ATTACHMENT A: FINDINGS AND CONCLUSIONS -
COMPREHENSIVE UPDATE TO THE CITY OF BELLEVUE SHORELINE MASTER PROGRAM

SMP Submittal December 30, 2015[1], Resolution No. 8922
Prepared by Joe Burcar, on April 27, 2017

USE OF THIS DOCUMENT: Ecology's *Findings and Conclusions* (Attachment A), including reference to *Attachment B* (Required Changes) and *Attachment C* (Recommended Changes), provide the factual basis for Ecology's decision on the City of Bellevue's (City) updated Shoreline Master Program (SMP). The document is divided into four sections providing introductory information (Section 1), findings related to the City's documentation of current shoreline conditions (Section 2), amendment history and review process (Section 3), and conclusions (Section 4).

DESCRIPTION OF PROPOSED AMENDMENT

The City submitted to Ecology for review a comprehensive amendment to their SMP to comply with the Shoreline Management Act (SMA) at RCW 90.58 and the SMP-Guidelines (Guidelines) at WAC 173-26 (Part Three). The updated master program provides locally tailored shoreline management policies, environment designations, regulations, and administrative provisions to manage shoreline development throughout the City's shoreline district. Additional reports, and supporting information and analyses as noted throughout this document, were considered by Ecology during review of the City's submittal.

SMP PROVISIONS TO BE CHANGED BY THE AMENDMENT AS PROPOSED:

This comprehensive SMP amendment is intended to replace the City's existing SMP in its entirety. The final SMP includes elements listed in Part 20.25E.010 of the SMP and as generally listed below:

- The Shoreline Element of the City of Bellevue's Comprehensive Plan, Title 21 BCC.
- Part 20.25E LUC, commonly referenced as the Shoreline Overlay District.
- City of Bellevue Land Use Code within Title 20 BCC except as noted in LUC 20.25E.030, 20.10.400, 20.10.420, 20.10.440, 20.20.010, 20.20.025, 20.20.840, and 20.20.900.

City of Bellevue Critical Areas Overlay within Part 20.25H LUC exclusive of Reasonable Use Exceptions in LUC 20.25H.190 through 20.25H.205.

FINDINGS OF FACT

The record submitted by the City, including Resolution 8922 supporting documents and the City's submittal letter, provide information related to the need for the proposed amendments. The City of Bellevue adopted its first SMP in 1974 under resolution 2345. The program was updated in 1982 (Ordinance 3145) that created a Shoreline Overlay District within the City's zoning ordinance (Bellevue, 2009; 5).

According to the City *Shoreline Analysis Report* (Bellevue, 2009), approximately 19.21 miles of shoreline within the City are classified as "Shorelines of the State" pursuant to RCW 90.58.030 and including: 9.2 miles of fresh water shoreline along Lake Washington, 3.17 miles of Kelsey Creek and Mercer Slough, 4.96 miles of fresh water shoreline along Lake Sammamish, and 1.88 miles of lake shoreline along Phantom Lake, as well as associated wetlands connected to these shoreline features within the City.

[1] Ecology accepted the City's submission as complete pursuant to WAC 173-26-110 on January 25, 2016 (appendix A).

The shorelines of Lake Washington and Lake Sammamish are further characterized as a *"Shoreline of Statewide Significance"* pursuant to RCW 90.58.030 (2) (f).

NEED FOR THE AMENDMENT:

The proposed amendments are needed to comply with the statutory deadline for a comprehensive update to a local SMP pursuant to RCW 90.58.100.

The 2003 Guidelines at WAC 173-26 require a baseline inventory be established as a reference condition for the updated SMP. The SMP update is also intended to reflect current shoreline conditions, as it is recognized that conditions can change over time, as called for in RCW 90.58. *"Current shoreline conditions"* refers to both physical/biological conditions, as well as how shoreline lands are currently being used.

Therefore, the current SMP update recognizes changes that have occurred along the City's shorelines since the last comprehensive update based on new or updated information related to current shoreline uses and characterization of conditions. The update also provides an opportunity to address consistency between the updated SMP and other environmental protection or land use management policies and practices outlined in the City's Critical Areas Ordinances and Comprehensive Plan.

Through the local process, the City identified the following *"Goals"* for their SMP update:

1. *To prevent the inherent harm in uncoordinated and piecemeal development of the city's shorelines.*
2. *To protect, preserve, and enhance the ecology, environment, and amenities of the city's shorelines for use and enjoyment of present and future generations by limiting, insofar as practical, any resultant damage to the ecology and environment of the shoreline area.*
3. *To protect the public's opportunity to enjoy optimal access to the physical and aesthetic qualities of the shoreline consistent with the overall best interest of the city and the state.*
4. *To increase and encourage water-enjoyment recreation for the public on the city's shorelines when appropriate and consistent with the public interest.*
5. *To give preference to uses which are consistent with control of pollution and prevention of damage to the nature environment, or are unique to or dependent upon use of the shoreline.*
6. *To give priority to single-family residences.*
7. *To give priority to non-single-family uses, such as water-dependent recreational development and other development that will provide an opportunity for substantial numbers of people to enjoy the shorelines of the state.*
8. *To discourage new or expanded commercial uses and activities on the city's shorelines except where those commercial uses or activities are associated with water-dependent uses.*

CURRENT CONDITIONS DOCUMENTED

Documentation of current shoreline conditions is vital to achieving the no net loss standard of the state SMP Guidelines (WAC 173-26-186). Pursuant to this requirement, the City produced a *Shoreline Analysis Report* dated January 2009, which describes existing shoreline conditions within the City's shoreline district and serves as a basis in guiding planning level decisions regarding allowed uses, necessary protections, and restoration opportunities to be implemented by the updated SMP.

The City's *Shoreline Analysis Report* provides both an ecosystem-wide (watershed) and reach-level characterization of existing shoreline (ecological and built) conditions. All information listed below is from the City's *Shoreline Analysis Report* (Bellevue, 2009), unless otherwise noted.

CITY OF BELLEVUE: GEOGRAPHIC AREA, SHORELINE TYPE, LENGTH, AND REACHES			
Lake Washington	Freshwater Lake	9.1 miles	Reaches 1 - 28
Kelsey Creek/Mercer Slough	Freshwater Stream	3.3 miles	Reaches 29 - 32
Lake Sammamish	Freshwater Lake	4.9 miles	Reaches 33 – 37
Phantom Lake	Freshwater Lake	1.8 miles	Reaches 38 – 42

Current ecological functions are generally characterized as follows for the four main (freshwater) shoreline jurisdictional areas located within the City:

(1) **Lake Washington:** 9.12 linear miles of the lake border the City on its western boundary. Land-use is nearly continuous single-family residential. The shoreline segment is mostly developed, with only 23 vacant sites remaining of the 338 parcels. Impervious surface within this segment is summarized as an average of 42 percent of the area of individual lots. Total vegetative cover is 127 acres or approximately 58 percent of the total area. A majority of this shoreline (81 percent) has been altered with both vertical or boulder bulkheads, and 93 percent of the developed residential parcels currently have a pier or dock. Parks/open space provide approximately 1.3 miles of public waterfront access, which equates to 13 percent of the shoreline. Overall, this segment of shoreline is characterized as having low/moderate ecological function.

