



# Oregon

Tina Kotek, Governor

## Department of Land Conservation and Development

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October 19, 2023

To: Land Conservation and Development Commission

From: Brenda Ortigoza Bateman, Ph.D., Director  
Kirstin Greene, AICP, Deputy Director

Subject: **Agenda Item 13, November 2-3, 2023, LCDC Meeting**



## Director's Report

### I. Introduction

This Director's Report summarizes a number of significant events at the Department of Land Conservation and Development (DLCD), including staff transitions, continued observation of 50 years of Oregon's land-use planning program, preparation for the 2025-27 legislative session, Governor's appointments to the Land Conservation and Development Commission (LCDC), annual Key Performance Measures, and continued work on Governor's Expectations.

This is an informational item only.

### A. Recruitments, Hiring, Promotions, Placements

Please see Attachment A for the department's updated organizational chart.

#### Filling Positions that Were Made Permanent

- Department Support and Receptionist (OS2) – **Elliott Eastman** – Started Oct. 1
- Climate-Friendly and Equitable Communities (CFEC) Program (PL3) – **Evan Manvel** – Oct. 1

#### New Hires

- Information Resources Specialist (ISS4) – **Aaron Poach** – Oct. 1
- Housing and Growth Management Analyst (OPA3) – **Jena Hughes** – Oct. 3
- Accountant 1 – **Emily Dovzhik** – Nov. 1
- Housing Planner (Planner 3) – **Celestina Teva** - Starts on Nov. 7

In addition, Palmer Mason has accepted a temporary assignment with the Governor's Office that will extend into the 2024 Session and possibly into the 2025 Session. He is supporting the Governor's Office with about 25 percent of his time to develop and negotiate a new statutory framework to distribute timber harvest revenue from trust lands between the state and the fifteen trust counties. Even with this new assignment,

he will remain involved in DLCD's budget, legislative and policy issues, remaining as the main contact on housing-related legislative issues. We appreciate everyone's patience as we work through this new arrangement.

## **II. Division Reports**

### **A. Director's Office**

#### **1. 50<sup>th</sup> Anniversary**

The Department continued to mark the 50<sup>th</sup> anniversary of Oregon's land use planning system, by re-using many of the exhibits created for the May anniversary celebration. The Oregon Historic Society is hosting an exhibit for us that will be on display through November 26, 2023.

More than 400 people participated in our 50<sup>th</sup> anniversary survey, which remained available on DLCD's website through August 2023. Intern Zoe Green and Communications Manager Sadie Carney coded responses to five questions, looking for prevalent themes and suggestions regarding the next 50 years of land-use planning.

The survey asked five open ended questions:

- 1) What should DLCD be celebrating?
- 2) What should DLCD be investing in?
- 3) What should DLCD be focusing on?
- 4) What in Oregon's land use planning system needs to be strengthened?
- 5) What about Oregon's land use planning program needs to be changed?

The survey was thoroughly reviewed and hand coded. For each question, a series of code assignments was developed. Where possible, alignment was created between the coding for more than one question. The presentation attachment (Attachment B) to the Director's Report presents the highest-level responses for each question, and presents trends identified throughout the survey.

Demographic information collected from survey respondents indicate that respondents were predominantly non-hispanic (95%) and white (79%). Most were over the age of 65 (48%), with the next largest age group responding 55-64 (18%). Only five responses were received from people under the age of 25. 83% of respondents own their home. 33% of respondents earned less than \$60,000 per year individually, 29% earned more than \$100,000 per year. While not offered as a response option, it is likely that many of those earning less than \$60,000/year are retired, based on the age of respondents. Further data analysis would be necessary to align these response elements.

Of the 433 responses, the largest number of responses came from Lane County (68), with the second largest response coming from Multnomah County (44). Lane County

responses were characterized by several “cut and paste” form letter responses, which may have had a skewing effect on the data overall.

Finally, regional representatives, led by Hui Rodomsky, have continued to interview stakeholders and partners of the land use planning system. These interviews add to the video library that was first begun as a collaboration between DLCD and Portland State University, with former LCDC member Dorothy Anderson as the first interviewee in September 2013. The oral history project is entitled, “People and the Land: an Oral History of Oregon’s Statewide Land Use Planning Program,” and is conducted by former DLCD staff on their volunteered time and current DLCD staff.

Recent interviews include one of Greg MacPherson by former DLCD staff Bob Rindy on June 1, 2023. On Aug. 31, 2023, a retelling of the Oregon Supreme Court decision in 1000 Friends of Oregon vs. LCDC and Curry County was moderated by DLCD staff Jon Jinings, with former 1000 Friends attorney Robert Liberty, former Curry County Planning Director Chuck Nordstrom, and former County Counsel Jerry Herbage in Langlois, Curry County. DLCD is collecting 50 interviews from past and present land use practitioners and observers from across the state, to capture diverse perspectives on Oregon’s land use system in its 50<sup>th</sup> year. Here is the link to the video library: [https://pdxscholar.library.pdx.edu/planoregon\\_interviews/](https://pdxscholar.library.pdx.edu/planoregon_interviews/).

## **2. 2025-27 Budget Build**

In September, DLCD managers met to take a first look at potential 2025 budget requests. Because of the extensive stakeholder outreach conducted by DLCD, and the due dates for budget requests and legislative concepts, agencies often begin their brainstorming exercises 18 months before the budget-focused (odd-numbered year) legislative sessions. The department expects to have a draft Agency Recommended Budget before LCDC by the April 2024 commission meeting for feedback before July 2024 approval. To date, staff have identified seven key areas for investment in the 2025-2027 budget request:

- Local Government Support
- Enhancing Datasets, Data Access, and Records Management
- Climate
- Energy
- Coastal
- Business Services
- Technical Corrections

Over the next six months, DLCD staff will continue to develop and refine the department’s funding request. After LCDC endorses the Agency Requested Budget, The Governor’s office will review and balance DLCD’s needs with the needs of other

agencies and budget priorities culminating in the Governor's Recommended Budget issued for the 2024 Legislative Session.

### **3. Updates on the Land Conservation and Development Commission**

Commissioner Gerard Sandoval completes his term on LCDC at the end of November and will be stepping down to focus on his work at the University of Oregon. The staff and commission thank Commissioner Sandoval for the role he played with regard to the Community Involvement Advisory Committee (CIAC) and our Goal 5 work on Cultural Resources. He has also strengthened our connection to the Oregon Housing Stability Council. Best wishes, Dr. Sandoval!

On September 29, the Oregon Senate voted to re-appoint Commissioner Stuart Warren to a new term, but moved him from the Southern Oregon seat to the one held by Commissioner Sandoval, representing Benton, Linn, Marion, Polk and Yamhill Counties and that portion of Lane County lying east of the summit of the Coast Range. His new term will begin December 1, 2023. Congrats!

The Senate also appointed Clatsop County Commissioner Lianne Thompson to the Land Conservation and Development Commission, representing Clatsop, Columbia, Coos, Curry, Lincoln and Tillamook Counties and those portions of Douglas and Lane Counties lying west of the summit of the Coast Range. Her term begins immediately. Welcome!

Finally, the Governor has nominated Ellen Porter to serve as the new commissioner representing Jackson and Josephine Counties and that portion of Douglas County lying east of the summit of the Coast Range. This is the seat recently vacated by Commissioner Stuart Warren, so the nomination is to complete the term and start one of her own. The Oregon Senate Rules Committee will take up this nomination during Legislative Days on November 6-8, with a full vote of the Oregon Senate scheduled to follow.

### **4. Governor's Expectations**

On January 11, 2023 the Governor sent each agency director a set of expectations. These were provided to the commission during their February 2023 meeting. This agenda item provides a brief status update on the 11 required reports.

<b>Item</b>	<b>Requirement / Status</b>
DEI Plan	Completed initial plan by June 1, 2023. Done & embedded in the Strategic Plan.
Agency Hiring Process	Average time to fill recruitments < 50 days from announcement. Done.
Audit Accountability	Resolve Secretary of State findings within 12 months of audit report (N/A)

Development New Employees and Managers	Demonstrate that 100% of employees receive onboarding within 60 days of hire. Done.
Performance Feedback for Employees	Expectation: 90% completion rate by June 1, 2023. Done.
Continuity of Operations Plan	Complete initial plan by Sept. 30, 2023. Done.
Measuring Employee Satisfaction	Complete 1st survey by Dec. 31, 2023. Optional in Year 1 for agencies < 75 staff. Will conduct in 2024.
Strategic Plan with Dashboard	Completed and posted online by Dec. 31, 2023. Done.
IT Strategic Plan	Due to DAS by Dec. 31, 2023. In progress.
Succession Planning	Due to DAS by Dec. 31, 2023. In progress.
360° Performance Review for Agency Director*	Due August 2025 (differs by agency). Will conduct in 2025.

At DLCD, a 360° evaluation of the director would normally be scheduled for Fall 2024. However, the Department of Administrative Services (DAS) requires DLCD to conduct such a review during August 2025. LCDC will conduct a regular annual review during Fall 2024 and begin 360° reviews on the schedule set by DAS.

## 5. Key Performance Measures

With other agencies in the state, DLCD is required to report on our Key Performance Measures (KPM) each year. Staff have included our 2022-2023 Annual Report as Attachment C. We are considering updating several to better measure items of importance to DLCD and the state today, including greenhouse reduction, housing production and updates to how we report farm and forestland protection. Specifically, we are looking for updates on these measures:

- KPM 2 (housing)
- KPM 5 (transit supported land use)
- KPM 6 (transportation system plans)
- KPM 9 (UGB expansions onto resource lands)
- KPM 13 (ag land conversion)

Agencies need legislative approval to change their measures. If we proposed changes to ours, we would do so with our Agency Requested Budget for 2025-2027 next summer. Please watch for future updates as staff prepare our internal recommendations for these changes.

## B. Planning Services

### 1. Transportation

See the separate agenda item for the Climate-Friendly and Equitable Communities program.

The Transportation and Growth Management (TGM) program announced grant awards for 2023:

Jurisdiction	Project
City of Boardman	Transportation System Plan Update
City of Dayton	Transportation System Plan Update
City of Eugene	Comprehensive Plan Phase II
City of Forest Grove	Tualatin Valley Highway Access Management Implementation Strategy
City of Hermiston	Transportation System Plan Update
City of Rufus	Pedestrian & Transportation Development Plan
City of Shady Cove	Local Street Network Plan
City of St. Helens	2024 Transportation System Management Plan Update
Coquille Indian Tribe	Killich Area Master Plan
Lane Transit District	Long-Range Mobility Plan
North Clackamas Parks and Recreation District	Trails System Plan
TriMet	Park & Ride Optimization Plan

More information about each project is available on the [TGM website](#).

### 2. Natural Hazards

Staff are in the middle of a project to significantly upgrade the statewide [natural hazards risk assessment](#). This risk assessment will be used as the basis for the next iteration of the statewide [natural hazards mitigation plan](#), which is due in 2025. The department convened a workgroup to guide the process of upgrading the risk assessment. The workgroup has provided general guidance on how to create a risk assessment that will be useful for the state plan, and for local natural hazard mitigation plans. Now department staff will create a prototype of the assessment tool for review by the workgroup.

### 3. Recruitments

The department is recruiting for a Land Use and Transportation Planner (Planner 3) in the [Transportation and Growth Management \(TGM\) Program](#). This position manages individual projects within TGM. TGM includes subprograms for Education and Outreach, Code Assistance, Quick Response, Parking Reform and Management, and

Transportation System Plan Assessments. This position may manage a specific subprogram and may provide technical consultation to DLCD staff and local governments regarding transportation, growth management, and urban design.

[Applicant Link - external](#)

[Applicant Link – current State of Oregon employees](#)

Application Deadline: November 1, 2023

### **C. Oregon Coastal Management Program (OCMP)**

The Coastal Zone Management Act calls for periodic performance reviews of state coastal programs. The National Oceanic and Atmospheric Administration (NOAA) assesses the accomplishments and needs of coastal programs and provides recommendations to enhance their programs. As the lead implementor of Oregon's Coastal Management Program, the Department of Land Conservation and Development completed the periodic evaluation this year, covering the period between September 2016 and September 2023 (time since the last program evaluation). An evaluation team conducted a virtual site visit the week of September 11-15 to help inform their overall evaluation of the program and how it is meeting its requirements. The process included the participation of the program's network, state and local stakeholders, tribes, and other interested parties. Staff provided outstanding presentations over the course of the week and our partners were engaged and enthusiastic about our partnerships, value, and work. Staff is pleased to report there were no findings of deficiencies and the Program staff were praised for their high performance during the evaluation period. The final report and findings should be completed in early 2024.

Coastal staff worked submitted Letters of Intent for the NOAA Climate Resilience Regional Challenge to the National Oceanic and Atmospheric Administration (NOAA). OCMP is the lead on one grant to support: 1) the update of estuary management plans and 2) the development of a coastal collaborative that would provide a forum for coastal communities and state, federal, and tribal governments along with other interested stakeholders to address coastal issues. Coastal staff were also instrumental in convening partners to develop two additional grant proposals: 1) planning associated with Lower Columbia River flooding and sea level rise adaptation, and 2) coordinating a suite of on-the-ground restoration projects developed through the Estuarine Resilience Action Plans within Tillamook and Coos estuaries that will have significant benefits for community and coastal resource resiliency.

Coastal staff submitted three Letters of Intent to NOAA for the Coastal Zone Management (CZM) Habitat Protection and Restoration Bipartisan Infrastructure Law (BIL) competition. OCMP is the lead applicant for these letters working with partners to move projects forward that look at restoring/protecting critical habitats, innovation, enhancing climate resiliency, and working with diverse partners. NOAA notified OCMP that two of our Letters of Intent were invited for a full proposal. OCMP in concert with The Confederated Tribes of the Siletz Indians (CTSI) will apply for approximately \$5 million to acquire 42-acres of beachfront property on Collins Creek in Lincoln County.

The project's goal is for CTSI to purchase and manage this property in perpetuity primarily for its habitat, cultural and climate resilience values as well as a quiet refuge for passive recreation for both Tribal members and the public, and for gathering culturally important species by Tribal members. The project outcomes will be the return of an important cultural site to the Siletz people and preservation of one of the last great pieces of undeveloped oceanfront in the region. The second full proposal will go through the Oregon Department of Fish and Wildlife (ODFW) for the acquisition of tidal wetlands in the Coquille estuary. Upon acquisition, ODFW will be the landowner.

Coastal staff wrapped up two significant grant funded projects in August. The consultant's work for the Yaquina Bay Estuary Management Plan update process, funded through a NOAA Project of Special Merit grant, concluded in August. Products include modernized maps, the plan update, and a guidance document to support future estuary management plan updates for other estuaries. The remaining element for this project, outside the scope of the consultant's work, is the public hearing process to adopt the new plan at the County and cities level. Staff completed the Estuarine Resilience Action Plans for Tillamook and Coos Counties funded by the National Fish and Wildlife Foundation (NFWF) National Coastal Resilience Fund. As in the Yaquina Bay Estuary Management Plan update, this process also included extensive stakeholder and jurisdictional engagement. The plans include a series of vetted projects that support both estuarine and community resiliency utilizing nature-based solutions. The next phase of this project, under another NFWF grant, initiated in August and addresses the estuaries in Lincoln and Lane Counties.

## **D. Housing Division**

### **Staffing**

Since our last meeting with LCDC, the Housing Division has made significant progress in expanding its team and taking crucial steps in various areas. With the passage of House Bill 2001 during the 2023 Session, we've acquired four new positions to facilitate the implementation of the Oregon Housing Needs Analysis (OHNA) policy. This legislation also led to the formation of a new branch within the Division, known as the Urbanization Team, and the addition of a dedicated administrative staff member.

The Housing Division now consists of two wings: the Housing Policy Team and the Urbanization Team. The Urbanization Team is fully staffed with the following new hires:

- **Ingrid Caudel**, with four years of experience at the department, previously served as the Advisory Committee and Public Records Coordinator. In her free time, she enjoys attending the theater, nature walks, reading, and movie nights.
- **Maddie Phillips**, after successfully completing DLCD's Rural Transportation Equity pilot program, joined the Urbanization Team. Her background in local government planning positions her well for the role of Public Facilities Planner. She's also an outdoor enthusiast who enjoys various outdoor activities.



- **Karen Guillén-Chapman**, with more than 15 years of experience in urban planning, has collaborated with housing developers and served as a policy director in Portland. Originally from Costa Rica, she loves exploring the Pacific NW with her family.
- **Jena Hughes**, previously with the City of Beaverton and the City of Portland, has worked on various housing and land use projects. She is deeply passionate about equity and community engagement and served on the Citizen Involvement Advisory Committee. Born and raised in Oregon, Jena resides in Portland with her fiancé and enjoys spending time with her family, trying new restaurants, and reading.

### **Oregon Housing Needs Analysis Rulemaking (HB 2001, 2023 Session)**

The OHNA Rulemaking process, initiated during our last Commission meeting, is well underway. This process involves an overarching Rule Advisory Committee (RAC) and three Technical Advisory Committees (TACs) dedicated to the major OHNA areas: housing needs and production, housing capacity and urbanization, and housing accountability.

In September, the Housing Division began the process of soliciting applications from the public to participate in and contribute to the rulemaking process. The application period concluded on October 2, 2023, and the appointments for RAC and TAC members are now finalized. We are currently working on finalizing the complete RAC and TAC schedules. The first RAC meeting is scheduled for the final week of November (specific dates and times are yet to be decided).

Additionally, the Housing Division issued a Request for Proposal (RFP) to seek consultants' assistance for various components of the OHNA rulemaking process, including rulemaking facilitation, technical analysis, equitable rulemaking work, and impact statements. We received proposals, and the ECONorthwest team, led by Lorelei Juntunen and Madeline Baron, will support the Housing Division on multiple components of the process. Furthermore, Multicultural Collaborative, led by Anita Yap, will handle the racial justice impact statement and equitable rulemaking work to ensure the rulemaking process centers equity to achieve an equitable process.

### **Housing Technical Assistance Grants (2023-2025 Biennium)**

In the 2023 Legislative Session, the Oregon Legislature appropriated funding to DLCD to support housing planning to local governments under House Bills 2003 and 3395. In mid-June, the Housing Division opened a funding application process for local governments interested in increasing housing production, affordability, and choice during the 2023-2025 biennium. The application period concluded on July 31, 2023, and the Housing Division has finalized the award recipients. Please see Attachment D for a full list of projects recommended for funding under each of the following categories.

### ***House Bill 2001 (2023)***

House Bill 2001 (2023), included a variety of provisions related to housing and housing planning, including a \$3.5 million appropriation to DLCD for the following purpose (Section 10):

*“The Department of Land Conservation and Development may provide technical assistance and award grants to local governments to enable them to implement the provisions of ORS 197.286 to 197.314 and to take other actions to incentivize the production of needed housing within the jurisdiction of the local government.”*

This funding is the most flexible source appropriated to the DLCD Housing Division for the 2023-2025 biennium and is intended for both Goal 10 (Housing) and Goal 14 (Urbanization) related planning projects. The department prioritized funding projects based on three criteria: 1) statutorily required projects, 2) projects that deliver housing production where it is needed most, and 3) projects that affirmatively further fair housing and equitable outcomes.

### ***House Bill 3395 (2023) Awards***

[House Bill 3395 \(2023\)](#) included several changes to state law intended to support the near-term production of housing. This includes a change to the applicability of middle housing such that cities between 2,500-10,000 population must allow a duplex on each lot or parcel that allows a single-family detached dwelling, similar to cities between 10,000-25,000 population. This bill appropriated \$1.25 million in funding with the specific purpose of supporting local governments required to update their development codes:

*“In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$1,250,000, to provide grants to local governments to assist them in amending their comprehensive plans as required under section 3 (1)(c), chapter 639, Oregon Laws 2019.”*

Section 2 (1)(c) *“June 30, 2025, for each city subject to ORS 197.758 (3)1, as amended by section 20 of this 2023 Act.”*

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<sup>1</sup> ORS 197.758 (3) requires cities between 2,500-25,000 population to allow a duplex on each lot or parcel that allows a single-family detached dwelling

In addition, [SB 406 \(2023\)](#) also extended middle housing requirements to cities and urban, unincorporated areas in Tillamook County. While this bill did not specifically allocate funding for local governments, the expectation during the Legislative Session was that these communities would draw from existing funding under HB 3395 and HB 2001 to support needed code update work.

