

# VIEW FROM THE STUMP



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## A Flood Of Forest Policy Changes

By David Elstone, RPF, Managing Director, Spar Tree Group

This edition comes later than planned, but for good reason.

While the province suffers from a deluge of water, the BC forest sector is being overwhelmed by a series of major changes to forest policy. With upwards of 95% of the province being publicly owned Crown land, policy and legislative changes related to the forest resource are critical matters that need to be studied.

In the span of less than 30 days, the NDP provincial government has made six announcements that will massively reshape (and that is no exaggeration) the BC forest sector.

Some of these announcements have such a large magnitude of impact that it would be normal for a government to announce maybe just one of these changes within a four-year term, or maybe at best, once per year. Yet, these have all come in less than a month.

To be fair, Premier Horgan did forewarn changes were coming with the *Modernizing Forest Policy In BC* intentions paper in June 2021. Despite the volume of newly introduced legislation and policy changes, this will not be the end to changes related to the forest sector as more are expected.



### ANNOUNCED POLICY CHANGES

1. October 20 - [Revamped forest policy puts environment, people first](#), Bill 23 Forest Statutes Amendment Act
2. October 25 - [B.C. launches stronger climate plan for a better future](#), The CleanBC Roadmap to 2030 plan
3. November 2 - [Government taking action on old-growth deferrals](#)
4. November 15 – [Province building a more diverse, inclusive forest sector](#), Bill 28, Forest Amendment Act
5. November 17 - [Commission to recommend protections for forestry workers](#)
6. November 17 - [Province introduces legislation to uphold Indigenous rights](#), Bill 18, Human Rights Code Amendment Act and Bill 29, Interpretation Amendment Act,.

Taken individually, some of these changes notionally are not necessarily bad ideas. Given changes to society's expectations, to BC's forest resource, to the industry as well as climate change, a reckoning was coming to update forest policy that has seen relatively minor tweaking since 2003 when the *Forest Revitalization Act* (coincidentally also referenced as Bill 28) was introduced by the BC Liberal government. Many of these changes will undo and rebalance the relationship



between forest tenure holders (licensees) and government created in 2003.

Unfortunately, delivering these changes as a package all at once will be very problematic.

Preparing legislation for change is not a quick process. Based on the sheer volume of introduced legislation that is listed here, it is very clear that most of it had been prepared years in advance.

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In terms of political strategy there is an urgency to get these changes out, as typically it is best to make major changes in the first half a new government's term. We are just starting into year two of a four-year NDP majority.

All I have heard in response is anger, especially given the sham of a process with the old growth announced deferrals undercutting confidence in most of these other announced changes (see [Right From The Stump blog post, November 12, 2021](#)).

Announcing the series of major policy changes including tenure redistribution and old growth deferrals has cast a pale of toxicity onto the industry. It has reaffirmed institutional investors' view of BC under the NDP as un-investable. Boards of the major companies are now likely directing their operations to reduce

unnecessary expenditures and cancel any upgrades. Already, and sadly, contractors are seeing their amount of work diminish.

The government's approach is a recipe for gridlock. Primary manufacturers are a strategic component to the rest of the industry, and if they shut down there will be huge holes that will not be filled for years, or maybe never. While rebalancing the sector as a concept has its positives, the complexities of this industry are beyond rocket science.

To be frank, Minister Katrine Conroy is incorrect to say there will not be direct economic impacts from Bill 28's reforms, or that these changes will ensure the sector remains competitive as was stated in the house debate on November 24.

While it is morally right that the government is offering support for workers in association with old growth deferrals, there does not appear to be any support for the turmoil anticipated beyond the deferrals (in contrast to the *Forest Revitalization Act* that legislated support to affected persons due to reforms).

For this issue, there is a bit of venting for self-preservation, but also, I take a deep dive into the legislative reforms of the Forest Amendment Act, 2021 (Bill 28), and provide a quick comment on softwood lumber negotiations and finally, I share some recent Spar Tree Group's *Timber Harvesting Contractor Network* survey results.





