

Exhibit C – Planning Commission Approved Draft

May 13, 2021

Chapter 8 – Resource Lands

Proposed Amendment to Chapter 8 of the Comprehensive Plan

Marine Resource Lands Working Group's Recommendation

Note: This text is shown as proposed to accomplish Scoping Report issue #21a: Consider adding a Marine Resource Lands policy section as developed by the Marine Resources Committee.

**Chapter Eight
Resource Lands**

Marine Resource Lands

Introduction

Purpose

Marine resource lands, for the purpose of this plan, are defined as those marine areas waterward of the ordinary high water mark, together with their underlying lands and their water column, within the jurisdiction of the Whatcom County Shoreline Management Program (WCC Title 23). Marine resource lands have the physical conditions and habitat required to generate and maintain fisheries of all types, including the commercial and recreational harvest of finfish, shellfish, algae, and other invertebrates including but not limited to mollusks, crab, and shrimp, etc. This section is intended to guide Whatcom County in the conservation of functioning marine resource lands of long-term commercial, ecological, cultural, and recreational significance, and to ensure that all water-dependent, water-related, and water-enjoyment uses requiring use or access to marine resource lands thrive in the years to come.

GMA Requirements

Goal 8 of the GMA (RCW 36.70A.020) guides the County to “Maintain and enhance natural resource based industries, including productive timber, agricultural, and fisheries industries.” While the GMA does not specifically require the designation of marine resource lands that support aquatic-based uses and industries, functioning marine resource lands are so intrinsically necessary for the creation and sustainability of historical fish and wildlife production that Whatcom County wishes to acknowledge them here.

Process

Per County Council direction, staff convened a working group comprised of members of the Marine Resource Committee, the Shellfish Protection Advisory Committee, and other local marine land experts. This working group developed a draft of this section of the Comprehensive Plan, as well as drafts of the goals and policies contained herein. The draft was then presented to the full membership of the Marine Resource Committee and Shellfish Protection Advisory Committees for review and recommendation to the County Planning Commission and Council.

40 **Background Summary**

41 The marine resource lands of Whatcom County have historically been one of the
42 most important natural resources in the region. For thousands of years the shores
43 of Whatcom County provided an important shellfish resource, sustaining our local
44 tribes. More recently the tidelands of Drayton Harbor supported one of the earlier
45 commercial oyster-farming businesses in the Salish Sea. The shore and nearshore
46 lands of the County provided spawning, rearing, and forage areas for a diverse
47 array of finfish and shellfish species which together formed an incredible food web
48 for ancestral tribes and early commercial fisheries. The County's marine resource
49 lands are located along the coastal areas bordering the Salish Sea fed by the rivers,
50 streams, and lakes that drain the upland areas of western Whatcom County. Marine
51 resource lands include more than 130 miles of marine shoreline.

52 Marine resource lands in the area of Cherry Point are designated in the Shoreline
53 Management Program as the Cherry Point Management Area to support adjacent
54 Heavy Impact Industrial (HII) zoned industrial uses that require deep water access,
55 such as the two existing refineries and an aluminum smelter. The harbor area and
56 waterways in Bellingham Bay are designated for preservation of commerce and
57 navigation along the Bellingham shoreline. The tidelands of Drayton Harbor are
58 designated to support a small commercial wharf, marinas, residential shoreline
59 development, shellfish production, and natural areas.

60 The majority of marine resource lands in Whatcom County are owned by the State
61 of Washington (managed by Department of Natural Resources [DNR]), the Lummi
62 Nation, and the Port of Bellingham (via a Port Management Agreement with DNR).
63 These include many of the tidelands and subtidal lands in the County. Marine
64 resource landowners also include some private entities that were sold tidelands
65 prior to 1971, and who manage their marine resource lands for a variety of uses,
66 including recreational, commercial, and industrial.

67 Historically, marine resource lands have been managed for natural and farmed
68 shellfish production and harvest, fishing, transportation, utility corridors
69 (oil/gas/natural gas pipelines; sewer and stormwater outfall pipes; communication
70 lines (phone/fiber optic); power (electric) lines, and commercial, recreational and
71 subsistence/cultural fishing and food gathering. Historic uses also included
72 commercial and industrial uses, marinas (Bellingham, Blaine), municipal garbage
73 dumps, public parks, etc.

74 With a growing population, there is increasing interest in improving public access to
75 marine resource lands through the addition of boat ramps and access points for
76 motor, wind, and human-powered craft. Over the last 20 years the desire to harvest
77 more diverse aquatic resources, particularly from tidelands, has driven a number of
78 significant efforts to improve water quality as well as innovative culturing
79 techniques such as intertidal geoduck seeding, nori farming, etc.

