



Skagit County Planning and Development Services Shoreline Master Program Periodic Review 2020-2022 BOCC Public Comment Matrix

This Public Comment Matrix includes a summary of all public comments received during the Board of Skagit County Commissioners comment period and public hearing. Common issues of concern have been binned into 16 separate issues; these issues are numbered 1-16 in column 1 (Issue Ref. No.) and summarized in column 2 (Summary of Concern). The public comments that referenced these issues are indicated in column 3 (Comment Number(s)) and can be cross referenced to the SMP Public Comments available online on the County’s SMP website at: www.skagitcounty.net/smp. Column 4 (Department Response) includes responses to these comments and indicates whether a revision to the proposed SMP is recommended. Due to the length of several comment letters and their corresponding content, separate response matrices (Attachments A, B, C, and D) have been included to respond to comments 27-30 in order to specifically respond to their detailed comments. The full comment letters are numbered 1-30 while the public hearing verbal comments are numbered 31-42. The comments are attached in their entirety to this matrix for reference. An index of public comments is provided below.

Index of All Textual Comments (#1-30)

Comment Number	Submitted On	Name	Organization	Comment Number	Submitted On	Name	Organization
1	2/23/2022	Dennis Katte	LCIA SMP Chairman	12	2/28/2022	Oscar Graham and Patricia Bunting	
2	2/27/2022	Anne Winkes		13	2/28/2022	Fernando Pratesi	
3	2/28/2022	Lorrie Webb		14	2/28/2022	Kirk Johnson	
4	2/28/2022	Michael Brown	GIPAC member	15	2/28/2022	Stephen Orsini	GIPAC member
5	2/28/2022	Debbie Clough		16	2/28/2022	Paul Newman	
6	2/28/2022	Mary Ruth and Phillip Holder		17	2/28/2022	Kyle Loring	Evergreen Islands, Washington Environmental Council, GIPAC
7	2/28/2022	Randy Good	Friends of Skagit County, President	18	2/28/2022	Lynn Lennox	
8	2/28/2022	Patty Rose		19	2/28/2022	Molly Doran	Skagit Land Trust, Executive Director
9	2/28/2022	Kevin and Kirsten Morse		20	2/28/2022	Arie and Joe Werder	
10	2/28/2022	Jeff Osmundson and Timothy Manns	Skagit Audubon Society, President and Conservation Chair	21	2/28/2022	Harvey Moyer	
11	2/28/2022	Oscar Graham		22	3/1/2022	Hal Rooks	GIPAC, Chair
				23	3/1/2022	Joseph Burdock	

Comment Number	Submitted On	Name	Organization	Comment Number	Submitted On	Name	Organization
24	3/1/2022	Wende Dolstad		28	4/1/2022	Kyle Loring	Evergreen Islands, Washington Environmental Council, GIPAC, Sierra Club, RE Sources, Skagit Audubon Society, Skagit Land Trust
25	3/1/2022	Terri Wilde		29	4/1/2022	Shannon Brenner	WDFW
26	3/31/2022	Jenna Friebel	Skagit Drainage and Irrigation Consortium and Skagit County Dike District #17	30	4/1/2022	Tim Trohimovich	Futurewise
27	3/31/2022	Amy Trainer and Nora Kammer	Swinomish Indian Tribal Community/ Skagit River System Cooperative				

Index of All Verbal Comments (#31-42)

Includes all verbal comments as transcribed from the Skagit County BOCC Hearing held on 3/1/2022

Comment Number	Name	Organization
31	Kyle Loring	Evergreen Islands, Washington Environmental Council, GIPAC
32	Marlene Finley	Board of Evergreen Islands
33	Kathleen Lorence-Flanagan	
34	Hal Rooks	GIPAC, Chair
35	Rein Attemann	Washington Environmental Council
36	Nora Kammer	Skagit River System Cooperative

Comment Number	Name	Organization
37	Stephen Orsini	GIPAC member
38	Molly Doran	Skagit Land Trust, Executive Director
39	Amy Trainer	Swinomish Indian Tribal Community
40	Tom Glade	Evergreen Islands
41	Tim Manns	Skagit Audubon Society
42	Patrick Donnelly	

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Issue Ref. No.	Summary of Concern <i>Complete comments are attached</i>	Comment Number(s)	Department Response
1	Lake Cavanaugh		
	a. There appears to be inconsistency in Table 14.26.420-1 which references, "Max Height From <u>Surface of Water</u> " (emphasis added). Comments suggest height should be from OHWM to avoid confusion in the text.	1	<u>Change recommended.</u> Staff agrees with the intent of the comment and recognizes that clarity may be needed. In the case of measuring height above the water, the intent is to measure from the level of ordinary high water. This is not necessarily the location of the OHWM along the shoreline that is used to measure setbacks and shoreline jurisdiction. Staff recommends amending the first row of Table 14.26.420-1 to read, "Max. Height from the Level of Ordinary High Water"
	b. If "Max Height From the OHWM" is used in Table 14.26.420-1, then how would this affect Lake Cavanaugh which has year-round dock use? The regulations need to accommodate stationery piers as well as floating pier ramps. Comments suggest making a footnote to this table to allow for flexibility in meeting this standard.	1	<u>Change not recommended.</u> Lake Cavanaugh does have a highly fluctuating hydrograph. However, there are many other lakes with similarly large lake level fluctuations, include extreme examples of Lake Tapps and Lake Chelan. As with Lake Cavanaugh, these lakes have a preponderance of floating docks, which are allowed on Lake Cavanaugh. This would avoid the height concerns as described. Per Figure 14.26.420-1 of the SMP, the dock may include a floating segment. The SMP only specifies that the fixed-pile pier portion be at least 1.5 feet above the OHWM. Therefore, in the case of Lake Cavanaugh, a floating dock segment can be used over the majority of the water, which would alleviate this concern.
2	Climate Change/Sea Level Rise		
	a. The draft SMP does not specifically address the impact of climate change on our county's shorelines. Please consider including policies and regulations that address climate change and sea level rise.	2, 6, 10, 14, 17, 19, 27, 28, 35, 38, 39, 40, 41	<u>Changes to be considered.</u> See the attached supplement to this comment matrix
	b. Consider non-structural approaches to address the problems climate change will bring to our shorelines. Please include a study of how	2	<u>Comment noted.</u> See the attached supplement to this comment matrix

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	managed retreat, “the purposeful, coordinated movement of people and assets out of harm’s way” can help alleviate future impacts.		
	c. The SMP draft already includes Residential Policies (6C-15.2), that emphasize locating structures “to avoid [frequently flooded areas] and storm tides or surges ... without placement of extensive flood hazard management facilities or hard shoreline stabilization.” Language should be added regarding avoiding such tidal and storm surge areas at elevations predicted to be impacted for the lifetime of the proposed structure (emphasis added).	10, 17, 19, 27, 28	<u>Change to be considered.</u> See the attached supplement to this comment matrix
	d. Shoreline stabilization structures, in particular hard armoring, have major impacts on shoreline values and functions, including habitat impacts to salmon, orca, and marine birds. Changes are needed to the reduce hard armoring. Currently, 14.26.480(2)(a) prohibits new hard shoreline stabilization with an exception for when an existing primary structure will be damaged within three years. Suggest changing this exception only for cases where the primary structure was in existence at the date of adoption of the SMP.	10, 19, 28	<u>Change not recommended.</u> The suggested change may have the reverse effect of allowing hard shoreline stabilization for existing structures when they may not be in imminent threat. The County recognizes the intent of the suggested change and notes that the language in 14.26.320(1)(a), “ <i>New development must be located and designed to avoid the need for future shoreline stabilization to the extent feasible</i> ” will help ensure structures are not placed in areas where future threats will result in hard shoreline stabilization. Furthermore, see the attached supplement to this comment matrix.
3	Shoreline Environment Designations		

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	a. Mapping. Why are some slough areas included in shoreline jurisdiction (e.g. McElroy Slough) while other similar sloughs (e.g. Edison) are not included?	3, 5, 9, 12, 13, 16, 18, 20	<p><u>Change not recommended.</u> Based on the shoreline inventory, the areas with expanded shoreline jurisdiction above a tide gate are included because of potential shoreline associated wetlands per the County's critical areas inventory and the National Wetland Inventory (note, this has not been field verified). Per these inventories, wetlands are mapped along McElroy Slough while wetlands are not mapped along Edison Slough. This does not mean that Edison Slough does not contain wetlands nor that any such wetlands in Edison Slough would not be considered shoreline associated.</p> <p>In the absence of more information, an evaluation of potential wetlands along Edison Slough would occur at the time of a development application. If wetlands are present along Edison Slough and they are found to be shoreline associated, any impacts to the wetland would be regulated under the SMP.</p>
	b. Rural Conservancy SED shoreline. Development in the Rural Conservancy SED should be limited to water-dependent uses to protect those shorelines	17, 33	<p><u>Change not recommended.</u> The allowed uses in the Rural Conservancy shoreline environment designation are consistent with WAC 173-26-211(5)(b)(ii) as excerpted below:</p> <p><i>(A) Uses in the "rural conservancy" environment should be limited to those which sustain the shoreline area's physical and biological resources and uses of a nonpermanent nature that do not substantially degrade ecological functions or the rural or natural character of the shoreline area.</i> <i>Except as noted, commercial and industrial uses should not be allowed. Agriculture, commercial forestry, and aquaculture when consistent with provisions of this chapter may be allowed. Low-intensity, water-oriented commercial and industrial uses may be permitted in the limited instances where those uses have located in the past or at unique sites in rural communities that possess shoreline conditions and services to support the use.</i></p>

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			<i>Water-dependent and water-enjoyment recreation facilities that do not deplete the resource over time, such as boating facilities, angling, hunting, wildlife viewing trails, and swimming beaches, are preferred uses, provided significant adverse impacts to the shoreline are mitigated.</i>
	a. The definition of Rural Conservancy together with the supporting maps depicting the shoreline designation should include those locations in which the Rural Conservancy designation extends landward of existing dikes, levees, and tidesgates. Additionally, if the shoreline designation is intended to include a footprint of the existing dikes, levees, and tidesgates, there should be a clear statement that the inspection and routine maintenance of the existing dikes, levees, and drainage infrastructure are exempt from the SMP.	26	<p><u>Change not recommended:</u> The Rural Conservancy designation criteria in 6B-4.1 includes a listing of the characteristics that apply to this designation. These include agricultural practices, low intensity development, and flood prone areas, all of which encompass the concerns regarding this comment. Repair and maintenance of existing dikes, levees, and tidesgates are allowed as a shoreline exemption per SCC 14.26.410(1)(c) as long as the activity qualifies per WAC 173-27-040.</p> <p>The maintenance and repair of drainage infrastructure mentioned in this comment would be considered part of agricultural facilities (ag activities) on agricultural lands (which would include drainage ditches, pumps, etc.) and are not subject to the SMP per SCC 14.26.410(1)(a)(i).</p>
4	Hard Shoreline Stabilization		
	a. Hard armoring accelerates destruction of riparian habitat. Support stricter rules requiring soft armoring only along shorelines. The criteria for allowing new, expanded, or replacement hard armoring are not sufficiently protective of key shoreline ecological resources often adversely impacted by such structures. We suggest adding additional criteria at:	4, 10	<p><u>Change not recommended.</u> New hard armoring is prohibited per SCC 14.26.480(2)(a) except when an analysis confirms that there is a significant possibility that an existing primary structure will be damaged within three years. Subsection (b) requires a feasibility evaluation of soft shore stabilization prior to a request for hard stabilization. Finally, subsection (c) prohibits any new or enlarged stabilization structure unless specific criteria and conditions are met, including presence of existing legal structures or all other feasible alternatives have been evaluated.</p> <p>Note, shoreline armoring is specifically allowed under the Shoreline Management Act and is exempted from a substantial development</p>

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	<p><u>14.26.480(4)(b)(v)(D) – Minimize impacts to shoreline ecological resources from impacts of hard shoreline stabilization structures, including to sand lance and surf smelt spawning beaches, eelgrass beds and critical habitat for Threatened and Endangered species.</u></p>		<p>permit when necessary to protect an existing single-family residence. However, the County does require a CUP for all new hard stabilization and soft stabilization in some environment designations.</p>
	<p>b. “Boulders” as soft armoring. Revise residential hard armoring sections and reclassify boulders. 14.26.480 (1)(a)(ii) includes boulders within the definition of “soft armoring.” Boulders should be included as hard armoring because they have hard solid surfaces and their use can have the same harmful effects as bulkheads.</p>	<p>6, 10, 17, 27, 33</p>	<p>Change not recommended. The use of boulders by themselves does not necessarily constitute hard armoring (e.g. Boulders may be used in soft armoring techniques to anchor logs). However, boulders which are connected to form a wall would be considered hard armoring.</p> <p>The actual stabilization measures may not maintain or enhance all ecological functions, but are preferable to hard shoreline stabilization measures, and will require review under 14.26.305 Environmental Protection,</p> <p>An application for shoreline stabilization also requires additional information in 14.26.480(3) and must meet Development Standards found in 14.26.480(4). The language in 14.26.480 is derived from WAC 173-26-231(3)(a) Shoreline Stabilization.</p> <p>The SMP Handbook, Chapter 15 Shoreline Stabilization, recognizes that:</p> <p style="padding-left: 40px;"><i>“Soft shoreline stabilization techniques include a variety of different approaches that preserve or mimic shoreline functions.”</i></p> <p style="padding-left: 40px;"><i>“The Guidelines distinguish between “hard” and “soft” stabilization measures and provide a list of options generally arranged from soft to hard.”</i></p> <p style="padding-left: 40px;"><i>“Some of these techniques are more appropriate in some</i></p>

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			<p><i>settings than others. In addition, what is considered soft along a heavily developed shoreline may have significant adverse impacts in a more natural environment.”</i></p> <p>The department believes that 14.26.480, read in its entirety and context, complies with the requirements of WAC 173-26-231(a) and meets the intent of the SMP Handbook Chapter 15 Shoreline Stabilization</p>
	<p>c. 14.26.480 (2)(c) ii – allows new non-water dependent development, including single family residences, to be built in certain circumstances where new hard armoring would be needed to protect them. We suggest this language:</p> <p><u><i>No new non-water dependent that will require protection from hard armoring should be built after adoption of the SMP code update.</i></u></p>	19	<p><u>Change not recommended.</u> SCC 14.26.480(2)(c)(ii) is consistent and nearly verbatim with WAC 173-26-231(3)(a)(iii)(B). The provisions in the SMP are intended to be limiting of impacts and protective of ecological functions by requiring full feasibility and evaluation of alternatives prior to hard shoreline stabilization. Hard shoreline stabilization may be allowed, consistent with the WAC, in some limited circumstances, but will be required to be fully mitigated.</p> <p>SCC 14.26.305(6), Mitigation Plan, will be required in such circumstances to document the impact and proposed mitigation measures to ensure no net loss of shoreline ecological functions.</p>
5	Timber Cutting		
	<p>a. Timber cutting along shorelines, especially within sloped areas, including feeder bluffs, promotes slope instability and degrades shoreline ecological functions. The draft must delete the authorization for timber cutting along shorelines.</p>	4, 6, 17, 32	<p><u>Change not recommended.</u> Timber harvest alone as part of a Forest Practice is not considered development under the SMA and therefore does not require shoreline review. Forestry is an allowed use per the Shoreline Management Act (SMA). Tree removal that is not part of a Forest Practice is regulated by the SMP, specifically 14.26.380, Vegetation Conservation.</p>
	<p>b. Temporary access roads. The Planning Commission recommendations include that logging roads within the shoreline zone be exempt from the requirement of submitting a substantial development</p>	14, 17, 19, 27, 32	<p><u>Change not recommended.</u> Staff acknowledges that per Ecology, any Forest Practice activity beyond timber cutting (temporary or permanent) is considered development and subject to the SMP. The WAC considers the construction of temporary access roads as “development.” The BOCC agreed with the Planning Commission recommendation and included</p>