## **An Overview Of Bill 28 – Forest Amendment Act, 2021**

By David Elstone, RPF, Managing Director, Spar Tree Group Inc.

The Bill 28, Forest Amendment Act is the NDP government's legislative reform of the *Forest Act*. Bill 28 provides the Crown mechanisms for making old growth deferrals, implementing tenure redistribution, major revisions to the compensation process for lost harvesting rights, new requirements for forest inventories which will be necessary to support compensation, and a few other issues. Collectively, these are not minor changes and will reshape the forest sector.

The new legislation is astoundingly long (163 pages), due in part to its attempt to be very explicit on some issues like compensation.

To understand the legal ramifications of these legislative changes will take months to digest. All the more troubling is that these changes will be rammed through the legislature in only two weeks during this fall sitting.

The following are my high-level notes on the Bill 28 legislation (currently in its first reading). I have a few caveats to these notes: my comments are not legal interpretations, nor can I claim to have captured all the likely nuances of this legislation. Undoubtedly there are angles I have not fully grasped given its length (it took me upwards of six hours just to read through the legislation).

**TO SEE MY NOTES ON BILL 28 PLEASE CONTACT [david@spartreegroup.com](mailto:david@spartreegroup.com)**

The notion of a redistribution of forest tenure is intriguing, (particularly if you do not hold tenure), but it is disruptive by nature as the hand of government pulls on a major lever which forms the foundation of the BC forest sector. Last time major tenure reform was attempted in 2003, the government sought to achieve general alignment from the industry through give and takes. This is not the case this time and is why the government will likely face hostile reactions. While the 2003 attempt had an objective to diversify tenure holdings, the exact opposite occurred. Time will tell what happens this time.

Finally, major legislative reform, under both past NDP and BC Liberal governments has typically been driven by either a response to softwood lumber agreements (such as the Jobs and Timber Accord following softwood lumber export quotas in the 1990s) or as a form of appeasement to the US government on the softwood lumber file (through the creation of the Market-Based Pricing stumpage system and resulting Forest Revitalization Act in the early 2000s). I have yet to observe how any of these new major changes will help in regard to the softwood lumber file.

The cloud of uncertainty is not going to clear in a few months or even a few years. Without understanding the goal posts of these tenure redistribution reforms, it is hard to draw conclusions, other than there is a potential for a real big mess and a much smaller industry.



## Expectations – October 2021

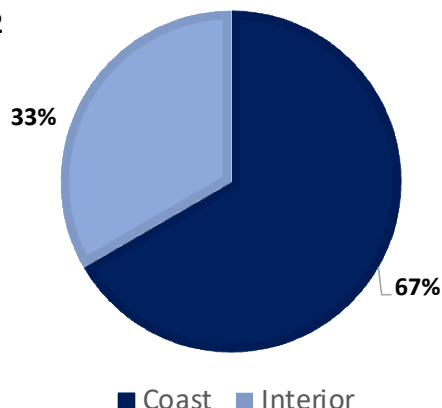
Timber Harvesting Contractor Network Survey – Spar Tree Group Inc.

Survey results collected throughout October 2021 represents the third survey for what is becoming a unique perspective. Expectations shown in the charts below consist of BC coastal and interior timber harvesting and road builder contractors, in aggregate.

On November 2, 2021, the BC government announced potential old growth deferrals across the province, which are expected to cause significant reductions in timber harvesting and mill closures. Given the survey was completed before the announcement, it is important to recognize that the context for expectations has shifted significantly.