Finally, while HB 3395 specifies that funding is primarily intended for local governments required to update their development codes, DLCD received several applications from cities intending to ‘opt-in’ to allowing middle housing. DLCD intends to fund these voluntary updates so long as local governments required to update codes are prioritized for funding first. So far, this funding source is undersubscribed by those required to update development codes. DLCD staff will be doing additional outreach to local governments required to update development codes to ensure all affected cities have the resources they need to complete the work by the statutory deadline.

### ***Waitlisted Projects***

This biennium, we have received substantially greater requests for funding than what is available. This is due, in part, to the non-passage of [House Bill 3414 \(2023\)](#), which would have allocated \$10 million in funding to support local housing-related code work. Because of this, the DLCD Housing Division had to decide whether to reject several dozen qualified applications or solicit funding elsewhere.

To maximize the total support to local governments on housing-related work, we have elected to bundle the following code-related projects to solicit funding from one of two sources: 1) funding allocated from the Oregon Legislature in the 2024 Legislative Session or 2) Federal funding allocated under the [Pathways to Removing Obstacles to Housing Grant Program](#) administered by HUD, which DLCD is preparing an application for. The department anticipates that between these two potential sources, the likelihood of receiving additional funding is high and preferable to the alternative of rejecting critically-needed housing planning support across the state.

The Housing Division believes such projects align well with the Housing Planning Assistance funding priorities, but we cannot yet offer these projects awards for 2023-2025. However, we would like to proceed with the development of a work program, so these projects can readily move forward should funding be allocated in the coming months.

## **E. Administrative Service Division**

### **Staffing Changes**

- Our longtime Accountant, Mara Ulloa retired at the end of September after more than 19 years of excellent service to LCDC and our State. She has agreed to

return on a part-time contract, until the end of 2023, to help train her successor. We thank her for her tremendous service.

- We are happy to announce that we have hired a new Accountant who will start November 1. Emily Dovzhik comes to us with previous state of Oregon experience and will be a great benefit to DLCD in her role.
- DLCD continues to grow. We have a total of 77 positions currently approved in the 2023-25 legislatively adopted budget.

### **2021-23 Financials Review**

- We have almost completed FY2023 year-end close, with the resolution of accounts payable, accounts receivable, and minor budgetary adjustments remaining. These should be resolved by the end of December 2023.
- Overall, the management team approved \$553,725 for several projects to make use of budget savings at the end of the 2021-23 biennium. The Administrative Services Team is focused on implementing a tracking system to help manage such funds in the future.
- The department has identified a number of areas for improvement in accounting procedures, particularly with increased complexity and volume of federally funded grants. We are building new systems to address these issues.

### **2023-25 Budget Development**

- Budget Officer Richelle Corbo has completed the draft of the 2023-25 Legislatively Adopted Budget. We are submitting that document for State Department of Administrative Services (DAS) audit review this month and are expecting approval by the end of November. By the end of December, we will assemble our Legislatively Adopted Budget Binder for formal submission to DAS.
- Of note, this biennium's budget is very different from the last. The main drivers of this difference are:
  - Significant payroll savings in the prior period versus increased payroll needs in this period.
  - At the beginning of the 2021-23 biennium, we had a large number of vacancies whereas in this period we have few and are actively hiring.
  - Reductions in sales and service budgets, vacancy savings assumptions, and rent allowance.
  - Three cost of living increases to all staff: \$1,500 distributed to each person in September, a 6% increase scheduled for January 2024, and a 6.5% increase scheduled for December 2024.
  - The end of supplemental funding from HB 5006 in 2021, covering match for some of our federal grant projects.

### **New Procurement System - OregonBuys**

- Over the last year, the State of Oregon has been rolling out its new web-based eProcurement system OregonBuys.

- This system will automate the state of Oregon's procurement process, create efficiencies, and transform the way the state does business.
- Staff have completed hours of training and are using the system now; improvements and added features continue come online.

## **F. Information Technology**

We are pleased to announce that Aaron Poarch joined the DLCD team as an Information Resource Specialist on October 2. He brings more than 20 years of Information Technology (IT) experience with him since his graduation from the University of South Carolina by working for various organizations in the Portland area. Aaron loves exploring the outdoors in the beautiful Northwest by kayaking, paddle boarding and hiking its many lakes, rivers and trails. He is working towards a certification in group and personal training when he is not busy with his wife attending plays and musicals. He has used his Southern humor to audition for America's Got Talent in the past and will again soon. Welcome, Aaron.

The IT Strategic Plan is approximately 90% complete and final reviews by the Assistant State Chief Information Officer are underway.

We are excited to announce that we now have a dedicated IT Help Desk email [dlcd.helpdesk@dlcd.oregon.gov](mailto:dlcd.helpdesk@dlcd.oregon.gov) and phone number (971)718-3057.

Please use the email address (preferred) to reach out to an IT Team member to address your technology needs.

## **G. Community Services**

### **Mass Timber Code-UP Direct Technical Assistance**

In 2022 the U.S. Economic Development Administration awarded the Oregon Mass Timber Coalition \$41.4 million to develop and expand Oregon's emerging Mass Timber industry, with an emphasis on utilizing mass timber products in prefabricated/modular home construction. The Department is utilizing funding through this grant to help cities update and modernize local development codes to encourage the use of mass timber modular housing. Working with a consulting team and the Department of Consumer and Business Services in 2022, the Department audited the development codes of five cities to identify local regulatory barriers to developing mass timber and modular housing. Starting in the Fall of 2023, the Code-UP project team will continue this work by providing additional jurisdictions with code audits, amendment recommendations, and community engagement services. The ten jurisdictions that have been selected to receive technical assistance this year are Chiloquin, Clatsop County, Creswell, Gates, Lincoln City, Mt. Vernon, Phoenix, Rufus, Sandy, and Talent. Consistent with the federal grant award, staff prioritized assistance to wildfire affected and rural communities. Community engagement and capacity building in these jurisdictions is made possible

through the Department's partnership with the Institute for Policy Research and Engagement and the AmeriCorps Resource Assistance for Rural Environments (RARE) Program. The department welcomed RARE member Kieran Turnbull to the project in September.

### **Technical Assistance Grant Program**

The 2023 Legislature allocated approximately \$1.8 million dollars for the department's technical assistance grant program. This program funded for each biennium by the Legislature. At its July meeting the commission reviewed the department's grant allocation plan for these funds. To date, the department has entered agreements with Portland State University to fund the university's planning-related population forecast program and its dispute resolution services. We have also entered into agreements with the three counties in the Columbia River Gorge National Scenic Area to support their implementation of the National Scenic Area act and also are in the process of finishing planning services grant agreements for \$2,000 with Oregon's small cities (under 2,500 population).

This leaves approximately \$910,000 to fund general technical assistance grants with local governments and tribal governments in Oregon. The deadline for submittal of grant applications was October 2. The department received 48 grant applications asking for a total of \$3,242,000. The Community Services Division is in the middle of the very difficult task of determining which of these applications the department can fund and which, unfortunately, we must deny for lack of available funding. Decisions are due to local governments by November 30. In addition, the department is holding back approximately \$40,000 of the grant funds to provide technical assistance to successful local government grantees to provide assistance on equitable engagement and outcomes for their grant projects.

### **HB 2727 Childcare Facilities**

The 2023 Oregon Legislature directed the department to work with a study group to prepare recommendations to the 2025 Legislature on measures to facilitate development of needed childcare facilities in Oregon communities. While the Legislature granted the department money to hire a facilitator for the study group and provide some research on the topic, the Legislature did not give the department authority or money to hire any new staff. So, a team of Community Services Division regional reps, led by Angie Brewer and including Kelly Reid and Patrick Wingard, will be implementing this program, with assistance from Alexis and Palmer. We will be providing updates on this important work, which is due to the Legislature at the end of 2024.

## **Urban Reserves**

On August 17, the Director approved Eugene's adopted urban reserve, consisting of 10,000 acres, 5,900 of which are developable. The urban reserve will make it much easier for Eugene to add land to its urban growth boundary as needed over the next 20 years. The city's submittal received one objection from a property owner, which the director determined was invalid because it did not state a valid reason for the deficiency and was also delivered beyond the 21-day period allowed after the city provided notice of its decision. Thank you to Patrick Wingard for his work with the city on the urban reserve, and Sara Urch from the Department of Justice who provided expert legal review of the staff draft decision.

## **Planners Network Meeting**

Our Baker City meeting, unfortunately, had to be cancelled because of low registration numbers. We are planning to reschedule this meeting for May 2024.

Next up is a planners network meeting in Milwaukie, scheduled for January 2024. We are starting planning for this meeting in the near future.

## **Recruitments**

The department will be recruiting soon for a Limited Duration Planner 4 position to work on renewable solar energy rules and a report as directed by the Oregon Legislature at its 2023 session.

## **Oregon APA Conference**

The Community Services Division was well-represented on the dais of two different panels at the Oregon APA conference in Eugene on October 25 and 26. Kevin Young has organized a panel on climate-friendly areas to be led by our Commission Vice-Chair Nick Lelack. Patrick Wingard and Leigh McIlvaine spoke on a panel discussing Mass Timber programs.

## **III. Participation in Appeals, and recent LUBA and Appellate Court Opinions**

ORS 197.090(2) requires the director of the Department of Land Conservation and Development (the department or DLCD) to report to the Land Conservation and Development Commission (the commission or LCDC) on each appellate case in which the department participates, and on the position taken in each such case.

ORS 197.040(1)(c)(C) requires LCDC to review recent Land Use Board of Appeals (LUBA) and appellate court decisions to determine whether goal or rule amendments are needed.

### **A. Department Participation in Appeals**

Along with several other petitioners, the department filed an appeal of a Deschutes County decision approving a rezone of 710 acres from Exclusive Farm Use to Rural

Residential. The decision is discussed below. Two parties have filed appeals of the LUBA decision to the Oregon Court of Appeals.

The department is in the process of working with Yamhill County to dismiss an appeal authorized by LCDC at its January, 2023 meeting. The County adopted a revised ordinance on the issue of psilocybin service centers that satisfied the department's concerns.

The department has recently filed two appeals of local government decisions, one in Morrow County, the other in Josephine County. The Commission will consider whether to authorize continuation of those appeals or their withdrawal at this meeting.

## **B. LUBA Opinions**

Between June 1, 2023 and September 30, 2023, LUBA issued 28 opinions. Of these, LUBA affirmed eight, dismissed nine, remanded ten, and transferred one to circuit court. Five of these decisions concerned a statewide planning goal, administrative rule, or related statute.

Goal 9, Economic Development, OAR 660-009-0015, Economic Opportunities Analysis, OAR 660-009-0015(3) and 660-009-0005(1) and (4) vacant and redevelopable land, Goal 2, Land Use Planning, adequate factual base, 1000 Friends of Oregon v. City of Hillsboro, LUBA 2022-103, issued July 20, 2023. LUBA remanded a decision by the City of Hillsboro amending the city comprehensive plan by adopting an economic opportunities analysis (EOA). After the petitioner filed with LUBA Metro also intervened to challenge the city's decision.

LUBA remanded the city's decision on one assignment of error. The city included an inventory of existing vacant and developed lands for industrial and other employment use in the EOA; however, the definition of "developed lands" in OAR 660-009-0005(1) consists of "non-vacant lands that are likely to be redeveloped during the planning period." LUBA found the city had erred in its methodology because it only included land parcels with potential for redevelopment if the parcel contained at least some actually vacant, undeveloped land. The city should have considered developed lands for their potential to be redeveloped (existing improvements replaced with new, higher value improvements).

However, LUBA affirmed the EOA against several other challenges from the petitioner and Metro. First LUBA rejected the petitioner's and Metro's argument that the city is required to use a population forecast, in particular Metro's population forecast, in its EOA. LUBA noted that OAR 660-009-0015 contains no language requiring use of a population forecast to prepare an EOA and noted that other statutes and rules relating to housing and urban growth boundaries include such requirements, meaning that such a requirement cannot be inferred in OAR 660-009-0015 for an EOA. LUBA also rejected



Metro's assertion that the city was required to use the Metro regional employment forecast, which projects a much lower rate of employment growth for Hillsboro than the city's EOA. LUBA found no statutory or rule justification for this claim either.

LUBA also rejected the petitioner's assignment of error alleging that the city did not have an adequate factual base for its employment projections. The city used different assumptions for different economic sectors for employment growth, for some sectors negative growth, other sectors a linear growth rate, and other sectors a compounding exponential growth rate. The petitioner alleged that the city didn't provide sufficient reasoning for its decisions on growth rates for different economic sectors, giving examples of apparent inconsistencies. But LUBA determined that the city had provided sufficient justification in the record for its reasoning on different growth rates for different economic sectors. Additionally, LUBA rejected the petitioner's assertion that the city's discussion of impediments to economic growth in its EOA, such as inadequate transportation and an insufficient labor market, did not match its high projected rate of employment growth. LUBA determined that the city is not required to solve any such issues as part of the EOA, but rather is required to identify them and identify potential solutions in its comprehensive plan. The city did this in its adopted EOA.

Goal 3, Agriculture, ORS 215.203, OAR 660-033-0030, Definition of Farmland, Goal 14, Urbanization, ORS 215.288, Designation of Non-Resource Lands *1000 Friends of Oregon et. al. v. Deschutes County* and *DLCD et al. v. Deschutes County* LUBA 2023-006 and 009, issued July 28, 2023. LUBA remanded a decision by Deschutes County approving a comprehensive plan amendment and rezone for a 710-acre property from Exclusive Farm Use to Rural Residential. The County had redesignated the property under the determination that it is non-resource land and did not adopt an exception to Goal 3 under ORS 197.732.

LUBA remanded the decision for several reasons based upon a fundamental error made by the county. The county's error occurred because it did not sufficiently consider whether the parcel could be considered as agricultural land when used in conjunction with other nearby and adjacent agricultural lands. LUBA cited OAR 660-033-0030(2), which in part requires analysis of nearby or adjacent land, regardless of ownership, when determining if a parcel is agricultural land. LUBA noted OAR 660-033-0020(1) the definition of agricultural land, which also requires consideration of the relationship of a particular parcel with nearby and adjacent agricultural lands. LUBA determined the county had specifically dismissed, rather than analyzed, profitability of agricultural activities on the parcel in conjunction with nearby and adjacent lands, potential for supplementation of feed for livestock on the property with feed from nearby or adjacent lands, and construction of and maintenance of facilities used for farm activities in conjunction with farming activities on nearby and adjacent lands.

LUBA also remanded the decision for another county misinterpretation of state law – the requirement in OAR 660-033-0020(1)(a)(C) that agricultural land includes “land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural

lands” The county based its decision solely upon statements from nearby agricultural operators that they did not need the applicant’s property for their own agricultural activities. LUBA determined the analysis under this rule provision also requires an analysis of potential impacts of development on the site upon neighboring agricultural lands, which the county did not provide.

However, LUBA also rejected several arguments raised by the various petitioners:

LUBA rejected the argument of petitioner Central Oregon Landwatch that the County was not allowed to rely on a site-specific soil assessment showing the primary soils on the site were class 7 and 8, not class 6 as determined by the U.S. Natural Resources Conservation Service (NRCS). LUBA noted that ORS 215.211, adopted by the Legislature in 2010, authorizes site-specific soil surveys, and supersedes the petitioner’s reliance on language to the contrary from *1000 Friends of Oregon v. LCDC (Linn County)*, 85 Or App 18, 22-23 (1987).

LUBA also rejected another argument from Central Oregon Landwatch: that an analysis of profitability for farm operations could not include the capital costs of establishing the farm operation, but only ongoing operational costs. While LUBA agreed with Central Oregon Landwatch’s basic premise, LUBA noted the County could and did consider the ongoing interest payments on a loan to pay for capital expenditures as an ongoing operational cost with an impact on profitability.

LUBA also rejected the argument of petitioners 1000 Friends of Oregon and Central Oregon Landwatch that the county is required by ORS 215.788 to conduct an area-wide or regional analysis of non-resource lands and cannot consider individual quasi-judicial applications such as this. The language of ORS 215.788 does not make it exclusive to consideration of non-resource land designations.

LUBA also rejected the argument of petitioners 1000 Friends of Oregon that the county was required to adopt an exception to Goal 14 (Urbanization) in order to approve the application. The petitioner asserted the county was incorrect in determining that the RR10 zoning it was applying to the site was automatically a rural zoning district, arguing that the county needed to apply specific factors set forth for determination of whether a use is urban or not from *Shaffer v. Jackson County*, 17 Or LUBA 22, 1989. However, LUBA noted the county’s RR10 zoning district had been acknowledged as a rural district in 2016 in a Post-Acknowledgment Plan Amendment. The petitioner’s arguments that the district was rural only in conjunction with an exception to statewide planning goals 3 or 4 (not applicable here since the county’s decision designated the lands as non-resource and did not include a goal exception) were not found persuasive by LUBA.

Finally, LUBA sustained the argument of petitioner Redside that the County did not adequately consider the impacts of the additional residential development allowed by the approval upon surrounding agricultural uses, as required by a provision in the Deschutes County Comprehensive Plan.

As noted, DLCD was a petitioner along with several other parties in this case. One of those petitioners, 1000 Friends of Oregon, has appealed the case to the Oregon Court of Appeals, and the applicant has filed a cross-appeal. This case highlights continuing uncertainties and potential impacts from the issue of non-resource lands in Oregon's statewide planning program. DLCD rulemaking could provide resolution of these uncertainties.

Goal 10, ORS 197.307(4), Clear and Objective Standards for Housing, Goal 3, ORS 215.213(1)(d), OAR 660-033-0130, Agriculture relative farm help dwellings; *Lane County Landwatch v. Lane County*, LUBA 2023-037, issued August 29, 2023. LUBA remanded a decision by Lane County approving an agricultural relative farm help dwelling. The county did not apply its own code standards for relative farm help dwellings to the application because those standards are not clear and objective, as required by ORS 197.307(4). In 2017 the Oregon Legislature amended the "clear and objective" housing statute so that it applies to areas outside of urban growth boundaries. LUBA first rejected the county's assertion that ORS 197.307(4) unambiguously applied to all housing outside of urban growth boundaries, finding instead that it must be read in conjunction with other, potentially conflicting statutes. LUBA noted the Legislature's amendment of ORS 197.307(4) in 2017 occurred in the context of many other existing statutes, and the Legislature would not have adopted a statute whose import would have simply swept all of those other statutes into irrelevance. LUBA also rejected the county's assertion that Legislative passage of HB 3197 in 2023 showed Legislative intent in 2017. HB 3197 (2023) "clarified" the statute so that clear and objective standards did not apply to lands outside of UGBs – LUBA noted a legislative intent to "clarify" an existing statute did not support an unambiguous claim about what the Legislature intended with its 2017 amendment of ORS 197.307(4). Finally, LUBA rejected the county's reading of *Community Participation Organization 4M v. Washington County*, LUBA No 2020-110, Sept 29, 2021, affd, 316 Or App 577 (2021) as requiring clear and objective standards for an agricultural farm help dwelling. LUBA noted its decision in that case was limited to the county's significant natural area protection standards under Statewide Planning Goal 5 and could not be construed as applying the same analysis to agricultural relative farm help dwellings.

The impact of LUBA's decision in this case has been rendered partially moot by the Legislature's enactment of HB 3197(2023) but remains relevant in the context of other potentially conflicting land use statutes.