80 Conservation efforts have resulted in protection of several areas including the
81 Cherry Point Aquatic Reserve and two areas withdrawn from leasing in Bellingham
82 Bay. These areas are valuable due to their high productivity of aquatic life that
83 contributes to the economy and greater ecosystem of Whatcom County. Twenty
84 years of effort and millions of dollars in public investment have kept Drayton Harbor

Exhibit C – Planning Commission Approved Draft

May 13, 2021

Chapter 8 – Resource Lands

85 [a viable commercial and recreational shellfish growing area for future generations](#)
86 [to enjoy.](#)

87 [Marine resource lands provide a huge economic benefit to the County, and the](#)
88 [health of our stream, river, and estuarine environments and marine resource lands](#)
89 [are the foundation of a critical tribal and non-tribal finfish and shellfish industry. In](#)
90 [2006, non-tribal commercial fish landings from Washington fisheries totaled nearly](#)
91 [109.4 million pounds, generating \\$65.1-million in ex-vessel value \(i.e., the price](#)
92 [received by commercial fishers for fish\). Whatcom County was the State's second-](#)
93 [largest commercial port area that year \(after Grays Harbor County\), with an ex-](#)
94 [vessel value of commercial fish landings of more than \\$13.5-million, accounting for](#)
95 [nearly 21% of the total value of landings from Washington fisheries. Additionally,](#)
96 [the North Puget Sound Region—which the Washington Department of Fish and](#)
97 [Wildlife defines as including San Juan, Skagit, Snohomish and Whatcom counties—](#)
98 [is also the most popular location for recreational shellfishing in the State. In 2006,](#)
99 [the combined recreational shellfish catch in those four counties included more than](#)
100 [3.3-million pounds of Dungeness crab, 23,520 pounds of shrimp, 93,038 pounds of](#)
101 [clams, and more than 19,000 individual oysters.¹ In 2016, the marine trades](#)
102 [provided 6,033 jobs, or 7% of the County's workforce.²](#)

103 [Whatcom County marine shorelines continue to provide income to over 250 Lummi](#)
104 [Nation registered shellfish harvesters. Many other Lummi and Nooksack tribal](#)
105 [members depend on finfish and crab harvest for a substantial part of their yearly](#)
106 [family income. The Lummi Nation shellfish enterprise is highly productive and](#)
107 [provides clam, oyster, and geoduck seed to a large part of the northwest shellfish](#)
108 [industry. To the extent that the environmental health of these lands impacts the](#)
109 [ability of Tribal Nations to practice fish and wildlife harvests and conduct ceremonial](#)
110 [activities for their cultural, economic, and spiritual welfare, protection of these](#)
111 [lands is a Treaty trust resource supporting Treaty reserved rights to take fish.](#)

112 [Other direct and indirect benefits to the County are even more substantial given the](#)
113 [multiplier effect from marina-related boat works, electronics, fuel and supplies,](#)
114 [charter and whale watching businesses, the Alaska Ferry service, sporting goods,](#)
115 [kayaking, rowing, sailing, wind surfing, power boating, and all the sales, repair,](#)
116 [maintenance, and provisioning that goes with these type of activities. Whatcom](#)
117 [County's marine resource areas are not only an international destination for water-](#)
118 [dependent, water-related, and water-enjoyment activities, such as bird and wildlife](#)
119 [watching, sailing and cruising, fishing and gathering, but they are also a gateway to](#)
120 [the San Juan Islands, Gulf Islands, the greater Salish Sea environs, and](#)
121 [international waters. Whatcom County's marine resource lands are a renewable and](#)
122 [sustainable economic driver that will serve this region well into the future.](#)

¹ [Whatcom County, March 2015. *Whatcom County Comprehensive Economic Development Strategy*, prepared by the Whatcom Council of Governments.](#)

² [Center of Economic and Business Research, Western Washington University, July 2016. *Whatcom County Marine Trades Impacts*.](#)

123 **Issues, Goals, and Policies**

124 The following goals and policies apply to marine resource lands and address the
125 issues of conserving productive aquatic land and meeting the goals of the Growth
126 Management Act.

127 **Marine Resource Land Base**

128 Tidelands, marine waters, major lakes, and navigable rivers were owned by the
129 State of Washington at the time of statehood unless reserved for other uses such as
130 federal facilities or Indian reservations. Between 1889 and 1971, the State sold
131 many of its tidelands to railroads, timber companies, and shellfish growers as a way
132 to finance the State. As a result, the State owns only about 30% of the tidelands.
133 The bulk of tidelands and many shoreland areas are owned or managed by ports,
134 industries, tribes, and private property owners. The State retains ownership of most
135 all of the subtidal lands which were not sold.

