

ATTACHMENT B: DEPARTMENT OF ECOLOGY REQUIRED CHANGES TO THE CLALLAM COUNTY 10/30/2018 SHORELINE MASTER PROGRAM UPDATE - (RESOLUTION No.91-2018)

The following changes are required to ensure compliance with the SMA (RCW 90.58) and the SMP Guidelines (WAC 173-26, Part III) and to clarify provisions for implementation:

ITEM	SMP PROVISION	BILL FORMAT CHANGES [underline = additions; strikethrough = deletions]	ECOLOGY DISCUSSION/RATIONALE
1.	1.5 SMP Goals	5. To accommodate and give priority preference <u>priority preference</u> to water-dependent uses such as aquaculture and preferred priority <u>preferred priority</u> uses such as single-family residential uses when they are consistent with the goal of preserving shoreline ecological functions and processes, in accordance with the policy enunciated in RCW 90.58.020 and WAC 173-26-201(2)(d).	Consistent with WAC 173-26-241(3.j), single family residential use may be considered a <i>priority</i> when pollution and damage are avoided. This priority is separate, and different from, the required order of use <i>preference</i> established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements. Ecology requires text revisions for accuracy and clarity.
2.	2.3 Aquatic Designation	3. Management Policies i. New uses and development in marine waters <u>of the Pacific Ocean</u> should be evaluated for consistency with Chapter 43.372 RCW, Marine Waters Planning and Management, <u>the Marine Spatial Plan for Washington’s Pacific Coast (2018 or as revised)</u> , and Chapter 43.143 RCW, Ocean Resources Management Act.	As written, the SMP does not address the requirements of WAC 173-26-360 for implementation of the Ocean Resources Management Act (ORMA; RCW 43.143). The applicability of this provision needs to be clarified to include both shoreline development and activities considered as “new use & development” by the MSP to ensure proper implementation. Ecology requires text revisions for consistency with ORMA and the 2018 MSP, and for internal consistency and improved clarity. See also related edits to SMP 3.13 and Chapter 11 Definitions below; and Attachment C Recommended Changes to SMP 1.4.

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3.	3.6.2 Parking - Regulations	<p>2. Parking as a primary use shall be prohibited in all shoreline designations, except that within the Marine Waterfront designation of the Clallam Bay-Seki Urban Growth Area new parking facilities as a primary use that support shoreline public access may be permitted thru a shoreline conditional use permit due to existing significant limitations and environmental constraints on public parking areas in this waterfront community.</p> <p>4. Parking facilities to accommodate public disabled parking shall be a conditional use in shorelines designated <u>Resource Conservancy and</u> Natural.</p>	<p>2. Consistent with WAC 173-26-241(3.k), parking that supports shoreline public access is accessory parking, not a primary use. Accessory parking is allowed in the Marine Waterfront SED per Table 2-2.</p> <p>4. Internal inconsistencies between Table 2-2 and this provision regarding disabled parking in Resource Conservancy.</p> <table border="1" data-bbox="1615 505 2626 889"> <tr> <td colspan="8" data-bbox="1615 505 2626 597"> P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10. </td> </tr> <tr> <th data-bbox="1615 597 1803 690">Use/Development/Modification</th> <th data-bbox="1803 597 1916 690">Aquatic – Straits¹</th> <th data-bbox="1916 597 2010 690">Aquatic – Pacific Ocean¹</th> <th data-bbox="2010 597 2126 690">Marine Waterfront</th> <th data-bbox="2126 597 2241 690">Shoreline Residential - Intensive</th> <th data-bbox="2241 597 2378 690">Shoreline Residential - Conservancy</th> <th data-bbox="2378 597 2515 690">Resource Conservancy</th> <th data-bbox="2515 597 2626 690">Natural</th> </tr> <tr> <td data-bbox="1615 690 1803 760">Parking: (see Section 3.6)</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td data-bbox="1615 760 1803 792">As a primary use</td> <td data-bbox="1803 760 1916 792">X</td> <td data-bbox="1916 760 2010 792">X</td> <td data-bbox="2010 760 2126 792">X/C¹¹</td> <td data-bbox="2126 760 2241 792">X</td> <td data-bbox="2241 760 2378 792">X</td> <td data-bbox="2378 760 2515 792">X</td> <td data-bbox="2515 760 2626 792">X</td> </tr> <tr> <td data-bbox="1615 792 1803 841">Accessory to a permitted use</td> <td data-bbox="1803 792 1916 841">X</td> <td data-bbox="1916 792 2010 841">X</td> <td data-bbox="2010 792 2126 841">P</td> <td data-bbox="2126 792 2241 841">P</td> <td data-bbox="2241 792 2378 841">C</td> <td data-bbox="2378 792 2515 841">C</td> <td data-bbox="2515 792 2626 841">X</td> </tr> <tr> <td data-bbox="1615 841 1803 889">Public disabled parking</td> <td data-bbox="1803 841 1916 889">X</td> <td data-bbox="1916 841 2010 889">X</td> <td data-bbox="2010 841 2126 889">P</td> <td data-bbox="2126 841 2241 889">P</td> <td data-bbox="2241 841 2378 889">P</td> <td data-bbox="2378 841 2515 889">C</td> <td data-bbox="2515 841 2626 889">C</td> </tr> </table>	P = Permitted, if it complies with the standards in Chapter 3 and Chapter 4 (via a Shoreline Substantial Development Permit or a Statement of Exemption if it is exempt per WAC 173-27-040; X = Prohibited; C = Conditional Use. See permit criteria in Chapter 10.								Use/Development/Modification	Aquatic – Straits ¹	Aquatic – Pacific Ocean ¹	Marine Waterfront	Shoreline Residential - Intensive	Shoreline Residential - Conservancy	Resource Conservancy	Natural	Parking: (see Section 3.6)								As a primary use	X	X	X/C ¹¹	X	X	X	X	Accessory to a permitted use	X	X	P	P	C	C	X	Public disabled parking	X	X	P	P	P	C	C
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4.	<u>3.13 Ocean Management</u>	<u>3.13 Ocean Management ...</u> [The proposed language is lengthy and therefore presented separately in Exhibit 1 to this Attachment]	<p>As proposed, the SMP includes a vision statement and management policies that mention the 2018 Marine Spatial Plan (MSP) but is lacking specific provisions to implement both the Ocean Resources Management Act (ORMA; RCW 43.143) and the MSP. Ecology requires revision for consistency with WAC 173-26-360 and ORMA; the SMP needs additional provisions to address ocean use definitions, permit criteria, and policies & regulations for general and specific ocean uses.</p> <p>In consultation with County staff, Ecology revisions are suggested here as a new Section 3.13, to include the proposed language of the attached Exhibit 1 that is based on our pending new guidance about approaches to incorporating both ORMA and MSP requirements into local SMPs.</p>																																																

