

Contents

Preamble.....1

A. *shíshálh* Nation Mariculture2

B. Factors and Standards for *shíshálh* Mariculture Decision-Making3

 1. Application of *shíshálh* Land and Resources Decision-Making Policy3

 2. Specific Factors for Mariculture Decision-Making.....5

 3. Particular Standards for Finfish Mariculture Decision-Making within *shíshálh* swiya6

 4. Particular Standards for Shellfish Mariculture Decision-Making within *shíshálh* swiya.....7

C. Crown and Proponent Engagement with the *shíshálh* Nation8

Preamble

We, the *shíshálh* Nation, openly and publicly declare that we have Aboriginal Title and Aboriginal Rights to our Territory, including the lands, waters, and resources that have been ours since time immemorial. We have been given the responsibility from the Creator to care for our Territory. Our Territory sustains our people, maintains our indigenous way of life, and is integral to our identity as *shíshálh*. We have always governed ourselves and our Territory, and have never relinquished our authority or jurisdiction over such. We assert our collective right to live as a distinct people.

shíshálh Nation Declaration

The *shíshálh* Nation Declaration affirms our Title and Rights to our *swiya* (birthplace, world, lands Territory), our jurisdiction and authority to determine the use of our *swiya* and the centrality of our *shíshálh* customary laws, traditions, needs, and aspirations.

This Mariculture Policy is one part of implementing our Declaration, and is an exercise of our inherent Title and Rights. This Mariculture Policy supplements the *shíshálh* Nation Lands and Resources Decision-Making Policy by identifying some specific additional decision-making factors and standards regarding how *shíshálh* will make decisions with respect to mariculture in our *swiya*. This Mariculture Policy has been developed to reflect and carry forward the sacred trust we hold for current and future generations of the *shíshálh* People, in a manner which respects our Title and Rights, international legal standards, and the common law.

This Mariculture Policy outlines expectations for the Crown, proponents, and all others who seek to regulate or benefit from the use of mariculture resources within our *swiya*. Both the Crown and proponents seeking to use *shíshálh* mariculture resources and to engage in consultation and accommodation should fully familiarize themselves with the *shíshálh* Nation Lands and Resources Decision-Making Policy and this Policy.

A. *shísháhlh* Nation Mariculture

The protected bays and adjacent shorelines throughout our *swiya* provide substantial foreshore habitat from which a wide variety of intertidal, subtidal and marine species were and continue to be harvested. Offshore islands and reefs which attract a similar diversity of fish and sea mammals are equally important in forming the basis of the *shísháhlh* diet. The cultural practices of our people evolved to take optimum advantage of the available resources, while managing the levels and distribution of use so as to avoid over-exploitation.

The integral connection of intertidal, subtidal, and marine resources with *shísháhlh* people, culture, and way of life is illustrated by the following:

- Historical and contemporary use of fish, shellfish, marine animals, marine plants, and a variety of marine resources for food, trade, commercial, and ceremonial purposes
- Extensive construction and utilization of fish traps, weirs and clam gardens throughout our *swiya*. Management of marine resources through species planting and preservation
- Maintenance of intertidal zones throughout the *swiya* to provide optimal conditions for resources
- *shísháhlh* is best known as the salmon people

The first mariculture developments in the *swiya* were shellfish mariculture sites established in the late 1920s. Rapid expansion of these sites to various inlets and bays then began in the 1980s. Finfish farms were established within the *swiya* in the late 1970s and early 1980s, followed by a rapid expansion of sites in various inlets and bays. The *shísháhlh* Nation has been consistent in its opposition to finfish aquaculture developments until its interests are addressed, due to concerns relating to the open net-pen farming of Atlantic salmon within the *swiya*, including the health and genetic integrity of wild stocks from pathogens, risk of escapes and impacts to the benthic environment. The *shísháhlh* Nation now requires continuous monitoring of sea lice at all farm sites during periods of migration of wild juvenile stocks. The management and mitigation of these existing and on-going impacts, and ensuring the protection and preservation of intertidal and marine species into the future so that *shísháhlh* culture, way of life and rights are not further interfered with, are central reasons for this policy.