(2) **Kelsey Creek/Mercer Slough:** 3.3 linear miles of Kelsey Creek and Mercer Slough are considered shorelines of the state. The most predominant use along this shoreline is parks, as the downstream section of Kelsey Creek flows within the Mercer Slough Nature Park. The City's Shoreline Analysis identified eight vacant undeveloped lots within the Kelsey Creek/Mercer Slough shoreline jurisdiction. Impervious surface within this shoreline segment is relatively low as it is estimated to cover 17 percent of the total area. Vegetative cover is estimated to cover 83 percent of this shoreline's total area with overhanging vegetation observed along nearly the entire length of shoreline segments of both Kelsey Creek and Mercer Slough. The City characterized the majority of this shoreline area as within the limits of a 100-year floodplain. Overall, this segment of shoreline is characterized as having moderate/high to high ecological function.

(3) Lake Sammamish: 4.96 linear miles of the lake border the City on its eastern boundary. Single-family residences make up most of the shoreline, with the exception of small pockets of multi-family residential, several small retail facilities, and private park facilities. Residential segments

of this shoreline are mostly developed with 21 vacant lots identified out of the 365 parcels located within shoreline jurisdiction. The shoreline is heavily modified with shoreline armoring estimated to cover 71 percent of the parcels and overwater structures on 326 of the 364 parcels or 91 percent of the parcels. Impervious surface area within this shoreline jurisdiction covers approximately 39 percent of this shoreline's total area. Vegetative cover is reported as covering 66 acres or approximately 55 percent of this shoreline's total area. Overall, this shoreline is characterized as having low/moderate ecological function.

(4) Phantom Lake: Public open space and single-family housing surround this 65-acre lake in eastern Bellevue. There are approximately 41 developed residential properties located along the shoreline, and there are approximately 15 total vacant, undeveloped lots within the Phantom Lake shoreline jurisdiction, which includes the areas around Larsen Lake and the associated wetlands. This includes lots both adjacent to and upland of the shoreline. Impervious surface area cover approximately 7.3 percent of this shoreline's total area. Vegetative cover remains relatively high with 162.4 total aces or approximately 93.9 percent of the shoreline area remains vegetated. This shoreline is not heavily modified; the amount of armoring is estimated at 2.4 percent, and approximately 22 piers are on the lake. The shoreline exhibits moderate/high to high ecological functions.

Section 7 of the City's *Shoreline Analysis Report* provides a number of recommended actions intended to translate findings from the shoreline inventory and characterization into proposed SMP policies, regulations, environment designation boundaries, and restoration strategies (Bellevue, 2009; 146).

In support of the *Shoreline Inventory* and *Analysis Report*, the City prepared two technical appendices focused on wetlands (The Watershed Company, 2008a) and habitats within the shoreline study area (The Watershed Company, 2008b). The habitat appendix provides an analysis of "habitat units" based on the density of existing development. For upland areas, five categories of habit units were identified including three basic qualitative scores (Low, Medium, or High) and a Reserve/Agriculture[2] category as summarized for each shoreline environment in the table below (The Watershed Company, 2008b; 5).

Habitat Unit	Lake Washington	Mercer Slough Kelsey Creek	Phantom Lake	Lake Sammamish	*Total Acres*
Low	80.5	5.6	N/A	55.4	**141.5**
Moderate	105.7	60.2	22.9	52.8	**241.6**
High	16.2	N/A	N/A	11	**27.2**
Reserve	1.4	367	192	N/A	**560.4**
Agriculture	N/A	28.3	27.5	N/A	**55.8**
Total Area	**203.8**	**461.1**	**242.4**	**119.2**	**1,026.6**

The results of this analysis related to upland habitats further confirms that developed residential areas adjacent to Lake Washington and Lake Sammamish generally exhibit Low to Moderate habitat conditions with some fragmented pockets of higher functioning (vegetated) areas around parks and reserve areas. By contrast, large tracts of wetland/stream features characterized as reserve areas make

[2] These categories are shown as combined as the reports states that many of the areas in "Agriculture" use are located within "Reserve" areas (The Watershed Company, 2008b; 5).

up most of the Mercer Slough, Kelsey Creek, and Phantom Lake shoreline areas. For Aquatic habitat, the report does not offer findings (as done for upland habitats), but rather provides an expanded discussion of limnological and ecological processes intended to help further characterize shorelines within the City (The Watershed Company; 2008b; 11).

Ecology finds that the City's Shoreline Inventory and Analysis Report provide sufficient assessment of existing shoreline conditions to adequately inform the SMP update process, as well as provide a basis for future protection and restoration opportunities within the City's shoreline jurisdiction. The report is found to be consistent with State Guideline requirements of (WAC) 173-26-201 (3) (c) and (d).

SHORELINE ENVIRONMENT DESIGNATIONS

Assignments of Environment Designation are a fundamental aspect of the SMP update. Every stretch of shoreline has characteristics that can be recognized in common with similar areas informing to what degree natural characteristics have been altered over time. An SMP update must factor in how lands have been used historically, including a general distinction between presently developed areas compared to relatively undisturbed shoreline areas. SMP-Guideline criteria provided in WAC 173-26-211 typically serve as the primary determinants of how shoreline environment designation assignments are made, along with reference to zoning and other regulatory overlays.

The City has identified the *Aquatic, Shoreline Residential, Urban Conservancy, Recreational Boating, Shoreline Residential-Canal,* and *Urban Conservancy-Open Space* environment designations as appropriate to manage future shoreline development within the shoreline areas covered by the updated SMP. Criteria for each designation is summarized in the table below:

SMP-Guideline Designations	Bellevue Designation	*Bellevue SMP Designation Criteria*
Aquatic	Aquatic	*Shoreline areas waterward of the ordinary high-water mark.*
Natural	N/A	*N/A*
Urban Conservancy	Urban Conservancy – Open Space	*Shorelands with moderate to high levels of existing ecological function for which existing and planned development is compatible with maintenance and restoration of ecological function.*
	Urban Conservancy	*Shorelands with moderate to high levels of existing ecological function for which existing and planned development is compatible with maintenance and restoration of ecological function.*
Shoreline Residential	Shoreline Residential	*Shorelands predominantly characterized by residential development or planned for residential development and exhibit moderate to low levels of ecological functions because of historic shoreline modification activities.*
	Shoreline Residential Canal	*Shorelands within the Newport Shores community with frontage along an artificial canal system, which is dependent on engineered bulkheads for structural support.*
High Intensity	Recreational Boating	*Shorelands currently used as marinas, yacht clubs, and community clubs supporting water-dependent recreational boating uses and associated activities.*

Ecology finds that a substantive basis for designation of Shoreline Environments was conducted and assignment of designations within the SMP are appropriately assigned.

SHORELINE USE

The SMP-Guidelines in WAC 173-26-221 and 173-26-241 list general use provisions that apply broadly to all of types of shoreline development regulated by the master program. WAC 173-26-241 also provides specific use provisions applicable to those uses that commonly occur within shoreline jurisdiction. Based on these requirements, master programs need to include both general use provisions and specific development standards consistent with use or modification requirements listed in the SMP-Guidelines. These requirements are intended to ensure future development is appropriately managed consistent with underlying policies of the SMA. Avoidance of use conflicts through prioritization of "preferred" shoreline uses is a primary tenet of the SMA (RCW 90.58.020). Therefore, updates to local SMPs are intended to support these goals through development of appropriate master program provisions based on the type and scale of future shoreline development anticipated within a particular jurisdiction.

