ATTACHMENT A: FINDINGS AND CONCLUSIONS
FOR PROPOSED COMPREHENSIVE UPDATE TO THE CITY OF BONNEY LAKE
SHORELINE MASTER PROGRAM

SMP Submittal accepted March 26, 2014, Resolution No. 2297
Prepared by Sarah Lukas on August 8, 2014

brief description of proposed amendment:
The City of Bonney Lake has submitted to Ecology for approval, a comprehensive update to their
Shoreline Master Program (SMP) to comply with Shoreline Management Act (SMA) and SMP
Guidelines requirements. The updated master program submittal contains City of Bonney Lake
Resolution No 2297, an intent to adopt Draft Ordinance D13-56 that contains locally tailored shoreline
management regulations to be codified as City Code Chapter 16.34 and updated critical area code
regulations from Bonney Lake Municipal Code Chapter 16 and the following: a findings of facts and
conclusions on the comprehensive update process; an updated Shoreline Environment Designation
Map; Chapter 13 of the Comprehensive Plan that contains draft policies and goals; and, a finalized
Restoration Plan. Additional reports and supporting information and analyses noted below, are
included in the submittal.

findings of fact:

need for amendment. The proposed amendment is needed to comply with the statutory deadline for a
comprehensive update of the City’s local Shoreline Master Program pursuant to RCW 90.58.080 and
100. This amendment is also needed for compliance with the planning and procedural requirements of
the SMP Guidelines contained in WAC 173-26 and 27. The original City SMP was approved by
Ecology in August 1975 and was last amended in May 1988. This SMP update is also needed to
address land use changes that have occurred along the City’s shorelines over the past 26 years.

The area of shoreline jurisdiction regulated under the city’s SMP has changed. The new SMP now
regulates approximately 1,290 linear feet of Fennel Creek below Victor Falls. This part of the Creek is
not contiguous with the rest of the city and is completely surrounded by unincorporated Pierce County.
The regulated area of Lake Tapps, a Shoreline of Statewide Significance, has also changed. The White
River Flume once considered part of the Lake Tapps shoreline, located on the Southeast shoreline of
Lake Tapps, has been removed from shoreline jurisdiction.

Amendment History, Review Process: The city indicates the proposed SMP amendments originated
from a local planning process that began in August 2009. As part of the Public Participation Plan the
City formed a Citizen’s Advisory Committee (CAC) to provide organized input and recommendations
for the Planning Commission and City Council. Recruitment for the CAC was posted on both January
11, 2010 and on February 4, 2010 in several local public spaces including Bonney Lake City Hall, the
City Hall Annex, the Bonney Lake Public Library, the Tacoma News Tribune, the Puyallup Herald
Newspaper, and the Bonney Lake webpage bulletin board. A total of five meetings were held between
April 2010 and February 2011. The CAC reviewed and provided recommendations on several aspects
of the SMP including Shoreline Environment Designations, Docks and Floats, Shoreline Stabilization,
and Residential Development.

The record shows that a workshop on the update open to the public was held on October 18, 2010. A
hearing in front of the Planning Commission was held on October 16, 2013. Affidavits of publication
provided by the City indicate notice of the hearing was published on September 18, 2013 in the
Enumclaw Courier-Herald Weekly Newspaper, as well as sent to interested parties and all shoreline property owners in the city.

With passage of Resolution #2297, on January 28, 2014, the City authorized staff to forward the proposed amendments to Ecology for approval.

The proposed SMP amendments were received by Ecology for state review on February 26, 2014 and verified as complete on March 26, 2014. Notice of the state comment period was distributed to state task force members and interested parties identified by the City on April 28, 2014, in compliance with the requirements of WAC 173-26-120, and as follows: The state comment period began on May 8 and continued through June 9, 2014. Ecology did not hold a public hearing on the proposed amendment. A total number of two comment letters were submitted to Ecology during the public comment period. Ecology sent all comments it received to the City on June 10, 2014. On June 24, 2014, the City submitted to Ecology its responses to issues raised during the state comment period, see Attachment D. Ecology’s own responses to issues raised during the comment period are reflected in the recommended changes, see Attachment C.

