



File: 10285-20/Soo TSA
16250-20/SHAN

October 25, 2016

Re: Determination Rationale for the Ministerial Order to amend and establish the Scenic Area, Visual Sensitivity Units, and Visual Quality Objectives in the Sea to Sky Gondola viewshed (Shannon Creek) portion of the Soo Timber Supply Area

Scope

This determination entails updating Scenic Areas, Visual Sensitivity Units (VSUs), and Visual Quality Objectives (VQOs) in and around the Sea to Sky Gondola (the Gondola) viewshed (Shannon Creek watershed) portion of the Soo Timber Supply Area (TSA), as shown on the accompanying map, dated May 19, 2016.

Background

The total visible area under consideration in this determination consists of 946 ha of Crown Forest Land Base (CFLB), 452 ha of which is Timber Harvest Land Base (THLB). This area (including 1,458 ha of CFLB and 703 ha THLB) is being considered for inclusion to the Squamish Community Forest, and contributes approximately 3900 m³ to the Allowable Annual Cut (AAC) within the Soo TSA (based on TSR III).

The Crown tenure for the Gondola was approved in 2012 and is situated in the Shannon Creek watershed on 81 ha of Crown land, approximately 864 metres above Howe Sound. The Gondola facilities and trail viewing platforms provide an almost unobstructed view of Howe Sound and parts of the Shannon Falls watershed. Since establishment, the Gondola has quickly become internationally recognized for its scenic views, with reports of more than 3000 paid visitors per day not uncommon. The views from the Gondola are widely advertised and have quickly become a new commercial tourism destination¹.

The existing Visual Landscape Inventory (VLI) of the Shannon Creek watershed was established by district manager letter in 1995 from viewpoints on Highway 99 and Howe Sound waters and currently does not consider viewpoints from the Gondola. Portions of the

¹ <http://www.seatoskygondola.com/>
<http://www.hellobc.com/activitylisting/4582414/sea-to-sky-gondola.aspx>

area are currently designated with legally established Visual Quality Objectives (VQOs) consisting of Partial Retention and Retention VSUs.

The Gondola's key infrastructure (main lodge, suspension bridge and decks specifically designed as viewing platforms) are considered significant public viewpoints. These viewpoints provide the basis for this VLI update that would otherwise be outside of public view.

Authority

The authority to establish or amend scenic areas and visual quality objectives is provided under Section 150.3 of the *Forest and Range Practices Act* (FRPA) and Section 7(1) and (2) of the *Government Actions Regulation* (GAR) to the Minister responsible for the *Forest Act* and *Land Act*. This authority has been delegated by the Minister of Forests, Lands, and Natural Resource Operations (FLNRO) to the district manager as per the approved delegation matrix, dated January 2016, under FRPA and associated regulations.

Approval Tests

GAR outlines several factors that need to be considered in establishing or amending visual quality objectives. These are noted as follows:

Section 2(1) of GAR regarding *Limitation of Actions*:

the minister must be satisfied that

- (a) the order is consistent with established objectives,
- (b) the order would not unduly reduce the supply of timber from British Columbia's forests, and
- (c) the benefits to the public derived from the order would outweigh any
 - (i) material adverse impact of the order on the delivered wood costs of a holder of any agreement under the *Forest Act* that would be affected by the order, and
 - (ii) undue constraint on the ability of a holder of an agreement under the *Forest Act* or the *Range Act* that would be affected by the order to exercise the holder's rights under the agreement.

Section 3(1) and (2) of GAR regarding *Consultation and Reviews*:

Before a minister makes an order under any of sections 5 to 15, the minister must provide an opportunity for review and comment,

- (b) in the case of any other order, to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order.

A minister before making an order under any of sections 5 to 12, 14 or 15 must be satisfied that the benefits to the public derived from the order would outweigh any material adverse impact on the delivered wood costs or undue constraint by the order to exercise the holder's rights of an agreement under the *Forest Act*.

Section 4 (1) and (2) of GAR regarding *Notice of an Order*:

- (1) Notice must be given in accordance with this section of an order made under any of sections 5 to 15.
- (2) The notice required under subsection (1) is sufficiently given if the notice includes a copy of the order or contains particulars or a summary of the order and is
 - (a) posted on the web site of the ministry of the minister who takes the action,
 - (b) published in the Gazette, and
 - (c) made publicly available at the regional office of the forest region to which the order relates.

