

# Capital Regional District

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## What We Heard Summary Report:

### Regional Workshop: Collaborative Action to Resolve Boat-Related Issues in the Capital Region

Capital Regional District | July 2024

The following provides a “What We Heard” summary report from the CRD’s Regional Workshop: Collaborative Action to Resolve Boat-Related Issues in the Capital Region held on April 30, 2024.

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## Introduction

The unregulated placement of private mooring buoys (PMBs) and proliferation of long-term moored boats, along with an increase in derelict, abandoned and wrecked boats in many bays and harbours throughout the region, have become problematic for several municipalities.

At the January 17, 2024 meeting, Capital Regional District (CRD) staff provided a report to the CRD Board outlining the scope of this issue and provided options for regulation of PMBs that are within the scope of local government control for consideration. The Board directed staff to host a regional workshop to discuss these options and determine if a coordinated strategy is needed.

The CRD Regional Workshop: Collaborative Action to Resolve Boat-Related Issues in the Capital Region, held on April 30, 2024, brought together First Nations, municipal staff, elected officials as well as provincial government staff to review options to reduce or eliminate issues associated with a proliferation of boats and unregulated placement of PMBs in the capital region.

The workshop aimed to meet the following goals:

- |               |   |
|---------------|---|
| <b>Goal 1</b> | Discuss the proposed local government options to determine if a coordinated strategy is needed,   |
| <b>Goal 2</b> | Determine appropriate locations to address the apparent need for long-term boat storage, and  |
| <b>Goal 3</b> | Identify opportunities for regional advocacy to provincial and federal governments to assist local government in providing resolution to ongoing boat issues in the region. |

The workshop was hosted virtually and in person by the CRD and was attended by 57 local government, First Nations, and provincial staff and council members. A package of information was provided to all participants in advance of the workshop (Appendix A). This report provides an overview of the workshop, local government options considered, highlights six themes that emerged and considers possible next steps.

## Workshop Overview

To ensure workshop attendees had a thorough understanding of the boat-related issues and their complexity, CRD staff outlined the scope and scale of boat-related issues in the Capital Region and described the impacts on our coastal communities. Islands Trust staff then emphasized the further complexity of boat-related issues with the intersection of the housing crisis that currently persists on many of the Gulf Islands, particularly Salt Spring Island. CRD staff summarized the jurisdiction, interests, and roles of First Nations, federal and provincial agencies, and local governments, followed by an overview of the federal, provincial and local government legislation and policy tools that are, or could

be used, to resolve many of these issues. This included a more in-depth look at specific regulations pertaining to PMBs and wrecked, abandoned and hazardous vessels. Presentation materials can be found in Appendix B.

The remainder of the workshop was discussion-based. Attendees went into small breakout groups to have focused conversations on the benefits and challenges of three proposed local government options for regulating boat-related issues, and group facilitators reported out on the conversations. The workshop concluded with a large group discussion on the key issues, with a focus on collaborative action and possible next steps. Notes from these discussions are summarized in Appendix C.

## Local Government Options

Through zoning, land use and structure bylaws, local governments can better manage boat-related use of lands within their metes and bounds by regulating the placement and number of PMBs and regulating the structures associated with the PMBs and regulating uses (e.g., liveaboard, boat storage). Doing so would reduce the need for local governments to respond to incidents of derelict, abandoned and wrecked boats and could address many of the environmental, safety and neighbourhood concerns expressed by the impacted communities.

Three options for PMB regulation that are fully within local government control were presented and examples of successful implementation by other local governments in British Columbia were provided.

These options were:

**Option 1** Prohibit public mooring buoys (PMBs) through zoning and land use bylaws

**Option 2** Regulate allowable harbour uses, the number of and placement of PMBs and allowable structures through zoning, land use and structure bylaws

**Option 3** Allow PMBs and charge a fee through Licence of Occupation (LOO)

In small breakout groups, workshop attendees discussed the benefits and challenges of each option and reported their findings back to the larger group. A brief synopsis of the benefits and challenges for each option is provided in Table 1; full notes from small breakout group discussions can be found in Appendix C.

**Table 1. Benefits and challenges of three local government options to regulate private mooring buoys (PMBs)**

	Benefits	Challenges
<b>Option 1 Prohibit PMBs through Zoning, Land Use and Structure Bylaws</b>	<ul style="list-style-type: none"> <li>• 'Simple' blanket approach to enforcement</li> </ul>	<ul style="list-style-type: none"> <li>• Restriction does not address the foundational issues</li> <li>• Housing/displacement of liveaboards</li> <li>• Potential increase in anchoring (damage to seafloor)</li> </ul>
<b>Option 2 Regulate PMBs through Zoning, Land Use and Structure Bylaws</b>	<ul style="list-style-type: none"> <li>• Flexibility: would allow areas of protection while allowing boats and better reflect community needs</li> <li>• Bylaws/zoning - familiar tools for local governments</li> </ul>	<ul style="list-style-type: none"> <li>• Communication: working between varied groups/governments</li> <li>• No clear path to funding</li> <li>• Liability: structure bylaws could affect existing vessels</li> <li>• Infrastructure and support services</li> </ul>
<b>Option 3 Enter into a Licence of Occupation with the Province to Regulate PMBs and Recover Fees</b>	<ul style="list-style-type: none"> <li>• Revenue, and potential for cost neutral</li> <li>• Public perception: user-pay a more 'fair' option</li> </ul>	<ul style="list-style-type: none"> <li>• Legal/liability concerns, including contamination, unknown risks, First Nation rights and title</li> <li>• Communication/collaboration - LOO taken out by CRD or Islands Trust?</li> <li>• Enforcement/collection</li> <li>• Adaptability - less flexible for local governments</li> </ul>

While benefits and challenges were identified with all three options, it was clear that the diverse community needs and varied magnitude of boats and PMBs in the different harbour areas will require a flexible yet consistent approach across the region.

Option 1 received the least support, while Options 2 and 3 received higher support due to the increased flexibility and ability to establish a more consistent regional approach. Funding and capacity for enforcement and provision of services was a significant concern for all options. The ability to charge fees to recover costs through a LOO under Option 3 was desirable; however, substantial apprehension regarding the potential transfer of liability to local governments due to clauses within the LOO agreement outweigh the ability to collect fees for some local governments. None of the options

resolved the foundational and underlying issues driving the proliferation of boat communities and moorage areas throughout the region.

## Overarching Themes

### Theme 1: Cumulative Environmental Effects

The environmental issues caused by deregulation and the subsequent proliferation of PMBs and the corresponding increase in abandoned and wrecked boats in the capital region were undisputed during this workshop.

Impact on these ecosystems, particularly in terms of cumulative effects, was central to the sense of urgency and scale surrounding the issue. It was also noted that cumulative effects are a relatively new consideration in some provincial and federal legislation and need to be considered in relation to issues around proliferations of PMBs and boats/structures. This means that environmental impacts and certain supporting documentation, especially in terms of surveys and studies related to PMBs and liveaboards, may be required.

All represented communities had a strong desire for change, and the ‘complexity’ and ‘challenges’ which were the focal points of discussions were not seen as insurmountable compared to the desire to better protect these important coastal environments.

“At what concentration of these so-called minor works does it stop being minor?”

“We have to commit to do this together, we have to do it sooner rather than later”

### Theme 2: Diverse Community Needs and Housing Considerations

Recognition of diverse community needs and impacts, housing considerations and the desire for flexibility and adaptability within the regulatory options in affected harbour areas were prominent themes throughout the discussions. Staff presentations highlighted how interwoven the proliferation of PMBs, boats/structures and liveaboards are with the accessible and affordable housing crisis, especially on Salt Spring Island. Both the effect and public fallout that all options would have on these communities was top of mind and one of the leading reasons that Option 1 was considered, by many, to be insufficient.

The ubiquitous nature of PMBs and boat/structure proliferation, intersections with housing and other social issues, lack of dock space to moor boats across the region, and potential impact of action in one area or another (i.e., moving the problem around) featured prominently in the discussions. It was stressed that consideration of regulatory impacts must be involved in all stages of planning and implementation of any potential solutions.

In the areas of the region affected by this issue, there exists a significant disparity in scale: compare 138 boats in Ganges Harbours with 23 boats in the entirety of the Sooke Basin. Those areas with over 100 PMBs and boats/structures (such as Ganges Harbour, Brentwood Bay and Tsehum Harbour) most often lack the amenities and services required for these floating communities (pump out facilities, showers, garbage disposal and recycling, shore-based dinghy tie-up and access points). This often contributes to the complaints expressed by the surrounding communities impacted by dumping of garbage and sewage, trespassing on private and public property, shore areas taken up by dinghies, and concerns for the environment. Most of the local governments are funding and resource challenged, leading to an inability to provide needed services. On the Gulf Islands, while the Islands Trust is responsible for land use and planning, the CRD or Improvement Districts are responsible for provision of sewage treatment and drinking water facilities and services, which further complicates the matter. The potential role of marinas in provision of some services and amenities was also discussed.

"The people who live on these boats are also members of our community – many of them contribute economically and socially to community life."

"The housing dilemma, it's not just a matter of cleaning up garbage, the human side of this matters... Figuring out where people can go is not something that the local government can do alone."

Each affected harbour area has differing issues, community needs, resources and services, therefore, individual local governments and First Nations communities need to define their desired outcomes and what they wish to achieve in their areas of jurisdiction and interest (i.e., do they want to provide for and manage PMBs and related boats, do they want to recover costs, do they want to/need to provide associated shore services, what level of protections are needed for key environmental and cultural features). This will help to inform regional actions and direction.

When confronted with this challenge, many advocated for a solution centered on research and representation. For instance, the development of resources aimed at better understanding community needs, such as an inventory of liveaboard boaters. Workshop participants sought solutions that were scalable to the unique requirements of their communities and their diverse needs.

Local government staff in the region could collaboratively develop model land use, structure and zoning bylaw language. Over the short-term, a collaborative approach from a place of local government control is likely to achieve improvements more quickly than awaiting the results of advocacy to the provincial and federal governments.

"These issues are harbour dependant and site specific. [Thus] a one size fits all approach would not be appropriate."

"Comparing Salt Spring with Port Renfrew... some harbours have more active problem areas than others...rather than try to tackle it all at once, work with problem areas [first] and apply solutions gleaned from problematic areas."

### Theme 3: Enforcement and Capacity Issues

The ongoing challenges of staff capacity and funding, along with enforcement capacity constraints and multi-jurisdictional complexities of enforcement, was a dominant theme in all workshop discussions and was expressed by all levels of government and First Nations representatives.

The federal government is largely responsible for the regulation of PMBs, yet enforcement of PMBs from Transport Canada staff's perspective is limited to their proximity to navigation channels and other PMBs or compliance with colour, size and markings of the buoys as per the PMB regulations and Minor Works Order. Transport Canada and Coast Guard staff also struggle with a lack capacity and resources, hampering their ability to enforce compliance with Minor Works Order and PMB regulations. The federal government is also responsible for boat safety, wrecked, abandoned and hazardous vessels, navigation, migratory bird sanctuaries and protection of fish habitat.

The Province, on the other hand, has chosen not to regulate the placement of PMBs on provincial seabed, despite its ability to do so and its deference to federal authority is problematic for local governments and coastal communities. Lack of capacity and the small footprint of PMB anchor blocks were cited as the main reasons that the Province's Policy on Private Moorage purposefully excludes PMBs; however, cumulative effects of large proliferations of PMBs and boats must be considered.

Local government staff across the region expressed lack of staff capacity and funding as key constraints in taking any action. Enforcement action of PMBs, and the associated boats and structures, and the requirement to post notices on vessels to have them declared wrecked, abandoned or hazardous is further limited by their lack of access to a boat. Proliferation of floating communities and the lack of regulation in appropriate uses has also led to an increased need for policing and fire services in some areas. In certain instances, staff were directed not to enforce existing bylaws due to housing issues.

As concerns surfaced regarding the adequacy of current enforcement mechanisms, it became evident that each stakeholder had distinct roles and enforcement jurisdictions. Each local, provincial and federal agency is responsible for different aspects of what needs to be enforced in problem areas and there is little coordination between agencies, although attempts to coordinate enforcement have been made.

Regular and collaborative enforcement among all levels of government would enable cross-jurisdictional compliance with all levels of regulation and was an approach that workshop participants thought should be considered. Many participants stressed that effective enforcement of PMB, boat and land use regulations would require working across a diverse group of stakeholders in all facets of planning and implementation, especially as it concerned issues of funding, enforcement and administration required by the three PMB options.

Examining successful PMB regulation models in communities such as the City of Victoria and Manion Bay demonstrated that initial investments in enforcement yielded rapid returns, with enforcement demands diminishing as community adherence solidified. While there were no easy answers to where these resources could come from, defining enforcement as a key constraint was an important part of discussion.

Participants emphasized the need for collaborative efforts to overcome these capacity issues and ensure effective enforcement measures are implemented.

“All three options are great, but the costs associated and the burden of that is really hard, [and] would fall most heavily to municipalities”

“It’s water-world out there... regulation without enforcement will not work”

#### Theme 4: First Nations Perspectives and Priorities

A recurring theme in group discussions was the significance of incorporating First Nations perspectives and priorities when addressing these issues. During breakout sessions, participants raised questions concerning how the regulation or restriction of PMBs would impact First Nations' rights and title, as well as their access to cultural and harvesting sites.

First Nations representatives at the workshop wanted to ensure meaningful participation and respect for their interests, including hunting and fishing rights, cultural practices and self-governance.

