

**Taking Care of *Ts'aay'imts*: Multi-level Governance of Eelgrass as a Blue Carbon Ecosystem**

By Lilly Woodbury  
B.A., University of Toronto, 2015

A Thesis Submitted in Partial Fulfillment of the Requirements for the Degree of

MASTER OF ARTS

in the School of Environmental Studies

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We acknowledge and respect the *ləkʷəŋən* peoples on whose territory the University of Victoria stands, and the Songhees, Esquimalt and *W̱SÁNEĆ* peoples whose historical relationships with the land continue to this day.

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## ABSTRACT

Governance is consistently cited as one of the major challenges to achieving conservation objectives. This observation applies to the current regulatory and policy landscape in British Columbia (BC) for blue carbon ecosystems (BCEs) composed of eelgrass meadows, kelp forests and salt marshes. Despite their profound ecological productivity and cultural importance to coastal First Nations, they are among the most rapidly disappearing environments on the planet. Their destruction is directly caused by industrial activities and associated externalities, colonial urban development, as well as the absence of strong state coastal regulations and policies. I address the health of BCEs and their communities by examining Indigenous governance for eelgrass using a multi-level governance (MLG) framework. Applying qualitative methods, I worked with the Tla-o-qui-aht First Nation (Tla-o-qui-aht) as a research partner to understand how to fortify their authority in the marine environment of their Tribal Parks. Using a community-based participatory approach, including interviews, policy and document analysis, I found that strengthening Indigenous governance is a prerequisite to seeking an MLG arrangement for improved social-cultural-ecological outcomes like eelgrass protection. The research identified four interrelated strategies that Tla-o-qui-aht can use to enhance their authority: first, Tla-o-qui-aht can incorporate BCEs into their Allies Program; second, they can push for state government legislation recognizing Indigenous Protected and Conserved Areas as protected areas; third, they can establish government-to-government agreements for the marine environment and/or BCEs specifically, and fourth; they can establish an Aquatic Working Group that will serve as a collaborative mechanism for marine planning and achieving blue carbon objectives. The implications of this research are two-fold: first, it identifies pathways, considerations and technical actions that Tla-o-qui-aht First Nation leadership can take to revitalize eelgrass, continue scaling their Tribal Parks and continue growing a conservation economy on the central west coast of Vancouver Island; and second: it contributes a territorial focus and intergenerational inclusion to the theory of MLG.

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## ACKNOWLEDGEMENTS & DEDICATION

“We are like islands in the sea, separate on the surface but connected in the deep.”

Philosopher William James

A Master’s Degree Certificate is attributed to one individual, but it truly takes a network of people to make this happen. A degree symbolizes the strength of the community that the researcher is a member of because nothing is accomplished in isolation. In accordance with the Nuu-chah-nulth worldview and the principle of *Hiishukish tsawaak*, everything is connected, everything is one. Considering this, I am incredibly grateful to my supervisor, Deborah Curran, for taking me on as a graduate student. I have learned an immense amount from her, and I continue to be inspired by her dedication to working in community. I am also thankful for my other committee member, Karena Shaw, who has supported this process and also has a special connection to Clayoquot Sound. Of course, my praise flows deeply for my research partner, Tla-o-qui-aht First Nation, who are the motivation for this project and my environmental work at large. In particular, I would like to thank Saya Masso, Terry Dorward, Gisele Martin and Julian Hockin-Grant for their support throughout this study, as well as all research participants who made this study possible and continuously dedicate themselves to the health of the coast.

Finally, I want to thank all of my loved ones and the west coast communities who continue to lift me up and believe in me.

I dedicate this thesis to my parents, I would not be where or who I am without them. They are true non-conformists, artists, the champions of the underdogs, the forests, fungi, gardens, waterfalls and the earth at large.

My mom, Jane Woodbury, always says, “Life is beautiful, but there are challenges - here to make us grow.” As my dad, Michael Poole, always said, “We are all energy, here to join the sea of electricity.”

Thank you, the reader, for investing your time in this thesis. It is a high honour to stand, surf in, and serve the asperous coast in Nuu-chah-nulth First Nations’ territories. If you have questions, please do not hesitate to reach out to me - you can find me betwixt the land and sea, where the waves furl, and the eelgrass flows.

*Klecko*, Thank you!

*čuu*

## CHAPTER 1: INTRODUCTION

### 1.1 Introduction: Ecosystem at Risk

The Tla-o-qui-aht Tribal Parks are home to Vancouver Island's largest remaining intact old growth coastal temperate rainforests. These forests and the sensitive coastal eelgrass and estuarine ecosystems which comprise the majority of the Tla-o-qui-aht Tribal Parks are an enormous carbon sink which has not yet been properly quantified... We hope to be able to quantify these services in the near future to demonstrate clearly the value of protecting the haḥuuḥi of the λaʔuukwiath ḥawiiḥ for all time. The rich life source that comprises the spirit of the haḥuuḥi is a gift from our λaʔuukwiath ancestors, and it is our responsibility to care for it and let it grow stronger as the future ancestors of the generations to come.<sup>1</sup>

We are blessed with blue carbon where the sea greets the land with the tide. Blue carbon is an ode to the possibilities of marine and terrestrial realms colliding: where carbon is stored in coastal and marine ecosystems, existing in the forms of eelgrasses, salt marshes and mangrove forests (see Figure 1).<sup>2</sup> These ecosystems play a critical role in the vitality of shorelines, surrounding communities, and the ocean at large; blue carbon ecosystems (BCEs) are one of the most productive ecological zones on the planet. Their ecosystem services include improving water quality, safeguarding food security, creating a nursery ground for juvenile fish, as well as mitigating floods and rising sea levels.<sup>3</sup> Blue carbon demonstrates the abundance of the edges of nature, where two ecosystems meet. In a global sense, BCEs are one of the most prolific carbon sinks on earth, as they cover less than 0.5 percent of the sea bed yet account for more than half of all carbon in ocean sediments.<sup>4</sup> Blue carbon ecosystems are also sites of Indigenous governance and community wellbeing in coastal geographies, which includes the harvesting of eelgrass as a traditional food source amongst coastal First Nations in British Columbia (BC).<sup>5</sup>

<sup>1</sup> 2021 Tribal Parks Report (2022), Online: Tla-o-qui-aht First Nation  
<<https://tribalparcs.com/wp-content/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>2</sup> North America's Blue Carbon: Assessing Seagrass, Salt Marsh and Mangrove Distribution and Carbon Sinks (2016) Commission for Environmental Cooperation online <<http://www.cec.org/files/documents/publications/11664-north-america-s-blue-carbon-assessing-seagrass-salt-marsh-and-mangrove-en.pdf>>

<sup>3</sup> Ibid, North America's Blue Carbon: Assessing Seagrass, Salt Marsh and Mangrove Distribution and Carbon Sinks

<sup>4</sup> Christian Nellemann, Emily Corcoran, Carlos M Duarte, Luis Valdrés, Cassandra De Young, Luciano Fonseca, & Gabriel Grimsditch, *Blue Carbon: The role of oceans in binding carbon* (14 October 2009), online: United Nations Environment Programme & GRID-Arendal <<https://www.grida.no/publications/145>>

<sup>5</sup> K Fretwell & B Starzomsky, *Biodiversity on the central coast* (2014), online: University of Victoria & Hakai Institute <<https://www.centralcoastbiodiversity.org/eelgrass-bull-zostera-marina.html>>

However, compared to other ecosystems recognized as “charismatic,” like old-growth rainforests with abundant megafauna, BCEs typically receive less public, scientific political attention,<sup>6</sup> and are among the most rapidly disappearing environments on the planet. Globally, scientists have estimated that at least 35 percent of eelgrass and 29 percent of salt marsh range is lost.<sup>7</sup> On Vancouver Island, half of the Nanaimo and Cowichan estuaries, significant BCEs, are destroyed by the impacts of industrial activities and development, including fossil fuel infrastructure like ports, industrial fish farms and aquaculture, intensifying marine transportation, and urban sprawl.<sup>8</sup> Underlying causes include ineffective state governance of activities in the coastal marine space and the violation of Indigenous laws and suppression of Indigenous governance authority through settler colonialism. Blue carbon also exists within a complicated multi-jurisdictional context, where Indigenous and numerous state actors hold authority in decision-making.<sup>9</sup> Furthermore, state governments do not always exercise their authority to protect coastal ecosystems, while Indigenous authority may not be abided by or respected by the state government.<sup>10</sup> This situation reflects in the lack of provincial state protection for marine ecosystems: the Province of BC currently protects 15.4% of the province’s land base, yet only 3.2% of the marine base.<sup>11</sup>

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<sup>6</sup> Carlos M Duarte, William C Dennison, Robert J W Orth & Tim J B Carruthers, “The Charisma of Coastal Ecosystems: Addressing the Imbalance” (2008) 31 *Estuaries and Coasts* 233

<sup>7</sup> Ibid, *National Blue Carbon Policy Assessment Framework*.

<sup>8</sup> Government of BC, Government of Canada, *Fraser River Estuary Study Summary* (1978) online: <<https://www.for.gov.bc.ca/hfd/library/documents/Bib68894.pdf>>

<sup>9</sup> Ibid, *Fraser River Estuary Study Summary*

<sup>10</sup> Ibid, *Fraser River Estuary Study Summary*

<sup>11</sup> *Protected Lands & Waters in B.C.* (2016), online: Environmental Reporting BC <<https://www.env.gov.bc.ca/soe/indicators/land/protected-lands-and-waters.html>>

## Coastal Blue Carbon

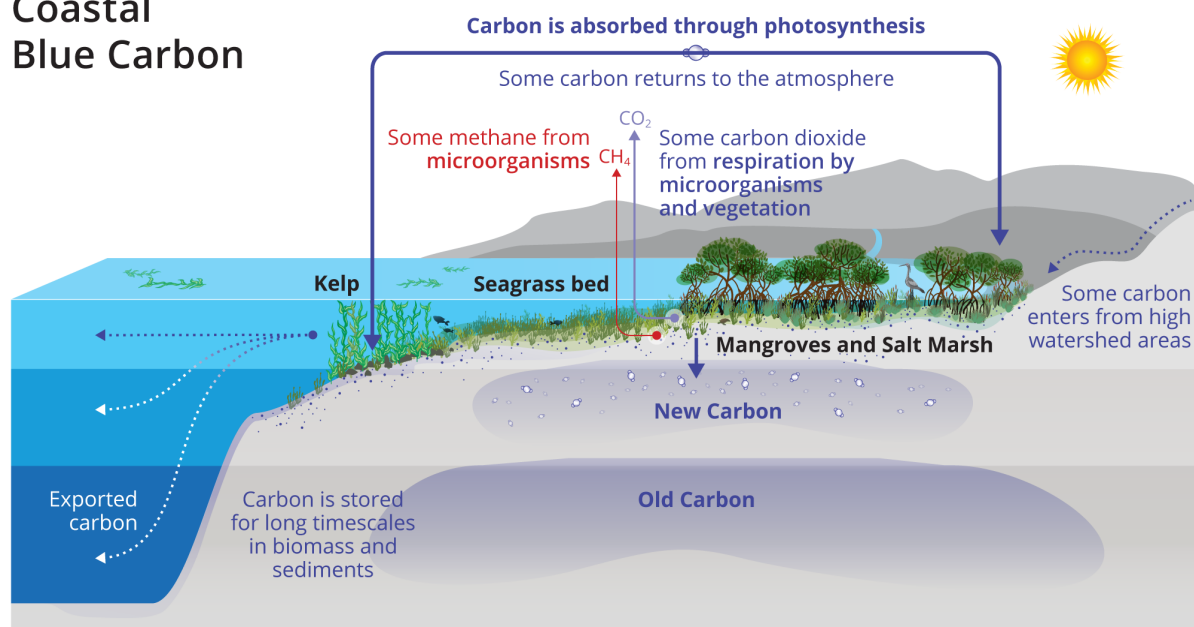
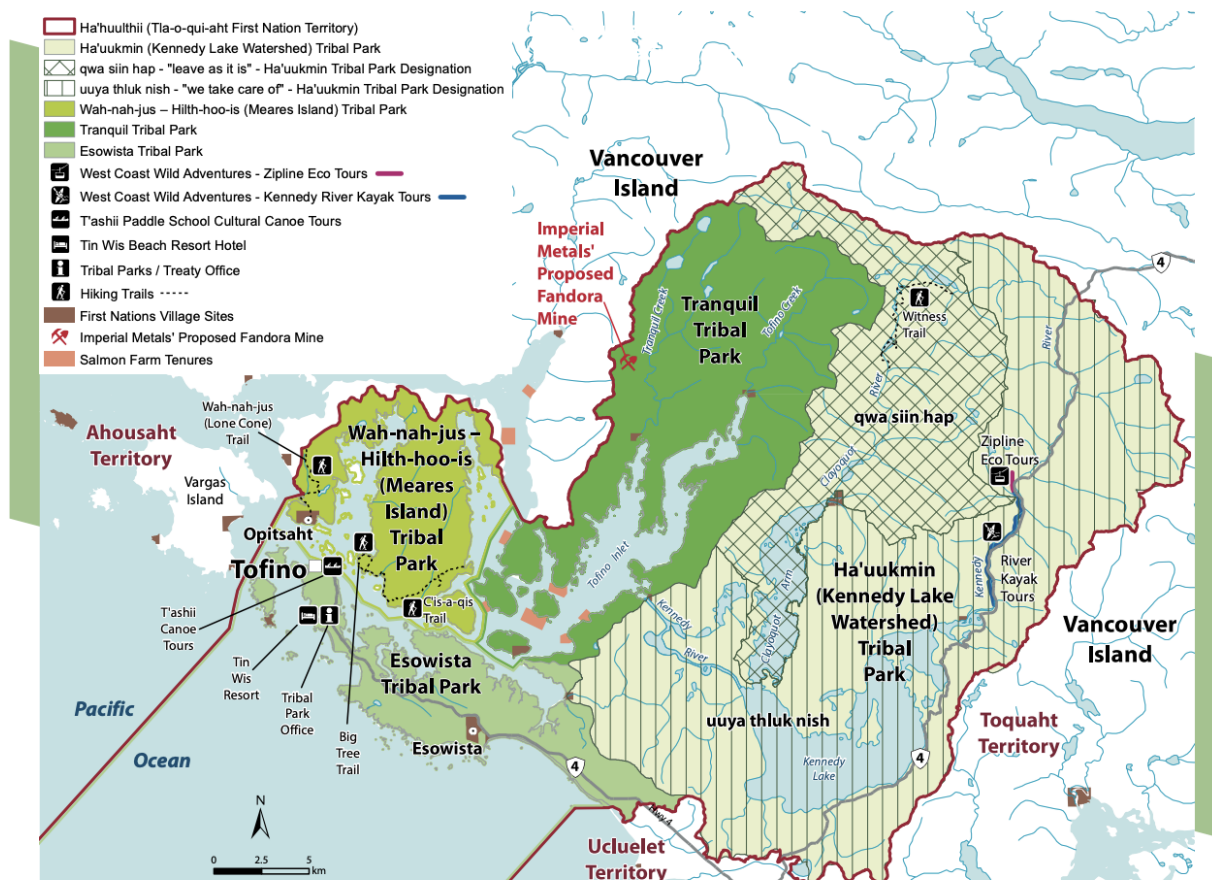


Figure 1: Coastal Blue Carbon Sources

*Coastal Blue Carbon* (2022), online: National Oceanic and Atmospheric Administration  
<<https://www.climate.gov/media/14819>>

To address BCE degradation, I am partnering with Tla-o-qui-aht First Nation (Tla-o-qui-aht) to research pathways for enhancing their authority in the marine environment of their Tribal Park for eelgrass as a BCE. Tla-o-qui-aht is located on the central west coast of Vancouver Island, BC, and is one of fourteen Nuu-chah-nulth First Nations. Their territory extends throughout southern Clayoquot Sound, the Esowista Peninsula and the Kennedy Watershed. Tla-o-qui-aht independently established their Tribal Parks beginning in 1984 to protect and steward social-cultural-ecological systems. However, Tla-o-qui-aht territory is subject to colonial state laws and regulations, and the many industries and businesses in their territory abide by the colonial system. Tla-o-qui-aht's vision for a healthy *Haahuulthii* depends on working with state government actors, while simultaneously expressing their sovereignty. This vision is demonstrated in the Tribal Parks 2014 Declaration regarding rights and co-governance: the "inherent right of Tla-o-qui-aht society to manage the *Haw'iih Haahuulthii*, and to establish tools for coexistence and co-governance." My research hones in on this principle in the context of eelgrass/blue carbon enhancement in Tla-o-qui-aht territory. This research is

timely because Tla-o-qui-aht demonstrates their jurisdiction on land, including land use visioning and plans, but this is not exercised to the same extent in the marine environment. Now, Tla-o-qui-aht is turning their attention to BCEs and marine planning more broadly. In conjunction, there is an opportunity for Tla-o-qui-aht to communicate their goals for the marine environment to the Province of BC through the Coastal Marine Strategy (CMS) that is currently in development. Based on Tla-o-qui-aht's Tribal Parks Declaration and history of conducting environmental work in collaboration with state government and non-government actors, and because of concurrent jurisdiction in the marine environment, I am using a multi-level governance (MLG) theoretical framework.



Map of Tla-o-qui-aht Territory showing the 4 Tribal Parks, key place names and land-use designations.

Figure 2: Map of Tla-o-qui-aht Territory showing the Tribal Parks, key place names and land-use designations.

*Tribal Parks Report* (2018) Online: Tla-o-qui-aht Tribal Parks

<<https://tribalparcs.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>> (Used with Permission)

## 1.2 Thesis Structure

My thesis is organized into seven chapters, beginning with the current introductory chapter. This chapter provides the brief political history underpinning my research and how this history has and continues to shape authority in BC's coastal and marine environments. I also discuss my research questions, objectives, relationships and experiences that led me to undertake research with Tla-o-qui-aht. In Chapter 2, I dive deeper into the background of Tla-o-qui-aht by examining their governance, the evolution of their Tribal Parks, and how blue carbon may play a role in the continued growth of the Tribal Parks and a conservation economy. This foundation will provide the jumping-off point for my research regarding pathways for increasing *Ts'aay'imts* (Nuu-chah-nulth for eelgrass) health through the fortification of Tla-o-qui-aht governance.

In Chapter 3, I conduct a literature review of MLG and Indigenous MLG in Canada, covering the historical application of the term MLG, its definitions, and the most common and critical principles associated with this framework. In this research, I define principle(s) as guiding concepts that support the foundation for systems, like governance, and can establish processes and norms for these systems. Principles are usually broad and can be used in criteria to evaluate specific situations, and in the context of this research, the principles are action-oriented because they can influence decision-making.<sup>12</sup> I construct evaluative criteria based on these principles and Tla-o-qui-aht's Tribal Park Declaration and apply these criteria in my policy, document and interview analysis. The principles identified from Indigenous MLG literature that I use are 1) analyzing and creating equitable power relations to achieve co-production; 2) Indigenous knowledge integration, ensuring this is determined by the Indigenous actor(s); 3) building trusting relationships through transparent communication; and 4) self-determination: the right of Indigenous Peoples to govern themselves and make decisions about their affairs.

In Chapter 4 I describe the data collection methods, including policy/document analysis and semi-structured interviews with Tla-o-qui-aht, state government staff, environmental

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<sup>12</sup> Jonathan L. Kvanvig, *Principles: A Philosophical Introduction* (Oxford: Oxford University Press, 2019)

nonprofits, and convening organization staff involved in resource governance and management in Tla-o-qui-aht territory. I also briefly discuss qualitative research, and within this, my community-based research approach. Following, I share my methodological orientation, how I am meeting ethical standards, and the data analysis process.

I present my results in Chapters 5 and 6. In Chapter 5, I share the results of the policy and document analysis, which serves as an environmental scan of coastal, marine and BCE policies across Canada and how Indigenous authority guides and/or is reflected in these plans. The analysis reveals that, historically, state government marine and coastal policy largely excludes eelgrass and blue carbon, as well as meaningful sharing of authority with Indigenous Peoples. However, from the 1970s to the present, there has been a shift from zero Indigenous involvement in state government coastal and marine policy towards greater collaboration between Indigenous and state governments for these environments. This shift is exemplified in the last five years, with an increase in intersocietal agreements between Indigenous and state governments, which encompass coastal and marine plans. At the same time, eelgrass and BCEs more broadly are gaining attention from state governments for their carbon-storing and sequestering capabilities.

In Chapter 6, I provide the results of my semi-structured interview analysis, which is more aspirational and future-oriented in terms of specific solutions for bolstering Tla-o-qui-aht authority for eelgrass as a BCE. I dissect the governance gap brought up by many participants for the aquatic environment in Tla-o-qui-aht territory. The next three subsections are indicative of this gap and offer opportunities in the form of pathways, considerations and technical actions for increasing Tla-o-qui-aht authority and addressing this gap. I focus on the broader pathways put forward by most participants to strengthen Tla-o-qui-aht authority for eelgrass, followed by the considerations for achieving these pathways, then the technical actions that Tla-o-qui-aht can undertake independently or in collaboration with state government and non-government actors.

Altogether, these results inform the recommendations in Chapter 7. I answer my first research question by providing recommendations for enhancing Tla-o-qui-aht authority for eelgrass, in and of itself and as a BCE in section 7.2. These recommendations are mechanisms that are based on considering the data from my policy/document and interview analysis in its

entirety. Finally, I answer my second research question by discussing a Blue Carbon Policy that can be created independently by the Province of BC or as part of their CMS in section 7.3. While my two research questions are posed separately, I hope to impart how the answers converge.

In Chapter 8, I conclude my thesis by providing a summary of my key findings surrounding mechanisms for enhancing Tla-o-qui-aht authority for eelgrass as well as revitalizing eelgrass on a provincial scale in BC through a Blue Carbon Policy. I also delve into my research interpretations and contributions, both for my research partner and for MLG literature. Next, I dig into the research limitations, share suggestions for future research, and conclude with my reflections on this academic journey and insights for eliciting a sense of optimism.

### 1.3 Multi-jurisdiction in British Columbia

Multi-jurisdiction - overlapping jurisdiction in a multi-legal order context - between Indigenous and state governments is not a natural condition; it is a result of colonialism and ongoing colonial structures. Thus, the jurisdictional and political conditions surrounding BCE protection and management require a brief discussion of Canada's federal state origins. In the *Constitution Act* of 1867, federalism was chosen as the political system for uniting the Canadian nation-state across a large geographic area with diverse citizens and multiple languages.<sup>13</sup> Federalism was established through two main government orders: the national/federal, and sub-national/provincial. However, the Act did not neatly divide the powers between the federal and provincial/territorial orders, meaning both governments have overlapping responsibilities, including for the environment and natural resources.<sup>14</sup>

In terms of Canada's territorial sea, the division of authority provides the federal government with Crown title, usually beginning at the low tide mark.<sup>15</sup> The federal government

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<sup>13</sup> Herman Bakvis & Grace Skogstad, *Canadian Federalism: Performance, Effectiveness, and Legitimacy*, 4th ed (Toronto: University of Toronto Press, 2020) at page 3

<sup>14</sup> Steve Diggon, John Bones, Charles J Short, Joanna L Smith, Megan Dickinson, Kelly Wozniak, Karen Topelko & Kylee A Pawluk, "The Marine Plan Partnership for the North Pacific Coast – MaPP: A collaborative and co-led marine planning process in British Columbia" (2022) 142 *Marine Policy* 104065 at page 2

<sup>15</sup> *Oceans Act, SC 1996, c 31, s 5*, online: Justice Laws Website <<https://laws-lois.justice.gc.ca/eng/acts/o-2.4/>>., *Territorial Sea Geographical Coordinates Order, CRC c 1550*, online: Justice Laws Website

has jurisdiction over navigation and shipping, fisheries, national defence, and marine pollution of all parts of the ocean within Canada's economic exclusion zone.<sup>16</sup> However, the provincial governments have jurisdiction over all land *to* the low tide mark, which is the foreshore, as well as all inland waters like bays, harbours, and coves.<sup>17</sup> In BC, there is an exception to the federal Crown title as BC has title over submerged lands between outer islands and the mainland coast.<sup>18</sup> Additionally, local governments are not constitutionally recognized. Instead, they are a creature of the provincial government and gain their powers from the province.<sup>19</sup> Local governments have authority in the foreshore through upland management like zoning, as well as some treatment on surface waters like docks and wharves.<sup>20</sup> Again, these jurisdictions are imposed on Indigenous territorial lands and seas. See Figure 2 for the breakdown of jurisdiction in coastal BC.

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[https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,\\_c.\\_1550/](https://laws-lois.justice.gc.ca/eng/regulations/C.R.C.,_c._1550/), *Territorial Sea Geographical Coordinates (Area 7) Order*, SOR/85-872, online: Justice Laws Website <<https://laws-lois.justice.gc.ca/eng/regulations/SOR-85-872/>>

<sup>16</sup> *Constitution Act*, 1867 (UK), 30 & 31 Victoria, c 3, s 91(2)

<sup>17</sup> *Constitution Act*, 1867, supra note 94, s 92(5).

<sup>18</sup> Reference re Offshore Mineral Rights (British Columbia), [1967] SCR 792 [Offshore Mineral]; Reference re: Ownership of the Bed of the Strait of Georgia and Related Areas, [1984] 1 SCR 388, 1984 CarswellBC 152 [Strait of Georgia]

<sup>19</sup> This delegation is usually considered to be based on the powers assigned to the Province under the *Constitution Act*, 1867, supra note 94 (see e.g. Municipal Institutions in the Province (s 92(8)); Property and Civil Rights in the Province (s 92(13)); and Generally all Matters of a merely local or private Nature in the Province (s 92(16))).

<sup>20</sup> "Land" includes the surface of the water, see Community Charter, supra note 118, Schedule, s 1. Except in the City of Vancouver (see Vancouver Charter SBC 1953, c 55, s 565(1)(b)), "land" for zoning purposes does not include "land covered by water."

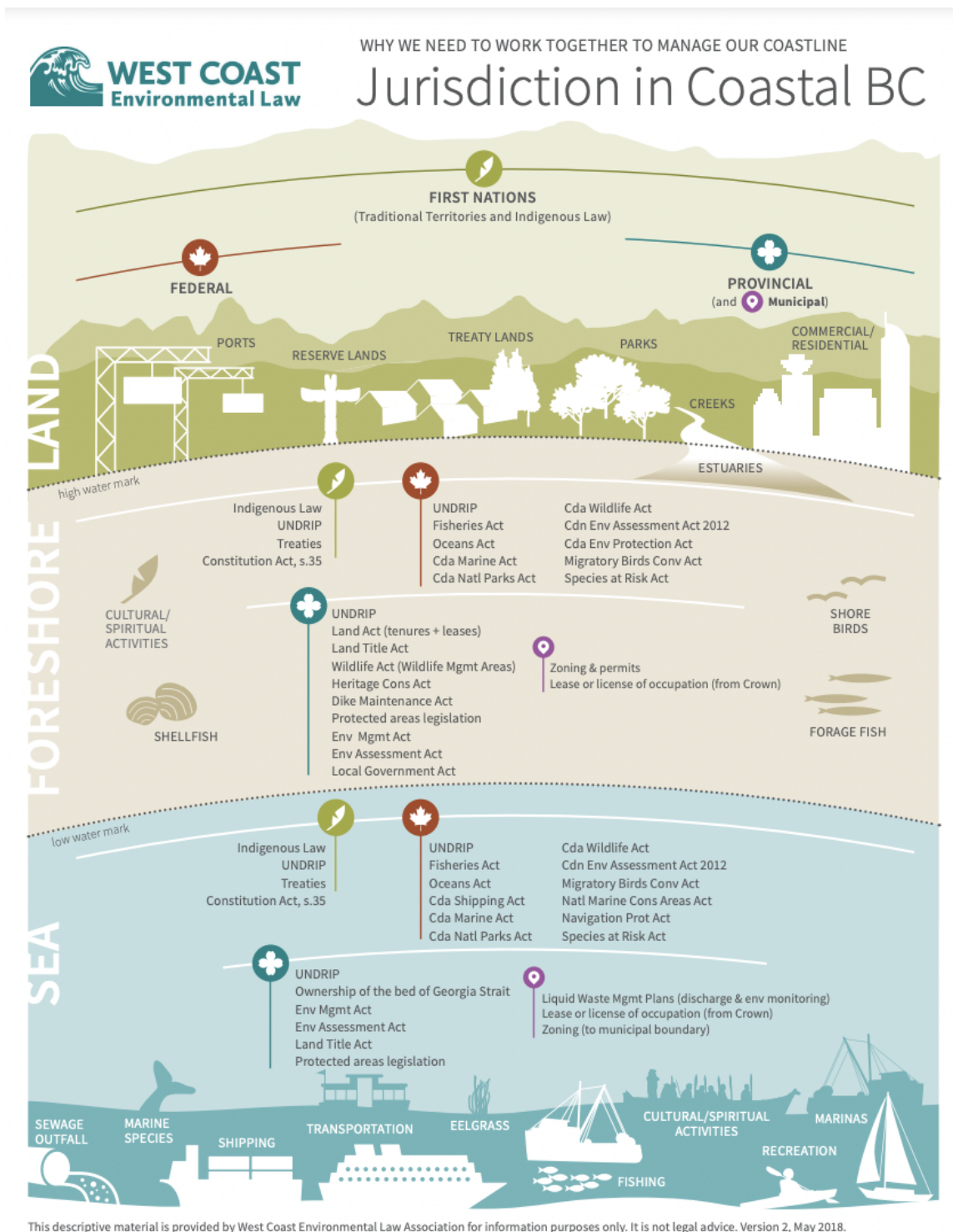


Figure 3: Jurisdiction in Coastal British Columbia

*Jurisdiction in Coastal BC* (2018) online: West Coast Environmental Law

<<https://www.wcel.org/sites/default/files/publications/2018-05-coastaljurisdiction-infographic-updated.pdf>>

Throughout what is known as “Canada”, Indigenous governance vastly predates colonialism. Despite this, the colonial regime established the federalism structure and imposed this on a geographic area that was and continues to be, home to diverse political systems across hundreds of Indigenous Peoples. Indigenous Peoples have inherent, *sui generis* rights,<sup>21</sup> rights that “flow from their legitimate political sovereignty,”<sup>22</sup> rights to protect their land, including the aforementioned BCEs. This governance is influenced by place-based relationships expressed as laws that are developed over extremely long periods to care for, honour and manage social-ecological systems.<sup>23</sup> Alfred reveals that “Indigenous governance systems embody distinctive political values, radically different from those of the mainstream. Western notions of dominion (human and natural) are noticeably absent; in their place, we find harmony, autonomy, and respect.”<sup>24</sup> Specifically, with BCE governance, eelgrass decision-making revolves around harvesting and cultivating, safe harbours and economic vitality, as well as transferring ecological and cultural knowledge on these systems through generations along family, gender, and other lines of identity and relationships.<sup>25</sup> Stewardship is not neutral, nor is it seeking to do “less harm.” Harvesting of eelgrass by coastal First Nations, including Nuu-chah-nulth and Kwakwaka’wakw Nations is rooted in regeneration, as plants are harvested in a manner that encourages regrowth and greater abundance in the following years.<sup>26</sup>

Since the onset of colonization, many Indigenous Peoples across Canada, including First Nations in the largely untreated Province of BC, have and continue to be marginalized through assimilative government policies and programs.<sup>27</sup> The drive towards Indigenous self-determination as a response to oppressive Canadian state regimes has led to the renewal of Indigenous legal traditions over the last four decades. This includes the legal recognition and affirmation of pre-existing Indigenous rights and relationships with Section 35 (1) being added to

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<sup>21</sup> *Guerin v. The Queen* [1984] 2 S.C.R. 335.

<sup>22</sup> Dale Antony. *This Is Not a Peace Pipe: Towards a Critical Indigenous Philosophy*. Toronto: University of Toronto Press, 2006.

<sup>23</sup> Kim-Ly Thompson, Nikkita Reece, Nicole Robinson, Havana-Jae Fisher, Natalie C. Ban & Chris R. Picard, “We monitor by living here”: community-driven actualization of a social-ecological monitoring program based in the knowledge of Indigenous harvesters” (2019) 4:1 *Facets* 293.

<sup>24</sup> Taiiike Alfred (1999) *Peace, Power, Righteousness: An Indigenous Manifesto*. Oxford University Press.

<sup>25</sup> Severn Cullis-Suzuki, *Tending the meadows of the sea: Traditional Kwakwaka’wakw harvesting of Ts’áts’ayem* (2007) online: Uvic Space <<https://dspace.library.uvic.ca/handle/1828/293>>

<sup>26</sup> *Ibid*, “Tending the meadows of the sea: Traditional Kwakwaka’wakw harvesting of Ts’áts’ayem”.

<sup>27</sup> *Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada* (2015), online: Truth and Reconciliation Commission of Canada <[www.trc.ca/assets/pdf/Honouring\\_the\\_Truth\\_Reconciling\\_for\\_the\\_Future\\_July\\_23\\_2015.pdf](http://www.trc.ca/assets/pdf/Honouring_the_Truth_Reconciling_for_the_Future_July_23_2015.pdf)>

the *Constitution Act* in 1982. However, Indigenous rights are not defined by this Act.<sup>28</sup> This addition resulted from many Indigenous People's lobbying efforts and has influenced a series of court decisions within a decade of this legislative change. To conclude, there is a range of influential court cases and agreements that result in a nuanced and fluid system of federalism, colonialism, and political landscape in Canada.

Based on shifting Indigenous and state government relations, Canada's environmental policy-making landscape reflects an evolving system of governance and increasing legal plurality.<sup>29</sup> In the last few decades, we observe governance in Canada transforming into a collaborative approach where Indigenous Peoples have a greater amount of authority and power in decision-making. In collaborations, this includes relinquishing the unjust notion of Indigenous Peoples as stakeholders in their territories.<sup>30</sup> The traditional definition of governance is used to describe the ways society makes decisions together about shared concerns, like the environment.<sup>31</sup> The traditional definition encompasses a "systems of rules (formal and informal)" as well as arrangements, a range of actors, and principles that are intended to guide societies towards achieving collectively desired outcomes.<sup>32</sup> Governance is a result of interactions between participating actors, as "an emergent property of diverse interests and power dynamics."<sup>33</sup> Actors include Indigenous governments, state governments, quasi-government and non-government actors like ENGOs, corporations, and institutions in Canada. Concerning the environment, the purpose of governance is to achieve ecological objectives by working together on planning, decision-making, implementation processes, and management.<sup>34</sup> Environmental and ecological governance with all aforementioned actors is also moving beyond the sole emphasis on a process towards shared visions and aspirational targets for achieving desired socio-ecological conditions.<sup>35</sup> Collaborative environmental governance arrangements are applied

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<sup>28</sup> *Section 35 (1), Constitution Act, 1982*, being Schedule B to the *Canada Act*

<sup>29</sup> Leanne Betasamosake Simpson, *Land as pedagogy: Nishnaabeg intelligence and rebellious transformation* (2014) 3:3 *Decolonization: Indigeneity, Education and Society*.

<sup>30</sup> Suzanne von der Porten, Rob de Loë & Ryan Plummer, "Research Article: Collaborative Environmental Governance and Indigenous Peoples: Recommendations for Practice" (2015) 17:2 *Environmental Practice* 134.

<sup>31</sup> Carolina Contreras & Sebastien Thomas, "The role of local knowledge in the governance of blue carbon" (2018) 15:2 *Journal of the Indian ocean region* 213.

<sup>32</sup> *Ibid*, "The role of local knowledge in the governance of blue carbon"

<sup>33</sup> *Ibid*, "The role of local knowledge in the governance of blue carbon", at page 216

<sup>34</sup> *MPA Network BC Northern Shelf Initiative* (2023) online: Network Action Plan <[https://mpanetwork.ca/wp-content/uploads/2022/11/MPA\\_Network-Action-Plan\\_web.pdf](https://mpanetwork.ca/wp-content/uploads/2022/11/MPA_Network-Action-Plan_web.pdf)>

<sup>35</sup> Murray Ball. *Leading with Indigenous principles: ecological watershed governance in British Columbia, Canada* (2023), online: UVic Space.

to BCEs because their vitality hangs in the balance of overlapping authorities, with the added potential to create social-ecological, economic and cultural prosperity.<sup>36</sup>

Considering the challenges of overlapping jurisdictions and an overflow of interests and uses in the coastal marine sphere, I am applying an MLG framework throughout my research. This framework is defined as an “enterprise that involves collaboration between a diversity of private, public, and non-government stakeholders who, acting together towards commonly agreed goals, hope to achieve far more collectively, than individually.”<sup>37</sup> Multi-level governance is the process in which two or more levels of government engage with one another, as well as with quasi-government and/or non-government actors, to arrive at a plan or decision-making structure that is motivated to co-produce a public good.<sup>38</sup> The Ministry of Water, Land and Resource Stewardship (WLRS) is attempting to achieve MLG in the CMS process following a co-productive approach. Co-production is defined as “the joint working of people who are not in the same organization to produce goods or services”,<sup>39</sup> and depends on actors sharing power equally.<sup>40</sup> Furthermore, realizing Indigenous MLG on a provincial and federal scale has transformative potential for Tla-o-qui-aht as they endeavour to enhance blue carbon restoration and protection in their Tribal Parks as part of their broader marine planning efforts.

#### 1.4 Coastal Marine Strategy

While numerous other countries, as well as coastal provinces within Canada, including Nova Scotia, have implemented plans to manage coastlines cohesively, this continues to be a significant gap in BC’s environmental policy landscape.<sup>41</sup> Coastal and marine governance and management in BC depends on a “combination of laws, regulations, policies and programs overseen by many different governments and departments.”<sup>42</sup> BC does not have a singular

<sup>36</sup> Ibid, “The role of local knowledge in the governance of blue carbon”, at page 216

<sup>37</sup> Neil Gunningham, “The New Collaborative Environmental Governance: The Localization of Regulation” (2009) 36:1 Journal of Law and Society 145.

<sup>38</sup> Hooghe Liesbet & Marks Gary, “Unraveling the Central State, But How? Types of Multi-Level Governance” (2003) 97:2 American Political Science Review 233.

<sup>39</sup> Oliver K, Kothari A, Mays N, “The dark side of coproduction: do the costs outweigh the benefits for health research?” (2019) 17:33 Health Res Policy Systems 1.; Ostrom E, “Crossing the great divide: coproduction, synergy, and development” (1996) 24:6 World Development 107.

<sup>40</sup> Christopher Alcantara & Michael Morden, "Indigenous multilevel governance and power relations" (2017) 7:2 Territory, Politics, Governance 250.

<sup>41</sup> Ibid, at page 4

<sup>42</sup> *Coastal Marine Strategy: Background* (2022), online: Government of British Columbia <<https://engage.gov.bc.ca/coastalmarinestrategy/background>>

cohesive strategy for the coastal and marine environment, and this is reflected in challenges coordinating plans between Indigenous, local, provincial, and federal governments.<sup>43</sup> As a response to this, since 2017, West Coast Environmental Law (WCEL) and Canadian Parks and Wilderness Society (CPAWS) have been calling for an integrated coastal strategy and accompanying legislation as part of their “Blueprint for the Coast” campaign. For these organizations and a coalition of supporting environmental nonprofit stakeholders, a successful blueprint needs to be co-developed with coastal First Nations, be aligned with provincial UNDRIP commitments, fulfill the Declaration on the Rights of Indigenous Peoples (DRIPA) Action Plan and create the pathway for thriving coastal marine ecosystems and coastal communities now and long into the future.<sup>44</sup> This includes the need to protect and restore essential coastal marine habitats, like BCEs.<sup>45</sup>

In February 2022, the Province of BC announced the formation of the Ministry of WLRs, which is responsible for increasing the protection of coastal and marine environments in BC. Additionally, Nathan Cullen, the new Minister of WLRs, was given the mandate of protecting 30% of BC’s lands and waters by 2030. This was announced in Premier David Eby’s mandate letter to Nathan Cullen on December 7th, 2022.<sup>46</sup> The letter identifies the necessity of collaborating with all government and non-government actors to achieve this, as well as the role of Indigenous-led protection measures: “Partnering with the federal government, industry, and communities, and working with Indigenous Peoples, lead the work to achieve the Nature Agreement’s goals of 30% protection of BC’s land base by 2030, including Indigenous Protected and Conserved Areas.”<sup>47</sup> As part of achieving the 30 by 30 goal, WLRs is tasked with developing a CMS, a cohesive plan to protect, conserve and manage BC’s coastline alongside First Nations, local governments, coastal communities, and non-government actors. The CMS will focus on the coastal waters from the Alaskan border south to the Washington State border (see Figure 3).<sup>48</sup> The intention of the CMS is holistic collaborative management of BC’s coastal

<sup>43</sup> Ibid, *Coastal Marine Strategy: Background*

<sup>44</sup> West Coast Environmental Law & Canadians Parks and Wilderness Society (2023), online: [Blueprint for the Coast](https://blueprintforthe coast.ca/)

<sup>45</sup> Ibid, *Blueprint for the Coast*

<sup>46</sup> *Honourable Nathan Cullen Mandate Letter* (2022), online: Government of British Columbia

[https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet/mlas/minister-letter/wlrs\\_-\\_cullen\\_-\\_w\\_ps.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/premier-cabinet/mlas/minister-letter/wlrs_-_cullen_-_w_ps.pdf)

<sup>47</sup> Ibid, *Honourable Nathan Cullen Mandate Letter*, at page 4

<sup>48</sup> *Coastal Marine Strategy: Background* (2022), online: Government of British Columbia <https://engage.gov.bc.ca/coastalmarinestrategy/background>

marine environments, focusing on areas closer to shore, where estuaries, kelp beds, eelgrass meadows, rocky shorelines, and sandy beaches support an abundance and diversity of marine life.<sup>49</sup> The CMS is attempting a long-term 20-year approach to address the priorities of today and anticipate those of the future. In sum, this strategy is significant because there is currently no legislation, regulation or policy for the entire BC coast. Depending on the effectiveness of the final strategy and implementation, the CMS has transformative potential for increasing the health of BC coastal and marine ecosystems, fortifying community wellbeing, enabling climate resiliency as well as supporting First Nations' ecological governance and self-determination.<sup>50</sup>

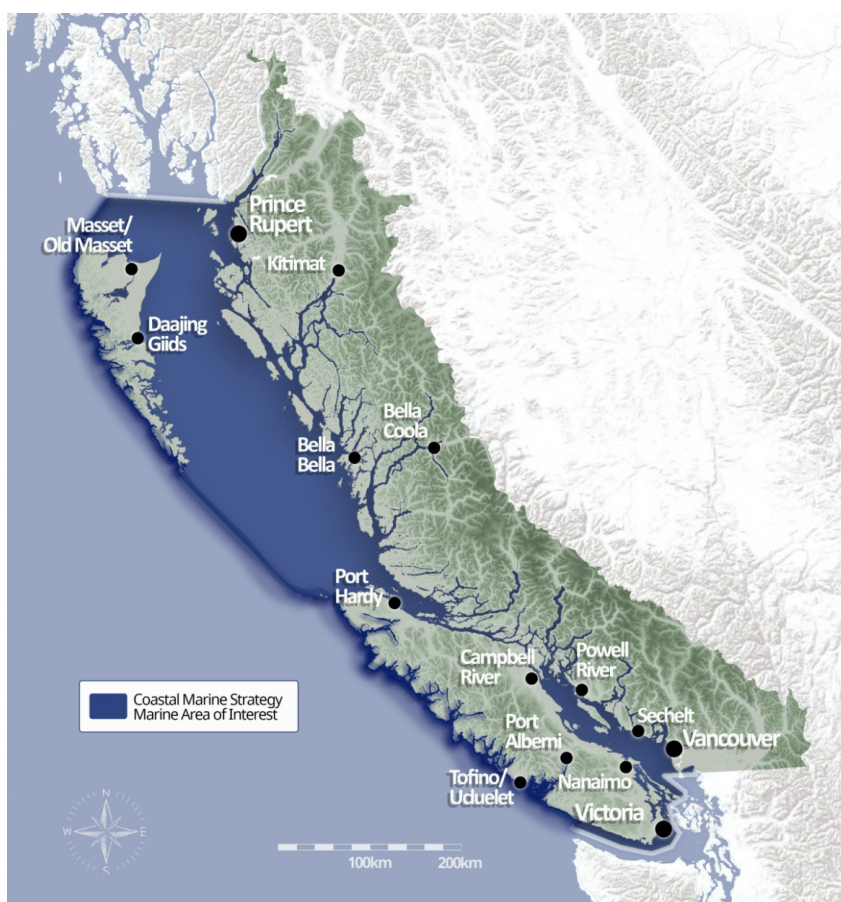


Figure 4: Coastal Marine Strategy Marine Area of Interest

*A Coastal Marine Strategy for British Columbia: Intentions Paper Summary* (2023), Online: Government of British Columbia

<<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/CMS-Intentions-Paper-Summary-Dec-2022.pdf>>

<sup>49</sup> *A Coastal Marine Strategy for British Columbia* (2022), online: Government of British Columbia, <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

<sup>50</sup> *Ibid*, *A Coastal Marine Strategy for British Columbia*, at page 8

I joined CMS information and strategy sessions from April 2022 to March 2023. In December 2022, the Intentions Paper was released, which outlines six desired outcomes: 1) A healthy and productive coast, 2) Resilience to climate change, 3) Holistic learning and knowledge sharing, 4) Community well-being, 5) Trusting, respectful relationships and 6) A sustainable, thriving ocean economy.<sup>51</sup> Nested within these outcomes are policy intentions for BCE protection and restoration, advancing collaborative stewardship with First Nations, as well as exploring “innovative protected-area models including the designation of Indigenous Protected and Conserved Areas, in collaboration with interested First Nations and the federal government.”<sup>52</sup> A final CMS will be released in 2024 and will be implemented from 2024 to 2044 (see Figure 5).<sup>53</sup> This policy process is an opportunity for Tla-o-qui-aht to emphasize their coastal marine priorities, including eelgrass as a BCE.

## COASTAL MARINE STRATEGY TIMELINE

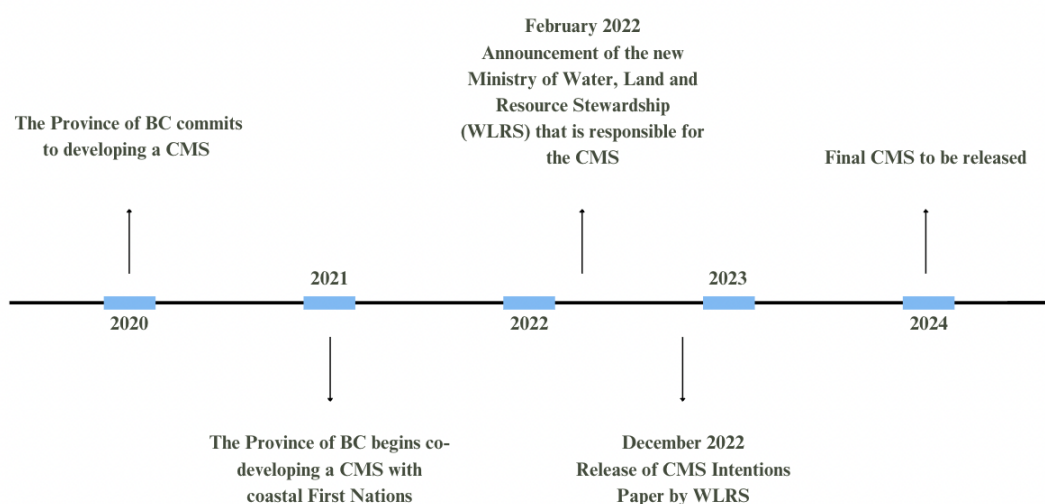


Figure 5: Timeline for the Coastal Marine Strategy

<sup>51</sup> Ibid, *A Coastal Marine Strategy for British Columbia*, at page 3

<sup>52</sup> Ibid, *A Coastal Marine Strategy for British Columbia*, at page 3-18

<sup>53</sup> *A Coastal Marine Strategy for British Columbia* (2022), Online: Government of British Columbia, <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

## 1.5 Research Objectives and Questions

The umbrella for this research is Indigenous MLG for BCEs in BC. Within this scope, the first objective of this research is to identify specific mechanisms for enhancing Tla-o-qui-aht 's authority with the support of state government and non-government actors for eelgrass, a form of blue carbon in their territory. The second objective of this research is to examine solutions for increasing eelgrass health in Tla-o-qui-aht territory and to explore whether these solutions can be influential on a provincial scale in BC. The impetus for this research is to assist in the strengthening of Tla-o-qui-aht governance in the marine environment and to contribute insights that can support Tla-o-qui-aht's Tribal Parks movement that is bolstering a conservation economy on the west coast of Vancouver Island.

Based on these objectives, this research explores two questions:

- 1) What are the specific mechanisms by which Tla-o-qui-aht can enhance their authority of eelgrass as a BCE in their territory?
- 2) What are the solutions for improving eelgrass health within Tla-o-qui-aht territory, and can this influence BCE health on a provincial scale in BC?

The data yielded from this study may support actionable outcomes for enhancing Tla-o-qui-aht authority for eelgrass through governance-based solutions. This will be communicated to the Ministry of WLRS as part of the CMS feedback process, tapping into their intended co-productive approach with First Nations.

## 1.6 Personal Motivation for Thesis Research

I was born in a time punctuated by a fierceness for protecting Clayoquot Sound. I am of settler descent and was born in June of 1993 on the traditional and unceded territory of Tla-o-qui-aht First Nation in Tofino, BC. I came into the world during the height of the War of the Woods: protests galvanized by the threat of old-growth clear-cutting on *Wanachis-hilth-hoo-is*, an ancestral garden cared for and tended to by numerous Nuuchahnulth First Nations for millennia. Until my birth, my mother supported the protests from the sidelines alongside other allies, Tla-o-qui-aht and neighbouring Nuuchahnulth First Nations. The

atmosphere of this time shaped the trajectory of my life, what I would come to care about, and the skills and abilities I would cultivate and offer in the environmental movement. It is beyond a privilege to have been born in Tla-o-qui-aht territory, and for this reason, I will always have accountability to the people, land, and sea of this locale.

Most of the environmental work I have accomplished in Tla-o-qui-aht territory has been through Surfrider Foundation's Pacific Rim Chapter, beginning in 2016. Conducting this Master's research is only possible through relationships built with Tla-o-qui-aht through my career with Surfrider, where we have collaborated on numerous initiatives. This includes the Take Back the Tap campaign, which eliminates single-use plastic bottles on the West Coast, and the Dock the Foam campaign - replacing unencapsulated expanded polystyrene floats in docks. In the spring of 2021, I met with Tla-o-qui-aht Tribal Parks staff to discuss their priorities and our Surfrider initiatives, and they shared their desire to re-open eelgrass beds in their territory to spawning herring in the spring. While this was outside what Surfrider could work on at the time, this meeting eventually sparked the idea for this Master's research, which Tla-o-qui-aht agreed to undertake together. It is an honour to work with Tla-o-qui-aht and conduct this research. Like sunlight that pours into the cracks of the dense coastal forest canopy to reach a sapling, I hope this humble study can meaningfully contribute to fortifying Tla-o-qui-aht authority and revitalizing eelgrass as part of the broader Tribal Parks movement.

