

MEMO

DATE: January 13, 2026

RE: **Legal Implementation of the B.C. Coastal Marine Strategy**

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INTRODUCTION

British Columbia released its long-anticipated Coastal Marine Strategy (CMS)¹ in July 2024 and is currently planning its implementation. The CMS is a shared long-term vision for stewarding coastal and marine resources in the province. It includes 116 specific activities aimed at advancing its overarching themes of a healthy coast, resilience to climate change, thriving coastal economies and communities, and informed governance. Several of the themes, goals, actions and activities in the CMS overlap with and support the goals of other provincial policy initiatives, including those aimed at protecting wild salmon, biodiversity and ecosystem health, and protecting communities from the impacts of climate change.²

To ensure the CMS is successful, many have been calling for the provincial government to legislate the CMS. In particular, in December 2025, the Union of BC Municipalities Executive endorsed a resolution calling on the province to enshrine the CMS into law³ – a strong statement from a level of government that is often on the frontlines of the challenges that the CMS is seeking to address.

This call is consistent with one of the activities in the CMS which is to “Assess the information needed and develop a proposal for coastal marine legislation, in partnership with First Nations.”

In Part 1, below, we explain why it is critical that a legal framework be enacted to support the CMS. In Part 2, we outline how a new Coastal Marine Act and associated amendments to existing legislation could help achieve the promises of the CMS. Finally, in Part 3, we list many other potential CMS activities that can be completed by amending or enacting new regulations under existing laws, creating new policies, or amending existing policies.

¹ B.C. Coastal Marine Strategy (undated, but known to have been released July 2024), online:

https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/coastal-marine-strategy/coastal_marine_strategy.pdf.

² See B.C.'s draft Biodiversity and Ecosystem Health Framework (November 2023), online:

[https://www2.gov.bc.ca/assets/gov/environment/biodiversity-habitat-](https://www2.gov.bc.ca/assets/gov/environment/biodiversity-habitat-management/draft_biodiversity_and_ecosystem_health_framework.pdf)

[management/draft_biodiversity_and_ecosystem_health_framework.pdf](https://www2.gov.bc.ca/assets/gov/environment/biodiversity-habitat-management/draft_biodiversity_and_ecosystem_health_framework.pdf); B.C. Wild Salmon Advisory Council Recommendations for a Made-in-B.C. Wild Salmon Strategy (February 2019), online:

<https://engage.gov.bc.ca/app/uploads/sites/121/2022/11/Wild-Salmon-Advisory-Council-Report.pdf>; From Flood Risk to Resilience: a B.C. Flood Strategy to 2035 (undated but known to have been released in March 2024), online:

[https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/integrated-flood-hazard-](https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/integrated-flood-hazard-mgmt/bc_flood_strategy.pdf)

[mgmt/bc_flood_strategy.pdf](https://www2.gov.bc.ca/assets/gov/environment/air-land-water/water/integrated-flood-hazard-mgmt/bc_flood_strategy.pdf); Watershed Security Strategy and Fund webpage (accessed 12 January 2026), online:

<https://engage.gov.bc.ca/govtogetherbc/engagement/watershed-security-strategy-and-fund/>; CleanBC Climate

Preparedness and Adaptation Strategy: Actions for 2022-2025 (undated, but known to have been released on June 20, 2022), online: <https://www2.gov.bc.ca/assets/gov/environment/climate-change/adaptation/cpas.pdf>; British Columbia

Ocean Acidification and Hypoxia Action Plan (undated, but known to have been released May 2023), online:

<https://www2.gov.bc.ca/assets/gov/environment/climate-change/adaptation/climate-risks/bc-ocean-acidification-hypoxia-action-plan.pdf>.

³ Blueprint for the Coast, “The Union of BC Municipalities Wants to See the Coastal Marine Strategy Legislated” (accessed 12 January 2026), online: <https://blueprintforthe coast.ca/resources/the-union-of-bc-municipalities-wants-to-see-the-coastal-marine-strategy-legislated/>;

Union of BC Municipalities, “UBCM Executive addressed referred resolutions; met with Ministers” (3 December 2025), online: [https://www.ubcm.ca/about-ubcm/latest-news/ubcm-executive-](https://www.ubcm.ca/about-ubcm/latest-news/ubcm-executive-addressed-referred-resolutions-met-ministers)

[addressed-referred-resolutions-met-ministers](https://www.ubcm.ca/about-ubcm/latest-news/ubcm-executive-addressed-referred-resolutions-met-ministers).

