

Goal 18: Pre-1977 Development Focus Group

FINAL REPORT

To the Oregon Department of Land Conservation & Development

September 2019



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List of Acronyms and Abbreviations

BPS	Beachfront Protective Structure
DLCD	Oregon Department of Land Conservation and Development
Goal 18, IR#5	Statewide Planning Goal 18: Beaches & Dunes, Implementation Requirement #5
LCDC	Land Conservation and Development Commission
LUBA	Land Use Board of Appeals
ODOT	Oregon Department of Transportation
OPRD	Oregon Parks and Recreation Department
SLR	Sea Level Rise

Focus Group Overview

The Department of Land Conservation & Development (DLCD) initiated a focus group of stakeholders **to review the equity and consistency of the application of Statewide Planning Goal 18: Beaches and Dunes, Implementation Requirement #5**. This provision of the Goal relates specifically to shoreline armoring requirements.

Oregon Statewide Planning Goal 18, Beaches and Dunes (OAR 660-015-0010) limits the issuance of permits for beachfront protective structures (BPS)* to areas where development existed on January 1, 1977. Development is defined as:

- Houses, commercial and industrial buildings;
- Vacant subdivision lots which are physically improved through construction of streets and provision of utilities to the lot; or
- Areas where an exception to Goal 18 Implementation Requirement #2 has been approved.

**Note: Shoreline armoring = beachfront protective structures (these terms are used interchangeably, but neither are defined in statute or rule).*

The focus group was charged with addressing the specific implementation provisions of Goal 18 related to shoreline armoring identified by the department (*see below*). The group did not address other provisions of Goal 18, nor was it their purpose to debate the fundamental, date-based limitation on shoreline armoring established in Goal 18.

Focus group participants represented various interests and expertise related to this topic, including state agencies, non-profit groups, local planners, private property interests, coastal erosion specialists and others. Members were identified by DLCD staff and invited to participate. They are listed below.

Name	Affiliation
Carrie Landrum	Aquatic Resource Coordinator, Oregon Dept. of State Lands
Charlie Plybon	Oregon Policy Manager, Surfrider Foundation
Chris Laity	Director, Tillamook County Public Works
David Phillips	Land Use Attorney, Vial Fotheringham LLP
Doug Gless	Engineering Geologist, HG Schlicker & Associates, Inc.
Geoff Crook	Sustainability Program Manager, Oregon Dept. of Transportation
Jay Sennewald	Ocean Shores Coordinator, Oregon State Parks and Recreation Dept.
Jonathan Allan	Coastal Geomorphologist, Oregon Dept. of Geology and Mineral Industries
Kris Wall	West Coast Regional Coastal Management Specialist, NOAA Office for Coastal Management
Onno Husing	Director, Lincoln County Planning Dept.
Scott Marion	Marine Habitat Project Leader, Oregon Dept. of Fish and Wildlife
Steven Dundas	Assistant Professor, Department of Applied Economics, OSU
Terri Michel	Manager, City of Rockaway Beach

Timeline: The group met in Newport, OR a total of six times starting in January 2019 and ending in August 2019. Members were given the option to participate in meetings remotely if needed.

Staffing: The focus group was staffed and led by the Coastal Shores Specialist, with assistance from the Coastal Policy Specialist. Facilitation and meeting support was provided by Oregon Sea Grant. Other DLCD staff were consulted as needed, including the Policy Team.

Output: The Goal 18: Pre-1977 Development Focus Group provided input and feedback to DLCD on each of the four topics identified by DLCD (*see below*); that feedback is summarized in this report. DLCD will consider this input in reaching decisions on whether and how to move forward with any proposed changes to Goal 18. If DLCD decides to move forward with rulemaking or goal amendments, the public will have the opportunity to be fully involved in those processes.

Public Participation: All meetings of the focus group were advertised on the DLCD website and via an interested parties email list. All meetings were open to the public and an opportunity to give public comment was provided at a specified time during each meeting. Members of the public were also welcome to submit written comments electronically to dlcd.goal18@state.or.us or meg.reed@state.or.us. All submitted comments were made available to focus group members for their consideration, and any public comments within the purview of the focus group's charge were considered. A summary of the major points conveyed through public comments are included in the "Public Comments" section of this report. A compilation of all written comments submitted to the group can be found in the Appendix. Public comments were accepted until September 30, 2019.

Public Comment: There was a committed group of citizens that attended the meetings. DLCD and the focus group members would like to thank them for their time and interest in the group and for being respectful and patient throughout the process. Those individuals who attended had specific concerns about the application of Goal 18 and the protection of their private property from erosion hazards. The attendees represented the views of a specific segment of stakeholders affected by potential changes to Oregon's coastal land use planning goals. While most of the comments received were outside of this focus group's charge, DLCD may want to consider their concerns in the future.

Concepts reviewed by the Focus Group:

1. *Concept #1: Beachfront Protective Structures Definition:* Implementation Requirement #5 outlines where beachfront protective structures (BPS) can be placed along the Oregon coast, but does not define "beachfront protective structure." Currently, what is and is not a BPS is determined on case-by-case basis by local jurisdictions and OPRD. This concept evaluated whether to add a definition for this term and how that might be accomplished.

2. *Concept #2: Pre-1977 Public Infrastructure:* Currently, public infrastructure (e.g. roads, utility lines and facilities) is not included in the definition of development eligible for shoreline armoring under Goal 18. Protecting public assets from coastal erosion through armoring requires an exception to Goal 18. This concept evaluated alternative approaches to address armoring for the purpose of protecting public infrastructure developed prior to January 1, 1977.
3. *Concept #3: Small In-fill Parcels:* Currently, the definition of development in Goal 18 includes vacant subdivision lots which were physically improved through construction of streets and provision of utilities to the lot (as of January 1, 1977) as eligible for shoreline armoring. It does not include vacant parcels that were similarly committed to development prior to 1977 but that were not created by statutory subdivision. This concept evaluated potential alternatives for addressing armoring issues associated with these parcels, either through Goal 18 or other mechanisms.
4. *Concept #4: Mitigation and alternatives to shoreline armoring:* This is a broad-based concept meant for brainstorming and discussion, the results of which may inform DLCD staff work programs or priorities. Goal 18, implementation requirement #5 outlines what development is eligible for shoreline armoring. However, it does not address strict requirements for siting oceanfront development, nor many alternative options for development that cannot armor. This has implications for both existing (post-1977) and future oceanfront development. This concept looked at some options (such as increased land use regulations and managed retreat) to reduce the need for shoreline armoring along the Oregon coast or to mitigate the impacts of erosion on development.

With the adoption of the coastal goals in 1977, LCDC established one of the foundational policies for the management of Oregon’s ocean shore recreation area, namely that beach armoring for the protection of new shoreline development would be prohibited. A provision was provided in the policy to allow armoring to protect existing development (i.e. development that occurred before implementation of this prohibition). This was based on the rationale that prior siting and development decisions made without knowledge of this policy should be effectively “grandfathered” for purposes of shoreline armoring.

Consideration of changes to Oregon’s core policy of prohibiting shoreline armoring for new development would require a major policy discussion involving an extensive group of stakeholders and the public. Ultimately, it would encompass revisiting the basic premise of the 1977 limit on shoreline armoring: the primacy of public over private interests in protecting Oregon’s beaches. This is a policy discussion that is far beyond the scope and purpose of the Goal 18: Pre-1977 Development Focus Group.

Focus Group Concepts

This report is formatted to follow the four main concepts covered at the focus group meetings. For each meeting, there is a synopsis of the concept discussed and the key discussion points for DLCD's consideration. The focus group was not tasked with identifying consensus-driven recommendations, so the report shows their considerations and feedback. Some topics were discussed at multiple meetings, so this report reflects any discussion that occurred on a given topic. A summary of main takeaways from all four concepts is provided at the end of the report.