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	<p>permit. You should reject this Planning Commission recommendation, for the following reason: Forest practices under the Forest Practices Act are already exempt because they are adequately covered by that Act.</p>		<p>temporary access roads as part of the timber cutting activity that would not require shoreline review.</p>
6	<p>Shoreline Buffer Reduction and Variance</p> <p>a. The Planning Commission’s recommendation to allow shoreline buffers to be reduced from between 25% to 50% with only an administrative variance must be rejected. Such reductions should be limited to no more than 25% as recommended by the WA Department of Ecology. It is very important to prohibit administrative variance reductions without citizen input. It is also concerning to allow any buffer reduction up to 25% without more than an administrative review.</p>	6, 8, 10, 14, 17, 19, 22, 27, 32, 36	<p><u>Change not recommended.</u></p> <p>It is important to keep in mind, the shoreline variance criteria remains the same between an administrative variance and a standard variance and both are reviewed by Ecology in identical fashion. The only difference between the two is one may be approved administratively by the Administrative Official versus a more extensive review process before a hearing examiner. Notice requirements are consistent with WAC 173-27-110. See SCC 14.26.710 (2). In all circumstances, an applicant will need to document adherence to mitigation sequencing in SCC 14.26.305.</p> <p>Buffer reductions up to 25% are a common practice under shoreline and critical areas management across many jurisdictions in WA. Buffer reductions with mitigation allows for potential ecological improvements in buffer function (e.g. planting native vegetation).</p>
7	<p>Riparian Buffers</p> <p>a. The SMP update should adopt State of Washington Department of Fish and Wildlife’s up-to-date buffers that are based on science, to protect Chinook and other salmon and the prey on which they rely. At a minimum, buffers should be one site potential tree height (SPTH).</p>	6, 17, 29, 31	<p><u>Change not recommended.</u></p> <p>The County acknowledges that the Washington Department of Fish and Wildlife (WDFW) has issued new management recommendations for riparian management zones. Although the County is not proposing the use of the term Riparian Management Zone, the proposed 200-foot buffers on shoreline rivers is consistent with the protection measures recommended by WDFW. The County prepared a technical memorandum, dated 12/16/2021, to assess the consistency between WDFW recommendations and the proposed SMP. The memo is attached at the end of this summary document.</p>

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8	Aquaculture a. Regarding upland structures associated with an aquaculture use (14.26.415(4)(b), what happens when the parcel is fully encumbered by a buffer?	29	<u>Comment noted.</u> Upland structures associated with an aquaculture use could be allowed within a shoreline buffer if the structure is water-dependent per SCC Table 14.26.310-1, footnote 1. Any such structures would need to follow mitigation sequencing per SCC 14.26.305. If the upland structures are not water-dependent, they would need to comply with the applicable buffers listed in SCC Table 14.26.310-1. If the upland structures cannot be located outside of the shoreline buffer and are still encumbered after buffer reduction mechanisms are applied, the development may qualify for a shoreline variance per SCC 14.26.735.
	b. The SMP must prohibit all commercial net pens, especially in light of the failure of net pens off Cypress Island in 2017 that released thousands of Atlantic Salmon. The SMP must be revised to: 1. Amend Table 14.26.405-1, Shoreline Use and Modifications Matrix for Aquaculture Net Pens from a Conditional Use (CU) to a prohibited (X) 2. Amend 14.26.415(7), Net Pens, by striking the current language and replacing with: (a) New commercial net pen aquaculture operations to propagate non-native finfish or native finfish species in marine waters is prohibited.	6, 17, 25, 35	<u>Change not recommended.</u> New commercial net pens for nonnative finfish aquaculture are proposed as prohibited. The County would allow new commercial net pen aquaculture for native species. However, any application for new net pens would go through a Shoreline Conditional Use permit review per the Uses and Modification Matrix in SMP Section 14.26.405 and comply with specific application requirements per SMP Section 14.26.415 which includes a requirement that the applicant demonstrate “that the native fish and wildlife resources will not be significantly impacted.”
9	Protect Eelgrass and Kelp Beds a. Protect eelgrass and kelp beds from new dock construction and boat	6, 17, 31	<u>Change not recommended.</u>

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	canopies. The draft SMP would allow the construction of new docks, boat canopies and other overwater structures to extend over protected kelp and eelgrass beds.		<p>The BOCC draft SMP version includes a new definition of Critical Saltwater Habitat. This definition includes kelp and eelgrass beds. Please also see SCC 14.26.575(2) which includes restrictions on impacting critical saltwater habitats.</p> <p><i>(2) Critical Saltwater Habitat Standards. Any proposed uses or modifications may not intrude into or over critical saltwater habitats except when all of the conditions below are met:</i></p> <ul style="list-style-type: none"> <i>(a) The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;</i> <i>(b) Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;</i> <i>(c) The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat; and</i> <i>(d) The project is consistent with the state's interest in resource protection and species recovery</i> <p>The department believes the language as written here protects critical saltwater habitats, but allows for restoration of the natural character and ecological functions of the shoreline.</p> <p>Any such public need would be firmly established prior to approval. State and federal agencies would also have jurisdiction over such development and would require their own permits/review.</p> <p>Furthermore, SCC 14.26.572(3) would require a Habitat Management Plan based on the Washington State Priority Habitat and Species (PHS) program.</p>
10	Public Access		

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	a. BOCC should support the Skagit County Planning Commission's recommendation to remove the Skagit Countywide Open Space Concept Plan from this SMP Update.	7	<u>Change not recommended.</u> The Skagit County UGA Open Space Concept Plan is referenced in the public access provisions of the SMP update but is not binding. Together with the Comprehensive Parks and Recreation Plan, it provides guidance for where public access may be most beneficial to the public. The SMP update simply encourages that public access be consistent with these two documents.
	b. With respect to the substance of Section 14.26.350(3) we are very concerned about the consequences of requiring public access to new public structural flood hazard reduction measures, including dikes and levees as provided for in Section 14.26.350(3)(b).	26	<u>Change not recommended.</u> The County recognizes that, based on agreements and ownership, dike districts may not have the ability to grant public access. The provision in SMP Section 14.26.350(3)(d) which requires public access, where feasible , on new public structural flood hazard reduction measures, such as dikes and levees is specifically derived from WAC 173-26-221(3)(c). There are areas within Skagit County where agreements have been reached for public access along portions of dikes on a marine shoreline and a river shoreline. Prohibiting such cooperative agreements in the SMP isn't the best way to address the concern raised here. The SMP, as written, provides for discussion and opportunities for the consideration of public access when new public structural flood hazard reduction measures are being proposed. It does not require public access and the concerns raised by the commenters are valid reasons for showing such access isn't feasible.
	c. Table 14.26.405-1 lists water-oriented Recreational Uses as allowed via a CU or SD/E, this includes docks, ramps, and floats as water-dependent forms of recreation. However, docks and launch ramps are prohibited under Boating Facilities in the Natural Environment. Please clarify that public access and recreation, including public docks and launches, on publicly owned land is allowed in all environmental designations when	29	<u>Change recommended.</u> The County recognizes that clarity is needed regarding public access docks. The following changes are recommended. In the Uses and Modifications Matrix, SCC Table 14.26.405-1, under Boating Facilities and Related Structures and Uses, add a footnote to "Dock, community" and "Launch ramp" by the "X" in the Natural designation. The footnote would read: <i><u>Community docks and launch ramps for public access within the Natural shoreline environment designation require a Shoreline Conditional Use Permit.</u></i>

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	sited appropriately and meeting all protective measures of the SMP to preserve the resources and ecology of the shoreline.		Add the following dock description to the Applicability section in SCC 14.26.420(1). <i><u>(a)(i)(E) "Public access dock," meaning a dock exclusively for public access, owned, developed and maintained by a public entity.</u></i> Revise SCC 14.26.420(3)(b) to read: <i>For all new or expanded marinas, launch ramps, <u>public access docks</u>, and commercial or industrial docks, other than residential docks, applicants must provide an assessment of need and demand, including, but not limited to, the following:</i>
11	Well Drilling on Guemes Island		
	a. Well drilling regulations are not being applied or enforced on Guemes Island when landowners decide to drill a well without applying for a building permit. Language needs to be added that no wells be drilled within 200 ft of the ordinary high water mark in areas of saltwater intrusion and wells drilled within 1,000 feet of marine shorelines should have a hydrogeological study prior to drilling to avoid further seawater intrusion and damage to existing wells.	8, 15, 17, 22, 23, 34, 37	<u>Change not recommended.</u> SCC 14.26.550, Seawater intrusion areas, has been incorporated into the SMP, consistent with the current Critical Areas Ordinance. Regulations for well drilling within shoreline jurisdiction are contained in this section.
	b. Rescind the Skagit County attorney's 2019 legal opinion that Skagit County cannot regulate wells drilled on Guemes Island if those wells are not linked to a development permit.	22, 34, 37	<u>Comment noted.</u> This comment does not pertain to the adoption of this SMP.
12	Impervious Surface Limits		
	a. The SMP's allowance for 25%-30% impervious surface conflicts with	17, 28	<u>Change not recommended:</u>

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	Ecology’s Guidelines that limits development to a maximum of ten percent total impervious surface area within the lot or parcel. WAC 173-26-211(5)(b)(ii)(D).		WAC 173-26-211(5)(b)(ii)(D) does recognize that scientific studies support a maximum lot coverage of 10 percent in the Rural Conservancy environment. However, this same subsection goes on to state, “Master programs may allow greater lot coverage to allow development of lots legally created prior to the adoption of a master program prepared under these guidelines. In these instances, master programs shall include measures to assure protection of ecological functions to the extent feasible such as requiring that lot coverage is minimized, and vegetation is conserved.” The added footnote to Table 14.26.310-1 acknowledges that new lots in Rural Conservancy created after the adoption of the SMP would need to comply with this 10 percent hard surface coverage limitation.
13	Nonconforming Structures a. Nonconforming single-family residences must be characterized as nonconforming structures (14.26.510(1))	17	<u>Change not recommended.</u> In 2011, the Legislature created a new option to allow local jurisdictions to classify legally established residential structures as conforming, even if they do not meet updated standards for setbacks, buffers, or yards; area; bulk; height; or density. Redevelopment, expansion and replacement is allowed, so long as it is consistent with the local SMP and No Net Loss requirements. See WAC 173-26-241(3)(j).
14	Monitoring of Shoreline Impacts a. SMP Update does not appear to establish the tracking mechanism required by the Guidelines to assess shoreline impacts.	17	<u>Change not recommended:</u> Monitoring of no net loss of ecological functions is not required at this time as part of the comprehensive and periodic updates of the County’s SMP. The County does anticipate that future comprehensive updates to the SMP will include an evaluation of no net loss compared to the baseline condition established during this update. While the County has not created an established tracking mechanism, the County monitors and records permit activity and will continue to do so following adoption of the SMP, consistent with SCC 14.26.790. Additionally, the County will track performance monitoring of mitigation projects.
15	Exemptions a. Change 14.26.720 (3)(a).	21	<u>Change not recommended.</u>

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	Requiring a letter of exemption for activity that does not require federal agency approval adds unnecessary work, time, and cost. To be consistent with WAC 173-27-050 a letter of exemption should only be required if WAC 173-27-050 (1) (a) or (b) apply		WAC 173-27-050 goes on to state in subsection (3), “Local government may specify other developments not described within subsection (1) of this section as requiring a letter of exemption prior to commencement of the development. The County requires a letter of exemption for all developments qualifying for a shoreline exemption in order to properly document shoreline activity, including potential impacts and necessary mitigation. An exemption from a shoreline substantial development permit is not an exemption from following shoreline regulations. The proposed development must still comply with the SMP.
	b. Additional exemptions should be granted to flood hazard reduction measures in the Applicability section of 14.26.350.	26	<u>Change not recommended.</u> The County cannot allow for additional exemptions beyond those provided in WAC 173-27-040.
	c. Section 14.26.350(2) should clearly distinguish and address the difference between “new” and “existing” reduction measures in order to maintain Skagit County’s dike and levee system viability repair, maintenance, and restoration	26	<u>Change not recommended.</u> Section 14.26.350(2) only applies to “new structural flood hazard reduction measures in shoreline jurisdiction.” The maintenance and repair of existing facilities would be addressed via the shoreline exemption criteria referenced in SCC 14.26.720. Modification to existing facilities that are beyond normal repair and maintenance would need to comply with this section.
	d. With respect to subsection (e) of Section 14.26.350, each of the drainage Member Districts of the Consortium have pragmatic permits for dredging work and currently obtain shoreline exemptions for this work. Section 14.26.350(3)(e) should include a specific exemption for such work.	26	<u>Change not recommended.</u> Please see the response to comment #15.b. The County cannot allow for additional exemptions beyond those provided in WAC 173-27-040. However, work that currently qualifies for a shoreline exemption will continue to be allowed under the same shoreline exemption criteria.
	e. The SMP should include a specific exemption providing that all flood fighting activities are exempt from the scope of the SMP	26	<u>Change not recommended.</u> Please see the responses to comments #15.b and c.
16	Dredging		