PART 1. WHY DOES THE CMS NEED LEGAL BACKING?

The CMS was co-created by the Province and coastal First Nations over several years, with input from countless stakeholders, and promises to revamp coastal marine stewardship. However, the CMS remains a policy document that does not have legal force. This threatens the success of the CMS in two ways.

1. Lack of government accountability

First, without legal force, none of the commitments that the government makes in the CMS are legally binding. This is a particular concern for a long-term policy like the CMS, as it will be critical that the government continue to make steady progress in carrying out the activities of the CMS over its 20-year timeframe.

A new Coastal Marine Act could ensure accountability and transparency by requiring the government to report on its progress on CMS implementation to the legislature and to the public, as well as establishing a statutory mandate for implementation across relevant ministries that provides clear guidance instead of uncertainty for provincial staff. This has been done in other contexts, including in the context of legislated climate commitments.⁴

Further, taking increased accountability measures may assure other decision-makers and rights holders that the Province can be a trusted, credible partner carrying out long-term coastal stewardship.

2. Aligning government powers to properly carry out the CMS

Second, the CMS on its own does not grant the government any new legal powers it may need to accomplish the CMS's activities. This assumes that a supporting legal framework will be established to address existing gaps related to its implementation, and is acknowledged in the CMS, which states that a “key challenge to coastal management in B.C. is the absence of a legal framework specifically designed to govern and manage coastal marine areas” and that “new coastal zone legislation... [is] long overdue.”⁵

The CMS notes that new legislation could:

“Advance the authority of First Nations to steward their territories and protect their access to cultural heritage resources in the intertidal area. It could establish guidelines for planning and shoreline management, such as requiring new infrastructure to be built with coastal flood projections in mind; enable effective, proactive responses to climate-related changes and marine pollution; and address legacy and emerging concerns related to the siting and management of marine-based industrial uses. It could also ensure that integrated coastal marine plans have regulatory and policy weight.”⁶

In the next section, we outline how legislation could support completing the activities outlined in the CMS.

PART 2. A COASTAL MARINE ACT

1. Protecting and restoring nearshore habitats

Nearshore habitats, such as beaches and salt marshes, play a hugely important role in coastal B.C. They provide spawning grounds for fish, help maintain local food security, and provide buffering from storms and floods. However, these habitats are declining at an alarming rate; upwards of 70% of salt marshes in British Columbia have already been either lost or degraded. A major cause of the decline of these ecosystems is

⁴ *Climate Change Accountability Act*, SBC 2007, c 42, at Part 1.2.

⁵ B.C. Coastal Marine Strategy, see note 1, at pp 7 and 53.

⁶ B.C. Coastal Marine Strategy, see note 1, at p 53.

development that hardens shorelines (for example, seawalls and riprap). These hardened shorelines can be replaced by nature-based “Green Shores” that support nearshore ecosystems, and offer flood and erosion control, but we need a legal framework that encourages their implementation.

The CMS has as actions to “*protect and restore nearshore ecosystems*” and to “*incorporate Nature-Based Solutions*”, including by considering “*incentives to homeowners and developers to maintain or restore natural shorelines*” and expediting “*the implementation of B.C.’s expedited permit process for nature-based shoreline projects.*” These actions align with the Recommendations for a Made-in-B.C. Wild Salmon Strategy, which recommends reviewing and updating provincial legislation to ensure it does not impede restoration and protection initiatives.⁷

The CMS also states that new legislation could include “*guidelines for planning and shoreline management, such as requiring new infrastructure to be built with coastal flood projections in mind.*” This aligns with the B.C. Flood Strategy, which recommends reviewing and updating provincial legislation to ensure it aligns with increased flooding risks, and which recognizes the importance of nature-based solutions.⁸

a. Protecting nearshore habitats while allowing for responsible development

Currently, shoreline development is governed by a patchwork of local government regulations (some local governments have no bylaws, and others have detailed marine or shoreline development permit areas). Clarity is needed. There is little guidance or support provided to local governments to do this work. As well, the failure of the Province to ensure that the authority delegated to local governments for land-use regulation is exercised in a way that meets provincial Crown responsibilities regarding First Nations title and rights leaves First Nations and local governments to work matters out on their own, in ways that can be particularly challenging and resource-intensive for the Nations.

