

# SHORELINE MANAGEMENT PROGRAM PERIODIC UPDATE WHATCOM COUNTY

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Prepared for:



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# 1. Introduction

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## 1.1 Background

Whatcom County (County) is undertaking a periodic review of its Shoreline Management Program (SMP), as required by the Washington State Shoreline Management Act, RCW 90.58.080(4). The Shoreline Management Act (SMA) requires each SMP be reviewed, and revised if needed, on an eight-year schedule established by the state Legislature. The review ensures the SMP stays current with changes in laws and rules, remains consistent with other County plans and regulations, and is responsive to changed circumstances, new information and improved data.

The County adopted its current SMP in 2007 (Ordinance No. 2007-017; approved by Ecology in 2008) through a comprehensive update process, which included an inventory and characterization of shoreline land use and ecological conditions (otherwise known as the “baseline condition”), a shoreline restoration plan, and an evaluation of cumulative impacts to ensure implementation of the SMP would result in no net loss of shoreline ecological functions.

Since then, the Council has amended the SMP numerous times, though those amendments were fairly minor in nature, addressing specific issues. The SMP was most recently amended in 2019 to adopt by reference the 2017 Critical Areas Ordinance (CAO).

## 1.2 Periodic Update Requirements

This periodic update is not required to: re-evaluate the ecological baseline that was established as part of the 2007 comprehensive update; extensively assess no net loss criteria other than to ensure that proposed amendments do not result in degradation of the baseline condition; or change shoreline jurisdiction or environment designations, unless deemed appropriate and necessary by the County.

The primary requirement of the periodic update process is to ensure that the SMP remains consistent with updates to the legislative requirements of the SMA. The Washington State Department of Ecology (Ecology) provides a list of legislative amendments which have taken effect between 2007 and 2017 as a Periodic Review Checklist. In general, mandatory changes to the draft SMP are minor in nature. The majority of them address revised rules with regard to SMP applicability, including updated exemption thresholds and definitions.

The periodic update process also provides an opportunity to review the SMP for consistency with the County’s Comprehensive Plan and development regulations, including critical areas regulations. The County’s current SMP regulates critical areas in the shoreline jurisdiction by

adopting by reference as part of the SMP the County's CAO as adopted in 2017 (Ordinance No. 2017-077) and codified in Chapter 16.16 of the WCC.

The County's Comprehensive Plan and other development regulations were reviewed for consistency with the SMP. No required changes were identified, though there are some recommended amendments.

The periodic review process also represents an opportunity to revise and improve the overall functionality, clarity, and usability of the SMP, for both the public and County staff. This includes clarifying permit processes and requirements, improving the overall organization and clarity of the document, and ensuring consistency with Title 20 (zoning). County staff has reviewed the SMP and noted several areas in need of amendment. These areas are noted in Section 2.

### 1.3 Scoping Document Framework

This scoping document is intended to provide the Whatcom County Council (Council) with an overview of **required** amendments of the SMP Periodic Update, **recommended** actions to improve consistency with state law and other County policies and codes, and other optional items that the County may wish to address. The discussions included in the body of this report are intended to assist the Council with decisions about the scope of the County's SMP update. A complete list of all public comments received at the open houses and through email (through 7/12/19) is included in Appendix A for reference.

Where potential revision actions are identified, they are classified as follows:

- **"Required"** indicates amendments that are required for consistency with state laws.
- **"Recommended"** indicates amendments that are not strictly required but would improve consistency with state laws or local regulations, or would improve organization, functionality, and overall consistency and understanding of the SMP.
- **"Not recommended"** indicates where the County's SMP is already consistent with state laws, the specific revision is not applicable to the County, or implementation would be inconsistent with the Shoreline Management Act.

## 2. Required & Recommended Amendments

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The following table shows those issues the Planning Commission and staff recommends for inclusion in the scope of this Shoreline Management Plan Periodic Update.

Required changes to the draft SMP are minor in nature. The majority of them address revised rules with regard to SMP applicability, including updated exemption thresholds and definitions, as required through recent amendments to state laws.

In addition to the required amendments, the County may elect to make other substantive amendments. Staff has compiled a list of recommended amendments based on public comments, direction from Council, suggestions from other County departments, and interactions with permit applicants over the past several years.

# Table 1: Issues Recommended to Be Included in Scope

#	Topic	Recommended Action	Originator
1	Consistency with State law (required amendments)	<ul style="list-style-type: none"> <li>• Revise language to cite updated substantial development cost threshold or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permitting.</li> <li>• Revise the definition of “Development” to clarify that development does not include dismantling or removing structures. Example language from Ecology is available.</li> <li>• Add reference to statutory exceptions to local review to the SMP. Revise or remove existing references to remedial actions and projects certified pursuant to RCW 80.50 to clarify their status as exceptions to local review under the SMA.</li> <li>• Revise language to include shoreline permit exemption for retrofitting existing structures to comply with the ADA or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permitting.</li> <li>• Revise language in the SMP to cite the updated cost thresholds for dock construction or to rely solely on reference to WAC 173-27-040 for exemptions to substantial development permitting.</li> <li>• Revise the SMP Aquaculture provisions for consistency with WAC 173-26-241(3)(b).</li> <li>• Revise the SMP to clarify that the effective date of SMP amendments is 14 days from notice of final approval by Ecology.</li> <li>• Review the SMP for consistency with 2003 SMP Guidelines and make any necessary changes</li> </ul>	State
2	Consistency with State law	<ul style="list-style-type: none"> <li>• Revise the SMP for consistency with Ecology’s updated permit filing procedures.</li> <li>• Revise language to clarify that forest practices that involve only timber cutting are not SMA “developments” and do not require Shoreline Substantial Development Permits.</li> <li>• Revise language in Section 23.50.040 to clarify that the SMA does not apply to lands under exclusive federal jurisdiction. Example language from Ecology is available.</li> <li>• Update definitions to include distinct definitions for “nonconforming use,” “nonconforming structure,” and “nonconforming development” in accordance with WAC 173-27-080.</li> <li>• Define special procedures for WSDOT projects per WAC 173-27-125.</li> <li>• Incorporate reference to WAC 173-27-215 for criteria and procedures for instances in which a shoreline restoration project creates a shift in OHWM.</li> <li>• Revise definition of “Floodway” for complete consistency with Ecology’s recommended language.</li> <li>• Update list and maps of streams and lakes that are in shoreline jurisdiction as necessary.</li> <li>• Revise the SMP to include the required provisions in WAC 173-26-221(2)(c)(ii)(B), (C), and (D).</li> </ul>	State



#	Topic	Recommended Action	Originator
3	Consistency with CAO (WCC 16.16)	<ul style="list-style-type: none"> <li>• Ensure Council changes regarding standards for view preservation in the CAO are reflected in the SMP.</li> </ul>	Public
4	Consistency with Land Use procedures (Title 22)	<ul style="list-style-type: none"> <li>• Update SMP to align with recently adopted Title 22 permit procedures.</li> </ul>	WC PDS
5	Consistency with Shoreline Management Act (RCW 90.58) and 2003 SMP Update Guidelines (WAC 173-26)	<ul style="list-style-type: none"> <li>• Clarify permit review no net loss analysis</li> <li>• Clarify development mitigation requirements.</li> <li>• Align appeal procedures with State statutes.</li> <li>• Shoreline permit review (Exemption, Substantial, Conditional Use, or Variance) should reflect State statutes and level of review required.</li> <li>• Align Use standards with State statutes.</li> <li>• Incorporate improved permit streamlining for priority salmon recovery project</li> </ul>	WC PDS  Salmon Recovery Staff Team
6	Climate Change/Sea Level Rise	<ul style="list-style-type: none"> <li>• Develop and/or strengthen policies regarding climate change/sea level rise, including the incorporation and use of new data (as it becomes available), to review and revise, if warranted, shoreline use regulations.</li> </ul>	Climate Impact Advisory Committee & Public
7	Definitions	<ul style="list-style-type: none"> <li>• Add definitions for common words with a specific meaning in the SMP.</li> <li>• Add definitions for regional, local, and accessory utilities. Ensure consistency with Zoning.</li> <li>• Define a single use dock and joint use dock.</li> </ul>	WC PDS
8	Habitat	<ul style="list-style-type: none"> <li>• Reference WDFW and DNR's Shore Friendly Program</li> <li>• Consider strengthening ecological connectivity and wildlife corridor requirements.</li> <li>• Consider ways to improve protections for salmon and forage fish habitat.</li> <li>• Clarify functional disconnect standards for protection of Fish &amp; Wildlife Habitat Conservation Areas</li> </ul>	Wildlife Advisory Committee & Public
9	Layout and Structure of the SMP	<ul style="list-style-type: none"> <li>• Reorganize the SMP, putting the background information, discussions, and goals and policies into the Comprehensive Plan as a chapter</li> <li>• Simplify the language as much as possible and remove redundancies</li> </ul>	WC PDS
10	Nonconforming	<ul style="list-style-type: none"> <li>• Ensure consistency with Zoning, CAO, and SMP regarding nonconforming uses and structures.</li> <li>• Add standards for nonconforming structures to meet current construction standards.</li> <li>• Address nonconforming expansion dimensional standards.</li> <li>• Clarify administratively approved single-family dimensional standards.</li> </ul>	WC PDS

