



## PENDER HARBOUR DOCK MANAGEMENT PLAN

### 1.0 INTENT OF DOCK MANAGEMENT PLAN

The Pender Harbour Dock Management Plan (the DMP) is an instrument of policy that provides guidance in relation to docks authorized or proposed under the *Land Act* within the Management Area, as identified in Appendix A.

### 2.0 PRINCIPLES AND OBJECTIVES

In addition to the principles and objectives outlined in other applicable provincial Operational Land Use Policies, the objective of the DMP is to promote responsible and appropriate dock development by:

- helping to minimize and mitigate impacts to marine resource values;
- protecting archaeological resources from future disturbance;
- contributing to address impacts, including cumulative impacts, of dock development on Aboriginal interests; and
- advancing collaborative management between the *shishálh* Nation and the Province of British Columbia.

### 3.0 DEFINITIONS

**“Commercial Dock”** means a Dock operated year-round or seasonally as ancillary to a commercial operation and may include breakwaters;

**“Critical Habitat”** means habitat that is important for: (a) sustaining a subsistence, commercial, or recreational fishery, or (b) any species at risk (e.g., terrestrial or aquatic red- and blue-listed species, those designated by the Committee on the Status of Endangered Wildlife in Canada, or those SARA-listed species), or (c) its relative rareness, productivity, or sensitivity (e.g. eelgrass meadows, kelp forests, foreshore salt marsh vegetation, herring spawning habitat, and potential forage fish spawning beach habitat);

**“Dock”** means a structure used for the purpose of mooring boats and for providing pedestrian access to and from the moored boats, and may consist of a single dock, wharf or pier (including walkway ramp) and includes Private Moorage Facilities, Group Moorage Facilities, Strata Title or

Condominium Moorage Facilities, Commercial Docks and Marinas, but does not include Industrial Docks;

**“Dock Footprint”** means the area that lies directly under the Dock;

**“Dock Management Zones”** means those zones within the Management Area and as depicted in Appendix B.

**“Foreshore”** means that land in tidal areas lying between the high tide and the mean low tide and that land in non-tidal areas that is alternatively covered by water and exposed with the normal rise and fall of the level of the body of water, i.e. that land between the ordinary high and low water mark;

**“Group Moorage Facility”** means a multi-berth moorage similar to a private moorage facility but for the personal use of a group or association of residents from the surrounding community;

**“Industrial Dock”** means a dock providing moorage that is ancillary to an upland general industrial use as defined under the Province’s General Industrial Use Land Use Policy;

**“Management Area”** means the Pender Harbour area identified in Appendix A;

**“Management Plan”** means the management plan as described in section 7.

**“Marina”** means a dock providing moorage on a fee for service basis, includes ancillary uses (e.g. marine way, boat ramp, etc) and may include: the sale of gasoline, groceries, or supplies to the boating public whether provided on the dock or on the upland; and provision of scheduled service by float plane companies;

**“Natural Boundary”** means the visible high water mark of any lake, river, stream or other body of water where the presence and action of the water are so common and usual, and so long continued in all ordinary years, as to mark on the soil of the bed of the body of water a character distinct from that of its banks, in vegetation, as well as in the nature of the soil itself;

**“Preliminary Field Reconnaissance”** means a field survey that is designed to assess the archaeological resource potential of the study area, and to identify the need and appropriate scope of further field studies, and is performed by a Qualified Professional under the *Heritage Conservation Act*;

**“Private Moorage Facility”** means a dock that is:

- (a) permanently affixed to aquatic Crown land and any ancillary structures such as a boat lift and anchor lines; and
- (b) is for the personal and private use by one or a number of individuals or a family unit for boat moorage;

**“Project Footprint”** means the area approved under an existing authorization, or the area under application for authorization under the *Land Act*;

**“Qualified Professional”** means 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.

**“Replacement Tenure”** means a subsequent Tenure agreement issued to the Tenure holder for the same area and purpose as under the original Tenure;

**“Riparian”** means the vegetated transitional area between terrestrial and aquatic ecosystems, and is delineated from the natural boundary upland for a distance of 15 metres;

**“Strata Title or Condominium Moorage Facility”** means a multi-berth moorage similar to a Private Moorage Facility but used by the residents of a waterfront strata or condominium development;

**“Tenure”** means

- (a) any interest in Crown land that is granted or otherwise established under a prescribed instrument, or
- (b) a prescribed designation or other status that, under an enactment, is given to, conferred on, or made or otherwise established in relation to Crown land.

and includes those Tenures which terms may have expired but are authorized by the Province to continue on a month-to-month basis.