But the Province has a legal framework in place in the freshwater context under the *Riparian Areas Protection Act* (RAPA), through the *Riparian Areas Protection Regulation* (RAPR). Despite its shortcomings⁹, this framework could be used as a starting point for B.C. to co-create with First Nations a provincial regulatory regime to manage development along marine shorelines based on best available Indigenous and western science.

A new Coastal Marine Act could provide province-wide requirements to restrict new hard armouring structures (except in rare circumstances), and to require setbacks a certain distance from the high-water mark for any development that does occur, in addition to other protective measures.¹⁰ As with RAPA, local governments could be required to meet or exceed these guidelines. The requirements would align with the existing bylaws and community planning already in place for coastal shoreline development across a number of local

⁷ B.C. Wild Salmon Advisory Council Recommendations for a Made-in-B.C. Wild Salmon Strategy, see note 2, at p 20.

⁸ From Flood Risk to Resilience: a B.C. Flood Strategy to 2035, see note 2, at Action 4.4: “Nature-based solutions will be promoted alongside grey infrastructure to provide protection against flooding while delivering multiple benefits, including improved biodiversity, conservation and restoration of fish habitat, carbon sequestration, social wellbeing, and tourism.”

⁹ Noting that a 2019 review of the professional reliance model found deficiencies that should be considered when designing new regulatory frameworks that rely on environmental professionals: Mark Haddock, Professional Reliance Review: The Final Report of the Review of Professional Reliance in Natural Resource Decision-Making (18 May 2018), online:

https://professionalgovernancebc.ca/app/uploads/sites/498/2019/05/Professional_Reliance_Review_Final_Report.pdf.

¹⁰ See the elements of a Marine DPA, at pp 105-106 of Green Bylaws Toolkit for Protecting and Enhancing the Natural Environment and Green Infrastructure (revised and updated 2021), online:

https://stewardshipcentrebc.ca/PDF_docs/GreenBylaws/GreenBylawsToolkit_3rdEdition_2021.pdf. See also sample marine shoreline provisions included at pp 237-240.

governments in BC and would offer a standardized approach for all local governments and developers. As an example, the District of Squamish already includes marine shorelines relatively seamlessly in its regulation of riparian areas.¹¹

Such a regulatory regime could also require, as part of the application process, the identification of any blue carbon ecosystems in the application area, which would inform the requirement to consider blue carbon in tenuring decisions, described in Part 2, section 2, *Reforming tenuring in the coastal marine environment*, below.

b. Facilitate restoring natural shorelines to benefit from ecosystem services

A new Coastal Marine Act could remove legal hurdles to implementing “Green Shores” natural shoreline projects¹² and projects that restore nearshore ecosystems. For example, it could:

- incentivize “Green Shores” natural shoreline projects (rather than hard armoring structures¹³) through amending the *Local Government Act* to allow local governments to provide a tax exemption to property owners for coastal marine areas when a protective covenant is in place (the *Local Government Act* already allows for this in “riparian areas”, and this should be explicitly extended to coastal marine areas);^{14,15} and
- reform common law riparian rights to prevent private property owners from having a veto over public coastal wetland and beach restoration.¹⁶

2. Reforming tenuring in the coastal marine environment

A new Coastal Marine Act should also reform how the Province issues and administers tenures in coastal and marine areas. In the CMS, the Province commits to:

- *update, as required, provincial policies, best management practices and authorization requirements for tenures tied to activities in the coastal marine environment;*
- *ensure consideration of First Nations access to traditional seafoods in planning processes and land use decisions (such as tenures, permits and licences); and*

¹¹ District of Squamish, “Riparian & Aquatic Protection” (accessed 12 January 2012), online:

<https://squamish.ca/sustainability-and-green-living/environment-and-sustainability/environmental-protection>.

