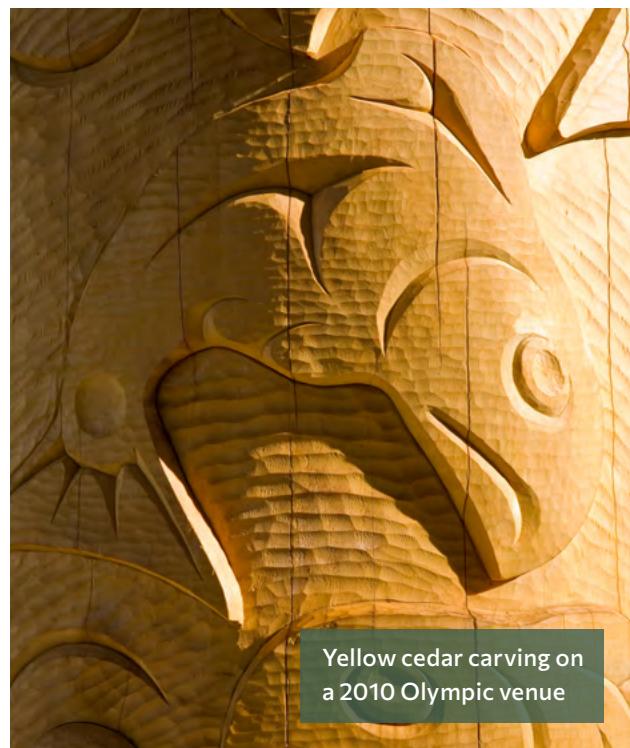
Because reconciliation is not a "one-size-fits-all" process, governance structures must be designed to support these diverse pathways. This fosters stability, reduces conflict, and respects Indigenous jurisdiction, creating a foundation for collaboration and mutual respect. All of which sounds complicated when in reality it simply involves listening with the intent to understand. **What's harder for governments is that it involves relinquishing centralized control in favour of structures and systems that meet local needs and interests—**

fostering collaboration between Indigenous and non-Indigenous communities so that they can embark on a shared journey of regional decision-making grounded in the unique relationships and circumstances of the lands in which they live.

## A Constitutional and Practical Imperative

In summary, any viable forest policy for BC must be grounded in constitutional obligations to Indigenous rights, local empowerment, and collaborative decision-making. These are proven principles for creating durable systems. With this governance foundation established, the report transitions to actionable recommendations on how to support these relationships to address the challenges facing BC's forest management today.

For further details on supporting case law, see Geoff Plant's analysis in *Appendix E* (p. 66).



## 4.0 CHARTING THE PATH TO STABILITY

# OUR RECOMMENDATIONS

PFAC has engaged extensively with individuals working within government agencies and has been consistently impressed by their talent, dedication and passion for creating positive change. Despite their efforts, structural barriers within the system often limit progress to incremental adjustments or additional legislation layered onto an already complex framework.

As noted, our recommendations, particularly those suggesting the transfer of certain responsibilities outside of government, are not a critique of the individuals within the system. Instead, they acknowledge that the current structures are too entrenched to practically or realistically allow for systemic change from within.

This approach is also about rebuilding trust. PFAC discussions with external audiences highlighted a perception that the government is lacking impartiality, independence or effectiveness in providing reliable data and balanced standards. Transparency, consistency, and a willingness to rethink where critical responsibilities reside are essential to restoring credibility and ensuring all voices

are heard. Again this is not a critique of the people, rather a reality we need to face.

PFAC was established to guide BC toward a more stable system for communities, economies, and ecologies. Achieving this vision requires addressing root causes of instability, such as swings in political direction, outdated forest management systems, misaligned tenure structures and human resource limitations. Central to this effort is financial realignment to provide the tools, capacity, and governance structures necessary for long-term transition.

Empowering regional decision-making is key. By reallocating funding to support regionally driven, area-based approaches, BC can create the foundation for stable governance. These recommendations aim to set a clear direction for implementation, focusing on empowering regions, adopting structured approaches to forest biodiversity and ecosystem health, and prioritizing financial realignment and structural reform. With targeted spending and governance changes, trust in land management can be restored, fostering responsible investment and transparent outcomes.

## THEME 1: Transparency – Trusted Information

**OBJECTIVE:** To establish a publicly accessible, reliable and trusted data foundation that supports all land management decisions in BC and ensures the BC Government, First Nations, resource management professionals, businesses, and stakeholders have access to—and can rely on—the same accurate information.

### RATIONALE: BUILDING TRUST THROUGH TRANSPARENT DATA MANAGEMENT

Trust is the cornerstone of effective collaboration and governance. Historically, inconsistent and biased presentations of information have fueled suspicion and conflict, as groups rely on competing data to justify their positions. This has resulted in inefficient decision-making, policy gridlock, and a loss of confidence in the process. While some bias in data presentation is inevitable, the solution lies in leveling the playing field by ensuring equal access to high-quality, reliable information.

Currently, much of this information is controlled by industry, with fragmented and intermittent data sharing with the BC government. A transparent, centralized system for forest inventory and data management

can reduce ambiguity, foster defensible decisions, and create more predictable outcomes. By aligning stakeholders around shared, trustworthy data, we can rebuild trust, reduce costs, and improve the transparency of resource decision-making in BC.

### THE CASE FOR INDEPENDENT MANAGEMENT OF TRANSITION SERVICE FUNCTIONS

Managing LiDAR inventories and data standards requires specialized expertise, infrastructure, and experience—capabilities that most organizations, including government, First Nations, and industry, do not have as core functions. Government ministries, as end users of these data products, benefit from independent management that ensures services are designed to meet the needs of all stakeholders in a balanced and cost-effective way.

Independent management brings a service-oriented approach, ensuring data is collected, stored, and delivered according to the latest technical standards. With LiDAR-based forest and ecosystem data intended for a wide range of users, external oversight helps maintain reliability, accessibility, and transparency while minimizing bias and inefficiency.

This transition strategy maximizes the benefits of public investment, supports the creation of a trusted, publicly accessible data foundation, and better serves land management needs across BC.

## RECOMMENDATIONS:

### R1 } Develop Robust Publicly Accessible Forest Inventory Derived from LiDAR

**WHAT:** Develop a high-quality LiDAR-derived forest inventory for all BC public lands, including parks and protected areas, updated on a recurring and timely schedule.

**WHY IT IS IMPORTANT:** This inventory will provide the critical base data to support consistent and informed land management decisions across the province, offering context to regional decisions and reducing power imbalances derived from unequal access to information (i.e. levelling the playing field).

**FURTHER DETAILS:** Making this information available and accessible to everyone—government agencies, First Nations, professionals, industry, and the public—fosters shared understanding and establishes a single source for land information throughout the province. The data would also be usable for other purposes and by other sectors outside of forestry.

### R2 } Establish an Independent Body for Data and Inventory Management

**WHAT:** Establish an independent body to establish standards and manage and maintain the forest inventory outlined in R1.

**WHY IT IS IMPORTANT:** Managing and delivering data for diverse users is complex, requiring specialized skills that can be very distinct from those who develop or use the data and information.

**FURTHER DETAILS:** An impartial team of multi-disciplinary experts, primarily from outside the BC Government, should oversee the creation of a reliable, transparent, and integrated provincial data system and standards. This independent body should:

- Coordinate LiDAR-derived forest inventory collection.
- Ensure continuous improvement of data systems.
- Act as a single point of accountability.

The work must be designed to deliver robust, accessible, and high-quality data, fostering innovation and ensuring fiscal accountability in accordance with robust data management and procurement standards. Regularly updated, high-quality data is essential for transparent, evidence-based decisions, ensuring public funds are used efficiently to benefit all users, not just individual ministries or single-function purposes.

## R3 } Produce an Independent High-Value Old Growth Assessment

**WHAT:** Conduct an independent assessment of High-Value Old Growth (as defined by the Old Growth Strategic Review and Technical Advisory Group polygons) to evaluate its current status and support ongoing land-management planning. The assessment should be completed in parallel with internal government processes and led by an arms-length body, such as the Forest Practices Board, with Indigenous leadership central to the process.

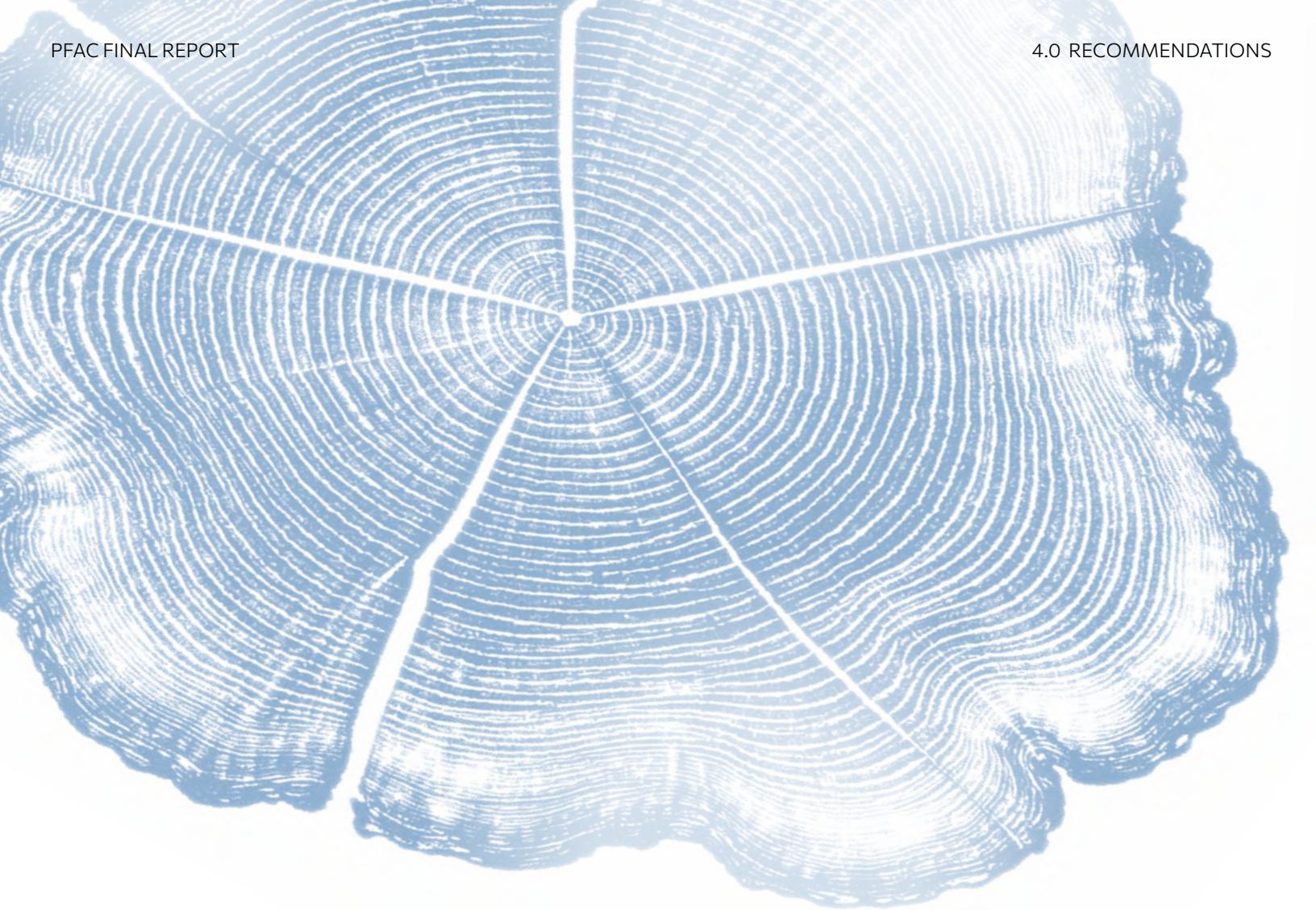
**WHY IT IS IMPORTANT:** This assessment should provide a clear understanding of the current condition of High-Value Old Growth,

confirm what has been reserved, and identify barriers and pathways for integrating these areas into reserve networks or stand-level retention. It should also outline the remaining work needed to support implementation.

### FURTHER DETAILS:

- Focus on coastal forests and inland temperate rainforests, which are home to BC's most iconic large trees and are most suitable for spatially defined conservation networks.
- Highlight potential challenges such as access to conservation funds, mapping and site-level issues and document progress, and clarify barriers.
- Collaboration with First Nations and forest management professionals to ensure transparency and respect for Indigenous rights and self-determination.

By providing a transparent, independent report, this assessment should reduce conflict, document achievements, and ensure everyone is working from the same reliable information **without compromising Indigenous decision-making authority.**



## THEME 2:

# Regionalized Land Management— A New Area-Based Management Approach

**OBJECTIVE:** Establish a forward-looking, area-based land management system that places sustainable land care at its centre, fosters collaboration, and ensures regionally relevant, inclusive, time-bound, and accountable decisions. This system should empower communities, support the transition

to co-governance with Indigenous partners, and align long-term land care objectives with practical, on-the-ground actions that promote safety and security in the face of growing wildfire threats.

**RATIONALE:** The shift to an area-based approach is essential for creating a stable, cohesive, transparent, adaptive, and responsive land care system. Area-based management units with regional authority provide a framework for aligning land management objectives with ecological, economic, and community needs, ensuring that regional decisions are informed by high-quality data, adaptive planning, and regionally specific governance approaches that are structured to be timely and accountable.

## RECOMMENDATIONS:

### R4} Enable New Regional Forest Management Areas (RFMAs) through Legislation

**WHAT:** Develop enabling legislation to establish new Regional Forest Management Areas (RFMAs) that replace or amend existing management unit boundaries, such as Timber Supply Areas (TSAs). Each RFMA should have a single coordinating land management entity, with ability to include area-based tenures (e.g., Tree Farm Licenses) to support coordinated land management and regional decision-making.

**WHY IT IS IMPORTANT:** RFMAs will facilitate a transition to regional decision-making, pulling many decisions outside of government and into regional structures. This approach ensures standards are set at appropriate levels to support the structured implementation of area-based management.

**FURTHER DETAILS:** BC's existing BC Forest Management Units (see *map here*<sup>7</sup>) range significantly in size from less than 150,000 hectares in the case of TFLs to over 7.9 million hectares for TSAs. In some cases, pre-existing administrative boundaries may be suitable for conversion to RFMAs for the purposes

of coordinated land management; in others, new boundaries will need to be defined.

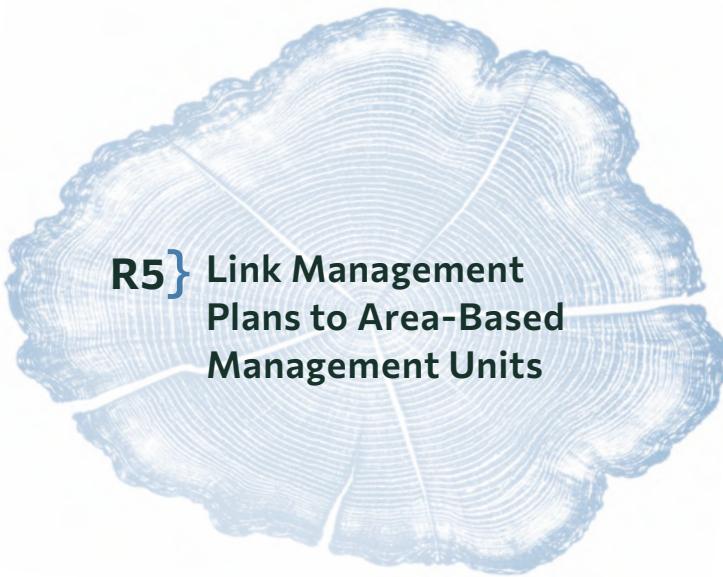
- For reference, Alberta has 90 Forest Management Agreements (FMAs) ranging from 500,000 to 1.6 million hectares, while Ontario has 42 Forest Management Areas (FMAs) ranging from 300,000 to 3.6 million hectares.<sup>8</sup>

While PFAC does not wish to constrain thinking, the expectation is that new RFMAs in BC would generally not exceed 2 million hectares, with a general minimum size of 300,000 hectares on the Coast and 500,000 hectares in the Interior.

- The Province should expect a maximum of 100 RFMAs across BC once the transition is complete.
- Chart areas, often described as “gentlemen’s agreements” within TSAs would generally not serve as the basis for new RFMAs, as such areas are typically associated with quota-based allocations that are not directly tied to the land’s mid- or long-term capacity to support that quota.
- Community Forests and First Nations Woodland Licenses may also be included in RFMAs on a discretionary basis.

**7.** [https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/timber-pricing/coast-timber-pricing/coast-appraisal-data-submissions/tfl\\_tsa\\_district\\_map.pdf](https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/timber-pricing/coast-timber-pricing/coast-appraisal-data-submissions/tfl_tsa_district_map.pdf)

**8.** <https://www.ontario.ca/page/management-units-and-forest-management-plan-renewal-schedules>



## R5} Link Management Plans to Area-Based Management Units

**WHAT:** Develop dynamic, forward-looking spatial management plans tailored to each RFMA, replacing the outdated Timber Supply Review (TSR) process. These plans should create a transparent, adaptive forest management system aligned with long-term regional goals.

