

FAQs: Frequently Asked Questions

Proposed shíshálh swiya Dock Management Plan Amendments

What is the shíshálh swiya Dock Management Plan?

The shíshálh swiya Dock Management Plan is a joint plan drafted by the Province and shíshálh Nation describing how dock authorizations under the *Land Act* will be managed in the foreshore to protect environmental and archaeological values which are important to all residents in the shíshálh swiya. The Dock Management Plan provides guidance to residents with constructed or proposed docks within the shíshálh swiya and includes zoning within an area described as the kalpilin (Pender Harbour) Management Area. A map of the swiya is included in Appendix A and a map of the kalpilin (Pender Harbour) Management Area zoning is included in Appendix C.

What happened to the Pender Harbour Dock Management Plan?

The Pender Harbour Dock Management Plan (amended and released in 2021) is now included within the shíshálh swiya Dock Management Plan. Best management practices identified in the Pender Harbour Dock Management Plan have been modified and are consistent with best management practices that apply throughout the shíshálh swiya. There have been no changes to the zoning within the Pender Harbour Management Area. These are outlined in Section 5 of the shíshálh swiya Dock Management Plan.

Why was the Pender Harbour Dock Management Plan replaced with the shíshálh swiya Dock Management Plan?

The province and shíshálh Nation agreed to merge dock management guidance into a single document to simplify the direction to individuals interested in building a dock within the shíshálh swiya.

What has changed in this version of the Dock Management Plan from the 2021 version?

Changes proposed to the shíshálh swiya Dock Management Plan include (see Appendix B for a complete list of amendments):

- Separate best management practices for Private Moorages and Commercial Moorages;
- Changes to the Dock Construction and Maintenance Guidelines – Best Management Practices, including, for example, requiring a *maximum area of 30m²* for private moorage floats instead of a *maximum width of 1.5m* for floats;
- Updating mapping and terminology with the shíshálhem names where changes have been made;
- A requirement for inspections to be completed by tenure holders and documents submitted upon request, (a template is provided);
- Updated title for clarity that the Dock Management Plan applies throughout the shíshálh swiya, not only kalpilin (Pender Harbour).

Why were changes made to the Best Management Practices?

In 2021, the Province and shíshálh Nation released an amendment to the Pender Harbour Dock Management Plan bringing greater clarity to terminology and applicant requirements, as well as

allowing for encapsulated Styrofoam. At the time, proposed changes to dock width were not approved, the Province and shíshálh Nation identified the need for further studies.

Since then, shíshálh and the Province jointly commissioned an engineering report and have been reviewing their recommendations. The engineering report proposed a maximum area as an alternative to the dock width requirement. Upon review, a proposed maximum area creates flexibility in dock design and still meets the environmental and archaeological protection goals and intent of the shíshálh swiya Dock Management Plan.

The Province and shíshálh also reviewed and considered a few additional recommendations suggested in the engineering report providing flexibility for applicants to manage for safety. A summary of these changes is listed in Appendix B.

Why are we making changes now?

From time to time, the Province and shíshálh Nation may review policy tools to ensure they are clear, up to date with current practices and effective at managing for the shared objectives of environmental and archaeological protection. The current amendment now concludes an unfinished element from our 2021 review.

Have the Dock Management Zones changed in the Pender Harbour Management Area?

No, the Dock Management Zones within Pender Harbour Management Area have not changed. Dock Management Zones continue to be implemented to protect significant cultural and natural resources in the area. Amendments were made to the zone requirements, bringing the Dock Management Plan into alignment with pre-existing provincial and shíshálh policy with regards to Boathouses.

How will dock decisions be made in the swiya?

Dock decisions will continue to be made in the same way they have since 2018. Dock applications in kalpilin (Pender Harbour) have been subject to the Shared Decision-Making process agreed to by shíshálh Nation and the Province under the Foundation Agreement since 2018, and expanded to include moorage outside of kalpilin (Pender Harbour) in 2020. As part of the application review under the shared decision-making process, an application within the shíshálh swiya, including docks, is reviewed by a joint Provincial-shíshálh Working Group and Shared Decision-Making Board. More details are available on the Shared Decision-Making process at the following website: <https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/collaborative-stewardship-bc/shíshálh-shared-decision-making>

What does kalpilin mean?

kalpilin is the shíshálh name used since time immemorial for the harbour known more recently to settler populations as Pender Harbour. On June 21, 2023, a series of BC geographical name changes were made to reflect the language, culture, and heritage of shíshálh Nation in the swiya. kalpilin was made the official BC geographical name for the harbour, replacing the name Pender Harbour. The Dock Management Plan refers to the harbour as kalpilin with Pender Harbour in brackets for reference. Recognizing Indigenous place names is an important way all citizens can advance reconciliation and implement the United Nations Declaration on the Rights of Indigenous Peoples.