## CHAPTER 2: BACKGROUND OF TLA-O-QUI-AHT FIRST NATION TRIBAL PARKS

### 2.1 Introduction

On March 28, 2023, I take a break from the computer screen and walk over to Tla-o-qui-aht's Tin Wis Conference Centre. The evening in this space is different, modified from its quotidian business aesthetic and into a longhouse. Embellished with warm lighting like a fire, carvings and paintings from Tla-o-qui-aht members hang around a gallery and a five-foot round entryway into the main performance space. The change of scenery is for the month-long cultural experience, *Naaʔuu*, Nuu-chah-nulth for "to feast together".<sup>54</sup> For Tla-o-qui-aht, coming together to share meals is a time-honoured tradition:

During festivals, family celebrations, weddings, and potlatches, we invite our honoured guests to share in a wholesome meal. It is around good food that our elders and knowledge keepers share their wisdom and their stories. We believe that as we take in a good meal, our hearts and minds are most receptive to the teachings we have gathered to receive.<sup>55</sup>

During *Naaʔuu*, ticket holders made up of locals and visitors experience Tla-o-qui-aht hospitality through traditional food, art, song and dance. They learn about Tla-o-qui-aht's history, and how to go forward in a good way through stronger relationships and acting on our responsibilities to one another. *Naaʔuu* Co-Producer Hjalmer Wenstob shares "We have been reserved to share any of our culture publicly for fear of it being taken away".<sup>56</sup> In response to this reservation, *Naaʔuu* is an act of decolonization and Tla-o-qui-aht asserting their authority, which includes deciding to share their traditions and teachings with the public once again. *Naaʔuu* filled up the Conference Centre throughout March, garnering praise, raising awareness, building relationships, and in the case of myself and many others, eliciting tears of joy. Considering the recent success of *Naaʔuu*, what events led to this moment and how does this give us clues for how the future can unfold in a way that facilitates the continued resurgence of Tla-o-qui-aht?

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<sup>54</sup> *NAAʔUU* (2023), Online: Tla-o-qui-aht Tribal Parks <<https://tribalparcs.com/naauu/>>

<sup>55</sup> Ibid, *NAAʔUU*

<sup>56</sup> Ibid, *NAAʔUU*

I explore the latter question through this Chapter, which provides background to my research partner, Tla-o-qui-aht, exploring their worldview and governance of their territory. Specifically, I will cover Tla-o-qui-aht governance principles and the dynamics of their Hereditary Chiefs, the *Ha'wiih*, and the elected Chief and Council. I follow with a brief discussion of the impacts of colonization on Nuu-chah-nulth First Nations, including their resource management. Next, I lead into Tla-o-qui-aht's establishment of their Tribal Parks, which now comprise the entire Tla-o-qui-aht territory, called the *Haahuulthii*. In discussing this movement, I will focus on three tactics Tla-o-qui-aht employed to exert their sovereignty in the face of colonial resource management decisions in their territory. These tactics encompass 1) Statements of authority in the form of Tribal Park declarations; 2) working within the colonial legal system by applying for injunctions; and 3) exercising their legal orders outside of the colonial system through frontline strategies. Then, I will chronicle how Tla-o-qui-aht is enacting a conservation economy in their territory and the potential role BCEs can play in achieving this transition. Finally, I discuss Tla-o-qui-aht's unique position in revitalizing eelgrass as a BCE, which includes taking advantage of the Province of BC's CMS process.

## 2.2 Tla-o-qui-aht First Nation Governance

On the central west coast of Vancouver Island in BC, there are 14 Nuu-chah-nulth Nations, including Tla-o-qui-aht. The Tla-o-qui-aht *Haahuulthii* is unceded; there are no treaties with state governments, nor have there ever been.<sup>57</sup> This territory encompasses southern Clayoquot Sound, the District of Tofino, the Esowista Peninsula and the Kennedy Watershed. Tla-o-qui-aht First Nation is known as a powerful and proud nation of talented fisherpeople, ecological guardians, master carvers, prestigious artists, as well as culturally informed singers and dancers.<sup>58</sup> Tla-o-qui-aht First Nation territory is also a haven of BCEs, including salt marsh, kelp forests and eelgrass meadows. Like other First Nations in BC, Tla-o-qui-aht is still partially governed by its hereditary system. Hereditary Chiefs, the *Ha'wiih*, are the traditional leaders who guide the Tla-o-qui-aht's lands, resources, and cultural activities of its members.<sup>59</sup> As a result of

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<sup>57</sup> Grant Murray & Danielle Burrows, "Understanding Power in Indigenous Protected Areas: the Case of the Tla-o-qui-aht Tribal Parks" (2017) 45 *Human Ecology* 763.

<sup>58</sup> *History* (2016), Online: Tla-o-qui-aht First Nation <<https://www.tla-o-qui-aht.org/history>>

<sup>59</sup> *Ha'wiih (Hereditary Chiefs)* (2016), Online: Tla-o-qui-aht First Nation <<https://www.tla-o-qui-aht.org/hawiih-hereditary-chiefs>>

the federal state government's *Indian Act*, the Chief and Council, elected by Tla-o-qui-aht members for 4-year terms, are also responsible for Tla-o-qui-aht governance. The Natural Resources Department within band administration operationalizes the Chief and Council decisions. Within this department, Tribal Parks staff are responsible for carrying out plans related to forestry, fisheries, water systems, wildlife, and tourism. Between traditional governance of the *Ha'wiih* and the elected Chief and Council, Tla-o-qui-aht's vision is "the harmony of strong administration and good governance that values our *ha'wiih haahuulthii* and the laws of nature."<sup>60</sup>

The Nuu-chah-nulth principles that underpin Tla-o-qui-aht legal orders and governance are *Hiishukish tsawaak* "everything is one," and *Iisaak* "respect."<sup>61</sup> In this relational worldview, all elements of the physical and spiritual worlds are known to be closely connected; "everything impacts everything else through close-knit and sacred relationships."<sup>62</sup> Recognition and reciprocity are additional principles in the Tla-o-qui-aht value system that honour and maintain relationships.<sup>63</sup> These principles shape traditional governance practices in various ways, including internal political processes required for enacting ecological management.<sup>64</sup> Bingham et al. comment on these internal processes to say that "Tla-o-qui-aht's administrative natural resource management plans require approval of the Council of *Ha'wiih* (hereditary chiefs)."<sup>65</sup> The *Ha'wiih* assess management plans to confirm that they are aligned with *Hiishukish tsawaak* and *Iisaak*, uphold Tla-o-qui-aht's values, and honour traditional practices. Thus, these principles continue to inform elected and traditional Tla-o-qui-aht governance, including their decisions around environmental protection.

### 2.3 Impacts of Colonization

Tla-o-qui-aht First Nation has been governing their Chiefs *Haahuulthii* since time immemorial, and members of Tla-o-qui-aht still regard the present time as part of the colonial contact period, as this only began a couple of hundred years ago. Colonial processes have and

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<sup>60</sup> *Vision* (2016), Online: Tla-o-qui-aht First Nation <<https://www.tla-o-qui-aht.org>>

<sup>61</sup> E Richard Atleo, *Tsawalk: A nuu-chah-nulth worldview* (Vancouver: UBC Press, 2004).

<sup>62</sup> Ibid, *Tsawalk: A nuu-chah-nulth worldview*

<sup>63</sup> Julia A Bingham, Saul Milne, Grant Murray & Terry Dorward, "Knowledge Pluralism in First Nations' Salmon Management" (2021) *Frontiers in Marine Science*.

<sup>64</sup> Ibid, "Knowledge Pluralism in First Nations' Salmon Management"

<sup>65</sup> Ibid, "Knowledge Pluralism in First Nations' Salmon Management", at page 4

continue to adversely impact Tla-o-qui-aht governance, including the patchwork of state administrative authorities within their territorial boundaries, including Crown land, BC provincial parks, forest tenures, private lands, and part of the Pacific Rim National Park Reserve (PRNPR), established in 1971 (see Figure 6).<sup>66</sup>

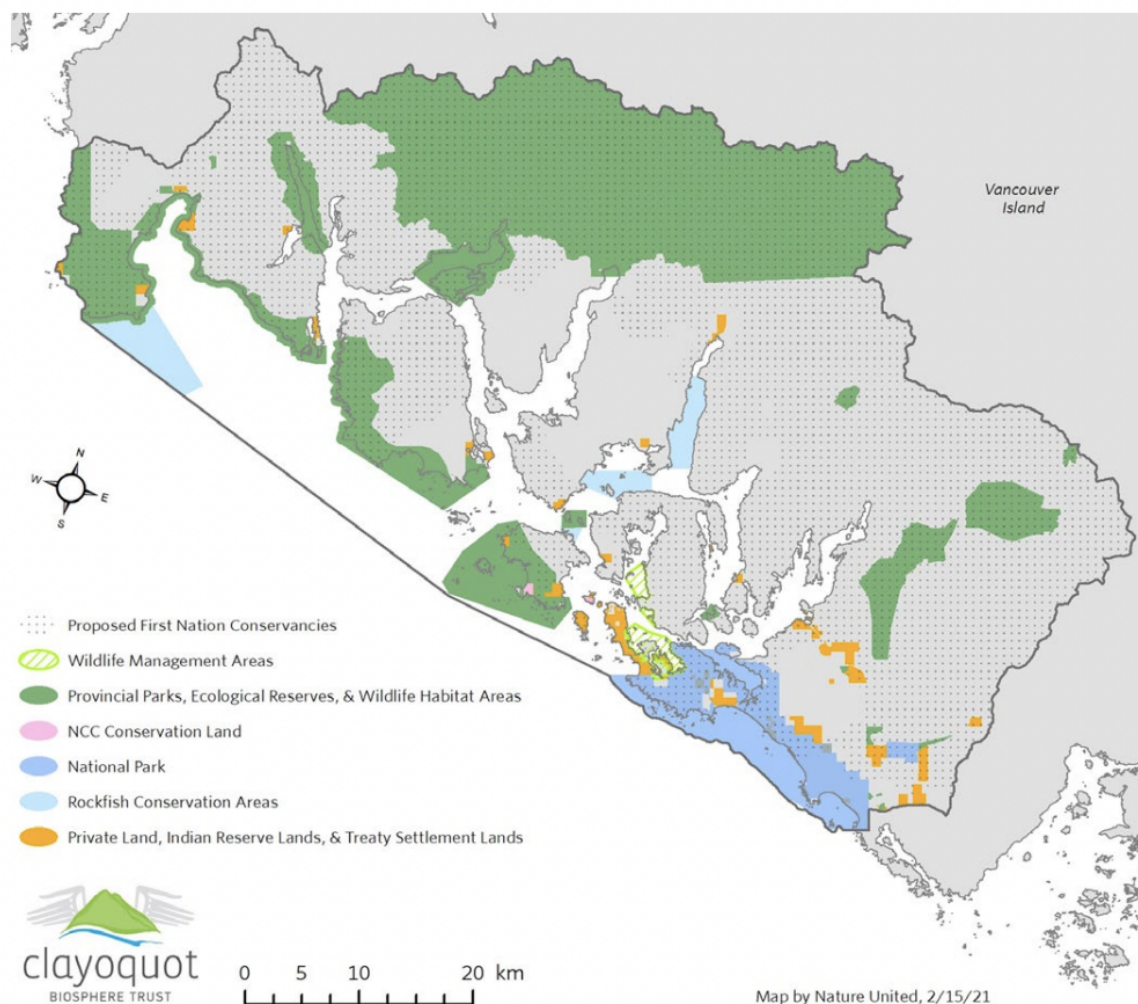


Figure 4 Conservation Context in the Clayoquot Sound Biosphere, 2020

Figure 6: Conservation Context in Clayoquot Sound Biosphere, 2020

<sup>66</sup> 2010 – 2020 Periodic Review Self-Study (2021), online: Clayoquot Biosphere Trust <[https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT\\_SSR\\_FINAL\\_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcTj0k4qNfR1X8o-\\_ei1etWdXQJIS\\_B5nH4](https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT_SSR_FINAL_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcTj0k4qNfR1X8o-_ei1etWdXQJIS_B5nH4)>

2010 – 2020 Periodic Review Self-Study (2021), online: Clayoquot Biosphere Trust  
<[https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT\\_SSR\\_FINAL\\_small.pdf?fbclid=IwAR2Nu890BOKaHSGGdcCTj0k4qNfR1X8o-\\_ei1etWdXQJIS\\_B5nH4](https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT_SSR_FINAL_small.pdf?fbclid=IwAR2Nu890BOKaHSGGdcCTj0k4qNfR1X8o-_ei1etWdXQJIS_B5nH4)>

Colonization commenced in the 1700s in BC, and British colonizers started constructing Indian reserves starting in 1852.<sup>67</sup> In 1864, the BC colony received British law, making land accessible to settlers to develop towns, agriculture, and industries. This occurred following the displacement of First Nations from their sovereign territories. The Province of BC came into being in 1871 when it joined Canada, pursuant to the *Constitution Act*, of 1867.<sup>68</sup> In the following decades, the federal government established hundreds of reserves throughout the Province of BC, and both the provincial and federal state governments took full control of all natural resources including timber, minerals, fish and aquaculture, oil, and gas.<sup>69</sup> The core of the colonial strategy is to remove and disempower Indigenous people from their territory, thus gaining control over raw materials for economic gain.<sup>70</sup> It is integral to understand this dispossession not as a past event but rather as a structural crisis that continues to unfold as a persistent invasion.<sup>71</sup>

The Canadian colonial government attempted to disintegrate and disempower Tla-o-qui-aht ways of knowing and operating as a society. One major strategy, the potlatch ban, made it illegal for Tla-o-qui-aht “to gather its citizens for governance purposes for the better part of the last century” as well as the *Indian Act* of 1958 that “removed the Tla-o-qui-aht hereditary Chief from power and installed an elected Chief and Council.”<sup>72</sup> Furthermore, all Nuu-chah-nulth First Nations have deep-rooted systems for resource governance but are subjugated by *de jure* and *de facto* practices of Canadian governance systems.<sup>73</sup> As Bingham et al. point out more broadly, this “history of conflict over territory and resource use rights between Canada and First

<sup>67</sup> R Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2011).

<sup>68</sup> *The Constitution Act, 1867 (UK)*, 30 & 31 Victoria, c 3, s 91(2) (2023), online: Justice law website <<https://www.canlii.org/en/ca/laws/stat/schedule-b-to-the-canada-act-1982-uk-1982-c-11/latest/schedule-b-to-the-canada-act-1982-uk-1982-c-11.html>>

<sup>69</sup> R Cole Harris, *Making Native Space: Colonialism, Resistance, and Reserves in British Columbia* (Vancouver: UBC Press, 2011).

<sup>70</sup> Shiri Pasternak, “How Capitalism Will Save Colonialism: The Privatization of Reserve Lands in Canada” (2015). 47:1 Antipode 179.

<sup>71</sup> Soren C Larsen & Jay T. Johnson, *Being together in place: Indigenous coexistence in a more than human world* (Minneapolis: University of Minnesota Press, 2017).

<sup>72</sup> Mark Masso, *Tla-O-Qui-Aht Nation Building Strategy: Ha'wiih And Ma'uas (Chiefs and Houses)* (2005) online: Uvic Space <<https://dspace.library.uvic.ca/handle/1828/8233>>

<sup>73</sup> Truth and Reconciliation Commission, 2015; Ban et al., 2019

Nations complicates tense and often antagonistic negotiations over natural management decisions.”<sup>74</sup> However, within and outside of these negotiations, including with forestry, Tla-o-qui-aht - alongside other Nuu-chah-nulth Nations - have asserted their authority through enacting their legal orders, governance and management practices in their territories.

Contested resource management actions, especially around forestry, punctuate the enchanting history of Vancouver Island’s west coast. While mainstream Canadian media often discuss BC’s forest protection as solely a matter of ecological ethics in the 1980s and 1990s, we can peer through the branches to see that the story of these forests is also about Indigenous sovereignty and self-determination.<sup>75</sup> To demonstrate this practice of authority, Tla-o-qui-aht employed several tactics to express their jurisdiction of old-growth temperate forests in their territory. The first tactic used was a statement of authority to proclaim a responsibility to protect Tla-o-qui-aht territory from industrial forestry. To halt the immediate threat of old-growth clearcut logging by forestry company MacMillan Bloedel on *Wanachis-hilth-hoo-is* (Meares Island) in Clayoquot Sound, Tla-o-qui-aht Hereditary Chiefs and Band Council declared *Wanachis-hilth-hoo-is* a Tribal Park in April 1984.<sup>76</sup> Tla-o-qui-aht First Nation autonomously established this Tribal Park in their territory; no state governments were consulted. Tla-o-qui-aht has explicitly stated their right to do this independently in their *Haahuulthii*, upholding natural laws and their mission to foster greater quality of life for all beings.<sup>77</sup>

Following the Tribal Parks Declaration, Tla-o-qui-aht was then successful in their application for an injunction against MacMillan Bloedel from the Supreme Court and the Court of Appeal of British Columbia in 1985.<sup>78</sup> Unlike the first tactic of independent declaration, with this strategy, Tla-o-qui-aht proceeded to take action within the colonial legal system to uphold their legal order. Despite the injunction prohibiting logging on Meares Island, which uniquely

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<sup>74</sup> Julia A Bingham, Saul Milne, Grant Murray & Terry Dorward, “Knowledge Pluralism in First Nations’ Salmon Management” (2021) *Frontiers in Marine Science*.

<sup>75</sup> Stephanie Wood, *How Clayoquot Sound’s War in the Woods transformed a region* (2021), online: The Narwhal <<http://thenarwhal.ca/clayoquot-sound-tofino-after-war-woods/>>

<sup>76</sup> Grant Murray & Danielle Burrows, “Understanding Power in Indigenous Protected Areas: the Case of the Tla-o-qui-aht Tribal Parks” (2017) 45 *Human Ecology* 763

<sup>77</sup> *Tribal Parks Report* (2019) Online: Tla-o-qui-aht Tribal Parks <<https://tribalparcs.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>78</sup> *MacMillan Bloedel Ltd. v Mullin; Martin v R in Right of B.C.*, 61 *BCLR* 145 (BCSC 1985), online: CanLII <<https://www.canlii.org/en/bc/bcsc/doc/1985/1985canlii308/1985canlii308.html>>.

remains in place to this day, the threat of old-growth logging continued in other areas of Tla-o-qui-aht territory.<sup>79</sup> The spectre of further logging sparked the third tactic, the “War in the Woods” protest led by Tla-o-qui-aht, Ahousaht First Nation, Hesquiaht First Nation, Ucluelet First Nation and Toquaht First Nation, and non-Indigenous environmentalists, galvanizing international attention and activating numerous environmental campaigns targeting forestry products. This protest tinderbox famously reached a heated apex in the summer of 1993, with over 900 people arrested, followed by companies pulling their contracts to purchase BC wood, Macmillan Bloedel losing \$200 million in pulp, paper and wood contracts, succeeded by this company’s eventual withdrawal from Clayoquot Sound - turning two tree farm licenses (TFLs) over to five Nuuchahnulth First Nations.<sup>80</sup> The TFLs continue to be managed by these Nations, including Tla-o-qui-aht, which protects these old-growth forests. As a Tribal Parks report points out, “[c]onservation within the Province’s Tree Farm Licencing Tenure system, however, is difficult and costly”, and the future of this forest is still uncertain under the tenure system.<sup>81</sup> The majority of the Canadian public and mainstream media referred to the Clayoquot protests as one of Canada’s most prominent cases of “civil disobedience.” However, members from Tla-o-qui-aht state that the opposite is true: they upheld *their* laws.<sup>82</sup> In contrast with the second tactic of applying for injunctions, Tla-o-qui-aht exercised their legal orders outside of the colonial system with this frontline strategy.

Since the 1990s, Tla-o-qui-aht has gone on to declare their entire territory as a Tribal Park. Based on “War in the Woods” and other natural resource conflicts in Clayoquot Sound, community members came together to contemplate a UNESCO Biosphere Model for the region. In 2000, At first, TFN protested the UNESCO Biosphere model because the federal government failed to return the airport lands and expand Esowista Indian Reserve #3 for more housing needs. However, TFN eventually supported the CBT after the negotiations and the threat of direct action were successful in the first expansion of an Indian Reserve in Canada into a Parks Canada designated Park Reserve. In January 2000, with the support of First Nations in Clayoquot Sound,

<sup>79</sup> Ibid, *MacMillan Bloedel Ltd. v. Mullin; Martin v. R. in Right of B.C.*

<sup>80</sup> Daniel Pierce, *25 Years after the War in the Woods: Why B.C.’s forests are still in crisis* (2018), Online: The Narwhal <[thenarwhal.ca/25-years-after-clayoquot-sound-blockades-the-war-in-the-woods-never-ended-and-its-heating-back-up/](http://thenarwhal.ca/25-years-after-clayoquot-sound-blockades-the-war-in-the-woods-never-ended-and-its-heating-back-up/)>

<sup>81</sup> *Tribal Parks Report* (2020), online: Tla-o-qui-aht Tribal Parks <<https://tribalparks.com/wp-content/uploads/2021/05/2020-Tribal-Parks-Report.pdf>>

<sup>82</sup> *Indigenous Protected and Conserved Areas* (2017), online: Mount Royal University <<https://www.canadianmountainnetwork.ca/research/knowledge-hubs/pacific-indigenous-protected-and-conserved-area-ipc-innovation-centre>>

including Tla-o-qui-aht, as well as local communities and state governments, Clayoquot Sound was designated as the Clayoquot Sound UNESCO Biosphere Region (CSUBR). Clayoquot Biosphere Trust (CBT) upholds the “spirit and intent of the biosphere region designation through innovative education programs, research into sustainability, and annual grantmaking to organizations within the Clayoquot Sound UNESCO Biosphere Region.”<sup>83</sup> While state government protections and authorities overlap and can impede Tla-o-qui-aht Tribal Parks, CBT acknowledges Tla-o-qui-aht rights and title, and actively supports Tribal Parks in a multitude of ways. Encompassed in this is CBT participating in Tla-o-qui-aht’s Tribal Park Allies task force and funding research for the Ecosystem Services Fee (ESF).<sup>84</sup> Additionally, another important development following “War in the Woods”, is the Central Region Board (CRB). The Province of BC created the CRB, a collaboration with Nuu-chah-nulth First Nations, the District of Tofino (DoT) and the District of Ucluelet (DoU), as well as the Alberni-Clayoquot Regional District (ACRD) for conducting land use and decision-making in the 1990s until 2009.<sup>85</sup> The CRB was an interim measure during treaty negotiations between the provincial government and Nuu-chah-nulth First Nations and served as an important governance mechanism for environmental matters. The CRB dissolved when numerous First Nations, including Tla-o-qui-aht, stepped away from the treaty tables with the state government in 2001 and the funding for the CRB eventually ceased.

## 2.4 Growth of Tourism in Tla-o-qui-aht First Nation Territory

On the other side of the territorial identity that values the preservation of nature, the once sleepy fishing town of Tofino in Tla-o-qui-aht territory has become a spotlight for national and international fascination over the last half-century. We see this with the opening of the PRNPR, the Clayoquot protests that enabled the end of old growth clear-cutting on *Wanachis-hilth-hoo-is*, as well as the Clayoquot Biosphere Designation in 2000. In the last three decades, Tofino has become one of the most sought-after destinations in Canada, receiving over one million visitors

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<sup>83</sup> *What is a UNESCO biosphere region?* (2019), online: Clayoquot Biosphere Trust <[clayoquotbiosphere.org/our-biosphere-reserve/overview#:~:text=Clayoquot%20Biosphere%20is%20one%20of,long%2Dterm%20commitment%20to%20sustainability.](http://clayoquotbiosphere.org/our-biosphere-reserve/overview#:~:text=Clayoquot%20Biosphere%20is%20one%20of,long%2Dterm%20commitment%20to%20sustainability.)>

<sup>84</sup> *2010 – 2020 Periodic Review Self-Study* (2021), online: Clayoquot Biosphere Trust <[https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT\\_SSR\\_FINAL\\_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcCTj0k4qNfR1X8o-ei1etWdXQJIS\\_B5nH4](https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT_SSR_FINAL_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcCTj0k4qNfR1X8o-ei1etWdXQJIS_B5nH4)>

<sup>85</sup> *Ibid*, *2010 – 2020 Periodic Review Self-Study*, at page 42

every year - an inordinate number compared to the roughly 2000 residents. Now, securing a seat in Time Magazine's World's Greatest Places of 2022, Tofino's tourism industry generates \$130 million in the direct gross domestic product (GDP) and \$240 million in direct economic output annually.<sup>86</sup>

Despite Tla-o-qui-aht's governance and management of the territory for millennia, they have benefited the least from the wealth generated in their *Haahuulthii*. Unlike state governments and industry, Tla-o-qui-aht has borne "the opportunity cost of not exploiting 'natural resources' in their homeland"<sup>87</sup> while, at the same time, gaining only a proportion of the financial benefit from visitors to their territory. As expressed in the preceding section, this includes protecting old-growth forests instead of capitalizing on resource extraction. Secondly, Tla-o-qui-aht also bears the "direct cost of paying fees to retain Tree Farm Licences for the last three decades" in their territory.<sup>88</sup> Through the possession of these TFLs, Tla-o-qui-aht has incurred millions of dollars in costs to protect the verdant groves that have a pivotal ecological function in the *Haahuulthii*. This includes stabilizing soils in their watersheds to prevent sedimentation, another negative impact on BCEs caused by logging on Vancouver Island. The expenses to sustain a healthy territory and community do not end here, as Tla-o-qui-aht's decade-long Supreme Court case to protect *Wanachis-hilth-hoo-is* from clearcutting cost them a bewildering \$5 million dollars.<sup>89</sup> This island is also the sole water reservoir for Tla-o-qui-aht communities and all Tofino residents and tourists. If Tla-o-qui-aht had not been steadfast in taking a stand for their land and communities, this water source would cease to exist, except as vapour above and beyond Vancouver Island. In sum and very ironically, Tla-o-qui-aht loses revenue from maintaining what makes Tofino and Clayoquot Sound so extraordinary and the basis for the \$240 million dollar plus tourism industry while being excluded from receiving tourism profits.

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<sup>86</sup> *The World's Greatest Places of 2022* (2022), online: Time Magazine <<https://time.com/collection/worlds-greatest-places-2022>> ; *Economic Impact of Tourism in Tofino* (2019) Online: InterVISTAS <<https://tourismtofino.com/wp-content/uploads/2019/05/Economic-Impact-of-Tourism-in-Tofino-2018-4Mar2019.pdf>>

<sup>87</sup> *Tribal Parks Report* (2019), online: Tla-o-qui-aht Tribal Parks <<https://tribalparcs.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

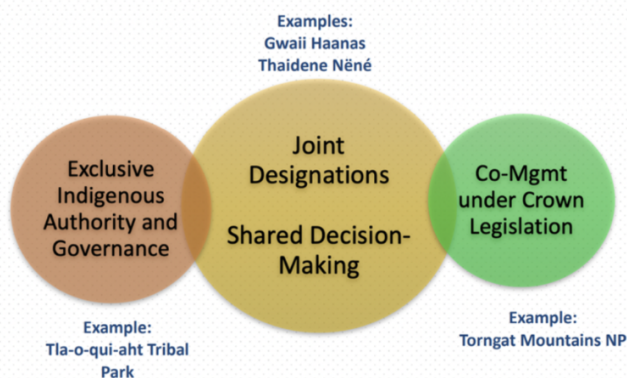
<sup>88</sup> *Tribal Parks Report* (2018), online: Tla-o-qui-aht Tribal Parks <<https://tribalparcs.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>89</sup> Nora O'Malley, *Push continues to eliminate single-use plastic water bottles* (2016), online: The Tofino-Ucluelet Westerly News <<https://www.westerlynews.ca/community/push-continues-to-eliminate-single-use-plastic-water-bottles>>.

In response to the many costs and lack of advantages, Tla-o-qui-aht’s Tribal Parks initiatives are creating pathways for obtaining financial benefits from tourism for Tla-o-qui-aht while leading the transition from an industrial tourism economy to a low-impact conservation economy. This has ramped up in the eight years following the 2014 Tribal Parks Declaration, with the most progress in the last four years with the launch of the Tribal Parks Allies Program.

## 2.5 Tla-o-qui-aht Tribal Parks Management Approach

Tla-o-qui-aht First Nation began declaring Tribal Parks in 1984 as a response to the threat of logging in their territory. As Murray and Burrows recount, “[f]rom 1984 to 2014, Tla-o-qui-aht moved from setting up blockades to pioneering Tribal Parks as an alternative to the business-as-usual approach to natural resource management.”<sup>90</sup> The Tribal Parks are established independently outside of any treaty, state government agreement or through a co-designation approach.<sup>91</sup> Thus, Tla-o-qui-aht Tribal Parks is a “projection of sovereignty” and an expression of self-governance.<sup>92</sup> The Tribal Parks is also an assertion of Tla-o-qui-aht rights and title external to the treaty process that is “consistent with the 2014 Canadian Supreme Court *Tsilhqot’in* decision” (visualized in Figure 8).<sup>93</sup>



<sup>90</sup> Grant Murray & Danielle Burrows, “Understanding Power in Indigenous Protected Areas: the Case of the Tla-o-qui-aht Tribal Parks” (2017) 45 *Human Ecology* 763.

<sup>91</sup> *Tribal Parks Report* (2018), online: Tla-o-qui-aht Tribal Parks <<https://tribalpark.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>92</sup> *Ibid.*, “Understanding Power in Indigenous Protected Areas: the Case of the Tla-o-qui-aht Tribal Parks”

<sup>93</sup> *2010 – 2020 Periodic Review Self-Study* (2021), online: Clayoquot Biosphere Trust <[https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT\\_SSR\\_FINAL\\_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcCTj0k4qNfR1X8o-\\_ei1etWdXQJIS\\_B5nH4](https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT_SSR_FINAL_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcCTj0k4qNfR1X8o-_ei1etWdXQJIS_B5nH4)>

Figure 7: Jurisdictional Spectrum of IPCA Types

Olthuis Kleeer Townshend, West Coast Environmental Law and University of Guelph, *Indigenous Laws in the Context Of Conservation* (2021), online: WCEL

<[https://www.wcel.org/sites/default/files/publications/indigenoulawsinthecontextofconservation\\_mar2021\\_final\\_web.pdf](https://www.wcel.org/sites/default/files/publications/indigenoulawsinthecontextofconservation_mar2021_final_web.pdf)>

Tla-o-qui-aht's expression of authority with their Tribal Parks intends to support community well-being, resource management, and the opportunity to participate in the benefits of the tourism industry. Since the first Tribal Park on *Wanachis-hilth-hoo-is*, Tla-o-qui-aht has declared and implemented three more Tribal Parks that span their entire territory: *Ha`uukmin*, *Eelsuk-is/Onalthsdah* and *Hiisawista* Tribal Parks. The purpose of the designations is to implement watershed management according to the Tla-o-qui-aht law, guided by principles of *Hiishukish tsawaak* and *Hawilthmis* (Governance; Chief's Laws and Responsibilities) for future generations.<sup>94</sup> The Tribal Parks management plan for the designations outlines four significant goals based on this approach: "(1) A sustainable future for the region; (2) Healthy abundant watershed ecosystems; (3) Working with traditional teachings; and (4) Economic growth through sustainable resource management."<sup>95</sup>

In addition to protecting healthy ecosystems, Tribal Park designations are a means to create and partner in business opportunities that generate sustainable livelihoods. As stated in the 2018 Tribal Parks Report: "Tribal Parks are designed to support economic development within the Tla-o-qui-aht Nation and keep economic benefits within First Nations."<sup>96</sup> Tla-o-qui-aht's north star is the achievement of a conservation economy that equitably benefits Tla-o-qui-aht alongside the settler and business community in the region.<sup>97</sup> A conservation economy aims to "enhance or restore natural capital, build good livelihoods, embrace cultural diversity, improve social equity, respect Aboriginal title, and achieve greater community cohesion and resiliency over time."<sup>98</sup>

<sup>94</sup> *Tla-o-qui-aht Tribal Parks Declaration* (2014) Online: Tla-o-qui-aht First Nation.

<<https://tribalparcs.com/wp-content/uploads/2021/05/DeclarationTribalParkHaahuulthii2014.pdf>>

<sup>95</sup> Grant Murray & Leslie King, "First Nations Values in Protected Area Governance: Tla-o-qui-aht Tribal Parks and Pacific Rim National Park Reserve" (2012) 40 *Human Ecology* 385.

<sup>96</sup> *Tribal Parks Report* (2018) Online: Tla-o-qui-aht First Nation

<<https://tribalparcs.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>97</sup> *We rise together: achieving pathway to Canada target 1 through the creation of Indigenous protected and conserved areas in the spirit and practice of reconciliation: the Indigenous Circle of Experts' report and recommendations* (2018), online:

Government of Canada <<https://publications.gc.ca/site/eng/9.852966/publication.html>>

<sup>98</sup> B Kelly, *Financing Coastal Blue Carbon in Canada: Potential Tools for Supporting Protection, Restoration and Stewardship of Blue Carbon Ecosystems* (2022), online: World Wildlife Fund Canada

<<https://wwf.ca/wp-content/uploads/2022/07/Financing-Coastal-Blue-Carbon-in-Canada.pdf>>.

This holistic, social-ecological approach expresses Tla-o-qui-aht's worldview by seeking to realign priorities to balance environmental, social and economic outcomes to create a more resilient and robust economy in the long term.<sup>99</sup>

Tla-o-qui-aht utilizes land use designations in their Tribal Parks, called "management areas," for integrating different functions within the Tribal Parks. These designations ensure the inclusivity of ecological, cultural, spiritual and economic functions amongst the terrestrial and marine realms, including blue carbon ecosystems in the foreshore. Land use designations encompass:

- *Qwa'siin'hap* Management Areas (Tla-o-qui-aht for "leaving it the way it used to be").<sup>100</sup> These zones are intended to be managed more strictly, for preserving and protecting culturally significant sites from development and/or over-access, ensuring that biodiversity is safeguarded for the Nation's access to traditional medicines.<sup>101</sup>
- *Uuy'athluknish* Management Areas (Tla-o-qui-aht for "we take care"), this designation sets the intent for restoration of ecosystems while permitting access for traditional activities and regenerative livelihoods. This management area strives to achieve a balance between co-existing uses, ensuring the continuation of clean drinking water and flourishing salmon runs in the watershed. Throughout both management areas, the preservation and protection of old-growth forests continue to be paramount.<sup>102</sup>

These management area designations embody Tla-o-qui-aht's vision of restoring and promoting traditional values to enhance the quality of life for all living things in modern times.<sup>103</sup> These designations speak to the idea of reclamation and revitalization of traditional values and

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<sup>99</sup> Ibid, *Financing Coastal Blue Carbon in Canada: Potential Tools for Supporting Protection, Restoration and Stewardship of Blue Carbon Ecosystems*

<sup>100</sup> *Tla-o-qui-aht Tribal Parks Declaration* (2014) Online: Tla-o-qui-aht First Nation. <<https://tribalparcs.com/wp-content/uploads/2021/05/DeclarationTribalParkHaahuulthii2014.pdf>>

<sup>101</sup> Ibid, at page 2

<sup>102</sup> Ibid, at page 2

<sup>103</sup> *Vision* (2022), online: Tla-o-qui-aht First Nation < <https://www.tla-o-qui-aht.org/>>

principles as frameworks for a better future, instead of a complete return to an essentialized ‘authentic’ version of ‘traditional.’<sup>104</sup>

## 2.6 Allies Program

Tla-o-qui-aht’s Tribal Parks model and management approach is implementing a regenerative conservation economy, an intentional shift away from a more extractive industrial tourism economy that has crept into Tofino. As discussed in the previous section, a conservation economy has gained momentum based on Tla-o-qui-aht building relationships with the tourism industry and bringing businesses into the Allies Program. To achieve the objectives in the 2014 Tribal Parks Declaration, Tribal Parks Guardians lead and partner in environmental projects throughout the territory in partnership with state government and non-government entities. These projects range from watershed restoration, logging road decommissioning, invasive species removal, trail building, ecosystem monitoring, beach clean-ups and derelict vessel removal, as well as forest restoration.<sup>105</sup> The increasing scale, scope and number of Tribal Parks projects and Tla-o-qui-aht community services and infrastructural needs require more support, as stated in the 2023 Tribal Parks Report, “It is time for proponents of Tofino’s tourism industry to prioritize ethical travel and the development of an equitable industry which honours Indigenous Rights.”<sup>106</sup>

One of the most promising funding mechanisms is the Tla-o-qui-aht Tribal Park’s ESF as part of the Allyship Certification Program that began in 2018. This program provides an “opportunity for businesses to contribute a fair proportion of their earnings towards the stewardship and restoration of the Chief’s *Hahuulthii*.” As discussed, Tla-o-qui-aht faces the greatest financial burden in preserving ecosystems in and around Tofino, so it stands to reason that businesses prospering off of the territory should contribute to Tla-o-qui-aht’s governance and management. To join the program, businesses contribute at least 1% of their revenue as an

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<sup>104</sup> Nadia Nowak, “It’s our law to protect the land and the people: Perspectives On Traditional Governance And Keyoh Stewardship With *Saik’uz Whut’enne*” (2022) Master’s thesis, University Of Northern British Columbia.

<sup>105</sup> *Tribal Parks Report* (2018) online: Tla-o-qui-aht Tribal Parks  
<<https://tribalparcs.com/wpcontent/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>.

<sup>106</sup> *2023 Tribal Parks Report* (2023), Online: Tla-o-qui-aht First Nation  
<<https://tribalparcs.com/wp-content/uploads/2023/05/2023-TRIBAL-PARKS-REPORT.pdf>>

ESF, which intends to be a cooperative, community-oriented and iterative funding process.<sup>107</sup> With valid membership, participating businesses can display the Tribal Parks Allies logo (see Figure 9). Tribal Parks describes the ESF process as an attempt at working with business owners, the Chamber of Commerce, the District of Tofino and environmental non-government organizations (ENGO) in good faith.<sup>108</sup>

Since 2018, Tla-o-qui-aht Tribal Park's Allies Program has grown from a few members to 120, raising \$257,378 from April 01, 2022, to March 31, 2023.<sup>109</sup> Participation in the program has grown 30-fold, and revenue is up 17-fold. Tla-o-qui-aht believes this is a strong indicator of the willingness of local businesses and the broader tourism industry to continue working with them and supporting their goals. In their 2021 Tribal Parks report, Tla-o-qui-aht shared that this collaborative effort is supporting a culture that respects Indigenous rights, as defined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), and supports Canada's Truth & Reconciliation Commission's Calls to Actions for the corporate sector.<sup>110</sup> In a similar vein, collaborative efforts between Tla-o-qui-aht and the Province of BC authorities also have the potential to meet environmental goals within the 5-year Declaration on the Rights of Indigenous Peoples (DRIPA) Action Plan.<sup>111</sup> An increase in collaborative work in the Tribal Parks, which is supported by the Allies Program, has mostly been applied to forests, watershed restoration, and coastal restoration. Building on this success, Tla-o-qui-aht is now turning attention to the marine sphere, including eelgrass, which will also require collaboration with state government and non-government actors.

## **2.7 Coastal Marine Strategy: Indigenous Governance & Blue Carbon**

The Ministry of WLRS is responsible for developing the CMS, a comprehensive plan for managing BC's coastline and coastal waters alongside First Nations, all levels of state government, coastal communities and non-government bodies. The objective of the CMS is to

<sup>107</sup> Nora O'Malley, *First Nations ecosystem service fee in the works for Tofino* (2018), online: The Tofino-Ucluelet Westerly News <<https://www.westerlynews.ca/news/first-nations-ecosystem-service-fee-in-the-works-for-tofino/>>

<sup>108</sup> Ibid, "Understanding Power in Indigenous Protected Areas: the Case of the Tla-o-qui-aht Tribal Parks"

<sup>109</sup> *2023 Tribal Parks Report* (2023), Online: Tla-o-qui-aht First Nation <<https://tribalparcs.com/wp-content/uploads/2023/05/2023-TRIBAL-PARKS-REPORT.pdf>>

<sup>110</sup> *2021 Tribal Parks Report* (2022), Online: Tla-o-qui-aht First Nation <<https://tribalparcs.com/wp-content/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>111</sup> Ibid, *2021 Tribal Parks Report*, at page 2

protect and conserve the environment through a holistic approach, which includes growing a regenerative economy, supporting community well-being, and advancing First Nations participation in and benefit from natural resource management.<sup>112</sup> Again, this is significant as the CMS will be the first overarching plan for managing the BC coastline. As discussed in Chapter 1, developing a CMS is an important window in time for communicating Tla-o-qui-aht's coastal and marine priorities, including pathways for enhancing their authority in the marine environment. The development of the CMS is timely considering Tla-o-qui-aht's success with their Tribal Parks and their desire to expand their marine-based efforts. While the Tribal Parks cover the entire coastal and marine environment within Tla-o-qui-aht territory, Tla-o-qui-aht has engaged in less visioning and planning for these environments, including for eelgrass, than for terrestrial areas. The CMS Intentions Paper discusses blue carbon protection and boosting collaborative environmental stewardship with First Nations, so it is not a matter of if, but a matter of how Tla-o-qui-aht will be able to achieve some of their marine and eelgrass goals, both independently and as part of the CMS. This can build off of Tla-o-qui-aht's terrestrial work in the Tribal Parks and recent fishery plans through the T'aaq-wiihak Fisheries with the right to sell and manage fisheries, which indicates extensive planning around aquatic resource management.

The 2021 Tribal Parks report expresses how Tribal Park's old-growth forest coastal ecosystems are a haven of blue carbon. This report shares the exciting potential of incorporating blue carbon into planning and the growing conservation economy, yet these carbon sinks have not been quantified and communicated in the Allies Program.<sup>113</sup> The following emotive passage underlines the significance of these ecosystems and their powerful role in the vitality of Tla-o-qui-aht territory:

We hope to be able to quantify these services in the near future to demonstrate clearly the value of protecting the haḥuuli of the λaʔuukwiath ḥawiiḥ for all time. The rich life source that comprises the spirit of the haḥuuli is a gift from our λaʔuukwiath ancestors,

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<sup>112</sup> *A Coastal Marine Strategy for British Columbia: Intentions Paper* (2022), online: Government of British Columbia <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

<sup>113</sup> *2021 Tribal Parks Report* (2022), online: Tla-o-qui-aht First Nation <<https://tribalparcs.com/wp-content/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

and it is our responsibility to care for it and let it grow stronger as the future ancestors of the generations to come.<sup>114</sup>

Blue carbon does not exist in a vacuum; it is connected to all other terrestrial and marine life and needs to be conceptualized in this way. Specific to blue carbon, Saya Masso, Director of Lands for Tla-o-qui-aht, has shared Tla-o-qui-aht's goal of restoring eelgrass and reopening eelgrass beds in their territory to spawning herring in the spring. Saya recounts how the COVID-19 shutdown in 2020 provided a glimpse into the positive ramifications of significantly reduced boat traffic in the territory, which gave natural systems like eelgrass beds a chance to recover.<sup>115</sup> The rebounding blades of eelgrass and a decrease in marine transportation also reattracted spawning fish, juvenile fish and whales:

Our members witnessed herring – a skittish fish who flee from the sound of boat engines – spawning for the first time in decades in our eelgrass gardens. We remembered teachings about how to care for ourselves and for our non-human relatives.<sup>116</sup>

According to Tla-o-qui-aht laws, when Tla-o-qui-aht *maastchim* (citizens) were stringing out kelp for herring roe by way of the canoe, they were “earnestly instructed” not to let the paddle hit the gunnel of the canoe in respect of herring. Saya extended his point in a personal conversation to state that if you are “chastised by thousand-year-old laws to not put your canoe paddle on the side of your canoe, because of how skittish they are, what do you think every 2 minutes a motorboat going by is going to do?”<sup>117</sup> Blue carbon protection truly has the potential to create overlapping cultural, ecological, economic and social benefits as part of a more directed focus on the marine component of the Tribal Parks,<sup>118</sup> which also reflects the importance of Tla-o-qui-aht legal orders and governance.

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<sup>114</sup> Ibid, 2021 Tribal Parks Report

<sup>115</sup> 2021 Tribal Parks Report (2022), Online: Tla-o-qui-aht First Nation <<https://tribalparcs.com/wp-content/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>.

<sup>116</sup> Ibid, 2021 Tribal Parks Report, at page 4

<sup>117</sup> Saya Masso, (May 5, 2022). Personal Communication.

<sup>118</sup> Carolina Contreras & Sebastien Thomas, “The role of local knowledge in the governance of blue carbon” (2018) 15:2 Journal of the Indian ocean region 213.

## 2.8 Conclusion

In this chapter, I discussed Tla-o-qui-aht governance, including the functions of the Hereditary Chiefs and the elected Chief and Council. I also acknowledge Nuu-chah-nulth principles, which are the foundation of Tla-o-qui-aht legal orders and governance. These principles shape ecological governance, including how relationships are honoured and maintained. I follow this with an overview of the impacts of colonization on Tla-o-qui-aht's governance and how this has created a mosaic of jurisdiction in Tla-o-qui-aht's territory. While colonial systems and structures continue to impede Tla-o-qui-aht's ways of operating as a society, it is imperative to recognize and uphold the vast history of Tla-o-qui-aht before colonization, as well as their continual and remarkable efforts to resist colonial violence and oppression and assert their sovereignty, strengthen their culture, language, and arts, as well as leadership in environmental protection. Following the colonial recounting, I discuss Tla-o-qui-aht's response to the Province of BC's sanctioning of clearcut logging in their territory, including their strategies to assert their authority. Despite the costs incurred to protect their territory, Tla-o-qui-aht has not equitably benefited from the massive rise in tourism from the 1990s to the present in Tofino and Clayoquot Sound. From here, we move into the contemporary era of their Tribal Parks in the last decade and their establishment of the ESF as part of the Allies Program. The Allies Program has created an avenue for Tla-o-qui-aht to receive financial benefits from the tourism industry, which enables Tla-o-qui-aht to invest in their communities and the Tribal Parks. As demonstrated in this chapter, Tla-o-qui-aht is responsible for governing their territory; their ancestral gardens, which makes their territory both a hotspot of biodiversity and tourism intrigue. I conclude by discussing Tla-o-qui-aht's marine-based objectives, including enhancing eelgrass health, which is impacted by resource extraction and activities, like clearcut logging. With BCEs entering the limelight of conservation focus in BC and Tla-o-qui-aht's ambitions to include eelgrass in existing or new conservation finance mechanisms, there has never been a more promising juncture to fixate our attention towards these mesmerizing aqueous havens.

## CHAPTER 3: LITERATURE REVIEW

### 3.1 Multi-jurisdiction of Blue Carbon Ecosystems

Blue carbon ecosystems are not straightforward to protect; their balance hangs in the hands of numerous authorities due to overlapping jurisdictions in the foreshore area of the marine environment. Multi-jurisdiction in this context means many authorities are concurrently involved in the governance of BCEs.<sup>119</sup> Thus, coordination between different Indigenous governments, state governments and sometimes even non-government actors is necessary for blue carbon governance and management in BC.<sup>120</sup> This type of effort reflects a broader shift from government to governance within Canada “toward public-private–civil society partnerships, as a way of dealing with the shortcomings of single agency, top-down management.”<sup>121</sup> As discussed in the introductory chapter, this study requires an MLG framework, which can accommodate the political circumstances impacting eelgrass/blue carbon protection and conservation. Simultaneously, this framework also accounts for the inherent jurisdiction of Indigenous Peoples and the challenging relations with the Canadian colonial state.

In this literature review, I attempt to engage all Indigenous MLG literature in Canada, which examines any MLG arrangement involving one or more Indigenous actors. The reason Indigenous MLG is the focus of this literature review is to unpack this framework in the context of Indigenous and state government relations. By doing this exercise, I will gain a greater understanding of how this framework can be applied to enhancing Indigenous authority for BCEs. I am also able to pull out the most common principles from Indigenous MLG to inform the evaluative criteria that I use in my policy/document and interview analysis. First, I spell out the brief technical approach to this literature review, then I trace the history of MLG from its origins in the European Union to its arrival and application in Canada. Accounting for this past is necessary for understanding why MLG has and continues to emerge as an effective governance

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<sup>119</sup> Deborah Carlson, *Policy and Planning for Coastal Ecosystems in British Columbia through a Blue Carbon Lens* (2020), Online: West Coast Environmental Law

<<https://wcel.org/sites/default/files/publications/2020-11-discussionpaper-bluecarbonpolicy-final.pdf>>

<sup>120</sup> Ibid, *Policy and Planning for Coastal Ecosystems in British Columbia through a Blue Carbon Lens*

<sup>121</sup> Fikret Berkes, “Evolution of co-management: Role of knowledge generation, bridging organizations and social learning” (2009) University of Manitoba 90, 1692–1702

framework in relation to Canada's changing political landscape. Based on its evolution and accompanying power struggles, I will discuss the contested definitions of MLG. Next, I lead into why even the narrow approach suggested by MLG scholars falls short of achieving this framework in practice regarding temporality. Then, I will expand on Indigenous MLG specifically and what is required to achieve a current and stringent definition of this term. By exploring the nuances involved in defining MLG, I uncover the principles necessary for MLG between Indigenous, state government and non-government actors for social-ecological goods, like BCEs.

I identify the most widely supported principles from Indigenous MLG literature and use these principles to inform my evaluative criteria. As defined in section 1.2, principles are abstract concepts that can guide systems like governance and the norms and systems of these processes. Principles can also serve as the basis for evaluating specific systems, like governance.<sup>122</sup> I use the evaluative criteria to analyze my policy, document and semi-structured interview data and answer my research questions. The first principle is the most important; it is the common thread amongst all Indigenous MLG literature: 1) Analyzing and addressing power imbalances between participating Indigenous governments, state governments and non-government actors. This action mitigates the risk of recreating the dynamics of colonialism and/or legitimizing the supremacy of the colonial structure.<sup>123</sup> The following three principles support the first: 2) Indigenous control over Indigenous knowledge integration 3) Building trusting relationships through transparent communication, and 4) Self-determination; the right of Indigenous Peoples to govern themselves and make decisions about their own affairs. For simplicity and to create a realistic container for this research, I explicitly include the first principle in the evaluative criteria. Again, it is important to note that principles two, three and four support the enactment of the first.

This literature review will then shift to draw parallels between Indigenous MLG principles and blue carbon governance literature, drawing out the insights essential to achieving effective Indigenous MLG for BCEs in Canada. In connection to this final concept, I conclude this chapter

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<sup>122</sup> Jonathan L. Kvanvig, *Principles: A Philosophical Introduction* (Oxford: Oxford University Press, 2019)

<sup>123</sup> Fikret Berkes, "Evolution of co-management: Role of knowledge generation, bridging organizations and social learning" (2009) University of Manitoba 90, at page 256

by identifying the commonalities between the MLG authors I engage and my departure from these authors. This departure is a vital takeaway from this literature review: the importance of expanding MLG as a framework to encompass long-term forms of collaboration, not just short-term arrangements with a beginning and an end. This is essential for building relationships and achieving Indigenous MLG principles, which are coherent with this research. While MLG is increasingly being used as a framework in theory and practice and Canada, neither MLG or Indigenous MLG has addressed BCEs. Thus, in order to apply an Indigenous MLG framework in my research on Indigenous authority and BCEs, it is essential to broaden the scope of MLG to incorporate enduring engagements.

