

KELP POLICY RECOMMENDATIONS

Recommendations To Advance Effectiveness of Kelp Policy in Washington

PREPARED BY:

KELP POLICY ADVISORY GROUP, NORTHWEST STRAITS COMMISSION
& TRIANGLE ASSOCIATES, INC. NOVEMBER 2023

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Photo Credit: Adam Obaza

2023 Kelp Policy Advisory Group Member Agencies and Partners

Northwest Straits Commission, The Pew Charitable Trusts, Washington Department of Natural Resources, Washington Department of Ecology, Washington Department of Fish and Wildlife, Snohomish County, National Oceanic and Atmospheric Administration's National Marine Fisheries Service, Marine Agronomics

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Bull kelp forest at Ebey's Landing, WA. Photo Credit: Rich Yukubousky

Purpose

The purpose of this document is to present 11 recommendations from the Kelp Policy Advisory Group, an interagency group of kelp science and policy experts who have been convening since 2021 to identify opportunities to improve kelp recovery and protection efforts in Puget Sound, and gain support from agency leadership, researchers, grant funding sources, and others to advance progress on these recommendations.

The recommendations are intended to provide clear guidance, resources, and tools to individuals and entities responsible for upholding kelp protection and recovery measures and authorities in Washington, especially those at local jurisdictions.

This is a living document, which will be continually edited and updated as needed to achieve its purpose.

Background and Context

Kelp Decline and the Puget Sound Kelp Plan

In 2020, the Northwest Straits Commission (NWSC), National Oceanic and Atmospheric Administration (NOAA), Washington Department of Natural Resources (DNR), and other partners released the [Puget Sound Kelp Conservation and Recovery Plan](#) (Kelp Plan) to improve understanding of kelp forest population changes, while also working to implement and strengthen recovery and protective measures. Among the conclusions of the Kelp Plan were:

- Vibrant kelp forests are **vital to the health of Puget Sound and the Salish Sea.**
- **Puget Sound is losing its kelp forests.** Extensive losses of bull kelp have been documented in South and Central Puget Sound, and localized declines have been observed throughout Puget Sound.
- Although kelp distribution and drivers of declines in Puget Sound are not well understood, **data from kelp ecosystems in other temperate coastal regions indicate that widespread loss of kelp habitats would be devastating to the Puget Sound ecosystem.**
- **There is a consensus in the scientific community that coordinated action is needed to reverse downward trends in kelp populations.**

The Kelp Plan highlighted the need to form an interagency workgroup to increase collaboration and information sharing across management organizations to improve implementation and to address policy gaps. Several specific actions in the Kelp Plan point to the need to strengthen implementation of existing rules and regulations that support protection of kelp by better connecting available information, scientific resources, and guidance with those implementing regulations as a means to reduce local stressors impacting kelp.

Tribes and governmental agencies share responsibilities for managing Puget Sound kelp and their habitats. The management framework outlining various authorities, regulations, and trust relationships are summarized in Section IV Puget Sound Kelp Management Framework of the Kelp Plan for additional management context.

Kelp Policy Advisory Group

In response to these needs, and with funding and partner support from The Pew Charitable Trusts (Pew), NWSC formed the Kelp Policy Advisory Group in 2021. This multi-agency¹ group spent two years:

- **Gaining a common understanding** of the barriers and actions needed to effectively support implementing regulatory authority related to kelp.
- **Engaging over 100 kelp practitioners, stakeholders, tribes, and partners** through a survey, workshops, and one-on-one interviews to ensure additional perspectives and insights were understood and integrated into the Advisory Group's efforts and findings.
- **Developing 11 recommendations** to identify and outline information, resources, and guidance that support implementation of existing rules and regulations related to kelp conservation and recovery in Puget Sound.

Recommendations

Key Challenges Identified

As a result of the engagements mentioned above, two key challenges to implementing existing authorities and regulations were identified:

1. The processes and/or sources used for verifying kelp absence/presence are inconsistent among jurisdictions. In some cases, there are no processes in place.
2. There is limited guidance for reviewers on how to either: 1) verify impacts to kelp from proposed activities; or 2) determine consistent and appropriate avoidance, minimization, or mitigation requirements. Additionally, we lack scientific resources that inform how impacts of in-water activities to kelp are identified, evaluated, and potentially mitigated.

