

Thompson Rivers District – OGMA amendment process

DRAFT: February 20, 2014

Background

In May 2010, the Ministry of Forests, Lands and Natural Resource Operations (MFLNRO) District Managers (DMs) were delegated the authority to amend orders for legal spatial OGMA established under sections 93.4 – 93.6 of the *Land Act*. The expectation is that DMs will exercise their delegated authority and become the primary official responsible for adjudicating amendments to OGMA established under the *Land Act*. However, DMs have the option of “elevating” a decision on a proposed OGMA amendment to the MFLNRO Regional Executive Director.

The DM has been delegated the authority to amend OGMA orders including:

- Additions or deletions to the boundaries of one or more OGMA polygons;
- Deleting existing OGMA polygons; and,
- Establishing replacement OGMA polygons.

The delegation to the DM includes the following direction from the Minister: “The District Manager must consider the Land Use Objectives Regulation: Policy and Procedures document, and, where they exist, regional and sub-regional policies, procedures or similar direction for processing OGMA amendments in making a decision on an OGMA amendment.”

The DM may not amend OGMA orders that will have substantial social, economic and environmental implications.

Where a licensee proposes to harvest within an OGMA an area that exceeds the lesser of two hectares or ten percent of the OGMA polygon, an amendment will be required.

Given the official legal file on the BC Geographic Warehouse is not continuously updated, it is expected that licensees will regularly consult spatial tracking files¹ posted by the district. These files will track incursions and approved amendments which will allow licensees the ability to determine if an amendment may be required prior to proposed harvesting.

¹ As of Feb13th, 2014, a tracking file has not yet been prepared. Once prepared, the posted location will be communicated.

For “significant”² amendments, it will be necessary to undertake public review and comment, First Nations consultation, and demonstrated achievement of the criteria laid out in regulation.

Minor amendments, those that are not deemed significant, are not governed by regulatory provisions. Where the DM is satisfied that a minor amendment does not materially change the original order or its affect on forest and range tenure holders, a short rationale to this effect will be prepared. The rationale can describe the nature of the minor amendment, why it is needed and why no material adverse impacts are expected.

Licensees Requesting an OGMA Amendment

An amendment proposal should consist of a written rationale, signed by a qualified professional, describing the reason(s) an amendment is required, considers and compares various field attributes, and contains a digital PDF map and digital spatial files, to prescribed standards³, showing the areas identified for deletion and replacement.

When the DM receives an amendment proposal, he/she will review it to determine if it is “significant”. “Significant” amendments will require additional time to accommodate the required process and may include a field review.

The DM will evaluate the proposal to determine if “same or improved biodiversity values” are represented in the identified replacement OGMA area. Information found in the *Kamloops LRMP OGMA Amendment Considerations of the KLRMP OGMA Guidance document, March 5th, 2013⁴*, will be used as a template for the ecological/biodiversity evaluation of the replacement area relative to the original OGMA. In some cases three snow-free months or more may be required to ensure sufficient time for a field review. If a field review is determined not to be required, an amendment determination should not normally take more than three months from the date of submission. If the replacement is not considered to represent the same or improved biodiversity value, the proposal will be returned to the applicant with a rationale.

For significant amendments, the DM, upon being satisfied the proposal meets the ‘same or improved biodiversity’ test will then test the proposal against the LUOR criteria:

- The order must consider land use plan or relevant information;
- The order will provide for the management and use of forest or range resources in a manner that has not otherwise been provided for under the LUOR or another enactment;

² Refer to 7.3 of the Land Use Objectives Regulation: Policy and Procedures document found at <http://www.ilmb.gov.bc.ca/slrp/legalobjectives/whatarelor.htm>

³ ESRI Arc shape or file geodatabase using NAD 83 BC Albers projection

⁴ See appendix in ftp://ftp.geobc.gov.bc.ca/publish/Regional/Kamloops/KLRMP_Legal_OGMA/