#	Topic	Recommended Action	Originator
11	Overwater Structures	<ul style="list-style-type: none"> <li>• Add dimensional standards for overall square footage.</li> <li>• Add shared moorage standards.</li> </ul>	WC PDS
12	Permitting	<ul style="list-style-type: none"> <li>• Consider simplifying utility repair and maintenance permitting.</li> <li>• <a href="#">Add a reference to the Swift Creek Sediment Management Action Plan so as to clarify permitting procedures for actions necessitated by this plan.</a></li> </ul>	Public
13	Public Access	<ul style="list-style-type: none"> <li>• Clarify standards for construction in the aquatic designation (work occurring in the water)</li> <li>• Add ADA standards consistent with federal statutes</li> <li>• Consider revising dimensions for stairs and walkways located within the shoreline or critical area buffers to accommodate public trails.</li> <li>• Consider amending trail location standards to allow trails to be located closer than in the outer 50% of a critical area buffer.</li> </ul>	WC Parks
14	Shoreline Designations	<ul style="list-style-type: none"> <li>• Consider changing the shoreline designation for certain, more urban parks to an urban designation.</li> </ul>	WC Parks
15	Shoreline Jurisdiction and Environment Designation Maps	<ul style="list-style-type: none"> <li>• Revise the Shoreline Jurisdiction and Environment Designation maps to conform to the latest FEMA FIRM maps</li> </ul>	WC PDS
16	Shoreline Modifications	<ul style="list-style-type: none"> <li>• Review for consistency with the 2SHB 1579 regarding HPAs, and with State guidelines regarding prioritizing living shorelines over hardscape solutions.</li> <li>• Consider allowing interpretive, wayfinding, safety, and park identification signs, based on park standards.</li> </ul>	Public WC Parks
17	Shoreline Uses	<ul style="list-style-type: none"> <li>• Revise as necessary any SMP policies or regulations pertaining to the Cherry Point area as directed by Council.</li> <li>• Revise as necessary any SMP policies or regulations pertaining to sand and gravel extraction as directed by Council.</li> <li>• Ensure internal consistency with allowed uses in the code and the Use Table.</li> <li>• Modify the accessory structure height standards.</li> <li>• Add standards for retaining walls.</li> <li>• Update Memorandum of Understanding with Department of Archaeology and Historic Preservation.</li> <li>• Clarify Forest Practice standards.</li> <li>• Add temporary use standards.</li> <li>• Clarify utility standards for regional, local, and accessory.</li> <li>• Add standards for live-aboards in marinas</li> </ul>	Council Council WC PDS WC PDS WC PDS WC PDS WC PDS WC PDS WC PDS WC PDS

#	Topic	Recommended Action	Originator
18	Shoreline Setbacks/ Riparian Management	<ul style="list-style-type: none"> <li>• Update vegetation conservation standards to prefer limbing over removal.</li> <li>• Provide incentives to enhance Fish and Wildlife Habitat Conservation Areas (FWHCA).</li> <li>• Clarify setback standards for protection of views to and from the water.</li> </ul>	WC Parks Public WC PDS
19	Water Quality	<ul style="list-style-type: none"> <li>• Include language/policies about the importance of Lake Whatcom as the source of drinking water for most of the County and the water quality improvement plan (TMDL).</li> </ul>	Public
20	Wetland buffers	<ul style="list-style-type: none"> <li>• PDS will conduct a parallel process, convening a group of local wetland consultants, to consider revisions to the CAO regulations regarding wetland habitat function score break points, buffer widths, reduction, averaging to meet DOE guidelines, and having buffers based on habitat performance instead of static/standard buffers. If they complete this work in time, it can be incorporated into this update; otherwise it can follow.</li> </ul>	State
21	Marine Resource Lands	<ul style="list-style-type: none"> <li>• Consider adding a Marine Resource Lands policy section as developed by the Marine Resources Committee</li> </ul>	Marine Resources Committee & Council

### 3. Issues *Not* Recommended to Be Included in Scope

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The following table shows those issues the Planning Commission and staff recommends not be included in the scope of this Shoreline Management Plan Periodic Update.

There have been are several amendments to state law that either don't pertain to Whatcom County or that are adequately covered in the Washington Administrative Code. These are not proposed to be addressed.

Additionally, commenters have made several suggestions that staff does not believe are warranted or consistent with the Shoreline Management Act, that may be better addressed through other means, or are beyond the scope, budget, or schedule required of the update.

## Table 2: Issues Recommended to *Not* Be Included in Scope

#	Topic	Potential/Requested Action	Originator	Recommendation
22	Consistency with State law	Clarify the scope and process for conducting periodic reviews.	State	Not recommended; already in the WAC.
23	Consistency with State law	Include the optional SMP amendment process that allows for a shared local/ state public comment period.	State	Not recommended; already in the WAC.
24	Consistency with State law	Specify the submittal process of proposed SMP amendments to Ecology.	State	Not recommended; already in the WAC.
25	Consistency with State law	Add a new definition and policy for floating on-water residences legally established before 7/1/14.	State	Not recommended. The SMP prohibits new floating on-water residences and there are no legally existing floating homes in Whatcom County.
26	Consistency with State law	Classify existing legally established residential structures as conforming	State	Not recommended. Though a home may have been conforming when built, they may not be under today's rules.
27	Consistency with State law	Add moratoria authority and procedures	State	Not recommended; already in the WAC.
28	Ecological Function	<ul style="list-style-type: none"> <li>• Show how County is meeting NNL (more monitoring).</li> <li>• Consider a 'net ecological gain' policy instead.</li> <li>• Establish quantitative ways to evaluate development permits in terms of no net loss.</li> <li>• Consider requiring the restoration of native vegetation and vegetation conservation standards (lawns and turf are prohibited) for any new building permits, expansions or change of use in the following areas:                             <ul style="list-style-type: none"> <li>○ Within 50' of the Ordinary High-Water Mark (OHWM) for Lake Whatcom</li> <li>○ Within 50' of the OHWM for other water quality impaired waterbodies (via the Clean Water Act 303(d) list)</li> </ul> </li> </ul>	Public	Not recommended. No net loss is the standard per the SMP Guidelines and a periodic update does not require a reassessment of no net loss or an evaluation of performance. This will need to be done during a comprehensive update. However, some of this may be addressed via the recommendations regarding Vegetation Management.

#	Topic	Potential/Requested Action	Originator	Recommendation
30	Permitting	Limit variance provisions.	Public	Not recommended; variances criteria and procedures are included in the WAC.
31	Permitting	Revise exemption permitting so that an exempt project does not need a review or written exemption.	WC PW	Not recommended. Per the SMA, exempt projects need to be reviewed and a letter of exemption issued. Even if a project is exempt, it must be shown to meet the rules.
32	Shoreline Designations	Change all shoreline designations upstream of Everson to "Natural."	Public	Not recommended. Amending shoreline designations is not a requirement of a periodic update, and it would be costly.
33	Shoreline Uses	<ul style="list-style-type: none"> <li>• Prohibit new overwater structures, piers, docks, and wharfs over salmon and forage fish habitat.</li> <li>• Don't allow for variances.</li> <li>• Make a conditional use on Lake Whatcom.</li> </ul>	Public	Not recommended. The SMA requires that we balance ecological function with recreation and economic development goals and access.
34	Shoreline Uses	Prohibit dredging, new commercial development, new in-water structures, piers, floats, and pilings on Lake Whatcom.	Public	Not recommended. Dredging and new commercial development is already not allowed in Lake Whatcom, and the SMA requires that we balance ecological function with recreation goals and access.
35	Shoreline Uses	Prohibit fences in critical areas and their buffers.	Public	Not recommended. The CAO already regulates size and types of fences in critical areas and their buffers to ensure they are habitat friendly.
36	Shoreline Uses	Ag protection, with ecological requirements.	Public	Not recommended. Existing and ongoing agricultural uses are exempt from the SMP.
37	Shoreline Uses	Prohibit pesticides, herbicides, fungicides, fertilizers in shorelines and shoreline buffers.	Public	Not recommended. The SMP includes policies, and the CAO includes regulations that address such uses.
38	Shoreline Uses	Prohibit trails adjacent to creeks or shorelines; allow occasional cut-in areas to provide water views (see USDA recommendations)	Public	Not recommended. The SMP and CAO include policies and regulations for trails.
39	Shoreline Uses	Prohibit new residential development on shorelines.	Public	Not recommended. Per the SMA, SFR development is a preferred use in the shoreline.
40	Shoreline Uses	Prohibit all economic uses in the shorelines; it is not one of the three goals under SMA.	Public	Not recommended. Economic development, especially of SFRs and water-dependent uses, are preferred uses under the SMA.
41	Shoreline Uses	Prohibit any new oil or gas pipelines from crossing above or beneath rivers and lakes.	Public	Not recommended. Per the SMA, utilities are permissible in the shoreline jurisdiction.

