

WHAT WE'VE HEARD REPORT

ENGAGEMENT ON PROPOSED AMENDMENTS TO shíshálh swiya DOCK MANAGEMENT PLAN

A NOTE OF THANKS

The Province and shíshálh would like to thank those interested parties who took considerable time and effort to provide thoughtful and meaningful comments. The comments and questions on the proposed amendments received through the engagement process give our governments additional considerations for review and decision, the chance to review areas of misunderstanding, provide opportunities for increased education and clarifications, and identify areas where improvements can be made to the Dock Management Plan.

Any submissions with racist remarks were not reviewed or considered by the government or shíshálh in any subsequent steps regarding the Dock Management Plan.

EXECUTIVE SUMMARY

The Province and shíshálh Nation are working together in true and lasting reconciliation that respects the exercise of Indigenous title and rights and ensures that lands and resources are managed in ways that respect of the values of shíshálh people as well as the values shared by all residents in the shíshálh swiya. The shíshálh swiya Dock Management Plan is a joint plan implemented by the Province and shíshálh Nation outlining how dock authorizations are managed to protect existing habitat and cultural resources and begin to restore environmental and archaeological values.

From November 24, 2023 to February 16, 2024, the province and shíshálh Nation requested feedback from the public on a set of proposed amendments to the shíshálh swiya Dock Management Plan. This “What We’ve Heard” report is our commitment to share with the public what has been heard throughout the engagement process. The report summarizes the key themes and feedback captured during the engagement.

In relation to the November 2023 proposed amendments, the following list of concerns have been identified:

- The need for flexibility in dock design at different locations.
- An interest in “grandfathering” existing moorage structures. (Grandfathering can be interpreted as an exemption for existing structures from new requirements and/or best management practices.)
- Ensuring access to private property from the water.
- Concerns about Dock Management Plan not being supportive of existing private boathouses.
- Importance of robust, healthy marine and freshwater ecosystems
- Questions about dock impacts in freshwater environments given the importance of endangered species.

- Concerns related to potential economic impacts: to private property and business value, to regional economy from a possible reduction in moorage opportunities, and costs from disposal of existing structural materials.

Aside from comments specific to the proposed amendments, other overarching themes have been identified throughout the public engagement as well, including:

- Support for strong, respectful and considerate relationships as we move forward in our reconciliation journey in British Columbia.
- Support for additional forms of protection and restoration of environmental resources. Importance and value of scientific studies, monitoring, information gathering and data sharing to inform dock management.
- An interest to understand more about impacts of existing moorage structures on the environment and cultural resources.
- Requests for increasing opportunities for public involvement in dock management and environmental restoration on the Sunshine Coast.

The contributions during the public engagement assist the province and shíshálh Nation in determining next steps and continued implementation of dock management in the swiya. Public feedback and comments received during the engagement process will inform a decision on the proposed amendments and next steps on managing docks within the swiya.

HOW WE GOT HERE

Time immemorial: shíshálh Nation since time immemorial have had and continues to have a unique relationship to and connection with the land and resources throughout shíshálh swiya, which are important to shíshálh Nation's community, culture, health, and future, and to the maintenance of shíshálh Nation's governance, law, and economy.

1990s-2000s: The Province manages private and commercial docks through private moorage and commercial policies requiring tenure under certain conditions. The density of docks increased on the South Coast. Provincial monitoring of tenures and their ecological and archeological impacts was inconsistent.

shíshálh Nation looks to best management practices from a wide range of jurisdictions to manage dock impacts to the environmental and archeological resources. The province and shíshálh Nation begin work on a joint plan to address the environmental and archeological impacts from private and commercial moorage throughout the swiya.

2015: The first draft of the Pender Harbour Dock Management Plan is released in 2015. The province and shíshálh nation undertake public engagement and an independent review and further studies occur before the plan is finalized.

