

# PROJECT MEMO



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<b>TO:</b>	Kevin Goodrich	<b>DATE:</b>	April 14, 2023
<b>FROM:</b>	Nicole Stickney, AICP and Helen Stanton	<b>PROJECT NO.:</b>	2220921.30
<b>SUBJECT:</b>	Proposed additional changes to the Westport SMP draft document		

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## INTRODUCTION

The memo discusses the small set of additional proposed changes to the Westport Shoreline Master Program (SMP) as requested by the City. These changes are intended to be incorporated into the draft Westport SMP document dated March 14, 2023 (prepared for the Periodic Review). This memo will describe these proposed minor, changes and discuss how they are consistent with the Shoreline Management Act (SMA).

## PROPOSED CHANGES

The City is proposing the following additional changes (shown in red text and underlined) to the Westport SMP:

- 1) SMP Section 6.03.02 [Clearing, Grading, and Fill] Regulations: Subsection (E)(4)(a) to be revised as follows:

*4. The shoreline use or development is one of the following:*

*a. A water-dependent, water-related, water-enjoyment use or public access to the shoreline;*

- 2) SMP Section 8.02 Definitions to be revised as following

**Water-Enjoyment Use** – *A recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment. Examples include public trails, golf courses, and parks.*

- 3) SMP Section 5.13.02 [Recreational Development] Regulations: Subsection (D) to be revised as follows:

*D. Applicant shall submit plans that demonstrate the BMPs and methods to be used to prevent chemical applications and resultant leachate from entering adjacent waterbodies.*

*1. Golf courses, playfields and other turf grass areas that require the use of fertilizers, pesticides, or other chemicals shall demonstrate best management practices and methods to prevent these chemical applications and resultant leachate from entering adjacent water bodies.*

## DISCUSSION

The City of Westport staff has requested that specific examples be included in the definition of water-enjoyment uses, and that water-related and water-enjoyment uses be listed out as a shoreline use or development for which clearing, grading and fill within wetlands (or floodways and fill waterward of the OHWM) may be allowed, only when certain other criteria are met. When comparing the Westport SMP to SMPs for other jurisdictions also planning under the SMA, it was found that other SMPs have the broader language already in place and it appears beneficial to provide the same information for Westport in keeping with best practices. The proposed changes are reasonable and the preparation of this memo is timely, in advance of the public hearing.

## ANALYSIS

It is important to examine and confirm how the proposed changes are consistent with the Shoreline Management Act (SMA). Chapter 8 *Shoreline Use Analysis* of the 2009 Shoreline Master Programs (SMP) Handbook (revised December 2017) states that the SMP Guidelines require a shoreline use analysis to estimate the future demand for shoreline space, reveal potential use conflicts, and identify opportunities for sitting preferred uses in shoreline areas. The objective of this task is to ensure that the shoreline is available for future shoreline uses that are unique to or dependent on the shoreline. The results of this analysis can be used to inform many aspects of the SMP planning process including shoreline use regulations.

### SMP Handbook Use Analysis Process

Chapter 8 of the SMP Handbook describes the Use Analysis Process and outlines a three-step process for conducting use analysis. **Step 1: Identify current patterns of land uses in shoreline areas**, states the first step is to identify current patterns of uses in shoreline areas, and to categorize the types of existing uses on the shorelines. For the City of Westport this includes a wide range of uses including residential, general commercial, public parks/open space (including the Washington's Westport Light State Park which encompasses approximately 560 acres in the City limits), light industrial, shipping and ports, ferry terminals, marina, and associated marina commercial uses.

**Step 2: Identify likely shoreline uses and estimate future demand for shoreline space**, projects what uses might locate in shoreline areas and estimate future demand. The City believes there is future demand for additional recreational uses of large open spaces, like the Westport Lighthouse State Park, and allowed uses should include additional recreational uses, such as potential future golf courses or amenities, to be developed for use of both residents and visitors to the City, provided permitting, mitigation requirements, and other requirements of the SMA / SMP can be met. Within the Westport Lighthouse State Park this use would be a considered a water-enjoyment use due to unique setting near the ocean and among a wetland complex.