Discussions also emphasized the evolving role of First Nations, particularly concerning coastal areas. Through the provincial Coastal Marine Strategy, the role of First Nations regarding the seabed and marine environment may evolve. This discussion underscored the importance of collaboration and relationship-building with First Nations communities. Participants agreed that any actions moving forward to address boat related issues need to include First Nations.

“We know it’s not just about harvesting, it’s not just about access, we know it’s also about degradation to cultural sites. We know its also about not respecting the ancestors.”

“These ideas need to be brought to different indigenous groups sooner than later so they can discuss what parts they want to participate in and what actions need to be taken.”

### Theme 5: Advocacy and Coast-wide Solutions

In 2023, there were an estimated 1,185 private mooring buoys and 862 boats and structures creating floating communities and floating moorage areas throughout 21 bays and harbours in the capital region. A review of orthophotos in 1996, 2005, 2013 and 2023 revealed a significant increase in PMBs with attached boats or other structures following transfer of authority from Fisheries and Oceans Canada (DFO) to Transport Canada, and subsequent inclusion of PMBs as a minor works and removal of authorization requirement in 2009.

Furthermore, the lack of provincial regulation around the placement and use of PMBs on provincial seabed and their deference to federal authority is problematic for local, coastal waters and communities. Workshop participants were clear that the unpermitted and long-term placement of PMBs and associated boats and structures on provincial crown land needs to be regulated by the Province. If a similar situation occurred on terrestrial provincial crown land, the Province would consider it trespassing and would require the trespasser to move on. Advocacy on this is essential to achieving a coast-wide solution. Organizations such as the Association of Vancouver Island Coastal Communities and the Union of BC Municipalities were cited as examples of partner organizations that, if collaborated with, could aid in advocacy efforts.

Given the challenges of capacity, funding, enforcement and liability that restricted the support of Options 2 and 3, workshop participants were resolute that progress on these issues must engage both federal and provincial authorities. As many highlighted, this issue transcends our region - it is coastal in nature, and the engagement of higher levels of government could serve as a catalyst for overcoming the key challenges of this project.

The inventory and regional context highlighted how deregulation at the federal level and lack of regulation at the provincial level has exacerbated a growing problem for coastal communities across this region and coastal British Columbia. The Regional Boats Workshop affirmed the need for ongoing advocacy to federal and provincial agencies to improve PMB regulation, achieve a coast-wide solution, and to move forward with a collaborative approach.

"This is a problem that has been created by deregulation, or the absence of regulation at higher levels of government... so there is a fourth option which includes advocating directly to federal and provincial governments."

"We're not the only region, not the only area, dealing with this. It is a coast issue now and we need a coastal solution"

## Theme 6: Collaboration

The complex and multi-jurisdictional regulatory framework regarding PMBs, boats and structures, administration and control of the seabed, land use planning and provision of services underscored most discussions. The absolute necessity of collaboration across multiple levels of government and with First Nations was perhaps the strongest theme emerging from the workshop.

In addition to the 13 municipalities and three electoral areas, the capital region's lands and waters have 19 First Nations with treaty rights and title to shellfish harvesting, fishing and environmental stewardship, as well as four provincial and five federal departments with some level of legislative control or interest.

Many participants noted the jurisdictional complexity detailed above and stressed that effective regulation of PMB would require working across a diverse group of stakeholders in all facets of planning and implementation, especially as it concerned issues of funding, enforcement and administration required by the three PMB options. A working group or 'task force,' especially in the planning stages of this work, was proposed as a solution to encourage collaboration and could be utilized to coordinate action.

Workshop participants made it clear that the continued increase in PMBs and boats, and ongoing challenges with capacity and funding, will require timely, collective and coordinated action across the region. The need for federal and provincial leadership in creating a coast-wide solution by enhancing or creating improved policy and legislation around PMBs to assist local governments in dealing with the multiple issues across the coast was also identified as a critical next step. Similarly, the importance of meaningful engagement and consideration of impacts to First Nations rights and title and desire for collaborative solutions should be considered moving forward. A coordinated regional and coastal approach, with significant leadership from the Province, emerged as a crucial framework through which to take next steps.

"I believe the way forward is collaboration, absolutely."

"[what is needed is] a coordinated approach with resources behind it to bring a fulsome answer to the table"

## Opportunities to Move Forward

Following the workshop, CRD staff reviewed all materials and notes to chart a proposed approach to achieve resolution to boat-related issues in the capital region.

### 1. Identification of local government objectives and desired outcomes for each harbour area

This could include:

- identifying important marine habitat and cultural areas that require improved protection
- identifying suitable areas for boat communities and moorage areas
- identifying appropriate uses, zoning and defining structure requirements through appropriate land use, zoning and structures bylaws
- defining needed services/facilities for the defined uses
- engaging with appropriate First Nations communities
- improving enforcement capacity

### 2. Coordinated regional action to achieve short term improvements

This could include:

- establishment of a collaborative, regional working group
- meaningful engagement and discussions with First Nations partners to determine their interests and desired level of involvement
- creation of consistent bylaw language pertaining to zoning, uses and structures for PMBs, long-term boat use and liveaboards that can be used by local governments to amend appropriate bylaws
- developing a more rigorous inventory of boats, PMBs and liveaboards
- support for the identification of important habitat and cultural areas, as well as areas suitable for proliferations of boats and PMBs
- obtaining legal input on identified liability and legal concerns
- exploring collaborative enforcement options

### 3. Continued advocacy to provincial government for coast-wide solutions

This could include:

- requesting assistance and leadership in developing a longer-term coast-wide solution to provide assistance to local governments in resolving these issues
- bringing motions at Association for Vancouver Island Coastal Communities and Union of BC municipalities requesting that the Province establish a working group or task force
- create funding opportunities to support local governments in resolving issues happening within their metes and bounds
- encouraging improved regulation and policy regarding placement of PMBs on provincial crown land (seabed)

#### 4. Continued advocacy to federal government

This could include:

- requesting assistance and leadership in developing a longer-term coast-wide solution to provide assistance to local governments in resolving the issues related to the proliferation of PMBs and associated boats/structures in harbour areas
- amending Minor Works Regulation and PMB regulations to include prohibitions around placement in important habitat and cultural areas, such as eel grass habitat, estuary areas, clam harvesting areas and critical habitats
- collaborative enforcement and supporting local governments in realigning PMB locations, as necessary

Advocating to provincial and federal governments for support will take some time and it is anticipated that any legislative improvements will be a longer-term solution. The desire for immediate action and resolution over the short term requires local governments to continue to pursue a solution within local government control. This will enable a faster and more urgent response that can be flexible to meet the needs of each local government and harbour area.

CRD staff suggest that local government staff begin working towards actions 1 and 2 above, while elected officials focus on continued advocacy as outlined in actions 3 and 4 above.

## Challenges to Moving Forward

Funding and capacity issues at all levels need to achieve a resolution to move forward with the proposed approaches outlined above. The urgency and continued growth of these issues in this region present ongoing challenges.

### 1. Funding and Resourcing

The financial implications of dealing with the growing proliferation of boats and PMBs are potentially significant and continue to impact the ability of all levels of government and First Nations communities to resolve some of these issues. Reliance by all levels of government for another level of government to provide funding and resources to resolve these issues has, in some ways, led to a state of collective inaction. A regional approach would achieve economies of scale and efficiencies by working together; however, appropriate resources and staffing at all levels will be required.

What we heard from workshop participants was that, given the challenges of capacity, funding, enforcement and liability, none of the proposed options were deemed sufficient without corresponding advocacy to and involvement from higher levels of government.

### 2. Need for Urgency and Diligence

During the workshop, it was noted how dramatically the context of these issues has changed in the last 10 years, and how rapidly they are continuing to evolve. This emphasizes two crucial points: first, the urgency for action to address a rapidly growing problem in our coastal communities; and second, the imperative to undertake this task diligently. The overwhelming consensus from all workshop discussion was the importance of working collaboratively, drawing from diverse perspectives and grounded in a deep understanding of the multifaceted, jurisdictional complexities defining the issue and moving forward with a sense of urgency and diligence.

## Conclusion

The proliferation of long-term moored boats and the corresponding increase in abandoned derelict or wrecked boats are a direct result of the unregulated placement of PMBs. Dealing with derelict, abandoned and wrecked boats requires complex jurisdictional oversight and significant municipal resources. Local governments can control the presence or absence of PMBs within their metes and bounds and need to consider their next steps and, in some cases, need to increase enforcement of existing regulations.

Meaningful progress necessitates local government engagement with federal, provincial and First Nations partners, which includes advocating directly to higher levels of government for support and legislative changes, while also collaborating with local and municipal governments to develop

resources and take prompt action. A working group was discussed as a way of facilitating collaboration on next steps, which will include advocacy efforts and resource development.

A coordinated regional and coastal approach emerged as a crucial framework through which to take on next steps. A regionally coordinated approach is also needed to achieve economies of scale, a consistent approach and to avoid moving the problem around the region. Continued and ongoing advocacy to federal and provincial governments for leadership and assistance is also required to navigate the complexities of these issues. However, resolving capacity and funding issues are barriers that must be overcome. It is also vital to ensuring a sustainable future for our coastal communities.

## Appendix A – Agenda and Supporting Documents



### Regional Workshop: Collaborative Action To Resolve Boat-Related Issues In The Capital Region



## Agenda

9:00	<b>Welcome and Opening Remarks</b> <ul style="list-style-type: none"> <li>Menti Poll: What organization are you with?</li> </ul>	<b>Glenn Harris</b> <i>Senior Manager, Environmental Protection, CRD</i>
9:10	<b>Presentation:</b> <b>Addressing Boat-Related Issues in the Capital Region</b> <ul style="list-style-type: none"> <li>Scope and Scale of the Problem</li> <li>Islands Trust: Issues on the Gulf Islands</li> <li>Jurisdictions &amp; Legislation</li> <li>Local Government Options and Examples</li> </ul>	<b>Jody Watson</b> <i>Supervisor Environmental Stewardship &amp; Initiatives, CRD</i>  <b>Chris Hutton</b> <i>Regional Planning Manager, SSI, Islands Trust</i>  <b>Warren Dingman</b> <i>Manager Compliance &amp; Enforcement, Islands Trust</i>
10:00	<b>Breakout Discussions</b> <ul style="list-style-type: none"> <li>Local Government Options - Challenges and Benefits</li> </ul>	All
10:45	<b>Break - Light refreshments will be served</b>	
11:00	<b>Breakout Discussions</b> <b>Suggested Topics:</b> <ul style="list-style-type: none"> <li>Interjurisdictional Coordination</li> <li>Enforcement</li> <li>Next Steps</li> </ul>	All
11:40	<b>Next Steps / Close</b>	<b>Glenn Harris and Jody Watson</b> <i>CRD</i>

## PRIVATE MOORING BUOYS – REGULATION OPTIONS

January 2024

DESCRIPTION	OPTION 1 Prohibit Private Mooring Buoys through Zoning, Land Use and Structure Bylaws	OPTION 2 Regulate Private Mooring Buoys through Zoning, Land Use and Structure Bylaws	OPTION 3 Enter into a Licence of Occupation with the Province to Regulate Private Mooring Buoys and Recover Fees
<b>Summary Description</b>	<ul style="list-style-type: none"> <li>Through zoning and land use bylaws, local government prohibits the placement of Private Mooring Buoys (PMBs) within their metes and bounds.</li> </ul>	<ul style="list-style-type: none"> <li>Regulate the number of and/or location of PMBs through land use and structure bylaws.</li> <li>Regulate allowable structures on the PMBs through Land Use and Structures bylaw.</li> <li>No moorage fees are recovered by local government.</li> </ul>	<ul style="list-style-type: none"> <li>Local government enters into crown land tenure through a Licence of Occupation, with an approved management plan, that defines the maximum number of moorages within the tenure area and terms of use for the moorages.</li> <li>To charge mooring fees and recover costs, a local government would need to enter into a Licence of Occupation with the Province.</li> </ul>
<b>Local Government Role</b>	<ul style="list-style-type: none"> <li>Develop or amend land use and structure bylaws to prohibit the placement of PMBs.</li> <li>Enforcement of bylaws (this could include the removal/relocation of buoys).</li> </ul>	<ul style="list-style-type: none"> <li>Determine appropriate number and locations for PMBs and long-term storage of boats.</li> <li>Develop or amend land use and structure bylaws to regulate the placement and number of PMBs.</li> <li>Provision of shore services and amenities (i.e., location for row boats/garbage/sewage discharge).</li> <li>Enforcement of bylaws.</li> </ul>	<ul style="list-style-type: none"> <li>Develop a management plan for each harbour area.</li> <li>Negotiate Licence of Occupation with the Province.</li> <li>Develop or amend land use and structure bylaws to regulate the placement and number of PMBs.</li> <li>Set up a registration and payment system.</li> <li>Provision of shore services and amenities (i.e., location for row boats/garbage/sewage discharge).</li> <li>Enforcement of bylaws.</li> </ul>