¹² Stewardship Centre for BC, Green Shores (accessed 12 January 2026), online: <https://stewardshipcentrebc.ca/green-shores-home/>.

¹³ Noting that the *Port Improvements (Berth Corridor) Tax Exemption Regulation*, B.C. Reg. 198/2004, exempts from property tax certain berth improvements (including hard armoring structures like breakwaters and jetties) on land designated under the regulation and meeting various conditions. If the Province is going to incentivise hard armoring, which has been proven to cause harm to habitat and can increase erosion in adjacent properties, then it should certainly incentivise natural shoreline projects, which reduce erosion with the additional benefits of water filtration and flood protection (National Oceanic and Atmospheric Administration, “Guidance for Considering the Use of Living Shorelines” (2015), online: https://www.habitatblueprint.noaa.gov/wp-content/uploads/2018/01/NOAA-Guidance-for-Considering-the-Use-of-Living-Shorelines_2015.pdf).

¹⁴ See, for example, a discussion of the uncertainty around “riparian” applying to coastal marine areas: *Joanne McClusky v. Assistant Regional Water Manager*, 2005 BCEAB 19.

¹⁵ Noting also that Part 7.1 of the *Islands Trust Act*, RSBC 1996, c 239, creates a regime that allows for tax exemptions to protect the “natural area values or amenities” of an eligible “natural area property.”

¹⁶ See details of required legislative reform to common law riparian rights: Michael Bissonnette, “The Decline of the Mermaid Creek Salt Marsh and the Promise of the BC Coastal Marine Strategy: A Case Study “ (10 July 2025), online: West Coast Environmental Law <https://www.wcel.org/publication/decline-mermaid-creek-salt-marsh-and-promise-bc-coastal-marine-strategy-case-study>.

- *recognize wild Pacific salmon as a priority marine feature when licensing marine activity. Develop a consistent framework for prioritizing consideration of the potential ecological and sociocultural impacts of an activity or use on wild salmon when making decisions on provincial Crown land in the coastal marine environment.*

The Province also states in the CMS that a new legal framework could “address legacy and emerging concerns related to the siting and management of marine-based industrial uses.”

These commitments dovetail with other recommendations that have been made to B.C.’s tenuring system: the B.C. Wild Salmon Advisory Council has recommended that provincial agencies use a “wild salmon lens” in all relevant provincial land-use decisions related to Crown lands/watercourses/estuaries. And in the Province’s draft Biodiversity and Ecosystem Health Framework the government commits to aligning decision-making processes with the priority of conserving and managing ecosystem health and biodiversity and to legislatively implementing this priority.

A new Coastal Marine Act could enable these commitments and recommendations in the coastal marine realm in two ways.

First, a new Coastal Marine law should include certain overarching, mandatory factors to be considered in all tenuring decisions in the coastal marine environment. The decision process should include, at a minimum application of the mitigation hierarchy to ensure that the following impacts will be avoided, minimized, restored or, as a last resort, offset in order to ensure a high probability of maintaining these values over time

- impacts (including cumulative impacts) to ecological integrity and biodiversity;
- impacts to wild salmon¹⁷;
- impacts to nearshore habitats and ecosystems that store blue carbon¹⁸; and
- impact to First Nations access to traditional seafoods.

In Part 3, we discuss the interim measure of adding these factors to the Crown Land Allocation Principles policy.¹⁹ However, the factors enumerated above are critical to fulfil the promise of the CMS, as well as the government’s commitment to implement the recommendations in the Old Growth Strategic Review, including recommendation #2, “Declare the conservation and management of ecosystem health and biodiversity of

¹⁷ Note that this also furthers the Recommendations for a Made-in-B.C. Wild Salmon Strategy’s action to “instruct agencies to use a ‘wild salmon lens’ in relevant provincial land-use decisions related to the use of all Crown lands/watercourses/estuaries (including those leased to industrial uses) so that wild salmon receive greater and more consistent consideration in decision-making” (B.C. Wild Salmon Advisory Council Recommendations for a Made-in-B.C. Wild Salmon Strategy, see note 2, at p 19). It also furthers the Recommendations for a Made-in-B.C. Wild Salmon Strategy’s recommendation to “develop and implement a provincial no-net-loss or habitat compensation policy for any development disturbance of salmonid habitats. Fisheries and Oceans Canada offers one example of this type of policy framework for consideration” (at p 20).