136 Since their adoption, the marine resource land base in Washington State and in
137 Whatcom County has largely been protected by the Washington State Shoreline
138 Management Act, as well as Whatcom County's Shoreline Management Program
139 (SMP), Critical Areas Ordinance, and other land use regulations such as stormwater,
140 land disturbance, zoning, and other regulations.

141 Historically, shoreline modification, including filling, hardening, and diking of many
142 natural shorelines has resulted in a significant reduction in acreage of functioning
143 marine resource lands in many areas of the County. These modifications came as a
144 result of transportation improvements (roads, railroads, barge landings, and ferry
145 terminals), utilities (electrical, communications, sewer, stormwater, etc.),
146 hydropower, water-dependent uses (marinas, fish processing, ship yards), non-
147 water dependent uses (large industrial facilities), flood control efforts, residential
148 development (including bulkheading, armoring,³ and docks), and parks.

149 The Washington State Legislature passed the State Shoreline Management Act
150 (SMA) in June 1971. Under the SMA, each county and city is required to adopt and
151 administer a local shoreline management plan to carry out the provisions of the Act.
152 The Whatcom County Shoreline Management Program (SMP) is the document that
153 implements the goals and policies of the SMA at the local level. The SMP was
154 originally adopted by the County Council in May 1976 in accordance with the SMA
155 and the shoreline guidelines issued by the Washington Department of Ecology. The
156 SMP is implemented in coordination with other chapters of the Comprehensive Plan
157 and the Whatcom County Code to protect and manage shorelines throughout the
158 county. It is important to note that Whatcom County and Ecology share joint
159 authority and responsibility for the administration and enforcement of the SMP. In
160 addition, numerous other local, state and federal regulations, permits, and
161 approvals apply to development or use in, on or above the County's marine
162 resource lands. Some of the most common permits and approvals include:

³ Since adoption of the SMP, shoreline armoring, filling, and bulkheading is only allowed for the purpose of protecting existing structures.

Exhibit C – Planning Commission Approved Draft

May 13, 2021

Chapter 8 – Resource Lands

Agency	Permit(s)
<u>Whatcom County</u>	<ul style="list-style-type: none"> • Shoreline statement of exemption • Substantial development permit • Shoreline conditional use permit • Shoreline variance • State Environmental Policy Act (SEPA) determination
<u>Washington Department of Ecology</u>	<ul style="list-style-type: none"> • Clean Water Act Section 401 Water Quality Certification • Coastal Zone Management Consistency Determination
<u>Washington Department of Fish and Wildlife</u>	<ul style="list-style-type: none"> • Hydraulic project approval (HPA)
<u>Washington Department of Natural Resources</u>	<ul style="list-style-type: none"> • Aquatic use authorization • Aquatic lands lease agreements
<u>U.S. Army Corps of Engineers</u>	<ul style="list-style-type: none"> • Clean Water Action Section 404 Permit • Rivers and Harbors Act Section 10 Permit

163 **Goal 8T: Conserve and enhance Whatcom County’s marine land**
 164 **base for the long-term and sustainable use and operation**
 165 **of water-dependent, water-related and water-enjoyment**
 166 **activities.**

167 Policy 8T-1: Coordinate with public agencies, tribal governments,
 168 landowners, and private organizations to protect and maintain
 169 an appropriate, productive, and sustainable marine resource
 170 land base adequate to support marine-dependent commercial,
 171 industrial, recreational, and cultural needs.

172 **Aquaculture, Fishing, and other Marine Resource Lands Activities**

173 **Goal 8U: Support measures to increase the viability and**
 174 **sustainability of Whatcom County's aquatic biodiversity**
 175 **and production.**
 176

177 Policy 8U-1: Help improve the efficiency, and effectiveness, and flexibility of
 178 environmental regulations affecting marine resource lands in
 179 order to support environmental protection and improve
 180 predictability.

181 Policy 8U-2: ~~Consider~~ Developing a range of non-regulatory programs,
 182 options, and incentives that owners of marine resource lands
 183 can employ to meet or exceed County environmental goals.

184 Policy 8U-3: Support the efforts of people in Whatcom County to operate in a
 185 long-term, sustainable manner as part of a stable, broad-based
 186 economy.

187 Policy 8U-4: Work cooperatively with the Washington State Departments of
 188 Natural Resources, Ecology, and Fish and Wildlife to protect
 189 productive and appropriate use of State marine resource lands
 190 within Whatcom County.

