

**ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF ABERDEEN
SHORELINE MASTER PROGRAM**

SMP Submittal accepted November 10, 2016, Ordinance No. 6598
Prepared by Kim Van Zwalenburg – March 21, 2017

Brief Description of Proposed Amendment: The City of Aberdeen has submitted a comprehensive update to their Shoreline Master Program (SMPP for review and approval by the Department of Ecology (Ecology). The master program contains locally tailored shoreline management policies, regulations, an environment designation map and administrative provisions, as well as regulations protecting critical areas. Additional reports and supporting information and analyses as noted below, are included in the submittal.

Need for amendment: The proposed amendment is needed to comply with the statutory deadline for a comprehensive update of the City's Shoreline Master Program pursuant to RCW 90.58.080 and 100. The 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 proposed updated SMP is intended to entirely replace the City's existing SMP which dates back to 1975 and was amended only once. The SMP will regulate development and activities along approximately 39 miles of shoreline on Grays Harbor, the Chehalis, Wishkah and Wynoochee rivers, Wedekind, Charley and Newskah creeks and Lake Aberdeen.

The following elements outline key differences between Aberdeen's proposed SMP and the existing SMP:

The original SMP was developed by Grays Harbor Regional Planning Council as a regional program for the entire county, including the cities. It contained few, if any, city-specific regulations. The proposed SMP contains locally tailored policies and regulations that recognize the existing conditions of Aberdeen's shorelines and future planned uses.

Shoreline Environment Designations: The existing SMP has one environment designation – Urban. The proposed SMP has four designations: Aquatic (56%)¹, Urban Conservancy (14%), Shoreline Residential (5%) and High Intensity (25%), all of which include a purpose statement, designation criteria and management policies and are reflective of the existing ecological and built conditions.

Shoreline Uses and Modifications: The proposed SMP more clearly addresses these activities and expresses a preference for water-dependent and then water-oriented activities over nonwater-oriented developments. Filling and grading are only allowed in conjunction with an approved activity and shoreline stabilization is a conditional use in the Urban Conservancy and Aquatic designations.

Development Standards: The proposed SMP establishes shoreline buffers: 75' for water related and water enjoyment activities and 150' for non-water oriented structures and uses. A building setback of 15' off the buffer is also required, and public access standards are established.

¹ The total of shoreline jurisdictional acreage was measured at roughly 1,870 acres within the city and the environment designation percentages are based on that total.

General Provisions: The SMP includes new provisions that don't exist in the previous SMP, which address vegetation management, protection of critical areas and ecological functions, archaeological and historic preservation, water quality and specific public access requirements.

FINDINGS OF FACT

Amendment History, Local Review Process: The record shows the proposed SMP update originated in a local planning process that began in 2013. Aberdeen partnered with Hoquiam and Cosmopolis throughout most of the update process².

Consistent with the process described in the Public Participation Plan, Aberdeen, Hoquiam and Cosmopolis held a community open house and visioning workshop on November 5, 2014. The cities held a series of Citizen Advisory Committee meetings which were open to the public and the City Councils were regularly updated throughout the process. On March 2, 2016 a joint City Council workshop was held after which each city completed the local review and adoption process.

The record shows the City Council held a public hearing on July 27, 2016. Notice of the hearing was published in The Daily World on July 19, 2016. After further considering the proposed SMP on August 10, 2016, City Council adopted Ordinance No. 6598 on August 24, 2016, authorizing city staff to forward the proposed amendments to Ecology for formal review.

Documentation of Current Conditions: Documentation of current shoreline conditions informs the development of the SMP, including environment designations, policies and regulations, to ensure the SMP can meet the no net loss of shoreline ecological functions goal of the state SMP Guidelines. The city hired a consultant to produce the *Shoreline Inventory and Characterization Report*, (October, 2014). The city's 39 miles of shoreline are located along portions of Grays Harbor and the Chehalis and Wynoochee rivers (Shorelines of Statewide Significance), Lake Aberdeen, Charley, Fry (tidal areas only) and Newskah creeks, Wedekind Creek at the confluence with the Wynoochee River, and the Wishkah River. Aberdeen is located on the north and south banks of Grays Harbor at the mouth of the Chehalis River. Much of this shoreline has been historically used for port and industrial activities related to the timber industry. Residential uses are common along the south shore of Grays Harbor and upstream on the rivers. Shoreline modifications are extensive with armoring, tide gates and levees. Public trails have been developed along the Chehalis River and Lake Aberdeen is used extensively for recreation. Significant portions of the City's shoreline lacks riparian vegetation due to existing development. Nevertheless, segments of the city's shoreline remain high functioning including Aberdeen Lake (largely undeveloped), Charley and Newskah creeks.

Finding: *Ecology finds that the Shoreline Inventory and Characterization Report adequately inventoried and analyzed the current conditions of the shorelines located in Aberdeen. The report synthesized existing information and was used to inform the master program update as well as provide a basis for future protection and restoration opportunities in the city's shoreline jurisdiction (WAC 173-26-201(3)(c)).*

² Hoquiam took the lead and managed the grant with Ecology (#G1400451) on behalf of the three cities.