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			See also related items for SMP 2.3 above and for Chapter 11 Definitions below; and see related item in Attachment C Recommended Changes for SMP 1.4.
5.	4.2.4 Regulations – Piers, Docks, Floats, Non-residential	<p>1. Docks, piers, and floats associated with commercial, industrial, port, or public or private recreational developments may be permitted in all environment designations through a substantial development permit or conditional use permit as indicated in Section 2.9, Table 2-2 when they are consistent with this Program and when the proponent demonstrates that:</p> <p>a. The dock/pier/float is required to accommodate a water-dependent use <u>or public access</u>; and</p> <p>b. The dock/pier/float and designed to avoid or, if that is not possible, to minimize the impacts to nearshore habitats and processes.</p>	WAC 173-26-231(3.b) Piers and docks. New piers and docks shall be allowed only for water-dependent uses or public access.
6.	5.2.2 Clearing, Grading, Filling –	<p>Regulations</p> <p>2. When allowed, clearing, and/or <u>grading, and filling</u> shall be located, designed, and carried out <u>constructed</u> in a manner that:</p> <p>a. Minimizes land disturbance to the minimum necessary for the intended development; and</p> <p>b. Utilizes mulch, vegetation, or other best management practices to minimize erosion from exposed soils during construction; and</p> <p>c. Includes plans to revegetate or otherwise stabilize areas of exposed soil following construction; and</p> <p>d. Blends in physically and visually with natural topography, so as not to interfere with appropriate use, impede public access, or degrade the aesthetic qualities of the shoreline; and</p> <p>e. Does not impede net shore-drift toward sensitive marine environments such as spits, estuaries, and river deltas; and</p> <p>f. Does not require shoreline armoring or stabilization to protect materials placed unless it is part of an approved shoreline restoration project and shoreline armoring or stabilization measures are needed to keep the material in place-; <u>and</u></p>	WAC 173-26-231(3.c) Fill. Fills shall be located, designed, and constructed to protect shoreline ecological functions and ecosystem-wide processes, including channel migration.