**WHY IT IS IMPORTANT:** This approach ensures that planning becomes a continuous, responsive process rather than a static, decadal exercise. It simplifies statutory decision-making by embedding spatial management plans into the forest management system, eliminating the need to produce plans solely for setting the Annual Allowable Cut (AAC) every 10 years.

### FURTHER DETAILS INCLUDE:

**Continuous, Forward-Looking Planning:** Management plans should focus on aligning today's practices with desired future outcomes. By regularly updating forecasts with new information, these plans ensure that current activities are directly tied to long-term goals. This approach replaces the TSR model, which primarily reflects past conditions (often outdated by a decade or more) and produces an AAC disconnected from real-world management strategies. In contrast, forward-looking plans should remain relevant and actionable, bridging the gap between current

practices and the achievement of long-term forest management objectives.

#### Integration with On-the-Ground Practices:

Management plans should directly link harvesting activities to specific land management objectives. For example, a predictable 10-year spatial harvest sequence, updated at least every five years, would provide visibility for investments while maintaining flexibility to adapt to changes in the land base. This ensures that operational decisions are grounded in clear, actionable goals, fostering a strong connection between planning and implementation.

**Dynamic and Adaptive Management:** To remain effective in the face of major events like wildfires or large-scale disturbances, management plans must be designed for adaptability. Timely updates should occur (i.e. within six months) of such events, ensuring that forecasts and management activities stay relevant and aligned with land management objectives. This approach reduces reliance on static reserve networks in fire-dominated ecosystems and builds trust that biological values are being maintained, even in areas prone to such disturbances. By adapting to current conditions, management plans can better address ecological, habitat, and forest health objectives, ensuring resilience in a changing landscape.

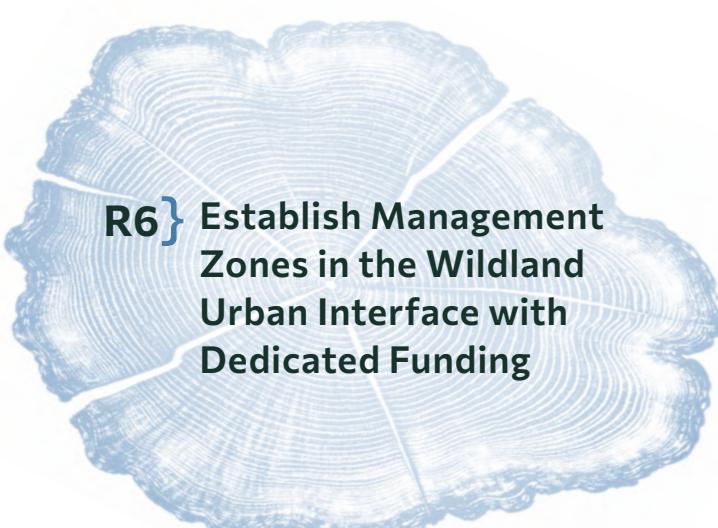
#### Timber Supply as a Byproduct of Planning:

The planning process should prioritize long-term land management objectives, with the AAC emerging as an outcome rather than a driver. This ensures that timber supply is tied to broader ecological, social, and economic goals, rather than being treated as an isolated target. By shifting the focus, forest management becomes more holistic and aligned with sustainable practices.

### Practical and Iterative Approach:

Management plans should translate long-term objectives (e.g., spanning 250+ years) into actionable short-term decisions. Using high-quality data and advanced spatial modeling, these plans can generate harvest sequences that reflect ecological, habitat, old forest,

and other land care objectives. While the AAC remains an output, economic considerations, operational feasibility, and alternative practices should be an iterative process to ensure practical, effective outcomes designed for the actual achievement of objectives.



## R6} Establish Management Zones in the Wildland Urban Interface with Dedicated Funding

**WHAT:** Establish community-defined Wildland Urban Interface (WUI) management zones in fire-prone areas to reduce wildfire risk and support fire management efforts. A Community Forest Resilience Fund should be created to provide initial resources for these zones.

**WHY IT IS IMPORTANT:** WUI zones are critical for protecting lives, property, and infrastructure from wildfire risks. Dedicated funding and community-led planning ensure effective coordination and implementation of FireSmart practices.

#### FURTHER DETAILS:

- WUI zones should be established over top of existing forest management areas and take precedence, allowing for maximum flexibility to implement

alternative silviculture practices, such as thinning, prescribed burning and other adaptive FireSmart techniques that may increase access to profitable fibre sources.

- Communities would identify fire-prone areas and lead the development of management plans, working in collaboration with the BC Wildfire Service, local forest companies, community forests, professionals and stakeholders to ensure alignment and effective coordination.
- While these areas will be designed to empower communities, WUI zone management will be considered in context with broader RFMA land management objectives—including tracking of harvest patterns in context with forest ecosystem management criteria and other desired outcomes for each RFMA.

A dedicated *Community Forest Resilience Fund* would provide the initial resources to launch these zones, tied to clear performance indicators to ensure the trust becomes self-sustaining. Societal benefits, such as reduced insurance premiums, lower suppression costs, and improved resource efficiency, would justify the investment.



## THEME 3:

# Independent Oversight— Sustained Progress and Accountability

**OBJECTIVE:** Establish independent, non-partisan structures outside the BC Government to support the public service with this transition, ensure stability, overcome bureaucratic barriers, address cross-ministry silos and create the conditions necessary for meaningful, sustained change. These structures will uphold elected officials' duty to the public while enabling transparent and effective implementation.

**RATIONALE:** The current structure of BC government ministries is not equipped to support the functions outlined in this theme. If left within government, challenges such as election cycles, fragmented mandates, internal competition, resistance to change, and bureaucratic inertia will continue to undermine progress, delay action, and create inefficiencies.

To address these systemic issues, critical stability functions must be established at arm's length from partisan politics and siloed ministerial control. Independent, impartial structures are essential to support government to work through this transition by:

- Providing consistent, transparent direction.
- Building on transparency through independently developed data and inventories.
- Enabling the implementation of area-based management models, stronger collaboration, and meaningful co-governance with Indigenous communities.

This shift will allow the government to focus on transparent, time-bound execution while ensuring recommendations are implemented through stable, enduring processes that transcend political cycles. It will also allow the government to focus capacity on navigating through the current difficult and likely unprecedented geopolitical situation, including trade barriers and tariffs.



## RECOMMENDATIONS:

### R7 } Establish an Independent Forest Oversight Body



**WHAT:** Create an Independent Forest Oversight Body to oversee the transition to RFMAs, address barriers to facilitate the transition of regional management structures and ensure actions align with core principles and objectives. This oversight body would also support the public service in making the necessary shifts in its internal capacity to accommodate this transition.

**WHY IT IS IMPORTANT:** Operating at arm's length from government, this oversight body will support stable guidance, foster collaboration (including with Indigenous partners), and ensure consistent, transparent execution through election cycles – supporting and adding capacity to the public service to ensure the transition functions can be realistically accomplished through a cross-government coordinated approach.

**FURTHER DETAILS:** The oversight body should report directly to the legislature to ensure transparency, impartiality, and accountability. See [Appendix C \(p. 57\)](#) for more background and discussion on what PFAC is contemplating with this recommendation. One of the first tasks of this oversight body will be to finalize a set of design guidelines that must be met in the implementation process.

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### R8 } Build the Foundation for New Reconciliation Pathways



**WHAT:** Collaborate with First Nations to co-design pathways for the land-based components of reconciliation as part of the shift to area-based land management.

**WHY IT IS IMPORTANT:** True collaboration ensures systems are authentic and **consistent with Indigenous ways of knowing and being**, regionally relevant, and respectful of Indigenous Rights and Title.

**FURTHER DETAILS:** Principles include maintaining a “land care at the centre” approach, respecting Indigenous rights, and building culturally appropriate, time-bound dispute resolution mechanisms.

The design process must be led jointly with First Nations to build trust and ensure inclusivity.



## R9 } Start Province-Wide RFMA Implementation with On-the-Ground Trials

**WHAT:** Develop and conduct practical, on-the-ground trials to test and refine area-based management models for RFMAs before province-wide implementation.

**WHY IT IS IMPORTANT:** Trials allow for learning and adaptation, ensuring final models are robust and suited to regional needs.

### FURTHER DETAILS:

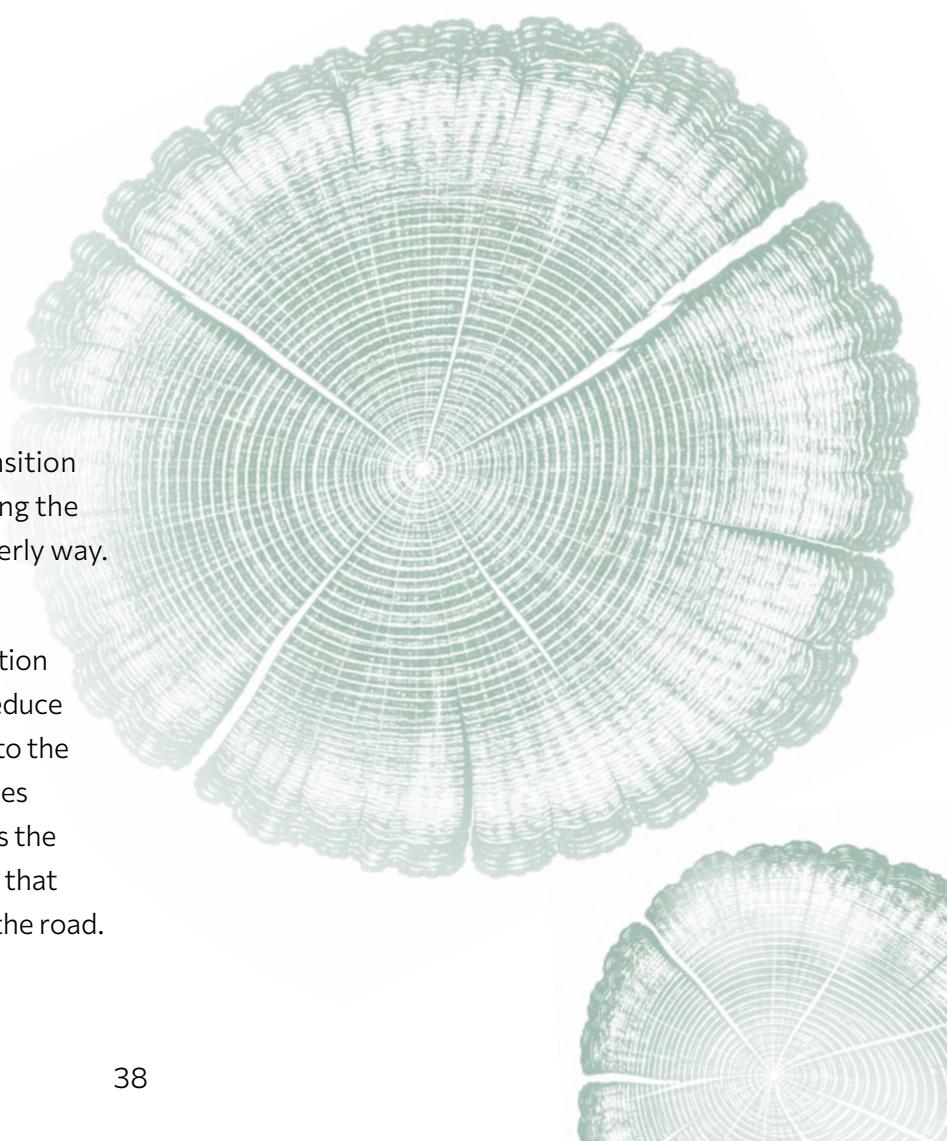
- Trials should be flexible, allowing regions to test models that fit their unique circumstances.
- They should be: (i) time-bound and free from bureaucratic interference once established, and (ii) inform a larger province-wide phased implementation schedule.

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## THEME 4: Relentless Focus and Program Alignment

**OBJECTIVE:** Streamline initiatives and reallocate resources to support the transition to area-based land management, ensuring the vision is realized in a structured and orderly way.

**RATIONALE:** By focusing resources on initiatives that are aligned with the transition to area-based land management, it will reduce inefficiencies, free up resources, and get to the underlying problems of the current sources of instability versus continuing to address the symptoms or head in opposite directions that make the transition more difficult down the road.



## RECOMMENDATIONS:

### R10} Cease Unaligned Initiatives Starting with BC Timber Sales (BCTS)

**WHAT:** Cease the portions of current initiatives that are not aligned with the transition to area-based land management and regional decision-making, beginning with BC Timber Sales (BCTS).

**WHY IT IS IMPORTANT:** The Province has committed to various initiatives arising out of past reviews that understandably did not consider the mandate given to PFAC (although many of those initiatives recognized instability as an ongoing structural barrier). One of the core principles to achieve a new stable system for communities, ecologies and economies is to set the foundation that will allow for the separation of timber pricing from forest management. The BCTS program is an example of an overly complex system that mixes forest management with timber pricing. The *recent review of BCTS*<sup>9</sup> includes 54 recommendations, many of which could detract from broader implementation of area

based management by pulling resources away from the shift toward establishing Regional Forest Management Agreements (RFMAs) especially as the government has limited budget and capacity for change. Implementing all 54 recommendations would further entangle forest management with timber pricing, diverting critical resources and attention away from building a more stable, forward-looking system that better serves communities, ecosystems, and economies as a whole.

#### FURTHER DETAILS:

##### **Misalignment with Vision and Principles:**

- The spatial allocation of BCTS operating areas, as depicted in the *Order in Council (OIC)*<sup>10</sup>, was originally designed to support timber pricing representation across BC, not the forest management system envisioned in this transition.

##### **Focus on Long-Term System Redesign:**

- The transition to RFMAs offers an opportunity to redesign BC's forest management systems for the future, prioritizing long-term needs, fiscal realities and accountabilities (as the BCTS program is high cost) and modern technologies.

##### **Avoiding Fragmented Changes:**

- A successful transition to RFMAs requires that all government actions align with overarching principles and avoid fragmented, piecemeal changes.

**9.** [https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/bc-timber-sales/business-plans-performance-reports/bcts\\_task\\_force\\_report.pdf](https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/bc-timber-sales/business-plans-performance-reports/bcts_task_force_report.pdf)

**10.** [https://www.bclaws.gov.bc.ca/civix/document/id/oic/arc\\_oic/0362\\_2022](https://www.bclaws.gov.bc.ca/civix/document/id/oic/arc_oic/0362_2022)

**Short-term Recommendations for BCTS:**

- BCTS review implementations should (i) focus on becoming more efficient within its current mandate (e.g., improve efficiency for stand level forest management practices such as variable retention, appropriate silviculture systems, etc.), and (ii) defer work on recommendations that further mix forest management with timber pricing and expand the role of the program.

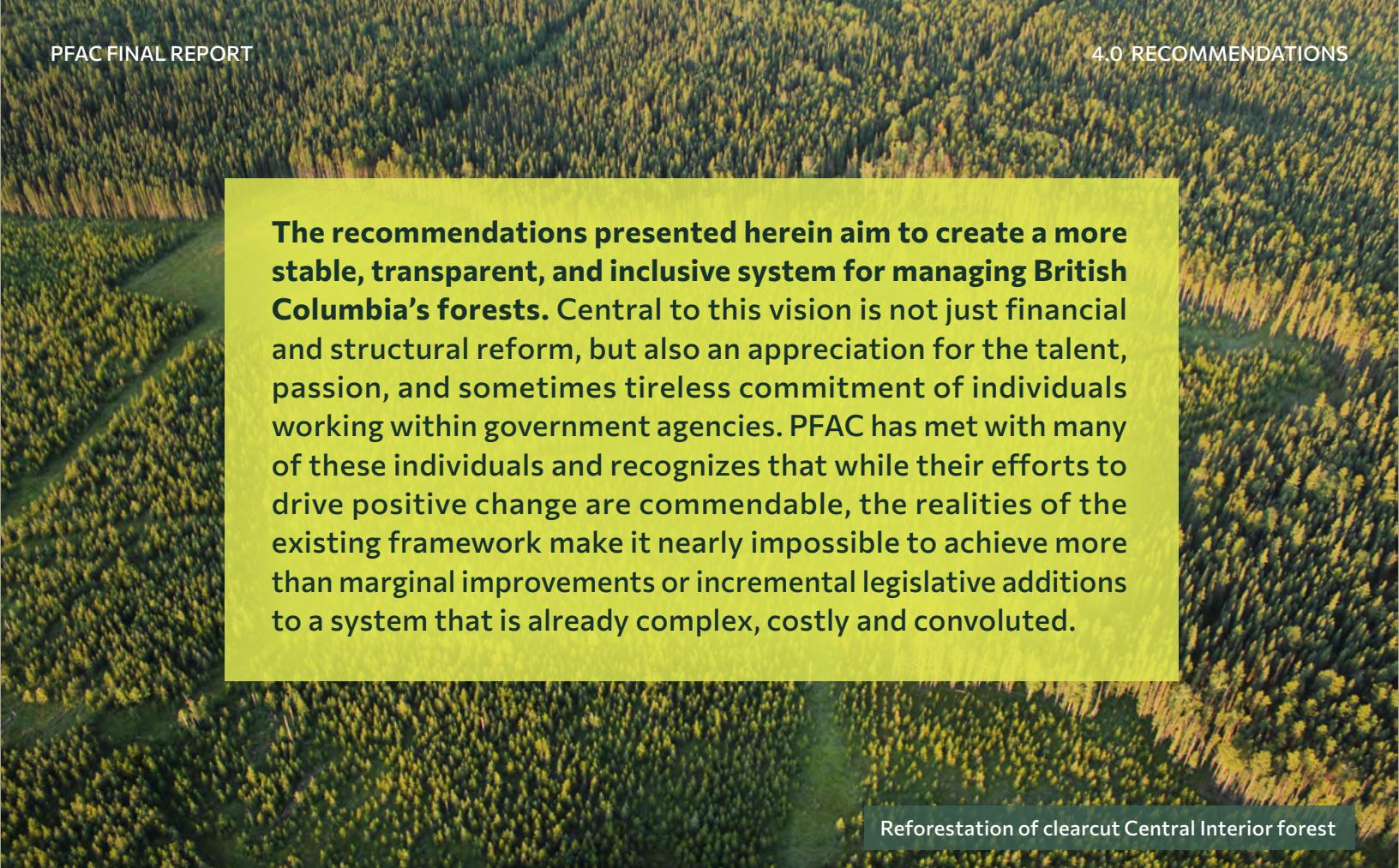
**CONSIDERATIONS FOR TIMBER PRICING:**

In light of the recommendations provided herein, BC's timber pricing system should also be re-imagined. While PFAC is not making specific recommendations for amendments to BC's pricing system, it suggests the Province consider designing

any new system with a singular purpose: to price the use of BC forests for end users.

