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Draft Pender Harbour Dock Management Plan – Frequently Asked Questions

Introduction

The draft Pender Harbour Dock Management Plan (DMP) was developed co-operatively by the *shíshálh* Nation and the Province.

The draft DMP provides mandatory requirements for dock design and construction and also defines zones in Pender Harbour where there are additional requirements or restrictions.

Why is the Province involved in the management of docks in Pender Harbour?

Waterfront property owners in British Columbia enjoy the Common Law Right of riparian access to their properties. Broadly speaking this is the right to access any part of their property by boat without the interference of manmade structures. However, being the owner of a water front property does not give the right to construct a dock, wharf or other moorage facility on Crown land, such as the water over the bed of Pender Harbour. Private moorage authorizations can be granted or refused based on the circumstances prevalent in any given location.

Why is the Province working with *shíshálh* Nation to develop the DMP?

The Province has jointly drafted the dock management plan with the *shíshálh* Nation to address the cumulative impacts of docks and dock construction in Pender Harbour due to its environmental and cultural significance.

Does the draft DMP apply to other areas in the South Coast?

The draft Pender Harbour dock management plan is a proposed stand-alone policy document for Pender Harbour due to the cultural and environmental significance of the area. As per Section 8.1 of the draft DMP, applicable Crown Land Use policies will apply to all applications for tenures as well as existing tenures in the Management Area.

Has the Province considered the impact of the DMP on property values?

The Province has received a number of comments and feedback regarding the impact to property values. These comments will be considered on the draft plan.



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I built my dock many years ago, do I have to re-construct my dock?

No. Authorized docks (i.e. docks with an active or expired tenure) may continue; however, maintenance activities must be consistent with the DMP. The intent of the plan is to improve the standard of docks in Pender Harbour over time through ongoing maintenance activities.

What are the significant natural and cultural resources within Zone 1? Why is a prohibition on docks needed to protect these resources? Were any experts or professionals involved in creating the Zones? What information/data/studies were used to create the zones?

The Province has received a number of questions regarding the natural and cultural significance of Zone 1 and the designation of the Zones.

The Zones were developed following the completion of various studies (e.g. environmental and archaeological) within the Pender Harbour area. Consistent with laws and protocols, much archaeological information is kept confidential to protect archaeological resources.

What happens when a dock crosses through two zones?

Where a tenure crosses two zones, the more stringent criteria of the two zones will be applied.

What will happen to water only access properties located in Zone 1 with unauthorized docks?

The Province has received a number of comments and feedback regarding water only access properties located within Zone 1. *shíshálh* Nation and the Province will consider these concerns.

Requirements

How would I apply for a new Dock? If I complete these steps would I be guaranteed a dock approval?

In order to apply for a dock in Pender Harbour you would need to:

- Check your location against the zone requirements and restrictions;
- We encourage you to contact the *shíshálh* Nation regarding your intent to apply for a dock
- Hire a Qualified Professional to assist in the design of the new dock and development of a management plan, which must be consistent with the template available on the ministry's website.
- Commission an archaeology assessment of the project footprint;
- Submit an application to the Province.

Proponents must also comply with other relevant provincial policies which can be found at the following website: http://www.for.gov.bc.ca/Land_Tenures/crown_land_application_information/policies.html



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If the above steps are completed your application would be considered complete and ready for review. This does not guarantee that your application would be approved as there are other important steps in the review process.

How do I apply to renew my existing dock tenure?

- Once the DMP has been finalized, the Province will contact tenure holders whose tenures have expired or whose tenures are nearing expiry.
- Tenure holders will be provided information on how to renew their tenure; this includes a replacement tenure application package containing an application form, and a management plan template
- The Province encourages applicants to engage with the *shísháhlh* Nation prior to submitting an application.
- The applicant will be required to submit an archaeology assessment of the project footprint if one has not been completed in the past.
- The applicant will also be required to submit a management plan describing how ongoing maintenance activities will be consistent with the Best Management Practices set out in the DMP supported by the opinion of a Qualified Professional. A management plan template will be supplied with the replacement tenure application package.
- The management plan, archaeology assessment, and replacement application form is submitted to the Province.

Who is a qualified professional?

A qualified professional is an applied scientist or technologist, acting alone or together with another qualified professional, if (a) the individual is registered and in good standing in BC with an appropriate professional organization constituted under an Act, acting under that associations code of ethics and subject to disciplinary action by that association, and (b) the individual is acting within that individual's area of expertise.

Why is an archaeological assessment required?

Pender Harbour is significant for the richness of its cultural resources. The DMP requires an archaeological assessment in order to identify, record and protect the archaeological sites located in this area. A trained and certified archaeologist will assess the likelihood of a proposed development or ongoing use of a site disturbing archaeological remains and/or artifacts. Archeological resources are protected under the *shísháhlh* Heritage Policy and the *Heritage Conservation Act*.



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What if archaeological materials are found during the Preliminary Field Reconnaissance?

If archaeological materials are found during the Preliminary Field Reconnaissance, further archaeological work may be required; the archaeologist performing the work will be able to provide advice on the next steps. Materials should be deposited to the *shísháhlh* Nation's *tems swiya* museum.

Why and when do existing tenure holders need to complete assessments?

Under the *Land Act* (Section 35.1), land applications may be subject to further assessments or studies. The draft plan would require existing tenure holders to complete an archaeology assessment prior to replacement of their tenure, if one has not been completed in the past. You would only be asked to do the archaeological assessment once; however, if found, there may be additional requirements to deal with any archaeological materials.

Further, according to the draft DMP, an existing tenure holder is not required to complete an environmental assessment unless changes to the location (footprint) or dimensions of the dock are proposed.

Administration of Docks

Will the rent or application fees differ in Pender Harbour vs. the rest of the Province?

Application fees and rent for tenures within the Management Area will remain the same as the rest of the Province. These fees are set out in the fee schedules contained in the Crown Land Fees Regulation and can be located at the following link:

https://www.for.gov.bc.ca/Land_Tenures/crown_land_application_information/fees.html

How is the Province currently dealing with expired tenures?

If your tenure has expired you are deemed to be a monthly occupier of the tenure area subject to the provisions set out in your tenure document.

How long will the dock tenures be issued for under the DMP?

We are considering a tenure term of five years.



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Public Consultation Process

Why was there no public consultation on the draft DMP until now?

Although there has been a moratorium on docks for several years in Pender Harbour, the draft DMP is a recent collaboration between the *shísháhlh* Nation and the Province. The open house, held in Pender Harbour on April 11, 2015 and subsequent request for public comments, constitute public consultation, and were intended for information sharing with the community at the draft stage of the DMP. The comments provided by the community will be reviewed for consideration on the DMP.

Why was there no presentation at the public meeting?

We appreciate that there are many different formats for holding a public meeting. Due to the number of expected attendees with various questions, an open house format provided an opportunity to help answer and listen to a majority of the attendees' questions and comments individually.

Will the public consultation period be extended?

We have extended the opportunity to comment for an additional 30 days. We request that all comments are submitted for review and consideration to FLNR by June 10, 2015. We intend to proceed quickly with our review subsequent to the public comment period, and cannot guarantee that responses received after June 10th will be considered.