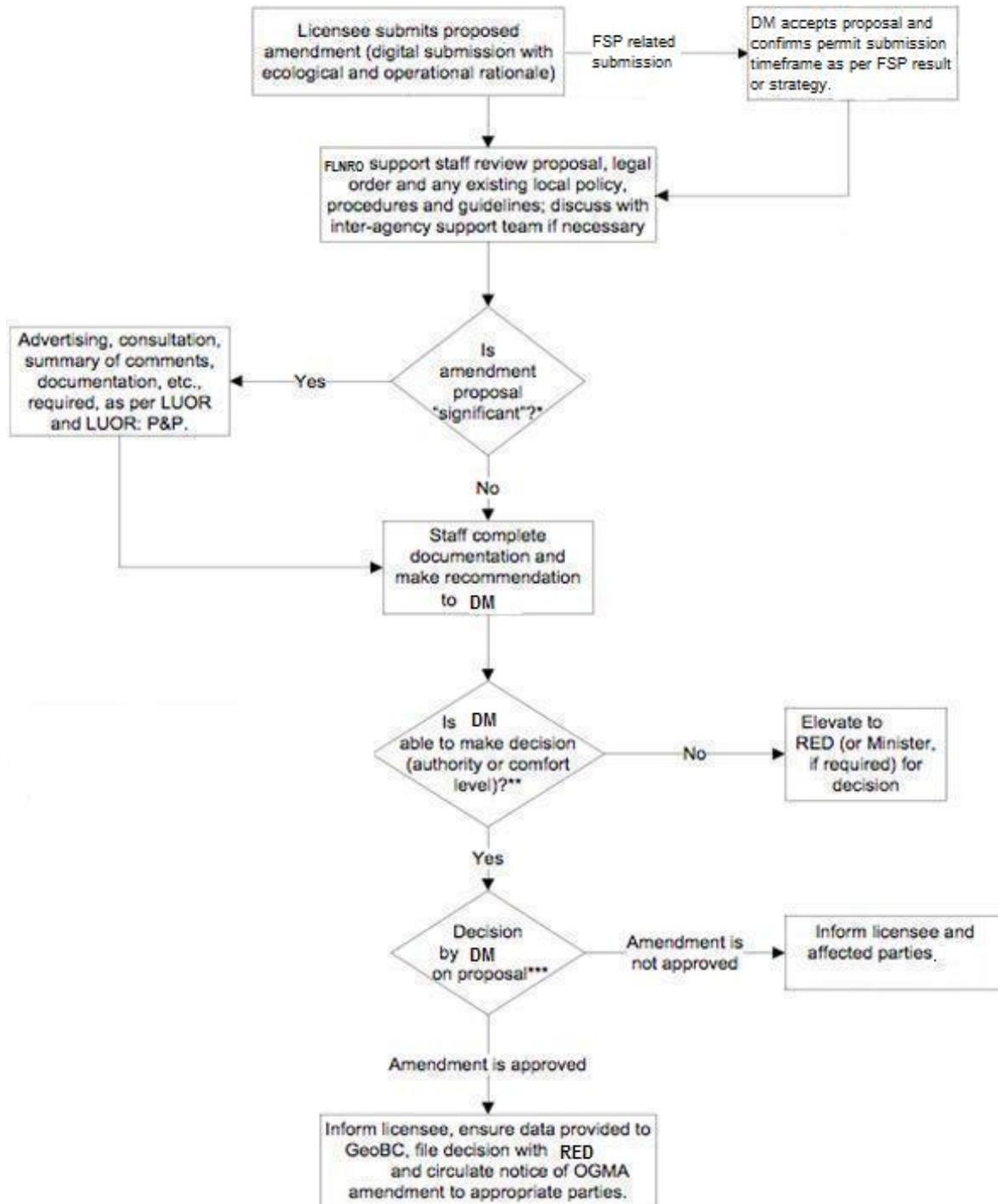
- The land use objective does not conflict with other objectives established under FRPA;
- The objective will provide for an appropriate balance of social, economic and environmental benefits; and,
- The importance of the land use objective outweighs any adverse impact on opportunities for timber harvesting or forage use within or adjacent to the areas that will be affected.

In order to expedite OGMA amendment requests, it may be in the licensee's interest to supply information related to LUOR and other criteria above at the time the proposal is first submitted to the DM.

The holder of an FSP that contains results/strategies wording identifying a minimum three month timeframe, from OGMA amendment proposal to cutting permit submission, will be advised by the DM of his/her decision to accept the amendment proposal and confirm the timeframe as per the result/strategy. This acceptance does not necessarily mean that the OGMA will ultimately be amended exactly as proposed as that is an independent decision made under the *Land Act*.

Upon completion of the assessment, the DM will make a *Land Act* decision. If the amendment is approved, a rationale will be prepared and the data will be compiled into an interim spatial file pending update of the BC Geographic Warehouse (BCGW). If the amendment is not approved, a rationale will be provided to the applicant.

See below for a schematic of the amendment process:



* See Land Use Objectives Regulation: Policy and Procedures for details.

** May require discussions with RED to ensure it is within scope of DM authority.

*** Apply any applicable tests, provide rationale for decision, etc.

References:

<http://www.ilmb.gov.bc.ca/slrp/legalobjectives/whatarelor.htm>

- Land Act s. 93.4 to 93.7
- Land Use Objectives Regulation (LUOR);
- Land Use Objectives Regulation: Policy and Procedures

<http://www.for.gov.bc.ca/tasb/legsregs/delegation-designation.htm>

District Manager Delegation May 26, 2010;

ftp://ftp.geobc.gov.bc.ca/publish/Regional/Kamloops/KLRMP_Legal_OGMA/

- Ministerial Order – Old Growth Management Objectives for the Kamloops Land and Resource Management Plan Area, March 5, 2013
- KLRMP OGMA Guidance document, March 5th, 2013