

Attachment D – Public Comment Summary: **City of Bremerton Shoreline Master Program Limited Amendment**

Four (4) comment letters were received during the State comment period. Comments were provided to the City on September 16, 2016. The City provided its responses to comments to Ecology on January 3, 2017. The following is a summary of written comments received during the Ecology Comment Period (August 3 – August 19, 2016), a summary of City responses to public comments, and Ecology responses/rationale.

Comment Number	Comment Topic/ SMP Section (Citation)	Commenter	Comment / Concern	Local Government Response	Ecology Response / Rationale
1	General Comment	Jim McDonald	Commenter fully supports the City's Limited Amendment and specifically opposes proposed changes suggested by the Suquamish Tribe.	Comment Noted.	Ecology concurs with the City. No change requested or necessary based upon this comment.
2	General Comment	Jack Stanfill – Chico Creek Task Force	The Chico Creek Task Force requests that the Department of Ecology deny the City's SMP Limited Amendment for the Chico Creek Watershed and the Gorst Creek Watershed, based on a series of Exhibits.	The City believes this is beyond the scope of the proposed limited amendments to the SMP and thus the limited amendment should not be denied per their request. Further, the City identifies that the SMP limited amendment is very specific and the changes, if approved, will not impact the Port Blakely area.	Ecology concurs with the City's comments. The City identifies this area as the Port Blakely area and concludes that this amendment will not impact the Port Blakely area. The commenter has raised many issues related to the hydrology inputs and basin mapping for the Chico Creek and Gorst Creek watersheds, however those are not topics included within this SMP limited amendment.
3	20.16.510 Applicability	Julia Stockton – Naval Base	Commenter requests that a comment from	The City of Bremerton is within the Washington State	No change or additional amendment is necessary.

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		Kitsap Bremerton	the 2013 update addressed in the City’s May 24, 2013 responses to the Navy, but left out of the final SMP should now be added. Specifically, the Navy is requesting that the City add a statement to the Applicability section (20.16.510) acknowledging that the Navy does not have to comply with the City’s SMP requirements.	coastal zone management program. Per WAC 173-27-060, the Shoreline Management Act is incorporated into the Washington state coastal zone management program and, thereby, those direct federal agency activities affecting the uses or resources subject to the act, regulations adopted pursuant to the act and the local master program. As such, the City is not proposing to include the statement that the Navy (the federal agency) is requesting.	The previously requested language per the 2013 Navy comment was already added to the City’s SMP, see Chapter 1 –Introduction, Authority and Purpose, at page 5 where the following sentence was added in 2013: <i>The Shoreline Management Act is incorporated into the Washington State Coastal Zone Management Program and, thereby, those direct federal agency activities affecting the use or resources subject to the Act must be consistent to the maximum extent practicable with the enforceable provisions of the Act, regulations adopted pursuant to the Act and this local Master Program.</i> Furthermore, WAC 173-26 does not require or even recommend such language. The City does not have jurisdiction on Federal lands or over federal agency actions. The coastal zone management (CZM) program is a voluntary program administered by the State in partnership with NOAA. The implementation of CZM consistency analysis occurs on the State level and as such does not need to be included within a local SMP to be implemented. This authority and its process exists outside and is not contingent upon the local SMP.
4a	20.14.330(c) Activities Allowed in Wetlands & 20.14.730(k) Trails	Alison O’Sullivan – Suquamish Tribe	Pedestrian paths should not intrude into wetlands and streams or their associated buffers. Paths should still be	The City is not proposing any further changes to the CAO in regards to trails. The cited code states that trails <i>may</i> be permitted and “may is defined in the BMC	Ecology concurs with the City. All development within the shoreline must follow mitigation sequencing. Furthermore, the SMA promotes direct, indirect, and visual access to the shoreline and this provision within BMC 20.14.730(k) appears consistent with this use preferences and