#	Topic	Potential/Requested Action	Originator	Recommendation
42	Shoreline Uses	Consider making manure holding facilities a shoreline conditional use, and that they are in the form of above-ground tanks or towers instead of earthen lagoons.	Public	Recommended by staff to consider; however, the Planning Commission recommended removing it from the scope as this was attempted at the State level, but failed.

## 4. Summary of Public Scoping Comments

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Public comments regarding scoping of this periodic update were collected during a series of three open houses held in June 2019 as well as via direct email submittal to the County. Comments received varied between those offering specific comments or concerns, most often with recommended actions for County consideration, and those comments with a question or indicating a need for more information. A number of public comments with specific recommendations are recommended to be included in the scope of this periodic update (Section 2).

The greatest numbers of comments received at the three open houses and from on-line comments were focused on:

- Buffers;
- Habitat;
- Appropriate use and activity in shorelines; and
- Climate change.

Specific suggestions were offered for:

- Use designations;
- Permitting changes;
- Mapping; and
- No net loss.

Several people expressed strong concerns regarding docks and compliance of existing shoreline rules. Site specific concerns and questions focused primarily on Birch Bay, Cherry Point, and Lake Whatcom.

The complete set of public comments from the open houses and direct email can be seen in Appendix A.



## Appendix A

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# PUBLIC COMMENTS RECEIVED

## Via the Open Houses

### Birch Bay Open House – 6.10.19

- want some use of the buffer
- consider a 'net ecological gain' policy instead of 'no net loss' (which isn't being accomplished)
- prioritize protection of intact wildlife corridors
- The buffer is part of no net losses ecosystem function. If you remove or encroach on buffer you degrade ecosystem function, how is that allowed for SSWS-what is justification?
- No more docks, WA state aquatic habitat guidelines recommend against it and other jurisdictions prohibit it-what science supports this?
- How are you ensuring no NNL is met? You have no inventory and analysis of wildlife and other ecosystem functions
- We need trees, they help fish survive. Why are we trying to allow more tree removal?
- Practice riparian corridors
- No fences
- Timing for BERM?
- Road repairs post 12/20 storm
- Consequences of FEMA remapping
- Status of county park planning for Birch Bay and near CJ's
- Status of county library
- What are the protections for view rights? Especially in Birch Bay?
- Add section on climate change; responding to big squeeze (drawing of sea level rising under ocean floor shelf)
- Yes, address climate change; storm surge, high water mark, natural vegetation for erosion control
- Department of commerce has guidelines on addressing climate change in SMP-please consider
- Yes on climate change if we want to live. That means no removal of trees in shoreline and beyond (or as much as possible)
- Keep manure lagoons out of the shoreline buffer
- Keeping our ecosystem functions increases resilience against climate change.
- Improved habitat for ecological functions for marine life(young fry)
- Prohibit chemical fertilizers/pesticides in all types of shoreline buffers
- Prohibit pesticides, herbicides, fungicides in shorelines
- No fences-they keep wildlife from water-look on internet and see impaled event
- save riparian corridors
- No docks
- No buffer intrusions
- No trails that are adjacent to creeks or shorelines, have occasional cut-in area to get to water-see USDA recommendations

- Please update mapping of 20 cfm water courses (Atul)
- There is a plan to reconstruct the golf course at sealinks How will that affect the wetlands east of CJ's
- This SMP fails to even mention wildlife-they use the shoreline extensively. We have not recovered from the loss of our sea stars-a keystone species. Show us how we meet NNL under these conditions. You cannot fail to re-evaluate something that was never evaluated in the first place
- You are not required to address ecological baseline. If you have one-where is it if it exists, then tell us where it shows? Where is wildlife? You forgot about wildlife, birds, terrestrial
- Cherry point is having enormous growth-look at all of BP's SEPA reviews, the 136 advanced wetland mitigation project. The intensity of impacts is not being considered. Homes are being built all over BB and Blaine near creeks, like California Creek. Again, this has impacts that require re-evaluation.
- The BB Berm is going to have a major impact on shoreline function. This is a new condition that needs to be considered as part of no net loss requirements. There are also going to be dog park and people parks. What are the impacts of increased intensity of use? How does this affect NNL? How do you measure this?
- There is no emphasis on SSWS. You are not telling people how there is prioritized use that must be followed for long term interest of residents of entire state. Where is the emphasis on natural conditions and restoration? We are building out every shoreline in the country from Bellingham to...
- The bonds(?) appear intended to encourage people to ask for more growth into buffer and shorelines. Where is the protection? While it is true you are not required to re-evaluate baseline standards, you need to have quantifiable measurable standards and monitoring protocol, and we do not have that.
- Issue: we had beach access on our property but because of storms our stairs were wiped out. It is prohibited to replace them. However when neighborhood was developed there were designated beach access. However neighbors who have these accesses on their properties have pad-locked (?) them up and made them inaccessible. Who is to develop these for general use?
- Birch bay berm and road repairs-when? Schedule? Is it a positive thing?
- FEMA updated BB flood maps. Required flood insurance via FEMA?
- I just want the shores protected, kept clean, and not polluted
- Less oil refinery (fossil fuel) activity here
- Please address climate change/establish new high water mark. New numbers to address storm surge-setbacks and vegetation
- Shoreline improvements: runoff, erosion control, improved ecological function for marine life, improvements for schematic (young fry)/ encumber (?) Seattle shoreline in city
- I am very concerned about "non" compliance in current shoreline rules and regulations
- Please see that regulations are followed
- Neighbors (Canadian) non-compliant with permits-No Permits. Ken Milne-8941 Dearborn Ave (homeowner)
- Had made upstairs 2 parts, moved dock towards waterfront, digging up the beach, poured concrete slab, currently planning to build a dock

- Please come to my home to visualize all that is happening. I would be happy to show you and discuss my concerns.

### Deming Open House – 6.19.19

- Hard to find basic information on shoreline do's and don'ts.
- SMP big and unwieldy-need cliff notes
- More resources on website
- If Common Line extended to conforming lots, then should only allow if mitigation provides uplift.
- Summarize and engage the public
- Ecological connectivity to retain large predators
- Ag protection, with ecological requirements
- No more residential developments on shorelines
- Ecological connectivity is key, consider impacts to terrestrial ecology adjacent to shorelines
- Riverine floodplain impacts with increased climate change impacts need additional consideration
- Recommend change designation to Natural for all shorelines upstream from Everson

### Bellingham Open House – 6.25.19

- Citizen science for data collection to inform policy
- How can SMP address concern related to whales, Chinook salmon?
- More county recognition of 'worst case' sea level rise scenarios
- Reference shore friendly program by DNR/WDFW in SMP
- Should not have ability to average buffers near environmentally sensitive areas (all shoreline because they are all sensitive)
- No new development in shoreline areas
- More monitoring and evaluation of no net loss
- No variances on docks (actually no new marine docks!)
- No reductions on setbacks
- No ship traffic (commercial) as herring, salmon, orca threatened
- Rising sea level-consider setbacks
- Loophole for view (setback) eliminated
- Habitat protection as priority- preserve, protect, restore!
- Limit variance provisions as they become the precedent here in Whatcom county
- I would like CC to strongly consider climate change and what it is requiring. We need, we must, stay ahead of this-especially given the country's current direction. Thank you!
- No docks-they should not be allowed-they are harmful to shoreline functions
- Non-conforming- do not classify as conforming. Non-conforming are meant to go away over time. That would be contrary to land use change that made it non -conforming & NC does not protect shoreline.
- No economic uses should be in SMP-it is not one of the three goals under SMA
- Emphasis needed on riparian corridors. The shorelines and creeks are crucial to biodiversity. The no. 1 trait of functional ecosystem is biodiversity and no. 1 requirement for biodiversity of habitat corridors
- Should require that climate change and sea level rising be addressed and included in plans/updates