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		<p><u>g. Protects shoreline ecological functions and ecosystem-wide processes, including channel migration.</u></p>	
7.	<p>5.3.2 Public Access – Regulations</p>	<p>2. <u>Multi-family residential use and s</u>ubdivisions of more than four (4) lots shall include physical and/or visual public access to public waters unless: ...</p>	<p>WAC 173-26-241(3.j.A): New multiunit residential development, including the subdivision of land for more than four parcels, should provide community and/or public access in conformance to the local government's public access planning and this chapter</p>
8.	<p>6.3 General Shoreline Buffer & Vegetation Requirements</p>	<p>6. Lake Sutherland Standard Buffer: The shoreline buffer on Lake Sutherland shall be 35 feet measured in all directions from the ordinary high water mark. Residences and other structures shall be located at least thirty five (35) feet landward from the ordinary high water mark unless this Program specifically allows a lesser distance. In the Shoreline Residential - Intensive designation, single-family residential use and development that qualifies as minor new development under Section 6.3.2(a) above, shall be located at least 35 feet landward of the Ordinary High Water Mark. The minimum 35-foot buffer is not eligible for further buffer reduction under Sections 6.4, 6.7, or 7.8. In addition to meeting the minimum 35-foot buffer, all minor new development shall avoid and minimize shoreline impacts consistent with the mitigation sequencing requirements of this Program. Furthermore, the landowner shall mitigate the impacts by selecting and implementing one of the following options (a or b below) to maximize the ecological functions of the buffer zone:</p> <p><u>a. Plant woody cover to create a multi-tiered woody riparian area that meets all of the following criteria:</u></p> <p><u>i. Trees must be planted at 10-foot spacing (on center) and shrubs must be planted at 6-foot spacing (on center) to create an average density of at least one hundred fifty (150) woody stems per acre or eighty-five percent (85%) areal vegetative cover, whichever is greater; and</u></p> <p><u>ii. The planting plan shall be designed to optimize overhanging vegetation and woody debris recruitment; and</u></p> <p><u>iii. Trees and shrubs must be retained and maintained in perpetuity; and</u></p>	<p>Ecology followed-up with our sister-agency to better understand WDFW's comments. WDFW provided additional clarification & technical details regarding the 35-foot buffer at Lake Sutherland.</p> <p>Compared to the Table 6-1 standard shoreline buffers widths that range from 50-feet to 150-feet based on SED and development type/lot size:</p> <ul style="list-style-type: none"> • Regulation #6 establishes a significantly reduced 35-foot buffer for residential structures at Lake Sutherland, and • Table 6-1 footnote #2 allows a reduced 35-foot buffer width for all new use & development at Lake Sutherland regardless of lot size or SED; • No additional mitigation requirements are described for this buffer width reduction to offset the impacts of locating development within the standard shoreline buffer. <p>As proposed, these provisions are internally inconsistent as to which structures and locations are eligible, and the allowed buffer reduction without additional mitigation is inconsistent with the no net loss standard. Also, concerns expressed by WDFW noted the importance of ensuring adequate protection for in-water and riparian habitat that supports anadromous fish species, anticipated to soon have greater access to the lake upon the pending removal and/or improvement of a barrier culvert at the downstream outflow of the lake.</p>

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		<ul style="list-style-type: none"> iv. <u>Landowner must monitor and document plant establishment annually for at least 5 years and submit a written report of the buffer condition to the County Department of Community Development in October of each year; and</u> v. <u>Landowner must post a bond to cover all or a portion of the cost of the plant maintenance and annual monitoring; and</u> vi. <u>The County may require replanting or supplemental planting if the annual monitoring indicates that the plant density and cover standards are not being met.</u> b. <u>Implement a site-specific habitat management plan (HMP) for the property. The HMP need not necessarily involve planting to achieve the same plant cover and density standards required in option 6.3.6.a above, but shall otherwise maximum fish and wildlife habitat value and meet all of the following criteria:</u> <ul style="list-style-type: none"> i. <u>Describe the nature and intensity of the proposed development and the effect of the proposed development, activity or use on the wildlife species and habitats that occupy the lake and adjacent shoreline; and</u> ii. <u>Include a map prepared at a readable scale showing: the location of the proposed development site; the relationship of the site to surrounding topographic, water features, and existing and/or proposed building locations and arrangements; and a legend which includes a complete legal description, acreage of the parcel, scale, north arrows, and date; and</u> iii. <u>Identify the specific measures that will be implemented and maintained on the property to avoid, minimize and compensate for any adverse impacts to fish and wildlife habitats created by the proposed development (for example, this could include removing/reducing overwater structures or shoreline stabilization); and</u> iv. <u>Be prepared by a qualified professional who has been educated in fish or wildlife biology or a closely related field, and has professional experience as a biologist; and</u> 	<p>Parcels with existing residential development that propose structure expansion/enlargement would be subject to Chapter 5.1 non-conforming standards.</p> <p>In consultation with County staff, Ecology requires revision to both the text of 6.3.6 and to Table 6-1 to clarify the limited application of this buffer reduction allowance, to ensure impacts are adequately mitigated, and to improve internal consistency while still allowing the applicant to determine which approach is used.</p> <p>See also changes to SMP 5.1 Existing (Grandfathered) Use & Developments, 6.3 Regulations – General Shoreline Buffer & Vegetation Requirements, Table 6-1 and Map 15.</p> <p>See also Periodic Checklist #2017.g Nonconforming Uses & Development.</p>