As part of the City's *Shoreline Analysis Report*, the City provided a Use Analysis (Section 6.0) in response to SMP-Guideline requirements.[3] The analysis considered anticipated shoreline development trends and opportunities for water-dependent (preferred uses), and looked to identify potential use conflicts. With the exception of the Kelsey Creek/Mercer Slough segment, shorelines within the City are predominately zoned and used for residential use with a number of established parks distributed throughout each of the shoreline environments. Uses within the Kelsey Creek/Mercer Slough shoreline consist of parks, open spaces, and an existing office complex. Section 6 of the City's *Shoreline Analysis Report* details consideration of "Likely Changes in Land Use" for each shoreline waterbody throughout the City. The results of this analysis conclude that the City does not anticipate any changes to these well-established uses in the future (Bellevue, 2009; 139 – 145).

In regard to water-dependent uses, the City's *Shoreline Analysis Report* took a closer look at two "water dependent" reaches of shoreline within Meydenbauer Bay (consisting of the Bellevue Marina and Meydenbauer Bay Yacht Club) and the Newport Shores area (including the Newport Yacht Basin and Newport Yacht Club), both of which are located adjacent to Lake Washington (Bellevue, 2009; 141). The only change anticipated is an area along Meydenbauer Bay between an existing City park and the City's Marina. The City owns a number of residential parcels located between the park and marina and will be removing the residences to expand the boundary of the park so it will continuously extend to the marina. The expanded waterfront park will include development of a public pier/dock enhancing recreational use of the shoreline. Other than the park expansion, the other water-dependent uses are not expected to change.

The Transportation and Utilities Chart 3 in LUC 20.25E.030 of the updated SMP lists "*Water-Dependent Transportation: Commercial float plane and ferry terminal*" as a conditional use in the "*Recreational Boating*" designation and as prohibited in the other environment designations. While water dependent uses are preferred under the SMA, the City's prohibition of these uses within four of their five shoreline environment designations appropriately acknowledges existing conditions and reasonably foreseeable development. The Kelsey Creek/Mercer Slough waterbody is not navigable due to depth limitations, and the remaining environment designations are dominated by well-established residential use that are not anticipated to change and would conflict with commercial sea-plane or ferry operations.

[3] WAC 173-26-201 (3) (d) (ii)

Ecology finds that the City has adequately considered SMA preferred uses and the potential for use conflicts consistent with WAC 173-26-201 (3) (d) (ii).

SHORELINE MODIFICATIONS

Pursuant to WAC 173-26-231, "*Shoreline modifications are generally related to construction of physical elements such as a dike, breakwater, dredged basin, or fill, but they can include other actions such as clearing, grading, application of chemicals, or significant vegetation removal."* Further, WAC 173-26-231 (2) (b) states as a general principle that master programs should *"Reduce the adverse effects of shoreline modifications, and, as much as possible, limit shoreline modifications in number and extent."* These shoreline modification principles are reinforced through associated Mitigation Sequencing (WAC 173-26-201.2.e) and No Net Loss (WAC 173-26-186) requirements of the SMP-Guidelines.

According to the City's *Shoreline Analysis Report*, Shoreline Modifications in Bellevue consist mainly of shoreline armoring, as well as docks, piers, and floats, which as stated in the report; *"…may alter shoreline functions by changing erosion, sediment and water movement patterns, the distribution of aquatic and terrestrial vegetation and predator-prey dynamics of fish and wildlife"* (Bellevue, 2009; 16). Table 4 (below) lists the percentage of shoreline length that is currently modified through existing armoring or pier/docks structures that exist throughout the four shoreline waterbodies within the City.

Table 4. **Extent of Armoring and Overwater Coverage** (Bellevue, 2009; 17)

Shoreline Waterbody	Armored Shoreline (percent of reach)	Pier/Docks Density (number per mile)
Lake Washington	81	40
Kelsey Creek/Mercer Slough	--*	--*
Lake Sammamish	71	66
Phantom Lake	2	12
TOTAL	55	36

*Data not available for the Kelsey Creek/Mercer Slough shoreline.

As shown in table 4, Lake Washington and Lake Sammamish are highly modified. For example, 81 percent of the length of Lake Washington shoreline and 71 percent of Lake Sammamish shoreline are currently armored. By contrast, only two percent of Phantom Lake is currently armored. These conditions coupled with other identified modifications contribute to the City's characterization of the Lake Washington and Sammamish shorelines as having "Low/Moderate" overall shoreline ecological functions, whereas the Kelsey Creek/Mercer Slough and the Phantom Lake shorelines are characterized as having "Moderate/High" level of function (The Watershed Company, 2015).

Based on the assessment of existing conditions, the *Shoreline Analysis Report* provides specific recommendations in Section 7.0 that are intended to inform development of shoreline environment designations, SMP policies, regulations, and restoration strategies as a part of the comprehensive SMP update (Bellevue, 2009: 146). Specific to Shoreline Modifications, recommendations were provided for both Shoreline Stabilization and Pier, Docks, and Floats as follows:

> **Shoreline Stabilization:** General recommendations suggest the City explore a range of incentives to reduce the level of armoring along Lake Washington and Sammamish, but also recommend specific regulatory amendments to the updated SMP to consider alternatives to shoreline armoring using

native vegetation or other natural features and limit stabilization to situations where a "demonstrated need" is identified to protect an existing structure from erosion. In addition, the following recommendation is provided related to managing repair/replacement of armoring; *"Ensure "replacement" and "repair" definitions and standards are consistent with WAC 173-26-231(3)(a). Replacement structures should be designed, located, sized and constructed to assure no net loss of ecological functions"* (Bellevue, 2009; 149).

Piers, Docks, and Floats: General recommendations suggest the City continue to encourage joint-use docks whenever feasible and provide clear dimensional and material requirements aligned with state and federal design standards for new, replacements, or modifications to existing overwater structures (Bellevue, 2009; 149-150).

Fills, Breakwaters and Dredging: Appropriate limitations are recommended for placement of fill in shoreline areas, and prohibition of breakwaters, jetties, groins, or weirs are suggested unless necessary to support preferred uses (Bellevue, 2009; 150).

Shoreline Habitat Enhancement/Restoration: Incentives are recommended as a way to encourage restoration projects, particularly in areas identified as having low function (City of Bellevue et al., 2009: 150).

The City's *Cumulative Impact Analysis* summarized existing structure setbacks from the shoreline edge, identifying a median[4] setback for each environment designation, further characterizing existing conditions within the City's shoreline district. The results list a median existing setback in the Shoreline Residential designation of 47 feet for Lake Washington and 53 feet for Lake Sammamish (The Watershed Company, 2015; 18). The median setbacks in the Shoreline Residential environments align with the City's proposed standard setback requirement in the updated SMP of 50 feet.