2018: On October 4, 2018, shíshálh Nation and the province sign a Foundation Agreement that commits to true and lasting reconciliation between the two governments. The Province recognizes that shíshálh

Nation's Title and Rights exist in the shíshálh swiya, and it is our respective interests to continue to foster a deeper collaborative relationship in relation to the land, resources, and economic development opportunities within the shíshálh swiya, and to ensure that shíshálh Nation's right to self-determination, including the inherent right of self-government is realized.

The Pender Harbour Dock Management Plan is finalized and implemented for dock authorizations under the *Land Act*. The plan includes best management practices for dock construction and defines three zones kalpilin (Pender Harbour) Management Area where additional requirements or restrictions apply.

The province and shíshálh Nation begin to implement the Plan through the Shared Decision-Making process, working closely with dock tenures holders to explain the Dock Management Plan requirements. By 2024, most tenured dock holders have interim tenures between three and 10 years giving them time to come into compliance with the requirements.

2021: Based on feedback from tenure holders and interested stakeholders, the province and shíshálh Nation amended the Pender Harbour Dock Management Plan to provide greater clarity to terminology and applicant requirements, as well as allowing for encapsulated styrofoam for dock floats.

Also in 2021, the province and shíshálh Nation agree to use the Best Management Practices (BMPs) throughout the shíshálh swiya to continue to better manage for dock impacts on the environment and archeological resources. Since the expansion of the BMPs, the province and shíshálh Nation work with individuals seeking to build new docks or needing to replace their existing dock tenure. Dozens of docks since implementation have been approved in line with the Dock Management Plan.

2023: At the time of the amendments in 2021, proposed changes to dock width were not made and the province and shíshálh Nation identified the need for further studies. In response, the province and shíshálh Nation jointly commissioned an engineering report focusing on dock size and width. After reviewing the engineering report and considerations around dock sizes, a proposed set of amendments and clarifications to the shíshálh swiya Dock Management Plan focusing on dock size were collaboratively developed. The province and shíshálh Nation jointly invited the public to provide feedback on the proposed amendments.

SUMMARY OF COMPLETED PUBLIC ENGAGEMENT

PUBLIC ENGAGEMENT ON PROPOSED CHANGES

From November 2023 to February 2024, the Province and shíshálh Nation received over 1700 submissions of feedback from the public on proposed amendments to the shíshálh swiya Dock Management Plan. The public provided input through written submission on online engagement platform, letters were also received by the Minister and shíshálh Naton. In addition, a public meeting with the Sunshine Coast Regional District (including councilors from District of Sechelt) was held in November and three virtual sessions with Commercial Moorage tenure holders were held in January 2024.

Public comments have been broadly grouped into two categories: A) comments about specific proposed amendments, and B) comments more generally about the Dock Management Plan. Summaries of the comments are outlined in four tables in the sections below.

- Table 1: Comments about Proposed Amendments to Private Moorage BMPs
- Table 2: Comments about Proposed Amendments to Commercial Moorage BMPs
- Table 3: Comments about existing Best Management Practices not proposed to change
- Table 4: Comments for general key themes and overarching comments

WHAT WE'VE HEARD: SPECIFIC TO PROPOSED AMENDMENTS

Summaries of public comments received related to the proposed amendments to the shishálh swiya Dock Management Plan received on the proposed amendments are outlined below in the two tables below.

TABLE 1. COMMENTS ABOUT PROPOSED AMENDMENTS TO PRIVATE MOORAGE BEST MANAGEMENT PRACTICES (BMPs)

Increase in maximum width of access ramp from 1.2m to 1.8m

- Many recommendations for existing infrastructure to be grandfathered in.
- Many respondents suggested flexibility in ramp width given accessibility considerations and use of ramp (examples include transporting large appliances to upland properties).