Goal 3, Agriculture, Goal 14, Urbanization, Goal 11, OAR 660-011-0065(2) Public Facilities and Services, extension of public water service, ORS 197.732(4) OAR 660-004-0015(1), Goal Exceptions, OAR 660-004-0020(4) and 660-004-0022(4), Expansion of Unincorporated Communities, *Central Oregon Landwatch v. Jefferson County*, LUBA 2023-026, issued September 8, 2023. LUBA remanded a decision by Jefferson County approving goal exceptions to authorize a comprehensive plan map amendment and zone change from Range Land to Rural Residential 2 acre for 240 acres surrounded by

the Crooked River Ranch unincorporated community. LUBA principally remanded because the county had not clearly incorporated findings of fact and a statement of reasons justifying the Goal 3 (Agriculture) and Goal 14 (Urbanization) exceptions into its comprehensive plan, as required by ORS 197.732(4) and OAR 660-004-0015(1). The county had incorporated a 700-page record as its findings and reasons, which LUBA found was not sufficiently focused to serve as the necessary justification for the exception. As a result, LUBA did not make any conclusions as to the content of the county's justifications for the goal exceptions. LUBA also faulted the county for determining that an amendment to the Crooked River Ranch unincorporated community was not necessary – the development on the site would in all practical ways be part of the surrounding unincorporated community were it to be developed. However, LUBA upheld the county's determination that an exception to Goal 11 for extension of water service to the site was not necessary. The county had determined the Crooked River Ranch Water Company has existing infrastructure completely surrounding the 240-acre site and thus there was no extension of public water service needed to serve the site, requiring an exception to Goal 11.

Goal 3, Agricultural Lands, Goal 4 Forestry, OAR 660-006-0025(4)(j), OAR 660-033-0130(38), OAR 660-006-0050, Photovoltaic Solar Energy Facilities in Mixed Farm-Forest Zoning Districts, *Silver Creek Solar LLC v. Marion County*, LUBA 2023-045, decided September 21, 2023. LUBA affirmed a decision by Marion County denying an application for a conditional use permit to develop a 10-acre photovoltaic solar power facility on land zoned for mixed farm and forest uses. The case implicated three provisions of state law: 1) an option for counties to allow up to a 10-acre photovoltaic solar energy facility on forest lands subject to a finding that the project would not adversely affect farm and forest practices on farm and forest lands – 660-006-0025(4)(j); 2) an option for counties to allow up to a 12-acre photovoltaic solar energy facility on agricultural lands with high value soils ("high value farmlands") subject to a series of findings related to impacts on farm lands – OAR 660-033-0130(38)(h); and 3) an option for counties to adopt a mixed farm-forest zoning district in areas where neither farming or forestry are predominant – OAR 660-006-0050.

Marion County has adopted a mixed farm-forest zoning district, in which the applicant's property is located and allows photovoltaic solar power facilities within the mixed farm-forest zoning district consistent with the allowances set forth in the farm and forest administrative rules. However, the county determined that the additional findings related to a proposed facility on high value farmlands in OAR 660-033-0130(38)(h) were required to approve the project, and without those findings denied the application. Although the Marion County development code does not include these additional findings (because the county chooses to prohibit photovoltaic solar power facilities on high value farmland in its exclusive farm use zoning district instead of allowing them conditionally), the county determined that ORS 197.646 requires the county to apply the standards in OAR 660-033-0130(38)(h) on high value farmland that is in the mixed farm-forest zoning district. The petitioner asserted that Marion County erred in making

this finding, arguing the OAR 660-033-0130(38)(h) rule only applies to lands in an exclusive farm forest zoning district, not to lands in a mixed farm-forest zoning district.

LUBA resolved the issue by turning to the rule language for mixed farm-forest zoned lands in OAR 660-006-0050. After authorizing counties to establish such a zoning district, the rule language states that counties may allow uses subject to the relevant rules for farmland and forestland. Only for residences does the rule language requires counties to choose whether to apply farmland or forestland rules where they conflict. LUBA reviewed the rule text and legislative history behind OAR 660-006-0050 and found nothing that cleared up the ambiguity of the rule as applied to the disputed issue. LUBA then applied ORS 174.010, which applies to all Oregon statutes, and which states “where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.” Since 1) OAR 660-033-0130(38)(f) states that the siting standards are applicable to “high value farmland;” 2) the mixed farm-forest rule states that uses are allowed subject to the relevant rules for farmland and forestland; and 3) the mixed farm-forest rule only requires a choice between different farm and forest standards when reviewing applications for residences; LUBA concluded the county was correct in directly applying OAR 660-033-0130(38)(f) to the application despite the absence of this language in the county’s own development code.

This case highlights an ambiguity in LCDC-adopted rules for mixed farm-forest zoning districts. The ongoing farm-forest technical working group is reviewing this issue, and the department will be making a recommendation for proceeding with potential administrative rule amendments to resolve this issue in the future.

These decisions do not require any rule or goal review or amendment.

### **C. Appellate Court Opinions**

Goal 10, Housing, Goal 11, Public Facilities, Goal 15, Willamette River Greenway, ORS 197.307(4) Clear and Objective Standards for Housing, *Coopman v. City of Eugene*, 327 Or App 6, (2023). The Court of Appeals partially reversed an opinion of LUBA affirming the City of Eugene’s decision to adopt code amendments to allow middle housing (duplexes, triplexes, quadplexes, townhomes, and cottage clusters) implementing the legislative mandate of ORS 197.758. The court reversed LUBA on a single issue – the adequacy of the city’s findings required under Goal 11 (Public Facilities). LUBA had agreed with the city’s finding that it could and would amend its public facilities plans to ensure facilities adequacy for the higher levels of housing development. In reversing, the Court of Appeals did not find any provisions of ORS 197.758 or LCDC’s implementing rules in OAR 660-046 that exempted cities from ensuring compliance with Goal 11 by some sort of assurance that adequate public facilities were available to serve higher levels of housing development. The Court noted OAR 660-046-0010(3), which requires local governments to include provisions for middle housing in their general public facilities plans that “identify significant public facility projects which are to support the land uses designated in the acknowledged

comprehensive plan.” The court also noted that the Legislature specifically allowed local governments to seek extensions of time to fully implement middle housing provisions if the local government identified and provided a timeline to solve a specific public facilities deficiency. Finally, the Court noted the Legislature had specifically exempted local governments from findings of compliance with Goal 12 and OAR 660-012 (the Transportation Planning Rule) but had not exempted local governments from compliance with other public facilities planning requirements.

The Court rejected the petitioners’ claims regarding Goal 15 – Willamette River Greenway. Since the city was not amending its code provision implementing Goal 15, it was not allowing any specific development within the greenway, and thus had no impacts of development to review and mitigate. Goal 15 requires local governments to apply permitting standards that provide an individualized review of development applications, and the city’s code provisions implementing middle housing did not impact those permitting standards or that individualized review. The Court also rejected without discussion the petitioner’s claims that LUBA erred in finding certain provisions of the city’s code amendments were not clear and objective, as required by ORS 197.307(4).

Under OAR 660-046-0040, because the Court of Appeals reversed and remanded Eugene’s middle housing code amendments on substantive grounds, the city must apply the model code for middle housing adopted as part of OAR 660-046 until the city readopts revised code amendments complying with OAR 660-046.

ORS 197.319 to 197.335, Definition of Land Use Decision for Purposes of LCDC Enforcement Order. Marks v. LCDC, 327 Or App 708 (2023). The Court of Appeals reversed and remanded a Land Conservation and Development Commission order denying a petition for enforcement requested by Marks. The petition requested an enforcement order against the cities of Lake Oswego, Tualatin, and West Linn, Clackamas County, and Metro for adopting two intergovernmental agreements that allegedly delayed future urban development of an urban reserve area adjacent to all three cities commonly known as the “Stafford Triangle.” LCDC had determined it did not have authority under ORS 197.320(12) to issue an enforcement order because the intergovernmental agreements did not qualify as “land use decisions” under either the statutory definition of such decisions (ORS 197.015(10)) nor the “significant impacts test” for determining a land use decision formulated by the Oregon Supreme Court in *Billington v. Polk County*, 299 Or 471 (1985).

The Court of Appeals looked solely at the issue of whether the intergovernmental agreements qualified as land use decisions under the significant impacts test. The court acknowledged that the test is a nebulous standard, finding at its basis that the decision in question must have major land use impacts that are likely to occur, not merely speculative. Looking at past decisions, the Court determined that both a decision to change an existing situation and to not change an existing situation could constitute a land use decision under the significant impacts test.

The Court then looked at the facts of the case. In the five-party intergovernmental agreement Metro altered its normal course of action regarding urban growth boundary agreements, a joint determination between Metro and the affected cities and county, by agreeing to withholding of any urban growth expansion until the relevant city had completed a concept plan. While LCDC noted that Metro must still comply with Goal 14 requirements when considering urban growth boundary expansion, the order noted that Metro gives “decisive weight” to the adoption of a concept plan as a prerequisite to such expansion. Then, in the three-party intergovernmental agreement, the three cities agreed to not develop concept plans for any of the Stafford Triangle until 2028 or widening of I-205 and the Abernethy Bridge over the Willamette River. As a result, the Court determined the effect of the two intergovernmental agreements had large consequences for land use in the Stafford Triangle and cascading impacts on land use for other areas in the Portland Metro Area where Metro decisions to expand its urban growth boundary would be impacted by the results of the intergovernmental agreements.

Finally, the court distinguished this case from two other decisions where the underlying decision did not meet the significant impacts test. Those cases both constituted contingent decisions, laying the groundwork for future, more substantive decisions (*Crist v. City of Beaverton*, 143 Or App 79 (1996), involving a pre-annexation agreement, and *Hemstreet v. Seaside Improvement District*, 93 Or App 73 (1988), involving a contingent lease). In contrast the two intergovernmental agreements had no such contingencies, and immediately created “significant impacts” upon their adoption on land use in the Stafford Triangle and other parts of the Portland Metro region.

This decision reverses and remands LCDC’s order regarding the Stafford Triangle petition for enforcement. The department is discussing with our Department of Justice assistant attorney general how to best proceed with the remand.

**D. Other Opinions of Interest**

None

**E. Appeal Notices of Interest**

None

**IV. Attachments**

**A. DLCD Organization Chart (October 2023)**

**B. 50<sup>th</sup> Anniversary Survey Details**

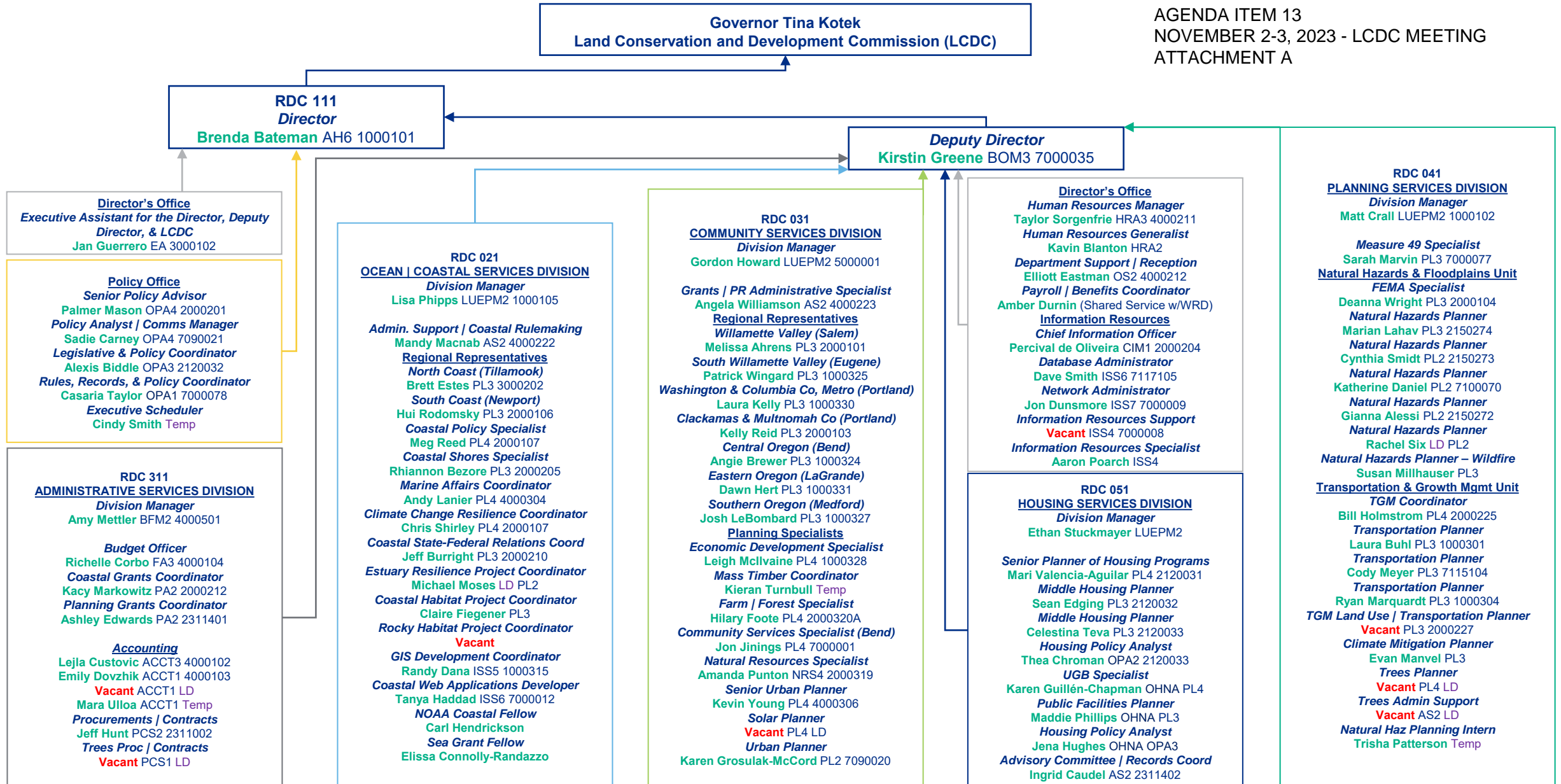
**C. 2023 Annual Key Performance Measures**

**D. 2023-2025 Housing Planning Assistance Awards**



# Organizational Chart

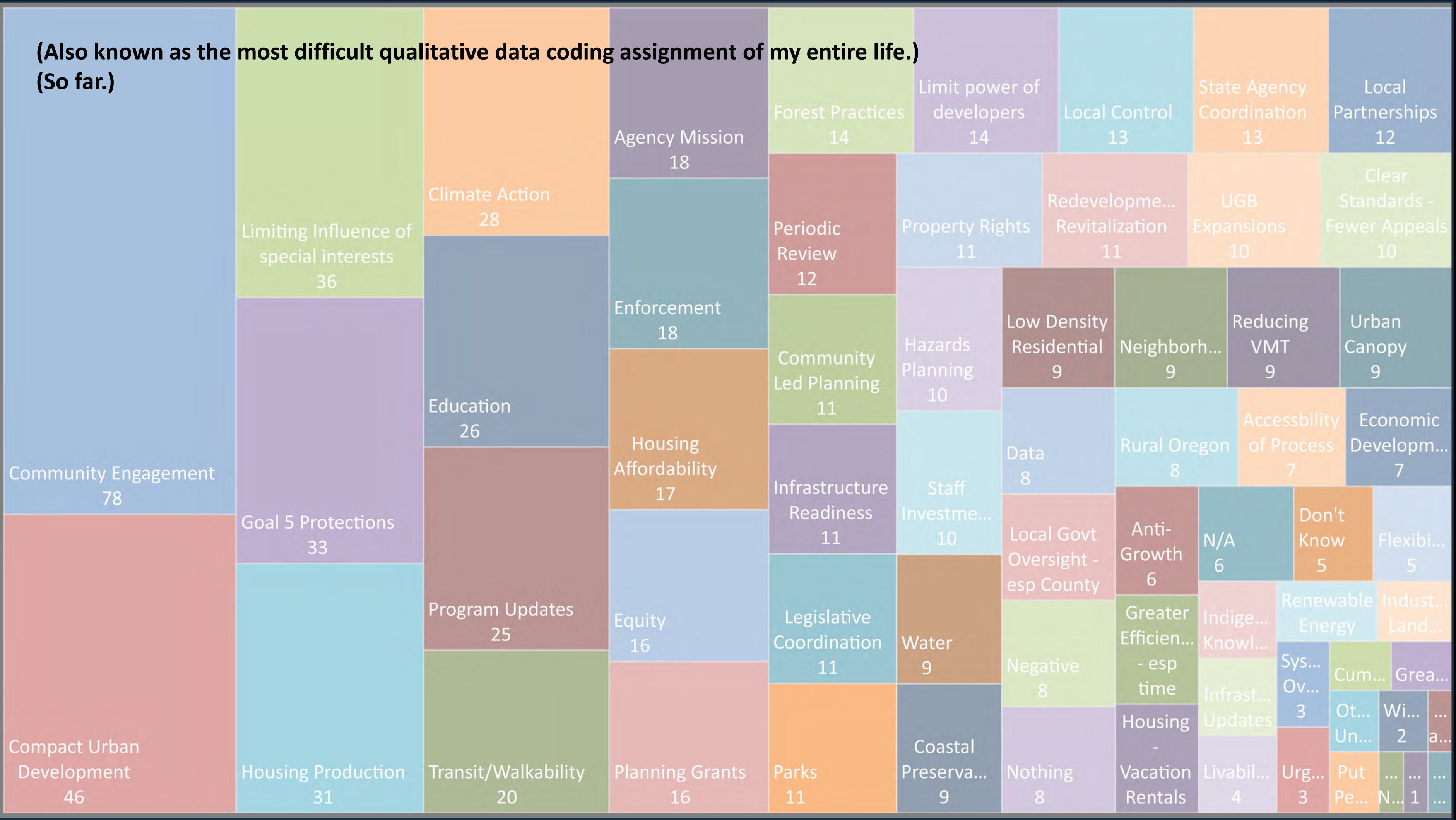
AGENDA ITEM 13  
NOVEMBER 2-3, 2023 - LCDC MEETING  
ATTACHMENT A