**Consistency with Chapter 90.58 RCW:** The proposed amendment has been reviewed for consistency with the policy of RCW 90.58.020 and the approval criteria of RCW 90.58.090(3), (4) and (5). The City has also provided evidence of its compliance with SMA procedural requirements for amending their SMP contained in RCW 90.58.090(1) and (2).

**Consistency with “applicable guidelines” (Chapter 173-26 WAC, Part III):** The proposed amendment has been reviewed for compliance with the requirements of the applicable Shoreline Master Program Guidelines (WAC 173-26-171 through 251 and 173-26-020 definitions). This included review of a SMP Submittal Checklist, which was completed by the City.

**Consistency with SEPA Requirements:** The City submitted evidence of SEPA compliance in the form of a SEPA checklist and issued a Determination of Non-Significance (DNS) for the proposed SMP amendments on September 13, 2013. Notice of the SEPA determination was published in the Enumclaw Courier-Herald on September 18, 2013. Ecology did not comment on the DNS.

**Other Studies or Analyses supporting the SMP update:** Ecology also reviewed the following reports, studies, map portfolios and data prepared for the City in support of the SMP amendment:

- a November, 2009 Public Participation Plan;
- a June, 2010 Shoreline Inventory and Analysis Report;
- a January 2013 Shoreline Analysis Report Supplement;
- an Environmental Designation Justification;
- a December 2013 Cumulative Impacts Analysis;
- a December 2013 No Net Loss Report; and
- a November 2013 Restoration Plan.
Summary of IssuesRaised During The Public Review Process:
The City's SMP amendment identified complex issues related to shoreline jurisdiction. Areas of the
Bonney Lake and Pierce County shoreline were removed from shoreline jurisdiction related to the
water conveyance system that is the primary source of hydrology of Lake Tapps called the White River
Flume. The White River Flume is an eight mile man made water conveyance system originating at the
White River in Buckley, WA. Historically, areas of the flume that fell within the Ordinary High Water
Mark of Lake Tapps were regulated as part of the Lake Tapps shoreline. However, after several
discussions with the city and Cascade Water Alliance (property owner), and site visits; the terminus of
the White River Flume was determined and areas upstream of the terminus were excluded from
jurisdiction. The result of this change is illustrated in the proposed Shoreline Environmental
Designation Maps submitted by the city for approval as part of this SMP.

Summary of Issues Identified by Ecology as Relevant To Its Decision:
The following required changes are necessary for consistency with the Shoreline Management Act and
applicable Washington Administrative Code as cited below.

The submittal does not contain policies for the Aquatic shoreline environment designation (SED). The
addition of policies within the ‘Shoreline Element,’ Chapter 13 of the Bonney Lake Comprehensive
Plan are necessary for consistency with WAC 173-26-211(4)(a)(iii).

An internal conflict exists between the allowed intrusions into the setback and prohibited uses for the
Natural (SED). Several allowed intrusions into the setback area are also prohibited in the Natural SED.
A change is necessary to alleviate an internal inconsistency within the SMP and clarify what uses can
be allowed in the Natural SED. The removed language identifies several allowed intrusions into the
setback that are inconsistent with Use and Modification Table found in BLMC16.50.020. The
additional text specifies the appropriate allowed uses consistent with the Use and Modification Matrix,
as allowed intrusions into the setback.

The proposed non-conforming use provisions require a shoreline substantial development permit for
proposals to expand legally existing single-family residences not meeting the current shoreline setback
requirements in the SMP. In most cases, such proposals will be exempt from the substantial
development permit process under 90.58.030(3)(e) RCW and WAC 173-27-040(2)(g), when it meets
the conditions of the exemption, making this a conflict with the applicable administrative code. This
change removes the requirement for the substantial development permit leaving it to approval by the
city which will either be a substantial development permit or a shoreline exemption that the city can
condition.

Four incorrect citations were identified in the wetlands section of the Critical Areas Ordinance, these
changes are necessary for consistency with WAC 173-26-221(2)(c)(i), a requirement to use Ecology’s
guidance for wetlands.
Along with the above required changes necessary to be consistent with the state law, the following changes are recommended and found in Attachment C.