Maximum float area of 30m²

- Many respondents provided comments that 30m² float area is too small of a float in their views for vessels longer than 40 feet.
- Further to the concerns regarding private boat lengths, a few respondents indicated larger boats may be required to moor at some private moorages for safety purposes, such as Coast Guard or emergency response to forest fires and therefore would need larger floats in the case of emergency events.
- Multiple commenters highlighted the variability in float requirements where large exposure of wind and wave action may occur on locations subject to open ocean.
- A large number of respondents requested existing structures that have floats larger than 30m² be grandfathered for approval as is.
- Many respondents flagged concerns regarding the limit in maximum float area may not adhere to the ASCE recommendation for a 1:3 width to length ratio for stability for floats.
- Some respondents suggested there are alternate vessels that may require moorage at private docks including float planes which may require larger floats.
- Several comments flagged that this Best Management Practice may increase pile driving and anchoring.
- Multiple comments expressed their desire for larger floats for recreational and personal enjoyment purposes.

Maximum width of float to be removed

- Not many comments were received about the proposal to remove maximum float width, however, the comments that did address the topic indicated support for removing a maximum width of dock given increased flexibility in dock design.

Maximum total length of 50m

- A large number of respondents requested grandfathering of existing infrastructure greater than 50m total length.

- Some respondents flagged concerns with potentially increased impacts closer to shore if docks pushed closer to the shoreline than currently designed.
- Many respondents indicated a need for variability of total length of dock structure to fit site specific considerations, including depth of water.

Annual Self-Inspections

- A number of respondents provided comments that it is onerous to require personal review of existing structures annually.

Outdoor lighting to be minimized

- While there were minimal comments received regarding outdoor lighting specifically, some respondents supported the proposed amendment and minimizing unnecessary light pollution, while others indicated the best management practice was unnecessary.

Boathouses required to meet Best Management Practices

- The majority of comments received concerning boathouses indicated a request for grandfathering existing structures as is.
- Respondents expressed concerns that property values would decline resulting in personal financial impacts and regional economic impacts if boathouses are not authorized or removed.
- Many respondents indicated there would be a significant cost to facilitate the removal of boathouses.
- Many commenters expressed concerns with the potential increase in waste produced through removing existing boathouses to align with the Dock Management Plan and the capacity of the Sunshine Coast's waste disposal sites.
- Some commenters flagged their individual boathouses may have created a microcosm of ecosystem and raised concerns that species that have made the boathouses their homes will have their habitat removed if the boathouse is not authorized.
- A number of respondents noted concerns with protecting their private boats from the elements and the inconvenience of removing the boat from the water to protect it from the elements on the upland.

TABLE 2. COMMENTS ABOUT PROPOSED AMENDMENTS TO COMMERCIAL MOORAGE BEST MANAGEMENT PRACTICES (BMPS)

Note to reader: Many comments specific to proposed amendments to Private Moorage Best Management Practices are also relevant for consideration for Commercial Moorage Best Management Practices. To reduce redundancy of repeating similar themes, only comments unique to Commercial Moorage are included in the table below.

Increase in maximum width of access ramp from 1.2m to 1.8m

- Many recommendations for existing infrastructure to be grandfathered in.
- Many respondents suggested flexibility in ramp width given accessibility considerations and use of ramp (examples include transporting large appliances to upland properties).

Maximum float area of 40m² per vessel up to 40 feet length overall

- Many respondents provided comments that 40m² float area is too small of a float area in scenarios where their commercial moorage provides moorage for lengthy vessels.
- Respondents highlighted the various business models and vessels their commercial moorages support have vastly different requirements for their floats.
- Multiple commenters highlighted the variability in float requirements where large exposure of wind and wave action may occur on locations subject to open ocean.
- A large number of respondents requested existing structures that have float areas larger than the proposed amendment be grandfathered for approval as is.
- Multiple respondents have highlighted the unique services commercial moorages may provide that require larger sized floats, such as fuel docks, stores, restaurants etc.

Maximum width of float of 3.0m for main float, 1.5m for finger floats

- As has been seen in many other comments, there are many commenters who have recommended grandfathering in existing structures if they do not adhere to the maximum width Best Management Practices.
- Some respondents indicated their marinas may require wider floats as they support various loads that are required to be transported across the floats (Ex. large appliances, construction materials etc.)