1 – Beachfront Protective Structures Definition

Overview:

Goal 18, Implementation Requirement #5 outlines where beachfront protective structures (BPS) can be placed along the Oregon coast, but does not define “beachfront protective structure.” Alternative strategies for shoreline protection (including cobble revetments) can be a grey area for regulators trying to decide what a beachfront protective structure is versus what is not regulated by the goal. There is a definition for “riprap” and “structure” in the Definitions section of Oregon’s Statewide Planning Goals, and there is a definition for “improvement/alteration” in the Definition section of OAR 736, Division 20, but there is no definition for the term “beachfront protective structure.” The term has also never been litigated. Currently, what is and is not a BPS is determined on case-by-case basis by local jurisdictions and OPRD.

During this meeting, focus group members explored the difference between structural and dynamic erosion control treatments and what typical examples of those treatments look like (e.g. sand re-nourishment, seawalls, breakwaters, riprap, sand burritos, etc.). They discussed verbiage for a potential definition for BPS that contained both a conceptual definition and also a list of examples. Goal 18 doesn’t prohibit all types of shorefront protection, but does prohibit the use of “structures.” Additionally, the legal processes/options for creating a definition for BPS were discussed: goal amendment, rule creation (Goal 18 currently doesn’t have any administrative rules); rule amendment through OPRD’s [OAR 736, Division 20](#) rules; or status quo.

Policy Options Discussed

- Overall, most focus group members agreed that having a definition for BPS would be beneficial and would like to see a definition created; however, most members did not think initiating a process (whether goal amendment or rule-making) only to add a definition for BPS was worth the effort unless it was packaged with other changes and could be done at the same time. Status quo (no definition) works in most cases currently.
- If a definition were pursued through a goal amendment, an alternative term could be explored – “beachfront protective structure” is not necessarily an accurate term.
- There were split preferences on the preferred method for creating a definition between a goal amendment approach or rule-making through OPRD’s existing rules.
- DLCD, with the help of other experts, could put together a guidance document of typical erosion control treatment options and whether they are considered a structure (and therefore allowed only on eligible properties) or non-structural (and would be allowed on non-eligible properties). This would assist regulators, property owners, and public entities in understanding the most common erosion control treatment options in Oregon and how they are regulated.
- The group reviewed sample BPS definitions. This is a suggested definition for BPS based on group discussions:

Beachfront Protective Structure – A static structure that is intended to remain in a fixed position with the purpose of redirecting wave energy and to minimize or eliminate coastal erosion risk to development. BPS are purposefully constructed and intended to maintain that form over time. This includes, but is not limited to, rip-rap revetments, seawalls, groins, breakwaters, jetties, bulkheads, geotextile sandbags, sand burritos, gabions, and concrete or mortar reinforcement such as shotcrete. Beachfront protective structures do not include dynamic treatments such as sand nourishment, cobble revetments, and similar non-structural or non-fixed erosion mitigation measures.

This definition does not reflect the preferences of all focus group members, but is a result of many of the major points that came from the group’s discussion. If a process was pursued to create a definition for BPS, more input and discussion should be included in the final verbiage of that definition.

Benefits: There would be a definition, which would provide clarity to practitioners, regulators, and homeowners. Having a definition may allow for innovation in non-structural approaches to mitigate erosion risk.

Challenges: The mechanism for creating a definition will be challenging no matter the approach (rulemaking or goal amendment) because of the resources and capacity needed to bring forward.

Feasibility: Not feasible at this time on its own, but could be incorporated into other processes if pursued at the same time.

Next steps: If a Goal 18 amendment or rulemaking is pursued in the future, a definition for *Beachfront Protective Structure* should be included in that process. However, it is not a priority to initiate an amendment or rulemaking solely for the purpose of creating a definition for BPS.

DLCD, with the help of other experts, could put together a guidance document of typical erosion control treatment options and whether they are considered a structure (and therefore allowed only on eligible properties) or non-structural (and would be allowed on non-eligible properties) by practitioners. This would assist regulators, property owners, and public entities in understanding the most common erosion control treatment options in Oregon and how they are regulated. It is especially important to include where dynamic revetments can and cannot be placed in relation to goal 18 “eligibility.”

2 – Pre-1977 Public Infrastructure

Overview:

This meeting addressed pre-1977 public infrastructure. Currently, public infrastructure (e.g. roads, utility lines and facilities) is not included in the definition of development eligible for shoreline armoring under Goal 18. Protecting public assets from coastal erosion through armoring requires an exception to Goal 18. This meeting and concept focused on exploring and evaluating whether to include public infrastructure developed prior to January 1, 1977 in the definition of development in Goal 18. Examples of public assets prone to erosion along the oceanfront include: roads, water/sewer lines, wastewater facilities, stormwater outfalls, parks, lighthouses, campgrounds, and waysides.

Assembling digital data that reflects the development status of various public infrastructure assets in 1977 is very difficult. DLCD staff did a preliminary data analysis prior to this meeting comparing aerial photographs from 1967 and 1977 images. Staff were also able to assemble modern data for transportation, utilities (some, not all), and recreation/tourism. A more thorough investigation would be warranted if this concept were to be pursued further, in order to get a better sense of the scope of this particular topic.

ODOT gave a presentation on the history of Highway 101, where it is vulnerable, and current protection options. There are other state highways in the coastal zone, however US 101 is the highway with most exposure to coastal hazards and subject to Goal 18 on the open coast. ODOT has identified 27 vulnerable areas, with a wide range of sites and conditions (i.e. different reasons for erosion). The vulnerable areas average 0.7mi in length, and cover roughly 19 highway miles total, which is about 5% of 101 in Oregon. ODOT has also completed several relevant coastal resilience studies, including a climate vulnerability assessment, a nature-based resilience pilot project in Lincoln County, and a sea level rise exposure analysis in the estuaries, to help them assess assets at risk from multiple natural hazards.

Focus group members from Lincoln County, Tillamook County, Rockaway Beach, and State Parks also gave a high level assessment to the rest of the group about local assets that are at risk of coastal erosion and whether shoreline armoring would be helpful in those cases or not. The main points conveyed by these members were that 1) beach access points are likely the most vulnerable local public infrastructure assets to coastal erosion, and that 2) shoreline armoring, even if allowed, would likely be a last resort for any at-risk infrastructure assets. Retreat or other alternatives would be looked at first for most of these areas. The takeaway is that Highway 101 appears to be the public asset most at risk from coastal erosion that might benefit from shoreline armoring in some instances.

The group also discussed the 2002 Goal 18 amendment attempt to include Highway 101 in the definition of development eligible for shoreline armoring. This process was initiated by ODOT to DLCD and included narrow segments only, about 19 miles of shoreline total. This proposal went through the goal amendment process, including 11 hearings, most of which were held on the

coast. Public testimony gathered throughout the hearings process wasn't very extensive, until the final hearing before LCDC (Land Conservation and Development Commission). Then there was a large outpouring of comments, largely opposed to protecting Highway 101. Interest groups and citizens argued for the status quo: that the exceptions process should be followed for protecting Highway 101. Cities and counties argued that their public infrastructure assets should also be included in the amendment: if a state highway is considered development, then all roads/infrastructure should be included as development if built pre-1977. The testimony focused on the legal argument between private property treatment and public assets. ODOT ultimately withdrew the amendment proposal.

Policy Options Discussed

2.1 Status Quo: Goal exceptions are completed on a project-by-project basis, with the decision made by the local government as a plan amendment. These decisions go to a hearing in front of the planning commission and then final hearing by the governing body. Decisions can be appealed to LUBA (Land Use Board of Appeals). The focus group talked at length about existing approaches that have been underutilized. ODOT has used exceptions for other goals.

Benefits: This approach already exists and would require no changes to rules or the goal. Goal exceptions process might work best for local public infrastructure protection due to the localized nature of the process (project-by-project approach). Any entity can pursue this option now.