Recommendations to Address Challenges

The following recommendations reflect the Kelp Policy Advisory Group's collective thinking about how best to address the key challenges identified above. A summary of the Advisory Group's 11 recommendations includes actions ranging from the production of guidance documents and training programs, to filling science and research gaps, to creating processes for ensuring recommendations are implemented. See Table 1 on the next page. Table 1 is divided into subsections for Guidance Documents, Training Programs, Science/Research Gaps, and Processes (Content included in the descriptions for each recommendation are provided as suggested examples discussed but would be refined for each action).

¹ Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (DNR), Washington Department of Ecology (Ecology), Snohomish County, National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS), Marine Agronomics, and additional communications with Northwest Indian Fisheries Commission and Puget Sound Partnership representatives.

Table 1 Kelp Policy Advisory Group's Recommendations

#	Recommendation	Description	Addresses Key Challenge	
			1	2
Guidance Documents				
1	Create a Kelp 101 document/fact sheet.	<p>This should be simple, straightforward, and two pages maximum. It should address the state of knowledge for all Washington kelp species including:</p> <ol style="list-style-type: none"> a. What and where is kelp in Puget Sound and Washington State? b. What classifies kelp for protection? c. The generalized kelp life cycle (for annual and perennial species), needs, and stressors. d. Value of kelp - why protect it? <ol style="list-style-type: none"> i. Micro and macro scales (high level and site-specific conditions) ii. Values: ecological, economic, and social/cultural e. Links to best available science (BAS) references and online resources. f. Knowledge gaps or uncertainties. 	X	X
2	Create a simple document outlining different agency authorities and regulations for kelp.	<p>This document should:</p> <ol style="list-style-type: none"> a. Clearly provide necessary definitions for protected kelp habitats (e.g., critical saltwater habitat, essential fish habitat) per federal and state law. b. Define existing authorities and jurisdiction for each agency and/or permit, approval, and lease type. c. Briefly outline processes for each permit, approval, and lease type (for different project types). d. Clearly distinguish between mandatory and voluntary permit, approval, and lease conditions and allowable project design features. 	X	X
3	Develop guidance table for determining if a kelp preliminary survey and/or advanced survey is needed.	<p>Develop a table with project and activity or lease types that could trigger the need for a survey for each agency or permit type, including:</p> <ol style="list-style-type: none"> a. Specific types of in-water work that require an in-water kelp survey by permit or agency. b. When an applicant would be exempt from a survey. c. Recommended resources and tools (e.g., web maps) to confirm kelp occurrence. 	X	
4	Develop guidance of appropriate methods for comprehensive kelp preliminary survey report and an advanced survey report.	<p>Topics should include (but not be limited to):</p> <ol style="list-style-type: none"> a. Appropriate methods for surveying and documenting kelp (e.g., photos/videos). <ol style="list-style-type: none"> i. WDFW Eelgrass/Macroalgae Habitat Interim Survey Guidelines ii. WDFW Use of ROV Guidance b. When co-surveying kelp and eelgrass is appropriate. 	X	
5	Develop a comprehensive checklist for reviewers of kelp presence/absence reports.	<p>In addition to topics a-c in Recommendation #2, this checklist should include:</p> <ol style="list-style-type: none"> a. Site visit considerations if appropriate (e.g., appropriate tide window and time of year). b. Suggested contacts/resources for third-party review if needed, to enhance interagency consistency. 	X	