Section 3.3 of the City's *Cumulative Impact Analysis* further characterizes existing conditions by providing an analysis of vegetation composition within exiting setback areas at both the 25- and 50-foot distance from the shoreline edge. Aligned with findings in the *Shoreline Analysis Report*, this analysis indicates the percentage of shrub and tree cover is highest in the Urban Conservancy-Open Space environment and lowest in the Recreational Boating designation (The Watershed Company, 2015; 19). In the Shoreline Residential environment, the analysis found that the percentage of shrub and tree cover are similar in the nearest 25 feet to areas extending 25 to 50 feet upland of the shoreline edge (The Watershed Company, 2015; 19).

Ecology finds that the City's Shoreline Analysis Report provides an adequate assessment of existing shoreline modifications within the City's shoreline jurisdiction. Further, the report provides meaningful recommendations related to future management and a basis for regulatory amendments relevant to the comprehensive SMP-update.

CUMULATIVE IMPACT ANALYSIS

Listed as a Governing Principle of the SMP Guidelines, WAC 173-26-186(8)(b) states*, "Local master programs shall include policies and regulations designed to achieve no net loss of those ecological*

[4] The City's analysis notes that *"the median is more representative of the typical setback condition than the mean because occasional wide setbacks skew the mean upward"* (The Watershed Company, 2015; 17).

functions." This principle is intended to be satisfied through development of supporting analysis, such as the inventory/characterization report and cumulative impact assessment to inform design or creation of appropriate SMP policies and regulations.

Upon completion of the final draft SMP in May 2015, the City produced a *Cumulative Impact Analysis* intended to assess potential impacts resulting from anticipated future development or redevelopment/expansion of existing uses as allowed in the updated SMP (The Watershed Company, 2015).

Early in the update process the City produced a *Shoreline Analysis Report* (Bellevue, 2009) characterizing the current built and ecological conditions of shoreline areas throughout the City. The City's *Shoreline Analysis Report* also includes recommendations intended to "…*translate inventory and characterization findings into proposed SMP policies, regulations, environment designation boundaries and restoration strategies for areas within shoreline jurisdiction"* (Bellevue, 2009; 146). Of particular relevance to the *Cumulative Impact Analysis* are the early recommendations that relate to residential use, as the most common type of land-use within the City's shoreline district. As a general recommendation, the report suggests that the updated SMP include provisions to retain and enhance shoreline vegetation and control invasive aquatic weeds (Bellevue, 2009; 148). In regards to structure setbacks, the report recommended the updated SMP: "…*maintain appropriate residential setbacks from the OHWM based on no net loss of shoreline ecological function"* (Bellevue, 2009; 151).

Shoreline environments in Bellevue consist primarily of moderately altered residential shorelines with pockets of higher functioning (less altered) conditions in the Kelsey Creek/Mercer Slough area. Because of the relatively built-out nature of the City's shoreline and long-term protections associated with much of the publicly owned parcels, "reasonably foreseeable development" within the City's shoreline district is anticipated to be redevelopment or expansion of existing residences and associated shoreline modifications (The Watershed Company, 2015; 20). Specifically, the *Cumulative Impacts Analysis* associates removal of vegetation, increase in building footprint, and increase in impervious surfaces with remodel or redevelopment of existing residential uses (The Watershed Company, 2015; 33).

To help maintain shoreline functions, the *Cumulative Impacts Analysis* identified key provisions of the SMP that aim to: avoid further modifications such as new shoreline stabilization; protect water quality; limit new impervious surfaces; require proportional mitigation for riparian vegetation removal including significant trees; incentivize vegetation enhancements; and minimize overwater shading especially in critical nearshore or shallow water habitat areas.

Shoreline Stabilization Modifications: The *Cumulative Impact Analysis* acknowledges that shoreline stabilization structures are a common feature in the City's shoreline with 81 percent of Lake Washington and 71 percent of Lake Sammamish currently armored. The report also recognizes that even though new stabilization requests will be rare, requests to repair or replace existing stabilization structures are expected to be more common (The Watershed Company, 2015; 40). In assessing shoreline stabilization replacement provisions that allow for in-kind replacement, or in some cases replacement of a vertical bulkhead with a riprap structure at a 1:1 slope, the *Cumulative Impact Analysis* predicts that shoreline functions would continue to degrade despite the minor reduction in the effect on shoreline processes (The Watershed Company, 2015; 41). The report also describes the Army Corps of Engineers (Corps) and Washington State Department of Fish and Wildlife (WDFW) independent review of stabilization projects, suggesting that their oversight may establish a higher standard than required by the City's SMP for shoreline stabilization repair/replacement projects, helping to maintain no net loss of shoreline

functions (The Watershed Company, 2015; 55). However, as noted in the *Cumulative Impact Analysis*, the City has no control or way to predict how state or federal permits would be administered and therefore cannot depend on outside agencies to satisfy SMP-Guideline requirements, such as maintaining no net loss of shoreline functions.

Pier/Dock Modifications: Similar to shoreline stabilization, most residential uses on Lake Washington (93 percent) and Lake Sammamish (91 percent) have an existing pier or dock adjacent to their parcel (The Watershed Company, 2015; 52). Therefore, construction of new pier/dock structures will be rare, whereas repair or replacement actions will be more common, as existing structures age and require maintenance. The proposed SMP allows for residential docks to be five feet in width, which is wider than what is allowed in neighboring SMPs and would be inconsistent with the Corps' Regional General Permit for Lakes Washington and Sammamish (ACOE, 2010). In addition, the City's SMP allows for repair and in-kind replacement of existing docks without any requirements for grated decking or reconfiguration to minimize nearshore habitat impacts. As stated in the City's *Cumulative Impact Assessment, "This means that no improvements in shoreline functions can be assumed to result from SMP provisions in relation to these commonly occurring activities"* (The Watershed Company, 2015; 54). Similar to conclusions provided through review of shoreline stabilization standards, the report depends on the independent actions of state or federal agencies to administer more stringent standards than those provided in the local SMP to maintain shoreline ecological functions.

Vegetation Management: As noted above, the City anticipates redevelopment through remodeling or expansion of existing residential uses, which likely will involve impacts to existing vegetation. Therefore, the SMP includes vegetation conservation standards applicable to development within 50 feet of the shoreline edge within the Shoreline Residential and Shoreline Residential-Canal designations. The City's approach is based on a debit-credit system that is intended to ensure a nexus and rough proportionality between impacts and required mitigation (The Watershed Company, 2015; 48). Specifically, the City describes the approach as dictated by the calculation of both impacts and mitigation requirements in relation to the anticipated change in the type of land cover, which is based on the premise that different types of land cover offer a continuum of benefits and/or potential impacts to shoreline ecological functions when considering water quality, fish habitat, and wildlife habitat (The Watershed Company, 2015; 48). The City's analysis concludes that: *"…the SMP's approach to residential shoreline vegetation conservation accounts for existing conditions, and establishes a proportional approach to mitigate for impacts to shoreline vegetation."* Further, the City found that; *"Through the land cover valuation, the approach establishes incentives to limit impacts to higher quality vegetation and promoter planting of native vegetation, particularly with the area closet to the shoreline"* (The Watershed Company, 2015; 52).

Ecology finds that the proposed SMP does not specifically require consideration of avoidance for shoreline setback reduction or require sufficient review of replacement actions to existing shoreline stabilization or pier/dock modifications. Therefore, Ecology has identified required changes in Attachment B to maintain consistency with SMP-Guideline requirements related to Shoreline Modifications (WAC 173-26-231), No Net Loss (WAC 173-26-186-8), and Environmental Impact Mitigation (WAC 173-26-201-2-e).