Challenges:

- This is not a state-wide or streamlined approach and would be cumbersome for an entity like ODOT to attempt this through each local jurisdiction. From ODOT's perspective, goal exceptions would be very expensive and highly redundant.
- Goal exceptions take time; not a good solution for an immediate erosion problem.
- While this is an existing tool, this process has never been tried for this particular issue (G18, IR#5). There is a perception that it is very difficult to attempt this approach, which is why it has never been tried.
- Focusing on goal exceptions can undermine the original intent of the goal, which is to protect the resource and the function of the coastal ecosystem. Goal exceptions are not a comprehensive approach to dealing with the impacts of coastal erosion.

Feasibility: The local goal exceptions process is feasible for local jurisdiction public infrastructure if needed, less feasible for ODOT. The time and resources for ODOT to support this effort are limited on a coast-wide scale.

Next steps: Find out 1) the approximate cost of a goal amendment vs. a goal exception; and 2) the risk to all public infrastructure assets subject to Goal 18. Seek institutional help from

DLCD to help explain the local goal exception process more thoroughly to local governments and other entities looking to pursue this option.

2.2 Goal 18 Amendment: Amending Goal 18 to include pre-1977 public infrastructure, such as Highway 101, in the definition of development. To complete a goal amendment, the directive would need to be included in DLCD’s policy agenda. The process includes 10 public hearings and a final hearing and adoption with LCDC.

Benefits: An amendment would be a more comprehensive state-wide approach. If a comprehensive analysis of what public/critical infrastructure is at risk from erosion can be completed, then a goal amendment may be justified based on the results. A goal amendment may work best for protecting critical infrastructure, but what is meant by “critical infrastructure” still needs to be defined.

Challenges: A goal amendment is a lengthy, resource-intensive process. The previous goal amendment effort was unsuccessful in 2002, and the group does not know whether the outcome would be different now. Nothing significant has changed since then in terms of public perception. However, there have been changes in other areas: the beach has seen increased erosion and impacts to development from erosion since 2002. There also wasn’t a robust public process before that previous attempt. This focus group is helping to bring transparency to these deliberations.

Feasibility: A goal amendment to address public infrastructure is not seen as feasible at this time.

Next steps:

See 2.4 Research Needs

2.3 Rulemaking for Chapter 660, Division 4: OAR 660-004-0022 provides a list of reasons necessary to justify a goal exception. Specific reasons are set forth for certain identified goal requirements and uses; the rules provide set parameters for meeting the “reasons test.” Examples: Goal 18, foredune development prohibition (implementation requirement 2); foredune breaching (implementation requirement 6).

Option: Add specific reasons for a goal exception to Goal 18, implementation requirement 5. There is nothing in the rules right now for this provision. This may be an option for making the local goal exception process more clear for specific issues related to G18 IR#5, such as pre-1977 public (critical) infrastructure. This option is not specific to Highway 101 only, but could include other public infrastructure assets.

Benefits: This approach would serve as a compromise between the status quo and a goal amendment. A local goal exception would still be needed for a public asset such as Highway 101, but the process would be made clearer through state rules. This process would help

identify instances in which a local exception might be justified (such as to allow Highway 101 to apply for shoreline armoring due to coastal erosion).

Challenges:

- If this option were pursued, DLCD and the rulemaking committee would be faced with the challenge of coming up with clear and specific language to codify in rules how to outline the parameters of this particular issue.
- ODOT would still need to seek goal exceptions for each jurisdiction in which Highway 101 is vulnerable and where the best option is potentially an armoring option.
- Defining “critical infrastructure” to include in this option.

Feasibility: Rulemaking for Division 4 is a feasible option.

Next steps: DLCD would include this option in the department’s policy agenda and then initiate a rulemaking process. The standard rulemaking process would apply: rules advisory committee, one public hearing in the affected region, final hearing and adoption by LCDC. DLCD should check in with other cities and counties along the coast to see if their public works departments have policies or preferences regarding assets that are subject to coastal erosion and whether they consider structural armoring as a necessary strategy.

2.4 Research Needs: This list summarizes information the group felt is still needed related to all the policy options discussed under Concept #2. It has been categorized by priority:

- *Tier 1:* Develop an inventory of critical infrastructure along the Oregon coast that may or may not need shoreline armoring. Within that inventory, identify the hazard (erosion, flooding, or landslide), the best mitigation tactic, its vulnerability to failure, the land uses nearby, and development date (pre- or post-1977).
- *Tier 2:* Research additional information related to public/critical infrastructure (including Highway 101):
 - Identify coastal areas with the highest potential for a goal exception
 - What is the value of the infrastructure at risk from coastal erosion along the oceanfront, and what are the economic impacts if the infrastructure fails?
 - Costs to relocate the highway and other alternatives to armoring
 - Cost benefit analysis of specific projects and various policy pathways
 - Determine the costs and impacts to public resources, local economies, cultural resources, tourism, and beach access
- The above information will help to justify (or not) a goal amendment to support the protection of Highway 101 or other public infrastructure assets.
- *Tier 3:* Assess each littoral cell along the Oregon coast:
 - Understand the physical processes that are causing change in those environments
 - Percent armored – identify eligibility and existing armoring patterns. (Steve Dundas, OSU can generate this information now)

- *Tier 4:* Utilize ongoing research (OSU Professor Ruggiero, Envision) to help evaluate tradeoffs between armoring and beach access. What is the public valuation of protection of private property vs. the protection of public infrastructure vs. the protection of the public beach?
- Additional research may inform policy choices (exception vs. amendment). Research universities, such as OSU, can help with this data.

Challenges: ODOT is concerned that this long list of research needs will preclude any forward progress on possible rule making. While more information may be necessary to advance a policy option, all of these research needs put together would be like a coast wide NEPA analysis - defeating the point of a programmatic approach. Goal exceptions would still be required site by site even with the rule making option.

Feasibility: Some research needs can be answered quickly with existing resources, such as through OSU, ODOT, or DLCD. Other questions are dependent upon securing additional resources and appropriate data.

Priorities for Concept #2:

High Priority:

- 2.3 Rulemaking for Chapter 660, Division 4 - this is doable now, and is low risk
- 2.4 Research Needs - targeted research will help advance future decisions on the best policy options

Low Priority

- 2.1 Status Quo (Local Goal Exception) - this option already exists and a jurisdiction or agency could try pursuing this process now; however there are perceived barriers to moving forward
- 2.2 Goal Amendment - this is not seen as feasible at this time and has high uncertainty in the outcome given the unsuccessful attempt by ODOT in 2002.

Priorities may change based on the results of research. These rankings are reflective of the group's thoughts at the time of this report.

3 - Small In-fill Parcels

Overview:

Currently, the definition of development in Goal 18 includes vacant subdivision lots which were physically improved through construction of streets and provision of utilities to the lot (as of January 1, 1977) as eligible for shoreline armoring. It does not include vacant parcels that were similarly committed to development prior to 1977 but that were not created by statutory subdivision. The result is that, in some cases, isolated ineligible parcels are scattered in between eligible properties in otherwise developed segments of the shoreline. These gaps can make permitting and effective armoring difficult due to the resultant edge effects of isolated structures. Also, in the developed segments of shoreline where these physically improved parcels exist, there is no functional, policy-based distinction between parcels and subdivision lots. Subdivision means the creation of 4 or more lots (divisions of land less than 4 lots would not be a subdivision). The policy intention of including vacant subdivision lots in the definition of development was that these lots tend to be small with limited space for siting structures.

This meeting focused on whether to include small parcels that were vacant but otherwise committed to development in 1977 as eligible for shoreline armoring. These parcels would be similar in size and characteristics to other vacant subdivision lots. Larger tracts of land would have had more siting options and were not considered in this policy concept.