This use is further supported by the Shoreline Management Policies identified in the 2019 Westport Comprehensive Plan Section 2 (B)(13)(d) *Westport represents the major destination recreation center associated with sport fishing, surfing, and water-based sports as well as golf and conference activity.*

**Step 3: Identify opportunities for SMA preferred uses and potential use conflicts.** The order of preferred uses for shoreline areas listed in WAC 173-26-201(2)(d) is as follows:

- Protection and restoration of ecological functions.
- Water dependent uses
- Water related uses
- Other compatible water enjoyment uses
- Single family residences

The SMP Handbook notes it is important to consider that areas that contain features uniquely suited to the development of preferred uses should be preserved for those uses rather than converted to other uses that do not require site specific conditions. For example, large, relatively flat, open spaces may be well- suited for various recreational activities such as golf courses.

In reviewing the Revised Shoreline Inventory and Characterization (SIC) Report for the Cities of Ocean Shores and Westport (Dated April 20, 2015; Prepared by Herrera Environmental Consultants, Inc. and AHBL) we find that the many sections included under the Heading “4.2.1 Physical and Biological Characterization” such as Shoreline Use Analysis (Section 4.2.1), and subsequent, clearly identified that Westport has long had a land use designation of Tourist Commercial (TC) in place (with corresponding zoning in effect). Additionally, Table 4-20 identified that the zoning districts TC includes “Golf courses and other places of public and recreation consistent with state laws and licensing regulations” as an allowed use<sup>1</sup>.

### **Definition Amendment**

WAC 173-26-020 (42) defines water-enjoyment uses as follows:

*"Water-enjoyment use" means a recreational use or other use that facilitates public access to the shoreline as a primary characteristic of the use; or a use that provides for recreational use or aesthetic enjoyment of the shoreline for a substantial number of people as a general characteristic of the use and which through location, design, and operation ensures the public's ability to enjoy the physical and aesthetic qualities of the shoreline. In order to qualify as a water-enjoyment use, the use must be open to the general public and the shoreline-oriented space within the project must be devoted to the specific aspects of the use that fosters shoreline enjoyment.*

City of Westport staff believe golf course uses meet this definition in the City of Westport. Specifically, golf courses are a recreational use of the shoreline for a substantial number of people as a general characteristic of its use and allows the public the ability to enjoy the physical and aesthetic qualities of the shoreline through recreation. While the WAC does not include the phrase “Examples include public trails, golf courses, and parks” the addition of the extra language is consistent with some other Ecology-approved documents we have identified:

- *Example #1:* The SMP for City of Kent, Washington lists out six different primary water-enjoyment uses in Chapter 6, Definitions (see document at: <https://www.kentwa.gov/home/showpublisheddocument/14993/637302339377330000>)
- *Example #2:* The City of University Place, Washington SMP sets out in Chapter 18.10 Definitions, “Primary water-enjoyment uses may include, but are not limited to, parks, piers, view towers, boardwalks, shared use paths and trails, interpretive centers and other improvements facilitating public access to shorelines of the State. General water-enjoyment uses may include but are not limited to restaurants, museums, aquariums, scientific/ecological reserves, golf courses, resorts and convention

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<sup>1</sup> Unfortunately, the SIC Report did not characterize or provide a detailed inventory of the areas mapped as “Potentially Associated Interdunal Wetlands” as those areas were excluded from the mapped shoreline jurisdiction and individual “reaches” that were established and studied. Nonetheless, it may be determined at a future date that additional lands would qualify as being within Shoreline Jurisdiction.

centers, and public markets; provided, that such uses conform to the above water-enjoyment specifications and the provisions of the Master Program.”

- *Example #3:* In Bothell Municipal Code Section 13.03.010 (Title 13 Shoreline Management – Definitions), the definition for Water-Enjoyment Uses matches the WAC verbatim, with the addition of the sentence “Examples include parks and trails, restaurants, museums, aquariums, scientific/ecological reserves, resorts/hotels (as part of mixed use development or with significant public access or restoration components), and mixed use commercial/office.”

## RECOMMENDATION

Staff at the City of Westport have indicated they would like to see the above changes made to the Westport Shoreline Master Program which will see golf courses included as a ‘wetland-enjoyment use’ and a shoreline use or development. We recommend the draft SMP document (which shows proposed amendments for the periodic review that is underway) be reviewed by agencies, the public, the City Planning Commission, the City Council and Ecology and be changed to include the additional amendments to sections 6.03.02 Regulations: Subsection (E)(4)(a) and SMP Section 8.02 Definitions as requested by the City.

Further, we recommend this memo be retained as a part of the official record for the City’s Periodic Review as documentation for these proposed changes, which is subject to adoption by City Council and approval by the Department of Ecology.

Cc: Heather Bush, Washington State Dept. of Ecology  
Interested Parties and Agencies  
City of Westport Planning Commission  
City of Westport City Council