¹⁸ Note that protecting and restoring blue carbon ecosystems will also further BC’s climate change commitments under the CleanBC Program (CleanBC webpage (accessed 12 January 2026), online: <https://cleanbc.gov.bc.ca/>), and the From Flood Risk to Resilience: a B.C. Flood Strategy to 2035 recognizes that these nearshore ecosystems can act as nature-based solutions to regulate flooding (see note 2).

¹⁹ Crown Land Allocation Principles Strategic Policy (updated 9 May 2024), online: https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/allocation_principles.pdf.

British Columbia's forests as an overarching priority and enact legislation that legally establishes this priority for all sectors"²⁰ – so evaluation of these factors should ultimately be legally required.

Second, a new Coastal Marine Act could also legally support coastal marine plans and require consistency with them when provincial tenuring decisions are made. Coastal marine plans have proven effective at coordinating management among different government decision-makers. The CMS places an emphasis on supporting marine planning and lists as an activity to “[a]dvance planning in areas of the coast where it is needed most and where there is shared interest.” The CMS also states a new legal framework could “ensure that integrated coastal marine plans have regulatory and policy weight.” A new Coastal Marine Act could legally recognize existing marine and coastal plans and put in place standards that future marine planning must follow, based on recognized international best practices.

In addition, the Province may enter into agreements with First Nations under s. 7 of the DRIPA, to allow consent-based decision-making and to create a right of first refusal for First Nations in whose territory a contemplated tenure lies. To accompany that reform, an amendment to the Act under which a tenure is issued would be required (for example, an amendment to the *Land Act* would be required to effect this change for any tenures issued under that Act).²¹

3. Preventing and cleaning up marine pollution

The CMS acknowledges that marine pollution, and in particular, plastic debris, is a longstanding and growing problem in coastal British Columbia. There are two major categories of marine pollution: debris pollution and chemical pollution. Debris pollution includes fishing gear, polystyrene (commonly known as Styrofoam) from docks and marine infrastructure, aquaculture debris, abandoned vessels, and single-use plastics or litter. Chemical pollution in the marine environment includes sewage, discharges and dumping from ships, industrial waste from historic and current industrial operations (e.g., pulp and paper mills and mining operations), stormwater runoff and agricultural runoff. Both debris and chemical pollution have had devastating impacts on coastal communities and their economies. For example, hundreds of kilometres of coastline have been closed long-term to shellfish harvesting for sanitary reasons.²²

One of the CMS's goals is a “Clean Coast”, and it includes eight activities aimed at preventing marine pollution and three aimed at cleaning it up. The CMS states that a new legal framework could enable an “effective, proactive response” to marine pollution.²³ In particular, the CMS commits to:

- *further develop or establish water quality objectives and monitoring programs in coastal areas of concern, starting with areas where pollution is impacting the growing and harvesting of food. Link monitoring results to coastal watershed planning and protection and other strategic planning processes (such as estuary management plans and stormwater management plans);*
- *address gaps in provincial policy and legislation around point and non-point sources of pollution;*
- *develop changes to marine tenure licence application requirements and adopt best management practices to prevent pollution;*

²⁰ A New Future for Old Forests: A Strategic Review of How British Columbia Manages for Old Forests Within its Ancient Ecosystems (30 April 2020), online: <https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/forestry/stewardship/old-growth-forests/strategic-review-20200430.pdf>.

²¹ Other Acts under which relevant tenures may be issued include *Park Act*, RSBC 1996, c 344; *Water Sustainability Act*, SBC 2014, c 15; *Environment and Land Use Act*, RSBC 1996, c 117; *Wildlife Act*, RSBC 1996, c 488; *Energy Resource Activities Act*, SBC 2008, c 36.