## Private Mooring Buoys Regulation Options

2

IMPLICATIONS	OPTION 1 Prohibit Private Mooring Buoys through Zoning, Land Use and Structure Bylaws	OPTION 2 Regulate Private Mooring Buoys through Zoning, Land Use and Structure Bylaws	OPTION 3 Enter into a Licence of Occupation with the Province to Regulate Private Mooring Buoys and Recover Fees
<b>Financial Implications</b>	<ul style="list-style-type: none"> <li>Enforcement of bylaws.</li> </ul>	<ul style="list-style-type: none"> <li>Provision of shoreline amenities (garbage, access for small boat tie up area, sewage pump out facility).</li> <li>Enforcement of bylaws.</li> </ul>	<ul style="list-style-type: none"> <li>Signage at wharf/access point.</li> <li>Provision of shoreline amenities (garbage, access and small boat tie-up area, sewage pump out facility).</li> <li>Moorage buoy placement and maintenance.</li> <li>Administration of moorage fees.</li> <li>Enforcement of bylaws.</li> </ul>
<b>Environmental Implications</b>	<ul style="list-style-type: none"> <li>Reduce or eliminate issues with derelict, abandoned and wrecked boats.</li> <li>Eliminate depending on senior levels of government to better regulate PMBs and problem boats.</li> </ul>	<ul style="list-style-type: none"> <li>Due to the ability to regulate structures, local government would be able to set conditions on the types of structures attached to PMBs, which could significantly alleviate issues with derelict, abandoned and wrecked boats.</li> <li>Through land use bylaws, local government could determine where they would accommodate PMBs and they could also determine if/where liveaboards would be accommodated.</li> <li>Local government could implement a permit requirement to easily control placement of PMBs and regulate appropriate uses. Permit conditions could include meeting new federal boat registration and licencing requirements, set time limits on boat moorage, among many other things, and could be revoked if not adhered to.</li> </ul>	<ul style="list-style-type: none"> <li>Due to the ability to regulate structures, local government would be able to set conditions on the types of structures attached to PMBs, which could significantly alleviate issues with derelict, abandoned and wrecked boats.</li> <li>Through land use bylaws, local government could determine where they would accommodate PMBs and they could also determine if/where liveaboards would be accommodated.</li> <li>Local government could implement a permit requirement to easily control placement of PMBs and regulate appropriate uses. Permit conditions could include meeting new federal boat registration and licencing requirements, set time limits on boat moorage, among many other things and could be revoked if not adhered to.</li> </ul>

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## Private Mooring Buoys Regulation Options

3

IMPLICATIONS	OPTION 1 Prohibit Private Mooring Buoys through Zoning, Land Use and Structure Bylaws	OPTION 2 Regulate Private Mooring Buoys through Zoning, Land Use and Structure Bylaws	OPTION 3 Enter into a Licence of Occupation with the Province to Regulate Private Mooring Buoys and Recover Fees
<b>Intergovernmental Implications</b>	<ul style="list-style-type: none"> <li>• Likely that a number of boats will try to move into other harbours and bays, which could exacerbate/create boat issues for other local governments.</li> <li>• Need for regional discussions to address the need for long-term boat mooring (storage) with appropriate shore facilities.</li> </ul>	<ul style="list-style-type: none"> <li>• Less impact on other local governments and other harbours and bays.</li> </ul>	<ul style="list-style-type: none"> <li>• Less impact on other local governments and other harbours and bays.</li> </ul>
<b>Legal Implications</b>	<ul style="list-style-type: none"> <li>• Legal review to determine implications if a bylaw is put into place after PMBs have been in place for some time.</li> </ul>	<ul style="list-style-type: none"> <li>• Legal review to determine implications if a bylaw is put into place after PMBs have been in place for some time.</li> </ul>	<ul style="list-style-type: none"> <li>• Legal review to determine potential environmental liability to Local Government from Province, as a result of clauses in the Licence of Occupation template.</li> </ul>
<b>Enforcement Implications</b>	<ul style="list-style-type: none"> <li>• Initial enforcement requirements may be high in areas where current bylaws prohibit PMBs but that have not been enforced.</li> <li>• Similarly, enforcement could be high.</li> <li>• Once this is complete, long-term and ongoing enforcement would be minimal.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing enforcement of zoning, land use and structure bylaws.</li> </ul>	<ul style="list-style-type: none"> <li>• Ongoing enforcement of zoning, land use and structure bylaws.</li> </ul>

## BOAT MANAGEMENT EXAMPLES BY LOCAL GOVERNMENT

April 2024

**Mannion Bay, Bowen Island**

<b>Objective</b>	Bowen Island Municipality has a Licence of Occupation for Mannion Bay, for the purpose of restoring environmental and community well-being to the area
<b>Key Document Links</b>	<a href="#">Mannion Bay Revitalization - Bowen Island Municipality</a> <a href="#">Bylaw No. 418 - Use of Beaches and Water Areas Bylaw</a> <a href="#">Bylaw No. 419 - Notice Enforcement Amendment Bylaw</a> <a href="#">Licence of Occupation, December 2016</a> <a href="#">Bylaw No. 57 Land Use Bylaw</a>
<b>Description &amp; Background</b>	
<ul style="list-style-type: none"> <li>The revitalization of Mannion Bay was identified by council as an objective in 2013. Mannion Bay had long-stay anchorages, floating storage units, live-aboards and abandoned boats. Debris and environmental degradation were key issues and the community was no longer swimming or accessing the area due to pollution.</li> <li>The "first wave" of Mannion Bay clean up was completed on March 31, 2014. Under the authorization of Transport Canada and the Ministry of Forests, Lands and Natural Resource Operations (MFLNRO) numerous contravening vessels, floating docks and mooring buoys were removed from the Bay (out of 52, 28 were removed, 5 were impounded and several submerged were also removed). To avoid federally legislated removal and disposal, many owners brought their mooring buoys into compliance with the Transport Canada Private Mooring Buoy Regulations.</li> <li>A management strategy was developed in 2014 to ensure socioeconomic stability and environmental vibrancy. It included 5 key areas:               <ol style="list-style-type: none"> <li>Obtaining a Licence of Occupation for Mannion Bay</li> <li>Land Use Bylaw Amendments</li> <li>Bylaw Enforcement Strategies</li> <li>Social Planning</li> <li>Environmental Assessment</li> </ol> </li> <li>In 2014 working with the MFLNRO – the provincial land act provision pertaining to untenured floating dock structures was enforced and 7 structures were removed along with associated vessels.</li> <li>Vessel inventories are now completed twice per year. Community groups are conducting fish surveys and volunteer beach and dive clean-ups are occurring.</li> </ul>	
<b>Current Requirements</b>	
<p>If you own a boat in Mannion Bay, you are required to provide to Bowen Island Municipality:</p> <ul style="list-style-type: none"> <li>Your name and proof of ownership</li> <li>The name of your boat and license information</li> <li>Your contact information (on Bowen Island, please)</li> <li>Proof that you have third party liability insurance</li> </ul> <p>If you have a mooring buoy in Mannion Bay, you are required to:</p> <ul style="list-style-type: none"> <li>Pay an annual fee of \$240 to Bowen Island Municipality in one installment by the first day of the calendar year</li> <li>Ensure your vessel is safe, seaworthy and in compliance with the Licence of Occupation</li> <li>Ensure the use of your vessel complies with the Use of Beaches and Water Areas Bylaw No. 418, 2016, including the restrictions related to live-aboards and floating storage units</li> </ul>	

## Boat Management Examples by Local Government

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## Mannion Bay, Bowen Island (continued)

**Voluntary No Anchor Zone**

SeaChange Marine Conservation Society and Bowen Island partnered to create a voluntary no anchor zone in Mannion Bay. The marker buoys outline the zone and ask boaters to anchor outside of the eelgrass habitat. It has been very successful and seen over 100% eelgrass shoot growth and a strong return of salmon.

**Bowen Island Municipality Land Use Bylaw No. 57** does not permit live-aboards in Mannion Bay. Steps are being taken to limit the number of mooring buoys in Mannion Bay. Please refer to Transport Canada's Owners Guide to Private Buoys for more information.

**Bowen Island Municipality Use of Beach Bylaw No. 418 Section 4.1** permits staying on your vessel in Mannion Bay for a maximum of 48 hours every 30 day period. Staying on your vessel in Mannion Bay longer than 48 hours in a 30 day period can result in enforcement including fines.

All mooring buoys in Mannion Bay must comply with Transport Canada Private Buoy Regulation and are subject to a fee effective January 1, 2018. The annual fee is \$240.00 payable annually on January 1st. Invoices will be sent at year end for the upcoming year. Proof of third party liability insurance for the vessel and proof of Transport Canada pleasure craft license or registration is required.

## Gorge Waterway, City of Victoria

<b>Objective</b>	To remove live-aboards, long term moorage and derelict boats from the Gorge Waterway zone and protect the marine environment and sensitive ecosystems of the waterway
<b>Key Document Links</b>	<a href="#">Zoning Regulation Bylaw   City of Victoria</a> <a href="#">Part 9.3 GWP Zone, Gorge Waterway Park District</a>
<b>Description &amp; Background</b>	
<ul style="list-style-type: none"> <li>In 2014 the City of Victoria (the City) began working to find a way to deal with various boats either derelict or anchored in the Gorge waterway. Residents were complaining of excessive noise from live-aboards as well as environmental contamination from leaking fuel/oil, dumping of sewage and careless garbage disposal.</li> <li>The City enacted zoning regulations to better regulate more appropriate use of this area, in a manner consistent with the neighbouring land uses and the Official Community Plan. The zoning prohibiting overnight anchorage was completed in August 2014.</li> <li>The City proceeded to obtain a Licence of Occupation from the Province over the area to establish further management authority over the waterway and the Licence of Occupation was received in October 2015.</li> <li>The City issued several rounds of notices, warning vessel owners that they are in contradiction of bylaws that limit long-term mooring to a maximum of 48 hours and no more than 72 hours in a 30 day period. Eight of the roughly two dozen boats that were illegally moored voluntarily moved and one was removed after a fire. The city proceeded with seeking an injunction to remove the 17 remaining vessels at an estimated cost of five figures.</li> </ul>	

## Boat Management Examples by Local Government

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## Gorge Waterway, City of Victoria (continued)

- The BC Supreme Court ruled that the City of Victoria has the authority to regulate the waterway and confirms that:
  - the City's zoning regulations for the Gorge Waterway do not intrude on federal jurisdiction over navigation and shipping, and that they represent a reasonable balance between the municipality's role in regulating land use and boaters' rights to occasionally anchor
  - that the right to anchor does not extend to the permanent or semi-permanent occupation of public space for private purposes and vessel and dock owners had to remove their property from the Gorge Waterway
- Following the 2015 BC Court of Appeal ruling, the City of Victoria amended their zoning bylaw, as follows:

*Part 9.3 – GWP Zone, Gorge Waterway Park District*

*9.3.1 Permitted Uses in this Zone*

*The following uses are the only uses permitted in this Zone:*

- a. Parks and uses accessory to parks*
- b. Water related recreational activities*

*Without limiting the generality of any Section or Part of the Zoning Regulation Bylaw, including Section 17 of the Introduction and General Regulations, the following uses are not permitted in this Zone:*

- i) the anchoring or mooring of vessels for a continuous period exceeding 48 hours*
- ii) the anchoring or mooring of vessels for more than 72 hours within a 30 day period) Live-aboard or float home as defined in Part 7.54.1 in the FWM zone, Fisherman's Wharf Marine District) Docks, wharfs and piers*

- The City posted a notice on all the boats in the Gorge Waterway requesting that the boats be removed from the Gorge Waterway. Staff and officials worked very closely with individuals that are living aboard boats to assist in finding alternate housing solutions for them. Several individuals accepted assistance from the City and are now housed. Others have moved their boats to Cadboro Bay.

## District of North Vancouver, Deep Cove

<b>Objective</b>	To prohibit live-aboards and regulate anchorage and moorage to prevent environmental contamination
<b>Key Document Links</b>	<a href="#">Wharf and Anchor Regulation Bylaw No. 8450</a> <a href="#">Deep Cove Designated Anchorage Area</a> <a href="#">North Vancouver Anchorage, moorage and boat launches</a> <a href="#">Permit to Moor in Designated Anchorage Area Terms and Conditions</a> <a href="#">Deep Cove Designated Anchorage Area Terms and Conditions</a> <a href="#">Deep Cove Designated Anchorage Area Moorage Application</a> <a href="#">Boat Moorage Pass Application</a> <a href="#">Boat Launch Pass Application</a>