B. Factors and Standards for shíshálh Mariculture Decision-Making

1. Application of shíshálh Land and Resources Decision-Making Policy

This Policy is adopted pursuant to the *shíshálh* Land and Resources Decision-Making Policy. It is a supplementary and complementary policy that provides some specific decision-making factors and standards and regarding mariculture.

This policy does not displace or replace the *shíshálh* Land and Resources Decision-Making Policy in any way, and should only be read as providing additional policy guidance to the *shíshálh* Land and Resources Decision-Making Policy, in a manner that is consistent with and in harmony with the *shíshálh* Land and Resources Decision-Making Policy.

The Crown and proponents should fully familiarize themselves with the *shíshálh* Land and Resources Decision-Making Policy and this Policy, and at all times be fully adhering to all of the elements of both policies. If the Crown or a proponent has any uncertainty or lack of clarity about how the elements of the two policies may interact or relate to each other, they should immediately refer their uncertainty or lack of clarity to the *shíshálh* Chief and Council for clarification. Relevant aspects of the *shíshálh* Land and Resources Decision-Making Policy that apply to shellfish mariculture include:

a) shíshálh Knowledge

Developing and evaluating a request for *shíshálh* lands and resources requires examining that request through the lens of *shíshálh* knowledge and the *shíshálh* perspective, and what *shíshálh* knowledge tells us about the potential impacts of such a use on *shíshálh* Title and Rights.

All mariculture applications will be considered from the *shíshálh* perspective. This perspective views proposals in relation to all aspects of our reality which includes, but is not limited to, culture, environment, economy, spirituality and traditions. This will be done by considering ethnographic data, traditional use data and archaeological data when assessing any shellfish mariculture developments that may be proposed within our *swiya*.

b) Degree of Alienation and Impact

The *shíshálh* Nation stewardship role requires careful examination of the degree of alienation and impact of a proposed project. This involves looking at the significance of *shíshálh* interest that may be impacted, extent of the proposed project and the level of duration of any proposed alienation and the vulnerability that this creates.

Over the years, access to suitable shellfish harvesting sites for our community members has significantly decreased, due to industrial and residential developments along the foreshore. As a result, we will not support any mariculture developments that restrict *shíshálh* community access to productive shellfish beaches along the foreshore.

c) Cumulative Impacts

When reviewing requests for the use of *shíshálh* lands and resources within our *swiya* we will consider the relationship of the proposed use to past, existing and potential future uses of the lands and resources.

Our *swiya* has been significantly impacted by the poaching and overharvesting of wild shellfish beaches, as well as sanitary closures resulting from the pollution that is often associated with residential and industrial developments. The health of wild salmon populations within our *swiya* has also been significantly diminished. This has severely limited the ability of our community members to carry out traditional activities relating to the harvest of marine resources. Therefore, the use of aquatic resources should be conducted in a sustainable manner that prevents cumulative impacts. We expect all developments to be conducted in a way that ensures the continued and unimpaired use of aquatic resources by future generations.

d) Sustainability

Proposed activities will be viewed from a perspective that considers social, cultural and environmental sustainability. In particular, a focus will be placed on how the proposed activity relates to our ability to continue to sustain our way of life that is connected to the lands and resources.

We are concerned about impacts to marine resources that have resulted in diminishing opportunities for *shíshálh* members to harvest these resources within our *swiya*. Therefore, we do not support any activities that could negatively impact the health of wild shellfish or finfish populations.

e) Precautionary Principle

The *shíshálh* decision-making process functions in accordance with the precautionary principle. This is the idea that the burden of proof that a proposed course of action is not harmful, falls on those who are seeking to take that course of action. When the impacts of a proposed activity are unclear we will err on the side of caution, rather than risk environmental damage to the lands and resources.