<p align="center">BOCC Public Comment Matrix <i>SUMMARY AND RESPONSE</i></p>			
Issue Ref. No.	Summary of Concern <i>Complete comments are attached</i>	Comment Number(s)	Department Response
	a. Dredged material disposal. Amend both policy (6C – 8.5) and regulation to allow disposal of dredged spoils within the channel migration zone as a form of mitigation as long as it does not fill wetlands or result in other negative impacts. Consider dredge disposal as mitigation for dredging when designed to benefit habitat and maintain sediment supply and transport. Applicable regulations include Table 14.26.405-1 and 14.26.435(2)(g).	29	<u>Change not recommended.</u> The County acknowledges that the disposal of dredged material can have beneficial aspects in some circumstances, including, as the commenter points out, providing for future supply of lost sediment contribution in aquatic areas. The SMP does not prohibit such dredged material disposal. Rather, the County’s approach is cautionary, providing guidance as to when such disposal may be allowed. Per Table 14.26.405-1, disposal of dredged material inside a floodplain may be allowed as a conditional use. Furthermore, dredge disposal outside of a floodplain may be allowed with an SD/E permit in all but the Natural environment designation. Dredge material disposal for the purposes of restoration is also allowed in all environments.
	b. In 14.26.435(2)(c), recognize that maintenance dredging is necessary to remove accumulated sediment that would impair the functionality of in-water structures that are part of WDFW managed finfish hatcheries. The sediment removal is restricted to reestablishing the existing contours in the immediate vicinity of the structure and necessary to maintain a preferred water-dependent use and lawfully established use	29	<u>Change not recommended.</u> WDFW managed finfish hatcheries are considered an aquaculture use. Per SCC 14.26.435(1)(b)(i), the Dredging and Dredged Material Disposal section does not apply to “Removal of bed material waterward of the OHWM or wetlands that is incidental to an otherwise authorized use or modification (e.g. agriculture, aquaculture, shoreline crossings, bulkhead replacements), which is regulated by the section governing the associated use or modification.” Therefore, dredging of the WDFW managed finfish hatcheries would be allowed to maintain an ongoing aquaculture use per Table 14.26.405-1.
17	Others c. Replacement of legally existing residences: Add redevelopment or replacement to “How do I use this document?” (4) on page 4: What if you just want to repair, redevelop, or expand an	21	<u>Change not recommended.</u> “Redevelopment” is not a term used in this document or Skagit County Code Title 14. “Replacement” is already included in Part VI, which links from the READ ME >> About this Document

BOCC Public Comment Matrix <i>SUMMARY AND RESPONSE</i>			
Issue Ref. No.	Summary of Concern <i>Complete comments are attached</i>	Comment Number(s)	Department Response
	<p>existing structure or modify an existing use?</p> <p>Add the term redevelopment or replacement, as applicable, to section 14.26.620 (3).</p>		<p>SCC 14.26.620(4) addresses the replacement of pre-existing single-family residences and appurtenance structures, referencing SCC 14.26.650(4), Replacement, which states:</p> <p><i>(a) A structure damaged or destroyed by fire, natural disaster, or other casualty may be reconstructed to the configuration existing immediately prior to the time the development was damaged, if all of the following occur:</i></p> <p><i>(i) The applicant submits a complete application for reconstruction or replacement within 12 months of the date the damage occurred. The applicant may request a 12-month extension of the period to submit application for reconstruction or replacement prior to the expiration of the original 12- month period. Such a request is a Level I application. The County may grant the extension if the applicant has made a good faith effort to submit a complete application, and extenuating circumstances beyond the applicant’s control (not market conditions or financing delays) have delayed submittal of a complete application.</i></p> <p><i>(ii) The applicant obtains all permits and completes construction within five years.</i></p> <p>Also note, SCC 14.04 Definitions include the following terms:</p> <p>Remodel: <i>to renew, renovate or make over a part of an existing building for the purpose of its appearance or layout. Remodel may include repair or relocation of interior walls but does not include repair, replacement or relocation of any of the exterior floors, walls or roof.</i></p> <p>Repair: <i>the reconstruction of a part of an existing building for the purpose of its maintenance or as a result of damage. Repair may include replacement of individual components of an assembly, such as components of a wall or a</i></p>

BOCC Public Comment Matrix <i>SUMMARY AND RESPONSE</i>			
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			<p><i>roof, but does not include replacement of the entire assembly. Where repair is required to more than 75% of the assembly, the assembly is considered to be replaced.</i></p> <p>Replacement: <i>to put something new in place of something existing as a substitute, such as a building or structure, or part of a building or structure. When the value or extent of the work proposed, as determined by the Department, exceeds 75% of the preconstruction value or extent of the building, structure or assembly, the building, structure or assembly is deemed to be completely replaced.</i></p>
	d. Correct inconsistencies between sections. Change floor area to footprint in 14.26.515 (3) (b) and (d), to be consistent with 14.26.620 (3)(a)(ii)	21	<p><u>Change not recommended.</u> The mentioned sections are intentionally written with the specific terms of “floor area” and “footprint.” SCC 14.26.515(3) is addressing when a critical areas review is necessary. In this instance, floor area is relevant as it also relates to increased height and any potential impact such an increase in floor area may have on critical areas. This is different from SCC 14.26.620(3), which defines minor expansion of a pre-existing single-family residence and appurtenant structures.</p>
	e. Site Specific Considerations: Individual property owners concerned for regulations impacting specific sites and the resulting impact on future development. Concerns include increased runoff from upland development and mining activity.	9, 24	<p><u>Comment noted.</u> Site specific considerations related to existing and future development are reviewed at the time of a development application.</p>
	f. Who will bear the burden of implementation of these regulations? I hope you will ask yourselves these questions before signing the adopting ordinance.	11	<p><u>Comment noted.</u></p>
	g. The SMP’s opening recital should include a statement that the SMP also	26	<p><u>Change not recommended:</u></p>

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	balances the management of flood protection and control as well as drainage		The County acknowledges that there are many other specific considerations that could be included in the SMA priorities. In general, the stated goals include consideration of the obligations of the Special Purpose Districts.
	h. Is the Skagit County Code reference set forth in Section 14.26.350(3)(d) intended to reference SCC 14.26.370 rather than .360?	26	<u>Comment noted.</u> Section 14.26.350(3)(d) correctly references SCC 14.26.370. Internal hyperlink has been corrected for the BOCC Public Review draft.
	i. For policy 6C-11.4, please clarify if this is limited to new instream structure proposals or if it also applies to the maintenance of existing instream structures. If it applies to maintenance, please be clear if the enhancement of ecological functions or improvement to ecological processes is required only when there are adverse impacts requiring mitigation or if it is required in all scenarios	29	<u>Change not recommended:</u> Policy 6C-11.4 is intended for new or modified instream structures. Maintenance of such structures should be considered an exempt activity per WAC 173-27-040. However, maintenance activities that result in shoreline impacts would need to provide mitigation and document achievement of no-net-loss of ecological functions.
	j. After the SMP is approved by the Department of Ecology, will we then move from 36.70 to 36.70A?	42	<u>Comment noted.</u>

Attachment A – Response to Comment #27

The table below includes comments submitted on Skagit County’s Draft Shoreline Master Program on behalf of the Swinomish Indian Tribal Community (SITC) and the Skagit River System Cooperative (SRSC) on March 31, 2022.

Attachment A – Response to SITC and SRSC Comments (Comment #27)			
Topic	Comment Number	Comment, Concern, or Proposed Change	Department Response
Overarching Issues			
Best Available Science	1	The SMP fails to use “most current, accurate, and complete scientific and technical information available,” and little update to sources occurred in years of SC SMP languish. The SMA’s protective policies should be understood broadly rather than narrowly, as should Ecology’s rules to implement the Act. The SC SMP must incorporate “most current, accurate, and complete Scientific information” including consideration of climate change impacts.	<p><u>Change to be considered.</u> The County completed a detailed shoreline inventory and characterization report (2014) as part of the comprehensive update of the SMP. This report summarized existing ecological functions along all County shorelines, including a description of relevant science pertaining to these functions. Additional documents have also been completed as part of this update, which include applicable scientific and technical information, including a cumulative impacts analysis and shoreline restoration plan. Recently, the County completed a technical memorandum addressing WDFW 2020 riparian management recommendations (see BOCC Public Comment Matrix, response to comment #7a)</p> <p>Please also see the attached supplement to the BOCC Public Comment Matrix and the County’s policy and regulatory considerations addressing climate change.</p>
Climate Change	2	SMP does not acknowledge the ambulatory nature of the OHWM, its expected landward migration in marine and fluvial systems under climate change and SLR, or its jurisdictional impacts of these events on Shoreline Environment Designations.	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
Policy Statement 6G-1	3	Policy statement 6G-1 undermines the requirements of the Act; this section uses ‘should’ but county must use “shall” to meet No Net Loss achievement at programmatic and project level.	<p><u>Change not recommended.</u> “Should” is an appropriate statement in a policy.</p>

Attachment A – Response to SITC and SRSC Comments (Comment #27)

Topic	Comment Number	Comment, Concern, or Proposed Change	Department Response
<i>Mitigation</i>	4	Mitigation plans must recognize the need to account for failure, climate change, temporal dimensional lost ecosystem services when mitigation is delayed, and for uncertainty.	<p><u>Change not recommended.</u> Mitigation plans should be developed for success, not failure. However, SCC 14.26.305(6), Mitigation Plans, includes under subsection (f) the requirement for a “contingency plan if mitigation fails to meet established success criteria.” The County does recognize, as noted in the SMP’s cumulative impacts analysis, that temporal losses may occur along with continued degradation of ecological functions in some instances. Implementation of the shoreline restoration plan over time, may help offset such degradation.</p> <p>Furthermore, SCC 14.26.514(4)(c) outlines the requirements for a critical areas site assessment, including an assessment of cumulative impacts (iv), a description of the application of mitigation sequencing (vi), and a mitigation plan that includes maintenance and monitoring responsibilities (vii). Subsections (5) and (6) of section .514 also include the requirements for achieving no net loss and financial assurances, respectively.</p>
<i>Water Quality</i>	5	The Water Pollution Control Act must be complied with in the SMP. The SMP should reference that document to ensure those water quality standards are met.	<p><u>Change not recommended.</u> The County does not have authority to regulate or enforce the Water Pollution Control Act. Ecology is the state regulatory agency under RCW 90.48.</p> <p>Shoreline Management Act authority from RCW 90.58 is addressed in SCC 14.26.150(1) and (2).</p>
<i>Aquaculture</i>	6	New aquaculture should not be permitted in Shorelines of Statewide Significance unless it satisfies policies of RCW 90.58.020.	<p><u>Change not recommended.</u> See department response to Issue Ref. No. 8 (b) in BOCC Public Comment Matrix.</p>

Attachment A – Response to SITC and SRSC Comments (Comment #27)

Topic	Comment Number	Comment, Concern, or Proposed Change	Department Response
<i>Dredging</i>	7	The SMP allows dredging in typed streams, CMZs, and floodways if deemed an agricultural activity/maintenance dredging. That would be in violation of state and federal rules. The SMP must only allow dredging when otherwise allowed, as stated in Policy 6C-8.1.	<u>Change not recommended.</u> Policy 6C-8.1 states that “Dredging and dredge material disposal proposals should be consistent with the plans, policies, guidelines, and regulations of applicable federal, state, and local agencies.” Dredging is an allowed activity in certain shoreline environment designations per the Use and Modifications matrix and for certain specific activities per SCC 14.26.435(2)(c). These allowances are consistent with State law and applicants would need to comply with all applicable federal rules.
Recommended Changes			
<i>Shoreline Jurisdiction</i>	8	The County selected the minimum (not maximum) extent of shoreline jurisdiction allowed. Recommend jurisdiction include full 100-year floodplain. Channel Migration Zone (CMZ) references removed from 2016 to 2020 drafts should be replaced.	<u>Change not recommended.</u> The County’s regulated shoreline jurisdiction is consistent with State law and is the minimum extent defined in RCW 90.58.030. Reference to channel migration zone (CMZ) maps were removed from the current draft because such maps have not been finalized by the County.
	9	SC SMP limits jurisdiction to critical areas and their buffers ‘located wholly within’ shoreline jurisdiction; it is minimum not maximum protection. Recommend SC SMP jurisdiction (especially for statewide significant shorelines) should include CAO/buffers partly within shorelines.	<u>Change not recommended.</u> See response to item #8 above.
	10	County should commit to publicly available maps and GIS products depicting floodplain, floodway, wetlands, feeder bluffs, landslide hazard areas, and CMZs.	<u>Comment noted.</u> The County’s shoreline jurisdiction and shoreline environment designation maps were developed using publicly available information, including GIS products.
<i>Shoreline Environment Designations</i>	11	SMP does not fully make use of SEDs to ensure an adequate level of protection to shoreline resources and recommend adding “Priority Aquatic” SED.	<u>Change not recommended.</u> Development within the Aquatic designation is already restricted under numerous sections of the County’s SMP, including the Fish and Wildlife Habitat Conservation Area specific provisions in SCC 14.26.573 through SCC

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			<p>14.26.575, Boating Facilities and Related Structures and Uses provisions in SCC 14.26.420, and General Provisions Applicable Waterward of the OHWM in SCC 14.26.330. Adding an additional SED for a special aquatic designation is not recommended by the Department.</p>
	12	<p>Specific map revisions suggested in Appendix A were not addressed. These include areas of Young Island, Allan Island, west end of Samish Island, Secret Harbor on Cypress Island, and Hart Slough/Hart Island/Sterling area,</p>	<p><u>Change being considered.</u> The County recognizes that the ownership of Young Island changed to Washington State Parks in 2015 and is now part of the San Juan Marine State Park Area. The County is considering a change of the shoreline environment designation from Rural Conservancy to Natural.</p> <p>For context (emphasis added), the purpose of the Rural Conservancy shoreline environment designation (Policies 6B-4) is <i>“to protect ecological functions, conserve existing natural resources and valuable historic and cultural areas, provide for sustained resource use, achieve natural floodplain processes, and provide recreational opportunities. Examples of uses that are appropriate in a Rural Conservancy environment include low-impact outdoor recreation uses, forest production, agricultural uses, aquaculture, low intensity residential development and natural resource-based low-intensity uses.”</i></p> <p>This is different from the purpose of the Natural shoreline environment designation (Policies 6B-3) which is <i>“to protect those shoreline areas that are relatively free of human influence or that include intact or minimally degraded shoreline functions. Only low intensity uses should be allowed in order to maintain the</i></p>

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			<p><i>ecological functions and ecosystem-wide processes.”</i></p> <p>Contrary to the comment in Appendix A, Allan Island is different from Burrows Island in that Allan Island is completely in private ownership with the likelihood of further low intensity residential development. The Rural Conservancy designation is appropriate in this case. No change is proposed.</p> <p>Regarding Hart Island/Hart Slough/Sterling area, the shoreline environment designation maps are based on existing data sources gathered during the development of the shoreline inventory. The maps and the data used to develop them are indications for future planning. However, upon further evaluation, typically at the time of a development application, areas that were not previously mapped as part of shoreline jurisdiction may be found to be jurisdictional. SCC 14.26.210, Interpretation, includes the following language applicable to this circumstance:</p> <p style="padding-left: 40px;"><i>(4) All other areas that were not mapped in shoreline jurisdiction, but which do meet criteria in SCC 14.26.140 Shoreline Jurisdiction, must be assigned a Rural Conservancy designation until the shoreline can be formally designated through an SMP amendment.</i></p>
	13	SC SMP fails to meet the heightened standards for protecting these special shorelines. There should be a separate section under General Regulations that highlights and provides regulations for the considerable expanse of areas that are Shorelines of Statewide Significance.	<p><u>Change not recommended:</u> The SMP acknowledges shorelines of statewide significance in both identification and listing of use preferences in the Comprehensive Plan Chapter 6 Shoreline</p>