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		<p>v. <u>Use the best available science in all facets of the analyses. The WDFW Priority Habitat and Species Management Recommendations, dated May 1991, and/or bald eagle protection rules outlined in WAC 232-12-292, as now or hereafter amended, and/or similar reference documents may serve as guidance for the plan; and</u></p> <p>vi. <u>The plan must include performance standards and a program for annual monitoring for at least 5 years; and</u></p> <p>vii. <u>The landowner must post a bond to cover all or a portion of the cost of the monitoring.</u></p> <p>c. <u>If the landowner chooses to locate their minor new development at least 50 feet from the OHWM on a parcel that is less than 200 feet deep or at least 75 feet from the OHWM on a parcel that is more than 200 feet deep, no planting or HMP is required.</u></p> <p>d. <u>All Major New Development on the Lake Sutherland shoreline shall meet the buffer requirements outlined in Table 6-1.</u></p> <p>Table 6-1. Shoreline Buffer Widths (in feet) by Environment Designation^{1,2}-(See examples in Figures 6-2 through 6-6)</p> <table border="1" data-bbox="521 951 1559 1399"> <thead> <tr> <th rowspan="2">Shoreline Environment Designation</th> <th colspan="3">Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark--OHWM)</th> </tr> <tr> <th>Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line</th> <th>Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line</th> <th>Major New Development, including all Land Divisions</th> </tr> </thead> <tbody> <tr> <td>Marine Waterfront</td> <td>50 feet</td> <td>75 feet</td> <td>100 feet</td> </tr> <tr> <td>Shoreline Residential - Intensive</td> <td>50 feet²</td> <td>75 feet²</td> <td>100 feet</td> </tr> <tr> <td>Shoreline Residential - Conservancy</td> <td>100 feet</td> <td>125 feet</td> <td>150 feet</td> </tr> <tr> <td>Resource Conservancy</td> <td>150 feet</td> <td>150 feet</td> <td>150 feet</td> </tr> <tr> <td>Natural</td> <td>175 feet</td> <td>175 feet</td> <td>175 feet</td> </tr> </tbody> </table>	Shoreline Environment Designation	Standard Shoreline Buffer Width (feet) based Upon Type of Development and Lot Dimension (Measured from the ordinary high water mark--OHWM)			Minor New Development on existing lots with < 200 ft. of depth from OHWM to rear lot line	Minor New Development on existing lots with ≥ 200 ft. of depth from OHWM to rear lot line	Major New Development, including all Land Divisions	Marine Waterfront	50 feet	75 feet	100 feet	Shoreline Residential - Intensive	50 feet ²	75 feet ²	100 feet	Shoreline Residential - Conservancy	100 feet	125 feet	150 feet	Resource Conservancy	150 feet	150 feet	150 feet	Natural	175 feet	175 feet	175 feet	
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		<p>¹In the event that buffers for any shorelines and/or critical areas area contiguous or overlapping, the landward-most edge of all such buffers shall apply.</p> <p>²Lake Sutherland—New <u>single-family residential</u> developments and uses <u>in the Shoreline Residential – Intensive designation</u> shall be at least 35 feet landward of the OHWM <u>based on the criteria and standards of Section 6.3.6, regardless of lot size or Shoreline Designation.</u></p>	
9.	7.6 Regulations - Wetland Protection Standards	<p>1. New shoreline uses and developments shall be located, designed, constructed, and maintained to avoid wetland areas and their buffers. Impacts to wetlands and their buffers shall be prohibited except when all of the following applicable requirements are met:</p> <p>a. Category I Wetlands. Activities and uses shall be prohibited from Category I wetlands, except where existing public facilities must be expanded or extended into the wetland, or a utility must be located or expanded in a wetland because there is no other site that can serve the utility’s function, or a reasonable use exception or variance allows the impact.</p> <p>b. Category II and III Wetlands. For Category II and III wetlands, where wetland fill is proposed, activities and uses shall be prohibited unless the applicant can demonstrate that:</p> <p>i. The basic project purpose cannot be reasonably be accomplished on another site or sites in the general region while still successfully avoiding or resulting in less adverse impact on a wetland; and</p> <p>ii. All on-site alternative designs that would avoid or result in less adverse impact on a wetland or its buffer, such as a reduction in the size, scope, configuration or density of the project, are not feasible.</p> <p>c. Category IV Wetlands. Activities and uses that result in unavoidable impacts may be permitted in Category IV wetlands and associated buffers in accordance with an approved critical area(s) report and compensatory mitigation plan, and only if the proposed activity is the only reasonable alternative that will accomplish the applicant’s objectives. Full compensation for the loss of acreage and functions of wetland and buffers shall be provided under the terms established in these regulations.</p>	<p>As presented, Regulation #1.a – g allows impacts based on wetland category and are not consistent with WAC 173-26-221 Use of scientific and technical information, WAC 173-26-201(2)(c) Protection of ecological functions of the shorelines, and WAC 173-26-221(2.c.i.C) Alterations to wetlands.</p> <p>Wetlands within shoreline jurisdiction contribute to the shoreline ecological function and, as such, all wetlands (regardless of size or category) must be protected within the shoreline. Mitigation sequencing shall be applicable to all wetland impacts. The scientific literature does not support exempting wetlands that are below a certain size.</p> <p>All SMP provisions must use the most current, accurate, and complete scientific and technical information available, as relevant or applicable to the issues of concern. The most recent Ecology Wetland Guidance for CAO Updates – Western Washington Version, June 2016 (Publication No. 16-06-001) does not support the proposed provision.</p> <p>Even in situations where uses or development that impact ecological functions are necessary to achieve other objectives of RCW 90.58.020, master program provisions shall, to the greatest extent feasible, protect existing ecological functions and avoid new impacts to habitat and ecological functions before implementing other measures designed to achieve no net loss of ecological functions.</p> <p>Ecology requires revision to delete the proposed Regulation #1.a – g and replace with inserted text consistent with WAC 173-26-221(2.c.i.A).</p>