Maximum total length of 60m

- A large number of respondents requested grandfathering of existing infrastructure greater than 60m total length as their current commercial moorage extends past 60m.
- A number of respondents expressed concerns that this maximum total length would minimize their ability to expand their commercial moorage business to meet the demand for moorage on the Sunshine Coast.
- There was a recommendation to follow only Transport Canada's requirements for length of structures for federal navigability concerns and to not limit the moorage lengths otherwise.
- Some respondents flagged concerns with potentially increased impacts closer to shore if docks pushed closer to the shoreline than currently designed.
- Many respondents indicated a need for variability of total length of dock structure to fit site specific considerations, including depth of water.

Outdoor lighting to be minimized

- While there were minimal comments received regarding outdoor lighting specifically, those that were received supported the proposed amendment and minimizing unnecessary light pollution while supporting lighting for safety considerations.

Boathouses required to meet Best Management Practices

- The majority of comments received concerning boathouses indicated a request for grandfathering existing structures as is.
- Request from many respondents to provide more clear guidelines to how Commercial Moorage boathouses could meet and align with the Best Management Practices

WHAT WE'VE HEARD: OVERARCHING COMMENTS

Summaries of public comments received related to best management practices that were not proposed to be amended are outlined in the table below.

TABLE 3. COMMENTS ABOUT EXISTING BEST MANAGEMENT PRACTICES NOT PROPOSED TO CHANGE

43% light penetration

- Many commenters expressed that meeting the 43% light penetration best management practice is very difficult or impossible with existing floatation not being light penetrating.
- Multiple questions within the comments were related to how to calculate this light penetration and request for examples.
- Some respondents provided alternative options for consideration, including modifying the Best Management Practice to require “light penetrating decking on floats” instead of a specific number, grandfathering in existing decking until end of decking life or not requiring light penetration through structures floating above very deep waters.
- Some comments questioned the stability of light penetrating materials in open water scenarios where docks are subject to significant wave and wind action.
- Freshwater commenters raised questions if light penetration is environmentally significant in freshwater lakes given different ecology than marine ecosystems.

1.5m clearance between bottom of float and seabed

- Respondents gave examples of personal scenarios where their docks ground and/or cannot meet the 1.5m clearance Best Management Practice between the bottom of the float and the seabed.
- Some commenters indicated concerns their docks would require railings if 1.5m from the bottom of the float and the sea bed at their particular location resulted in the dock being raised on pilings or footings 1.5m above the seabed at low tide.
- Comments specific to freshwaters scenarios highlighted that the water level in freshwater lakes typically does not fluctuate as much as the ocean and won't have the same problems with moorage structures resting on the bed of the lake.

Property line clearance (structures should be 5.0m from property lines)

- Some commenters requested flexibility and removal of existing Best Management Practices given their existing infrastructure is within 5.0m of their property lines
- A number of commenters correctly noted that this Best Management Practice aligns with Transport Canada regulations and requested that if Transport Canada approves a smaller distance between the property line and the individual moorage structure that it be permitted under the Dock Management Plan.

Structures should be 1.0m above highest high-water mark

- Some respondents have provided examples of their personal properties being below 1.0m above the highest high-water mark and have concerns meeting this Best Management Practice with their existing geography.

Summaries of public comments received that were more general and overarching related to entire Dock Management Plan and not to any specific individual Best Management Practice are outlined in the table below.

TABLE 4. GENERAL COMMENTS AND FEEDBACK

Regarding a request for increased Public Engagement and Involvement

- Call for extension to public engagement timeline on the proposed amendments.
- Many respondents have requested more opportunities to provide input, collaborate and provide innovative ideas from local knowledge for dock management within the swiya.
- A common theme in comments was to increase transparency around decision-making on applications and provide further communications on how decisions on policies and plans are made under the *Land Act*.

Increasing scientific studies, monitoring, information gathering and data sharing, and using the resulting studies to inform dock management.

