



OCT 03 2013

STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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October 1, 2013

The Honorable Marilyn Strickland
City of Tacoma
747 Market Street, Room 1200
Tacoma, WA 98402-3766

Re: Final Ecology Approval of City of Tacoma Comprehensive Shoreline Master Program Update

Dear Mayor Strickland:

The Washington State Department of Ecology (Ecology) is pleased to announce final approval of the city of Tacoma (City) Shoreline Master Program (SMP) Comprehensive update. Congratulations to you, your staff, and the Tacoma community for completing the comprehensive update of your SMP. We know this has been a long and challenging process. We appreciate your commitment to comprehensive land-use planning for Washington's unique and valuable shorelines.

As you know, the following correspondence regarding the recent SMP comprehensive update took place between Ecology and the City:

- February 28, 2012 – Ecology accepted your complete locally-adopted SMP to Ecology (adopted as Ordinance No. 28034).
- August 19, 2013 – Ecology conditionally approved the City's SMP comprehensive update with specific required and recommended changes.
- September 18, 2013 – The City sent a letter to Ecology agreeing to all but one of Ecology's required changes and providing alternative language (adopted as Resolution No. 38734).

Upon review, Ecology finds the City's proposed alternative provisions to be consistent with the purpose and intent of the changes originally proposed by Ecology and with the policy of RCW 90.58.020 and the applicable rules.

Ecology, therefore, approves the City's SMP comprehensive update, together with the revisions specified above. This action represents Ecology's final decision and there shall be no further modifications to the City's proposal.



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The effective date of the City's SMP comprehensive update is 14 days from the date of this letter, Ecology's final approval letter. This 14-day period was established by legislative action in 2011 and is intended to provide lead time for the City to prepare to implement the new SMP.

Ecology is required to promptly publish notice that your SMP has received final approval. The notice, in the form of a legal ad, will begin a 60-day appeal period. We will provide a copy of the legal ad to the City for its records.

Finally, please integrate the revisions contained in this correspondence into the City's SMP, and forward two clean hard copies and one digital copy of the approved SMP to Ecology within 30 days.

Thank you again for your significant work and leadership in completing this SMP update. If you have any questions, please contact our Regional Planner, Kim Van Zwalenburg, at Kim.Vanzwalenburg@ecy.wa.gov or (360) 407-6520.

Sincerely,



Maia D. Bellon
Director

Enclosure

By Certified Mail [7012 1010 0003 3028 3447]

cc: Stephen Atkinson, City of Tacoma
Peter Huffman, City of Tacoma
Paula Ehlers, Ecology
Kim Van Zwalenburg, Ecology

**ATTACHMENT A: FINDINGS AND CONCLUSIONS-ADDENDUM
FOR THE PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF TACOMA
SHORELINE MASTER PROGRAM (Ordinance No. 28034)**

City of Tacoma's September 18, 2013 response to Ecology's August 19, 2013 decision
Resolution No. 38734, adopted September 17, 2013

Prepared by Kim Van Zwalenburg, September 25, 2013

Brief Description of Proposed Amendment: The City of Tacoma (City) submitted a comprehensive update to their Shoreline Master Program (SMP or TSMP). On August 19, 2013, the Department of Ecology (Ecology) approved the City's SMP, subject to the City's acceptance of fourteen required changes. In response to Ecology's conditional approval, the City adopted Resolution No. 38734 on September 17, 2013¹ accepting all but one of Ecology's required changes. The City proposed alternative language to the Intent statement of the S-6/7 Shoreline District.

FINDINGS OF FACT

Recommended Changes: Per Resolution No. 38734, The City accepted all Recommended Changes set forth in Attachment C issued with Ecology's conditional approval on August 19, 2013.

Required Changes: As provided in the City's response to Ecology through Resolution No. 38734, Tacoma accepted Required Changes Item # 1 through 5 and 7 through 14.

Alternative language for the S-6/7 Schuster Parkway Transition District (Item #6): The S-6/7 Shoreline District is one of 17 zoning districts established to implement the goals and policies of the SMP (TSMP 1.8(4) and Chapter 9). Ecology's required change (Item #6) to the intent statement incorporated language that directly acknowledges the area in and adjacent to the Schuster Parkway Transition District has been transitioning over time from water-oriented commercial and industrial uses to uses focused more on recreational and restoration activities. More recently, shoreline restoration activities have been undertaken.²

Ecology's changes recognize that the waters directly offshore of the S-6/7 Shoreline District are located within the S-13 Marine Waters of the State Shoreline District (Aquatic designation) and that activities within this District are controlled by what is allowed in the adjacent upland Shoreline District. These waters offshore of the S-6/7 Shoreline District are within Shorelines of Statewide Significance where located waterward of extreme low tide, are within a defined Harbor Area and are along commercially navigable waters. Finally Ecology previously found that the area is uniquely suited to deepwater moorage such as currently exists at the Sperry Ocean Dock facility.³

The SMP defines lay berthing as a port/industrial use. This activity currently exists within the S-6/7 Shoreline District, is a water-dependent use and utilizes the natural deep water at the site. Ecology's Required Change #10 revised this from a prohibited activity to a conditional use. This change has been accepted by the City.