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		<p>d. The use or development is specifically allowed by this Program.</p> <p>e. All reasonable measures have been taken to avoid adverse impacts on wetland functions and values as demonstrated through a mitigation plan.</p> <p>f. Compensatory mitigation for acreage and function is provided, in accordance with Section 8.3 through 8.4 of this Program, for all adverse impacts that cannot be avoided.</p> <p>g. The amount and degree of alteration are limited to the minimum needed to accomplish the project purpose.</p> <p><u>The following shoreline use and development activities in regulated wetlands or buffers shall achieve, at a minimum, no net loss of wetland area and functions, including lost time when the wetland does not perform the function:</u></p> <ul style="list-style-type: none"> <u>a. The removal, excavation, grading, or dredging of soil, sand, gravel, minerals, organic matter, or material of any kind;</u> <u>b. The dumping, discharging, or filling with any material, including discharges of stormwater and domestic, commercial, or industrial wastewater;</u> <u>c. The draining, flooding, or disturbing of the water level, duration of inundation, or water table;</u> <u>d. The driving of pilings;</u> <u>e. The placing of obstructions;</u> <u>f. The construction, reconstruction, demolition, or expansion of any structure;</u> <u>g. Significant vegetation removal, provided that these activities are not part of a forest practice governed under chapter 76.09 RCW and its rules;</u> <u>h. Other uses or development that results in an ecological impact to the physical, chemical, or biological characteristics of wetlands; or</u> <u>i. Activities reducing the functions of buffers.</u> 	
10.	7.10 Regulations – Class I and II Terrestrial Habitat Conservation Areas	<p>1. Designation: Class I Terrestrial Habitat Conservation Areas shall include the following:</p> <ul style="list-style-type: none"> a. Critical and priority habitats for species classified as Endangered, Threatened, Sensitive or Candidate under state or federal law which, if altered, may reduce the likelihood that the species will maintain and reproduce over the 	<p>As written, #1.b creates internal conflict with definitions/provisions for both Aquatic and Terrestrial HCAs and Critical Saltwater Habitat; Critical saltwater habitat is one of the designation criteria for Aquatic HCAs at 7.7(1.c).</p> <p>Ecology requires revision to correct this error.</p>

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		<p>long term. These species/habitats are documented in maps or databases available to Clallam County and its citizens.</p> <p>b. Critical saltwater habitats.</p>	
11.	<p>10.1 Administrative Authority and Responsibility</p>	<p>1. The Director of the Clallam County Department of Community Development or his/her designee (the Administrator) is vested with authority to administer this Shoreline Master Program and to: ...</p> <p>...</p> <p>d. Make administrative decisions and interpretations of the policies and regulations of this Program and the Shoreline Management Act, <u>including formal written interpretations in consultation with Ecology per WAC 173-26-140;</u></p>	<p>WAC 173-26-140: <i>As required by RCW 36.70B.110(11), each local government planning under chapter 36.70A RCW shall adopt procedures for administrative interpretation of its development regulations, which include shoreline master programs. When developing and adopting procedures for administrative interpretation of its shoreline master program, local government shall include provisions requiring consultation with the department to insure that any formal written interpretations are consistent with the purpose and intent of chapter 90.58 RCW and the applicable guidelines.</i></p>
12.	<p>10.2.9 Permit Revisions</p>	<p>3. "Within the scope and intent of the original permit" means all of the following:</p> <p>a. No additional overwater construction is involved except that a pier, dock or floating structure may be increased by <u>five hundred (500) square feet or</u> ten percent (10%) over that approved under the original permit, <u>whichever is less;</u> ...</p>	<p>This rule requirement applies regardless of inclusion in the SMP but if this provision is in the SMP it must be consistent.</p> <p>WAC 173-27-100(2): <i>"Within the scope and intent of the original permit" means all of the following:</i></p> <p><i>(a) No additional over water construction is involved except that pier, dock, or float construction may be increased by five hundred square feet or ten percent from the provisions of the original permit, whichever is less; ...</i></p>
13.	<p>11.A</p>	<p>4. Accessory use <u>or structure</u> means any legally established use or structure which is necessary for the full use and enjoyment of the primary use of the property, that is typically associated with the primary use, and is subordinate to or incidental to the primary use of a parcel and which includes the utilities necessary to serve the accessory use.</p> <p><u>Appurtenant structures are structures that are necessarily connected to the use and enjoyment of a single-family residence and are located landward of the ordinary high water mark and the perimeter of a wetland. Normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield, and grading (per WAC 173-27-040(2.g), but do not include bulkheads</u></p>	<p>Revision required to delete conflicting statement for consistency with WAC 173-27-040 and internal consistency with other related terms; an accessory cannot be both 'necessary for' and 'incidental to' the primary use. As written this confounds the term accessory with appurtenance.</p> <p>Appurtenance is not defined but used in the SMP at 4.6.5(2.c) New/Expanded Stabilization that addresses 'single-family residence and appurtenant structures pursuant to RCW 90.58.100 (6)'</p> <p>Revision required for consistency with RCW 90.58.620(2) and WAC 173-27-040(2.g), and for internal consistency.</p>