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Topic	Comment Number	Comment, Concern, or Proposed Change	Department Response
			Master Program Element, Section 6A. Furthermore, the County has included a shoreline buffer of 200 feet (the full minimum extent of shoreline jurisdiction) along all Type S rivers and streams, significantly limiting impacts to these shoreline areas.
	14	SC SMP should specify Swinomish Tribe among those to be consulted with expertise/status rights as an adjacent jurisdiction.	<u>Change not recommended:</u> SCC 14.26.590, Interdisciplinary team, includes local, State, Tribal or Federal representatives with expertise. Such an interdisciplinary team may be used by the Administrative Official, Hearing Examiner, or other appropriate hearing body as deemed necessary to assess a proposal or make a determination.
	15	SC SMP should ensure “long term over short term benefit”.	<u>Comment noted.</u> The SMP includes specific policies aimed at ensuring long term benefit. See the following examples: <i>6B-7.2 Uses that preserve the natural character of the area or promote preservation of open space, floodplain, or sensitive lands either directly or over the long term should be the primary allowed uses. Uses that result in restoration of ecological functions should be allowed if the use is otherwise compatible with the purpose of the environment and the setting.</i> <i>6G-4.1 Do not degrade waters. The location, construction, operation, and maintenance of all shoreline uses and developments should maintain or enhance the quantity and quality of surface and groundwater over the long term.</i>
	16	We applaud some progress in 14.26.305(4)-(6) to address the importance of mitigation in NNL, but some statements obscure the import of NNL	<u>Change not recommended:</u> SCC 14.26.305(6), Mitigation Plan, includes the statement that mitigation in excess of what would otherwise be required to maintain no net

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		applicability to ecological function, processes, and values on local and ecosystem scale.	loss, may be voluntarily performed by an applicant. Such individual restoration activities and larger restoration projects, along with broader implementation of the County’s shoreline restoration plan, should exceed the baseline ecological condition.
	17	The mitigation sequence does not convey the “top priority” for avoiding the impact altogether.	<u>Change not recommended:</u> The mitigation sequencing listed in SCC 14.26.305(5), Mitigation Sequence, includes the following as the first sequential action to follow: <i>(a) Avoid the impact altogether by not taking a certain action or parts of an action;</i>
<i>Provisions waterward of OHWM</i>	18	Concerned that the County is abandoning efforts to delineate the CMZ and incorporate those into the SC SMP; CMZ terminology from Feb 2021 to Apr 2021 drafts is replaced with ‘floodplain’ which refers back to FEMA floodplain developed in the 1980s.	<u>Comment noted.</u> The County’s efforts to map the channel migration zone (CMZ) are not complete. In the interim, the County will use the FEMA floodplain as a proxy for the CMZ until such maps are finalized and approved.
	19	Restore CMZ references in Flood Hazard Reduction section.	<u>Change not recommended.</u> See response to item #18 above.
<i>Flood Hazard Reduction</i>	20	Clarify “reasonably foreseeable” to a less subjective definition. (Suggest 75 years).	<u>Change not recommended.</u> WAC 173-26-221(3)(c)(i) includes the term reasonably foreseeable. <i>(c) Standards. Master programs shall implement the following standards within shoreline jurisdiction:</i> <i>(i) Development in flood plains should not significantly or cumulatively increase flood hazard or be inconsistent with a comprehensive flood hazard management plan adopted pursuant to chapter 86.12 RCW, provided the plan has been</i>

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			<p><i>adopted after 1994 and approved by the department. New development or new uses in shoreline jurisdiction, including the subdivision of land, should not be established when it would be reasonably foreseeable that the development or use would require structural flood hazard reduction measures within the channel migration zone or floodway. The following uses and activities may be appropriate and/or necessary within the channel migration zone or floodway:</i></p>
Vegetation Conservation	21	Native vegetation (retention and planting) in the shoreline is not emphasized. Recommend changes to prioritize shoreline planting and retention.	<p><u>Change not recommended.</u> Emphasis on native vegetation is used throughout the SMP. For emphasis on retention, see the following examples: 14.26.370(3)(a), 14.26.380(3)(c)</p> <p>For emphasis on planting see the following examples: 14.26.370(b), 14.26.380(2)(f), 14.26.380(3)(b) and (f), 14.26.420(5)(c), 14.26.460(4)(f), 14.26.475(1)(a)</p>
	22	Unclear language between ‘vegetation retention’ and ‘tree retention’.	<p><u>Change not recommended.</u> Tree retention is specifically included in SCC 14.26.380, Vegetation Conservation, in order to clearly identify the importance of retaining significant trees and, where necessary to be removed, appropriate mitigation is conducted.</p>
	23	The proposed 3:1 replacement ratio is insufficient (temporal lag, failure rates) for replacing lost mature trees with 3 small seedlings.	<p><u>Change recommended.</u> Removal of significant trees is limited in the SMP. SCC 14.26.380(3)(d) addresses significant trees. Subsection (i) states, “<i>Within critical areas or their buffers, unless otherwise allowed by SMP Part V, Critical Areas, or other sections of this SMP, significant tree retention must be 100 percent.</i>” Furthermore, tree removal outside of critical areas or their buffers is limited by clearing limits per shoreline</p>

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			<p>environment designation in subsection (d)(ii). Allowed removal of significant trees outside of critical area and their buffers, may be removed per an approved allowed use, but significant tree removal must be mitigated at a three to one ratio.</p> <p>More specifically, SCC 14.26.380(3)(f)(ii)(B) addresses the compensation for temporal loss of function and restoration of specific functions adversely impacted by unauthorized vegetation removal. This section is in addition to the authority under Enforcement. In a case where significant trees were cut without approval, the County could require a higher ratio of replacement, if it is shown that it is necessary to restore specific functions impacted by their removal.</p> <p>In response to the acknowledgment of this temporal loss, the County suggests including the following edit to subsection (f) to include a higher minimum replacement ratio.</p> <p>SCC 14.26.380(3) <i>(f) Restoration.</i> <i>(i) When required. In addition to enforcement pursuant to SCC Chapter 14.44, restoration is required whenever any of the following events occur:</i> <i>(A) Vegetation designated to be retained pursuant to an approved retention plan is damaged or dies prior to issuance of occupancy permits or release of any performance assurance bonding;</i> <i>(B) Vegetation is removed without County authorization. Any significant</i></p>

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Topic	Comment Number	Comment, Concern, or Proposed Change	Department Response
			<i>trees must be replaced at a minimum 6:1 ratio.</i>
	24	Need assurance that trees planted are maintained and monitored, including thru change in ownership. Need requirement for maintenance, monitoring, deed notice, and surety.	<p><u>Change not recommended.</u> See SCC 14.26.515(4)(c), which requires as part of a critical areas site assessment, “A proposed mitigation plan including land use restrictions and landowner management, maintenance and monitoring responsibilities.”</p> <p>See also SCC 14.25.520, which includes Protected Critical Areas Records and Binding Agreements. Subsection (3)(b)(i) states, “Binding agreement signed by the landowner and the Administrative Official which stipulates any special conditions of approval, protective covenants, binding conditions, or other requirements such as use restrictions, required mitigation, and/or landowner maintenance or monitoring requirements established at the time of approval.”</p>
	25	Policy 6G-3.2 prioritizes conifers, but that policy is not carried through to regulations. Recommend specifying conifers be emphasized and/or specified in code/prioritized lists of vegetation.	<p><u>Change recommended.</u> The County agrees with this comment and suggests the following edits to SCC 14.26.380, Vegetation Conservation.</p> <p>SCC 14.26.380(3) <i>(c) Development or uses must be designed and located to avoid the following in descending order of priority, <u>recognizing native conifer as a preferred tree species:</u></i> <i>(i) Native significant trees;</i> <i>(ii) Non-native significant trees;</i> <i>(iii) Native non-significant trees;</i> <i>(iv) Other native vegetation;</i> <i>(v) Other non-native vegetation.</i></p> <p>SCC 14.26.330(3)(d)</p>

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			<p>(v) <i>Replacement trees. When replacement trees are required, the following requirements apply:</i></p> <p>(A) <i>Replacement trees must replicate the vegetation appropriate to the site in species types and densities, with preference given to native conifers.</i></p> <p>(B) <i>Replacement trees may be placed in other locations on the property, as approved by the Administrative Official.</i></p> <p>(C) <i>Where conditions allow, native replacement trees should be placed in onsite wetlands or wetland, stream or shoreline buffers if doing so would improve function of the critical area or its buffers.</i></p> <p>(D) <i>A tree retention plan must be prepared and meet the requirements for restoration plans set forth in (f)(ii)(A), (B), and (C) of this section.</i></p>
Water Quality and Nonpoint Source Pollution	26	Concerns about recent research/science recognizing pollution and runoff/contaminants of emerging concern. Recommend identifying Water Pollution Control Act and restricting tire crumbs in the shoreline.	<p><u>Change not recommended.</u> SCC 14.26.390(2) already includes limitation on construction materials that will adversely affect water quality or aquatic plants or animals. This provision allows the County to consider new science and emerging concerns.</p>
	27	Water quality below agricultural areas is poor. Recommend SC SMP ensure at a minimum, WA State WQ Standards for dissolved oxygen, temperature, fecal coliform, and other pollutants are met.	<p><u>Change not recommended.</u> All new agricultural uses and development will be subject to SCC 14.26.410, Agriculture. The development standards of subsection (2) detail out numerous provisions focused on ensuring protection of water quality.</p>
Aquaculture	28	Concerns regarding commercial finfish net-pen operations (both native and nonnative) due to disease, fish escape, ecosystem impacts, lighting; impacts to native wild fish; new science questions why pens are even “in” the water. Recommend prohibition of ‘commercial finfish net pens (native and non-native) in marine waters’.	<p><u>Change not recommended.</u> See department response to Issue Ref. No. 8 (b) in BOCC Public Comment Matrix.</p>

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	29	Strengthen requirements for review and permitting rather than minimizing the instances where review/permits are triggered to minimize impacts to environment and eelgrass.	<u>Change not recommended.</u> Triggers for shoreline permits are stipulated at the State level and implemented locally. The County is not proposing to change these triggers. In review of shoreline permits, the County is also following requirements to meet the no net loss standard. Key to this is following mitigation sequencing, as outlined in SCC 14.26.305. The Aquaculture section includes General Requirements (See SCC 14.26.415(4)) that stipulate design requirements and limitations on development that has the potential to impact eelgrass beds.
	30	Concern about a potential loophole between ‘new’ aquaculture and ‘expanded’ aquaculture; SRSC commented on this in 2013 and 2016 and needs a clear definition; SC SMP allows areas left fallow for many years to be ‘expanded’ and not ‘new’ with accompanying eelgrass other impacts.	<u>Change not recommended.</u> The language included in SCC 14.26.410, Aquaculture, was largely developed and agreed upon during the 2016 Shoreline Planning Committee meetings and included both tribal and aquaculture representation. The County does not recommend changing this language at this time.
	31	Add a regulation to accommodate Eelgrass that has grown into areas previously not vegetated (SLR prediction). Add a regulation for operations expansion/change/new proposals to be permitted as ‘new’.	<u>Change not recommended.</u> SCC 14.26.415(4)(e) uses the terms operations and managed: <i>(e) Aquaculture operations must be designed, located, and managed to minimize impacts to native eelgrass and macroalgae.</i> <i>(i) Aquaculture operations are not required to avoid impacts on eelgrass or macroalgae that colonizes an aquaculture operation.</i> <i>(ii) Aquaculture operations are not required to avoid impacts on non-native eelgrass.</i> Evaluating the potential impacts to eelgrass is an ongoing responsibility of the aquaculture operators as it is written in SCC 14.26.415(4)(e). If there are areas of new

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			colonization of eelgrass or macroalgae, the operators would be required to recognize them and minimize impacts from their operations.
	32	Revise Policy 6C-2.1 to more accurately capture the qualified embrace of aquaculture in Ecology’s regulations by including ‘when properly manage” statement.	<p><u>Change not recommended.</u> Policy 6C-2.1 already includes the statement requested and is found at the beginning of the second sentence.</p> <p><i>Aquaculture is an activity of statewide interest and should be encouraged. Properly managed, it can result in long-term over short-term benefit and can protect the resources and ecology of the shoreline. Shellfish aquaculture provides ecosystem services such as wildlife habitat and improved water quality through filtration.</i></p>
<i>Boating Facilities</i>	33	Derelict and unpermitted buoys present a navigational hazard/shellfish bed damage if they lose buoyancy. Recommend labels with SMP permit number and remove those that are in disrepair.	<p><u>Change not recommended.</u> Derelict and unpermitted buoys are an enforcement issue. Maintenance and legal use of buoys are the responsibility of the buoy owner.</p> <p>See SCC 14.26.330(19)(b) –</p> <p><i>(b) Abandoned or unsafe structures or materials, including treated wood, pilings, derelict structures, vessels, buoys, and equipment must be repaired promptly by the owner or removed after obtaining any necessary permits or approvals</i></p>
	34	Installations must prevent dragging anchor chains, such as anchored with a helical screw and mid-water float to avoid scour of bed.	<p><u>Change not recommended</u> This is already included in the SMP. Please see SCC 14.26.330(18):</p> <p><i>(18) Anchors. Floats, rafts, mooring buoys, and navigational aids, such as channel markers or buoys, must use helical screw anchors or other embedded anchors and midline floats or other</i></p>

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			<i>technologies to prevent anchors or lines from dragging or scouring, if feasible given local conditions and water depths. Floats and rafts may also be anchored with piles as provided in SCC 14.26.420 Boating Facilities and Related Structures and Uses.</i>
	35	County should track the location and density of buoys and under SC SMP monitoring report net change in mooring buoy density.	<u>Change not recommended.</u> See department response to Issue Ref. No. 14 (a) in BOCC Public Comment Matrix.
Dredging	36	Clarify reference to Fish and Wildlife Habitat Areas since ‘officially designated fish and wildlife areas’ is not defined.	<u>Comment noted.</u> Reference is located in SCC 14.26.435(2)(e), identifying where dredging is prohibited. This restricts dredging in designated spawning, nesting, harvesting and concentration fish, shellfish, and wildlife areas. Fish and wildlife habitat conservation area designations are defined in SCC 14.26.570(1).
	37	Provide vetting for dredging called ‘restoration and enhancement’ to ensure it provides benefits to fish and wildlife habitat.	<u>Comment noted.</u> The County will review all dredging applications in detail. Those applications for dredging for the purposes of restoration or enhancement per SCC 14.26.435(2)(c)(v) would be required to document compliance with this provision, including documented benefit to water quality or fish and wildlife habitat or both.
	38	Additional agencies have jurisdiction over agricultural activities, but SC SMP only offers the NW Clean Air Agency. Recommend adding WA Ecology, FEMA.	<u>Change not recommended.</u> Reference to the Northwest Clean Air Agency is given as an example state and regional agency in Policy 6C-1.4. Additional examples are not necessary.
	39	There are types of agricultural activities that are not exempted under 90.58.065, but SC SMP does not require substantial development permit for these activities.	<u>Change not recommended.</u> See department response to Issue Ref. No. 15 (b) in BOCC Public Comment Matrix.
	40	Definition of ‘channelization’ is unclear; definition for ‘debris’ is not offered. Recommend a new offered definition for ‘channelization’.	<u>Change not recommended.</u> These are common terms and do not need to be defined in the SMP.