DLCD gave a brief data analysis to help inform the discussion around this topic. The following is a summary of the main points of that analysis:

- The boundaries of the public beach are from extreme low water to the statutory vegetation line or the actual line of vegetation, whichever is further landward. The public beach is a rolling easement; as the beach erodes or accretes, the width of the public beach can change over time. Sometimes the statutory vs. actual line of vegetation can be quite different. A permit for a beachfront protective structure is required from OPRD if the structure is west of the vegetation line, but may not be if the structure is completely landward of that line. However, if and when the structure becomes exposed and is on the public beach due to erosion, the homeowner will have to get a permit from OPRD or remove the structure.
- In many cases, the private landowner still owns the land out on the public beach, but they do not pay taxes on this area. The public beach is a recreational easement.
- What is a small in-fill parcel? Tracts of land that are not part of a subdivision but have the same look and feel: small in size, in an area otherwise committed to development, with utilities and roads to the lot (as of January 1, 1977). Does not include large lots that were subsequently broken up into smaller lots post-1977, and had no services or development nearby prior to 1977. This discussion is limited to the configuration of the parcels on January 1, 1977, and is meant to capture the intent of the original policy.
- Preliminary data:
 - Figure 1 shows eligibility of lots by county that intersect the vegetation line (i.e. are on the oceanfront). This shows all types of lots (did not filter out public lands).

- How much room do you have to move back or build differently? Dark wedges on each circle (Figure 2) represent the percentage of lots (in Lincoln County only) where less than 40% of the lot is east of vegetation line, meaning there may not be much room to move a house backward on the property. Each column shows the percentage of lots in different size categories, with 10,000 square foot lots and under being the smallest category. Most lots fall into this category. There are very few bigger lots. This graph doesn't account for armoring but that data could be added later.

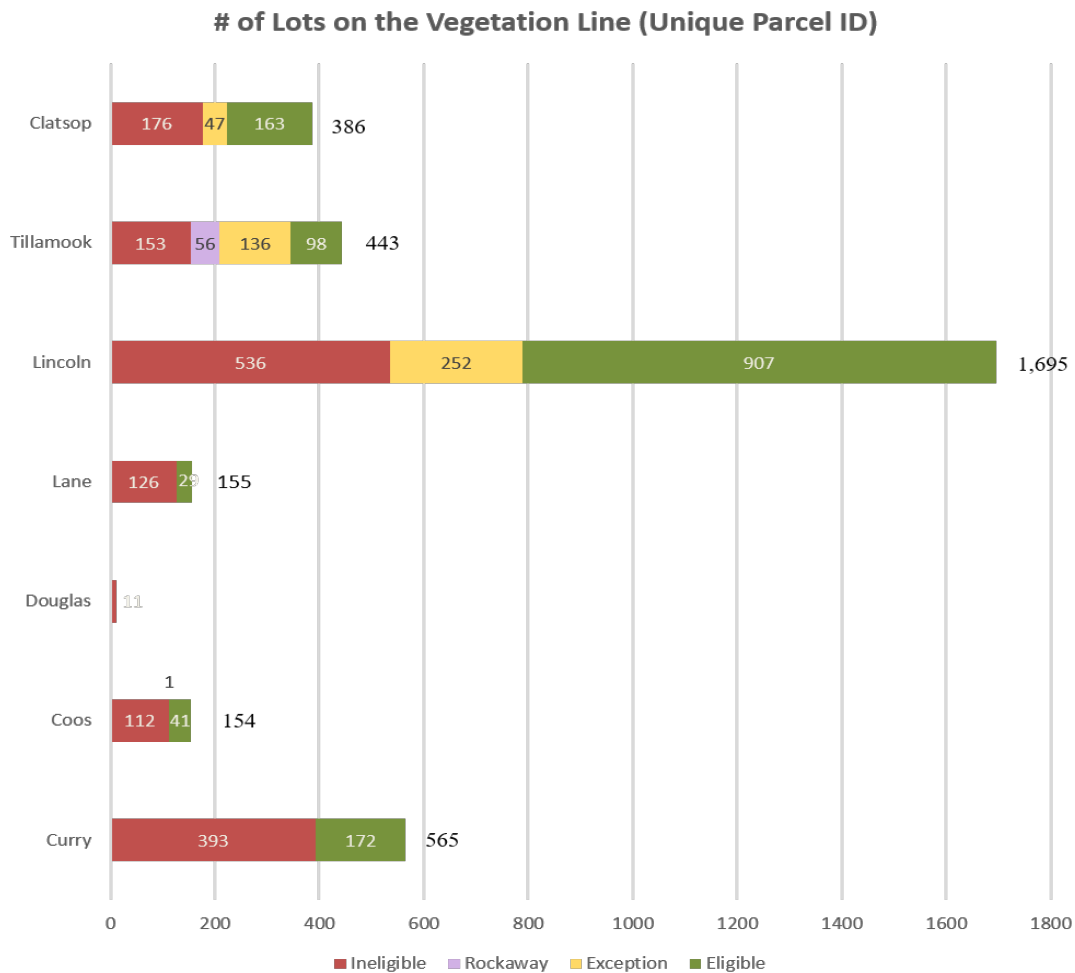


Figure 1: Parcels or lots that intersect the vegetation line and their eligibility status.

Steve Dundas, economics professor at OSU, provided a presentation to the group related to housing values and the impact of the private option to invest in erosion protection, as well as potential policy changes and sea level rise impacts on armoring trends on the Oregon coast. On average, the Goal 18 shoreline armoring eligibility policy does not appear to have an effect on housing values. When the analysis is specific to houses at a lower elevation with eroding beaches, then eligibility increases home value by 13-22% over an ineligible lot. The presence of riprap does not matter, just the ability to protect the home is of value. The more vulnerable the

parcel is to coastal erosion, the more the market values that ability for protection. The second study Professor Dundas shared was about shoreline armoring decision-making (data limited to Tillamook and Lincoln counties). Coastal homeowners respond to their direct neighbors and “learn” from their actions to armor. The key result is that both peer effects and coalition forming appear to determine the likelihood of choosing to armor. Including peer effects in the forecasting model doubles the armoring over the next 40 years. Sea level rise has the potential to increase projected armoring by about 10%. Removal of the Goal 18 eligibility provision with projected SLR results in about 135% increase in armoring. The policy does what it was intended to do and is preventing the proliferation of shoreline armoring on the Oregon coast that would otherwise occur if the policy weren’t in place.

Lincoln County Details

Darker wedges are lots where less than 40% of the square footage is landward of the vegetation line

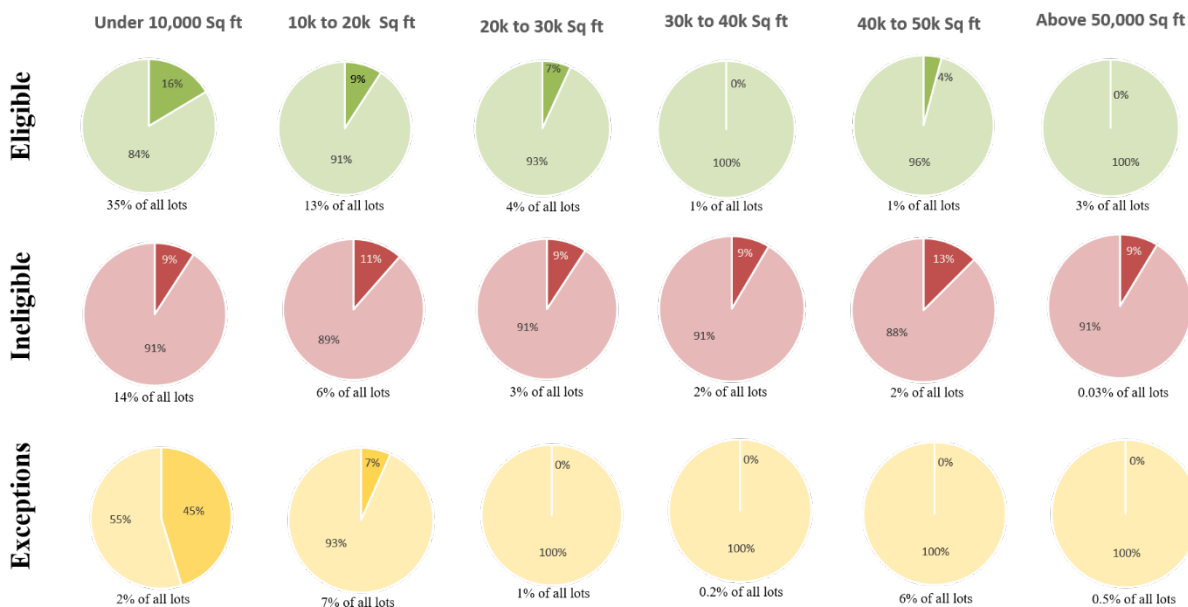


Figure 2: Parcel eligibility status by lot size for Lincoln County.