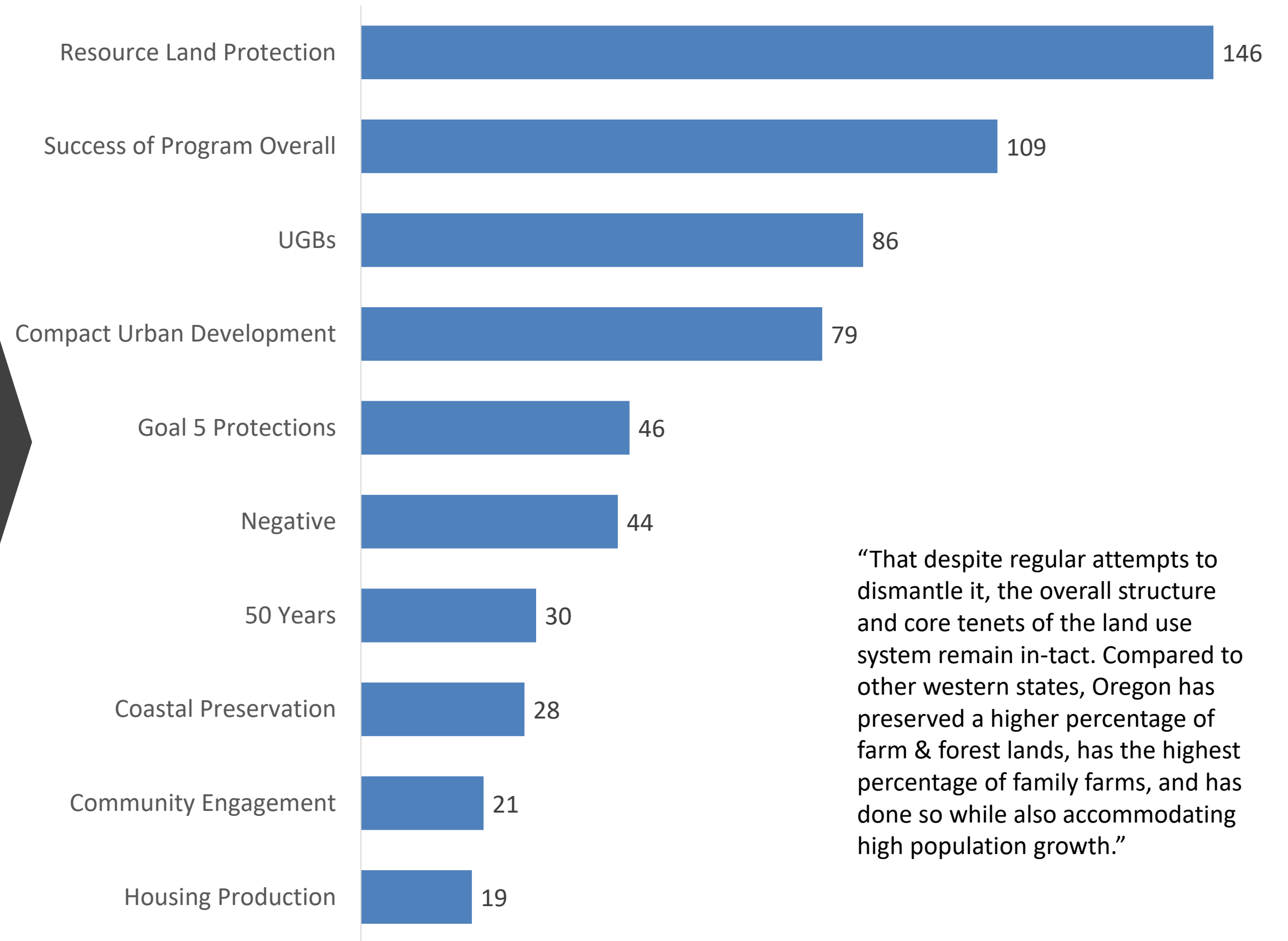




## 50<sup>th</sup> Anniversary Survey



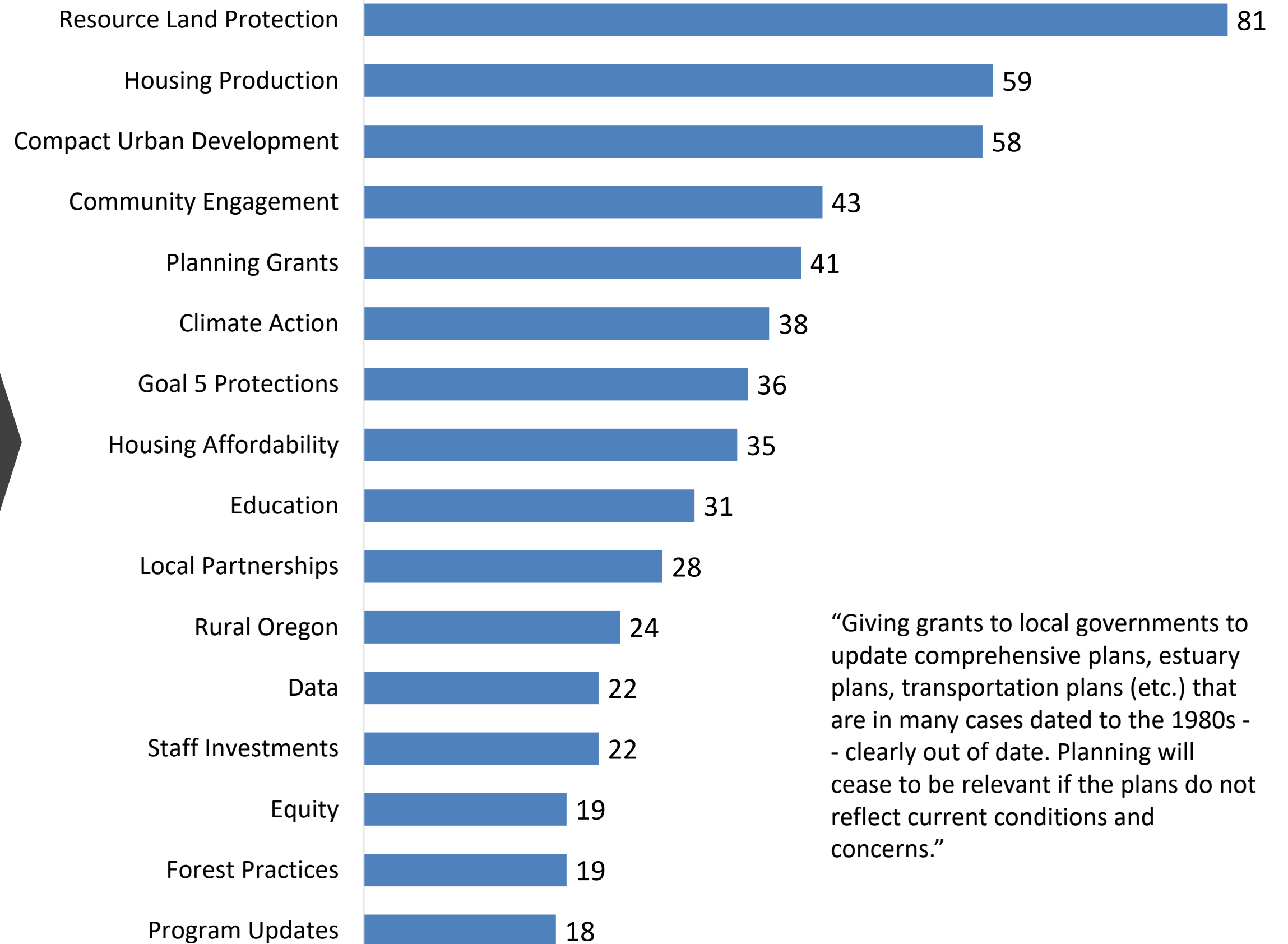
# What should DLCD be celebrating?



“That despite regular attempts to dismantle it, the overall structure and core tenets of the land use system remain in-tact. Compared to other western states, Oregon has preserved a higher percentage of farm & forest lands, has the highest percentage of family farms, and has done so while also accommodating high population growth.”

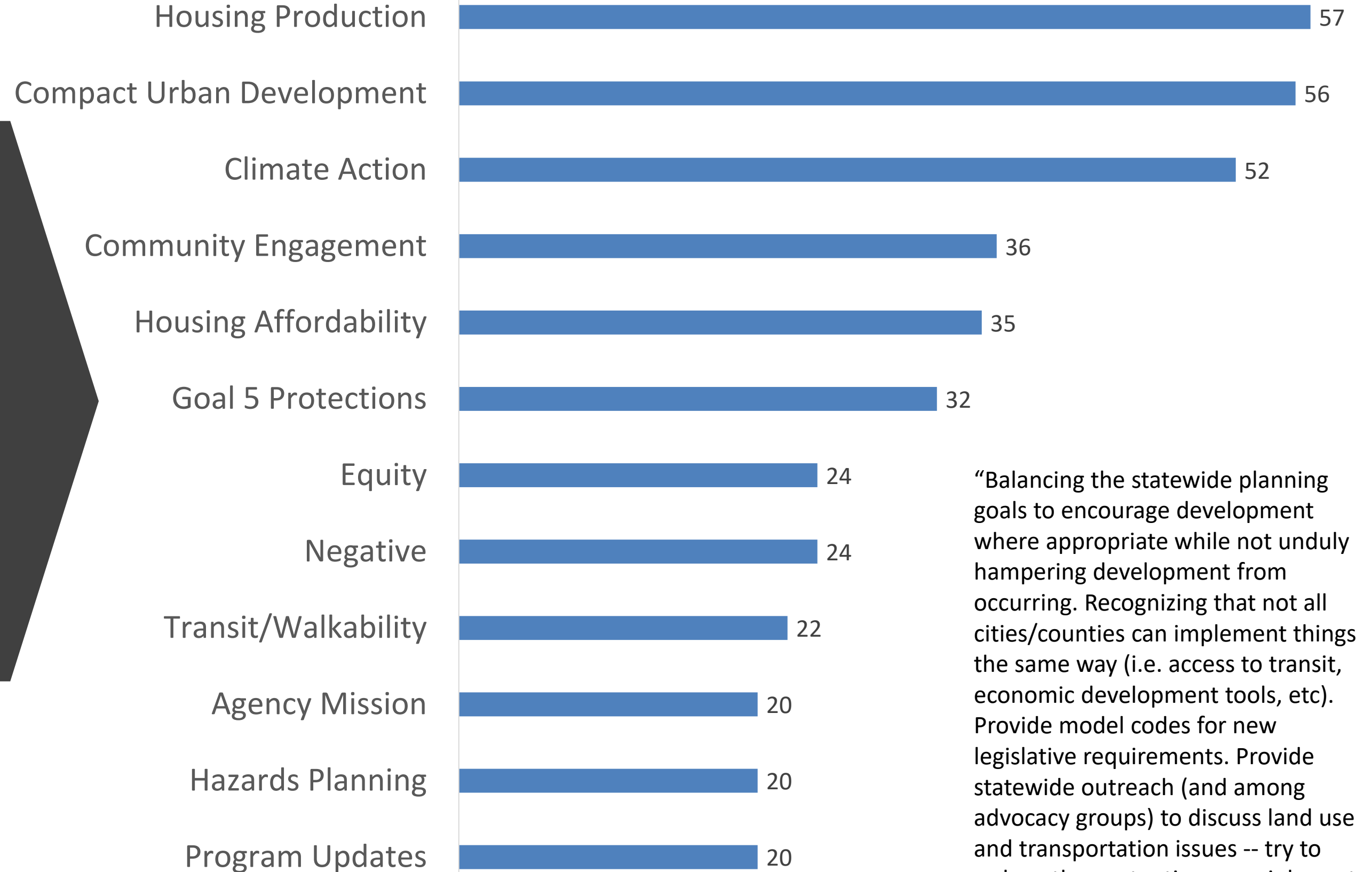


# What should DLCD be investing in?



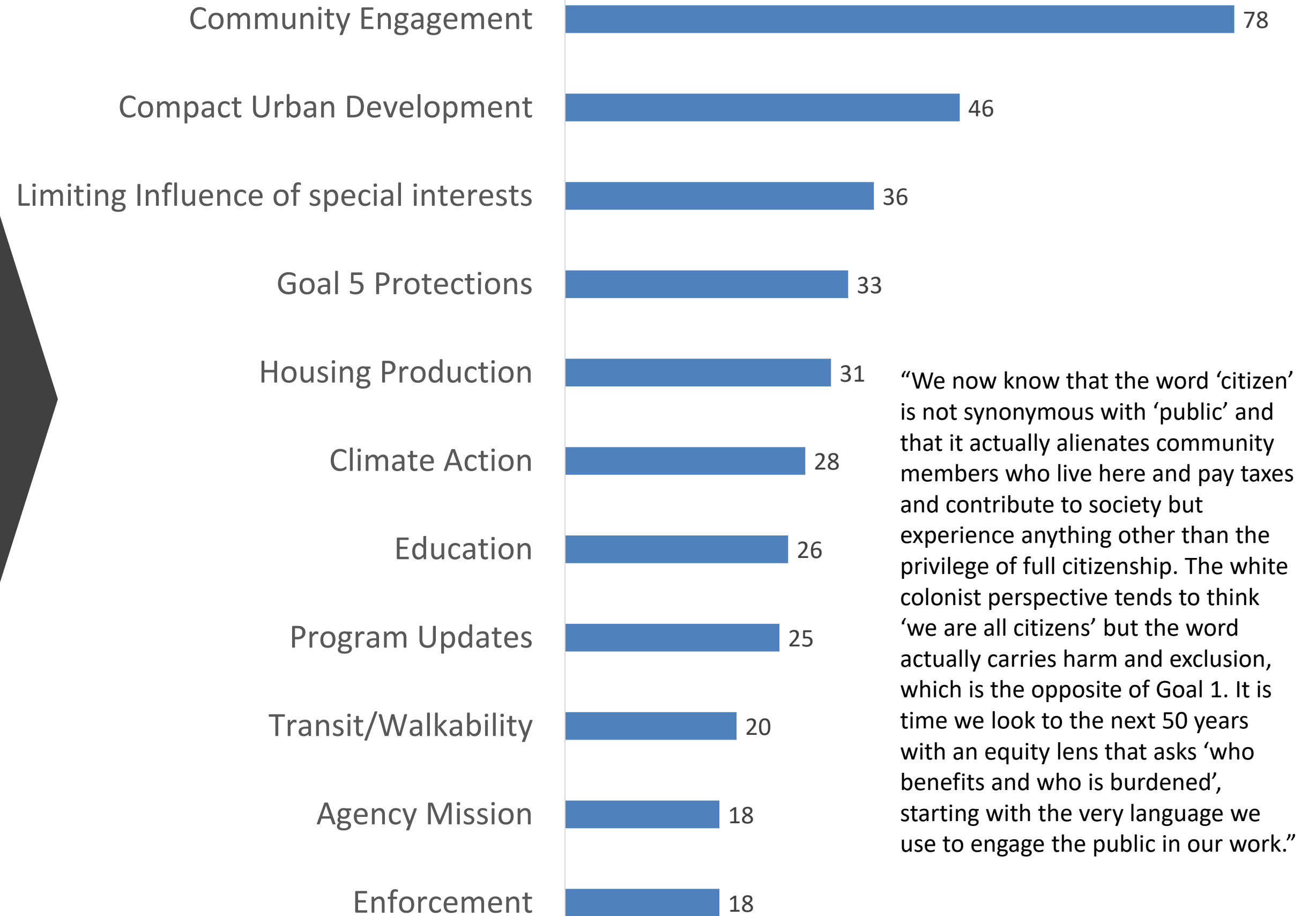
“Giving grants to local governments to update comprehensive plans, estuary plans, transportation plans (etc.) that are in many cases dated to the 1980s - - clearly out of date. Planning will cease to be relevant if the plans do not reflect current conditions and concerns.”

# What should DLCD be focusing on?

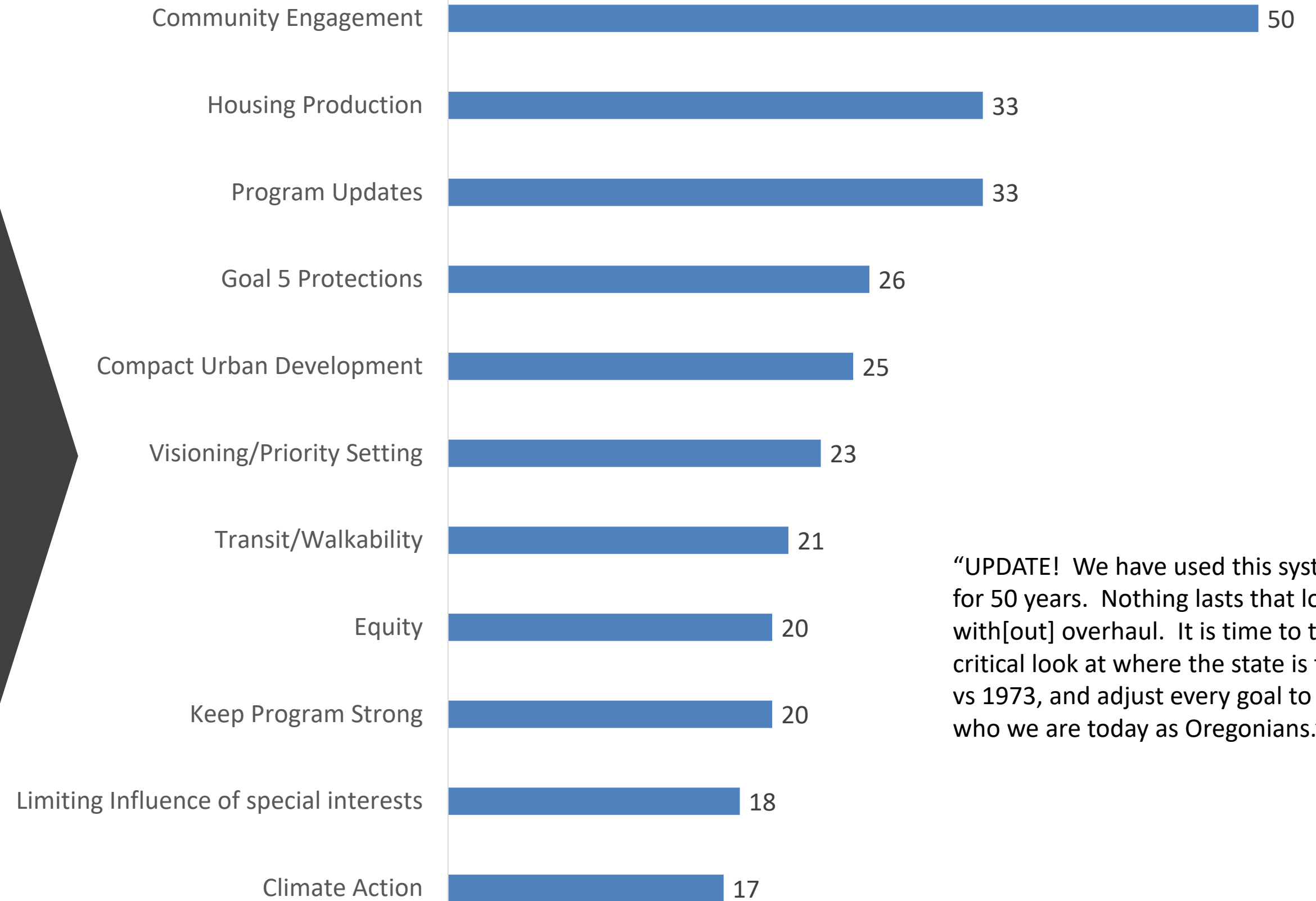


“Balancing the statewide planning goals to encourage development where appropriate while not unduly hampering development from occurring. Recognizing that not all cities/counties can implement things the same way (i.e. access to transit, economic development tools, etc). Provide model codes for new legislative requirements. Provide statewide outreach (and among advocacy groups) to discuss land use and transportation issues -- try to reduce the contentiousness inherent in the process.”

## What in Oregon's land use planning system needs to be strengthened?

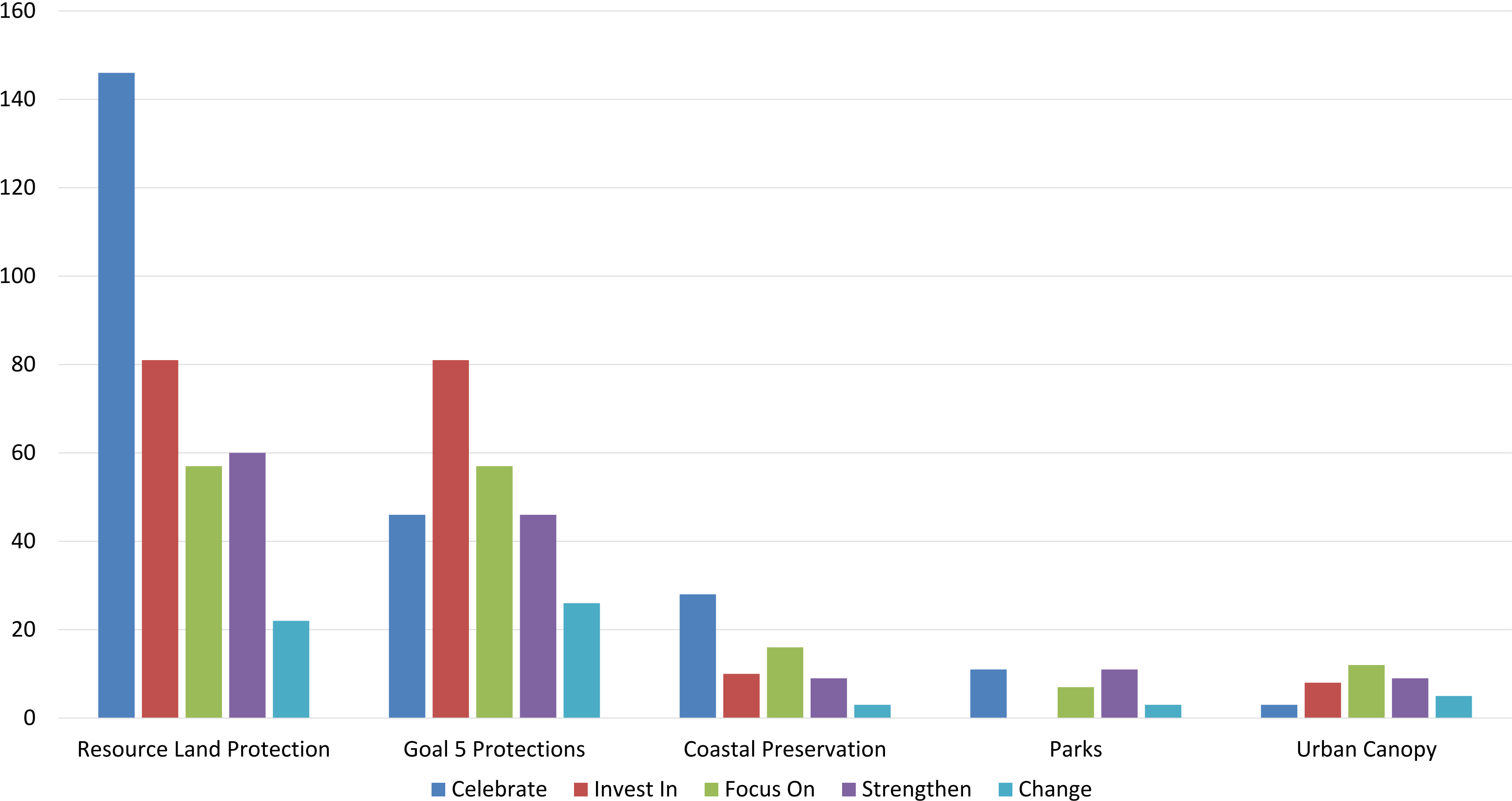


What about  
Oregon's land use  
planning program  
needs to be  
changed?