RESTORATION PLAN

Pursuant to WAC 173-26-201 (2) (c), "Master programs shall also include policies that promote restoration of ecological functions, as provided in WAC 173-26-201 (2) (f), where such functions are

found to have been impaired based on a jurisdictions Inventory and Characterization as described in WAC 173-26-201(3) (d) (i)."

It is intended that local government, through the master program, along with other regulatory and non-regulatory programs, contribute to restoration by planning for and fostering restoration, and that such restoration occur through a combination of public and private programs and actions. Local governments should identify restoration opportunities through the shoreline inventory process and authorize, coordinate, and facilitate appropriate publicly and privately initiated restoration projects within their master program. The goal of this effort is to produce a master program that includes planning elements that, when implemented, serve to improve the overall condition of habitat and resources within the city.

The City conducted restoration-planning actions consistent with the requirements of the SMP Guidelines and have produced a final Shoreline Restoration Plan dated September 2015. The plan builds on information gathered through the City's *Shoreline Analysis Report*. The plan provides a summary of baseline shoreline conditions, lists restoration goals and objectives, discusses existing or potential programs and projects that positively affect the shoreline environments, and provides an analysis of restoration priorities.

The City's final Restoration Plan identifies restoration opportunities at the watershed (basin and sub-basin), shoreline (jurisdictional), and site-specific level. The plan also prioritizes ongoing coordination with other regional restoration plans and programs. Section 2.1 provides three restoration goals and six objectives to support them, followed by a potential implementation schedule and funding sources discussed in section 8. The plan also includes specific sections on ongoing city programs (section 4), potential projects (section 5), partnerships (section 6), and education and outreach (section 7) in support of the prioritized restoration opportunities.

Ecology finds that the Final Shoreline Restoration Plan is based on appropriate technical information available to the City during the SMP update. The final Restoration Plan can serve as an effective tool for the City, non-profit organizations, and the public to collectively improve shoreline conditions over time. Such restoration efforts are understood to help achieve the no-net-loss standard of the SMP-Guidelines (WAC 173-26-186).

AMENDMENT HISTORY AND REVIEW PROCESS:

SMP Grant: The City initiated the comprehensive SMP update consistent with a scope of work described within *SMA Grant No. GO800105*. The grant agreement originally provided $175,000 to be allocated to the City between July 1, 2007, and June 30, 2010. Pursuant to a legislative amendment to RCW 90.58, a third year was provided for jurisdictions determined to be making progress toward completing their SMP-update, thus extending the City's grant deadline an additional year to June 30, 2011.

Ecology's SMP-update grant identified a number of deliverables and benchmarks required of the City to ensure appropriate expenditure of grant funding and to monitor progress in development of the updated SMP. As recognized in Ecology's "Notice of Project Closure," the City satisfied grant agreement requirements related to submittal of required deliverables. The record shows that between 2007 and May 2015, the City developed the following SMP drafts:

- First working draft SMP, dated May 12, 2010.
- Second draft SMP, dated May 2011.

- Third draft SMP, dated July 2012 was transmitted to the City Council in January 2013.
- Resolution 8922, dated May 18, 2015, consisting of the City Council's locally adopted SMP.

In addition to the draft SMPs listed above, the City produced or relied upon a number of supporting documents and analysis, many of which evolved throughout the update process.

Local SMP-Update Process

Pursuant to WAC 173-26-201 (3) (b) (i), local jurisdictions are required to both inform interested parties of review of the shoreline management program and actively encourage participation by all persons or groups that show interest in development or implementation of the updated SMP.

Public Involvement

Starting in late 2007, through local adoption of the updated SMP in January of 2013, the City's update involved multiple stages of analysis, program development, outreach, and review of a variety of SMP topics and issues. Throughout this process, City staff initiated a variety of stakeholder engagement efforts that were intended to solicit public input and involvement in the comprehensive update process. Guiding the City's outreach was a *Public Participation Plan* (Makers, 2008) that was developed by the City early in the update. The City dedicated significant effort and resources to public participation, including but not limited to the following engagements: shoreline boat tour, phone surveys, focus group interviews, multiple open houses, outreach mailing and notices, and dedicated public comment periods during the Planning Commission and City Council review. The following is a general time line describing the City's outreach/public involvement throughout the update process:

Early Coordination: In March 2008, the City started working with a variety of interested parties, including local citizens, regional tribes, neighboring local governments, and state and federal agencies to acquire data for development of their master program. The City's consultant and staff worked with the planning commission and participating citizens to first develop a *Shoreline Inventory* (Bellevue, 2008) followed by the *Shoreline Analysis Report* (Bellevue, 2009) characterizing current conditions of the City's shoreline areas.

Planning Commission Review: According to the City's submittal materials, the Planning Commission was extensively engaged in the City's SMP update hosting 52 study sessions or briefings related to the SMP update over a period of 5 years. Early in the update process the Planning Commission consulted on development of the *Shoreline Inventory* and the *Shoreline Analysis Report*. Following development of the first draft of the updated SMP, the Planning Commission requested public comment on the draft in January 2011. From March 2011 through December 2012, the Planning Commission facilitated a number of revisions to the draft SMP largely in response to stakeholder engagement on a number of key SMP topics. On January 16, 2013, the Planning Commission formally forwarded their final (draft) SMP onto the City Council with a recommendation that the Council approve the SMP as prepared by staff and endorsed by the Planning Commission.

Accompanying the Planning Commissions transmittal to the City Council was a detailed memo describing their consideration of a number of issues that they felt were important to the Bellevue update. The commission's memo described their approach in developing their recommendations on the SMP update, which they conveyed as ensuring that new regulations (required by the SMA) be balanced, predictable, and flexible while also responsive to the City's existing urbanized condition and neighborhood character.

The memo also listed 5 goals that they adopted to guide their deliberations on SMP issues, which have been summarized below:

1. Develop "Bellevue Appropriate" regulations that recognize the existing urbanized condition that currently exist and protect existing ecological functions. Further they recognize ecosystem health as a regional responsibility, not a sole obligation to shoreline property owners to restore functions lost to past actions;
2. Consider "Neighborhood Character" by enhancing community efforts to preserve residential character of Bellevue neighborhoods in efforts to protect shoreline ecological functions;
3. Represent "Balance" by not overburdening shoreline property owners in considering how to satisfy the goals of the SMA;
4. Develop "Predictable and Flexible" standards that improve the permitting experience for citizens through rules that are simple to understand and implement to limit cost and time associated with review; and
5. Be "Inclusive" by seeking input from a variety of stakeholders in drafting of the updated SMP.

Within this same timeframe, Ecology provided three sets of comments to the City at the following stages of the SMP update: shoreline characterization report (2009); second draft SMP (May 2011); and finally following the Planning Commissions transmittal to the City Council (May, 2013). Ecology's final comment dated May 14, 2013, provided the City with a comprehensive set of comments that raised concerns with the Planning Commission's re-draft of City's May 2011 draft SMP, citing a number of inconsistencies with applicable SMP-Guideline requirements. City staff responded to Ecology's May 2013 letter with an updated SMP submittal checklist along with a number of clarification related to Ecology concerns. The letter also identified a number of remaining policy issues for further discussion with the City Council.