**CAUTIONARY NOTE:**

The transition to area-based management should not be approached through ad hoc measures. If the Province is considering moving to an area-based approach outside the context of the other PFAC recommendations, we urge reconsideration. Additionally, all forest-sector initiatives should focus on transitioning to area-based management through a coordinated set of actions, reducing non-complementary efforts to align with this purpose. Without this level of focus, there is a high likelihood of wasted effort, stalled process, or unintended consequences that lead to further instability.



**The recommendations presented herein aim to create a more stable, transparent, and inclusive system for managing British Columbia's forests.** Central to this vision is not just financial and structural reform, but also an appreciation for the talent, passion, and sometimes tireless commitment of individuals working within government agencies. PFAC has met with many of these individuals and recognizes that while their efforts to drive positive change are commendable, the realities of the existing framework make it nearly impossible to achieve more than marginal improvements or incremental legislative additions to a system that is already complex, costly and convoluted.

Reforestation of clearcut Central Interior forest

## Acknowledging Systemic Barriers

Our proposals to move certain responsibilities outside of government reflects the reality of deep, foundational barriers that even dedicated public servants cannot overcome from within. Progress requires confronting these root causes and rebuilding trust. Currently, many perceive the government's structure as incapable of providing independent, reliable data or developing standards that balance structure with effective regional decision-making. These recommendations aim to create a system where trust is restored through consistent, defensible, and regionally appropriate outcomes.

At its core, this approach seeks to:

- **Empower Regional Decision-Making:** Shift authority to regional entities, supported by clear standards and robust resources, to ensure timely, inclusive decisions aligned with local priorities.
- **Foster Transparency and Trust:** Establish a foundation of accessible, high-quality data to reduce conflict and support predictable decisions.
- **Promote Sustainability and Resilience:** Align land management with long-term ecological, social, and economic goals to ensure adaptability to pressing challenges.
- **Provide Long-term Stability:** Establish a transition structure that survives political cycles and is effective in supporting the public service through transition services.

## Building on Past Reviews

These recommendations also build on—and help to enable—implementation of significant past reviews, including the Old Growth Strategic Review (OGSR) and other efforts such as those focused on forest inventory and fire management. The OGSR’s 14 interconnected recommendations made clear that achieving old growth outcomes hinges on establishing a stable and reliable system for land and forest management. Similarly, longstanding recommendations related to consistent forest inventory and responsive wildfire management have highlighted the need for the kind of foundational reforms reflected in this report.

## Lessons from the Forest Landscape Plan (FLP) Process

The lessons of the Forest Landscape Plan (FLP) process are integrated here as well: while the FLP experience underscored the value of clear governance and shared purpose, it also revealed the ongoing limitations of working within existing structures without foundational change. Our path forward addresses these gaps by making realignment of spending, clear accountability, and practical tools for implementation central priorities.

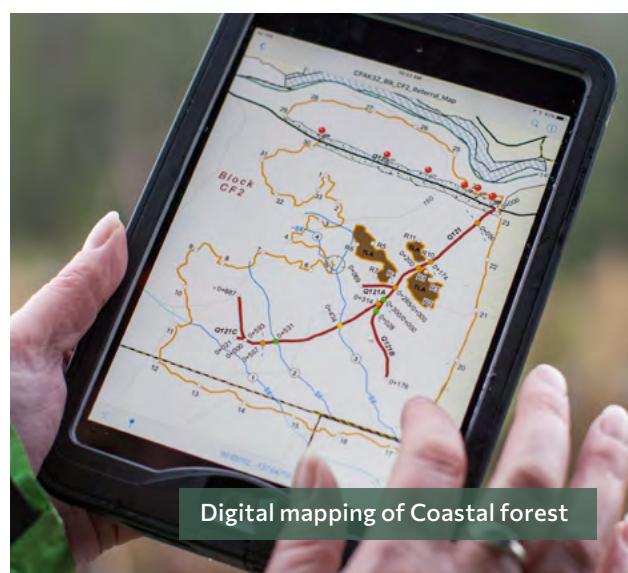
## The Need for Coordinated Vision

Such reforms can’t just occur through one ministry or one program—such as BCTS—in isolation of a coordinated vision for forests in all of BC. By providing the governance frameworks,

financial realignment, and clear direction for empowered regional decision-making, this strategy lays the groundwork needed for past review processes, completed over several decades, to achieve their intended impact.

## Supporting Resources to Underscore the Intent Behind PFAC Recommendations

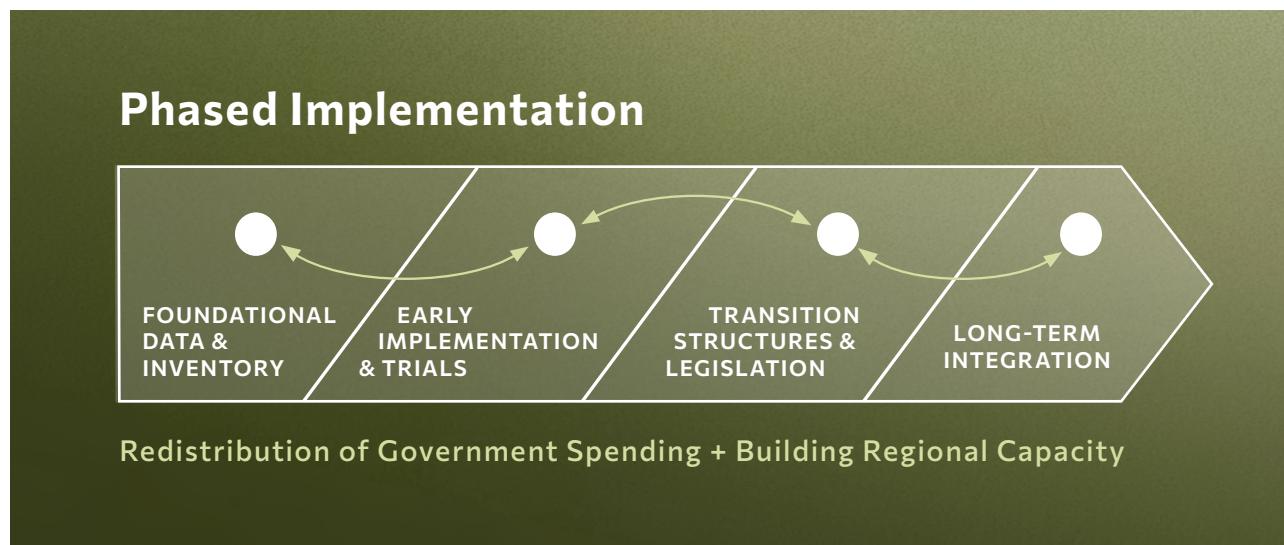
To further support these strategies, a more in-depth Technical Background Document is currently in development and will provide detailed analysis, data, and additional context to substantiate the proposed changes. It explores foundational concepts like data management, area-based management models, and the principles of effective natural resource governance. By offering in-depth insights, the background report will be a resource for understanding the “why” behind these recommendations and ensuring their effective implementation. For a more detailed discussion on the intent and context of the PFAC recommendations, refer to [Appendix C \(p. 57\)](#).



## 5.0 PHASED IMPLEMENTATION

# THE ROAD MAP

A unified, cohesive forest management model is needed to reverse concerning trends in British Columbia's forests. Other provinces, including Ontario, have faced similar challenges and successfully implemented similar reforms, showing this transition is achievable.



## Navigating BC's Unique Complexity

We recognize BC's situation is uniquely complex. The province's diverse ecosystems, regional economies, and community needs and interests, combined with its rich history and relationships, present challenges that surpass those faced elsewhere in Canada. This complexity underscores the importance of regional variation and decision-making to craft solutions that reflect BC's distinct circumstances. Attempting to impose homogenous, one-size-fits-all solutions while ignoring these regional dynamics will only deepen the challenges we face. Instead, sustained action targeted toward a long-term vision—grounded in Indigenous rights

recognition and regional decision-making—offers a path forward, one that builds on the lessons of other jurisdictions while addressing BC's unique requirements.

**Our objective through these recommendations is to change the dialogue in BC and begin the process of reversing the trajectory—restoring trust and confidence in BC as a jurisdiction capable of managing its forests. This involves creating a more stable system that benefits Indigenous and non-Indigenous communities, ecosystems, and economies alike.**

## Guiding Principle: Honouring Indigenous Rights in Implementation

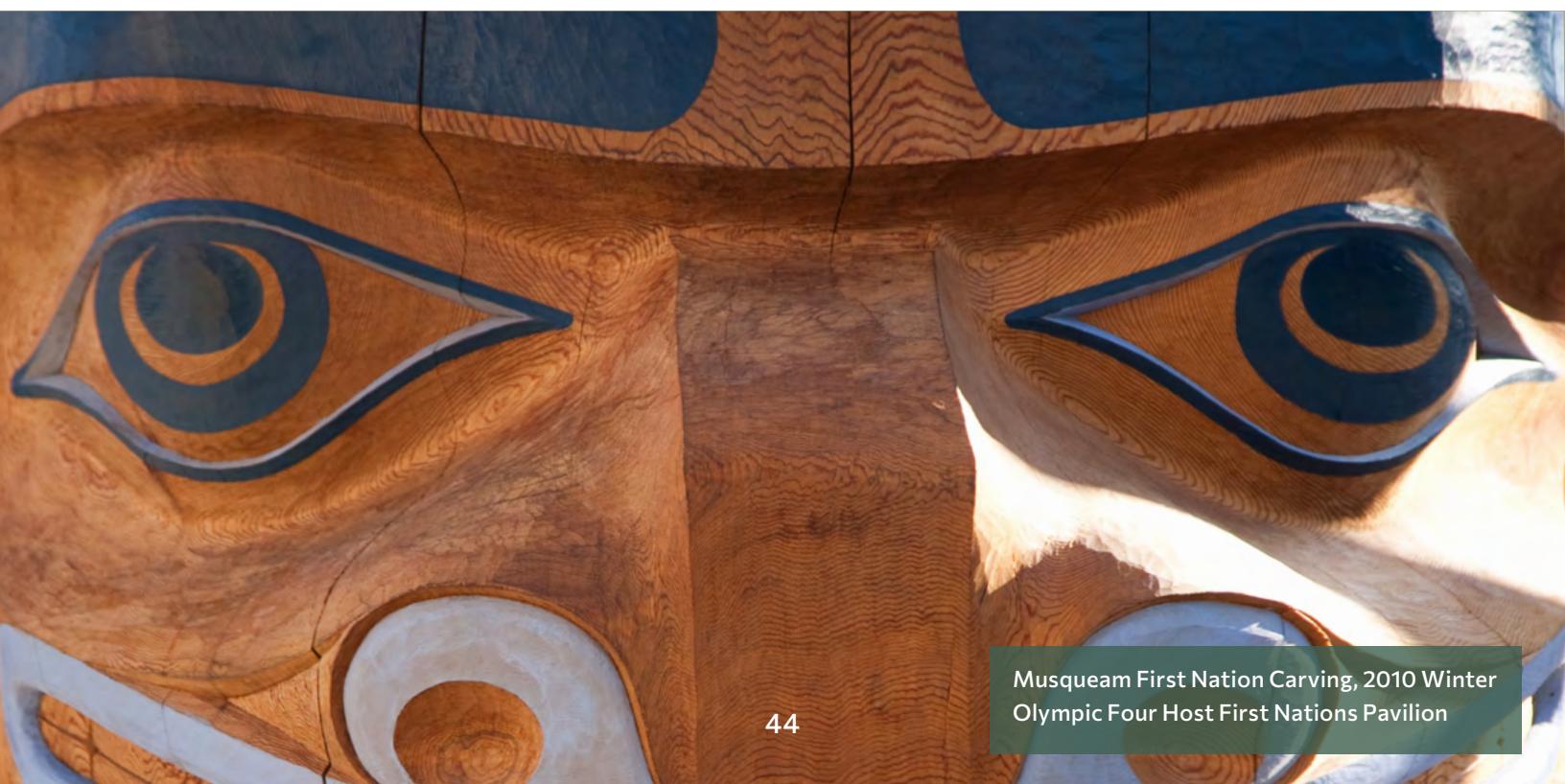
Any credible path forward for forest policy in British Columbia must recognize the constitutional reality of Indigenous Rights and Title and the critical underlying importance of reconciliation, to which land is a critical component. As we move toward implementation, it is essential that policies and strategies be developed with full inclusion of First Nations to ensure they reflect the unique needs and priorities of Nations and the knowledge of Indigenous Peoples and their respective communities.

This approach should be guided by the principle of “nothing about us, without us,” fostering a shared journey towards a vision of area-based management of the future, respecting the relationship between

lands and people. By embedding this principle into the implementation process, we will create outcomes that are stable, adaptable, regionally responsive, and rooted in mutual respect and understanding.

## Complementary Role of Local Communities

While Indigenous inclusion is foundational, the success of forest policy implementation also depends on the active participation of local non-Indigenous communities. These communities, deeply connected to the land through their livelihoods and lived experiences, bring invaluable insights and practical knowledge to the table. Their involvement ensures that policies are not only effective but also reflective of the diverse realities across British Columbia – bringing people together to foster trust and respect on a common journey towards land care.



Musqueam First Nation Carving, 2010 Winter Olympic Four Host First Nations Pavilion

## The Time for Action is Now

With over 75% of BC's Replaceable Forest Licenses<sup>11</sup> and 80% of Tree Farm Licenses<sup>12</sup> either overdue or up for renewal/replacement within the next 3 to 5 years, we have a rare opportunity to renegotiate the social contract. This moment allows us to build on existing tenure diversification efforts, including the growth of Indigenous-held and community forest licenses, and to create a more equitable and sustainable forest management system.

This window of opportunity is critical. Delaying action risks further entrenching the systemic barriers that have destabilized BC's forest management system. By acting now, we can seize this moment to implement meaningful reforms that align with the province's long-term vision for land stewardship.

## A Difficult but Achievable Shift

Transitioning to area-based land management requires addressing foundational issues in BC's forest sector through challenging but essential conversations. Key topics include the stumpage system—its alignment with forest management, its effectiveness—and the structure of tenure, including who holds it, how it is allocated, and how volumes are accessed.

A critical question arising from these recommendations is: What happens to existing tenures if they are fully adopted? While grassroots, ground-up trials and proposals can drive progress, the transition to RFMAs cannot succeed without deeper, more nuanced discussions about forest tenures. These conversations must explore the complexities of tenure systems and build the practical experience needed to inform

the shift to area-based land management.

It should be emphasized that these discussions are not intended as a return to appurtenancy or the policies of the past. Instead, our aim is to create a modern, adaptive framework that directly addresses today's challenges and opportunities, supporting long-term sustainability and resilience in BC's forest sector.

We acknowledge the complexity of these discussions, but they are essential to creating a forest management system rooted in land stewardship. While PFAC does not claim to have all the answers—nor would it be appropriate for us to prescribe specific solutions for stumpage or tenure systems—this report is intended to spark meaningful dialogue and support the development of practical, workable options. Further conversations are necessary to refine the proposals outlined here, with additional details provided in *Appendix D* (p. 65).

**11.** BC Ministry of Forests Tenures Branch

**12.** <https://www2.gov.bc.ca/gov/content/industry/forestry/forest-tenures/timber-harvesting-rights/tfl>



Sitka Spruce (*Picea sitchensis*)

## Phased Implementation Framework

Implementation must be supported by detailed and structured plans. PFAC emphasizes that the recommendations and their sequence are critical to achieving meaningful outcomes. Selectively implementing recommendations risks perpetuating the systemic barriers that destabilize BC's forest management system. Such an approach could deepen mistrust and division, reinforcing perceptions that the government is unwilling to pursue genuine change beyond maintaining the status quo.