## Boat Management Examples by Local Government

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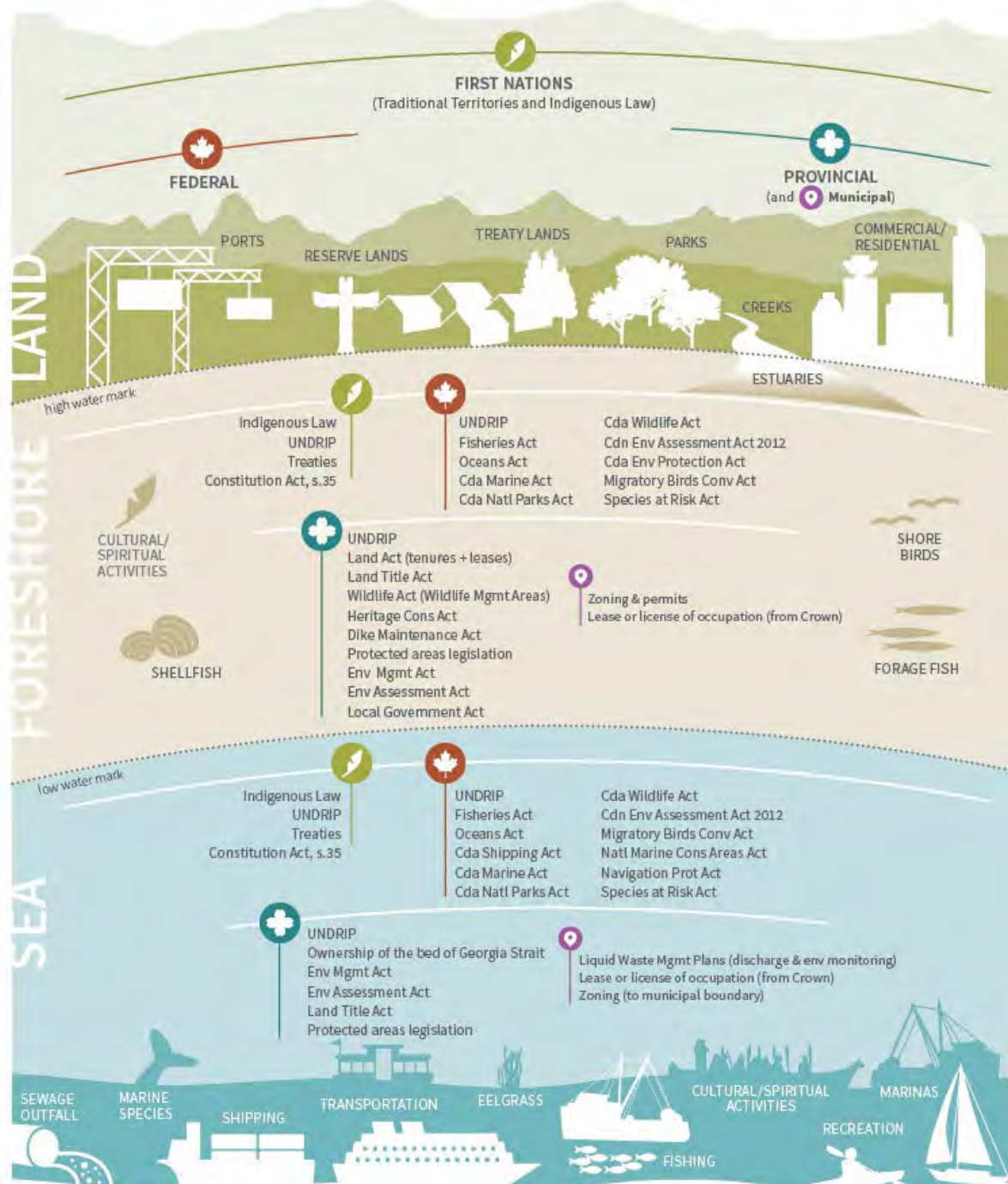
## District of North Vancouver, Deep Cove (continued)

Description & Background
<ul style="list-style-type: none"> <li>• In 2018, Deep Cove residents were raising concerns about water quality, noisy generators, unsafe navigation and garbage and pollution from live-aboards in Deep Cove. In addition, there were criminal issues involving drugs and one boat was advertised on Airbnb. The cove had several previous cases of E.coli beach closures.</li> <li>• The live-aboard population in Deep Cove increased after the City of Port Moody regulated illegally anchored boats in 2016 and required all boaters to have a permit to stay overnight there.</li> <li>• The District of North Vancouver adopted a waterlot license agreement with the Vancouver Fraser Port Authority that gives the municipality jurisdiction over the cove and adopted a Wharf and Anchor Regulation Bylaw in 2021.</li> <li>• The language of the five-year agreement specifies that the district will not permit live-aboards or allow anyone to stay for longer than 72 hours. Anyone wanting to tie up to one of four district-owned anchor buoys will be required to register online for a permit in advance at a cost of \$1 per foot of vessel length per day (up to 40 feet). Anyone in violation will be subject to a \$300 fine.</li> </ul> <p>Currently Deep Cove offers both anchorage and moorage, and Cates Park/Whey-ah-Wichen offers a boat launch.</p> <ul style="list-style-type: none"> <li>• Anchoring in Deep Cove is permitted overnight, with a Designated Anchorage Area (DAA) permit.</li> <li>• With a DAA permit, you can moor your boat to one of the buoys in the cove for up to 72 hours within a one-month period. The cost is calculated per day, and is based on the length of your boat (\$1.15 per foot to a maximum of \$40 per day).</li> <li>• Enforcement: Boats that are anchored inside the designated anchorage area, overnight, and without a permit, are subject to enforcement and towing. Boaters can be fined up to \$300 per day if they do not register and pay DAA fees during your stay (Bylaw No. 8450).</li> <li>• Temporary moorage is available at Gallant Wharf in Deep Cove. Moorage is available by hour or month. You can purchase hourly tickets at the wharf, and long-term (monthly) passes online.</li> <li>• The boat launch at Cates Park/Whey-ah-Wichen is open year-round for launching boats up to 36 feet. It is open daily from 6 am - 10 pm with no overnight parking. You can purchase daily boat launch tickets from the on-site ticket machine.</li> </ul>



WHY WE NEED TO WORK TOGETHER TO MANAGE OUR COASTLINE

# Jurisdiction in Coastal BC



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## JURISDICTION AND REGULATORY SUMMARY FOR PRIVATE MOORING BUOYS

April 2024

### Private Mooring Buoys

#### Introduction

The proliferation of boats in bays and harbours of the Capital Region is largely being driven by the unregulated installation and placement of Private Mooring Buoys (PMBs).

In 2009, under the Government of Canada's commitment to reduce regulatory burden for Canadians, the *Navigable Waters Protection Act* (NWP) was significantly amended to eliminate the authorization requirements for low-risk minor works in navigable waters where the type of work posed no significant impact on navigation. This amendment resulted in the implementation of the *Minor Works and Waters Order* (SRO/2021-170) (MWO) which enabled some low-risk minor works (i.e., mooring systems including PMBs, boathouses, launch ramps, slip-ways, sewer pipes, and minor repairs) to be pre-approved under the Act and thus exempt from having to undergo the application and assessment process.

This means that any person or entity may install a PMB provided the buoy meets the requirements of Private Mooring Buoy Regulations (PMBR) and the NWP. If the PMB is installed in accordance with MWO, then no authorization from TC is required.

As a result of the change to the regulations, local governments across the Capital Region have seen a severe increase in PMBs being placed within their meets and bounds. Although the NWP does not prohibit the placement of buoys in front of private property, there may be other riparian, local, regional, or provincial rights or regulations that do.

#### Jurisdiction

##### Federal Jurisdiction

Jurisdiction for PMBs lies primarily with Transport Canada, Navigation Protection Program (TC-NPP) and are regulated through the following:

1. **Navigable Waters Protection Act:** (NWP): The NWP applies to all navigable waters in Canada including brooks, streams and waters that can float a canoe or kayak. Under the NWP, the Minister has the authority to designate major and minor works in navigable waters. Buoys are a "work" and may require authorization from Transport Canada. The only buoys that do not require authorization before being placed are those that are built or placed in accordance with the criteria listed in the Minor Works and Waters Order, under the class of works called "Mooring Systems". This includes PMBs. Transport Canada does not keep a record of buoys that are considered minor works.
2. **Minor Works Order (MWO):** The MWO ([Minor Works Order \(justice.gc.ca\)](https://www.justice.gc.ca/eng/1994/329205-203)) allows for minor works, which includes PMBs, to be built if they meet the criteria for the applicable class of works and specific terms and conditions for construction and that they do not impede navigation. Installation of a PMB is considered a minor work may proceed without an application for approval if they comply with the following legal requirements and criteria:
  - A mooring system must consist of:
    - Anchor set in/on bed of the navigable water
    - A single anchor line
    - A single mooring line
    - A mooring line that attaches to a vessel

## Jurisdiction And Regulatory Summary for Private Mooring Buoys

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- Mooring systems can only be in locations where the navigable waters are greater than 100 meters in width and they cannot be associated with a marina.
  - The anchor of mooring system must remain in the location where it was set in or on the bed of navigable water.
  - The owner of a mooring system designated as a minor work, must not moor or permit others to moor a vessel that is more than 12 meters in length.
  - When a vessel is moored, the swing area (the area created by swinging of a vessel moored to a mooring system ) is:
 

Water Depth	Max Swing area
6m or less	50 m
6-10 m	70 m
10-14m	80 m
>14m	100 m

    - >20 m from work or from swing area of another mooring system (owned by others)
    - >50 m from marina or public boat-launching ramp
    - >50 m from navigation channel or, if there is no navigation channel, is not in, on, through or across a navigation route
    - Does not exceed max diameter when in tidal waters of certain depth as per table
  - The owner of a mooring system designated as a minor work must remove the system if any component of the mooring system is removed or if no vessel has moored to the mooring system for a two-year period.
3. **Private Mooring Buoy Regulations (PMBR):** The Private Mooring Buoy Regulations ([Private Buoy Regulations \(justice.gc.ca\)](https://www.justice.gc.ca/eng/1530/1530-101/1530-101-01-eng.html)), established pursuant to the Canada Shipping Act, prescribe the mandatory marking, lighting, size, and placement requirements for private mooring buoys.
- Placement and marking requirements include the following:
    - Buoy is 15.25 cm wide and 30.5 cm above water surface
    - Displays "PRIV" in large letters (black or white depending on buoy colour)
    - Complies with Canadian Aids to Navigation System (TP 968), which directs that a mooring buoy is coloured white and orange, with the orange colour covering the top one third of the buoy above the waterline. A mooring buoy must have a yellow light, if lighted. The light must conform to the standards and guidelines in the Canadian Aids to Navigation System (TP 968). Retroreflective material, if used, must be yellow.
    - Name, address, phone # of owner conspicuously displayed
    - Buoy and anchor system constructed to remain in position
  - Minister may remove a minor work if it does not comply with the PMBRs
4. **Enforcement:** TC-NPP is responsible to enforce PMB compliance with the NPWA, PMBR and the MWO which can include the following:
- Under NPA and PBR, unlawful works, including non-compliant buoys, may be subject to removal. It is important to note that this applies only to the buoy, not to any vessel or structure attached to it.
  - Notices of non-compliance may be placed on unlawful works, providing a period of time to rectify deficiencies
  - If the buoys remain unlawful after the specified date, they may be removed by TC
  - TC will normally initiate public outreach, engage with other agencies that have overlapping jurisdictions
  - TC actively involved in several multi-agency collaborative initiatives to develop long-term solutions to areas known to be congested with mooring buoys or those that are not in compliance with regulations.
  - NPP will offer guidance and support to local community initiatives to alleviate problem areas by providing input on developing public moorage facilities, or participating in the pre-development and consultative phases of community planning and bylaw development

## Jurisdiction And Regulatory Summary for Private Mooring Buoys

Page 3

Transport Canada staff have indicated that PMB are not considered a right to navigation, therefore, there is no need to ensure provisions for temporary moorage and local government can restrict and/or ban the placement of PMBs within their Meets & Bounds.

### Provincial Jurisdiction

In general, the Province of British Columbia is responsible for management of Crown land, including foreshore land and most submerged land. Most of the seabed in BC is considered Crown Land.

The Land Act is an important part of the legislative and regulatory framework that guides the allocation and management of Crown land in BC. The Act largely governs the acquisition, disposition, management, administration, transfer and surveying of Crown land in BC and is the main legislation used by the government to convey land to the public by granting land or by issuing Crown land tenures in the form of leases, licences, permits and rights-of way. Important decision-making powers authorized under the Act include:

- Determining if a disposition of Crown land is in the public interest;
- Temporarily reserving Crown land from disposition;
- Designating Crown land for a particular use; and
- Prohibiting certain uses of Crown land.

Provincial Crown does not generally regulate anchoring and mooring of vessels, and does not typically issue lease or licenses for anchorage and mooring buoys. Consequently, there are many areas where neither the Federal Crown, the Provincial Crown nor a local government regulate anchoring/mooring in an area, resulting in desirable bays become congested with vessels whose owners store the vessel for longer than a *"reasonable time, for a reasonable purpose,"* impeding other's use of the waterway, including upland property owners.

Province does not issue leases for mooring buoys, but this does not mean that a mooring can be placed on Crown land (seabed) other than for a *"reasonable time, for a reasonable purpose"* without it being trespass. After all, that anchor or buoy, if left for an *unreasonable time or an unreasonable purpose*, is utilizing common property and depriving others of such use.

Land Use Operational Policy on Private Moorage: The Province has a Land Use Operational Policy on Private Moorage (updated Jan 2019). This policy applies to the disposition of aquatic Crown land (inland and coastal) for private moorage facilities that are affixed to and/or occupy aquatic Crown land. A private moorage facility is a dock, a permanent boat way (i.e. boat ramp / rail), or a stand-alone boat lift that is permanently affixed to aquatic Crown land; it is intended for the personal and private residential use by one or a number of individuals or a family unit for boat moorage.

The policy does not apply to mooring buoys used for private moorage. Provincial staff have indicated that since PMBs are regulated by the federal government and since the anchoring system of PMB is small, that they have made a policy decision to not include PMBs under this policy. However, that does not take cumulative effect of many PMBs in a small area into account.

The objectives of the policy are to:

- reduce risk of impacts associated with the construction and use of private moorage facilities;
- ensure that policy and procedures complement other provincial and federal agency requirements;
- provide flexibility to allow regional and site specific issues and conditions to be considered and addressed;
- provide dock owners with best management practices and requirements; and

**Jurisdiction And Regulatory Summary for Private Mooring Buoys****Page 4**

- provide for different forms of allocation, with a range of rights, interests and obligations to meet a variety of circumstances and proponent needs.