City Council Review: Prior to City Council review of the SMP, the City completed the required *Cumulative Impacts Assessment* and *Restoration Plan* for the program. The City Council hosted a public hearing on May 5, 2014, which instigated their review of the SMP-update, with an initial focus on the Planning Commission's SMP recommendations. The Council then engaged in a more in-depth review of nine topics that they considered to be central to the City's update. A second public hearing was then held by the Council on August 4, 2014 and was intended to solicit public comment on variations to the Planning Commission recommendation that were being considered by the City Council. After a series of Council engagements and discussions of the various SMP topics, the Council provided staff with a final set of policy directives on April 27, 2015, leading to adoption of Resolution 8922 on May 18, 2015. The approved resolution conveyed the Council's intent to adopt new policies and regulations as part of the updated SMP and authorized submittal of the proposed program to the Washington State Department of Ecology for formal review.

Ecology finds that the City satisfied SMP-Guideline standards related to public process (WAC 173-26-201 (3) (b) through development and implementation of their public participation plan, planning commission review, council review, and extensive staff outreach involving approximately 125 meetings or events related to the SMP update.

DEPARTMENT OF ECOLOGY REVIEW PROCESS

Ecology acknowledged the complete submittal of the City's SMP update and supporting materials as consistent with WAC 173-26-110 in a letter to the City dated January 25, 2016, initiating formal state review of the proposed SMP.

Notice of the state (Ecology) comment period was distributed to over 800 individual local interested parties identified by the City in compliance with the requirements of WAC 173-26. Ecology began accepting comments related to the City's proposed SMP on September 30, 2016, through October 31, 2016. Ecology also accepted testimony on the SMP at a public hearing held at the City of Bellevue - City Hall during the evening of October 18, 2016. Notice of the comment period and public hearing, including a description of the proposed amendment, a link to copies of the amendment, and deadlines for public comment, were provided in the September 29, 2016, edition of *The Seattle Times*.

Summary of issues raised during the Ecology Public Review Process: Pursuant to SMP Guidelines (WAC 173-26-120) on November 21, 2016, Ecology provided to the City for response a summary of issues raised through the 29 comments submitted to Ecology. Below is a general list of SMP topics raised during the comment period:

> **SMP Update Process** (Ecology Review, Effectiveness of Regulations, No-Net-Loss, Mitigation Sequencing, Restoration), **SMP Protections** (Setback/Buffers, Vegetation Management Standards, Balance Use/Protection, Shoreline Lot Coverage, Tree Retention Standards), **Shoreline Modifications** (Piers/Docks, Shoreline Armoring Effectiveness) and **Shoreline Uses** (Residential, Public –Recreational, Non-Conforming, Shoreline Land Cover Types and Values).

The City provided a final response to Ecology's comment summary as part of their final submittal dated January 31, 2017. The response included a few clarifying amendments to SMP provisions as noted in **Attachment B** and **Attachment C**. The complete record of Ecology's comment summary and the City's response are provided in **Attachment D**.

Attachment D (Responsiveness summary) is characterized by a multitude of clarifications, confirmations, responses, and references to additional information related to comments submitted to Ecology during review of the City of Bellevue SMP. The comments represent a variety of perspectives ranging from parcel-specific concerns to regional environmental or property rights interests. Many of the comments revolve around issues related to (future) shoreline use, environmental protection, private property rights, protection of the public's interest, and update process issues centered on effective public involvement, reliance on supporting analysis, and acknowledgment of general community values associated with the update.

Summary of Issues Identified by Ecology as Relevant to Its Decision:

Based on review of the proposed SMP for consistency with applicable SMP-Guideline requirements, consideration of supporting materials included in the City's submittal, and issues raised during Ecology's public comment period (Attachment D), the following issues remain relevant to Ecology's final decision on the City of Bellevue's SMP.

SMP-Update Process: As evident in review of the public comment response summary (Attachment D) and the City's overall summary of the SMP update, the public and interested parties were highly engaged in this update locally and through the state review process.

Ecology finds that the City has done an excellent job at engaging their public and interested parties in the SMP-update process. The City has clearly satisfied minimum SMP-Guideline requirements related to public involvement and public process.

SMP General Standards: Ecology received a diverse set of comments on the City's SMP, which varied from statements that the proposed SMP exceeded state requirements and should be adopted as locally developed, to concerns that shoreline protection standards in the SMP are inadequate to maintain ecological functions as required by the SMP-Guidelines. General regulations in the updated SMP are intended to apply universally to all development proposed in shoreline jurisdiction and therefore serve an important role in ensuring compliance with state requirements. Based on these comments and, as part of the comprehensive review of the updated SMP, Ecology identified the following general provisions as worthy of further discussion to ensure overall compliance with applicable SMP-Guideline requirements:

Critical Areas Regulations: Pursuant to WAC 173-26-221(2)(a) updated SMPs are intended to regulate critical areas that are located within shoreline jurisdiction. The proposed SMP provides a formal reference to the City's Critical Areas Ordinance (CAO) that is intended to incorporate these provisions into the updated SMP. Within Attachment B, Ecology has identified specific CAO exceptions that have been determined to not be consistent with SMA requirements and therefore should not be included in the updated SMP.

Nonconforming Standard: Considering the fact that the City's shoreline areas are mostly built out, the proposed SMP provides a number of accommodations supporting redevelopment or maintenance of existing legally established uses that are nonconforming to current (or proposed) standards. In most cases, SMP provisions provide reasonable accommodations with clearly defined sideboards to ensure appropriate management of these existing uses. However, as listed in Attachment B, Ecology has identified a number of instances where a cross reference to applicable shoreline modification standards need to be included as part of the nonconforming standards to ensure compliance with SMP-Guideline requirements.

OHWM elevation: Pursuant to RCW 90.58.030 the Ordinary High Water Mark (OHWM) is recognized as a dynamic location that may change over time due to a natural event or other environmental factors. To facilitate administration of structure setbacks adjacent to Lake Sammamish, the City worked with Ecology in 2004 to commission a study to identify an elevation that was determined to be equivalent to OHWM. Following assessment of 27 reference sites, rigorous statistical analysis and a third-party technical review, the study identified a static OHWM elevation of 31.8 feet NAVD 88, that would ensure (with 95% confidence) that the setback for any proposed development would not be measured from a location waterward of the true OHWM (The Watershed Company, 2004). Through the Comprehensive SMP update, the City identified an optional elevation of 31.2 feet (NAVD 88) as the elevation is half way between the 31.8 foot (NAVD88) elevation suggested in the City's 2004 study, and the 30.6 foot (NAVD88) elevation originally established by the Army Corps of Engineers in 1965. The City's *Cumulative Impact Analysis* evaluated the optional 31.2 foot (NAVD88) elevation, concluding that the difference between elevations of 31.8 and 31.2 feet (NAVD88) would not result in a significant change for 70% of the Lake Sammamish sites with existing bulkheads along

the shoreline, but would likely have a greater (unknown) effect on un-bulkheaded sites with a gradual sloping shoreline grade (The Watershed Company, 2015; 47). Comments submitted to Ecology raised general concerns with methodology used in the 2004 study in addition to identifying a number of impacts related to high lake levels observed over the last few years.