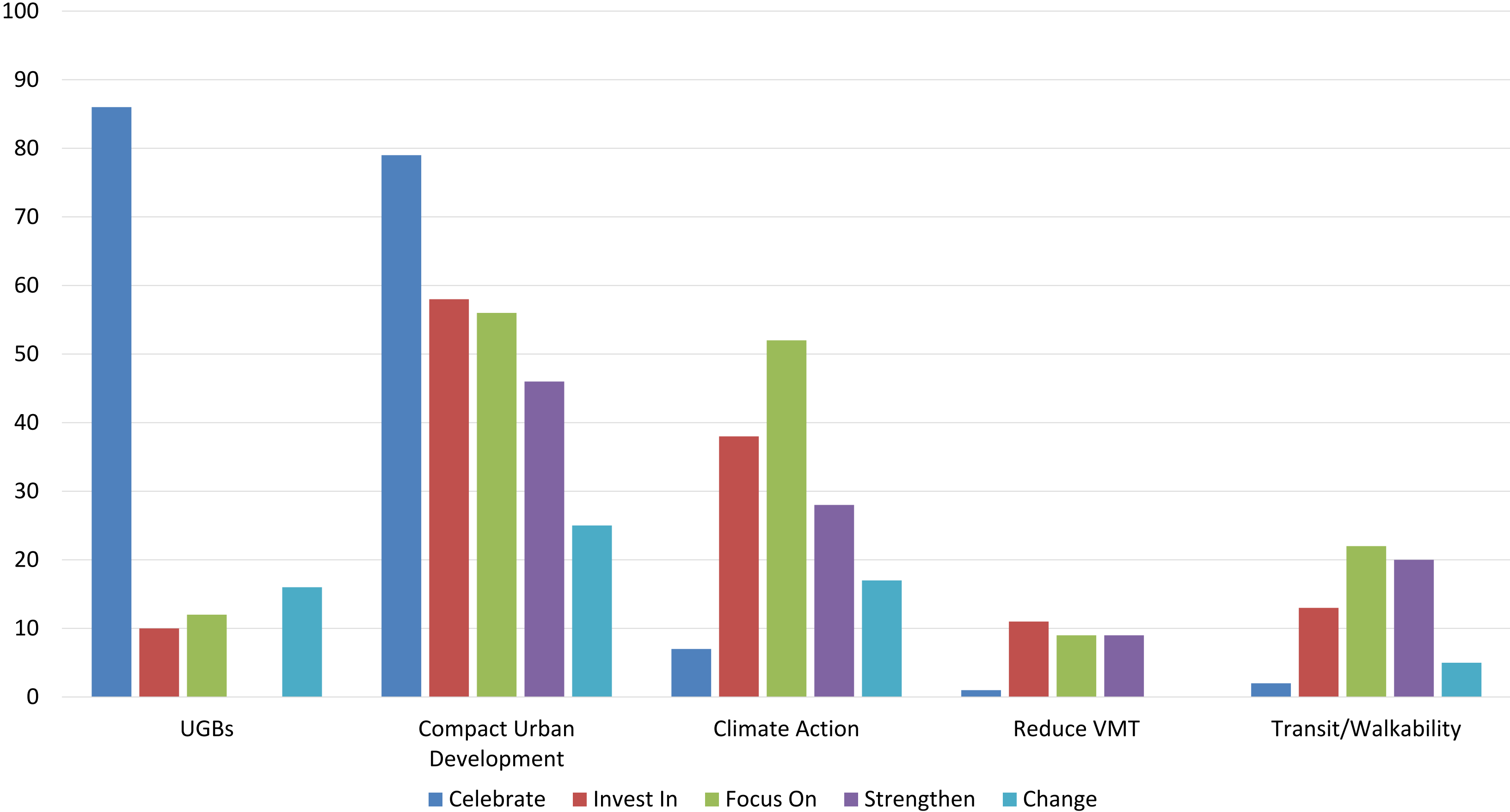
“UPDATE! We have used this system for 50 years. Nothing lasts that long with[out] overhaul. It is time to take a critical look at where the state is today vs 1973, and adjust every goal to fit who we are today as Oregonians.”

# Resource and Natural Lands Protection

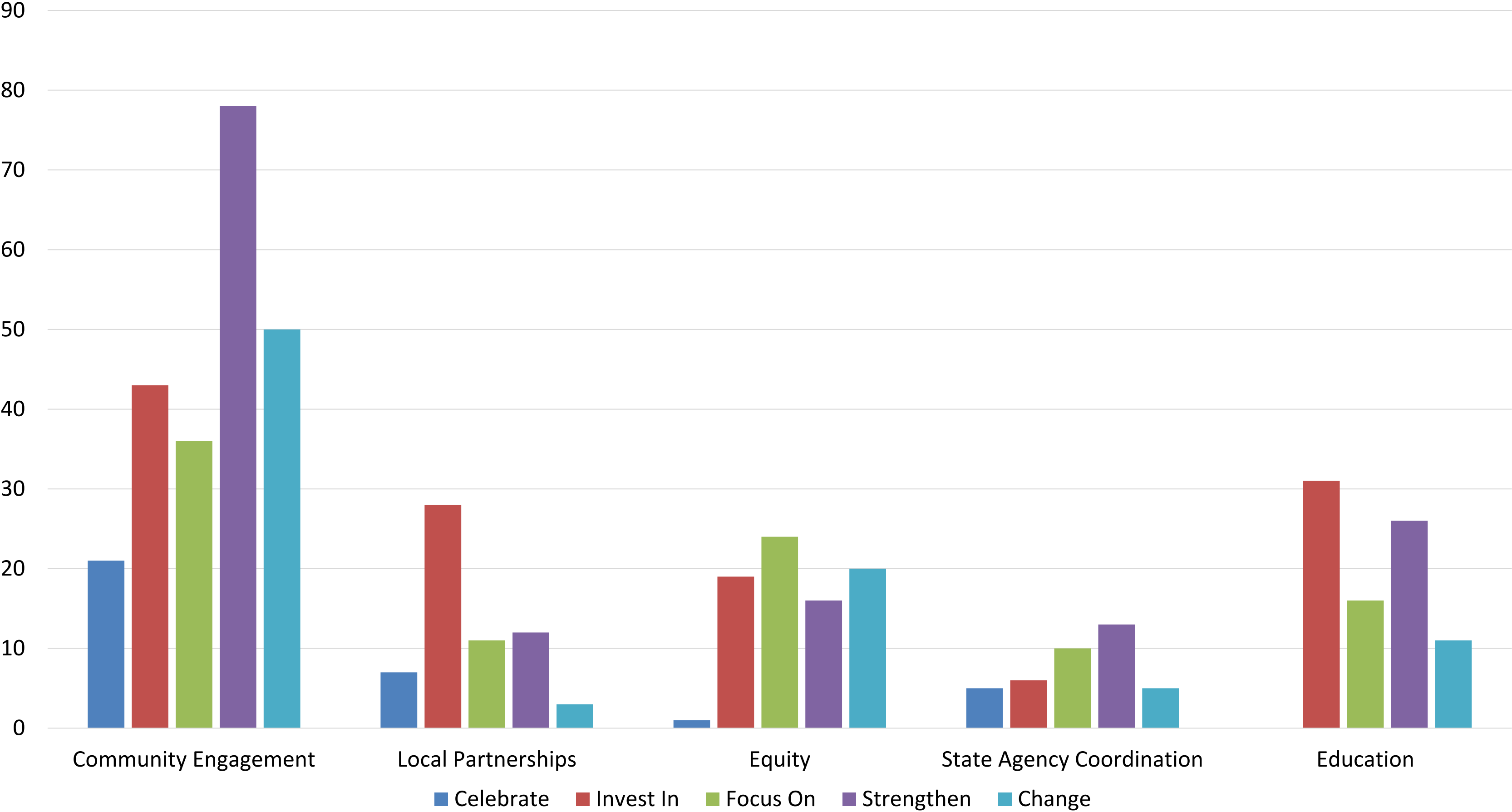




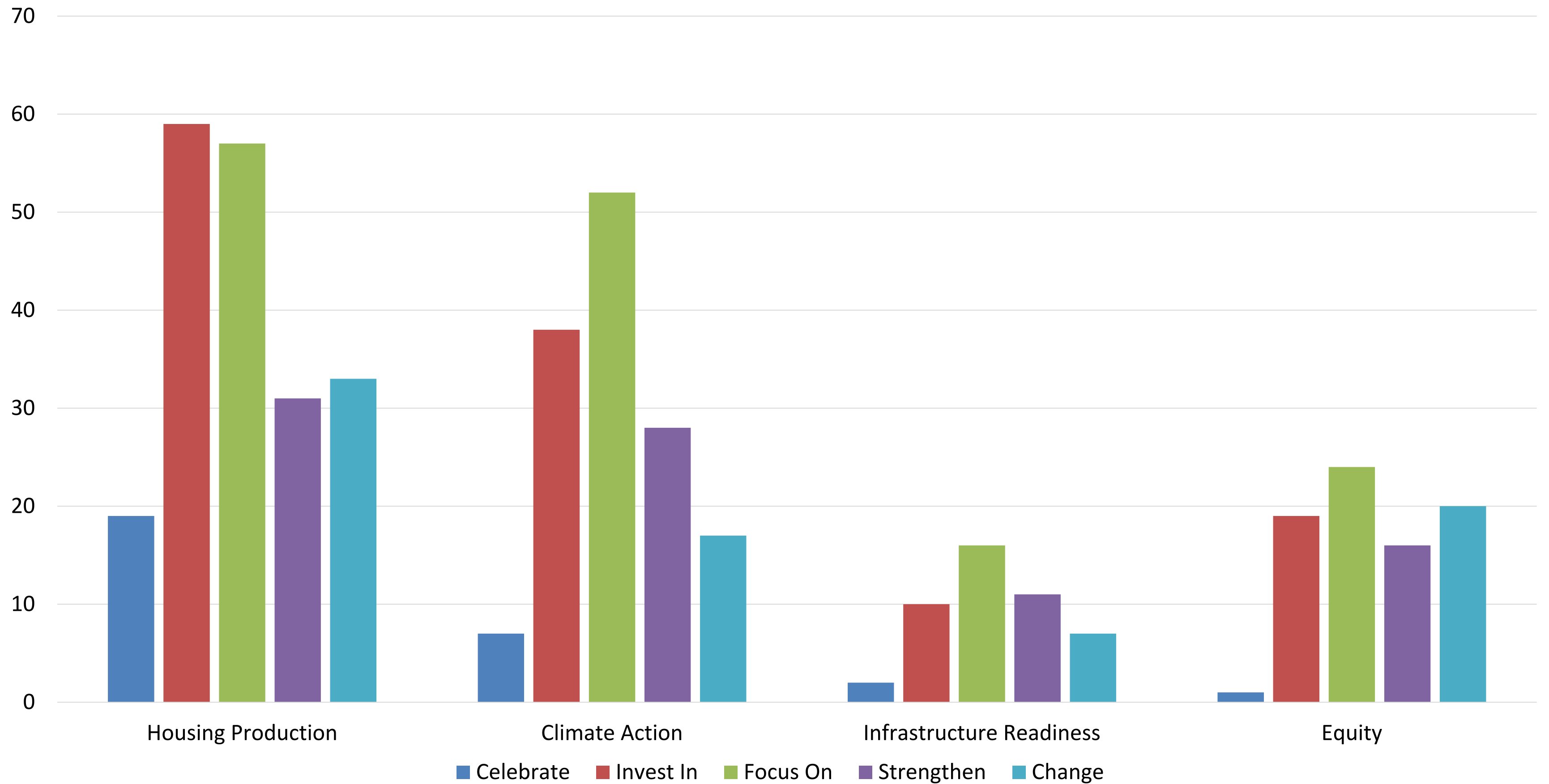
# Compact Urban Development & Climate Action



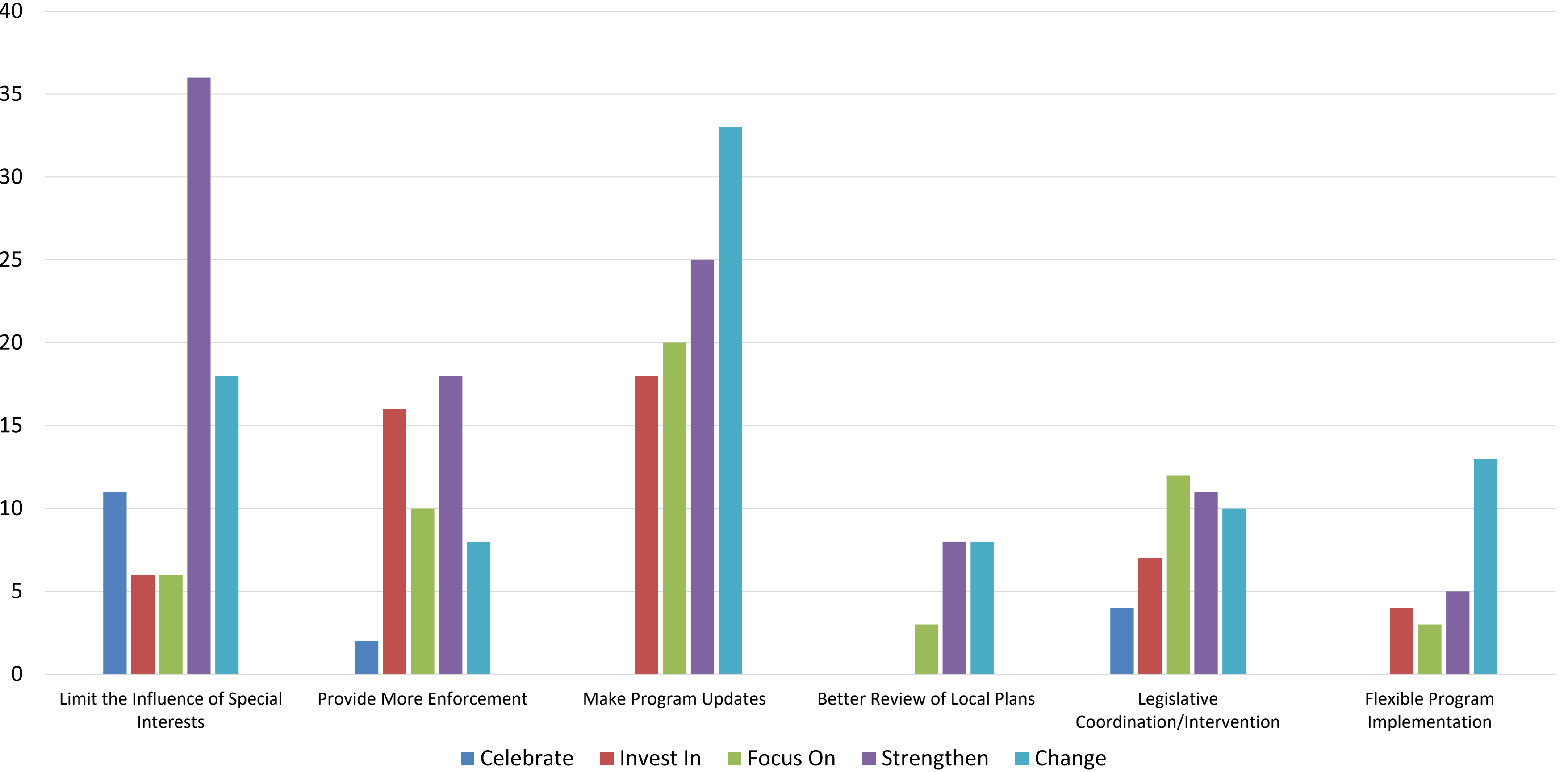
# Community Engagement, Equity & Partnerships



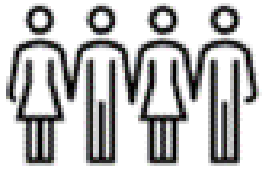
# Meeting the Moment



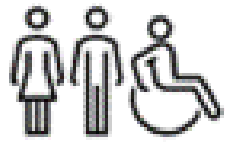
# Program Updates and Improvements



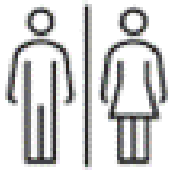
# Demographics



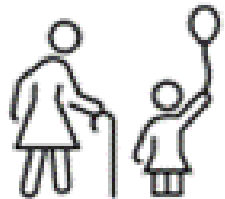
- **95%** of respondents did not identify as Hispanic, Latino, or of Spanish origin
- **79%** of respondents identify as White



- **30%** of respondents identify as having a disability



- **52%** of responses were from women
- **45%** of responses were from men



- **48%** of responses were from people over the age of 65
- **<2%** of responses were from people under the age of 25



- **83%** of responses were from people who own a home

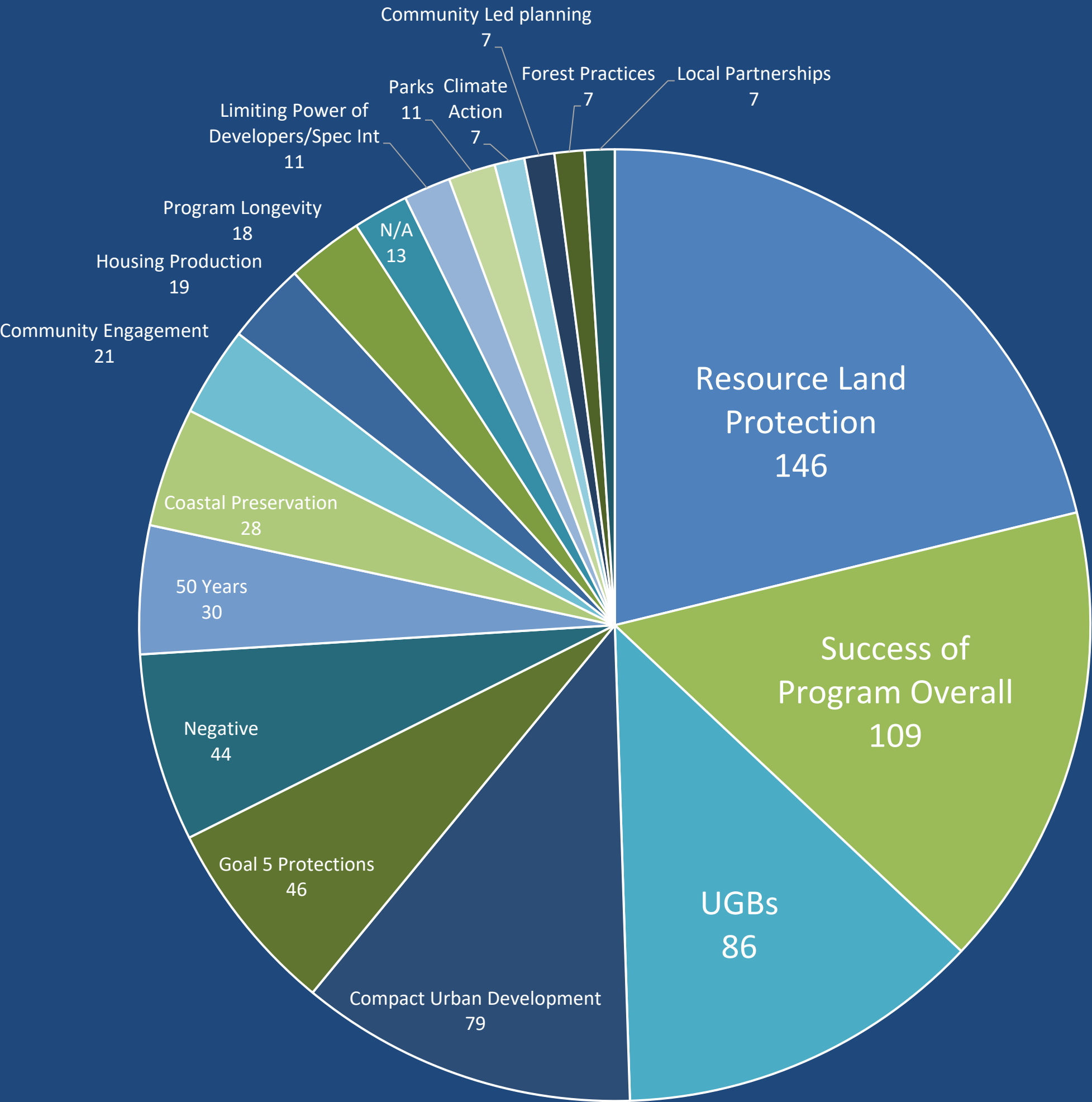


- **33%** of respondents earned less than \$60,000 per year
- **29%** of respondents earned over \$100,000 per year



**Thank you.**

What should DLCD be celebrating?