Summary of group discussion:

Group discussion after the presentations also talked about how to put parameters around a “small” parcel? The concept of a subdivision lot was used as a proxy for size because subdivision lots tend to be small. However, there is no size requirement or limitation for a subdivision lot – some can be quite large, while some metes-and-bounds parcels are quite small. Why are partitions (3 or fewer lots) not included as subdivisions? The only difference is the number of parcels created. This concept is related to the development-ready status of the lot/parcel. Trying to identify parcels in which the development decisions were essentially made already due to size (even if vacant in 1977). We don’t have comprehensive data, but generally it is thought that this problem is somewhat confined to Lincoln County, though it may also occur

in Tillamook and Clatsop counties as well. Knowing the scope of this issue may help guide what policy path would be the best one.

Policy Options Discussed

3.1 Status Quo: There are three main status quo options for ineligible properties: 1) local “reasons” goal exception (what was discussed at the meeting); 2) dynamic (non-structural) erosion control treatments; 3) re-location/dismantling of structures subject to erosion (discussed at the following meeting).

Goal exceptions are completed on a project-by-project basis, with the decision made by the local government as a plan amendment. A goal exception may include a single property or multiple properties, but the reason for the exception would have to be the same for all. These decisions go to hearing in front of the planning commission and then final hearing by the governing body. Decisions can be appealed to LUBA (Land Use Board of Appeals).

Benefits: This approach already exists, is available now, and would require no changes to rules or the goal. This option has never been tried before for Goal 18, IR#5, so there is no evidence that the process doesn’t work. Allows geographic specificity to a particular area, which may help with creating findings. Can do batch exceptions (more than one parcel at a time).

Challenges:

- The process can be onerous for a local jurisdiction and the outcome is uncertain. Because the process has never been tried before, there is a perception that it is too difficult to try (unchartered territory).
- Unclear who can initiate this process.
- There are data gaps (see *Research Needs*).
- There may be a “domino effect” where more people would come forward to get local goal exceptions if some people are granted an exception.

Feasibility: Feasible but difficult for local jurisdictions. Local jurisdictions need more capacity and assistance if they move forward with this.

Next steps:

- DLCD could support local jurisdictions in understanding and implementing the goal exceptions process – whether the process is initiated from a local jurisdiction or from a specific property owner.
 - DLCD could provide a guidance document or case study that outlines the existing rules for how to move forward with a goal exception.
- Local jurisdictions can try this approach for specific cases.

3.2 Goal 18 Amendment: Amending the definition of development under Goal 18, IR#5 to include small, vacant infill parcels. To complete a goal amendment, the directive would

need to be included in DLCD’s policy agenda. The process includes 10 public hearings and a final hearing and adoption with LCDC.

Benefits: A goal amendment would establish a uniform statewide policy for the treatment of small, infill parcels and create a more comprehensive definition for “development”. Including these types of parcels would create more certainty in outcomes from a private property perspective (in terms of protection from coastal erosion).

Challenges:

- Crafting a singular set of parameters that would address the variety of circumstances related to this concept would be challenging (e.g. what is a small parcel? Is a specific size consistent throughout all jurisdictions and environments?).
- Difficult to find balance between specificity and general policy to implement a specific purpose.
 - Sometimes a uniform approach is less flexible and more limiting than anticipated.
- The goal amendment process is resource and time intensive. There is a high bar required to amend a statewide planning goal and the outcome is uncertain.
- This provision could accelerate the presence of shoreline armoring and does not allow for a more geographically-defined approach. A one-size fits all approach might not work best for this particular topic because of the variability of the geography and development practices of the coast.

Feasibility: Low at this time.

Next Steps: See 3.4 Research Needs.

3.3 Rulemaking for Chapter 660, Division 4: OAR 660-004-0022 provides a list of reasons necessary to justify a goal exception. Specific reasons are set forth for certain identified goal requirements and uses; the rules provide set parameters for meeting the “reasons test.” Examples: Goal 18, foredune development prohibition (implementation requirement 2); foredune breaching (implementation requirement 6).

Option: Add specific reasons for a goal exception to Goal 18, implementation requirement 5. There is nothing in the rules right now for this provision. This may be an option for making the local goal exception process more clear for specific issues related to G18 IR#5, such as vacant and small in-fill parcels that were similar to vacant subdivision lots as of January 1, 1977. Some considerations to specify for this approach: parcel size parameters, and development context. Rulemaking to help establish equal treatment for parcels that are in all other ways the same as an eligible vacant subdivision lot.

Benefits: A specific reason under Division 4 would provide essential guidance to local governments on the exception process related to goal 18 eligibility. Two separate reasons would need to be created for these two proposed concepts (in-fill parcels and public

infrastructure). They could be done at the same time or separately. Through this rulemaking, the process for a goal exception may become more clear or streamlined. It is also an opportunity to align with federal case law (see below).

- This option would still face the challenge of defining the parameters of such an exception and to codify that in rules. Need to try to foresee all the scenarios and unintended consequences. There is a lot of variability in both the planning environment and the geographic landscape.
- With rulemaking, must stay within the context of the goal (cannot change the original intent). This limits what can be accomplished through rulemaking alone.
- Might be risky to link the rulemaking for public infrastructure and small in-fill parcels in the same process. Might be best to keep them separate.

Feasibility: Feasible but difficult.

Next steps:

- The group would like more information about this process (revision to Division 4) and what it might look like.
- Need to define “small in-fill parcels.” Creating a blanket definition could be difficult and more restrictive than anticipated, and could lead to equity issues.
- A broader discussion about the legal issues associated with the current definition of development in Goal 18, IR#5 in light of recent related legal decisions.
 - Private property interests on the group believe that the narrow language of IR#5 in Goal 18 does not comply with current Federal Due Process, Equal Protection and Takings case law. Further, a very recent Supreme Court decision in *Knick v. Township of Scott* opens the door to federal courts for landowners denied beachfront protective structure permits as a direct means of relief, rather than LUBA and state courts, thus adding to the urgency for rulemaking (see letter from David Phillips to the Focus Group, dated August 27, 2019).

3.4 **Research Needs:** This list summarizes information the group felt is still needed related to all the policy options discussed under Concept #3. Answers to these questions will help to inform what policy approach to take:

- How many vacant, small, in-fill lots existed on the OR coast as of January 1, 1977? Can this data be compiled? If this concept were to be pursued, what would be the scope? This will determine the magnitude of the issue and the best legal pathway to address it.
- Assess each littoral cell along the Oregon coast:
 - Understand the physical processes that are causing change in those environments
 - Percent armored – identify eligibility and existing armoring patterns. (Steve Dundas, OSU can generate this information now)
 - Look at this information in conjunction with other hazard information such as coastal erosion and sea level rise.

- If parameters can be outlined for what is a “small in-fill” parcel, can use that information to run a policy scenario through existing academic models to see what would be the change in armoring.

Feasibility: Some research needs can be answered quickly with existing resources, such as through OSU, ODOT, or DLCD. Other questions are dependent upon securing additional resources.

Priorities for Concept #3:

High Priority:

- 3.4 Research Needs - this research is needed to make future decision on the best policy options
- 3.1 Status Quo (Local Goal Exception) - this option already exists and a jurisdiction could try pursuing this process now; however there are perceived barriers to moving forward
- 3.3 Rulemaking for Chapter 660, Division 4 - could be done now, may be higher risk than pursuing for public infrastructure.

