ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE & PERIODIC REVIEW OF
THE TOWN OF INDEX SHORELINE MASTER PROGRAM

Comprehensive Update/Periodic Review Submittal accepted July 18, 2019, Ordinance No. 477
Prepared by Department of Ecology on December 27, 2019

INTRODUCTION
Ecology’s Findings and Conclusions (Attachment A) provide the factual basis for Ecology’s decision on
the Town of Index (Town) updated Shoreline Master Program (SMP). The document provides
introductory information, amendment history and review process, findings related to the Town’s
submittal and conclusions.

DESCRIPTION AND NEED OF THE PROPOSED AMENDMENT:
The Town submitted to the Department of Ecology (Ecology) for review, an updated Shoreline Master
Program (SMP) to comply with the Shoreline Management Act (SMA) at RCW 90.58 and the SMP-
Guidelines (Guidelines) at Part III of WAC 173-26. The updated SMP provides locally tailored shoreline
management policies, environment designations, regulations, and administrative provisions to
manage shoreline development through the Town’s shoreline areas. Additional reports, and
supporting information and analyses as noted throughout this document, were considered by Ecology
during review of the Town’s submittal.

In addition, the Town incorporated SMP amendments for Ecology’s review to meet the statutory
deadline for periodic review requirements of the SMA at RCW 90.58.080(4). The amendments are
intended to bring the Town’s SMP into compliance with the SMA or implementing state rules that
have been added or changed since the last SMP amendment in 1993, ensure that the SMP remains
consistent with amended comprehensive plans and regulations, and incorporation of any revisions
deemed necessary to reflect changes in local circumstances, new information, or improved data.

The Town and Ecology agreed to combine the final review of both the past due comprehensive SMP
update and current periodic review, to avoid confusion associated with two separate review
processes and to satisfy the current deadline to complete the periodic review on or before June 30,
2019, pursuant to 90.58.080(4)(b)(i).

FINDINGS OF FACT
The Town of Index shoreline historically has been regulated under the Snohomish County SMP which
was first adopted in 1975. In fact the Town’s current SMP is based on a version of the County’s SMP
that was last updated in 1993. Therefore, following adoption of Ecology’s SMP-Guidelines in 2003,
the Town chose to develop their own Shoreline Master Program to comply with the State Shoreline
Management Act and updated SMP-Guidelines pursuant to RCW 90.58.080(5). The Town has
approximately one mile of shoreline adjacent to the North Fork of the Skykomish River a shoreline of
the state pursuant to RCW 90.58.030 (2)(e). Index’s shoreline jurisdiction is limited to the north bank
of the river and extends to the center of the waterbody, where the Snohomish County SMP applies.
SMP provisions to be changed by the amendment as proposed.
The comprehensive SMP update is the Town’s first SMP. It is intended to entirely replace the 1993 Snohomish County SMP. The Town’s new SMP includes the following key elements:

- Customized shoreline environment designations based on an inventory and characterization of the Town’s existing shoreline conditions and development patterns. The shoreline environments consists of parallel designations, with Shoreline Upland located landward of Avenue A which runs the length of the Town’s shoreline, and Urban Conservancy and Armored Bank environments for areas adjacent to the ordinary high water mark.

2.5 Shoreline Environments Map

![Shoreline Environment Designations](image)

- Shoreline use and modification regulations and matrix that reflects the unique current and future shoreline uses while recognizing protection of more ecologically intact shorelines. The continuation of commercial water oriented recreation is recognized as a conditional use; overwater structures and mining are prohibited. Shoreline stabilization is recognized as a conditional use adjacent to the river given the majority of the shoreline is currently armored with rock riprap.

- Alignment of shoreline regulations with applicable town municipal code and the Town’s 2015 Comprehensive Plan.

- In lieu of incorporation of the Town critical areas regulations; specific wetland buffer and mitigation standards were directly integrated into the SMP. The specific wetland standards within SMP section 4.12 reflect current Ecology Critical Areas wetland guidance. This includes
buffer requirements and mitigation ratios based on jurisdiction appropriate wetland categories and ratings.

- New permit administrative provisions including non-conforming development standards consistent with the SMA and WAC 173-27 (Shoreline Management Permit and Enforcement Procedures).