Considering the intent of the statute to recognize changes to OHWM overtime, a lack of clear consensus in identifying an equivalent OHWM elevation, and the apparent on-going changes to seasonal hydrology in Lake Sammamish, Ecology finds that a static number should not be locked into the updated SMP, as it would not necessarily be equivalent to OHWM in all locations. This finding is supported by concerns of many shoreline residents related to the dynamic water level of Lake Sammamish, for which a specific elevation may be either too low or too high and could not be adjusted without a formal amendment to the SMP. With this said, Ecology recognizes the interest in establishing an equivalent OHWM elevation to provide some degree of predictability and efficiency in administering the updated SMP. Therefore, we remain open to identifying a fixed elevation outside of the SMP-update process through an administrative interpretation process, as long as the elevation can be shown to be equivalent to OHWM, as was demonstrated in the 2004 report.

Ecology finds that changes identified in Attachment B are necessary to ensure compliance of General SMP provisions with applicable SMP-Guideline requirements.

Shoreline Use – Residential: Redevelopment (remodeling or expansion) of existing residential uses within the Shoreline Residential and Shoreline Residential – Canal designations are anticipated to be the most common form of future development within the City's Shoreline overlay district. Existing conditions along the Lake Washington and Lake Sammamish shoreline are characterized as having a "Low" to "Moderate" level of ecological functions. Independent of shoreline modifications (described below), maintaining or improving riparian vegetation and minimalizing significant increases to impervious surface ratio are understood to be a key management strategies necessary to satisfying the no net loss of shoreline function goal. Therefore, a number of clarifications have been identified in Attachment B and Attachment C to support the City's goals in creating a SMP with predictable standards and equitable mitigation related to redevelopment of existing residential uses.

Vegetation Management: Ecology recognizes the dedicated effort by the City Council during final deliberations on the locally developed SMP to build in an equitable system in determining mitigation obligations related to vegetation management associated with shoreline setback reductions. The City's supporting analysis generally supports the system. Numerous comments to Ecology questioned the appropriateness of allowing for what was perceived as an exemption to remove up to 1,000-square feet of vegetation within the shoreline setback area. As noted by the City in their response to comments (line G-10), LUC 20.25E.065.F.7.b. limits vegetation removal to 200-square feet, but allows for exchange or adjustment of "non-significant trees, shrubs, or ground cover" types of vegetation (up to 1,000 square feet) within limited zones of the vegetation conservation area (i.e., not allowed within 25-feet of OHWM) without mitigation. It is important to note that this provision does not allow for increased lawn, bare ground area or increased impervious surface beyond 200-square feet. Further, the City's *Cumulative Impact Analysis* considered the potential impact of this provision and concluded the mitigation in the form of enhanced riparian planting within 10-feet of OHWM, that is required for any impervious surface increases waterward of existing residences (LUC 20.25E.065.F.8.c.iv), along with the debit/credit requirements in LUC 20.25E.065.F.8.c, will compensate for this allowance and satisfy no net loss requirements (The Watershed Company, 2015; 51).

Ecology finds that changes listed in Attachment B and Attachment C help to clarify compliance with SMP-Guideline requirements related to No Net Loss (WAC 173-26-186-8), Environmental Impact Mitigation (WAC 173-26-201-2-e), and Residential Use provisions (WAC 173-26-241-3-j).

Residential Modifications (piers/docks): The SMP's allowance for five-foot-wide dock width in nearshore areas (within 30 feet of OHWM), and for in-kind replacement of existing pier/dock structures without requirements to reconfigure or incorporate minimization standards, do not appear to be consistent with SMP-Guideline (Shoreline Modification) provisions in WAC 173-26-231(3)(b). The record submitted by the City does not provide supporting analysis or justification for wider docks within nearshore areas or in-kind replacements, as the City's *Shoreline Analysis Report* specifically recommends updated SMP provisions provide clear dimensional and material requirements aligned with state and federal design standards for new, replacements, or modifications to existing overwater structures (City of Bellevue, 2009; 149).

Further, Lakes Washington and Sammamish are characterized as Shorelines of Statewide Significance, thus requiring that Ecology find that the proposed SMP will result in "optimal implementation" of the policies enumerated in the SMA under RCW 90.58.090(5).

The Corps, working with WDFW, local governments, and tribes, created a Regional General Permit (RGP) specifying dimensional standards including a 4-foot width limit within the first 30-feet waterward or OHWM for recreational (private) docks on Lake Washington and Lake Sammamish. The RGP standards are intended to allow for continued recreational access and enjoyment to the lake while also minimize impacts to juvenile salmon through development of reasonably sized/oriented moorage facilities serving private residential uses. The RGP was created to provide shoreline property owners with an option to utilize prescribed residential pier/dock standards pre-authorized for Endangered Species Act (ESA) compliance, thus allowing the Corps to streamline ESA consultation, resulting in significant timing and cost savings to the applicant. According to the Corps, RGP 3 expired in February 2010. However, the Corps continue to recognize RGP 3 as a programmatic ESA consultation exemption (Corps-Programmatic) with some changes to allow applicants to maintain the overall square footage of existing pier/docks, as long as the replacement structure is configured in a more salmon-friendly way that minimizes overwater coverage in the first 30 feet adjacent to the shoreline. Specifically, the Corps-Programmatic provides pier/dock width limits (4-feet within nearshore 30-feet), minimum piling spacing, and minimum deck transparency (grating) requirements, all of which are based on conservation measures identified within a *Biological Evaluation* (Corps, 2010) that has been reviewed and accepted as ESA compliant.

Ecology finds that the Corps Programmatic Pier/Dock standards provide development standards based on scientific and technical information consistent with WAC 173-26-201(2)(a) in minimizing ecological impacts of new pier/dock construction or replacement actions. Ecology further finds that City's allowance of larger piers/docks resulting in increased overwater structure is inconsistent with recommendations within the City's Shoreline Analysis Report, as well as inconsistent with SMP Guideline requirements related to Environmental Impact Mitigation (WAC 173-26-201(2)(e), No Net Loss requirements of WAC 173-26-186(8), Shoreline Modification (General Principles) 173-26-231(2), and specific provisions for Piers and Docks at WAC 173-26-231(3)(b). Therefore, changes identified in Attachment B are necessary to ensure compliance with SMP-Guideline requirements.

Shoreline Modifications (shoreline stabilization): Shoreline Stabilization standards in the updated SMP applicable to **new** armoring require sufficient demonstration of need and adequate consideration of softer solutions, consistent with SMP-Guideline requirements.

The updated SMP also includes a policy consistent with Ecology guidelines for **maintenance and replacement**. SMP Policy SH-107 provides direction to "utilize performance standards to guide the maintenance and replacement of existing shoreline stabilization so as to ensure replacement structures are designed, located, sized and constructed to ensure no net loss of ecological functions."

However, some elements of the SMP regulations providing allowance for in-kind replacement of existing shoreline armoring are not consistent with recommendations from the City's *Shoreline Analysis Report* (City of Bellevue, 2009; 149) or SMP-Guideline (Shoreline Modifications) requirements for replacement of Shoreline Stabilization under WAC 173-26-231(3)(a)(iii)(C).