I own an existing dock in the shíshálh swiya or kalpilin (Pender Harbour); what does this mean for me?

The shíshálh swiya Dock Management Plan applies to existing and new docks within the swiya, including kalpilin (Pender Harbour). See question below relating to interim tenure terms for those docks that existed with authorization from BC prior to implementation of the Pender Harbour Dock Management Plan.

What is an interim tenure term?

An interim tenure term is a tenure term for a dock that provides time for the applicant to bring the dock into compliance with the Dock Management Plan. Previously, upon replacement of an existing authorized dock, the applicant was provided with an interim tenure term with the expectation that at the end of the interim tenure term, the dock would be required to adhere to the Best Management Practices. This extra time allows dock owners to come up with a plan over time to bring their dock into compliance with the BMPs. A plan outlining how the dock owner anticipates bringing their dock into compliance is required to be submitted (to Front Counter) before the interim tenure term expires and before a replacement can be issued.

What does this mean for boathouses in the swiya?

Boathouse structures within a private moorage authorization will be required to be removed at the end of their interim tenure terms in alignment with BC's Private Moorage Provincial Policy and shíshálh Nation policy. Through BC's Private Moorage Policy, BC has not authorized boathouses associated with private moorage across the Province since 2011. This confirmation about boathouses within private moorage is being made Provincially across the Province in Fall 2023. For reference, BC's Private Moorage Policy can be found here:

https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/private_moorage.pdf

Commercial moorage has separate requirements for boathouses in Provincial policy and shíshálh policy, and therefore have specific direction in the shíshálh swiya Dock Management Plan. Boathouse structures in a commercial dock facility will be required to demonstrate through their applications how they will achieve the best management practices set out in the Dock Management Plan. For further clarity, in relation to the light penetration best management practices, an applicant must demonstrate how impacts from the Boathouse are minimized and the objectives of the Dock Management Plan to minimize and mitigate impacts to resource values and protect archaeological resources from disturbance are met.

I have an application submitted for a new private moorage in the swiya. What does this mean for my existing application?

As some of the changes within the Dock Management Plan have increased the flexibility in dock design for tenure holders, you will have the option to amend your application to comply with the amended Dock Management Plan instead of the original Dock Management Plan should you wish. For example, if your current application includes a dock that has a 1.5m wide float and you would prefer a dock design that fits within the 30m² maximum area for the float, you would be required to submit a new site plan and management plan to amend your application. For clarification, applications that are currently submitted will be welcomed for review following the

“width model” or the “area model”. Please do not submit an amended application until further communication has been provided.

I have an existing dock with an interim term to come into compliance with the Dock Management Plan. What does this amended Dock Management Plan mean for me?

Changes within the Dock Management Plan have increased the flexibility in dock design for tenure holders. You are welcome to apply at the end of your interim term with a design that is in compliance with the existing Dock Management Plan (ex. a dock with a 1.5m wide float that is not greater than 30m²). Any dock or tenure renewals must be in compliance with the new best management practices of the amended Dock Management Plan (ex. annual inspections and lighting requirements).

I have an existing dock that has been approved under the current Pender Harbour Dock Management Plan through the shíshálh-BC Shared Decision-Making process. What does this mean for my dock?

If your dock has already been approved through the shíshálh-BC Shared Decision-Making process, it will remain approved until the end of its tenure term. Upon replacement application for the existing structure, as long as there are no environmental or archaeological concerns or other issues upon the review of the replacement application, the previously approved dock design would be approved under the replacement tenure. As with all replacement applications under the *Land Act*, there is no guarantee that your replacement application will be approved until final review is complete. Upon replacement of the structure (either through end of life of existing structure or as requested), the new structure would be required to adhere to the Dock Management Plan current at that time.

What are the supporting documents you have provided and how do I use them?

There are 4 main supporting documents to help you review the proposed Dock Management Plan and the changes.