			<p>required to avoid intrusion whenever possible and pentachlorophenol treated wood should not be used for any part of a trail structure.</p>	<p>20.40.050 as “the word ‘may’ denotes a use of discretion in making a decision.” The areas that allow for trails within the CAO are within passive recreation area of a wetland buffer (within the outer 25% of the buffer) and within a Fish and Wildlife Habitat Conservation Areas...the City would like the code allowance for trails within the very selected area to remain as is within the Cao. How the code is currently written does protect the critical are, but does allow the property owner flexibility to access this area with a low-impact use.</p>	<p>when implemented in conjunction with the entire SMP will be consistent with the SMA and associated guidelines.</p> <p>*For clarification, BMC 20.14.330(c) does not contain allowances for pedestrian paths, so either this provision was modified during the local drafting process or the commenter has erred in the code citation.</p>
4b	<p>20.14.330(h)(3) Reducing Wetland Buffer Widths, (5) Wetland Buffer Averaging & 20.14.730(c)(4) Buffer Averaging, (5) Buffer Reduction</p>	<p>Alison O’Sullivan – Suquamish Tribe</p>	<p>The Tribe does not support the reduction of buffers more than 25% or buffer widths less than 50 feet. A 75% allowed reduction is excessive and should not be allowed.</p>	<p>The Table included in BMC 20.14.330 list impact-minimization measures which, when implemented where applicable, may allow an applicant to reduce the standard buffer widths by up to 25%. This approach provide flexibility for applicants while resulting in higher-functioning buffers that are sensitive to existing wetland functions. As such, the City is not</p>	<p>Ecology concurs with the City, no amendments or additional modifications are necessary for consistency with RCW 90.58 or the guidelines of WAC 173-26. BMC 20.14.330(h)(3) provides the use of impact-minimization measures to reduce wetland buffers up to 25%. That would result in a buffer width of greater than 50 feet for all wetlands, except category IV wetlands which have a standard 50 foot buffer which could be reduced to 37.5 feet with this provision. The reference to a 75% reduction is not an allowance contained within the CAO or SMP.</p>

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				<p>recommending any further changes to the CAO buffers.</p>	<p>*For clarification, it appears that the correct CAO citation for the second part of this comment is BMC 20.14.730(d)(4) & (5), but BMC 20.14.730(d)(4) buffer averaging is not applicable in the shoreline. This provision specifically states that “For buffer averaging for areas within the areas of shoreline jurisdiction, please refer to Shoreline Master Program Section 7.010(c)(5).</p> <p>However, BMC 20.14.730(d)(5) does allow buffer reductions of up to 35%. This is not consistent with best available science and creates an incentive to reduce the buffer rather than average it. Buffer reductions result in a permanent loss of buffer area where buffer averaging maintains the same buffer area but in a modified configuration. See recommended changes (Attachment C to the findings and conclusions) offered to fix this issue as it relates to the SMP.</p>
4c	20.14.330(f) and (g) Category III and IV Wetlands	Alison O’Sullivan – Suquamish Tribe	<p>While we recognize an administrative desire to place size thresholds on wetlands that are to be regulated, the City needs to be aware that such an approach is not supported by scientific literature. Although the values and functions provided by small isolated wetlands and</p>	<p>Within the CAO, the City followed the Best Available Science as provided by Department of Ecology (Ecology’s Wetlands & CAO Update: Guidance for Small Cities No. 10-06-002). Ecology recommends exempting all isolated wetlands less than 1,000 square feet that are not associated with riparian area or buffers, are not part of the wetland mosaic, and</p>	<p>Ecology concurs with the commenter and does not recommend exempting any wetlands from the mitigation sequencing requirements. Furthermore, this is not consistent with the critical area protection standards or no net loss standards of the SMA and associated guidelines of WAC 173-26. This CAO provision should be excluded from incorporation into the SMP (See findings and conclusions Attachment B Required Changes).</p> <p>Within the Shoreline jurisdiction a Shoreline Variance is necessary to encroach into the required buffer of any shoreline critical area (beyond the 25% reduction allowances</p>

			<p>their buffers may seem marginal when considered individually, cumulatively, and especially at the regional and watershed scale, these wetlands and their buffers provide significant ecological, hydrological, and water quality functions. Exempting smaller isolated wetlands and their buffers would result in the loss of wetland functions and values.</p>	<p>do not contain habitat identified by Department of Fish and Wildlife as essential for local populations of priority species. These listed exemptions provide flexibility and administrative relief for City Staff, whole clarifying requirements for applicants. The City is not proposing any additional amendments to the CAO.</p>	<p>incorporated as part of the CAO consistent with BAS).</p> <p>Exempting smaller isolated wetlands could result in a cumulative impact. The Wetlands & CAO Updates: Guidance for Small Cities (Publication No. 10-06-002, as revised October 2012) expressly rejects the practice of exempting small wetlands on page 7: <i>The scientific literature does not support exempting wetlands that are below a certain size.</i></p> <p>Before the SMP can be approved by Ecology, the CAO must meet the “no net loss of ecological functions” requirement (WAC 173-26-186(8)(b)(i)). This provision does not meet the no net loss of ecological function standard. This type of deviation from the BAS should only be allowed through a Shoreline Variance when the applicant can demonstrate the criteria of WAC 173-27-170 have been met.</p>
4d	20.14.340 Mitigation Requirements Wetlands	Alison O’Sullivan – Suquamish Tribe	<p>The Washington State Department of Ecology (Ecology) has defined Category I wetlands as “those wetlands that 1) represent unique or rare wetland type; or 2) are more sensitive to disturbance than most wetlands; or 3) are relatively undisturbed and contain ecological</p>	<p>The City updated the CAO which included updating BMC 20.14.340(f) and (g). BMC 20.14.340(f) defines required mitigation ratios for “creation or restoration that is in-kind, is on-site, in the same category, it timed prior to or concurrent with alteration, and has a high probability of success.” BMC 20.14.340(g) defines larger ratios for enhancement as</p>	<p>Ecology Concurs with the City.</p> <p>BMC 20.14.340(f) and new section (h) are the same language as that being removed from the SMP section 7.010(c), see below. This amendment does not represent any modification to the SMP, but only an adjustment to where this provisions is located (in the CAO and applicable throughout the City, rather than in the Shoreline only).</p> <p>BMC 20.14.340(g) is consistent with the compensatory mitigation standards of WAC 173-26-221(2)(c)(i)(F) when used with the approved</p>