Section 7 (1) and (2) of GAR regarding authority to establish scenic areas and VQOs:

- 7 (1) The minister responsible for the *Land Act* by order may establish an area as a scenic area if satisfied that the area
 - (a) is visually important based on its physical characteristics and public use, and
 - (b) requires special management that has not otherwise been provided for by this regulation or another enactment
- 7 (2) The minister responsible for the *Forest Act* by order may establish for a scenic area visual quality objectives that are consistent with subsection (1) and are within the categories of altered forest landscape prescribed under section 1.1 of the Forest Planning and Practices Regulation.

Context

- 1) This rationale deals with a review of the VLI from the Gondola within the Soo TSA, through GAR sections 7(1) and (2). The VLI consists of eight (8) visual polygons, of which four (4) already existed and were considered for amendment.
- 2) In my deliberations concerning the amendment of the VLI, I considered input provided by First Nations, forest licensees, recreation stakeholders, as well as the District of Squamish, BC Parks, and regional FLNRO staff. In particular, guidance was provided by the ministry's regional visual resource management specialist.
- 3) Data used:
 - The recommended VLI update was provided in association with the visual landscape re-inventory for the Gondola viewshed, based in the Shannon Creek watershed. This was based on fieldwork, mapping and a draft report prepared by the regional visual resource management specialist in April, 2016.
 - Final VSUs and VQOs were advanced based on ministry review and input received from the public, First Nations, and stakeholders.

Announcement

Initial notice of the Sea to Sky Natural Resource District's intent to amend the VLI based on the Gondola viewshed in the Shannon Creek watershed was conducted in June 2016 through an electronic and a physical mailing to known stakeholders, including forest licensees, First Nations, recreation stakeholders, BC Parks, and the District of Squamish. Formal announcement was conducted June 16, 2016, by way of advertisement in one newspaper (The

Squamish Chief), inviting public input for a 30-day review and comment period ending July 20, 2016.

Detailed Field Evaluation

A number of fieldtrips were conducted to evaluate and discuss site specific changes to the VLI by FLNRO district staff and the Coast Area's Visual Resource Management Specialist. BCTS participated in a number of these field reviews.

First Nations Consultations

Ministry staff referred the proposed visual changes to the Squamish Nation and Tseil-Waututh Nation by email notification. The Tseil-Waututh Nation responded to the referral, in which they stated “we would like to defer to Squamish Nation”. Squamish Nation did not respond to this referral; however, the Squamish Nation forest licensee representative made informal comments in passing, in the context of the Squamish Community Forest proposal. These will be discussed in the next section.

Based on this input, ministry staff committed to providing notification to both First Nations following my decision.

Public Consultation and Forest Industry Issues

The following concerns and comments were provided during the advertisement period in writing (email), in response to the advertised invitation for public review and comment, and following individual invitations to selected stakeholders. All comments were considered in the final VLI designations. The following (summarized) comments were received from the advertising and invitations to review and comment:

Squamish Nation: The forester representing Squamish Nation informally commented prior to the public review and comment period, expressing concern that the VLI update would consist of overly restrictive VQOs. This discussion also took place in context of the area being included in the planned Squamish Community Forest.

District of Squamish (DOS): The DOS planner assigned to review the proposed VLI changes asked a number of basic background questions. What do the VQO labels represent? Are there industrial activities planned for these drainages? Does the visual designation accommodate any future potential expansion plans contemplated by the Gondola operators?

BC Parks: The regional planning section head asked a number of background questions, such as: can you provide more information about what exactly “partial retention” means; and/or what that would look like? BC Parks expressed some concerns with polygons 700, 701, and 704, in that order of importance, and initially advocated for the minimum visual impact possible, and recommended the “retention” VQO. Other questions about what constituted a viewpoint, and a desire to use viewpoints from the Chief Provincial Park hiking trails and viewpoints.