Low Priority:

- 3.2 Goal Amendment - this is not seen as feasible at this time and has high uncertainty in the outcome due to public opposition. Does not appear to be the best solution for this issue, as it is mostly a localized problem.

Priorities may change based on the results of research. These rankings are reflective of the group’s thoughts now.

4 – Mitigation and Alternatives to Shoreline Armoring

Overview:

This topic area is a broad-based concept meant for brainstorming and discussion, the results of which may inform DLCD staff work programs or priorities. Goal 18, implementation requirement #5 outlines what development is eligible for shoreline armoring. However, it does not address strict requirements for siting oceanfront development, nor many options for development that cannot armor. This has implications for both existing (post-1977) and future oceanfront development. This concept looked at some options (such as increased land use regulations and managed retreat) to reduce the need for shoreline armoring along the Oregon coast or to mitigate the impacts of erosion on development.

The impacts of climate change and sea level rise (SLR) will bring increased erosion, flooding, and storminess, which can impact both private and public development and infrastructure. A few options to address both existing and future development were presented and discussed at a high level with focus group members. These options are summarized below. More information can be found in the presentation slides, available on the focus group webpage.

Potential options for existing development:

- a. *Mitigation from increased shoreline armoring* – The purpose of this idea is to compensate the public any time shoreline armoring is added to the public beach. There are several ways of thinking about this idea. One is to coordinate with OPRD’s existing ocean shore alteration permit process.
 - Mitigation could be an added requirement of the permitting process with an additional fee assessed on the applicant.
 - Potential uses for mitigation funds: creating/updating public beach access points; research & monitoring impacts of armoring; land acquisition and preservation.
 - Transfer of Development Rights approach – alternative approach to above, market-based approach to buy and sell “eligibility rights.” Look to the wetlands mitigation banking model. Would have to set up a new system with rules.
- b. *Buyouts* – voluntary program where homeowners can give up their property due to hazards. The structure(s) are then removed and the land is converted to open space, usually for public use or benefit.
 - NJ Blue Acres Buyout Program: state program that worked with FEMA as a result of Superstorm Sandy. Purpose was to buy clusters of homes or whole neighborhoods subject to coastal or riverine flooding and permanently preserve that land as open space.
 - Results so far: houses being bought-out tend to be in riverine environments and in low-income areas. Has been difficult to get participation from wealthy oceanfront homeowners.
 - FEMA Buyout program: 75% FEMA /25% Local split on funding. This option can be used for homes in danger of falling within 5 years due to erosion hazards -

homeowners get compensated to leave their homes. It is a voluntary program and can be quite lengthy from start to finish (can take up to 4 years). Difficult to get the 25% match and a public entity to take over the land.

- c. *Relocation/managed retreat* – purposeful movement away from the ocean due to SLR, erosion, flooding, etc.
- Examples: Increasing number of examples in Alaska, especially native villages (Meshik); Quinault Tribe, Olympic Peninsula, WA; Ventura, CA (public facilities at popular surfing beach)
 - This is a strategy for all oceanfront development (both armored and not armored) – armoring is still a short-term solution and may fail eventually with SLR. Retreat is a long-term strategy.
 - Current challenges in US: approach is reactive; focus is on post-disaster programs; language is fraught, causes fear; equity implications (affordable housing tends to be in hazardous areas); economic incentives tend to promote development in coastal zones; no specified relocation areas; active management required for the retreated area, even once the houses have been removed.
 - Georgetown Climate Center is developing a Managed Retreat Toolkit – to be released early in 2020.

Potential options for future development:

- a. *Local government regulations* – to go beyond state requirements, to be specific to the local circumstances. These are currently voluntary measures, tailored to each jurisdiction and can include: comprehensive plan text, map amendments, development code amendments.
- For example, Neskowin had a formal stakeholder engagement process to address coastal erosion issues in their community that started in 2009 and was completed in 2016 with the adoption of a coastal erosion overlay zone by Tillamook County. The group explored many options throughout their process, including: structural, non-structural, development, and policy/planning hazard alleviation techniques. They used DOGAMI coastal erosion data as the boundary of their overlay zone.
 - The work completed in Neskowin could serve as a model and be replicated in other communities. Neskowin has both dune and bluff features, making it a good pilot case.
- b. *Statewide regulations* – new regulations could be imposed at the state level, such as universal setback requirements (minimum inland distance from a specific shoreline feature). Generally, there are two approaches to statewide setback requirements: fixed number of feet or long-term annual rate of erosion. Other statewide options might include limitations on repairing/replacing development in coastal hazard areas, re-zoning (permit higher density development outside of coastal hazard areas and lower density inside these areas), changing the anticipated lifetime of a structure, or compliance with flood hazard overlay standards in SLR areas.

- See examples of statewide setback requirements from other coastal states on PPT slides.
 - California developed a SLR guidance document for local governments, could provide a summary of this work to coastal planners at DLCD’s bi-annual coastal planners meetings.
- c. *Implement Goal 7: Natural Hazards* – This statewide planning goal covers: floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, wildfires, and others as identified by a jurisdiction. Under the goal, the local government should evaluate new hazard information for risk to people and property and adopt or amend plans based on their evaluation of risk. This goal is not currently enforced by DLCD; a voluntary approach is used. Additional funding and support for local governments and DLCD would help implement this approach more systematically in the future.
- d. *Coastal hazard erosion data* – Currently, DOGAMI has coastal erosion rates and zones established for select segments of the Oregon coast, but this data does not exist coast wide. This data product would be important to have in order to develop a statewide setback standard or for local governments to update their own land use plans to address coastal hazards and SLR.

Policy Options Discussed (for existing development)

- 4.1 **Mitigation/compensation:** Two different potential approaches discussed. The general idea for this option is to balance increases in shoreline armoring with compensation for the public beach.
- *Market-based approach:* A potential pathway for problem areas (ineligible properties experiencing erosion in an area that is mostly eligible for armoring). Allow ineligible parcels to apply for riprap (in certain very specific areas, such as Lincoln Beach area), but mitigate the taking of public beach in another way. Transfer the “eligibility” from one eligible parcel to another ineligible parcel through a market-based program, such as an auction. This could work in conjunction with other tactics – such as buyouts, managed retreat, and planning.
 - *In combination with OPRD permitting:* Add a fee requirement to the permitting of BPS to make up for impacts to the public beach from additional armoring. This fee could be used for mitigation in various ways. This option would not be related to changing eligibility status, but as an additional criteria for the existing permitting process.

Benefits: Allows for a more balanced approach (public benefit) if adding more armoring to the coast.

Challenges: Mitigation could have unintended consequences. There are various opinions on the effectiveness of wetlands mitigation banking.

Feasibility: Feasible but would require a heavy lift in terms of staff and resources to create a new program or add a permit requirement.

Next steps: Decide on the scope and desired outcome of this tactic. Solana Beach, CA implemented a [public recreation annual fee](#) to homeowners to offset armoring impacts on the public beach. They developed a mitigation methodology. Look into this example and others for how this might apply to Oregon. (See more examples below)

- Dare County, NC: collects occupancy taxes to pay for beach replenishment through a Shoreline Management Fund. Tried a 1% sales tax to pay for beach nourishment. Implemented and repealed in the mid-2000s:
<https://outerbanksvoice.com/2014/09/22/sand-tax-would-have-helped-dare-foot-full-cost-of-nourishment/>.

Same article above notes how municipalities reacted and funded projects, particularly Nags Head - increased property taxes on oceanfront homes, and contributions from county occupancy tax at hotels with proceeds going to shoreline management fund.