Resource Land Protection	146
Success of Program Overall	109
UGBs	86
Compact Urban Development	79
Goal 5 Protections	46
Negative	44
50 Years	30
Coastal Preservation	28
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Housing Production	19
Program Longevity	18
N/A	13
Limiting Power of Developers/Spec Int	11
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Climate Action	7
Community Led planning	7
Forest Practices	7
Local Partnerships	7
Local Control	5
Neighborhoods	5
Reducing VMT	5
State Agency Coordination	5
Tom McCall	5
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Rural Oregon	4
Balanced approach	3
Don't Know	3
Economic Development	3
Excellent Staff	3
Program Intention	3
Urban Canopy	3
Enforcement	2
Hazards Planning	2
Housing Availability (negative)	2
Infrastructure Readiness	2
Low Density Development	2
Revitalization/Redevelopment	2
Transit/Walkability	2
Uniqueness	2
Adaptability	1
Coastal Access	1
Complexity of Land Use Law	1
Development Constraints	1
Equity	1
Housing	1
Housing Availability	1
Intent of Program	1
Leadership	1
Partnerships	1
Planning Grants	1
Tribal Engagement	1

## Department of Land Conservation and Development

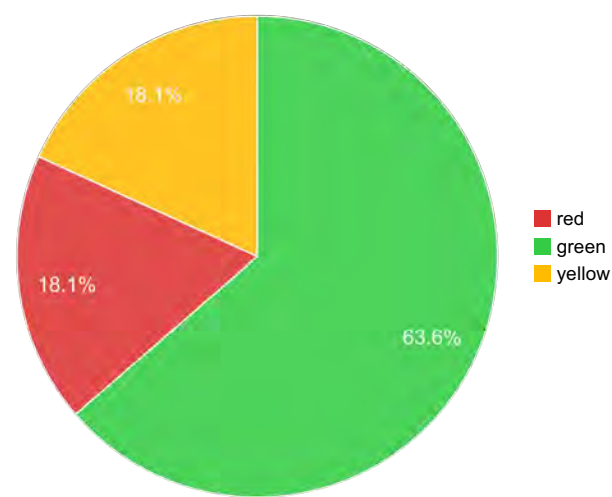
Annual Performance Progress Report

Reporting Year 2023

Published: 9/28/2023 5:59:46 PM



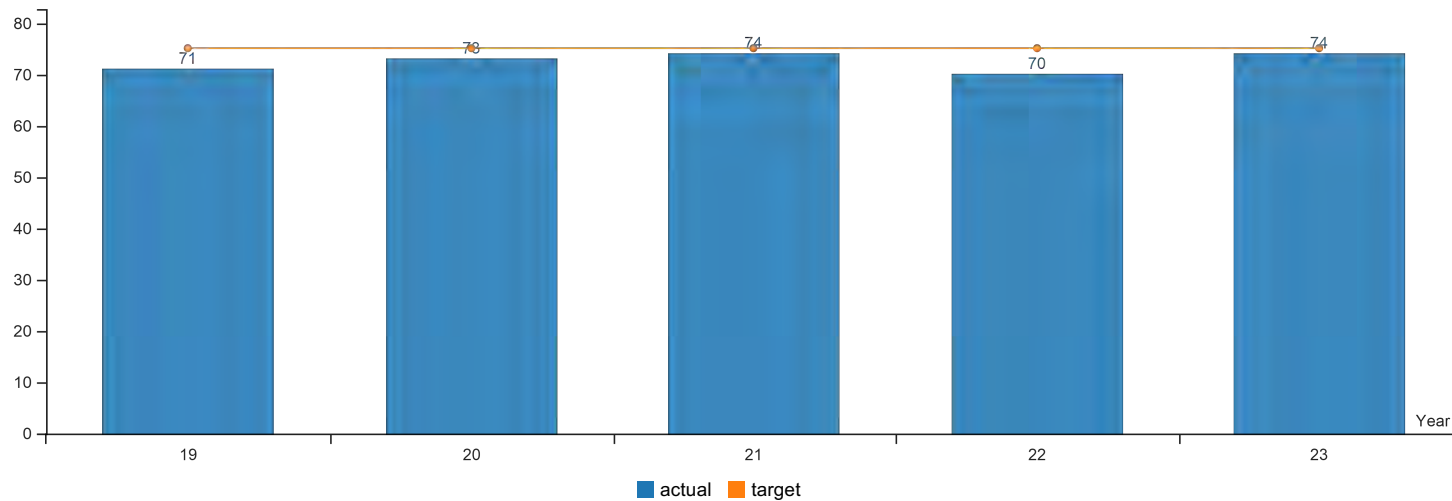
KPM #	Approved Key Performance Measures (KPMs)
1	EMPLOYMENT LAND SUPPLY - Percent of cities that have an adequate supply of land for industrial and other employment needs to implement their local economic development plan.
2	HOUSING LAND SUPPLY - Percent of cities that have an adequate supply of buildable residential land to meet housing needs.
3	PUBLIC FACILITIES PLANS - Percent of cities that have updated the local plan to include reasonable cost estimates and funding plans for sewer and water systems.
5	TRANSIT SUPPORTIVE LAND USE - Percent of urban areas with a population greater than 25,000 that have adopted transit supportive land use regulations.
6	TRANSPORTATION FACILITIES - Percent of urban areas that have updated the local plan to include reasonable cost estimates and funding plans for transportation facilities.
9	URBAN GROWTH BOUNDARY EXPANSION - Percent of land added to urban growth boundaries that is not farm or forest land.
10	GRANT AWARDS - Percent of local grants awarded to local governments within two months after receiving application.
11	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.
12	BEST PRACTICES - Percent of total best practices met by the Board.
13	FARM LAND - Percent of farm land zoned for exclusive farm use in 1987 that retains that zoning. Accounts for the conversion of EFU lands resulting from expansion of urban growth boundaries and changes in zoning.
14	FOREST LAND - Percent of forest land zoned for forest or mixed farm/forest use in 1987 that remains zoned for those uses. Accounts for the conversion of forest lands resulting from expansion of urban growth boundaries and changes in zoning.



Performance Summary	Green	Yellow	Red
	= Target to -5%	= Target -5% to -15%	= Target > -15%
Summary Stats:	63.64%	18.18%	18.18%

KPM #1	EMPLOYMENT LAND SUPPLY - Percent of cities that have an adequate supply of land for industrial and other employment needs to implement their local economic development plan.
	Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>EMPLOYMENT LAND SUPPLY</b>					
Actual	71%	73%	74%	70%	74%
Target	75%	75%	75%	75%	75%

#### How Are We Doing

For 2023, we report 74% of cities within the past 10 years have updated their land use plans to ensure an adequate supply for industrial / employment needs. This represents a slight increase from the previous report, which reported 70% of cities in compliance.

During the past two years, eight cities have passed the population threshold of 10,000. Astoria, Fairview, Independence, Lincoln City, Monmouth, Molalla, North Bend, and Sweet Home are each newly considered under this KPM. Of these eight cities, three are compliant under the department's employment lands KPM.

Several cities in Washington County have recently adopted or are currently in the process of adopting EOAs in anticipation of expansion of the semiconductor manufacturing industry. Hillsboro, North Plains, Cornelius, and Sherwood are each working on updating their local employment lands supply with the assistance of DLCD staff.

During the past three reporting periods, this KPM has remained relatively stable. The department is underperforming on its goal of 75% by 1-5% points annually. To address this deficiency, we are encouraging target jurisdictions to apply for technical assistance funds to bring their plans up to date.

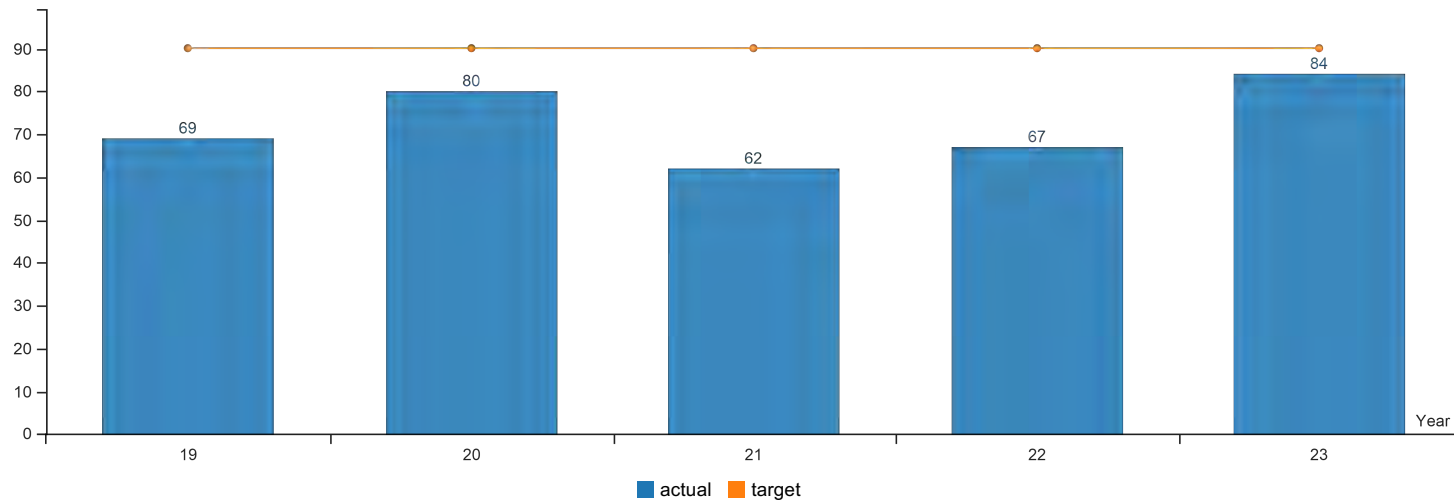
#### Factors Affecting Results

Two primary factors are responsible for these results: 1) the growing number of cities considered under this KPM, and 2) a lack of local staff capacity to engage in employment lands planning.

Cities undertaking planning work are capacity-constrained by the lack of staff and time to pursue EOA adoptions amidst required housing planning projects.

KPM #2	HOUSING LAND SUPPLY - Percent of cities that have an adequate supply of buildable residential land to meet housing needs.
	Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>HOUSING LAND SUPPLY</b>					
Actual	69%	80%	62%	67%	84%
Target	90%	90%	90%	90%	90%

#### How Are We Doing

Progress towards that target has significantly improved (a 17% increase) since last year, from 67% in 2022 to 84% this year. While progress still falls short of the 90% target, it is significantly better than last year.

Cities within the Portland Metro urban growth boundary (UGB) are in compliance with this target (100%) because of the efforts of Metro, which adopted a revised urban growth report, as required every six years by ORS 197.296(2)(a)(B)(ii), in July 2019. Six cities within the Portland Metro region have recently adopted updated HCAs, or are in the process of adopting them, including Milwaukie, Beaverton, Hillsboro, Lake Oswego, Portland, and West Linn.

Additionally, passage of HB 2001 in 2023, sometimes referred to as the Oregon Housing Needs Analysis (OHNA) bill, has introduced some uncertainty for cities considering updates to their Housing Capacity Analyses. Among other requirements, the OHNA bill includes direction to the department to develop administrative rules to implement a new method for how cities are to accommodate their housing needs over time. Rulemaking is anticipated to begin in late 2023 and must be completed by January 1, 2026. Due to the anticipated changes, the department will recommend that cities delay HCA updates until the new rules are adopted. The HCA Update Schedule will be amended accordingly and performance on this KPM is likely to fall significantly during the rulemaking period. It is possible that some cities have delayed development and adoption of updated HCAs due to the uncertainty of what the OHNA bill and implementing regulations will require.

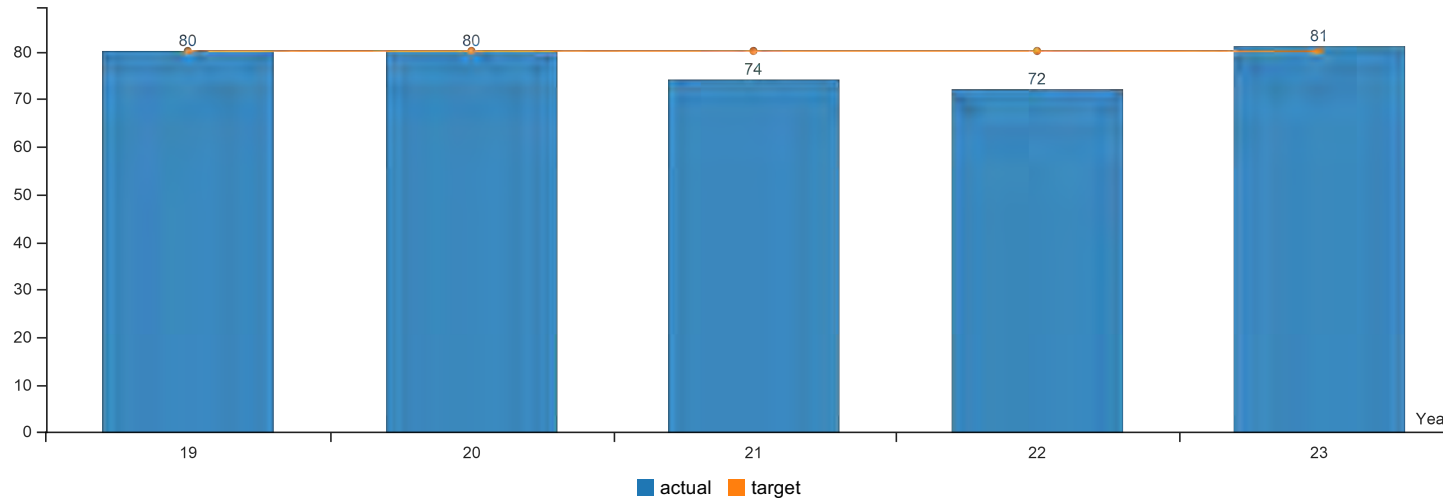
#### Factors Affecting Results

One of the most significant barriers to more frequent HNA updates is the lack of city staff capacity and financial resources for the work. HNA's are highly technical documents, which are typically prepared with assistance from consultant experts. A typical HNA can cost \$50,000 - \$100,000. Much of the improved performance on this measure can be attributed to the additional funding provided

from the legislature in recent years. Another factor that affects performance on KPM #2 is the requirement for a city to address any identified deficit of land necessary to accommodate needed housing concurrent with adoption of the HNA. In the City of Salem, for example, the 2015 HNA identified a deficit of 207 acres of land for multifamily housing. Rezoning projects associated with the “Our Salem” project were completed in 2022.

KPM #3	PUBLIC FACILITIES PLANS - Percent of cities that have updated the local plan to include reasonable cost estimates and funding plans for sewer and water systems.
	Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>PUBLIC FACILITIES PLANS</b>					
Actual	80%	80%	74%	72%	81%
Target	80%	80%	80%	80%	80%

#### How Are We Doing

The number of jurisdictions meeting the standard was 81% of the 58 jurisdictions within the dataset. Consequently, performance this year is just above the target of 80% and marks an improvement from the 72% of cities that met this standard last year.

#### Factors Affecting Results

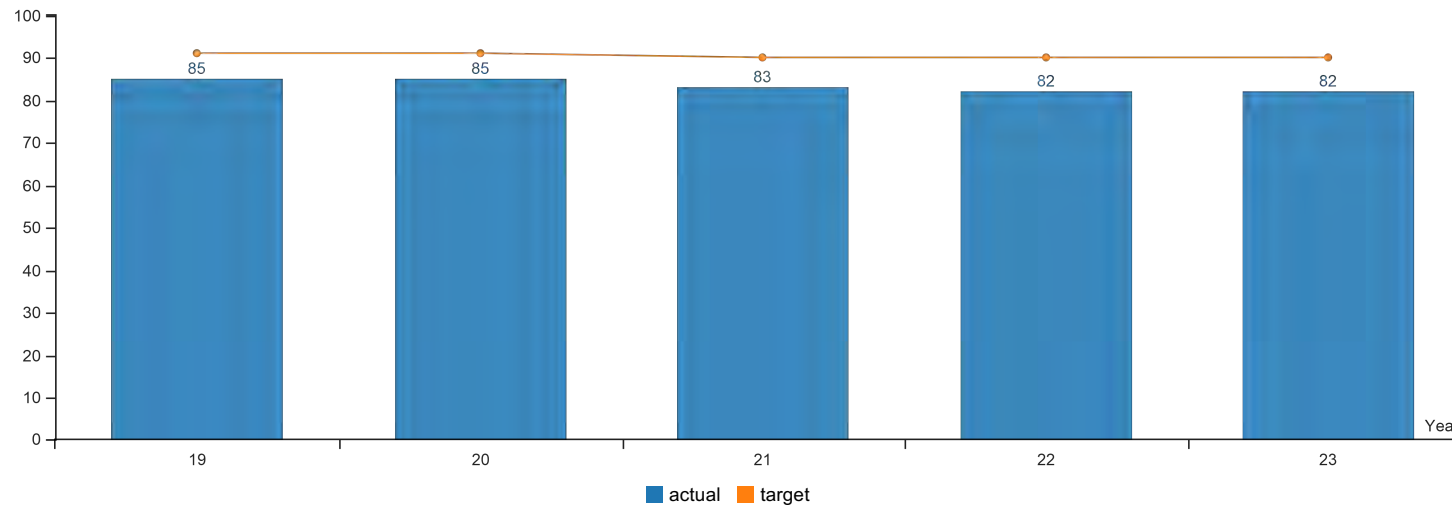
Factors leading to a positive outcome include: (1) a city is in voluntary periodic review, and its periodic review work program includes a task to do or update a public facilities plan; (2) state grant funds are available for public facilities plans, either during periodic review or otherwise; and (3) evolving federal regulations and legal opinions regarding water quality standards have compelled some recent master plan updates to address new requirements. Additional factors include: (1) water and sewer master plans often have independent funding sources derived from utility rates and systems development charges that allow for preparation and adoption of these plans; (2) stormwater master plans are mandated in order to meet federal clean water standards, and thus cities have strong incentives to prepare and adopt such plans; and (3) cities experiencing significant growth must plan for infrastructure expansions to serve growth in underserved or new areas.