Achieving stability will be challenging, as area-based management is not a one-ministry

initiative. It requires a coordinated, cross-government effort to align ministries around a shared purpose and vision. Resources must be allocated strategically to sustain momentum, overcome bureaucratic inertia, and ensure progress extends beyond political cycles, breaking free from the constraints of the current unworkable status quo.

The following table provides a high-level framework to guide implementation, outlining the sequence of actions required to transition to area-based management. This framework is designed to ensure that reforms are implemented in a way that addresses systemic barriers, builds trust, and creates a more stable and sustainable forest management system.

PHASE	THEME	OBJECTIVE	KEY ACTIONS	DELIVERABLES	EST. TIMELINE
<b>Concurrent AND Ongoing</b>	Redistribution of Gov't. Spending & Regional Capacity	Align gov't spending with new mgmt. framework & build regional capacity for decision-making.	<ul style="list-style-type: none"> <li>Redistribute funding to prioritize regional capacity and effective local decision-making.</li> </ul>	<ul style="list-style-type: none"> <li>Regional decision-making capacity strengthened</li> <li>Ongoing financial support for all theme</li> </ul>	<b>START:</b> Immediately, ongoing throughout all phases
<b>PHASE 1: Foundational Actions</b>	THEME 1: Transparency	Establish a robust, transparent, & accessible data management system.	<ul style="list-style-type: none"> <li>Create a Data Mgmt. Committee as an independent body.</li> <li>Develop high-quality LiDAR-derived forest inventory.</li> <li>Build a centralized, user-friendly data platform.</li> </ul>	<ul style="list-style-type: none"> <li>Independent Data Mgmt. Committee</li> <li>Centralized data platform accessible to all stakeholders</li> <li>Standards for data collection and reportings</li> </ul>	<b>START:</b> Immediately (Budget 2026)  <b>DURATION:</b> 6 months to set the foundation  <b>TARGET:</b> < 3 years to cover the entire province
	THEME 3: Independent Oversight	Establish independent structures to ensure continuity and remove barriers.	<ul style="list-style-type: none"> <li>Create an Independent Oversight Body (e.g., legislated commission or not-for-profit organization).</li> <li>Establish clear structured terms for regional area-based management trials.</li> <li>Provide outcome-driven support.</li> </ul>	<ul style="list-style-type: none"> <li>Independent Oversight Body established</li> <li>Clear mandate to oversee the transition</li> <li>Regional trials with clear governance and dispute resolution</li> </ul>	<b>START:</b> Immediately  <b>DURATION:</b> 6 to 12 months
<b>PHASE 2: Early Implementation</b>	THEME 2: Community Wildfire Security	Establish Collaborative Management Zones in the WUI to reduce wildfire risk.	<ul style="list-style-type: none"> <li>Launch Collaborative Mgmt. Zones in high-risk areas.</li> <li>Deploy skilled contractors for fireproofing and fuel management.</li> <li>Develop localized WUI management plans.</li> </ul>	<ul style="list-style-type: none"> <li>Collaborative Mgmt. Zones operational</li> <li>Fireproofing and fuel mgmt. strategies implemented</li> <li>Pilot projects for localized management</li> </ul>	<b>START:</b> 6 months  <b>DURATION:</b> 12-24 months
<b>PHASE 3: Transition to Area-Based Management</b>	THEME 3: Regional Area-Based Management Transition	Shift to area-based management units (FMUs) with a single accountable manager.	<ul style="list-style-type: none"> <li>Implement trials to test the framework.</li> <li>Establish enabling legislation for FMU boundaries.</li> <li>Develop dynamic, forward-looking mgmt. plans updated annually.</li> <li>Build regional governance frameworks from the ground up.</li> <li>Begin amendments to tenure license agreements to support the shift (as necessary).</li> </ul>	<ul style="list-style-type: none"> <li>FMU boundaries defined</li> <li>Dynamic mgmt. plans linked to FMUs</li> <li>Pilot projects completed and refined</li> <li>Co-governance frameworks established</li> </ul>	<b>START:</b> 6 to 12 months  <b>DURATION:</b> 3-5 years
<b>PHASE 4: Long-Term Integration</b>	THEME 4: Program Alignment	Align gov't. spending & stumpage systems with the new management model.	<ul style="list-style-type: none"> <li>New stumpage system (designed by subject matter experts) consistent with Regional Area-Based Land Management.</li> <li>Integrate BC Timber Sales (BCTS) into area-based mgmt units.</li> <li>Full enactment of transition legislation to area-based mgmt in BC.</li> </ul>	<ul style="list-style-type: none"> <li>Simplified stumpage system aligned with land mgmt. outcomes</li> <li>BCTS integrated into FMUs</li> </ul>	<b>START:</b> 3 years  <b>DURATION:</b> 3-5 years

## 6.0 CONCLUSION

# A NEW STABLE SYSTEM

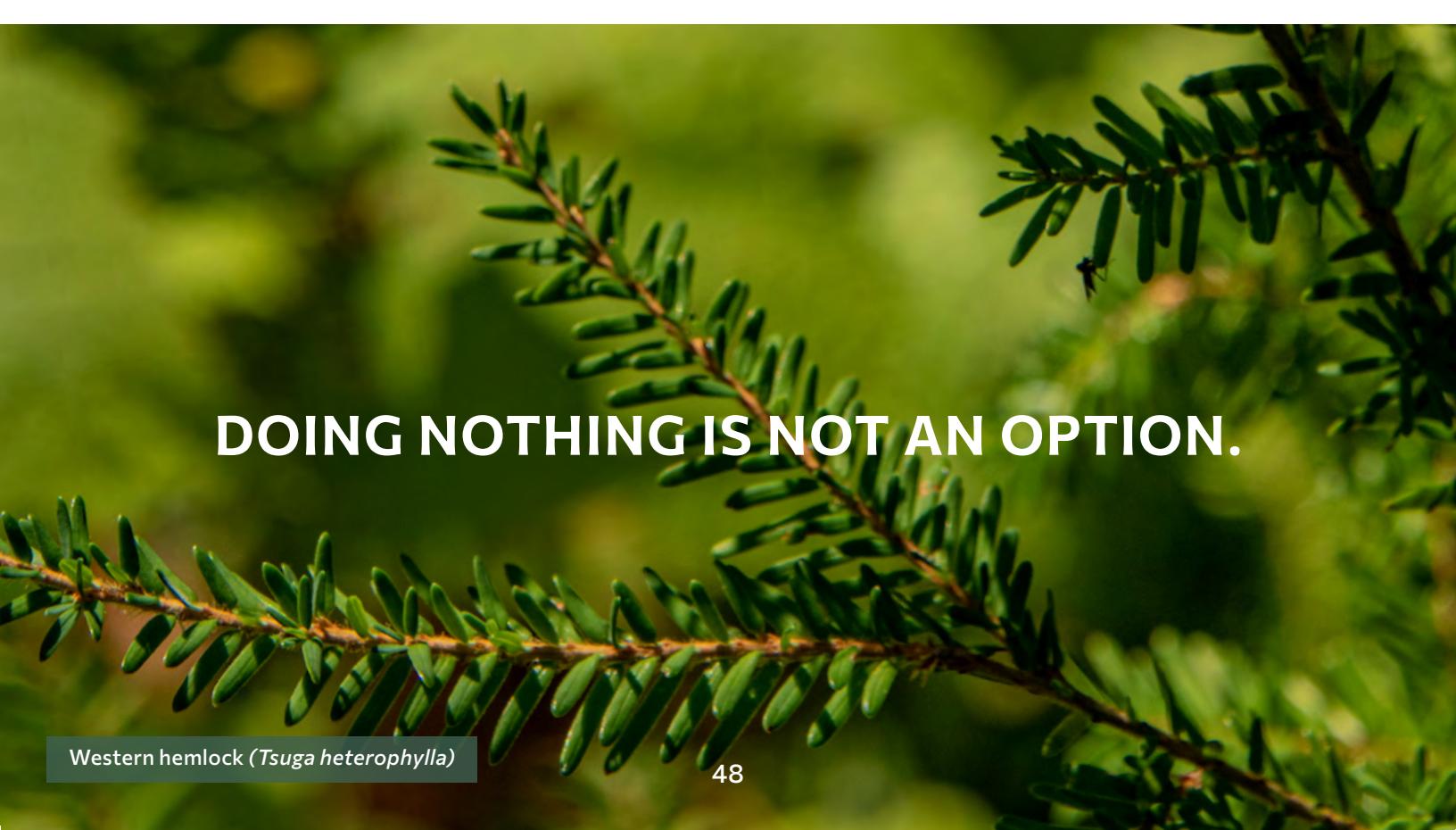
British Columbia's forest sector is at a crossroads. Decades of incremental fixes have left us with a system that is overly complex, reactive, and misaligned with today's ecological, social, and constitutional realities. The findings make it clear: legacy systems can no longer support the economic, environmental, and social needs of the province. Interior regions face declining fibre supply, while the Coast contends with underinvestment and the consequences that come with it.

It is increasingly evident that short-term, profit-driven interests cannot fulfill the generational commitment required for responsible land stewardship. Doing nothing is not an option.

The recommendations in this report provide a practical starting point for structural change on the path to stability. Transitioning to area-based land management, supported by independent oversight and robust data systems and standards, will not be easy. It will require a sustained effort, and a willingness to move beyond isolated fixes toward a coordinated approach. This is not about sacrificing economic opportunity, but about fostering stability where communities, ecosystems, and economies can thrive together.

Committing to this vision will require courage and collaboration. It is vital that the people of BC, particularly those in Indigenous and non-Indigenous rural

Michael Bednar, courtesy naturallywood.com



**DOING NOTHING IS NOT AN OPTION.**

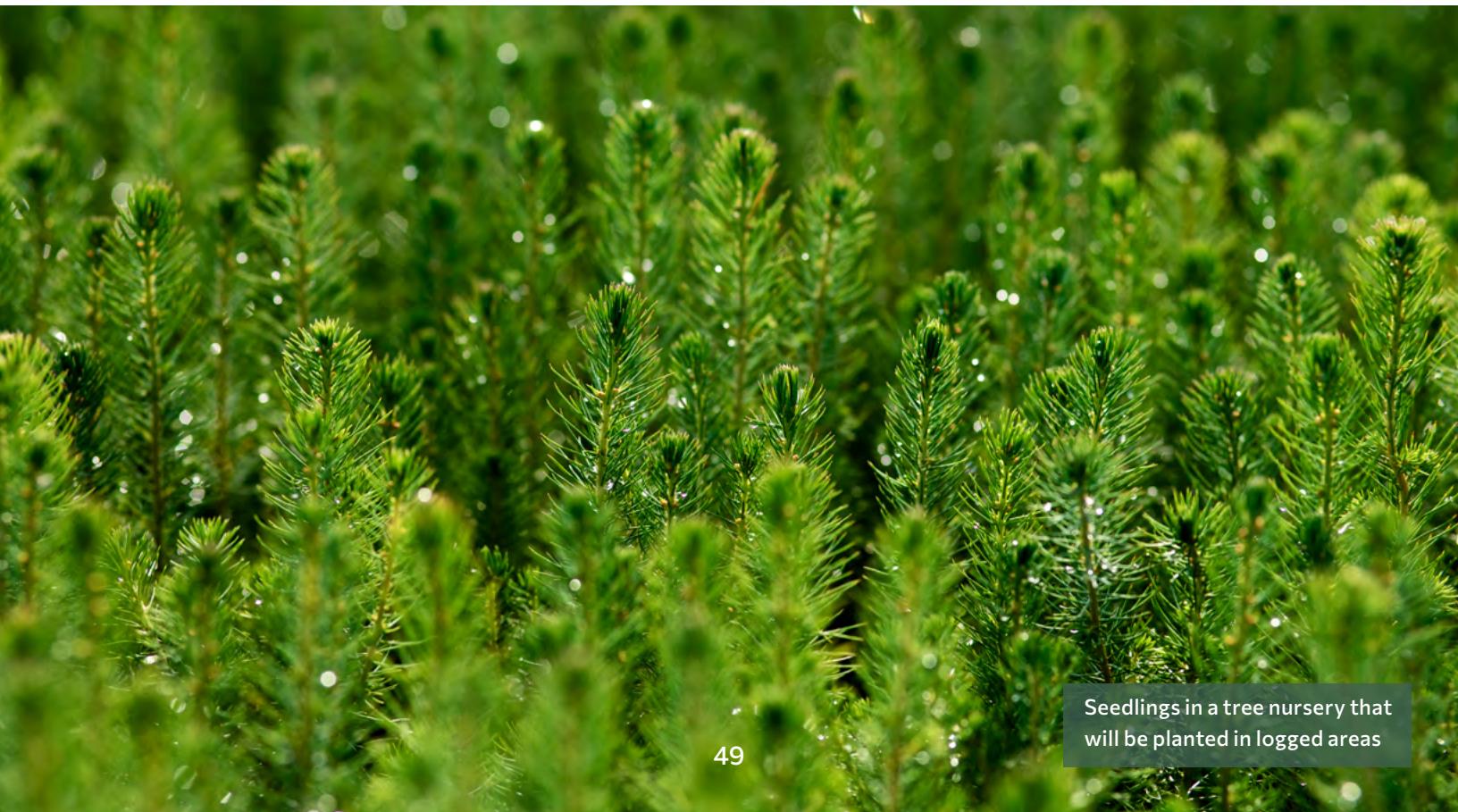
communities, and resource management professionals, are engaged in this process, empowered to shape their future, and supported in implementing a land management model that overcomes historical political and bureaucratic barriers.

The first steps—building comprehensive resource inventories, establishing independent oversight, and enabling trials for area-based management—are critical to laying the foundation for change. We recognize that this transition will raise complex questions about tenure, stumpage, and governance that require further dialogue. These challenges cannot be solved overnight, but they can be addressed through structured, transparent processes that prioritize outcomes over bureaucracy.

This report does not claim to address every challenge but marks a crucial starting point

for coordinated meaningful action. Achieving lasting change will require more than quick fixes or programmatic reviews—it calls for a sustained commitment grounded in solid data and impartial facilitation. Incremental adjustments will not resolve these issues; a deliberate, phased approach is essential. Forests are not a partisan issue; they are a shared responsibility that touches the lives of every British Columbian. While the path forward will not be without challenges, doing nothing will be far more devastating.

Despite the complexity and challenges that lay before us, this report is offered with hope: hope that it sparks a broader conversation about what is possible, and hope that it inspires deliberate and sustained action for the betterment of BC's forests, ecosystems, their inhabitants, and the business, communities, and workers that depend on them.



Seedlings in a tree nursery that will be planted in logged areas

## APPENDIX A

# INTERIM REPORT: UNDERLYING ISSUES IDENTIFIED IN PHASE 1

The issues outlined below reflect recurring themes and challenges but are not intended to be a comprehensive summary of concerns. As global and provincial circumstances continue to change, new information and challenges will arise during the timeframe of PFAC's mandate.

Many of these challenges have persisted for decades, reappearing repeatedly in previous reviews and reforms—evidence of their deeply rooted, systemic nature and resistance to short-term solutions.

## 1. Systems, Processes, Policy and Legislation Were Not Built for Our Current Reality:

Forest management systems, tenure structures, pricing and legislation (e.g., Forest Act) are outdated and misaligned with land management objectives. External forces such as the mountain pine beetle epidemic and trade disputes require an honest assessment of our current state – ensuring that we facilitate the ability to adapt while avoiding propping up unsustainable businesses. Current systems and structures are cited as adding unnecessary costs and processes that are barriers to investment and innovation.

## 2. Government Ministries are Not Aligned and Often Competing for Resources:

A lack of cross-ministry coordination and fragmented mandates appears to be resulting in competition for resources that freezes systems and processes – preventing action towards a coordinated set of goals. A substantial amount of time is invested in internal processes, which stifles innovation and the implementation of new ideas.

## 3. Resources are Not Focused on Common Initiatives:

Staffing shortages, especially at regional and operational levels, and budget constraints are often cited as common barriers to effective implementation inside government. In the world of fiscal deficits, this is unlikely to change; as such, the challenge will be to redistribute government spending to a coordinated set of priorities, ensuring that effective decision-making can occur efficiently at regional levels.

## 4. Turnover and Lack of Experience Both in and Outside of Government Slow Momentum:

A limited number of individuals with “boots on the ground” experience, access to subject matter experts, and confusion over professional obligations are often cited as barriers to change. Personnel are frequently not trained in collaboration and conflict avoidance/resolution. This impacts the confidence and speed at which decisions can be made, and also lends itself to rule-based, top-down-driven outcomes that can be costly, inefficient, and ineffective in achieving land management objectives (e.g., focusing on process rather than outcomes).

## 5. Fear and Resistance to Change Appears Prevalent:

Fear-based resistance and lack of effective frameworks for decision-making have been cited as barriers to change. Specific

processes exacerbated by misinformation and political sensitivity (e.g., engagement on the Land Act amendments to align with DRIPA) are often cited as barriers to effective transition in conjunction with a lack of public understanding of the government's legal obligations to First Nations. Many meetings emphasized the need for consistent, respectful, and strategic engagement with Indigenous communities; however, consistency appears to be lacking. First Nations and the BC government often lack the capacity to engage through existing (sometimes ill-defined) governance structures.