**“Tenured Dock”** means a Dock that is authorized by a Tenure.

#### **4.0 APPLICATION OF PENDER HARBOUR DOCK MANAGEMENT PLAN**

4.1 This DMP applies to applications within the Management Area for authorization of:

- (a) the construction of a new Dock;
- (b) the relocation of a Tenured Dock within a Project Footprint;
- (c) changes to the dimensions of a Tenured Dock;
- (d) an existing Dock that was not previously authorized under Tenure; and
- (e) the repair or rebuilding of Tenured Docks damaged or destroyed by fire, explosion, flood, or other casualty. These applications will be considered and treated as applications for Replacement Tenures and will require a Management Plan.

- 4.2 This DMP does not apply to an application for a Replacement Tenure except in the following circumstances:
- (i) section 6.2 applies where no archaeological assessment over the Project Footprint was completed in the past, and
  - (ii) section 7.1(f) applies where no Management Plan is attached to the Tenure or where the Management Plan attached to the Tenure does not include information on how ongoing maintenance activities will be conducted or where such information is not consistent with the Best Management Practices as set out in section 8.0 as supported by the opinion of a Qualified Professional.
- 4.3 This DMP does not apply to applications for:
- (a) an assignment of a Tenure to a different Tenure holder;
  - (b) a consent to mortgage; and
  - (c) subject to 4.1(b) and 4.1(c), the modification of the provisions of a Tenure.

## **5.0 DOCK MANAGEMENT ZONES**

- 5.1 The Dock Management Zones within the Management Area are shown in Appendix B.
- 5.2 If a Project Footprint crosses the boundary between two Dock Management Zones, the more stringent zone requirements will apply.
- 5.3 The management objectives for each Dock Management Zone are set out in Table 1.

<b>Table 1 – Dock Management Zones</b>		
<i>Zone</i>	<i>Intent</i>	<i>Description</i>
1	The intent is to not allow new Dock Tenures in this zone due to the significant natural and cultural resources.	New Dock Tenures will not be issued.
2	The intent is to limit new Dock Tenures to those that can be shared by multiple parties or used for commercial purposes, and which are consistent with the Dock Management Plan, in order to reduce the impact on the natural and cultural resources in the area.	New tenures for Private Moorage Facilities will not be issued.
3	The intent is to allow new Dock Tenures of all types provided that they are consistent with the Dock Management Plan and the Project Footprint does not overlap with Critical Habitat.	No restrictions on the type of Dock Tenures that may be issued. The application must demonstrate that the dock does not overlap with Critical Habitat. New dock applications in which the proposed Project Footprint overlaps Critical Habitat will not be accepted.  In order to reduce the environmental impact of multiple private moorages, residents will be encouraged to pursue Group Moorage facilities or Strata Title Moorage Facilities.
4	The intent is to allow new Dock Tenures of all types provided they are consistent with the Dock Management Plan.	No restrictions on the type of Dock Tenures that may be issued.

## 6.0 APPLICATION REQUIREMENTS

### 6.1 APPLICATIONS FOR NEW TENURES

- (a) The Province will encourage prospective applicants for new dock tenures to engage with the shíshálh Nation early, prior to submitting an application.
- (b) An applicant must provide the following information as part of the application:
  - (i) the identification of any Critical Habitat within the Project Footprint and the plan for the protection of any identified Critical Habitat;
  - (ii) a Preliminary Field Reconnaissance assessment of archaeological resources in the Foreshore area of the Project Footprint; and
  - (iii) a Management Plan, including specifications regarding the design of the Dock.
- (c) The Province will initiate First Nation consultation on the application once it receives the information identified in section 6.1 (b).

### 6.2 APPLICATIONS FOR REPLACEMENT TENURES

Where an applicant seeks a Replacement Tenure the Province will:

- (a) encourage the prospective applicant to engage with the shíshálh Nation early, prior to submitting an application;
- (b) require the tenure holder to submit a Preliminary Field Reconnaissance assessment as part of the application for a Replacement Tenure where one has not been completed in the past;
- (c) require the Management Plan submitted in support of a Replacement Tenure describe how ongoing maintenance activities will be consistent with the Best Management Practices set out in Section 8.0 and supported by the opinion of a Qualified Professional, where no Qualified Professional opinion was obtained in the past.