Barriers to a positive outcome include: (1) historically, state grant funds for period review have not covered all qualified and needed local projects, and the department's ability to provide financial assistance to help cities to update their infrastructure plans has been limited; (2) cities that are not experiencing significant growth would not collect significant systems development charges that could support necessary infrastructure plans and improvements, placing the local funding burden on existing rate-payers (who have limited financial capacity); (3) public facilities master plans are sometimes adopted by resolution by local governments, which does not require a comprehensive plan amendment process and subjecting the adopted plan to legal challenge as a land use decision (Such decisions are not captured in the PAPA database); and (4) some cities receive utility services from special districts, private service providers, or regional service providers, and thus have less incentive to complete public facilities plans for the area within the city boundaries.

Passage of HB 2001 in 2023 will provide additional agency staff and funding resources to support infrastructure plan updates that will support housing development in the 2023-2025 biennium. That work may help to continue strong results on this key performance measure in the next few years

KPM #5	TRANSIT SUPPORTIVE LAND USE - Percent of urban areas with a population greater than 25,000 that have adopted transit supportive land use regulations.
	Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>TRANSIT SUPPORTIVE LAND USE</b>					
Actual	85%	85%	83%	82%	82%
Target	91%	91%	90%	90%	90%

### How Are We Doing

The targets were largely achieved until a few years ago, as motivated cities and counties with sufficient staff capacity adopted transit-supportive development regulations. Moving forward, the targets are increasingly difficult to meet as the remaining cities or counties are those with the most difficult challenges.

### Factors Affecting Results

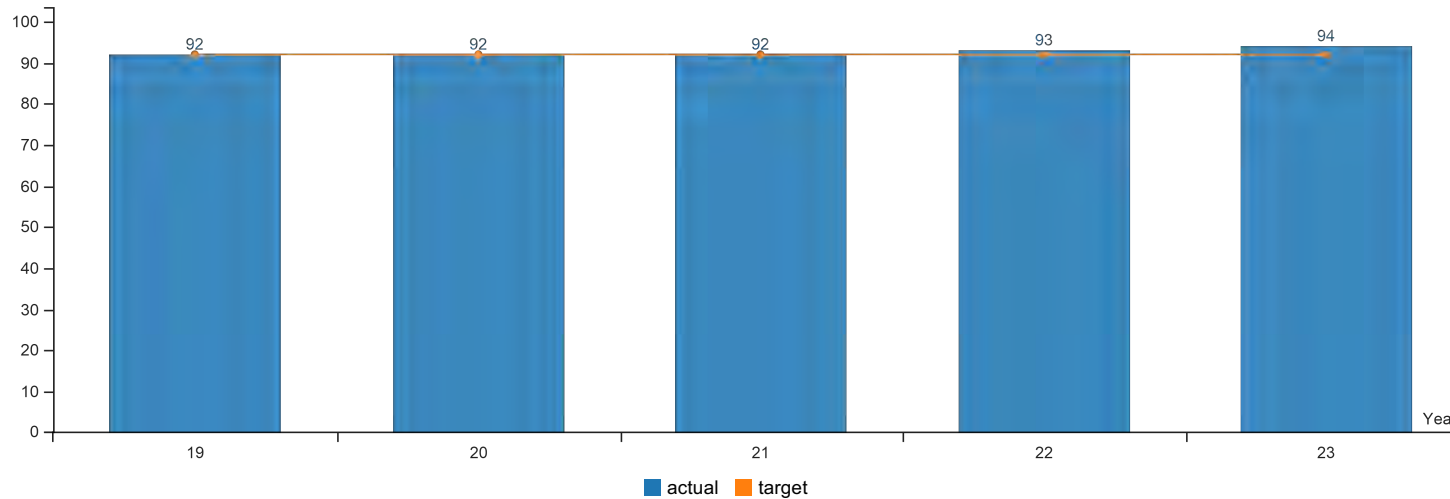
Factors that continue to make progress difficult include limited funding to update plans, the complexity and controversy often associated with planning for transit supportive land uses, and limited public understanding of transit and related development regulations. In 2022, the Land Conservation and Development Commission amended the Transportation Planning Rules (Oregon Administrative Rules, chapter 660, division 12) to increase the requirements for local transportation planning in metropolitan areas. These rules will require many cities and counties in metropolitan areas to update their transportation plans over the next seven years, which will likely bring them into compliance with this key performance measure (KPM).

Most cities and counties do not have funding or planning staff to make significant changes in their development regulations from year to year. Previously, the department provided grants for periodic review of comprehensive plans and development regulations. Those grant funds are significantly reduced and no longer support periodic review. The level of compliance has flattened accordingly. The Oregon Department of Transportation is planning to provide funding to cities and counties within metropolitan areas to update their transportation system plans to comply with the Transportation Planning Rules adopted in 2022. This funding will help the remaining cities and counties meet this KPM.

**KPM #6 TRANSPORTATION FACILITIES** - Percent of urban areas that have updated the local plan to include reasonable cost estimates and funding plans for transportation facilities.

Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>TRANSPORTATION FACILITIES</b>					
Actual	92%	92%	92%	93%	94%
Target	92%	92%	92%	92%	92%

#### How Are We Doing

The Land Conservation and Development Commission recently adopted amendments to the Transportation Planning Rules that will require cities in metropolitan areas to put more emphasis on reducing driving when updating transportation system plans, thus reducing the pollution that causes global climate disruption. These cities will update existing plans over the next few years.

Most cities that are counted under this measure have adopted Transportation System Plans or TSPs. There are 101 cities with a population above 2,500 that have acknowledged TSPs (one city has adopted a TSP since the 2022 report). Seven cities with a population above 2,500 do not have acknowledged TSPs: Coquille, Gervais, Millersburg, Ontario, Seaside, Shady Cove, and Sublimity.

#### Factors Affecting Results

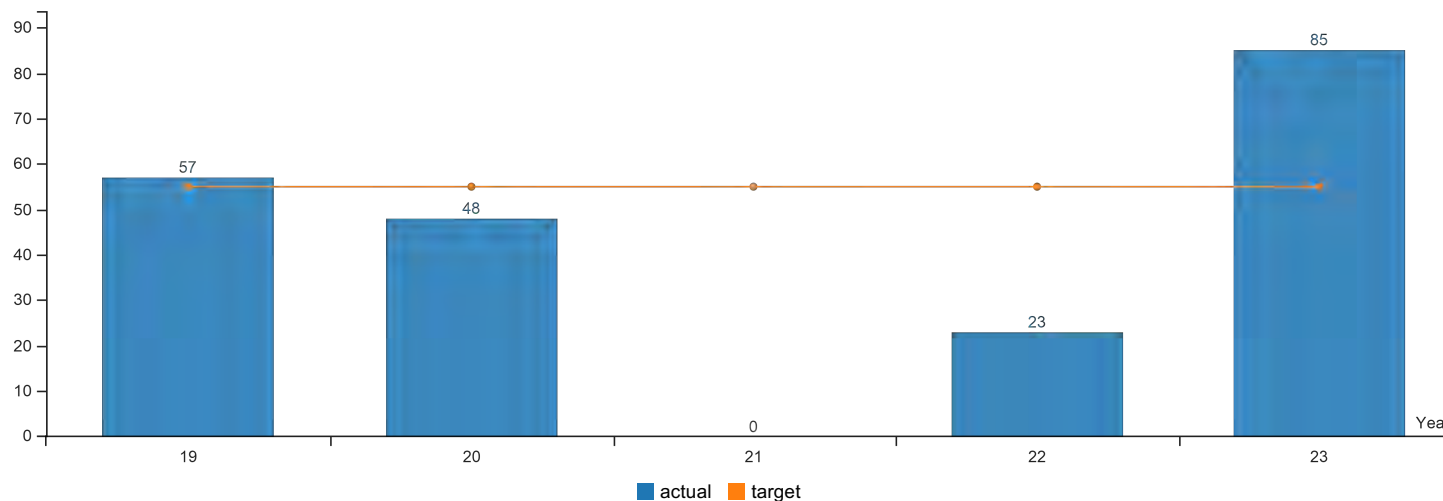
There are very few cities that have not already adopted a TSP. Most of the remaining cities are small, with less than 4,000 in population. For these cities, the barriers are a lack of funding and a lack of staff for transportation planning.

- Seaside has an adopted TSP that has not yet been submitted for acknowledgement.
- Gervais and Shady Cove have received exemptions from the requirement to complete a TSP.
- Ontario and Sublimity have outstanding Periodic Review work tasks with minor outstanding issues to be resolved in order to get to an acknowledged TSP.
- Millersburg has only recently grown above 2,500 in population, and does not yet have an acknowledged TSP. The city may develop a TSP to meet updated requirements as part of a metropolitan area in coming years.



KPM #9	URBAN GROWTH BOUNDARY EXPANSION - Percent of land added to urban growth boundaries that is not farm or forest land.
	Data Collection Period: Jan 01 - Dec 31

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>URBAN GROWTH BOUNDARY EXPANSION</b>					
Actual	57%	48%	0%	23%	85%
Target	55%	55%	55%	55%	55%

#### How Are We Doing

In 2022, 736 acres were added to urban growth boundaries (UGBs) statewide. Of that amount, 110 acres (15%) added to UGBs in this period were previously zoned Exclusive Farm Use (EFU), while 626 acres (85%) were not previously zoned for resource use (EFU or a Forestry zoning district). This period included a UGB exchange which added 110 acres previously zoned EFU to the Stanfield UGB and removed 138 acres from the UGB which was then designated EFU resulting in a net addition of resource lands of 28 acres.

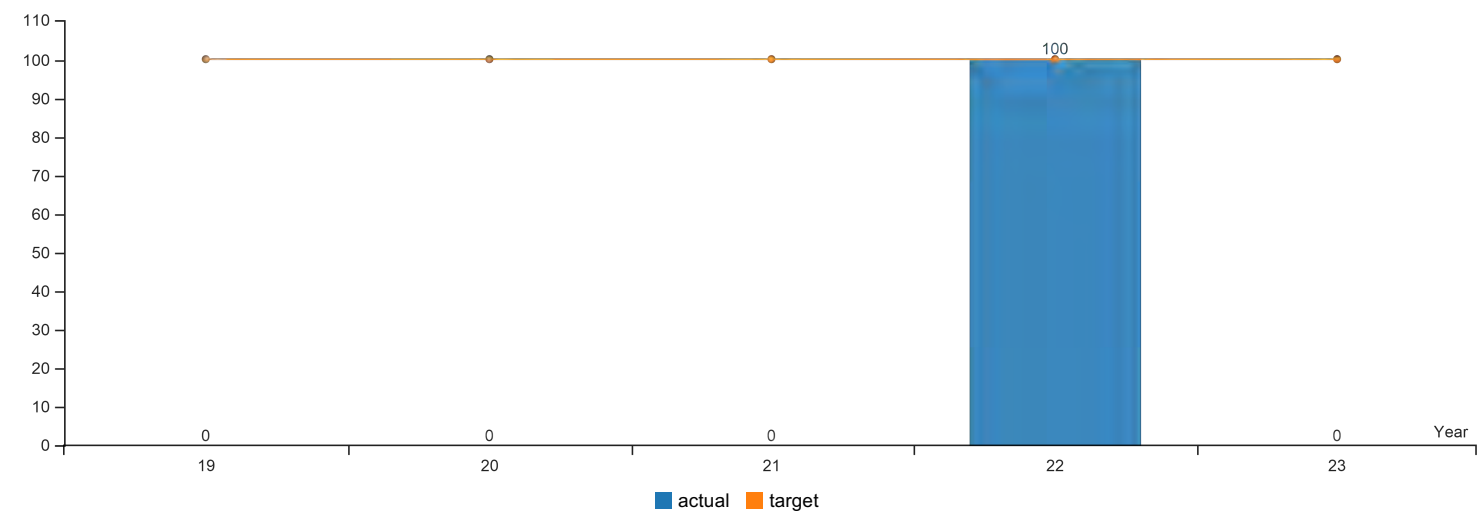
#### Factors Affecting Results

Performance under this target can vary widely from year to year and is heavily influenced by larger UGB expansions. For example, in 2016, the City of Bend accounted for 91% of the land added to UGB's statewide and did not contain any land zoned farm, forest, or mixed farm/forest. In 2019, the Redmond and Springfield UGB expansions accounted for 85% of land added to UGB's statewide and were entirely composed of land previously zoned Exclusive Farm Use. As a result, the target was met in 2016 but not in 2019. In 2022, 85% of the land added to UGBs was not zoned for resource use meaning the target was met in 2022.

The 10-year average for this KPM has been very slightly below target. Since 2013, 52% of lands added to UGBs have come from lands that are not zoned farm, forest, or mixed farm/forest. Adopting a KPM based on average performance over a 10-year period would provide a more accurate assessment of statewide performance in this area.

KPM #10	GRANT AWARDS - Percent of local grants awarded to local governments within two months after receiving application.
	Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result

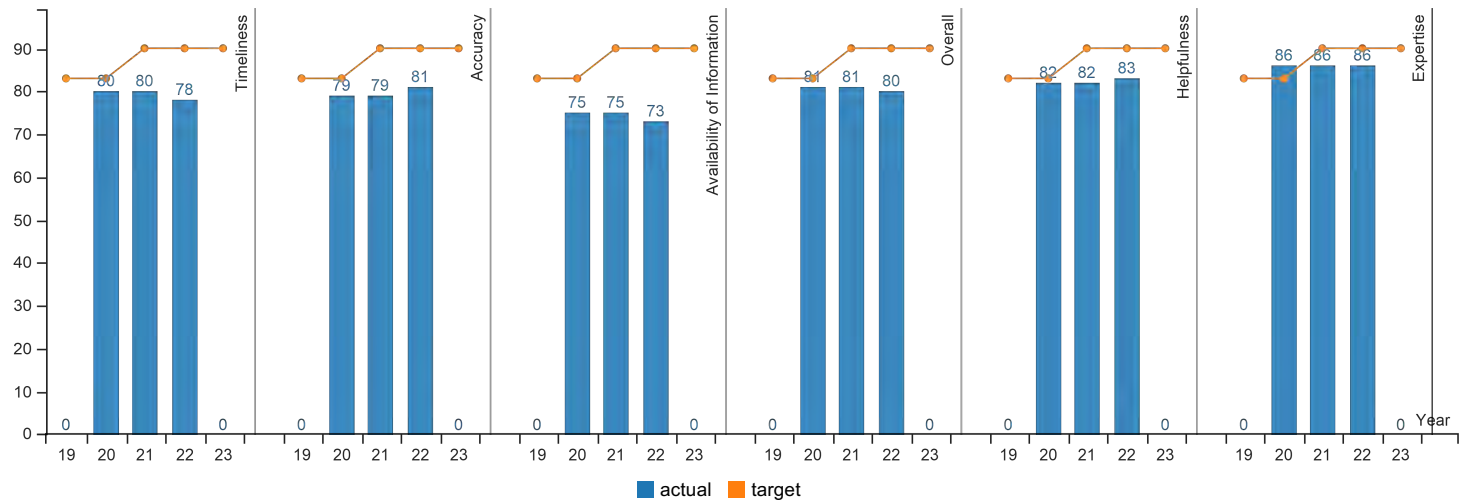


Report Year	2019	2020	2021	2022	2023
GRANT AWARDS					
Actual		0%	0%	100%	
Target	100%	100%	100%	100%	100%

How Are We Doing

Factors Affecting Results

KPM #11	CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.
	Data Collection Period: Jul 01 - Jun 30



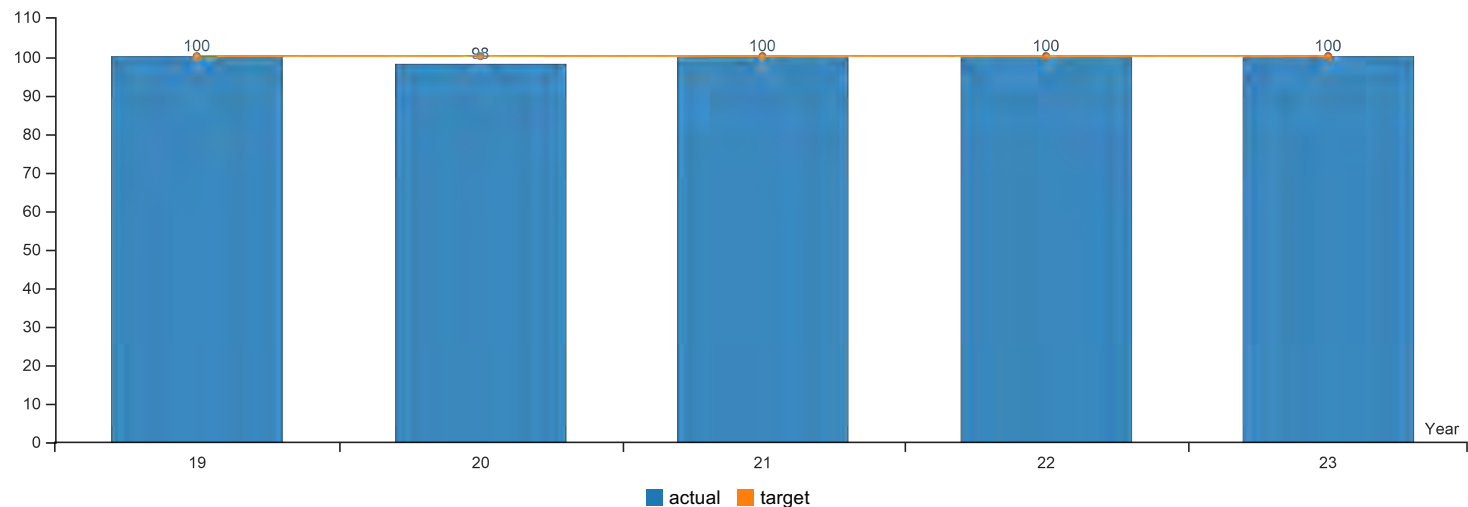
Report Year	2019	2020	2021	2022	2023
<b>Timeliness</b>					
Actual		80%	80%	78%	
Target	83%	83%	90%	90%	90%
<b>Accuracy</b>					
Actual		79%	79%	81%	
Target	83%	83%	90%	90%	90%
<b>Availability of Information</b>					
Actual		75%	75%	73%	
Target	83%	83%	90%	90%	90%
<b>Overall</b>					
Actual		81%	81%	80%	
Target	83%	83%	90%	90%	90%
<b>Helpfulness</b>					
Actual		82%	82%	83%	
Target	83%	83%	90%	90%	90%
<b>Expertise</b>					
Actual		86%	86%	86%	
Target	83%	83%	90%	90%	90%

How Are We Doing

**Factors Affecting Results**

KPM #12	BEST PRACTICES - Percent of total best practices met by the Board.
	Data Collection Period: Jul 01 - Jun 30

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>BEST PRACTICES</b>					
Actual	100%	98%	100%	100%	100%
Target	100%	100%	100%	100%	100%

#### How Are We Doing

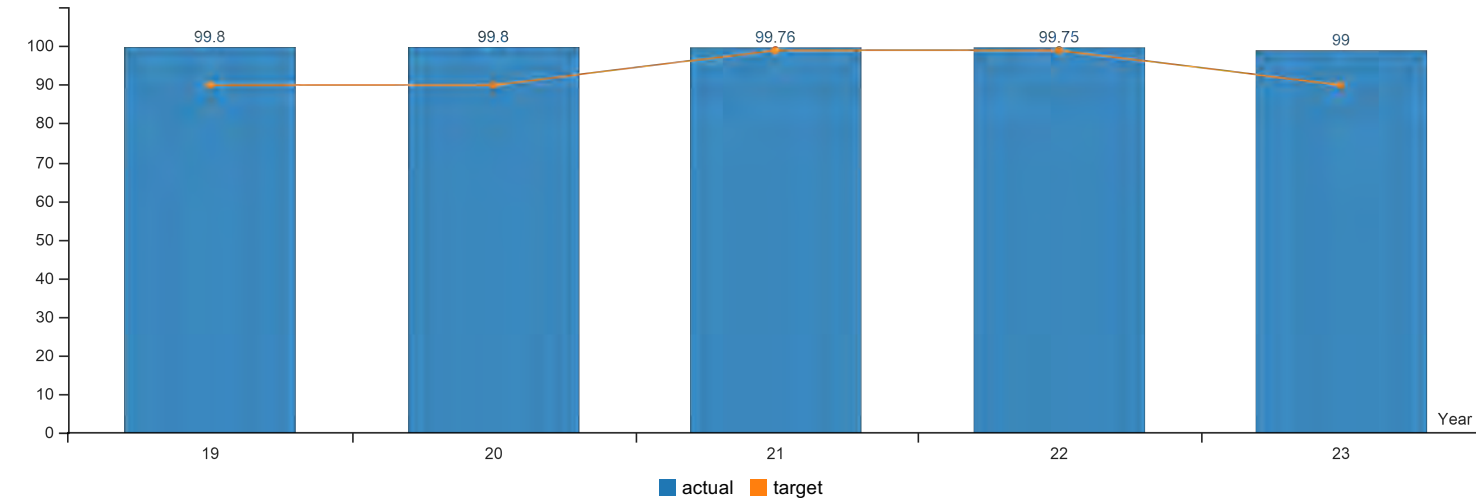
The 2007 Legislature approved a Statewide Best Practices Measure and required certain boards and commissions to report on their ability to meet established criteria. Implementation of this performance measure for affected boards and commissions includes an annual commission self-assessment of the state best practices criteria. To meet this requirement, the Land Conservation and Development Commission (LCDC) defined how it will meet the established criteria. Each member of LCDC rates the commission against 15 best practices criteria established by the Department of Administrative Services and the Legislative Fiscal Office. In September 2023, commissioners completed its best practices scorecard for fiscal year 2022.