Given that there are more than 100 PMBs in each of Brentwood Bay and Tsehum Harbour, the cumulative effect of the PMBs does need to be considered. Local Governments could continue advocating to the province to change their policy.

Under the Private Moorage Land Use policy, there is a process where local governments can apply to be within a designated application-only area. In these areas, the General Permissions will not apply, docks will require an application for a Specific Permission.

The application process will allow for site specific evaluation and consideration to address local circumstances and conditions before authorization is granted. Application-only areas will cover areas that will generally have a higher risk of impacts or user conflicts related to the construction and use of any size dock. Regional operations of the Authorizing Agency may work with provincial and federal resource agencies, First Nations and communities to identify appropriate application only areas. Once designated, information on these specific areas will be available from the Authorizing Agency. The intent is to provide an added tool for mitigating risks known to be associated with specific locations and areas of interest.

Note that the designations are not done through a legal instrument; they are simply providing a description of the location for administrative purposes. Criteria for designating Application-only areas can include, but are not limited to:

- narrow water bodies where riparian rights are at risk of being infringed, or
- navigation and safety compromised (e.g. small coves, channels and sections of rivers);
- areas important for public access and use (e.g. beaches, areas adjacent to waterfront parks);
- areas subject to local requirements associated with foreshore development
- environmentally sensitive areas (e.g. fish spawning, critical habitat areas mapped by Ministry of Environment);
- areas where First Nations have generally expressed a strong interest, or have specifically requested consultation on all private moorage proposals;
- areas which contain Land Act dispositions or other government authorizations that are at risk of being in conflict with dock placement and use; and,
- areas that are experiencing significant growth and concerns associated with waterfront development.

Local Government Jurisdiction

The Community Charter gives municipalities authority over zoning including the power to regulate land covered by water up to 300 metres from the high water mark of municipal boundaries. Notwithstanding, the regulation of navigation and shipping falls exclusively within federal jurisdiction.

BC Court decisions (West Kelowna District v. Newcomb; City of Victoria v. Zimmerman) have ruled that, provided the seabed is within the boundaries of the local government, the local government may enact bylaws that limit anchoring and mooring, provided the purpose of the bylaws is to manage land (the seabed and adjacent upland properties) and not manage navigation. These decisions recognized some incidental interference with navigation and shipping must be allowed. The restriction to such bylaws is that they cannot interfere with anchoring or mooring for a "reasonable time, for a reasonable purpose".

Through federal regulation there is a right to anchor (for safe harbour). There is clear legal precedence that enshrines the right to anchor, however, more recent case law suggests that while

**Jurisdiction And Regulatory Summary for Private Mooring Buoys****Page 5**

local governments cannot prohibit anchorage (i.e. must allow for temporary anchorage, related to safe harbour requirements) the right to safe harbour does not infer a right to permanently anchor within an area.

Both federal and provincial staff have confirmed that local governments can prohibit or limit private mooring buoys within their metes and bounds through zoning, land use and structure bylaws.

## JURISDICTION AND RESPONSIBILITY FOR ABANDONED, WRECKED AND DILAPIDATED VESSELS

April 2024

### Introduction

Launched in November 2016, the federal Oceans Protection Plan (OPP) is intended to protect our coasts and waterways today and for future generations, while growing the economy ([Protecting our coasts: Oceans Protection Plan \(canada.ca\)](https://www.canada.ca/en/department-of-environment-and-climate-change/2016/11/protecting-our-coasts-oceans-protection-plan.html)). The OPP has 5 general themes: safer marine traffic; stronger incident prevention and response; better protected coastal ecosystems; stronger partnerships with Indigenous and coastal communities; and building a stronger scientific evidence base.

### Vessels of Concern (VOC) Program

Vessels of concern are **abandoned, derelict, and wrecked vessels that are either discharging or likely to discharge a pollutant or are an obstruction or hazard to navigation**. Whether a boat is classified as abandoned, derelict or wrecked is important as that determines which agency has lead responsibility and which regulation it falls under (Table 1).

Table 1: Definitions of the types of vessels of concerns

Term	Definition	Key Legislation/Agency
<b>Vessels of Concern</b>	Vessels of concern are abandoned, derelict, and wrecked vessels that are either discharging or likely to discharge a pollutant, or are an obstruction or hazard to navigation.	CCG, TC-NPP, DFO
<b>Wreck</b>	A vessel is considered wrecked if it, or one of its parts, is: <ul style="list-style-type: none"> <li>• sunk</li> <li>• partially sunk</li> <li>• adrift or ashore</li> <li>• stranded or grounded</li> </ul> <p>This includes equipment, stores, cargo or any other things that is or was on board a vessels that has been wrecked.</p>	<a href="https://www.justice.gc.ca/eng/legislation/acts/2007/2007-07-27/wreck.html">Wrecked, Abandoned or Hazardous Vessels Act (justice.gc.ca)</a> Nairobi International Convention on the Removal of Wrecks, 2007 Salvage Regulations TC-NPP
<b>Hazardous Vessel</b>	A vessel is considered <b>hazardous</b> if it could cause harm to: <ul style="list-style-type: none"> <li>• health</li> <li>• infrastructure</li> <li>• the environment</li> <li>• coasts or shorelines</li> <li>• personal safety and well-being</li> <li>• economic interests of the public</li> </ul>	CCG WAHVA
<b>Dilapidated Vessel</b>	A vessel is considered <b>dilapidated</b> if it's significantly degraded, dismantled or incapable of being used for safe navigation	TC - NPP
<b>Abandoned Vessel</b>	A vessel is presumed <b>abandoned</b> if the owner, in the absence of evidence to the contrary, leaves the vessel unattended for a period of two years. Not necessary for owner to leave vessel unattended for 2 years to be found to have abandoned the boat.	TC - APP

## Jurisdiction and Responsibility for Abandoned, Wrecked and Dilapidated Vessels Page 2

Under the OPP, the Canadian Coast Guard (CCG) - a strategic operating agency within Fisheries and Oceans Canada (DFO) - has established the Vessels of Concern (VOC) program to help prevent and address wrecked, abandoned and hazardous vessels. This program is a shared initiative between Transport Canada, Canadian Coast Guard and Fisheries and Oceans Canada. The agency roles under the VOC program are outlined in Table 2.

The program has developed a National Strategy to reduce the number of abandoned and wrecked vessels in Canadian waters by preventing the occurrence of new problem vessels and by making progress in cleaning up existing problem vessels. There are five key measures of the program:

1. **Legislation:** The *Wrecked, Abandoned or Hazardous Vessels Act (WAHVA)* became law on July 30, 2019, and protects Canada's waterways and marine ecosystems. This key measure under the OPP brings the *Nairobi International Convention on the Removal of Wrecks, 2007* into Canadian law and is a legal framework that holds vessel owners responsible for:
  - all costs associated with addressing a wreck
  - hazardous wrecks resulting from marine incidents
  - reporting, locating, marking and removing wrecks
  - maintaining wreck removal insurance for large vessels 300 gross tonnes or above
2. **Enhance vessels owner identification:** The federal government is developing a program to enhance vessel owner identification through a vessel registration scheme.
3. **Funding programs for wreck removal, education and research:** There are 2 short-term funding programs under the OPP that support eligible recipients in removing and disposing of higher priority abandoned and wrecked vessels:
  - Transport Canada's [Abandoned Boats Program](#) provides funding to remove abandoned boats and wrecks in **Canadian waters**. To qualify for funding, you must first get authorization to take possession of a boat by contacting your Navigation Protection Program [regional office](#).
  - Fisheries and Oceans Canada offers the [Small Craft Harbours Abandoned and Wrecked Vessels Removal Program](#). This provides funding to Harbour Authorities and other eligible recipients to remove and dispose of abandoned and wrecked vessels located in **federal small craft harbours**. For questions and support, applicants can contact their [regional small craft harbour office](#).
4. **Long term owner-financed funds:** The federal government is working on a fund that would be used to finance hazard boat removals.
5. **National inventory of abandoned and wrecked vessels:** CCG is developing a national inventory of problem vessels across Canada's coasts and shorelines. The inventory will be continually updated and supported with risk assessments to identify and guide future actions on high-risk vessels. The Coast Guard is developing a risk assessment methodology to:
  - assess the level of risk a vessel poses
  - rank vessels in the national inventory by their level of risk and complexity
  - prioritize and undertake appropriate measures to address the highest-risk vessels
  - monitor and help prepare contingency plans for high-risk vessels

### Wrecked, Abandoned and Hazardous Vessels Act (WAHVA)

The purpose of the Wrecked, Abandoned and Hazardous Vessels Act (WAHVA) is to protect coastal and shoreline communities, the environment and infrastructure; and reduce burden on taxpayers from abandoned, dilapidated and wrecked vessels by:

- Strengthening owner liability for vessels, including costs for clean up
- Addressing irresponsible vessel management, including prohibiting vessel abandonment
- Enhancing federal powers to take [proactive action](#) on problem vessels, including hazard assessments to inform measures

### **Jurisdiction and Responsibility for Abandoned, Wrecked and Dilapidated Vessels Page 3**

- Introducing compliance and enforcement regime with offences and penalties
- Clarifying roles and responsibilities between TC, DFO, CCG

WAHVA addresses irresponsible vessel management by prohibiting the following:

- Abandoning a vessel unless authorized or an emergency
- Causing a vessel to become a wreck
- Leaving a vessel adrift more than 48 hours
- Leaving a dilapidated vessel (poor condition/state of neglect) in same area for more than 60 consecutive days without consent

The Act also enhances federal powers to take action by providing authority to:

- Order owner to remove/dispose of dilapidated vessels
- Order owners to take measures to prevent, mitigate or eliminate hazards posed by vessels
- Take direct action to remove/dispose of problem vessels if the owner is unknown or fails to comply – owner liable for costs
- Sell, or otherwise dispose of abandoned, dilapidated or wrecked vessels, subject to a public notification process; and hold owner liable for costs

The federal government responds to wrecked, abandoned and hazardous vessels, including dilapidated vessels, by:

- coordinating and conducting hazard assessments for problem vessels in Canadian waters
- immediately addressing hazardous vessels when necessary
- ensuring owners properly report, locate, mark and remove wrecks
- serving as the single federal point of contact for reports of problem vessels
- ensuring vessel owners comply with Coast Guard provisions under the Act
- addressing problem vessels located in federal small craft harbours or on other property under our responsibility

The Act lets federal agencies take measures to prevent, mitigate or eliminate the risks posed by problem vessels, including:

- undertaking assessments on vessels that may pose hazards
- ordering owners to take measures to address their hazardous vessel
- addressing hazardous vessels if the owner is unknown, unwilling or unable to respond
- addressing problem vessels located in federal small craft harbours or on other property under the responsibility of the Minister of Fisheries, Oceans and the Canadian Coast Guard
- holding owners responsible and liable for the costs of addressing their vessel

The legislation also prohibits irresponsible vessel management, such as:

- vessel abandonment
- causing a vessel to become a wreck
- leaving a vessel in poor condition (dilapidated) in the same area without consent

The agency roles under the WAHVA are outlined in Table 2.

## Jurisdiction and Responsibility for Abandoned, Wrecked and Dilapidated Vessels Page 4

Table 2. Federal agency roles under the Vessels of Concern Program and for *Wrecked, Abandoned and Hazardous Vessels Act* implementation.

Federal Agency	Role Under Vessels of Concern Program	Role in WHAVA implementation
Canadian Coast Guard (CCG)	<ul style="list-style-type: none"> <li>• Single-window reporting lead for VOC for Canada</li> <li>• Hazard assessments for vessels and wrecks located in Canadian Waters</li> <li>• Issue orders and directions to owners or take appropriate actions on hazardous vessels and wrecks, including enforcement</li> <li>• Enforcing the International Convention of Wreck Removal</li> <li>• Maintain National Inventory database</li> </ul>	<ul style="list-style-type: none"> <li>• Operational lead for addressing vessels of concern</li> <li>• Coordinate and determine hazard assessments</li> <li>• Issue orders and/or take appropriate actions on hazardous vessels and wrecks, <u>including enforcement</u></li> <li>• Order removal of dilapidated vessels left on property under responsibility of DFO/CCG or take action directly</li> </ul>
Transport Canada Navigation Protection Program (TC-NPP)	<ul style="list-style-type: none"> <li>• Addressing <u>dilapidated and abandoned</u> vessels in Canadian waters where hazards are nil or low</li> <li>• Enforcing responsible vessel ownership</li> <li>• Enforcement of 5 prohibitions:               <ul style="list-style-type: none"> <li>◦ Abandoning a vessel unless authorized or in emergency</li> <li>◦ Knowingly causing a vessel to sink or become a wreck</li> <li>◦ Letting a vessel become a wreck by failing to maintain it</li> <li>◦ Leaving a vessel adrift for more than 48 hours without taking measures</li> <li>◦ Leaving a dilapidated vessel in the same area for more than 60 consecutive days without consent</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Develop regulations, policies and guidelines</li> <li>• Issue insurance certificates and verify compliance with insurance requirements</li> <li>• Oversee and enforce the Salvage Convention and Receiver of Wrecks provisions</li> <li>• Enforcement of prohibitions (e.g., abandonment, dilapidated vessels)</li> <li>• Order removal of dilapidated vessels on Crown property or take action directly, except property under the responsibility of Minister of DFO and CCG</li> </ul>
Fisheries and Oceans Canada (DFO)	<ul style="list-style-type: none"> <li>• Addressing dilapidated vessels in small craft harbours, including directing an owner to repair, secure, move, remove, dismantle or destroy the vessel</li> <li>• Enforcing compliance</li> </ul>	<ul style="list-style-type: none"> <li>• Take appropriate actions on hazardous vessels/wrecks located in small craft harbours</li> <li>• Order removal of dilapidated vessels left in small craft harbours or take action directly</li> </ul>
Parks Canada (PC)	<ul style="list-style-type: none"> <li>• Addressing wrecked, abandoned, or hazardous vessels with historical, cultural or archeological significance</li> <li>• Work with CCG to mitigate existing hazards</li> <li>• Activities to excavate or protect the vessel or wreck for historical record</li> </ul>	

## **Jurisdiction and Responsibility for Abandoned, Wrecked and Dilapidated Vessels Page 5**

### **Which Agency is responsible to act?**

When CCG first become aware of a hazardous vessel, they determine which program should address it based on check to see which of our programs should address it.