Historically, construction of armoring was not as heavily scrutinized as under current environmental regulations and may have been installed for a variety of purposes beyond protection of upland structures from erosion. Therefore, the SMP-Guidelines at WAC 173-26-231(3)(a)(ii) intend for new or replacement armoring to be limited to those instances where it is shown to be needed to protect an existing structure from erosion and, if allowed, that the softest solution be used to minimize impacts to shoreline ecological functions. For stabilization replacement, provisions in the City's SMP assume that because armoring was constructed in the past that it is needed in the future and therefore is allowed to be replaced in-kind (20.25E.080.F.6.) without consideration of alternative stabilization methods. The fact that all single-family residences with hard stabilization are presumed to need the stabilization to protect the existing residence is not consistent with SMP-Guideline requirements, nor does it appear that the presumption is validated by supporting analysis. This determination should be made on a case-by-case basis and is intended to consider site-specific conditions in evaluating risk of erosion to an existing structure. Therefore, without a comprehensive analysis characterizing site-specific risk in a manner that is consistent with SMP-Guideline requirements, amendments to the provisions are necessary.

Ecology notes an exception in the replacement standards where the SMP does provide specific criteria to support in-kind replacement without site-specific analysis. Provisions of this section allow in-kind replacement of hard stabilization in cases where an existing structure is located within 10 feet of the shoreline. This provision provides a reasonable justification for in-kind replacement, as the threshold is specifically tied to the intent to protect an existing structure, which considering the relative short distance between the shoreline edge and the structure, also provides a demonstration that the armoring is necessary.

Ecology finds that the Shoreline Stabilization provisions in the City's SMP related to replacement of existing armoring (not protecting structures within 10 feet of the shoreline edge) are not consistent with SMP-Guideline requirements. Further, Ecology finds that the changes identified in Attachment B requiring consideration of the underlying need for armoring along with consideration of alternative (soft) solutions before allowing for in-kind replacement are necessary to ensure compliance with SMP Guideline requirements.

Therefore, Ecology finds that the proposed SMP as approved by the City under Resolution No. 8922 is not consistent with the applicable SMP-Guideline requirements as specifically identified within Attachment B (Required Changes). However, Ecology also finds that the SMP can be amended to be compliant with the

SMP-Guidelines through the City's acceptance of "Required Changes." Pursuant to WAC 173-26-120, Ecology has also identified "Suggested Changes" to the SMP as identified within Attachment C.

Consistency with Chapter 90.58 RCW: The proposed update has been reviewed for consistency with the policy and procedural requirements of RCW 90.58.020 and the approval criteria of RCW 90.58.090.

Consistency with "applicable guidelines" (Chapter 173-26 WAC, Part III): The proposed update has been reviewed for compliance with the requirements of the applicable SMP guidelines (WAC 173-26-171 through 251 and -020 definitions; see especially WAC 173-26-201, WAC 173-26-231 Shoreline modifications [including piers and docks] and WAC 173-26-241(3) (b) Shoreline Uses - Aquaculture). This included review of a SMP Submittal Checklist, which was completed by the City and submitted to Ecology on December 30, 2015.

Consistency with SEPA Requirements: The City submitted evidence of SEPA compliance. The City issued a Determination of Non-Significance for the proposed SMP on May 5, 2011. Notice of the SEPA determination was published in *Seattle Times*. The City provided an opportunity for the public or interested parties to comment on the DNS between April 14 and April 28, 2011.

Other Studies or Analyses Supporting the SMP Update: Ecology reviewed a large number of reports, studies, and information related to the City's SMP update, all of which are included in the master file record, or are listed as references at the end of this document.

CONCLUSIONS OF LAW

After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City's SMP proposal, subject to and including Ecology's required changes (itemized in **Attachment B**), 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). This includes a conclusion that the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure no net loss of shoreline ecological functions is anticipated to result from implementation of the new master program amendments (WAC 173-26-201(2)(c).

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

Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that the City of Bellevue has complied with the requirements of RCW 90.58.100 regarding the SMP amendment process and contents.

Ecology concludes that the City of Bellevue has complied with the requirements of RCW 90.58.130 and WAC 173-26-090 regarding public and agency involvement in the SMP amendment process.

Ecology concludes that the City of Bellevue has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and

public hearings, notice, consultation with parties of interest, and solicitation of comments from tribes, government agencies, and Ecology.

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

Ecology concludes that the City of Bellevue SMP amendment submittal to Ecology was complete pursuant to the requirements of WAC 173-26-110 and WAC 173-26-201(3)(a) and (h) requiring a SMP Submittal Checklist.

Ecology concludes that it has complied with the procedural requirements for state review and approval of SMP amendments as set forth in WAC 173-26-120.

DECISION AND EFFECTIVE DATE

Based on the preceding, Ecology has determined the proposed amendments are consistent with the policy of the Shoreline Management Act, the applicable guidelines and implementing rules, once changes set forth in **Attachment B** and **Attachment C** are accepted by the City. Ecology approval of the proposed amendment with required changes is effective on the date at which Ecology receives written notice that the City has agreed to the required changes.

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

REFERENCES

Army Corps of Engineers. 2010. Biological Evaluation Programmatic: Overwater Structures in Lake Washington System – Lake Washington, Lake Bellevue, and Lake Union, Including the Lake Washington Ship Canal. Prepared for U.S. Army Corps of Engineers, Seattle District. Prepared June 2003 by Jones & Stokes, Bellevue, Washington. Modified September 2010 by Marcy Reed, Corps of Engineers, Seattle, Washington.

Bellevue, The Watershed Company. August 2008. *Shoreline Inventory Report – Technical Appendix Volume II – Habitat City of Bellevue's Shorelines: Lake Washington, Lake Sammamish, Phantom Lake, Kelsey Creek and Mercer Slough*. Prepared for the City of Bellevue Shoreline Master Program Update.

Bellevue, The Watershed Company, Makers Architecture & Urban Design. January 2009. *Shoreline Analysis Report*. Prepared for the City of Bellevue Shoreline Master Program Update.

Bellevue. Updated 2015. *City of Bellevue Shoreline Restoration Plan*. Prepared for the City of Bellevue Shoreline Master Program Update.

Makers Architecture and Urban Design. 2008. *Public Participation Plan*. Prepared for the City of Bellevue's Shoreline Master Program Update.

The Watershed Company. 2004. *Lake Sammamish Ordinary High Water Mark Study, Final Report*. Prepared for the City of Bellevue, Washington.

The Watershed Company. 2008a. *Shoreline Inventory Report – Technical Appendix Volume 1 – Wetlands*. Prepared for the City of Bellevue's Shoreline Master Program Update and dated August 31, 2008.

The Watershed Company. 2008b. *Shoreline Inventory Report – Technical Appendix Volume 2 – Habitat*. Prepared for the City of Bellevue's Shoreline Master Program Update and dated August 31, 2008.

The Watershed Company. 2009. *Bellevue Urban Wildlife Habitat Literature Review*. Prepared for the City of Bellevue, Washington.

The Watershed Company. June 2015. *Cumulative Impacts Analysis for the City of Bellevue Shorelines: Lake Washington, Lake Sammamish, Phantom Lake, Larson Lake, Kelsey Creek and Mercer Slough.* Prepared for the City of Bellevue Development Services Department.