The proposed SMP requires a shoreline conditional use permit to develop trails in the Natural shoreline environment designation (SED). This area within the City of Bonney Lake is completely owned by the city and would be providing public access to the shoreline through the adjacent public park lands. Ecology recommends allowing trails for public access with a substantial development permit to implement the policy found in 90.58.020(5) RCW, “Increase public access to publicly owned areas of the shoreline.”

There is an existing municipal well facility along with associated utility infrastructure located in the Natural SED. The submitted SMP prohibits utilities and is silent on the allowance of well facilities in the Natural SED, this prohibition is consistent with the provisions found in WAC 173-26-211(5)(a)(ii). However, Ecology recommends allowing such facilities and the associated transmission lines with a conditional use permit. This allowance will remove a conflict with the existing well and the regulations, and avoid creating a non-conforming use for the city’s municipal water supply. This change is reflected in the use matrix, found in BLMC 16.50.0202.

In comments received by the Department of Archaeology and Historic Places (DAHP), DAHP identified the general regulations concerning Archaeological and Historic Resources incorrectly identified DAHP as the State Office of Archaeology and Historic Places. Ecology recommends the city resolve this inconsistency by changing the title of DAHP in the SMP.

The submitted SMP contains regulations for fill that are more restrictive than required in WAC 173-26-231(3)(c). The Guidelines distinguish between regulations below the Ordinary High Water Mark (OHWM), and on lands above the OHWM. Ecology recommends distinguishing the placement of fill in the water compared to fill placed on land above the OHWM consistent with the associated administrative code. This change will avoid conflicts with future proposed development of areas on land where the placement of fill can be common practice, and necessary for the allowed uses of the SMP.

The proposed dock provisions contain contradictory language for the placement of utility lines running underneath docks. Ecology recommends clarifying that lines need to be placed above the water when below the OHWM.

The submitted SMP contains the requirement for a substantial development permit to expand an existing single-family residence that does not conform to the current setback requirements. As identified in the required changes section above, in most cases a single family residence is exempt from a substantial development permit when it meets the conditions found in 90.58.030(3)(e) RCW and WAC 173-27-040(2)(g), so the permit requirement conflicts with the exemption. The city requested the ability to require a conditional use permit for such expansions, which would provide the city with a higher review standard over the review and approval process for such proposals.

CONCLUSIONS OF LAW
After review by Ecology of the complete record submitted and all comments received, Ecology concludes that the City’s proposed comprehensive SMP update, subject to and including Ecology’s required changes (itemized in Attachment B), is consistent with the policy and standards of RCW 90.58.020 and RCW 90.58.090 and the applicable SMP guidelines (WAC 173-26-171 through 251 and .020 definitions). This includes a conclusion that approval of the proposed SMP, subject to required changes, contains sufficient policies and regulations to assure that no net loss of shoreline ecological functions will result from implementation of the new updated master program (WAC 173-26-201(2)(c).

Ecology also concludes that a separate set of recommended changes to the submittal (identified during the review process and itemized in Attachment C) would be consistent with SMA policy and the guidelines and would be beneficial to SMP implementation. These changes are not required, but can, if accepted by the City, be included in Ecology’s approved SMP amendments.

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

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

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

Ecology concludes that the City has complied with the purpose and intent of the local amendment process requirements contained in WAC 173-26-100, including conducting open houses and public hearings, notice, consultation with parties of interest and solicitation of comments from tribes, government agencies and Ecology.

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

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

Ecology concludes that it has complied with the procedural requirements for state review and approval of shoreline master program amendments as set forth in RCW 90.58.090 and WAC 173-26-120.

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

**DECISION AND EFFECTIVE DATE**

Based on the preceding, Ecology has determined the proposed amendments comprehensively updating the SMP, are consistent with Shoreline Management Act policy, the applicable guidelines and implementing rules, once required changes set forth in Attachment B are approved by the City. Ecology approval of the proposed amendments with required changes is effective 14 days from Ecology’s final action approving the amendment.

As provided in RCW 90.58.090(2)(e)(ii) the City may choose to submit an alternative to the changes required by Ecology. If Ecology determines that the alternative proposal is consistent with the purpose and intent of Ecology’s original changes and with RCW 90.58, then the department shall approve the alternative proposal and that action shall be the final. Approval of the updated SMP and proposed alternatives is effective 14 days from Ecology’s final action approving the alternatives.