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	41	The term “maintenance dredging” is undefined and confuses agricultural, ditch, and stream dredging with large scale navigation dredging like in the Swinomish Channel.	<u>Change not recommended.</u> See department response to Issue Ref. No. 16 (b) in BOCC Public Comment Matrix.
Residential Development	42	Beach stairs should be an accessory development and not an appurtenance. Recommend clarifying the separate treatment of accessory (suggest beach stairs, trams, docks) and appurtenant (septics, garage, deck, fence).	<u>Change not recommended.</u> The County has previously issued permits for such structures, but as accessory to development rather than an appurtenance. As such, they would require an SSDP rather than an exemption.
	43	Location of appurtenances should be landward to extent feasible.	<u>Change not recommended.</u> The siting of any appurtenance would need to go through mitigation sequencing per SCC 14.26.305, unless such structures are completely outside of an applicable buffer and setback.
	44	Location of crossing structures should minimize new culverts and bridges in the shoreline.	<u>Change not recommended.</u> Any proposed crossing structure would need to go through mitigation sequencing per SCC 14.26.305, which would need to document impact avoidance before minimization.
Structural Shoreline Stabilization	45	Hard shoreline stabilization definition doesn’t represent what is seen in practice. Recommend including ‘log timber piles, sheet piles, blanket application of angular rock including spalls and riprap’.	<u>Change not recommended.</u> Hard shoreline stabilization is defined in SCC 14.26.480(1) as involving “solid hard surfaces.” The comment examples would fall under this definition.
	46	Boulders should not be listed under soft shoreline stabilization. Without a clear definition in this code for “soft shoreline stabilization”, the inclusion of ‘boulders’ will allow shoreline stabilization measures to be permitted as ‘soft shoreline stabilization’ that do not follow the most current, accurate, and complete scientific and technical information available. They be a supporting element of a soft shoreline stabilization project, but should not serve as a primary feature which is implied in this code.	<u>Change not recommended.</u> See department response to Issue Ref. No. 4(b) in BOCC Public Comment Matrix.
	47	“When allowed” should include ‘when they comply with SCC 14.34 Flood Damage Prevention’.	<u>Change not recommended.</u> As noted in this sections Applicability statement, see SCC 14.26.480(1)(c), the

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			Structural Shoreline Stabilization section does not apply to flood hazard reduction.
	48	Upland use has effects on the need for structural shoreline stabilization. Recommend requirement for land use divisions designed that future development of created lots will not require stabilization from geologic or hydrologic conditions within 75 years.	<p><u>Change not recommended.</u> See SCC 14.26.350(3) which states that subdivision of land that would require flood control works is prohibited. The residential development section also includes the following development standard (see SCC 14.26.470(4)(a):</p> <p style="text-align: center;"><i>Plats and subdivisions must be designed, configured and developed in a manner that ensures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots.</i></p>
Transportation Facilities	49	Recommend avoiding “stream adjacent parallel roads.”	<p><u>Comment noted.</u> We are unsure of the context of this comment. No such phrase is in the SMP.</p>
Critical Areas	50	Offer increased specificity for Review and Assessment Reports – who is qualified to prepare and review.	<p><u>Change not recommended.</u> Please see the definition of Qualified Professional that is already included in SCC 14.14, Definitions. These Title 14 definitions would also apply in the SMP.</p> <p><i>Qualified professional: a person with experience and training in the applicable field or critical area. A qualified professional must have obtained a B.S. or B.A. or equivalent degree in biology, engineering, environmental studies, fisheries, geology or related field, and two years of related work experience.</i></p> <p>(1) <i>A qualified professional for watercourses, wetlands, and wildlife habitat conservation areas must have a degree in biology or related field and relevant professional experience in functional assessment and mitigation techniques.</i></p>

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			<p>(2) <i>A qualified professional for preparing geotechnical reports and geotechnical design recommendations must be a professional geologist or geotechnical engineer, licensed in the State of Washington.</i></p> <p>(3) <i>A qualified professional for critical aquifer recharge areas must be a hydrogeologist or professional engineer, licensed in the State of Washington, who is trained and qualified to analyze geologic, hydrologic, and groundwater flow systems.</i></p> <p>(4) <i>A qualified professional for stormwater management must be a professional engineer, licensed in the State of Washington, who is trained and qualified to design stormwater facilities.</i></p>
<i>Fish and Wildlife Habitat Conservation Areas, Buffers</i>	51	Lower Skagit Basin has 112 miles of impaired (T) water quality; the SC SMP fails to account for the substantial extent of impaired waters that limits salmon recovery.	<p><u>Comment noted.</u> The SMP includes many standards intended to protect riverine systems including a 200-foot buffers for Type S waters, vegetation conservation provisions that restrict clearing of vegetation, and mitigation requirements focused on improving buffer function.</p>
	52	SC SMP fails to provide comprehensive, integrated approach to vegetation conservation. Recommend restricting variances and buffer averaging along salmon streams or tributaries to salmon streams or a 2004 TMDL stream to achieve NNL.	<p><u>Change not recommended.</u> See response above under comment #51 and the department response to Issue Ref. No. 7(a) in BOCC Public Comment Matrix.</p>
	53	Establish protective dimensions for riparian and other buffers, require assessment to include density and diversity of trees, SPTH, current width of buffer.	<p><u>Change not recommended.</u> See department response to Issue Ref. No. 7(a) in BOCC Public Comment Matrix.</p>
	54	Expand the intent of buffers to include these ‘basic riparian forest functions’ including migration corridors, watering rearing, refuge areas, providing organic inputs; reduce fine sediment; regulate the microclimate.	<p><u>Change not recommended.</u> The BOCC already responded to the Planning Commission recommendation to add Microclimate and Nutrient Inputs to the list of</p>

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			riparian forest functions based on <i>James S. Brennan, Marine Riparian Vegetation Communities of Puget Sound, Puget Sound Nearshore Partnership Technical Report 2007-02, 1-2 (2007)</i> . The current proposed list of riparian forest functions in SCC 14.26.573 includes seven key functions which would include the ones recommended by the commenter.
	55	Add language that riparian areas shall maintain and work to restore 1 SPTH and restore the function and values of the CMZ.	<u>Change not recommended.</u> See department response to Issue Ref. No. 7(a) in BOCC Public Comment Matrix.
	56	Buffer averaging should only be allowed with a habitat conservation area site assessment.	<u>Change not recommended.</u> Per the introduction of SCC 14.26.572, any project within 300 feet of a fish and wildlife habitat conservation area requires a fish and wildlife HCA site assessment.
	57	Buffer averaging should be restricted on streams with existing water quality impairment.	<u>Change not recommended.</u> Per SCC 14.26.574(2), buffer width averaging would only be allowed if it “ <i>will not adversely impact the functions and values of fish and wildlife conservation areas.</i> ”
	58	Where does the table at the end of SCC 14.26.574 Performance Based Riparian Standards come from and what scientific information does it use? Ecology requires local government to ‘show its work’ when accounting for buffer variances.	<u>Comment noted.</u> The table of Performance-based Riparian Standards comes directly from the County’s CAO, SCC 14.24.540.
Setbacks	59	Recommend a setback from a marine feeder bluff of 50 feet from the top of slope (or 2x height of slope whichever is greater) for new construction.	<u>Change not recommended.</u> The County recognizes that there is high variability of shoreline conditions throughout the County’s marine shorelines. Therefore, the County relies on site-specific geotechnical site assessments. Per SCC 14.26.320(1)(c), <i>New development on steep slopes or bluffs must be set back sufficiently to ensure that</i>

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			<i>shoreline stabilization is unlikely to be necessary during the life of the structure, as demonstrated by a geotechnical site assessment and supported by the best scientific and technical information available, in accordance with SCC 14.26.475, 14.26.485, and 14.26.540.</i>
Shoreline Variances	60	The County's approach includes excessive discretion in administrative officials, no accountability to ensure no net loss is achieved, and fails to account for the degraded riparian habitat buffers and legally temperature impaired water quality in 112 miles of salmon streams. Recommend no variances on legally impaired water quality streams. Variances must be determined essential by the administrative official and required to provide written justification including cumulative impacts analysis.	Change not recommended. See department response to Issue Ref. No. 6(a) in BOCC Public Comment Matrix. See also response to comment #51 above.
<i>New Issues, Comments, and Proposed Code Revisions prompted by Feb. 15, 2022 Draft</i>			
Topic	Comment Number	Comment or Concern	Department Response
SCC 14.26.130(5)	61	This provision was added to the draft SMP stating that "As provided in RCW Title 85 and through the US Army Corps of Engineers PL 84-99 Program, the provisions of this SC SMP do not affect the authorities and powers of diking and drainage districts". Agriculture is addressed in Policy sections 6C-1 and SCC 14.26.410 making this code redundant. Exempt activities such as "ongoing agriculture" need to meet the requirements of the SMA for no net loss, so the SC SMP may affect districts' activities even in situations where no substantial development permit is required. To avoid confusion, SCC 14.26.130(5) should be stricken.	Change not recommended. SCC 14.26.130(5) was added to acknowledge that the diking and drainage districts have "authorities and powers" through federal entitlements.
Imprecise terminology in Aquaculture provision	62	New provision SCC 14.26.415(7)(b) was added to the SC SMP, but we are extremely concerned that imprecise technology will lead to misinterpretation of this provision. Concerned with the ecological impacts and risks associated with net pen aquaculture, and 'propagation' of fish is an extremely narrow task within the realm of net pen aquaculture. Strongly encourage code revision to eliminate the term 'propagation' and replace it with 'aquaculture' and rely on the definition of 'aquaculture' included in SCC 14.26.415.	Change recommended. The County agrees to the removal of the term "propagation" from SCC 14.26.415(7)(b). Revised text is below: <i>(b) A Conditional Use Permit is required for new commercial net pen aquaculture operations proposing to propagate rearing a native finfish species.</i>

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Overwater Canopies	63	<p>Table 14.26.420-1 was modified, removing the specification that boat canopies must use light-permeable fabric. Recommend that the new SMP code encourage removal/storage of the canopy during seasons of the year when the boat and canopy will not be in use. This would meet the desire to protect the boat during boating season, yet reduce shoreline impacts and provide for fuller ecological function on the lakebed for much of the year.</p>	<p><u>Change recommended.</u> The County agrees that the removal of a boatlift canopy should be encouraged during the off-season or when not in use for a significant period of time. See the following edit to Policy 6C-3.3:</p> <p><i>6C-3.3 Minimize shoreline modifications. Facilities that minimize the amount of shoreline modification, in-water structure, and overwater cover are preferred. In support of this, joint-use and community structures are encouraged to prevent proliferation of single-user structures. <u>Removal of boatlift canopies when not in use for significant periods during the off-season is encouraged.</u></i></p>

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<p style="text-align: center;">Temporary Access Roads for Forest Practices (SCC 14.26.445(1)(d))</p>	64	<p>Retain April 2021 provision regarding ‘temporary access roads.’ The added provision in the February 15, 2022 draft clearly violates the SMA definition of a development per RCW 90.58.030(3)(a). This provision added to the February draft provides an exemption to the SMA that is not allowed in the RCW.</p> <p>We are concerned about the impacts of a temporary access road that includes filling (surfacing, grading, importing non-native materials) within the floodplain and installation of crossing structures (culverts, bridges) within the floodplain. A temporary road constructed for use in Forest Practices that includes fill and/or culverts is clearly a development under state law, yet this provision exempts that development from adequate review.</p> <p>The drafted provision indicates that a temporary road must be properly abandoned, but there is no indication or guidance on proper abandonment. Further, without the oversight of a shoreline SSD or exemption, there is no agency nexus with Skagit County or DNR to ensure that road building and decommissioning within the protected riparian corridor are properly implemented. The types of activities that Skagit County are trying to exclude from their definition of Forest Practices and from the requirement of developments under the SMP are the harvest and retrieval of trees, logs, and timber. These types of harvest activities most certainly would affect damage to forest soils, timber, public resources, and their exclusion by Skagit County is not supported by the WAC.</p> <p>Skagit County should strike the new statement in SCC 14.26.445(1)(d) that exempts temporary access roads from the definition of development and retain the 2021 provision.</p>	<p><u>Change not recommended.</u> See department response to Issue Ref. No. 5(b) in BOCC Public Comment Matrix.</p>
<p style="text-align: center;">Decreasing Buffer Width (SCC 14.26.574(3))</p>	65	<p>Concerned about the reduced evaluation and increased staff discretion to grant a buffer reduction of up to 25%. It reduces the opportunities and notice for public review. Reduction of these protective buffers should be granted after careful consideration of the grounds for justification, risks, and impacts. The County should retain allowable buffer reductions only as a clear and transparent variance permit process, where there are clear standards to demonstrate need and adequate mitigation that is monitored for success with accountability measures.</p>	<p><u>Change not recommended.</u> See department response to Issue Ref. No. 6(a) in BOCC Public Comment Matrix.</p>

Attachment B - Response to Comment #28

The table below includes comments submitted on Skagit County’s Draft Shoreline Master Program by Kyle Loring on behalf of Evergreen Islands, Washington Environmental Council, RE Sources, Sierra Club, Skagit Audubon Society, Skagit Land Trust, and the Guemes Island Planning Advisory Committee. The submittal focuses strongly on incorporating sea level rise and climate change concerns into Skagit County’s SMP Update. Specific comments related to recommended changes are included in the table below. The commenters proposed language to be removed is shown in strike-through and proposed language to be added is shown in underline.