## **6. Lack of Trust Cited as Common Barrier to Effective Land Management, Regional Decision-Making, and Streamlining**

**Processes and Systems:** Mistrust has been cited as a key barrier to progress and a key theme of many discussions. Trust is an underlying requirement for moving collaborative processes, such as Forest Landscape Plans, faster. The scope of these processes is also cited as a problem, and whether that scope is too narrow or too broad varies depending on the perspective.

## **7. Monitoring and Accountability is Seen to be Lacking in Key Aspects of Land Management:**

**Calls for robust monitoring systems and transparent reporting mechanisms are common themes. The need for data and inventories is a common and ongoing perspective, but how to create this transparency varies. Like others, this is a strong example of a persistent problem that has been cited for decades.**

## **8. Outdated Metrics Lead to Poor Land Management Decisions and Lack of Access to Economic Fibre Stifles Investment, Including Transition to Value Add: A**

diversity of barriers to innovation have been cited. On the forest management side, a volume-driven focus and metrics are cited as barriers to whole land management. This, in conjunction with limited local incentives, or the ability to invest in forests and forest management, is a common theme in discussions. On the manufacturing side, access to economic fibre is the underlying concern. Access to untenured volume to support new, innovative approaches that extend beyond standard products and markets is a key ongoing point of discussion. Common threads consist of: shifting from volume-based to value-based forestry, helping small and creative players, and aligning economic models with ecological goals.

## **9. Lack of Coordinated Approach to Fire Management, Especially in Rural/Urban Interface:**

**Many discussions have highlighted a lack of a coordinated vision for fire prevention and management, especially in the urban interface. Fire is cited as a threat to both communities and forests, and there is a common concern that it is also used as an excuse to facilitate harvesting without a broader strategic plan.**

**Note:** this is unrelated to fire fighting.



**APPENDIX B**

# REGIONAL ECONOMIC DRIVERS: A SECTOR AT A PIVOTAL JUNCTURE

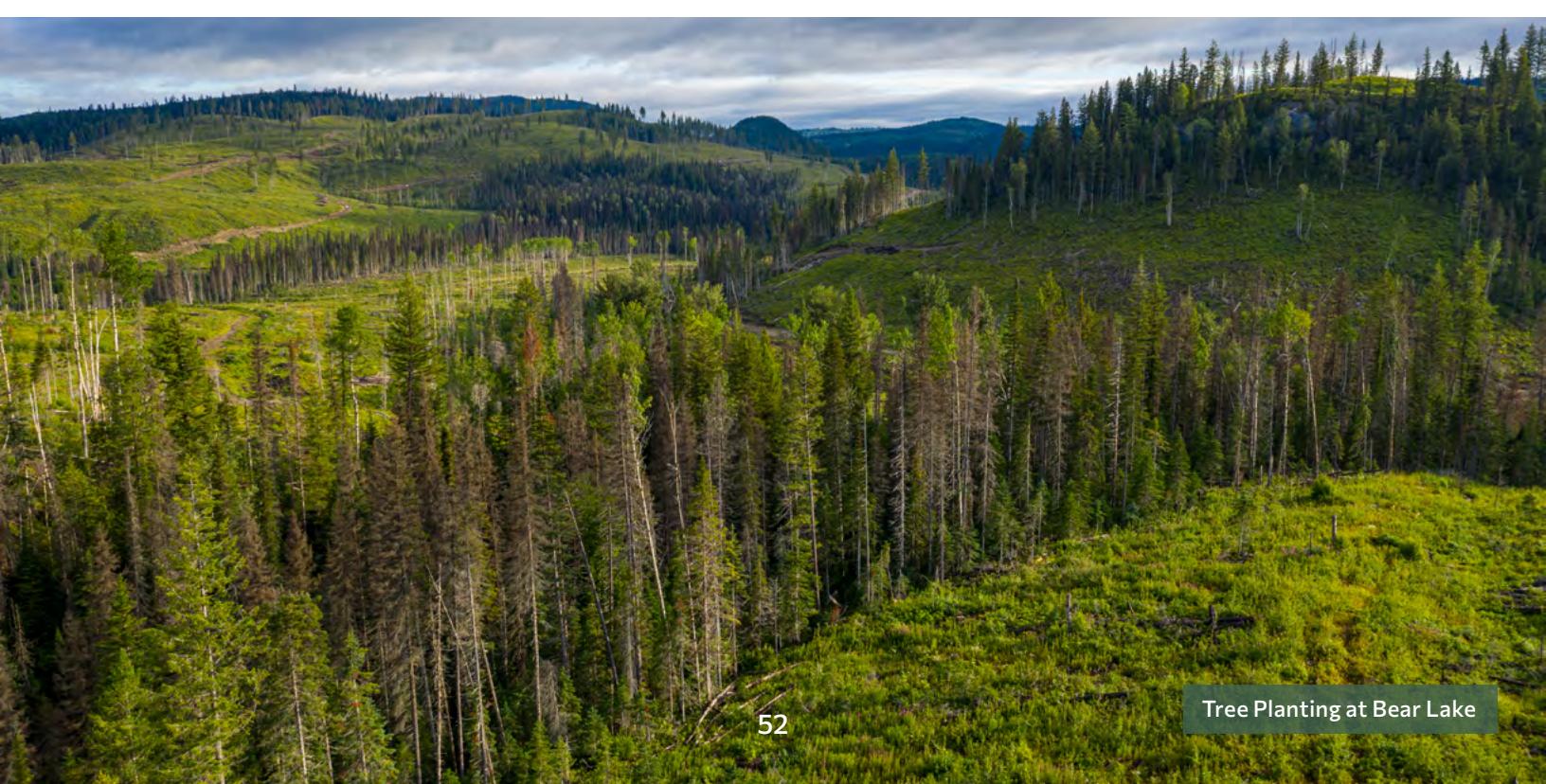
## BC's Complex Forestry History

British Columbia's forest sector, historically the province's economic engine, is currently navigating a period of profound instability. Importantly, this instability (while compounded by externalities) is driven by internal factors—

rooted in policy, management structures, market failures, and decision-making frameworks—not solely by external pressures or trade barriers. The industry operates within a framework—specifically the BC Forest Act—shaped during an era of industrial expansion, designed for a time with simple expectations for resource extraction and very different legal and constitutional imperatives.

While forest legislative and policy frameworks have attempted to introduce balance through successive additive layers, BC's forest sector was built on a foundation that prioritized volume and rapid development over long-term land stewardship. The result is an overly complex and ineffective system that, in today's reality, works for no one—not communities, ecologies, or economies. As timber supplies decline, operational costs rise, and global markets shift, this rigid and highly complex system, built on the foundation of the 1912 Forest Act with major amendments in 1947, 1978, and 2003 and subsequent add-ons combined with other legislative and administrative

Michael Bednar, courtesy naturallywood.com



requirements, has become process-oriented and overly bureaucratic. On the ground, however, outcomes targeted to address short-term issues or retain high-value old growth forests often lag or fail to materialize.

This has left the sector under significant strain. Large Timber Supply Areas (TSAs) have led to ineffective apportionments, concentrating harvesting in easily accessible areas, while apportionment volume from locations further from milling and manufacturing—often with less favorable species for today’s economic conditions—is allocated to already heavily disturbed land bases. This leads to conflict and confusion. Such misalignment has eroded confidence in the management of public forests, compounding and exacerbating mill closures, job losses, and a reactive rather than proactive government approach.

It is crucial to recognize that these systemic challenges are internally generated—driven largely by the sector’s structure, governance, and market approach that has been supported through BC’s forest policy—rather than by outside intervention, global trade issues, or foreign barriers. While these external forces are real and impactful, what lies underneath is a sector that is unable to adapt or respond to these rapidly changing circumstances without further compromising the future of BC’s communities, ecologies and economies.

Each region has its own unique set of issues. The variation between Coastal and Interior challenges is most significant. While the Coastal challenges have evolved from a different history, that legacy is every bit as destabilizing. And, while BC has focused on managing the Interior “uplift,” Coastal issues have continued to manifest in ways that are just as impactful and just as real.

## The Coastal Context: A Legacy of Underinvestment

The challenges facing the Coastal forest industry are not new—they have compounded over decades. More than 20 years ago reports identified the necessity of transitioning from old-growth harvesting to second-growth operations in a structured and measured way. The prediction was that rationalizing the sector would spur recapitalization and the construction of efficient, modern sawmills capable of profitably processing second-growth timber.

While the revitalization policies of the early 2000s did result in consolidation, the anticipated and necessary scale of investment in manufacturing has yet to materialize.

### 1. CONSOLIDATION WITHOUT CAPACITY

The number of major tenure holders on the Coast has declined over the past three decades, yet this consolidation was not matched by investment in manufacturing. Instead of a wave of new, efficient facilities, the region saw continued closures. By 2025, sawmilling capacity has decreased significantly, and with a few exceptions (e.g. Douglas Fir veneer mills), what remains would likely not be described as top quartile.

There are numerous underlying and interconnected reasons for this—some tied to the prolonged conflict, uncertainty, legislative complexity, the cost structure of the Coast, unreflected or opaque land-use changes, and most recently a slowing permit approval process. However, consolidation has clearly failed to serve as the region’s savior or to establish a stable foundation for its communities, ecologies, or economies.

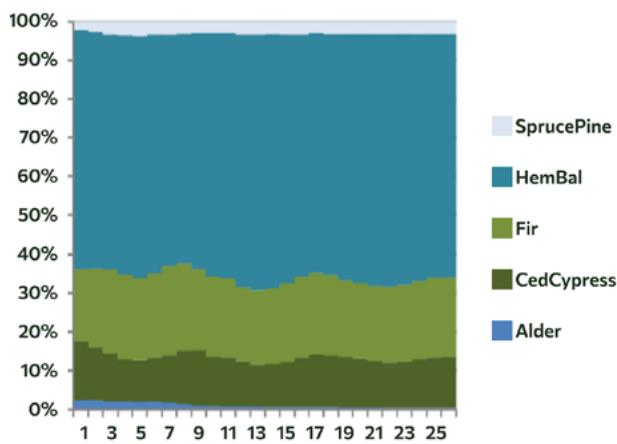
## 2. MARKET DISCONNECT AND “LOCKED” RESOURCES

While tenure concentration has allowed major players to control significant volumes, this wood is largely directed to internal facilities. Consequently, significant portions of the sector have been effectively “locked up.” Despite recent tenure diversification and acquisitions—largely by First Nations—processing capacity is now limited, and much of what is physically available to sustain the harvest remains economically inaccessible or unavailable to new entrants or innovators who might otherwise drive more value through efficient facilities and the marketing of higher value products.

## 3. THE “HEMLOCK PARADOX”

A critical structural failure on the Coast is the “hemlock paradox.” The Coastal timber profile contains an abundance of hemlock and balsam (HemBal). However, the region lacks a clear market strategy for these species.

### SPECIES COMPOSITION OF COASTAL FORESTS BY DECADE<sup>13</sup>



**Manufacturing Mismatch:** Current sawmills are high cost and not equipped with the modern technology required to process HemBal profitably, nor has there been sufficient investment to establish markets that incentivize this.

### The Old-Growth and Log Export Trap:

Because they cannot process and sell underutilized species economically, sawmills default to species with higher returns—this includes old-growth cedar and second growth Douglas fir, which “carries” the economics for a significant portion of BC’s tenures. While log exports have historically carried premiums for second-growth hemlock and balsam, in their absence, second-growth targets Douglas fir, increasing future reliance on hemlock and balsam. Although log exports may be attractive to some, these markets put pressure on younger trees. This not only disincentivizes the growth and development of domestic manufacturing, but also undermines BC’s future by extracting young stands, increasing pressure on old growth to sustain the harvest.

**Cascading Impacts on Pulp and Paper:** This dynamic—compounded by concentration in the pulp and paper sector and undercapitalized mills generally results in uneconomic pulp log pricing for a portion of harvested stands—creates severe downstream effects. Pulp mills rely on chips and furnish produced as byproducts from sawmills. When sawmills cannot profitably process hemlock and balsam (over 50% of the Coastal forest), they produce fewer byproducts. This leads to critical raw material shortages for pulp mills, substantially increasing their risk of becoming idle or closing.

<sup>13</sup>. BC Second Growth Hemlock and Ambilis fir: An assessment of Opportunities June 2020. Forest Analysis and Inventory Branch, Ministry of Forests, Lands, Natural Resources Operations and Rural Development 2019.

The BC interior limitations for lumber exports into non-US markets are structural. With a few exceptions, only in North America do you find imperial thickness, widths and lengths for lumber. The rest of the world trades in metric lumber (and in single species, not mixed species like SPF) and most North American sizes and grades do not fit many (if not most) end-use applications. While some Interior mills are better configured to produce some metric lumber, the vast majority are not. Hence, the BC interior is heavily restricted to the offshore markets they can service with their imperial lumber sizes.

**To expand offshore market access, investment at mills to produce metric-sized lumber is required to diversify markets.** Generally, BC and Canada have over-relied on the US market for decades for construction-grade lumber.<sup>14</sup>

Solid-sawn heavy timber

While *Coastal Fibre Recovery Zones* were introduced to direct low-value wood to pulp mills, they addressed waste penalties rather than the core market failure. Without competitive processesing capacity for underutilized species, the industry remains trapped in a cycle: it relies on high value old growth cedar, Dougals fir and fleeting premiums for log exports to maintain cash flow and sustain harvest, further delaying innovation and investments.

## The Interior Context: Constraints and Rigidities

The Interior, which in itself is far from uniform in its underlying problems, is dealing with the long-term aftermath of the Mountain Pine Beetle infestation, a sharp decline in the Allowable Annual Cut (AAC), unprecedented fires, and like the Coast, land-use changes that are yet to be reflected or transparent and a slowing permit approval process. Much of the region is attempting to transition from a “salvage mindset”—focused on rapid recovery of beetle-killed wood—to a model of sustainability within the context of climate change.

Existing management structures, however, complicate the decision-making required for this new reality.

- **Rigid Management Units:** The reliance on large-scale TSAs fosters a “lowest common denominator” approach by both industry and government, preventing tailored, site-specific management that could optimize value and promote innovation.
- **Concentrated Harvests:** Harvests are often apportioned to specific, accessible areas. This concentration creates intense pressure on local ecosystems and communities, fueling resistance to further extraction.
- **Infrastructure Gaps:** Much like the Coast, certain tenures lack the investment in infrastructure required to manage challenging terrains or complex species profiles. This forces operators to place further pressure on areas closer to existing roads and facilities, exacerbating local shortages.

**14.** Russ Taylor Global

Moreover, the provincial government is not adequately equipped—nor has it positioned itself effectively—to align with legal and constitutional imperatives or to facilitate effective decision-making transitions required in the current context.

Again, it is essential to emphasize that all these pressures—market inefficiencies, policy misalignment, and capacity constraints—are the result of internal challenges. The instability that characterizes the sector is not a consequence of international markets, external trade barriers, or foreign interventions, but the direct outcome of how BC's forest sector is structured and the policies and legislative processes that facilitated this outcome.

## The Need for Structural Change

The pressures in both the Coast and Interior force operators into short-sighted decisions that jeopardize future supply for immediate needs, put forest professionals in an untenable position and further destabilize the sector – often creating a false dichotomy between jobs and the environment.

Breaking this cycle requires more than temporary policy patches. It demands structural change and an environment that not only restores confidence in BC, but also fosters investment beyond the post-industrial era. **A system is needed where, at its core, land management outcomes drive investment in a shared value proposition for the long-term care of forests and related lands.**



## APPENDIX C

# PFAC RECOMMENDATIONS FURTHER EXPLAINED

The forest sector in British Columbia stands at a critical juncture. Communities are feeling the strain of mill closures, job losses, and declining confidence in how our forests are managed. The systems designed decades ago—built for a reality of abundant fibre supply and stable markets—are no longer capable of addressing today's complex ecological, constitutional, and economic challenges. If BC is to chart a sustainable path forward, we should look beyond the symptoms of instability and address their root causes with new governance models, tools, and approaches.

This discussion provides an expanded look at how PFAC's recommendations can lay the foundation for renewed confidence and better long-term outcomes. This proposed direction is grounded in a commitment to transparency, accountability, recognition of constitutional obligations, and a fundamental shift to regional area-based management as a foundation for a new stable system for communities, ecologies and economies.

## 1. Reliable, Usable and Broadly Accessible Data and Inventory

For far too long, the lack of high-quality, consistent data has hindered effective decision-making in land management, resulting in inefficiencies, conflicts, and diminished public trust. Without a reliable and transparent data

management system that is accessible to the end users, the transition to modern land management practices will remain prohibitively costly, overly complex, and largely out of reach.

Despite numerous reviews and recommendations, progress on establishing consistent forest and ecosystem inventories has been limited. A commitment to comprehensive, high-quality inventories, using LiDAR-derived data, is essential for all public lands, including parks and protected areas. Crucially, oversight should be provided by an independent committee, responsible for maintaining clear data management standards and upholding principles of public transparency and accountability while meeting the needs of its end users, which should extend across all government ministries.

Models in Alberta and Ontario, where forest inventories are regularly updated and publicly accessible, provide valuable lessons. BC can build on these examples, learning from their successes and their mistakes to create a system tailored to its own needs.