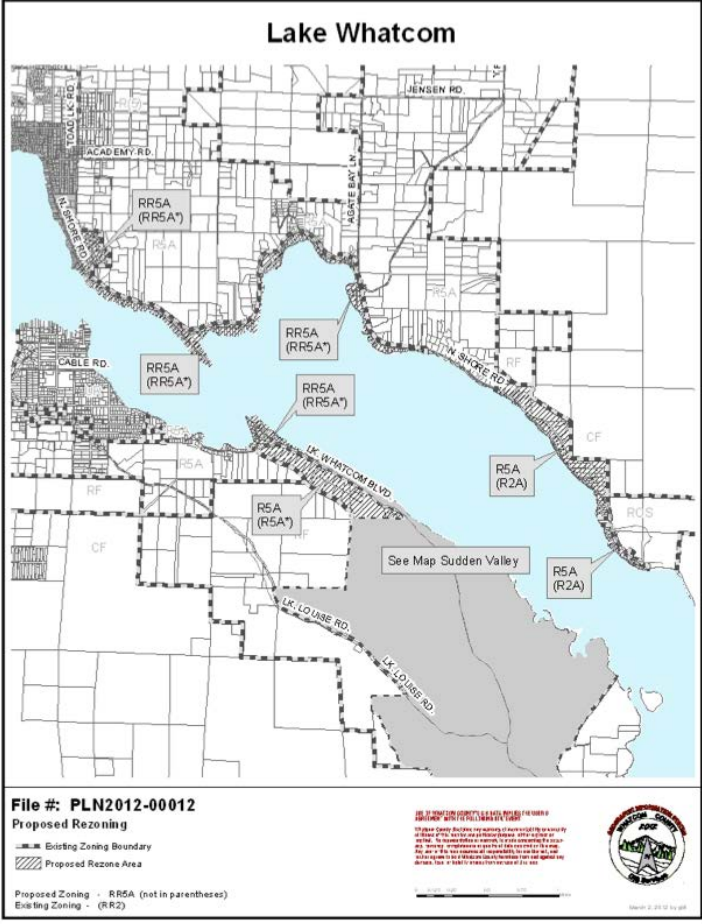
- Please prohibit any new docks at cherry point
- Better accessibility and interactive capabilities of shoreline jurisdiction mapping online
- Currently, very difficult to determine if you are within shoreline jurisdiction with large PDF online
- Measurement tools would also be helpful
- Permitting obstacles for utility repair/maintenance projects- due to size, linear fit, and cost often throws routine maintenance work into lengthy permit process. Is there a way to streamline the process and reduce the time needed for utility to permit? Often times, filling out applications more applicable to buildings and development (new construction)
- Just a curiosity question: will the county consider using climate projections or models on increased flooding for marine and freshwater shorelines to inform development decisions? This will most likely become an issue as time marches on. It would be a good idea to be ahead of the game and incorporate this (projections/models) into development decision-making process.
- Thanks for the presentation!
- Comprehensive plan, shoreline management plan/act, critical area ordinance and on and on... but it all gets funneled through planning and development services, whose charter is apparently do whatever can be done to ensure that any (add?) development be permitted, usually by mitigation which is a ridiculous concept. Destroy natural wetlands, forest, etc. and create and artificial replacement. This is arrogance and greed (think taxes) masquerading as a better solution than hundreds of thousands of years of natural process that creates the wetlands and forests. PDS must be an advocate for the environment, not developers or anyone who wants special dispensation to further destroy the country.

## Via Email/Website

Comment #	Date	Commenter	Comment
1	6/13/19	Treva Coe, for the Nooksack Tribe & Salmon Recovery Staff Team	<p>Thanks for briefing Salmon Staff Team about the SMP update. We hope you continue to engage Salmon Staff Team at critical junctures.</p> <p>I wanted to request that you incorporate improved permit streamlining for priority salmon recovery project into the updates SMP.</p> <p>My understanding on the current situation is this:</p> <p>Per Whatcom County Code 23.60.02.2, <b>Section O</b>, exemptions are available for <i>"Watershed restoration projects as defined in Chapter 11 and by RCW 89.08.460. The Administrator shall review the projects for consistency with the Program in an expeditious manner and shall issue its decision along with any conditions within forty-five (45) days of receiving a complete application form from the applicant/proponent. No fee may be charged for accepting and processing applications for watershed restoration projects as defined in Chapter 11."</i>, i.e.</p> <p>(1) <i>"Watershed restoration plan" means a plan, developed or sponsored by the department of fish and wildlife, the department of ecology, the department of natural resources, the department of transportation, a federally recognized Indian tribe acting within and pursuant to its authority, a city, a county, or a conservation district, that provides a general program and implementation measures or actions for the preservation, restoration, re-creation, or enhancement of the natural resources, character, and ecology of a stream, stream segment, drainage area, or watershed, and for which agency and public review has been conducted pursuant to chapter 43.21C RCW, the state environmental policy act. If the implementation measures or actions would</i></p>

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			<p><i>have a probable significant, adverse environmental impact, a detailed statement under RCW 43.21C.031 must be prepared on the plan.</i></p> <p>(2) <i>"Watershed restoration project" means a public or private project authorized by the sponsor of a watershed restoration plan that implements the plan or a part of the plan and consists of one or more of the following activities:</i></p> <p>(a) <i>A project that involves less than ten miles of stream reach, in which less than twenty-five cubic yards of sand, gravel, or soil is removed, imported, disturbed, or discharged, and in which no existing vegetation is removed except as minimally necessary to facilitate additional plantings;</i></p> <p>(b) <i>A project for the restoration of an eroded or unstable stream bank that employs the principles of bioengineering, including limited use of rock as a stabilization only at the toe of the bank, and with primary emphasis on using native vegetation to control the erosive forces of flowing water; or</i></p> <p>(c) <i>A project primarily designed to improve fish and wildlife habitat, remove or reduce impediments to migration of fish, or enhance the fishery resource available for use by all of the citizens of the state, provided that any structure other than a bridge or culvert or instream habitat enhancement structure associated with the project is less than two hundred square feet in floor area and is located above the ordinary high water mark of the stream.</i></p> <p>Our restoration projects do not qualify under this exemption, because our salmon recovery plan, which potentially could constitute a "watershed restoration plan," has not been subjected to SEPA.</p> <p>Instead our projects qualify for Shorelines exemption through WCC 23.60.02.2, <b>Section P</b>, i.e. when Joel provides a letter qualifying us for an exemption, which in turn occurs only after the project goes through SEPA and an HPA is issued. This is consistent with RCW 90.58.147, <i>Substantial development permit-Exemption for projects to improve fish or wildlife habitat or fish passage.</i></p> <ul style="list-style-type: none"> <li>• Unlike section O exemptions, projects exempted under section P are not exempt from fees, nor are they afforded the expedited (45 day) project review. We also are subjected to varying degrees (depending on the site and reviewer) to mitigation requirements.</li> </ul> <p>Specifically, we would like to request the following for projects on <a href="#">WRIA 1's 4-Year Work Plan</a> (see Chinook Priority Areas section):</p> <ul style="list-style-type: none"> <li>• Expedited processing: 45 days, instead of the 180 days current</li> <li>• Exemption from fees: we pay \$535 for SEPA fee and record/archiving, \$435 for Shoreline Fee and record/archiving.</li> <li>• Reduce permit contingencies, i.e. the need to wait for WDFW to issue the letter – being on WRIA 1 4 year work plan should be sufficient</li> <li>• Reduce redundant review and exempt projects from mitigation requirements – instead establish standard conditions, such as those identified for our Farmhouse Phase 3 project (attached)</li> </ul> <p>Thanks for considering this request in the SMP update.</p> <p><i>(The commenter refers to the document "Exemption From The Shoreline Management Program Substantial Development Permit Requirement" permit number: SHX2018-00028. This document is referenced but not included in this comment listing.)</i></p>
2	6/20/19	Tani Sutley	<p><i>"The review process provides the method for bringing shoreline master programs into</i></p>