- Many respondents requested that additional scientific studies be completed to support dock management decisions, including broad scale studies on freshwater environments, studies pertaining to light penetration, economic impact studies, archaeological studies, and species-specific studies including for Sakinaw Sockeye.

Financial and Economic Concerns

- Respondents raised concerns that requiring existing moorage to come into alignment with the Dock Management Plan may require them to remove their infrastructure and devalue private property values.
- Concern shared by property owners with water-access only that they may be unable to access their water-access only property if their current structures have to be changed to align with the Dock Management Plan.
- Many respondents expressed concerns on the cost of removal and/or modification of existing infrastructure to align their structures with the Dock Management Plan.
- Numerous commenters requested increased long-term clarity on dock management across the Sunshine Coast to make long-term plans.
- Some commenters indicated that there is limited availability for commercial moorage on the Sunshine Coast to provide accommodation for the number of boats that frequent the area for private, commercial and tourism purposes. There are concerns that regulating moorage will result in further lack of moorage availability, especially during the summer months, and that will deter boaters from coming to the area and will have a regional economic impact.
- A number of commenters promoted the use of an Environmental Cost-Benefit analysis for dock management within the swiya to inform how dock management should be implemented

Freshwater Considerations

- Commenters have raised suggestions that dock structures in freshwater environments may require unique Best Management Practices from marine dock and request an additional study be completed on freshwater lakes to determine if the existing Best Management Practices are applicable in the freshwater environment.
- Many respondents have highlighted the unique ecosystem and considerations for Sakinaw Lake and the endangered species, such as Sakinaw Sockeye and Western Painted Turtles that make the lake their home.
- A number of respondents flagged the potential for impacts to endangered species, such as the Western Painted Turtle, should modifications to docks be completed inappropriately and cause adverse impacts (such as impacting overwintering or nesting sites).

Environmental Protection

- A large number of respondents have expressed their desire and support for environmental protection and support long-term measures to protect the ecosystems and species within them.
- Many commenters expressed support for alternative forms of environmental protection, outside of dock management, including removal of derelict vessels and addressing pollution sources.
- Many respondents provided support that moorage development needs to be thoughtful and ensure no net negative impacts to the environment from the moorages occur
- Some respondents expressed that they are encouraged by the efforts being made to manage the foreshore and moorages with environmental protection as a key objective

Professional Availability

- A number of respondents indicated a lack of professionals on the Sunshine Coast available to complete requirements for dock management, including environmental professionals, archaeological professionals and structural professionals such as engineers or contractors.
- The commenters have expressed support for longer timeframes on requiring changes to dock structures and/or applications given the scheduling conflicts of necessary and desired professionals.

Grandfathering existing structures

- An overarching theme on comments relating to Best Management Practices and management of docks moving forward has been a recommendation to grandfather all existing structures as is.
- Comments have explored different options for grandfathering existing structures, such as grandfathering structures until the end of the structure's life, in perpetuity as is, or until a specific time frame.
- Additionally, options to have upgrades on existing structure completed over time was suggested as a way of staggering and minimizing impacts of the modification to surrounding environments.
- Some respondents noted their existing structures are unauthorized and do not have a Land Act tenure and would like their existing structure approved as is.

Variability in moorage requirements across the swiya

- Many comments pertain to the vast variability of the geography across the swiya and the variability of moorage uses.
- Respondents have highlighted many scenarios where their moorage types may differ from the Best Management Practices, including moorages in open water scenarios subject to high wind and wave action, shallow waters and unique uses for the moorages.
- Many commenters flag that flexibility and reasonableness needs to be taken into consideration when reviewing moorage applications against the Dock Management Plan Best Management Practices.
- Questions were raised by strata and group moorage owners as to how the BMPs fit with their specific moorage type
- Further, several respondents indicated that it was not clear what was considered what type of moorage (ex. is a moorage commercial moorage, private moorage, strata moorage or group moorage?)