#### Factors Affecting Results

Department policies and workflows ensure appropriate commission review and/or oversight of department mission, communication, policymaking, budget development and financial reporting.

KPM #13	FARM LAND - Percent of farm land zoned for exclusive farm use in 1987 that retains that zoning. Accounts for the conversion of EFU lands resulting from expansion of urban growth boundaries and changes in zoning.
	Data Collection Period: Jan 01 - Dec 31

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>Farm Land</b>					
Actual	99.80%	99.80%	99.76%	99.75%	99%
Target	90%	90%	99%	99%	90%

#### How Are We Doing

In 2022, 909 acres of exclusive farm use land were rezoned or added to urban growth boundaries and 138 acres were added to exclusive farm use (EFU) zoning. From a base of 16.1 million acres of EFU-zoned land in 1987, a total of 42,977 net acres have been rezoned from EFU to other urban and rural uses through 2022.

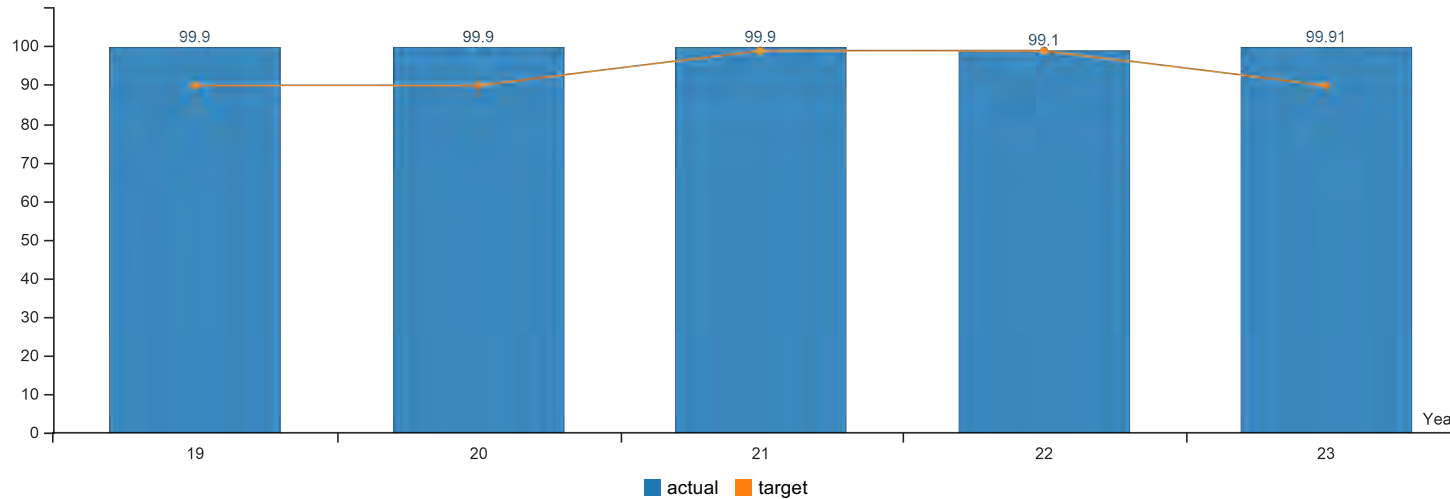
99.73 percent of land zoned EFU in 1987 was still zoned EFU in 2022. However, while the 2022 KPM target was met, staff estimate that several times as much acreage is converted to nonfarm use within EFU zones as is rezoned out of EFU zones each year. This measure accounts for removal of land from protective EFU zoning only and does not include conversion to other nonfarm uses permitted under EFU zoning, such as the conversion of agricultural lands to solar development. Detailed information on the type and level of development and land division activity that may occur on lands zoned for exclusive farm use is provided in the biennial Farm and Forest report prepared in accordance with ORS 197.065.

#### Factors Affecting Results

The state's agricultural land use policy as stated at ORS 215.243 includes the preservation of agricultural land in large blocks through the application of exclusive farm use zoning and also the goal of maintaining the agricultural economy of the state for the assurance of adequate and nutritious food for the people of the state and nation. KPM 13 offers only a partial insight into our progress under this policy. It is estimated that several times as much acreage is converted to nonfarm use within EFU zones as is rezoned out of EFU zones each year. This KPM does not adequately describe the rate at which Oregon's farmland is being carved up or legislatively converted to other uses.

KPM #14	FOREST LAND - Percent of forest land zoned for forest or mixed farm/forest use in 1987 that remains zoned for those uses. Accounts for the conversion of forest lands resulting from expansion of urban growth boundaries and changes in zoning.
	Data Collection Period: Jan 01 - Jan 01

\* Upward Trend = positive result



Report Year	2019	2020	2021	2022	2023
<b>FOREST LAND</b>					
Actual	99.90%	99.90%	99.90%	99.10%	99.91%
Target	90%	90%	99%	99%	90%

#### How Are We Doing

The results for calendar year 2022 show that the state's land use program continues to work well to maintain forest lands for commercial forest and other forest uses. The KPM target of maintaining 90% of the 1987 forest land base under protective zoning designation has consistently been met over time.

The target is a static threshold of 10,589,889 acres remaining under protective forest zoning. Over the past 10 years, local governments have rezoned forest land at an average rate of 299 acres per year.

#### Factors Affecting Results

Land use decisions are subject to state statutes, planning goals, and rules. Statewide Planning Goal 4 (Forest Lands) calls for protecting forest land for the continuous growing and harvesting of trees. Local officials make decisions to include forest or mixed farm-forest zoned land in a zone change or urban growth boundary (UGB) expansion. Such decisions are subject to appeal, which helps ensure that land use decisions comply with applicable statutes and rules.

In addition to zone changes and UGB expansions, land zoned forest or mixed farm-forest is also converted to nonforest uses that are allowed by statute or rule within a forest or mixed farm-forest zone or through development rights established by Measures 37 and 49. This KPM does not document those conversions but the Department addresses these conversions in the biennial report to the legislature prepared pursuant to ORS 197.065.

This measure offers only a partial assessment of the type or level of development and land division activity that may occur on lands zoned forest or mixed farm-forest. More acreage is lost by

conversion through methods that do not require rezoning.





## Housing Planning Assistance – Notice of Intent to Award

*Updated: September 1, 2023*

This document indicates DLCD awarded funding or consultant support for local governments that submitted proposals for planning assistance under House Bills 2001 and 3395 (2023). Because the total request from local governments exceeded the funding allocated by the Legislature, department staff had to make difficult decisions to balance the funds available with projects that maximize local capacity to complete critical and statutorily obligated housing-related planning work. If your project, or an element of your project, was not selected or waitlisted for funding, we strongly encourage you to reach out to your Regional Representative to discuss other potential funding sources for which the project may be eligible. Other DLCD funding sources include:

- General Technical Assistance Grant Program: approximately \$700,000
- Transportation Growth Management (TGM) Planning Grant Program: \$2.5 million
- TGM Community Assistance: approximately \$750,000
- Community Green Infrastructure Grant Program (HB 3409, 2023): \$6.5 million

Please note that this notice does not specify the amount of funding awarded to any given project. In the previous biennium, DLCD had to revert significant unspent funds to the General Fund for projects that were allocated higher grant amounts than necessary to complete requested work. This meant that several critical projects were denied or downsized in order to fund projects that ultimately did not use their full allocation. To avoid this outcome in this grant cycle, **DLCD is not committing to any specific funding amount in this Notice of Intent to Award**. Instead, staff will work with communities to determine the right grant level necessary to complete the scope of work associated with a given project.

In the coming days, awarded jurisdictions will receive a formal letter from DLCD notifying them about the intent to award and outlining next steps. DLCD staff and Regional Representatives will work with local governments to develop a grant agreement, including a detailed scope of work outlining specific project details, deliverables, budgets, and timelines. To efficiently execute grant agreements, we will need local government staff to engage with DLCD staff and work on scope refinement.

More details are forthcoming, but if you have questions in the interim, please feel to reach out to us at [housing.dlcd@dlcd.oregon.gov](mailto:housing.dlcd@dlcd.oregon.gov)

Sincerely,

A handwritten signature in black ink, appearing to read "Ethan Stuckmayer".

Ethan Stuckmayer  
Manager  
Housing Services Division  
Department of Land Conservation and Development



## House Bill 2001 (2023) Awards

[House Bill 2001 \(2023\)](#), included a variety of provisions related to housing and housing planning, including a \$3.5 million appropriation to DLCD for the following purpose (Section 10):

*“The Department of Land Conservation and Development may provide technical assistance and award grants to local governments to enable them to implement the provisions of ORS 197.286 to 197.314 and to take other actions to incentivize the production of needed housing within the jurisdiction of the local government.”*

This funding is the most flexible source appropriated to the DLCD Housing Division for the 2023-2025 biennium and is intended for both Goal 10 (Housing) and Goal 14 (Urbanization) related planning projects. The department prioritized funding projects based on three criteria: 1) statutorily required projects, 2) projects that deliver housing production where it is needed most, and 3) projects that affirmatively further fair housing and equitable outcomes. The following projects best align with the Legislative direction and funding priorities:

Jurisdiction	Project Type	Regional Representative	Direct / Consultant / Both
Projects Recommended for Funding Under HB 2001			
Albany	Housing Implementation Plan Policy Actions and Code Updates	Patrick Wingard	Consultant
Canby	Urban Growth Boundary Expansion	Kelly Reid	Consultant
Clatsop County	Regional Housing Land and Infrastructure Inventory	Brett Estes	Consultant
Columbia County	Housing Taskforce Implementation Project	Brett Estes	Direct
Dayton (MWVCOG)	Dayton Comprehensive Plan Update	Melissa Ahrens	Consultant
Deschutes County	Clear and Objective Standards Code Amendments (HB 3197)	Angie Brewer	Consultant
Eugene	Housing Capacity Analysis	Patrick Wingard	Direct
Eugene	Housing Production Strategy	Patrick Wingard	Direct
Eugene	Housing Implementation Plan (CFEC)	Patrick Wingard	Direct
Grants Pass	Urban Growth Land Exchange Study	Josh LeBombard	Consultant
Happy Valley	Housing Production Strategy	Kelly Reid	Consultant
Hillsboro	Housing Production Strategy	Laura Kelly	Direct
Hood River County	Odell Urban Unincorporated Community Housing/Facilities Analysis	Angie Brewer	Direct
Independence	Housing Production Strategy	Melissa Ahrens	Consultant
Joseph (EOU)	REV Rural Planning Assistance	Dawn Hert	Both
Lincoln City	Housing Production Strategy	Brett Estes	Consultant
Madras	Housing Production Strategy	Angie Brewer	Direct
McMinnville	Housing Production Strategy	Melissa Ahrens	Direct
McMinnville	2021-2041 Urban Growth Boundary Amendment	Melissa Ahrens	Direct
Molalla	Housing Production Strategy	Kelly Reid	Both
Molalla	UGB Expansion Background Studies and Efficiency Measures Implementation	Kelly Reid	Direct
Portland	Housing Production Strategy - BIPOC Outreach	Kelly Reid	Direct
Portland	Inner Eastside Infrastructure Assessment	Kelly Reid	Direct
Rainier	Urban Growth Boundary Land Exchange	Laura Kelly	Consultant
Salem	Housing Production Strategy	Melissa Ahrens	Consultant



Sandy	Housing Production Strategy	Kelly Reid	Direct
Sisters	Urban Growth Boundary Study	Angie Brewer	Direct
Sweet Home	Housing Production Strategy	Patrick Wingard	Consultant
Talent	Buildable Lands Inventory	Josh LeBombard	Direct
Talent	Housing Implementation Plan Program, Review, Update, and Feasibility of Railroad District Master Plan	Josh LeBombard	Consultant
Tangent	Urbanization Study - Sowing Seeds Phase 1 Housing	Patrick Wingard	Consultant
The Dalles	Housing Production Strategy	Angie Brewer	Consultant
Tigard	River Terrace 2.0 Community Plan	Laura Kelly	Direct
Wasco County	Housing Code Amendments (HB 3197)	Angie Brewer	Direct
Washington Co	Community Development Code (CDC) Assessment (HB 3197)	Laura Kelly	Direct
West Linn	Housing Production Strategy	Kelly Reid	Consultant
Wilsonville	Housing Our Future Phase 3	Kelly Reid	Both



## House Bill 3395 (2023) Awards

[House Bill 3395 \(2023\)](#) included several changes to state law intended to support the near-term production of housing. This includes a change to the applicability of middle housing such that cities between 2,500-10,000 population must allow a duplex on each lot or parcel that allows a single-family detached dwelling, similar to cities between 10,000-25,000 population. This bill appropriated \$1.25 million in funding with the specific purpose of supporting local governments required to update their development codes:

*“In addition to and not in lieu of any other appropriation, there is appropriated to the Department of Land Conservation and Development, for the biennium beginning July 1, 2023, out of the General Fund, the amount of \$1,250,000, to provide grants to local governments to assist them in amending their comprehensive plans as required under section 3 (1)(c), chapter 639, Oregon Laws 2019.”*

Section 2 (1)(c) “June 30, 2025, for each city subject to ORS 197.758 (3)<sup>1</sup>, as amended by section 20 of this 2023 Act.”

In addition, [SB 406 \(2023\)](#) also extended middle housing requirements to cities and urban, unincorporated areas in Tillamook County. While this bill did not specifically allocate funding for local governments, the expectation during the Legislative Session is that these communities would draw from existing funding under HB 3395 and HB 2001 to support needed code update work.

Finally, while HB 3395 specifies that funding is primarily intended for local governments required to update their development codes, DLCD received several applications from cities intending to ‘opt-in’ to allowing middle housing. DLCD intends to fund these voluntary updates so long as local governments required to update codes are prioritized for funding first. So far, **this funding source is undersubscribed** by those required to update development codes. DLCD staff will be doing additional outreach to local governments required to update development codes to ensure all affected cities have the resources they need to complete the work by the statutory deadline.

Jurisdiction	Project Type	Regional Representative	Middle Housing Requirement?	Direct / Consultant / Both
Projects Fundable Under HB 3395				
Arlington	Zoning Ordinance Review and Update	Dawn Hert	No	Direct
Carlton	Development Code Update	Melissa Ahrens	No	Direct
Hood River (City)	Development Code Audit and Amendment	Angie Brewer	Yes	Direct
Lebanon	Housing Production Strategy Development Code Implementation	Patrick Wingard	Yes	Consultant
Manzanita	Middle Housing Code and Comprehensive Plan Amendment Project	Brett Estes	Yes	Direct
Moro	Comprehensive Plan and Code Update	Angie Brewer	No	Direct
Mt. Vernon	Comprehensive Plan and Code Update	Dawn Hert	No	Consultant
Myrtle Creek	Comprehensive Plan and Code Update	Josh LeBombard	Yes	Direct
Nehalem	Development Code Audit and Amendment	Brett Estes	Yes	Consultant

<sup>1</sup> ORS 197.758 (3) requires cities between 2,500-25,000 population to allow a duplex on each lot or parcel that allows a single-family detached dwelling



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& Development

Port Orford	Code Updates	Hui Rodomsky	No	Direct
Rockaway Beach	Development Code Audit and Amendment	Brett Estes	Yes	Consultant
Yamhill	Housing Code Audit and Land Inventory	Melissa Ahrens	No	Both



## Waitlisted Projects

This biennium, we have received substantially greater requests for funding than what is available. This is due, in part, to the non-passage of [House Bill 3414 \(2023\)](#), which would have allocated \$10 million in funding to support local housing-related code work. Because of this, the DLCD Housing Division had to decide whether to reject several dozen qualified applications or solicit funding elsewhere.

To maximize the total support to local governments on housing-related work, we have elected to bundle the following code-related projects to solicit funding from one of two sources: 1) funding allocated from the Oregon Legislature in the 2024 Legislative Session or 2) Federal funding allocated under the [Pathways to Removing Obstacles to Housing Grant Program](#) administered by HUD, which DLCD is preparing an application for. The department anticipates that between these two potential sources, the likelihood of receiving additional funding is high and preferable to the alternative of rejecting critically-needed housing planning support across the state.

We believe the following projects align well with the Housing Planning Assistance funding priorities, but we cannot yet offer these projects awards for 2023-2025. However, we would like to proceed with the development of a work program, so these projects can readily move forward should funding be allocated in the coming months.

Jurisdiction	Project Type	Regional Representative	Direct / Consultant / Both
Waitlisted until funding available			
Ashland	Manufactured Home Park Zone	Josh LeBombard	Consultant
Baker City	Development Code Update	Dawn Hert	Direct
Bandon	Housing Needs Code Implementation	Hui Rodomsky	Consultant
Clackamas County	Zoning and Development Ordinance Diagnostic Report	Kelly Reid	Direct
Deschutes County	Future Urbanization Development Code Amendments	Angie Brewer	Direct
Gresham	Development Code/Process Update	Kelly Reid	Consultant
Happy Valley	Development Code Update	Kelly Reid	Consultant
Independence	Infill Development Code Update	Melissa Ahrens	Consultant
La Grande	Code Audit	Dawn Hert	Consultant
Portland	Housing Development Code Streamline	Kelly Reid	Direct
Rufus	Development Code Update	Angie Brewer	Direct
Springfield	Housing-related Development Code	Patrick Wingard	Consultant
Springfield	Climate-Friendly Area Codes	Patrick Wingard	Consultant
Tigard	River Terrace 2.0 Community Plan (Development Code in Concept Plan)	Laura Kelly	Direct
Toledo	Partition and Subdivision Code	Brett Estes	Direct
Tualatin	Clear and Objective Code Updates	Laura Kelly	Consultant
Washington County	Housing-related CDC Updates	Laura Kelly	Direct
Washington County	Promotional Program for Middle Housing and ADUs	Laura Kelly	Direct
Yachats	Development Code Updates	Hui Rodomsky	Consultant