

**Public Comment Summary: City of Nooksack Shoreline Master Program Comprehensive Update**

The following written comments were received during the Ecology Comment Period (November 17 – December 19, 2014)

ITEM	SMP Section	Commenter	Comment / Concern	Local Government Response / Rationale	Ecology Response / Rationale
01	2.7 – Historical/Cultural Resources Goals and Policies	Department of Archaeology & Historic Preservation	<p>Recommends adding the term “structures” to the introductory paragraph as follows:</p> <p>“An element related to the protection and restoration of buildings, <u>structures</u>, sites and areas having archaeological, historic, cultural, scientific or educational values within the shorelines of the City of Nooksack.”</p>	The language in the City’s proposed master program is consistent with the language in RCW 90.58.100(2)(g) and WAC 173-26-176(3); therefore, the suggested change is not deemed necessary.	Ecology concurs with the City’s response. Section 2.0 of the Nooksack SMP lists the general elements that must be considered in the preparation of master programs or amendments consistent with the language found in the Shoreline Management Act (RCW 90.58.100(2)). This is non-regulatory language and is intended to be broad in nature. The lack of the term “structures” in this section does not mean that historic or cultural structures are not regulated by the Nooksack SMP.
02	2.7 – Historical/Cultural Resources Goals and Policies	Department of Archaeology & Historic Preservation	<p>Add the following policy statement:</p> <p>“<u>Policy 2.7C: Protection and rehabilitation of significant archaeological, historic, and cultural sites is encouraged and when and where appropriate, should be required.</u>”</p>	The suggested new policy has been reworded slightly for incorporation into the draft SMP as follows: <u>Policy 2.7C: Protection and rehabilitation of significant archaeological, historic, and cultural sites should be encouraged and, where appropriate, should be required.</u>	Ecology supports the City’s decision to incorporate this protection and rehabilitation policy to its SMP as requested by DAHP. The City requested change is included in Attachment C – Ecology Recommended Changes.
03	Policy 2.7A – Historical/Cultural Resources	Department of Archaeology & Historic Preservation	<p>Recommends the following changes:</p> <p>“Policy 2.7A: Developments <u>that are proposed</u> within shoreline areas <del>should be encouraged and, where appropriate, are</del> required to avoid or minimize impacts to sites having archaeological, historic, cultural, educational or scientific value or significance. <u>Developments with unavoidable impacts on these resources shall be mitigated in consultation with affected Tribes and other interested parties.</u>”</p>	The policy language in the City’s proposed master program is consistent with the language in WAC 173-26-221(1); therefore, the suggested change is not deemed necessary.	Ecology concurs with the City’s response. Section 2.7 of the Nooksack SMP lists goals and policies that support the planning element related to the protection archaeological, historic and cultural resources. The SMP contains regulations (NMC 16.04.460) that implement this policy by requiring the study and protection of both known and inadvertently discovered historic/cultural resources. The regulations require consultation with DAHP and affected tribes when significant archaeological, cultural or historic resources are identified in a cultural resource site assessment or inadvertently discovered during ground disturbing activities.
04	6.1 – Archaeological Areas & Historic Sites	Department of Archaeology & Historic Preservation	<p>Recommends the phrase “whenever possible” be deleted from the introductory paragraph as follows:</p> <p>“Native American and pioneer villages, military forts, old settlers homes, and trails were often located on shorelines because of the proximity of food resources and because water provided a practical means of transportation. These sites are nonrenewable resources and many are in danger of being lost through present day changes in land use and urbanization. Because of their rarity and the educational and cultural links they provide to our past, these</p>	The inclusion of the words “whenever possible” reflects the understanding that preservation may not be possible in absolutely every situation. This approach is consistent with the multiple policy goals set forth in the Act.	Ecology concurs with the City’s response. Section 6.0 of the Nooksack SMP is non-regulatory policy language. The regulations found in NMC 16.04.460 implement these policies and require consultation with DAHP and affected tribes prior to a finding that preservation of archaeological, historic and cultural resources is not possible on a given development site.