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		<u>and other shoreline modifications or overwater structures (per RCW 90.58.620 (2)).</u>	
14.	11.F	121. Fill means <u>the addition of soil, sand, rock, gravel, sediment, earth retaining structure, or other material to an area waterward of the OHWM, in wetlands, or on shorelands in a manner that raises the elevation or creates dry land.</u> the addition of solid or semi-solid material such as soil, sand, rock, gravel, sediment, wood chips, mining overburden, earth retaining structure, or other material used to create any structure or infrastructure or that when placed changes the elevation or grade of a receiving site.	As written, the definition is not consistent with WAC 173-26-020(16). Ecology requires revision for compliance.
15.	11.G	144. Grading means <u>the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land, including</u> stripping, cutting, filling, or stockpiling earth to create new grade.	WAC 173-26-020(22): "Grading" means the movement or redistribution of the soil, sand, rock, gravel, sediment, or other material on a site in a manner that alters the natural contour of the land.
16.	11.H	158. Height <u>is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.</u> building means the vertical distance from grade plane to the average height of the highest roof surface (cf. International Building Code).	WAC 173-27-030(9): "Height" is measured from average grade level to the highest point of a structure: Provided, That television antennas, chimneys, and similar appurtenances shall not be used in calculating height, except where such appurtenances obstruct the view of the shoreline of a substantial number of residences on areas adjoining such shorelines, or the applicable master program specifically requires that such appurtenances be included: Provided further, that temporary construction equipment is excluded in this calculation.
17.	11.I	<u>Important, Sensitive and Unique Areas (ISUs) are specific areas in state waters that meet one or more of the following criteria:</u> <u>a. Areas that are environmentally sensitive or contain unique or sensitive species or biological communities that must be conserved and warrant protective measures [RCW 43.372.040(6)(c)].</u> <u>b. Areas with known sensitivity and where the best available science indicates the potential for offshore development to cause irreparable harm to the habitats, species, or cultural resources.</u>	As related to Item #4 above about ORMA – MSP provisions, Ecology requires revision for consistency with WAC 173-26-360. See also Exhibit 1.

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		<p><u>c. Areas with features that have limited, fixed and known occurrence.</u> <u>d. Areas with inherent risk or infrastructure (e.g. buoys or cables) that are incompatible with new ocean uses.</u></p>	
18.	11.M	<p><u>Marine Spatial Plan for Washington’s Pacific Coast (MSP) is a planning document designed to address new ocean use development off Washington’s Pacific coast that had not been previously permitted or approved prior to the adoption of the plan in June 2018. The MSP uses a series of data, maps, and analyses in combination with a management framework to evaluate potential the impacts from new ocean use projects on existing uses resources, based on the principles and criteria outlined in the Ocean Resources Management Act (ORMA) [RCW 43.143.030(2)] and the Ocean Management Guidelines [WAC 173-26-360]. It applies a coordinated decision-making process between various governments, tribes, and stakeholders, and includes additional siting recommendations and fisheries protection standards. These principles have been incorporated into this SMP. See Ecology Publication No. 17-06-027, Revised June 2018 (https://fortress.wa.gov/ecy/publications/documents/1706027.pdf; and https://msp.wa.gov/).</u></p>	<p>As related to Item #4 above about ORMA – MSP provisions, Ecology requires revision for consistency with WAC 173-26-360. See also Exhibit 1.</p>
19.	11.N	<p><u>New Ocean Uses are uses and developments that have not occurred or were not permitted within Washington’s Coastal waters prior to the completion of the Marine Spatial Plan for Washington’s Pacific Coast, as revised June 2018. New uses, as defined by the MSP, are in-water uses, with potential adverse impacts to renewable resources or existing uses that have not been previously reviewed or authorized/permitted within the MSP study area. The MSP anticipates new ocean use proposals for activities such as renewable energy, dredged material disposal, mining, marine product harvesting, and offshore aquaculture operations. See also “Ocean Uses”.</u></p>	<p>As related to Item #4 above about ORMA – MSP provisions, Ecology requires revision for consistency with WAC 173-26-360. See also Exhibit 1.</p>