**Q.2 What region does your contracting business operate in?**

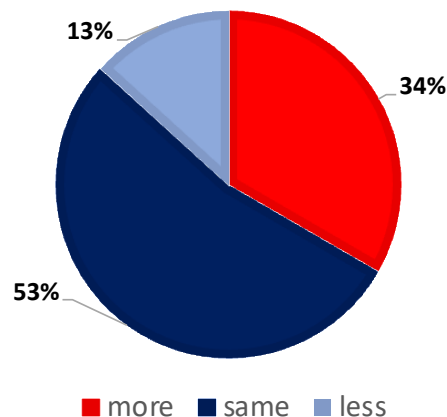
Q.2



■ Coast ■ Interior

**Q.3 Compared to last year, are you more, the same, or less busy now?**

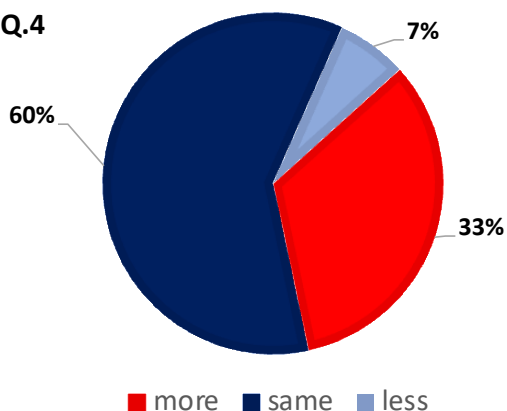
Q.3



■ more ■ same ■ less

**Q.4 What are your expectations for work volume next year?**

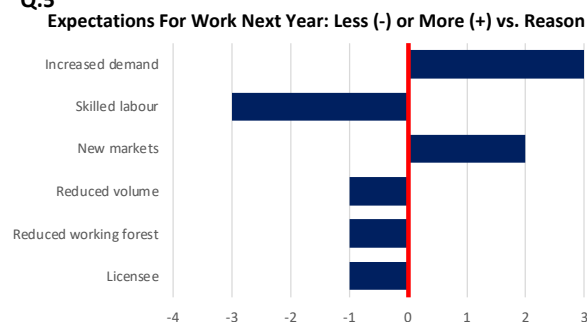
Q.4



■ more ■ same ■ less

**Q.5 If you answered more or less for expectations of next year's work in Q.4, please provide a few words as to why?**

Q.5

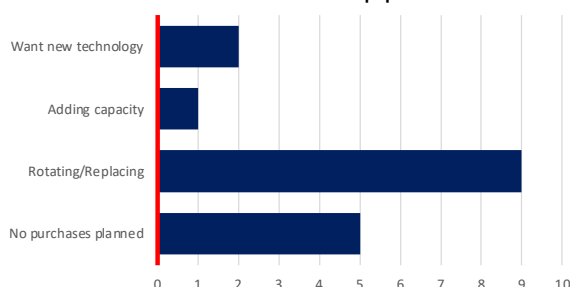


## Expectations – October 2021 cont'd

**Q.6 Are you planning any equipment purchases in the next six months and what is the reason?**

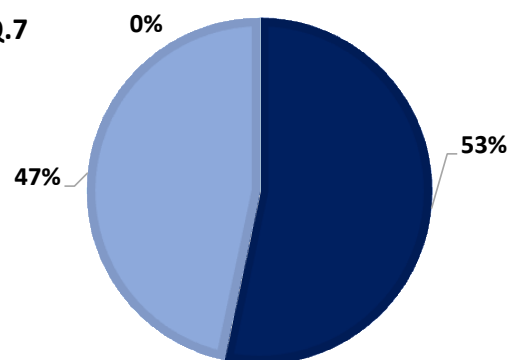
**Q.6**

**Reasons and Plans For Equipment Purchases**



**Q.7 Do you see your operating areas transitioning to steeper slopes over the next few years?**

**Q.7**

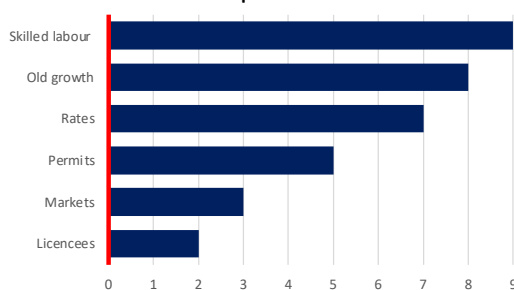


■ decreasing ■ same ■ increasing

**Q.8 What do you believe is the top issue of concern facing your business?**

**Q.8**

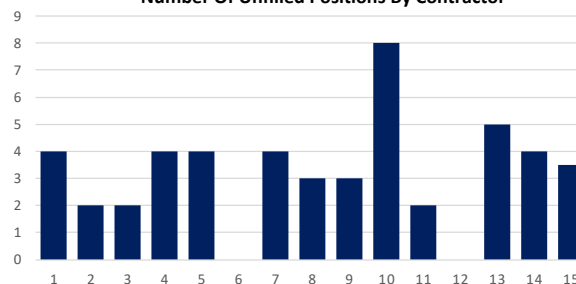
**Reasons vs. Responses**



**Q.9 How many unfilled positions or new hires do you need now?**

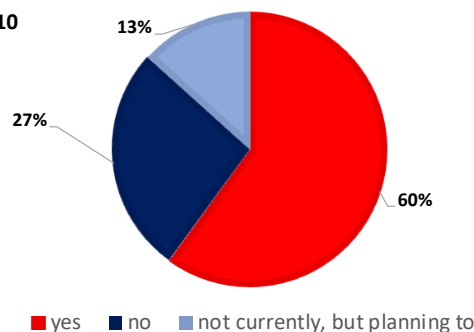
**Q.9**

**Number Of Unfilled Positions By Contractor**



**Q.10 Do you have any business partnerships, ventures or arrangements with local First Nations?**

**Q.10**

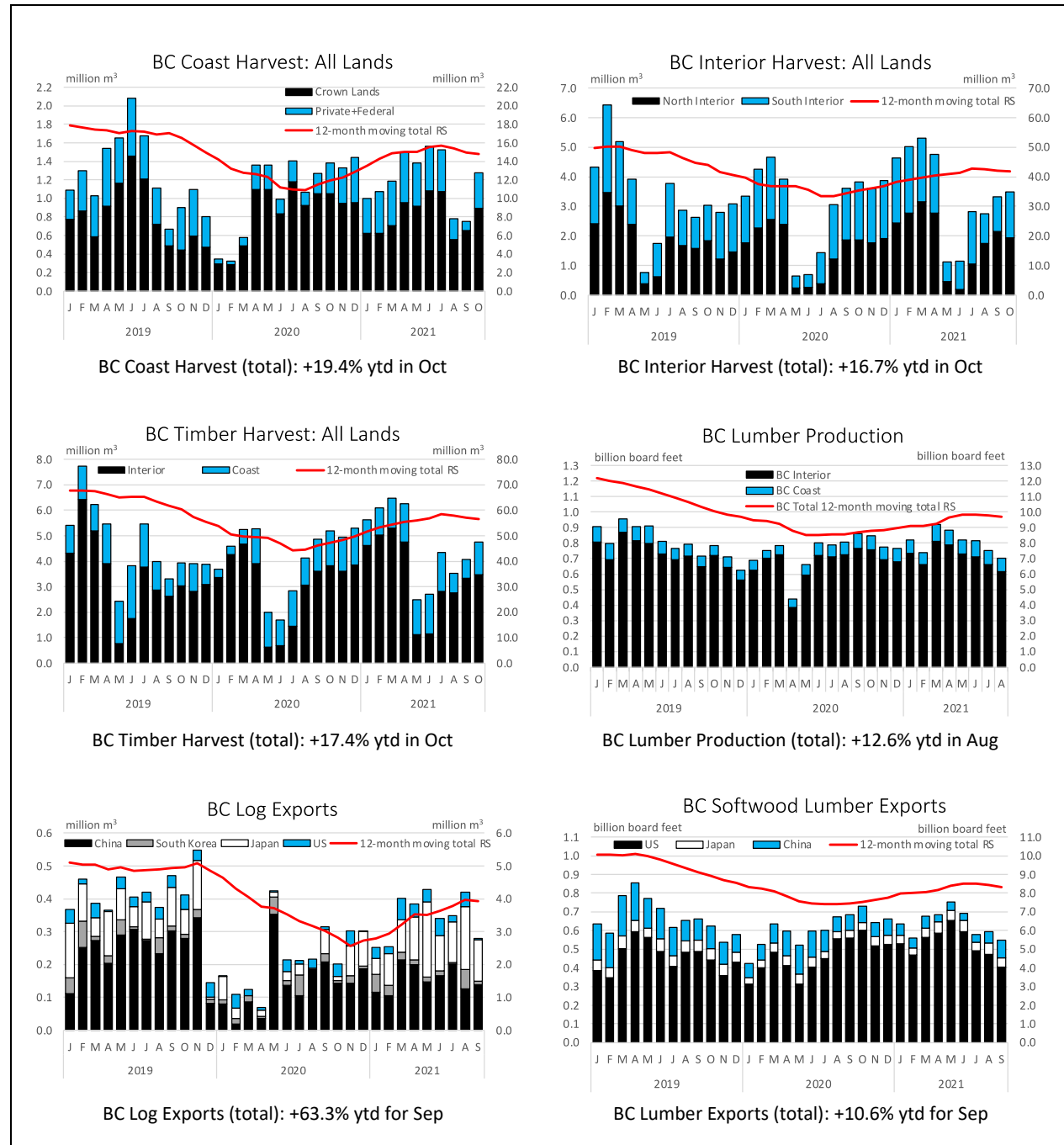


### NOTES

-Survey was based on 15 contractors responses  