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			<p><i>compliance with the requirements of the act that have been added or changed since the last review and for responding to changes in guidelines adopted by the department, together with a review for consistency with amended comprehensive plans and regulations. Local governments should also incorporate amendments to reflect changed circumstances, new information, or improved data." 2(d) Page 4 Ecology's Summary of the Periodic Review Rule.</i></p> <p>Since the Whatcom County GMA 2011 compliance documents required some LAMIRDs be included in the comprehensive plan and those changes to the comprehensive plan were added in 2013 and were after the last SMP 2007--2008 update and reflect new local zoning changes.</p> <p>Can you please review the following LAMIRD Rural Community designations for consistency with the current shoreline management program designations and if updating the Shoreline Designation for the update is appropriate which I believe it is? My opinion is these new designations should be the Shoreline Rural designation. From the 2013 Whatcom County Comprehensive Plan Rural Element Update LAMIRD Report dated June 10th, 2013 the following shoreline areas appear to need their shoreline designations updated to reflect the GMA compliance documents and to be consistent with 2013 local zoning changes:</p> <ul style="list-style-type: none"> <li>▪ Cain Lake</li> <li>▪ Emerald Lake</li> <li>▪ Sudden Valley</li> <li>▪ Sandy Point/Neptune Beach/Sandy Point Heights</li> <li>▪ For the Nooksack River –I don't have enough information on the width of the river shoreline to know if the LAMIRDS in those areas need a shoreline review.</li> </ul> <p><i>(Consultant Note: The Whatcom County report titled "LAMIRD Report – Proposed Limited Areas of More Intensive Rural Development and Zoning Map Amendments" updated June 10, 2013 referenced by this commenter but not included in these comments.)</i></p>
3	6/21/19	Laurie Caskey-Schreiber (former Whatcom County councilmember)	<p>Please add to the plan a section on sea level rise. We have people buying or building new homes in areas of our county (e.g., Sandy Point, Birch Bay, &amp; Semiahmoo) that are routinely faced with annual flood issues now, and forecasts show this problem will only worsen over time. The public has a right to know the reality of the risks they are likely to face by living in these areas.</p>

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4	6/21/19	Tani Sutley	 <p>So I did a little more research and found Shoreline Residential designations say this:</p> <p><b>Designation criteria.</b> Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW <a href="#">36.70A.110</a>, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW <a href="#">36.70A.360</a>, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.</p> <p>So this is not what I was thinking would be appropriate but it is in WAC173-26-211.</p> <p>The Shoreline Residential in other areas zoned incorrectly or rezoned Rural during 2011-2013 should be reviewed for consistency, such as the North Shore Road area I sent you.</p>
5	6/21/19	Tani Sutley	<p>I am attaching a brief reason for wanting a review of the some shoreline designations where LAMIRDs include shorelines which were changes to local zoning code in 2013. I can send the LAMIRD Report separately since it is a large file.</p> <p>Actually the 2011-2013 GMA compliance documents resulted in some other zoning changes that include some shoreline areas besides just the LAMIRDS.</p> <p>One area was North Shore Road on Lake Whatcom which became Rural in some areas. While not a LAMIRD that was a local zoning change since the last comprehensive SMP update in 2008 which by the guidelines suggest a shoreline</p>

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			<p>designation review is in order.</p> <p>These zoning changes were in the LAMIRD report I sent you yesterday under "Affected Areas with No proposed LAMIRD Designation page 77.</p> <p><i>(The Whatcom County report titled "LAMIRD Report – Proposed Limited Areas of More Intensive Rural Development and Zoning Map Amendments" updated June 10, 2013 is referenced but not included in these comments.)</i></p>
6	6/22/19 a	Tani Sutley	<p>Whatcom County Resolution No. 2016--039 dated Oct. 25, 2016 deals with revisions to existing Title 23 definitions and adds new definitions for vacation rentals and bed and breakfast business uses in shorelines.</p> <p>This resolution is still pending and not approved by legislative action yet those definitions could change the work being done for the current and ongoing periodic review public comment period and open houses.</p> <ol style="list-style-type: none"> <li>1. Is it appropriate to conduct a periodic review while changes to the existing SMP are pending?</li> <li>2. While many items listed in the SMP Ecology checklist for Resolution No. 2016--039 were denied a complete review because it was a "limited" amendment, those same items should now be reviewed by checklist for cumulative impacts and no net loss. What state laws govern the priority for SMP updates being conducted at the same time?</li> <li>3. Depending on the answer to question number 2, should the current and ongoing periodic update and scoping open house meetings be delayed or reopened until the unresolved issue of adding new definitions to the SMP is concluded?</li> </ol>
7	6/22/19 b	Tani Sutley	<p>The shoreline designation described in our local SMP 23.30.062 includes Shoreline Residential Area Criteria and describes the designation is for density greater than one (1) unit per acre.</p> <p>However SMP 23.30.062 does not include all the designation criteria in WAC 173-26-211 describing the Shoreline Residential environment.</p> <p>Since Whatcom County rezoned many areas in the county in 2011-2013 for GMA compliance, many of these areas in shorelines were put into LAMIRDS and some rezoned Rural or rezoned to Rural as one unit per 5 acre zoning. A Comprehensive Plan update was completed as Ordinance 2011-013 &amp; Ordinance 2012-032.</p> <p>Since these are local zoning changes that impact shoreline zoning since the last SMP update, I believe the current "periodic SMP update" should include a review of these changes as they impact shorelines.</p> <p>My question: WAC 173-26-211(4)(c) allows alternative systems for shoreline designation provisions but Whatcom County's "shoreline residential" environment does not match the guidelines for the shoreline residential definition, which is mostly for LAMIRDS, master planned resorts, incorporated municipalities and urban growth areas by definition.</p> <p>I believe Whatcom County should create two residential environment designations if they want to continue an alternative system of labeling these environmental designations instead of using the recommended classification system.</p> <p>"Local governments may establish two or more different "shoreline residential" environments to accommodate different shoreline densities or conditions, provided both environments adhere to the provisions in this chapter."</p> <p>Or perhaps some of the shoreline residential areas should be rezoned as "Rural" in</p>



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			<p>shorelines as part of this periodic SMP update to accommodate the 2011-2012 local zoning changes.</p> <p><u>Data</u> WAC 173-26-211</p> <p>(4) General environment designation provisions.</p> <p>(c) Alternative systems.</p> <p>(i) Local governments may establish a different designation system or may retain their current environment designations, provided it is consistent with the purposes and policies of this section and WAC 173-26-211(5).</p> <p>(5) The designations.</p> <p>(f) "Shoreline residential" environment.</p> <p>(iii) Designation criteria. Assign a "shoreline residential" environment designation to shoreline areas inside urban growth areas, as defined in RCW 36.70A.110, incorporated municipalities, "rural areas of more intense development," or "master planned resorts," as described in RCW 36.70A.360, if they are predominantly single-family or multifamily residential development or are planned and platted for residential development.</p>
8	6/24/19	Betsy Gross	<p>I am a citizen of Whatcom County and it has been brought to my attention that you are the person to contact if I have comments about the update of the Shoreline Master Program (SMP). I also understand that in its current form, the SMP does not mandate that climate change impacts need to be included. I strongly recommend that this be included in the update of the SMP.</p>
9	6/25/19	Hanna Winter	<p>I'm writing to request that consideration of ecological connectivity be considered in the development of and review of the Shoreline Master Program updates.</p>
10	6/25/19	Tani Sutley	<p>This is my last comment and I'll take a copy to the meeting tonight.</p> <p>Since this deals with Resolution no. 2016-039 for <b>unlimited</b> transient housing in all shorelines I am including the Council. I did not copy them on my other comments.</p> <p><u>Pending SMP Definition Changes -- Whatcom County Resolution No. 2016-039</u></p> <p>Our Current SMP does not allow transient housing in shorelines and is excluded by the definition of Residential Development. Whatcom County has never enforced that shoreline provision allowing vacation rentals to develop a cottage industry everywhere in the county.</p> <p>Whatcom County Resolution No. 2016-039 was submitted to Ecology in 2016 and approved by Ecology to allow transient housing in all shorelines requiring a substantial development permit with the exception of Commercial Forestry and Industrial zones. The <b>SHORELINE MASTER PROGRAM SUBMITTAL CHECKLIST</b> did not require a cumulative impacts review because it was a "limited" amendment.</p> <p>Concerns:</p> <p>Whatcom County has not concluded the 2016 amendment for unlimited transient housing by passing a final ordinance.</p> <p><b>Should they pass it</b> before the conclusion of this new "periodic" SMP update, I think scoping should include the cumulative impacts created by this new legislation in shorelines. This will not be necessary if Council removes this limited amendment.</p> <p>1. <b>Vacation rentals and bed and breakfast units are not single-family residences, which are only intended for one family.</b> Vacation rentals must be reviewed for the cumulative impacts of their unique high intensity multifamily</p>