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20.	11.0	<p><u>Ocean Disposal Uses involve the deliberate deposition or release of material at sea, such as solid wastes, industrial waste, radioactive waste, incineration, incinerator residue, dredged materials, vessels, aircraft, ordnance, platforms, or other man-made structures.</u></p> <p><u>Ocean Energy Production Uses involve the production of energy in a usable form directly in or on the ocean rather than extracting a raw material that is transported elsewhere to produce energy in a readily usable form. Examples of these ocean uses are facilities that use wind, wave action or differences in water temperature to generate electricity.</u></p> <p><u>Ocean Mining includes such uses as the mining of metal, mineral, sand, and gravel resources from the sea floor.</u></p> <p><u>Ocean Oil and Gas Uses and Activities involve the extraction of oil and gas resources from beneath the ocean.</u></p> <p><u>Ocean Salvage Uses share characteristics of other ocean uses and involve relatively small sites occurring intermittently. Historic shipwreck salvage which combines aspects of recreation, exploration, research, and mining is an example of such a use.</u></p> <p><u>Ocean Transportation includes such uses as: shipping, transferring between vessels, and offshore storage of oil and gas; transport of other goods and commodities; and offshore ports and airports.</u></p> <p><u>Ocean Uses are activities or developments involving renewable and/or nonrenewable resources that occur on Washington's coastal waters and includes their associated off shore, near shore, inland marine, shoreland, and upland facilities and the supply, service, and distribution activities, such as crew ships, circulating to and between the activities and developments. Ocean uses involving</u></p>	<p>As related to Item #4 above about ORMA – MSP provisions, Ecology requires revision for consistency with WAC 173-26-360. See also Exhibit 1.</p>

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		<p><u>nonrenewable resources include such activities as extraction of oil, gas and minerals, energy production, disposal of waste products, and salvage. Ocean uses which generally involve sustainable use of renewable resources include commercial, recreational, and tribal fishing, aquaculture, recreation, shellfish harvesting, and pleasure craft activity. See also "New Ocean Uses".</u></p>	
21.	11.P	<p>230. Parties of record means <u>all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail.</u> the land use permit applicant; persons who have testified at the open record hearing; and any persons who have submitted written comments concerning the application that form part of the public record (excluding persons who only signed petitions or mechanically produced form letters).</p>	<p>As written, this definition is not consistent with WAC 173-27-030(12): <i>"Party of record" includes all persons, agencies or organizations who have submitted written comments in response to a notice of application; made oral comments in a formal public hearing conducted on the application; or notified local government of their desire to receive a copy of the final decision on a permit and who have provided an address for delivery of such notice by mail;</i></p>
22.	11.R	<p>266. Recreational development means development that includes <u>commercial and public facilities designed and used to provide recreational opportunities to the public.</u> but are not limited to: piers, docks, boat launches, campgrounds, interpretive structures, trails, etc. that support a recreational use.</p> <p>267. Recreational use means an experience or activity <u>that facilitates public access to shorelines of the state, including but not limited to parks, marinas, piers, and other improvements.</u> in which an individual engages for personal enjoyment and satisfaction. Examples of shore-based recreation include: fishing, hunting, clamming, beach combing, and rock climbing; various forms of boating, swimming, hiking, bicycling, horseback riding, camping, picnicking, watching or recording activities such as photography, painting, bird watching or viewing of water or shorelines, nature study and related activities.</p>	<p>As written, these definitions are not consistent with WAC 173-26-241(3.i): <i>Recreational development includes commercial and public facilities designed and used to provide recreational opportunities to the public. Master programs should assure that shoreline recreational development is given priority and is primarily related to access to, enjoyment and use of the water and shorelines of the state.</i></p> <p>Ecology requires revision for consistency with WAC and RCW 90.58.020(7).</p>
23.	11.R	<p>270. Residential development means development of land with dwelling units for non-transient occupancy. For the purposes of this Program, accessory dwelling units, garages, and other similar structures accessory to a dwelling unit shall also</p>	<p>SMP does not contain a definition for 'dwelling unit' and as written, this definition is not consistent with WAC 173-26-241(3.j):</p>