6.3 The Province may require the applicant to submit additional archaeological assessments depending on the results of a Preliminary Field Reconnaissance of the Project Footprint and the potential impact of the proposal on First Nation interests.

6.4 Cultural materials recovered during the course of archaeological investigations should be deposited to the *shíshálh* Nation *tems swiya* Museum, subject to the requirements of the *Heritage Conservation Act*.

## **7.0 MANAGEMENT PLAN REQUIREMENTS**

- 7.1 A Management Plan for a proposed Dock or Replacement Tenure must demonstrate the following:
- (a) structures will not unduly block access along the foreshore for public access, or for First Nations harvesting of marine resources for food, social and ceremonial purposes;
  - (b) Dock construction will not include the use of native beach materials (e.g. boulders, cobble, gravel, sand, logs);
  - (c) filling, dredging, or blasting will not be undertaken within the Project Footprint;
  - (d) the Dock and Dock Footprint will be kept in a safe, clean and sanitary condition;
  - (e) all work, including dock construction, dock use, refueling of machinery and washing of buckets and hand tools, will be conducted in a manner that will not result in the deposit of toxic or deleterious substances (e.g. sediment, un-cured concrete, fuel, lubricants, paints, stains).
  - (f) ongoing maintenance activities will be consistent with the Best Management Practices set out in section 8.0, and supported by the opinion of a Qualified Professional.
  - (g) For docks that fall under 4.1, the design of the Dock is consistent with the Best Management Practices set out in section 8.0 and supported by the opinion of a Qualified Professional.
- 7.2 For new Docks, and Docks rebuilt under Sec. 4.1(e), an applicant must submit written confirmation by a Qualified Professional, confirming that the Dock was constructed in accordance with the approved Management Plan.

## **8.0 DOCK CONSTRUCTION AND MAINTENANCE GUIDELINES – BEST MANAGEMENT PRACTICES**

- 8.1 Applicable Crown Land Use policies, as amended from time to time, will apply to all applications for Tenures as well as existing Tenures in the Management Area.
- 8.2 Critical Habitats should be avoided within the Dock Footprint. Docks should not be installed over these habitats unless the design mitigates for potential impacts and does not result in losses to these habitats.
- 8.3 Design of a Dock should not include components that block the free movement of water along the shoreline. Crib foundations or solid core structures made of cement or steel sheeting should be avoided as these types of structures result in large areas of vegetation removal and erosion in Riparian areas.
- 8.4 The bottom of all floats should be a minimum of 1.5 metres above the sea bed during the lowest tide. Dock height above lowest water level should be increased if deep draft

vessels are to be moored at the Dock. The Dock and the vessel to be moored at the Dock should not come to rest on the foreshore sea bed during the lowest tide of the year.

- 8.5 Access ramps or walkways should be a minimum of 1.0 metre above the highest high water mark of the tide and not exceed a maximum width of 1.5 metres.
- 8.6 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, consistent with Federal requirements under Transport Canada's *Navigable Waters Protection Act*. All Docks should be orientated at right angles to the general trend of the shoreline.
- 8.7 Docks should be constructed to allow light penetration under the structure. Light penetration is important and can be facilitated by spacing the decking surface of the Dock and minimizing the width of the structure. North/south Dock alignments are encouraged whenever possible to allow light penetration.
- 8.8 Grating should be incorporated into ramps, walkways, or floats to increase light and reduce shading of the bottom. When grating is impractical, deck planking measuring 15cm (6 in) and spaced at least 2.5cm (1 in) should be used to allow light penetration.
- 8.9 The replacement of the decking surface of a Dock should be undertaken in a manner that is consistent with sections 8.7 and 8.8.
- 8.10 Concrete, steel, treated, or recycled timber piles are acceptable construction materials although steel is preferred. Detailed information on treated wood options can be obtained on-line from the Fisheries and Oceans Canada website (*Guidelines to Protect Fish and Fish Habitat from Treated Wood Used in the Aquatic Environment in the Pacific Region*).
- 8.11 Access to the Foreshore for construction purposes should be from the adjacent upland property wherever possible. If heavy equipment is required to work on the Foreshore or access is required along the Foreshore then the advice of a Qualified Professional or Fisheries and Oceans Canada should be obtained.
- 8.12 Works along the Foreshore should be conducted when the site is not wetted by the tide.
- 8.13 Applicants are advised to contact Fisheries and Oceans Canada to ensure proposed activities, and the scheduling of those activities, complies with Fisheries and Oceans Canada requirements including the fisheries works window.
- 8.14 The upland design of the Dock, including anchor points, should avoid disturbing riparian vegetation adjacent to the Dock Footprint due to its role in bank stabilization and erosion control.