University of British Columbia Varsity Outdoor Club (UBC – VOC): The executive director stated they do not believe that partial retention is an adequate level of visual quality

considering the high level of tourism and recreational use, and suggested that all of the polygons (with the exception of '706') be designated as Retention VQO.

The Sea to Sky Gondola: The General Manager met in person on two occasions with Ministry staff prior to the public review and comment period, and engaged in thoughtful discussion on visual management in combination with their plans for future recreational development, potential treatments to reduce wildfire hazards, and trail daylighting for expanded winter use. During these meetings the Gondola stakeholder expressed no objections to the proposed VLI changes and voiced support for the additional attention placed on visual quality. No further comments were received from the Gondola stakeholder during the public review and comment period. Ministry staff also met in person with BCTS staff to review the proposed changes, with no voiced objections or concerns, and did not receive any formal comments in writing.

In response to the above comments, ministry staff provided further explanation on specific concerns primarily through email communications, in addition to providing online resource materials for consideration. Ministry staff explained that Provincial legislation requires that the visual inventory consider significant public viewpoints, focusing on highly used travel corridors rather than backcountry trails. Forecasted or projected future viewpoints are not considered when establishing VQOs. Requests for additional Retention VQOs were addressed by explaining that they would unduly impact timber supply.

Ministry staff also explained that should the planned Squamish Community Forest be established, further opportunity for stakeholder and public review of forestry operations would allow for discussion of potential impacts from harvesting on the VLI.

Therefore, changes were not made to the VSU VQOs as a result of the public review and comment as the VQOs must be based on present not future conditions, and must not unduly affect timber supply.

Proposed VQOs on the draft maps made available for review and comment

Table 1 compares the VQOs of the current visible sensitivity unit (VSU) polygons with the proposed VSU polygons that are visible from Gondola viewpoints. These proposed VSU polygons were advertised and made publically available on a map entitled 'Scenic Area and Visual Quality Objectives for the Shannon Creek Area, Sea to Sky Natural Resource District'. Changes of the current VSU polygons and VQOs were based on a visual re-inventory and in-field observations.

Table 1: Comparison of the existing and proposed VSU polygons

Current VSU Polygon #	Proposed VSU Polygon #	Current VSU VQO	Proposed VSU VQO
503	700	R	PR
505 (partial)	701	PR	PR
505 (partial)	702	PR	R
507 (partial)	703	PR	PR
502 (partial)	704	PR	PR

502 (partial)	705	PR	PR
502 (partial)	706	PR	PR
507 (partial)	707	PR	PR

Legislative (GAR) Tests

As the delegated decision-maker in this matter, I gave the legislative GAR tests the following consideration:

GAR 2 regarding the *Limitation of Actions*:

(1) In addition to the criteria and procedures to be followed by a minister in making an order under any of sections 5 to 15 in relation to an area specified in the order, the minister must be satisfied that

(a) The order is consistent with established objectives,

Comment GAR 2(1) (a) test - I am not aware of inconsistencies with any other established objectives. Consultation with the licensee and First Nations has not revealed any inconsistencies; therefore I determine the order is consistent with all established objectives.

(b) the order would not unduly reduce the supply of timber from British Columbia's forests,

Comment on GAR 2(1) (b) test - Within the scenic area portion of the timber harvesting land base, this order recommends VQOs that compare well to VQOs in other areas of similar activity and visual scrutiny. Ministry timber supply analysis staff specializing in determining impacts from VQOs completed a detailed comparison between the current VQOs and the proposed VQOs. The results of this analysis is summarised and shows the difference in impacts to timber supply between the current and the proposed VQOs, as illustrated in Table 2.

Table 2: Timber Supply Criteria Summary of VQOs per VSU

Timber Supply Components	Study Area Total	Original VSUs	Proposed VSUs
CFLB	1,458.5	542.4 ha	946.8 ha
THLB	703.3	261.1 ha	452.9 ha
Average GU Age ²	---	15.95	18.37
Average VAC ³	---	17.47	11.60

Table 2 shows there is an increase area of Crown Forest Land Base (CFLB) and Timber Harvesting Land Base (THLB) within the proposed VSUs in comparison to the original VSUs. In addition to requiring suitable cut block design that is appropriate for the respective VQOs, more restrictive VQOs effectively shift the timing of harvest opportunity into the future, depending on the green-up (GU) age and the visual absorption capacity (VAC).