²² The current sanitary shellfish closures along the BC coast may be viewed at <https://maps.bccdc.ca/shellfish/>.

²³ B.C. Coastal Marine Strategy, see note 1, at p 5.

- *prohibit the use of polystyrene in future marine infrastructure construction;*
- *develop a long-term vision for the Clean Coast, Clean Waters initiative that supports the prevention, cleanup, monitoring, removal, recycling and disposal of polluting marine debris and derelict vessels while providing employment opportunities in coastal communities;*
- *support additional coastal cleanups of plastics and debris, including actions to address abandoned and derelict trespass structures and derelict vessels in the intertidal zone; and*
- *take steps to reduce marine-based sources of pollution that directly impact the safety of traditional shellfish harvesting areas and marine terrestrial foods.*

While many of these commitments could be achieved by changes to existing provincial policies and regulations, a new Coastal Marine Act and accompanying amendments to existing legislation could provide new effective legal tools to address these issues. For example:

- legally requiring that shellfish pollution identification and correction programs are developed and implemented when shellfish beds are closed because of water pollution, modeled after successful legislation in Washington State;²⁴
- establishing a centralized provincial agency to conduct derelict vessel removal in accordance with federal legislation²⁵; and
- requiring all local governments to use a baseline of trash control measures (such as catch basins, filter sock inserts, berms, check dams and catchment screens) over storm drains, which capture debris and prevent it from entering the stormwater system and subsequently the coastal and marine environment.²⁶

Natural shorelines or Green Shores, discussed above, filter pollution so encouraging them and removing obstacles in their way should also be part of any comprehensive coastal pollution legal framework.

By removing harmful pollution from waters and shorelines, these activities support the goals of a number of other strategies, including the draft Biodiversity and Ecosystem Health Framework, the Recommendations for

²⁴ Washington law requires that the state government develop a program to find and correct the pollution that is causing the water quality decline, with timeframes for doing so (requiring that the establish a shellfish protection program within 180 days of the department of health downgrading the classification, and begin implementing it within 180 days of establishment): *Revised Code of Washington*, 90.72.045, online: Washington State Legislature, online:

<https://app.leg.wa.gov/rcw/default.aspx?cite=90.72.045>.

²⁵ *Wrecked, Abandoned or Hazardous Vessels Act*, SC 2019, c 1.

²⁶ Note that local governments have the authority to do this under the *Local Government Act*, RSBC 2015, c 1 and *Community Charter*, SBC 2003, c 26, but are not required to. There is currently a patchwork of trash prevention measures being employed across the province; examples of local governments using trash control measures in their stormwater management include the Capital Regional District (Capital Regional District, “Stormwater Regulations & Bylaw” (accessed 12 January 2026), online: <https://www.crd.ca/environment/stormwater-watersheds-harbours/stormwater/stormwater-regulations-bylaw>) and the City of Coquitlam (City of Coquitlam, “Storm Inlet Protection” (accessed 12 January 2026), online: <https://www.coquitlam.ca/249/Storm-Inlet-Protection>). Note: California has a goal of no trash in any ocean waters, bays, or surface waters of the state by 2030, and towards this end, its State Water Resources Control Board adopted regulations in 2015 that integrate trash control measures into municipalities’ and industrial users’ stormwater discharge permits, upon amendment or reissuance (California State Water Resources Control Board, “Storm Water Program - Trash Implementation Program” (last updated 25 November 2025), online: https://www.waterboards.ca.gov/water_issues/programs/stormwater/trash_implementation.html).

a Wild Salmon Strategy, and the Watershed Security Strategy intentions paper.²⁷ In the BC Ocean Acidification and Hypoxia Action Plan, the government commits to advancing the goal of reducing local pollution that exacerbates ocean acidification, and the Plan lists as an action to identify and mitigate point sources of pollution and terrestrial runoff that act as co-stressors.²⁸ So this dovetails well with the CMS's actions to prevent and clean up marine pollution.

PART 3. REGULATION AND POLICY TO SUPPORT THE COASTAL MARINE STRATEGY

In this section, we list other regulatory and policy changes that could advance the goals, actions and activities of the Coastal Marine Strategy, but that can be achieved without a new statute or statutory amendments. This list is not exhaustive, and regulatory/policy measures addressing other areas (e.g., agricultural waste) will also be required to achieve the goals, actions and activities of the CMS.