Suggested readings about mitigation banking:

- <https://www.forbes.com/sites/ashoka/2014/04/25/how-private-capital-is-restoring-u-s-wetlands/#292c11605e83>
- <https://bioone.org/journals/wetlands/volume-29/issue-3/08-148.1/Evaluation-of-Permit-Success-in-Wetland-Mitigation-Banking--A/10.1672/08-148.1.pdf>
- <http://www.choicesmagazine.org/2005-1/environment/2005-1-13.htm>

4.2 **Buyout:** If a private homeowner is willing to give up their oceanfront property due to erosion hazards, a public entity can “buy-out” that home and land for public use. The house and infrastructure would be removed and the land could be used for beach access, a public park, open space, or other. FEMA has an existing buyout program that can be used for homes experiencing coastal erosion (or other natural hazards such as flooding or landslides). A state program could be implemented as well.

Current programs are reliant on disasters to trigger federal assistance. To maximize the return on investment, these programs (e.g. NJ Blue Acres) seek voluntary buy-in at community scales.

Benefits: Option for ineligible properties experiencing severe erosion. New open space can provide a public benefit.

Challenges:

- Currently, buyouts tend to be done on an individual basis – this can create additional erosion problems (holes) for adjacent property owners. There is a need for a more comprehensive approach to achieve greater benefits from many perspectives, including for land ownership responsibilities, public benefits, and erosion mitigation.

- The next row of houses will be vulnerable to erosion over time, too.
- The current FEMA process is clunky and resource intensive. The local jurisdiction is the applicant on the homeowner's behalf and the process can take up to four years to complete. The funding provided is 75% of the home value, the homeowner (or the city) is responsible for the other 25%. Most people want to live near the ocean – there is a reluctance to move elsewhere.
- It can be difficult to justify spending public money to assist private homeowners.

Feasibility: This option is available now, but incentives are low. Difficult but feasible; an improved process would make it more attractive.

Next steps: Identify areas where buyouts would be beneficial on a larger (neighborhood) scale, such as areas prone to erosion and areas with ineligibility for armoring. The modeling tool (Envision @ OSU) may be able to help identify these areas. Look into a state supported buyout program to complement FEMA's program – to help with applications, process, and funding.

4.3 **Managed retreat:** Systematic process of moving away from the oceanfront due to hazardous conditions.

Benefits:

- Option for ineligible properties experiencing severe erosion.
- New open space can provide a public benefit.
- Proactive response to coastal hazards. Allows approach to be comprehensive. Managed retreat is an alternative to unmanaged retreat, which is bound to happen at some point in the future. Set up the rules now to be ready for future events that are coming.
- This approach should be scenario-based and community-driven. There are benefits to moving together as a community.
- Increased tourism revenue from increased open space.

Challenges:

- Limited resources to help communities think about this approach at this time.
- There is a need for a more comprehensive approach to achieve greater benefits from many perspectives, including for land ownership responsibilities, public benefits, and erosion mitigation.
- Most people want to live near the ocean – there is a reluctance to move elsewhere. Emotionally challenging to move people from their homes.
- Municipality could lose tax revenue from loss of oceanfront properties that become open space:
 - <https://www.cbsnews.com/news/rising-sea-levels-could-wipe-out-financial-stability-of-seaside-towns/>
 - <http://southrivernj.org/notices/SouthRiver-Fiscal-Impact-Report-Adopted-04272015.pdf>
 - <https://www.npr.org/2018/12/04/672285546/retreat-is-not-an-option-as-a-california-beach-town-plans-for-rising-seas>

Feasibility: Requires more research and investigation. Challenges are not a reason for not moving this idea forward. It is happening elsewhere.

Next steps:

- Identify areas where relocation would be beneficial on a large (neighborhood) scale, such as areas prone to erosion and areas with ineligibility for armoring. The modeling tool (Envision @ OSU) may be able to help identify these areas.
- Examples around the world and in the US to look to for ideas and resources:
 - Pacifica State Beach, CA: <https://climatechange.lta.org/pacifica-restoration/>
 - Cape Hatteras Lighthouse: <https://www.nps.gov/caha/learn/historyculture/movingthelighthouse.htm>
 - Louisiana Bayou: <https://www.npr.org/2018/01/04/572721503/louisiana-says-thousands-should-move-from-vulnerable-coast-but-cant-pay-them>
 - Indonesia: <https://www.npr.org/2019/08/26/754291131/indonesia-plans-to-move-capital-to-borneo-from-jakarta>
 - *Science* article: <https://science.sciencemag.org/content/365/6455/761>
- There are many steps needed to move this idea forward, including identifying a funding source(s), outreach strategy for homeowners, incentives for homeowners and municipalities to participate in this approach, etc. Also need to identify sending areas (where people will move).
- Investigate how to set up a retreat program that is compliant with current statewide planning goals.
- Possible idea to pursue: public entity would buyout a neighborhood or area identified as a high priority for relocation due to coastal hazards. The entity would lease the land and structures back to private homeowners until the property is at risk of severe erosion or flooding. At that time, the homeowners would move, the structures would be removed, and the land would go into permanent public ownership. This could be offered as a compromise approach to allow people to enjoy living by the ocean for as long as possible, but gives the community a plan for the future.

Policy Options Discussed (for future development or re-development)

4.4 **Enhanced local regulations addressing coastal erosion:** Local jurisdictions could be encouraged or required to update their land use regulations to utilize new data and more comprehensively address coastal erosion and SLR, with DLCDC assistance. For example, Lincoln City has imposed a setback requirement through their local code, which is 60 times the erosion rate plus 5ft for new development.

Benefits:

- Availability of new data does help to inform development decisions.
- Having a geotechnical report requirement for oceanfront areas can be beneficial for planners, in order to have up-to-date information and to understand which homes are in the hazard zones. It is beneficial to require these reports for development occurring in certain areas (such as along the oceanfront).
- Increased local regulations allow for local specificity. A locally-driven process can create buy-in and can influence people's opinions or decisions.
- Useful to have a model to start from (such as Neskowin).

Challenges:

- For small lots, a restrictive setback requirement can be difficult.
- The process for evaluating, adopting, and implementing new local regulations can be time-consuming and expensive. Must have a local champion to lead these efforts or it may not happen.
- Geotechnical reports put a lot of responsibility onto the hired geologist – don't always know the integrity of the reports. Oversight of reports and recommendations can be challenging for local governments.
- Developers don't always make the conservative call when developing along the oceanfront, despite report recommendations – want to develop right up to the edge, despite warnings and science.
- Using a set erosion rate is not always reflective of conditions. Oregon is prone to episodic erosion events, especially in some areas.

Feasibility: Updating local jurisdiction regulations to further address coastal erosion hazards is feasible at this time.

Next steps:

- Find out how much of the oceanfront of the Oregon coast is still undeveloped and which of these parcels are ineligible.
- Find support (money, staff, technical assistance) for local comprehensive plan updates with local jurisdictions. Many communities are in need of major updates or overhauls of their comprehensive plans, but need money and support to do so.

4.5 **Statewide regulations:** DLCDD or others could develop new regulations to be imposed at the state level, such as universal setback requirements (minimum inland distance from a specific shoreline feature).

Benefits:

- Strategy recommended by NOAA Office for Coastal Management (not a requirement).
- Can be done at the state level or locally.
- Having a statewide, uniform erosion dataset (that incorporates SLR data) may be a good starting point for development (minimum requirements) – a local jurisdiction could recommend a further setback based on site specific information.

Challenges: Ecosystems in Oregon can be different (bluff vs. dune), making a uniform setback requirement more challenging to develop. A minimum setback requirement may not work well on existing small lots where there is no place to go.

Limitations to using an erosion rate for Oregon’s beaches. Episodic events can greatly change this rate. Unique processes are driving change on Oregon’s beaches.

Feasibility: Currently a comprehensive, standardized statewide coastal erosion dataset does not exist. Statewide minimum requirements are feasible pending the development of statewide datasets.

Next steps:

- Washington recently completed a comprehensive update of its shoreline master plans for each coastal community – could look for processes or outcomes that may be relevant and useful to Oregon’s coastal communities.
- Prioritize developing a statewide coastal erosion dataset and then move forward with a potential statewide minimum setback requirement. Think about how these regulations would apply – only to new development or also re-development? Would this require an OAR or ORS change?