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
Shoreline Uses and Modifications Policies	1	New Policy 6C-6.5	<u>Essential public facilities should not be constructed in flood plains and areas of marine shorelines that are likely to be inundated by sea level rise during the anticipated life span of those facilities.</u>	Changes to be considered. See the attached supplement to the BOCC Public Comment Matrix.
	2	6C-15.3	Residential development should be located: (c) to avoid the need for hard shoreline stabilization and flood hazard management facilities <u>during the anticipated life span of that development.</u>	Changes to be considered. See the attached supplement to the BOCC Public Comment Matrix.
	3	New Policy 6C-15.12	<u>New shoreline residential development should be designed, located, and constructed to ensure that it will not need to be relocated or reconstructed due to sea level rise during the anticipated life span of that development.</u>	Changes to be considered. See the attached supplement to the BOCC Public Comment Matrix.
	4	6C-16.1	Limit use of hard structural stabilization measures to reduce shoreline damage. <u>Use of hard structural stabilization measures will be prohibited except where there is no reasonable alternative to protect a primary structure existing as of 2022.</u>	Change not recommended. The existing Shoreline Stabilization policies already include limitations that allow new stabilization only “ <i>where there is a documented need to protect an existing structure, allowed use, or ecological functions and mitigation is applied.</i> ” Also see the attached supplement to the BOCC Public Comment Matrix.
Critical Areas Policies	5	6G-2.3	Protect and manage shoreline-associated wetlands, including maintenance of sufficient volumes of surface and subsurface drainage into	Change not recommended. The added text is not necessary. Any landward migration of shoreline associated wetlands, regardless of sea level rise, will potentially

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			wetlands, as well as the landward migration of <u>wetlands as a result of sea level rise</u> , to sustain existing vegetation and wildlife habitat.	constitute a change in shoreline jurisdiction, and therefore would be protected under the SMP.
	6	6G-2.8	Limit new development in floodplains and <u>areas of marine shorelines likely to be inundated by sea level rise during the anticipated life span of that new development.</u>	<u>Change not recommended.</u> The added text is not necessarily relevant to critical areas policies. See the attached supplement to the comment matrix.
	7	6G-2.9	Regulate development within the 100-year floodplain and <u>areas of marine shorelines likely to be inundated by sea level rise</u> to avoid adverse impacts to shoreline ecological functions and to avoid risk and damage to property and loss of life.	<u>Change not recommended.</u> See response to comment #6 above.
Flood Hazard Reduction Policies	8	New Policy 6I-1.5	<u>Skagit County shall monitor the impacts of climate change on shorelands, the shoreline master program's ability to adapt to sea level rise and other aspects of climate change at least every periodic update and revise the shoreline master program as needed. Skagit County shall periodically assess the best available sea level rise projections and other science related to climate change within shoreline jurisdiction and incorporate them into future program updates, as relevant.</u>	<u>Change not recommended.</u> See department response to issue no. 14 in BOCC Public Comment Matrix.
	9	New Policy 6I-1.6	<u>Plans, regulations, and programs related to tidal flooding and storm surge will be coordinated and integrated with the Comprehensive Plan, marine flood hazard plans, National Flood Insurance, and regulations for critical areas and the SMP.</u>	<u>Change not recommended.</u> Tidal flooding and storm surge would be considered a part of flood hazards already. See SCC 14.26.350(1), Applicability.
	10	New Policy 6I-1.7	<u>Non-structural flooding and storm surge hazard reduction measures are preferred over structural measures. When evaluating alternative measures, the removal or relocation of structures</u>	<u>Change not recommended.</u> Similar to the response under comment number #9 above, tidal flooding and storm surge would be considered a part of flood hazards already. Similar policy language is included in Policy 6I-1.2.

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<u>in the tidal flood and storm surge-prone areas should be considered.</u>	
	11	New Policy 6I-1.8	<u>Tidal flood and storm surge hazard protection measures will result in No Net Loss of ecological functions and ecosystem-wide processes associated with marine and estuarine shorelines.</u>	<p>Change recommended. Although this issue is similar to the response under comment number #9 above, the County recognizes that emphasis to marine and estuarine areas could be added to Policy 6I-1.3. The County recommends the following edit:</p> <p><i>6I-1.3 Flood hazard protection measures should result in no net loss of ecological functions and ecosystem-wide processes associated with rivers, and streams, and marine and estuarine areas.</i></p>
	12	New Policy 6I-1.9	<u>Marine and estuarine ecological systems should be returned to and maintained in the future in a more natural state where feasible including by removal of structures and hard armoring blocking the upward shoreline migration due to sea level rise.</u>	<p>Changes to be considered. See the attached supplement to the BOCC Public Comment Matrix.</p>
	13	New Policy 6I-1.10	<u>New lots and new expanded development should be located so they will not interfere with the landward expansion and movement of wetlands and aquatic vegetation as sea level rises.</u>	<p>Changes to be considered. See the attached supplement to the BOCC Public Comment Matrix.</p>
Development Regulations - General	14	14.26.305(1)	No Net Loss of Ecological Functions. Uses and developments on Skagit County shorelines must be designed, located, sized, constructed and maintained to achieve no net loss of shoreline ecological functions necessary to sustain shoreline natural resources, <u>considering sea level rise estimates.</u>	<p>Changes to be considered. See the attached supplement to the BOCC Public Comment Matrix.</p>
	15	14.26.310-1 Dimensional Standards	<u>10% Hard Surface Limits for all uses in Rural Conservancy.</u>	<p>Change not recommended. See department response to issue no. 12(a) in BOCC Public Comment Matrix.</p>

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
	16	14.26.320 General Provisions Applicable Upland of the OWHM	<p>General Provisions Applicable Upland of the OWHM</p> <p>1(a): New development must be located and designed to avoid the need for future shoreline stabilization to the <u>maximum</u> extent feasible <u>during the life span of the structure and based on sea level rise projections for that time period.</u></p> <p>1(b): Land divisions must be designed to ensure that future development of the created lots will not require shoreline stabilization for reasonable development to occur or cause foreseeable risk from geological <u>or hydrological</u> conditions, <u>including any change in conditions projected by 2100 due to sea level rise.</u></p>	<p><u>Change to be considered.</u> For response to comments on regulation 14.26.320(1)(a), see the attached supplement to the BOCC Public Comment Matrix.</p> <p>For response to comment on regulation 14.26.320(1)(b) the department does not agree that “hydrologic” conditions should be added in the specified location as this phrase is specific to geologic conditions. However, see the attached supplement to the BOCC Public Comment Matrix.</p>
	17	14.26.350 Flood Hazard Reduction	<p>1(c): <u>Actions under this section must be designed to accommodate the amount of sea level rise estimated during the anticipated life span of proposed development.</u></p> <p>2(b): That the potential adverse impacts on ecological functions and priority species, <u>including those associated with or exacerbated by sea level rise,</u> can be successfully mitigated;</p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
	18	14.26.380 Vegetation Conservation	<p>2(g) <u>areas projected to be inundated by sea level rise during the anticipated life span of the proposed development.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
<i>Recreational Development</i>	19	14.26.465	<p>4(c): Recreational developments must be located, designed and operated in a manner consistent with purpose of the environment designation in which they are located and so that no net loss of shoreline ecological functions or ecosystem-wide processes results, <u>considering projected sea level rise.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>

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Residential Development	20	14.26.470	4(a): Plats and subdivisions must be designed, configured and developed in a manner that ensures that no net loss of ecological functions results from the plat or subdivision at full build-out of all lots. <u>New lots shall be designed and located so that the buildable area is outside the area likely to be inundated by sea level rise in 2100 and outside the area in which wetlands and aquatic vegetation likely will migrate during that time.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
	21	14.26.470	4(b): Residential development must be located and designed to avoid the need for flood hazard reduction measures and for tidal flooding and storm surge protection measures, including shoreline stabilization, <u>based on sea level rise projections during the anticipated life span of the development.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
	22	14.26.470	4(g): <u>Where lots are large enough, new structures shall be located so that they are outside of the area likely to be inundated by sea level rise during the anticipated life span of those structures and outside of the area in which wetlands and aquatic vegetation will likely migrate during that time.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
	23	14.26.470	4(h): <u>New and substantially improved structures shall be elevated above the elevation likely to be gained by sea level rise during the anticipated life span of those structures.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
Shoreline Habitat and Natural Systems	24	14.26.475	3(a)(i): Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.

Attachment B – Response to Comment #28

Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
<i>Enhancement Projects</i>			topography OHWMs <u>as estimated for 2100 based on sea level rise projections.</u>	
<i>Structural Shoreline Stabilization</i>	25	14.26.480	<p>2(a): New hard shoreline stabilization structures are prohibited, except when analysis confirms that there is a significant possibility that a primary structure <u>built before 2022</u> will be damaged within three years as a result of shoreline erosion in the absence of such hard shoreline stabilization structures, or where waiting until the need is immediate results in the loss of opportunity to use measures that would avoid impacts on ecological functions.</p> <p>2(c)(i): To protect an existing primary structure <u>built before 2022</u>, including a residence, when conclusive evidence, documented by a geotechnical analysis, is provided that the structure is in danger from shoreline erosion caused by currents or waves....</p> <p>3(a)(ii)(A): Plan and cross-section views of the existing and proposed shoreline configuration, showing accurate existing and proposed topography and OHWMs <u>as estimated based on sea level rise provisions over the anticipated life span of the development.</u></p> <p>3(b)(iv): An assessment that concludes the replacement structure is designed, located, sized, and constructed to assure no net loss of ecological functions consistent with mitigation sequencing requirements in SCC 14.26.305 <u>and incorporating sea level rise projections for the anticipated life span of the structure.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>

Attachment B – Response to Comment #28

Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
Transportation Facilities	26	14.26.485	<p>3(a)(iii): potential for enlargement of inundated areas, <u>including the potential and the area projected to be inundated by sea level rise over the anticipated life span of the facility.</u></p> <p>4(a): Transportation facilities must be planned, located, and designed to achieve all of the following <u>at current tidal levels and at tidal levels projected over the anticipated life span of the facilities due to sea level rise:</u></p> <p>(i): Bridge abutments and necessary approach fills must be located, if feasible, landward of associated wetlands or OHWM for water bodies without associated wetlands, <u>as they are projected to migrate during the anticipated life span of those abutments due to sea level rise,</u> provided mid-river bridge piers are permitted.</p> <p>(j): Roads and railroads must not measurably increase flood levels or profiles and must not restrict or otherwise reduce floodplain and floodway capacities <u>at current tidal levels and at tidal levels projected during the anticipated life span of that development due to sea level rise.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
Utilities	27	14.26.490	<p>4(a)(ii): Locate and design the project to avoid the need for new structural shoreline stabilization or flood hazard reduction facilities over the anticipated life span of the utilities <u>based on projected sea level rise.</u></p> <p>4(c)(i): Underwater utility lines must enter and emerge inland from fresh and salt water banks, dikes, beaches, or shorelands <u>in their projected</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p><u>location as it migrates over the anticipated life span of the utility lines due to sea level rise.</u></p> <p>4(d)(ii): Permitted water crossings requiring structural abutments or approach fills must set back such facilities landward of the OHWM <u>in the location projected for those water crossings due to sea level rise projections at the end of the anticipated life span of those crossings.</u></p>	
<i>Standard Critical Areas Review and Site Assessment Procedures</i>	28	14.26.515	<p>4(c): The site assessment shall include:</p> <p>(x) <u>the projected location of the critical area over the anticipated life span of the new development based on sea level rise projections.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
<i>Wetland Performance-based Buffer Alternatives and Mitigation Standards</i>	29	14.26.534	<p>(2)(e) <u>Averaging is prohibited for wetland buffers unless the applicant demonstrates that the buffer will not be adversely affected by projected sea level rise over the anticipated life span of the development.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
<i>Aquifer recharge areas</i>	30	14.26.540	<p>Intent</p> <p>1(d): <u>limit adverse impacts to drinking water from saltwater intrusion to the maximum extent possible as sea level rises.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
	31	14.26.542	<p>Prohibited Activities</p> <p>(7) <u>Drilling new wells within 100 feet of an existing well that has experienced saltwater intrusion to the extent that chloride levels exceed Washington State maximum contaminant levels.</u></p>	<p><u>Change not recommended.</u> The suggested change would be inconsistent with the CAO outside of shoreline areas. SCC 14.26.550, Seawater intrusion areas, has been incorporated into the SMP, consistent with the current Critical Areas Ordinance. Regulations for well drilling within shoreline jurisdiction are contained in this section.</p> <p>The proposed edit does not take into account the hydrogeological factors that are relevant to this</p>

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
				<p>issue. For example, the depth of the existing well and the proposed depth for the new well. A site assessment, prepared by a qualified professional, would need to be completed to determine the potential impacts of drilling such a well.</p> <p>Changes to the CAO, and specifically the section on seawater intrusion areas, may be considered in a future CAO update.</p>
<i>Geologically hazardous areas</i>	32	14.26.562	<p>Site Assessment Requirements</p> <p>2(h): <u>A description of the likely effect that sea level rise projected over the anticipated life span of the development will have on the geologically hazardous area.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
	33	14.26.563	<p>Mitigation Standards</p> <p>2(b): A site assessment is submitted that certifies that:</p> <p style="padding-left: 20px;">(ii) A quantitative slope stability analysis indicates no significant risk to the development proposal and adjacent properties; or the geologically hazardous area can be modified; or the development proposal can be designed so that the hazard is eliminated, <u>all taking into consideration the sea level rise projected over the anticipated life span of the development.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
<i>Fish and wildlife habitat conservation areas</i>	34	14.26.572	<p>Site Assessment Requirements</p> <p>(4) <u>A description of the likely effect that sea level rise projected over the anticipated life span of the development will have on the fish and wildlife habitat conservation area.</u></p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>
	35	14.26.574	<p>Performance-based Buffer Alternatives and Mitigation Standards</p>	<p><u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.</p>

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			(2)(f) <u>Averaging is prohibited for buffers unless the applicant demonstrates that the buffer will not be adversely affected by projected sea level rise over the anticipated life span of the development.</u>	

* See full comment letter for quotes and references made from Skagit Climate Science Consortium notes, Department of Ecology, Skagit River Basin Climate Science Report, and NOAA Sea Level Rise Technical Report.

Attachment C - Response to Comment #29

The table below includes comments submitted April 1, 2022 on Skagit County's Draft Shoreline Master Program public review draft by Shannon Brenner on behalf of the Washington Department of Fish and Wildlife (WDFW). Responses to this April 1, 2022 letter are included in the Comment Response Matrix. The following table includes responses to individual comments originally submitted on June 22, 2021 by Bob Warriner (WDFW) as referenced in the April 1, 2022 letter.

