

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED AMENDMENT TO THE CITY OF SHELTON
SHORELINE MASTER PROGRAM**

SMP Submittal accepted July 18, 2017, Ordinance No.1899-0417
Prepared by Rick Mraz on September 18, 2017

Brief Description of Proposed Amendment:

The City of Shelton has submitted to Ecology for approval, an amendment to their Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP Guidelines requirements. The master program amendment contains a mapping change and assignment of shoreline environment designations to address 71.48 acres recently annexed into the City that are located in shoreline jurisdiction.

FINDINGS OF FACT

Need for amendment. The proposed amendment is needed to address newly annexed areas of the City of Shelton that are located within shoreline jurisdiction. This amendment is also needed for compliance with the planning and procedural requirements of the SMP Guidelines contained in WAC 173-26 and 27.

SMP provisions to be changed by the amendment as proposed: The following sections of the existing City SMP are proposed for change:

1. Section 4.4.7 Aquatic Conservancy Shoreline Environment Designation, Areas Designated, shall be amended to include a number 6 as follows:

6. All tidelands and open water tracts located around Eagle Point and the South side of Oakland Bay/ Shelton Harbor within Shelton City limits and outside the Designated Shelton Harbor Areas as established by the Department of Natural Resources in the Shelton Harbor Area Replat of 1997. **Specifically including but not limited to Tideland Tracts 311-315 of the Shelton Harbor Area Replat as well as Tideland Tracts 257-260 of the Plat of Alder Creek.

2. Figure 4-1, Shoreline Environment Designations Map, shall be amended as illustrated in Exhibit 1 of the City submittal.

Amendment History, Review Process: The City of Shelton completed a comprehensive update of its Shoreline Master Program in 2013. The city indicates the proposed SMP amendment originated from a desire to expand the City through annexation and address areas that were currently undesignated shorelines under Mason County's jurisdiction and rectify a "split" jurisdictional boundary that existed within the Shelton marina.

The record shows the City Commission held a public hearing on April 17, 2017. Affidavits of publication provided by the City indicate notice of the hearing was published on March 30, 2017 and April 6, 2017.

With passage of Resolution #1899-0417, on April 24, 2017, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review and verified as complete on July 18, 2017. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on July 20, 2017 in compliance with the requirements of WAC 173-26-120. The state comment period began on August 7, 2017 and continued through September 8, 2017.

Notice of the comment period, including a description of the proposed amendments and the authority under which the action is proposed along with the manner in which interested persons may obtain copies and present their views was provided on Ecology's website:

<http://www.ecy.wa.gov/programs/sea/shorelines/smp/mycomments/SheltonLimitedAmendment.html> and as part of the written notice. Ecology received no comments.

Consistency with Chapter 90.58 RCW: The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City and submitted to Ecology for review along with other amendment materials.

Consistency with SMP Amendment Criteria: The proposed amendments have also been reviewed for compliance with WAC 173-26-201(1)(c) of the SMP Guidelines.

(c) Master program amendments may be approved by the department provided:

(i) The proposed amendment will not foster uncoordinated and piecemeal development of the state's shorelines;

(ii) The amendment is consistent with all applicable policies and standards of the act;

(iii) All procedural rule requirements for public notice and consultation have been satisfied; and

(iv) Master program guidelines analytical requirements and substantive standards have been satisfied, where they reasonably apply to the amendment. All master program amendments must demonstrate that the amendment will not result in a net loss of shoreline ecological functions.

Analysis of the proposed Shoreline Environment Designation (SED) consistency with applicable guidelines is as follows:

The current SED for the in-water portion of Shelton Marina (within City) is Aquatic Harbor. The amendment seeks to assign an Aquatic Harbor SED to remainder of Marina. This SED matches the existing use and is consistent with the designation criteria in the SMP, which states:

The Aquatic Harbor environment includes all lands and waters waterward of the OHWM that are subject to intense water-dependent uses. This includes intertidal, subtidal and submerged lands in the Shelton Harbor to the Outer Harbor line, except for areas designated Aquatic Conservancy.

Purpose

The purpose of the Aquatic Harbor environment designation is as follows: 1. To promote the intensive use of the harbor areas for water-dependent industrial, commerce, commercial and recreational uses. 2. To protect, restore and manage the unique characteristics and resources of natural aquatic systems, with priority placed on water quality.

Designation Criteria

All lands and waters waterward of the OHWM within Shelton Harbor in Oakland Bay that are intensively used for water-dependent industrial or commercial activities should be designated Aquatic Harbor.

The current SMP has a Conservancy SED on the Eagle Point shorelands. The City's amendment proposes to designate the recently annexed adjacent tidelands as Aquatic Conservancy. This tideland area meets the designation criteria for Aquatic Conservancy in the Shelton SMP, which describes that SED as follows:

All lands and waters waterward of the OHWM that are not subject to intense water-dependent uses and designated Aquatic Harbor.

Purpose

The purpose of the Aquatic Conservancy environment designation is to protect, restore and manage the unique characteristics and resources of natural aquatic systems.

Designation Criteria

All lands and waters waterward of the OHWM that have one or more of the following characteristics should be designated Aquatic Conservancy:

1. Areas that are not currently intensively used for water-dependent industrial or commercial activities.
2. Streams documented to contain Endangered Species Act listed salmonids (chum salmon, Puget Sound Chinook salmon, and steelhead trout) and marine habitats (marine mammal haul-outs) that are relatively undeveloped or unaltered.
3. Other freshwater shorelines that provide habitat for priority salmonid species (Coho, Kokanee, pink, sockeye) and are relatively unaltered.
4. High value estuaries that support federally-listed salmonid rearing.
5. Documented presence of forage fish spawning (herring, surf smelt, and sand lance).
6. Intact drift cell processes (i.e., sediment source, transport, and deposition).
7. Important intertidal and subtidal beds of shellfish (clam, oyster, crab, shrimp and geoduck).

In conclusion, the two proposed SEDs are consistent with the County's SMP designation criteria, the existing land uses, and Ecology shoreline guidelines. The proposed SEDs should provide appropriate policy and regulatory frameworks for reviewing futures developments, consistent with achieving no net loss of shoreline ecological functions.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a final Determination of Non-Significance (DNS) for the proposed SMP amendments on March 24, 2017. Notice of the SEPA determination was published in the (newspaper) on March 2, 2017 and March 9, 2017. Ecology did not comment on the DNS.

Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following in support of the SMP amendment:

- Chapter 4 (Shoreline Environment Designations) of the Shelton SMP
- Shoreline Master Program Submittal Checklist

- City of Shelton SEPA checklist
- City of Shelton Shoreline Environment Designations Map

Summary of Issues Raised During The Public Review Process:

No comments were received during the public review process.

Summary of Issues Identified by Ecology as Relevant to Its Decision:

No issue were identified by Ecology during the state review process.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's proposed SMP amendment is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions).

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP update and amendment process.

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

Ecology concludes that the City has complied with requirements of Chapter 43.21C RCW, the State Environmental Policy Act.

Ecology concludes that the City's SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules . Ecology approval of the proposed amendments is effective 14 days from Ecology's final action approving the amendment.