4.6 **Research Needs (for both future and existing development):** This list summarizes information the group felt is still needed related to all the policy options discussion under Concept #4. Answers to these questions will help to inform what policy approaches to take:

- Do we know how much of the oceanfront of the Oregon coast is still undeveloped? What are the sizes of these lots? What is the eligibility status?
- Inventory areas where there are many small holes in existing shoreline armoring (where erosion may be getting exacerbated)
- Develop a coast wide coastal erosion dataset with SLR projections (to implement statewide setback requirements) – some new data/tools coming from NOAA Digital Coast that could help with this, though they may have limited usefulness for Oregon.
- Inventory areas along the coast where buyouts or managed retreat would make the most sense.

- Create an exposure analysis for the outer Oregon coast similar to the [estuary inventory](#) that was already done by OCMP.
 - Some work has been done for Tillamook County by DOGAMI, could be scaled up. OCMP is looking into this now.
- Understand the economic value of the public beach and the economic and social effect of armoring on the public beach. What is the ecological value of an armored vs. unarmored beach?
- What is the economic value of the loss of property that has no development potential due to changing regulations?

Priorities for Concept #4:

The terms (high vs. low) were changed to reflect the difference in this concept related to the others. These priorities are based on need and feasibility and have been categorized as short term vs. long term strategies.

Short Term:

4.6 Research Needs - this research is needed to make future decisions on the best policy options.

4.5 Statewide Regulations - if coast wide erosion data is developed, statewide regulations are a feasible option to pursue, though the policy pathway would require dedicated resources and capacity.

4.4 Enhanced local regulations addressing coastal erosion - this option is available now and is feasible to pursue. Additional resources for local governments would help move this forward.

Long Term:

4.3 Managed retreat - this is a long-term strategy and requires high levels of resources and coordination to move forward

4.2 Buyout program - could be integrated into managed retreat research and coordination as a long term strategy. A complementary state program should be pursued.

4.1 Mitigation/compensation - would require additional research and decision-making to move forward

Main Takeaways

Based on the discussions at each meeting, the following main points have been summarized as potential takeaways for DLCD to consider.

- At this time, a goal amendment for Goal 18 is not a priority – there are other tools that would be more efficient to address certain issues.
- If a Goal 18 amendment or rulemaking is pursued in the future, a definition for *Beachfront Protective Structure* should be included in that process.
- DLCD could provide guidance on a definition of BPS.
- The local goal exceptions process has never been attempted for Goal 18, Implementation Requirement #5. This process could be pursued for areas that feel they haven't been served fairly by the goal (such as for small vacant lots in 1977 or public infrastructure at risk from erosion that cannot be moved).
- DLCD could pursue a Division 4 rule-making process to include a reasons exception for Highway 101 or other at-risk pre-1977 public infrastructure. This could make a more clear local exceptions process for those types of assets.
- DLCD could provide guidance on local goal exceptions process (a simplification of the current statutes and rules).
- DLCD could develop a guidance document of typical erosion control treatment options and whether they are considered a structure (and therefore allowed only on eligible properties) or non-structural (and would be allowed on non-eligible properties). This would assist regulators, property owners, and public entities in understanding the most common erosion control treatment options in Oregon and how they are regulated.
 - Can provide this without a definition for BPS, but might be challenged if there is no definition.
- Develop a coast wide coastal erosion dataset with SLR projections (to implement statewide setback requirements).
- Potential research or fellowship projects:
 - Analysis of oceanfront lots and their respective designations (eligibility, armoring, developed vs. vacant, public vs. private ownership, size, erosion vulnerability, SLR vulnerability, etc.) to better understand the scope and locations of areas subject to erosion that are limited in their ability to use armoring as a tactic. This should be done coast wide, by county, and by littoral cell. This information may help inform the most effective policy pathways.
 - Economic evaluation of the value of the public beach, impacts of armoring on the public beach, and the loss of private development opportunities if regulations change or development is lost to erosion.
 - A more complete assessment of Highway 101 in relation to Goal 18 provisions: where are the most vulnerable areas to coastal erosion; what are the alternative options for those areas (e.g. relocation), what is the cost/benefit analysis of those alternative options; and what are the economic impacts if the infrastructure fails or

- has to be relocated. This information may help inform the most effective policy pathways.
- Identification of areas where buyouts or managed retreat would be a viable option.
 - Investigate how to set up a managed retreat program that is compliant with current statewide planning goals.
 - There is a general need for cost-benefit analyses of what the different policy options really mean for each concept. It was not possible for the group to make meaningful decisions on policy options without that information in front of them.

Public Comments

The focus group members and DLCD staff considered any public comment that was within the scope of the focus group. While most comments were outside of this focus group's charge, DLCD may want to consider their concerns in the future. Below is a list of some of the points conveyed through public testimony and written remarks. It represents an abbreviated version of what was said or written by those that gave comment and is *not* verbatim. A compilation of all written comments submitted to the group can be found in the Appendix.

- Recommendations for the state related to shoreline armoring permitting:
 - Support for allowing shoreline armoring for “in-fill” parcels, especially in areas where the majority of the parcels are already armored or eligible for armoring.
 - State should be more proactive in assisting property owners who are vulnerable to erosion and ineligible for armoring.
 - State and local agencies should work positively with homeowners and each other. Be consistent in permitting and messaging to the public – don't create requirements outside of the rules and statutes.
 - Add criteria to OPRD shoreline alterations permit decisions that armoring can protect houses behind the applicant.
- Arguments for why a particular parcel is eligible when the local jurisdiction has made a different determination (*several comments related to this point*).
 - Assets at risk if no structural protection allowed (public beach access, septic systems, etc.)
- Call for local governments to adopt their own goal 18 eligibility inventories as is called for in the goal language. Goal also calls for *areas* to be identified for eligibility, not every lot.
- Retreat is not the answer, look to engineering solutions (continuum of beach nourishment through hard structures) to protect ocean fronting assets, such as historic sites and critical infrastructure. Different options can work in different locations – assess the costs and benefits through a public process. Work with experts in the region.
- Transportation and land use are not separate – allow shoreline armoring for Highway 101 and other public infrastructure assets (such as water and sewer). Why should Highway 101 be treated any differently than private structures? Without 101, development cannot be sustained.
- Homeowners have been told that getting a local goal exception is highly unlikely and the process is too lengthy to adequately respond to the threat of erosion.
- Online eligibility inventory was completed in the 2000's - how were homeowners supposed to know about their status for shore protection before that?
- Request to get rid of the online eligibility inventory.
- Inconsistent messaging from state and local officials about whether a property is eligible for armoring or not and who makes that determination.
- The inability to apply for armoring has impacted housing values negatively.
- Support for a local goal exception for the area between Fishing Rock and Salishan Spit.

- The central Oregon coast, and specifically Lincoln County, is highly developed and already armored and prone to erosion. This area should be treated differently in terms of the ability to get shoreline armoring. Many ineligible properties are also already armored.
- Goal 18 has been applied inconsistently.
- Goal 18 doesn't account for climate change and SLR.
- Conditions have changed since 1977, should the rules be updated to reflect that?
- Properties that were zoned and approved for development should be permitted to install armoring when they are at potential risk from erosion.
- Local governments are supposed to make eligibility determinations, not the State.
- Request to remove goal 18 eligibility all together and have OPRD permit decisions be based solely on the criteria already in place in OAR Chapter 736, Division 20 (performance standards approach).
- The development date provision is arbitrary and not equitable.
- The legal underpinnings of the Oregon Beach Bill and the vegetation line are suspect and will become more so if DLCD doesn't change Goal 18, IR#5.
- Local governments are likely to face many takings cases soon due to recent court rulings related to private property rights. Goal 18, IR#5 requires re-workings to be consistent with the US Constitution.
- Hardening of the ocean shore to protect private property negatively impacts the public beach and the beach ecosystem.
- It is more feasible to add additional shore protection than to retreat from the oceanfront.