			locations should be preserved <del>whenever possible.</del> ”		
05	<b>Policy 6.1B – Archaeological Areas &amp; Historic Sites</b>	Department of Archaeology & Historic Preservation	<p>Recommends the following changes:</p> <p>“In areas <del>documented to contain</del> <u>known to have/potential to have</u> archaeological, <u>historic</u> or cultural resources, developers <del>should be</del> <u>are required to have the site project area inspected surveyed</u> by a professional archaeologist in consultation with affected Indian tribes prior to permit issuance.”</p>	<p>The language in the draft City master program is generally consistent with WAC 173-26-221. Revisions to ensure consistency include the following:</p> <p>Policy 6.1B: In areas documented to contain archeological or cultural resources, developers <u>shall</u> <del>should</del> be required to have the site inspected <u>and evaluated</u> by a professional archaeologist in consultation with affected Indian tribes prior to permit issuance.</p>	Ecology supports the City’s decision to alter this policy provision. The City requested change is included in Attachment C – Ecology Recommended Changes. The regulations found in NMC 16.04.460 include a requirement for professional assessment of historic sites in addition to known archaeological and cultural sites.
06	<b>Policy 6.1C – Archaeological Areas &amp; Historic Sites</b>	Department of Archaeology & Historic Preservation	<p>Recommends deleting the phrase “should be” and capitalizing the agency name as follows:</p> <p>“Policy 6.1C: Developers <del>should be</del> <u>are</u> required to stop work immediately and notify City officials, affected Indian tribes and the <del>s</del>State <del>d</del>Department of <del>a</del>Archaeology and <del>h</del>Historic <del>p</del>Preservation if sites containing archaeological or cultural resources are uncovered during excavation.”</p>	<p>The language in the draft City master program is generally consistent with WAC 173-26-221. Revisions to ensure consistency include the following:</p> <p>Policy 6.1C: Developers <u>shall</u> <del>should</del> be required to stop work immediately and notify City officials, affected Indian tribes and the state department of archaeology and historic preservation if sites containing archaeological or cultural resources are uncovered during excavation.</p>	Ecology supports the City’s decision to alter this policy provision. The City requested change is included in Attachment C – Ecology Recommended Changes.
07	<b>Policy 6.1D – Archaeological Areas &amp; Historic Sites</b>	Department of Archaeology & Historic Preservation	<p>Recommends the following changes:</p> <p>“Policy 6.1D: Developers <del>should be</del> <u>are</u> required to obtain all legal permits regarding archaeological areas and historic sites.”</p>	Requirements for obtaining related permits are addressed more generally in the draft master program and are not required at this location to ensure consistency with specific requirements identified under WAC 173-26-221.	Ecology concurs with the City’s response. Section 6.1 contains non-regulatory policy language where use of the term “should” is appropriate. The regulation that implements this policy is found in NMC 16.04.460.A and requires compliance with applicable state and federal laws.
08	<b>Policy 6.1E – Archaeological Areas &amp; Historic Sites</b>	Department of Archaeology & Historic Preservation	<p>Recommends adding additional RCW sections as follows:</p> <p>“Policy 6.1E: In accordance with state law, all activities and development within shoreline jurisdiction shall comply with the applicable requirements of RCW 27.44, RCW 27.53, <u>RCW 68.58, RCW 68.60</u> and WAC 25-48-060.”</p>	<p>The additional statutory references may be incorporated as suggested:</p> <p>Policy 6.1E: In accordance with state law, all activities and development within shoreline jurisdiction shall comply with the applicable requirements of RCW 27.44, RCW 27.53, <u>RCW 68.58, RCW 68.60</u> and WAC 25-48-060.</p>	Ecology supports the City’s decision to alter this policy provision. The City requested change is included in Attachment C – Ecology Recommended Changes.
09	<b>16.04.460.A – Archaeological Areas &amp; Historic Sites General Requirements</b>	Department of Archaeology & Historic Preservation	<p>Recommends the following changes:</p> <p>“The National Historic Preservation Act of 1966 and Chapter 27.53 RCW provide for the protection, rehabilitation, restoration and reconstruction of areas and structures in American and Washington State history. The <u>policies and implementing</u> regulations in these acts shall be followed.”</p>	The additional detail included in the suggested revision to Section 16.04.460(A) is not necessary to provide consistency with the applicable State Guidelines and is not deemed necessary.	Ecology supports the City’s decision to alter this policy provision. The City requested change is included in Attachment C – Ecology Recommended Changes.
10	<b>General – Data Sharing</b>	Department of Archaeology & Historic Preservation	Recommends that the City of Nooksack enter into a data sharing agreement so that identification and protection of known cultural resources can be improved.	The recommendation is unrelated to the current review: however, the City will consider the suggestion outside the SMP update process if determined to be appropriate based on the prevalence of known sites in the Nooksack area.	No further Ecology comment.

11	<b>General – DAHP Model Language</b>	Department of Archaeology & Historic Preservation	The archaeological and historic sites language in the SMP is too broad. It is recommended that the City adopt DAHP's model SMP language to provide more specificity and guidance when dealing with these resources.	The very limited presence of sites of significance within the Nooksack shoreline area does not warrant the more-detailed provisions provided in the DAHP model. The language in the draft City master program is deemed to be sufficient to ensure protection of the resource and consistency with State Guidelines.	Ecology concurs with the City's response regarding compliance with the master program guidelines. Specifically, the goals, policies and development regulations found in Sections 2.7 and 6.1, and the corresponding development regulations found in NMC 16.04.460 are consistent with the required general master program provisions found in WAC 173-26-211(1). The regulations require consultation with DAHP and affected tribes when a development is proposed in an area known to contain archaeological, cultural and/or historic resources and in the event these resources are inadvertently discovered during ground disturbing activities.
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