Attachment C – Response to WDFW (Comment #29)			
Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
1	6B-3.6	"Low intensity agriculture" needs to be defined.	<u>Change not recommended.</u> The use of the term "low intensity agriculture" is consistent with management policies for the Natural environment as described in WAC 173-26-211(5)(a)(ii)(E), which reads, <i>"Agricultural uses of a very low intensity nature may be consistent with the natural environment when such use is subject to appropriate limitations or conditions to assure that the use does not expand or alter practices in a manner inconsistent with the purpose of the designation."</i>
2	6B-4.4	Mitigation actions and quantities should be specified.	<u>Change not recommended.</u> Such specific requirements are not necessarily appropriate for this policy. Applicable mitigation would be proposed consistent with SCC 14.26.305, Environmental Protection, and SCC 14.26.480, Structural Shoreline Stabilization.
3	6C-1	It might be helpful to have a section about the VSP.	<u>Change not recommended.</u> The County's Voluntary Stewardship Program (VSP) does not apply in shoreline jurisdiction. The County's VSP has its own website with information on applicability to areas outside the shoreline.
4	6C-2.1	Activities that have environmental impacts shouldn't be "encouraged", or at least there needs to be a better description of why they should be encouraged.	<u>Change not recommended.</u> There are several state policies that address aquaculture and indicate it is a preferred use and should be encouraged when properly managed. See WAC 173-26-241(3)(b)(i)(A). In addition, the SMP Handbook: Aquaculture pp 4-5, quotes RCW 15.85.010: "The legislature declares that aquatic farming provides a consistent source of quality food, offers opportunities of new jobs, increased farm income stability, and improves balance of trade. The legislature finds that many areas of the state of Washington are scientifically and biologically suitable for aquaculture development, and

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Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p>therefore the legislature encourages promotion of aquacultural activities, programs, and development with the same status as other agricultural activities, programs, and development within the state. ... It is therefore the policy of this state to encourage the development and expansion of aquaculture within the state.”</p> <p>The SMP Handbook goes on to state, “The SMP Guidelines include aquaculture as a water-dependent use, which is “a use or portion of a use which cannot exist in a location that is not adjacent to the water and which is dependent on the water by reason of the intrinsic nature of its operations” [WAC 173-26-020(39)]. The SMP Guidelines recognize aquaculture as an activity of statewide interest and a preferred use.”</p>
5	6C-5.1	Commercial development should also be encouraged to locate outside of floodplains.	<p><u>Change not recommended.</u> Several existing policies already address these comments.</p> <p>Commercial Development Policies 6C-5.1 <i>Space and Location</i></p> <p style="margin-left: 20px;">a. <i>Because of the space requirements of some commercial developments and the limited amount of shoreline, commercial developments should be encouraged to locate inland from shoreline areas unless water oriented.</i></p> <p style="margin-left: 20px;">b. <i>If proposed commercial developments are water-dependent or water-related and if they are anticipated to have minimal adverse impact upon the shoreline, then such developments should be allowed.</i></p> <p>Critical Areas Policies 6G-2.8 <i>Limit new development in floodplains.</i></p> <p>6G-2.9 <i>Regulate development within the 100-year floodplain to avoid adverse impacts to shoreline ecological functions and to avoid risk and damage to property and loss of life.</i></p>
6	6C-8.6	Please add “aquatic habitats” .	<u>Change not recommended.</u>

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Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			Several aquatic habitats are already included in the referenced list, including estuaries, wetlands, marshes, natural waters, and designated wildlife habitat and concentration areas.
7	6C-14.2	There should be signage at public areas describing the unique and fragile shoreline areas.	<u>Change not recommended.</u> The County disagrees that signage should be placed that would draw attention to such unique and fragile shoreline areas. Such signage should be applied on a case-by-case basis, depending upon local circumstances, public access pressure, etc. Note, SCC 14.26.360 includes specific language related to outdoor signage and when it would be required/limited.
8	6C-14.3e	Confusing language. Limited “to” designated areas?	<u>Change not recommended.</u> The County believes the language is clear as written.
9	6E-1.4	Please add “environmental values and functions” where it says, “developments are designed to”	<u>Change not recommended.</u> Policy 6E-1.3 already addresses the requirement to demonstrate no net loss of shoreline ecological functions. Policy 6E-1.4 addresses physical and visual shoreline contact. Both of these policies would apply to a development application associated with public access.
10	6F-1.2	There should be a reference to have water crossing structure comply with WDFW guidelines.	<u>Change not recommended.</u> The County recognizes that transportation facilities that have a water crossing would need to comply with WDFW guidelines through the State’s Hydraulic Project Approval. Reference to these guidelines is not necessary in the SMP.
11	6G-1.1	Please add “riparian functions and processes”.	<u>Change not recommended.</u> The list of specific shoreline ecological functions and processes in Policy 6G-1.1 includes numerous riparian functions and processes. The term “riparian functions and processes” is broader and not necessary for this list.
12	6G-2	Please add a section specifically identifying Alluvial Fans as critical areas to protect, restore and where to avoid development.	<u>Change not recommended.</u> Alluvial fans are critical areas and already included as a landslide hazard area per SCC 14.26.561(2)(i).
13	6G-3	Non shoreline designated tributaries are important for water quality and should be specifically identified as important places for riparian conservation and improvement.	<u>Change not recommended.</u> All critical areas are included in Policy section 6G-2. Several policies are included that address the commenters concerns, including:

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Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p>6G-2.1 <i>Conserve and protect critical areas within shoreline jurisdiction from loss or degradation.</i></p> <p>6G-2.6 <i>Protect and restore critical freshwater and saltwater habitat and other areas that provide habitat for endangered, threatened, or sensitive fish and wildlife species.</i></p> <p>6G-2.7 <i>Protect basic riparian forest functions that influence instream, marine, and lake habitat quality.</i></p>
14	14.26.305(1)	What is the baseline used to evaluate No Net Loss? If it is not established one should be determined.	<p><u>Change not recommended.</u> The County completed a broad, county-wide Shoreline Inventory and Characterization Report as part of the SMP Comprehensive Update to help identify existing conditions and establish an environmental baseline. However, per SCC 14.26.305, further analysis will be required at the time of an application to identify existing conditions, analyze potential development impacts, and document achievement of no net loss.</p>
15	14.26.305(4)	Add that mitigation is required when SMP code is violated.	<p><u>Change not recommended.</u> Please see SCC 14.26.760, Enforcement, which states that such violations may be enforced by the County “pursuant to SCC 14.44, Enforcement/Penalties, consistent with RCW 90.58.210-230 and WAC 173-27-240 through 310. The Department of Ecology may also take enforcement action pursuant to WAC 173-27-240 through 310.”</p>
16	14.26.305(5)d	Preservation does not mitigate and should not be given mitigation credit.	<p><u>Change not recommended.</u> The mitigation sequencing language provided in SCC 14.26.305(5)(d), is verbatim from the State’s mitigation sequence.</p>
17	14.26.305(6)f	This should also require a monitoring plan.	<p><u>Change not recommended.</u> Please see SCC 14.26.305(6)(e) which includes a monitoring plan requirement.</p>

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Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
18	14.26.330(11)a	There should be a time requirement for when this is completed (“within one year” or some such thing).	<u>Change not recommended.</u> This is a list of general provisions waterward of the OHWM. A timeline for completion is not necessary for this specific provision.
19	14.26.330(21)	WDFW has a pamphlet for this.	<u>Comment noted.</u>
20	14.26.380(2)	Trees removed should also be documented.	<u>Change not recommended.</u> All existing healthy significant trees must be identified per subsection 2(a) and all trees to be retained must be identified per subsection 2(c).
21	14.26.380(3)(d)(v)(D)	There should be a specific % survival requirement.	<u>Change not recommended.</u> Tree retention does not require a % survival standard. Tree retention requirements are included in subsections 3(d)(i) and (ii).
22	14.26.410(1)(c)(iv) & (v)	This should pertain only to wholly artificial watercourses.	<u>Change not recommended.</u> The language in SCC 14.26.410(1)(c)(iv) and (v) is verbatim from state law (RCW 90.58.030(3)(e)) and the citation is included in the text of subsection (c).
23	14.26.420(3)(a)	A submerged aquatic vegetation survey should be required in marine areas.	<u>Change not recommended.</u> An assessment of impacts is required per subsection (3)(a)(i), including vegetation disturbance. A full aquatic vegetation survey may not necessarily be applicable for all applications.
24	14.26.420(4)(c)(i)	Adequate needs to be defined and the entity determining it needs to be identified.	<u>Change not recommended.</u> See SCC 14.26.420(3)(b)(i) and (ii), which give a description of an assessment of need and demand. <i>For all new or expanded marinas, launch ramps, and commercial or industrial docks, other than residential docks, applicants must provide an assessment of need and demand, including, but not limited to, the following:</i> <i>(i) existing approved similar facilities, or pending applications, within the service range of the proposed new facility and their current levels of use;</i> <i>(ii) the expected service population and boat ownership characteristics of the population, if that information supports justification for specific</i>

Attachment C – Response to WDFW (Comment #29)

Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p style="text-align: center;"><i>design elements related to facility length or width or necessary water depth.</i></p> <p>The County will review all applications. The Administrative Official will be responsible for this determination in most circumstances.</p>
25	14.26.420(4)(c)(ii)(D)	This is also dependent on location; engineering may be required.	<u>Comment noted.</u>
26	14.26.420(4)(h)(ii)(B)	Who determines this and how?	<p><u>Change not recommended.</u></p> <p>The County will review all applications. The Administrative Official will be responsible for this determination in most circumstances.</p>
27	14.26.435(1)(b)(i)	This should be defined and quantified.	<p><u>Change not recommended.</u></p> <p>This subsection is only noting that dredging activities that are incidental to another authorized use would be governed by that particular use or modification section. No further definition or quantification is necessary.</p>
28	14.26.435(2)(c)	New and expanded moorages should have required compensatory mitigation.	<p><u>Change not recommended.</u></p> <p>A mitigation plan is required per subsection (3)(g)</p>
29	14.26.460(4)(a)	WDFW and Ecology have specific regulations for placer mining, these should be referenced.	<p><u>Change not recommended.</u></p> <p>The County recognizes that WDFW and Ecology may have their own specific guidelines. Reference to these guidelines is not necessary in the SMP.</p>
30	14.26.460(4)(e)(ii)	Skagit County will be the local agency for most of these operations, the limits should be specifically referenced in this document.	<p><u>Change not recommended.</u></p> <p>Based on prior permitted activity, very little of the actual mining activity occurs within shoreline jurisdiction. Any new mining applications will also require a special use permit under County zoning regulations. See SCC 14.16.440 Mineral Resource Overlay.</p>
31	14.26.460(4)(e)(iv)	Even miniscule amounts of some of these materials can be harmful. There should be stronger language and requirements here.	<p><u>Change not recommended.</u></p> <p>Note, Washington Department of Natural Resources also regulates mining activities. WDFW may also be involved if there are in-water impacts or wildlife and habitat concerns in upland areas. See also SCC 14.16.440 Mineral Resource Overlay.</p>
32	14.26.480(2)	Hard shoreline armor needs to be mitigated; this should be noted here.	<u>Change not recommended.</u>

Attachment C – Response to WDFW (Comment #29)

Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			See department response to issue no. 4(a) in BOCC Public Comment Matrix.
33	14.26.480(4)(c)(A)	Sounds good but should be under the planting heading.	<u>Comment noted.</u> Formatting changes to this section occurred during the development of the SMP BOCC public review draft.
34	14.26.480(4)(e)(i)	There should be separate sections for hard and soft bank protection.	<u>Comment noted.</u> Formatting changes to this section occurred during the development of the SMP BOCC public review draft.
35	14.26.485(4)	Water crossing structures must be designed to comply with WDFW standards.	<u>Change not recommended.</u> Please see the response to comment no. 10 above.
36	14.26.490(4)(g)(iv)	All diversions of waters of the state need to be screened to comply with WDFW standards.	<u>Change not recommended.</u> The referenced provision is about the transfer of bedload. Adding a statement about screening is not necessary for this specific provision.
37	14.26.522(2)(c)	Should be replaced with more than one tree (3?) and monitored to ensure survival.	<u>Change not recommended.</u> Replacement of a hazard tree is intentionally kept a 1:1 ratio. Other significant trees that are removed would be replaced at a 3:1 ratio.
38	14.26.572(3)	In response to the comment (A144). There are many Priority Habitats and Species, not just eagles.	<u>Comment noted.</u> Changes to this section occurred during the development of the SMP BOCC public review draft.
39	14.26.573(1)	WDFW guidance suggests Site Potential Tree Height (SPTH).	<u>Change not recommended.</u> See department response to issue no. 7(a) in BOCC Public Comment Matrix.
40	14.26.573(3)(e)	SPTH should be better referenced and maybe explained.	<u>Change not recommended.</u> Note, this comment is likely a part of subsection .574. The section numbering changed in the SMP BOCC public review draft to SCC 14.26.574(4)(e). The referenced language is verbatim from the County's CAO and is already used by the department and applicants. The County will consider such changes as part of future updates to the CAO.
41	14.26.575(4)(a)(ii)	This language is misleading; applicants shouldn't be encouraged to change or minimize buffers.	<u>Change not recommended.</u> This referenced provision is encouraging an applicant to avoid applying for a shoreline variance by first looking at alternative solutions. This includes working through mitigation sequencing to avoid and minimize impacts and to

Attachment C – Response to WDFW (Comment #29)

Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p>look at options to average or reduce buffers with mitigation prior to applying for a variance. The specific language from SCC 14.26.575(4)(a)(ii) is below:</p> <p><i>Applicants are encouraged to consider the options of buffer averaging or buffer reduction and optimally implement mitigation sequencing prior to applying for a Shoreline Variance.</i></p>
42	14.26.630(3)	WDFW considers the replacement of a dock that has not been functional for 2 years a new dock.	<p><u>Comment noted.</u> While the County has attempted to be consistent with most WDFW guidelines regarding overwater structures, the County acknowledges that WDFW may have different requirements for certain specific issues.</p>
43	14.26.640(3)	Overall footprint of shoreline stabilization structures should not be allowed to expand.	<p><u>Change not recommended.</u> See department responses to issues 4(a) and 4(c) in BOCC Public Comment Matrix.</p>
44	14.26.735	From reading this section it appears that acquiring a variance is simply a different permit pathway. There needs to be a discussion of when and why this is allowed and how it differs from the standard SMP process including the reduction in shoreline protection.	<p><u>Change not recommended.</u> See department response to issue no. 6(a) in BOCC Public Comment Matrix.</p>
45	14.26.735(1)	Who determines what is extraordinary or unnecessary? This needs to be defined or at least the process of determining this should be described.	<p><u>Change not recommended.</u> The shoreline variance review and approval process provided SCC 14.26.735 includes Application requirements (subsection 3) and Review Criteria (subsection 4) that are consistent with Ecology's strict rules for variance approval.</p>
46	14.26.735(4)(c)(i)	Reasonable needs to be defined or the process of determining reasonableness needs to be described.	<p><u>Change not recommended.</u> Please see the response to comment no. 45 above.</p>
47	14.26.790(1)	Does Skagit County have the capacity to do this? And if so, is there information (reports, data, etc) available for review?	<p><u>Comment noted.</u> See department response to issue no. 14(a) in BOCC Public Comment Matrix.</p>
48	Map A	The designation of the Skagit Wildlife Area's Wiley Slough site is not assigned and should be shown as "natural"	<p><u>Change not recommended.</u> The shoreline environment designation maps are based on the shoreline inventory, which includes mapped data from local, state, and federal agencies. If existing conditions are</p>

Attachment C – Response to WDFW (Comment #29)

Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p>different than shown on these maps (e.g. associated wetlands, tidegates, OHWM, etc.) then such areas may be found to be part of shoreline jurisdiction. Note, the Wiley Slough area is shown as having a Natural shoreline environment designation. If the mapped boundaries are adjusted in the future based on improved data, the area would likely have a Natural designation.</p>

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Attachment D - Response to Comment #30

The table below includes comments submitted on Skagit County’s Draft Shoreline Master Program by Tim Trohimovich on behalf of Futurewise. Specific comments related to recommended changes are included in the table below. The commenters proposed language to be removed is shown in strike-through and proposed language to be added is shown in underline.