By reallocating funds from redundant programs and working with service providers with proven track records, under consistent data management standards, BC can implement a system that is both effective and efficient. A centralized data system would also enable cross-sector use. Importantly, the system must be designed to meet end users'

needs, ensuring accessibility, usability and relevance. This is a skill set and expertise unto itself, and a transition function that should not distract the BC government from its core administrative duties.

## 2. Ground-Up Formation of RFMAs

Governance is central to PFAC's vision and Regional Forest Management Areas (RFMAs) should only be established once these structures are in place. British Columbia's landscapes and communities are exceptionally diverse, presenting unique regional challenges that go beyond those faced in other parts of Canada where similar systems have been introduced. This diversity, along with BC's responsibility to align land management with respect for and recognition of Indigenous constitutional imperatives, calls for a thoughtful and adaptive approach. The transition to Area-Based Management Units (RFMAs) should be guided by trial processes and grassroots, community-driven efforts to ensure that boundaries and systems are practical, fair, and reflective of local realities. Respectful and collaborative discussions with First Nations will be critical to addressing shared and overlapping territories, enabling the transition and fostering the development of local and regional governance structures.

## Key Attributes of Area-Based Management Units:

### 1. LOGICAL BOUNDARIES:

RFMA boundaries should reflect natural features, such as height of land and watershed divisions, while respecting territorial

boundaries and local relationships. These boundaries should be developed collaboratively with First Nations, license holders, and other stakeholders to ensure they align with ecological, cultural and economic realities. Collaborative, solutions-focused discussions should address shared and overlapping territories in a way that supports the transition and builds governance capacity.

### 2. INNOVATIVE & ADAPTIVE MODELS:

The development of RFMAs should include trial processes to test and refine approaches, creating a "made in BC" management system. These trials should allow for flexibility and innovation, ensuring that the final models are effective and adaptable to the diverse needs of BC's regions.

### 3. CONSISTENT PRINCIPLES ACROSS UNITS:

While the specifics of each RFMA may vary, the principles guiding their formation should remain consistent. Each unit should include:

- **A Coordinating Land Manager:** A single entity responsible for overseeing planning, operations, and the completion of management plans within the unit. This should ensure clear accountability and coordination.
- **Integrated Planning:** Management plans should be forward-looking and dynamic, aligning directly with Forest Operations Plans (FOPs) to create a coordinated and transparent system.

### 4. ZONING & LANDSCAPE CONTEXT:

Within each unit, zoning could reflect the unique landscape patterns and attributes of the area. This should include:

- Anchors of biological significance, such as interconnected ecosystems and biodiversity hotspots.
- A framework that balances lower-impact areas with zones of higher-intensity use, ensuring that ecological and cultural goals are integrated.

## Fostering Innovation Through Trials

To break free from the constraints of the traditional industrial mindset, it is essential to create opportunities for professionals to lead with purpose and innovate outside the confines of corporations. One way to achieve this is by establishing regionally tailored pilot projects that test new approaches to forest management and land stewardship.

These trial projects would serve as testing grounds for innovative practices, providing valuable insights and building trust through collaboration. By empowering professionals

to take the lead in these initiatives, we can reduce conflict, simplify processes to reduce complexity, and pave the way for broader adoption of successful strategies.

## Responsive Management - Context of Wildfire and Climate Change

Wildfires, intensified by climate change, require a land management approach that integrates ecological, cultural, and economic considerations into a unified framework. Addressing fire risks must reflect the interconnected nature of these values, ensuring actions also support broader land management goals and align with PFAC's recommendations under Theme 3.

In the Wildland Urban Interface (WUI), where risks to people, infrastructure, and livelihoods are most immediate, proactive measures should reduce vulnerabilities while supporting local capacity. Collaborative management zones and

Firefighters dig into earth charred by a 73, 862 hectares forest fire in Flat Lake that was ignited by a lightning strike.



Smoke from the Flat Lake Fire in the Cariboo region, July 2021

targeted interventions, such as fireproofing and fuel management, can protect communities and infrastructure while generating economic benefits, including reduced insurance premiums and opportunities for local contractors. These actions should be tied to area-based management units, ensuring that decisions are regionally relevant and inclusive.

Across the broader land base, wildfire management must align with ecological, cultural, and economic priorities. Fire should not be a means to “justify harvesting,” but be addressed through responsible, forward-looking planning where harvesting practices are used as a tool for mitigation. Management plans, linked to area-based units, should integrate spatial harvest planning to ensure all indicators are met. These plans must demonstrate how values that are not appropriately managed through the establishment of static reserve networks (also known as hard reserves) are actively managed

through measurable actions, while remaining adaptive to fires that do occur. By replacing outdated Timber Supply Review processes with dynamic, annually updated plans, this approach ensures that land management objectives can be met with demonstrated results – providing the predictability needed to support investment and operational feasibility.

**PFAC's recommendations emphasize the importance of transitioning to area-based land management units with a single common land manager. This structure targets coordinated decision-making and connects long-term land management goals to practical, on-the-ground actions.**

## Enabling Regional Leadership and Professional Support

Successful implementation of an area-based land management model will depend on effective decision-making at regional and local levels. Well-meaning and skilled BC government employees have often been constrained by administrative complexity, emphasizing procedural compliance over measurable, on-the-ground outcomes. Moving forward, it will be important for local leaders to have the capacity to direct government resources in ways that prioritize outcomes and adapt to regional needs. These local leaders will also need to work within clear provincial guiding yet non-prescriptive standards that provide for procedural fairness, transparency, and locally-adapted governance structures created through collaboration with Indigenous communities.

Professional associations will also play a key role in this shift. By providing relevant training and development opportunities, associations can help ensure foresters, biologists, technicians, and other professionals are prepared for a new land management approach.

## Role and Function of an Independent Forest Oversight Body to Support the Transition to Regional Management

To support area-based management, this section defines the purpose and functions of an Independent Forest Oversight Body established for this shift. The oversight body is intended to facilitate, support, and advocate for the

development of regional management structures, provide capacity to allow for effective and efficient coordination across ministries, with all activities and outputs aligned to PFAC principles.

The oversight entity's primary function is to facilitate the evolution to area-based land management by addressing bureaucratic barriers, mitigating cross-ministry competition, and reducing process fatigue. The mandate includes facilitating collaboration among key players and encouraging regional participants to engage in the development and adoption of new management models.

A key responsibility is the development of supportive standards and the provision of guidance for administrative trials in regional settings. The oversight body should establish flexible frameworks that maintain the consistency of provincial standards while allowing adaptation for local requirements. Facilitation is central to this process, ensuring standards are sufficiently clear to guide regional activity but not so prescriptive as to limit innovation and local response.

## Administrative boundary establishment from other Canadian jurisdictions demonstrate the intended structure and operation

### ONTARIO FOREST MANAGEMENT

**UNIT MODEL:** Ontario is divided into 42 area-based management units, each with a 10-year Forest Management Plan developed with local citizenship committees. Standards offer structured guidance, with flexibility achieved through local planning and planned updates. The system is characterized by

regular data updates, public reporting, and mechanisms for compliance, supporting both accountability and local adaptation.

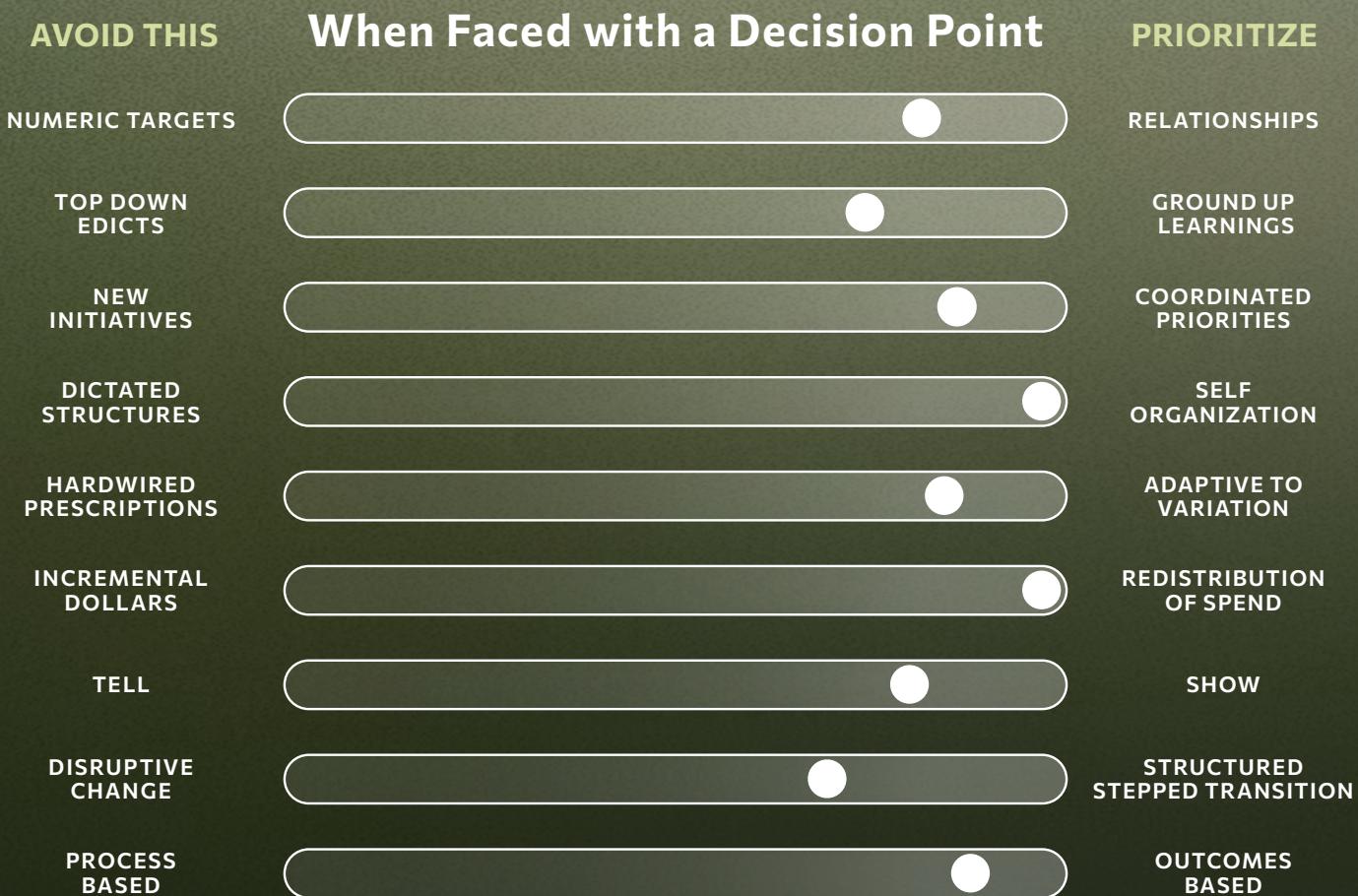
### ALBERTA FOREST MANAGEMENT UNIT

**MODEL:** Alberta operates approximately 90 management units, each under tenure agreements requiring 10-year plans. This model involves key players from various groups, maintains current inventory data, and prioritizes outcomes such as wildfire risk reduction. Standards are informed by certification requirements but allow for

adaptation according to local risks and changes in priorities. Dispute resolution processes support ongoing adjustment.

Ontario's model also highlights approaches in which oversight bodies provide direction and standards while maintaining space for regional innovation and flexibility. The independent oversight body described here would support the design and oversight of administrative trials so that regions can adjust approaches as needed, while maintaining overall alignment with PFAC principles and provincial direction.

The effective operation of this oversight body relies on consistent application of the following principles, which **focus on the right-most end of the spectrum** in its actions and directions.





Seedlings at a nursery in Quesnel

## Defined Functions Supporting Area-Based Management

### DEVELOP SUPPORTIVE STANDARDS

**AND ADMINISTRATIVE TRIALS:** Create and maintain standards modeled on existing provincial examples and oversee administrative trials that enable practical testing and refinement of regional approaches.

### SAFEGUARD PARTICIPATION AND MINIMIZE PROCESS FATIGUE:

Maintain transparent, inclusive processes, using facilitation to adapt to local needs, and support ongoing involvement from key players throughout the evolution to area-based management.

### PROVIDE FACILITATION AND

**TECHNICAL SUPPORT:** Offer resources, guidance, and process facilitation to ensure regional projects progress in accordance with PFAC principles, independent from the operational involvement of ministries.

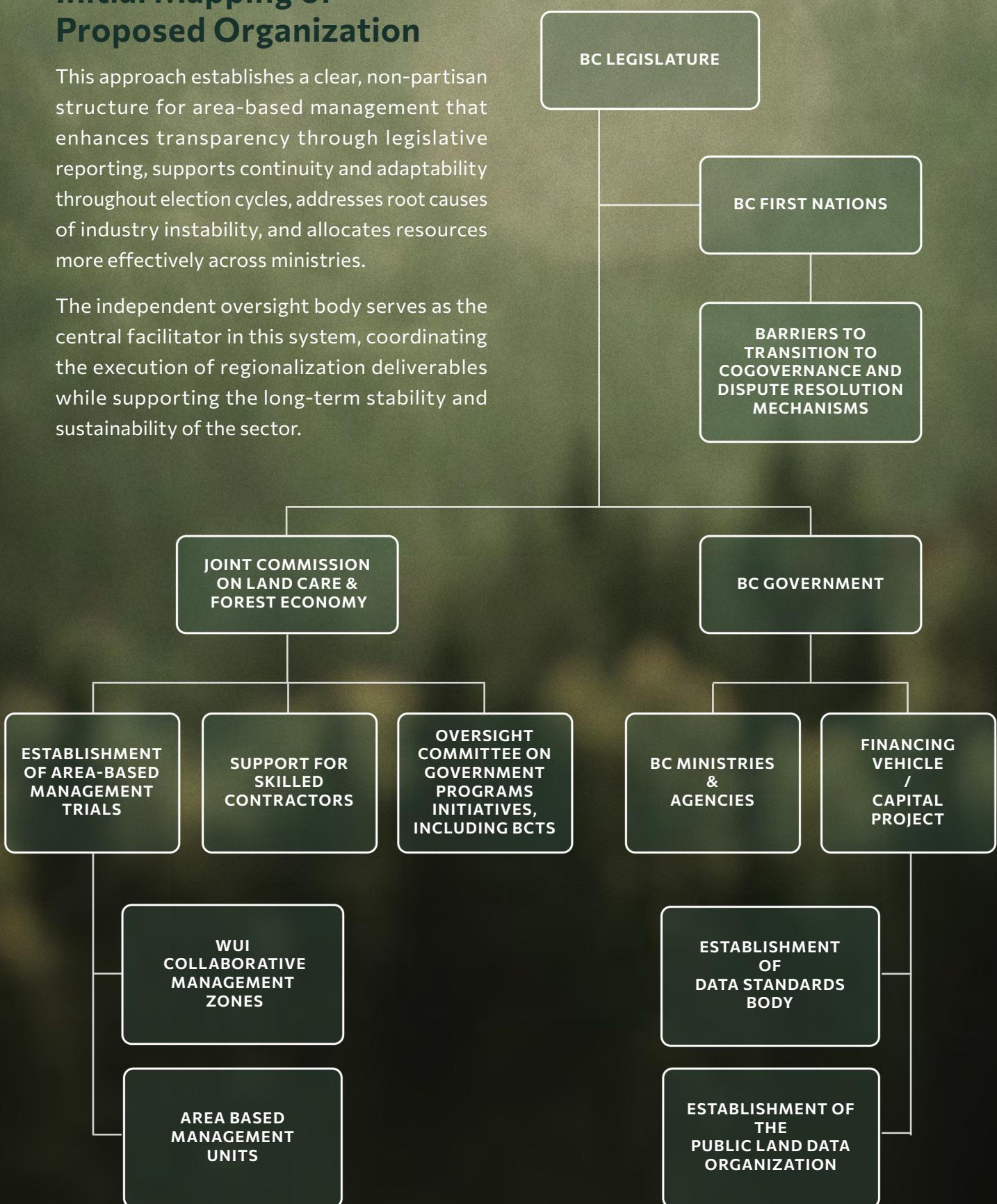
### ADVOCATE FOR, FACILITATE, AND SUPPORT REGIONAL STRUCTURES:

Enable the development, implementation, and maintenance of regional management structures that reflect both local needs and provincial standards, using facilitation and advocacy to ensure progress and resolve challenges. Responsibility for these functions is placed with the independent oversight body, allowing ministries to centre their efforts on strategic oversight.

## Initial Mapping of Proposed Organization

This approach establishes a clear, non-partisan structure for area-based management that enhances transparency through legislative reporting, supports continuity and adaptability throughout election cycles, addresses root causes of industry instability, and allocates resources more effectively across ministries.

The independent oversight body serves as the central facilitator in this system, coordinating the execution of regionalization deliverables while supporting the long-term stability and sustainability of the sector.