In interpreting the results of the timber supply analysis, substantially more area is constrained; however, impact to the Allowable Annual Cut (AAC) cannot be quantified without a timber supply analysis for the entire area proposed as a community forest. The declining VAC

² Average Green-up (GU) age

³ Average Visual Absorption Capacity (VAC)

means that the capacity of the VSU polygons to absorb the visual impact of timber harvesting is reduced, indicating the importance of cut block design to mitigating the visual impact. This may translate into reduced cut block size, and will likely require more thoughtful design and creative harvest techniques appropriate to the VQO.

The proposed changes consist of both a loosening of restrictions in peripheral views at lower elevations (ex. polygon 503) and a tightening of restrictions in prominent views (ex. polygon 505). The effect on timber supply is overall more restrictive. However, the new VSUs will better reflect the public interest in visual management with appropriately located polygons and visual restrictions. Accordingly, I believe the VQO order will not unduly reduce the supply of timber.

(c) The benefits to the public derived from the order would outweigh any

(i) Material adverse impact of the order on the delivered wood costs of a holder of any agreement under the *Forest Act* that would be affected by the order,

Comment on GAR 2(1) (c) (i) test - This order amends VQOs that were both more relaxed and more restrictive than present VQOs which balance the social and economic objectives of the Crown. Adjustments were not made specifically in response to public and BC Parks comments.

I put my mind to the concern expressed by BC Parks that the visual landscape re-inventory and proposed Visual Quality Objectives (VQOs) for the Shannon Creek Basin did not use viewpoints atop the Stawamus Chief Provincial Park (the Chief). The purpose of the GAR order is to specifically account for the additional viewpoints associated with the development of the Gondola. The major views from the top of the Chief are towards Howe Sound, Squamish River Valley, and the distant mountains to the west and southwest.

If recreationalists atop the Chief view in a southeast direction (opposite direction of major views) it is possible to see portions of the landscape captured in the current visual landscape inventory and re-inventory areas. Adjacent the park's eastern boundary, viewing towards the gondola, is Visual Sensitivity Unit (VSU) polygon 702. This hillside is proposed for a Retention VQO. The intent for VSU 702 is to ensure any future forest development is difficult to see, small in scale, and natural in appearance. The more peripheral, oblique, and distance terrain seen from atop the Chief would be VSU's 701, 703, 704, and 707. These less visibly sensitive hillsides are proposed for Partial Retention VQO.

The goal for these four VSU's is to ensure all future forest development, while easy to see, is small in scale, natural and not rectilinear in shape. The Ministry of Forests, Lands, and Natural Resource Operations does not formally establish significant public viewpoints. It is the responsibility of forest licensees to address the visual impact of their forest harvesting from significant public viewpoints.

Given the profile and high recreational use of the Stawamus Chief Provincial Park, the Ministry continues to regard the upper peaks of the Chief as significant public viewpoints. There is an expectation that forest licensees would similarly use locations within the park as

viewpoints when proposing forest harvesting and road building in the vicinity of the park to ensure consistency with the established VQOs. The Ministry's visual resource management specialist advises the proposed VQO's for the Shannon Creek Basin adequately manage the views from the Gondola and locations in the upper elevation of the Chief.

Although not mentioned by comments during the public review period, I am also aware of the District of Squamish Ocean Front Development area, including the Newport Development (previously known as the Nexen beach area), and the likelihood that they will be regarded as a future "significant public viewpoint". The additional VSU polygons added in the Upper Shannon Basin are rather distant, peripheral, and only partially seen from the location of the future Nexen Development. If required, I will reconsider the VQO's for polygons more focal to these development areas in future GAR orders.

While there are areas that now require additional forest planning and assessment work, potentially increasing localized delivered wood costs, these areas are justified as being a net benefit to the public by considering landscape management aesthetics. On balance, there is a net benefit to industry by proposing VQO's for some polygons where landscapes are highly visible and where social license to practice forest management requires consideration for modified practices. This increases timber availability where an alternative approach may have proposed to completely net out the THLB.