Periodic review components of the proposed SMP are based on changes in applicable laws and rules that have occurred since 2007. These include the following:

- The cost threshold for substantial development was increased based on changes by the Washington Office of Financial Management.
- The definition of development was revised to include the dismantling or removing of structures consistent with Ecology current rule.
- Exceptions to local review under the SMA were included consistent with rule changes by Ecology.
- Updated permit filing procedures were added as amended by Ecology.
- Updated SMP amendment submittal procedures are now referenced in the Index SMP.
- A new exemption related to retrofitting existing structures to meet the Americans with Disabilities Act (ADA) was added to permit exemptions in chapter 9, section 9.6.2.
- Wetlands and Critical Areas Guidance: Rather than referencing the Town’s Critical Areas Ordinance; the SMP has directly incorporated wetland buffer and mitigation standards within SMP section 4.12, consistent with current Ecology Critical Areas wetland guidance. This also includes a clarification that wetlands must be delineated in accordance with the applicable federal wetland delineation manual.
- Updated Floodway Definition consistent with applicable FEMA maps and clarify that it does not include lands that can be reasonably expected to be protected by flood control devices.
- Fish habitat enhancement projects added to permit exemptions in chapter 9, section 9.6.2.

**Amendment History, Local Review Process:**

**Comprehensive Update**
The Town indicates the proposed SMP update originated from a local planning process that began in 2009. The record shows that an initial project kickoff meeting with interested Town residents occurred on September 28, 2009. The Town formed a shoreline advisory committee in October 2009. The Committee met numerous times and reviewed multiple initial drafts of the SMP and supporting analysis. This committee work continue into 2012. Community visioning meetings occurred in October, November and December 2012. The reminder of the public participation process is described within the periodic review summary below. The Town combined both processes to finalize the SMP update in 2019.

**Periodic Review**
The Town prepared a public participation program in accordance with WAC 173-26-090(3) (a) to inform, involve and encourage participation of interested persons and private entities, tribes, and applicable agencies having interests and responsibilities relating to shorelines. This included one
public workshop on April 27, 2019, two Town Council meetings/workshops and a public hearing before the Town Council on June 17, 2019.

The Town used Ecology’s checklist of legislative and rule amendments to review amendments to Chapter 90.58 RCW and department guidelines that have occurred since the master program was last amended, and determine if local amendments were needed to maintain compliance in accordance with WAC 173-26-090(3)(b)(i).

The Town reviewed changes to the comprehensive plan and development regulations to determine if the shoreline master program policies and regulations remain consistent with them in accordance with WAC 173-26-090(3)(b)(ii).

The Town considered whether to incorporate any amendments needed to reflect changed circumstances, new information or improved data in accordance with WAC 173-26-090(3)(b)(iii).

The Town consulted with Ecology and solicited comments throughout the review process.

**Combined Local Adoption Process**

Given the SMP update was a combination comprehensive/periodic review update; the Town used the standard SMP local adoption process per WAC 173-26-100. The Town provided notice to local parties, including a statement that the hearing were intended to address the periodic review in accordance with WAC 173-26-090(3) (c) (ii). Affidavits of publication provided by the Town indicate notice of the hearing was published on May 9, 2019 in the Everett Daily Herald.

Ecology prepared an equivalent to an initial determination confirming that the draft SMP amendment is consistent with the policy of the SMA and applicable guidelines. An email of initial concurrence for both the comprehensive and periodic review was sent to the Town on May 22, 2019.

The Town held a public hearing before the Town Council on June 17, 2019 and briefed the Town Council on the same date.

With passage of Ordinance # 477, on June 17, 2019, the Town adopted Index’s first SMP and authorized staff to forward the proposed SMP to Ecology for formal review.

**Amendment History, State Review Process:**

The proposed SMP amendment package, combining the SMP Comprehensive Update and Periodic Review, was received by Ecology for initial state review and verified as complete on July 18, 2019.

Pursuant to WAC 173-26-110, the Town of Index has satisfied the submittal requirements for the proposed comprehensive SMP update and periodic review, as indicated below:

- A signed ordinance was provided to Ecology that indicated the Town’s intent to adopt through Ordinance No. 477, signed on June 17, 2019. (WAC 173-26-110(1));
- Amended environment designation maps were submitted to Ecology (WAC 173-26-110(3));
- Materials summarizing the update process was provided to Ecology (WAC 173-26-110(4));
• Evidence of compliance with the State Environmental Policy Act (SEPA) was provided to Ecology including a Determination of Non-significance issued by the Town on April 17, 2019 along with a completed Environmental Checklist. (WAC 173-26-110(5));
• Evidence of compliance with the public notice and consultation requirements of WAC 173-26-100 was provided to Ecology (WAC 173-26-110(6));
• The Town provided copies of public comments received during the local approval process. (WAC 173-26-110(7));
• A copy of the completed SMP submittal checklist was provided to Ecology (WAC 173-26-110(8));
• Copies of the shoreline inventory and characterization report, cumulative impacts analysis, and restoration plan were submitted to Ecology (WAC 173-26-110).