**APPENDIX D**

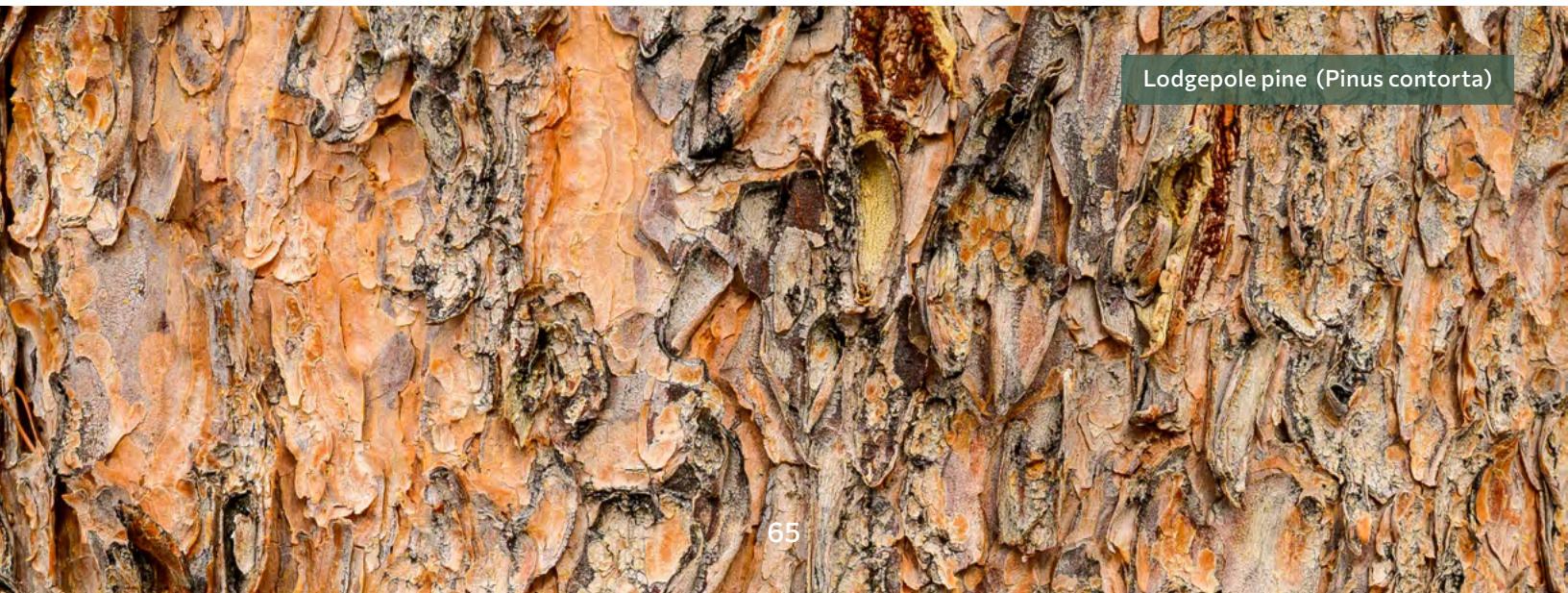
# FURTHER QUESTIONS: TENURES AND STUMPAGE

PFAC is preparing further technical report analysis to support further dialogue on the transition. Several critical follow-up questions will need to be addressed to facilitate the execution of the vision and pathways described in this report. These questions include:

- While new Regional Forest Management Areas (RFMAs) will emerge organically through trials and enabling legislation, how could/should transition legislation and accompanying regulations address legacy tenures and concentration challenges?
- In what ways can secure, predictable access to the outputs of area-based units be provided to mills and manufacturers without reverting to historical

appurtenancy (see *Glossary* (p. 8)), instead maintaining a clear separation between forest management and processing interests?

- How can BC's evolving system support sustainable investment in manufacturing and processing while ensuring land-based objectives are prioritized?
- What ongoing capacities, support structures, and accountability measures will regions need to successfully steward RFMAs into the future?
- What standards are required and what functions should be managed at what scale?
- How can ISO-like reporting indicators be executed in local area-based management units to create a standardized state of the forest across BC in a timely and reliable way?
- How should BC's stumpage system be viewed—is a wholesale amendment required to accommodate the shift to area-based management? What are the cautions or potential knock-on effects from this change? How might they be addressed and how might that system be redefined?



Lodgepole pine (*Pinus contorta*)

**APPENDIX E**

# ABORIGINAL RIGHTS BACKGROUNDER

**Note to reader:** The term 'Aboriginal' is being used in this paper because it is a legal term in Canada when referring to Aboriginal rights under s.35 of the Constitution Act, 1982.

## The implications of Aboriginal rights for forest policy in British Columbia

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**1 December 2025 (With an addendum dated December 11, 2025)**

### Introduction

In the spring of 2025 the BC government established the Provincial Forest Advisory Council to provide recommendations for new approaches to forest policy. The Council's work takes place against a backdrop of significant challenges – the aftermath of widespread epidemics of insect infestation, the transition from old growth to new, questions about the sustainability of harvest levels, the impacts of climate change, the tumultuous ups and downs of uncertain markets and trade policies, are just some of these challenges - and a widespread recognition that the forest sector on which British Columbia's prosperity was founded is in every sense at risk. There is an additional challenge. BC's traditional approach to forest management has been increasingly impacted by developments in the law of aboriginal rights. What follows is an analysis commissioned by the Council with the aim of understanding these developments and their implications for provincial forest policy.

What the analysis demonstrates is that the BC government's management and development of the province's forests and the policy choices it makes about this responsibility are unavoidably interwoven with the Province's constitutional obligation to determine, recognize and respect aboriginal rights. Aboriginal rights represent not just an additional interest to be taken into account by the Province as resource manager, but fundamental and parallel rights of ownership and governance. Both as a matter of constitutional law and practical reality, indigenous peoples have the right to be included in resource management decisions concerning lands to which they have aboriginal rights, as well as lands over which such rights are asserted, but not yet established. While it is true that the precise location of aboriginal rights and the precise dimensions of the province's obligations in respect of such rights are often uncertain, the implications are nonetheless clear. The critical point is this: reconciliation is not just a pretty word, nor is it in any meaningful sense a matter of political choice. It is an obligation. It is hardwired into the fabric of Canada. Provincial forest policy needs to be designed to respect aboriginal rights, not ignore or deny them.

While aboriginal rights are often seen as a challenge or obstacle, they also present an opportunity to ensure that forest resource management and development benefits everyone. The question for government – and the opportunity for the Provincial Forest Advisory Council - is how to respect the requirements of the constitution in a way that supports a thriving, sustainable forest sector in BC.

## Constitutional foundations

When British Columbia joined Canada in 1871, it became part of a federal state in which legislative authority was allocated between the federal government and provinces. Lawyers usually refer to this as the division of powers. Four provisions of the original 1867 *Constitution Act*, still in force today, are important to any consideration of the Province's authority over BC's forest lands. Section 92(5) gives the provinces exclusive authority over "The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon." Equally importantly, section 92(13) gives the provinces exclusive authority over "Property and Civil Rights in the Province." But these authorities are limited by two other provisions of the constitution. Section 91(24) gives the federal government exclusive legislative authority over "Indians, and Lands reserved for the Indians." And Section 109 provides:

All Lands, Mines, Minerals, and Royalties belonging to the several Provinces ... shall belong to the several Provinces ... in which the same are situate or arise, *subject ... to any Interest other than that of the Province* in the same. (emphasis added)

In our legal system the task of putting flesh on the bones of the constitution falls to the courts. Thus courts have interpreted section 91(24) to mean that the federal government has exclusive legislative authority over aboriginal rights and title, which in turns limits provincial authority to enact legislation that interferes or derogates from such rights. Courts have also held that aboriginal title is an "Interest other than that of the Province" – meaning that aboriginal title displaces provincial public land ownership.

In 1982 two sections were added to the Constitution. A new section 92A was enacted, dealing with natural resources. It reaffirms that each province has exclusive law-making power in respect of the "development, conservation and management of ... forestry resources in the province, including laws in relation to the rate of primary production therefrom." Much more importantly for present purposes, the following clause was enacted:

35(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

The terms used here are deliberately general. Aboriginal and treaty rights are not defined. Nor does the section explain what it means to "recognize and affirm" such rights. Understanding aboriginal rights therefore entails understanding how these terms have been explained by the courts.

## Aboriginal rights

Aboriginal rights have their origin in the fact that, as stated half a century ago by Justice Judson of the Supreme Court of Canada in *Calder*, "when the settlers came, the Indians were there, organized in societies and occupying the land as their forefathers had done for centuries." The law of aboriginal rights gives modern effect to the fact of prior indigenous presence.

In its simplest definition, an aboriginal right is an activity carried on today that can be described as “an element of a practice, custom or tradition integral to the distinctive culture of the aboriginal group claiming the right.”<sup>1</sup> The question whether and where an aboriginal right exists is in large measure an historical inquiry: what were the members of aboriginal societies doing – and where were they doing it – when the settlers came?

Aboriginal rights arise where these critical facts exist; they do not depend for their existence upon government recognition.

### **Aboriginal title and *Delgamuukw***

Aboriginal title is a type of aboriginal right. At its most basic, it is a right not just to do something *on* land, it is right *to* the land itself. The phrase comes from the leading court decision on aboriginal title, the 1997 decision of the Supreme Court of Canada in *Delgamuukw*<sup>2</sup>. There the Supreme Court held that “aboriginal title encompasses the right to exclusive use and occupation of the land held pursuant to that title.” In a subsequent case, *Tsilhqot'in*, the Supreme Court put the principle in these terms: “Aboriginal title confers ownership rights similar to those associated with fee simple, including: the right to decide how the land will be used; the right of enjoyment and occupancy of the land; the right to possess the land; the right to the economic benefits of the land; and the right to pro-actively use and manage the land.”<sup>3</sup> Importantly, “...the Crown does not retain a beneficial interest in Aboriginal title land.”

The test for proof of aboriginal title is different from other aboriginal rights. In sum, what must be established is “sufficiency of occupation” prior to the assertion of British Crown sovereignty in 1846, “continuous occupation (where present occupation is relied on)” and “exclusive historic occupation.”<sup>4</sup> Again, as with other aboriginal rights, title exists whenever and wherever these facts exist, but – and this is an important consideration for policy makers – the only truly authoritative process for determining this question in any particular situation is a trial and a court decision.

### **Extinguishment**

For many years an unanswered question was whether aboriginal title had been extinguished when the British Crown asserted sovereignty over what is now British Columbia and thereafter enacted legislation to open the lands of the colony for settlement. This point was left undecided in the *Calder* case, where the Supreme Court split evenly on the question. Subsequent cases have settled the question, and the answer can be summarized in three propositions:

- (1) Legislation enacted by the Crown colony prior to 1871 did not extinguish aboriginal title.

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<sup>1</sup> *R. v. Van der Peet* [1996] 2 SCR 507 at para. 46

<sup>2</sup> [1997] 3 SCR 1010

<sup>3</sup> *Tsilhqot'in Nation v. British Columbia* 2014 SCC 44 at para. 73

<sup>4</sup> *Tsilhqot'in*, supra, at para. 30



(2) After BC became part of Canada in 1871, the Province did not have the power to extinguish aboriginal title. As we saw earlier, the exclusive power to legislate in relation to “Indians, and Lands reserved for the Indians” was vested in the federal government in section 91(24) of the 1867 *Constitution Act* and courts have held that this head of power encompassed within it the exclusive power to extinguish aboriginal rights, including aboriginal title. Although the federal government had the power to extinguish aboriginal title in BC after 1871, there is no suggestion they ever attempted to do so.

(3) The recognition and affirmation of aboriginal rights in section 35(1) of the 1982 *Constitution Act* means that after 1982 no level of government has the power to extinguish aboriginal rights.

Notwithstanding occasional public commentary to the contrary, the law is very clear: any aboriginal rights (including title) that existed in British Columbia as of 1982 are now constitutionally protected from termination. To recall the words of section 109 of the 1867 Constitution Act, aboriginal title is “an Interest other than that of the Province.” The question then is whether the Province has any legislative authority at all in respect of aboriginal rights and title.

### **Provincial authority: infringement and justification**

The answer is that aboriginal rights, including title, are not absolute. They may be infringed by the federal and provincial governments, subject to the requirement that such infringement must be justifiable. The framework of infringement and justification was first established by the Supreme Court of Canada in an aboriginal fishing rights case decided in 1990 called *R. v. Sparrow*<sup>5</sup>. The framework was then applied to aboriginal title in *Delgamuukw*.

Infringement happens when the Crown acts in a way that interferes with the use and enjoyment of an aboriginal right or title. Infringements are only permitted if they can be justified. Justification has two aspects: procedural and substantive. In *Delgamuukw*, the Chief Justice explained the procedural element this way (at para. 167):

What is required is that the government demonstrate … both that the process by which it allocated the resource and the actual allocation of the resource which results from that process reflect the prior interest of the holders of aboriginal title in the land. ....[T]his might entail, for example, that governments accommodate the participation of aboriginal peoples in the development of the resources of British Columbia, that the conferral of fee simples for agriculture, and of leases and licences for forestry and mining reflect the prior occupation of aboriginal title lands, that economic barriers to aboriginal uses of their lands (e.g. licensing fees) be somewhat reduced. This list is illustrative and not exhaustive.

Substantively, what Crown action might be justifiable? The Chief Justice said this (at para. 165):

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<sup>5</sup> [1990] 1 SCR 1075

[T]he range of legislative objectives that can justify the infringement of aboriginal title is fairly broad. … In my opinion, the development of agriculture, forestry, mining, and hydroelectric power, the general economic development of the interior of British Columbia, protection of the environment or endangered species, the building of infrastructure and the settlement of foreign populations to support those aims, are the kinds of objectives that are consistent with this purpose and, in principle, can justify the infringement of aboriginal title. Whether a particular measure or government act can be explained by reference to one of those objectives, however, is ultimately a question of fact that will have to be examined on a case-by-case basis.

It is important to emphasize that justified infringement is not extinguishment. Justified infringement may have the practical effect of displacing aboriginal use and enjoyment of aboriginal title, but the aboriginal title continues. If the infringement ends or is no longer justifiable, the underlying aboriginal title will spring back into life.<sup>6</sup>

There are two further important points about aboriginal title and provincial regulatory authority in the context of forest policy. The statutory foundation for creating forest tenures on public lands is the *Forest Act*, RSBC 1996, c. 157. That statute provides for the classification and management of forests and the disposition of timber by government by means of different forms of tenure, including forest licences, timber sale licences, tree farm licences, community forest agreements, and woodlot licences, and more. These tenures are all limited to Crown land, which is statutorily defined as land “vested in the government.” In *Tsilhqot'in* the Supreme Court held that the legislature intended the *Forest Act* to apply to lands under claim for aboriginal title, “up to the time title is confirmed by agreement or court order.” However, once aboriginal title is confirmed, the lands become “vested” in the Aboriginal group and are no longer Crown lands.” Thus the *Forest Act* does not apply to aboriginal title lands.

The second point is that in *Tsilhqot'in* the Supreme Court also held that even if the *Forest Act* did apply on Tsilhqot'in title lands, the forest tenures issued on those lands did not meet the *Delgamuukw* test of “compelling and substantial legislative objective” and as such did not constitute justifiable infringements. The significance of this finding is twofold: one, that no one should assume that the ordinary social and economic benefits of commercial forestry will automatically justify overriding aboriginal title; second, it is quite clear the courts are quite willing to second guess land and resource development decisions. At a minimum, when the

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<sup>6</sup> One of the differences between aboriginal title and ordinary land ownership is that aboriginal title lands may not be sold or alienated other than by formal surrender to the Crown. Conventionally and historically, surrender happened by means of a treaty. There are 14 treaties containing surrender language entered into by James Douglas as Chief Factor of the Hudson's Bay Company with indigenous communities on Vancouver Island in the 1850s, and Treaty 8, signed in 1899, which encompasses the northeastern part of the province, is also conventionally described as a treaty of cession and surrender. This description is challenged by the First Nation signatories of all these documents. The result is that there is nowhere in BC where it can be confidently said that aboriginal rights or title have ever been formally surrendered. In practical terms, since surrender is a voluntary act by a rights-holding First Nation, it is not likely to occur in BC today. The modern treaties entered into pursuant to the BC treaty process contain language “modifying” pre-existing aboriginal rights, converting them to treaty rights but not extinguishing them.

procedural and substantive requirements of justification are taken into account, it is difficult to see how the Province could ever justifiably infringe an established aboriginal right without evidence of significant engagement between the government and the aboriginal rights holding group.

### Unanswered questions

The law established in *Delgamuukw* gave indigenous rights holders a foothold in land and resource decision-making. But beyond articulating a framework of the facts generally required to prove title, *Delgamuukw* left unanswered the question: where does aboriginal title actually exist?

The Supreme Court's refusal to decide whether the *Delgamuukw* plaintiffs had proven title left a vacuum filled, as vacuums in the law are usually filled, by disagreement. On one hand, with the knowledge that substantially all of British Columbia is subject to aboriginal title claims, and the possibility that many of these claims would be established if litigated, one could imagine the government choosing to act as though the framework of infringement and justification - and the requirements of consultation and good faith dealings - applied throughout the province. On the other hand, in the absence of any definitive finding of title anywhere, one could also imagine government choosing to act as though title did not exist anywhere and continue land and resource development as though the decision had never happened. This diversity of perspectives has featured prominently in legal and political discourse in the years since *Delgamuukw* and continues to do so today. As of this writing there are now four court decisions in BC where aboriginal title has been found.<sup>7</sup> If anything can be said about these cases, it is that they have tended to encourage, rather than put to rest, the diversity of perspectives. Put another way, it is still not at all easy to determine whether and where aboriginal title exists in British Columbia. This uncertainty inevitably raises the question: should the provincial government adopt policies generally tending to reduce uncertainty or simply respond opportunistically to situations where aboriginal claims threaten business as usual policy approaches? We will return to this question later in this paper.

