

# MEMORANDUM

**TO:** Chad Bedlington, Public Works Director - City of McCleary

**CC:** Mark Daniel, Consultant to City of McCleary

Jackie Chandler, Shoreline Administrator, WA Department of Ecology

**FROM:** Heather Bush, Regional Shoreline Planner, WA Department of Ecology

**DATE:** May 2, 2023

**SUBJECT:** McCleary SMP Periodic Review Amendment - Initial Determination of Consistency

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## Use of this Document

Ecology's *Determination of Initial Concurrence* provides Ecology's review of the proposed amendment to the City of McCleary (City) Shoreline Master Program (SMP). This document is divided into two sections: **Findings of Fact**, which provides findings related to the City's proposed amendment, amendment history, and the review process; and **Initial Determination** of the proposed amendment with next steps.

## Brief Description of Proposed Amendment

The City is conducting a statutorily required periodic review of their SMP and has submitted their draft SMP amendment to Ecology for an initial determination as required by the joint review process and consistent with WAC 173-26-104(3). The SMP regulates shoreline uses and activities along Wildcat Pond and a small segment of shorelands associated with Mox Chehalis Creek.

## FINDINGS OF FACT

### Need for amendment

McCleary comprehensively updated their SMP in November 2016. The proposed amendment is needed to comply with the statutory deadline for a periodic review of the SMP pursuant to RCW 90.58.080(4). The City has proposed revisions to address changes to statute, rule, local circumstances, new information and improved data.

### SMP provisions to be changed by the amendment as proposed

The City prepared a checklist and an analysis documenting the proposed amendment. The amendment will bring the SMP into compliance with requirements of the Shoreline Management Act, or state rules that have been added or changed since the last SMP amendment; ensure the SMP remains consistent with amended comprehensive plans and regulations; and incorporate revisions deemed necessary to reflect changed local circumstances, new information, or improved data.

In addition to minor, non-substantive changes such as document organization, general edits to correct/update syntax, and formatting/citation corrections, the following sections of the SMP are proposed to be amended:

## **Chapter 1. GENERAL PROVISIONS**

- 1.7 Effective Date – Replaced date of adopted SMP with placeholder language.

## **Chapter 2. DEFINITIONS**

- Added a clarifying clause about dismantling/removal to ‘Development’.
- Updated the fair market value dollar threshold for ‘Substantial Development’.

## **Chapter 7. SHORELINE USE, DEVELOPMENT & MODIFICATION REGULATIONS**

- 7.15– Deleted reference to RCW 90.58.580 and added WAC 173-27-215 to criteria and procedures for granting relief from development standards and use regulations resulting from restoration projects (Shoreline restoration projects – Relief from shoreline master program development standards and use regulations).

## **Chapter 8. ADMINISTRATION, PERMITS, AND ENFORCEMENT**

- 8.3 Exceptions – Added new section to capture developments not required to obtain shoreline permits or local reviews.
- 8.14 Amendments – Added a reference to WAC 173-26-104 to list of SMP amendment processing procedures.

## **Appendix B. SHORELINE CRITICAL AREAS REGULATIONS**

- 2.4 Certain Isolated Category III and IV wetlands – Deleted exemption for small wetlands for consistency with Ecology guidance.
- 2.5 Wetland Buffers, Table B2-1.– Revised the habitat score breakdown for Category I, II, and III wetlands and updated score references to reflect the 2014 rating system.

## **Amendment History, Review Process**

The City prepared a public participation program in accordance with WAC 173-26-090(3)(a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. An important element of the public participation plan is the City’s [website](#)<sup>1</sup>, a project-specific page to describe the SMP Periodic Review and post draft documents during the process. The City held public meetings in a virtual format, including project briefings at Planning Commission and Council meetings.

The City used Ecology’s Periodic Review Checklist of legislative and rule amendments to review amendments to chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i). The City also reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii). The City considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii). The City consulted with Ecology and solicited comments throughout the review process including opportunities to comment on draft materials from October 2022 to April 2023.

The City and Ecology held a joint local-state comment period on the proposed amendments following procedures outlined in WAC 173-26-104. The comment period began on March 6 and continued through April 6,

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<sup>1</sup> <https://www.cityofmcclary.com/buildingplanning/page/shoreline-master-plan-periodic-review>

2023. A joint public hearing before City Council was held in-person and virtually via Zoom on March 8, 2023. No one provided verbal testimony at the joint hearing. Ecology staff was in attendance.

The City's record indicates notice of the hearing was published in *The Daily World* on March 2, 2023. Ecology distributed notice of the joint comment period to state interested parties on February 27, 2023, including separate notice and an invitation to consult government-to-government to the Confederated Tribes of the Chehalis Reservation and the Quinault Indian Nation.

The record indicates the City completed a SEPA checklist and issued a Determination of Non-Significance (DNS) on March 6, 2023 for the proposed SMP amendment. The City accepted public comments on the proposed SMP amendments during the 30-day joint public comment period: no written or oral comments were received.

The proposed SMP amendments were received by Ecology on April 13, 2023 for initial state review, with additional materials provided on April 20, 2023. The submittal was verified as complete on April 20, 2023. This began Ecology's review and initial determination.

### Summary of Issues Identified by Ecology as Relevant to Our Decision

Ecology is required to review all SMPs to ensure consistency with the Shoreline Management Act (SMA) and implementing rules including WAC 173-26, State Master Program Approval/Amendment Procedures and Master Program Guidelines. WAC 173-26-186(11) specifies that Ecology "shall insure that the state's interest in shorelines is protected, including compliance with the policy and provisions of RCW 90.58.020."

Based on review of the proposed amendments to the SMP for consistency with applicable SMP Guidelines requirements and the Shoreline Management Act, and consideration of supporting materials in the record submitted by the City, Ecology finds no additional changes are required.

## INITIAL DETERMINATION

**The following constitutes Ecology's written statement of initial concurrence, consistent with WAC 173-26-104(3)(b)(ii):**

After review by Ecology of the complete record submitted and all comments received, Ecology has determined that the City's proposed amendments are 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).

### Next Steps

As described under WAC 173-26-104(4), the next step in the approval process is for your jurisdiction to formally adopt the amendment through resolution or ordinance, then send the final SMP submittal for formal agency approval as outlined in WAC 173-26-110. We anticipate being able to approve your SMP Periodic Review amendment after formal submittal is provided and found complete, per WAC 173-26-120(1)(a).