Cumulative Impacts Analysis: The *Cumulative Impacts Analysis* (2016) indicates potential development and redevelopment will occur at a slow rate. Potential impacts on shoreline ecological functions will likely be small and the SMP provides for mitigation sequencing to ensure no net loss.

Finding: *Ecology finds that the city’s Cumulative Impact Analysis (CIA) provides an accurate examination of anticipated development and potential effects to shoreline ecological functions per WAC 173-26-201(3)(d)(iii).*

Restoration Plan: Local governments are directed to identify restoration opportunities as part of the SMP update process and to include policies that promote restoration of impaired shoreline ecological functions. The *Shoreline Restoration Plan* (November, 2015) identified programmatic and site specific restoration opportunities including improvements to fish passage and the removal of derelict structures. The city’s SMP includes policies and regulations in Section 6.06 that permits and promotes restoration efforts and links restoration actions to the Restoration Plan.

Finding: *Ecology finds that the city’s Restoration Plan is based on appropriate technical information available during the SMP update and meets the requirements of WAC 173-26-201(2)(c) and (f).*

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 adopting their SMP contained in RCW 90.58.090(1) and (2).

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III): The proposed SMP 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 submitted to Ecology for review.

Consistency with SEPA Requirements: The city submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on May 25, 2016 and published it in *The Daily World* on May 28, 2016. Ecology did not comment on the DNS.

Studies or Analyses supporting the SMP update: Ecology reviewed the following reports, studies, map portfolios and data prepared for the city in support of the SMP development:

- *Public Participation Plan, February 2014*
- *Shoreline Inventory and Characterization Report, October 2014*
- *Cumulative Impacts Analysis and No Net Loss Report, March 2016*
- *Shoreline Restoration Plan, November 2015*

Ecology Review Process: The proposed SMP was received by Ecology for state review on November 7, 2016 and verified as complete in a letter sent to the City on November 10, 2016. Notice of the state comment period was distributed to state task force members and interested parties identified by the city on December 29, 2016, in compliance with the requirements of WAC 173-26-120. Two tribal

governments: the Chehalis and the Quinault tribes were individually and specifically notified and invited to comment.

Notice of the comment period, including a description of the proposed SMP 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/ACH.html> and on the agency's Public Involvement Calendar. A reminder that the comment period was underway was posted on Ecology's blog on 2/3/2017.

The state comment period began on January 12, 2017 and continued through February 13, 2017. Ecology received one comment letter from Washington Department of Natural Resources (DNR) with recommended policy and regulatory language identifying the need to consult with DNR if projects occur in areas with state-owned aquatic lands. The city provided a response on February 14, 2017 acknowledging these comments and recommended changes have been included to address them.

Summary of Issues Identified by Ecology as Relevant to Its Decision: Ecology identified one change necessary to clarify which waterbodies are shorelines as defined in the Shoreline Management Act. Three changes are needed related to the Critical Areas Ordinance. One clarifies the specific version of the Critical Area Ordinance being incorporated into the SMP and the other two improve internal consistency.

CONCLUSIONS OF LAW

After review of the complete record submitted and all comments received, Ecology concludes that the city's proposed comprehensive SMP update, subject to and including Ecology's required changes (itemized in **Attachment B**), is consistent with the policy and standards of RCW 90.58.020, RCW 90.58.090, RCW 36.70A.480, and the applicable SMP guidelines (WAC 173-26-171 through 251) as well as the definitions in WAC 173-26-020. Ecology concludes that the proposed SMP, subject to required changes, meets the intent of the provision for no net loss of shoreline ecological functions provided in WAC 173-26-201(2)(c).

Ecology concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in **Attachment C**) would be consistent with SMA policy and the Guidelines and would be beneficial to SMP implementation. These changes are not required, but if accepted by the city, can be included in Ecology's approved SMP amendment.

As stipulated in RCW 90.58.610, RCW 36.70A.480 governs the relationship between shoreline master programs and development regulations to protect critical areas that are adopted under chapter 36.70A RCW. Consistent with RCW 36.70A.480(4), Ecology concludes that that the proposed SMP meets the intent of the provision for providing a level of protection to critical areas located within shorelines of the state that assures no net loss of shoreline ecological functions necessary to sustain shoreline natural resources.

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 comprehensive SMP update 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.

Ecology concludes that the city has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the city's critical areas ordinance. In such cases, the updated SMP shall also continue to apply to the designated critical area, but not the portion of the buffer area that lies outside of SMA jurisdiction. All remaining designated critical areas (with buffers NOT extending beyond SMA jurisdiction) and their buffer areas shall be regulated solely by the SMP.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP are consistent with the policy of the Shoreline Management Act, the applicable Guidelines and implementing rules, once required changes set forth in **Attachment B** are accepted by the city. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology's final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the city may choose to submit an alternative to all or part of the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology's original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final action.