In any event, as a practical matter, the courts have introduced another element into this discourse which has to a considerable extent superceded the disagreement over where aboriginal title exists in the province. That happened in two 2004 decisions of the Supreme Court of Canada, *Haida Nation* and *Taku River Tlingit*<sup>8</sup>.

### ***Haida Nation* – the Province's obligations when aboriginal rights are asserted but not yet established.**

In a province where substantially all lands are claimed by indigenous peoples, but their rights have not yet been determined, the question arises: what constraints, if any, govern the Province's authority to develop and manage public lands? In *Haida Nation* and *Taku River*

<sup>7</sup> These are *Tsilhqot'in, The Nuchatlaht v. British Columbia*, 2023 BCSC 804 (under appeal); *Cowichan Tribes v. Canada (Attorney General)*, 2025 BCSC 1490 (under appeal); *Haida Nation v. British Columbia*, order of the BC Supreme Court, September 5, 2025.

<sup>8</sup> *Haida Nation v. British Columbia (Minister of Forests)* 2004 3 SCR 511, *Taku River Tlingit v. British Columbia (Project Assessment Director)* 2004 3 SCR 550.

*Tlingit* the Supreme Court held that the Province has obligations even when aboriginal rights have been asserted but not yet proven. These obligations are not a question of political choice, but a constitutional requirement. They arise because, in the view of the Court<sup>9</sup>, “In all its dealings with Aboriginal peoples, the Crown must act honourably, in accordance with its historical and future relationship with the Aboriginal peoples in question. The Crown’s honour cannot be interpreted narrowly or technically, but must be given full effect in order to promote the process of reconciliation mandated by s. 35(1).”

The government’s obligation takes the form of a test: whenever the government has knowledge, real or constructive, of the potential existence of aboriginal rights or title and contemplates conduct that might adversely affect them, the government has an obligation to consult and in some cases accommodate. In the words of the Court:

The content of the duty to consult and accommodate varies with the circumstances. [The] scope of the duty is proportionate to a preliminary assessment of the strength of the case supporting the existence of the right or title, and to the seriousness of the potentially adverse effect upon the right or title claimed.

The determination of the Crown’s duty takes place on a spectrum, expressed in these terms:

At one end of the spectrum lies cases where the claim to title is weak, the Aboriginal right limited, or the potential for infringement minor. In such cases, the only duty on the Crown may be to give notice, disclose information, and discuss any issues raised in response to the notice.

At the other end of the spectrum lie cases where a strong *prima facie* case for the claim is established, the right and potential infringement is of high significance to the Aboriginal peoples, and the risk of non-compensable damage is high. In such cases deep consultation, aimed at finding a satisfactory interim solution, may be required...[T]he consultation required at this stage may entail...formal participation in the decision-making process.

The scope of the obligation is potentially very significant. In the court’s words, there may be “a duty to change government plans or policy to accommodate Aboriginal concerns.” Responsiveness is a key requirement of both consultation and accommodation.

The court made clear that good faith on both sides is required. There is no duty to agree. Aboriginal groups do not have a veto over what can be done with land pending final proof of their claim. Consultation must be meaningful, but as the Court wrote, “Aboriginal claimants ... must not frustrate the Crown’s reasonable good faith attempts, nor should they take unreasonable positions to thwart government from making decisions or acting in cases where, despite meaningful consultation, agreement is not reached.”

One more important point, from paragraph 51 of *Haida Nation*: “It is open to governments to set up regulatory schemes to address the procedural requirements appropriate to different

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<sup>9</sup>*Taku River Tlingit* at para 24

problems at different stages, thereby strengthening the reconciliation process and reducing recourse to the courts.” We will return to this judicial invitation later in this paper.

There is an important difference between the duty to justify infringements of established rights, and the duty to consult and accommodate asserted rights. As we have seen, in *Delgamuukw* particular attention was given to the importance of balancing indigenous and non-indigenous interests, recognizing that (as the Court originally said in a case called *Gladstone*) “distinctive aboriginal societies exist within, and are a part of, a broader social, political and economic community”. The *Haida* framework, on the other hand, pays no attention to the potential social and economic importance of the Crown decision at issue. What matters – all that matters – is the strength of the aboriginal claim and the potential seriousness of the adverse impact of the decision on the claimed right. There is no room here for a public interest capable of displacing the duty. What matters is not the benefit to the public at large, but the question whether the Crown has acted honourably in its engagement with the First Nations whose asserted rights may be affected by a Crown decision.

### **Taking aboriginal rights seriously**

The point of the analysis thus far has been to demonstrate that British Columbia’s authority over the province’s forest resources is subject to obligations that cannot be wished away with the snap of a legislative or electoral finger. Substantially all of British Columbia’s forest lands are subject to claims of aboriginal rights and title, and the law is clear that any provincial decision with respect to the use of land that could potentially adversely affect those claimed rights triggers at a minimum a duty of consultation and an obligation on the Province to act honourably.<sup>10</sup> This proposition is not new, even though it is still perhaps not widely understood. As long ago as 1985 the BC Court of Appeal enjoined logging on Meares Island on the west coast of Vancouver Island because of its potential for interference with the exercise of aboriginal rights and title, and Justice Seaton observed, “I cannot think of any native right that could be exercised on lands that have recently been logged.”<sup>11</sup> There is a long history of provincial attempts to deny or minimize aboriginal rights, but courts have consistently rejected this effort, going so far as to characterize the province’s argument in one case as “impoverished.”<sup>12</sup> In short, provincial forestry policy needs to take aboriginal rights seriously.

### **The lodestone of reconciliation**

A second reason to review the law of aboriginal rights as it has been developed by the courts is to understand the policy driving judicial decisions, because in addition to the specific requirements of consultation, good faith dealings and so on, it is the ultimate standard against which government action is judicially reviewed. In *Mikisew Cree First Nation v. Canada*

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<sup>10</sup> Section 35(1) of the *Constitution Act, 1982* is not part of the *Canadian Charter of Rights and Freedoms* and therefore lies outside the reach of either the balancing mechanism of section 1 of the Charter or the so-called “notwithstanding clause.”

<sup>11</sup> *MacMillan Bloedel Ltd. v. Mullin*, 1985 CanLII 154 (BC CA) at p. 8

<sup>12</sup> *Taku River Tlingit* at para. 27

(*Minister of Canadian Heritage*), 2005 SCC 69, Justice Binnie, writing for the court, opened his decision with this sentence:

The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions.

This policy imperative drives decision after decision; it is the lodestone against which findings of fact, opinions about official conduct, the interpretation of events and documents, and conclusions about the meaning and significance of events are judicially tested. Whereas the intention of the Chief Justice in *Delgamuukw* was to strike the balance inherent in his famous last sentence: “Let us face it, we are all here to stay”, the imperative of reconciliation often seems to lean only in one direction, giving indigenous “claims, interests and ambitions” a form of respect bordering on priority. Any forest policy initiative needs to be rooted in a recognition that government action will only survive judicial scrutiny if it meets this very basic policy objective.

### **The intersection of certainty and uncertainty**

Whether the analysis is based on established rights and title (as in *Sparrow* and *Delgamuukw*) or asserted rights and title (as in *Haida Nation* and *Taku River Tlingit*), the common thread – and the minimum standard of successfully justified Crown conduct – is the need for a measure of engagement between the Province and First Nations in decision-making. But while the courts have provided general guidance on the question of “how much” engagement is required, the fact remains that uncertainty is pervasive. The question whether and where aboriginal title exists is still largely undetermined, uncertain and often contested. So, too, is the question whether in any particular case the consultation and accommodation that has been undertaken is sufficient to meet the standard of honourable conduct imposed upon the Crown.

What is certain is that there is almost no situation in which the Province can make resource decisions unilaterally, without regard for aboriginal rights and claims. One way or another, First Nations need to be included in resource decision-making. For some, this proposition is controversial. They point out that the requirements of justifying infringement or proving adequate consultation do not as a matter of law imply that aboriginal consent is required for Crown action. The Supreme Court in *Haida Nation* was clear that even a requirement of “deep” consultation and accommodation does not necessarily give an aboriginal rights claimant a veto over the ultimate decision. But it is important not to confuse meaningful inclusion with a requirement for consent. The challenge for government is to discharge its obligation to “determine, recognize and respect aboriginal rights”<sup>13</sup> in a way that tends towards certainty, rather than uncertainty. This in turn entails the development of policies and processes that include aboriginal participation in resource decision-making.

### **A preference for negotiation**

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<sup>13</sup> The phrase is from the Supreme Court decision in *Haida Nation* at para. 25.

Courts have been clear that the preferred way to achieve the goal of reconciliation is negotiation, not litigation. In the *Haida Nation* case, for example, the Supreme Court went so far as to say (at para. 25) that the Crown is *obliged* to “participate in processes of negotiation” of aboriginal claims. There are of course many examples of negotiated arrangements that have successfully achieved a measure of reconciliation in specific contexts. These include treaties negotiated under the framework of the BC Treaty Commission process as well as agreements entered into to facilitate natural resource projects, including mines, pipelines and transmission corridors. The Province has also developed and implemented tools including so-called Strategic Engagement Agreements, which establish mutually agreed upon procedures for consultation and accommodation, and Forest Consultation and Revenue Sharing Agreements, which are intended to provide First Nations with economic benefits on harvest activities in their asserted traditional territories. What has not happened as yet is any successful attempt to negotiate and legislate a large-scale general framework for forest resource decision-making that incorporates aboriginal rights recognition.

### **The two essential requirements: inclusion and negotiation**

Few areas of law are more complex than the law of aboriginal rights and title. But for the resource policy maker, there are two central principles that emerge from the foregoing analysis. In a word, policy needs to be based on inclusion and negotiation. The province cannot accommodate the legal requirements that flow from aboriginal rights and claims by acting unilaterally. It needs to include indigenous communities in resource decision-making processes. Nor can the province impose outcomes on its engagement with indigenous communities; decision-making needs to be rooted in consensus and agreement, not imposed from above by legislative or regulatory diktat. These two imperatives, fully and properly implemented, will allow government to comply with its constitutional obligations in a way that tends towards certainty rather than conflict and litigation. Fortunately, these two principles are already embodied in provincial legislation in BC’s Declaration on the Rights of Indigenous Peoples Act.

### **BC’s Declaration on the Rights of Indigenous Peoples Act (“DRIPA”)**

The development of aboriginal rights law in Canada has taken place against a political backdrop with both national and international aspects. Domestically, the legacy of residential schools and the recommendations of the Truth & Reconciliation Commission continue to influence provincial and federal government policy. Internationally, the most important development for our purposes is the adoption of the United Nations Declaration on the Rights of Indigenous Persons (the “Declaration”). The Declaration is essentially a human rights document, intended to ensure that the unique circumstances of indigenous peoples are given effect as human rights. Both Canada and BC have enacted legislation intended to give effect to it. The BC legislation was passed unanimously by the BC Legislative Assembly in 2019.

The purposes of DRIPA are stated in section 2: (a) to affirm the application of the Declaration to the laws of British Columbia; (b) to contribute to the implementation of the

Declaration; and (c) to support the affirmation of, and develop relationship with, indigenous governing bodies. To this end, the government is required to “take all measures necessary” to ensure the laws of British Columbia are consistent with the Declaration. More importantly for the purposes of this paper is section 7 of the act, which authorizes the provincial Cabinet to negotiate and enter into agreements with Indigenous governing bodies “relating to one or both of the following:

- (a) the exercise of a statutory power of decision jointly by
  - (i) the Indigenous governing body, and
  - (ii) the government or another decision-maker;
- (b) the consent of the Indigenous governing body before the exercise of a statutory power of decision.”

Section 7 both enables and circumscribes the process by which government can enter into agreements with indigenous governing bodies concerning, among other things, resource decision-making. It does not change the provisions of the *Forest Act* governing forest tenure decision-making, but it contemplates processes that could lead to that outcome. While section 7 clearly contemplates that there could be agreements providing that indigenous consent would be required before the exercise of a statutory power of decision, it is also possible to imagine agreements in which the primary emphasis is on meaningful inclusion and participation without necessarily requiring consent.

Section 7 appears to be written with the objective in mind of enabling local project- or site-specific agreements. What is required for meaningful forest policy reform, however, is a larger framework in which the basic procedural and substantive requirements for the issuance of tenures are established generally – either across the province as a whole, or, at a minimum, across regions – and in a format that allows joint statutory decision-makers to make decisions consistently.

There are two significant challenges here. One, it would be naïve not to acknowledge that for some indigenous claimants there is tactical leverage arising from the uncertainty of the full extent of their rights that can be used to advantage and is perceived as more valuable than any benefits derived from trading the uncertainty of the status quo for the certainty and stability that would result from an agreement.<sup>14</sup> The answer here is to propose agreements which are attractive enough to persuade indigenous communities to prefer the certainty of agreement over the uncertainty of undetermined rights. Second is the difficulty of scale. There are over 200 Indian Act bands in British Columbia, and most of them see themselves as individual rights-holding collectives. On the one hand, the prospect of negotiating (and then managing the implementation of) 200 individual resource decision-making agreements is not just daunting, it is perhaps the apex of ungovernability. However, the Province lacks the legal authority to impose decision-making structures on indigenous collectivities. The Province

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<sup>14</sup> This argument was made in opposition to an initiative to implement a provincial “recognition and reconciliation act” in 2009. The initiative ultimately failed.



can, however, engage with indigenous leadership to design decision-making frameworks that can be used as templates in much the same way that the treaties entered into in the BC Treaty Commission process are all similarly structured, with locally-relevant details incorporated into the same general framework. The Province can also provide funding to support indigenous communities in the development of internal governance arrangements that will allow for larger-scale agreements. In addition, there may also be opportunities for the Province to support the development of indigenous collectivities which resolve overlaps in the same way that the Musqueam Indian Band, Squamish Nation and Tsleil-Waututh Nation have come together to form the MST Development Corporation.

## Conclusion

British Columbia may be at a turning point in the long story of forest management and development. There are a host of challenges: the legacy of pine beetle infestation, the seemingly endless and unpredictable pressures of chronic trade disputes, the transition of the landscape itself from old growth to new growth, the challenges of climate change, the threat posed by increasingly dangerous wildfires, changes in mill technology, and the legacy of half a century of continuous policy-tinkering, all argue for a fundamental re-thinking of BC's forest policies. Into that mix, and inescapably so, is added the reality that indigenous people are not just ordinary stakeholders. They have rights as owners and governors of the same land base. The first step is not to presume that government can solve all of the challenges – or discover all of the opportunities – presented by the 21<sup>st</sup> century forest by itself. The first step is to include indigenous communities in the discussion what should come next. They have as much at stake in finding good answers to the tough questions as the rest of us.

## Addendum – December 11, 2025 – Gitxaala decision

On December 5, 2025, after the foregoing was submitted to the Provincial Forest Advisory Council, the BC Court of Appeal released its decision in *Gitxaala v. British Columbia (Chief Gold Commissioner)*, 2025 BCCA 430, which bears on the issues discussed above.

The case arose out of a challenge to the province's mineral tenure system, which allowed claims to be registered prior to consultation with potentially affect First Nations. At first instance the judge held that the regime constituted a breach of the Crown's duty to consult as established in the *Haida Nation* and *Taku River Tlingit* cases. The First Nations appealed, arguing that the judge erred in not accepting their additional argument that the mineral tenure regime was inconsistent with the requirements of the province's *Declaration on the Rights of Indigenous Peoples Act*, S.B.C. 2019, c. 44 ("DRIPA"). The judge had held that DRIPA did not create justiciable rights and did not implement the *United Nations Declaration on the Rights of Indigenous Peoples* ("UNDRIP") into the laws of BC.

A majority of the Court of Appeal reversed the trial judge on this point, holding that DRIPA incorporated UNDRIP into the positive law of British Columbia with immediate legal effect, that it was open to the court to determine that the provisions of the mineral tenure regime were inconsistent with DRIPA, and it so declared. The majority held that the Crown has a

statutory duty under DRIPA to consult and cooperate with the province's indigenous peoples in addressing inconsistencies between rights and standards in UNDRIP and the laws of BC. (The dissenting judge largely agreed with the judge at first instance on this point.) For present purposes the significance of the decision is that it plainly empowers a court to determine whether the province's forest laws comply with DRIPA. The *Forest and Range Practices Act*, SBC 2002 c. 69, imposes an obligation on the province's chief forester to "consult and cooperate" with First Nations during the preparation of a forest landscape plan (see section 2.23), but the *Forest Act* itself is silent on any obligation to consult or cooperate with First Nations prior to the issuance of a licence or permit. The decision of the Court of Appeal would appear to create another basis for aboriginal rights and title claimants to challenge provincial decision-making, which would further support the general theme that forward-thinking forest policy reform needs to engage with and include indigenous communities in policy development.

As of this writing, the provincial government has said it is considering amending DRIPA to clarify the province's intention that its promises in that Act constitute political not legally enforceable obligations, but of course *Gitxaala* is now the law of BC unless and until it is either superseded by legislative change or overturned by the Supreme Court of Canada if there is a further appeal.