### **3.2 Literature Review Approach**

Multi-level governance is a burgeoning research topic in political science, and I explicitly focus on MLG articles in this literature review. Most literature on this subject has surfaced from European countries, so the most prominent and influential European sources are included at the beginning of this literature review to recount the history of MLG. Of course, this literature review focuses on the Canadian state, thus it is out of scope to include all European MLG literature. As mentioned, I thus subsequently narrowed the purview of the literature review to focus on Indigenous and state government MLG arrangements in Canada. I strived to collect literature written by Indigenous scholars, and while there is extensive literature on Indigenous governance written by Indigenous scholars, this is not the case for MLG literature. To mitigate this limitation, I have sought to include MLG sources that heavily reference Indigenous academics, activists, community members and thought leaders. Additionally, I am inclusive of authors working with and alongside Indigenous communities. My parameters on publication dates are influenced by the relatively recent application of MLG in Canada in 2008. Thus, most literature in this review was published within the last fifteen years. The community of MLG authors is lean, so I have been observant of more recent publications as these authors continually build on and refine the field with each passing year.

### 3.3 Multi-level Governance: A Brief History

Multi-level governance, at the most basic level, is described as policy-making in which multiple levels of government engage with one another and/or non-government actors, to collaboratively arrive at a policy plan that is motivated to “produce some sort of public good.”<sup>124</sup> Multi-level governance emerged into the politics of decision-making during the 1980s and 1990s to conceptualize the dispersion of authority away from central state national governments to subnational governments in the European Union (EU).<sup>125</sup> This unfolded as governments shifted from unilateral decision-making to “a system of continuous negotiation among nested governments at several territorial tiers.”<sup>126</sup> Within the European establishment of this governance system, scholars most frequently reference horizontal and vertical systems of MLG first identified by Hooghe and Marks in 2001, which these authors extrapolated on in 2003.<sup>127</sup> In horizontal MLG, government authorities and non-government representatives may work together within the same territorial scale but across jurisdiction, for instance, all within a municipal, provincial or federal level of state government. Whereas with vertical MLG, numerous government and non-government actors are coordinating across territorial scales.<sup>128</sup> This collaboration can occur between local, regional, provincial and/or federal state governments. For example, collaboration is demonstrated by transnational networks in the EU that are exercising MLG for the implementation of climate change plans and are reaching national targets through transnational cooperation between local and regional governments.<sup>129</sup> As Giest and Howlett later describe in 2013, “The EU exemplifies how MLG arrangements can be designed to enhance local community resilience, and suggests that key concepts such as subsidiarity might be applied to other countries.”<sup>130</sup> Multi-level governance scholars within Europe saw the potential to apply this concept beyond the continent, particularly for countries

<sup>124</sup> Christopher Alcantara, Jörg Broschek & Jen Nelles, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy” (2016) 4:1 Territory, Politics, Governance 33.

<sup>125</sup> Hooghe Liesbet & Marks Gary, “Unraveling the Central State, But How? Types of Multi-Level Governance” (2003) 97:2 American Political Science Review 233

<sup>126</sup> Ibid, “Unraveling the Central State, But How? Types of Multi-Level Governance”, at page 234

<sup>127</sup> Ibid, at page 234

<sup>128</sup> Organisation for Economic Co-operation and Development, *Multi-Level Governance: A Conceptual Framework* (Paris: OECD Publishing, 2010)

<sup>129</sup> Ibid, *Multi-Level Governance: A Conceptual Framework*, at page 32

<sup>130</sup> Sarah Giest & Michael Howlett, “Comparative Climate Change Governance: Lessons from European Transnational Municipal Network Management Efforts” (2013) 23:6 Wiley Online Library 341.

dealing with complex environmental issues that require organized efforts between numerous authorities.

### 3.4 Contested Definitions

Following the evolution of MLG in Europe, it migrated to Canada and other federalist countries with increasingly active Indigenous governments, including New Zealand, Australia, and the United States, for theoretical and practical applications.<sup>131</sup> Building off of MLG in Europe, which largely excludes Indigenous communities as authorities, scholar Martin Papillon first applied this concept in Canada in 2008. He used MLG to describe the changing policy-making landscape between two Indigenous communities in Quebec with the federal and provincial governments.<sup>132</sup> From this outset, Papillon began to use MLG more broadly to describe governance relations between Indigenous and state governments across Canada. Papillon's approach enabled a pathway for academics to use this framework to describe the transformation of governance in Canada from 2008 to the present.<sup>133</sup>

As shared in the introductory chapter, a definition of MLG is the “enterprise that involves collaboration between a diversity of private, public, and non-government stakeholders who, acting together towards commonly agreed goals, hope to achieve far more collectively, than individually.”<sup>134</sup> Now, MLG in Canada is most commonly applied to the governance of natural resources and the environment between Indigenous Peoples, state governments and non-government actors.<sup>135</sup> Canadian authors commonly refer to these scenarios as “Indigenous multi-level governance.” Principles for Indigenous MLG are outlined at the end of this section, along with the stance that Indigenous MLG must be scrupulous regarding power relations. This stance involves equitable co-production between actors as a way to overcome state-imposed

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<sup>131</sup> Christopher Alcantara & Michael Morden, "Indigenous multilevel governance and power relations" (2017) 7:2 Territory, Politics, Governance 250.

<sup>132</sup> Martin Papillon, “Canadian federalism and the emerging mosaic of Aboriginal multilevel governance” in Herman Bakvis & Grace Skogstad, *Canadian federalism: Performance, effectiveness, legitimacy*, 3rd ed (Oxford: Oxford University Press, 2008) at page 284

<sup>133</sup> Ibid, “Canadian federalism and the emerging mosaic of Aboriginal multilevel governance”

<sup>134</sup> Neil Gunningham, “The New Collaborative Environmental Governance: The Localization of Regulation” (2009) 36:1 *Journal of Law and Society* 145.

<sup>135</sup> Kiera L Ladner, “Colonialism isn't the only answer: Indigenous Peoples and multilevel governance in Canada” in M Haussman, M Sawyer, & J Vickers, *Federalism, feminism and multilateral governance*, (Farnham: Ashgate publishing, 2010) 67 at page 3.

hierarchy, and “contribute to the discussion by bringing key questions into clearer focus at the intersection of resource governance and Indigenous self-determination.”<sup>136</sup>

In Canada, MLG has been used to analyze comprehensive land claims negotiations, land claims boards and corporations, co-management arrangements, self-government agreements, constitutional negotiations, bilateral and trilateral agreements, the decentralization of programmes and services, and Indigenous feminism.<sup>137</sup> However, a significant amount of MLG literature is focused on expanding, refining and contesting the definition and characteristics of this term. This challenge includes debates on the relationship between MLG and federalism and conflating or distinguishing between MLG and intergovernmental relations. On the one hand, this distinction is exhibited by Rodon who shares, “MLG is a response to the inability of concepts of federalism and intergovernmental relations to properly capture recent governance trends in federal systems.”<sup>138</sup> Alcantara and Spicer agree with this sentiment, and they extend this argument a step further to state that MLG is misused as a “catch-all” category for describing political patterns where Indigenous governments and actors establish new sites of dialogue and decision-making with state governments.<sup>139</sup> This catch-all application has led to confusion about the difference between MLG and intergovernmental relations.<sup>140</sup> This lack of clarity galvanized Alcantara and numerous co-authors to carve out a narrower definition of MLG from 2015 to the present with the objective of “concept shrinking.”<sup>141</sup> This new definition is described in the next paragraph in alignment with the motivation amongst MLG scholars to create conceptual acuity for this term to realize its full potential in theoretical and practical applications.

Alcantara and Nelles outline three defining criteria to distinguish MLG and Indigenous MLG occurrences from other government and governance frameworks. They establish that the first and most important feature MLG requires is decision-making that is a result of negotiations

<sup>136</sup> Alex Latta, “Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy” (2018) 9:2 *The International Indigenous Policy Journal*, (at page 4)

<sup>137</sup> Christopher Alcantara & Michael Morden, “Indigenous multilevel governance and power relations” (2017) 7:2 *Territory, Politics, Governance* 250.

<sup>138</sup> Thierry Rodon, “Working together: The dynamics of multilevel governance in Nunavut” (2009) 5:2 *Arctic Review of Law and Politics* 250.

<sup>139</sup> Christopher Alcantara & Zachary Spicer, “A new model for making Aboriginal policy? Evaluating the Kelowna Accord and the promise of multilevel governance in Canada” (2016) 59:2 *Wiley Online Library* 183.

<sup>140</sup> According to the Centre on Constitutional Change, Intergovernmental relations are “the relationships between different governments within a single country”, thus non-state governments actors are not involved.

<sup>141</sup> Christopher Alcantara, Jörg Broschek & Jen Nelles, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy” (2016) 4:1 *Territory, Politics, Governance* 33.

between actors, in contrast to a top-down or hierarchically determined relationship of decision-making.<sup>142</sup> Secondly, at least one of the actors involved in the negotiations needs to be situated at a different political or territorial scale from others involved in the partnership.<sup>143</sup> Finally, the process or partnership must involve at least one constitutionally recognized government (Indigenous governments; federal, territorial and provincial state governments) in partnership with nongovernmental and/or quasi-governmental actors (local governments, Crown agencies and corporations).<sup>144</sup> The ethos of MLG is that it “requires actors organized at different scales to come together to address a problem that would benefit from a collectively developed solution (e.g. joint implementation; consensus for action, etc.)”<sup>145</sup> This ethos is a contrast from solely state government processes that “tends to privilege formal institutional relationships, (e.g. constitutional, legal and fiscal frameworks and hierarchical power relationships).”<sup>146</sup> Thus, MLG requires the move away from unilateral “top-down command and control policy making”, and it embraces the principles of shared authority, inclusive decision-making and relationship building.

In addition to these criteria, Alcantara and accompanying scholars since 2014 have added that MLG is also not an ongoing system of collaboration, power allocation or decision-making; MLG is characterized by impermanence.<sup>147</sup> MLG has a beginning and an end in the form of a policy process and/or instance of decision-making “that can emerge intermittently or more regularly in a variety of different settings and countries.”<sup>148</sup> However, these authors writing on Indigenous MLG emphasize the principle of relationship building, and with Indigenous relations, this becomes problematic when there is a beginning and an end to the relationship. Latta expresses another perspective on relationality in MLG processes, which can create the foundation for ongoing forms of MLG arrangements:

Whether we characterize the land claim agreements and regulatory boards themselves as examples of MLG—Alcantara and Nelles (2014) would argue that they are outcomes of MLG, rather than ongoing instances thereof—they certainly generate an ongoing need for

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<sup>142</sup> Christopher Alcantara & Jen Nelles, “Indigenous Peoples and the State in Settler Societies: Toward a More Robust Definition of Multilevel Governance” (2014) 44:1 *Publius: The Journal of Federalism* 183.

<sup>143</sup> *Ibid.*, “Indigenous Peoples and the State in Settler Societies: Toward a More Robust Definition of Multilevel Governance”

<sup>144</sup> *Ibid.*, at page 186

<sup>145</sup> *Ibid.*, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy”, at page 40

<sup>146</sup> *Ibid.*, at page 40

<sup>147</sup> *Ibid.*, “Indigenous Peoples and the State in Settler Societies: Toward a More Robust Definition of Multilevel Governance”

<sup>148</sup> *Ibid.*, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy”, at page 34

coordination across actors at different scales. In this sense, they create a policy environment that arguably fosters further instances of MLG.<sup>149</sup>

Expanding on Latta, I adopt the stance that Indigenous MLG and perennial forms of collaborative environmental governance should not be mutually exclusive, and can be interdependent. If MLG is the process of policy making or formulating another social-ecological good, this process should enable a pathway for permanent forms of MLG responsible for governing the outcome - like a marine protected area (MPA). Therefore, if there are issues with equity and power within a governance process, then there will likely be the same problems with long-term collaborations. There is also no one size fits all approach in dealing with the environment, so this will also impact the duration of MLG processes, which should also be long-term. A more flexible temporal understanding of MLG and interconnection with collaborative environmental governance also suits the poetic musings summoned by MLG scholars to capture the fluidity of this concept: that it is dynamic, a dance between actors, a mercurial mosaic.<sup>150</sup> These musings also capture how context-dependent MLG is. Like the sun rising over and through clouded mountains atop the Tla-o-qui-aht mudflats, MLG never appears the same way twice.

When MLG transcends transient governance arrangements, this framework becomes well-equipped to address multi-jurisdiction in the marine environment and the accompanying social-ecological conditions. With this in mind, the following section will highlight the principles for successful Indigenous MLG. These principles include 1) Analyzing and creating equitable power relations to achieve co-production, 2) Indigenous control over Indigenous knowledge integration 3) Building trusting relationships through transparent communication, and 4) Self-determination; the right of Indigenous Peoples to govern themselves and make decisions about their own affairs. The rationale for choosing these principles is extrapolated on in section 3.6

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<sup>149</sup> Alex Latta, "Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy" (2018) 9:2 *The International Indigenous Policy Journal*, at page 5-6

<sup>150</sup> Kiera L Ladner, "Colonialism isn't the only answer: Indigenous Peoples and multilevel governance in Canada" in M Haussman, M Sawyer, & J Vickers, *Federalism, feminism and multilateral governance*, (Farnham: Ashgate publishing, 2010) 67.

### 3.5 Indigenous Multilevel Governance in Canada

Despite some progress, state governments are still critiqued by Indigenous communities for ignoring the need and demand for a shift in relations, which is an ongoing source of tension.<sup>151</sup> Alcantara and Spicer share that part of this conflict comes down to a contrast in worldview. On the one hand, federal and provincial governments view relations with Indigenous Peoples through the federalist structure.<sup>152</sup> This positionality understands Indigenous Peoples as a responsibility under state government authority, whereas Indigenous Peoples expect to be treated as full and equal partners in the federation.<sup>153</sup> Various scholars have contemplated the ability of MLG to address this discrepancy in perspective between Indigenous and state governments. First, Ladner positions that numerous multilevel relationships have been incapable of evading the confines of the Canadian colonial structure that is enabled by the *Indian Act*, and recommends that dialogue needs to move from “one of MLG towards international models of the relationship between sovereign entities.”<sup>154</sup> While also promoting the idea of a nation-to-nation logic, Latta builds off of Ladner in 2018 to assert that as a society we need to be asking about the potential results of incorporating Indigenous governments in state constitutions complete with significant territorial jurisdiction.<sup>155</sup> Alcantara and Spicer pinpoint where MLG is situated in regard to the Canadian federalist structure:

If the goal is to create a policy-making process that respects the underlying logic of the Canadian federation but creates space for nation-to-nation interactions within a policy-making process, then multi-level governance may be an ideal model for achieving these outcomes in Canada<sup>156</sup>

Despite differences about how MLG may transform or entrench the status quo of Canadian political systems, there is an overall consensus among scholars that MLG should respect and

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<sup>151</sup> Christopher Alcantara & Zachary Spicer, “A new model for making Aboriginal policy? Evaluating the Kelowna Accord and the promise of multilevel governance in Canada” (2016) 59:2 Wiley Online Library 183.

<sup>152</sup> Ibid, “A new model for making Aboriginal policy? Evaluating the Kelowna Accord and the promise of multilevel governance in Canada”

<sup>153</sup> Ibid, at page 168

<sup>154</sup> Ibid, “Colonialism isn't the only answer: Indigenous Peoples and multilevel governance in Canada”

<sup>155</sup> Alex Latta, “Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy” (2018) 9:2 The International Indigenous Policy Journal.

<sup>156</sup> Christopher Alcantara & Zachary Spicer, “A new model for making Aboriginal policy? Evaluating the Kelowna Accord and the promise of multilevel governance in Canada” (2016) 59:2 Wiley Online Library 183, at page 188

uphold Indigenous rights, follow the principles of Free, Prior and Informed Consent (FPIC), analyze and balance power relations, as well as support the sovereignty and self-determination of Indigenous actors.<sup>157</sup> Finally, the goal of Indigenous MLG is often to maintain the cultural and political autonomy of Indigenous Peoples while also ensuring effective governance and participation in broader political, legal and economic systems.<sup>158</sup>

### **3.6 Principles for Establishing Indigenous Multi-level Governance**

As discussed in section 3.4, MLG is often contrasted with static state government systems and framed as a distinct ‘instance’ or occurrence of actor configuration, which can take place over months to years.<sup>159</sup> However, while scholars on the topic share that MLG is a process that has a definite end, the spirit of MGL is collaboration and partnership to achieve shared goals and address common challenges through co-production.<sup>160</sup> These types of efforts depend on building relationships, which, at any scale, is a long-term endeavour. Thus, the Indigenous MLG principles I outline adhere to the stance that MLG can be a process that funnels into a longstanding form of collaborative governance arrangements like MLG.<sup>161</sup> Achieving shared authority that is critical of power dynamics can occur with the presence of the following interconnected conditions in MLG processes (summarized in Table 1).

For the purpose of this study, I have selected four Indigenous MLG principles to inform my analysis. These principles add depth to the broad MLG principles described in section 3.4: Meaningful sharing of authority, inclusive decision-making and relationship building. While these principles are virtuous, for policy creation and other collaborative processes with Indigenous actors, tangible and action-oriented principles are required to achieve them. From the twelve Indigenous MLG peer-reviewed articles I use in this literature review, these principles are the most commonly discussed by the authors. The first principle is analyzing and creating equitable power relations to achieve co-production. This principle is the most common among

<sup>157</sup> See Latta (2018), McDonald, C. & Raderschall, L. (2019)

<sup>158</sup> Chris McDonald & Lianne Raderschall, “Indigenous Community Capacity and Multilevel Governance” (2019), OECD Publishing, online: <https://doi.org/10.1787/edfb9aa7-en>, at page 13

<sup>159</sup> Christopher Alcantara, Jörg Broschek & Jen Nelles, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy” (2016) 4:1 Territory, Politics, Governance 33.

<sup>160</sup> Robert Lepenies, Frank Hüesker, Silke Beck & Marcela Brugnach, “Discovering the Political Implications of Coproduction in Water Governance” (2018) 10:10 Water 1475.

<sup>161</sup> Alex Latta, “Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy” (2018) 9:2 The International Indigenous Policy Journal, at page 3

the Indigenous MLG literature used in my thesis. How are equitable power relations and co-production achieved? I argue that this is done by analyzing power relations, and then abiding by the next three principles: 2) Indigenous control over Indigenous knowledge integration, 3) Building trusting relationships through transparent communication, and 4) Self-determination; the right of Indigenous Peoples to govern themselves and make decisions about their own affairs. It is important to note that these principles are interconnected, and there are evident overlaps between these principles and the UNDRIP, which is also used for governance frameworks around the world. All principles are essential in this research and will be discussed throughout the final chapters.

**Table 1: Indigenous Multi-level Governance Principles**

Principle	Source
1) Analyze and create equitable power relations to achieve co-production	Christopher Alcantara & Michael Morden, "Indigenous multilevel governance and power relations" (2017) 7:2 Territory, Politics, Governance 250.
2) Indigenous control over Indigenous knowledge integration	Alex Latta, "Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy" (2018) 9:2 The International Indigenous Policy Journal.
3) Building trusting relationships through transparent communications	Joel Krupa, Lindsay Galbraith & Sarah Burch, "Participatory and multi-level governance: applications to Aboriginal renewable energy projects" (2015) 20:1 Local Environment 81.

4) Self-determination; the right of Indigenous Peoples to govern themselves and make decisions about their own affairs.	Christopher Alcantara & Jen Nelles, "Indigenous Peoples and the State in Settler Societies: Toward a More Robust Definition of Multilevel Governance" (2014) 44:1 Publius, 183.
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### 3.6.1 Analyzing Power Dynamics and Achieving Co-production

Questioning power dynamics is a central concern in MLG analysis and application. As Val Napoleon asserts, "[s]ince power dynamics are always a part of social relationships, we need to ask whose power is preserved through oppressive cultural, legal, or social norms. Whose voices are excluded?"<sup>162</sup> Alcantara and Morden ask this same question by critiquing MLG scholars in Canada who have been utilizing an MLG framework to label any relocation of power to Indigenous governments.<sup>163</sup> They argue that governance scenarios may have the veneer of equitable power sharing, but "even in governance systems based on extensive collaboration, hierarchy is never absent; seemingly fluid cooperative arrangements often occur because they take place 'in the shadow of hierarchy.'"<sup>164</sup> The shadow of hierarchy may be the most referenced phrase in all of Indigenous MLG literature in Canada, likely because this is what MLG is seeking to navigate.<sup>165</sup>

The shadow of hierarchy can be observed in governance situations where Indigenous partner(s) may be brought on at the early stage of a project to be consulted but are not present or active for the full endeavour, or, they are involved at the final stages for a stamp of approval once all other stages of a project have been completed.<sup>166</sup> In either case, decisions are not made between parties consistently and/or transparently throughout the process. Without this, the state

<sup>162</sup> Val Napoleon, "Thinking About Indigenous Legal Orders" (2012) 17 *Dialogues on Human Rights and Legal Pluralism* 229. (pp. 229–245)

<sup>163</sup> Christopher Alcantara & Michael Morden, "Indigenous multilevel governance and power relations" (2017) 7:2 *Territory, Politics, Governance* 250.

<sup>164</sup> *Ibid.*, "Indigenous multilevel governance and power relations"

<sup>165</sup> Martin Papillon, Alcantara and Morden (2017), Alex Latta (2018), Dion Curry (2018)

<sup>166</sup> Frances Abele & Michael J Prince, "Aboriginal governance and Canadian federalism: A to-do list for Canada" (2003) *New trends in Canadian federalism* 135

government or a non-government entity like a resource extractive company is in a position to control and shape the outcomes for their advantage. This approach may regard Indigenous governments and authorities as “stakeholders” in MLG, not sovereign entities and rights-holders who need to be fulsomely engaged, respected and receiving benefits from the MLG process and outcomes.<sup>167</sup> Moving beyond the stakeholder label and towards the co-production of public goods like policies within an MLG framework requires analyzing power imbalances and the actions to address this. Alcantara and Morden determine that without applying a critical lens to power relations, these types of scenarios run the risk of recreating the dynamics of colonialism and/or legitimizing the supremacy of the colonial structure instead of creating space for new forms of collaborative decision-making.<sup>168</sup> Being scrupulous of power relations between participating actors in governance processes provides a narrow approach for discerning if meaningful authority is being shared.<sup>169</sup> Achieving this first principle is essential, and the other three Indigenous MLG principles, as identified in Table 1, support the realization of this.

### 3.6.2 Indigenous Knowledge Integration

The second principle is Indigenous knowledge integration, ensuring this is determined by the Indigenous actor(s).<sup>170</sup> Latta discusses the key role of Indigenous knowledge systems in the Water Stewardship Strategy (WSS) process:

Although the monitoring itself collects data according to the principles of Western science, community input to monitoring locations rests significantly on traditional ecological knowledge (TEK). This established a precedent early in the Strategy around respecting and working with different kinds of knowledge.<sup>171</sup>

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<sup>167</sup> Suzanne von der Porten, Rob de Loë & Ryan Plummer, “Research Article: Collaborative Environmental Governance and Indigenous Peoples: Recommendations for Practice” (2015) 17:2 Environmental Practice 134.

<sup>168</sup> Suzanne von der Porten, Rob de Loë & Ryan Plummer, “Research Article: Collaborative Environmental Governance and Indigenous Peoples: Recommendations for Practice” (2015) 17:2 Environmental Practice 134.at page 256

<sup>169</sup> Ibid, “Research Article: Collaborative Environmental Governance and Indigenous Peoples: Recommendations for Practice”, at page 251

<sup>170</sup> Alex Latta, “Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy” (2018) 9:2 The International Indigenous Policy Journal, at page 14

<sup>171</sup> Ibid, Indigenous Rights and Multilevel Governance: Learning from the Northwest Territories Water Stewardship Strategy, at page 9

In the WSS Strategy, TEK advances water stewardship and supports Indigenous autonomy in environmental governance.<sup>172</sup> Achieving knowledge integration between Indigenous and state governments does necessitate confronting epistemological differences by facilitating knowledge transfer between actors. When addressing the environment, this often involves a “commitment to question the core values and practices of state resource management.”<sup>173</sup> In attaining Indigenous MLG, this deep commitment to knowledge integration and the reflexive work this comes with is essential.

While there are substantial differences between the many forms of Indigenous knowledge, which tend to be holistic in nature, with the reductive and quantitative Western scientific approaches to knowledge generation, these ways of knowing can still become complementary.<sup>174</sup> This aligns with Whyte’s suggestion that Indigenous knowledge is suitable for collaboration across cultures and situations between Indigenous and non-Indigenous actors involved in environmental governance.<sup>175</sup> Knowledge integration requires embracing knowledge pluralism where Indigenous and scientific knowledges are co-constructed and co-mobilized. Bingham et al. determine that “epistemic pluralism, through Indigenous leadership, enables Indigenous governance to direct knowledge production and application, disrupts colonial legacies, and resists Western scientific dominance in local practice without compromising the accuracy of data or quality of management practices.”<sup>176</sup> Indigenous leadership in mobilizing ways of knowing is a way to address cautionary sentiments around knowledge integration, where integration is understood as “the process of synthesizing multiple knowledge models into a common model” where the individual integrity of forms of knowledge evaporates.<sup>177</sup> Robin Wall Kimmerer suggests enacting “relationships” between different knowledge systems, which upholds the identity of individual knowledge sets rather than blending them.<sup>178</sup> This approach to

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<sup>172</sup> Ibid, at page 14; Bingham, Julia A., et al. “Knowledge Pluralism in First Nations’ Salmon Management.” *Frontiers in Marine Science*, vol. 8, 2021, <https://doi.org/10.3389/fmars.2021.671112>, at page 6.

<sup>173</sup> Ryan Bowie, “Indigenous Self-Governance and the Deployment of Knowledge in Collaborative Environmental Management in Canada” (2013) 47:1 *Journal of Canadian Studies* 91.

<sup>174</sup> Ibid, “Knowledge Pluralism in First Nations’ Salmon Management”, at page 6.

<sup>175</sup> Kyle Whyte, “On the role of traditional ecological knowledge as a collaborative concept: a philosophical study.” (2013). *Ecological Process*, 2:7.

<sup>176</sup> Bingham, Julia A., et al. “Knowledge Pluralism in First Nations’ Salmon Management.” *Frontiers in Marine Science*, vol. 8, 2021, <https://doi.org/10.3389/fmars.2021.671112>, at page 6

<sup>177</sup> Robin Wall Kimmerer, *The Fortress, the River and the Garden* (Netherlands: Brill, 2013) *Contemporary Studies in Environmental and Indigenous Pedagogies*, p.49-76

<sup>178</sup> Ibid, *The Fortress, the River and the Garden*

integrating Indigenous knowledge resists hegemonic power dynamics and supports the viability of MLG processes, which can ideally lead to long-term governance arrangements.

### 3.6.3 Building Trusting Relationships Through Transparent Communications

Even in the most promising MLG arrangements, actor interdependencies may not necessarily lead to greater equality in decision-making processes.<sup>179</sup> A second principle for realizing Indigenous MLG includes building trusting relationships among participating actors. This principle is embodied through transparent communications that recognize and reflect Indigenous and other actors' expectations, norms and traditions. In their case study on MLG and Indigenous renewable energy projects, authors Krupaa, Galbraith, and Burch investigate the importance of transparent communications for achieving MLG. They spotlight Pic River in Thunder Bay, Ontario to illustrate how the Biigtigong Nishnaabeg First Nation, industry and government representatives went from adversaries to allies.<sup>180</sup> They describe an insight arising out of this success, which is the need to “acknowledge the preferred communication and engagement style of the community membership and the subjects participating in the research.”<sup>181</sup> Additionally, communication and engagement must “reflect the values of the community” surrounding the social-ecological good in question.<sup>182</sup> Other case studies add to this insight by highlighting the importance of individual representatives spending time together in person, including getting to know one another beyond their professional identities and on a more personal basis.<sup>183</sup> Studies indicate this increases the likelihood of actors organically discovering aligned interests, values, objectives and visions.<sup>184</sup> Finally, respect and recognition in communications of Indigenous jurisdiction and inherent authority is also substantial for building trusting relationships in MLG processes.<sup>185</sup>

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<sup>179</sup> Papillon, M. (2016). INTRODUCTION: THE PROMISES AND PITFALLS OF ABORIGINAL MULTILEVEL GOVERNANCE. In *Canada: The State of the Federation, 2013* (p. 3–). MQUP.

<sup>180</sup> Joel Krupa, Lindsay Galbraith & Sarah Burch, “Participatory and multi-level governance: applications to Aboriginal renewable energy projects” (2015) 20:1 *Local Environment*, at page 87

<sup>181</sup> Ibid “Participatory and multi-level governance: applications to Aboriginal renewable energy projects”, at page 87

<sup>182</sup> Ibid, at page 94

<sup>183</sup> This result is found in Schoorman et al. (2007) and Davis et al. “Influences on trust during collaborative forest governance: a case study from Haida Gwaii.” (2018)

<sup>184</sup> Ansell and Gash (2008), Alejandra Orozco-Quintero, Leslie King & Rosaline Canessa (2020) Krupa et al. and all agree that trust can become rooted through the alignment of shared interests, values, objectives, and visions.

<sup>185</sup> Ibid, “Participatory and multi-level governance: applications to Aboriginal renewable energy projects”, at page 93

### 3.6.4 Self-Determination

Common gaps are widely recognized as a major challenge in achieving the strict definition of Indigenous MLG that is characterized by equitable co-production.<sup>186</sup> Common gaps include administrative gaps, information gaps, policy gaps, funding gaps, objective gaps and accountability gaps along with instruments to address these.<sup>187</sup> However, some of these gaps may be indicative of state governments always requiring Indigenous governments to participate in their processes and meet them on their terms. For Indigenous partners, this creates a greater likelihood in terms of issues with timing, funding, and other potential barriers that come with taking on additional responsibilities with an increasing number of collaborative processes and external engagements. So, when dealing with different legal orders, it is important for collaborative processes to not be consistently swayed to the agency of one actor, which in this context, is often the colonial government. When two or more different legal orders are present in governance arrangements, this means working on all participant's terms, including the Indigenous actor(s). As discussed in section 3.4, Indigenous MLG structures need to be adaptive to Indigenous demands for self-determination, which is "conducive to realizing a more equal and just relationship",<sup>188</sup> but how is this achieved?

While a few articles within Indigenous MLG literature discuss Indigenous self-determination, case studies are still focused on state government processes.<sup>189</sup> While authors criticize this asymmetry,<sup>190</sup> the solution of reorienting to Indigenous processes is not explicitly put forward. However, this reorientation is required for the fruition of the first principle discussed by MLG scholars: achieving equitable power relations and co-production. Thus, the development of Indigenous MLG includes upholding Indigenous self-determination, and this can be realized through state government and non-government actors who "participate in and/or demonstrate respect for existing environmental decision-making processes initiated by

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<sup>186</sup> Suzanne von der Porten, Rob de Loë & Ryan Plummer, "Research Article: Collaborative Environmental Governance and Indigenous Peoples: Recommendations for Practice" (2015) 17:2 *Environmental Practice* 134.

<sup>187</sup> Chris McDonald & Lisanne Raderschall, "Indigenous Community Capacity and Multilevel Governance" (2019). OECD Publishing.

<sup>188</sup> Christopher Alcantara & Jen Nelles, "Indigenous Peoples and the State in Settler Societies: Toward a More Robust Definition of Multilevel Governance" (2014) 44:1 *Publius*, 183.

<sup>189</sup> See Rodon (2009); Ladner (2010); Alcantara and Morden (2017); Latta (2018)

<sup>190</sup> Christopher Alcantara & Michael Morden, "Indigenous multilevel governance and power relations" (2017) 7:2 *Territory, Politics, Governance* 250.

Indigenous peoples.”<sup>191</sup> This can occur through Indigenous governance processes, which are also informed and directed by forms of Indigenous knowledge.

In MLG, there needs to be a reorientation towards Indigenous perspectives and these existing systems, with non-Indigenous actors “coming to bat” on Indigenous terms, and approaching this with a spirit of inquiry and openness. Two additional principles from Indigenous governance literature and collaborative governance literature that speak to Indigenous MLG but are omitted in Indigenous MLG literature are the recognition of traditional leadership in decision-making, including the incorporation of traditional leaders and councils into governance structures, and the principle of cultural continuity, the preservation and revitalization of Indigenous cultures and languages as an integral part of governance.<sup>192</sup> These are not used in my evaluative criteria because they do not appear in MLG literature. However, these principles are encompassed in self-determination and are considered when examining if the first principle of equitable power relations and co-production is fulfilled in the policies, documents and interviews I analyze.

### **3.7 Applying Indigenous Multi-level Governance Principles**

The principles applied in my research come from Indigenous MLG literature, many of which are echoed in blue carbon governance literature, discussed next in section 3.8. I have constructed the evaluative criteria based on Indigenous MLG principles and the 2014 Tribal Parks Declaration, which is utilized in my policy/document analysis and semi-structured interview analysis in Chapters 5 and 6. Again, the first principle is the most important because it is the common thread amongst all Indigenous MLG literature: 1) Analyzing and creating equitable power relations to achieve co-production.<sup>193</sup> The following three principles (see Table 1) all support achieving the first principle. This is why the first principle is the most evident in the evaluative criteria, as it functions as an umbrella for the rest of the principles, creating an entryway to discuss them throughout the analysis. Criteria 2 reflects the focus on eelgrass as a

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<sup>191</sup> Joel Krupa, Lindsay Galbraith & Sarah Burch, “Participatory and multi-level governance: applications to Aboriginal renewable energy projects” (2015) 20:1 Local Environment 81.

<sup>192</sup> Ibid, “Participatory and multi-level governance: applications to Aboriginal renewable energy projects”

<sup>193</sup> Fikret Berkes, “Evolution of co-management: Role of knowledge generation, bridging organizations and social learning” (2009) University of Manitoba 90, at page 256

BCE in this research. I have also added corresponding quotes from the 2014 Tribal Parks Declaration into Criteria 1 and Criteria 2 to ensure alignment between the Indigenous MLG principles as well as the priorities and approach of my research partner, Tla-o-qui-aht, as this research intends to strengthen their authority for BCEs. Choosing these quotes from the Tribal Parks Declaration for the evaluative criteria has also been approved by Tla-o-qui-aht.

**Table 2. Evaluative Criteria Used in Analysis - Literature Review**

<b>Tribal Parks Declaration:</b> “The inherent right of Tla-o-qui-aht society to manage the Hawiuh Haahuulthii, and to establish tools for coexistence and co-governance” <sup>194</sup>	
<b>Criteria 1: The degree of inclusion of Indigenous authority in governance to create equitable power relations to achieve co-production.</b>	
<b>Question 1</b>	How is the policy/document inclusive of Indigenous authority?
<b>Question 2</b>	Are principles from Indigenous MLG present? If so, which ones?
<b>Tribal Parks Declaration:</b> “Flora and Fauna that thrives in a healthy ecosystem” <sup>195</sup>	
<b>Criteria 2: Eelgrass/blue carbon protection, conservation and/or restoration</b>	
<b>Question 3</b>	What solutions are identified for blue carbon protection and restoration, specific to eelgrass?

### 3.8 Parallels Between Multi-level Governance and Blue Carbon Governance

Blue carbon is mired in a unique culmination of circumstances, from placement in the marine foreshore environment, the disproportionate impact of economic uses in this

<sup>194</sup> *Tla-o-qui-aht Tribal Parks Declaration* (2014) Tla-o-qui-aht First Nation. Online: <<https://tribalparcs.com/wp-content/uploads/2021/05/DeclarationTribalParkHaahuulthii2014.pdf>>

<sup>195</sup> *Ibid, Tla-o-qui-aht Tribal Parks Declaration*

environment, and the scale of collaboration needed for protection and restoration.<sup>196</sup> While MLG is applied to natural resources, including minerals, water and timber, Canada has no explicit MLG literature regarding BCEs or even the broader marine environment. This is not entirely surprising considering the relatively recent emergence of MLG in Canada, in 2008, as well as the genesis of the term blue carbon, in 2009. However, the increasing fascination with blue carbon in Canada is evident from its inclusion in new federal reports,<sup>197</sup> the recognition in the provincial Coastal Marine Strategy Intentions Paper,<sup>198</sup> the inflation of studies conducted by academic and non-profit organizations, and by Indigenous governments in BC seeking to protect and restore critical eelgrass and salt marsh ecosystems as well as quantify the carbon in these ecosystems - including Tla-o-qui-aht.<sup>199</sup> Again, MLG is a suitable governance arrangement for blue carbon protection in BC considering the multi-jurisdiction of coastlines and the foreshore environment and thus can benefit from a collaborative approach.<sup>200</sup>

While MLG has not been applied to blue carbon, I have made a case for applying Indigenous MLG in my research through this chapter. The principles from Indigenous MLG that I hone in on and use in the evaluative criteria are consistent with governance principles shared in blue carbon governance literature. MLG includes processes involving Indigenous actors and addressing social-ecological goods that are governed by multiple authorities.<sup>201</sup> In this section, I discuss how blue carbon governance literature mirrors some of the Indigenous MLG principles outlined in this chapter. Blue carbon governance literature identifies how siloed strategies severely limit the capability of authorities to effectively govern and manage complex coastal and marine social-ecological systems (SES) like blue carbon.<sup>202</sup> The largest issues with collaborative processes include the inadequate capacity to sustain initiatives and inappropriate engagement of

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<sup>196</sup> Oliver Moraes, “Blue carbon in area-based coastal and marine management schemes – a review” (2019) 15:2 Journal of the Indian Ocean Region 193.

<sup>197</sup> *Blue Economy Strategy Engagement Paper* (2021), online: Fisheries and Oceans Canada <<https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/40946721.pdf>>

<sup>198</sup> *A Coastal Marine Strategy for British Columbia* (2022), online: Government of British Columbia, <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

<sup>199</sup> *2021 Tribal Parks Report* (2022), Online: Tla-o-qui-aht First Nation <<https://tribalparcs.com/wp-content/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

<sup>200</sup> Christopher Alcantara, Jörg Broschek & Jen Nelles, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy” (2016) 4:1 Territory, Politics, Governance 33.

<sup>201</sup> Carolina Contreras & Sebastien Thomas, “The role of local knowledge in the governance of blue carbon” (2018) 15:2 Journal of the Indian ocean region 213.

<sup>202</sup> Sondra L Eger & Simon C Courtenay, “Integrated coastal and marine management: Insights from lived experiences in the Bay of Fundy, Atlantic Canada” (2021) 204 Ocean & Coastal Management.

diverse actor groups.<sup>203</sup> Blue carbon governance literature also warns about the trend in state interventions that are state-driven and not inclusive of Indigenous authorities and emphasizes the need to address power dynamics in governance processes.<sup>204</sup> Without this approach, interventions can perpetuate historical and current colonial dynamics and economic marginalizations:

“Top-down approaches may be needed at times, but a compelling body of evidence points to the crucial role and potential of customary and local institutions as a foundation for conservation success.”<sup>205</sup> Again, local/place-based knowledge from actors directly interacting with BCEs needs to be centralized and incorporated at the discretion of the Indigenous partner.

Contreras and Thomas discuss “enabling factors” for blue carbon governance involving local/place-based actors like Indigenous governments. They discuss social license as the keystone for enabling cooperation and implementation of blue carbon planning: “Social licence refers to the support that local communities grant ideally before any type of intervention in their local areas and with the potential to impact the sustainability of livelihoods.”<sup>206</sup> On the way to achieving social licence, these authors point to the idea that place-based governments must not be regarded as stakeholders but as self-determining entities.<sup>207</sup> Additionally, these same authors state that other forms of communication between collaborators “demand innovative ways to develop responsive regulatory frameworks that increase trust, transparency, and accountability between a wide range of stakeholders beyond the state-centric regimes.”<sup>208</sup> This is aligned with the Indigenous MLG principle of transparent communications. While blue carbon and MLG have not been explicitly discussed together in any academic literature in Canada, BCEs present an opportunity to implement insights gained from decades of collaborative governance for emerging MLG processes and outcomes.<sup>209</sup>

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<sup>203</sup> Ibid, *Integrated coastal and marine management: Insights from lived experiences in the Bay of Fundy, Atlantic Canada*, Ocean & Coastal Management, page 5

<sup>204</sup> Ibid, “The role of local knowledge in the governance of blue carbon” at page 224

<sup>205</sup> Ibid, at page 224

<sup>206</sup> Ibid, “Integrated coastal and marine management: Insights from lived experiences in the Bay of Fundy, Atlantic Canada” (2021) 204 *Ocean & Coastal Management*, at page 224

<sup>207</sup> Sondra L Eger & Simon C Courtenay, “Integrated coastal and marine management: Insights from lived experiences in the Bay of Fundy, Atlantic Canada” (2021) 204 *Ocean & Coastal Management*. at page 225

<sup>208</sup> Ibid, “Integrated coastal and marine management: Insights from lived experiences in the Bay of Fundy, Atlantic Canada”, at page 225

<sup>209</sup> Ibid, at page 229

### 3.9 Conclusion

This literature review commenced by explaining the complex nature of governing BCEs like eelgrass, as these ecosystems require collaboration between numerous authorities due to overlapping jurisdiction. I argued that an MLG framework can accommodate this circumstance, as well as deal with the challenges arising out of governance between Indigenous and state governments. I provided a brief description of my approach to writing this literature review, including a historical summary of MLG in European nations and how this emerged in Canada as a way to describe shifting political relations and governance between Indigenous and state governments. I landed on a common understanding of MLG, which is a process of policy-making that includes two or more levels of government and non-government actors working together to provide a public good, like a solution to an environmental issue. I explained contested notions around MLG in Canada, including the difference between MLG and other governance frameworks, as well as the relationship between MLG and federalism in Canada.

I used this MLG foundation as a jumping-off point to discuss my departure from most MLG scholars in Canada to explain how MLG processes can create the foundation for long-term MLG arrangements. Most authors included in this literature review find common ground with the idea that MLG is most effective and metamorphic when it can support the resurgence of Indigenous governance, including the expression of Indigenous authority.<sup>210</sup> This is imperative to reconciliation and realizing UNDRIP with Indigenous governments and all Indigenous Peoples. As discussed, my stance differs from many Indigenous MLG scholars based on temporality, and the implications of this are discussed in section 3.4, including that MLG should be inclusive of enduring arrangements. I take the position that Indigenous MLG should establish long-term governance structures between government and non-government actors, following the vertical or horizontal typology of MLG. In this sense, Indigenous MLG can be applied to governance processes as well as the outcomes resulting from these processes.

All Indigenous MLG principles can be realized through this long-term approach, as the likelihood of attaining these principles in the immediate term is less feasible. For example, this

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<sup>210</sup> See Ladner (2010), Alcantara and Spicer (2016), Alcantara and Morden (2017) Latta (2018)

standpoint can be applied to the provincial government's development of the CMS, which attempts to achieve an MLG process while also enabling a pathway for collaborative work between Indigenous governments, state governments and non-government actors for the next 20 years. However, my deviation from MLG scholars is still consistent with Papillon's view that Indigenous MLG may not be immediately transformative.<sup>211</sup> Instead, like a consistent flow of water over rock, changes are incremental but dramatic over a longer period of time. These changes are also dependent on the specific actors involved in collaborations, the cultural, legal, historical, economic and political factors and the social-ecological issue they are addressing.<sup>212</sup> Especially in dealing with the environment, there is no universal approach, which adds even greater variability to how MLG processes play out and the governance structures for which they set the stage.

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<sup>211</sup> Martin Papillon, "Introduction: The promises and pitfalls of Aboriginal multilevel governance" in Martin Papillon & Andre Juneau, *Canada: the state of the federation*, (Kingston: McGill-Queen's University Press, 2016) 3.

<sup>212</sup> Ibid, "Introduction: The promises and pitfalls of Aboriginal multilevel governance"

## CHAPTER 4: METHODS

### 4.1 Introduction

Research processes are as important as the outcome(s) for achieving impact and ensuring the research is sound, reliable and equitable. Additionally, research processes provide valuable insights and enable learning opportunities to inform future research and decision-making. A methodology is a research process consisting of a series of methods that are designed to answer specific research questions.<sup>213</sup> In this methods chapter, I also contend that a methodology should be reflective of the researcher's positionality, the relationship with the research partner(s), and the context they exist in together, including culture, history, and language. This stance takes into account the researcher's background, biases, social dynamics, and that research cannot be separated from its specific socio-cultural context. As my research is exploring mechanisms for bolstering Tla-o-qui-aht authority for eelgrass and specific solutions for revitalizing eelgrass, the way I adopt my claim is through my research respecting and uplifting Tla-o-qui-aht agency throughout the entire research process.

To unpack my research process, this chapter will provide an overview of my methodological approach, qualitative research and community-based participatory research, and research ethics, followed by an account of my data collection methods. I am utilizing two methods for collecting data. The first method is a document and policy analysis of coastal and marine frameworks, policies, plans and declarations that either directly include blue carbon sources or indirectly influence the protection and management of blue carbon sources. I use this method because it acts as a scan to understand the landscape of marine policy and (as much as possible) environmental interventions for BCEs, and what the most effective solutions may be between Indigenous and state governments. Secondly, I am conducting semi-structured interviews with Tla-o-qui-aht members as well as state government staff and nonprofit environmental staff involved in coastal and marine governance. I use this second method to pinpoint more specific solutions for enhancing Tla-o-qui-aht authority for BCEs as well as direct

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<sup>213</sup> Chakravanti Rajagopalachari Kothari, *Research methodology: Methods and techniques*, 4<sup>th</sup> ed (New Delhi: New Age International, 2004)

solutions for enhancing eelgrass health, which may complement the policy/document analysis and/or indicate gaps in the BCE policy landscape in Canada.

## 4.2 Positionality Statement

Reflexivity is “the politics of positionality”; acknowledging the power, privileges, and biases I carry in conducting this research.<sup>214</sup> As a white cisgender woman, I recognize my privilege in society, including the ability to access higher education that enables me to conduct this research project. I also recognize my Western European heritage; my mother’s side of the family is from England and immigrated to Canada in the 1950s. I am acutely aware of the damage the British Empire has and continues to cause as the world’s largest colonizer. Thus, I have not experienced the impacts of colonialism or the extreme hardship of fighting for the recognition of my culture and overall existence. In moving from a place of shame, I try to live by the statement that this history is not my fault, but it is my responsibility.<sup>215</sup>

As a white settler researcher, it is also my responsibility “to consciously and consistently eschew extractive research practices.”<sup>216</sup> I was born in Tla-o-qui-aht territory and have been fortunate to work with Tla-o-qui-aht on numerous coastal restoration and protection projects through my work with Surfrider Foundation Canada over the last six years. I can only conduct this research in partnership with Tla-o-qui-aht because of our existing relationship. In this regard, I still have a long road to understanding Tla-o-qui-aht’s history, culture, legal orders and governance, knowledge, language and aspirations. As I continue learning, I am called to interact with Indigenous forms of knowledge so that they remain embedded in their social, cultural, and political contextual fabric.<sup>217</sup>

My positionality as a white settler creates a challenge in authentically and accurately recording and analyzing Indigenous perspectives and Indigenous knowledge systems, which runs

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<sup>214</sup> Madison D Sovini (2020) *Critical Ethnography: Method, Ethics, and Performance*, 3rd ed (CA: SAGE Publications Inc)

<sup>215</sup> Nikki Sanchez (2022) *Decolonization is for Everyone*, TEDxSFU. Online. YouTube <TEDX SFU.2019.<<https://www.youtube.com/watch?v=QP9x1NnCWNY>>

<sup>216</sup> Whitney Charlotte K, *Adaptive Capacity, Coastal Communities, and Marine Conservation Planning in the Face of Climate Change* (2019). Online: <[dspace.library.uvic.ca/bitstream/handle/1828/11379/Whitney Charlotte PhD 2019.pdf?sequence=7&isAllowed=y](https://dspace.library.uvic.ca/bitstream/handle/1828/11379/Whitney%20Charlotte%20PhD%202019.pdf?sequence=7&isAllowed=y)>

<sup>217</sup> Ibid, *Adaptive Capacity, Coastal Communities, and Marine Conservation Planning in the Face of Climate Change*

the chance of being interpreted as another example of colonial actions that entrenches inequitable power dynamics.<sup>218</sup> This risk can and must be mitigated by the research being “valued, co-lead, and guided by Indigenous collaborators and communities.”<sup>219</sup> Though this research is considered low-risk,<sup>220</sup> the historical and ongoing impacts of colonization demand a focus on supporting Indigenous “restoration of decision-making power to Indigenous communities for community adaptations and transformations to be generated and applied effectively.”<sup>221</sup> Using community-based participatory research methods as a genre of qualitative research will support this aim in my research, empowering the community and powered by community goals, as described in section 4.5.<sup>222</sup>

### 4.3 Methodological Orientation

Methodology is a process that is informed by the researcher’s philosophical standpoint, as well as the researcher’s methods and theories.<sup>223</sup> The theoretical grounding for this research is MLG, as discussed in Chapter 3. This framework is often applied in Canada in contexts where Indigenous governments, state governments and non-state governments are engaged in a collaborative process to achieve a policy, plan, regulation or another form of public good.<sup>224</sup> Multi-level governance can also accommodate blue carbon’s multi-jurisdictional context where Indigenous and state government politics influence decision-making. Thus, this is a necessary and pragmatic framework for exploring the enhancement of Tla-o-qui-aht’s protection of BCEs within their Tribal Parks. Additionally, the building blocks of MLG are based on building relationships in a good way for decisions to be made fairly between all parties, which is a principle of Tla-o-qui-aht governance. I build on this approach in this research by not assuming and/or communicating about Tla-o-qui-aht or any other Indigenous Peoples solely through a

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<sup>218</sup> Ibid, Adaptive Capacity, Coastal Communities, and Marine Conservation Planning in the Face of Climate Change, at page 160

<sup>219</sup> Ibid, at page 160

<sup>220</sup> Minimal Risk is defined in The Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (TCPS 2) as follows: “research in which the probability and magnitude of possible harms implied by participation in the research is no greater than those encountered by participants in those aspects of their everyday life that relate to the research”.

<sup>221</sup> Ibid, Adaptive Capacity, Coastal Communities, and Marine Conservation Planning in the Face of Climate Change, at page 161

<sup>222</sup> Patricia Leavy, *The Oxford Handbook of Qualitative Research*, 2nd ed (Oxford: Oxford University Press. 2020).

<sup>223</sup> Patricia Leavy, *The Oxford Handbook of Qualitative Research*, 2nd ed (Oxford: Oxford University Press. 2020).

<sup>224</sup> Christopher Alcantara, Jörg Broschek & Jen Nelles, “Rethinking Multilevel Governance as an Instance of Multilevel Politics: A Conceptual Strategy” (2016) 4:1 Territory, Politics, Governance 33.

colonial lens. Instead, it is pivotal to understand their history, governance, knowledge, culture and language first.<sup>225</sup>

I also sought to apply a “spirit of reciprocity” orientation throughout my research. This can be understood as a philosophical approach, and my idea for incorporating this approach arose from my first Tla-o-qui-aht Traditional Research Committee (TRC) meeting that I joined in August 2022. In this meeting, my friend and a fellow student researcher, Julia Bingham, was reporting on her dissertation research on Tla-o-qui-aht salmon governance and knowledge pluralism, which is cited in my literature review chapter.<sup>226</sup> In the meeting, she discussed the “spirit of reciprocity” methodological approach, which captured my rationale for this research project and my environmental efforts in Tla-o-qui-aht territory. For years I have gravitated to the phrase “spirit of reciprocity,” a core principle arising out of the Tla-o-qui-aht worldview that informs natural resource governance and management practices.<sup>227</sup> I believe this orientation to collaborative work is necessary for my research methodology because when we only take or receive, this creates an imbalance. Like developing coastal environments without care for maintaining functioning ecosystems, this cannot sustain healthy relationships now or in the future. Reciprocity is action-based, requiring exchanges between the people, environments and/or entities involved in a relationship. Applied within a research context, a spirit of reciprocity can mitigate extractive practices and ensure people’s time, knowledge, and overall participation is acknowledged and mutually met with a gift, offering, honorarium, or other valued tangible or intangible good. As Joe Martin, master carver and member of the TRC and participant in this research shares: “Mother Nature will provide for your needs, but not for your greed.”<sup>228</sup> Considering these insights, a spirit of reciprocity orientation compliments MLG as a theoretical framework, especially considering Indigenous MLG principles.