Attachment D – Response to Comment #30				
Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
Sea Level Rise	1	NA	New Regulation: <u>New lots shall be designed and located so that the buildable area is outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands and aquatic vegetation will likely migrate during that time.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
	2	NA	New Regulation: <u>Where lots are large enough, new structures and buildings shall be located so that they are outside the area likely to be inundated by sea level rise in 2100 and outside of the area in which wetlands and aquatic vegetation will likely migrate during that time.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
	3	NA	New Regulation: <u>New and substantially improved structures shall be elevated above the likely sea level rise elevation in 2100 or for the life of the building, whichever is less.</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.
	4	NA	To avoid flooding, erosion, and other adverse impacts on shoreline resources, we strongly recommend that the County take a comprehensive approach to adapting to sea level rise and its adverse impacts modeled on the process California’s coastal counties and cities use. New Policy: <u>Skagit County shall monitor the impacts of climate change on Skagit County’s shorelands, the shoreline master program’s ability to adapt to sea level rise and other aspects of climate change at least every periodic</u>	<u>Changes to be considered.</u> See the attached supplement to the BOCC Public Comment Matrix.

Attachment D – Response to Comment #30

Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
			<p><u>update and revise the shoreline master program as needed. Skagit County shall periodically assess the best available sea level rise projections and other science related to climate change within shoreline jurisdiction and incorporate them into future shoreline master program updates as needed.</u></p>	
<i>Riparian Buffers</i>	5	Table 14.26.310-1	<p>Consult shoreline management assistance materials provided by the department and Management Recommendations for Washington's Priority Habitats, prepared by the Washington state department of fish and wildlife where applicable. This includes both Riparian Ecosystems, Volume 1 and 2.</p> <p>Based on these new scientific documents, we recommend that shoreline jurisdiction should include the 100-year flood plain and that the buffers for rivers and streams in shoreline jurisdiction be increased to use the newly recommended 200-year SPTH and that this width should be measured from the edge of the channel, channel migration zone, or active floodplain whichever is wider. New development, except water dependent uses should not be allowed within this area.</p>	<p><u>Change not recommended.</u> See department response to issue 7(a) in BOCC Public Comment Matrix.</p>
<i>Impervious Surface Limits and Lot Widths</i>	6	Table 14.26.310-1	<p>Adopt better impervious surface limits and lot width requirements for areas outside the urban growth area in Table 14.26.310-1 Dimensional Standards.</p> <p>The Shoreline Master Program Guidelines, in WAC 173-26-211(5)(b)(ii)(D), provide that “[s]cientific studies support density or lot coverage limitation standards that assure that development will be limited to a maximum of ten percent total impervious surface area within the lot or parcel, will maintain the existing hydrologic character of the shoreline.” We recommend that the hard surface limits for the Rural Conservancy and Urban Conservancy shoreline environments be limited to ten percent.</p>	<p><u>Change not recommended.</u> See department response to issue 12(a) in BOCC Public Comment Matrix.</p>

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Topic	Comment Number	Reference Section	Comment, Concern, or Proposed Change	Department Response
	7	Table 14.26.310-1	<p>We also recommend that Table 14.26.310-1 include minimum lot widths for lots outside urban growth areas. In shoreline areas there is a strong incentive to have narrow lots along the shoreline since waterfront lots are highly valued.</p> <p>While modern rural lot area requirements reduce this likelihood, reasonable lot width requirements prevent long narrow lots that can meet area requirements and still place houses close together. Minimum lot widths need to allow wildlife to pass through residential areas to use upland areas and to use shorelines. A simple lot length to width ratio of 3:1 can address this problem. Another alternative would be to establish 300' lot widths for the Conservancy and Natural shoreline environments.</p>	<p><u>Change not recommended.</u> Lot width is regulated by the underlying zoning.</p>
Archaeological, Historic, and Scientific Resources	8	14.26.340	<p>Archaeological, Historic, and Scientific Resources, needs to require predevelopment investigations for areas where archaeological resources are likely to be located.</p> <p>To both protect archaeological resources and to forestall project stoppages, we recommend that SCC 14.26.340(3) and (5) be modified to read as follows with our additions underlined and our deletions struck through.</p> <p>(3) Site inspection and evaluation. Proposals for shoreline development or use in or on areas <u>within 200 feet of a site rated as rated "survey recommended moderate risk," "survey highly advised high risk," and "survey highly advised very high risk" by the current version of the Washington State Department of Archaeology and Historic Preservation's archaeological predictive model</u> or documented to contain archaeological, historic, or scientific resources require site inspection and evaluation by qualified personnel prior to any development activity in or on the site. In areas <u>within 200 feet of a site rated as rated "survey recommended moderate risk," "survey</u></p>	<p><u>Change not recommended.</u> The current draft of the SMP includes modified language developed during the Planning Commission review process in response to comments submitted during the Planning Commission public comment period. The revision included a new policy 6H-1.3 to address the need for early coordination. The proposed policy is excerpted below:</p> <p><i>In order to avoid potential conflict or adverse impacts to archaeological, historic, or scientific resources, proponents of shoreline development or use near such areas should be advised to contact state and tribal authorities for early coordination.</i></p>

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			<p><u>highly advised high risk,” and “survey highly advised very high risk” by the current version of the Washington State Department of Archaeology and Historic Preservation’s archaeological predictive model or documented to contain archaeological resources, site inspection and evaluation must be performed by a professional archaeologist in coordination with affected Indian tribes.</u></p> <p>(5) Adjacent and nearby development. Proposals for shoreline development or use adjacent to or nearby areas <u>rated as rated “survey recommended moderate risk,” “survey highly advised high risk,” and “survey highly advised very high risk” by the current version of the Washington State Department of Archaeology and Historic Preservation’s archaeological predictive model or documented to contain archaeological, historic, or scientific resources must be located, designed, and operated to not adversely affect the purpose, character, or value of such resources.</u></p>	
<i>Buffer Reductions</i>	9	14.26.735(2)(a)	<p>Buffer reductions of more than 25 percent must require a standard variance, not an administrative variance.</p> <p>Allowing buffer reductions of more than 25 percent is inconsistent with best available science and should not be allowed except through a standard variance. The administrative variance should be limited to a 25 percent reduction.</p>	<p><u>Change not recommended.</u> See department response to issue 6(a) in BOCC Public Comment Matrix.</p>
<i>Mining</i>	10	14.26.460	<p>Amend SCC 14.26.460, Mining, so that it is consistent with amendments to state law and to protect the shoreline environment.</p> <p>SCC 14.26.460(1)(b)(ii) exempts from the SMP “mining that complies with the Washington Department of Fish and Wildlife’s Gold and Fish Pamphlet.” In 2020, the</p>	<p><u>Change not recommended.</u> There are existing sand and gravel extraction operations on river shorelines; the Department recommends they be allowed to continue, with appropriate standards, permitting, and mitigation.</p> <p>Per the Use and Modifications Matrix (SMP Section 14.26.405) and the Mining provisions in SMP Section 14.26.460, mining waterward of the</p>

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			<p>legislature adopted RCW 90.48.615(2) which prohibits “[m]otorized or gravity siphon aquatic mining or discharge of effluent from such activity to any waters of the state that has been designated under the endangered species act as critical habitat, or would impact critical habitat for salmon, steelhead, or bull trout. This includes all fresh waters with designated uses of: Salmonid spawning, rearing, and migration.” We recommend that the SMP Update prohibit motorized or gravity siphon aquatic mining and discharging effluent from this type of mining in shorelines that are the critical habitat for salmon, steelhead, or bull trout and that salmonids use for spawning, rearing, and migration.</p> <p>Gravel mining in flood plains, floodways, channel migration zones, and river bars, active channels, has the potential to adversely impact rivers and streams.</p> <p>If mining is going to be allowed in flood plains, floodways, and channel migration zones, which the County is proposing, then additional standards are needed. First, mines should be located outside the channel migration zone so that they do not increase the rate of channel migration. Second, mines should be no deeper than the bottom of the nearby streams and rivers so when the river moves into the mine, which is a certainty, the impacts will be reduced. Third the mine reclamation plan should have a design so that when the river or stream moves into the mine, the mine workings are not so wide that the captured sediments destabilize the river or stream or increase erosion risks on upstream properties.</p> <p>We recommend that the following new regulation be added on page 129 under “(e)”.</p> <p><u>(vi) Mines should be located outside the channel migration zone unless there is no feasible alternative site and no feasible source of sand and gravel.</u></p>	<p>OHWM is prohibited except for in rivers and streams where the locations will not adversely affect the natural processes of gravel transportation for the system as a whole, will not have significant adverse impacts to habitat for priority species, nor cause a net loss of ecological functions of the shoreline. Mining in upland areas is only allowed through a conditional use permit in Rural Conservancy and High Intensity shoreline environments.</p> <p><i>WAC 173-26-241(h) recognizes mining in shoreline areas and the master program needs to accomplish two purposes in addressing mining:</i> <i>First, identify where mining may be an appropriate use of the shoreline, which is addressed in this section and in the environment designation sections above. Second, ensure that when mining or associated activities in the shoreline are authorized, those activities will be properly sited, designed, conducted, and completed so that it will cause no net loss of ecological functions of the shoreline.</i></p>

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			<p><u>(vii) Mines in the 100-year flood plain, floodway, or channel migration zones shall be no deeper than the bottom of the nearby streams and rivers.</u></p> <p><u>(vii) In the 100-year flood plain, floodway, or channel migration zones, the mine reclamation plan shall have a design so that when the river or stream moves into the mine it is not so wide or deep that the captured sediments destabilize the river or stream or increase erosion risks to upstream properties.</u></p>	
<p>Geologically Hazardous Areas</p>	<p>11</p>	<p>SCC 14.26.562 and SCC 14.26.563</p>	<p>Require analysis of all geological hazards which can adversely impact a proposed development and require case-by-case determinations of landslide buffers including landslide runout areas based on the risk to the proposed development.</p> <p>The Joint SR 530 Landslide Commission recommends identifying “[c]ritical area buffer widths based on site specific geotechnical studies” as an “innovative development regulation” that counties and cities should adopt. So we recommend that all properties that may be adversely impacted by a geological hazard should have their buffers based on a critical areas report for that site. Construction should not be allowed in buffer areas. These standards are necessary to protect Skagit County families and their largest investment, their homes</p>	<p><u>Change not recommended.</u> SCC 14.26.562(1) includes the requirement of a geologic hazard site assessment that is consistent with the County’s intent to protect personal property and human safety. The provision is included below:</p> <p><i>The Administrative Official determines that the proposed development activity is located within 300 feet of an area of known or suspected risk as indicated in SCC 14.26.561, or within a distance from the base of a landslide hazard area equal to the vertical relief, and that the geologic condition may pose a risk to life and property, or other critical areas on and off the project area, a geologic hazard site assessment as indicated in this Section shall be required. This site assessment shall be prepared by a qualified professional.</i></p>

BOCC Public Comment Matrix Supplement

This memorandum is a supplement to the Public Comment Matrix prepared in response to public comments received during the Board of Skagit County Commissioners comment period and public hearing. The majority of comments received pertained to climate change factors and sea level rise concerns, requesting the County address these concerns through policy and regulatory actions in the Shoreline Master Program (SMP).

The Shoreline Management Act (SMA) and Ecology Guidelines currently contain no requirements for SMPs to address climate change or sea level rise. However, Skagit County is committed to reducing and mitigating operational and regional greenhouse gas emissions and adapting to the effects of a changing climate.

In June 2008, Skagit County Commissioners approved Resolution R20080304, setting in motion a broad-ranging initiative to address climate change, reduce resource consumption, and create a Sustainable Skagit. Most recently, the County published a Climate Action Plan (2010) available at <https://www.cakex.org/documents/climate-action-plan-skagit-county-washington>.

The County recognizes that more work needs to be completed to appropriately address climate change risks. The County also recognizes the importance of addressing these risks through sound policies and meaningful regulations. To further this effort, the Department anticipates applying for additional State shoreline grants that are available starting in the 2023 biennium budget to complete the following sequence of events.

- Prepare and implement a community outreach plan to engage the public, landowners, affected parties, agencies, tribes, etc.
- Complete a vulnerability and risk assessment
- Develop projections and identify high risk areas
- Draft amendment to SMP to reflect the work identified above
- Continue to engage in community outreach for input and collaboration
- Begin public process for proposed SMP amendment (outside of the periodic review timeframe)

Until this future work is completed, the Department recommends the following policy and regulatory amendments for consideration.

POLICIES

General Policies

Conservation Policy (NEW 6G-1.4) Environmental Protection

Applicants proposing shoreline development or uses should be encouraged to consider sea level rise projections when assessing potential project specific impacts.

Conservation Policy (NEW 6G-1.5) Environmental Protection

Recognize and monitor the potential effects of sea level rise as additional scientific information becomes available. Consider additional specific policies and regulations based on new and accepted scientific projections.

Shoreline Uses and Modifications Policies

Institutional Development Policy (NEW 6C-6.5)

Consider locating essential public facilities and associated new development out of floodplains and areas of marine shorelines that are likely to be inundated by sea level rise during the anticipated life span of those facilities.

Residential Development Policy (NEW 6C-15.12)

Future sea level rise and other climate change factors should be considered during the evaluation of residential development siting.

Shoreline Stabilization Policy (NEW 6C-16.5)

Estuarine and marine shoreline processes should be returned to a more natural state where feasible and appropriate, through the removal of existing shoreline armoring.

REGULATIONS

Uses and Modifications Regulations

Commercial Development (SCC 14.26.430) SCC 14.26.430(3)(c)

A plan and narrative depicting compliance with subsection (4) Development Standards, for siting accessory commercial uses, provisions for shoreline access, orientation of eating and drinking facilities and lodging facilities, and siting essential public facilities in relation to floodplains and areas of marine shorelines likely to be inundated by sea level rise.

NEW SCC 14.26.430(4)(e)

Consider locating essential public facilities and associated new development out of floodplains and areas of marine shorelines that are likely to be inundated by sea level rise during the anticipated life span of those facilities.

Residential Development (SCC 14.26.470) SCC 14.26.470(4)(b)

Residential development must be located and designed to avoid the need for flood hazard reduction measures, including shoreline stabilization. Proposals for new residential development must also consider future sea level rise and other climate change factors during the siting and design evaluation process.

Structural Shoreline Stabilization (14.26.480) NEW 14.26.480(4)(b)(vi)(D)

Removal of existing shoreline armoring in estuarine and marine shoreline areas, where feasible and appropriate, must be considered as a means to restore natural estuarine and marine processes as part of project development and design.

Legally Established Pre-Existing Uses and Structures Regulations

**Pre-Existing Single-Family Residences and Appurtenant Structures (SCC 14.26.620)
NEW SCC 14.26.620(3)(a)(vi)**

the enlargement does not increase the livable area and is for the sole purpose of raising the structure to minimize or prevent flooding due to sea level rise.