#	Recommendation	Description	Addresses Key Challenge	
			1	2
6	Develop best practices for including the kelp/food web support component of a habitat impact assessment report.	Best practices should include (but not be limited to): <ul style="list-style-type: none"> a. Including a summary of stressors that could impact kelp and at what scale (reduced light, physical disturbance, water temperature, etc.). b. Noting uncertainties and knowledge gaps about stressors. c. Providing an overview of impacts to kelp associated with various types of shoreline projects (e.g., docks, mooring buoys, marinas, temporary barges, and bulkheads) Note: could be modeled after the wetland avoidance and minimization checklist. 		X
7	Create interagency guidance for how to apply mitigation steps for kelp.	Guidance to include (but not be limited to): <ul style="list-style-type: none"> a. How to use the mitigation sequence. b. Buffer distances for kelp to avoid impacts from all phases of an activity or use (e.g., construction and operation). <ul style="list-style-type: none"> I. Avoidance priority/process for all submerged aquatic vegetation (SAV; if both eelgrass and kelp are present) c. Design standards, construction strategies, and work windows that minimize or avoid impacts to kelp. d. Strategies to quantify a loss of habitat function. e. Compensatory mitigation. <ul style="list-style-type: none"> I. In-kind mitigation and monitoring options II. Details regarding when in-kind mitigation is not feasible III. Offsite or out-of-kind mitigation options in Puget Sound <ul style="list-style-type: none"> i. In lieu fee programs f. How to determine no net loss for kelp. g. Types of activities and/or specific kelp forests where impacts cannot be mitigated, identified regionally and in finer geographic scales. 		X
Training Programs				
8	Develop a training program ² (in-person and/or remote).	The training program should address (but not be limited to) the following audiences: <ul style="list-style-type: none"> a. Everyone who develops and/or reviews kelp presence/absence reports. b. Individuals who conduct kelp surveys. c. Anyone who applies the findings of kelp presence/absence reports to permitting actions (e.g., regulators). The training program should address (but not be limited to) the following topics: <ul style="list-style-type: none"> a. Kelp/SAV 101 (see Rec. 1). b. Permitting/leasing activities. c. Available kelp documentation resources. d. Review kelp or (SAV) survey guidelines. e. Interpreting kelp surveys. f. WACs and RCWs relevant to kelp and other SAV management and no net loss. g. Best available science on relevant mitigation strategies. 	X	X

² Existing training programs should be looked to for guidance, such as the shoreline stabilization training, wetlands delineation trainings, and the state's Low Impact Development training program.

#	Recommendation	Description	Addresses Key Challenge	
			1	2
Science/Research Gaps				
9	Identify and fill science/research gaps regarding impacts to kelp.	<p>Specific science/research gaps that directly inform the implementation of existing rules and regulations include (but are not limited to):</p> <ol style="list-style-type: none"> What project types or activities that require a permit, lease, or authorization under existing rules and regulations have the potential to adversely impact kelp or the ecosystem function it provides? Are those impacts temporary or permanent, and can they be mitigated? What are the temporary construction impacts versus cumulative impacts over the long term from permanent structures, and how can those anticipated impacts be mitigated? Impacts to benthic kelp and floating kelp from over-water structures, including temporary barges or semi-permanent boat moorage. Research questions from 2021 WDFW report on small overwater structures involving kelp. Water quality considerations such as nutrient inputs, stormwater, sewage outfalls, etc. Best practices for successful compensatory mitigation and how to monitor or assess if chosen compensatory mitigation reached stated goals. 		X
10	List of kelp research to track what is being done	<p>Create a list of kelp research in progress differentiated by:</p> <ol style="list-style-type: none"> Research submitted for funding. Research that has been funded/research in progress. Published research. <p>Coordinate with the Kelp Plan Coordinator and kelp project inventory.</p>		X
Processes				
11	Establish a long-term, interagency kelp advisory group.	<p>The Kelp Policy Advisory Group would check in regularly to discuss successes and challenges related to kelp conservation and recovery; track progress on the implementation of recommendations; synthesize information; and issue reports and recommendations.</p> <p>The group would coordinate with other kelp conservation and restoration activities.</p>	X	X

Next Steps and Priorities Moving Forward

The Kelp Policy Advisory Group has identified the following next steps and priorities to move these recommendations forward:

- **Sequence** recommendations for implementation.
 - The group has come to a consensus on an initial approach on how to sequence the recommendations (see Figure 1 below), and agreed upon a tool to track timelines
- **Create** a roadmap intended to guide and document progress throughout the implementation phase.
- **Identify** ways to secure facilitation support.
- **Add** recommendations as an addendum to the Kelp Plan.
- **Communicate** recommendations and Kelp Policy Advisory Group's progress.
- **Request** kelp partners, stakeholders, and others share their current kelp efforts to help inform the Kelp Policy Advisory Group's next steps.

The Advisory Group agrees that **Recommendation #11 - Establish a long-term, interagency kelp policy advisory group** – is the highest priority in terms of implementation, as making progress on the remaining 10 recommendations is dependent on an advisory group process.

Figure 1 Proposed Kelp Policy Recommendations Sequence