Marine resources within our *swiya* have been significantly impacted by many years of industrial and residential development. As a result, we do not support any activities that could potentially impact wild fish populations or other marine resources in a negative way. Those seeking mariculture developments within our *swiya* must demonstrate that their proposed project will not negatively impact marine resources within our *swiya*. Proposed developments that are unable to demonstrate this will not be supported by the *shíshálh* Nation.

2. *Specific Factors for Mariculture Decision-Making*

In addition to the decision-making principles, process and factors in the *shíshálh* Land and Resources Decision-Making Policy, the following specific factors apply for mariculture decision-making. The Crown and proponents are encouraged to be in direct contact with the *shíshálh* Rights and Title Department to understand how these factors are currently being applied, and to gain an understanding of the application of these factors to particular proposed activities and proposals.

a) Maintain Biodiversity Through an Ecosystem Approach:

The *shíshálh* Nation Land Use Plan states that conserving biodiversity within our *swiya* must be a guiding management direction. The diversity of plants, animals, and other living organisms in all their forms and levels of organization play a vital role in the circle of life, which the *shíshálh* Nation recognizes as an important component of stewardship within our *swiya*.

In order to maintain biodiversity species and their habitats are to be managed through an ecosystem approach. An ecosystem approach looks at the role that a species, habitat-type, or activity plays in relation to other species, habitats, or activities, and in relation to their broader ecosystem. It also looks at the cumulative effects of different activities. Finally, an ecosystem approach includes understanding broader processes and dynamics driving change at smaller scales.

b) Prevent Cumulative Impacts on Resources:

Aquatic resource use should be conducted in an environmentally, socially, culturally, and economically sustainable manner that prevents cumulative impacts. We believe that asking whether an activity can continue to produce similar benefits for future generations is one way of determining whether an activity is sustainable. This test should be applied in the context of prior knowledge, our limited ability to predict the future, and an ecosystem approach that looks at the activity in relation to other activities or broader dynamics. The use of aquatic species and their habitat should carry with it the responsibility to treat them with respect and ensure their continued and unimpaired use and enjoyment by future generations.

c) Addressing Past Infringements and Rehabilitating Important Areas & Species:

As part of our decision-making about aquatic resources, we will consider past impacts and infringements and the need for these to be addressed. This includes looking at possible modes of compensation and mitigation, as well as opportunities to rehabilitate over time particular areas and species that have suffered damage.

3. Particular Standards for Finfish Mariculture Decision-Making within *shíshálh swiya*

In addition to the decision-making principles, process, and factors in the *shíshálh* Land and Resources Decision-Making Policy, the following specific standards apply for finfish mariculture proposals. The Crown and proponents are encouraged to be in direct contact with the *shíshálh* Rights and Title Department to understand how these standards are currently being applied, and to gain an understanding of the application of these standards to particular proposed activities and proposals.

- a) The *shíshálh* Nation does not support the culture of salmonid species using open net-pen technologies within our *swiya*. Numerous studies have provided evidence of potential negative impacts of fish farm open net-pen technologies on British Columbia's marine environment. Escape does occur, and farmed Atlantic salmon have been found to survive in the wild, despite previous assurances to the contrary. Farmed salmon in open net-pens also have impacts on the benthic environment and have the potential to transfer harmful pathogens and parasites to wild salmon species. Plans to continue raising salmonid species within the *swiya* using open net-pen technologies will not be supported by the Nation.
- b) We will only support the culture of salmonid species within our *swiya* if closed-containment technologies (either land or ocean-based) that completely eliminate the risk of escapes are employed.
- c) In order to prevent waste products from impacting the benthic environment, we will only support the culture of salmonid species within our *swiya* if closed-containment technologies (either land or ocean-based) that contain, remove, disinfect and dispose of all fecal matter and food waste from the system are employed. We do not support any closed-containment options that allow any fecal matter or food waste to enter aquatic ecosystems.
- d) In order to prevent pathogen/parasite transfer to wild fish stocks, we will only support the culture of salmonid species within our *swiya* if closed-containment technologies (either land or ocean-based) that effectively contain, remove, disinfect and dispose of all pathogens/parasites (e.g. viruses, sea lice, etc.) from the system are employed. We do not support any closed-containment options that allow pathogens or parasites to enter aquatic ecosystems.
- e) We expect all proponents to complete environmental impact assessments at current and proposed future farm sites and offer compensation for habitat losses where a project has or may be proceeding.