¹ The official City response, with alternative language, to Ecology's conditional approval was received by the Ecology Director on September 23, 2013.

² Attachment A Findings and Conclusions (p. 16) issued with Ecology's August 19, 2013 Conditional Approval letter.

³ See both the *Waterfront Lands Analysis (BST, 2008)* and the *Shoreline Use Analysis (ESA Adolfson, 2008)*.

The City designated approximately 14.5 miles as Urban Conservancy. Many of the shoreline districts with this environment designation, including the S-6/7 Shoreline District, are adjacent to commercially navigable waters. Required Change #2 added an additional policy to Section 5.5.4 Urban Conservancy Environment that emphasizes that water-dependent uses should be given highest priority. This change has been accepted by the City.

According to Tacoma, the proposed alternative language would more clearly define the City's vision for the future of the S-6/7 Shoreline District.⁴

Ecology finds that Tacoma has accepted all required and recommended changes except for Required Change #6 to the intent statement for the S-6/7 Schuster Parkway Transition Shoreline District.

Ecology finds that intent statements for shoreline districts are not read in isolation from the other goals and policy statements contained in the SMP, specifically those related to Shoreline Land Use (TSMP Section 3.2) and the applicable environment designation (TSMP Chapter 5).

Ecology finds that the waters directly adjacent to the S-6/7 District are located in the S-13 Marine Waters of the State Shoreline District and designated Aquatic. Any proposed future development must be consistent with TSMP Sections 5.5.2 and 9.15.

Ecology finds that all waters in the S-13 Shoreline District lying seaward of the line of extreme low tide are, by definition, Shorelines of Statewide Significance (RCW 90.58.030(2)(f)). Any proposed future development must be consistent with TSMP Sections 4.3 and 4.4 and RCW 90.58.020.

Ecology finds that any proposed development within the S-6/7 and S-13 shoreline districts must be consistent with TSMP Section 6.1 Shoreline Use.

Ecology finds that lay berthing is a low intensity port/industrial use.

Ecology finds that the Shoreline Management Act and the Master Program is exempt from the rule of strict construction and the SMP shall be liberally construed to give full effect to the purposes and objectives for which the Act and the SMP were enacted.

In light of the above, Ecology finds that the proposed alternative language to the intent of S-6/7 Schuster Parkway Transition (TSMP Section 9.8 A) is consistent with the purpose and intent of Ecology's original required change.

CONCLUSIONS OF LAW

Ecology concludes that the SMP must be read as a whole, and implementation of the S-6/7 Schuster Parkway Shoreline District intent must also be consistent with the goals and policies of the Urban Conservancy Environment Designation (TSMP Section 5.5.4) and Shoreline Uses (TSMP Sections 3.2 and 6.1).

Ecology concludes that the S-13 Shoreline District is in the Aquatic Shoreline Environment designation.

⁴ Discussion at City Council Work Study Session September 10, 2013 and City Council Action Memorandum dated September 11, 2013.

Ecology concludes that those marine waters lying seaward of the line of extreme low tide are Shorelines of Statewide Significance.

Ecology concludes that uses and activities authorized within shorelines of statewide significance must be consistent with RCW 90.58.020 and TSMP Chapter 4. Ecology concludes that those SMP segments relating to shorelines of statewide significance provide for the optimum implementation of Shoreline Management Act policy (RCW 90.58.090(5)).

Ecology concludes that consistent with RCW 90.58.090(2)(e)(ii), Tacoma's proposed alternative language provided in Attachment B-Revised is consistent with the Shoreline Management Act, the SMP Guidelines (WAC 173-26) and the purpose and intent of Ecology's original change identified in Ecology's August 19, 2013 conditional approval.

DECISION AND EFFECTIVE DATE

Ecology approval of Tacoma's comprehensively updated SMP is effective fourteen (14) days from the date of the Ecology Director's letter notifying the City of final approval.