Ecology held a public comment period from August 7, 2019 through September 6, 2019. Ecology distributed notice of the State comment period to state interested parties and a local mailing list on August 5, 2019.

Notice of the state comment period was distributed to state task force members and interested parties identified by the Town on August 5, 2019, area Tribes were notified on July 31, 2019 by email. In compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on August 7, 2019 and continued through September 6, 2019.

Ecology received no comments during the state comment period for both the SMP Comprehensive update and Periodic Review.

CONSISTENCY REVIEW
Consistency with Chapter 90.58 RCW:
The proposed comprehensive update and periodic review amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The Town provided evidence of compliance with SMA procedural requirements in RCW 90.58.090(1) and (2), for SMP amendments.

Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):
The proposed comprehensive update and periodic review amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This includes review for compliance with the SMP amendment criteria found in WAC 173-26-201(1) (c) along with review of both the SMP Comprehensive Update Checklist and the SMP Periodic Review Checklist completed by the Town.

Consistency with SEPA Requirements:
The Town submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed comprehensive SMP update and periodic review. The Town issued the DNS on April 17, 2019. Ecology did not comment on either the checklist or DNS.
Other Studies or Analyses supporting the SMP update: Ecology also reviewed the following reports, studies, map portfolios and data prepared for the Town in support of the proposed comprehensive SMP update and periodic review:

- Town of Index Shoreline Inventory Report, dated February 2016.

Summary of Issues Raised During The Public Review Process:
No comments were received during the state comment period, however a single public comment was received during the local review period. The comment requested clarification regarding allowed commercial uses on the town shorelines. Minor changes were made to the Commercial Development section (5.4) and the shoreline use matrix (sec. 8.1 table 3). These changes were reviewed by Ecology and found to be consistent with state requirements and therefore were incorporated into the locally adopted SMP.

CONCLUSIONS OF LAW
After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the Town’s proposed comprehensive SMP update and SMP periodic review, is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions) and can be approved as submitted.

Ecology concludes that the proposed comprehensive update and periodic review satisfy SMP amendment approval criteria found in WAC 173-26-201(1)(c). This includes the conclusion that approval of the SMP amendment will not foster uncoordinated and piecemeal development of the state’s shorelines (WAC 173-26-201(1)(c)(i) and is expected to result in no net loss of shoreline ecological functions through implementation of the updated SMP (WAC 173-26-201(1)(c)(iv)).

Ecology concludes that the Town has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 and WAC 173-26-100 regarding public and agency involvement in the SMP review and amendment process, including conducting workshops and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

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

Ecology concludes that both the Town comprehensive update and periodic review submittal to Ecology were complete pursuant to the requirements of WAC 173-26-090, WAC 173-26-100, and WAC 173-26-110.

Ecology concludes that procedural requirements for review and approval of shoreline master program amendments have been complied with as set forth in RCW 90.58.090 and WAC 173-26-100, WAC 173-26-110, and WAC 173-26-120.
Ecology concludes that the Town has chosen not to exercise its option pursuant to RCW 90.58.030(2)(d)(ii) to increase shoreline jurisdiction to include buffer areas of critical areas within shorelines of the state. Therefore, as required by RCW 36.70A.480(6), for those designated critical areas with buffers that extend beyond SMA jurisdiction, the critical area and its associated buffer shall continue to be regulated by the Town’s critical areas ordinance. In such cases, the updated SMP shall apply to the designated critical area and buffer located within SMA jurisdiction, but not the portion of the buffer area that lies outside of SMA jurisdiction.

Ecology concludes that with this action the Town has completed the required processes for a comprehensive update and periodic review in accordance with RCW 90.58.080 and applicable state guidelines (WAC 173-26).

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules. Therefore, Ecology approval of the proposed amendments as submitted will be in-effect 14 days from Ecology’s final action approving the amendment.