1. Amended shíshálh swiya Dock Management Plan
 - a. This is the proposed shíshálh swiya Dock Management Plan which will be the overarching guidance for Docks within the swiya.
2. FAQs and What's Changed Table
 - a. The FAQs are this document you're currently reading to answer common questions we have anticipated will be asked related to the amendments.
 - b. The “What's Changed” Table is provided at the bottom of this FAQs document in Appendix B. It outlines a brief summary of all the proposed amendments to the Dock Management Plan. With the amendment including changes to Private Moorage and Commercial Moorage Best Management Practices, the table speaks to the differences between the proposed amendments to the Best Management Practices for Private and Commercial Moorage in comparison to the existing Best Management Practices.
3. Maps
 - a. There are two maps included in Appendix A and C. Appendix A indicates the area the shíshálh swiya Dock Management Plan applies to (the swiya) and Appendix C indicates the kalpilin (Pender Harbour) Dock Management Zones.

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Where do I receive supporting materials and where can I get them?

Supporting materials will be available at the following websites:

Applications, Comments and Reasons for Decision (search for file # 2412772):

<https://comment.nrs.gov.bc.ca/applications#splash>

OR

Pender Harbour Project:

<https://www2.gov.bc.ca/gov/content/industry/crown-land-water/crown-land/regional-crown-land-initiatives/pender-harbour-project>

If you cannot access the materials online, you can request copies of the supporting materials from Front Counter BC at: Frontcounterbc.surrey@gov.bc.ca or (877) 855-3222

Appendix A: Map of the shíshálh swiya



Appendix B: “What’s Changed?” Tables

Summary of Proposed Amendments to the shíshálh swiya Dock Management Plan

Best Management Practice Outline	Current Dock Management Plan (March 2021)	Proposed Amendments to Dock Management Plan (November 2023)	
	<i>Private and Commercial</i>	<i>Private</i>	<i>Commercial</i>
Maximum width of access ramp and walkways	1.2m	1.8m	1.8m
Maximum float width	1.5m	None	3.0m wide for main floats, 1.5m wide for float fingers
Maximum float area	No prior maximum float area.	30m ²	40m ² per vessel up to 40 feet length overall
Maximum total length of dock	No prior maximum	50m	60m
Annual moorage inspections	No prior annual inspection requirements.	Annual inspection required to be completed annually by authorization holder and documents submitted to BC upon request and upon application for replacement.	Annual inspection reports to be submitted with annual Statutory Declaration.
Outdoor lighting	No prior requirement for outdoor lighting	Outdoor lighting should be minimized and should be on a timer/motion detector.	Outdoor lighting should be minimized and should be on a timer/motion detector.
Boathouses	Undefined best management practices	Boathouses within Private Moorage Tenures are not in alignment with Provincial and shíshálh policy. The Plan has been updated to align with policy.	Required to meet Best Management Practices for Commercial Moorage. *Clarification in relation to the light penetration Best Management Practice: application for boathouses must demonstrate alignment with the goals and intent of the Dock Management Plan

What Best Management Practices have not changed in the proposed amendments and apply to all moorage types?

	Best Management Practice
✓	All improvements should be a minimum of 5.0 meters from the side property line (6.0 meters if adjacent to a dedicated public beach access or park) and at least 10 meters from any existing dock or structures,
✓	Docks, inclusive of all components, must allow for minimum of 43% open space allowing for light penetration to the water surface under the structure.
✓	Docks should be aligned in a north-south direction, perpendicular to the shoreline, to the maximum extent that is practicable
✓	Concrete, steel, treated (except creosote) or recycled timber are acceptable piling materials, although steel is preferred.
✓	Access to the Foreshore for construction purposes should be from the adjacent upland property wherever possible
✓	Works along the Foreshore should be conducted when the site is not wetted by the tide.
✓	The upland design of the Dock, including anchor points, should avoid disturbing riparian vegetation adjacent to the Project Footprint
✓	Pile driving is the preferred method of pile installation.
✓	The use of Styrofoam to keep docks afloat is prohibited for new construction and repairs unless the foam is encapsulated.
✓	Docks must be constructed in accordance with requirements under the <i>Navigation Protection Act, Fisheries Act and Riparian Areas Protection Act</i> as may be amended or replaced from time to time.
✓	Proponents are encouraged to develop dock facilities to facilitate multi-owner/use to reduce footprint on marine habitats.
✓	Significant habitat should be avoided within the Dock Footprint.
✓	Design of a Dock or Boathouse should not include components that block the free movement of water along the shoreline
✓	The bottom of all floats must be a minimum of 1.5 metres above the seabed during the lowest tide.
✓	Access ramps, walkways or piers should be a minimum of 1.0 metre above the highest high-water mark of the tide.

Appendix C: kalpilin (Pender Harbour) Dock Management Zones