Comment [P/C1]: P/C moved to amend; passed 8-0-1

Exhibit C – Planning Commission Approved Draft

May 13, 2021

Chapter 8 – Resource Lands

191 Policy 8U-5 Continue cooperation and funding for a comprehensive Pollution
192 Identification and Correction (PIC) program as needed to reduce
193 bacterial pollution to levels that meet National Shellfish
194 Sanitation Program Growing waters criteria to allow reopening of
195 closed shellfish beds, and to maintain the operation of those
196 beds in a commercially viable manner.

197 **Reducing Land Use Impacts**

198 Different land owners have different goals for their property and employ different
199 practices when using it, whether it be for their business, home, recreation, or
200 personal enjoyment. But oft times, the practices one property owner employs can
201 have detrimental effects on another property owner's use or enjoyment of their
202 property, or the public when using public lands, which can lead to conflict amongst
203 users. ~~One of the most cited is how poorly managed agriculture or failing septic~~
204 ~~systems can cause bacterial pollution of rivers and streams, causing closure of~~
205 ~~important shellfish production areas. Other adverse upstream inputs include, but~~
206 ~~are not limited to, excess nutrients, heavy metals, and aromatic hydrocarbons. But~~
207 ~~there have been other such actions as well, such as piers placed in fish habitat, use~~
208 ~~of pesticides in shellfish farming, loading/unloading practices, etc. However, many~~
209 ~~such users are employing new practices and technologies to alleviate such impacts,~~
210 ~~yet the public many not be aware. Improved communication and education between~~
211 ~~these groups would be beneficial for each to understand what the other is doing,~~
212 ~~how their actions affect one another, and how they plan to avoid such impacts.~~

Comment [P/C2]: P/C moved to delete. Passed 8-0

213 **Goal 8V:** **Aim to reduce land use conflicts between Whatcom**
214 **County's Marine Resource Lands operations and upland**
215 **property owners.**

216 Policy 8V-1: Support improved communication and understanding between
217 aquatic land landowners and the public through such
218 mechanisms as community forums and educational programs.

219 Policy 8V-2: Work cooperatively with local, State, Federal and Tribal
220 agencies, adjacent upland property owners, and the general
221 public, as applicable, to address community concerns and land
222 use conflicts that may affect the productivity of marine resource
223 lands.

224 Policy 8V-3: ~~Continue to implement land use, building, and transportation~~
225 ~~planning policies, regulations, and practices that help minimize~~
226 ~~adverse water quality inputs into waterbodies.~~

Comment [P/C3]: P/C moved to amend. Passes 8-0-1

227 Policy 8V-4 Support and participate in education efforts and programs that
228 emphasize the importance of and promote the benefits of
229 marine resource lands.

230 **Fish and Wildlife**

231 Land use practices on marine resource lands can impact tidelands and other shallow
232 and deepwater habitats that are important to a wide variety fish and wildlife.