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<sup>225</sup> Marc Masso, *Tla-o-qui-aht Nation Building Strategy: Ha’wiih and Ma’uas (Chiefs and Houses)* (2005), online: <<https://dspace.library.uvic.ca/handle/1828/82333>>

<sup>226</sup> Bingham, Julia A., Saul Milne, Grant Murray, and Terry Dorward. “Knowledge Pluralism in First Nations’ Salmon Management.” *Frontiers in Marine Science* 8 (2021).

<sup>227</sup> Eugene Richard Atleo, *Principles of Tsawalk: an Indigenous Approach to Global Crisis* (Vancouver: UBC Press, 2011)

<sup>228</sup> Denise Titian, *Mother Nature will provide for need, not greed* (March 2015), online: Ha-Shilth-Sa <<https://hashilthsa.com/news/2015-03-02/mother-nature-will-provide-need-not-greed>>

#### 4.4 Terminology and Style

I use Nuu-chah-nulth terminology where it is permitted through my thesis, as language embodies cultural ways of being and knowing. Nowak elaborates, “[t]hrough learning and speaking a particular language, an individual absorbs the collective thought process of a people. Aboriginal languages are, for the most part, very verb-rich languages that are process or action-oriented.”<sup>229</sup> Particularly, the Nuu-chah-nulth language embodies the worldview of *Hiishukish tsawaak*, “everything is one” and *Iisaak*, “respect with caring”.<sup>230</sup> Using Nuu-chah-nulth language, where appropriate and with consent, is a way to honour this relational worldview, as well as to uphold and normalize epistemic and linguistic plurality. Additionally, my thesis follows the guidelines on writing about Indigenous Peoples outlined in Younging’s *Elements of Indigenous Style*.<sup>231</sup> This encompasses utilizing italics for words in Indigenous languages, capitalizing words of Indigenous institutions and identities, and avoiding writing in the past tense. Furthermore, in this research, I acknowledge that Indigenous Peoples have unique theories, often greatly differing from colonial worldviews, including, but not limited to, law and governance.<sup>232</sup> As expressed by Henderson, “[c]reating false uniformity is a useless activity. We must learn to exist with diversity and its processes. We must understand that no one is above the incessant diversity; not one tradition or ideology can assert itself as universal.”<sup>233</sup> In upholding and celebrating this diversity, as well as honouring the value of Indigenous perspectives, I avoid singular definitions of concepts like “governance.” Instead, I attempt to discuss textured meanings that provide insight into the milieu of Tla-o-qui-aht for this research.

There are stylistic elements and certain standards I agree to by undertaking this research at the University of Victoria. In relation, while I am a student at an institution following specific rules, procedures and norms, I am also accountable to my research partner, and I am required to act in reciprocity with this partner. In my particular circumstance, this includes continuing to learn from and funnelling the knowledge I gain into praxis. While I produce a thesis to meet my

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<sup>229</sup> Nadia Nowak, “It’s our law to protect the land and the people: Perspectives On Traditional Governance And Keyoh Stewardship With Saik’uz Whut’enne” (2022) Master’s thesis, University Of Northern British Columbia.

<sup>230</sup> E Richard Atleo, *Tsawalk: A nuu-chah-nulth worldview* (Vancouver: UBC Press, 2004).

<sup>231</sup> Gregory Younging, *Elements of Indigenous Style: A Guide for Writing by and about Indigenous Peoples*, (Edmonton: Brush Education, 2018).

<sup>232</sup> Carriere (2015) in his research on *Nehinuw* governance, Carrière (2015) acknowledged that Indigenous communities have unique theories of governance.

<sup>233</sup> James Youngblood Henderson, Postcolonial Indigenous Legal Consciousness (2002) 1 Indigenous Law Journal 48

degree requirements, I will also be completing community deliverables for Tla-o-qui-aht. While keeping these elements separate is difficult at times, I gain motivation and clarity by visiting *Ts'aay'imts* and treating Tla-o-qui-aht territory where I live as an explicit form of pedagogy, a direct source of education and site of reflection.<sup>234</sup> As a research partner with Tla-o-qui-aht and a student at the School of Environmental Studies, this includes taking breaks from my laptop, going outside, and getting the rain jacket on and boots muddy. Unsurprisingly, walking the coastline and spending time in the marine and coastal environment is where most of my insights percolate, and the seemingly disparate data threads coalesce.

#### 4.5 Qualitative Research

In this study, I am undertaking qualitative research, which is used to learn about the depths of social reality and explain phenomena in natural settings within the field of environmental studies.<sup>235</sup> Qualitative research includes unpacking the meaning attributed to experiences, situations, or processes to understand people's connection with environments and places.<sup>236</sup> Although qualitative research comprises a wide array of theories, instruments, and procedures, five overarching characteristics apply across this diversity of qualitative research study.<sup>237</sup> There is first utility and/or insight applied to ongoing social-ecological processes and outcomes, which can include addressing a specific issue that is causing harm and imbalance.<sup>238</sup> With this intent, second, there is a "social justice undercurrent to qualitative practice."<sup>239</sup> Thirdly, qualitative research relies on a natural setting, "[i]nvestigation and data collection are conducted in a geographic location, time, and set of rituals determined, if not controlled, by the subjects."<sup>240</sup> Additionally, and fourth, subject-based communication is required, where participants have the agency to guide the research topic and all forms of communication that transpire within the study.<sup>241</sup> Finally, the researcher is also a participant who is driven by an interest to interpret and

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<sup>234</sup> Leanne Betasamosake Simpson, *Land as pedagogy: Nishnaabeg intelligence and rebellious transformation* (2014) 3:3 Decolonization: Indigeneity, Education and Society.

<sup>235</sup> Patricia Leavy, *The Oxford Handbook of Qualitative Research*, 2nd ed (Oxford: Oxford University Press. 2020)

<sup>236</sup> Pezhman Roudgarmi, "Qualitative research for environmental sciences: A review" (2011) 9:38 *Journal of Food Agriculture and Environment* 871

<sup>237</sup> Patricia Leavy, *The Oxford Handbook of Qualitative Research*, 2nd ed (Oxford: Oxford University Press. 2020).

<sup>238</sup> James W Chesebro & Deborah J Borisoff, "What Makes Qualitative Research Qualitative?" (2007) 8:1 *Qualitative Research Reports in Communication* 3.

<sup>239</sup> *Ibid*, *The Oxford Handbook of Qualitative Research*

<sup>240</sup> *Ibid*, "What Makes Qualitative Research Qualitative?"

<sup>241</sup> *Ibid*, *The Oxford Handbook of Qualitative Research*, at page 6

make sense of what they are observing.<sup>242</sup> As Denzin et al. determines, qualitative research is a “situated activity that locates the observer in the world. It consists of a set of interpretive, material practices that makes the world visible.”<sup>243</sup> This type of research can render realities into representations like interviews, field observations, photographs, videos and recordings.<sup>244</sup>

#### 4.6 Community-Based Participatory Research

This research project is guided by a community-based participatory research (CPBR) approach within the qualitative realm. Community-based participatory research “is a process by which decision-making power and ownership is shared between the researcher and the community involved; bi-directional research capacity and co-learning are promoted; and new knowledge is co-created and disseminated in a manner that is mutually beneficial.”<sup>245</sup> Specifically, in conducting CBPR with Indigenous communities, this should seek to address power differences within the research, elicit trust between the community and researcher, and “foster a sense of ownership tied to generating momentum toward social change.”<sup>246</sup> This relationality is dependent on generating a partnership rooted in mutual benefit, ensuring that community members guide the research and are engaged as collaborators during the entire research process.<sup>247</sup> In CBPR, all participants with varying skills and knowledge add significant value to the research process as “a successful CBPR project combines these differing assets to produce rigorous results. Pooling resources is not about money or labour; it involves community knowledge and the recognition that such input is valuable and necessary for an effective research process.”<sup>248</sup>

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<sup>242</sup> Ibid, “What Makes Qualitative Research Qualitative?”

<sup>243</sup> Denzin N K, & Lincoln, Y S, *The Sage Handbook of Qualitative Research*, 5<sup>th</sup> ed (UK: Manchester Metropolitan University, 2005).

<sup>244</sup> Ibid, *The Sage Handbook of Qualitative Research*, at page 3

<sup>245</sup> Heather Castleden, Vanessa Sloan Morgan, & Christopher Lamb, “‘I Spent the First Year Drinking Tea’: Exploring Canadian University Researchers’ Perspectives on Community-Based Participatory Research Involving Indigenous Peoples” (2012) 56:2 *The Canadian geographer* 160.

<sup>246</sup> Joshua K Tobias, Chantelle A M Richmond, & Isaac Luginaah, “Community-Based Participatory Research (CBPR) with Indigenous Communities: Producing Respectful and Reciprocal Research” (2013) 8:2 *Journal of empirical research on human research ethics* 129.

<sup>247</sup> Philip A Fisher & Thomas J Ball, “Tribal participatory research: Mechanisms of a collaborative model” (2003) 32:3 *American Journal of Community Psychology* 207.

<sup>248</sup> Sonya Atalay, *Community-Based Archaeology Research with, by, and for Indigenous and Local Communities* (Berkeley: University of California Press, 2012).

## 4.7 Research Ethics

Ethics bridges the philosophical and practical elements of conducting research.<sup>249</sup> Ethics is centred on preventing harm to the people, non-human entities or settings participating or involved in the study.<sup>250</sup> This includes “avoiding exploitation of research participants (with added attention in the case of vulnerable populations), disclosure of the nature of the study and how the findings will be used, the voluntary nature of participation, and confidentiality.”<sup>251</sup> Additionally, qualitative researchers have an ethical obligation to be conscious of how participants are depicted and to act sensitively.<sup>252</sup> Ethical research is paramount on both moral and professional grounds for conducting this study in partnership with Tla-o-qui-aht as well as representing the University of Victoria. Executing this study entirely depends on respecting the ethical boundaries outlined by the aforementioned actors and all participants.

My research questions, objectives, data collection methods, data storage and ownership abide by Tla-o-qui-aht’s Research Protocol and the Tla-o-qui-aht TRC approved them. I have agreed to Tla-o-qui-aht’s research protocol and will fiercely uphold it, which includes protecting and respecting Tla-o-qui-aht knowledge, wisdom, names, place names and all Tla-o-qui-aht objects owned by the Nation to the highest standard.<sup>253</sup> Additionally, this research study is approved by the University of Victoria Human Research Ethics Board. This approval depended on the completion of the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans (TCPS2) CORE Tutorial as well as the adoption of the core and enhanced measures outlined in the UVic Communicable Disease Plan to prevent the risk of COVID-19 transmission within research teams, with participants and in communities.

## 4.8 Review of Existing Tla-o-qui-aht and Multi-level Governance Literature

Before collecting data, I conducted a literature review of MLG in Canada. My venture into MLG literature commenced in the first year of my Master’s degree in 2021, where I

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<sup>249</sup> Patricia Leavy, *The Oxford Handbook of Qualitative Research*, 2nd ed (Oxford: Oxford University Press, 2020).

<sup>250</sup> *Ibid*, *The Oxford Handbook of Qualitative Research*

<sup>251</sup> *Ibid*, *The Oxford Handbook of Qualitative Research*, at page 5

<sup>252</sup> *Ibid*, at page 5

<sup>253</sup> Rhonda Koster, Kirstine Bacchar, & R Harvey Lemelin, “Moving from Research ON, to Research WITH and FOR Indigenous Communities: A Critical Reflection on Community-Based Participatory Research: Moving from Research ON” (2012) 56:2 *The Canadian geographer* 195.

completed a directed study on Indigenous, municipal, provincial and federal government authorities for BCEs and examined these authorities through an MLG lens. From completing this course in December 2021, I continued collecting MLG literature until July 2022. Specifically, I gathered literature on MLG involving Indigenous, state government actors and non-government actors in Canada for environmental governance. I found twenty-five references by scanning electronic databases in the University of Victoria online library, and twelve of these references are Indigenous MLG based. Databases include SAGE, JSTOR Arts & Sciences, Taylor & Francis Social Science and Humanities Library, and Google Scholar. I have used key terms in varying combinations in these databases, including ‘multi-level governance’ with ‘Indigenous,’ ‘Indigenous governance,’ ‘Canada,’ ‘natural resource,’ and ‘environment’. I also used these terms in the University of Victoria library catalogue and discovered three relevant books. Finally, I scanned the reference lists of all articles and books to unearth additional academic sources for this literature review.

#### **4.9 Data Collection**

I collected all data from participants with their explicit permission and in compliance with the University of Victoria and the TCPS2 statement: Ethical conduct for research involving humans. Data collection took place in the autumn and winter of 2022/2023. I approached 23 people to inquire about their interest in participating in this research. I ended up interviewing 15 individuals from Tla-o-qui-aht (both Tla-o-qui-aht members as well as Tribal Parks staff), state government officials including the DoT and the ACRD, convening organizations including the CBT and West Coast Aquatic, as well as staff from environmental nonprofits, such as Redd Fish Restoration and Coastal Restoration Society. Tla-o-qui-aht approved my methods and interview questions before I began data collection (Appendix C). Tla-o-qui-aht Tribal Parks staff members also provided a list of people to contact for an interview for this study and approved the individuals I suggested. I obtained and documented informed consent from each participant (Appendix B).

Following interviews and meetings, I sent transcripts to each participant to review, edit or amend, and provide consent to use. Additionally, participants were given the option of having their data published anonymously. If participants wished to remain anonymous, their names and

other direct identifying features were removed from the results. Participants were made aware of the risk that due to their particular knowledge, people might be able to identify them. People who wished to remain anonymous were referred to as an individual or a member from a specific group of which they are a member, and results were also screened for identifying information and features for individuals who asked to remain anonymous. Additionally, participants who chose not to be anonymous approved all direct quotes used from them.

To honour participants' time and enact reciprocal relations, honorariums were provided to all Tla-o-qui-aht participants and any Indigenous participant from ENGOs or state government bodies. All participants were provided with eco-friendly gifts of appreciation purchased locally. In meetings with Elders, I also provided warm drinks and snacks. Regarding fair and appropriate return, research findings will be disseminated to all participants. Research dissemination includes sending the Master's thesis to all research participants and providing a summary report to Tla-o-qui-aht as well as all research participants. If requested, I will make a presentation to Tla-o-qui-aht on the results of the study. I also shared the results of this study with the Tla-o-qui-aht TRC in May 2023, which were approved by the council. Additionally, I may disseminate the results from this study through other forms of media, including non-academic articles, podcasts and radio. Sharing results through these other methods is at the discretion and approval of Tla-o-qui-aht.

## **4.10 Research Methods**

### **4.10.1 Policy & Document Analysis**

The first method of my thesis research is a coastal marine policy and document analysis using textual analysis. Policy analysis is a systemic process of scoping different policy options for treating an issue, then assessing the policies through evaluative criteria.<sup>254</sup> This analysis supports finding the most effective and feasible solutions for addressing issues as well as identifying gaps in existing research to identify new potential pathways.<sup>255</sup> In my analysis, I

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<sup>254</sup> *What Is Policy Analysis? A Critical Concept in Public Administration* (2020) Online: Norwich University <<https://online.norwich.edu/academic-programs/resources/what-is-policy-analysis>>

<sup>255</sup> *Ibid, What Is Policy Analysis? A Critical Concept in Public Administration*

explore the representation (or lack thereof) of Indigenous authority and tease out direct or indirect information to BCE protection and restoration. I chose territory-specific Indigenous government plans, Canadian federal and provincial policies and documents, and local government policies and documents to analyze that are specific to coastal and marine ecosystems, thus are explicitly or tangentially related to eelgrass and/or BCEs more broadly. I collected policies and other documents for analysis through systematic searches using virtual library databases. I also collected policies through four World Wildlife Fund (WWF) blue carbon workshops that I joined, held in partnership with West Coast Environmental Law and East Coast Environmental Law. These workshops took place between December 2021 and November 2022 with individuals working in coastal and marine planning to identify existing policy mechanisms and gaps that need to be addressed for blue carbon protection.

I utilize textual analysis along with my evaluative criteria, which are based on the Tla-o-qui-aht's 2014 Tribal Parks Declaration and Indigenous MLG principles, as described in section 3.7. Textual analysis is used as a tool for comparing policies since it requires comprehending and dissecting the context, intent, and power dynamics revealed by the text.<sup>256</sup> Specifically, data captured from this approach will uncover government power structures, from the state government retaining all decision-making abilities to authority being fully shared with Indigenous governments.<sup>257</sup> This will also give the lay of the land as it relates to colonial law and policy, including the underlying norms of these systems. Understanding this foundation gives me a clearer perspective on what has been successful in enhancing Indigenous authority in the marine environment, as well as how I can build off of existing BCE protection interventions involving or excluding Indigenous authorities.<sup>258</sup> Next, I ran the most relevant policies through the evaluative criteria, and this helped me to determine which policies have the most potential to enhance Tla-o-qui-aht's authority over eelgrass in their Tribal Parks.

I independently review and analyze 31 Indigenous and state government agreements, frameworks, reports and policy documents, collected through systemic online searches (see Appendix E for a list of documents reviewed). I began this section by providing the international

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<sup>256</sup> Mike Allen, *The sage encyclopedia of communication research methods*. (California: SAGE Publications, 2017)

<sup>257</sup> Ibid, *The sage encyclopedia of communication research methods*.

<sup>258</sup> Deborah Curran, (March 25, 2022). Personal Communication.

policy context pertinent to Indigenous authority and blue carbon. Following this, I unpack the federal policy landscape and discuss the blue carbon policy analysis completed in April 2022 by WWF. Next, I review the provincial policy landscape for blue carbon. In 2020, WCEL published a blue carbon policy analysis of BC policies, which I drew from for this analysis. From here, I discuss applicable territory-specific Indigenous government marine plans, pulling out information specific to eelgrass as a BCE and information related to collaborating with the state government and non-government authorities. Finally, I discuss salient local government examples on Vancouver Island.

To analyze the documents, I used keywords including Indigenous, Indigenous authority, First Nations, rights, blue carbon, carbon, coastal, eelgrass, estuary, mudflats, foreshore, governance, multi-level governance, and management. I have completed an analysis of documents and policies related to coastal and marine governance in Canada. The results of this analysis are in Chapter 5, which is kept separate from the semi-structured interview results, which are located in Chapter 6. While it would be conventional to keep the results located within one chapter, the nature of these methods is very different. Thus, to ensure greater clarity, the results from both methods are provided in sequential chapters.

#### **4.10.2 Semi-structured Interviews**

My second method is semi-structured interviews, which I conducted from November 2022 to January 2023. As mentioned, interviewees were identified by Tla-o-qui-aht Tribal Parks staff. Interview participants included staff from municipal, provincial and/or federal government ministries or departments and staff from environmental nonprofit organizations involved in eelgrass protection, monitoring and restoration and/or possessing insights on governance in the coastal marine space. A majority of interviews were held in person, as this is a tactic for building trust in relationships. In total, I conducted 14 interviews with 15 individuals that were roughly an hour in length each. Following the interviews, I finalized transcriptions and sent them back to participants for them to edit and approve. Upon the individual's discretion, they could identify individuals to join them in the interview - this is especially pertinent to Tla-o-qui-aht members as

learning and sharing knowledge happens in *Hahoopcu* - in family and/or in groups of people in relationship.

I researched and designed a set of interview questions, which can be reviewed in Appendix C. In this process, I gained inspiration from Kelly Johnsen's dissertation, *Nuu-Chah-Nulth Traditional Pedagogy: Shining Light on Authentic Contemporary Assessment Practice* (see Figure 8). Johnsen conceptualizes the interview process as made up of four steps: 1) Strategize; 2) Arrange; 3) Conduct; 4) Synthesize. I used this process to design the interview questions and interview process. For instance, as part of strategizing, I generated my interview questions using a scaled approach: first discussing the minutiae of eelgrass and the threats these ecosystems face and radiating outwards to discuss Tla-o-qui-aht governance and how state government and non-government actors can support Tla-o-qui-aht authority in the marine environment. Alongside the semi-structured interview questions, I also developed an interview guide to ensure that all of my interview questions supported answering my research questions. This allowed me to arrange, conduct and synthesize the interviews and interview data to extract the most information possible to answer my research questions. Additionally, I coordinated the interview date and times with participants through email and phone and allowed the setting to be determined by the participant to ensure their comfort in the interview process. This led to interviews being conducted in offices, carving sheds, living rooms, and community spaces. I maintained confidentiality throughout all of these changing places. Again, I analyzed the interviews based on the evaluative criteria, as discussed in subsection 4.10.2.

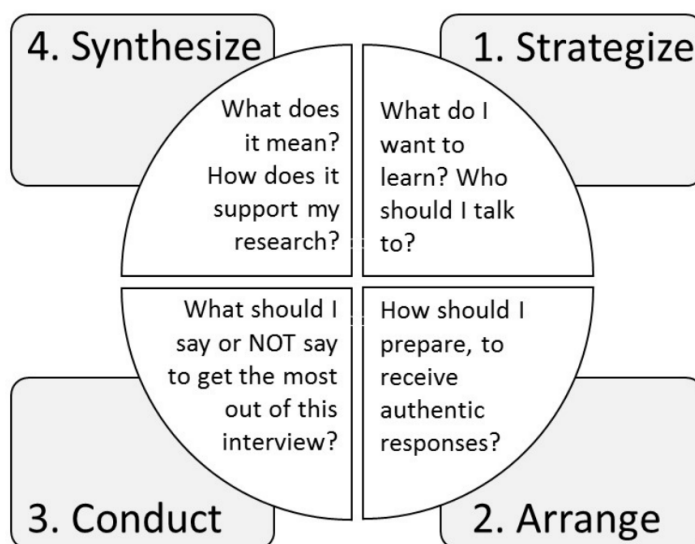


Figure 5. The interview process

Figure 8: The Interview Process

Kelly Johnsen, *Traditional Pedagogy: Shining Light on Authentic Contemporary Assessment Practice* (2019), online: Uvic Space < <https://dspace.library.uvic.ca/handle/1828/10698>>

#### 4.11 Data Analysis

Data management and analysis have been guided by the sage words of Denzin and Lincoln: “Qualitative case study research amasses huge amounts of raw data; therefore, it is essential to maintain the data in an organized and timely fashion.”<sup>259</sup> To do this, I transcribed all recordings immediately following interviews, usually within a few days. This kept a degree of order in this process, which was important for the sustainability of my knowledge retention and understanding of the data. Additionally, I also recorded my initial observations following interviews and while I transcribed interviews, which was integral to writing the discussion chapter of this thesis.

Once the interviews and transcripts were completed and approved, I started data analysis in NVIVO software through manual coding. I coded all interviews into 6 codes (see Appendix D). Following this, I reviewed all of the codes and then started to break down the codes into

<sup>259</sup> Denzin N K, & Lincoln, Y S, *The Sage Handbook of Qualitative Research*, 5<sup>th</sup> ed (UK: Manchester Metropolitan University, 2005)

more specific trends, and there are 6-13 trends for each code that information is further categorized into. These trends represent the same or similar information provided by two or more individuals. Following this, I started thinking about the relationship between the codes and their trends. To do this, I wrote out all of the codes and trends on chart paper to understand the bigger picture of this data and the connections between the data points. By doing this, I was able to pull out a narrative from all of the data, as well as the most prominent solutions put forward by participants in response to answering my research questions. Through this approach, I was able to understand the data as a whole, as well as identify patterns and evidence for my discussion chapter.

#### **4.12 Conclusion**

It is a privilege to conduct research, which comes with significant responsibilities that must be fulfilled. As I chronicled through this chapter, based on my positionality, relationship with Tla-o-qui-aht, and the research demands, I employed a “spirit of reciprocity orientation” in this research. I believe this is necessary for mitigating asymmetries in power between the researcher and the research partner. This orientation also helps me to “walk the talk” of mutual flourishing, which is a major impetus of this research: thriving BCEs and Indigenous authority. This orientation also informs the CBPR approach used in my research. This CBPR approach, in ways, aligns with Indigenous MLG in regards to addressing power imbalances, building trust, co-constructing knowledge, and the researcher and research partner working together to create a form of social-ecological change. All of the methods I used are an extension of my methodological orientation and approach, including the ways I navigate these methods, particularly with research participants. The most gratifying aspect of this research has been meaningfully connecting with the participants in place, from whom I have gained so much insight and hold a deep reverence for. My aspiration is that through this research design, implementation, and through to the final thesis, I can do their contributions justice.

## CHAPTER 5: POLICY & DOCUMENT ANALYSIS

### 5.1 Introduction

Eelgrass has largely gone under the radar of Western science, media and policy. This is significantly changing due to an increase in scientific studies following the genesis of the term blue carbon in 2009. Blue carbon describes the carbon stored in coastal ecosystems; eelgrass is an example.<sup>260</sup> Eelgrass, alongside salt marsh and kelp forests in BC and Canada, are revealing themselves as some of the most potent carbon-storing and sequestering ecosystems.<sup>261</sup> As described throughout my thesis, protecting eelgrass necessitates a collaborative approach to governance as in BC there is always one or more First Nations with inherent jurisdiction, overlaid with at least one state government with jurisdiction, as well as overlapping uses and interests from industrial, commercial, and institutional sectors. In this chapter, I conduct a policy and document analysis, to collect what has been achieved to date in Canada for eelgrass and blue carbon protection more broadly. This analysis takes into account the level of Indigenous authority involved, and the presence of Indigenous MLG principles. The evaluative criteria is a high-level representation of Indigenous MLG principles and the Tribal Parks Declaration (see Table 3).

I structure this policy and document analysis through descending scales of governance, from international through federal, provincial and down to local government, drawing attention to how this has shaped Indigenous authority and blue carbon governance. In this analysis, I first discuss state international and Canadian state policies and documents, as they are the earliest explicit documents available regarding coastal and marine protection. In conjunction, these results are organized chronologically in each section (and, as much as possible, throughout this chapter), to show the trajectory from state-dominated policies to the current modern era, which is more intersocietal and collaborative between Indigenous governments and state governments. There is also an increasing emphasis on eelgrass and blue carbon from all government actors during this collaborative period.

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<sup>260</sup> Christian Nellemann, Emily Corcoran, Carlos M Duarte, Luis Valdrés, Cassandra De Young, Luciano Fonseca, & Gabriel Grimsditch, *Blue Carbon: The role of oceans in binding carbon* (2009), online: United Nations Environment Programme & GRID-Arendal <<https://www.grida.no/publications/145>>

<sup>261</sup> Ibid, *Blue Carbon: The role of oceans in binding carbon*

Thus, this policy analysis reveals that state government marine and coastal policy largely excludes eelgrass and blue carbon, as well as meaningful sharing of authority with Indigenous Peoples. However, from the 1970s to the present, there has been a shift from zero Indigenous involvement in state government coastal and marine policy towards greater collaboration between Indigenous and state governments for these environments, especially in the last five years. There is also a larger focus on eelgrass as a BCE for climatic benefits in state government policies and documents. However, while there is a significant amount of wetland, coastal and marine policy, there are no policies that explicitly connect Indigenous authority and blue carbon in a tangible fashion - within an MLG arrangement or any other governance structure. Out of all documents, intersocietal agreements and plans have the strongest resemblance to Indigenous MLG, which reflect a greater emphasis on Indigenous authority and how all government and non-government actors will work together to achieve ecological objectives. These intersocietal agreements include government-to-government (G2G) agreements between First Nations and state governments in BC, as well as joint marine initiatives, like the Land-Sea-People Management Plan between the Council of the Haida Nation and the federal government. Intersocietal is defined as the interactions and relationships between or among different societies, and the dynamics that surface when different societies come together.<sup>262</sup>

**Table 3. Evaluative Criteria - Policy & Document Analysis<sup>263</sup>**

<b>Tribal Parks Declaration:</b> “The inherent right of Tla-o-qui-aht society to manage the Hawiuh Haahuulthii, and to establish tools for coexistence and co-governance” <sup>264</sup>	
<b>Criteria 1: The degree of inclusion of Indigenous authority in governance to create equitable power relations to achieve co-production.</b>	
<b>Question 1</b>	How is the policy/document inclusive of Indigenous authority?

<sup>262</sup> Talcott Parsons, *Societies: Evolutionary and Comparative Perspectives* (New Jersey: Prentice-Hall, 1966)

<sup>263</sup> *Tla-o-qui-aht Tribal Parks Declaration* (2014) Online: Tla-o-qui-aht Tribal First Nation. <[tribalparks.com/wp-content/uploads/2021/05/DeclarationTribalParkHaahuulthii2014.pdf](http://tribalparks.com/wp-content/uploads/2021/05/DeclarationTribalParkHaahuulthii2014.pdf)>

<sup>264</sup> *Ibid*, *Tla-o-qui-aht Tribal Parks Declaration*

<b>Question 2</b>	Are principles from Indigenous MLG present? If so, which ones?
<b>Tribal Parks Declaration:</b> “Flora and Fauna that thrives in a healthy ecosystem” <sup>265</sup>	
<b>Criteria 2: Eelgrass/blue carbon protection, conservation and/or restoration</b>	
<b>Question 3</b>	What solutions are identified for blue carbon protection and restoration, specific to eelgrass?

## 5.2 State International Law & Policy Context

Several state government international agreements and conventions address the conservation and management of coastal and marine ecosystems and may include blue carbon sources like eelgrass habitats. This state-driven conservation endeavour began in 1975 when states adopted the Ramsar Convention as the first global nature conservation convention.<sup>266</sup> The mission of the Ramsar Convention is the sustainable usage of wetlands, including eelgrass, through “local and national actions and international cooperation, as a contribution towards achieving sustainable development throughout the world.”<sup>267</sup> Canada joined the Convention in 1981 and has a long reputation for making constructive inputs to the programs of the Convention, which include the second largest Ramsar site in the world, Queen Maud Gulf in Nunavut.<sup>268</sup> This convention does not mention Indigenous Peoples or any sharing of authority with Indigenous Peoples, and neither does any Canadian management plan for Ramsar sites.<sup>269</sup> While there is no presence of MLG in this convention, this convention carved out wetlands as an important site for protection amongst state governments.

In international climate law, Article 4.1(d) of the United Nations Framework Convention on Climate Change (UNFCCC), signed in 1992, discusses the importance of marine ecosystems

<sup>265</sup> Ibid, *Tla-o-qui-aht Tribal Parks Declaration*, at page 2

<sup>266</sup> *Convention on Wetlands of International Importance especially as Waterfowl Habitat* (1971), online: UNESCO. <<https://en.unesco.org/about-us/legal-affairs/convention-wetlands-international-importance-especially-waterfowl-habitat>>

<sup>267</sup> Ibid, *Convention on Wetlands of International Importance especially as Waterfowl Habitat*

<sup>268</sup> *Internationally important wetlands: Ramsar Convention* (2022), online: Government of Canada <<https://www.canada.ca/en/environment-climate-change/corporate/international-affairs/partnerships-organizations/important-wetlands-ramsar-convention.html>>

<sup>269</sup> Ibid, *Convention on Wetlands of International Importance especially as Waterfowl Habitat*

in regulating a stable climate.<sup>270</sup> This treaty was established to stabilize greenhouse gas accumulation in the atmosphere, thereby addressing catastrophic impacts on the climate system.<sup>271</sup> There is no discussion of Indigenous Peoples, governments and/or authority, but there is the inclusion of coastal and marine ecosystems as carbon sinks. However, this framework was published before the genesis of the term blue carbon, and there is no specific mention of eelgrass. This article states the goal to:

Promote sustainable management, and promote and cooperate in the conservation and enhancement, as appropriate, of sinks and reservoirs of all greenhouse gases not controlled by the Montreal Protocol, including biomass, forests and oceans as well as other terrestrial, coastal and marine ecosystems.<sup>272</sup>

While this agreement lacks emphasis on eelgrass, blue carbon and Indigenous authority, it is still a momentous agreement because it establishes the need for international collaboration between state governments to address the climate crisis.<sup>273</sup>

Fifteen years later in 2007, the United Nations passed a resolution to adopt the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which transformed the global conservation movement.<sup>274</sup> The UNDRIP is an internationally non-binding framework that chronicles the rights of Indigenous Peoples, including the “minimum standards for the survival, dignity and well-being of the Indigenous [P]eoples of the world and it elaborates on existing human rights standards and fundamental freedoms as they apply to the specific situation of Indigenous [P]eoples.”<sup>275</sup> The UN Declaration plays an important role in the regulatory and policy landscape regarding Indigenous MLG and blue carbon in Canada and is cited throughout many of the plans utilized in this analysis, as well as the BC Coastal Marine Strategy Policy Intentions Paper.<sup>276</sup> While UNDRIP does not specify coastal and marine resources, it does

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<sup>270</sup> *United Nations Framework Convention on Climate Change* (1992), online: United Nations <[https://unfccc.int/files/essential\\_background/background\\_publications\\_htmlpdf/application/pdf/conveng.pdf](https://unfccc.int/files/essential_background/background_publications_htmlpdf/application/pdf/conveng.pdf)>

<sup>271</sup> *Ibid*, *United Nations Framework Convention on Climate Change*

<sup>272</sup> *Ibid*, *United Nations Framework Convention on Climate Change*

<sup>273</sup> *Ibid*, *United Nations Framework Convention on Climate Change*

<sup>274</sup> *UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples* (October 2006) online: Refworld <<https://www.refworld.org/docid/471355a82.html>>

<sup>275</sup> *UN General Assembly, United Nations Declaration on the Rights of Indigenous Peoples* (October 2006) online: Refworld <<https://www.refworld.org/docid/471355a82.html>>

<sup>276</sup> *A Coastal Marine Strategy for British Columbia* (2022) online: Government of British Columbia <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

acknowledge Indigenous Peoples' rights to self-determination, including determining decision-making about their lands, territories, and resources, including their coastal and marine resources.<sup>277</sup> Canada signed on to UNDRIP internationally in 2017 and committed to making Canadian law consistent with it in 2021, as did the Province of BC in 2019.<sup>278</sup>

In 2015, 196 Parties at the UN Climate Change Conference (COP21) came together to adopt the Paris Agreement under the UNFCCC in Paris, France.<sup>279</sup> This agreement aims to fortify global response to the climate crisis by “keeping a global temperature rise this century well below 2 degrees Celsius above pre-industrial levels and to pursue efforts to limit the temperature increase even further to 1.5 degrees Celsius.”<sup>280</sup> Following UNDRIP in 2007, this agreement acknowledges the rights of Indigenous Peoples, that climate adaptation efforts should be participatory in nature as well as be based on scientific knowledge as well as Indigenous knowledge and local knowledge systems.<sup>281</sup> There is no discussion around Indigenous governance, authority, or any MLG principles. A 2016 survey found that following the Paris Agreement, 28 of the signatories had included reference to coastal wetlands in mitigation action, and 59 countries included coastal ecosystems in their adaptation strategies.<sup>282</sup>

Most recently, the United Nations Biodiversity Conference (COP15) gathered in Montreal, Canada in December 2022 to adopt and establish targets for the Kunming-Montreal Global Biodiversity Framework (Framework).<sup>283</sup> The Framework comprises 23 targets, including the aspiration to protect 30% of land and 30% of oceans by 2030 (30x30).<sup>284</sup> In conjunction with this, there is a clear commitment to invest in Indigenous-led conservation solutions for marine ecosystems. Stephen Guilbeault, the Canadian Minister of Environment and Climate Change asserts:

<sup>277</sup> *United Nations Declaration on the Rights of Indigenous Peoples*, see Article 8, Article 26, and Article 32.

<sup>278</sup> Implementing the *United Nations Declaration on the Rights of Indigenous Peoples Act* (2023) online: Government of Canada <[<sup>279</sup> \*The Paris Agreement\* \(2016\), online: United Nations Climate Change <<https://unfccc.int/process-and-meetings/the-paris-agreement>>](https://www.justice.gc.ca/eng/declaration/index.html#:~:text=On%20June%2021%2C%202021%2C%20the,Assent%20and%20came%20into%20force.></a></p>
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<sup>280</sup> *Key aspects of the Paris Agreement* (2023) Online: United Nations Climate Change. <https://unfccc.int/most-requested/key-aspects-of-the-paris-agreement#:~:text=The%20Paris%20Agreement's%20central%20aim,further%20to%201.5%20degrees%20Celsius>.

<sup>281</sup> *The Paris Agreement* (2016), online: United Nations Climate Change <<https://unfccc.int/process-and-meetings/the-paris-agreement>>

<sup>282</sup> *Ibid*, *Key aspects of the Paris Agreement*

<sup>283</sup> *Kunming-Montreal Global Biodiversity Framework* (2022), online: Conference of the parties to the convention on biological diversity <<https://www.cbd.int/doc/c/e6d3/cd1d/daf663719a03902a9b116c34/cop-15-l-25-en.pdf>>

<sup>284</sup> *Ibid*, *Kunming-Montreal Global Biodiversity Framework*

The Framework also recognizes the rights and role of Indigenous peoples, something Canada strongly advocated for. For our part, we took major steps forward in partnership with Indigenous communities, including support for new Indigenous-led projects that will help us halting and reversing biodiversity loss and achieving 30 by 30 while advancing on the path of reconciliation.<sup>285</sup>

The Canadian federal government is providing \$800 million over seven years to numerous Indigenous-led conservation initiatives, including a First Nations Guardian Network, the establishment of two significant IPCAs and millions of dollars for ocean restoration projects.<sup>286</sup> With this, the federal government is claiming to undertake a massive shift in the way conservation decisions are made, to make sure that Indigenous Peoples are “in the driver’s seat.”<sup>287</sup> While eelgrass or blue carbon is not directly discussed in the biodiversity framework, the first three targets of the framework connect to Indigenous governance of coastal and marine ecosystems.<sup>288</sup> The most salient is Target 3, which states:

Ensure and enable that by 2030 at least 30 percent of terrestrial, inland water, and of coastal and marine areas, especially areas of particular importance for biodiversity and ecosystem functions and services, are effectively conserved and managed through ecologically representative, well-connected and equitably governed systems of protected areas and other effective area-based conservation measures, recognizing indigenous and traditional territories, where applicable, and integrated into wider landscapes, seascapes and the ocean, while ensuring that any sustainable use, where appropriate in such areas, is fully consistent with conservation outcomes, recognizing and respecting the rights of indigenous peoples and local communities, including over their traditional territories.<sup>289</sup>

The Framework has been ratified by 196 countries, all of whom are endeavouring to achieve these targets, including Canada. For Canada, this international collaboration is influencing all efforts to protect coastal and marine ecosystems and to do this with Indigenous Peoples. While

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<sup>285</sup> *COP15 statement from the Minister of Environment and Climate Change* (2022), Online: Government of Canada <<https://www.canada.ca/en/environment-climate-change/news/2022/12/cop15-statement-from-the-minister-of-environment-and-climate-change.html>>

<sup>286</sup> Ainslie Cruickshank, *Canada made big promises to save nature at COP15 Will it follow through?* (2022), Online: *The Narwhal* <<https://thenarwhal.ca/cop15-nature-agreement-canada/>>

<sup>287</sup> *Ibid*, *Canada made big promises to save nature at COP15. Will it follow through?*

<sup>288</sup> *Kunming-Montreal Global Biodiversity Framework* (2022), online: Conference of the parties to the convention on biological diversity <<https://www.cbd.int/doc/c/e6d3/cd1d/daf663719a03902a9b116c34/cop-15-l-25-en.pdf>>

<sup>289</sup> *Ibid*, *Kunming-Montreal Global Biodiversity Framework*

IPCAs are not included in the Canadian state ecosystem protection accounting, there is potential for this to change in the near future through the Framework. As we will see in the next section on federal action, the state international trajectory shapes the evolution of the Canadian federal government's efforts to protect eelgrass with Indigenous Peoples. This Framework fosters potential for realizing Indigenous MLG for eelgrass ecosystems, as well as coastal and marine environments at large. This framework is the most significant because it acknowledges Indigenous People's rights and instrumental role in protecting biodiversity, which includes achieving Target 3: protecting 30% of coastal and marine environments by 2030. Additionally, the Government of Canada is already taking action on COP15 and investing funds into IPCAs, which is an indicator of how this framework is already facilitating a shift in environmental governance in Canada.

### 5.3 Federal Policy & Document Review

As discussed in Chapter 4, I participated in a series of blue carbon policy workshops held by the WWF from December 2021 to November 2022. Through this series and based on feedback from the “community of practitioners,” WWF has produced a Canadian federal blue carbon policy analysis. The policy analysis confirmed “the existence of a policy gap for blue carbon in Canada’s national policy regime.”<sup>290</sup> A majority of these documents (21 of 28) are from Fisheries and Oceans Canada and Environment and Climate Change Canada.<sup>291</sup> The WWF also identifies common themes and priorities among the policy documents, which encompasses the need to include Indigenous perspectives on conservation efforts, further understand critical ecosystems, mitigate climate change impacts and protect critical habitats/ecosystems.<sup>292</sup> I provide the results of my analysis of 10 federal policies to explore the presence of Indigenous authority, eelgrass, and/or eelgrass as a BCE as per my evaluative criteria. I discuss these documents in chronological order, and these include the following:

- Federal Policy on Wetland Conservation
- New Ecosystem Science Framework in Support of Integrated Management
- Pan Canadian Approach on Clean Growth and Climate Change

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<sup>290</sup> Dunn K, Kanagasabesan T, & Saunders S, *Blue Carbon in Canada: A Federal policy review* (November 2022), online: WWF Canada <[https://wwf.ca/wp-content/uploads/2022/11/WWF-Canada\\_BlueCarbonInCanada-AFederalPolicyReview\\_Report.pdf](https://wwf.ca/wp-content/uploads/2022/11/WWF-Canada_BlueCarbonInCanada-AFederalPolicyReview_Report.pdf)>

<sup>291</sup> Ibid, *Blue Carbon in Canada: A Federal policy review*, at page 5

<sup>292</sup> Ibid, at page 7

- The National Framework for the Network of Marine Protected Areas (MPAs)
- Fish and Fish Habitat Protection Policy
- *Aquaculture Act* Discussion Paper
- Building the Canada We Want in 2050: Engagement on the National Infrastructure Assessment paper
- *United Nations Declaration on the Rights of Indigenous Peoples Act*
- Blue Economy Strategy Engagement Paper
- Draft Framework for the Identification, Establishment and Management of Ecologically Significant Areas

### **5.3.1 Federal Policy on Wetland Conservation & New Ecosystem Science Framework in Support of Integrated Management**

The earliest Canadian policy that relates to eelgrass is the Federal Policy on Wetland Conservation signed in 1991 is a response to wetland loss in Canada and the pathway for wetland conservation. It contains no discussion of Indigenous Peoples and/or authorities.<sup>293</sup> Thus, all protection and restoration directives are entirely decided and implemented by the state government in this plan. While eelgrass is a type of marine wetland, eelgrass and blue carbon are not explicitly discussed in this policy, and conservation strategies are provided that are applied to wetlands more broadly.<sup>294</sup> Moving on to 2007, the New Ecosystem Science Framework in Support of Integrated Management was published, which also focuses on wetlands.<sup>295</sup> While these environments include eelgrass and there is shared jurisdiction of these environments with Indigenous Peoples, this document does not recognize this, and there is no mention of Indigenous Peoples or shared governance with Indigenous authorities in the framework. Both of these documents were written before the establishment of the term blue carbon, so this term is not included and since there is no Indigenous authority, there is no presence of Indigenous MLG.

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<sup>293</sup> *The Federal Policy on Wetland Conservation* (1991), online: Minister of Environment <<https://publications.gc.ca/collections/Collection/CW66-116-1991E.pdf>>

<sup>294</sup> *Ibid*, *The Federal Policy on Wetland Conservation*

<sup>295</sup> *A New Ecosystem Science Framework in Support of Integrated Management* (2007), online: Fisheries and Oceans Canada <[https://publications.gc.ca/collections/collection\\_2007/dfo-mpo/Fs23-521-2007E.pdf](https://publications.gc.ca/collections/collection_2007/dfo-mpo/Fs23-521-2007E.pdf)>

### 5.3.2 Pan Canadian Approach on Clean Growth and Climate Change

Fast forward a decade to 2017, and the policies, plans and frameworks begin to take a stronger position on collaboration with Indigenous Peoples, as well as coastal marine ecosystems as integral to climate, biodiversity, fisheries, and aquaculture functions. For instance, this is apparent in the Pan Canadian Approach on Clean Growth and Climate Change released in 2017.<sup>296</sup> This framework was created with input from Indigenous Peoples, and states the need for collaboration between the state government and Indigenous Peoples, and, specifically, is “based on recognition of rights, respect, cooperation, and partnership; recognizing the importance of Traditional Knowledge in regard to understanding climate impacts and adaptation measures.”<sup>297</sup> Details surrounding partnership-based work are not elaborated on in the framework, and the same applies to Indigenous governance and details around what shared authority might look like in practice. The framework also does not mention eelgrass or blue carbon but states that “Forests, wetlands, and agricultural lands across Canada will play an important natural role in a low-carbon economy by absorbing and storing atmospheric carbon.”<sup>298</sup> Again, this statement, which is repeated in the following policies, foreshadows the increasing attention wetlands and other coastal and marine ecosystems will receive as the climate crisis worsens.

### 5.3.3 The National Framework for the Network of Marine Protected Areas (MPAs)

The National Framework for the Network of Marine Protected Areas (MPAs) was also launched in 2017. This framework does not discuss collaborative development and decision-making with Indigenous governments and authorities around MPAs. Only the need to respect existing rights and activities is outlined: “a) respect federal/provincial/territorial government mandates and authorities; b) respect relevant provisions of applicable land claims agreements and treaties; and c) take into consideration harvesting by Aboriginal groups and others.”<sup>299</sup> The governance of MPAs is established at the bioregional scale, “preferably using existing multi-sector Integrated Oceans Management governance structure,” which can include

<sup>296</sup> *Pan-Canadian Framework on Clean Growth and Climate Change* (2016), online: Government of Canada <<https://www.canada.ca/content/dam/themes/environment/documents/weather1/20170125-en.pdf>>

<sup>297</sup> *Pan-Canadian Framework on Clean Growth and Climate Change* (2016), online: Government of Canada <<https://www.canada.ca/content/dam/themes/environment/documents/weather1/20170125-en.pdf>>

<sup>298</sup> *Ibid*, *Pan-Canadian Framework on Clean Growth and Climate Change*, at page 7

<sup>299</sup> *National Framework for Canada’s Network of Marine Protected Areas* (2011), online: Government of Canada <<https://www.dfo-mpo.gc.ca/oceans/publications/mpanf-cnzpm/index-eng.html>>

state government agencies, Indigenous Peoples, economic stakeholders (fishing, oil and gas, renewable energy, aquaculture, shipping and other industries), and environmental stakeholders. The framework states there is regional variation in the groups involved and there needs to be engagement from the beginning of any MPA planning process, which resembles Indigenous MLG in regards to co-production.<sup>300</sup> Both of these 2017 plans indicate a shift in governance and management relations with Indigenous Peoples, however, federal government authorities still retain an unbalanced amount of power in decision-making. This is because the Minister of Fisheries, Oceans and Canadian Coast Guard has the ultimate authority to establish new MPAs and determine regulations for the management and enforcement of MPAs in Canadian waters. This framework also discusses the protection of seagrasses as an important site of carbon storage but does not provide specific policy direction on eelgrass conservation.

#### **5.3.4 Fish and Fish Habitat Protection Policy & *Aquaculture Act* Discussion Paper**

The Fish and Fish Habitat Protection Policy Statement, published in 2019 and developed by the Department of Fisheries and Oceans (DFO) outlines fish and fish habitat protection provisions of the *Fisheries Act* and explains how DFO will implement these provisions.<sup>301</sup> The Policy Statement also explains how DFO can utilize regulatory and non-regulatory tools to assist in the conservation and protection of fish and fish habitat.<sup>302</sup> The Policy Statement applies to users and activities that can result in harmful impacts on fish or fish habitat, “specifically the death of fish by means other than by fishing or the harmful alteration, disruption or destruction of fish habitat.”<sup>303</sup>

Consultation with Indigenous Peoples is a requirement in the Policy Statement, and there is mention that through the *Fisheries Act*, the DFO Minister can delegate their/his/her authority to an Indigenous governing body “and to enter into agreements with Indigenous governing bodies to further the purposes of the *Fisheries Act*.”<sup>304</sup> Despite this, decision-making responsibility remains with the federal government, and there are no principles or mechanisms

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<sup>300</sup> Ibid, *National Framework for Canada’s Network of Marine Protected Areas*, at page 17

<sup>301</sup> *Fish and Fish Habitat Protection Policy Statement* (2019), online: Fisheries and Oceans Canada <<https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/40971193.pdf>>

<sup>302</sup> Ibid, *Fish and Fish Habitat Protection Policy Statement*, at page 5

<sup>303</sup> Ibid, at page 5

<sup>304</sup> Ibid, at page 11

discussed for collaborative governance or MLG with Indigenous Peoples.<sup>305</sup> While this policy is tangentially related to eelgrass as a critical fish habitat, the policy does not mention eelgrass or blue carbon and thus does not provide policy guidance for this ecosystem.<sup>306</sup>

Similarly, the *Aquaculture Act* Discussion Paper was released in 2021 by the Department of Fisheries and Oceans (DFO). The purpose of the Discussion Paper is to outline key elements and authorities that will be part of a new *Aquaculture Act*.<sup>307</sup> The Discussion Paper puts forward questions on public policy issues to garner feedback that will funnel into the legislative proposal.<sup>308</sup> The scope of the new legislation includes “foster national consistency, while respecting federal, provincial, and territorial jurisdiction; improve clarity and certainty for the industry; enhance environmental protection; and help sustainably grow the industry for the benefit of Indigenous and rural communities.”<sup>309</sup> In regards to sharing authority with Indigenous actors, the Discussion Paper touches on this as “Cooperation”, proposing that “the Aquaculture Act would clearly outline and enable forms of regulatory cooperation between governments, including Indigenous governing bodies.”<sup>310</sup> Besides this statement, there is no concrete information about approaches to aquaculture governance with Indigenous governments. This discussion paper is not inclusive of eelgrass or blue carbon but offers proposed modifications to the *Aquaculture Act*, which can support the health of BCEs. Encompassed in this is the importance of protecting fish habitats and prohibiting harmful activities that impact these ecosystems, prohibiting harmful chemicals into fish and fish habitats, and the unintentional or intentional introduction of exotic species.<sup>311</sup>

### 5.3.5 Building the Canada We Want in 2050: Engagement on the National Infrastructure Assessment Paper

Building the Canada We Want in 2050: Engagement on the National Infrastructure Assessment Paper (The Assessment), published in 2021, briefly mentions infrastructural progress made in partnership to date with Indigenous Peoples. The Assessment states the intent to

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<sup>305</sup> Ibid, at page 24

<sup>306</sup> Ibid, at page 24

<sup>307</sup> *A Canadian Aquaculture Act* (2021), online: Government of Canada <<https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/41008698.pdf>>

<sup>308</sup> Ibid, *A Canadian Aquaculture Act*

<sup>309</sup> Ibid, at page 7

<sup>310</sup> Ibid, at page 7

<sup>311</sup> *A Canadian Aquaculture Act* (2021), online: Government of Canada <<https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/41008698.pdf>>, at page 8

“examine and provide advice on how to improve coordination, collaboration and alignment among public and private sector infrastructure owners and funders, and in doing so will respect jurisdictional boundaries within Canada’s federation and the self-determination of Indigenous Peoples.”<sup>312</sup> Still, there are no details on collaborative decision-making about infrastructure assessments with Indigenous authorities, including for natural infrastructure. So, while there is no specific policy guidance on fully achieving Indigenous MLG, there is a policy aspiration to improve collaboration and adhere to Indigenous jurisdiction and self-determination. This engagement paper does not discuss eelgrass or blue carbon. Similar to other federal policies in this analysis, it recognizes the importance of ecosystems like wetlands as an important carbon sink.<sup>313</sup>

### ***5.3.6 United Nations Declaration on the Rights of Indigenous Peoples Act***

A major breakthrough for achieving Indigenous MLG for natural resources, including coastal and marine ecosystems is the *United Nations Declaration on the Rights of Indigenous Peoples Act* (UNDRIPA), which received royal assent in Canada and came into force in 2021.<sup>314</sup> The purposes of this Act are to “(a) affirm the Declaration as a universal international human rights instrument with application in Canadian law; and (b) provide a framework for the Government of Canada’s implementation of the Declaration.”<sup>315</sup> The Act requires the federal government, in consultation with Indigenous peoples, to “take all measures necessary to ensure the laws of Canada are consistent with the Declaration.”<sup>316</sup> Considering the purpose of the Act, and the intent to create a framework for the Government of Canada to implement UNDRIP, then stipulations related to natural resources in UNDRIP apply. Stipulations include UNDRIP recognizing Indigenous Peoples' right to ownership and control over their lands and resources. While coastal and marine environments are not discussed in this legislation, they are encompassed within Article 26 of UNDRIP. In Canada, this legislation is sanctioning a transformation in resource governance towards a collaborative approach, because ownership and

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<sup>312</sup> *Building the Canada We Want in 2050: Engagement Paper on the National Infrastructure Assessment (2021)*, online: Minister of the Office of Infrastructure of Canada <https://www.infrastructure.gc.ca/alt-format/pdf/nia-eni/nia-eni-doc-eng.pdf>

<sup>313</sup> *Ibid*, *Building the Canada We Want in 2050: Engagement Paper on the National Infrastructure Assessment*, at page 12

<sup>314</sup> *Declaration on the Rights of Indigenous Peoples Act*, SBC 2019, c 44, <<https://canlii.ca/t/544c3>> retrieved on 2023-02-13.