- CCG Search and Rescue group addresses vessels related to a maritime emergency.
- The Canadian Coast Guard Environmental Response program addresses vessels that pose a pollution risk in Canadian waters.
- Transport Canada's [Navigation Protection Program](#) addresses vessels that present a risk to navigation.
- Hazardous vessels that can't be addressed by these programs are assessed to determine if they fall under the *Wrecked, Abandoned or Hazardous Vessels Act*.

### **Compliance**

Vessel owners are responsible for complying with the *Wrecked, Abandoned or Hazardous Vessels Act*. Under the Act, owners are liable for addressing their vessel or wreck when it is hazardous or unfit for safe navigation. They must also handle all associated costs, including any remediation action taken by federal officers.

A key part of compliance is raising awareness and promoting compliance through public education. To ensure that the public is aware of their new responsibilities under the Act, CCG use tools such as engagement, media campaigns and community outreach.

CCG take a graduated and risk-based approach to compliance that takes into account factors such as the severity of the action, the resulting harm and the compliance history of the party.

Under the Act, Coast Guard officers are able to take direct and immediate action to prevent, mitigate or eliminate the risks that hazardous vessels pose. These measures could include:

- prosecution for regulatory offences
- inspecting a vessel's interior, contents and exterior
- issuing administrative monetary penalties for non-compliance
- directing owners to take actions to prevent, mitigate or eliminate hazards posed by their vessel

### **Penalties for non-compliance**

For minor violations, the maximum penalty is \$5,000 for individuals and \$25,000 for any other entity (including corporations or vessels).

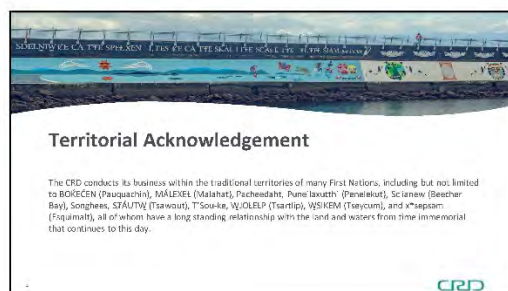
For serious violations, the maximum penalty is \$50,000 for individuals and \$250,000 for any other entity.

A regulatory offence prosecution could result in a maximum fine of \$1 million and/or up to 3 years of imprisonment for an individual, or \$6 million for a company or corporation.

## Appendix B – Presentation Slides



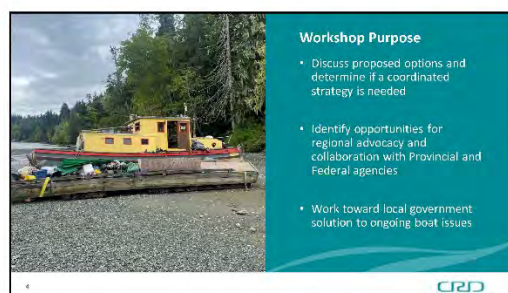
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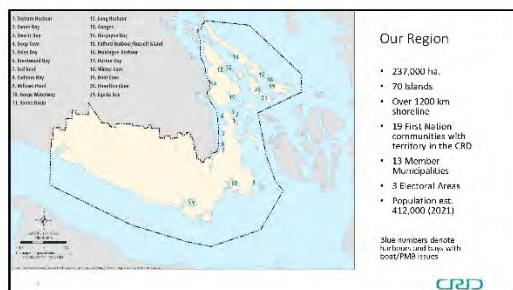
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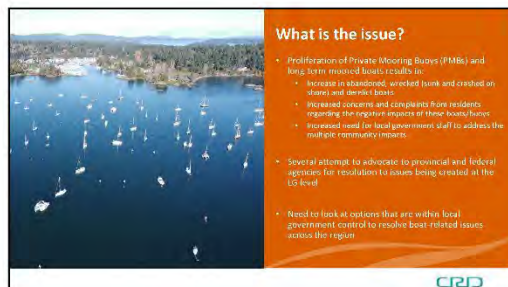
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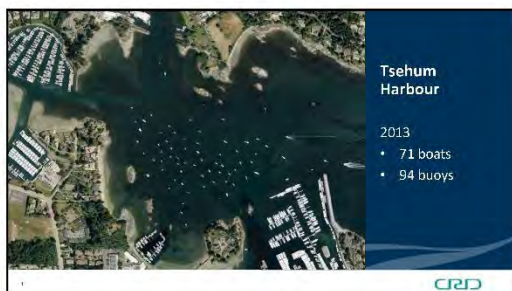
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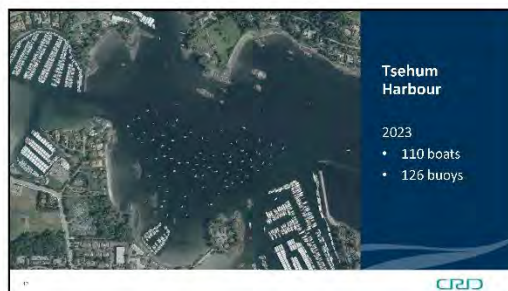
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### Sooke to Saanich Peninsula

Harbour	Buoys		Boats	
	2021	2022	2021	2022
Tularem Hbr	115	126	95	110
Canoe Bay	42	51	19	24
Swartz Bay	17	18	8	8
Deep Cove	45	61	10	9
Coles Bay to RR	16	127	32	174
Rennwood Bay	112	155	93	115
Tad Inlet	33	17	30	16
Carlboro Bay	43	56	38	44
Willows Point	49	45	36	33
Gorge Waterway	9	5	5	2
Sooke Basin	22	27	15	23
<b>Totals</b>	<b>509</b>	<b>688</b>	<b>381</b>	<b>508</b>



<sup>13</sup> These numbers may include weekend boaters

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### Gulf Islands

Harbour	Buoys		Boats	
	2021	2022	2021	2022
Long Harbour	40	39	20	17
Ganges	187	144	147	138
Bungoyne Bay	34	15	31	13
Fulford Harbour/				
Russell Island	49	32	54	24
Montague Hbr	83	90	69	65
Horton Bay	41	42	23	29
Winter Cove	14	12	12	8
Boat Cove	20	20	7	8
Hamilton Cove	60	49	51	47
Egbert Bay	42	54	39	5
<b>Total</b>	<b>480</b>	<b>497</b>	<b>453</b>	<b>354</b>



<sup>14</sup> These numbers may include weekend boaters

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### Impacts to Our Communities

<sup>15</sup>

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### Public Safety

#### Fire/Emergency

- Lack of access to boats in tight, unboard areas
- Results in long, hazardous fires

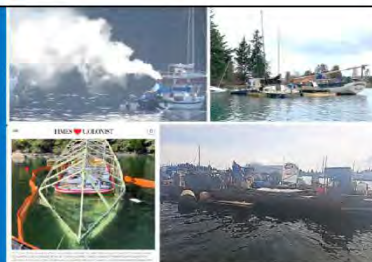
#### Criminality

- Illegal activities
- Ability of local police to act

#### Non-conforming uses

#### Safety of Structures

- Some have onboard structures
- "Living Towers"



<sup>16</sup>

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### Contaminant Concerns

- Leaking oil
- Lead
- Styrofoam
- Garbage and debris
- Sewage discharge

### Environmental and Cultural Impacts

- Access to steel fish harvesting
- Fisheries
- Urban fish habitat
- Fish and fish habitat
- Migratory fish sanctuary



<sup>17</sup>

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### Loss of Public Use

- Proliferation of PMBs and moored boats impact the ability of the rest of the public to use public lands

### Impacts to other users

- Interfering progress
- Blocking/obscuring viewing
- Recreation boating
- Canoe and kayak use
- Community recreation
- Tourism
- Other recreational boaters



<sup>18</sup>

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**Shoreline Impacts**

- Trespassing on private property
- Local Government costs
- Example in N. Saanich: \$50K to remove one boat and obtain housing/services for elderly couple



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**Increase in Abandoned, Derelict and Wrecked boats**

- Many associated with PMBs
- Often sink or get wrecked on the shore in winter storms
- Local Govt and community left to clean up or try to get Province/Feds to help

Dealing with the complex jurisdictional nightmare takes a lot of time and effort



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**Increased Services Required**

"Floating Communities" or "Floating Parking Lots"

- No property taxes
- Inadequate rules
- Access to bathrooms/showers
- Garbage facilities
- Sewage Pump Out Facilities
- Dingy/kayak storage and shoreline access
- Enforcement and Police Services
- Housing and social services



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**Ganges Harbour**

1996

- 45 Boats
- 60 Buoys




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**Ganges Harbour**

2005

- 87 Boats
- 104 Buoys




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**Ganges Harbour**

2013

- 126 Boats
- 141 Buoys




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## Liveaboards




- Ganges has many, Fulford has less.
- People on these boats are a part of our community
- Some located over eel grasss beds
- Increased community interest
- Need to work regionally

Presented by Chris Hutton and Warren Dingman  
6/21/2024

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## Affected Area




Islands Trust	CRD
Five Local Trust Areas	Two Electoral Areas
Planning Services and Enforcement	Recreational, and Utility Service Provision
• Zoning	• Parks, rec. facilities
• OCP	• Water, sewer
	• Building Inspection
	Housing
	Transportation
	Environmental Protection
	Community collaborations, First Nations Reconciliation

Presented by  
6/21/2024

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## Ganges (Shiya'hwt) Harbour



Recent estimate: 10-20 full-time liveaboards vessels

Presented by Chris Hutton and Warren Dingman  
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**Education and Awareness Funding**

- Extensive multi-media campaign asking public to identify abandoned boats
- Provide education around appropriate disposal and end-of-life options
- Increase awareness about changes in legislation requiring boat registration
- Liaise with BC Boating Assoc'n

**See an abandoned boat? Please say something.**

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For more information, visit [www.crd.bc.ca/boats](http://www.crd.bc.ca/boats)

**See something, say something.**

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**Partnership with Dead Boats Disposal Society**

- Inventory boats
- Attempt to find owner
- If not found, post 30 day notice
- Record items in TC
- Ultra n rubberization to Salvage
- Apply for Assessment S
- Assess required Hazardous Waste (if any)
- Apply for Removal S
- Remove boats then items were missing (if any)

**Process for Removal**

Timeline – 6 – 18 months

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**Jurisdiction and Legislation**

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**First Nations**

- 19 First Nation communities with territory in CRD
- Asserting rights and expressed desire to actively steward territories
- Indigenous Protected and Conserved Area (Tsawout)
- Proliferation of boats results in:
  - Loss of access to territories
  - Impacts to shellfish harvesting
  - Impacts to fish and fish habitat

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**Federal**

**Agencies**

- Transport Canada, Navigation Protection Program
- Canadian Coast Guard, Office of Boating Safety
- Department of Fisheries and Oceans
- Parks Canada
- Canadian Wildlife Service

**Funding Programs**

- Abandoned Boat Program

**Key Legislation, Regulation, Policy**

- Canada Shipping Act
- Navigation Protection Act
- Minor Works Order and Private Mooring Buoys Regulations
- Woods of Crown Program
- Wrecked Abandoned or Hazardous Vessels Act
- Migratory Birds Act and Regulations

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**Provincial**

**Agencies**

- Ministry of Forest Lands and Natural Resource Operations
- Crown Lands, Policy, Enforcement groups

**Key Legislation/Regulations**

- Lands Act
- Permission for the Use of Crown Land for Private Moorage
- License of Occupation (LOO) Agreements

**Funding**

- Clean BC Funding for boat removal and clean up

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### Local Government

**Agencies**

- Municipalities
- Islands Trust
- CRD/Municipal Affairs

**Funding**

- General Revenues from regional taxpayers
- Federal and Provincial grant money

**Legislation and Regulatory Tools**

- Community Charter
- Local Government Act
- Zoning Bylaws
- Land Use Bylaws
- Structure Bylaws
- Environmental Development Permit Areas

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### Wrecked, Abandoned and Hazardous Vessels



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**Dilapidated vessel** means a vessel that meets any prescribed criteria and is significantly degraded or dismantled or is incapable of being used for safe navigation.

A vessel is presumed **abandoned** if the owner leaves the vessel unattended for two years.

**Wreck** means a vessel, or part of, that is sunk, partially sunk, adrift, stranded or grounded, or on the shore including equipment, stores, cargo or any other things that is or was on board.

**Hazard** means any condition or threat that may reasonably be expected to result in harmful consequences to the environment, coastline, shorelines, infrastructure or any other interest, including the health, safety, well-being and economic interest of the public.

