

**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.<sup>1</sup> In 2016, the marine trades  
102 provided 6,033 jobs, or 7% of the County's workforce.<sup>2</sup>

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.

<sup>1</sup> Whatcom County, March 2015. *Whatcom County Comprehensive Economic Development Strategy*, prepared by the Whatcom Council of Governments.

<sup>2</sup> 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,<sup>3</sup> 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:

<sup>3</sup> 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

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

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 ~~d~~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 ...

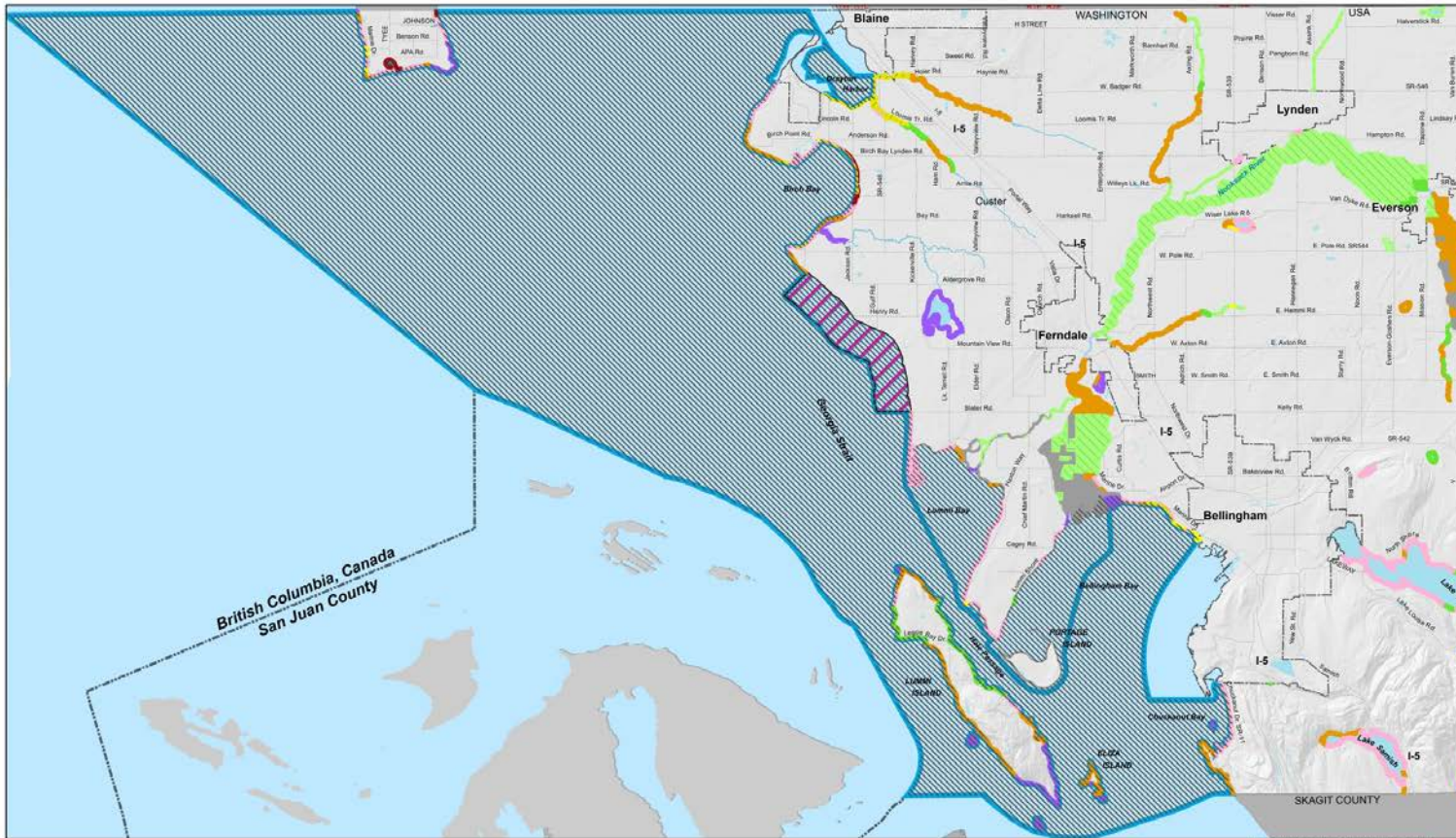


**Exhibit C – Planning Commission Approved Draft**  
**Chapter 8 – Resource Lands**

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  
 Urban Conservancy  
 Shoreline Residential  
 Rural  
 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, for liability, arising from any use of this map.  
 Source:  
 -Whatcom County PDS 2018 (base)