<sup>315</sup> *Ibid*, *Declaration on the Rights of Indigenous Peoples Act*

<sup>316</sup> *Background: United Nations Declaration on the Rights of Indigenous Peoples Act (2021)*, online: Government of Canada <<https://www.justice.gc.ca/eng/declaration/about-apropos.html>>

control over lands and resources also determines who Indigenous actors decide to enter into collaborative efforts with, like state governments.

### **5.3.7 Blue Economy Strategy Engagement Paper**

The Blue Economy Strategy Engagement Paper was also released in 2021. In terms of advancing Indigenous participation, the paper states this will be accomplished through “non-treaty agreements and other program agreements,” which can enable the identification of new ocean conservation and protection areas required to support ocean health and sustainability.<sup>317</sup> While the engagement paper does not go into depth on collaborative governance with Indigenous authorities, it points towards a strong intent to work as partners, stating that a Blue Economy Strategy could “Continue to advance, and co-develop with Indigenous communities, strong resource management, governance, enforcement, and regulatory frameworks focused on preserving the health of fish stocks and marine ecosystems.” While this engagement paper and the follow-up “What We Heard” report are not policies, there is potential for the final Blue Economy Strategy policy to include eelgrass as a blue carbon source and a strong emphasis on Indigenous authority. This is because out of all documents analyzed, this engagement paper explicitly discusses eelgrass as a blue carbon source as well as advancing the participation of Indigenous People in a Canadian blue economy. The release date for Canada’s Blue Economy Strategy is 2023 or 2024.

### **5.3.8 Draft Framework for the Identification, Establishment and Management of Ecologically Significant Areas**

The DFO’s Draft Framework for the Identification, Establishment and Management of Ecologically Significant Areas released in 2022 covers coastal and marine habitats more broadly but has the potential to be specifically applied to eelgrass and other blue carbon habitats.<sup>318</sup> The purpose of Ecologically Significant Areas (ESAs) is to “provide long-term enhanced conservation and protection of key areas for fish and fish habitat that are highly productive, sensitive, rare, or unique and to ensure effective restoration.”<sup>319</sup> The ESA Guiding Principles

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<sup>317</sup> *Blue Economy Strategy Engagement Paper* (2021), online: Fisheries and Oceans Canada <<https://waves-vagues.dfo-mpo.gc.ca/library-bibliotheque/40946721.pdf>>

<sup>318</sup> *National Framework for Identifying, Establishing, and Managing Ecologically Significant Areas* (2022), online: The King in Right of Canada <<https://talkfishhabitat.ca/images/resources/FLMABDZUnDzvazWfZOxg69LGvVN62tmbOtjWmpWD.pdf>>

<sup>319</sup> *Ibid*, *National Framework for Identifying, Establishing, and Managing Ecologically Significant Areas*

state that “ESAs will be identified, established and managed in collaboration with Indigenous Peoples, provinces and territories, and stakeholders and will be developed considering existing relevant government instruments within overlapping jurisdictions.”<sup>320</sup> In regards to sharing of authority, the framework recognizes Indigenous rights and notes that ESAs are a chance to strengthen the relationship between DFO and Indigenous Nations, uphold UNDRIP, and utilize an ecosystem-based approach.<sup>321</sup> Further details extrapolating what this will look like in practice are not included in the Draft Framework. In terms of governance, the Draft Framework states that governance structures will differ throughout Canada during ESA implementation.<sup>322</sup> The DFO holds the authority to make decisions on project authorization and collaboration with other government and non-government actors, which varies from project to project. However, the framework positions that ESAs will engage Indigenous Peoples throughout all phases of development and implementation, and this will be informed by Indigenous knowledge.<sup>323</sup> There is no information on decision-making structures between Indigenous and state governments or specific policies related to blue carbon and eelgrass protection or restoration solutions. While eelgrass or blue carbon are not identified in the Draft Framework, it is more than likely that BCEs like eelgrass will meet the criteria for an ESA, including supporting climate resiliency, supporting aquatic species of ecological importance, and being identified as a priority area of conservation by Indigenous Peoples.<sup>324</sup>

In this Canadian federal policy and document section, I have shown how over the last 30 years, federal policies are increasingly recognizing Indigenous rights and the requirement for Indigenous consultation and participation in decision-making about their lands and waters, as well as creating benefits for Indigenous Peoples. Although many of them are draft frameworks or policies, we see a shift from a sole focus on wetlands without the mention of eelgrass in the 1990s, to the federal government recognizing the importance of wetlands as vital carbon sinks, to the recognition of eelgrass as a significant blue carbon source in 2021. This transforming policy environment is a positive indicator for the Canadian state embracing more collaborative

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<sup>320</sup> Ibid, *National Framework for Identifying, Establishing, and Managing Ecologically Significant Areas*, at page 11

<sup>321</sup> Ibid, at page 11

<sup>322</sup> *National Framework for Identifying, Establishing, and Managing Ecologically Significant Areas* (2022), online: The King in Right of Canada <<https://talkfishhabitat.ca/images/resources/fLMABDZUnDzvazWfZOxg69LGvVN62tnbOtjWmpWD.pdf>>

<sup>323</sup> Ibid, *National Framework for Identifying, Establishing, and Managing Ecologically Significant Areas*, at page 8

<sup>324</sup> Ibid, at page 10

environmental work with Indigenous Peoples, including Indigenous MLG for marine ecosystems.

#### 5.4 Province of British Columbia Policy & Document Review

The policy landscape in British Columbia commands higher expectations for achieving Indigenous MLG with First Nations. Like the rest of Canada, the evolution of MLG between the Province of BC and First Nations is a complex and ongoing process that is shaped by historical, legal, and political factors. However, unlike the majority of Canada, 95% of British Columbia is untreated. This is with the exemption of the Historic Treaty 8 (1899) and the Douglas Treaties (1850-1854) on Vancouver Island as well as modern treaties including the Nisga'a Treaty (2000), Tsawwassen First Nation Treaty (2009), Maa-Nulth First Nations Treaty (2011) which encompasses 5 independent Indigenous governments, as well as the Tla'amin Treaty (2016).<sup>325</sup> These treaties address matters like land ownership, resource management, and governance.<sup>326</sup> With a vast majority of First Nations whose territories are unceded in BC, they may be pursuing their rights and title through the courts and/or by independently exerting their sovereignty outside of the courts, as discussed in Chapters 1 and 2.

A distinguishing factor of MLG in BC is the Province of BC passing the *Declaration on the Rights of Indigenous Peoples Act* in 2019.<sup>327</sup> This made BC the first jurisdiction in Canada to implement UNDRIP, and the Act was co-produced with Indigenous leaders and legal staff.<sup>328</sup> The accompanying DRIPA Action Plan was released in 2022, which aims to bring all BC policies and systems into consistency with this legislation as well as achieve the actionable goals outlined in the Action Plan. This section will analyze the Action Plan, as well as Province of BC policies and documents that relate to coastal marine ecosystems in chronological order of publication date. This includes provincial parks, Wildlife Management Areas (WMAs), CleanBC Roadmap to 2030, and the Crown Land Use Operational Policy. Amongst these policies, I analyze some that specifically impact Tla-o-qui-aht governance of eelgrass. Similar to the federal analysis, in

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<sup>325</sup> *History of Treaties in B.C.* (2023), Online: Government of British Columbia <[www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/about-first-nations-treaty-process/history-of-treaties-in-bc](http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/about-first-nations-treaty-process/history-of-treaties-in-bc)>

<sup>326</sup> *Ibid*, *History of Treaties in B.C.*

<sup>327</sup> *Ibid*, *History of Treaties in B.C.*

<sup>328</sup> *Declaration on the Rights of Indigenous Peoples Act Action Plan* (2022), Online: Government of British Columbia <[https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration\\_act\\_action\\_plan.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)>

the last decade, there have been massive strides made towards collaborative environmental governance with Indigenous Peoples - and recognizing Indigenous rights and self-determination. While these policies show promise for deepening collaborations with Indigenous Peoples and a stronger emphasis on eelgrass and blue carbon, these fall short as examples of Indigenous MLG.

#### 5.4.1 Provincial Parks

British Columbia has numerous categories of protected areas, including Class A, B or C parks, recreation areas, ecological reserves and conservancies. The policy objective of designating parks is oriented towards recreation: “preservation of their natural environments for the inspiration, use and enjoyment of the public.”<sup>329</sup> Additionally, many parks in BC have been state government-driven and created without consultation with First Nations, and have even been detrimental to First Nations since their genesis in 1911.<sup>330</sup> To reconcile state-controlled protected areas, the conservancy designation was created in 2006 and is the newest form of protected area designation.<sup>331</sup> Conservancies “aim to protect the landscape while allowing for the expression of Aboriginal rights within the protected area. In contrast, any ‘use’ within parks requires a park use permit, and hunting in some classes of parks is prohibited.”<sup>332</sup> The enactment of conservancies set a precedent for shared authority between the province and First Nations. Specifically, First Nations and the Province of BC can enter into collaborative management agreements for conservancies.<sup>333</sup>

First Nations often lead the process of identifying new areas that need to be preserved from large-scale development, while ensuring that social-cultural as well as ecologically important areas receive protection.<sup>334</sup> There are no specific policy directions to protect eelgrass within general conservancy policies; however, within conservancy management plans, there is guidance provided on eelgrass.<sup>335</sup> For example, the Fiordland Conservancy and Pooley

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<sup>329</sup> *Types of parks and protected areas* (2022), online: Government of BC <<http://www.env.gov.bc.ca/bcparks/about/docs/summary-of-pa-designations-activities.pdf?v=1579743803602>>

<sup>330</sup> Deborah Curran, “Legalizing’ the Great Bear Rainforest Agreements: Colonial Adaptations Toward Reconciliation and Conservation” (2017) 62:3 *Water International* 813.

<sup>331</sup> *Summary of Protected Area Designations and Allowable Activities* (2013), online: BC Parks <[https://nrs.objectstore.gov.bc.ca/kuwyf/summary\\_of\\_pa\\_designations\\_activities\\_33db19a9c5.pdf](https://nrs.objectstore.gov.bc.ca/kuwyf/summary_of_pa_designations_activities_33db19a9c5.pdf)>

<sup>332</sup> Deborah Curran, “Legalizing’ the Great Bear Rainforest Agreements: Colonial Adaptations Toward Reconciliation and Conservation” (2017) 62:3 *Water International* 813.

<sup>333</sup> *Ibid.*, “Legalizing’ the Great Bear Rainforest Agreements: Colonial Adaptations Toward Reconciliation and Conservation”

<sup>334</sup> David R Boyd, *Unnatural law: Rethinking Canadian environmental law and policy* (Canada: UBC Press, 2003).

<sup>335</sup> *Ibid.*, *Summary of Protected Area Designations and Allowable Activities*.

Conservancy, established in 2006 by the Kitsoo/Xai'xais First Nation and BC Parks, has the accompanying Fiordland Conservancy and Pooley Conservancy Draft Management Plan. The Plan outlines management objectives for the abundant marine species in the protected area. Eelgrass is defined as one of these species, and the management strategies include monitoring and evaluation, including for impacts of climate change; conducting restoration work; addressing and preventing sewage and other sources of water pollution; setting up a water quality monitoring program for the marine environment - including analyzing the impacts of boat traffic; and assisting in the construction of an oil spill preparedness plan.<sup>336</sup>

In sum, conservancies are a form of protected area that are recognized by both Indigenous and the provincial state government. Conservancies are an opportunity for equitable sharing of power through participating actors entering into management agreements. As demonstrated by the Fiordland Conservancy, the management plans can encompass protection and restoration objectives for coastal and marine environments, including BCEs. Thus, conservancies hold great potential for the continued realization of Indigenous MLG for BCEs in BC.

#### 5.4.2 Wildlife Management Areas

According to the WCEL blue carbon policy analysis, the most relevant provincial policies for managing blue carbon include the Management of Crown Lands for Conservation Purposes, a policy released in 2015.<sup>337</sup> Under this policy, the Province of BC is responsible for establishing processes for managing Crown land for conservation purposes, including making decisions regarding Wildlife Management Areas. There is no mention in the policy around collaborative governance or management with First Nations in BC. However, the plan does state “Conservation staff will be responsible for addressing First Nations, stakeholder or public conflicts that arise in connection with a reserve/withdrawal proposal.”<sup>338</sup> Identifying conservation lands and WMAs as well as providing direction on the current process to record Crown land intended for inclusion in a proposed WMA designation all fall under the sole authority of the

<sup>336</sup> Kitsoo/Xai'xais First Nation & BC Parks, *Fiordland Conservancy and Pooley Conservancy Draft Management Plan* (2018), online: <[www.llbc.leg.bc.ca/public/pubdocs/bcdocs2018\\_2/688735/fiordland-pooley-draft-mp-for-public-review-20180807.pdf](http://www.llbc.leg.bc.ca/public/pubdocs/bcdocs2018_2/688735/fiordland-pooley-draft-mp-for-public-review-20180807.pdf)>

<sup>337</sup> *Land Act, RSBC 1996, c 245, Management of Crown Land for Conservation Purposes* (2016), online: Government of BC <[https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crownland/conservation\\_crown\\_land.pdf](https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crownland/conservation_crown_land.pdf)>.

<sup>338</sup> *Ibid, Management of Crown Land for Conservation Purpose*

provincial government.<sup>339</sup> While the WMA Plan addresses conservation areas more broadly, many WMAs in British Columbia endeavour to protect eelgrass ecosystems, including in the Tofino Mudflats Wildlife Management Area.

Under the *Wildlife Act*, the Province of BC can designate Wildlife Management Areas (WMAs).<sup>340</sup> Of direct relevance to Tla-o-qui-aht First Nation is the Tofino Mudflats Wildlife Management Area, which lies within Tla-o-qui-aht's Tribal Parks. This was designated by the provincial Ministry of Water, Land and Air Protection (MWLAP) in 2000 and has an accompanying management plan.<sup>341</sup> The Tofino Mudflats WMA designation encompasses 1770 hectares of tidal flats and 338 hectares of terrestrial lands, including marshes, tidal channels, and eelgrass beds.<sup>342</sup> The objective of the management plan is to protect the WMA environment while balancing human uses. Within this, a large emphasis is on protecting birds and preserving bird habitat, including migrating shorebirds who use the mudflats as a stopover during their annual migration.<sup>343</sup> Additionally, the Tofino Mudflats WMA management plan claims that "the Tofino mudflats contain the largest eelgrass beds on the west coast of Vancouver Island."<sup>344</sup> The stated intent of the plan to work closely with Tla-o-qui-aht as well as the many policy directions related to eelgrass that implicate Tla-o-qui-aht make this policy worthwhile to explore further.

This Tofino Mudflats WMA management plan does not explain the governance of this designated area. However, it discusses a collaborative process for designing the management plan for the protected area, including Tla-o-qui-aht who provided feedback and general support.<sup>345</sup> The management plan also recognizes Tla-o-qui-aht as the traditional landowners and outlines their historical and current uses.<sup>346</sup> Within this, the management plan states the need to continue consulting and working with Tla-o-qui-aht on new mudflat developments and land use actions. Furthermore, the plan communicates Tla-o-qui-aht's objective to co-manage the mudflats and recommends the MWLAP consider avenues for achieving this, including initiating

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<sup>339</sup> *Ibid*, *Management of Crown Land for Conservation Purpose*

<sup>340</sup> *Wildlife Act, RSBC 1996, c 488* (2023), online: BC Laws <[https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96488\\_01](https://www.bclaws.gov.bc.ca/civix/document/id/complete/statreg/96488_01)>

<sup>341</sup> *Tofino Mudflats Wildlife Management Area Management Plan* (2000), online: Ministry of Water, Land and Air Protection <<https://tofino.civicweb.net/document/54/>>

<sup>342</sup> *Ibid*, *Tofino Mudflats Wildlife Management Area Management Plan*

<sup>343</sup> *Ibid*, at Section 2.0

<sup>344</sup> *Ibid*, at Section 7.1

<sup>345</sup> *Ibid*, at Section 4.2

<sup>346</sup> *Tofino Mudflats Wildlife Management Area Management Plan* (2000), online: Ministry of Water, Land and Air Protection <<https://tofino.civicweb.net/document/54/>>

a Guardian Program.<sup>347</sup> In relation to scaling Tla-o-qui-aht's involvement, the plan urges that the "MWLAP management of the WMA could provide positive opportunities for capacity building (e.g. offering youth internships for those interested in ethnobotany, biology, resource management, tourism etc.)."<sup>348</sup> This recommendation applies to all youth in the region, including those from Tla-o-qui-aht who will be the future leaders involved in stewarding the territory.

The Tofino Mudflats WMA management plan outlines many recommendations for enhancing ecosystem health within the designated area. First, I will discuss the suggestions that directly reference Tla-o-qui-aht, which have ramifications for eelgrass. This includes "Establish a guardian program with a terms of reference."<sup>349</sup> At the time of the WMA designation and publication of the management plan, Tla-o-qui-aht did not have an established Guardian program, however, they have now been operating one since 2009. There has come to fruition solely through Tla-o-qui-aht for the management and stewardship of the Tribal Parks, with a desire to increase Guardian activity across the territory, including in the Tofino Mudflats WMA. The next recommendations state: "Consult with Tla-o-qui-aht when considering land use and developments" and "Ensure open lines of communication with the Tla-o-qui-aht to ensure that protection of critical habitat in the WMA is maintained post-treaty settlement."<sup>350</sup> While this does not reflect full Indigenous MLG, it points to the need for consultation and ongoing dialogue with Tla-o-qui-aht for protecting habitats like eelgrass in the WMA. It is worth noting that at the time of the designation and publication of the management plan, Tla-o-qui-aht was in treaty negotiations with the provincial and federal governments but exited the treaty process in 2001.<sup>351</sup> Tla-o-qui-aht exited the Nuu-chah-nulth collective treaty process but went on to negotiate on its own until the failure of the Tla-o-qui-aht Agreement-in-Principle in 2012.

Recommendations from the Tofino Mudflats WMA that are more specific to eelgrass and Tla-o-qui-aht authority include deliberating temporal and spatial zoning in the marine environment, specifically to limit recreation and hunting, with Tla-o-qui-aht and key stakeholders.<sup>352</sup> Additionally, the plan states that seasonal boating restrictions during shorebird

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<sup>347</sup> Ibid, *Tofino Mudflats Wildlife Management Area Management Plan*, at Section 13.5

<sup>348</sup> Ibid, at Section 13.5

<sup>349</sup> Ibid, at Section 13.3

<sup>350</sup> Ibid, at Section 25

<sup>351</sup> *A Chronology of Key Events* (2023), online: First Nations Summit  
<<https://fns.bc.ca/treaty-negotiation-process-in-bc/treaties-a-timeline>>

<sup>352</sup> Ibid, *Tofino Mudflats Wildlife Management Area Management Plan*, Section 15.1

migrations should also be examined.<sup>353</sup> While this is oriented around bird management, this recommendation is aligned with boating restrictions like Areas to be Avoided (ATBAs) for protecting blue carbon sources like eelgrass, especially during herring spawning season.<sup>354</sup> Another recommendation that is consistently seen in other eelgrass policies and reports is based on water quality monitoring, ensuring that levels of quality are met for thriving fish and wildlife and that “[s]ources of pollution should be identified and eliminated,” as well as the need to “[m]onitor creeks and other watercourses that lead from areas within the WMA and adjacent to the WMA for detrimental fertilizers, herbicides, sediments, debris and other streamside degradation.”<sup>355</sup> Finally, the last recommendation targets float homes which are not properly regulated in Clayoquot Sound, many of which have a detrimental impact on eelgrass and are established illegally and without First Nations’ consent. The plan urges that occupancy in the WMA should be considered in light of management objectives, community perspectives and the housing crisis, as well as land use compatibility.<sup>356</sup> In the discussion chapter, I will reflect on this state government designation and how the Tofino Mudflats WMA has the opportunity to transform in light of an expanding Guardian Program and Tribal Parks planning.

### 5.4.3 Crown Land Use Operational Policy: Floating Home Community

The Province of BC has jurisdiction over land tenures for activities on the seabed, which includes aquaculture, float homes, fishing lodges, marinas, private moorage, telecommunications infrastructure, wind power, and ocean energy.<sup>357</sup> Under the provincial *Land Act*<sup>358</sup> is the Crown Land Use Operational Policy: Floating Home Community, last amended in 2019 under the authority of the Ministry of Forests.<sup>359</sup> Section 4.1 of the policy states “Applications for floating home community use of aquatic Crown land will not be accepted.”<sup>360</sup> However, the Ministry may make an exception for a float home community to be established if “sufficient documentation” of

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<sup>353</sup> *Tofino Mudflats Wildlife Management Area Management Plan* (2000), online: Ministry of Water, Land and Air Protection <<https://tofino.civicweb.net/document/54/>>

<sup>354</sup> *Ibid*, *Tofino Mudflats Wildlife Management Area Management Plan*, at Section 15.4

<sup>355</sup> *Ibid*, Section 25

<sup>356</sup> *Ibid*, Section 25

<sup>357</sup> *A Coastal Marine Strategy for British Columbia: Policy Intentions Paper* (2022), online: Government of BC <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

<sup>358</sup> *Land Act* (Ch. 245, R.S.B.C., 1996)

<sup>359</sup> *Land Use Operational Policy Floating Home Community* (2019), online: Government of British Columbia <[https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/floating\\_home.pdf](https://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/natural-resource-use/land-water-use/crown-land/floating_home.pdf)>

<sup>360</sup> *Ibid*, *Land Use Operational Policy Floating Home Community*

the development is supported by the local government. While local government - a level of delegated provincial state government - is mentioned, consulting with or receiving consent and support from Indigenous governments is omitted. There is also an absence in the policy on approaches to ecosystem management, including how float homes may impact integrated uses like fishing, hunting, access and recreation in Tla-o-qui-aht territory.<sup>361</sup>

While this policy exists to manage the establishment of float homes, many float homeowners continue to set up residences in Tla-o-qui-aht territory. Float homes can negatively impact eelgrass beds, and need to be managed carefully to mitigate ecological harm. In Tla-o-qui-aht territory, there are approximately 90 float homes, most of which do not have approval in principle from the Ministry of Forests. Despite this, float homeowners pay the fees for their illegal occupation to the Province of BC, although they are not high enough to deter them from continued residency. First Nations in BC, including Tla-o-qui-aht, continue to subsidize the presence of float homes in their territories while foregoing important activities like hunting, harvesting, and recreation.

#### **5.4.4 Provincial Climate Action Plan: CleanBC Roadmap to 2030**

In BC, the province's climate plan, CleanBC, and the accompanying CleanBC Roadmap to 2030, released in 2021, was developed with input from Indigenous Peoples across the province and is intended to cultivate stronger collaborations with Indigenous Peoples by “ensuring they share in decision making and the prosperity created in the low carbon economy.”<sup>362</sup> Included in this is developing policy frameworks for negative emissions technologies (NETs), which can support BC in reaching climate targets. The plan encompasses blue carbon sinks as NETs and states that once NETs are quantified, they can play a role in carbon offsets.<sup>363</sup> This can build off the forest carbon offset work, most notably between Coast First Nations with the Great Bear Initiative and the provincial government. The province intends to develop a new B.C. Forest Carbon Offset Protocol to continue expanding access to carbon-offset markets to Indigenous communities in BC.<sup>364</sup> Additionally, one of the key

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<sup>361</sup> Sensitive data from anonymous semi-structured interviews.

<sup>362</sup> *CleanBC Roadmap to 2030* (2021), online: Government of BC <[https://www2.gov.bc.ca/assets/gov/environment/climate\\_change/action/cleanbc/cleanbc\\_roadmap\\_2030.pdf](https://www2.gov.bc.ca/assets/gov/environment/climate_change/action/cleanbc/cleanbc_roadmap_2030.pdf)>

<sup>363</sup> *Ibid*, *CleanBC Roadmap to 2030*, at page 64

<sup>364</sup> *Ibid*, at page 56

initiatives of CleanBC is the Coastal Restoration Fund, which provides funding to support the restoration and conservation of coastal and marine ecosystems, including eelgrass and salt marshes. This program aims to improve the resilience of these ecosystems and enhance their carbon sequestration capacity. Funding has gone to collaborative projects like the salt marsh estuary restoration project that is currently taking place in the Comox Valley between K’omoks First Nation, Project Watershed and the City of Courtenay.<sup>365</sup>

#### **5.4.5 Declaration on Indigenous Peoples Act Action Plan**

The *Declaration on Indigenous Peoples Act* (DRIPA) and Action Plan establish a stronger foundation for Indigenous MLG in Canada, as Canadian laws are meant to be consistent with this legislation. Specifically, the DRIPA Action Plan provides direction on the actions the Province of BC will take in collaboration with Indigenous Peoples across BC from 2022-2027.<sup>366</sup> The Action Plan states that it has been developed “in consultation and cooperation with Indigenous Peoples,” and implementation will also reflect this approach.<sup>367</sup> The implementation and tracking of progress implementation will also be transparent and reviewed and reported on annually.<sup>368</sup> Finally, the Action Plan claims to “enable and support government-to-government relationships between Indigenous Peoples and the Province based on recognition and implementation of the rights of Indigenous Peoples.”<sup>369</sup> So, while this Action Plan is a product of the provincial government, it lays a pathway for increased intersocietal agreements and collaborations with Indigenous Peoples, which is explored in the next section.

In regards to Indigenous authority, power relations and co-production, the first theme is titled “Self-Determination and Inherent Right of Self-Government.” A goal under this theme is to “Co-develop with Indigenous Peoples a new distinction-based fiscal relationship and framework that supports the operation of Indigenous governments, whether through modern treaties, self-government agreements or advancing the right to self-government through other

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<sup>365</sup> *CleanBC is helping people take action on climate change* (2021), online: Government of BC <<https://cleanbc.gov.bc.ca/bc-actions/climate-action-stories/#ecosystems>>

<sup>366</sup> *Declaration on the Rights of Indigenous Peoples Act Action Plan* (2022), Online: Government of British Columbia <[https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration\\_act\\_action\\_plan.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)>

<sup>367</sup> *Ibid*, *Declaration on the Rights of Indigenous Peoples Act Action Plan*, at page 6

<sup>368</sup> *Ibid*, at page 6

<sup>369</sup> *Ibid*, at page 6

mechanisms.”<sup>370</sup> This goal intends to equalize relations between First Nation governments in BC and support First Nations in building financial capacity that will enable a greater expression of authority and ability to work on a wider scope of initiatives. Related to environmental governance, protection and management is an action under theme 2 of “Title and Rights of Indigenous People.” This goal states that Indigenous Peoples have the rights to “own, use, develop and control lands and resources within their territories in B.C.”<sup>371</sup> The action under this goal that is most specific to the environment and can be applied to blue carbon and eelgrass is “[c]o-develop strategic-level policies, programs and initiatives to advance collaborative stewardship of the environment, land and resources, that address cumulative effects and respects Indigenous knowledge.”<sup>372</sup> The plan states this can be brought to fruition through collaborative stewardship forums, guardian programs, land use planning initiatives, and other innovative partnerships.<sup>373</sup> This responsibility is attributed to numerous Ministries, including the Ministry of Water, Land and Resource Stewardship, which means there is potential for this to be achieved through the CMS.

Again, while eelgrass and blue carbon are specific details not mentioned in this plan, they can be protected and managed through this action. Eelgrass as a BCE can also help realize the action to “collaboratively develop and implement CleanBC and the Climate Preparedness and Adaptation Strategy to support resilient communities and clean economic opportunities for Indigenous Peoples that benefit our shared climate and advance reconciliation.”<sup>374</sup> Since BC has protected areas in Tla-o-qui-aht territory, the recommendation to “Draft a report with recommendations for how BC Parks can better reflect Indigenous Peoples’ histories and cultures in provincial parks and protected areas” is also relevant.<sup>375</sup>

To conclude this BC state government section, several policies in BC have and continue to be collaboratively developed with First Nations for the coastal and marine environment, some of which indirectly impact eelgrass and others provide specific policy guidance for eelgrass. We

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<sup>370</sup> Ibid, at page 11

<sup>371</sup> Ibid, at page 14

<sup>372</sup> Ibid, at page 15

<sup>373</sup> Ibid, at page 15

<sup>374</sup> *Declaration on the Rights of Indigenous Peoples Act Action Plan* (2022), Online: Government of British Columbia <[https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration\\_act\\_action\\_plan.pdf](https://www2.gov.bc.ca/assets/gov/government/ministries-organizations/ministries/indigenous-relations-reconciliation/declaration_act_action_plan.pdf)>

<sup>375</sup> Ibid, *Declaration on the Rights of Indigenous Peoples Act Action Plan*, at page 27

see this with the inclusion of blue carbon in documents like the CleanBC Climate Action Plan, reflecting the cultural and economic benefits of these ecosystems for First Nations. However, there are also outdated policies like the Crown Land Use Operational Policy, that impede Tla-o-qui-aht governance and adversely impact eelgrass ecosystems in Tla-o-qui-aht territory.

## **5.5 Intersocietal & Indigenous Policies, Agreements & Documents**

There is a growing number of Indigenous and Indigenous-state government declarations, plans and frameworks for coastal marine protection and management within Canada that are inclusive of blue carbon sources like eelgrass. In this section, I provide the results of my analysis of intersocietal agreements between Indigenous and state governments in Canada as well as plans led solely by Indigenous authorities to protect and restore eelgrass. Documents I analyze encompass G2G agreements, the Marine Protected Area Network BC Northern Shelf Initiative Network Action Plan, and collaborative marine plans like the Marine Planning Partnership (MaPP) and the Haida Gwaii Marine Plan. It is important to also highlight Indigenous plans that are constructed independently, and how intersocietal collaboration factors into these Indigenous plans, including the Tsleil-Waututh Nation’s Burrard Inlet Action Plan. This is resonant with the approach Tla-o-qui-aht has taken thus far with their Tribal Parks management plan and visioning, which is inclusive of collaborative governance but is declared independently by Tla-o-qui-aht. Overall, this modern era of marine and coastal conservation is coloured by a collaborative approach with Indigenous actors who are wielding a greater degree of authority through various mechanisms and actions. With this unfolding era, there is also a greater amount of attention on eelgrass among First Nations in BC. Thus, while there is substantial work needed to revitalize eelgrass health in territories across BC, the policies and documents presented in this section offer sound groundwork upon which to advance Indigenous authority for eelgrass and other BCEs.

### **5.5.1 Government-to-Government Agreements**

There is a growing number of G2G agreements between the Province of BC and First Nations, spanning from 2012 to 2021. First, this includes Atmospheric Benefit Sharing Agreements, which create a pathway for First Nations to sell carbon credits and “clarify First Nations ownership and the right to sell tonnes of carbon in local or international carbon

markets.”<sup>376</sup> Additionally, these agreements can only be made once a Reconciliation Protocol or agreement is reached with a First Nation, which is discussed next.<sup>377</sup> Currently, Coastal First Nations (2015), Gwa'sala-'Nakwaxda'xw Nations (2018), Kitselas First Nation (2018), Haida Nation (2019), and Nanwakolas First Nations (2016) all have Atmospheric Benefit Sharing Agreements with the Province of BC.<sup>378</sup> A key component of this agreement is the Forest Carbon Offset Protocol (FCOP), which “provides guidance for the procedures used in the modelling of forest ecosystem carbon.”<sup>379</sup> Essentially, this is a standardized method used across the province for measuring forest carbon and the system of offsetting based on this. Currently, there are no G2G agreements and carbon offset protocols for BCEs like eelgrass.

Reconciliation agreements between the Province of BC and First Nations are another form of a G2G agreement. These agreements reconcile Indigenous and Crown titles and jurisdictions as well as “focus on closing socio-economic gaps that separate Indigenous people from other British Columbians and building a province where all citizens can participate in a prosperous economy.”<sup>380</sup> By addressing this gap, First Nations have greater authority in the management of the resources on their territory and avenues to benefit from these resources. An example of this agreement, signed in 2020, is the Coastal First Nations Memorandum of Understanding - Pathway to Reconciliation: Long-Term Economic, Social, Governance and Environmental Sustainability, between the Gitga'at, Gitxaala, Haida, Heiltsuk, Kitasoo, Metlakatla, Nuxalk, Wuikinuxv First Nations (Coastal First Nations) and the Province of BC.<sup>381</sup> This agreement intends to develop a vision for long-term collaborative governance, including regional governance arrangements “that will lead to more effective and efficient natural resource

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<sup>376</sup> *Protocol for the Creation of Forest Carbon Offsets in British Columbia*. Online: Government of British Columbia. <<https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/other-docs/forest-carbon-offset-protocol.pdf>>

<sup>377</sup> *Ibid*, *Protocol for the Creation of Forest Carbon Offsets in British Columbia*

<sup>378</sup> *Atmospheric Benefit Sharing Agreements*, online: Government of BC <[www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/atmospheric-benefit-sharing-agreements](http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/atmospheric-benefit-sharing-agreements)>

<sup>379</sup> *Ibid*, *Protocol for the Creation of Forest Carbon Offsets in British Columbia*

<sup>380</sup> *Reconciliation & Other Agreements* (2023), online: Government of British Columbia.

<<https://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/reconciliation-other-agreements>>

<sup>381</sup> *Coastal First Nations Memorandum of Understanding - Pathway to Reconciliation: Long-Term Economic, Social, Governance and Environmental Sustainability* (2020) online: Government of British Columbia

[https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/coastal\\_first\\_nations\\_mou\\_signed\\_-\\_july\\_2020.pdf](https://www2.gov.bc.ca/assets/gov/environment/natural-resource-stewardship/consulting-with-first-nations/agreements/coastal_first_nations_mou_signed_-_july_2020.pdf)

management.”<sup>382</sup> A strong arc of this agreement is also focused on economic and employment opportunities for Coastal First Nations, as well as addressing the increasing threat of climate impacts to coastal areas:

The vision is motivated by a shared belief of the importance of arrangements that reflect the right of Indigenous self-determination, supported by fiscal self-reliance. It is also founded on the reality of a collective global responsibility to protect the natural environment in the face of daunting climate change challenges.<sup>383</sup>

This statement incorporates the Indigenous MLG principle of governance arrangements that respect and are guided by Indigenous self-determination. Next, the agreement declares the importance of protecting ecosystems that have a special role in mitigating the climate. In relation to eelgrass, interests expressed in the MOU include cooperative marine stewardship, environmental monitoring, new forms of stewardship area designations, as well as supporting Marine Plan Partnership (MaPP) implementation.<sup>384</sup> While the plan does not provide policy direction on eelgrass, it contains a work plan breaking down CFN and provincial government responsibilities, including representatives from both bodies to participate in meetings and engaging one another on joint initiatives.<sup>385</sup> Tangentially related to this is the Regional Action Framework developed in 2016 for the MaPP, which includes explicit guidance on blue carbon conversation. This is expressed in Action 3.1(c): “Engage in the Province of British Columbia’s blue carbon assessment framework to estimate the potential for marine carbon sequestration in the MaPP region.”<sup>386</sup> To date, this assessment framework has not been developed, but this is an encouraging action to see within an Indigenous MLG process for eelgrass and other BCEs.

### **5.5.2 Haida Gwaii Marine Plan & Land-Sea-People Management Plan**

The Haida Gwaii Marine Plan, released in 2015, is a collaboration between the Council of the Haida Nation and the Province of BC.<sup>387</sup> The plan is a result of cooperative planning

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<sup>382</sup> Ibid, *Coastal First Nations Memorandum of Understanding - Pathway to Reconciliation: Long-Term Economic, Social, Governance and Environmental Sustainability*, at page 1-2

<sup>383</sup> Ibid, at page 1

<sup>384</sup> Ibid, at page 22

<sup>385</sup> Ibid, at page 9

<sup>386</sup> Ibid, at page 32

<sup>387</sup> *Haida Gwaii Marine Plan* (2015), online: Haida Nation & Province of British Columbia <[https://www.haidanation.ca/wp-content/uploads/2017/05/MarinePlan\\_HaidaGwaii\\_WebVer\\_21042015-opt-1.pdf](https://www.haidanation.ca/wp-content/uploads/2017/05/MarinePlan_HaidaGwaii_WebVer_21042015-opt-1.pdf)>

processes and depends on collaborative governance as well as integrated management to maintain vital marine ecosystems.<sup>388</sup> These actors engage in joint decision-making, where they seek consensus on land, coastal marine and natural resource actions.<sup>389</sup> In regards to blue carbon, the plan utilizes an ecosystem-based management (EBM) approach, which utilizes adaptive management and response as well as integrating economic, cultural and recreational activities.<sup>390</sup> Specifically, under ecological values, the marine plan recognizes the importance of the foreshore environment - the interface where land and sea meet. The strategies to protect and maintain blue carbon sources like eelgrass beds are summarized in Table 4. Specific targets and pathways for implementation are not discussed in the plan. To fulfill these strategies, marine spatial zoning is employed as a tool to manage the many economic uses and activities in the area.<sup>391</sup> The zones serve the purpose to “inform decision-makers and potential proponents on recommended allowable uses when considering resource and tenure decisions on activities within the jurisdictional mandate and authority of the provincial and CHN governments.”<sup>392</sup>

The Haida Gwaii Marine Plan is an example of MLG because of successful coordination between various levels of government, and this also demonstrates that MLG does not have to be short-term, as this plan is still active. This also demonstrates a holistic approach to governance and environmental management, as well as knowledge integration in action, as both the Haida Nation and the Province of BC combine their knowledge and expertise in this plan that is managing and protecting the marine environment.

**Table 4: Haida Gwaii Marine Plan Eelgrass Strategies<sup>393</sup>**

Strategy	Description
#1.1A	Develop guidelines and standards for monitoring and protection of key ecological features, as required. Examples – Estuaries, eelgrass meadows,

<sup>388</sup> Ibid, *Haida Gwaii Marine Plan*, at page 1

<sup>389</sup> Ibid, at page 7

<sup>390</sup> Ibid, at page 7

<sup>391</sup> Ibid, at page vii

<sup>392</sup> Ibid, at page vii

<sup>393</sup> Ibid, at page 23-40

	kelp forests, essential habitat for a variety of species, tidal lagoons and sloughs, deep water habitats (e.g., coral and sponge reefs).
<b>#1.1B</b>	Work with relevant agencies to identify priority areas and habitat for restoration; develop, implement and build on existing restoration plans. Examples – Eelgrass beds, estuaries.
<b>#1.1C</b>	Develop and implement effective communications and outreach strategies to increase awareness and understanding of natural history values and their sensitivity to human activities, natural disturbances, and environmental change.
<b>#1.1D</b>	Establish a network of marine protected areas to increase resilience and protect marine habitats and biodiversity. In particular, consider climate change in the siting and design of the network. Examples – Emphasize network design criteria that promote ecosystem resilience, such as size and connectivity; include protection of ecosystems that are efficient at sequestering “blue carbon” (e.g., eelgrass, wetlands, kelp beds).

In 2019, the Council of the Haida Nation also completed the Land-Sea-People Management Plan with the Government of Canada. This plan provides the pathways for the Archipelago Management Board (AMB) “to manage Gwaii Haanas from mountaintop to seafloor as a single, interconnected ecosystem.”<sup>394</sup> This plan is also the culmination of decades of collaborative governance between the Haida Nation and the federal government, including “making decisions that respect dual authorities and laws.”<sup>395</sup> Goals and objectives for the next decade are also described, including zoning plans for land and sea, which are integrated with obligations of the Gwaii Haanas Agreement, the Constitution of the Haida Nation, the Canada National Parks Act and the Canada National Marine Conservation Areas Act.<sup>396</sup> Building on over 25 years of experience working together, the first goal of this plan is to “[i]mplement effective

<sup>394</sup> Gwaii Haanas Gina, *Waadluxan KilGuhlGa Land-Sea-People Management Plan* (2018) online: Council of the Haida Nation & Government of Canada < <https://www.canada.ca/en/parks-canada/news/2018/11/gwaii-haanas-gina-waadluxan-kilgulhga-land-sea-people-management-plan.html>>

<sup>395</sup> *Ibid*, *Gwaii Haanas Gina 'Waadluxan KilGuhlGa Land-Sea-People Management Plan*, at page 2

<sup>396</sup> *Ibid*, at page 2

collaboration for planning and management” including through the AMB reaching consensus on all issues, including Marine Protected Area Network planning and implementation of the Pacific North Coast Integrated Management Area Plan.<sup>397</sup> The AMB’s decisions are also informed by numerous knowledge sets, such as Haida traditional knowledge and laws, local knowledge and science.<sup>398</sup> This is an example of the longevity of MLG, and how successfully achieving this governance arrangement can create further instances of MLG.

Many goals in the Land-Sea-People Management Plan tangentially connect to eelgrass and blue carbon, like Goal 4: Fostering ecologically sustainable resource use that benefits Haida Gwaii communities, like tourism and fisheries.<sup>399</sup> Under this goal, there are objectives for minimizing marine vessel impact on ecosystems, including improving marine navigation through the use of buoys and markers.<sup>400</sup> Of course, the goal of protecting, conserving and restoring biodiversity is also related, including creating action plans for AMB identified species like Pacific herring and a herring rebuilding strategy, as well as an “invasive species biosecurity plan that includes prevention, detection and adaptive response measures, is developed and implemented by 2019.”<sup>401</sup> Though there is no mention of eelgrass in Goal 4 objectives and targets, in the future, there is a chance this ecosystem will be prioritized for restoration, as stated in the plan “AMB-identified priority restoration projects (e.g., salmon streams, kelp forests, contaminated sites) are developed and implemented where appropriate.”<sup>402</sup> An eelgrass-specific target is captured in Goal 5: Advance knowledge and understanding of Gwaii Haanas: establishing long-term monitoring programs and datasets for species like eelgrass, as well as maintaining and improving these systems over time.<sup>403</sup> The objectives and targets in this plan uphold Indigenous authority, demonstrate sustainable and effective collaboration between Indigenous and state governments, work to build capacity and economic prosperity within the Haida Nation, as well as conserve, protect and restore ecological and cultural values. The Haida

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<sup>397</sup> Ibid, at page 3

<sup>398</sup> Ibid, at page 3

<sup>399</sup> Gwaii Haanas Gina, *Waadluxan KilGuhlGa Land-Sea-People Management Plan* (2018) online: Council of the Haida Nation & Government of Canada <  
<https://www.canada.ca/en/parks-canada/news/2018/11/gwaii-haanas-gina-waadluxan-kilgulhga-land-sea-people-management-plan.html>>

<sup>400</sup> Ibid, *Waadluxan KilGuhlGa Land-Sea-People Management Plan*, at page 20-21

<sup>401</sup> Ibid, at page 17

<sup>402</sup> Ibid, at page 17

<sup>403</sup> Ibid, at page 23

Gwaii Marine Plan and the Land-Sea-People Plan are strong examples of an Indigenous MLG arrangement that is treating the marine environment, which has specific guidance on eelgrass.

### 5.5.3 Tsleil-Waututh Nation's Burrard Inlet Action Plan

In contrast to the G2G approach with marine planning between the Council of the Haida Nation and the Province of BC and the Government of Canada, the Burrard Inlet Action Plan (Action Plan) was developed by Kerr Wood Leidal Associates Ltd. (KWL) on behalf of the Tsleil-Waututh Nation (TWN) in 2017. While the Action Plan is led by TWN, it depends on the input from experts and resource managers, including individuals from state government authorities such as DFO, Environment Canada, BC Ministry of Environment, educational institutions as well as ENGOS.<sup>404</sup> The Action Plan has numerous purposes, including identifying issues contributing to environmental degradation in the Inlet, cultivating a shared vision for environmental management, as well as establishing solutions to enhance the ecological integrity of Burrard Inlet by 2025.<sup>405</sup> The short-term priorities for TWN include “re-opening Indian Arm to traditional shellfish harvesting, ensuring safe, clean water in the Central Harbour and elsewhere in Burrard Inlet for cultural and spiritual practices, and enhancing key estuaries.”<sup>406</sup> In this way, the Action Plan is intended to guide and inform coordination, and does not have accompanying state regulations.

The Action Plan also does not include any guidance or details around governance. However, best management practices are discussed throughout the Action Plan, which includes working with state government and non-government authorities. Guiding principles for environmental recovery are also identified, which explicitly state the need for collaboration across sectors.<sup>407</sup> This includes using the best available science, incorporating traditional ecological knowledge, using the precautionary principle, focusing on restoration - not just protection, aiming for cost-effective and efficient solutions to problems, addressing the root

<sup>404</sup> Ker Wood Leidal & Tsleil-Waututh, Burrard Inlet Action Plan: *A Tsleil-Waututh Perspective* (2017), online: The Tsleil-Waututh Nation Sacred Trust initiative <[twnsacredtrust.ca/wp-content/uploads/2023/01/201711\\_Burrard\\_Inlet\\_Action-Plan\\_2017\\_Version\\_FINAL.pdf](https://twnsacredtrust.ca/wp-content/uploads/2023/01/201711_Burrard_Inlet_Action-Plan_2017_Version_FINAL.pdf)>; This includes Simon Fraser University and the University of British Columbia, Pacific Wildlife Foundation and SeaChange Marine Conservation Foundation, among others, for a full list please see the Action Plan.

<sup>405</sup> Ker Wood Leidal & Tsleil-Waututh, Burrard Inlet Action Plan: *A Tsleil-Waututh Perspective* (2017), online: The Tsleil-Waututh Nation Sacred Trust initiative

<sup>406</sup> Ibid, Burrard Inlet Action Plan: *A Tsleil-Waututh Perspective*, at page iii

<sup>407</sup> Ibid, at page 60

causes of degradation, thinking long-term, embracing human presence as part of the Burrard Inlet ecosystem, and, finally, collaborating with others able to effect change. As the Action Plan states: “Collaboration can multiply recovery actions and increase what can be done versus acting alone. Coordinated, collaborative actions are generally more likely to be successful as they can drastically increase the sphere of influence.”<sup>408</sup> Included within the collaboration section is the recommendation to “develop a Formal Partnership Model for Burrard Inlet Stewardship” from a whole of ecosystem approach alongside the Musqueam and Squamish Nations.<sup>409</sup> This is needed to address the coordinating capacity gap for environmental management in Burrard Inlet.<sup>410</sup> This model also has the potential to be inclusive of non-government organizations (e.g., Vancouver Aquarium, Georgia Strait Alliance), as well as interested levels of state governments.<sup>411</sup>

While blue carbon is not explicitly mentioned in the Action Plan, there is a significant focus on estuaries and eelgrass. This includes 2025 performance targets: TWN has set the target of increasing 50 hectares in estuarine habitat basin-wide and an increase in at least 25% habitat area in each of five different estuaries. For eelgrass, there is no set target as baseline data is required.<sup>412</sup> Overall recovery goals for Burrard Inlet will positively influence eelgrass systems, including: improving water quality and reducing contamination through targets like initiating a water quality monitoring working group and review monitoring, reporting, and oversight of authorized industrial discharges, as well as working with local governments to designate and keep Burrard Inlet as a no-discharge zone for boats.<sup>413</sup> Another strategy is protecting and enhancing fish and wildlife habitat, including the goal to “[c]onduct more detailed mapping and assessment of trends in the extent and condition of important nearshore habitats, such as estuaries, salt marshes, tidal mudflats, eelgrass meadows, kelp beds, and productive beaches,” as well as “[m]ap potential forage fish spawning habitat and develop a habitat suitability model for different species.”<sup>414</sup> Concerning eelgrass, the plan also sets goals for protecting and recovering key species populations and food webs, protecting and restoring biophysical processes/ecological integrity, and identifying and tracking emerging issues. To achieve these goals, 16 strategies and

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<sup>408</sup> Ibid, at page 69

<sup>409</sup> Ibid, at page 94

<sup>410</sup> Ibid, at page 94

<sup>411</sup> Ibid, at page 94

<sup>412</sup> Ibid, at page VIII

<sup>413</sup> Ker Wood Leidal & Tsleil-Waututh, Burrard Inlet Action Plan: *A Tsleil-Waututh Perspective* (2017), online: The Tsleil-Waututh Nation Sacred Trust initiative

<sup>414</sup> Ibid, Burrard Inlet Action Plan: *A Tsleil-Waututh Perspective*, at page V

66 actions have been identified which will contribute most significantly to ecosystem recovery in Burrard Inlet in the next 5 to 10 years.

In sum, this solely Indigenous-led action plan demonstrates a clear pathway for enhancing the health of eelgrass meadows in Tla-o-qui-aht territory and establishes the ways that state government authorities and non-government actors can support the strategies and actions to achieve this. In this sense, this plan is not necessarily MLG but is an example of Indigenous governance that directs collaboration with other actors for management, operations and implementation.