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### Vessels of Concern Program

National Strategy to address the number of abandoned and wrecked vessels in Canadian waters by:


- Preventing the occurrence of new problem vessels
- Making progress in cleaning up existing problem vessels

**Five Key Measures**

1. Legislation (W-AVA)
2. Enhance vessel owner identification
3. Funding programs for wreck removal, education and research
4. Long-term owner-financed funds
5. National inventory of abandoned and wrecked vessels

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### VOC Program Roles

Coast Guard	Transport Canada	Fisheries and Oceans
Single window reporting tool for VOC for Canada	Addressing <b>dilapidated and abandoned vessels</b> in Canadian waters where hazards are identified	Addressing <b>dilapidated vessels</b> in the Great Lakes
Maintain National Inventory database	Enforcing recoverable vessel regulations	Enforcing compliance
Issue orders and directives to owners or other appropriate parties	Enforcement of 5 prohibitions: Abandoning a vessel or wreck on the shore; Causing a vessel to sink or become a wreck; Leaving a vessel become a wreck by failing to raise it; Leaving a wrecked vessel for more than 48 hours; Leaving a dilapidated vessel in the same area for more than 48 consecutive days without removal.	Enforcing compliance
Enforcing the International Convention of Wreck Removal		Enforcing compliance

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### Measures related to Hazards

The Minister of Fisheries and Oceans may:


- Take measures considered necessary to prevent, mitigate, or eliminate the hazard, including by repairing, securing, moving or removing of vessels, the wreck or their contents or selling, dismantling, destroying or otherwise disposing of them
- Monitor the measure taken by any person to prevent, mitigate, or eliminate the hazard
- Direct any person or vessel to take measures

Minister has similar powers regarding dilapidated vessels

Minister has the authority to enter vessels to investigate hazard concerns

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### Wrecked, Abandoned and Hazardous Vessels Act (WAHVA)

Protect coastal and shoreline communities, the environment and infrastructure, and reduce burden on taxpayers from abandoned, dilapidated and wrecked vessels by:

- Strengthening owner liability for vessels, including costs for clean up
- Addressing irretrievable vessel management, including prohibiting vessel abandonment
- Enhancing federal powers to take proactive action on problem vessels, including forced assessments to inform measures
- Introducing compliance and enforcement regime with offences and penalties
- Clarifying roles and responsibilities between TC, DFO and COG


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### WAHVA Roles

Transport Canada	Coast Guard	Fisheries and Oceans
<ul style="list-style-type: none"> <li>• Create regulations, policies and standards</li> <li>• Issue insurance certificates and verify compliance with insurance requirements</li> <li>• Oversee and enforce the Salvage Act and the Wrecked Vessels Act</li> <li>• Enforcement of prohibitions (e.g., abandonment, dilapidated vessels)</li> <li>• Order removal of dilapidated vessels or, where necessary, take action directly under the responsibility of Minister of DFO and COG</li> </ul>	<ul style="list-style-type: none"> <li>• Enforced best practices, vessels of concern</li> <li>• Coordinate and implement hazard interventions</li> <li>• Issue orders where necessary to ensure safety of navigation, including restrictions</li> <li>• Order removal of dilapidated vessels or, where necessary, take action directly under the responsibility of Minister of DFO and COG</li> </ul>	<ul style="list-style-type: none"> <li>• Take appropriate action on abandoned vessels/wrecks located in areas such as harbours</li> <li>• Order removal of abandoned vessels or, where necessary, take action directly under the responsibility of Minister of DFO and COG</li> </ul>

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### WAHVA Prohibitions

- Abandoning a vessel unless authorized or an emergency
- Causing a vessel to become a wreck
- Letting a vessel become a wreck by failing to maintain it
- Leaving a vessel adrift more than 48 hours
- Leaving a dilapidated vessel (poor condition/state of neglect) in same area for more than 60 consecutive days without consent

Who's consent?

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### Private Mooring Buoys

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### Anchoring vs. Mooring

**Mooring** is a more permanent method of securing the vessel to the seabed using ground tackle which is not intended to be, and cannot conveniently be, taken on board the vessel using it in the ordinary course of use.



↑

Not a protected right


**Anchoring** is a temporary manner of securing a vessel to the seabed using tackle that is intended to be heaved aboard the vessel.

↑

Protected right

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### R v. Lewis 2009


"... incidental right to anchor... is not a right to anchor or moor permanently... must be exercised reasonably as determined by the circumstances at the time of anchoring such as weather, loading or unloading of vessel or need for repair."

The right to anchor therefore contemplates the right to do so for a reasonable time, for a reasonable purpose... and must not be exercised so as to interfere with the equal rights of others."

Right to anchor has paramountcy and can only be modified or extinguished by an authorizing statute

• Right to anchor??


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### West Kelowna v. Newcomb 2016

- Confirmed municipal authority to regulate the use of land covered by water even if such regulations interfere with the rights of navigation
- Confirmed that prohibition on all anchoring, including short-term anchoring, would exceed municipal competency by interfering with navigational rights to an impermissible degree
- Municipal bylaws must allow for some short-term anchoring to avoid intruding on federal jurisdiction over navigation


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### City of Victoria v. Zimmerman

- Constitutional challenge to Bylaw which allowed limited anchoring and mooring (c. 72hrs in 30-d period)
- Upheld municipal authority to regulate the use of land covered by water
- Upheld the municipal bylaw and the limitations it placed on anchorage and mooring
- Victoria moved ahead with injunction - long-term anchored/moored boats and live-aboards had to move and derelict boats were removed

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### Private Mooring Buoys

**Jurisdiction**


- Transport Canada, Navigation Protection Program

**Key Legislation/Regulation**

- Navigation Protection Act
- Minor Works Order
- Private Mooring Buoy Regulations

- Key regulation change in 2009
- No authorization from NTP required if built according to MWO and PMBR criteria
- PMBR are not considered a right to navigation, no need to ensure provisions for temporary moorage
- Permits may be required if local government has bylaws in place


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### Minor Works Order

- Mooring systems consists of anchor set in/on bed of navigable water, a single anchor line, a single mooring line, and line that attaches to a vessel
- Vessels must be < 42 m length
- The mooring system is not associated with marina
- Mooring system located in location where nav water > 300m width
- The anchor of mooring system remains in the location where it was set in or on the bed of nav water
- Removal of mooring system required by owner if:
  - Any component of mooring system removed
  - During any 2-year period, no vessels has moored to the mooring system

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### MWO - Swing Area Criteria

When vessel moored, the swing area is:

- > 20m from work or from swing area of other mooring systems
- > 50m from marina, public boat-launching ramp
- > 50 m from navigation channel or, if there is no navigation channel, is not in, on, through or across a navigation route
- Does not exceed max diameter when in tidal waters of certain depth

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### Private Mooring Buoy Regulations

- Buoy is 15.25 cm wide and 30.5 cm above water surface
- Displays "PRIV" in large letters (black or white depending on buoy colour)
- Complies with TP 968
- Name, address, phone # of owner conspicuously displayed
- Buoy and anchor system constructed to remain in position

**Removal**

- Minister may remove if do not comply with these regs

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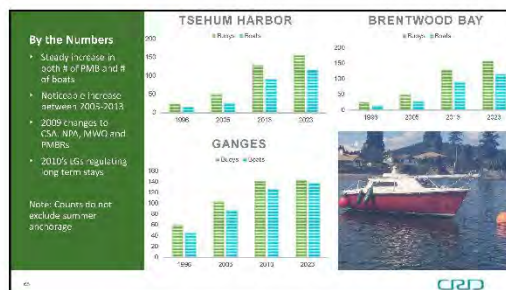


### Who can install PMB?

- Any person or entity may install a PMB provided the buoy meets the requirements of Private Buoy Regulations and the Navigation Protection Act
- If installed IAW Minor Works Order, then no authorization from TC is required
- Although the NPA does not prohibit the placement of buoys in front of private property, there may be other riparian, local, regional, or provincial rights or regulations that do.

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### TC Enforcement of PMBs

- Unlawful works/non-compliant buoys, may be subject to removal (applies to buoy NOT the vessel)
- Provide a period of time to rectify deficiencies or may be removed
- NPP staff indicate that any enforcement or costs associated with cleaning up harbours is up to us.
- They will not force removal of PMB that are compliant with MWMO/PMBA
- Max size boat on PMB is 12 m length
- 50 boats x 12 m
- Of these 10 are on PMB with multiple boats
- Longest boat is 17.5 m

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### Provincial Responsibilities

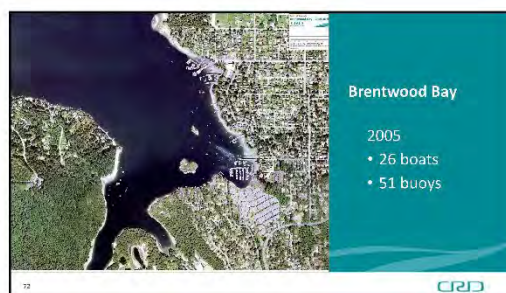
- Administration and control of the seabed
- Have authority under land act to prevent trespass
- Province has decided not to include PMBs in their Policy
- Need to consider cumulative effects
- Boat-related issues are affecting most coastal communities in BC – a provincial approach would benefit many communities

CRD

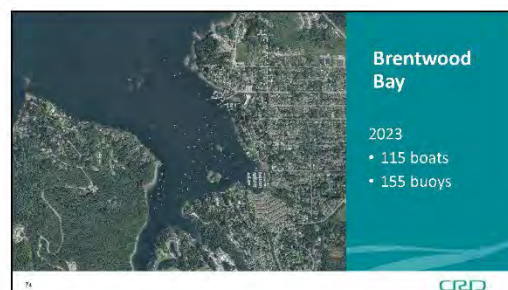
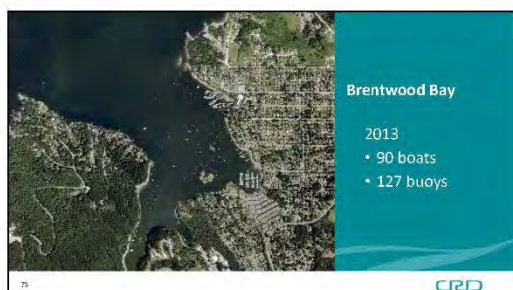
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**Scan of Existing Municipal Regs**

Municipality	PMB	Anchorage	Live-Aboard	Marine Structures
N. Saanich*	R	R	-	R
Sidney*	-	P	-	-
C. Saanich*	-	R	P	R
Saanich*	-	R	P	P
Oak Bay*	-	P	P	P
Victoria*	-	P	R	R
Esquimalt	-	P	P/R	-
View Royal	-	-	P	-
Highlands	-	-	-	-
Metchosin	-	P	-	-
Colewood	-	-	-	-
Langford	-	-	-	-
Sooke*	-	R	-	R

P = Prohibited or With Restrictions R = Regulated in some way

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**Scan of Existing Islands Trust/EA Regs**

**Gulf Islands**

Islands Trust or EA	PMB	Anchorage	Live-Aboard	Marine Structures
JdF EA	-	-	-	R
SSI EA	R	R	R	R
SGL Sakuma	P	-	-	R
SGL Norm Pender	-	-	-	R
SGL South Pender	-	R	-	R
SGL Galiano	R	R	-	R
SGL Mayne	-	-	-	R
SGL Piers	R	R	-	R

P = Prohibited or Not Permitted R = Regulated in some way

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**Option #1**

**Prohibit PMBs**

- Prohibit placement of PMBs within moles and bounds through zoning, land use and structures bylaw
- Enforcement of bylaw – initial enforcement may be high, long-term enforcement minimal

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**Option #2**



**Regulate PMBs**

- Regulate the # and/or location of PMBs
- Regulate allowable structures on the PMB
- Develop or amend zoning, land use and structure bylaws
- Provision of shore services and amenities
- Enforce bylaws



CRD

79

**Option #3**



**Enter into Licence of Occupation to Regulate PMBs and Recover Fees**

- Local government enters into crown land tenure through LOO – this is required for LG to charge fees and recover costs
- Create management plan that defines the max. # of moorages within tenure area and terms of use for moorages
- Develop or amend land use and structure bylaws to regulate the placement and # of PMBs
- Set up a registration and payment system
- Provision of shore services and amenities
- Enforcement of bylaws – Ongoing
- Legal Concerns:



CRD

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**Local Government Examples**

CRD

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**Mannion Bay, Bowen Island**



**VOLUNTARY**

**HELP PROTECT EELGRASS**


- Key issues: pollution, water quality and mud/canoeing and garbage and other debris that blocks or interferes with eelgrass
- Entered into LOO to regulate users and recover costs
- Launched initial cleanup efforts, removal of illegal mooring buoys, floating docks, structures and vessels
- Annual fee of \$340 for mooring, no fee for boards longer than 80 x 20 ft or smaller, and of \$150 for 10 ft
- Annual surveys and enforcement efforts

CRD

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**City of Victoria wins injunction allowing removal of derelict boats from Gorge**

Environmental Protection Act (EPA) under regulation 10(1) (2018)




**Gorge Waterway, City of Victoria**

- Key issues: environmental contamination, garbage and excessive noise from five-aboards, abandoned and derelict boats
- The City enacted zoning regulations to better regulate more appropriate use of this area, in a manner consistent with the neighbouring land uses and the OCP (Prohibited overnight anchorage)
- Entered into LOO for authority over the waterway
- City issued notices then sought injunction to remove remaining
- 2018 BC Court of Appeal ruling