(ii) undue constraint on the ability of a holder of an agreement under the *Forest Act* that would be affected by the order to exercise the holder's rights under the agreement.

Comment on GAR 2(1) (c) (ii) test – There is no undue constraint on the ability of the Licensees to exercise their rights as a result of this order as described above.

GAR 3 regarding Consultation and Reviews:

- (1) Before a minister makes an order under any of sections 5 to 15, the minister must provide an opportunity for review and comment,**
 - (a) in the case of an order under section 13 establishing a species category, to organizations that the minister considers representative of holders of agreements under the *Forest Act* or *Range Act* that may be affected by the order, or**
 - (b) in the case of any other order, to the holders of agreements under the *Forest Act* or the *Range Act* that will be affected by the order.**

Comment on GAR 3(1)(a) or (b) test – 3 (1) (a) is not applicable. For GAR test 3(1)(b), FLNRO requested the VQO review and directed resources towards completing the visual landscape re-inventory. BCTS and representatives of the Squamish Community Forest Society affected by this order were provided numerous opportunities for review and comment throughout the process of establishing VQOs. The Gondola, which holds a *Land Act* tenure within the area, also met with ministry staff to discuss these additional VQOs. These stakeholders are supportive of the changes to VSU and VQOs.

GAR 4 regarding Notice of an Order:

- (1) Notice must be given in accordance with this section of an order made under any of sections 5 to 15.
- (2) The notice required under subsection (1) is sufficiently given if the notice includes a copy of the order or contains particulars or a summary of the order and is
 - (a) posted on the website of the ministry of the minister who takes the action,
 - (b) published in the Gazette, and
 - (c) made publicity available at the regional office of the forest region to which the order relates.

Comment on GAR 4 test - All of these obligations will be completed subsequent to signing of the GAR Order.

GAR 7 regarding Scenic Areas and Visual Quality Objectives:

- (1) The minister responsible for the *Land Act* by order may establish an area as a scenic area if satisfied that the area
 - (a) is visually important based on its physical characteristics and public use, and
 - (b) requires special management that has not otherwise been provided for by this regulation or another enactment.
- (2) The minister responsible for the *Forest Act* by order may establish for a scenic area visual quality objectives that are consistent with subsection (1) and are within the categories of altered forest landscape prescribed under section 1.1 of the Forest Planning and Practices Regulation.

Comment on GAR section 7 authority - The power and duty for GAR section 7 (1) and (2) to establish both scenic areas and visual quality objectives has been delegated to the district manager by the Minister of Forests, Lands, and Natural Resource Operations. I have initiated this process and the order is consistent with my obligations, in consideration of advice from the FLNRO Coast Area Visual Resource Management Specialist. The VQO GAR order provides direction for licensees. The updated Visual Landscape Inventory and associated VQOs will also be factored into future Timber Supply Reviews and are consistent with the categories prescribed in Section 1.1 of the FPPR.

Delegated Decision Maker's Action

I have reviewed all comments, recommendations and individually considered them in conjunction with expert advice and support from my staff. To this end, Ministry staff have made themselves available for discussion, documented the process followed, provided clarification where it was required and considered all issues raised.

Determination

Having satisfied myself that I have considered all pertinent details related to the recommended visual polygon boundaries and VQO changes, while recognizing the important social and economic objectives of all stakeholders, I conclude that the visual quality objectives should be formalized at this time through a GAR Order. I have considered all comments received and have determined that the updated inventory and VQOs have

adequately addressed the concerns raised by the Gondola, public, First Nations, forest licensees, and other stakeholders. I believe the VQOs adequately balance both public and First Nations concerns for visual quality management with the forest licensee's interest in operational flexibility and a sustainable timber supply.

Therefore, I approve the Ministerial Order (attached) establishing the revised Scenic Area, Visual Sensitivity Units and VQOs for the Sea to Sky Gondola viewshed (Shannon Creek) area as shown on the accompanying map, dated May 19, 2016.

Dave Southam, RPF
District Manager
Sea to Sky Natural Resource District

Attachments: Ministerial Order and map for the Sea to Sky Gondola viewshed area
(Shannon Creek)
Emails responding to comments made during public review and comment period