1. Protecting and restoring nearshore habitats

The CMS includes as an action to “incorporate nature based solutions” and commits to “streamline authorization processes for activities that promote ecosystem health” (p. 54). This could be achieved by:

- exempting small natural shoreline projects that meet the Green Shores certification standards²⁹ from the need for tenures or permits through a new Land Use Operational Policy under the *Land Act* (which creates a General Permission for projects, for which an application is not required); and
- amending the *Agricultural Land Reserve Use Regulation* to explicitly permit the removal of dikes as a non-farm use of ALR land in the context of restoring/rehabilitating natural ecosystem function (directly addressing the Agricultural Land Commission's recent decision in ALC File 69827, which prevented part of an estuary restoration project).³⁰

The CMS commits to “Replace hard armoured approaches with soft shoreline stabilization techniques in coastal marine parks and protected areas managed by the provincial government, where appropriate.” This could be achieved by adopting a new policy to restrict any new provincial protected areas from including hard armouring.

2. Reforming tenuring in the Coastal Marine Environment

a. First Nations stewardship and resources

The CMS states that a new legal framework for coastal marine areas could “advance the authority of First Nations to steward their territories and protect their access to cultural heritage resources in the intertidal area”.³¹

²⁷ The Watershed Security Strategy and Fund Intentions Paper's Policy Intention 5 mentions proactively addressing risks to water quality: Watershed Security Strategy and Fund Intentions Paper (March 2023), online: <https://engage.gov.bc.ca/app/uploads/sites/121/2025/04/WSSF-Intentions-Paper-March2023.pdf>.

²⁸ British Columbia Ocean Acidification and Hypoxia Action Plan, see note 2.

²⁹ Stewardship Centre for British Columbia, see note 12.

³⁰ Provincial Agricultural Land Commission, Reasons for Decision - ALC Application 69827 (11 August 2025), online: <https://portal.alc.gov.bc.ca/document/6241bfe1-2149-4089-bc39-ddd36df604a6>.

³¹ B.C. Coastal Marine Strategy, see note 1, at p. 53.

This could be achieved by:

- Adding the following considerations to the Crown Land Allocation Principles Policy, as an interim measure before they ultimately are included in a new Coastal Marine Act (see Part 2), to ensure that the following impacts are avoided, minimized, restored or, as a last resort, offset in order to ensure a high probability of maintaining these values over time:
 - impacts (including cumulative impacts) to ecological integrity and biodiversity;
 - impacts to wild salmon;
 - impacts to nearshore habitats and ecosystems that store blue carbon; and
 - impact to First Nations access to traditional seafoods;
- Providing guidance, through amending existing relevant policies³² or enacting new policies, to statutory decision-makers regarding application of the *Interpretation Act*, s 8.1 (3) (all enactments must be construed consistently with the United Nations Declaration on the Rights of Indigenous Peoples) in tenuring and other decisions affecting First Nations coastal marine territories;³³ and
- Exempting certain Indigenous cultural activities and practices, such as restoring historical clam gardens, from the need for tenures or permits through a new Land Use Operational Policy under the *Land Act* (which creates a General Permission for projects, for which an application is not required).

b. Mooring

In the CMS, the Province commits to “Protect nearshore habitats from the impacts of small vessel anchoring and mooring buoys, in collaboration with First Nations, federal and local governments” (p. 25). In furtherance of this commitment, the Province could amend the “Land Use Operational Policy - Private Moorage.” to include private mooring buoys and include specific requirements for private mooring buoys throughout the province – and enforce the policy under the *Land Act*.

c. Log handling water lot tenures

The Province should update the “Land Use Operational Policy - Log Handling” to, among other things, ensure that log handling water lot tenures do not impact Rockfish Conservation Areas and other conserved areas, and to require upon renewal of these tenures greater public notice and that it be demonstrated that the tenures are required and used for log handling purposes.