 -Timber harvesting contractor respondents represent an estimated 10% of the entire provincial harvest volume.



## BC Forest Industry Metrics



## The Radar Screen ...a summary of announcements including new government policies that will affect the BC forest sector supply chain:

**The CleanBC Roadmap to 2030 plan** - October 25, 2021 [B.C. launches stronger climate plan for a better future](#)

[Commission to recommend protections for forestry workers](#) – November 17, 2021

[Forest Amendment Act, 2021](#) – Bill 28 changes to Forest Act, November 15, 2021, as part of *Modernizing Forest Policy in BC* initiative. Changes related to tenure redistribution and log exports

[Announced Old Growth Deferrals](#) – November 2, 2021, 2.6 million hectares announced for deferral including supports for forest workers. The government has a webpage on [deferrals](#)

[Amendments to Forest and Range Practices Act](#) – October 20, 2021, Bill 23 as part of *Modernizing Forest Policy in BC* initiative. Shared decision making with First Nations, and new forest planning requirements.

[BC PST Rebate on Select Machinery and Equipment](#) – as part of the announced BC Economic Recovery Plan, a 100% PST rebate on equipment purchases – **EXTENDED to March 30, 2022**

[Modernizing BC's Forest Sector](#) – announcement outlining future forest policy changes

[Contractor Sustainability Review](#) – on June 10, 2021 changes were finally announced to the Timber Harvesting Contract & Subcontract Regulation (aka Bill 13).

[Old Growth Strategic Review](#) – the original new release relaying the results of the Strategic Review.