CRD

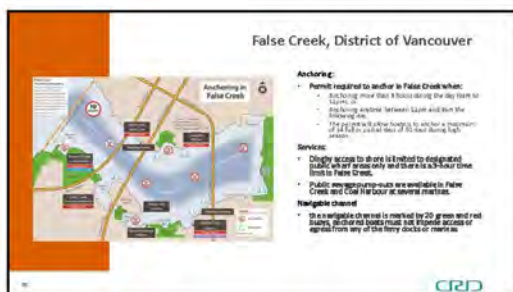
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**Deep Cove, District of North Vancouver**



**Deep Cove Designated Anchorage Area**

- Key issues: water quality, noisy generators, unsafe mooring and garbage and other debris that blocks or interferes with eelgrass
- Entered into LOO with the Vancouver Port Authority for jurisdiction over the area, it captures a whole lot of other regulations
- With a LGA permit, you can moor your boat to one of the buoys in the cove for up to 14 days within a one-month period. The cost is calculated per day, and is based on the length of your boat (3.0m per foot less, maximum of \$40 per day)
- Under permit, boats that are anchored inside the designated anchorage area, overnight and within a permit, are subject to enforcement and towing. Gates can be 3rd and 4th, 5th or 6th, 7th or 8th, 9th or 10th, and 11th or 12th, and 13th or 14th, and 15th or 16th, and 17th or 18th, and 19th or 20th, and 21st or 22nd, and 23rd or 24th, and 25th or 26th, and 27th or 28th, and 29th or 30th, and 31st or 32nd, and 33rd or 34th, and 35th or 36th, and 37th or 38th, and 39th or 40th, and 41st or 42nd, and 43rd or 44th, and 45th or 46th, and 47th or 48th, and 49th or 50th, and 51st or 52nd, and 53rd or 54th, and 55th or 56th, and 57th or 58th, and 59th or 60th, and 61st or 62nd, and 63rd or 64th, and 65th or 66th, and 67th or 68th, and 69th or 70th, and 71st or 72nd, and 73rd or 74th, and 75th or 76th, and 77th or 78th, and 79th or 80th, and 81st or 82nd, and 83rd or 84th, and 85th or 86th, and 87th or 88th, and 89th or 90th, and 91st or 92nd, and 93rd or 94th, and 95th or 96th, and 97th or 98th, and 99th or 100th, and 101st or 102nd, and 103rd or 104th, and 105th or 106th, and 107th or 108th, and 109th or 110th, and 111th or 112th, and 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Break Out Session #1

- Discuss the benefits and challenges for each of the 3 Local Government Options
  - Options are provided in your workshop package
- Which option might work best for your jurisdiction?

• 2 online groups, 3 in-person groups

• 20 minutes for discussion then report out

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Break Out Session #2

Discuss the following:

- Interjurisdictional Coordination
- Enforcement
- Next Steps

• 2 online groups, 3 in-person groups

• 20 minutes for discussion then report out

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Thanks for your time!

Photo Credits

- John Roe, Dead Boats Disposal Society
- Malcolm Falconer, Tsehum Harbour Task Force
- Glenn Stevens, SSI Clean and Safe Harbours Initiative (CASHI)

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## Appendix C – April 30, 2024 Meeting Notes

### Option 1 - Prohibit PMBs through Zoning, Land Use and Structure Bylaws

Challenges	Benefits
<p>Housing:</p> <p>For certain harbours (i.e. Salt Spring Island, Tsehum) boats are one of very few housing options</p> <ul style="list-style-type: none"> <li>• Liveaboards are living and/or working in the community - housing shortage is severe (eg: hospital workers)</li> <li>• Removes available housing “stock” on the Gulf Islands</li> <li>• Anchoring (as the alternative to mooring) is more damaging to the sea bed and PMB regulation could result in an increase in anchored boats.</li> </ul> <p>Infrastructure:</p> <ul style="list-style-type: none"> <li>• Dock maintenance and moorings are full so would need to be expanded</li> <li>• Moves the problem somewhere else</li> <li>• Marinas are full - no dock space available for moored boats to move to</li> <li>• Would existing PMBs need to be grandfathered in?</li> <li>• If banned, where can boats moor? Will they just keep moving around the region?</li> <li>• Many of the structures are not boats, they are barges, wooden docks tied together, logs and boards, some are commercial barges that do not match their intended use</li> </ul> <p>Public Perception:</p> <ul style="list-style-type: none"> <li>• Not PMBs, it’s the actions of boaters when tied up that are issues</li> <li>• Bad option</li> <li>• Explosive, politically dangerous</li> <li>• Does not solve the foundational issue</li> </ul>	<ul style="list-style-type: none"> <li>• Local government can use familiar tools (land use and zoning)</li> <li>• Establishes legal authority for municipalities to do something</li> <li>• Helps to protect key features</li> <li>• Improved coastal stewardship</li> <li>• Positive for environmental protection</li> <li>• Reduces sewage discharge</li> <li>• Allows protection of habitat and cultural sites</li> <li>• Need to prohibit PMBs in cultural and environmental areas</li> <li>• Appropriate in some areas</li> <li>• Quick and easy reporting (public)</li> <li>• People living in floating communities are not paying taxes</li> <li>• Easier to enforce</li> <li>• Equal “neat and tidy” for all</li> <li>• Streamlines who is in charge</li> </ul>

Challenges	Benefits
<ul style="list-style-type: none"> <li>• Drastic move – negative feedback from community and bad press</li> </ul> <p>Enforcement:</p> <ul style="list-style-type: none"> <li>• Need a boat</li> <li>• Opportunities for partnership</li> <li>• Identification of ownership</li> <li>• Complicated</li> <li>• Capacity issues</li> <li>• What and who does it?</li> <li>• Rely on RCMP</li> <li>• Lack of resources</li> <li>• Need more enforcement dollars</li> </ul> <p>Legal Challenges:</p> <ul style="list-style-type: none"> <li>• Liability – what if there are existing PMBs there?</li> <li>• First Nations Section 35 rights</li> </ul>	

### Option 2 - Regulate PMBs through Zoning, Land Use and Structure Bylaws

Challenges	Benefits
<ul style="list-style-type: none"> <li>• Impact to individuals, particularly those that use vessels as housing</li> <li>• Housing displacement (especially in Ganges)</li> <li>• Complexity of service provision, jurisdictional authority</li> <li>• Not a coast-wide solution</li> <li>• Politically and morally challenging</li> <li>• Needs the support of other jurisdictions (partnership), examples include: <ul style="list-style-type: none"> <li>– Indigenous Management Board (WASANEC to Nanaimo)</li> <li>– Collaboration with CRD/Islands Trust</li> <li>– National Conservation Protection area – transferring control of seabed to First Nations?</li> </ul> </li> <li>• Enforcement should include education (multiple visits?)</li> <li>• Loopholes and adaptability of owners</li> </ul>	<ul style="list-style-type: none"> <li>• Environmental – reduce overcrowding, dumping, intertidal crowding</li> <li>• Encompasses diversity between harbours/boater communities - reflect the local community needs</li> <li>• Creates areas of protection and allows boats (balancing needs)</li> <li>• More consultation and collaboration with community <ul style="list-style-type: none"> <li>– Increase safety from current situation</li> <li>– Could eliminate some “junk”</li> <li>– Increase shoreline access</li> <li>– Less social conflict</li> </ul> </li> <li>• Compromise, ‘more palatable to all’</li> <li>• Way to demonstrate responsible boat ownership discussions around a Harbour Authority</li> </ul>

Challenges	Benefits
<ul style="list-style-type: none"> <li>• Cost of enforcement/enforcement capacity is even greater than in Option 1</li> <li>• Cost of service provision, program, removal</li> <li>• Time (staff) and willingness of staff</li> <li>• How to monitor? Camera services if no fees?</li> <li>• Supportive services – no resources at local government level to provide these services: <ul style="list-style-type: none"> <li>– garbage</li> <li>– sewage (many areas do not have pump out facilities)</li> <li>– access to showers</li> <li>– can fees be charged for the supportive services?</li> </ul> </li> <li>• Legal consideration/legal challenges</li> <li>• Structure bylaws could affect many of the existing structures that are cobbled together</li> <li>• Grandfathering?</li> </ul>	<ul style="list-style-type: none"> <li>• Regulation might reduce need for supportive services</li> <li>• Less liability than Option 3</li> <li>• Less liability if charged a permit fee?</li> </ul>

### Option 3 - Enter into a Licence of Occupation (LOO) with the Province to Regulate PMBs and Recover Fees

- Requires agreement with crown for land tenure
- Requires development or amendment of bylaws to determine placement/number, etc.
- Requires enforcement
- Requires supportive services (garbage, sewage, dinghy dock)

Challenges	Benefits
<p>Liability:</p> <ul style="list-style-type: none"> <li>• Contamination</li> <li>• Land occupier</li> <li>• Liability for unknown risks</li> <li>• LOO – downloads everything to local government (less flexible than zoning)</li> <li>• Financial – who pays?</li> <li>• Similar funding/infrastructure challenges to Option 2, with addition of administration</li> <li>• Can charge fees but will they be high enough to recover full costs of implementation?</li> </ul>	<ul style="list-style-type: none"> <li>• No non-conforming issue</li> <li>• Can have LOO and zoning</li> <li>• User pay system – provide revenue to offset costs (this is more fair for the users to pay for the services)</li> <li>• Purpose of going this route is local governments cannot afford to provide the services</li> <li>• Similar environmental benefits to Option 2 mooring is less damaging to the environment than anchoring</li> </ul>

Challenges	Benefits
<p>Enforcement:</p> <ul style="list-style-type: none"> <li>• More challenging</li> <li>• Acting as private owner</li> <li>• Lack of capacity for enforcement, would need more capacity to manage this</li> <li>• Similar challenges to Option 2</li> <li>• Public perception: seen as an elitist way to achieve Option 1</li> <li>• Violates First Nations rights and titles</li> <li>• On Gulf Islands who would take out the L00 – CRD or Islands Trust?</li> <li>• Administration/capacity at local government level an issue</li> <li>• Need to advocate to Province</li> <li>• Greater demand for services if charging</li> <li>• Not much more useful</li> </ul>	<ul style="list-style-type: none"> <li>• Evidence based research and approach</li> <li>• First Nations consultation increased</li> </ul>

## Next Steps

### First Nations

- Collaboration with First Nations (FN)
- FN role – partnerships
- Indigenous Management Board - 11 Nations
- Talk to FN boards/councils for direct input
- Indigenous Management board role

### Collaboration

- Need collaboration = consensus on this and resources
- Next steps – task force or working group?
- Whole coast collaboration
- Need for funding – where does the money come from?
- National Marine Conservation Area
- Deregulation issue
- Collaboration and advocacy with federal and provincial governments

## Housing

- Fundamental housing problem is a big issue affecting the Gulf Islands
- Need to learn more about people living on boats
- Know more about people living on boats
- Saanich Inlet Protection Society (SIPS) + liveaboard groups – commonality

## Roles

- What are the roles towards a solution to this issue?
- Role of vacation moorage(s)
- Get decision makers together to resolve this
- Need to engage with community

## Resources/Funds

- Capacity challenge for all
- Enforcement issue – highly complex, lack of decision makers, who has jurisdiction?

## Advocacy

- Consideration of coordinated approach for advocacy – all
- What federal plans are coming?
- Marine Protected Area regulation change
- Cumulative impacts of PMBs
- ADM Mack, Assistant Deputy Minister, talked about the BC Coastal Marine Strategy – BC government developing high level tool kit and partnerships
- Data compelling – in terms of the rate of change
- Need for all to commit resources and do the work SOON
- Focus on problem areas - do trial program there first and learn
- “Sunset of Salish Sea” report – sustainability

## How to move towards collaboration?

- Proper inventory
- Existing violations addressed
- Task force or working groups? How to formulate, how to fund? The Province can help get the right decision makers engaged. NOTE challenges – wildfire season is here, election year
- Coastal Marine Strategy flags this boat issue
- CRD has given input, will give more

- All local governments should review and give comments

#### CRD Next Steps

- Staff report to CRD board – suggest a working group
- Role of CRD – Saanich Peninsula Harbours Service now suspended by Central Saanich
- Ocean Protection Plan – Transport Canada
- Funding increase through Coastal Marine Strategy
- Next Step - Elizabeth May's office can help connect ministers and bridge concerns
- Success of derelict boat removal so far. Keep at it!
- Importance of relationship with community and leadership
- Rebuild trust, individual relationships
- Other places in BC and Canada. Are PMBs an issue on the East Coast or the Great Lakes?

#### Meet with Indigenous Management Board

- Coastal Marine Strategy - share CRD submission and invite board input - not enough time for that.

#### Parking Lot Items

- Boat buy-back programs
- Need better data
- Need to have a one stop shop - there is currently no group that you can talk with about this, there are multiple different agencies, very complex and confusing
- FN Port Authority
- FN input needed
  - Challenging to consult
  - Capacity at Nations an issue for consultation, need funding
  - Ongoing unresolved claims
  - How to unwind this system
  - Haven't been part of the process
  - Process – lack of FN options/conservation(?)
  - Missing part of the solution
- Context has now changed
- Housing alternatives roll out over next 10 years
- Capacity
- Consider interim task force to try to solve this issue: Fisheries and Oceans Canada (DFO), Transport Canada, Canadian Coast Guard, BC government

- Proposed Conservation Values/Marine Conservation Area
- underlying issues for Salt Spring Island
  - “class conflict”
  - Local decision making
  - FN Decision Making and Control/Governance/Stewardship and Collaboration