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			<p>vacation use of the property for events, gatherings and lodging. Vacation rentals and bed and breakfast units only make use of existing single-family homes but are a separate use category. Vacation rentals and B&amp;Bs are only residential in that they use a house built to residential standards.</p> <ol style="list-style-type: none"> <li>2. Lake Whatcom is a shoreline of statewide significance and should not have high intensity development in all designations.</li> <li>3. SDP – Substantial Development Permits need to include cumulative impact assessments as outlined in SHB No. 13-016c (January 22, 2014) Coalition to Protect Puget Sound Habitat v. Pierce County. Ecology Publication No. 17-06-029 Page 9 Shoreline Permitting Manual.</li> <li>4. Finally – if the cumulative analysis does find some designations can handle more intensive uses (which is why we have separate designations) that analysis must include enforcement provisions that meet SMA guidelines.</li> <li>5. The county proposed registry does NOT meet SMA enforcement guideline provisions.</li> </ol>
11	6/26/19	Tani Sutley	<p>Concerning: Critical Areas 23.10.060 Reference to plans, regulations or information sources</p> <p>Instead of referencing the Critical areas ordinance in 23.10.060, I would like the pending periodic SMP update to include the Critical areas regulations as a section of the SMP.</p> <ol style="list-style-type: none"> <li>1. It would be helpful for the public when obtaining permits to have all the information concerning shorelines in one place.</li> <li>2. When updating the Critical Areas regulations, Ecology should not have line--item veto power over the planning commission and technical committee program recommendations and before the Council is allowed to vote on the final product. Line--item veto power is not a public process and happens without any publication of those changes.</li> <li>3. Finally, Ecology should only ask for revisions by following the public procedure of posting their "Required or Recommended changes" after the local document is submitted to the Department of Ecology for review and approval and prior to formal adoption.</li> <li>4. It would be appropriate to post all the items deleted from the CAO by Ecology's recent CAO review that the Council was never allowed to vote on as part of this periodic SMP update.</li> </ol>
12	7/3/19	Tani Sutley	<p>I am concerned how the comments received during SMP public comment periods are being handled for Whatcom County. This is especially important since a new periodic update is currently in process.</p> <p>For example:</p> <p>Concerning Attachment B: Responsiveness Summary: Whatcom County SMP Amendment -- Ecology Public Comment Period, March 12 to April 2018</p> <p>Because the Critical Areas Ordinance is included by "Reference" instead of a section of the SMP, there is more need to make sure the public can find parts that apply and those parts that don't apply. I assume this would help PDS staff as well.</p> <p>Comment Number 2 requested cross reference of reasonable uses in 16.16.270 and 23.60.030 Variance permit criteria.</p>

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			<p>C. Proposals that would otherwise qualify as a reasonable use pursuant to WCC 16.16.270(A) shall require a shoreline variance and shall meet the variance criteria in this section.</p> <p><b>23.60.03 Variance Permit Criteria</b></p> <p>A. The purpose of a variance is to grant relief to specific bulk or dimensional requirements set forth in this Program and any associated standards appended to this Program such as critical areas buffer requirements where there are extraordinary or unique circumstances relating to the property such that the strict implementation of this Program would impose unnecessary hardships on the applicant/proponent or thwart the policy set forth in RCW 90.58.020. Use restrictions may not be varied.</p> <hr/> <p style="text-align: right;">45</p> <hr style="border: 2px solid black;"/> <p>WHATCOM COUNTY SHORELINE MANAGEMENT PROGRAM</p> <hr/> <p>B. Variances will be granted in any circumstance where denial would result in a thwarting of the policy enumerated in RCW 90.58.020. In all instances extraordinary circumstances shall be shown and the public interest shall suffer no substantial detrimental effect.</p> <p>C. Proposals that would otherwise qualify as a <b>reasonable use</b> pursuant to WCC 16.16.270A shall require a shoreline variance and shall meet the variance criteria in this section.</p> <p>County and Ecology Response:</p> <p><i>WCC 16.16.270(B)(2)(k)(ii) of the 2016 updated CAO (which would replace the current CAO applicable in the shoreline jurisdiction) already has a cross reference to 23.60.030.</i></p> <p>This part of the CAO concerns driveways as part of the single-family residence permit process in critical areas. Reasonable use as defined in 16.16.270 B is not limited to driveways and includes:</p> <p>“If the application of this chapter would deny all reasonable economic use of the subject property, including agricultural use, use or development shall be allowed if it is consistent with the zoning code and the purposes of this chapter.”</p> <p>While I understand that 16.16.270 does not apply to Shorelines as listed in 23.10.060, the fact is 23.60.030 includes part of the criteria of 16.16.270.</p> <p>If a shoreline reasonable use permit project qualifies for 16.16.270 then the Whatcom County SMP allows the Variance permit criteria to apply.</p> <p>If Whatcom County and the public don't like this provision then it should be changed but the meaning as it stands now is clear. I didn't make this comment because I support or do not support it but to make the meaning clear.</p> <p>Comment process matters. The current CAO as it applies to the SMP is difficult for the public to use and needs improvement.</p> <p>It is unclear to me if Ecology and Whatcom County are properly processing comments to allow inclusion of those comments as “required changes” to the SMP amendments process.</p> <p>I hope you will rethink how comments are being handled.</p>
13	7/3/19	Karlee Deatherage, ReSources	<p>Thank you for accepting public comment on the scope of the Whatcom County Shoreline Master Program Periodic Update for 2020.RE Sources for Sustainable Communities is a local organization in northwest Washington, founded in1982. RE</p>

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		Clean Water Program	<p>Sources works to build sustainable communities and protect the health of northwest Washington's people and ecosystems through the application of science, education, advocacy, and action. Our North Sound Baykeeper program is dedicated to protecting and enhancing the marine and nearshore habitats of northern Puget Sound and the Georgia Strait. Our chief focus is on preventing pollution from entering the North Sound and Strait, while helping our local citizenry better understand the complex connections between prosperity, society, environmental health, and individual well-being. Our North Sound Baykeeper is the 43<sup>rd</sup> member of the Waterkeeper Alliance, with over 300 organizations in 34 countries around the world that promote fishable, swimmable, drinkable water. RE Sources has over 20,000 members in Whatcom, Skagit, and San Juan counties, and we submit these comments on their behalf.</p> <p>Our valuable shorelines — which oysters, clams, herring, salmon, and even orcas rely on — are economically and ecologically critical for our North Sound way of life. However, these shorelines are in urgent need of protection. It appears that the way the SMP has been conducted for decades may be insufficient to protect our livelihoods and the fish and other wildlife that depend on healthy shorelines in the face of more frequent storms and population growth.</p> <p>Below are topics and issue areas we urge Whatcom County investigate during the SMP Periodic Update:</p> <ul style="list-style-type: none"> <li>• Gravel bar mining prohibited in creeks and the river. Please make gravel bar mining, or gravel bar scalping, a prohibited activity in creeks and rivers unless it is expressly tied to a habitat restoration plan or flood hazard management plan which should then require a shoreline conditional use permit. Gravel bar mining in salmon spawning rivers provides little public benefit and great public risk for our threatened salmon species.</li> <li>• Please include the new Marine Resource Lands language in Chapter 8 of the Whatcom County Comprehensive Plan in this update and recommend it to the Whatcom County Council for approval. The Whatcom County Council directed staff to work with the Whatcom Marine Resources Committee, Planning Commission, and other relevant county committees to draft language on this new section of the Comprehensive Plan. Efforts were paused in 2018 at the Planning Commission because the SMP update was going to take place. Please reinvigorate this effort now that the SMP update is in motion.</li> <li>• Bulkheads and revetments for single family residential homes require Hydraulic Permit Approval from WDFW. Please include reference to HPA requirements to ensure consistency with the state as result of 2019 legislation (2SHB 1579).</li> <li>• Please reference the Shore Friendly Program that is available to shoreline property owners. This is a program offered by WDFW and DNR that provides information and financial incentives to existing shoreline property owners to reduce their impact. It's similar to the Lake Whatcom Homeowner Incentive Program.</li> <li>• Prohibit any new oil or gas pipelines from crossing above or beneath rivers and lakes. This would not apply to replacing or maintaining existing pipelines.</li> <li>• Mitigation requirements for hazard trees. Currently there's no requirement to mitigate, or replant, a hazard tree. We suggest adding a requirement to replant a native tree in an appropriate location on site for every hazard tree removed in the shoreline.</li> <li>• Please require that any manure holding facility permitted within the shoreline jurisdiction be in the form of above ground tanks or towers instead of earthen</li> </ul>