3. Preventing and cleaning up marine pollution

In the CMS, the Province commits to “address gaps in provincial policy and legislation around point and non-point sources of pollution” (p. 31). Several regulatory and policy changes could help reduce marine pollution, including:

³² For example, the Crown Land Allocation Principles Strategic Policy, sector-specific land use operational policies (e.g., Aquaculture, Commercial – General Land and Log Handling), and Tenure Administration Procedure.

³³ UNDRIP articles potentially relevant to tenuring and other statutory decisions affecting First Nations coastal tenure decision-making include: 11 (right to maintain and protect archeological and historical sites), 12 (right to maintain, protect, and have access in privacy to religious and cultural sites); 18 (right to participate in decision-making in matters which would affect their rights); 26 (right to lands, territories and resources); 29(1) (right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources), 29(2) (no storage or disposal of hazardous materials in lands or territories of indigenous peoples without their free, prior and informed consent); 32(1) (Indigenous peoples’ right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources); 32(2) (obtaining Indigenous free prior and informed consent for projects affecting their lands).

a. Reducing debris pollution

- Amending the conditions of the general permission in the Province’s “Land Use Operational Policy: Private Moorage”³⁴ and the “Crown Land Use Operational Policy: Aquaculture”³⁵ to further the CMS’s stated commitment to “prohibit the use of polystyrene in future marine infrastructure construction” (CMS, p. 31);
- Prohibiting the use of certain types of microplastics like glitter in products, by regulation under section 21(1)(o) of the *Environmental Management Act*;
- Expanding the scope of the current “extended producer responsibility” model (currently used for beverage containers, packaging and paper, tires, batteries, electronics, etc.) to include additional categories of products that are pervasive in the marine environment, including fishing gear, blister packs and rigid plastic packaging – by adding to the schedules of the *Recycling Regulation* under the *Environmental Management Act*;
- Phasing out additional plastic products like plastic produce bags and plastic bread tags by regulations under the *Environmental Management Act*;
- Reducing the likelihood of pre-consumer plastic production pellets (also known as “nurdles”) from escaping into the environment by enacting a code of practice, which follows accepted best practices, by regulation under s. 22 of the *Environmental Management Act*;
- Requiring fishing (including aquaculture) gear collection facilities, through establishing an extended producer responsibility scheme by amending an existing schedule or creating a new schedule to the *Recycling Regulation* under the *Environmental Management Act*; and
- Requiring a certain percentage of recycled content in plastic packaging and single use plastics sold in the province by regulation under s. 21(l) of the *Environmental Management Act*. This would funnel plastic back into the manufacturing process, diverting it from the environment, including marine environment (as well as landfill and incineration).

b. Reducing chemical pollution

- Amending the *Sewerage System Regulation* under the *Public Health Act* to require homeowners to have their systems inspected and serviced by a qualified professional every 3 to 5 years. The *Sewerage System Regulation* currently requires homeowners to maintain their systems according to a plan provided by the designer, who is a Qualified Environmental Professional, but there are no regular checks to ensure this happens; and
- Establishing a centralized, public-facing digital registry of all septic systems in the province (including each system’s location, installation date, design specifications, and a log of maintenance activities) by amending the *Sewerage System Regulation*. This would allow for better data-driven planning and management.

³⁴ Land Use Operational Policy: Private Moorage (updated 9 May 2024), online:

https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/private_moorage.pdf.

³⁵ Crown Land Use Operational Policy: Aquaculture (updated 9 May 2024), online:

<https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/aquaculture.pdf>.

CONCLUSION

Pollution and climate change, as well as unmanaged development pressures, continue to threaten the health and prosperity of B.C. coastal and marine ecosystems. Coastal communities are relying on the Province to fulfill its commitments in the CMS and its laudable goals of a healthy coast, resilience to climate change, thriving coastal economies and communities, and informed governance. It is critical that the Province adopt a new legal framework, including a Coastal Marine Act, to provide the necessary legal tools to make headway on these issues.

As co-developing and enacting laws and regulations takes a long time, it is important that the legislative process starts this year. The legal framework we describe is foundational for many of the activities in the CMS; it must be in place before many activities begin. For this reason, it must be front loaded to the start of the implementation process – which is now.