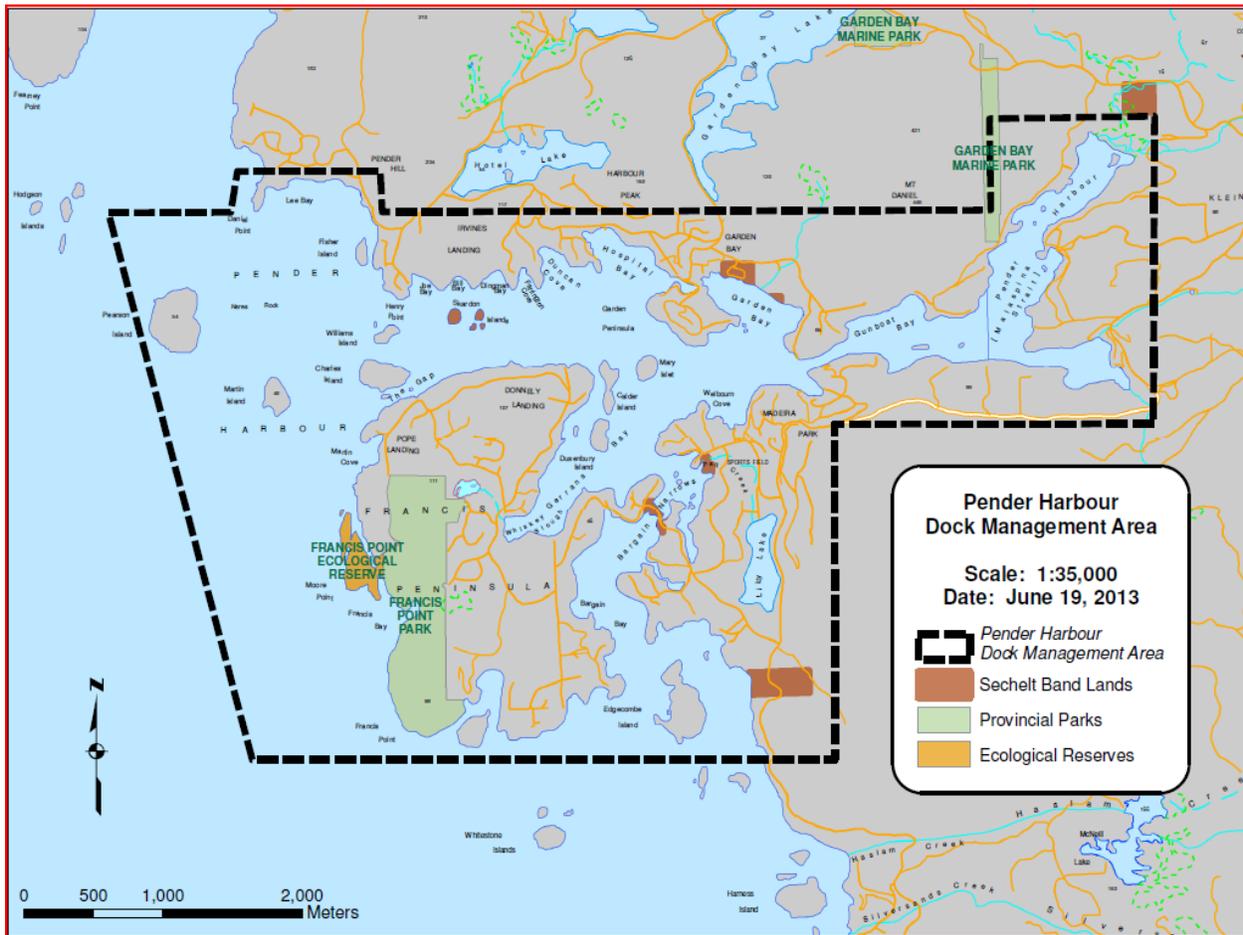
## 9.0 APPENDICES

Appendix A Pender Harbour Dock Management Area Map

Appendix B Pender Harbour Dock Management Zone Map

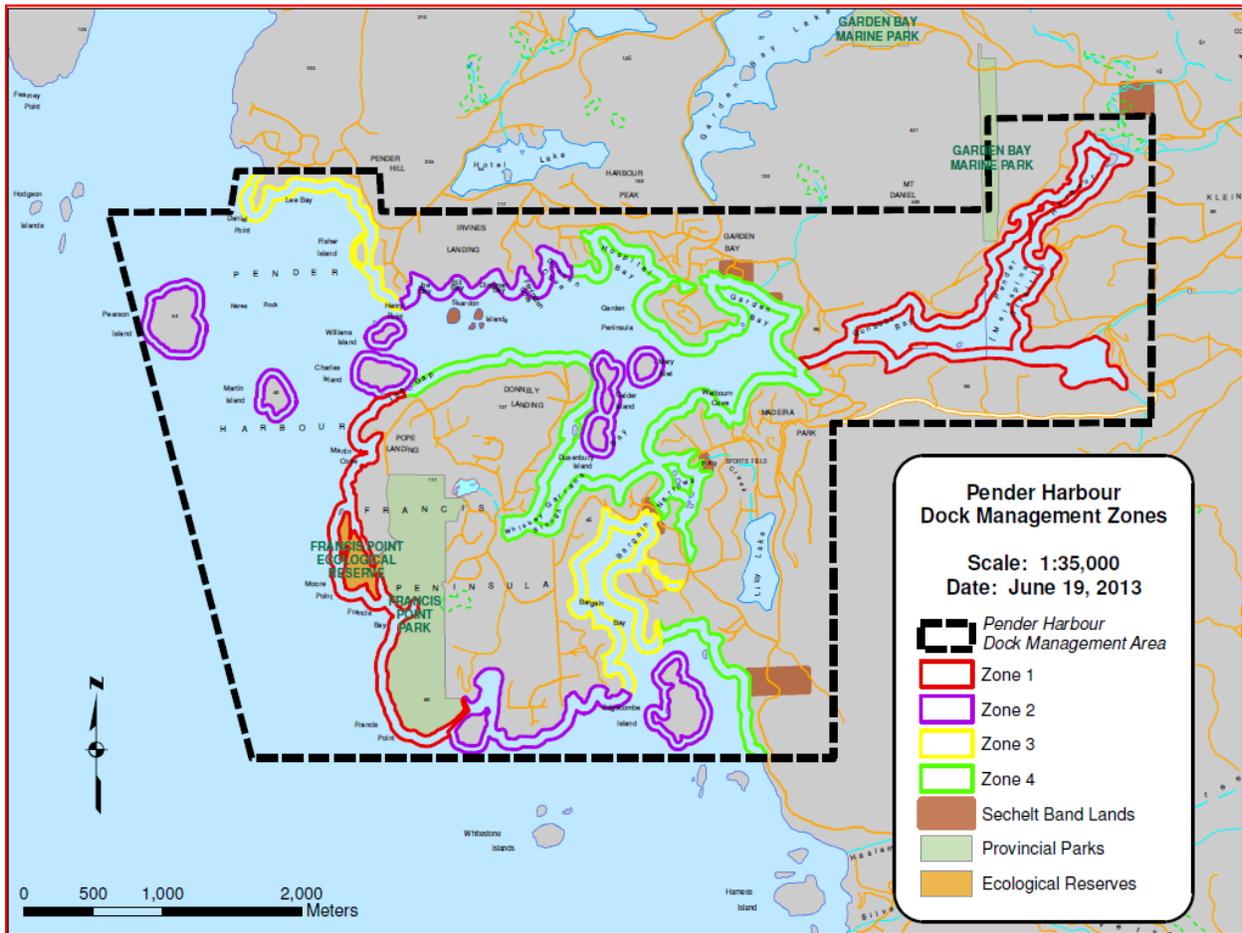
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## Appendix A - Pender Harbour Dock Management Area Map



Note: Original map located with the Ministry of Forests, Lands and Natural Resource Operations:  
(shared drive/maps/Pender Harbour/map\_pender\_harbour\_dock\_management\_area\_jun2013)

## Appendix B - Pender Harbour Dock Management Zone Map



Note: Original map located with the Ministry of Forests, Lands and Natural Resource Operations:  
([shared drive/maps/Pender Harbour/map\\_pender\\_harbour\\_dock\\_management\\_zones\\_jun2013](shared drive/maps/Pender Harbour/map_pender_harbour_dock_management_zones_jun2013))