Exhibit C – Planning Commission Approved Draft

May 13, 2021

Chapter 8 – Resource Lands

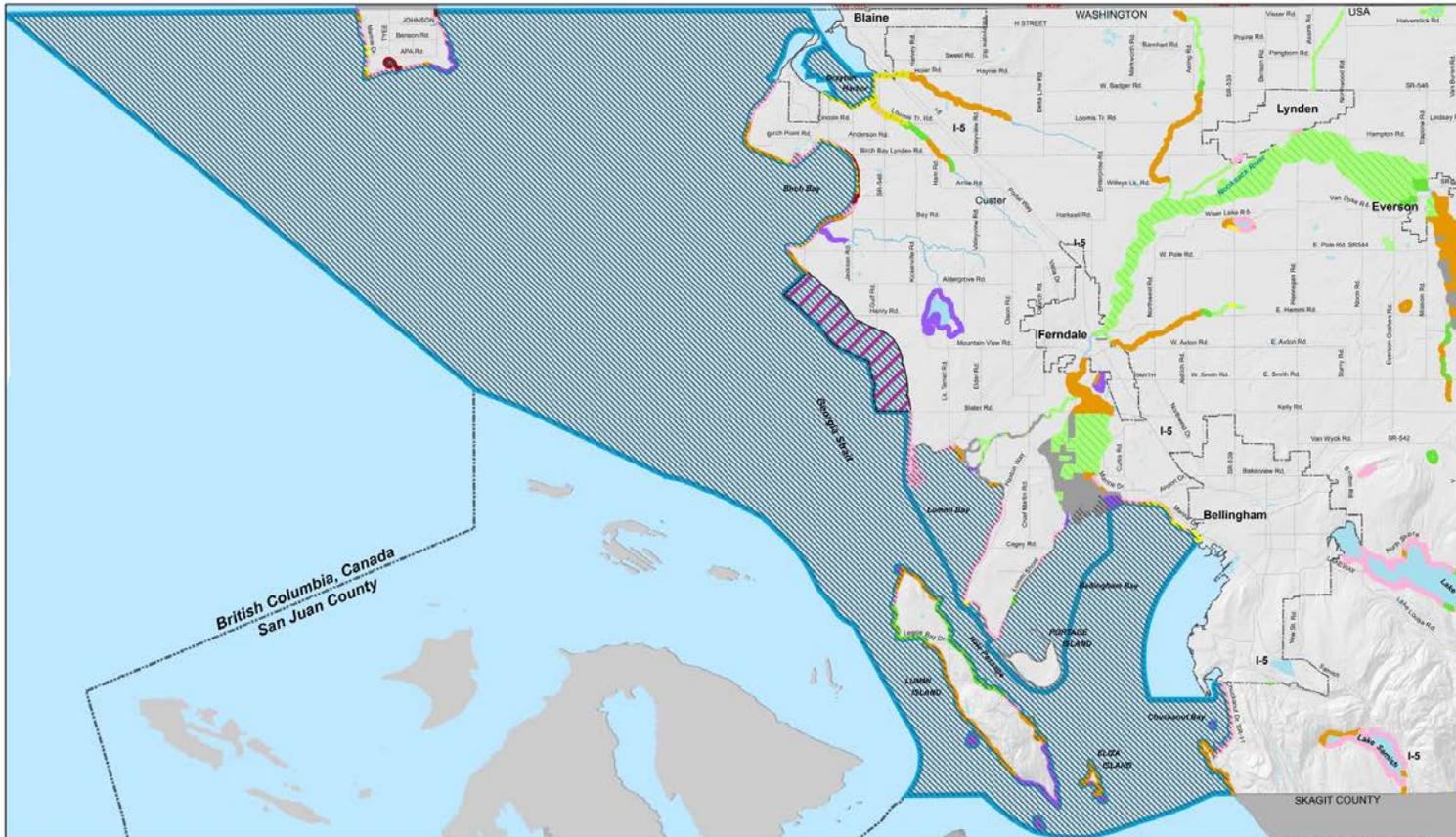
- 233 Goal 8W: Ensure that operations associated with marine resource
234 lands strive to avoid adverse impacts to the survival and
235 habitat of aquatic species, particularly to threatened and
236 endangered fish and wildlife species and shellfish
237 resources.
- 238 **Administration and Regulation**
- 239
- 240 Goal 8X: Recognize the Shoreline Management Program (WCC Title
241 23) and Zoning Code (WCC Title 20) as the primary
242 regulations used to implement this section.
- 243 Policy 8X-1: Pursuant to RCW 36.70A.480 and Comprehensive Plan Policy
244 10B-8, the Whatcom County Shoreline Management Program is
245 an element of this Comprehensive Plan, and the goals and
246 policies therein are recognized as additional goals and policies of
247 this section.
- 248 Policy 8X-2: Those coastal aquatic lands waterward of the ordinary high
249 water mark are hereby designated as Marine Resource Lands, as
250 shown on Map 8-5.
- 251 Policy 8X-3 Regulate land use on Marine Resource Lands within the County
252 through the Shoreline Management Program, Zoning Code, and
253 other appropriate means.
- 254 Policy 8X-4 When updating the Shoreline Management Program, consider
255 new or amended policies to further these goals.
- 256
- 257 ...

Exhibit C – Planning Commission Approved Draft
Chapter 8 – Resource Lands

May 13, 2021

Whatcom County | Comprehensive Plan

Map 8-5
Designation of Marine Resource Lands



- Marine Resource Lands - 200' inland from OHW, waterward to County line
Shoreline Area Designations
 Urban
 Urban Resort
 Shoreline Residential
 Rural
 Urban Conservancy
 Resource
 Conservancy
 Natural
 Tribal
 Cherry Pt. Management Area
 Aquatic



USE OF WHATCOM COUNTY'S GIS DATA IMPLIES THE USER'S
 AGREEMENT WITH THE FOLLOWING DISCLAIMER:
 Whatcom County does not warrant any accuracy of availability or warranty
 of fitness of this map for any particular purpose, unless expressly so
 implied. No representation or warranty is made concerning the accuracy,
 currency, completeness or quality of data displayed on this map. Any user
 of this map assumes all responsibility for any errors. All
 numbers represent the latest Whatcom County tax parcel data and represent any
 changes, but, to liability, arising from any use of this map.
 Source:
 -Whatcom County PDS 2018 (base)