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			<p>lagoons. In order to be protective of our waterways and groundwater, please make it mandatory for any new or replaced manure lagoons to be above ground in tanks or towers. Along the same lines, consider making manure lagoons a shoreline conditional use as well.</p> <ul style="list-style-type: none"> <li>• Consider ways to improve protections for salmon and forage fish habitat. One possible way to do this is by prohibiting (or, at a minimum, making conditional) overwater structures, piers, docks, and wharfs over eelgrass and kelp beds.</li> <li>• Mitigation for bulkheads and revetments. How are bulkheads and revetments mitigated for on their impacts to shoreline functions and habitat for forage fish? If Whatcom County currently doesn't require mitigation for these impacts, what could be done to improve the situation going forward?</li> <li>• Lake Whatcom: <ul style="list-style-type: none"> <li>○ The City of Bellingham's SMP (Title 22, BMC) makes many mentions of Lake Whatcom and discourages certain new uses and activities like docks (a whole section in BMC 22.09.060 "Piers, floats, pilings - Lake Whatcom and Lake Padden) and the spraying of herbicides(BMC 22.05.020(B)(1)(n)). Please consider mirroring the City's SMP regulations for Lake Whatcom.</li> <li>○ Please consider making docks, piers, and wharfs on Lake Whatcom a conditional use.</li> </ul> </li> <li>• Cherry Point: please consider the following to protect the Cherry Point Aquatic Reserve: <ul style="list-style-type: none"> <li>○ Ensure conditional use permits are required for changes of use.</li> <li>○ Define existing uses specifically.</li> <li>○ Prohibit new piers, docks, wharfs, and wings at Cherry Point.</li> </ul> </li> <li>• Consider ways to improve shoreline ecological processes and functions through a policy of net-gain instead of no-net-loss. The current standard of no-net-loss coupled with shoreline-degrading activities that took place prior to local SMP regulations makes maintaining and restoring threatened and endangered species that much more difficult, especially considering the impacts from climate change and population growth.</li> <li>• Please consider requiring the restoration of native vegetation and vegetation conservation standards (lawns and turf are prohibited) for any new building permits, expansions or change of use in the following areas: <ul style="list-style-type: none"> <li>○ Within 50' of the Ordinary High-Water Mark (OHWM) for Lake Whatcom</li> <li>○ Within 50' of the OHWM for other water quality impaired waterbodies (via the Clean Water Act 303(d) list)</li> </ul> </li> <li>• Consider the loss and disconnection of wildlife habitat as a result of shoreline development and actions. Intact riparian shorelines often serve as wildlife corridors and should not be disconnected.</li> <li>• Climate Change impacts on rising sea levels, storm surges, and riverine and marine flooding: <ul style="list-style-type: none"> <li>○ How has the OHWM changed on shorelines as a result of sea level rise since 2007? Shoreline maps should be updated to reflect any additional areas that are now considered within the 200' of the OHM as a matter of shoreline jurisdiction.</li> <li>○ Storm surges, highest observed water levels, and flooding for marine and freshwater shorelines: how can the SMP protect, reduce, and/or plan for these impacts that will become more frequent?</li> <li>○ Given the impacts of sea level rise on property and life, please prevent</li> </ul> </li> </ul>

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			<p>construction in areas that will be underwater in the next 30 years. The Washington Coastal Hazards Resilience Network has the best available science on this with various sea level rise projections depending on various greenhouse gas scenarios.</p> <ul style="list-style-type: none"> <li>○ Examples from local jurisdictions that incorporate climate impacts:</li> <li>○ The City of Tacoma has included many updates in their 2019 Periodic Update regarding climate change impacts. Below are the additions they are proposing which Whatcom County could incorporate: <ul style="list-style-type: none"> <li>▪ A new general policy of "Evaluate sea level rise data and consider sea level rise risks and implications in the development of regulations, plans, and programs." (p. 66)</li> <li>▪ New site planning policies: <ul style="list-style-type: none"> <li>• "Development should be located, designed, and managed both to minimize potential impacts from sea level rise and to promote resilience in the face of those impacts, by such actions as protecting wetland and shoreline natural functions, incorporating green infrastructure, retaining mature vegetation, and considering soft-shore armoring wherever possible." (p. 69)3</li> <li>• "Assess the risks and potential impacts on both City government operations and on the community due to climate change and sea level rise, with special regard for social equity." (p. 70)</li> <li>• "Promote community resilience through the development of climate change adaptation strategies. Strategies should be used by both the public and private sectors to help minimize the potential impacts of climate change on new and existing development and operations, including programs that encourage retrofitting of existing development and infrastructure to adapt to the effects of climate change." (p. 70)</li> </ul> </li> <li>▪ A new general policy for Critical Areas and Marine Shoreline Protection: "Protect natural processes and functions of Tacoma's environmental assets (wetlands, streams, lakes, and marine shorelines) in anticipation of climate change impacts, including sea level rise."</li> </ul> </li> </ul> <p>We urge Whatcom County to think outside the box when it comes to protecting our shorelines and communities and the wildlife that depend on them in the face of challenging threats. Whatcom County can become a leader on these issues.</p> <p>Thank you for considering our comments.</p>
14	7/3/19	Jim Hansen	<p>I am submitting the following suggestions on ways to enhance this year's SMP Update with the limited update context. We know that our shorelines and natural areas functions are not keeping up with the "no net loss" requirement. Please consider ways to encourage net-gain of shoreline and natural area functions and values, including those suggested below.</p> <ul style="list-style-type: none"> <li>• Permit bulkheads only as a last-resort option. Prioritize natural, living shorelines to reduce the impacts of flooding instead of bulkheads that damage salmon and forage fish habitat.</li> <li>• Prohibit new overwater structures, piers, docks, and wharfs over salmon and forage fish habitat.</li> <li>• Require the restoration of native vegetation and vegetation conservation standards (lawns and turf are prohibited) for any new building permits, expansions or change</li> </ul>

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			<p>of use in the following areas within 50' of the Ordinary High-Water Mark (OHWM)</p> <ul style="list-style-type: none"> <li>• Cherry Point: please consider the following to protect the Cherry Point Aquatic Reserve: <ul style="list-style-type: none"> <li>○ Ensure conditional use permits are required for changes of use.</li> <li>○ Define existing uses specifically.</li> <li>○ Prohibit new piers, docks, wharfs, and wings at Cherry Point</li> </ul> </li> <li>• Prohibit new manure lagoons in the shoreline.</li> <li>• Prohibit gravel bar removal (also known as river bar scalping) in creeks and rivers. This activity is not cost effective without massive public subsidies.</li> <li>• Lake Whatcom: <ul style="list-style-type: none"> <li>○ Prohibit the following in order to protect our drinking water from pollution from oil from boats: dredging, new commercial development, new in-water structures, piers, floats and pilings.</li> <li>○ Include language in the SMP about the importance of Lake Whatcom as the source of drinking water for most of the County and the water quality improvement plan (TMDL). As per the City of Bellingham SMP</li> </ul> </li> <li>• Climate change: How has the OHWM changed on shorelines as a result of sea level rise since 2007? <ul style="list-style-type: none"> <li>○ Shoreline maps should be updated to reflect any additional areas that are now considered within the 200' of the OHM as a matter of shoreline jurisdiction.</li> <li>○ Storm surges, highest observed water levels, and flooding for marine and freshwater shorelines: how can the SMP protect, reduce, and/or plan for these impacts that will become more frequent?</li> <li>○ Given the impacts of sea level rise on property and life, please prevent construction in areas that will be underwater in the next 30 years. The Washington Coastal Hazards Resilience Network has the best available science on this with various sea level rise projections depending on various greenhouse gas scenarios.</li> </ul> </li> </ul> <p>Thank you for you for attention to these suggestions. I know the citizens wish you to do more in this update than just repaint the deck chairs on the Titanic.</p>
15	7/5/19	Kim Clarkin	<p>Please take the opportunity this update offers to incorporate recent scientific understanding of climate change, as well as respond to and reduce the ongoing degradation of shorelines, habitats and their connectivity. Here are a few specifics.</p> <ul style="list-style-type: none"> <li>• The SMP should explicitly recognize the Cherry Point Aquatic Reserve and its Management Plan (<a href="https://www.dnr.wa.gov/publications/aqr_resv_cp_mgmtplan_amend_201702.pdf?0bilab">https://www.dnr.wa.gov/publications/aqr_resv_cp_mgmtplan_amend_201702.pdf?0bilab</a>), which is currently being updated by DNR and a stakeholder committee. The county's shoreline management guidance for Cherry Point should accord with DNR's management strategies to work toward fulfillment of CPAR's goals. The goals for the aquatic reserve focus on maintenance and protection of: populations and habitat for a number of endemic and migratory aquatic species of interest; habitat-forming processes and functions; and water quality. Reducing human detrimental impacts on species and habitats is another goal. DNR and WDFW and others, with help from many volunteers, are working to monitor and understand the ecological system at the Reserve, so that conformance with these goals can be assessed.</li> </ul> <p>The SMP should support Management Plan objectives such as the following:</p>