#### **5.5.4 The Marine Protected Area Network BC Northern Shelf Initiative Network Action Plan**

The Marine Protected Area Network BC Northern Shelf Initiative Network Action Plan was released in 2023 and is a partnership between Gitga’at, Gitxaala, Haisla, Kitselas, Kitsumkalum, Metlakatla, Heiltsuk, Kitasoo Xai’xais, Nuxalk, Wuikinuxv, Mamalilikulla, Kwiakah, Tlowitsis, and Wei Wai Kum First Nations; Council of the Haida Nation; the Province of BC; and the Government of Canada. This Action Plan was collaboratively developed through this trilateral partnership between the aforementioned actors, along with input from other Indigenous governments, local governments, stakeholders, and the public.<sup>415</sup> This Action Plan is “intended to serve as a blueprint to guide implementation of a Network of Marine protected areas (MPAs) in the Northern Shelf Bioregion” in British Columbia.<sup>416</sup> Furthermore, the Action Plan discusses the approach for designing the MPA network, as well as the recommendations for implementation, governance and adaptive management, “these next steps, including the development of detailed management plans for individual MPAs within the Network, are expected to be undertaken through collaborative governance and management agreements.”<sup>417</sup> All of the recommendations aim to bring the shared vision of all partners to fruition: a robust

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<sup>415</sup> *MPA Network BC Northern Shelf Initiative* (2023) online: Network Action Plan <[https://mpanetwork.ca/wp-content/uploads/2022/11/MPA\\_Network-Action-Plan\\_web.pdf](https://mpanetwork.ca/wp-content/uploads/2022/11/MPA_Network-Action-Plan_web.pdf)>

<sup>416</sup> *Ibid*, *MPA Network BC Northern Shelf Initiative*, at page 14

<sup>417</sup> *MPA Network BC Northern Shelf Initiative* (2023) online: Network Action Plan <[https://mpanetwork.ca/wp-content/uploads/2022/11/MPA\\_Network-Action-Plan\\_web.pdf](https://mpanetwork.ca/wp-content/uploads/2022/11/MPA_Network-Action-Plan_web.pdf)>

network of MPAs that protects biodiversity as well as the overall health of the marine environment for present and future generations.<sup>418</sup>

Marine protected areas vary in their conservation objectives and their stipulations for ecological protection. There is also a range of tools for designating protected areas in the coastal and marine environment in Canada and BC, including National Marine Conservation Area Reserves (NMCARs), marine National Wildlife Areas (NWAs), *Oceans Act* Marine Protected Areas, and Provincial Parks, Ecological Reserves, Conservancies and Wildlife Management Areas.<sup>419</sup> While IPCAs are not included in this list, the Action Plan states that IPCAs in coastal and marine environments can help support the achievement of local and network conservation goals and objectives.<sup>420</sup>

The Action Plan also provides specific ecological and cultural conservation objectives for eelgrass meadows within different MPA zones throughout BC. Eelgrass conservation is identified 108 times throughout this plan throughout different MPA zones. For example, in Zone 455, there is guidance to conserve species that are a priority to First Nations, including “estuary protection, important salmon habitat, eelgrass habitat and significant historical herring spawn locations.”<sup>421</sup>

The Action Plan is a strong example of current MLG for marine protection, including a co-productive approach, enhancing of Indigenous authority, the building of trusting relationships and a holistic systems-based approach: An approach to governance that considers the interconnectedness of social, economic, cultural, and ecological facts of the MPA zones. While the guidance for eelgrass is very high level, it is still clearly a priority. The plan’s sentiment around IPCAs is also not anomalous, this is echoed in other recent provincial documents, including the Coastal Marine Strategy Intentions Paper.

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<sup>418</sup> *MPA Network BC Northern Shelf Initiative* (2023) online: Network Action Plan <[https://mpanetwork.ca/wp-content/uploads/2022/11/MPA\\_Network-Action-Plan\\_web.pdf](https://mpanetwork.ca/wp-content/uploads/2022/11/MPA_Network-Action-Plan_web.pdf)>

<sup>419</sup> *Ibid*, *MPA Network BC Northern Shelf Initiative*, at page 15

<sup>420</sup> *Ibid*, at page 15

<sup>421</sup> *Ibid*, at page 98

### 5.5.5 Assembly of First Nations: Marine Indigenous Protected and Conserved Areas Recommendations

The Fifth International Marine Protected Areas Congress (IMPAC5) is a global forum that brings together ocean conservation actors to mobilize around marine protected areas. In preparation for IMPAC5, held in February 2023 in Vancouver, the Assembly of First Nations (AFN) published their report “Marine Indigenous Protected and Conserved Areas: Opportunities and Recommendations for Realizing Canada’s Commitments to Reconciliation and Marine Conservation” in January 2023.<sup>422</sup> The AFN is the “national, political organization of First Nations governments and their citizens, including those living on and off reserve.”<sup>423</sup> All Chiefs in Canada have a member seat in the Assembly, and there are 634 member First Nations.<sup>424</sup> The role and function of the AFN is to “serve as a nationally delegated forum for determining and harmonizing effective, collective, and co-operative measures on any subject matter that the First Nations delegate for review, study, response, or action, and to advance the aspirations of First Nations.”<sup>425</sup> The AFN assists First Nations by organizing, facilitating and advocating for policy change, including empowering the First Nations to lead this change. In 2021, the First Nations-in-Assembly “passed a resolution to mandate the AFN’s advocacy on the creation of Marine IPCAs to support First Nations’ leadership in conserving their marine and coastal waters.”<sup>426</sup> This report follows in the wake of this resolution, providing recommendations to the Government of Canada for legally recognizing marine IPCAs as a form of reconciliation and an avenue to achieve ambitious ocean protection goals, including 30x30.

The AFN puts forward 21 short and long term-recommendations that are organized into 3 categories: 1) operational, 2) policy and legislative, and 3) funding and capacity.<sup>427</sup> The short-term items are specific to DFO to enable the establishment of IPCAs by First Nations

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<sup>422</sup> *Marine Indigenous Protected and Conserved Areas: Opportunities and recommendations for realizing Canada’s commitments to reconciliation and marine conservation* (2023), online: Assembly of First Nations. <<https://afn.bynder.com/m/18f2621b593d7591/original/Marine-Indigenous-Protected-and-Conserved-Areas-Final-Report-January-2023.pdf>>

<sup>423</sup> *Ibid*, *Marine Indigenous Protected and Conserved Areas: Opportunities and recommendations for realizing Canada’s commitments to reconciliation and marine conservation*, at page 2

<sup>424</sup> *Ibid*, at page 2

<sup>425</sup> *Ibid*, at page 2

<sup>426</sup> *Ibid*, at page 3

<sup>427</sup> *Ibid*, at page 3

through a co-designation approach.<sup>428</sup> Whereas, the long-term recommendations apply to all federal agencies as they require legislative and regulatory reform for establishing marine IPCAs.<sup>429</sup> In this report, the AFN stresses the importance of a whole-of-government approach to achieve First Nations' led stewardship efforts, which is urgent, yet will require years to accomplish.<sup>430</sup> Recommendations throughout the report also reflect Indigenous MLG principles, including building trust as well as a holistic long-term approach to relationship that is Nation-to-Nation and government-to-government.<sup>431</sup>

While eelgrass and other BCEs are not mentioned within this report, the entire focus of this document is marine IPCAs, which encapsulate all marine ecosystems. Out of the entire 21 recommendations, there are 5 that directly satisfy my evaluative criteria. The first important recommendation is an extension of the concept of Ethical Space from the Indigenous Circle of Experts (ICE) report. Ethical Space is described as a framework for IPCA engagement, to foster relationships between Indigenous and state governments for reconciliation and legal pluralism that are rooted in inclusivity, respect, and meaningful sharing of authority.<sup>432</sup> With Ethical Space in mind, recommendation 7C states: "Identify First Nation partners with experience in establishing IPCAs, who can provide important guidance to DFO on efforts to collaboratively advance marine IPCAs."<sup>433</sup> Ideas on how this recommendation can be achieved through Tla-o-qui-aht's marine efforts will be elaborated on in the discussion chapter.

Indigenous laws are the foundation for IPCAs and the AFN position that state government interviewees for the report share concerns around this, including enforceability.<sup>434</sup> AFN offers that a solution may be through collaborative governance agreements and management plans, which is already being achieved with co-designated MPAs.<sup>435</sup> Key to this is ensuring Indigenous legal orders are recognized and implemented through current legislative and policy tools.<sup>436</sup> Recommendation 11 speaks to this point directly: "DFO to work with First

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<sup>428</sup> Ibid, at page 3

<sup>429</sup> Ibid, at page 3

<sup>430</sup> Ibid, at page 3

<sup>431</sup> Ibid, at page 3-36

<sup>432</sup> Ibid, *Marine Indigenous Protected and Conserved Areas: Opportunities and recommendations for realizing Canada's commitments to reconciliation and marine conservation*, at page 30

<sup>433</sup> Ibid, at page 31

<sup>434</sup> Ibid, at page 32

<sup>435</sup> Ibid, at page 32

<sup>436</sup> Ibid, at page 32

Nations to identify existing policy and legislative tools (e.g. Section 4.2 of the Fisheries Act) to support the meaningful recognition and implementation of Indigenous laws in the co-designation of marine IPCAs.<sup>437</sup> This fulfills the evaluative criteria because the whole point of this is to buttress Indigenous authority and have Indigenous laws and governance recognized, respected and abided by on the same level as state government laws.

Finally, the AFN report carves out long-term recommendations for enabling marine IPCAs. They state that IPCAs in Canada have mostly been established through co-designation and a consensus-based collaborative governance approach.<sup>438</sup> However, many Indigenous Nations aspire for IPCAs to be Indigenous-led and designated, which can be recognized and upheld by state governments, “but not reliant on co-designation.”<sup>439</sup> Interviewees in the report share that because of operational, legislative, legal, and funding limitations, IPCA work should be looking to expand the co-designation model as well as develop tools to support solely Indigenous-led IPCAs. In conjunction with this, the report underlines the importance of *DRIPA* legislation in BC and federal *UNDRIPA* legislation as a tool for setting up and exercising joint-decision making bodies, which can directly bolster Indigenous-led IPCAs.<sup>440</sup>

In the report, the Indigenous MLG principle of flexibility is emphasized: “Under this approach, it will be important to ensure that collaborative governance agreements established today allow for this evolution over time.” Furthermore, IPCAs are distinctive: they differ between First Nations. Interviewees note that IPCAs will look different depending on the First Nation. As a result, the long-term recommendations need to support Indigenous-led IPCAs without falling into a “prescriptive approach that may limit individual Indigenous Nations’ vision for marine IPCAs.”<sup>441</sup> These recommendations will apply to all appropriate federal authorities that can assist in marine IPCA establishment, including DFO, Environment and Climate Change Canada, and Parks Canada.<sup>442</sup> Additional Indigenous MLG principles for enabling Indigenous-led IPCA that are expressed in the AFN report include integration of Indigenous

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<sup>437</sup> Ibid, at page 32

<sup>438</sup> Ibid, at page 33

<sup>439</sup> Ibid, at page 33

<sup>440</sup> Ibid, at page 35

<sup>441</sup> Ibid, *Marine Indigenous Protected and Conserved Areas: Opportunities and recommendations for realizing Canada’s commitments to reconciliation and marine conservation*, at page 35

<sup>442</sup> Ibid, at page 35

knowledge as well as joint stewardship.<sup>443</sup> In conjunction with this, recommendation 18 is “Confirm formal participation at the First Nations Nature Table and empower it to review all related policy, regulation, and legislation, to address issues that enable the establishment of Indigenous-led IPCAs.”<sup>444</sup> The First Nations Nature Table is a mechanism for ensuring that IPCAs being recognized by state governments is still designed by and for Indigenous Peoples, which includes Indigenous authority being upheld first and foremost.

From state government sections through to this intersocietal agreements section, I have shown the shift from state government policies with Indigenous consultation and involvement to full-on collaborative governance agreements with Indigenous Peoples as well as Indigenous-led marine planning. In this section, we have seen the roster of possibilities for making this happen, including government-to-government agreements, co-designations for marine IPCAs, enacting new legislation and reforming existing legislation for recognizing and supporting Indigenous-led IPCAs, jointly established marine plans, as well as Indigenous-led marine plans without the creation of IPCAs. These agreements are the most progressive for enabling Indigenous MLG for marine ecosystems, including eelgrass as a blue carbon source. This is because there is full sharing of authority and decision-making powers, and there are equitable benefits gained from these agreements while lowering barriers and increasing opportunities for Indigenous Peoples to grow their economies as well as lead in culturally informed ecological stewardship.

Additionally, the most recent 2023 AFN report, shows a clear indication of the need to establish pathways for co-designated marine IPCAs as well as Indigenous-led marine IPCAs that are supported by state governments. Both of these pathways are integral for Indigenous Peoples to have the most freedom in deciding what is the best option for their governance and protection of their territories. All of this has obvious implications for protecting, restoring and conserving eelgrass, and what is important to recognize is that there will be no one size fits all approach for this type of ecosystem - it will be dependent on each and every coastal First Nation in BC and how they want to pursue this work.

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<sup>443</sup> Ibid, at page 36

<sup>444</sup> Ibid, at page 36

## 5.6 Local Government Policies, Agreements & Documents

Local governments are not considered a constitutional order of government. Instead, authority is delegated to them through provincial legislatures.<sup>445</sup> As discussed in Chapter 1, the Province of BC allocates certain powers to local governments through the *Local Government Act*, which includes regional and municipal governments.<sup>446</sup> Through this regulation, local governments have the agency to establish bylaws.<sup>447</sup> As it relates to environmental protection, municipalities have greater authority to regulate the environment and wildlife in comparison to regional governments.<sup>448</sup> They also have authority relative to determining land use, including the regulation of shoreline development.<sup>449</sup> West Coast Environmental Law shares that municipal jurisdictional perimeters expand over the foreshore by a few hundred metres, and “can also exercise zoning powers over the surface of the water in this area and the foreshore” as long as this does not obstruct provincial and federal jurisdiction.<sup>450</sup> Local government jurisdiction is also superimposed on the territories of Indigenous Peoples. Although local governments gain authority from the provincial government, many local governments in BC are proactive in working with the Indigenous Peoples whose land they are located on. Policy-based tools available to municipalities in influencing the protection and preservation of the coastline and foreshore will be explored in this section, including official community plans (OCP), environmental development permit areas (EDPAs), and zoning. Though local governments do not have sole authority to protect and manage BCEs, their direct interdependence on the environment, potential partnerships with Indigenous governments, as well as their set of policy tools provide an opportunity to protect and restore these environments.

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<sup>445</sup> *Local Government Act*, RSBC 2015, c 1

<sup>446</sup> *Local Government Bylaws* (2021), online: Government of British Columbia  
<https://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/bylaws>

<sup>447</sup> *Municipal Delegation of Powers or Duties* (2021) online: Government of British Columbia  
[www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/powers-services/municipal-powers-services/delegation-of-powers-or-duties&sa=D&source=docs&ust=1639446758407000&usg=AOvVaw2hzZea1YNUfJdpdDdykVH1](http://www2.gov.bc.ca/gov/content/governments/local-governments/governance-powers/powers-services/municipal-powers-services/delegation-of-powers-or-duties&sa=D&source=docs&ust=1639446758407000&usg=AOvVaw2hzZea1YNUfJdpdDdykVH1)

<sup>448</sup> Deborah Curran, *Green Bylaws Toolkit for Conserving Sensitive Ecosystems* (2016), online: Green Bylaws Toolkit  
[stewardshipcentrebc.ca/PDF\\_docs/GreenBylaws/GreenBylawsToolkit\\_2016.pdf](http://stewardshipcentrebc.ca/PDF_docs/GreenBylaws/GreenBylawsToolkit_2016.pdf)

<sup>449</sup> Hewson, S., Nowlan, L., Lloyd-Smith, G., Carlson D., & Bissonnette, M. (2020). Local Government. *Guide to coastal and ocean protection law in British Columbia*. West Coast Environmental Law.  
[wcel.org/publication/guide-coastal-and-ocean-protection-law-in-british-columbia](http://wcel.org/publication/guide-coastal-and-ocean-protection-law-in-british-columbia)

<sup>450</sup> *Ibid*, *Guide to coastal and ocean protection law in British Columbia*.

### 5.6.1 Development Permit Areas

To protect the shoreline environment, and connect the marine and upland infrastructure, Local governments are taking up environmental development permit areas (EDPAs).<sup>451</sup> The ACRD has Development Permit Areas throughout their jurisdiction. This includes Bamfield, Huu-ay-aht First Nations territory, an hour-and-a-half boat ride south from Tla-o-qui-aht territory. In 2014, the ACRD published the Development Permit Requirements Summary for Electoral Area “A” Bamfield. This document provides an overview of DPAs in Bamfield and states that these designations are made to guarantee that “the ecological values of riparian and wetland habitats have been considered prior to development and that measures will be taken to limit or avoid damage to these ecosystems.”<sup>452</sup> The general guidelines for DPA Area 1 “Riparian Areas Protection” include not building within 30 metres of major streams, and within 15 metres of all waterways, lakes and wetlands.<sup>453</sup> All construction taking place within the DPA 1 Area also requires a permit from the ACRD.<sup>454</sup> There is also DPA 4 Area “Coastal Protection”, which encompasses shoreline waters as well as fish and fish habitats. These areas are also intended to be protected by the DPA from degradation caused by development, and the DPA applies to all lands within 15 metres “measured horizontally in both landward and seaward directions, from the natural boundary of the ocean.” Again, similar to DPA Area 1, a permit for development is required from the ACRD.

While Huu-ay-aht First Nations territory and treaty lands are identified in a DPA map within this document, there is no discussion about consulting with Huu-ay-aht First Nations within the guidelines. This document states that full information and instructions about DPAs and permits are within the Bamfield OCP, and this may contain more information about working with Huu-ay-aht First Nation, including how their governance and authority may play into decisions around DPAs and development projects. While eelgrass meadows are captured in DPA Areas 1 and 4, eelgrass is only explicitly mentioned twice in the document. Justification for DPA

<sup>451</sup> Deborah Curran, *Green Bylaws Toolkit for Conserving Sensitive Ecosystems* (2016), online: Green Bylaws Toolkit <[stewardshipcentrebc.ca/PDF\\_docs/GreenBylaws/GreenBylawsToolkit\\_2016.pdf](http://stewardshipcentrebc.ca/PDF_docs/GreenBylaws/GreenBylawsToolkit_2016.pdf)>

<sup>452</sup> *REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT DEVELOPMENT PERMIT REQUIREMENTS SUMMARY ELECTORAL AREA ‘A’ BAMFIELD* (2014) online: Alberni-Clayoquot Regional District <<https://www.acrd.bc.ca/cms/wpattachments/wpID385atID2069.pdf>>

<sup>453</sup> *REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT DEVELOPMENT PERMIT REQUIREMENTS SUMMARY ELECTORAL AREA ‘A’ BAMFIELD*, at page 1

<sup>454</sup> *Ibid*, at page 1

4 states that coastal waters are a habitat to a diversity of fish, wildlife and plant species, including eelgrass, which is extremely sensitive to negative impacts from development.<sup>455</sup> Under DPA 4, there is specific guidance on development regarding docks and wharves, which is intended to protect a range of BCEs “Docks and wharves shall not extend over marshes or other productive foreshore areas, including critical areas such as eelgrass and kelp beds, shellfish beds, and fish habitats.”<sup>456</sup> While Huu-ay-aht First Nation is not specifically mentioned in the document, First Nations can guide DPAs for environmental protection, like eelgrass.

### 5.6.2 District of Tofino Official Community Plan

An OCP is a policy framework that acts as a guide for local government land use decision-making. Within these plans, local authorities can set out environmental principles, priorities, and actions to achieve alongside other orders of government.<sup>457</sup> Complementing OCPs, zoning bylaws can be established which implement the land use planning policies outlined in the OCP, which can regulate how land, building and other structures may be utilized.<sup>458</sup> The District of Tofino launched their Official Community Plan (OCP) in March 2021, Bylaw No. 1290. The DoT OCP intends to act as a land use framework that can bring the community’s vision for the future to fruition, which involves finding common ground between different uses and activities.<sup>459</sup> The OCP opens with a discussion of the protocol agreement with Tla-o-qui-aht that was signed in 2007, as the DoT is located on Tla-o-qui-aht territory.<sup>460</sup> The agreement states both governments' dedication to *Iisaak*, which is Nuu-chah-nulth for respect.<sup>461</sup> The agreement also states that the Tofino Mayor and Council along with the Tla-o-qui-aht Chief and Council “will meet quarterly to promote open and constructive dialogue and from time to time, joint meetings of the two governments shall be open to the public to inform and receive community input and feedback.”<sup>462</sup> This policy recognizes Tla-o-qui-aht’s authority as a governing body and states the

<sup>455</sup> Ibid, *REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT DEVELOPMENT PERMIT REQUIREMENTS SUMMARY ELECTORAL AREA 'A' BAMFIELD* (2014) online: Alberni-Clayoquot Regional District <<https://www.acrd.bc.ca/cms/wpattachments/wpID385atID2069.pdf>>, at page 17

<sup>456</sup> Ibid, *REGIONAL DISTRICT OF ALBERNI-CLAYOQUOT DEVELOPMENT PERMIT REQUIREMENTS SUMMARY ELECTORAL AREA 'A' BAMFIELD*, at page 18

<sup>457</sup> Deborah Curran (2016). *Green Bylaws Toolkit for Conserving Sensitive Ecosystems* <[stewardshipcentrebc.ca/PDF\\_docs/GreenBylaws/GreenBylawsToolkit\\_2016.pdf](https://stewardshipcentrebc.ca/PDF_docs/GreenBylaws/GreenBylawsToolkit_2016.pdf)>

<sup>458</sup> *Zoning Bylaw* (2023) online: Alberni-Clayoquot Regional District <<https://www.acrd.bc.ca/zoning-bylaw>>

<sup>459</sup> District of Tofino. (2021). *Official Community Plan Bylaw No. 1290*. <https://tofino.civicweb.net/document/46027>

<sup>460</sup> Ibid, *Official Community Plan Bylaw No. 1290*, at page 12

<sup>461</sup> Ibid, at page 13

<sup>462</sup> Ibid, at page 46

DoT's clear intention to work collaboratively with Tla-o-qui-aht. Reconciliation and conservation of the natural environment are also two of the seven key principles of the OCP. As it relates to core policies, the natural environment section of the OCP states that Tla-o-qui-aht and DoT are partners in protecting significant ecological sites.<sup>463</sup>

The DoT OCP was developed in consultation with residents, Tla-o-qui-aht, neighbouring Nuu-chah-nulth nations, local ENGOs, and the business community. The DoT achieved this through in-person open houses, online surveys, feedback forms, as well as direct communications between district staff and community members, organizations, and First Nations.<sup>464</sup> The OCP was written with the input of other government and non-government actors. However, the OCP itself is not a result of MLG as the plan was still independently written and ultimately decided upon by the District of Tofino Mayor, Council and staff. However, as it relates to foreshore management, the plan illustrates the potential for future instances of MLG in partnership with Tla-o-qui-aht. The plan does not explicitly mention eelgrass or blue carbon, but many policy directions relate to this ecosystem, most of which surround the Tofino Mudflats WMA.

In preserving the natural environment, the DoT puts forward the aspiration to enter into MLG arrangements: "Partner with First Nations, land owners, higher levels of governments, and community groups in the protection of natural parks, wild green spaces, and contiguous natural corridors."<sup>465</sup> Furthermore, the DoT states the desire to begin a dialogue with Tla-o-qui-aht about natural capital assets and ESF to enable long-term protection of watersheds in and adjacent to the DoT.<sup>466</sup> Eelgrass is encapsulated within these watersheds, and eelgrass as a blue carbon ecosystem can be treated as a natural asset and be further incorporated into ESFs. With Tla-o-qui-aht and aforementioned partners, the DoT also sets out the importance of protecting "large ecologically intact parcels of park land" adjacent to existing ocean, beaches, and sensitive foreshore areas. They state the need to mitigate habitat fragmentation and link sensitive ecosystems "such as aquatic habitats, to parks, greenways, or other natural areas."<sup>467</sup> To

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<sup>463</sup> Ibid, at page 46

<sup>464</sup> Ibid, at page 7

<sup>465</sup> Ibid, *Official Community Plan Bylaw No. 1290*, at page 46

<sup>466</sup> Ibid, at page 47

<sup>467</sup> Ibid, at page 47

safeguard the foreshore and overall marine ecosystem, the DoT also outlines the action to assist efforts to “improve the quality of stormwater and wastewater being discharged into Clayoquot Sound.”<sup>468</sup> The DoT OCP also outlines the intent to support the mapping, protecting, and restoring of all riparian and wetland zones within the DoT. Finally, the watershed policy states “Limit future development adjacent the provincially designated Wildlife Management Area to minimize negative impacts to the foreshore areas, natural vegetation, and natural water courses, water bodies and wetlands.”<sup>469</sup> This is a prime example of work that the DoT can undertake on land to follow Tla-o-qui-aht priorities, including mitigating negative impacts on eelgrass and the marine environment.

The 2021-2023 Strategic Plan also guides the DoT’s efforts and resources over this period. This plan lays out their current state of affairs, where they’re going, and how they plan to get there.<sup>470</sup> The DoT’s Vision to Action (V2A) Integrated Community Sustainability Plan provides the compass for the District’s strategic planning process.<sup>471</sup> The main substance of this plan is the priorities and key deliverables, which they have for two of their goals of “environment and climate emergency” as well as “corporate governance and capacity.”<sup>472</sup> In terms of both of these goals, the DoT outlines the key deliverable as “Work with the Tla-o-qui-aht Tribal Parks administration to ensure the protection of the Meares Island watershed, and explore the establishment services fees.” The DoT governance relies on these plans, all of which have a component recognizing Tla-o-qui-aht authority and identifying either principles and/or actions for working collaboratively. While there is no mention of eelgrass, there is direction for zones that include eelgrass, including the Tofino Mudflats.

### 5.6.3 Climate Action Plans

Eelgrass as a BCE has an obvious role in mitigating the climate crisis. While local government’s authority over the environment is limited, there are still ways that local government decisions and policies can impact BCEs, for better or for worse. In addition to an

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<sup>468</sup> Ibid, at page 47

<sup>469</sup> Ibid, at page 47

<sup>470</sup> *District of Tofino Strategic Plan 2021-2023* (2021), online: District of Tofino <<https://tofino.civicweb.net/filepro/documents/14589/?preview=110976>>, at page 2

<sup>471</sup> Ibid, *District of Tofino Strategic Plan 2021-2023*, at page 5

<sup>472</sup> Ibid, at page 2

OCP, another local government policy that can uphold Indigenous authority while tapping into eelgrass protection is a Climate Action Plan. The Province of BC asked local governments across the province to complete Climate Action Survey Programs in 2022. In their submission, the District of Tofino states they do not have a climate action plan but plan to undertake one in the next two years.<sup>473</sup> The Province of BC inquires about current climate initiatives and their outcomes for climate resilience, and the DoT shares “Support and pursue regular dialogue and collaboration opportunities with First Nations: working with the Tla-o-qui-aht Tribal Parks administration to ensure the protection of local watershed.”<sup>474</sup> While this plan does not mention eelgrass and blue carbon, this ecosystem is captured in the local watershed. Further, this report indicates DoT’s intention to work more closely with Tla-o-qui-aht and support work being done in the Tribal Parks. To build capacity to do climate work and build community resilience, the District of Tofino also states they need increased funding, an increase in partnerships and collaborations across all levels of government, and increased staff capacity.<sup>475</sup>

The ACRD also completed the Province of BC survey in 2022. Unlike the DoT, they state that they do not plan to do a climate action plan because of a lack of financial capacity.

## 5.7 Conclusion

In this chapter, I provide the results of my coastal and marine-based policy/document analysis, conducted using my evaluative criteria (see Table 3). These criteria are based on Indigenous MLG principles and the 2014 Tribal Parks Declaration. Criteria 1 examines the presence of Indigenous authority and if power dynamics are analyzed to achieve co-production. Criteria 2 examines the objectives, strategies and other solutions and/or opportunities for protecting eelgrass, a BCE. Overall, top-down state government policies colour the early coastal, marine and wetland protection era from the 1970s to the early 2000s. As a result of the Indigenous rights and resurgence movement, we see this begin to change in 2007 when UNDRIP was adopted by the UN General Assembly. This progress is further entrenched by state governments gesturing towards UNDRIP; BC in 2019 and Canada in 2021. Following 2007,

<sup>473</sup> *Local Government Climate Action Program Survey Submission Report: Tofino* (2022), online: Government of British Columbia <<https://tofino.civicweb.net/document/132080/>>

<sup>474</sup> *Ibid, Local Government Climate Action Program Survey Submission Report: Tofino*

<sup>475</sup> *Ibid, Local Government Climate Action Program Survey Submission Report: Tofino*

state government policies and plans start to include the recognition of Indigenous rights, the need for Indigenous consultation, and eventually, fulsome collaboration on coastal and marine policy, using environmental conservation as a means to achieve reconciliation, and putting funding and other resources towards IPCAs and other Indigenous-led protection measures. The best demonstrations of Indigenous-led and Indigenous MLG for coastal and marine ecosystems, including eelgrass, are the Council of the Haida Nation's Land-Sea-People Management Plan, Atmospheric Benefit Sharing Agreements and the Marine Protected Area Network BC Northern Shelf Initiative Network Action Plan. Based on the proliferation of these types of plans and agreements, coupled with the adoption of the Montreal-Kunming Global Biodiversity Framework, escalating Indigenous authority in the context of BCEs holds great promise.

In section 5.5, the results indicate a shift in environmental governance through the emergence of intersocietal policies and documents as well as solely Indigenous-led plans for the marine environment, and how this directly or indirectly influences eelgrass. There are also a few strong examples of MLG between Indigenous governments and state governments. While these examples do not directly deal with eelgrass, like Atmospheric Benefit Sharing Agreements, these examples are structured in a way that can be applied to eelgrass and other BCEs in the future. On another token, while there are no MLG policies or documents for BCEs, Indigenous and state government policies and documents from the last 5 years show a growing emphasis on BCEs, like eelgrass (Figure 9). State government documents tend to focus on BCEs as a strategy for mitigating the climate crisis, as a nature-based climate solution. Indigenous plans emphasize the need to protect and restore eelgrass meadows as a fish and wildlife habitat and for ecologically sustainable resource use like tourism and fisheries. Building on this burgeoning emphasis and based on the policy/document and interview analysis results, the discussion chapter will recommend optimal solutions for enhancing Tla-o-qui-aht authority in the marine environment for eelgrass meadows.

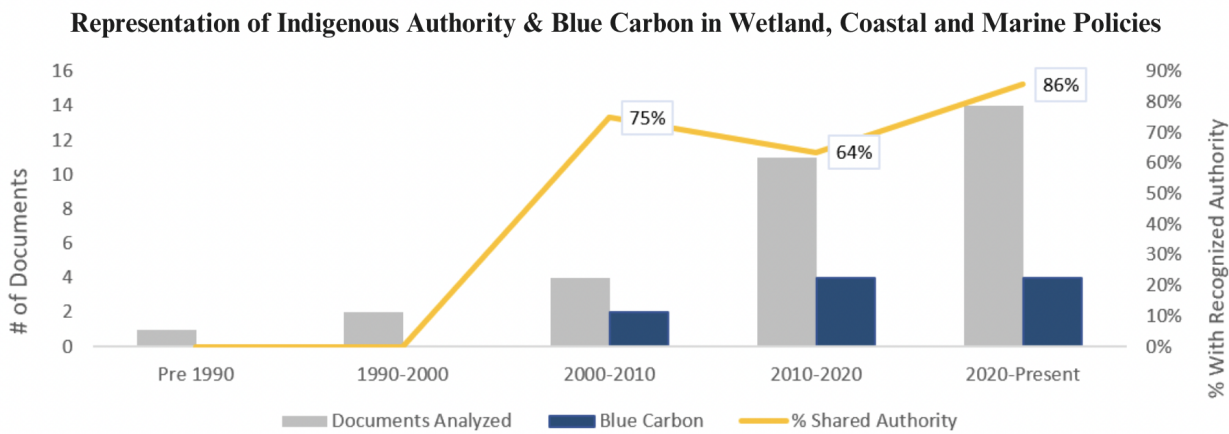


Figure 9: Representation of Indigenous Authority & Blue Carbon in Wetland, Coastal and Marine Policies

## CHAPTER 6: SEMI-STRUCTURED INTERVIEW ANALYSIS

### 6.1 Introduction

In this interview analysis, I present the results that participants find common ground on for enhancing Tla-o-qui-aht authority through their Tribal Parks in the marine environment, specifically for eelgrass. From November 2022 to February 2023, I conducted 14 interviews with 15 members and staff from Tla-o-qui-aht, state government elected officials and staff, environmental non-profit organizations (ENGOS), and convening organizations. These interviews explored enhancing Tla-o-qui-aht authority in the marine environment, specifically for eelgrass, and what solutions exist for enhancing eelgrass meadow vitality. Some of these solutions are Indigenous-led, and many invite collaboration in response to multi-jurisdiction in the marine environment. I apply the same evaluative criteria (see Table 3) utilized in the policy/document analysis, which is shaped by Indigenous MLG principles, eelgrass/blue carbon protection, and the 2014 Tla-o-qui-aht Tribal Parks Declaration. Considering that questions posed to participants were explicitly about Indigenous authority and eelgrass, all of the data fulfils the evaluative criteria in a multitude of ways.

The results also centre Indigenous governance, independently and in collaboration with state governments and non-government actors. Gisele Martin, a Tla-o-qui-aht member, Tribal Parks Guardian, Nuu-chah-nulth language and culture activist, and artist, expresses the significance of this approach. Gisele shares that we should “not jump to thinking of co-governance right away, but just think of Indigenous governance straight off the bat. What can we do to support and empower Indigenous governance?”<sup>476</sup> So, while eelgrass meadows grow where jurisdictions overlap, they can still be solely governed by Indigenous governments, with management, operational and enforcement support from state government and non-government actors. Thus, while eelgrass and other BCEs can benefit from an MLG approach, a majority of interviews clarify that governance must begin with Tla-o-qui-aht authority in their territory. Indigenous MLG is only possible in this context when it is decided on as a framework for collaboration by Tla-o-qui-aht as a reflection of their authority.

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<sup>476</sup> Gisele Martin, interviewed on November 16, 2022, at page 8

In structuring these results, I intended to mirror the policy analysis. However, participants do not engage with state-led international solutions, so there is no section on this topic. Participants rarely respond with jurisdictional language, and they also do not offer purely state government solutions. The bulk of solutions brought forward by participants are Tla-o-qui-aht led, or the solutions are collaborative between Tla-o-qui-aht and provincial or federal government and non-government actors. These solutions adhere to established patterns discussed in the policy and document analysis regarding the current modern era of coastal and marine conservation, which is intersocietal in nature. Additionally, as shared in the policy analysis, governance arrangements involving many actors, like MLG, do not fit neat categorizations.

Bearing these structural dynamics in mind, I first dissect the governance gap brought up by many participants for the aquatic environment in Tla-o-qui-aht territory. The next three subsections are indicative of this gap and offer opportunities in the form of pathways, considerations and technical actions for increasing Tla-o-qui-aht authority and addressing this gap. I focus on the broader pathways put forward by most participants to strengthen Tla-o-qui-aht authority for eelgrass, followed by the considerations for achieving these pathways, then the technical actions that Tla-o-qui-aht can undertake independently or in collaboration with state government and non-government actors. The latter substantial section reflects an important result: most participants discussed restoration, management, and operational solutions. Overall, these results indicate a strong desire amongst participants to strengthen existing solutions for eelgrass revitalization and implement additional interventions to protect, restore and manage eelgrass. Throughout the pathways, considerations and technical actions, participants also emphasized the need to address both legacy and active issues that create compounding stressors on eelgrass, to ensure actions taken always uphold Tla-o-qui-aht sovereignty, and impose accountability on state governments for resources and enforcement of Tla-o-qui-aht laws and governance.

## 6.2 Addressing the Governance Gap

While considering eelgrass revitalization in Tla-o-qui-aht territory, all participant groups identify a governance gap for aquatic ecosystems on the central west coast of Vancouver Island. Rebecca Hurwitz, Executive Director from Clayoquot Biosphere Trust attributes the lack of governance to the dissolution of the CRB, which contributed to the establishment of the biosphere region.<sup>477</sup> The CRB was created by the provincial government and was in collaboration with Nuu-chah-nulth First Nations, the DoT and the DoU, as well as the ACRD for conducting land use and decision-making in the 1990s until 2009.<sup>478</sup> The funding for the CRB was provided by the province, and this was an interim measure during treaty negotiations between the provincial government and Nuu-chah-nulth First Nations. The CRB dissolved when numerous First Nations, including Tla-o-qui-aht, stepped away from the treaty tables with the state government in 2001 and the funding for the CRB eventually ceased.

In reflecting on the governance gap, Rebecca shares that a collaborative space where information sharing occurs at regular intervals is needed on a regional level, which does not necessarily have to be governance based.<sup>479</sup> Extrapolating on these gaps, other participants from ENGOs also share that it would be beneficial to have a collaborative group to share information and create greater alignment between all sectors' efforts in Clayoquot Sound. As Crysta from CRS points out from her experience “[i]nformation sharing, especially when we're working in the same estuaries is so huge, because then our resources can all be spread a little bit further.”<sup>480</sup> So, interested actors on the central west coast, including Tla-o-qui-aht, ENGOs, industries, local governments and even the provincial government, like the WLRS ministry, could come together as part of a working group to address any redundant work, identify synergies, and enable alignment between all participant's work in Tla-o-qui-aht territory. Taking these participant sentiments into account, the following sections will explore pathways, considerations and technical actions for enhancing Tla-o-qui-aht authority for

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<sup>477</sup> Rebecca Hurwitz, interviewed on December 6, 2022, at page 16

<sup>478</sup> Ibid, Rebecca Hurwitz, page 16

<sup>479</sup> Ibid, Rebecca Hurwitz, at page 18

<sup>480</sup> Crysta Stubbs, interviewed on December 13, 2022, at page 6

eelgrass that participants emphasize. Once this is completed, I will return to the issue of the governance gap once again with these solutions in hand.

### **6.3 Pathways for Enhancing Tla-o-qui-aht Authority for Eelgrass**

In this section, I discuss the broader pathways for enhancing Tla-o-qui-aht authority for eelgrass as identified by my interviewees. Out of all solutions put forward by interview participants, these pathways are the most aspirational and high-level; meaning the larger context of Indigenous authority, protection measures and marine governance are factored in rather than specific technical solutions for enhancing eelgrass vitality. These pathways could protect eelgrass as a BCE, and be pivotal innovations for the marine environment as a whole within Tla-o-qui-aht territory. First, I begin by discussing language revitalization and intergenerational inclusion in governance. Based on participant responses, this pathway is a keystone to increasing Tla-o-qui-aht authority, as language is central to social-cultural-ecological management and governance. In conjunction with language, intergenerational inclusion is necessary for integrating the expertise of Elders into governance and transmitting their knowledge to youth, who are the future leaders of the territory. Based on this foundation, I examine Tla-o-qui-aht marine visioning and planning, as participants highly encourage Tla-o-qui-aht to continue their land use planning work for the marine environment. From here, I explore growing the Tribal Parks Allies Program, as participants position that this successful conservation finance mechanism has not realized its full potential in this region. Next, broader governance pathways are explored. State legislation recognizing Tribal Parks can address many of the limitations Tla-o-qui-aht faces in governing and operating their Tribal Parks, including for BCEs. Finally, in this section, I cover G2G agreements between Tla-o-qui-aht and the provincial and federal governments, which participants believe could be a transformative catalyst for Tla-o-qui-aht authority and blue carbon endeavours.

#### **6.3.1 Language Revitalization and Intergenerational Inclusion in Governance**

Marine and coastal biodiversity and cultural/linguistic diversity are interconnected, and participants made it clear that the resurgence of these systems needs to be achieved in tandem. Thus, the success of protecting and restoring eelgrass in Tla-o-qui-aht territory is tied to the

continued revitalization of the Nuu-chah-nulth language. Gisele expresses this dynamic: “Nuučaanuł / Nuu-chah-nulth languages are vital to the continued protection and governance of Nuučaanuł / Nuu-chah-nulth territories. Introduced languages are inadequate for care of Indigenous territories. English is an ecologically illiterate language with a user-centric focus that is riddled with human supremacy.”<sup>481</sup> She continues by saying that language is essential for empowering Indigenous governance and is integral to environmental projects, like marine use planning (Marine Care planning).<sup>482</sup> Incorporating language is thus necessary for a holistic approach to ecological protection and cultural continuity.

Participants share how Tla-o-qui-aht elders are instrumental in Nuu-chah-nulth language revitalization, and state the need to achieve a higher degree of elder inclusion with this movement. A participant states that elders have extensive knowledge of the language and can offer progressive solutions for caring for the environment.<sup>483</sup> While some participants underline the need for Western scientific monitoring, Tla-o-qui-aht participants suggest that elders have been observing land and seascape changes for decades and have profound insights to offer.<sup>484</sup> Participants emphasized that more support is needed for Nuu-chah-nulth language and education programs that are inclusive of and led by elders, as well as women, gender-diverse individuals and youth as an essential component of holistic marine and coastal protection. A few Tla-o-qui-aht participants also discuss the important advisory role that elders can fill as part of Tla-o-qui-aht ecological decision-making, and advocate that pathways for implementing this recommendation should be explored.

There are Tla-o-qui-aht youth growing up right now speaking their language at home in their territory.<sup>485</sup> Supporting language revitalization is one of the many ways to support youth. Rebecca from CBT shares additional avenues for investing in Tla-o-qui-aht youth:

I've been trying to learn from the Great Bear Rainforest initiatives and one of the pieces that I have been paying attention to is the need to support youth capacity development,

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<sup>481</sup> Gisele Martin, interviewed on November 16, 2022, at page 7

<sup>482</sup> Gisele Martin, interviewed on November 16, 2022, at page 8

<sup>483</sup> Anonymous interview, November 2022, at page 4

<sup>484</sup> Anonymous interview, November 8, 2022, at page 8

<sup>485</sup> NAA?UU Tla-o-qui-aht Cultural Experience, held on March 18, 2023, Tin Wis Convention Centre

like training, planning, because there's so much responsibility that comes with managing a territory.<sup>486</sup>

Youth are a strategic focus for CBT, and this organization's investment in youth includes the inclusion of youth representation on their board, grants that are focused on youth development, scholarships and grants for youth educational opportunities, providing opportunities for youth to communicate and share their ideas, passions and needs in their communities within Clayoquot Sound, as well as through the Youth and Education Committee.<sup>487</sup> CBT demonstrates tangible actions for bringing youth into the fold of ecological governance and can support increasing Tla-o-qui-aht-based educational opportunities, including youth in decision-making activities and stewardship activities, as well as supporting youth-led initiatives.

Gisele also suggests what this can look like in action. For instance, when she is contracted by someone from outside of  $\lambda a\eta uuk^w i\eta a\eta$  / Tla-o-qui-aht Nations to do language and/or Guardian-related work, gaining access to additional funding to bring youth from the community with her. The youth can also be paid for their time while also gaining a critical learning experience from a mentor. Numerous Tla-o-qui-aht participants touch on this point, that so much hope lies in the youth, and that we can emphasize youth environmental education in and outside of schools. To uphold relations with eelgrass, Joe Martin - Gisele's father, master carver and master canoe maker from Tla-o-qui-aht - shares another tangible solution: "I think that one of the best ways to begin doing this is probably taking school children out on field trips."<sup>488</sup> Whatever pathway is decided on by Tla-o-qui-aht for enhanced marine-based work that encompasses eelgrass as a BCE, support of their governance and expression of authority by the state government and non-government actors needs to be inclusive of youth, elders and all Tla-o-qui-aht members.

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<sup>486</sup> Rebecca Hurwitz, interviewed on December 6, 2022, at page 11

<sup>487</sup> *2010 – 2020 Periodic Review Self-Study* (2021), online: Clayoquot Biosphere Trust <[https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT\\_SSR\\_FINAL\\_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcCTj0k4qNfR1X8o\\_ei1etWdXQJIS\\_B5nH4](https://clayoquotbiosphere.org/files/file/612e57439a26d/CBT_SSR_FINAL_small.pdf?fbclid=IwAR2Nu89zjjZrsb0BOKaHSGGdcCTj0k4qNfR1X8o_ei1etWdXQJIS_B5nH4)>

<sup>488</sup> Joe Martin, interviewed on November 3, 2022, at page 5

### 6.3.2 Tla-o-qui-aht Marine Visioning and Planning

The impetus for this research is to explore ways for increasing Tla-o-qui-aht's authority for eelgrass governance. Many participants advocated for Tla-o-qui-aht's continued land use visioning work for the marine environment. Land use visioning is akin to land use planning, and follows the Tribal Parks management approach described in section 2.5. Jessica Hutchinson, the Executive Director from Redd Fish explores this notion: "I think there's huge opportunity for growth there to put the power back in the Nation's hands to determine how land and water is managed within their territories."<sup>489</sup> Jessica, along with a majority of participants, argued that Tla-o-qui-aht is the best at and most capable of managing the land and seascape, which is based on centuries of stewardship practices, ancestral ties to the environment, and their laws and governance being informed by and interconnected with the land, sea and sky.<sup>490</sup> Gisele Martin elaborates on this point and the centrality of the environment to Tla-o-qui-aht way of life: "Protection of tiičmis (biodiversity/environment), the life forms that have sustained us and continue to give us our cultural identity is a priority."<sup>491</sup> This embeddedness in territory continues to be expressed through Tla-o-qui-aht's governance and management, including through Tribal Parks and their Guardian Program.<sup>492</sup> There is overall consensus from participants on the need to continue investing in and scaling up the Tribal Parks, which necessitates completing a robust marine vision and plan for the entire marine environment, not just coming up with a singular plan for eelgrass. While the entire Tla-o-qui-aht territory is declared as a Tribal Park, some participants discuss declaring a Marine Tribal Park within this and creating accompanying marine visioning and planning being conducted as a response to this official declaration.

Saya Masso, Director of Lands for Tla-o-qui-aht, noted the visioning and planning that has been achieved for the terrestrial components of the Tribal Parks and suggested that this could be done for the marine environment, developing new sets of maps for engaging sectors operating in that marine environment.<sup>493</sup> Saya explained the progression of Tribal

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<sup>489</sup> Jessica Hutchinson, interviewed on December 2, 2022, at page 6

<sup>490</sup> Jessica Hutchinson, interviewed on December 2, 2022, at page 6

<sup>491</sup> Gisele Martin, interviewed on November 16, 2022, at page 4

<sup>492</sup> As discussed in Chapter 2, Tribal Parks are protected areas governed and managed independently by Tla-o-qui-aht. Their Guardian Program undertakes initiatives to manage, monitor, and restore the terrestrial and marine environments of the Tribal Parks. Initiatives are often conducted in partnership with state governments and ENGOS.

<sup>493</sup> Saya Masso, interviewed on November 18, 2022, at page 10

Parks planning and mapping, including some of the gaps in this process for the marine environment. While there is a degree of marine navigation and mapping for Tranquil Tribal Park, this is a gap in other areas of the Tribal Parks: “In 2014, our whole homeland was declared. But we didn't do marine planning for the front of Meares and Lemmens, and Mosquito Inlet. That didn't occur. We just went from 2013 Tranquil and then declared our whole homeland.”<sup>494</sup> Saya, amongst other participants, views marine visioning and planning as an inevitable next step, with only a matter of time and resources needed to achieve this. Conducting marine visioning and planning highlights the significance of Tla-o-qui-aht’s sovereign approach to protected areas.

### 6.3.3 Growing the Tribal Parks Allies Program

As explored in Chapter 2, Tla-o-qui-aht has been implementing the Allies Program since 2018. Through this program, businesses, organizations and local governments operating in Tla-o-qui-aht territory can become an ally by paying an ESF annually to Tla-o-qui-aht. The ESF is a donation of 1% of actors’ profits to Tla-o-qui-aht Tribal Parks for regional services.<sup>495</sup> Julian Hockin-Grant is a Tribal Parks Liaison and supported Tla-o-qui-aht in developing and launching the Allies Program in 2018. He continues to operate the program and shares the importance of Tla-o-qui-aht benefitting from the tourism their territory brings in: “so that they aren't reliant on primary industries and so that they don't rely on salmon aquaculture and they can take a stronger position because their people aren't dependent on that livelihood.”<sup>496</sup> A majority of participants express the need for individuals, businesses and state governments to continue supporting the growth of this existing conservation finance mechanism, which also supports stronger relationships and Tla-o-qui-aht representation.<sup>497</sup> Saya Masso explains that their goal for the Allies Program “is to participate in 1% of the economy in the region, if there's a 350 million economy, that's 3.5 million a year goes to support stewardship, our Guardian programs.”<sup>498</sup> This can support their governance in the Tribal Parks, which then informs management, operations and implementation, including for eelgrass conservation as part of more robust marine protection

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<sup>494</sup> Ibid, Saya Masso, at page 10

<sup>495</sup> Saya Masso, interviewed on November 18, 2022, at page 14

<sup>496</sup> Julian Hockin-Grant, interviewed on November 10, 2022, at page 11

<sup>497</sup> Julian Hockin-Grant, interviewed on November 10, 2022, at page 11

<sup>498</sup> Saya Masso, interviewed on November 18, 2022, at page 14

efforts.<sup>499</sup> The Allies Program is centred on Tla-o-qui-aht self-determination, and to continue uplifting Tla-o-qui-aht authority, more effort is needed for this program to reach maximal aptitude.

### **6.3.4 State Government Legislation Recognizing Tribal Parks**

Saya unpacked the potential of a legislative pathway for the state government legally recognizing Marine Tribal Parks and remarks on the need for this first to be approved through Tla-o-qui-aht governance processes with Chief and Council and Hereditary Chiefs, the Ha'wiih. The leadership bodies endorse any kind of work plan, tenure or license, and a Marine Tribal Park with an accompanying marine plan would follow the same procedure.<sup>500</sup> An approval process would also likely involve Tla-o-qui-aht bringing a lawyer in to examine and provide any feedback on the legislation. Saya expands on the internal political process surrounding Tla-o-qui-aht's approval of this state government legal tool, with Chief and Council recommending this tool and the Ha'wiih endorsing it, or Ha'wiih providing the recommendation and Chief and Council approving and giving consent for state law.<sup>501</sup> This process embodies the Indigenous MLG principle of recognizing traditional leadership and decision-making structures. Saya continues to share the importance of upholding Ha'wiih governance, and how this has generated strength since the Meares Island case was won on the Hereditary Chief's title.<sup>502</sup> This means upholding Ha'wiih as the title holders of the watersheds, islands, and marine environment, so they need to continue to be centred in decision-making.<sup>503</sup> The attainment of state government legal recognition of IPCAs like a Marine Tribal Park demonstrates the necessity of Tla-o-qui-aht governance structures for their decision-making regarding this pathway.

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<sup>499</sup> Saya Masso, interviewed on November 18, 2022, at page 14

<sup>500</sup> Saya Masso, interviewed on November 18, 2022, at page 10

<sup>501</sup> Ibid, at page 14

<sup>502</sup> This is explored in Chapter 2, this is referring to the Meares Island legal case in British Columbia where Tla-o-qui-aht was successful in challenging industrial logging of old-growth forest on Meares Island on the basis of their rights and title.

<sup>503</sup> Saya Masso, interviewed on November 18, 2022, at page 14

### 6.3.5 Government-to-Government Agreements

Investing in marine health through Tla-o-qui-aht Tribal Parks is a concept all participants stand for, who share the bright future this will help foster.<sup>504</sup> The key to protected areas or specific protective measures for species like eelgrass is that they are decided on and designated by Tla-o-qui-aht in their territory. Participants across all government and non-government actors agree with this claim. As Rebecca from CBT shares, “I think that will bring a rebalancing of power and a different kind of engagement at the local level”, which echoes one of the most important Indigenous MLG conditions of analyzing and creating equitable power relations.<sup>505</sup>

Concerning Tla-o-qui-aht designating a protected area, interviewees offer a collaborative route for enhancing Indigenous authority for eelgrass: a G2G agreement between Tla-o-qui-aht and state governments for the marine environment. A G2G agreement can follow successful G2G agreements between the provincial and/or federal government and First Nations in BC. This includes Atmospheric Benefit Sharing Agreements and Reconciliation Agreements, which are discussed in the policy and document analysis. With Tla-o-qui-aht and their goals for continued planning in their Tribal Parks, this may entail a marine-based G2G agreement with the provincial and federal governments. A participant discusses this as an avenue for increasing Tla-o-qui-aht authority for eelgrass and the marine environment more broadly, as a way to create jurisdictional clarity, build a stronger relationship with the province, increase access to resources from the province as well as enable marine planning.