4. Particular Standards for Shellfish Mariculture Decision-Making within *shíshálh swiya*

In addition to the decision-making principles, process, and factors in the *shíshálh* Land and Resources Decision-Making Policy, the following specific standards apply for shellfish mariculture proposals. The Crown and proponents are encouraged to be in direct contact with the *shíshálh* Rights and Title Department to understand how these standards are currently being applied, and to gain an understanding of the application of these standards to particular proposed activities and proposals.

- a) We do not support any development of shellfish mariculture facilities that have the potential to exclude Nation members from accessing beaches and/or harvesting wild shellfish within *shíshálh* Nation *swiya*.
- b) All shellfish mariculture sites within *shíshálh* Nation *swiya* require a biological assessment to assess potential impacts to riparian areas and critical habitats that are used by species at risk. The biological assessment should cover all foreshore, intertidal, subtidal and riparian areas, along with the footprint of existing and proposed structures relating to the proposed tenure that may be impacted by the development. Shellfish mariculture facilities must be designed in a way that avoids impacts to identified critical habitats.
- c) All shellfish mariculture sites within the *swiya* require an archaeological preliminary field reconnaissance (PFR). The PFR should cover the foreshore and intertidal area of the proposed tenure, along with the footprint of all existing and proposed structures relating to the proposed tenure.
- d) We have concerns about the introduction of the European Green Crab and other non-indigenous marine species into *shíshálh* Nation *swiya*. To prevent this from occurring we do not support the transfer of any spat, shellfish or mariculture equipment from the West Coast of Vancouver Island into *shíshálh* Nation *swiya*.
- e) We require the development and implementation of a Management Plan and Oil Spill Response Plan to address potential impacts by the applicant. The *shíshálh* Nation requires a copy of this plan, along with a record of all incidents of disease outbreaks and deleterious substances entering the marine environment. The *shíshálh* Nation also requires information about the response to any disease outbreaks or spill incidents, impacts to wildlife and success of the outbreak/spill response.
- f) We do not support the alteration of commercial shellfish tenures to other uses, as these developments have unique and specific impacts which must be considered on their own merits.

C. Crown and Proponent Engagement with the *shíshálh* Nation

The Lands and Resources Decision-Making Policy provides substantial guidance on how the Crown and/or proponents should participate in the decision-making process and engage with *shíshálh* throughout the process. Indeed, in many aspects Crown and/or proponent participation is fundamental to ensuring that the process will be completed in an efficient, effective, and appropriate manner. The Lands and Resources decision-making policy also identifies some recommended best practices for the Crown and proponents. The following additional best practices are recommended when engaging about the use of mariculture resources:

- a) Educate yourself and your institution/government about the centrality of aquatic resources to *shíshálh* culture and way of life; The Crown and proponents should work diligently with the Rights and Title Department from the outset of contemplating a proposed project in *swiya* to gain a strong understanding of the centrality of aquatic resources to *shíshálh* culture and way of life. Developing such a strong understanding will help inform whether a particular application should be brought forward, as well as elements of particular focus while the process unfolds.
- b) Develop work plans with *shíshálh* for how the principles, factors and standards identified in *shíshálh* policies are going to be appropriately considered and addressed in every step of the *shíshálh* decision-making process. Such work plans will help build efficiency and predictability in how the Crown, *shíshálh* and proponents work through the process.
- c) Be prepared to provide detailed and specific information regarding mariculture practices, and mariculture resources, in the *shíshálh swiya*. A longstanding challenge has been acquiring scientific analysis of the impacts from proposed development to *shíshálh swiya*. Research completed outside of *shíshálh swiya* is insufficient for *shíshálh* to evaluate the impacts of a proposed development to our lands, waters, and resources.