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			<p>2.1 Work cooperatively to identify and minimize existing and potential future water quality impacts on the nearshore environment resulting from outfalls, runoff, groundwater contamination, ballast, airborne sources, and other discharges to the Reserve. Monitor nearshore water quality and temperature and support local efforts to reduce adverse impacts over time.</p> <p>1.4 Consider climate change when planning restoration projects and future development.</p> <p>3.1 Prevent impacts of new structures, shoreline modification, intakes and outfalls on aquatic vegetation, forage fish spawning, and fish migration, and minimize risks of environmental impacts from existing industrial, residential, and recreational uses.</p> <ul style="list-style-type: none"> <li>• The SMP should very definitely include climate change adaptation and damage-reduction strategies. For example, sea level rise and increasing storm surges will require responses, and these should be regulated such that wetlands, wood, and other 'natural' techniques for reducing damage will be required in lieu of rock and concrete walls. The SMP should not stop at general guidance, but should call out specific requirements and criteria for flexibility. Staying with a 2007 baseline and resource evaluation would be counter-productive given the changes in both climate and our understanding since then. Surely high water marks have changed since 2007, haven't they?</li> <li>• The SMP should establish quantitative ways to evaluate development permits in terms of no net loss of ecological function. Policy guidance is simply too flimsy to rely on, and staff should not be put in the position of making judgments based on generalities. What is the status of ecological functioning along the county's shorelines? How has that changed since 2007? Are requirements being implemented in actual permits or are variances undermining them? Are they working or not?</li> <li>• I support RE-Sources request that the SMP prevent gravel bar scalping except where life and property are at risk. In that case, the proposal should require a public CUP process before being permitted.</li> </ul>
16	7/8/19	Jay Irwin	<p>As you know I have been doing a lot of permitting for dock projects (dock repairs as well as new docks) the last few years. A couple of issues/concerns I'd like to comment on are...</p> <ol style="list-style-type: none"> <li>1. The dock length requirement as it relates to water depth for adequate moorage. Requiring moorage in shallow water conflicts with habitat protection as it increases over water coverage with floats/platforms/moorage etc. in the nearshore. More flexibility should be added to allow moorage in deeper water. The current policy was likely implemented prior to modern wakeboats/wake surfing popularity which with my understanding creates more wave action and can cause floats in shallow water to contact the lake bed.</li> <li>2. Float size. Working with Lakeside Marine (a dock contractor) they have expressed concerns that the current maximum size float (6' x 20') is very small and difficult to stabilize and provide safe walking conditions for people. This question should get re-looked at during the update.</li> <li>3. Trying to figure out the requirements for a shared dock is really difficult and unclear. It should be made clearer in the code. Sharing moorage should be encouraged but my limited permitting experience with it has shown it to be very cumbersome and frustrating for property owners.</li> </ol>



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17	7/8/19	Rick Hann, for The Cherry Point Aquatic Reserve Citizen Steward-ship Committee	<p>The Cherry Point Aquatic Reserve Citizen Stewardship Committee (CPAR CSC) is a volunteer citizen group working for the betterment of The Cherry Point Aquatic Reserve. Please note that we do not speak for the Washington Department of Natural Resources, which manages the Reserve. We write this letter with the following requests:</p> <p>During your review process of the Shoreline Master Program please remember to both recognize the Cherry Point Aquatic Reserve and consider the uplands adjacent to the Aquatic Reserve.</p> <p>We ask you to:</p> <ul style="list-style-type: none"> <li>• Ensure conditional use permits are required for changes of use in the Cherry Point area.</li> <li>• Define the existing uses specifically.</li> <li>• Prohibit any new over-water construction at Cherry Point.</li> <li>• In order to support the multitudes of marine creatures that exist we have to preserve and sustain, rather than exploit, the quality of our local aquatic resources, now and into the future.</li> </ul> <p>Thank you for considering our comments.</p>
18	7/12/19	Rein Attemann, for the Washington Environmental Council	<p>We support many of the provisions in the existing shoreline management program and the suggested improvements. We echo the recommendations to improve the Whatcom County Shoreline Management Program (SMP) submitted to you by Re Sources for Sustainable Communities in their letter dated July 3, 2019.</p> <p>Below are the topics and issue areas we urge you to include in your resolution of scope for the periodic update of the SMP:</p> <ul style="list-style-type: none"> <li>• Permit bulkheads only as a last-resort option with a conditional use permit. Prioritize natural, living shorelines to reduce the impacts of flooding instead of bulkheads that damage salmon and forage fish habitat. Additionally, all property owners seeking to construct a bulkhead on the shoreline of their property must receive Hydraulic Project Approval (HPA) from the Washington Department of Fish &amp; Wildlife per 2SHB 1579 starting July 1, 2019.</li> <li>• To protect the Cherry Point Aquatic Reserve please require conditional use permits for changes of use, define existing uses specifically, and prohibit new piers, docks, wharfs, and wings at Cherry Point.</li> <li>• Prohibit new oil or gas pipelines from crossing rivers and lakes and limit the expansion of existing infrastructure.</li> <li>• Protect water quality in Lake Whatcom, a critical source of drinking water for Whatcom County, by prohibiting the following: dredging, new commercial development, new in-water structures, new piers, floats and pilings. Include language in the SMP about the importance of Lake Whatcom as the source of drinking water for most of the County and the water quality improvement plan (TMDL). The City of Bellingham did that for their SMP and the County should follow suit.</li> <li>• Prohibit overwater structures, piers, docks, and wharfs over salmon and forage fish habitat. At the very least require a conditional use permit. The threat of more overwater structures like docks, piers, wharfs, floats, and ramps would also affect eelgrass and kelp beds that provide shelter for juvenile salmon and herring (the smaller fish they eat) — damaging habitat needed to support the food chain that orcas depend on.</li> <li>• Require the restoration of native vegetation and vegetation conservation standards (lawns and turf are prohibited) for any new building permits, expansions or change of use in the following areas within 50' of the Ordinary High-Water Mark (OHWM)</li> </ul>

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			<p>for Lake Whatcom and Whatcom Fish-critical tributaries on the Clean Water Act 303(d) list for Temperature impairment.</p> <ul style="list-style-type: none"> <li>• Prohibit new agricultural manure lagoons in the shoreline buffer.</li> <li>• Prohibit gravel bar removal (also known as river bar scalping) in creeks and rivers.</li> <li>• Consider the loss and disconnection of wildlife habitat as a result of shoreline development and actions. Shorelines often serve as wildlife corridors and should not be disconnected.</li> <li>• Whatcom County shorelines and natural areas functions are not keeping up with the “no net loss” requirement, which decreases ecosystem services provided by these areas and shifts problems to future generations. The County should encourage net-gain of shoreline and natural area functions and values through a more robust monitoring and enforcement effort to analyze compliance effectiveness.</li> </ul> <p><b>Finally, the SMP update must plan now for changes in the coming years and decades to avoid passing costs of climate change to future generations. Climate change is triggering fiercer storms and rising sea levels that endanger coastal shorelines</b> (like the storm event that damaged Birch Bay Drive and the Bay Breeze Restaurant in December 2018). Contaminants from stormwater runoff, invasive aquatic plants and mollusks, and toxic algae blooms threaten our drinking water and are destroying important freshwater shorelines and fish habitat.</p> <p>Specifically, we recommend the County address the following issues:</p> <ul style="list-style-type: none"> <li>• The OHWM, which defines the shoreline, has likely changed since 2007. Therefore, the shoreline maps should be updated to reflect any additional areas that are now considered within the 200’ of the OHM as a matter of shoreline jurisdiction.</li> <li>• The SMP should directly address storm surges, highest observed water levels, and flooding for marine and freshwater shorelines by protecting, reducing, and/or planning for these impacts that will become more frequent.</li> </ul> <p>Given the impacts of sea level rise on property and life, the County must prevent construction in areas that will be underwater in the next 30 years. The Washington Coastal Hazards Resilience Network has the best available science on this with various sea level rise projections depending on various greenhouse gas scenarios.</p>
19	7/11/19	Climate Impact Advisory Committee	Motion by the CAIC to “include climate change and storm surge policies in the Shoreline Management Plan.”
20	7/12/19	Wildlife Advisory Committee	Motion by the WAC to “include living shorelines, ecological connectivity between upland habitats and the shoreline, ecological connectivity along the shoreline, and the consideration of key ecosystem features within the shoreline in the scope of the Shoreline Master Program update.”