Alex Dyer, Planning Manager from the ACRD, shares that Tla-o-qui-aht reaching an agreement with the federal and/or provincial government specific to the marine and foreshore will be most effective for increasing Tla-o-qui-aht control over these environments.<sup>506</sup> He also states that local governments have zoning that applies to Crown land, but through a G2G agreement, Tla-o-qui-aht would have control over any Crown lease applications and can

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<sup>504</sup> Rebecca Hurwitz, interviewed on December 6, 2022 at page 10

<sup>505</sup> Rebecca Hurwitz, interviewed on December 6, 2022 at page 10

<sup>506</sup> Alex Dyer, interviewed on February 13, 2022 at page 4

apply their zoning that can allow or disallow certain activities.<sup>507</sup> While a G2G agreement could be a breakthrough for TFN authority, there are definite barriers to achieving this milestone. While participants did not discuss the particulars of these barriers, they state that Tla-o-qui-aht needs to be able to determine how the process unfolds and that the process is guided by traditional leadership and Indigenous knowledge. Further principles and considerations for G2G agreements and all of the pathways described in this section will be unpacked next in section 6.4. These principles and considerations are put forward by participants as necessary for successful collaborations, including MLG arrangements.

#### **6.4 Considerations for Increasing Indigenous Authority**

In this section I explore some of the considerations that participants put forward as necessary for increasing Indigenous authority in collaborative scenarios, like MLG. These considerations and principles speak to Criteria 1 in my Evaluative Criteria (see Table 3) regarding creating equitable power relations to achieve co-production. This begins with correctly scoping collaborations in terms of the issue being addressed, the actors involved and the scale of the collaboration (territorial, regional, provincial, etc). Marc LaBrie, Director of Development for West Coast Aquatic, elaborates on this point: “The approach to thinking about scoping might be to have several dialogues that elucidate what the system actually looks like rather than becoming prescriptive in your approach.”<sup>508</sup> Participants share that starting conditions of collaboration are also vital, and those conditions can persist throughout the life cycle of collaboration, thus “being strategic about the choice of how and when we come together and on what really does make a difference.”<sup>509</sup> Marc continues that another important facet of collaborations is joint priority setting, and how this can prevent hierarchical structures in natural resource decision-making. He states that when First Nations identify priorities, this “becomes the basis for the next phase of development of any of these plans. Then that DNA lives in that development right from the beginning.”<sup>510</sup> This is a way to bring all actors together from different positionalities and find common ground to start a process together.

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<sup>507</sup> Alex Dyer, interviewed on February 13, 2022 at page 4

<sup>508</sup> Ibid, Marc LaBrie, interviewed November 30th, 2022, at page 3

<sup>509</sup> Ibid, Marc LaBrie, at page 4

<sup>510</sup> Ibid, Marc LaBrie, 2022 at page 8

Tom Stere, an elected Councillor with the District of Tofino, adds to this conversation around considerations for increasing Indigenous authority by raising an important point about funding. He suggests that once a pathway forward is established between government and non-government actors (like a G2G agreement, or state legislation recognizing IPCAs), work needs to be done to establish how the pathway will be funded from a technical perspective. He shares that providing additional services (for instance, enforcement of eelgrass protection measures) requires added capacity, including hiring individuals to carry out the work.<sup>511</sup> In terms of paying for this, as a local government, this includes taxpayers and grants.<sup>512</sup> However, he states the need for a long-term funding mechanism and that “it has to be something that's entrenched, it can't be on these four-year budget cycles.”<sup>513</sup>

Josh Temple, Executive Director of Coastal Restoration Society (CRS) speaks to Tom's funding point from a nonprofit perspective, including limitations like state government funding envelopes lacking long-term continuity. In conjunction with this limitation, another challenge nonprofits face is adhering to state government funding priorities, which are not always commensurable with First Nations' priorities in BC. This leads nonprofits to operate in a middle ground of navigating the priorities of Indigenous and state governments. Josh expands on this circumstance:

So, it's quite often a complex series of negotiations too, because obviously, we want to prioritize the Nation's needs and we want to prioritize and clearly identify environmental priorities, coupled with cultural and environmental priorities from the Nation. But you also have to be pragmatic about what funding envelopes and opportunities are available at that time.<sup>514</sup>

From participant dialogue, it is clear that truncated state government funding envelopes do not always adhere to First Nations' priorities and this can undermine their authority when working with quasi-government actors like local government and ENGOs. This funding norm is also not effective for the scale of environmental revitalization needed in the long-term, including

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<sup>511</sup> Tom Stere, interviewed November , 2022, at page 14

<sup>512</sup> Ibid, Tom Stere, at page 14

<sup>513</sup> Tom Stere, interviewed November , 2022, at page 14

<sup>514</sup> Josh Temple, interviewed December 13, 2022, at page 9

for BCEs like eelgrass. To support the pathways outlined in section 6.3, participants stress the need for a different approach to funding in BC and across Canada. Conducting work like eelgrass restoration as part of broader marine management is a long-term endeavour, and environmental funding needs to reflect this dynamic and support the work decided on by First Nations for their territory.

As a way to realize First Nations' priorities, like blue carbon, participants also suggest the effectiveness of community champions. For instance, Tom shares that when governments have too much on their plates, it can be ideal to identify a community champion who has the resources and ability to take on a priority project. This can be a nonprofit organization with the appropriate mandate, and can access funding as a nonprofit and/or through their charity status.<sup>515</sup> We see this with CRS and Redd Fish Society, whose work on eelgrass is discussed in section 6.6, which is guided by Tla-o-qui-aht. To summarize, many participants highlight different considerations for enhancing Indigenous authority, as part of collaborative efforts like MLG. These considerations are applicable to the pathways in section 6.3 as well as the technical actions addressed next in section 6.5. How these considerations come into play with these pathways and technical actions is unpacked in the discussion chapter.

## **6.5 Technical Actions to Address Eelgrass Issues Under Tla-o-qui-aht Governance**

Throughout this chapter, I have discussed the broader pathways and considerations for increasing Tla-o-qui-aht authority for eelgrass. Now, this section narrows into the technical actions to address eelgrass issues that can be achieved under the broader narrative of Tla-o-qui-aht governance and management created so far by participants. So, these actions can either be accomplished independently by Tla-o-qui-aht and/or in collaboration with state government and non-government actors, which will be specified within each of the subsections. These technical actions can still amplify Tla-o-qui-aht authority for BCEs, but they are much more specific to eelgrass management, restoration and operations. Participant attitudes regarding technical actions are a reflection of many participants working in coastal and marine science, management, restoration and operations; many of the people are working on the ground in or

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<sup>515</sup> Ibid, Tom Stere, at page 14

near Tla-o-qui-aht territory. Participants also shared local government regulatory and planning tools that are technical in nature, but these tools are specific to local governance for eelgrass. Thus, these tools are important but do not fit within the framework of this analysis (see Appendix F for the local government tools and accompanying interview analysis).

### 6.5.1 Tofino Mudflats Wildlife Management Area

From the interviews, several eelgrass-based solutions that can uphold and strengthen Tla-o-qui-aht authority require provincial authorities to delegate more power to Tla-o-qui-aht from the province for the Tofino Mudflats Wildlife Management Area (WMA). This WMA covers 21 square kilometres of Tla-o-qui-aht foreshore and marine territory.<sup>516</sup> As examined in the policy analysis, this provincial designation came into place in 2001 and provided policy-based guidance and recommendations for future governance and management, including investing in a Guardians program - which now exists under Tla-o-qui-aht's authority.<sup>517</sup> Participants consider the need for enhanced governance and management of this WMA, which is not actively managed and has an outdated management plan. Currently, this designation is largely just that - a title - without real teeth supporting collaborative efforts between Tla-o-qui-aht and local government and non-government actors.<sup>518</sup> Participants offer to remedy this by following the provincial government's audit and transferring the governance and management of this WMA to Tla-o-qui-aht. If Tla-o-qui-aht has the desire and there are resources directed to Tla-o-qui-aht for this, they could act as the convening body that brings all interested actors together in the management of the WMA as well as the lead Guardian team responsible for monitoring and directing restoration work.<sup>519</sup> The WMA could be absorbed into the Tla-o-qui-aht Marine Tribal Park, and again be governed and managed accordingly following a marine vision and plan. These actions would transfer full authority back to Tla-o-qui-aht, along with resources for them to conduct important work in this biodiversity hotspot. Of course, this would have positive impacts on eelgrass as there is no work currently being done under the WMA to protect or restore this species.

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<sup>516</sup> Jessica Hutchinson, interviewed on December 2, 2022, at page 6

<sup>517</sup> *Tofino Mudflats Wildlife Management Area Management Plan* (2000), online: Ministry of Water, Land and Air Protection <<https://tofino.civicweb.net/document/54/>>

<sup>518</sup> Julian Hockin-Grant, interviewed November 10, 2022, at page 10

<sup>519</sup> Rebecca Hurwitz, interviewed on December 6, 2022, at page 3

## 6.5.2 Mitigating Boat Traffic

Another initiative that can be independently achieved by Tla-o-qui-aht, as part of broader Tla-o-qui-aht marine planning or established in a standalone fashion: a No Go Zone for boat traffic. Many participants lament the significant influx of boat traffic in the last few decades and how this has a pronounced impact on eelgrass and the surrounding marine environment. This includes the noise pollution created by motors, a stark comparison to the dugout canoes and paddles that filled the waters before colonization and colonial settlement in Tofino. A Tla-o-qui-aht participant reflects on the ecological changes they have observed: “Every day there's traffic going through there, you know, everywhere. And it's steady. But I often wonder about seals, not too many seals around anymore, not like the way it used to be.”<sup>520</sup> Joe Martin from Tla-o-qui-aht also elaborates on this issue and the impact on marine flora: “power boats should not be going through the shortcuts, especially at low tide. And that really disrupts a lot of the seaweed.”<sup>521</sup> There is also physical damage also caused by the surging amount of boat traffic going up and down the inlet, including prop damage to eelgrass in Tla-o-qui-aht territory. There is evidence of this in Grice Bay, which is in Tla-o-qui-aht territory and within the Pacific Rim National Park Reserve (PRNPR). From imagery collected collaboratively by the PRNPR and Hakai Institute, there is evidence of damage to the eelgrass meadows when boats travel through shallower areas in Grice Bay.<sup>522</sup>

There is consensus from the interviews that boat traffic has an adverse impact on the broader marine environment, and that there is a need for checks and balances to maintain ecological functions. As a solution to this, participants propose boating navigation corridors that are to be adhered to by individuals, businesses and industry. A comprehensive planning process accompanied by a communications plan is also needed for this to be successful.<sup>523</sup> A No Go Zone with accompanying navigation corridors is suggested as a stronger tool for protecting sensitive and priority ecosystems and ecological functions, including herring spawning season in the spring. During this time, marine vessels would avoid eelgrass beds where spawning is occurring. This No Go Zone would be supplied with maps and a communications plan that would be

<sup>520</sup> Anonymous interview, interviewed on November 8, 2022, at page 14-15

<sup>521</sup> Joe Martin, interviewed on November 3, 2022, at page 2

<sup>522</sup> Jenn Yakimishyn, interviewed November 22, 2022, at page 4

<sup>523</sup> Tom Stere, interviewed November 7, 2022, at page 4

disseminated to all boaters and marine vessel operators to abide by for the six weeks during herring spawning season. A navigation corridor for boating during the herring run in Clayoquot Sound has been in place for three years under the sole authority of Tla-o-qui-aht, in collaboration with Maaqutusiis Hahoulthee Stewardship Society and supported by Redd Fish Society. Numerous respondents speak about the success of this collaborative endeavour, and the increased levels of herring spawning in Tla-o-qui-aht territory in recent years.<sup>524</sup> However, not all individuals and companies strictly adhere to this initiative: numerous Tla-o-qui-aht participants communicate that their laws are not always respected, and are often ignored.<sup>525</sup> While this is a barrier to the successful implementation of a No Go Zone, this solution can accompany other governance-based solutions brought up by participants, like a government-to-government (G2G) agreement or state government legislative tools.

### 6.5.3 Watershed Restoration

While it is tempting to envision widespread eelgrass restoration as a way to rebuild this important carbon sink, Tla-o-qui-aht is still dealing with the stark reality of the legacy impacts caused by industries in Clayoquot Sound. As expressed by Julian, “The paradigm we're in is mitigating legacy impacts. There is the cleaning up of derelict vessels and abandoned buildings and just marine debris that Coastal Restoration Society and Surfrider do.”<sup>526</sup> This also includes industrial logging, which degrades watersheds through sedimentation from landslides, logging roads, bank erosion, and channel incision.<sup>527</sup> This contributes to an egregious amount of gravel and cobble in the rivers, which travels downstream to the estuaries. As Jessica from the ENGO Redd Fish Society asserts:

So, there's no point in planting lovely eelgrass in a system that just can't support them because of this massive movement of water and this massive movement of sediment downstream. So, we need to get to those root causes of the problem. So, I hope that one day, there will be a time when we feel that eelgrass can be transplanted or can be

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<sup>524</sup> Saya Masso, interviewed on November 18, 2022, at page 11

<sup>525</sup> Anonymous interview, November 29, 2022, at page 3

<sup>526</sup> Julian Hockin-Grant, interviewed November 10, 2022, at page 15

<sup>527</sup> Jessica Hutchinson, interviewed on December 2, 2022 at page 3

restored. But we are just not there yet. We're still working up in the mountains trying to deal with sediment, and we're still deactivating logging roads. There's still so much work that needs to happen, unfortunately, before that can occur.<sup>528</sup>

This statement is also confirmed by Tla-o-qui-aht member Gisele Martin, as she ran the company Tla-ook Adventures, doing tours around Clayoquot Sound in dugout canoes for 12 years. Gisele and her family also observe drastic changes with eelgrass caused by sedimentation, especially with her time spent paddling over the eelgrass in her 1000-pound canoe and becoming very conscious of the tides in these eelgrass zones.<sup>529</sup> She gained insight from her father, Joe Martin, on why the eelgrass looks less vital and healthy in some areas of their territory compared to many decades ago. She shares a story on this:

It was really communicated to me that the eelgrass didn't look like that. It used to be beautiful green, iridescent ribbons when my dad was young, back when there was only one visible light at night in Tofino. So that would also indicate sewage from Tofino and also the logging industry, a lot of the mud washed into the rivers and went to the inlets, including Grice Bay, where there didn't use to be as much of a big muddy bottom, which is now meters deep, which should be on the mountain, not in the bottom of the bay. And that's also impacted the eelgrass over there. And additionally now especially with the salmon farming industry.<sup>530</sup>

In conjunction with bolstering Tla-o-qui-aht authority while healing eelgrass, a blue carbon source, responses call for a watershed approach to restoration in the marine environment, which also falls within provincial jurisdiction. This requires a holistic perspective that the aquatic ecosystem begins on the mountains and extends out into the high seas.<sup>531</sup> Following this ethos, Redd Fish Society shares the importance of receiving guidance from Tla-o-qui-aht in terms of which watersheds they should be focusing on and they direct resources towards Tla-o-qui-aht for engaging them in the process as well as support for the Tribal Parks

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<sup>528</sup> Jessica Hutchinson, interviewed on December 2, 2022, at page 3-4

<sup>529</sup> Gisele Martin, interviewed on November 16, 2022, at page 2

<sup>530</sup> Ibid, Gisele Martin, at page 2

<sup>531</sup> Anonymous interview, November, 2022

Guardians to participate in this work, including employment opportunities.<sup>532</sup> This demonstrates recognition and respect of Indigenous knowledge and authority, including an orientation towards Tla-o-qui-aht processes and acting on their priorities.

#### **6.5.4 European Green Crab Management**

Participants from Tla-o-qui-aht, ENGOs and state government bodies all emphasize the threat of invasive European Green Crabs (EGC), which rip and uproot the eelgrass and prey on the species that take shelter in this habitat. Coastal Restoration Society has been conducting the removal of EGC from numerous locations on Vancouver Island, including Clayoquot Sound and Sooke Basin since 2021 in partnership with the Ahousaht, Tla-o-qui-aht and T'Sou-ke First Nations. They have trapped 114, 569 EGC in Tla-o-qui-aht territory, including in Tranquil Inlet and Lemmens Inlet, and 539,469 total EGC from all locations. They believe this to be an essential contribution to the restoration of eelgrass as they “don't expect that eelgrass would be able to basically sustain itself properly because of those intense populations.”<sup>533</sup> They also aspire to create permanent employment for Tla-o-qui-aht members to monitor, eradicate and manage this species in Tla-o-qui-aht territory. Crysta Stubbs, Lead Biologist and Senior Project Manager for this initiative shares that “the ideal goal is that we can reduce green crab populations and keep them at a level where the ecosystem can still function as normal. So, functional eradication is the goal.”<sup>534</sup> This functional eradication will lead to lower densities of green crabs, thus posing a lesser threat to eelgrass and other native species. Participants expound on how restoration activities can lead to expeditious eelgrass rejuvenation, which CRS witnessed from the combination of EGC and derelict vessel removal in eelgrass meadows.

Accompanying the functional eradication goal is the need to build specific skills within Tla-o-qui-aht, including skills training, building knowledge and expertise, and building up resources like funding. This is required to conduct operational work like eelgrass monitoring, which can demonstrate the positive impact functional eradication is having. Josh Temple articulates the importance of having skilled people in the First Nation communities they work

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<sup>532</sup> Ibid, Jessica Hutchinson, at page 14

<sup>533</sup> Crysta Stubbs, interviewed on December 13, 2022 at page 3

<sup>534</sup> Ibid, Crysta Stubbs, at page 3

with for ongoing monitoring and data collection. He states that this work is “necessary in closing the loop that will help really send the message of just how important that work is over the near and long term.”<sup>535</sup> Alongside this effort, they are investing in training and capacity building with First Nation partners, including Tla-o-qui-aht, enabling this long-term monitoring and data collection as a response to green crab management. Other participants also believe continued monitoring is required to evaluate the impact of green crab removal on eelgrass and the broader marine environment.

### **6.5.5 Joint Eelgrass Mapping**

An additional technical action that participants expressed enthusiasm for is joint eelgrass mapping, which can visualize current eelgrass beds, historical eelgrass cover, as well as Indigenous knowledge of priority eelgrass beds.<sup>536</sup> This can be utilized for making informed decisions about eelgrass using integrated knowledge systems, including protection, restoration, climate adaptation, shoreline erosion and other policy measures. Jennifer Yakimishyn, a Marine Ecologist from the PRNPR shares: “I think it’s key to have a map of eelgrass meadow extent because you don’t know what you’re losing if you don’t have a record.”<sup>537</sup> Tom Stere also agrees with the need to collect baseline data to understand eelgrass health fluctuation and take the most appropriate actions for eelgrass protection and restoration based on this.<sup>538</sup> This mapping and accompanying monitoring also have the potential to support local long-term employment for Tla-o-qui-aht members. Accompanying this, there is potential to achieve cultural continuity through this initiative through Tla-o-qui-aht culture, language and traditional uses like harvesting of eelgrass.

### **6.5.6 Float Home Action Plan**

Floating homes in Clayoquot Sound are also a major concern among a majority of participants, including Tla-o-qui-aht members. Participants offered that many float homes are being constructed without permission from Tla-o-qui-aht, without guidance on where it is

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<sup>535</sup> Josh Temple, interviewed on December 13, 2022 at page 5

<sup>536</sup> Jenn Yakimishyn, interviewed November 22, 2022 at page 11

<sup>537</sup> Ibid, Jenn Yakimishyn, at page 11

<sup>538</sup> Tom Stere, interviewed November 7, 2022, at page 6

appropriate to be located, or without compensating Tla-o-qui-aht for living in their territory and impacting their uses that could otherwise be taking place, like hunting, harvesting, and recreation.<sup>539</sup> Float homes are also causing significant damage to eelgrass, as described by Jennifer, “We survey eelgrass sites in Lemmens Inlet and float cabins are adjacent to and sometimes directly over eelgrass meadow. Float cabins anchored in the eelgrass meadows are shading and damaging the eelgrass underneath. Anchoring within those eelgrass meadows would also damage the meadows.”<sup>540</sup> She also states that the repetitive and long-term anchoring and presence in one location will cause damage to the eelgrass meadow.<sup>541</sup>

Creating a float home action plan for Clayoquot Sound is one solution offered by participants, and this could be part of an independent Tla-o-qui-aht marine plan, the provincial CMS and/or a provincial policy developed separately. Through this action plan, stipulations can include potential float homeowners following a process to receive permission from Tla-o-qui-aht and paying a foreshore lease to Tla-o-qui-aht, which can be contributed towards Tla-o-qui-aht since they are managing the environment they are living in.<sup>542</sup> Participants stressed the importance of having this upheld and enforced by state government authorities.<sup>543</sup> Tla-o-qui-aht First Nation would identify where float homes can have safe harbour, and the province can uphold this through tools like zoning and building permits.<sup>544</sup>

For enforcing a float home action plan, participants suggest that the provincial government provide resources and tap local governments for this as they are more of the “boots on the ground.” As part of a float home action plan, zoning can be applied by Tla-o-qui-aht, which can also be adapted to local government zoning. Alex Dyer from the ACRD shares how this situation played out near Port Alberni, the traditional territories of the Hupacasath and Tseshah First Nations. In the early 2000s in Great Central Lake, no new float homes were allowed to be built except in the area zoned for them. He continues how this successful approach can be applied in Tla-o-qui-aht territory “So, I think that step one for the Clayoquot Sound, they need to just pull the pin on it. Okay, that's it: nothing else. And then we'll map the location of all

<sup>539</sup> Anonymous interview, November, 2022

<sup>540</sup> Jenn Yakimishyn, interviewed November 22, 2022 at page 5

<sup>541</sup> Ibid, Jenn Yakimishyn, at page 5

<sup>542</sup> Anonymous interview, November, 2022

<sup>543</sup> Anonymous interview, November, 2022

<sup>544</sup> Anonymous interview, November, 2022

of them, and if anything moves or changes or gets upgraded, then we can deal with those problems as they come.”<sup>545</sup> In the past, there was a float home working group with the ACRD, First Nations, the Province of BC and DFO. Since this working group is no longer operational, there is less attention on this issue in Clayoquot Sound.<sup>546</sup> However, from the amount this issue is brought up with Tla-o-qui-aht, state government and ENGO participants, it is clear that creating a float home action plan and potentially re-establishing this entity would be a positive step for addressing this issue. Indigenous MLG conditions are necessary for collaboratively managing float homes, including building trusting relationships through transparent communications, respecting Indigenous sovereignty and reorienting towards existing Indigenous legal and governance processes, as well as a holistic systems-based approach that accounts for the interconnectedness of social, economic, cultural, and environmental facets of properly dealing with float homes.

## 6.6 Aquatic Working Group

Now, I bring this interview analysis full circle with the pathways, considerations and technical actions outlined and the governance gap brought up by participants. A tangible proposal suggested by participants that speaks to the governance gap, as well as the pathways, considerations and technical actions is an Aquatic Working Group. In weighing in on an Aquatic Working Group, participants speak to the success of the Salmon Roundtable in Clayoquot Sound, which has representatives from DFO, First Nations, industry representatives, local government and ENGOs. West Coast Aquatic, a participant in this research, facilitates the roundtable, which has the purpose to “build partnerships between First Nations, governments and stakeholders in a co-management process to develop and implement the best possible plan for the recovery and sustainable management of Clayoquot Sound’s wild salmon stocks.”<sup>547</sup> The Salmon Roundtable also creates a forum for First Nations and participating actors to make recommendations to DFO related to salmon harvest and stewardship.<sup>548</sup> Jessica, representing an ENGO, discusses the progress that DFO has made in collaboration and engaging with actors at a local level through

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<sup>545</sup> Alex Dyer, interviewed on February 13, 2022 at page 7

<sup>546</sup> Ibid, Alex Dyer, at page 6

<sup>547</sup> *Vancouver Island Collaborative Roundtables* (2022), online: West Coast Aquatic <<https://www.roundtables.westcoastaquatic.ca/area-24-clayoquot>>

<sup>548</sup> Ibid, *Vancouver Island Collaborative Roundtables*

the roundtables. She shares that this indicates “a huge commitment to changing the status quo, how things have been managed, and that disconnect between fisheries management that historically existed and local level management.”<sup>549</sup> In light of this functioning working group, participants suggest there could be something similar to this, a working group for the entire aquatic ecosystem that can deal with eelgrass.

An Aquatic Working Group could be informed by Tla-o-qui-aht governance, including traditional decision-making processes, and be action-based following Tla-o-qui-aht’s desires around eelgrass and broader marine planning. Alex from the ACRD shares that a working group needs to be action-oriented, as previous land use panels in the region have fallen short of their objectives due to people feeling disenfranchised about their contributions not leading to tangible changes.<sup>550</sup> From this action-oriented working group, there can be joint priorities set between all actors (i.e. Tla-o-qui-aht, state government authorities, industry, ENGOS) for the direction and implementation strategies for protecting eelgrass habitat. A Tla-o-qui-aht participant shares insights on how actions can be accounted for meaningfully amongst all participants in this co-productive MLG approach: with “commitments scheduled to the end of the meeting. Logic through every process. With a little prayer at the end.”<sup>551</sup> While this is a commitment to action, this also demonstrates the importance of cultural continuity in Indigenous MLG; of integrating different cultural process styles and norms. Of course, this working group could benefit from embracing the Indigenous MLG principles outlined in Table 2 and would need to follow these principles to realize Indigenous MLG.

From the working group, pathways and technical actions can be realized through Tla-o-qui-aht initiatives, ENGO projects, industry practices, and local, provincial and federal government tools. For instance, Alex positions what this can look like from local governments. He suggests “a working group that would focus on things like developing those foreshore protection policies that would then fit within the [ACRD] zoning.”<sup>552</sup> Of course, funding and resources are needed to bring an Aquatic Working Group to fruition, including for the actor that will take the lead on facilitating, which could be Tla-o-qui-aht or whomever

<sup>549</sup> Jessica Hutchinson, interviewed on December 2, 2022, at page 8

<sup>550</sup> Alex Dyer, interviewed on February 13, 2022, at page 10

<sup>551</sup> Anonymous interview, November, 2022

<sup>552</sup> Ibid, Alex Dyer, at page 10

they identify to fill this position who also has the desire and capacity. To address this, participants suggest tapping on the provincial government for support on this, which can be achieved as part of a CMS.

## **6.7 Conclusion**

In this semi-structured interview analysis chapter, I began by carving out the aquatic ecosystem governance gap that participants bring forward, and how this limits the potential of protecting and restoring eelgrass in Tla-o-qui-aht territory. This governance gap is a long-term result of ineffectual state governance and the violation of Indigenous laws and governance, as discussed in Chapters 1 and 2. From here, I spotlighted the most common pathways, considerations and technical actions discussed by participants for increasing Tla-o-qui-aht authority for eelgrass as a BCE. The pathways are governance and protection oriented, which require more high-level negotiation, communication, and/or planning efforts. While participants do not often discuss the barriers to these specific pathways, they do unpack considerations for uplifting Indigenous authority in a collaborative environmental context, which includes addressing specific barriers like funding. In this way, the overarching considerations can be applied to the pathways put forward by participants. Next, I chronicled the technical actions for eelgrass, which are management, restoration and operationally oriented. While these can be achieved as one-off actions, these actions can also be nested within the broader governance and protection pathways outlined in section 6.3. Finally, participants underlined the need for a collaborative group that is focused on addressing aquatic issues and solutions, like eelgrass revitalization. In connection, I discuss the suggestion of an Aquatic Working Group that can share information, meet regularly, and generate synergies between all actors with jurisdiction and/or interests in the aquatic environment.

Key conclusions from this analysis include the need for eelgrass revitalization solutions to be determined Tla-o-qui-aht. Thus, any governance arrangement, like MLG, begins with Tla-o-qui-aht authority in their territory. Language revitalization and intergenerational inclusion in governance are essential pillars of the pathways participants identify: expanding the Allies Program, state government legislation recognizing Tribal Parks, and a G2G agreement. Additionally, while Tla-o-qui-aht needs to determine how environmental efforts unfold in their

territory, participants also make it clear that a spirit of collaboration between Tla-o-qui-aht, state governments, and non-government actors like ENGOs is indispensable. The reason for this is that while there are many confounding marine issues to address, participants stress the incredible resilience of eelgrass meadows, including how quickly they recover through an effective combination of interventions. Thus, many of the pathways, considerations and technical actions are not mutually exclusive and can be achieved in different combinations through increased collaboration. Intersections between the results are not explicitly discussed by participants, which I make and provide recommendations on next in Chapter 7. These intersections elucidate the mechanisms for enhancing Tla-o-qui-aht authority for eelgrass in their territory as a standalone endeavour and as part of collaborative governance arrangements like MLG.

## CHAPTER 7: DISCUSSION

### 7.1 Chapter Overview

This research was undertaken at a time when a number of favourable factors came together at the right place and time. First, Tla-o-qui-aht has conducted land use planning for the terrestrial environment of their Tribal Parks and has expressed their goal to continue this work for the marine environment. Within this expression, they recognize how eelgrass health is compromised in their territory and the need to enhance their authority amongst the mosaic of authorities in their territory. They are also interested in quantifying BCEs and bringing this into the fold of their conservation efforts. Secondly, eelgrass falls within state provincial jurisdiction, and the Ministry of WLRs is currently co-producing a CMS with coastal First Nations in British Columbia. Therefore, this may be an opportunity to advance Tla-o-qui-aht's eelgrass protection and broader marine plans. Finally, as expressed throughout this thesis, there is an overall gap in state government policy for protecting eelgrass - in and of itself as an ecosystem, as well as a blue carbon source. Based on these objectives, this research explores two questions:

- 1) What are the specific mechanisms by which Tla-o-qui-aht can enhance their authority of eelgrass as a BCE in their territory?
- 2) What are the solutions for improving eelgrass health within Tla-o-qui-aht territory, and can this influence BCE health on a provincial scale in BC?

I answer my first research question by providing recommendations for enhancing Tla-o-qui-aht authority for eelgrass in section 7.2. These recommendations are mechanisms that are based on considering the data from my policy/document and interview analysis in its entirety. Finally, I answer my second research question by discussing a Blue Carbon Policy that can be created independently by the Province of BC or as part of their CMS in section 7.3. This policy can encompass many of the management, restoration, and operational recommendations captured by the interview data. This will fill the current gap in state government policy for these ecosystems while continuing to uplift Indigenous laws and governance. Again, this can support

Indigenous governance first, and where desired, Indigenous MLG between First Nations, the Government of Canada, the Province of BC, local governments and non-government actors.

While my two research questions are posed separately, I hope to impart how the answers to these questions converge. According to the data, many of the solutions for improving eelgrass health in Tla-o-qui-aht territory are consistent across BC - from addressing boat traffic, restoring watersheds from logging, and dealing with invasive EGC, among all others chronicled in section 6.5. I believe that a Blue Carbon Policy is a way to harmonize BCE efforts across BC, putting the responsibility of administrative and technical work on to the Province of BC while accounting for the fact that there will be variance in BCE governance between First Nations. For Tla-o-qui-aht, this includes determining governance, legal, financial and collaborative mechanisms on their territory through their governance processes, and these mechanisms can influence sought-after solutions by Tla-o-qui-aht and their partners. A BC Blue Carbon Policy can be developed in conjunction or independently from the CMS, either way, this policy should be produced through a co-productive approach with First Nations. This policy can also enable place-based mechanisms, including mechanisms I recommend next in section 7.2, which are determined by First Nations in their respective territories. By adopting a comprehensive perspective that is inclusive of both research questions, I demonstrate the linkages between revitalizing eelgrass health in Tla-o-qui-aht territory and eelgrass across BC, and how this ultimately remains embedded in Indigenous authority and reciprocal interactions.

## **7.2 Recommendations for Answering Research Question 1**

This next section answers my first research question: What are the specific mechanisms by which Tla-o-qui-aht can enhance their authority of eelgrass as a BCE in their territory? I do this by providing recommendations for Tla-o-qui-aht to enhance their governance and authority in their Tribal Parks for eelgrass as a BCE. Additionally, based on the interview results, marine visioning and planning is a critical next step for strengthening Tla-o-qui-aht authority in the marine environment. Marine visioning and planning can be supported and achieved through any or all of the recommendations I suggest: weaving blue carbon into the Allies Program, establishing a Marine Tribal Park and achieving state government legislation recognizing IPCAs, G2G agreements and an Aquatic Working Group.

If Tla-o-qui-aht pursues a collaborative approach like MLG, there are strong marine planning templates to follow from Coastal First Nations with the Province of BC through the MaPP. However, they may decide to pursue a Marine Tribal Park independently as they have for the terrestrial component of their Tribal Parks, drawing on support from state government and non-government actors for management, operations, implementation and/or enforcement.

### **7.2.1 Weaving Blue Carbon Into The Allies Program**

From my results, it is no surprise that blue carbon is an emerging topic of interest with high potential. However, there is still a lot of groundwork to do regarding research and education on this topic. Based on the results, a way to enhance Tla-o-qui-aht's authority for eelgrass and the marine environment is to support the existing Tribal Parks Allies Program. This conservation finance mechanism continues to grow, yet it has not reached its full potential of receiving 1% of revenue generated in Tla-o-qui-aht territory. A way to continue expanding the Allies Program while generating awareness about blue carbon is through weaving blue carbon into the program over the next 1-1.5 years. Bringing blue carbon into the existing Allies Program fold can include incorporating blue carbon information into Tla-o-qui-aht's traditional and digital communication platforms. These platforms encompass their annual report and Tribal Parks Summit, other conferences and events that Tribal Parks staff attend, in dialogue with existing and prospective Allies Program members, articles and blogs, as well as television, film, radio, and workshops. Since tourism is responsible for a vast portion of greenhouse gas emissions in Tla-o-qui-aht territory, current and prospective Tribal Parks Allies can ameliorate this climate impact by supporting Tribal Park initiatives to protect and enhance blue carbon: one of the region's most significant sequestration sources.<sup>553</sup> Quantifying blue carbon and bringing this into the fold of the Tribal Parks movement can have a ripple of impact for decades to come.

A tourism-specific communication tactic that can support Tla-o-qui-aht authority and blue carbon awareness and protection could be through governance back workshops held in Tla-o-qui-aht territory, which could be supported by Tourism Tofino or 4VI (previously Tourism Vancouver Island that is now structured as a social enterprise). One of the key blue carbon

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<sup>553</sup> 2021 Tribal Parks Report (2022), Online: Tla-o-qui-aht First Nation  
<<https://tribalparks.com/wp-content/uploads/2019/09/2018TRIBALPARKSREPORT.pdf>>

messages in this workshop and all other communication tactics can be that Tla-o-qui-aht's continued governance and management of their territory safeguards carbon sinks, including eelgrass, which is offsetting emissions generated by tourism and other industries in the region and globally. Disseminating consistent information about blue carbon within the Allies Program over the next years will generate awareness about blue carbon as a vital carbon sink and a site of cultural and ecological importance. This vital first step can lay the foundation for future governance-based solutions that are heavier lifts in years to come.

Additionally, students at the University of Victoria and the University of British Columbia are currently conducting more in-depth research on eelgrass's carbon storage and sequestration rates in numerous Nuu-chah-nulth First Nations territories, including Tla-o-qui-aht. Their results will be published in a year. Once quantification information is solidified, more awareness is generated, and the Allies Program has expanded, Tla-o-qui-aht can ideally develop a conservation finance mechanism focused solely on blue carbon, including carbon offsets, blue bonds, or impact investing.

In terms of Indigenous governance and Indigenous MLG, if Tla-o-qui-aht decides to pursue this blue carbon pathway, there is potential for this to set a precedent in BC. This is because there are no marine-based carbon credit projects in Canada or other types of blue carbon-based finance mechanisms. In terms of principles for enhancing Tla-o-qui-aht authority, the Allies Program has been and continues to be a critical space for analyzing power relations between Tla-o-qui-aht and settler businesses, residents, tourists, and state governments. This requires difficult, persistent and transparent communications between Tla-o-qui-aht and the aforementioned actors. Indigenous MLG principles are thus reflected in this mechanism, including building relationships through transparent communications. Tla-o-qui-aht also established the Allies Program independently, so actor participation in this program is a way to revitalize BCEs as well as respect Tla-o-qui-aht authority and self-determination. The Allies Program is a mechanism of Tla-o-qui-aht authority, but it has not reached the pinnacle of its development. As I suggest, bringing BCEs explicitly into the Allies Program fold is a way to actualize full programmatic potential.

## 7.2.2 Tla-o-qui-aht Marine Tribal Park & State Government Legislation

Tla-o-qui-aht can independently establish a Marine Tribal Park with accompanying marine visioning and planning. A Marine Tribal Park is a mechanism for enhancing Tla-o-qui-aht authority, and if Tla-o-qui-aht does not want to pursue a collaborative path for this protected area designation, state recognition of their Marine Tribal Park can still be realized through provincial and federal legislation that formally recognizes IPCAs. As discussed throughout this thesis, Tla-o-qui-aht has laws about eelgrass management and protection, many of which are not respected. So, state government legislation is a legal mechanism that can recognize a Marine Tribal Park and uphold Indigenous law. As shared in the policy/document analysis, the AFN report on IPCA recommendations is aimed at the federal government; however, many recommendations can also be applied to the provincial government. This includes providing the resources necessary to the First Nations' Nature Table to review "all related policy, regulation, and legislation, to address issues that enable the establishment of Indigenous-led IPCAs."<sup>554</sup>

The Province of BC can establish a similar coalition to the First Nations' Nature Table and bring on First Nation members with experience in establishing and running an IPCA, which can include a member from Tla-o-qui-aht. A coalition aligns with AFN recommendation 7C, as Tla-o-qui-aht has this experience and is aspiring to further planning in the marine component of their Tribal Parks. This would need to be a paid opportunity, and intergenerational inclusion is a key principle for the success of this initiative. Tla-o-qui-aht is an ideal candidate to participate in a provincial coalition of this nature, as they have a unique position from independently asserting their IPCA while working in collaboration with state government and non-government actors to achieve their objectives. Having a voice in this broader movement will also inevitably shape their Marine Tribal Park in the years to come, which can be supported by a community champion like an ENGO. It is important to always centre the point that Tla-o-qui-aht is a sovereign entity and an IPCA agreement with the Province of BC and Government of Canada should not limit Tla-o-qui-aht roles and

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<sup>554</sup> *Marine Indigenous Protected and Conserved Areas: Opportunities and recommendations for realizing Canada's commitments to reconciliation and marine conservation* (2023), online: Assembly of First Nations <<https://afn.bynder.com/m/18f2621b593d7591/original/Marine-Indigenous-Protected-and-Conserved-Areas-Final-Report-January-2023.pdf>>, at page 36

responsibilities. To protect Tla-o-qui-aht governance, any agreement should be ‘without prejudice’.

Creating legislation formally recognizing IPCAs will be a complex and lengthy process, and the Province of BC might not aggressively strive for this. Additionally, Tla-o-qui-aht might not want to lead a campaign on this goal given the many demands on their government and their growing relationship with the province. With this in mind, one or multiple community champions can take guidance from Tla-o-qui-aht and carry the torch to achieve this solution. Such a monumental goal can still be achieved collaboratively, but a champion, like an ENGO, can put in the work and resources to see this goal through to victory. Bringing on a community champion is a consideration discussed in the interview analysis, and in the context of this recommendation, it also serves as a mechanism for respecting and upholding Tla-o-qui-aht authority while distributing the workload among Tla-o-qui-aht partners, like ENGOS.

We have seen the community champion mechanism work in action in BC, and the CMS is an example of this approach. Environmental nonprofits in BC called on the Province of BC to construct a CMS, starting in 2018, through the Blueprint for the Coast campaign. They called for the CMS to be co-produced with all coastal First Nations and adhere to BC DRIPA legislation, and they won this campaign. The same approach can be applied to a campaign calling for enacting provincial legislation recognizing IPCAs, which can adhere to the recommendations established by the Assembly of First Nations. If Tla-o-qui-aht wants legislation enacted to attain state legal recognition of their IPCAs, they can act as an advisor for the campaign with the support of one or more environmental nonprofit partners as the “champions.” This could be an ENGO with substantial legal knowledge, like West Coast Environmental Law, which is one of the leading organizations in the Blueprint for the Coast Campaign. Considering the CMS is going to be implemented over twenty years, this could accommodate the five or more years needed for the legislation recognizing Marine Tribal Parks, and then many years of implementation following this considering the many individual, commercial and industrial uses and activities in the marine environment of Tla-o-qui-aht territory.

As shared in the policy and document analysis, the Marine Protected Area Network BC Northern Shelf Initiative Network Action Plan positions that IPCAs can assist in reaching local and network protection targets and objectives.<sup>555</sup> The CMS Intentions Paper also states this as a potential outcome for the final strategy: exploring legislation for IPCAs.<sup>556</sup> As discussed in the policy analysis, we are already witnessing this with increasing federal government support of IPCAs as part of 30x30 targets, including the Sahtú K'aowe Indigenous Protected and Conserved Area around Great Bear Lake (Tsá Tué) in the Northwest Territories. Similar to being the first jurisdiction to ratify UNDRIP in Canada, the Province of BC has the opportunity to be ahead of the curve and show leadership in supporting Indigenous-led environmental protection measures. The CMS is once again being developed at an auspicious time to take this leap and begin undertaking the work to create legislation in 2024 when the CMS is released and implementation begins. In addition to profoundly impacting Tla-o-qui-aht authority, the CMS can also help realize international, national and provincial environmental protection goals, as outlined in the policy and document analysis. This relationship with the CMS will be explored further in the next section answering my second research question.

### 7.2.3 Government-to-Government Agreements

As discussed in section 7.2.2, state recognition of a Tla-o-qui-aht Marine Tribal Park will enable many of the management, restoration and operational solutions that interview participants suggest for enhancing Tla-o-qui-aht authority and eelgrass health. Another way to achieve this is through a G2G agreement, a governance mechanism, which is a successful model of Indigenous MLG as shown in the policy/document analysis. With the CMS process, the coastal First Nations with the most input are those with G2G agreements, joint marine planning initiatives or treaties with the province, including the Haida Nation and Coastal First Nations. This makes sense, as existing relationships and forums exist for communication and collaboration between these

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<sup>555</sup> *Marine Indigenous Protected and Conserved Areas: Opportunities and recommendations for realizing Canada's commitments to reconciliation and marine conservation* (2023), online: Assembly of First Nations <<https://afn.bynder.com/m/18f2621b593d7591/original/Marine-Indigenous-Protected-and-Conserved-Areas-Final-Report-January-2023.pdf>>, at page 15

<sup>556</sup> *A Coastal Marine Strategy for British Columbia: Intentions Paper* (2022), online: Government of British Columbia <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

Indigenous and state government actors. However, Tla-o-qui-aht, amongst other First Nations on the central west coast of Vancouver Island, does not have treaties, joint marine planning or G2G agreements with the Province of BC. The DRIPA Action Plan and CMS Intentions Paper state that the Province of BC aims to strengthen relationships with First Nations, including collaborative environmental stewardship. Thus, Tla-o-qui-aht pursuing a G2G agreement with the provincial government will likely succeed if Tla-o-qui-aht decides to go this route.

One specific type of G2G mechanism could be a marine-based agreement between Tla-o-qui-aht, the Province of BC and the Government of Canada. This agreement could support directing resources to Tla-o-qui-aht for marine planning and on-the-ground actions that Tla-o-qui-aht would like to take. Through a G2G agreement, this could support tools like marine zoning, environmental monitoring, law and policy enforcement, as well as enabling economic opportunities that are aligned with the conservation economy that Tla-o-qui-aht is building. This would also enable Tla-o-qui-aht to have more authority in this environment and can occur in conjunction with the designation of an official Marine Tribal Park. This can also create jurisdictional clarity and enhance governance management and technical-based relationships between Tla-o-qui-aht, the Province of BC and other actors in Tla-o-qui-aht territory, like the aquaculture industry. Pursuing this pathway can be achieved as part of the provincial CMS, which will be completed by the end of 2023. However, these conversations can begin at any time with the Province of BC and will help achieve numerous policy outcomes of the CMS Intentions Paper, including advancing collaborative stewardship with First Nations as well as protecting blue carbon sinks. There are many G2G agreements to look to and build from, and this type of agreement for the marine environment can look to the successful G2G agreement between the Council of the Haida Nation and the Province of BC, as discussed in Chapter 5.

There are no G2G agreements specific to BCEs in BC or Canada, thus, a second G2G mechanism can be for BCEs between Tla-o-qui-aht and the Province of BC. For this mechanism, there is a strong model to lean on with the success of the Atmospheric Benefit

Sharing Agreements for forest carbon between First Nations and the Province of BC.<sup>557</sup> Like forest carbon, the same principles could apply to the agreements for blue carbon in existing or new conservation finance mechanisms. This includes First Nations ownership, the ability to sell carbon in domestic and international markets, collecting revenue from the mechanism, like carbon credits, and protecting the ecosystem indefinitely. This also aligns with my results, as participants believe BCEs in conservation finance will only be legitimate if First Nations endorse and benefit from it. These types of agreements can only occur once a First Nation has a reconciliation protocol or similar agreement with the provincial government, which Tla-o-qui-aht also has.<sup>558</sup> Like a marine G2G, this can be achieved through the provincial CMS, and preliminary conversations for this governance arrangement can begin anytime. Again, this depends on accurate blue carbon storage and sequestration figures for Tla-o-qui-aht territory and a provincial blue carbon offset protocol.

There may also be opportunities to explore with The Nature Conservancy, who are doing forest-protected areas with some Nuu-chah-nulth First Nations, including Ahousaht First Nation. The Nature Conservancy may be a fitting non-government partner to work with considering their seagrass restoration work and their efforts of working towards selling carbon credits in the State of Virginia.<sup>559</sup> As Atmospheric Benefit Sharing Agreements are an MLG success story, creating a similar G2G agreement specific to BCEs would also be a progressive, unique, and collaborative mechanism for Tla-o-qui-aht to increase their authority in the marine environment and benefit economically from their territorial carbon sinks.

#### 7.2.4 Aquatic Working Group

An Aquatic Working Group can serve as a collaborative mechanism for revitalizing eelgrass and for establishing a Marine Tribal Park. A similar entity to the Salmon Roundtables, which has succeeded on the WCVI, could be effective for eelgrass endeavours as part of broader

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<sup>557</sup> Deborah Carlson, *Policy and Planning for Coastal Ecosystems in British Columbia through a Blue Carbon Lens* (2020), Online: West Coast Environmental Law

<<https://wcel.org/sites/default/files/publications/2020-11-discussionpaper-bluecarbonpolicy-final.pdf>>

<sup>558</sup> *Atmospheric Benefit Sharing Agreements*, online: Government of BC

<[www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/atmospheric-benefit-sharing-agreements](http://www2.gov.bc.ca/gov/content/environment/natural-resource-stewardship/consulting-with-first-nations/first-nations-negotiations/atmospheric-benefit-sharing-agreements)>

<sup>559</sup> *Catalyzing Coastal Vegetation for Blue Carbon Sequestration*, online: US Nature for Climate

<<https://usnature4climate.org/solutions-in-action/catalyzing-coastal-vegetation/>>

aquatic protection. With the development of the CMS, there is an opportunity for Tla-o-qui-aht to request support from the Province of BC to form an action-oriented working group solely focused on aquatics. While some interview participants desire a governance structure like the CRB, others state that there needs to be an entity that is also action-oriented. Thus, an Aquatic Working Group could be informational and technical based, bringing Tla-o-qui-aht, ENGOs, the Province of BC and other relevant actors together to oversee projects and planning for watershed and marine health in Tla-o-qui-aht territory. As discussed in the interview results, a working group requires the considerations of proper scoping, a shared vision, aligned priorities and long-term funding. The working group can be shaped by Tla-o-qui-aht, and this can support projects, collect data, and conduct other activities that can positively influence aquatic governance. Tla-o-qui-aht could chair the Aquatic Working Group if they wish. Alternatively, they could delegate facilitation responsibility to another actor with whom they have a strong relationship, like West Coast Aquatic or Clayoquot Biosphere Trust.

Numerous steps are required to establish an Aquatic Working Group. Steps include identifying the working group's purpose and scoping the group properly. Participating actors must be identified, the challenges to be addressed, and the working group's goals. From here, individuals with the right experience, knowledge and resources on watersheds and the marine environment should be identified as members. Tla-o-qui-aht could help decide who these individuals are and ideally should represent a broad spectrum of perspectives for well-rounded decision-making. A structure is required for the working group, as well as roles and associated responsibilities, decision-making processes, a communications plan, and any other appropriate protocols to ensure the working group's success, which Tla-o-qui-aht can culturally inform. From here, work plans need to be developed, approved and implemented - including getting an endorsement from Tla-o-qui-aht Chief and Council and Hereditary Chiefs. Evaluating and monitoring the advancements made as well as the failures is also key to long-term success, including the effectiveness of the working group in achieving the desired outcomes. Thus, ensuring that Tla-o-qui-aht political processes guide the working group, along with all other Indigenous MLG principles (see Table 2) are essential principles for the success of this recommendation.

All of the recommendations provided in this section can improve eelgrass health as a BCE while bolstering Tla-o-qui-aht authority. The recommended mechanisms for achieving this include expanding the Allies Program to include a blue carbon focus, campaigning for state government legislation recognizing IPCAs, government-to-government agreements, as well as an Aquatic Working Group. All of these pathways can also support a Marine Tribal Park and associated marine planning, and thus enhance Tla-o-qui-aht's authority for eelgrass meadows. These recommendations align with the intended outcome identified in the CMS Intentions Paper of increasing collaborative stewardship with First Nations, which can be achieved by leveraging the WLRS's CMS. Beyond these higher-level solutions, the Province of BC can also address issues impacting blue carbon brought up by participants through provincial policies.