[Softwood Lumber Dispute](#) – The final determination combined duties (AR2) vary for selected companies, with non-selected companies facing an AD+CVD rate of 17.90%, effective at the end of November publish date. Preliminary results for AR3 for January 1, 2020 to December 31, 2020 has are anticipated by January 28, 2022

[Support for Coastal and Interior Forest Workers](#) – Programs are now in place to support contractors, workers and communities impacted by indefinite and permanent mill closures in B.C.'s Interior and Coastal region.

[Coast Logging Equipment Support Trust](#) – offers bridge financing from a \$5 million fund for coastal contractors – the majority of funds remain unused.

[BC Carbon Tax](#) – carbon tax increased effective April 1, 2021 rates of 9.969 ¢/litre for gasoline and 11.71 ¢/litre for diesel.

[BC Increased Employment Incentive](#) – as part of the BC Economic Recovery Plan, a tax credit for businesses hiring new employees in 2020. Deadline for applying December 31, 2021

**Russia To Ban Coniferous Log Exports** – Putin requested a complete ban effective January 1, 2022. As well, he has ordered a subsidization program for wood processing facilities effective January 1, 2021.

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**Publisher & Editor:** David Elstone  
**Guest Contributor\*:** n/a  
**Contact Info:**

e. david@spartreegroup.com  
t. 604-740-2814  
w. spartreegroup.com

\*perspectives and opinions of Guest Contributors are not necessarily that of Spar Tree Group

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