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			<p>attributes that are impossible to replace within a human lifetime; or 4) provide a high level of function”. Re-establishment or creation should not be allowed for Category I wetlands. If a wetland is unique, rare or impossible to replace in a human lifetime re-establishment or replacement attempts should not be allowed. Also, Ecology does not consider re-establishment or creation/enhancement or enhancement for Category II Interdunal wetlands.</p>	<p>mitigation. The ratios in these sections align closely with the best Available Science where they are clearly defined. For added clarity, the City revised the ratios in a table. The table that was updated in BMC 20.14.340 was taken from the 2013 Bremerton’s SMP, and contains ratios recommended by Ecology in its 2012 Wetland Guidance for Small Cities: Western Washington Version. As such, the City is not proposing any additional amendments to the CAO.</p>	<p>mitigation ratio table in BMC 20.14.340(f). This identifies which wetland type’s enhancement only mitigation is allowed and at what ratio it should be compensated. This section was moved directly from the SMP Section 7.010 Regulations (c), therefore this amendment to relocate these provisions to the incorporated CAO for implementation throughout the City does not actually represent a modification to the SMP.</p> <p>Under the SMP the applicant must still demonstrate no net loss of ecological function and would be required to monitor any compensatory mitigation to ensure success. The City has within its SMA authority the ability to deny projects that are not consistent with this standard.</p>
4e	20.14.630 Development Standards	Alison O’Sullivan – Suquamish Tribe	<p>Twenty-five feet is not a very large safety factor; the City should consider a larger setback on steep slopes.</p>	<p>The 25 feet is for moderate geologically hazardous areas. High hazard areas are provided a 50 foot buffer. And a geotechnical report is required. The code provides reasonable safeguards by emphasizing avoidance, and requiring rigorous professional design standards. No changes are</p>	<p>This code sections appears consistent with WAC 173-26-221(2)(c) standards for geo hazards. Ecology concurs with the City and is not requiring or recommending any changes to this section.</p>

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				proposed as a result of these comments.	
4f	20.14.730(c)(6) and (7) Development Standards	Alison O’Sullivan – Suquamish Tribe	Stormwater and LID facilities allowed in buffers should have limitations and be clearly defined (i.e. bio-swales, easements, etc.). Construction of these facilities should be prohibited if it requires removal of existing native vegetation.	The specific LID requirements are best located within the Stormwater standards. The ECY Stormwater Management Manual specifically addresses these issues and will be implemented. As such the City is not proposing any changes to this section.	Ecology concurs with the City. The specifics of the proposed LID can be addressed at the project specific review and/or through the stormwater regulations.
4g	7.010 Buffers and Setbacks	Alison O’Sullivan – Suquamish Tribe	See comments above regarding wetland and stream buffers less than 50 feet as it applies to marine shorelines as well. The Tribe does not support the reduction of buffers more than 25% or buffer widths less than 50 feet.	The current shoreline buffers identified in SMP section 7.010 have not been changed by this amendment. The City tried to balance the State requirements along with acknowledgement of trying not to crate the majority of the waterfront parcels in the City to be nonconforming. The City has created a balance that is working well for Staff and applicants, while meeting the SMA.	Ecology agrees that the buffers and setbacks provided for fish and wildlife habitat conservation areas has not be modified by this amendment, however, this amendment does propose to incorporate buffer reduction allowances that are currently excluded from the SMP. Ecology agrees that the buffer reduction section (BMC 20.14.730(d)(5) allows buffer reductions of up to 35% and should be excluded from incorporation into the SMP. See Required Changes Attachment B for specifics.