### **7.3 Recommendations for Answering Research Question 2**

In this section, I answer my second research question: What are the solutions for improving eelgrass health within Tla-o-qui-aht territory, and can this influence BCE health on a provincial scale in BC? One option is through a provincial Blue Carbon Policy. This policy can be a product of the CMS, to protect and restore BCEs following a “no net loss” principle that is informed by First Nations, including Tla-o-qui-aht. This could also be developed separately from the CMS, but it makes sense for this to be done in tandem considering that the CMS Intentions Paper focuses on blue carbon, collaborative stewardship and WLRS creating and updating policies as part of the overarching CMS policy. Currently, no other state government policy document in BC has focused on blue carbon as much as the CMS Intentions Paper. A Blue Carbon Policy can support many of the technical actions that are identified in the interview data, as participants make it clear that many of the eelgrass issues and solutions are consistent across coastal BC in First Nations territories. The policy can also support the realization of a few of the recommendations identified in section 7.2

#### **7.3.1 BC Blue Carbon Policy**

A Blue Carbon Policy must be co-produced and actualized by Indigenous authorities across BC. As this research with Tla-o-qui-aht demonstrates, this policy must recognize and respect that governance for BCEs will be expressed differently in every First Nation territory, running the gamut from independent governance to Indigenous MLG. With this understanding,

the Province of BC can provide resources to First Nations that are looking to focus on blue carbon conservation in BC and support their BCE decision-making. Collaboration with ENGOs, state governments and academic institutions will also be instrumental in achieving the Blue Carbon Policy recommendations:

- Provide funding for blue carbon monitoring and mapping directly led by First Nations or ENGOs whose work is building technical and financial capacity with First Nation partners. Where desired, this can be joint mapping for BCEs like eelgrass between Indigenous and state governments.
- Alongside funding, standardizing blue carbon mapping and monitoring protocols across the province for more effective data comparison and communication, including carbon sequestration and storage accounting.
- Where desired, support First Nations with investigating and leveraging conservation finance mechanisms for blue carbon protection and restoration. Blue carbon restoration can tie into First Nation-led conservation finance projects, including carbon offsets and Ecosystem Service Fees. For example, leveraging blue carbon for conservation finance can provide sustainable and long-term funding for implementing a Tla-o-qui-aht Marine Plan and other IPCAs in BC.
  - Support the development of an offset protocol to support blue carbon offsets, looking to the Forest Carbon Protocol and Atmospheric Benefit Sharing Agreements as a template for moving forward with First Nations.
- Create a fund to support the restoration of BCEs led by First Nations and ENGOs.
  - Prioritize watershed approaches to restoration, including controlling upstream erosion and excessive sediment loading of streams from all development and logging operations (current and legacy).
  - Support invasive species removal, monitoring and evaluation. This includes European green crab removal and mitigation tactics.
  - Based on a watershed approach, create a protocol for eelgrass transplanting to ensure this restoration is only occurring where favourable conditions for recolonization exist.
- Establish a Float Home Action Plan for Clayoquot Sound. This will include float home approval, management, monitoring and enforcement processes. This should also

encompass a financial protocol to ensure that Tla-o-qui-aht and other First Nations benefit financially from the presence of float homes in their territory, which they have and continue to subsidize.

- Update the Crown Use Operational Policy to be consistent with the BC *Declaration on the Rights of Indigenous Peoples Act* and make float homes consent-based with First Nations.
- Regarding land use, prohibit the use of fertilizers and pesticides in the ICI sectors, which adversely impact blue carbon health and overall coastal marine functioning.
- Support Indigenous education and Indigenous language programs that are inclusive of and led by youth, elders, women and gender-diverse individuals as an essential component of blue carbon as well as holistic marine and coastal protection.
- Invest in youth by supporting First Nations' youth capacity development, including for Guardian programs, as well as opportunities for participation in Indigenous governance, management, monitoring and restoration initiatives.
- Target public outreach and education to foster community stewardship, individual responsibility, and collective systemic action to benefit BCE conservation and recovery. Through this policy, the provincial government can also create awareness around blue carbon through external communications like reports, a website page, maps on websites, and signage.
- The CMS Intentions Paper states the intention to “Explore innovative protected-area models including the designation of Indigenous Protected and Conserved Areas.” In the final strategy, WLRS should adopt committed language, replacing “explore” with “establishing” legislation to formally recognize IPCAs and Tribal Parks as protected areas.
- Many state government parks are declared but are not being actively managed. Thus, where there is interest from First Nations, evaluating a transfer of authority of these protected areas to First Nations with Tribal Parks, IPCAs, Guardian Programs and/or other active Lands, Marine, and Resource Departments.
  - Specifically within Tla-o-qui-aht Territory, transfer authority over the Tofino Mudflats Wildlife Management Area under the provincial *Wildlife Act*.

- Through these recommendations, recognizing Indigenous rights and sovereignty means taking into account First Nations' priorities in BC - and having this reflected in funding envelopes that are ideally more flexible and consistent over the long term.

As stated earlier in this section, a Blue Carbon Policy can be constructed independently or as part of the CMS. As shared throughout this thesis, the Ministry of WLRs may achieve MLG through the CMS process, which in itself can be seen as a provincial mechanism for enhancing Indigenous authority for BCEs. This is because WLRs is working to co-develop the CMS with different scales of government and non-government actors: all 98 coastal First Nations, alongside input from local governments, federal government authorities and ENGOs. As shared by participants, not all First Nations have the same level of participation based on different abilities to engage in another state government consultation process. While the province intends for fulsome participation from all coastal First Nations, if they are still working on achieving essential services, this initiative will not be a priority. Ideally, to have an MLG policy process, WLRs will need to work to engage all outstanding First Nations according to their timelines and preferred modes for engagement. At the time of writing, the province is still undertaking technical feedback sessions with First Nations, which will continue into June 2023.

Per my literature review, an MLG process for the CMS has the potential to establish an environment of policy-making conducive to further instances of MLG. Of course, in regards to First Nations governance and authority for BCEs, only time will tell if this intention will come to fruition. It is possible through the CMS, including the recommendations I provide, that the WLRs can build a relationship with Tla-o-qui-aht, on their terms, and use this to strengthen and expand the Tribal Parks in the marine environment.

The CMS Intentions Paper states the need to support First Nations with their enforcement of natural resource decisions, "First Nations want to be empowered to establish and enforce rules in their traditional territories."<sup>560</sup> While this is likely true in some contexts, some First Nations want to be the sole decision-makers and have state government authorities enforce their decisions. This is an important finding of this research, that Indigenous governance can lead to

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<sup>560</sup> *A Coastal Marine Strategy for British Columbia: Intentions Paper* (2022), online: Government of British Columbia <<https://engage.gov.bc.ca/app/uploads/sites/121/2022/12/Coastal-Marine-Strategy-Intentions-Paper.pdf>>

collaboration with management, operations and implementation with state government and non-government actors, but not always collaboration at the level of governance.

## **7.4 Conclusion**

Through this discussion chapter, I aimed to answer my research questions based on synthesizing and building relationships between my policy/document and interview analysis data. In the former half of this chapter, I provided recommendations for answering my first research question, which is centred on identifying mechanisms by which Tla-o-qui-aht can strengthen their authority for eelgrass as a BCE in their territory. Based on the interview data, I determined that marine visioning and planning is a crucial next step for Tla-o-qui-aht. From this inevitable move, the mechanisms for supporting marine visioning and planning can include weaving blue carbon into the existing Allies Program, a conservation finance mechanism that has yet to reach a zenith of effectiveness. I stated that by bringing blue carbon into the program, the program will continue to build up Tla-o-qui-aht authority and revitalize eelgrass. The next recommendation is a Tla-o-qui-aht Marine Tribal Park and State Government Legislation. A Marine Tribal Park in itself is a mechanism of Tla-o-qui-aht authority, and state government legislation is a legal mechanism that can support full compliance with Tla-o-qui-aht laws and governance, which is not currently occurring in Tribal Parks. A G2G agreement is a governance mechanism that can be reached between Tla-o-qui-aht and state governments, which can also support a Marine Tribal Park, create jurisdictional clarity, environmental monitoring, enforcement of Tla-o-qui-aht decisions, as well as economic opportunities like blue carbon offsets. Finally, I ended this section by recommending an Aquatic Working Group, which can be a mechanism established by Tla-o-qui-aht to manage issues and initiatives related to aquatic resources, like eelgrass. The working group can be informed and determined by Tla-o-qui-aht governance processes and protocols, but the group would be a collaborative entity made up of ENGOs, CBT, state government representations, other aquatic user groups in Tla-o-qui-aht territory and potentially neighbouring First Nations if the Aquatic Working Group works on a Clayoquot Sound scale.

In the latter half of this discussion chapter, I delved into the second research question, which is focused on solutions for improving eelgrass vitality in Tla-o-qui-aht territory and how

this may influence BCEs on a provincial scale in BC. I recommended that a BC Blue Carbon Policy can capture the progressive actions put forward by participants in this research who are experts in eelgrass management, restoration, and advocacy. The key takeaway for this policy is that governance for BCEs varies between each First Nation, and so the authority for elements of the policy taking place on the ground must rest with First Nations. Many eelgrass issues across the province are the same, so on one hand, the need for standardized monitoring, mapping, databases, and protocols for carbon offsetting is required, which will mean greater administrative and technical work being delegated to state governments. On the other hand, this research demonstrates the importance of a territorial approach to ecosystem governance, including for BCEs like eelgrass. So, following Indigenous MLG principles like self-determination, First Nations need to be in the driver's seat in deciding what is best for BCE governance and management and the technical actions that follow suit.

My recommendations, which are the mechanisms I describe in section 7.2, are built off of my analysis and synthesis of pathways, considerations and technical actions for increasing Tla-o-qui-aht authority for eelgrass that I laid out in the interview analysis in sections 6.3, 6.4 and 6.5. Again, many of these pathways and actions can be supported by a BC Blue Carbon Policy. For instance, a blue carbon offsetting protocol can be established by the Province of BC so that there is one harmonized system across BC, with the provincial government taking on the administrative duties of this system. Meanwhile, First Nations across BC can benefit from this system and lead on the governance and operations in the ground with blue carbon conservation finance mechanisms, like an ESF and carbon offsets. A BC Blue Carbon Policy could ideally benefit by following the considerations outlined in section 6.4, including establishing an ongoing funding envelope for First Nations' blue carbon initiatives across coastal BC. This funding could then support mechanisms that enable long-term Indigenous-led collaborations, like the Aquatic Working Group, which carry the potential to be MLG arrangements.

By taking a holistic view of the answers to both of my research questions, an interplay between them emerges. The broader governance, legal, conservation finance and collaborative mechanisms need to be determined by Tla-o-qui-aht in their territory, and these mechanisms will very much inform which solutions are sought by Tla-o-qui-aht and this Nation's partners. A BC Blue Carbon Policy can be developed as part of or separately from the CMS. Like the CMS, this

policy should also be developed through a co-productive approach with coastal First Nations. This policy can then enable specific mechanisms and actions that are determined by First Nations in their territories, which can be executed through independent Indigenous governance or MLG. Throughout this thesis, I attempt to paint a picture of how eelgrass and other BCEs have been neglected by state government regulations and policies, state government sanctioning of activities that degrade BCEs, as well as directly and indirectly violating Indigenous laws. In this dynamic, relationships between societies, and societies and ecosystems are severed. While this is a very specific example, I believe that intersocietal approaches to BCE revitalization across BC that are rooted in Indigenous authority have the chance to rebuild these relationships. While multi-jurisdiction has been a challenge to overcome, beckoning for governance arrangements like MLG, a new way forward can embrace reciprocal interactions - a vital principle to Tla-o-qui-aht governance. Restoring reciprocal relations can generate equitable power dynamics and social, cultural, ecological, economic and climatic balance.

## CHAPTER 8: CONCLUSION

### 8.1 Summary of Key Findings

This study examines enhancing Tla-o-qui-aht authority for eelgrass, a BCE, in their territory. My research uncovers mechanisms for achieving this objective, as well as solutions for revitalizing eelgrass and how this may influence these ecosystems on a provincial scale in BC. From my policy/document and interview analysis, I determine that all recommendations should support the enactment of a Marine Tribal Park and further marine planning and visioning. My first recommendation is weaving blue carbon into the existing Allies Program, Tla-o-qui-aht's current conservation finance mechanism. This mechanism will generate more awareness about blue carbon amongst the public, businesses and funders, which is currently lacking, and assist the Allies Program to reach its full potential. From the data, it is evident that Tla-o-qui-aht is successful in its autonomous approach to governing and protecting their territory. The shortcoming of this approach is the colonial government, which does not recognize Tla-o-qui-aht's Tribal Parks, and thus permits activities and usages that are not commensurable with Tla-o-qui-aht's decisions and accompanying plans. A way to address this while upholding Tla-o-qui-aht sovereignty is by gaining state recognition of Tla-o-qui-aht's Tribal Parks, and for IPCAs across the province, through provincial legislation. This can be achieved by applying the AFN's recommendations for state government legislation recognizing marine IPCAs. If needed, a campaign to achieve this milestone can be led by an ENGO in BC, and guided by First Nations with IPCAs like Tla-o-qui-aht. This monumental goal would change the landscape of protected area governance in the province, but the downside of this aspiration is that it could take many years to achieve.

In the interim of achieving provincial legislation recognizing marine IPCAs, another governance pathway that has had success in BC between First Nations and state governments are G2G agreements. While G2G agreements are an example of MLG, they can still enhance Indigenous authority, create clarity around jurisdiction, and enable collaborative forums between the provincial government, Tla-o-qui-aht, and any other appropriate non-government entities. As discussed, Tla-o-qui-aht could pursue a marine-based G2G with the Province of BC and the Government of Canada. Another G2G option would be specific to BCEs, including eelgrass.

This mechanism involves building off the success of Atmospheric Benefit Sharing Agreements for forest carbon between First Nations, and the Province of BC.<sup>561</sup> This type of G2G agreement would employ the same principles but for BCEs. As part of this, the province could develop a blue carbon offset protocol, ensuring a harmonized system for this conservation finance mechanism across BC.

The final recommendation is an Aquatic Working Group. The data from this study indicate a governance, information sharing and organizing gap on the WCVI for aquatic ecosystems, including in Tla-o-qui-aht territory. Implementing a working group can create synergies between all entities working in the aquatic environment in Tla-o-qui-aht territory, and support the realization of Tla-o-qui-aht marine goals, including around eelgrass, through a group that meets regularly and collaborates on initiatives. The working group could address many of the issues brought up by interview participants, including boat traffic, float homes, and watershed damage from logging. An Aquatic Working Group can also function as a mechanism for a Marine Tribal Park recognized by state legislation or for either type of G2G agreement.

Finally, I answer my second research question around recommendations for improving eelgrass health as a BCE within Tribal Parks and the influence this may have at a provincial scale. I believe that the CMS can support all governance pathways I have laid out, and the precedents set from this would have a ripple effect for First Nations across the province. I also provide a set of recommendations based on my data, all of which can inform a more detailed provincial Blue Carbon Policy. Similar to the CMS, this can be co-produced with interested First Nations, and finally address the gap that exists in the state government policy landscape for eelgrass and other BCEs. A BC Blue Carbon Policy will also ideally adhere to the Indigenous MLG principles outlined in Chapter 3 and used in the evaluative criteria. Central to this is addressing power relations to achieve co-production, integrating Indigenous knowledge and ensuring this is determined by participating Indigenous actor(s), building trusting relationships through transparent communications and respecting self-determination. It is vital that a Blue Carbon Policy straddle the balance of harmonizing specific actions like blue carbon monitoring,

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<sup>561</sup> Deborah Carlson, *Policy and Planning for Coastal Ecosystems in British Columbia through a Blue Carbon Lens* (2020), Online: West Coast Environmental Law  
<<https://wcel.org/sites/default/files/publications/2020-11-discussionpaper-bluecarbonpolicy-final.pdf>>

mapping and an offset protocol for all of BC, while also embracing flexibility in blue carbon governance with First Nations to reflect their culturally informed systems and processes.

Through the rest of this concluding chapter, I discuss the research interpretations and contributions. This includes the importance of empowering Indigenous governance first, including state governments and non-government actors following, implementing and enforcing Indigenous laws. This means that Indigenous MLG may be possible for BCEs, but this needs to be determined by Indigenous Nations and embedded in territory/territories. Another key takeaway in this section is intergenerational inclusion in governance, which involves generating opportunities for youth and elders to participate. While BCE governance should be led by Indigenous authorities and rooted in territory, there are still indispensable advantages for doing BCE work in collaboration, whether this is governance, management and/or operationally based. Finally, I stress the need for a holistic understanding of BCEs like eelgrass, moving away from solely a carbon and climate-centric narrative regarding the role of these ecosystems.

I will also unpack the limitations of this research, like my methodological choices, including all interview participants being part of a cohesive community in or near Tla-o-qui-aht territory and being involved in coastal, marine and/or eelgrass-based work. Additionally, while this research is governance focused, a majority of recommendations put forward by participants are management, operational and implementation based. However, I contend that these results are still valuable and can be nested within broader governance pathways. Next, I share suggestions for future research on Indigenous MLG studies: including marine governance, intergenerational inclusion in governance, Indigenous-led governance processes, expanding the temporal dynamics of MLG and looking at MLG for other BCEs like salt marshes and kelp forests. Finally, I share my insights on realizing the radical potential for MLG and BCEs, together and separately. I also unpack what this means for protecting eelgrass as a BCE in Tla-o-qui-aht territory, and implications for the rest of coastal BC. To come full circle, I reflect on this academic journey and thoughts on how this study may ripple into the real world.

## 8.2 Research Interpretations & Contributions

Two important notions are a thread throughout the results and discussion. Based on interview data, it is clear that Indigenous governance must be assumed first before jumping to any collaborative arrangement with state government and non-government actors, including MLG. In conjunction, interview participants share that state governments should follow and uphold Indigenous laws and governance, whether in collaboration or not. As discussed throughout my thesis, many consequences arise from this not being achieved, including disruption to the social-cultural-ecological balance, including impacts on eelgrass meadows. First Nations in BC witness the seasons and observe changes over thousands of years, they will know what decisions will sustain and restore balance. Thus, from the range of solutions put forward from Indigenous governance to MLG, what remains important is Tla-o-qui-aht retaining their autonomy and continuing on the track they have laid down. This includes asserting their nationhood and having full decision-making power over an ecological good, like eelgrass, and being able to direct state government authorities to support with enforcement, as well as management and implementation alongside non-government actors like ENGOs.

The results of this research also add place-based texture to all Indigenous MLG principles from my literature review, including what these principles look like in practice between Tla-o-qui-aht, state government and non-government actors. An important place-based finding from my research that I have yet to discover in MLG literature is the importance of intergenerational inclusion in governance. This includes creating opportunities for youth in both environmental governance and management and enabling pathways for greater elder involvement, including advisory support, in governance processes. The intergenerational component is absent in Indigenous MLG literature, which is also echoed in the policies and documents I analyze. Yet, as interviews with Tla-o-qui-aht participants emphasized, bringing elders in is essential for integrating Indigenous knowledge and language. Intergenerational inclusion is also crucial for succession planning: ensuring the continued successful governance of the territory by investing in youth who will eventually assume leadership responsibilities. Incorporating this principle into Indigenous MLG literature and processes in Canada is an

important contribution that has the potential to generate positive results for communities and the environment in the short and long term.

As I presented in the results, there is general excitement around incorporating blue carbon into Tribal Park's growth and development. However, this emerging conservation focus requires greater scientific study and public awareness. Interview participants' remarks on protecting eelgrass as a blue carbon source are consistent with blue carbon governance literature. This includes the paramount role of governments like First Nations in BC, incorporating place-based knowledge into blue carbon measures, and the need to shift to Indigenous-led approaches for blue carbon governance instead of top-down state government approaches. Top-down approaches to protecting BCEs, like carbon offsets, single in on carbon sequestration and storage as part of a market-based approach to conservation and climate crisis mitigation. While this carbon component is important, this is missing the point. This, my results indicate the need for First Nations to guide and benefit from blue carbon conservation finance mechanisms, just as we see in G2G Atmospheric Benefit Sharing Agreements between First Nations and the Province of BC for forest-based carbon.

My results also add to the makeup of the blue carbon conversation by first recognizing the values of BCEs, like eelgrass, which are the cultural, economic and ecological values. The carbon sequestering and storage function of BCEs is an offshoot of these values, and when these elements are brought into balance through Tla-o-qui-aht's holistic approach to governance, this results in a more stable climate. If Indigenous lifeways in Canada and across the planet had not been disrespected, oppressed and violated, with colonial governments attempting to supplant them with colonial laws and practices, we would not be facing this severe climate crisis. So, to deal with the climate crisis, we cannot singularly focus on reducing GHGs. This needs to be accompanied by the achievement of cultural, economic and ecological objectives as part of Indigenous resurgence in a marine context and in general across Canada.

Throughout this thesis, I have described the issues impacting eelgrass ecosystems, which are legacy-based issues - like logging and coastal development, ongoing issues - like boat traffic, as well as emergent issues, like invasive species. Considering the negligent treatment of eelgrass and other BCEs, a person who is new to learning about BCEs would not guess their paramount

role in regulating healthy oceans, and the planet at large. Again, eelgrass and all BCEs have not been prioritized by state governments and have generally been exempt from ecological decision-making that leads to protective laws, regulations and policies. With an influx of scientific studies on the importance of BCEs, which is arguably a result of the climate crisis, state governments are turning attention to these ecosystems. We see this with the example of the Province of BC's CMS Intentions Paper. While this is encouraging, a wave of blue carbon governance literature and literature on nature-based climate solutions (which BCEs are categorized as), warns about the trend of state governments and corporations leading top-down initiatives, including blue carbon offset projects. While there is a seemingly positive intent to these initiatives, power dynamics are often asymmetrical. In this dynamic, a revolutionary difference in how BCEs are managed and governed is not possible.

To realize the revolutionary potential of BCE revitalization, Indigenous communities that are embedded in their territories and hold the greatest knowledge on BCE health, Indigenous actors must have the ability to exercise their authority over these ecosystems. This is supported by my finding that Indigenous governance should be uplifted first before MLG for achieving ecological objectives, and that state government and non-government actors should enforce ecological decisions made by Indigenous governments. Any MLG arrangements should also be rooted in Indigenous territories. Additionally, BCEs need to be treated holistically, understanding their cultural, social, economic and ecological functions. Blue carbon creates a cascade of co-benefits, like supporting sustainable livelihoods, biodiversity, coastal protection, cultural activities, and enjoyment in recreation - as I have experienced many times paddling over eelgrass beds. When these facets are all respected and are in balance, a stable climate is an extension of this. When we forego these facets and just focus on storing and sequestering carbon, the potential for radical and meaningful change is left to wither. To summarize, doing BCEs justice as part of a renewed focus on global ecology depends on Indigenous involvement and leadership and a holistic approach to protecting these ecosystems. This can occur through Indigenous governance and/or a more radical Indigenous MLG, leading to resurgent, regenerative and equitable outcomes.

### 8.3 Research Limitations

As a researcher, I am responsible for being robust and transparent, ensuring all of my claims, including these recommendations, are supported. However, I recognize that I am a Master's student completing a research project on a complicated subject within a short time frame. I am proud of how this research has unfolded and the results produced, and I have also learned an immense amount in the process. I would phrase my research questions slightly differently now than I did a year ago, which is the nature of my knowledge acquisition in this journey. Besides this shortcoming, research limitations reflect my methodological choices, which are within my control as a researcher. However, what was outside of my control was participant responses and the pool of people in and close to Tla-o-qui-aht territory who could be interviewed for the research.

In regards to the semi-structured interviews, there are also limitations: all participants are connected in the central west coast community, and many are passionate about the nexus of Indigenous resurgence and ecological protection. So, no participant challenged the idea of enhancing Indigenous authority. Many participants are involved in work that directly or indirectly impacts the health of eelgrass. So, naturally, they feel enthusiastic about increased protection of this ecosystem and would not dispute this notion. If I spoke with people whose expertise and focus is on southern resident killer whales, otters, or sea cucumbers, their take on eelgrass might be more diverse and nuanced. Despite this reality, participant responses do not focus exclusively on eelgrass; they reflect an ecosystem-based approach to marine governance and protection. They consider Tla-o-qui-aht territory as a whole, from the watersheds to the ocean, as well as the ecological, social, and cultural elements of this.

In my interview results, most solutions put forward by participants are management, operational and implementation based. Thus, while my research is governance focused, there is less data on governance-based solutions to unpack. I believe this to be a result of interviewing people who are directly involved in more "on the ground" work and who have more implementation-based insights for enhancing eelgrass health - like installing marker buoys, educational signage and programming, as well as marine vessel navigation routes and what this can look like. However, based on the policy and document analysis, I feel confident about how

these important offerings fit into the broader governance schemes these recommendations offer. Part of my role as a researcher is to read between the lines of the interview results, and with evidence from the policy and document analysis, offer solutions that align with and support the recommendations. For instance, participants offering management, implementation and operational solutions still shed light on which governance pathways will best suit Tla-o-qui-aht and their work on eelgrass. These solutions are interconnected, too, and drawing the lines between these is important - as governance, management, operations, and implementation cannot be treated separately. To create a tangible impact for eelgrass meadows, I think it is important to organize the information in this way, the different policies and associated actions resulting from specific governance pathways.

#### **8.4 Suggestions for Future Research**

Future Indigenous MLG studies can explore marine-specific case studies within BC, which is not represented in MLG literature in Canada. As discussed in this chapter, MLG principles have not included the importance of intergenerational collaboration. In connection to this, research into youth and elder inclusion in MLG with First Nations in BC and Indigenous Peoples more broadly across Canada will be an effective next step for the continued evolution of this theoretical framework. Additionally, research on this theory and its applications can also explore temporality, including long-term forms of MLG and the need for ongoing relationship building to execute MLG successfully. For future work researching Tla-o-qui-aht governance for BCEs, if Tla-o-qui-aht identifies this as a priority, could examine salt marsh and kelp forest ecosystems. As part of the blue carbon movement, there is still a lot to understand about these other BCEs, and even understanding how all of these ecosystems interconnect in terms of social, cultural, ecological, climatic and economic values.

In a broad sense, MLG has a lot of potential as a theoretical framework for understanding and unpacking intersocietal processes, like policy creation, which is and will continue to rapidly increase. This potential rests on the principle that equitable power relations need to be a central concern between participating actors, and this is made evident by putting MLG in conversation with blue carbon and Indigenous protection measures. This study reveals that Indigenous MLG can become more radical by calling for the enactment of principles that dig into power dynamics,

unearthing the critical questioning and discomfort that comes with this deep work. As discussed throughout this thesis, principles encompass the integration of Indigenous knowledge, building trusting relationships through transparent communications, and respecting Indigenous self-determination. As part of the latter principle, all case studies in Indigenous MLG literature examine state government strategies, policies, and other instances of collaboration. For future research, examining an Indigenous government process that state governments and non-government actors are participating in can serve as a tool for Indigenous Nations across Canada to learn from and utilize. Where we look - we go; and while it is necessary to look at collaborative state government processes and critique this, MLG literature has an opportunity to go beyond this to become more progressive by also examining Indigenous-led MLG processes.

To make MLG more inclusive and socially progressive, future research on MLG can also hone in on governance dynamics that are implicated by social identities, including gender and age. Other than Ladner's article, which explores the relationship between Indigenous women, decolonization and MLG in Canada, this is overall a significant gap in MLG literature. Through the context of this study, protecting and restoring the environment in coastal First Nations territories in BC is interconnected with gender and how knowledge of certain activities, like harvesting and fishing, is passed down through generations. Additionally, territorial stewardship is an immense responsibility, and long-term viability depends on passing knowledge and training down from older to younger generations. These notions also support the stance I take in Chapter 3, that MLG theory should be expanded to encompass long-term relationships between Indigenous, state government and non-government actors that are working to achieve "public goods" like ecological objectives. Specifically, for eelgrass and other BCEs that are in shocking decline because of historical and current degradative forces, restoring these ecosystems is not a short-term endeavour. Addressing complex challenges requires a long-term vision and commitment to sustained collaboration. So, while MLG is well suited to the multi-jurisdiction of eelgrass meadows, the temporal element of the theory has to transform if it is going to be able to be of use to the governance of BCEs, especially with the involvement of First Nations in BC who play a central role in BCE governance.

## 8.5 Hope is an Aquatic Place

To conclude this aquatic journey, it is a gift to share the results of this study. I recognize that many of these governance solutions will take a lot of hard work, so I hope this study can spark even a small flame of insight to help light a pathway forward. My biggest apprehension is that this thesis will live in the digital domain, instead of being applied to where it came from: Tla-o-qui-aht *Haw'iih Haahuulthii*. What gives me hope is that so many solutions for enhancing Tla-o-qui-aht authority for eelgrass have been put forward by participants, from short-term to long-term solutions covering governance, management, operations and implementation - many of which intersect. Most of these solutions are possible, and I am determined to see some of these through to completion.

In my environmental career, I have largely worked in nonprofit management and implementation of environmental initiatives, including with Tla-o-qui-aht. While I am far from being an exceptional academic, I will continue to be a tenacious activist - and this is where my skills can be applied. This research journey has been transformational, and while I have gained new knowledge, my motivation for this all remains the same. Tla-o-qui-aht continues to be one of my greatest inspirations and reasons for undertaking this work, from when I returned to the west coast twelve years ago to the present. This is perhaps my biggest bias, that Tla-o-qui-aht will continue to make waves in environmental history, from teaching the millions of people who flock to their territory to other communities around the world that learn from Tla-o-qui-aht from afar. I wholeheartedly believe that Tla-o-qui-aht's Tribal Parks will continue to be an influential IPCA model, and while work on blue carbon is emergent, Tla-o-qui-aht is no stranger to setting precedents in the environmental sphere. While the CMS is a great opportunity, and I am immensely impressed by this process and the work achieved by the staff, I have no doubt that Tla-o-qui-aht will continue to succeed, whether that includes the support of the final CMS or not.

In the end, everything is connected in the deep. Protecting coastal old-growth forests is essential for healthy eelgrass meadows that grow below the sea's surface, not far from the cedar, spruce and hemlock roots. Just like this - collaboration - in all of its shapes, forms and designs, is essential for mutually thriving societies and the planetary systems we depend on. While we are in serious hot water on Earth, I have also never had so much hope. If you are reading this and

have made it through all 168 pages, I hope Tla-o-qui-aht and this study have instilled some of this same feeling in you.

*Klecko*, Thank you!

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## CHAPTER 11 APPENDIX A: Human Research Ethic Board Certificate of Approval



Office of Research Services | Human Research Ethics Board  
 Michael Williams Building Rm B202 PO Box 1700 STN CSC Victoria BC V8W 2Y2 Canada  
 T 250-472-4545 | F 250-721-8960 | uvic.ca/research | ethics@uvic.ca

### Certificate of Approval

PRINCIPAL INVESTIGATOR: <b>Deborah Curran</b> (Supervisor)	<b>ETHICS PROTOCOL NUMBER</b> <b>22-0211</b> Expedited review - delegated
PRINCIPAL APPLICANT: <b>Lilly Woodbury</b> <b>Master's student</b>	ORIGINAL APPROVAL DATE: 24-Oct-2022
UVIC DEPARTMENT: <b>Environmental Studies ENVI</b>	APPROVED ON: 24-Oct-2022
	APPROVAL EXPIRY DATE: 23-Oct-2023

**PROJECT TITLE: Taking Care of Ts'aay'imts: Indigenous multi-level governance of blue carbon in British Columbia**

RESEARCH TEAM MEMBERS: **None**

DECLARED PROJECT FUNDING:  
 Social Sciences and Humanities Research Council, University of Victoria  
 Real Estate Foundation Fund in Environmental Law and Policy, University of Victoria

DOCUMENTS INCLUDED IN THIS APPROVAL:  
 tcps2\_core\_certificate.pdf - 04-May-2022  
 Tribal Parks ethics approval (email).eml - 25-Aug-2022  
 Research Protocol - Signed, Lilly Woodbury (1).pdf - 07-Sep-2022  
 Semi-Structured Interview & Committee Meeting Questions (1).docx - 07-Sep-2022  
 Interview Invitation Email Template #1.docx - 20-Oct-2022  
 Interview Invitation Email Template #2.docx - 20-Oct-2022  
 Participant Consent Form REVISED.docx - 23-Oct-2022

### Conditions of approval

This Certificate of Approval is valid for the above term provided there is no change in the protocol.

**Amendments**  
 To make changes to the approved research procedure in your study, please submit "Amendments" or "Annual renewal with amendments" form. You must receive research ethics approval before proceeding with your amended protocol.

**Renewals**  
 Your ethics approval must be current for the period during which you are recruiting participants or collecting data. To renew your protocol, please submit a "Request for Renewal" form before the expiry date on your certificate. You will be sent an emailed reminder prompting you to renew your protocol about six weeks before your expiry date.

**Project Closures**  
 When you have completed all data collection activities and will have no further contact with participants, please notify the Human Research Ethics Board by submitting a "Notice of Project Completion" form.

### Certification

This certifies that the Uvic Human Research Ethics Board has examined this research protocol and concluded that, in all respects, the proposed research meets the appropriate standards of ethics as outlined by the University of Victoria's policies for research involving human participants.

Dr. Sandra Gibbons  
 Chair, Human Research Ethics Board

Dr. Matthew Murphy  
 Vice-chair, Human Research Ethics Board

## APPENDIX B: Participant Consent Form



### *Participant Consent Form*

#### **Taking Care of Ts'aay'imts: Indigenous multi-level governance of blue carbon in British Columbia**

You are invited to participate in a study entitled "Taking Care of Ts'aay'imts: Indigenous multi-level governance of blue carbon in British Columbia" that is being conducted by Lilly Woodbury in partnership with Tla-o-qui-aht Tribal Parks.

I, Lilly Woodbury, am a graduate student in the School of Environmental Studies at the University of Victoria. You can contact me if you have further questions by email at [lillywoodbury@uvic.ca](mailto:lillywoodbury@uvic.ca) or by phone: 250-327-1119.

As a graduate student, I am required to conduct research for a Master of Arts (MA) degree. This research is being conducted under the supervision of Professor Deborah Curran. You may contact Deborah at [dlc@uvic.ca](mailto:dlc@uvic.ca).

This research is being funded by the Social Science and Humanities Research Council.

#### **Purpose and Objectives**

The purpose of this research project is to study Indigenous multi-level governance for blue carbon ecosystems, with a specific focus on eelgrass. This study is in partnership with Tla-o-qui-aht Tribal Parks, and together we will be constructing a Foreshore Declaration and accompanying Operational Plan for eelgrass management in their protected area. Based on this and insights arriving out of interviews with Tla-o-qui-aht government and state government staff, recommendations will be provided to the provincial Ministry of Land, Water and Resource Stewardship for the development of their Coastal Marine Strategy.

#### **Importance of this Research**

On a regional scale in Clayoquot Sound within Tla-o-qui-aht Tribal Parks, this research will ideally contribute to the robustness of Tribal Park's environmental governance and management, and in conjunction with this, healthier eelgrass beds and surrounding communities. On a provincial level, this research may lead to the inclusion of Indigenous led blue carbon governance and management. There is also inadequate research on Indigenous protected and conserved areas and blue carbon in Canada. This project will generate knowledge and stimulate dialogue on this important but neglected area of social ecological concern.

**Compensation**

As a way to compensate you for any inconvenience related to engaging in this research and to recognize the time and energy required to participate in this research, an honorarium of \$200 will be provided [for Tla-o-qui-aht First Nation members and other Indigenous participants only].

**Voluntary Participation**

Your participation in this research must be completely voluntary. If you do decide to participate, you may withdraw at any time without any consequences or any explanation. I will ask permission to use the previously collected data at the time of withdrawal. If you agree, I will ask you to sign a release/consent form allowing the use of your data. If you disagree with the use of your data following your withdrawal from the study, I will delete the data and not include it in the research. Hard copy notes will be shredded and online files will be deleted.

Data collection for this research will occur over four to five months and will encompass committee meetings or interviews. Written consent will be obtained during the first interaction. Please note, I may need to follow up with you with further clarifying questions. Following interviews and meetings, transcripts will be sent to you for your review and approval. Consent will be requested from you to move forward using your finalized transcript. Thus, ongoing consent will be obtained throughout the research project. This data will not be used in future research.

**Anonymity**

If you wish to remain anonymous, your name and other direct identifying features will be removed from the data. Of course, you may possess a particular set of knowledge that people may be able to identify you with. This is a risk you are taking in participating in this study.

**Confidentiality**

For all interviews and meetings, secluded and/or private interview offices/rooms will be utilized. Following interviews, raw data will be transcribed as soon as possible and stored on a password protected computer with a firewall and antivirus software. All hard copy data with sensitive information will be shredded and/or deleted. Only myself and my supervisor, Deborah Curran, will have access to participant information and the Tla-o-qui-aht First Nation (TFN) has the option to store and govern the data collected from within the Nation following the completion of this research, as outlined below.

Pseudonyms will be used if you wish to remain anonymous, or you will be referred to as an individual or a member from a specific group that you belong to or are representing. Results will also be screened for identifying information if you wish to remain anonymous. I will not directly quote you if you are not comfortable with this. I will discuss other means of protecting confidentiality with you as concerns and needs arise. If you are participating in a committee meeting, confidentiality will be limited, but if you prefer to be anonymous, this will be respected.

### Dissemination of Results

The results of this study will be shared with you and all other research participants in the following ways:

- My final thesis will be added to the University of Victoria thesis library and sent to participants.
- A summary report will be provided to Tla-o-qui-aht First Nation (TFN), including Tribal Parks, in addition to the full Master's thesis which will be public and disseminated to TFN and all research participants. If desired, a presentation will be provided to TFN on the results of the study.
- A co-authored article may result from this research if desired by TFN and Tribal Parks.
- If approved, the thesis will be published on my website and potentially shared through non-academic articles, podcasts, and/or radio segments alongside Tla-o-qui-aht Tribal Parks.

### Disposal of Data:

Audio recordings and transcripts will be stored as computer files that are password protected with firewalls and anti-virus software. All raw hard copy information that is sensitive will be shredded.

All digital files of audio recordings, notes and transcripts will be stored on my password-protected personal laptop. I will back-up the files to an external hard-drive. Additionally, I will back-up all files to an encrypted folder stored on a University of Victoria server. Following the completion of my thesis, hard copy data will be shredded and electronic files will be deleted. Tla-o-qui-aht First Nation has the option to store and govern the data collected from within the Nation following the completion of this research. The data provided to TFN will also abide by confidentiality standards.

### Contacts

You can contact me regarding this research at [lillywoodbury@uvic.ca](mailto:lillywoodbury@uvic.ca). Or you can contact my supervisor, Deborah Curran, at [dlc@uvic.ca](mailto:dlc@uvic.ca).

In addition, you may verify the ethical approval of this study, or raise any concerns you might have, by contacting the Human Research Ethics Office at the University of Victoria (250-472-4545 or [ethics@uvic.ca](mailto:ethics@uvic.ca)).

Your signature below indicates that you understand the above conditions of participation in this study, that you have had the opportunity to have your questions answered by the researchers, and that you consent to participate in this research project.

<i>Name of Participant</i>	<i>Signature</i>	<i>Date</i>

## **APPENDIX C: Semi-structured Interview Questions**

### **I) Introduction:**

- 1) Can you tell me a little bit about yourself and your role?
  
- 2) How is your role involved in the governance and/or management of eelgrass and/or marine/coastal ecosystems?

### **II) Eelgrass & Foreshore:**

- 3) Which threats have you observed with eelgrass? Which industries and sectors are contributing to eelgrass degradation
  
- 4) Which initiatives are in place to manage, protect and restore eelgrass in Tla-o-qui-aht First Nation (Tla-o-qui-aht) territory?
  
- 5) What solutions can be implemented to enhance eelgrass vitality within Tla-o-qui-aht Tribal Parks? These may be solely Indigenous led, regulatory, policy, or voluntary in nature. (if they bring up boats, talk about how boat traffic could be stopped at certain time of the year)
  
- 6) How can these solutions be implemented by Tla-o-qui-aht, recognizing and upholding Tla-o-qui-aht sovereignty and self-determination?
  
- 7) For Tla-o-qui-aht First Nation (Tla-o-qui-aht) participants only: Are there principles from Tla-o-qui-aht worldview, stories, and lessons that can be included in Tla-o-qui-aht plans to enhance eelgrass health?

### **III) Governance:**

- 8) (Tla-o-qui-aht only) How is governance embedded in eelgrass ecosystems and the foreshore/coastal more broadly?
  
- 9) (Tla-o-qui-aht only) what is your vision for healthy eelgrass beds and the connection of this to healthy communities? How do we uphold and build relations with eelgrass?
  
- 10) How should Tla-o-qui-aht and state governments make decisions together for eelgrass management? Which decisions should be made collectively through meaningful sharing of authority and which decisions should Tla-o-qui-aht make independently?
  
- 11) In what ways can state government actors support Tla-o-qui-aht Tribal Park's expression of governance as it relates to eelgrass protection and management? (think about movement and nation building)

12) Is it possible for the actions we take here in Tla-o-qui-aht territory for eelgrass to be of use in other communities in BC as part of a Coastal Marine Strategy?

13) What are some lessons for successful environmental co-governance between Tla-o-qui-aht and state government actors?

**IV) Concluding Questions:**

14) Is there anything else you'd like to share on these topics?

15) Are you aware of other entities and/or individuals that may have information that will be useful for this study?

16) Do you have any questions?

### APPENDIX D: Data Analysis Coding Schematic

Code	Trends
1) Tla-o-qui-aht First Nation (Tla-o-qui-aht) Laws and Governance	Observe and respect nature
	Witnessing Tla-o-qui-aht culture and learning directly from Tla-o-qui-aht
	Attaining social-ecological balance through adhering to Tla-o-qui-aht laws and governance
	Prioritizing life forms
	Revitalizing language as part of governance and protecting Tla-o-qui-aht territory
	Following internal governance processes in getting approvals and guidance for future work
2) Supporting Tla-o-qui-aht First Nation Authority	Supporting youth development and opportunities
	Go to Tla-o-qui-aht first to understand priorities and gain consent for environmental work
	Relationship building and collaboration
	Supporting Tla-o-qui-aht fiscally
	Providing employment opportunities for Tla-o-qui-aht members
	Recognition of Tla-o-qui-aht territory
	Recognition of Tla-o-qui-aht rights and title
	Enabling growth and further environmental efforts through land and marine use visioning
	Before jumping to co-governance, support Indigenous governance first.

	Follow the United Nations Declaration on the Rights of Indigenous Peoples and Free Prior and Informed Consent
	Reciprocity: whatever you're asking for, invest equally or more back into Tla-o-qui-aht
	Enabling pathways for elder inclusion
	State government rectifying plans with Tla-o-qui-aht
3) Eelgrass Issues	Fishing and aquaculture operations
	Fishing and aquaculture infrastructure, including docks and marinas as well as derelict vessels
	Marine traffic
	Float homes
	Invasive European green crab
	Logging industry, including watershed damage
	Coastal development
	Water pollution, including from untreated sewage
	Legacy of oil spills
4) Policy and other eelgrass solutions & opportunities	Education
	Mitigating boat traffic
	Float home policy
	Eelgrass restoration, including watershed restoration
	Invasive species removal
	Removal of derelict vessels and infrastructure
	Mapping and monitoring

	Local government tools
	Tofino Mudflats Wildlife Management Area
	Marine visioning and planning
	Growing Tribal Parks Ally Program
	Government-to-Government agreements
5) Multi-level Governance	In co-productive efforts, starting at the beginning together and start where you can
	Starting conditions matter
	Scoping conversations and collaborations properly
	Transparent communications throughout the life cycle of joint efforts
	Gender and age inclusivity
	As a state government or non-indigenous entity, adhering to how First Nation(s) want to be engaged, which looks different Nation to Nation
	MLG should lead to long-term funding envelopes
	Collaborations as action-oriented
	Interconnection and a systems approach

### APPENDIX E: Policies & Documents Analyzed

Document	Year Released
<b>State International</b>	
Ramsar Convention	1975
United Nations Framework Convention on Climate Change	1992
Paris Agreement	2015
United Nations Declaration on the Rights of Indigenous Peoples	2007
Kunming-Montreal Global Biodiversity Framework	2022
<b>State Federal Government</b>	
Federal Policy for Wetland Conservation	1991
A New Ecosystem Science Framework in Support of Integrated Management	2007
National Framework for Canada's Network of Marine Protected Areas	2011
Pan-Canadian Framework on Clean Growth and Climate Change	2016
Fish and Fish Habitat Protection Policy Statement	2019
National Aquaculture Act Discussion Paper	2020
Building the Canada we want in 2050: Engagement on the National Infrastructure Assessment	2021
<i>United Nations Declaration on the Rights of Indigenous Peoples Act</i>	2021
Blue Economy Strategy Engagement Paper	2021
Framework for the Identification, Establishment and Management of Ecologically Significant Areas	2022
<b>State Provincial: Government of British Columbia</b>	
Provincial Parks	1911-present

Tofino Mudflats Wildlife Management Area	2002
Management of Crown Lands for Conservation Purposes	2015
Crown Land Use Operational Policy: Floating Home Community	2019
Provincial Climate Action Plan: CleanBC Roadmap to 2030	2021
DRIPA Action Plan	2022
<b>Intersocietal Government Agreements and Plans</b>	
Atmospheric Benefit Sharing Agreements	2015-2019
Coastal First Nations Memorandum of Understanding - Pathway to Reconciliation: Long-Term Economic, Social, Governance and Environmental Sustainability	2020
Haida Nation Marine Plan & Land-Sea-People Management Plan	2015 & 2019
Tsleil-Waututh Nation's Burrard Inlet Action Plan	2017
The Marine Protected Area Network BC Northern Shelf Initiative Network Action Plan	2023
Assembly of First Nations: Marine Indigenous Protected and Conserved Areas Recommendations	2023
<b>State Local Government</b>	
Alberni-Clayoquot Regional District Development Permit Requirements Summary for Electoral Area "A" Bamfield	2014
District of Tofino Official Community Plan	2021
Local Government Climate Action Program Survey Submission Report: Tofino	2022
Local Government Climate Action Program Survey Submission Report: Alberni-Clayoquot Regional District	2022

## APPENDIX F - Local Government Regulatory and Planning Tools

### 1) Local Government Regulatory and Planning Tools: Official Community Plans

Official Community Plans, as discussed in the policy analysis, are a way to recognize Indigenous authority, build relationships, create pathways for stronger relationships, as well as protect, conserve and restore the environment within municipal jurisdiction. Official Community Plans are identified as the most impactful local government tool for supporting the health of the marine foreshore environment, including for eelgrass, by interview participants. The OCP is the primary land use document, and within the DoT OCP, there is recognition and policy guidance around the wetland, estuaries, and the foreshore - all of which have ramifications for eelgrass.<sup>562</sup> Tom Stere, representing the DoT, lists runoff and storm drain management as activities that can be addressed, as well as the wastewater treatment plant which is currently in construction.<sup>563</sup> Storm drain management can address chemicals and sediments entering the marine environment, contributing to water pollution and sedimentation - a significant threat to eelgrass.

Tom Stere also discusses the Council's Strategic Plan as an important tool for environmental health. Tom speaks to how local governments are limited in the marine sphere, "It's just it's just not in your DNA because, you know, you're dealing with upland issues for the most part"<sup>564</sup> However, local governments can still make an effort to weave marine considerations into the OCP and strategic planning process, including how decisions Mayor and Council make on land will impact the marine, including eelgrass. This illuminates a point that many participants voice, that decisions made by the District of Tofino can have a significant impact on the marine environment in Tla-o-qui-aht territory, like untreated sewage.<sup>565</sup> One participant recounts the work around the wastewater treatment plant (WWTP) as a success due to collaboration between the DoT, Tla-o-qui-aht, Tourism Tofino, and the business community in Tofino.<sup>566</sup> Going forward, the OCP, Strategic Plan and Vision to Action Plan are pathways for considering marine environments at the local government level and a way to recognize and be accountable to Tla-o-qui-aht priorities. These plans also educate the public and bring awareness to environmental issues and solutions, including eelgrass as a blue carbon source. In terms of MLG, discussions around OCP make it clear that Tla-o-qui-aht self-determination needs to be respected and upheld, along with recognizing that they have the best knowledge and expertise for guiding environmentally based efforts in their territory.

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<sup>562</sup>Tom Stere, interviewed November 7, 2022, at page 7

<sup>563</sup> Ibid, Tom Stere, at page 14

<sup>564</sup> Tom Stere, interviewed November 7, 2022, at page 7

<sup>565</sup> Anonymous interview, November, 2022

<sup>566</sup> Julian Hockin-Grant, interviewed on November 10, 2022, at page 8

## 2) Local Government Regulatory and Planning Tools: Development Permit Areas

Residential, commercial and industrial development all impact marine and foreshore environments. Participants confirmed the importance of mitigating the impacts of development on marine ecosystems and a suite of local government tools that can help achieve this. For example, participants suggest development permit areas (DPAs) as a tool, which local governments have the power to designate. These are identified for specific purposes like environmental protection.<sup>567</sup> Local governments can designate a DPA in an official community plan (OCP) and construct narrow guidelines “for how proposed development in that area can address the special conditions or objectives.”<sup>568</sup> Despite their effectiveness as a tool, Alex Dyer, staff from the ACRD, shares that regional governments can do more work to inform people about DPAs. For instance, even though DPAs are a regulatory tool, in essence, they are an ecosystem protection tool. However, there is not a strong awareness of existing DPAs, which may impact the effectiveness of this tool in practice. Alex provides an example of someone looking to build a dock within the ACRD, which requires removing kelp and any other marine flora. Since they are not cognizant of the DPA, he reports: “and they're not intending or they're not realizing the damage they're doing. And I think a lot of that has to do with the lack of education out there and a lack of information.”<sup>569</sup> He believes that informing people as well as collaborating with First Nations and the province with this tool will generate positive outcomes for eelgrass and the broader marine environment. While this is a local government tool, it is suggested that specific DPAs for coastal and foreshore ecosystems like eelgrass can be collaboratively decided on with Tla-o-qui-aht for their territory.

## 3) Local Government Regulatory and Planning Tools: Zoning Bylaws

Zoning bylaws are brought up by participants as another important local government tool that can support eelgrass health. Comprehensive zoning in the foreshore environment of the ACRD is identified as a current gap in this regional government’s planning. Yet, zoning can be applied as a tool for managing float homes, as well as forestry, resort uses and floating hotels in Tla-o-qui-aht territory where the ACRD also has jurisdiction.<sup>570</sup> Alex Dyer from the ACRD identifies that more active conversations can be had surrounding this tool with Tla-o-qui-aht. For instance, coastal and foreshore areas, including offshore areas, where the ACRD can apply zoning bylaws in collaboration with First Nations. This can follow their guidance around conservation and even restricting certain industrial and commercial uses.<sup>571</sup> Alex discusses that

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<sup>567</sup> Alex Dyer, interviewed on February 13, 2022, at page 2

<sup>568</sup> *Development Permit Areas* (2023), online: Government of British Columbia <<https://www2.gov.bc.ca/gov/content/governments/local-governments/planning-land-use/land-use-regulation/development-permit-areas>>

<sup>569</sup> Ibid, Alex Dyer, at page 10

<sup>570</sup> Ibid, Alex Dyer, at page 2

<sup>571</sup> Ibid, Alex Dyer, at page 10

this has already been occurring with some Nuu-chah-nulth First Nations, and there is an opportunity to apply a similar process with Tla-o-qui-aht, adhering to their priorities:

On these islands in these areas, what do you want to see? And we'll let you know what we can do if we can do it, what steps we need to take, and if you need to lobby the elected officials in taking those steps, and then we have the mechanism for doing all of that as well.<sup>572</sup>

So, there is a chance for this to also be part of a broader protocol agreement between Tla-o-qui-aht and the ACRD. This agreement can create a community-to-community forum, which can be supported with funding from the provincial government. While there has been collaborative work accomplished between the ACRD and Tla-o-qui-aht, including with the airport and certain services to the Tla-o-qui-aht communities of Esowista and Ty-Hystanis, this has not been realized for the foreshore, which is a promising future objective.<sup>573</sup> If Tla-o-qui-aht wants to move forward utilizing this tool, it will be a matter of beginning a dialogue, setting up the right structure and cadence for meetings, and ensuring the collaboration is properly resourced. Zoning as well as DPAs can adhere to Indigenous MLG principles. This includes integrating Indigenous knowledge, respecting Tla-o-qui-aht's governance processes, and building trusting relationships through transparent communications.

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<sup>572</sup> Alex Dyer, interviewed on February 13, 2022, at page 5

<sup>573</sup> Ibid, Alex Dyer, at page 6