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		<p>be considered residential development (See also Dwelling unit and Accessory dwelling unit). <u>Residential development also includes multifamily development and the creation of new residential lots through land division.</u></p>	<p>Residential development - Single-family residences ... Residential development also includes multifamily development and the creation of new residential lots through land division.</p> <p>Ecology requires revision for internal consistency and consistency with WAC.</p>
24.	11.S	<p>307. Shorelines of statewide significance with respect to Clallam County are identified as follows:</p> <p>a. The lakes, whether natural, artificial, or a combination thereof, with a surface acreage of one thousand (1,000) acres or more measured at the ordinary high water mark, including associated wetlands.</p> <p>b. Those areas of Puget Sound and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide.</p> <p>e. b. The area between the ordinary high water mark and the western boundary of the state including harbors, bays, estuaries, and inlets.</p> <p>e. c. Those areas of Puget Sound and the Strait of Juan de Fuca and adjacent salt waters north to the Canadian line and lying seaward from the line of extreme low tide.</p> <p>e. d. Those natural rivers or segments thereof downstream from a point where the mean annual flow is measured at one thousand (1,000) cubic feet per second or more.</p> <p>f. e. Those shorelands associated with the areas described in subsection a, b, d and e of this definition.</p>	<p>b – This does not apply because none of the Puget Sound or Strait of Juan de Fuca SSWS areas that are specified by statute are located in Clallam County.</p> <p>RCW 90.58.030(2)(f)(ii) Those areas of Puget Sound and adjacent salt waters and the Strait of Juan de Fuca between the ordinary high water mark and the line of extreme low tide as follows:</p> <p>(A) Nisqually Delta (B) Birch Bay (C) Hood Canal (D) Skagit Bay and adjacent area (E) Padilla Bay</p> <p>Ecology requires revisions to correct these errors for consistency with RCW 90.58.030(2.f)</p>
25.	11.S	<p>313. Single-family residence means a <u>detached</u> dwelling unit designed for and occupied by no more than one family, including accessory uses (see definition). Accessory uses include development that is necessarily connected to the use and enjoyment of a single-family residence and located landward of the ordinary high water mark and the perimeter of a wetland and include a garage; deck; driveway; utilities; fences; septic tanks and drainfields; and grading which does not exceed two hundred fifty cubic yards which does not involve placement of fill in any wetland or waterward of the ordinary high water mark including those structures and developments within a contiguous ownership which are a normal</p>	<p>As written, this definition is not consistent with WAC 173-27-040(2.g):</p> <p>"Single-family residence" means a detached dwelling designed for and occupied by one family including those structures and developments within a contiguous ownership which are a normal appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield and grading which does not</p>

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		<p><u>appurtenance. An "appurtenance" is necessarily connected to the use and enjoyment of a single-family residence and is located landward of the ordinary high water mark and the perimeter of a wetland. On a statewide basis, normal appurtenances include a garage; deck; driveway; utilities; fences; installation of a septic tank and drainfield; and grading which does not exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.</u></p>	<p><i>exceed two hundred fifty cubic yards and which does not involve placement of fill in any wetland or waterward of the ordinary high water mark.</i></p> <p>Ecology requires revision for consistency with WAC 173-27-040 and internal consistency with other related terms used/defined in the SMP.</p>
26.	11.W	<p>351. Water-dependent use means a use or portion of a use that requires direct contact with the water and cannot exist at a non-water location due to the intrinsic nature of its operations. Ferry terminals, public fishing piers, aquaculture, and marinas are examples of water dependent uses. Residential development is not a water-dependent use but is a preferred <u>priority</u> use of shorelines of the state (RCW 90.58.020).</p>	<p>Consistent with WAC 173-26-241(3.j), single family residential use may be considered a <i>priority</i> when pollution and damage are avoided. This priority is separate, and different from, the required order of use <i>preference</i> established by WAC 173-26-201(2.d) where single family residential use is recognized well after ecological functions, water-oriented and mixed use activities. As written, the goal statement is incorrect in referring to single-family residential use as preferred, and inconsistent with rule requirements.</p> <p>Ecology requires text revisions for accuracy and clarity.</p>
27.	Missing	<p><u>Exhibit B - List of SMP Waterbodies</u></p>	<p>WAC 173-18-044 and 173-20-044 require the SMP to include a list of stream and lake shorelines of the state under local jurisdiction. The list established by a comprehensively updated SMP replaces the older WAC lists that Ecology no longer maintains. While the SMP Exhibit A mapping is extensive and appears to be complete, no list of waterbodies is provided. The list must include all freshwater waterbodies covered by the SMP, and may also include marine shorelines.</p> <p>Ecology requires revision for consistency with the WAC requirements and proposes to add this list as a new SMP Exhibit B after the Exhibit A Shoreline Environment Designation maps. The Table of Contents will also need revision to reflect this change.</p>